



## **American Recovery and Reinvestment Act of 2009 (ARRA P.L. 111-5): Opportunities for State IT Funding** **Updated March 3, 2009**

President Obama signed the American Recovery and Reinvestment Act of 2009 (P.L. 111-5) into law on February 17, 2009. The purpose of the \$787 billion package is (1) for job preservation and creation; (2) to promote economic recovery; (3) to assist those most impacted by the recession; (4) to provide investments needed to increase economic efficiency by spurring technological advances in science and health; (5) to invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and (6) to stabilize state and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.

ARRA is jammed pack with potential funding for state IT investments. With federal stimulus funding, many state programs will require legislative changes, business process improvements, extensive monitoring and changes to management information systems. Some IT opportunities are explicit, while others are not obvious based on the language in the provision. However, it must be noted that every program in state government is enabled by IT and IT services to some degree. Therefore, NASCIO anticipates both the need for expanded services and funding in most state agencies. Since recovery funds will be channeled through existing federal programs either by formula or grants, State CIOs will need to communicate early and often with other state officials and program agencies. With the accelerated processes and requirements for state implementation, spending and federal reporting, State CIOs will need to monitor agency and project funding to minimize risks related to enterprise architecture compliance, technology standards, IT security, data management and IT procurement.

This NASCIO resource guide is a summary of key opportunities for state chief information officers to invest, modernize and secure state digital infrastructure and will be updated frequently. This resource is not intended to be a comprehensive guide to ARRA but to help identify some key opportunities for IT funding. Many provisions of ARRA do not contain guidance on how funds will be distributed. Federal agencies are starting to issue guidance through their website and the Federal Register regarding how states can apply for disbursement of funds. Governors and other state programmatic officials will have some latitude and discretion to invest funds to support the intended outcomes on the ARRA. The Office of Management and Budget has issued **Initial Implementing Guidance for Federal Agencies for Implementing the American Recovery and Reinvestment Act.**



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Time is of essence because governors or state legislatures have to notify the federal government that their states will **request stimulus funds by April 3, 2009**. NASCIO encourages you to work with your governor’s economic stimulus team to see how you can obtain funding to help invest, modernize and secure your states digital infrastructure.

<b>Program</b>	<b>Funding</b>	<b>Provisions</b>	<b>House Conference Report (111-16) Page Number(s)</b>	<b>Opportunities and Comments</b>
<b>EDUCATION AND WORKFORCE</b>				



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Unemployment Insurance (UI) Modernization	\$500 million	\$500 million in UI administrative funding is provided to all states. \$7 billion in incentive payments is available for States who enact specific reforms designed to increase UI coverage among low-wage, part-time and other jobless workers.	328-332	State UI and employment services systems have been overwhelmed in recent months. NASCIO expects legacy system modernization and business process redesign investments as part of the \$500 million UI administration funding allocation. Expanded and increase UI coverage will add to numbers of jobless that require services. States may need to rely more heavily on online claims processing, self-service kiosks and other channels.
K-12: School Improvement Programs	\$650 million	The conference agreement includes \$720,000,000 for the School Improvement Programs account, which includes \$650 million for the Enhancing Education through Technology program. These funds will be available during school years 2009–2010 and 2010–2011.	457	
P-16 Alignment: Statewide Data Systems	\$255 million	\$250 million to be used for Statewide data systems that include postsecondary and workforce information, of which up to \$5 million may be used for State data coordinators and for awards to public or private organizations or agencies to improve data coordination.	70	Significant funding for development or enhancement of data collection.



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State Fiscal Stabilization Fund	\$53.6 billion	This program provides grants to governors for state fiscal relief to prevent cuts to key services, including \$39.5 billion to local schools and higher education institutions distributed through existing state and federal formulas, \$5 billion as incentive grants to states that make key performance measures, and \$8.8 billion to states for public safety and other government services, which may include education and education modernization, repair, and renovation that are consistent with a recognized green building rating system. The entire amount will be available when the bill is enacted into law. Funds are allocated through a population formula. Funds can be used for fiscal years 2009, 2010 and 2011.	166-174 and 505-509	The Department of Education is developing guidelines around the state fiscal stabilization fund and the agency has put up a recovery website.
<b>ENERGY AND NATURAL RESOURCES</b>				



