

National Career Pathways Network Conference  
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*Supporting CTE Initiatives in Tough  
Fiscal Times*

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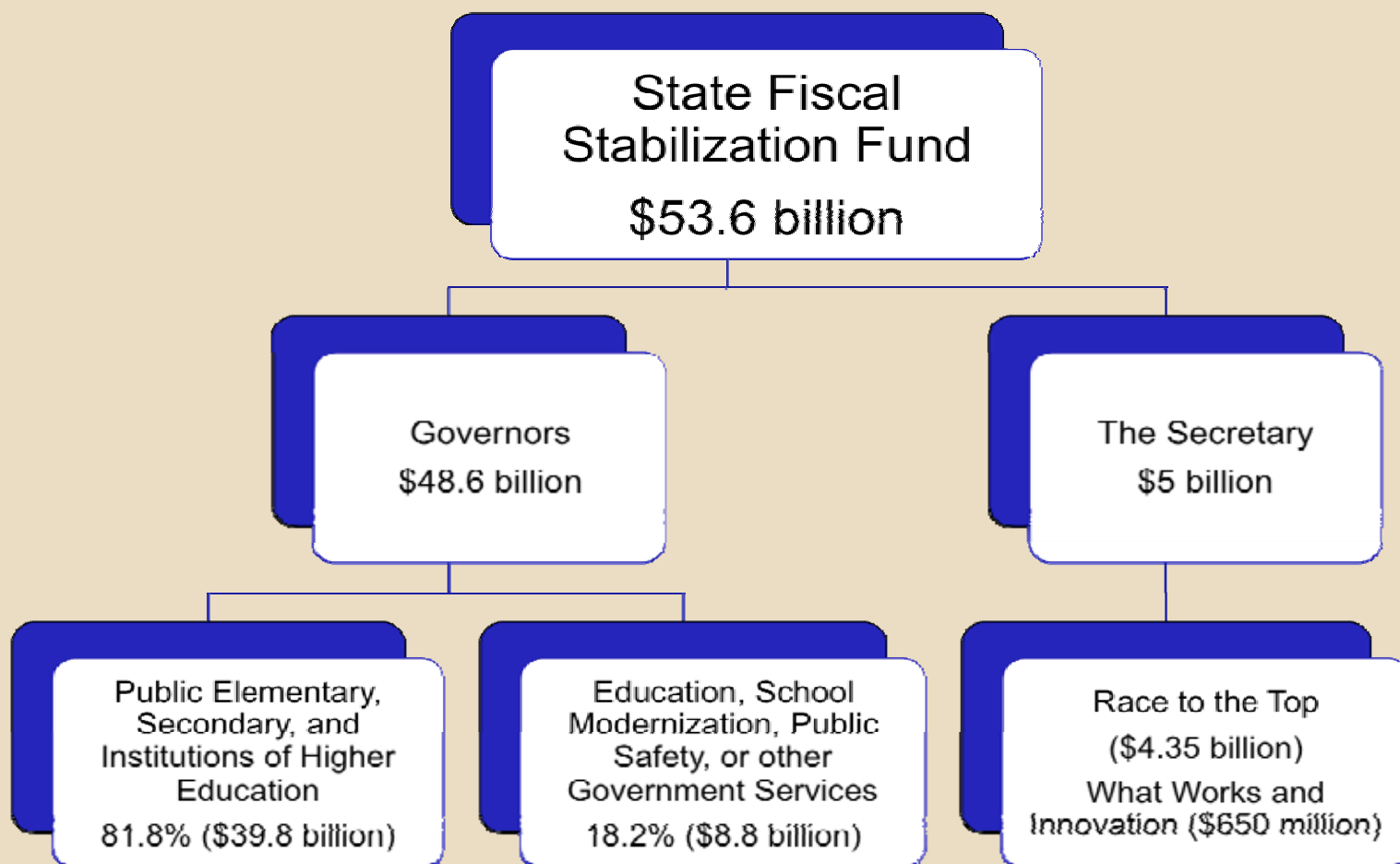
# Agenda

- Understanding the ARRA and the Use of Stabilization Dollars for CTE
- Oversight and Internal Controls of ARRA
- Perkins Issues
  - Allocability
  - Remedial Courses
  - Supplanting
- Time and Effort Reporting
- Questions

# ARRA – American Recovery and Reinvestment Act

- General Funding Structure
- Stabilization 53 Billion
- Formula Programs 50 Billion

# Stabilization Overview



# ARRA April 1, 2009 Guidance

- American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. 111-5), which President Barack Obama signed into law on February 17, 2009.
- The two components of the Stabilization program are the Education Stabilization Fund (CFDA No. 84.394) and the Government Services Fund (CFDA No. 84.397).

Education Stabilization Fund	Government Services Fund
➤ 81.8 percent of the State's total Stabilization Fund allocation	➤ 18.2 percent of the State's total Stabilization Fund allocation

by September, 2009

# Process for Awarding Funds to Governors

Phase One	➤ 67 percent of the State's total Stabilization allocation released.
Phase One Exceptional Circumstances	➤ Up to an additional 23 percent of the State's total Stabilization allocation released (for a total of up to 90 percent).
Phase Two	➤ Remaining portion of the State's total Stabilization allocation released.

