



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Memorandum

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TO: Members of the General Assembly

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SUBJECT: Legislative Changes and Flexibility in the Use of American Rescue Plan Funds

Summary

This memorandum provides information on how revenue changes in legislative measures may impact the state's flexibility in using its \$3.8 billion allocation of federal American Rescue Plan Act (ARPA) funds. This memorandum will be updated as additional federal guidance becomes available and relevant state revenue estimates are updated.

Allowable Uses of ARPA Funds

The state government will receive \$3.8 billion in Coronavirus State Fiscal Recovery Funds under the federal ARPA. These funds may be used for costs incurred from March 3, 2021, through December 31, 2024, for the following:

- a) To respond to the **public health emergency or its negative economic impacts**, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
- b) To respond to workers performing essential work during the COVID-19 public health emergency by providing **premium pay** to eligible workers;
- c) For the provision of government services to the extent of the **reduction in revenue due to the COVID-19 public health emergency** relative to revenues collected in the most recent full fiscal year prior to the emergency; and
- d) To make necessary investments **in water, sewer, or broadband infrastructure**.

Guidance issued to date from the U.S. Department of Treasury on the allowable uses of ARPA funds can be found online.¹

¹For the U.S. Treasury Interim Final Rule and guidance, see: <https://home.treasury.gov/system/files/136/FRF-Interim-Final-Rule.pdf>
For a legislative staff summary of this guidance, see: https://leg.colorado.gov/sites/default/files/fed_recovery-05-12-21.pdf

State Flexibility in the Use of ARPA Funds

Under federal guidance, states have the most flexibility in spending the portion of funding used to offset the state revenue loss attributable to the COVID-19 pandemic. This funding can be used for general government services. At this time, staff are awaiting additional clarification in order to calculate Colorado's revenue loss for calendar year 2020, and it is not yet known whether Colorado will have a revenue loss in calendar years 2021 through 2023.

To the extent that the state has a revenue loss in calendar years 2021 through 2023, legislation that increases or decreases state revenue to the General Fund or cash funds, including revenue to enterprises, during those years will impact the state's revenue loss calculation and the amount of federal funds that may be flexibly spent by the state. Specifically, if a bill increases state revenue in a year in which there is a revenue loss, it will reduce the state's revenue loss on a dollar-for-dollar basis. In these instances, instead of using federal funds to offset the state revenue loss, funds would have to be used for one of the other three allowable purposes: responding to the public health emergency and its negative economic impacts; premium pay for employees; or investments in water, sewer, or broadband infrastructure. Conversely, if a bill decreases state revenue in a year in which there is a revenue loss, the flexibility of spending federal funds under ARPA will increase.

Calculating State Revenue Losses

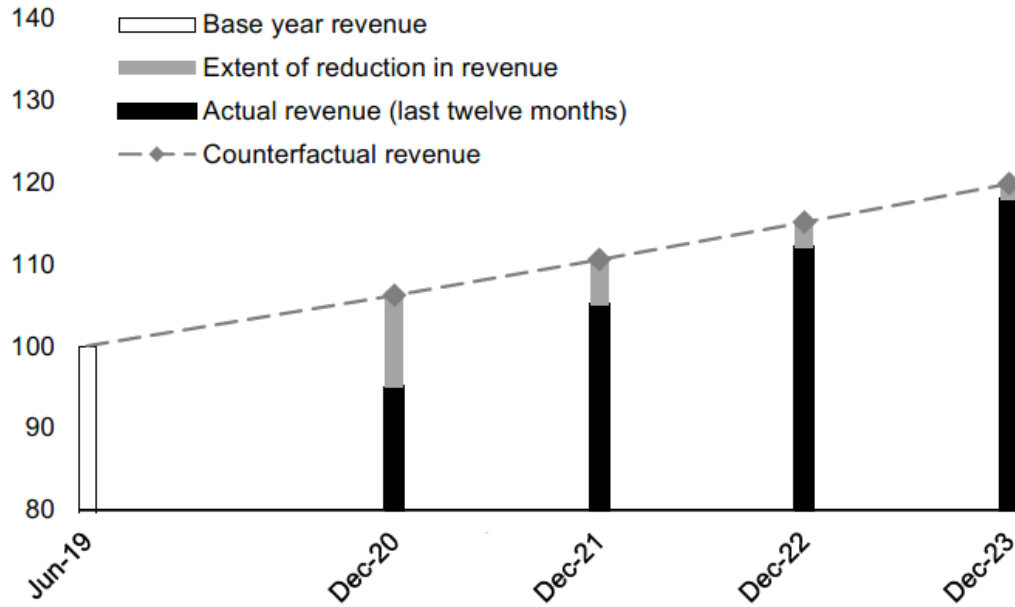
Calculation methodology. Guidance issued by the U.S. Department of Treasury provides a methodology for how to calculate state revenue losses. These losses are based on the difference between actual state revenue and a counterfactual calculated at four points in time: calendar years 2020, 2021, 2022, and 2023. To calculate revenue that the state would have received in these years, the counterfactual applies a growth rate assumption to revenue collected in the fiscal year prior to the pandemic.² The assumed growth rate is the average annual growth rate for state revenue in the three fiscal years prior to the pandemic. Figure 1 illustrates the revenue loss calculation.

Colorado's state revenue losses are unknown at this time. As of the date of this memorandum, staff are awaiting clarification or additional guidance on the revenue loss calculation in order to determine Colorado's state revenue loss attributable to the pandemic for calendar year 2020. Based on the guidance issued to date, staff anticipate that Colorado's revenue loss will be at least \$1.38 billion in calendar year 2020.

Revenue losses are based on actual revenue collected, not a forecast. As a result, revenue losses incurred in calendar years 2021, 2022, and 2023 will not be known until after the close of each calendar year, respectively.

²Additional details on the revenue loss calculation may be found starting on page 51 of the federal Department of Treasury guidance.

Figure 1
Illustration of the Revenue Loss Calculation



Source: U.S. Department of Treasury Interim Final Rule, page 59. This chart is for illustrative purposes only and does not reflect actual or projected revenue.