



# American Rescue Plan Act of 2021 (ARPA): Impact on Local Governments & Small Businesses

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# What We'll Cover Today



## Federal COVID Relief

Follow the  
Bread Crumbs



## Rescue Plan

Overview:  
Broadband,  
Restaurants, EDA,  
Higher Ed., Health  
Insurance & Fiscal  
Recovery Funds



## Ohio Roll-out

??



## Q & A

Time for  
Questions &  
Answers

# Federal COVID-19 Relief



Where are we? Follow the bread crumbs

- **Coronavirus Aid, Relief, and Economic Security (CARES) Act**
  - [H.R. 748, Public Law 116-136](#) signed into law on March 27, 2020
  - **Purpose:** *Provide ready funding to address unforeseen financial needs and risks created by the COVID-19 public health emergency*
  - **\$150B** to Coronavirus Relief Fund, with U.S. Treasury making direct payments:
    - **\$4.532B** total state allocation to Ohio & eligible units of local government
    - Covered period: *March 1 – December 30, 2020*
  - **\$5B** to federal Housing & Urban Development agency

# Federal COVID-19 Relief



Where are we? Follow the bread crumbs (*cont.*)

- Coronavirus Aid, Relief, and Economic Security (CARES) Act (*cont.*)
  - **\$150B** to Coronavirus Relief Fund, with U.S. Treasury making direct payments (*cont.*):
    - 6 cities / counties (pop. > 500,000): **\$778MM**, landed May 2020
    - Remaining **\$3.75B** to State of Ohio
      - **\$1.2B** for local governments:
        - HB 481 (\$350MM); Controlling Board; HB 614 (\$650MM)

# Federal COVID-19 Relief



Where are we? Follow the bread crumbs (*cont.*)

- **Consolidated Appropriations Act of 2021**
  - [H.R. 133, Public Law 116-260](#) signed into law on December 27, 2020
  - Extended deadline to spend Coronavirus Relief Funds **thru December 31, 2021**
  - Ohio General Assembly held back ~\$2B in further response to pandemic
    - April 15, 2021, Ohio House unanimously approved:
      - HB 167 (\$465MM to Community Action Agencies for rental and utility assistance)
      - HB 168 (Veterans homes & child care centers)
      - HB 169 (\$125MM for bars, restaurants & lodging)
      - HB 170 (\$857MM for schools)

# Federal COVID-19 Relief



Where are we? Follow the bread crumbs (*cont.*)

- **American Rescue Plan Act of 2021**
  - [H.R. 1319, Public Law 117-2](#) signed into law on March 11, 2021
  - **\$1.856T COVID relief package**, w/ heavy emphasis on social equity:
    - \$350B to **state & local governments** (incl. \$10B for **critical infrastructure**)
    - \$130B to **school districts**
    - \$30B to **public transit agencies**
    - \$28.6B to **restaurants & bars**
    - \$7B to **expand PPP eligibility** to incl. more non-profits
    - \$7.17B to FCC for schools / libraries' **remote learners' broadband access**
    - \$3B to **U.S. HUD**

# Eligible Uses of Funds – U.S. Dept. of Treasury Guidance

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**TBD** – Only 5 pronouncements since March 11, including:

- April 15: **Coronavirus State & Local Fiscal Recovery Funds website**
  - [COVID-19 Economic Relief](#) launched, to which guidance will be posted
- April 14: **New Office of Recovery Programs established**
  - Oversee programs authorized through our “breadcrumbs”
    - CARES Act, Consolidated Appropriations Act of 2021 & American Rescue Plan Act
      - Including State and Local Fiscal Recovery Funds
- Folds in oversight from disparate offices across U.S. Treasury

# Ohio General Assembly



## Appropriating Coronavirus State Fiscal Recovery Funds

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***TBD***

# Ohio Office of Budget & Management



## Guidance regarding use of Coronavirus Fiscal Recovery Funds

April 19: Ohio OBM asked Controlling Board to create 3 new fund accounts:

- **State Fiscal Recovery Fund (5CV3)** - Accept *State Fiscal Recovery Fund* allocation; Ohio estimated to receive ~\$5.5B for costs incurred through December 31, 2024
  - Payments to the State from the U.S. Treasury w/in 60 days of certification
- **Local Fiscal Recovery Fund (5CV4)** - Accept *non-entitlement funds* allocated through Ohio; local governments estimated to receive ~\$815MM
  - To be distributed w/in 30 days of receiving funds from U.S. Treasury
  - Counties & metro cities to receive \$\$ directly from U.S. Treasury; not pass through Ohio OBM
- **Coronavirus Capital Projects Fund (5CV5)** - Accept *Coronavirus Capital Projects Fund* allocation; Ohio estimated to receive \$274MM
  - U.S. Treasury to establish application process w/in 60 days of March 11

