

# POLICY MEMO

## HOW OHIO SHOULD SPEND AMERICAN RESCUE PLAN FUNDS MAY 20, 2021

### The Buckeye Institute's Recommendation

Ohio should use Congress' American Rescue Plan funding in three ways: repay federal loans for the state's unemployment trust fund; expand broadband access in unserved corners of the state; and extend commonsense criminal justice reforms that will reduce prison over-crowding.

These recommendations align with The Buckeye Institute's **spending principles** and consider the recently released **guidance** from the U.S. Treasury Department.

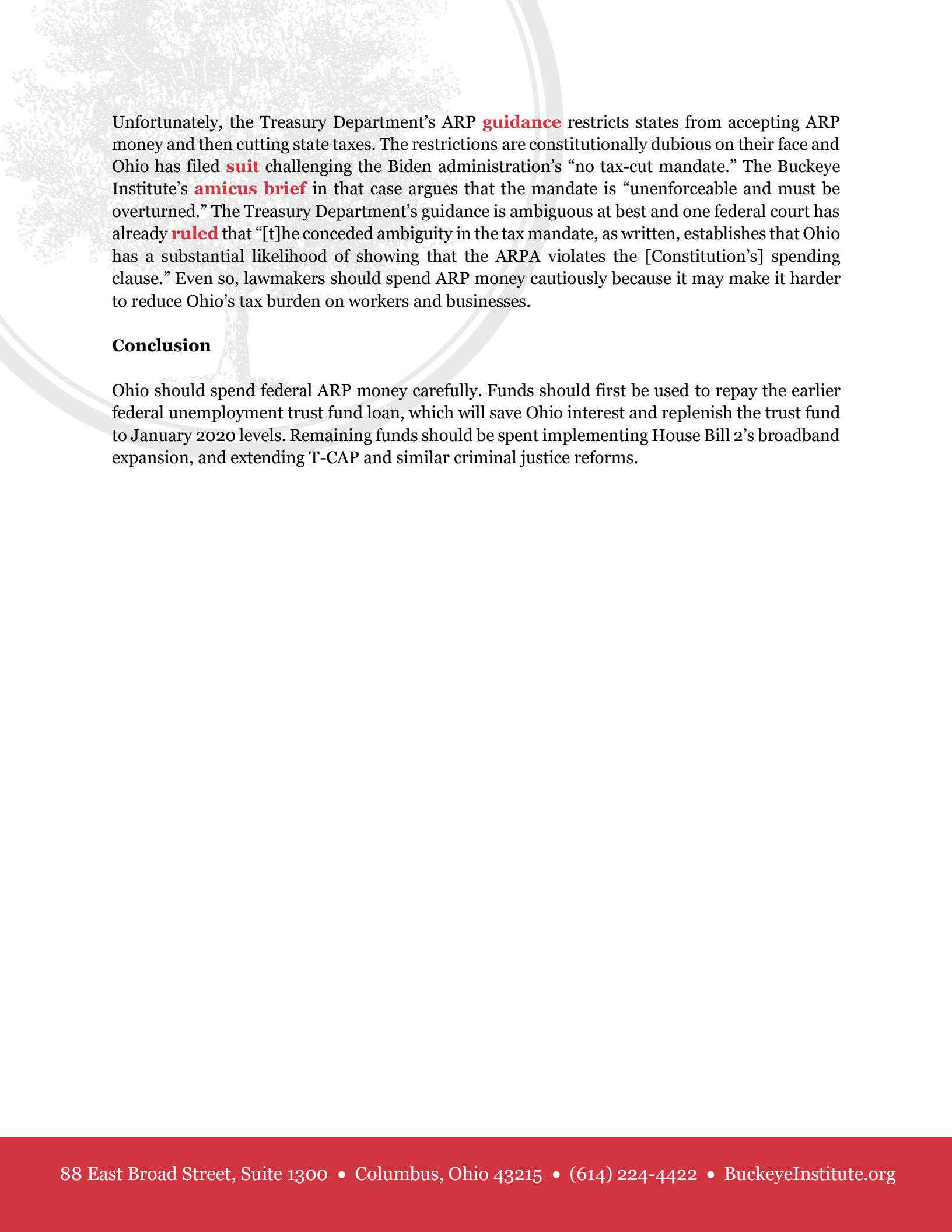
### Background

The American Rescue Plan (ARP) will **give** Ohio \$5.4 billion with additional funds to local governments and other public services. The ARP funding comes with federal strings and limitations, but states retain some latitude to choose how to spend the money, and Ohio should use the funds in three ways.

First, as Governor Mike DeWine has proposed, Ohio should repay federal loans that it borrowed to cover pandemic-related unemployment benefits. Ohio **borrowed** almost \$1.3 billion from Washington and needs to repay it with interest. Unlike money lent under the CARES Act, U.S. Treasury Department guidance **stipulates** that states may use the ARP funds "to pay back advances received under Title XII of the Social Security Act (42 U.S.C. 1321) for the payment of benefits..." That is, Ohio may use ARP money to repay federal loans (and interest) and replenish its unemployment trust fund. As The Buckeye Institute **recommended** in March, Ohio should restore the unemployment trust fund to its **January 2020 balance** of more than \$1.2 billion.

Second, Ohio should spend ARP funds to expand broadband access and infrastructure to unserved areas of the state. Implementing House Bill 2's broadband expansion will cost more than **\$200 million** over the next biennium. The proposed expansion projects have a defined completion date and a transparent spending process.

Third, ARP funds should be used to promote smart, cost-effective criminal justice reforms. States may use ARP funds to help prevent COVID-19 spreading in prisons. Ohio's prisons already exceed capacity and inmates remain susceptible to the virus. To help reduce over-crowding, Ohio should use ARP money to expand the state's successful **Targeted Community Alternatives to Prison** (T-CAP) program. Through T-CAP, the Ohio Department of Rehabilitation and Correction (DRC) provides grants to counties that agree to rehabilitate and treat non-violent, fifth degree felons in the community rather than send them to prison. Such programs save taxpayer dollars, changes lives, and makes successful reentry to an ex-offender's community more likely.



Unfortunately, the Treasury Department's ARP **guidance** restricts states from accepting ARP money and then cutting state taxes. The restrictions are constitutionally dubious on their face and Ohio has filed **suit** challenging the Biden administration's "no tax-cut mandate." The Buckeye Institute's **amicus brief** in that case argues that the mandate is "unenforceable and must be overturned." The Treasury Department's guidance is ambiguous at best and one federal court has already **ruled** that "[t]he conceded ambiguity in the tax mandate, as written, establishes that Ohio has a substantial likelihood of showing that the ARPA violates the [Constitution's] spending clause." Even so, lawmakers should spend ARP money cautiously because it may make it harder to reduce Ohio's tax burden on workers and businesses.

## **Conclusion**

Ohio should spend federal ARP money carefully. Funds should first be used to repay the earlier federal unemployment trust fund loan, which will save Ohio interest and replenish the trust fund to January 2020 levels. Remaining funds should be spent implementing House Bill 2's broadband expansion, and extending T-CAP and similar criminal justice reforms.