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Efficiency: Local Government Energy Efficiency Block grants (EEBG)	\$3.2 billion	\$3.2 billion to help state and local governments make investments that make them more energy efficient and reduce carbon emissions. Of the \$3.2 billion, \$2.8 billion shall be distributed according to formula. 12 percent of these funds are given to the State Energy Programs. The remaining \$400 million shall be awarded on a competitive grant basis.	24 and 426	The Department of Energy has put up a recovery website explaining how to obtain the funds. Reducing the state's carbon footprint through green IT investments should be eligible. Retrofitting the data center is one target. State energy coordinators should be contacted early about the distribution and the competitive grant process.
National Oceanic and Atmospheric Administration (NOAA) Satellites and Sensors	\$830 million	\$230 million for NOAA operations, research, and facilities to address a backlog of research, restoration, navigation, conservation and management activities. \$600,000,000 for construction and repair of NOAA facilities, ships and equipment, to improve weather forecasting and to support satellite development. \$170 million to address critical gaps in climate modeling and establish climate data records for continuing research into the cause, effects and ways to mitigate climate change.	418	
Department of Interior US Geological Survey (USGS)	\$140 million	\$140,000,000 for Surveys, Investigations and Research that should consider a wide variety of activities, including repair, construction and restoration of facilities; equipment replacement and upgrades including stream gages, seismic and volcano monitoring systems; national map activities; and other critical deferred maintenance and improvement.	441	USGS funding for national map activities could possibly involve the state GIS resources. USGS funds many cooperative agreements with the states for shared data and digital basemaps.



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<b>HEALTH AND HUMAN SERVICES</b>				
Enhanced Federal Medical Assistance Percentage	\$87 billion	<p>Provides, on a temporary basis, additional federal matching funds to help states maintain their Medicaid programs in the face of recession-driven revenue declines and caseload increases.</p> <p>Three types of temporary assistance are available during the period October 1, 2008, through December 31, 2010.</p> <ul style="list-style-type: none"> <li>• Hold harmless</li> <li>• FMAP Increase (6.2 percentage points)</li> <li>• Unemployment-Related FMAP Increase</li> </ul> <p>All states qualify for the FMAP increase. The hold harmless and the unemployment-related FMAP increase are available for qualifying states.</p>	386-402; 756-772	<p>On February 25<sup>th</sup>, the Department of Health and Human Services (HHS) released \$15 billion of the \$87 billion in additional federal Medicaid funding or Federal Medical Assistance Percentage (FMAP).</p> <p>Expect growth in the Medicaid rolls, resulting in MMIS additional IT services to support the service demand. State CIOs need to understand the demand and gauge the impact.</p>



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Health Information Technology	\$19 billion	Health Information Technology (HIT), Title XIII in ARRA establishes the basis to adopt national HIT standards, provide incentives for adoption and use of HIT, and addresses privacy and security issues. The proposal includes approximately \$2 billion to invest in health information technology infrastructure and \$17 billion in incentives for Medicare and Medicaid providers.	113-166, 473-505	



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State Grants to Promote Health Information Technology		<p>The proposal would establish a program whereby states or a state-designated entity could receive grants for planning or implementation to assist with and expand adoption of HIT. For grants awarded prior to FY 2011, the Secretary may determine if a state match is appropriate. Beginning in fiscal year 2011, there is a <u>state match requirement</u> that is equal to or greater than a defined percent of the federal contribution for grants awarded in FY 2011 as follows:</p> <ul style="list-style-type: none"> <li>• FY 2011, not less than \$1 for every \$10 of federal grant funding;</li> <li>• FY 2012, not less than \$1 for every \$7 of federal grant funding; and</li> <li>• FY 2013 and thereafter, not less than \$1 for each \$3 of federal grant funding.</li> </ul> <p>The proposal directs assistance for implementation of health information technology, with the goal that funding could be used for the following:</p> <ul style="list-style-type: none"> <li>• HIT architecture that will support the nationwide electronic exchange;</li> <li>• Integration of HIT into training of health professionals and others in the healthcare industry;</li> <li>• Training on and dissemination of information on best practices to integrate HIT into a provider’s delivery of care. Such efforts must be coordinated between HHS and state agencies administering Medicaid and the State Children’s Health Insurance Program (SCHIP);</li> <li>• Regional or sub-national efforts towards health information exchange;</li> <li>• Infrastructure and tools to promote telemedicine; and</li> </ul> <p>Promotion of the interoperability of clinical data repositories or registries.</p>	138-140, 486-487	<p>With significant new funding and a sense of urgency about progress, State CIOs should anticipate the need for more coordination and collaboration in state health IT discussions, especially around the architecture, standards, security and privacy issues. Involvement in the state health IT governance body and regular communication regarding initiatives funded by the grants will be critical.</p>