Ohio OBM's request "does not establish appropriation authority to expend funds"

# Ohio Auditor of State



## Guidance regarding use of Coronavirus Local Fiscal Recovery Funds

**TBD** – Only 1 pronouncement since March 11:

- April 7: [Bulletin 2021-004](#)
  - Encourages local gov'ts and other recipients to consult w/ legal counsel
  - Recommends each gov't entity receiving funds **clearly document their rationale** for each ARPA expenditure
    - Including legislation passed by city council / county commissioners
  - Gov't fiscal officers: **use separate fund accounts!**

# The Rescue Plan

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## Broadband Expansion – Schools & Libraries

# The Rescue Plan



## E-Rate: Emergency Connectivity Fund

### ARPA, Title VII, Subtitle D, Sec. 7402

- Appropriates **\$7.17B** in FY '21 through FY '30 to support schools & libraries in providing devices and connectivity during the COVID-19 pandemic
  - Administered by Federal Communications Commission
    - Required to issue reg's w/in 60 days
  - Offset 100% of costs to purchase devices & equipment & IT services incurred from [01.27.2020 \(emergency declared\)](#) thru June 30 of 1<sup>st</sup> year post-COVID emergency
  - For use by students, school staff & library patrons; at locations *other than* schools / libraries
  - Educational connections & devices to address the “homework gap”
- UPDATE: March 22: FCC issued [Federal Register notice](#) seeking public comment

# **The Rescue Plan**

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## **Jobs Training / Workforce Development**

# The Rescue Plan



## Discrete Worker Cohorts

### ARPA, Titles VII & VIII

- Airline Jobs
- Aviation Manufacturing Jobs
- Veterans (retraining)

# **The Rescue Plan**

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## **Restaurant Revitalization Fund**

# The Rescue Plan



## Restaurant Revitalization Fund

### ARPA, Title V, Sec. 5003

- Appropriates **\$28.6B** in FY '21 (until expended) to support **restaurants, food trucks, brewpubs, taprooms & bars** (incl. those located in airport terminals)
  - Grant assistance: Up to \$10MM/operator (no more than \$5MM/location); "equal to the [operator's] pandemic-related revenue loss"
- Use of funds: payroll; mortgage (P + I) and rent payments; utilities; maintenance (incl. construction & FF&E); supplies; food & beverages; operational exp.'s; paid sick leave
- **Eligible operators:** submit "good-faith certification" that support "necessary" & did not receive Shuttered Venue Operator Grants
  - **Ineligible:** Government-owned operators; operators with > 20 locations (irrespective of common naming); pending recipients of Shuttered Venue Operator Grants
    - NOTE: \$1.25B add'l appropriation to Shuttered Venue Operators Grant fund
- **\$5B carve-out** for operators with gross receipts in 2019  $\leq$  \$500,000

# **The Rescue Plan**

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## **U.S. Economic Development Administration**

# The Rescue Plan



## Economic Adjustment Assistance (EAA) Program

### ARPA, Title VI, Sec. 6001

- Additional **\$3B** in FY '21 through FY '22 to support **small businesses responding to & recovering from economic effects** of COVID-19
- Economic Development Assistance Programs to **prevent, prepare for, and respond to coronavirus**
  - Incl. ***necessary expenses for responding to economic injury as a result of coronavirus***
  - **\$750MM carve-out** to states & communities suffering losses in travel, tourism & outdoor recreation
- Funds avail. under EAA
  - Updated Economic Adjustment Assistance **Notice of Funding Opportunity?**

**OR**

- Appears EDA using [FY20 PWEAA NOFO + Addendum](#)
  - "No application deadlines... agency will accept proposals on a rolling basis until the publication of a new PWEAA NOFO, cancellation of this NOFO, or all funds are obligated"

# Eligible Applicants

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- Unchanged from traditional (i.e., pre-COVID) type EAA **applicants**:
  - State of Ohio
  - Counties
  - Cities
  - Townships
  - Special purpose government units engaged in economic development
    - Think CICs in “agency” with local jurisdictions
  - Consortia of governments
  - Institutions of higher education, and
  - Public / private non-profits acting in cooperation with officials of political subdivisions