# Education Stabilization (ES) Funds: CFDA No. 84.394

- The Governor makes awards under the Education Stabilization Fund only to local educational agencies (LEAs) and public IHEs.
- The Governor may not retain any portion of the Education Stabilization Fund for State purposes, nor award any portion of this allocation to entities other than LEAs and public IHEs

## ES: Uses of Education Stabilization Funds by LEAs

- Any Education Stabilization funds that an LEA receives may be used for activities authorized under the ESEA, the IDEA, the AEFLA, or the Perkins Act, subject to ARRA and other applicable Federal requirements, including the limited prohibitions.
- Critical: The Education Stabilization funds are ALWAYS Federal ARRA funds: Therefore there is accountability to ED.



See 2009 OMB Circular A-133 Compliance Supplement

## ES: Impact Aid

- ESEA includes the broad Impact Aid authority (*see* Title VIII of the ESEA), an LEA may use Education Stabilization funds for activities that would be allowable under Impact Aid.
  - This flexibility applies to all LEAs that receive Education Stabilization funds, and is not limited to those LEAs that also receive Impact Aid funds.
  - Under the Impact Aid authority, an LEA may use Education Stabilization funds for educational purposes consistent with State and local requirements, subject to ARRA and other applicable Federal requirements, including the limited prohibitions.

## ES: Impact Aid

- Among other things, the Education Stabilization funds may be used for activities such as:
  - paying the salaries of administrators, teachers, and support staff; purchasing textbooks, computers, and other equipment; supporting programs designed to address the educational needs of children at risk of academic failure, limited English proficient students, children with disabilities, and gifted students; and
  - meeting the general expenses of the LEA, investing in pre-K as part of “elementary education,” etc.

## ES: Record keeping is critical

- An LEA must: (a) maintain records that separately track and account for its Education Stabilization funds and (b) report on the specific uses of those funds.
- ARRA funds have separate CFDA numbers

Maintenance of Effort (MOE)  
&

Supplement not Supplant  
In the Stimulus Bill

# What is MOE?

- Be mindful, Stabilization fund MOE is separate from MOE in Perkins
- Each must be considered on its own terms



# Supplement Not Supplant - SNS

- Senate Bill authorized modifications to SNS
- Conference Report dropped the authority
- Statute is silent
- Guidance – Secretary cannot waive SNS

## Section 14005, the assurances

- **MOE**: in each fiscal years '09, '10, and '11 maintain state support for elem. & secondary education and higher education at least at the level of support in FY '06
  - See Sec 14012 Fiscal Relief if unable to meet '06 MOE

## Section 14012, fiscal relief

- For the purpose of relieving fiscal burdens on States and LEAs that have
  - experienced a precipitous decline in financial resources,
  - the Sec. of Education may waive or modify any requirement of **this title** (the stabilization title) relating to maintaining fiscal effort.

## Section 14012, fiscal relief

- (b) A waiver modification under this section shall be for any fiscal year 2009, 2010, or 2011.
- (c) Criteria: Secretary shall not grant a waiver or modification unless
  - the state or local educational agency will not provide a smaller % of the total revenues *available* than the amount provided in the preceding fiscal year.
  - It cannot be a smaller percentage!

## Section 14012, fiscal relief

- (d) Maintenance of effort: upon prior approval from the Secretary, a state or LEA that receives funds under this title may treat any portion of such funds *that is used for elementary, secondary, or post secondary education* as nonfederal funds for the purpose of any requirement to maintain fiscal efforts **under any other** program administered by the Secretary.

## Resources

- <http://www.recovery.gov/>
- <http://www.ed.gov/recovery>
- “Recovery Act Guidance,”  
[http://www.whitehouse.gov/omb/recovery\\_default/](http://www.whitehouse.gov/omb/recovery_default/)

# Multiple Levels of Oversight

- RAT = Recovery Accountability and Transparency Board
- GAO = General Accountability Office
- ED/OIG = Office of Inspector General Audit / Investigation
- A-133 Auditor
- ED Program Monitoring
- State “Pass Through” Monitoring

# Perkins Issues



## Allocability (A-87, A-21)

- “A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objectives in accordance with the relative benefits received.”



Burden on Eligible Recipient to Identify CTE students, and apply A-87 "Allocability" to:

1. **Salaries**
2. **Equipment**
3. **Supplies**
4. **Curriculum Development**
5. **Professional Development**

## Illustration

- A computer costing \$2,000 may be charged 100% to Perkins if 100% of the students benefitting are CTE
- Only 50% of an administrator's salary may be charged to Perkins Admin (State or local) if 50% of his or her time benefits the administration of Perkins

# Prohibition on Developmental / Remedial Courses

A 44 Year Change in Federal Policy

Can tutoring be provided to “special  
population” students?

## OVAE Guidance 5-28-09

- D.19 → No Remedial Classes
- D.20 → Remedial Services are Permissible

*Assistance may only be provided to an individual to the extent it is needed to address barriers to the individual's successful participation in CTE."*

-Congressional Record H5807  
(7/25/06)

May Direct Assistance be provided to Special Populations?