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Competitive Grants to States and Indian Tribes for the Development of Loan Programs to Facilitate The Widespread Adoption of Certified EHR Technology		<p>The proposal would create a competitive grant program to allow eligible states or Indian tribes to establish a certified electronic health record (EHR) technology loan fund.</p> <p>Grants to states/tribes <u>could be awarded no earlier than January 1, 2010</u>. States would be required to match federal contributions of at least \$1 for every \$5 in federal grant funding. Public funds and private sector contributions are permissible sources for the non-federal match.</p> <p>The loan fund would allow states/tribes to distribute a loan to a provider or other eligible entity if the provider/entity agrees to certain requirements, for example, providers must agree to report on quality measures. Private sector contributions to the loan fund are permissible. Loan funds could only be used for specified EHR-related technology purposes.</p>	140-143, 487	

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Medicaid HIT Funding	\$145 million	<p>States may reimburse eligible Medicaid providers for the cost of qualified electronic health record (EHR) purchases, implementation and certain operation costs. ARRA seeks to minimize duplication and harmonize requirements for providers participating in both Medicaid and Medicare. The federal financial participation (FFP) rate for such payments is:</p> <ul style="list-style-type: none"> <li>• 100 percent for Medicaid providers’ purchase of certified EHR, including training and maintenance.</li> <li>• 90 percent for certain administrative expenses.</li> </ul> <p>The reimbursement payment for non-hospital based Medicaid providers with 30 percent Medicaid caseload is:</p> <ul style="list-style-type: none"> <li>• 85 percent of the net allowable costs incurred for the purchase, implementation, and use of certified EHR technology.</li> <li>• A separate reimbursement is applied for children’s and acute care hospitals.</li> <li>• Other hospitals are to be reimbursed according to the Medicare incentive policy.</li> </ul> <p>The higher FFP is contingent upon states meeting several requirements, including:</p> <ul style="list-style-type: none"> <li>• Determine providers are demonstrating “meaningful use” of the EHR technology, as determined by the state and HHS Secretary;</li> <li>• Reimburse providers directly, without a deduction or rebate; and</li> <li>• Track the use of EHRs, conduct oversight, encourage adoption of certified EHRs and exchange of health care information.</li> </ul> <p>Limits are placed on provider “incentive” payments – which may be more appropriately characterized as a reimbursement payment, including:</p> <ul style="list-style-type: none"> <li>• \$25,000: maximum net allowable costs for purchase and initial implementation.</li> <li>• \$10,000: maximum net allowable costs for subsequent year EHR related expenses.</li> <li>• \$63,750: aggregate maximum net allowable costs.</li> <li>• Reimbursement is limited to five years and cannot be provided after 2021.</li> <li>• Providers would be responsible for any technology related expense not referenced.</li> </ul>	379-384, 735-747	



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Privacy Provisions		The proposal includes provisions to strengthen privacy and security laws affecting identifiable health information. It does not appear to preempt state law. Provisions address breach notifications processes. It does not include a private right of action. It would provide some enforcement authority on behalf of individuals to states' Attorneys General and would establish a method to distribute civil monetary penalty or monetary settlements collected.	145-166, 489-505	



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Office of the National Coordinator for Health Information Technology (ONC)	\$2 billion	<p>The ARRA establishes the ONC for Health Information Technology within the Department of Health and Human Services and defines the duties of the National Coordinator, which would include management and oversight for developing standards, coordinating HIT policy across policies and programs within HHS and across other executive branch agencies and updating specific aspects of the Federal HIT Strategic Plan. The bill requires that this plan address utilization of electronic health records by 2014. It also would create HIT Policy and Standards committees, though state representation is not specifically required.</p> <p>The \$2 billion includes 0.25 is set aside for administrative fees, \$300 million to support regional or subnational efforts toward health information exchange and \$20 million to the National Institute of Standards and Technology in the Department of Commerce for continued work on advancing health care enterprise integration through activities such as technical standards and analysis and establishment of conformance testing infrastructure.</p> <p><i>National standards.</i> By December 30, 2010, it requires the Secretary to adopt an initial set of standards, implementation specifications, and certification criteria. It makes adoption of certain standards and certifications by private entities voluntary.</p>	66, 459	