# Forms of EDA Assistance

- EAA is primary funding line administered by EDA
  - Compare **Public Works** program
    - NOFO Addendum to allow Public Works projects?
- EAA provides investments for **construction & non-construction**
- Subject to federal regulations:
  - **Title 13, Chapter III, Part 307 of the Code of Fed Regulations**
- Regs divide EDA's grant funding into **two types**:
  - **Strategy grants** support developing, updating, refining region's Comprehensive Economic Development Strategy ("CEDS")
  - **Implementation grants** to execute activities identified in CEDS
    - Incl. infrastructure construction, capitalizing revolving loan funds ("RLF"), technical assistance, and other activities

# Eligible Uses of Funds - Construction



- Implementation-type grants involving **public works and facilities to support economic recovery, including broadband , roads, water & sewer**
- EDA-cited **examples**
  - FY '20 NOFO:
    - Funding to a city to support the construction of a publicly owned multi-tenant business and industrial facility to house early-stage businesses
  - CFR:
    - Site acquisition, site preparation & rehabilitation and equipping of facilities
- Projects must be **completed w/in 5 years** from award date
- Must include an **environmental impact statement** prepared under NEPA + public notice period + comments from SHPO
- **Applicant as NGO** (e.g., local nonprofit)?
  - Local political subdivision afforded 15 days to review application

# Eligible Uses of Funds – Non-construction

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- **Implementation grants** for design & engineering & (re-)capitalizing RLFs
- **Strategy grants** for planning & strategy development
- FY '20 NOFO hinted that projects to be **completed w/in 3 years**
- Indirect cost recovery (i.e., **grant administration expenses**)
- **RLFs** received special mention under CARES Act appropriation
  - **EDA waived typical requirements through May 2021**
    - Minimum interest rate charged for business & public infrastructure lending
    - 1:2 lending requirement for loan portfolios, whereby \$1 of EDA funds must leverage at least \$2 of add'l capital
    - Credit otherwise unavailable (i.e., borrower being first rejected elsewhere)

# Rescue Plan Funding Process?

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- Following CARES Act's competitive & non-competitive funding (i.e., existing EDA grantees)?
- Rescue Plan \$\$ via Chicago Regional Office allocation?
  - CARES Act directed \$225MM to Illinois, Indiana, Michigan, Minnesota, Ohio & Wisconsin
  - Applicants were to **consider substantial grant amount requests**
  - Agency handled applications "**exceeding the historical averages**"
  - EDA generally awarded up to **80% of total project's cost**
  - "Heavily oversubscribed"
- Pre-COVID: EAA grant awards typically sized **\$150k to \$1M**

# The Rescue Plan

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## Higher Education

# The Rescue Plan



## Higher Education Emergency Relief Fund

### ARPA, Title II, Subtitle A, Sec. 2003 *et seq.*

- Appropriated **\$39.584B** through FY '23 to extend same support as *Consolidated Appropriations Act of 2021*
  - ½ for emergency financial aid grants to students
  - ½ to colleges / universities to defray lost revenue & increased costs from declining enrollment
- **Maintenance of Effort** as a condition to ARPA funds:
  - States to maintain support for Higher Ed in FY '22 & '23 at **same proportional level as average funding in FY '17 – '19**

# **The Rescue Plan**

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## **State Small Business Credit Initiative (SSBCI)**

# The Rescue Plan



Amends State Small Business Capital Initiative Act of 2010 (12 U.S.C. 5701 *et seq.*)

## What is SSBCI?

- Version 1.0: originally introduced 2010; active through 2017
- Deliver urgently needed capital to small businesses in the United States
- Council of Development Fin. Agencies (CDFA) strong proponent
  - “One of the most successful federal access to capital delivery mechanisms during its time”
  - **ODSA: \$55,138,373 in deployed capital (2010 – 2017)**
    - Ohio Capital Access Program; Small Business Collateral Enhancement Program; Targeted Investment Program
- Original SSBCI allowed states flexibility to design their own small business support programs:
  - Federal program that leveraged private capital; + 16,900 small businesses participated
  - **80% SSBCI loans & investments to businesses ≤10 employees; 42% in LMI communities**

# The Rescue Plan



Amends State Small Business Capital Initiative Act of 2010 (12 U.S.C. 5701 *et seq.*)

