



## Elementary and Secondary School Emergency Relief Funding (ESSER III)

In March 2020, Congress passed the CARES Act, which included \$13.2 billion for the Elementary and Secondary School Emergency Relief Fund (ESSER Fund). The state of Montana received an allocation of \$41,295,230 of these funds.

On December 27, 2020, The Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA) was passed into law. This bill provides an additional \$54.3 billion for the Elementary and Secondary School Emergency Relief Fund (ESSER II Fund). The OPI has received a Grant Award Notice from the Department of Education awarding Montana \$170,099,465 in ESSER II funds. Ninety percent of this award, or \$153,089,518, will be allocated to school districts proportionally to the Title I award in FY 2019-2020. The remainder \$17,009,947 has been set aside as the State Education Agency (SEA) reserve for the OPI to “address issues responding to coronavirus, including measuring and addressing learning loss, which may be addressed through the use of grants or contracts.” The OPI can use up to one half of one percent of the total grant, or \$850,497, for grant administration. The Montana Legislature passes HB 630 which prescribes the use of the 10% set aside.

On March 7, 2021, Congress passed the American Rescue Plan Act (ARP) which appropriated an additional \$129 billion dollars for the ESSER program. Montana expects to receive \$382,019,236 of additional ESSER funds. Once again, 90% or \$343,817,312 will be allocated to school districts proportionally to Title I. Of this, 20% or \$68,763,462 must be reserved to address learning loss through the implementation of evidence-based interventions. Of the 10% reserve, the SEA must reserve 5% of the total grant or \$19,100,962 to address learning loss by supporting the implementation of evidence-based interventions, 1% or \$3,820,192 each for summer enrichment and after school programs. The SEA may use up to 0.5% for grant administration leaving 2.5% or \$9,550,475 for discretionary expenditures.

### Allowable LEA Uses of ESSER Funds

ESSER I and II have general guidance that all grants be used “to prevent, prepare for, and respond to coronavirus.” Unless the Department of Education issues guidance to the contrary, the OPI believes this requirement applies to ESSER III as well. All LEA expenditures of grant

funds must meet this requirement and adhere to the designated allowable expenditures specific to the ESSER funding listed below.

ARP allows LEAs to use the funds for any activity authorized by the following Federal education acts:

- A. The Elementary Secondary Education Act (ESEA) of 1965, currently reauthorized as the [Every Student Succeeds Act](#) (ESSA) of 2015.

ESSA includes the following Federal education programs:

- a. Title I, Part A: Improving Basic Programs Operated by LEAs, including the portions of the State Education Agency's (SEA's) Title I, Part A award used to carry out section 1003 School Improvement for Schools Identified for Comprehensive Support and Improvement (CSI) and Targeted Support and Improvement (TSI)
  - b. Title I, Part C: Education of Migratory Children
  - c. Title I, Part D: Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent or At Risk
  - d. Title II, Part A: Supporting Effective Instruction
  - e. Title III, Part A: English Language Acquisition, Language Enhancement, and Academic Achievement
  - f. Title IV, Part A: Student Support and Academic Enrichment Grants
  - g. Title IV, Part B: 21st Century Community Learning Centers
  - h. Title V, Part B, Subpart 2: Rural and Low-Income School Program
  - i. Title VI: American Indian and Alaska Native Education
- B. The [Individuals with Disabilities Education Act](#) (IDEA)
  - C. The [Adult Education and Family Literacy Act](#) (AEFLA)
  - D. The [Carl D. Perkins Career and Technical Education Act](#) (CTE)

### **Additional LEA Uses of ESSER Funds**

The ARP also duplicates ESSER II in specifying the following activities as allowable uses of ESSER II funds:

- A. Coordination of preparedness and response efforts of LEAs with State, local, Tribal, and territorial public health departments, and other relevant agencies, to improve coordinated responses among such entities to prevent, prepare for, and respond to coronavirus.

- B. Activities to address the unique needs of low-income children or students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth, including how outreach and service delivery will meet the needs of each population.
- C. Developing and implementing procedures and systems to improve the preparedness and response efforts of LEAs.
- D. Training and professional development for staff of the LEA on sanitation and minimizing the spread of infectious diseases.
- E. Purchasing supplies to sanitize and clean the facilities of the LEA, including buildings operated by the LEA.
- F. Planning for, coordinating, and implementing activities during long-term closures, including providing meals to eligible students, providing technology for online learning to all students, providing guidance for carrying out requirements under the Individuals with Disabilities Education Act and ensuring other educational services can continue to be provided consistent with all Federal, State, and local requirements.
- G. Purchasing educational technology (including hardware, software, and connectivity) for students who are served by the LEA that aids in regular and substantive educational interaction between students and their classroom instructors, including low-income students and students with disabilities, which may include assistive technology or adaptive equipment.
- H. Providing mental health services and supports, including through the implementation of evidence-based full-service community schools.
- I. Planning and implementing activities related to summer learning and supplemental afterschool programs, including providing classroom instruction or online learning during the summer months and addressing the needs of low-income students, students with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care.
- J. Addressing learning loss among students, including low-income students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and children and youth in foster care, of the local educational agency, including by:
  - a. Administering and using high-quality assessments that are valid and reliable, to accurately assess students' academic progress and assist educators in meeting students' academic needs, including through differentiating instruction.
  - b. Implementing evidence-based activities to meet the comprehensive needs of students.
  - c. Providing information and assistance to parents and families on how they can effectively support students, including in a distance learning environment.
  - d. Tracking student attendance and improving student engagement in distance education.