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Indian Health Service Facilities	\$727 million	\$727 million is to modernize hospitals and health clinics and make healthcare technology upgrades in underserved rural areas.	61	



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Supplemental Nutrition Program (SNAP)	\$20 billion	<p>\$20 billion for the Supplemental Nutrition Assistance Program (SNAP), including a 13.6 percent benefit increase in nutrition assistance for all states, Puerto Rico and American Samoa for fiscal year 2009, based on the June 2008 thrifty food plan value. Additionally, \$145 million will be made available in fiscal year 2009 and \$150 million in fiscal year 2010 to cover administrative costs associated with the benefit increase, of which \$4.5 million is allocated to the Food and Nutrition Service to cover expenses related to management and oversight of the program, and monitoring the integrity and evaluating the effect of the payments made.</p> <p>Any errors in the implementation of this increased benefit will not be subject to a 120-day limit, and may be calculated for management purposes only, not applicable to the payment error rate. Further, a restriction under the Food and Nutrition Act that disqualifies jobless workers participating in work registration and employment and training requirements from receiving nutrition assistance is lifted, through to September 30, 2010.</p> <p>Funds will be allocated as grants to states, and will remain available until expended. 75% of the available funds will go to states based on their share of households participating in SNAP for the most recent 12-month period for which data are available, and the remaining 25% of funds will be allocated to states based on their increase in households participating in SNAP for the same 12 month period.</p>	6-13, 416	Anticipate expansion of needed IT services to handle the benefit increase and additional households added to this benefit program.



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Community Services Block Grant	\$1.5 billion	\$1.5 billion is directed to federally qualify health centers (FQHCs) for construction, modernization, health information technology improvements. An additional \$500 million is appropriated for FQHC grant funding for services and operations.	450-451	Health IT improvements at health centers. Expect need for upgraded network connectivity because of health IT demands.
Women, Infants and Children (WIC)	\$500 million	The WIC program receives \$500 million, of this amount \$400 million is placed in reserve to be allocated as the Secretary deems necessary to support program participation. The remaining \$100 million to help state agencies implement new management information systems or improve existing management information systems for the program.	5-6, 416	Funds for program participation, which equates to more recipients, therefore expanded intake processing and database needs. Also, funds allocated for new or modernized WIC systems.
National School Lunch Program	\$100 million	This program receives \$100 million for a grant program for equipment assistance. Funds will be provided to the state based "in a manner proportional with each state's administrative expense allocation." States would provide competitive grants to school food authorities based upon need for equipment assistance for participating schools, with priority given to school in which 50% or more of the students are eligible for free lunch.	5, 416	

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State and Local Law Enforcement Activities	\$ 4 billion	<ul style="list-style-type: none"> <li>• <b>Byrne Justice Assistance Grants:</b> \$2 billion in formula grants to help prevent, fight, and prosecute crime.</li> <li>• <b>Community Oriented Policing Services (COPS) grants</b> – \$1 billion in grants to support the hiring of additional law enforcement officers. The Act waives the 25 percent local match requirement and the \$75,000 salary cap per officer.</li> <li>• <b>Byrne competitive grants:</b> \$225 million in competitive grants to support crime prevention improve the administration of justice, provide services to victims of crime, and other activities.</li> <li>• <b>Violence Against Women grants:</b> \$225 million, of which \$175 million is for formula grants and \$50 million is to be used for transitional housing assistance.</li> <li>• <b>Victims Compensation:</b> \$100 million for grants to support state compensation and assistance programs for victims and survivors of crime.</li> <li>• <b>Rural Law Enforcement grants:</b> \$125 million in grants to combat drug-related crime in rural areas. <b>Southwest border/Project Gunrunner:</b> \$40 million in competitive grants to provide assistance and equipment to local law enforcement along the Southern border or in High-Intensity Drug Trafficking Areas to combat narcotic activity. \$10 million of these funds are to be transferred to the Bureau of Alcohol, Tobacco, Firearms, and Explosives for Project Gunrunner.</li> <li>• <b>Tribal Law Enforcement Assistance:</b> \$225 million to be distributed to American Indian and Alaska Native tribes.</li> <li>• <b>Internet Crimes Against Children:</b> \$50 million in grants to enhance investigative responses to predators using the Internet or other technology to sexually exploit children.</li> </ul>	16-17, 419-420	The significant increase in available funding to the justice and law enforcement community will result in IT spending. Specific targets may be justice administration, victim notification, offender tracking, etc. Expect IT spending for Internet crimes against children allocation.