## ARPA, Title III, Subtitle C, Sec. 3301

- Version 2.0: Reauthorized **\$10B** through FY '30 to support **small businesses responding to & recovering from economic effects** of COVID-19
  - Technical assistance (e.g., legal, accounting, fin. advisory services)
- Pre-existing state programs to immediately deploy funds
- **\$1.5B carve-out** for businesses enterprises owned & controlled by **socially & economically disadvantaged individuals**
  - **PLUS another \$1B incentive** to state programs demonstrating robust support for such businesses
- **\$500MM carve-out** for **very small businesses** (< 10 FTEs; incl. sole proprietors & 1099s)

# The Rescue Plan

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## Medical / Health Insurance

# The Rescue Plan



## COBRA

### ARPA, Title IX, Sec. 9501

- **\$35B** in FY '21 through FY '22 to support
- Subsidize 100% of cost of premiums for COBRA continuation coverage
- Targets: workers who are laid off or have their hours reduced, from April 1, 2021 through September 30, 2021
  - Applies even if employee didn't sign up for COBRA when 1<sup>st</sup> offered or dropped coverage
  - Does not apply to voluntary resignations
- Extended period to enroll:
  - 60 days after receiving notice, to enroll in the employer's COBRA plan
  - 90 days to enroll in another plan

# The Rescue Plan



## COBRA – *cont.*

### ARPA, Title IX, Sec. 9501 – *cont.*

- [Guidance from IRS or FAQs from DOL](#), published April 7, 2021
- Subsidy will not count towards an individual's gross income
  - Treated as an advance refundable payroll tax credit
  - For self-insured plans, COBRA premium covered by employer & reimbursed through a payroll tax credit
  - For fully insured plans, tax credit claimed by insurer

# The Rescue Plan



## Affordable Care Act

### ARPA, Title IX, Sec. 9501 – cont.

- Provides *Affordable Care Act* eligibility for one year for those receiving unemployment benefits in 2021
  - Premium subsidies as a tax credit equivalent to a person earning up to 133% federal poverty level

# The Rescue Plan

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## Sick Leave

# The Rescue Plan



## Families First Coronavirus Response Act (FCRA)

- March 2020: *Families First Coronavirus Response Act*
  - Emergency Paid Sick Leave (EPSL)
    - 2 weeks/80 hours, if unable to telework due to one of six health-related reasons
  - Emergency Paid Family Leave (EPFL)
    - Up to 12 weeks if unable to work remotely due to child being home from a closed school, with first 2 unpaid

# The Rescue Plan



## Families First Coronavirus Response Act (FCRA) – *cont.*

- March 2021: ARPA
  - Can voluntarily extend from April 1 to September 30
  - Voluntary FFCRA payment / tax credit extended
    - Credit changes from SS to Medicare
- For employers who opt to continue FFCRA-type payments, ARPA also resets the 10-day/80-hour limit for EPSL starting April 1, 2021
  - Employees previously exhausted their entitlement to EPSL under the FFCRA?
    - Now have another 10 days/80 hours if employer wishes to offer this
- Non-discrimination: Can't pick and choose among employees

# The Rescue Plan



## Families First Coronavirus Response Act (FCRA) – *cont.*

- March 2021: ARPA (*cont.*)
- Eliminates requirement that first 2 weeks of EPFL be unpaid for employers who choose to extend.
  - Employee qualifies for EFML, may receive 12 weeks of paid leave
    - Assuming they have not previously used any EFML or other leave under traditional FMLA
- = \$12,000 rather than \$10,000 cap, plus the 2 weeks of paid sick = total of 14 weeks

# The Rescue Plan



## Families First Coronavirus Response Act (FCRA) – *cont.*

- March 2021: ARPA (*cont.*)
- Adds 3 additional qualifying reasons for EPSL:
  - Getting a COVID-19 vaccine;
  - Recovering from any illness/condition related to the vaccine; or
  - Seeking or awaiting the results of a COVID-19 diagnosis or test if either the employee has been exposed to COVID-19 or the employer requested the test or diagnosis

# **The Rescue Plan**

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## **State & Local Fiscal Recovery Funds**

# Purpose of Coronavirus State & Local Fiscal Recovery Funds

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For “responding to the COVID-19 public health emergency, **to offset revenue losses, bolster economic recovery and to provide premium pay for essential workers.**”

