

## **State Opportunities under the American Recovery and Reinvestment Act:**

### **State Fiscal Stabilization Fund (Title XIV)**

#### **Summary**

The American Recovery & Reinvestment Act (ARRA) provides \$48.6 billion to governors for state fiscal relief and \$5 billion to the Secretary of Education for incentive and innovation grants to schools, districts, and states. The state fiscal relief includes 81.8 percent (\$39.8 billion) for education and 18.2 percent (\$8.8 billion) for other government services. All of the stimulus funds provided in this section are appropriations over and above current federal education funding. States must meet five assurances to be eligible for the fiscal stabilization grants: maintenance of effort, equity in teacher distribution, improving the collection and use of data, standards and assessments, and supporting struggling schools. States must also commit to maintain state support on K-12 education at least at the state fiscal year FY06 level and state support on higher education (excluding research and development, tuition and fees paid by students, and capital improvements) at least at the state fiscal year FY06 level.

The state fiscal stabilization grants to governors for education must be used to restore K-12 and higher education funding. The “other government services” stabilization grants may be used for early childhood, K-12 and postsecondary education, and for school modernization, renovation and repair. Key points for Governors to consider include:

- The stabilization grants provide a number of regulatory changes to relieve fiscal burden and distress. States may apply for a waiver to treat state stabilization funds as non-federal funds for any federal education program requirement related to maintaining fiscal effort.
- If the state has stabilization grant funds remaining after restoring K-12 and higher education, the funds are allocated to local education agencies according to Title I. This does not mean that the money must be spent on Title I activities. The LEA may use funds in compliance with ESEA, IDEA, Perkins, or school modernization, renovation, or repair, including a provision for green schools.
- If a state demonstrates that the amount of funds it will receive in phase one (67 percent) of its total stabilization allocation is insufficient to prevent the immediate layoff of personnel by LEAs, state educational agencies, or publicly funded institutions of higher education, the Department of Education will award the state up to 90 percent of its stabilization allocation in phase one. In such cases, the remaining portion of the state's allocation will be provided after the Department approves the state's plan.
- Governors should be cautious about using the state fiscal relief funds to support new programs that may not be able to be sustained after the ARRA funds are expended.

# 1 State Fiscal Stabilization Grants

## 1.1.1 Purpose

- This title provides grants to governors for state fiscal relief to prevent cuts to key services, including (1) funds to local schools and higher education institutions distributed through existing state and federal formulas and (2) funds to states for public safety and other government services, which may include education and education modernization, repair, and renovation.

## 1.1.2 Funding Level

- This title provides \$48.6 billion in grants to governors for state fiscal relief to prevent cuts to key services, including 81.8 percent (\$39.8 billion) for education and 18.2 percent (\$8.8 billion) for other government services.
  - Funds are allocated to governors as follows:
    - 61 percent on the basis of population of individuals aged 5 through 24
    - 39 percent on the basis of the total population
  - A “use it or lose it” provision requires governors to subgrant or commit funds within 2 years of receipt. If the funds are not used within two years, the funds return to the Secretary of Education. The Secretary may reallocate funds to other states.
  - Funds may be used in state fiscal years 2009, 2010, and 2011.
- The state application for these funds will be released by the end of March 2009. Within two weeks of receipt of an approvable application, the Department of Education will provide a state with 67 percent of its fiscal stabilization allocation.
- A state will receive the remaining portion of its fiscal stabilization allocation after the Department approves the state's plan detailing its strategies for addressing the education reform objectives described in the assurances. This plan must also describe how the state is implementing the record-keeping and reporting requirements under ARRA and how stabilization funds and other funding will be used in a fiscally prudent way that substantially improves teaching and learning.
- In the near future, the Department will issue guidance on the specific requirements that a state must meet to receive its phase two allocation. The Department anticipates that the phase-two funds will be awarded beginning July 1, 2009, on a rolling basis.
- If a state demonstrates that the amount of funds it will receive in phase one (67 percent of its total stabilization allocation) is insufficient to prevent the immediate layoff of personnel by LEAs, state educational agencies, or publicly funded institutions of higher education, the Department will award the state up to 90 percent of its stabilization allocation in phase one. In such cases, the remaining portion of the state's allocation will be provided after the Department approves the state's plan.

## 1.1.3 2008 Appropriations

- No previous appropriations. This is a new program.

### **1.1.4 Mechanism and Use of Funds**

- A governor desiring funds must submit an application to the Secretary of Education containing state education information, including:
  1. Assurances (as described below);
  2. Baseline data on those assurances,
  3. Description of how the state will use the funds, including whether a state will use the federal funds to meet maintenance of effort requirements for ESEA and IDEA, and if so, what amount of funds will be used.
  