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<b>INFRASTRUCTURE AND ECONOMIC DEVELOPMENT</b>		<ul style="list-style-type: none"> <li>• The Act outlines several transparency, oversight, and accountability requirements that would apply to all spending.</li> <li>• In most instances, the distribution of federal money occurs through existing formulas.</li> <li>• Maintenance of Effort. For transportation, the Act requires governors to certify within 30 days of enactment that the state will maintain its planned investment in those types of projects for which the state receives funding under the bill, followed by regular updates through September 30, 2010. If a state is unable to maintain its investment, then the state is ineligible to receive a portion of any redistributed unobligated funds.</li> </ul>	90-101, 469-471	
Transportation Infrastructure: Office of the Secretary	\$1.5 billion	ARRA provides <u>\$1.5 billion</u> for competitive grants to states, local governments, and transit agencies for projects across all surface transportation modes that will have a significant national, metropolitan, or regional impact. The Secretary shall publish grant competition criteria within 90 days of enactment of the Act, and must ensure an equitable geographic distribution of funds and an appropriate balance between metropolitan and non-metropolitan areas. Not more than 20 percent of the funds available may fund projects in a single state. Federal share is 100 percent, with priority given to projects for completion within three years of enactment of the Act.		Transportation infrastructure planning, construction and maintenance requires significant support by IT systems and services. Anticipate investments in construction design, contract monitoring, geographic information systems

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Transportation Infrastructure:  Federal Highway Administration		<p>The Act provides <u>\$27.5 billion</u> for highway and bridge infrastructure investment.</p> <ul style="list-style-type: none"> <li>• <i>Funding set-asides</i> (\$900 million): \$550 million for Indian reservation and federal lands investments; \$60 million for priority Federal-aid primary routes; \$150 million for distribution among U.S. territories (\$105 million to Puerto Rico); \$20 million for highway surface transportation and technology training; \$20 million for disadvantaged business enterprises bonding assistance; \$40 million for FHWA administrative expenses; and \$60 million for competitive discretionary grants to the states for projects with completion within two years of enactment of the Act.</li> <li>• <i>Transportation enhancement</i>. States must set-aside three percent of their apportionment for transportation enhancement projects.</li> <li>• <i>Distribution Formula</i>: Remaining funds distributed to states using a ratio formula specified in the Consolidated Appropriations Act of 2008, based on a state’s share of apportioned programs for 2008 versus the total apportioned program amounts for all states. Apportionment of funds must occur within 21 days of enactment. Funding priority to projects that: (i) can be completed within three years, and (ii) are located within “economically-distressed areas” (42 USC §3161).               <ul style="list-style-type: none"> <li>○ <i>State Share - Use/Lose</i>. First 50 percent of funds remaining after sub-allocation must be obligated within 120 days of apportionment, with the remaining 50 percent obligated within one year of apportionment. Bill provides for re-distribution of unobligated funds to other eligible states, subject to a state’s request for an extension period.</li> <li>○ <i>Sub-allocation</i>. Thirty (30%) percent of a state’s apportionment must be sub-allocated within the state according to the Surface Transportation Program formula. Sub-allocated funds are exempt from the re-distribution requirement for states of the first 50% of a state’s apportionment.</li> </ul> </li> <li>• <i>Federal Share</i>: Up to 100% of the total cost.</li> </ul>		<p>On March 3, FHWA released \$27 billion in highway funding, implementing grant guidance and estimated apportionment tables and Q&amp;A.</p> <p>\$20 million for technology training included.</p>





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DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM	\$650 million	\$650 million for additional coupons and including \$90 million for education and outreach, including grants to organizations for programs to educate vulnerable populations, including senior citizens, minority communities, people with disabilities, low-income individuals, and people living in rural areas, about the transition and to provide one-on-one assistance to vulnerable populations, including help with converter box installation.	15 and 418	
Withholding Tax on Government Contractors		Delays the law requiring states to withhold three percent rate on payments to contractors providing property or services made by federal, state and local government until 2012.	243	NASCIO supported the delay on enactment of the 3% withholding provision.