-U.S. Senate Democratic Caucus

# The Rescue Plan



## Amends Title VI of the Social Security Act (42 U.S.C. 801 *et seq.*)

### ARPA, Title IX, Subtitle M, Sec. 9901 (add-on to CARES Act's Sec. 601)

- Sec. 602: Appropriates **\$219.8B** through Dec. 31, 2024 to States & D.C., territories & Tribal governments
  - **Amounts payable** to each of the 50 states and District of Columbia: total **\$195.3B**
    - **\$500MM** to each of the 50 states + D.C.
    - Additional amount: (remainder \* States' unemployment rates)
    - Minimum: (\$500MM + add'l amount) + local governments \$\$ = CARES Act allocations
      - Ohio: \$4.528B under CARES Act
  - **Timing**
    - Amount payable within 60 days of State's certification of need
      - U.S. Treasury can withhold up to 50% for up to 12 mo's & require 2<sup>nd</sup> certification of need

# Eligible Uses of Funds – States

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Payments from Coronavirus State Fiscal Recovery Fund **can only be used** for costs incurred during covered period (March 3, 2021 forward) that:

- A. **Respond to the COVID-19 public health emergency** or its negative economic impacts
  - Inc. assistance to households, small businesses & nonprofits, industries
- B. Respond to **workers performing essential work**
  - Providing premium pay (up to \$13/hour)
  - Incl. grants to eligible employers
- C. To provide government services to extent of **reduction in revenue**
  - Compare: most recent full SFY prior to COVID
- D. To make **necessary investments in water, sewer, or broadband infrastructure**

# Restrictions on Uses of Funds – States

## Pending Litigation

- On March 17, 2021, Ohio AG Yost filed a motion for preliminary injunction to prohibit enforcement of **Title IX, Subtitle M, Sec. 9901**
  - Mandates that Coronavirus State Fiscal Recovery Funds cannot be used (directly or indirectly) to offset tax cuts or credits
    - *A State or territory shall not use the funds . . . to either directly or indirectly offset a reduction in the net tax revenue of such State or territory resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase*
      - Covered period = March 3, 2021 to last day of FY in which all Funds are expended or returned
- Yost position that provision is “coercive” and exceeds Congressional authority under the U.S. Constitution

# The Rescue Plan



Amends Title VI of the Social Security Act (42 U.S.C. 801 *et seq.*)

## ARPA, Title IX, Subtitle M, Sec. 9901 (add-on to CARES Act's Sec. 601)

- Sec. 603: Appropriates **\$130.2B** through Dec. 31, 2024 to metropolitan cities, nonentitlement communities & counties
  - Amounts payable to:
    - **Metropolitan cities: \$45.57B**
    - **Nonentitlement units of local government: \$19.53B**, via payments to states, within 30 days of states' receipt
      - Capped at 75% of most recent budget as of 01.27.2020
    - See estimated amounts: <https://www.nlc.org/resource/estimated-local-allocations-in-the-american-rescue-plan/>

# The Rescue Plan



Amends Title VI of the Social Security Act (42 U.S.C. 801 *et seq.*)

## ARPA, Title IX, Subtitle M, Sec. 9901 (*cont.*)

- Sec. 603: Appropriates **\$130.2B** through Dec. 31, 2024 to metropolitan cities, nonentitlement communities & counties (*cont.*)
  - Amounts payable to:
    - **Counties: \$65.1B**
    - See estimated amounts: <https://www.naco.org/resources/featured/state-and-local-coronavirus-fiscal-recovery-funds>

# Eligible Uses of Funds – Units of Local Government / Counties

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Payments from Coronavirus State Fiscal Recovery Fund **can only be used** for costs incurred during covered period (March 3, 2021 forward) that:

- A. **Respond to the COVID-19 public health emergency** or its negative economic impacts
  - Inc. assistance to households, small businesses & nonprofits, industries
- B. Respond to **workers performing essential work**
  - Providing premium pay (up to \$13/hour)
  - Incl. grants to eligible employers
- C. To provide government services to extent of **reduction in revenue**
  - Compare: most recent full FY prior to COVID
- D. To make **necessary investments in water, sewer, or broadband infrastructure**

# The Rescue Plan



Amends Title VI of the Social Security Act (42 U.S.C. 801 *et seq.*)

## ARPA, Title IX, Subtitle M, Sec. 9901 (add-on to CARES Act's Sec. 601)

- Sec. 604: Appropriates **\$10B** to States & D.C., territories & Tribal governments to carry out critical capital projects
  - **\$100MM** to each state (minimum)
    - Available until expended
  - *“To carry out critical capital projects directly enabling work, education, and health monitoring, including remote options, in response to” the COVID-19 public health emergency*

# Additional Questions and Answers

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