*“Special populations may need direct assistance to be able to participate successfully in CTE. These supportive services include such services as transportation, child care, dependent care, tuition, books, supplies, etc.”*

**-Congressional Record H5806  
(7/25/06)**

## Supplanting/MOE/Hold Harmless

- Supplanting is determined on a case by case basis and is fact specific
- MOE → Simply measured by state expenditures for CTE (aggregate or per student)
- Hold Harmless → State support for State Admin cannot be reduced from prior year (Perkins)

# Supplanting

- Federal Funds Cannot Displace State and Local Funds!!
  - Section 311(a) – Perkins



# Supplanting

- Test #1 Was the activity paid for in the prior year with non-federal funds?
- Test #2 Was the activity required by state/local law or policy?

# Supplanting

- Presumption of unlawful supplanting can be rebutted by asking?
- “What would the district have done in the absence of federal funds?”

# Supplanting

- If the district can prove in the absence of federal funds it would have eliminated the activity, it may use the federal funds to support that activity, assuming the activity is allowable.

(Perkins )

## Illustration of Supplanting

- Legislature cuts support to district by 6%
- The 6% cut results in reduction of force (RIF), including loss of 3 CTE instructors
- District may use Perkins funds to support those three positions
- District must retain evidence (e.g. legislative cut, board minutes)

## Illustration of Supplanting

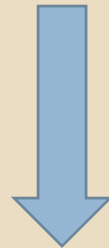
- Superintendent looks for funding for new “band uniforms”
- State/local \$ for CTE instructor’s salary is shifted to pay for uniforms, and replaced by Perkins funds
- In absence of federal \$, CTE positions would not have been cut
- This is unlawful supplanting

# OIG audit findings:

- Detroit MI –
  - Lack of time and effort records
  - \$53 million

# Single Cost Objective Employees

102 of 400 Sampled had inadequate semi-annual certifications



\$9,119,940

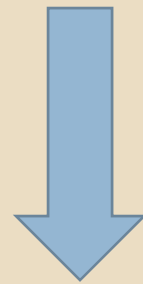
# Multiple Cost Objectives

Inadequate PARS for 57 out of 57  
salary transactions



\$12,979,760

Supervisor signing untimely semi-annual  
certifications 142 out of 145  
teachers in sample



\$21,824,996

## OMB Circular A-87 Rules:

### Compensation for Personnel Services:

- If federal funds used for salaries, then “time distribution records” are required.
- Must demonstrate = If employee paid with federal funds, then employee worked on that specific federal program/ cost objective.

## Cost Objectives

- What federal program “cost objectives” did the employee work on?
- These “cost objectives” must be connected to employee’s salary source.



Key: Align Effort to Funding

## What is a “Cost Objective”?

- A-87 Definition: A function, organizational subdivision, contract, grant or other cost activity for which cost data are needed and for which costs are incurred.
- Specific grant award or other category of costs that requires grantee to track specific cost information.

- From federal perspective, OK to identify “*Non Federal Activities*”
- But not simply “Federal Activities”
  - Must describe specific federal program

## Who must participate?

- Any *employee* working on a federal program
  - Not contractors
- All employees paid with federal funds
- Some employees paid with non-federal funds
  - Matching



If employee works  
100% on single cost objective

- Semi-Annual Certification
  - Signed every six months by supervisor or employee
- “From January 1, 2009, until June 30, 2009, I, Michael Brustein, spent 100% of my time on Perkins Administration.”

If employee works . . .  
On multiple cost objectives

- Personnel Activity Reports (PAR)
  - Signed *every month* by employee
  - UNLESS, using “substitute system” (then 2 or 3 times per year)
- “For the month of September, 2008, I spent my time 50% on Perkins Administration and 50% on Perkins Leadership.”

## PARs must:

- After-the-fact record
- Total activity for which employee compensated
- At least monthly  
(unless substitute system)
- Signed and dated by employee

- There is no single best method for documenting the distribution of effort



- But the method must recognize the principle of “after-the-fact” confirmation, so that charges to a grant reflect actual charges
- Budgets do not reflect actual charges

- Confirmation must be done by employee under A-87 or “responsible person with suitable means of verification” under A-21

Documentation to verify underlying basis of report

- Actual effort, not estimated effort!
- Consult supporting documentation when executing monthly report
- Calendar, work product, time log

## Budget Estimates:

- Budget estimates or other distribution percentages determined before the services are performed do not qualify as PARs
- May be used for interim accounting purposes
- Must be based on reasonable approximations of activity actually performed

# Comparisons and Adjustments

- Quarterly comparisons of actual costs to budgeted distributions
- If difference between actual cost and budgeted cost is 10% or greater, then make adjustment quarterly
- If difference is  $<10\%$ , then make adjustment annually

# Questions

# Save The Date!!!

Brustein & Manasevit  
2009 Fall Forum

PLANET HOLLYWOOD RESORT

**December 3 & 4, 2009**

**Las Vegas, Nevada**

**Cost of Workshop: \$650**

Space will be limited to facilitate interactive questions and answers.

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