- Assurances and Requirements for Funds:
  1. Maintenance of Effort: A state must maintain state support on K-12 education at least at the level of fiscal year 2006 in 2009, 2010, and 2011; and a state must maintain state spending on higher education at least at the level for fiscal year 2006 in 2009, 2010 and 2011 (excluding capital projects, research and development, and tuition and fees paid by students).
  2. Teacher Effectiveness: A state must take action to address inequities between the distribution of teachers in high-and low-poverty schools, and to ensure that low-income and minority children are not taught at a higher rates than other children by inexperienced, unqualified, and out-of-field teachers.
  3. P-16 Data: Establish a longitudinal data system that includes the elements described in the America COMPETES Act.
  4. Standards and Assessments: Enhance academic assessments to comply with several ESEA provisions related to the inclusion of students with disabilities, limited English proficient students, and the provision of accommodations for those students to participate in assessments. Also, states must take steps to improve state academic standards and student academic achievement standards.
  5. Corrective Action: Ensure compliance with the corrective action requirements in ESEA.
  
- State Reports: Governors receiving state stabilization funds shall submit a report to the Secretary describing use of funds, how the funds distributed are spent, the number of jobs saved or created, tax increases averted, progress to reduce inequities in the distribution of highly qualified teachers, progress to implement a state longitudinal data system, progress to develop a valid and reliable assessment for limited English proficient students and students with disabilities, the avoidance of higher education tuition and fees increases, the extent to which higher education institutions maintained, increased, or decreased enrollment of in-state students, and a description of each modernization, renovation, and repair project funded and the project costs.
  
- Fiscal Relief: The Act provides governors with a number of regulatory changes to relieve fiscal burden and distress.
  1. Upon prior approval from the Secretary, a state or school district may treat state stabilization funds as non-federal funds for any requirement for any other federal education program related to maintaining fiscal effort, including Part C of IDEA. If approved, in addition, no state or school district will lose federal funds in the following fiscal year.
  2. The Secretary may waive or modify any requirement related to maintaining fiscal effort for a state or school district.
  3. A waiver or modification is available for fiscal year 2009, 2010, and 2011.

4. Relative to the State Stabilization MOE requirement: The Secretary may not approve a waiver for a state or school district that decreases the proportionate share of total revenue that is available to elementary and secondary education.

## **1.2 Grants to Governors for Education [§ 14002(a)]**

### **1.2.1 Purpose**

- This section provides grants to governors to support elementary, secondary, and postsecondary education, and as applicable, early childhood programs and services. Elementary and secondary education is defined by the state.

### **1.2.2 Funding Level**

- This provision is funded at \$39.8 billion according to the allocation formula provided in §1.1.2 of this paper and will be dispersed according to the timeline provided in the same section.

### **1.2.3 2008 Appropriations**

- No previous appropriations. This is a new program.

### **1.2.4 Mechanism and Use of Funds**

- The governor shall first use the funds to: (1) provide funds to K-12 education to (a) restore, in FY09, FY10, and FY11, the level of state support through the state funding formulae to the greater of FY08 or FY09; (b) and where applicable, to allow existing state formula increases to support K-12 in FY2010 and FY11 to be implemented and allow funding to phase in state equity and adequacy adjustments, if such increases were enacted prior to October 1, 2008; and (2) to provide public higher education institutions in FY09, FY10, and FY11 the amount of funds needed to restore state support (excluding tuition and fees paid by students) to the greater of FY08 or FY09.
  - *Shortfall:* If the funds are insufficient to restore spending levels, a governor shall allocate funds between K-12 and higher education relative to the state shortfall.
  - *Excess:* If any excess exists after carrying out the above clauses, the Governor shall allocate funds to local education agencies relative to their Title I shares.
- Local education agencies must use the funds in accordance with ESEA, IDEA, Perkins, or for modernization, renovation, or repair of school facilities, including recognized green building rating systems.
  - K-12 school repair, modernization, or renovation must be consistent with state law.
  - LEAs may not use funds for payment of maintenance costs, stadiums or other athletic facilities, purchase or upgrade of vehicles, or improvement of stand-alone facilities whose primary purpose is not education of children.
- Public higher education institutions shall use funds to mitigate the need to raise tuition and fees for in-State students, or for modernization, renovation, or repair of higher education facilities that are primarily used for instruction, research, or student housing, including recognized green building rating systems.
  - HEA may not use funds for payment of maintenance systems, equipment, or facilities; modernization of athletic facilities; or facilities used for sectarian

instruction or religious worship; or in which a substantial portion of the functions are subsumed in religious mission.