- K. School facility repairs and improvements to enable operation of schools to reduce risk of virus transmission and exposure to environmental health hazards, and to support student health needs.
- L. Inspection, testing maintenance, repair, replacement, and upgrade projects to improve the indoor air quality in school facilities, including mechanical and non-mechanical heating, ventilation and air conditioning systems, filtering, purification and other air cleaning, fans, control systems, and window and door repair replacement.
- M. Other activities that are necessary to maintain the operation of and continuity of services in LEAs and continuing to employ existing staff of the LEA.

### **Timing**

The grant requires the SEA to award funds to LEAs within 60 days of receipt of funds. LEAs will have until September 30, 2024 to obligate expenditures.

### **Supplement Not Supplant**

The ESSER grants do not contain a supplanting prohibition. At the LEA level, ESSER funds may take the place of State or local funds for allowable activities. However, the ESSER grant does not change the maintenance of effort requirements of other federal grants.

### **Restrictions on LEA Uses of ESSER Funds**

LEAs “shall reserve not less than 20 percent of such funds to address learning loss through the implementation of evidence-based interventions, such as summer learning or summer enrichment, extended day, comprehensive afterschool programs, or extended school year programs, and ensure that such interventions respond to students’ academic, social, and emotional needs and address the disproportionate impact of the coronavirus on the student subgroups described in section 1111(b)(2)(B)(xi) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(B)(xi)), students experiencing homelessness, and children and youth in foster care...”

### **Maintenance of Effort**

“A State shall maintain support for elementary and secondary education, and for higher education (which shall include State funding to institutions of higher education and State need-based financial aid, and shall not include support for capital projects or for research and development or tuition and fees paid by students), in each of fiscal years 2022 and 2023 at least at the proportional levels of such State’s support for elementary and secondary education and

for higher education relative to such State's overall spending, averaged over fiscal years 2017, 2018, and 2019."

### **Maintenance of Equity – State Level**

1. High-Need LEAs
  - a. Target – Take the list of school districts and sort in descending order of poverty rate. Go down the list until the total enrollment covered is 50% of the state total. All of the schools with a poverty rate higher than this level are the target schools for this equity test.
  - b. Test – In FY 2022 and FY 2023, the state funding calculated on a per pupil basis cannot be reduced more than the overall statewide reduction in state funding calculated on a per pupil basis.
2. Highest Poverty LEAs
  - a. Target - Take the list of school districts and sort in descending order of poverty rate. Go down the list until the total enrollment covered is 20% of the state total. All of the schools with a poverty rate higher than this level are the target schools for this equity test.
  - b. Test – In FY 2022 and FY 2023, the state funding calculated on a per pupil basis cannot be less than the state funding calculated on a per pupil basis for the same district in FY 2019.
3. The OPI has sent the Department of Education a letter noting that some structural impacts of Montana Statute, namely three year averaging and calculation of Guaranteed Tax Base may cause the appearance of failing these tests even though state statute requires inflation be applied to the school funding formula and has requested the Department to consider this when it issues guidance of Maintenance of Equity.
4. HB 632 provides for the award of additional state general fund to any district which is in danger of failing the Maintenance of Equity tests.

### **Maintenance of Equity – Local Level**

1. Target – LEAs with enrollment greater than 1,000 who operate more than one school or for whom each grade span is contained in more than one school.
2. Test – The district may not reduce per pupil combined state and local funding for any high poverty school by an amount that exceeds the reduction of per pupil combined state and local funding for the district as a whole.
3. Test – The district may not reduce the ratio of FTE to pupils at any high poverty school below the ratio of FTE to pupils in the school district as a whole.

## Equitable Services to Non-Public Schools

Like ESSER II, ESSER III makes a separate appropriation for non-public schools.

## LEA Application for Funds

The ESSER funds will be distributed to LEAs and administered using a new EGrants module named ESSER III.

## Tracking Funds

ESSER II funds must be tracked separately from ESSER funds. OPI's school finance unit will establish new codes for receipt and expenditure of ESSER II funds.

## HB 632 – Montana Legislative Action on ARP

During the 2021 Montana Legislative Session, the Legislature took an interest in the use of ARP funds. HB 632 contains instructions for the use of ARP funds, including the ESSER III funds. HB 632 shows the following use of the ESSER III funds:

Basic Allocation to School Districts	343,817,312
Supplemental Allocation to School Districts	3,400,000
Allocation to Other Educational Institutions	120,000
Education Leadership in Montana	555,234
OPI Database Modernization	5,475,248
Administration	1,910,096
State Learning Loss	19,100,962
State Summer Enrichment	3,820,192
State Afterschool Programs	<u>3,820,192</u>
TOTAL	382,019,236

## State Plan and LEA Plan

The Department of Education published an [Interim Final Rule](#) with requirements for state education agencies to publish a state plan for reopening schools as well as requirements for school districts to publish a plan for reopening. Further information on these requirements will be forthcoming.

## Key Contacts for the ESSER Grant

[Jeff Kirksey](#), ESSER Manager, 406-444-0783, General ESSER Questions

[Danni McCarthy](#), Special Education Fiscal Manager 406-444-0452, Questions Regarding SPED Allocations

[Jay Phillips](#), Centralized Services Division Administrator, 406-444-4523, E-Grants Questions

[Mindi Askelson](#), Systems Analyst, 406-444-0768, General ESSER Questions, E-Grants

Questions. [E-Grants Security](#), 1-888-231-9393, Local 406-444-3095, Access to E-Grants

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