### **1.2.5 Issues for Governors**

- These funds must be used to restore state funding to K-12 and postsecondary funding at the higher of FY 08 or FY09 funding level, with an additional increase allowed for K-12 education per existing state law. These federal dollars cannot be used for new education programs. However, a state may request a waiver from the Secretary of Education to treat the stabilization funds as non-federal funds for other federal education programs' requirement to maintain fiscal effort.
- If the governor has funds remaining after restoring K-12 and higher education, the funds are allocated to local education agencies according to Title I. This does not mean that the money must be spent on Title I activities. The LEA may use funds in compliance with ESEA, IDEA, Perkins, or school modernization, renovation, or repair, including a provision for green schools.
- States will be required to demonstrate progress on the assurances previously mentioned. Therefore, governors should carefully document the state's current efforts, for example, to equally distribute qualified teachers across the state, when submitting their application to the Secretary. It will be equally important to create a system to document progress on these assurances.

## **1.3 Grants to Governors for “Other Government Services” [§ 14002(b)]**

### **1.3.1 Purpose**

- This section provides grants to governors to support public safety and other government services, which may include assistance for elementary and secondary education, postsecondary education, and school modernization, renovation and repair.

### **1.3.2 Funding Level**

- This provision is funded at \$8.8 billion according to the according to the allocation formula provided in §1.1.2 of this paper and will be dispersed according to the timeline provided in the same section.

### **1.3.3 2008 Appropriations**

- No previous appropriations. This is a new program.

### **1.3.4 Mechanism and Use of Funds**

- The governor shall use the funds for public safety and other government services. Other government services *may* include assistance for elementary and secondary education and public institutions of higher education, and for modernization, renovation and repair of public school facilities and institutions of higher education facilities, including those consistent with a recognized green building program.
  - Funds may be used for any institution of higher education and a governor may not consider the type of institution.

- K-12 school repair, modernization, or renovation must be consistent with state law.

### **1.3.5 Issues for Governors**

- Governors have complete discretion over the use of these funds, so there will be many competing interests to consider.
- Governors should be cautious about using the state fiscal relief funds to support new programs that may not be able to be sustained after the ARRA funds are expended.

## **2 State Incentive Fund [§ 14006]**

### **2.1 Purpose**

- This fund is reserved for the Secretary of Education to award incentive grants to states that demonstrate significant progress on assurances and closing achievement gaps.

### **2.2 Funding Level**

- This provision is funded at \$4.35 billion and is competitive for states. The Secretary shall make grants to states in two phases. Thirty percent of the funds will be allocated by the end of calendar year 2009 and the remainder allocated in Spring 2010.

### **2.3 2008 Appropriations**

- No previous appropriations. This is a new program.

### **2.4 Mechanism and Use of Funds**

- The Secretary shall decide which states receive grants and how much based on the following:
  - Funds are available to states that make significant progress on the above assurances, and the following items: state strategies to help struggling students meet state academic proficiency targets, and achievement and high school graduation rates as defined by ESEA and the new Title I regulations.
  - Each state must describe how funding would be prioritized for high-need schools and how the state will evaluate if progress is made in closing the achievement gap.
  - Each state receiving an incentive fund award shall use at least 50% of the award on subgrants to local education agencies, relative to the Title I share.
- The Department of Education has indicated that an RFP will be available in Spring 2009.

### **2.5 Issues for Governors**

- The Secretary of Education will determine the specific criteria for awarding the incentive grants. Progress on the assurances mentioned above may be used to determine eligibility for these funds.

- Each state receiving an incentive fund award shall use at least 50% of the award on subgrants to local education agencies, relative to the Title I share. Governors can provide guidance and place requirements on these funds.

### **3 Innovation Fund [§ 14007]**

#### **3.1 Purpose**

- This fund is reserved for the Secretary of Education to recognize local education agencies schools, and nonprofits that have made significant gains to close the achievement gap.

#### **3.2 Funding Level**

- This provision is funded at \$650 million and is competitively awarded by the Secretary. Thirty percent of the funds will be allocated by the end of calendar year 2009 and the remainder allocated in Spring 2010.

#### **3.3 2008 Appropriations**

- No previous appropriations. This is a new program.

#### **3.4 Mechanism and Use of Funds**

- Eligible entities include: (1) a local education agency or (2) a partnership between a nonprofit organization and (a) one or more local education agencies or (b) a consortium of schools.
- The Secretary shall make awards to eligible entities that have made significant gains in closing the achievement gap. The awards may be used to:
  - Allow the entity to expand their work and serve as a model for best practices;
  - Allow the entity to work in partnership with the private sector and philanthropic community; and
  - Identify and document best practices that can be shared, and taken to scale based on demonstrated success.
- To be eligible for an innovation grant, the entity must have:
  - Significantly closed the achievement gap;
  - Exceeded the state's annual measurable objectives for two or more consecutive years or demonstrated success in significantly increasing student academic achievement for all groups of students;
  - Significantly improved in other areas, such as graduation rates or increased recruitment and placement of high-quality teachers; and
  - Demonstrated that they have established partnerships with the private sector and philanthropic community.
- The Department has indicated that an RFP will be available in Spring 2009.

#### **3.5 Issues for Governors**

- States are not directly eligible for these awards.