AMERICAN RESCUE PLAN ACT OF 2021

City Council Workshop

June 24, 2021

CITY OF Springfield

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AMERICAN RESCUE PLAN ACT OF 2021

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AMERICAN RESCUE PLAN ACT OF 2021

The American Rescue Plan Act (ARPA) provides relief to respond to the novel coronavirus (COVID-19) including unprecedented aid to local governments, including every city, town and village in America.

Today's City Council workshop will focus on providing information to City Council and to determine a process moving forward for implementation.

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American Rescue Plan Act (ARPA) (H.R. 1319) Overview of Act

- Signed into law March 11, 2021
- $1.9 Trillion aid package that provides financial aid to families, governments, businesses, schools, non-profits & others impacted by COVID-19 public health crisis, including:
  - $656 Billion for Direct Financial Assistance (Stimulus checks $1,400; Expanded and extended unemployment; tax credits; Paycheck Protection Program PPP; EIDL program, community and economic development, grants to small businesses, etc.)
  - $56 Billion Assistance to Individuals and Families (SNAP; WIC; EBT; Nutrition assistance; Veterans Affairs; Family Violence Prevention; IDEA; Child Abuse prevention; Emergency assistance; OAA; Elder justice act; etc.)
  - $211 Billion for Education and Childcare (8 program areas)
  - $86 Billion for Health (22 program areas)
  - $40 Billion for Transportation (Transit; Airports; Amtrak)
  - $61 Billion for other (11 program areas)
  - **$350 Billion for State and Local governments Fiscal Recovery Fund**

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State & Local Governments: Fiscal Recovery Fund

- Title IX– Committee on Finance (Dept. of Treasury)
  - Subtitle M – Coronavirus State and Local Fiscal Recovery Fund
    - Provides $350 billion for states, localities, tribes and territories
      - State Governments: $195.3 billion
        - **Missouri $2,685,296,130.80 ($2.685 billion)**
      - Tribal Governments: $20 billion
      - Cities and Counties: $130.2 billion
        - $65.1 billion for counties, divided based on population
          - **Greene County: $56,928,520**
        - $65.1 billion for cities, divided based on modified CDBG formula
          - $45.6 billion for cities with populations over 50,000
            - **City of Springfield: $40,276,290**
          - $19.5 billion for cities with populations under 50,000

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Overview: State & Local Fiscal Recovery Fund

- Grant funding will be released in two tranches:
  - ½ following enactment (not later than 60 days after enactment)
  - ½ 12 months following receipt of first payment
- Funds remain available until December 31, 2024; unexpended funds must be returned to Treasury
- Local governments, including counties, are required to provide "periodic reports" providing a detailed accounting of the use of funds

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State and Local Fiscal Recovery Fund: Use of Funds (Four Categories)

a) To respond to the public health emergency or its negative economic impacts, including assistance to household, 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

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USE OF FISCAL RECOVERY FUNDS:

a. To respond to the public health emergency or its ***negative economic impacts***, including assistance to household, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality

- Supporting Public Health Response by:
  - Services to contain and mitigate the spread of COVID-19
  - Behavioral healthcare services, including mental health or substance misuse treatment, etc.
- Address the Negative Economic Impacts by:
  - Speed the recovery of impacted industries such as Tourism, Travel, and Hospitality sectors
  - Delivering assistance households
  - Support for small business and nonprofits

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USE OF FISCAL RECOVERY FUNDS:

b. To respond to workers performing essential work during the COVID-19 public health emergency by providing ***premium pay to eligible workers***

- Offering additional support to those who have and will bear the greatest health risks because of their service in critical infrastructure sectors
- Limitations: amount not to exceed $25,000 per worker
- Designed for low-income earners providing essential work during pandemic
- Additional documentation necessary if pay exceeds 150% of average wages
- Retroactive limitations with Missouri State Constitution for public employees

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USE OF FISCAL RECOVERY FUNDS:

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

- Recipients may use these funds to replace lost revenue
- Treasury Department has specific methodology to calculate lost revenue
- Once shortfall is identified, Cities will have broad latitude to use this funding to support government services

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HOW DO CITIES CALCULATE REVENUE LOSS?

- Identify revenues collected in the most recent full fiscal year prior to the public health emergency, *called the base year revenue*. In calculating revenue, recipients should sum across all revenue streams covered as general revenue.
- Estimated counterfactual revenue, which is equal to base year revenue:
  - [(1 + *growth adjustment*)^(*n*/12)], where *n* is the number of months elapsed since the end of the base year to the calculation date, and *growth adjustment* is the greater of **4.1 percent and the recipient's average annual revenue growth in the three full fiscal years prior to the COVID-19 public health emergency**
  - Identify *actual revenue*, which equals revenues collected over the past 12 months of the calculation date
  - The extent of the reduction in revenue is equal to *counterfactual revenue* less than *actual revenue*. If actual revenue exceeds counterfactual revenue, the extent of the reduction in revenue is set to zero for that calculation date
- **Springfield's Projected Lost Revenue amount = $31.6 million**

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USE OF FISCAL RECOVERY FUNDS:

d. To make necessary investments in ***water, sewer, or broadband*** infrastructure

- Make necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet

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Fiscal Recovery Fund: Ineligible Uses

- To offset a reduction in taxes
- Deposits into a pension fund
- Funding debt service
- Funding legal settlements or judgements
- Deposits into a rainy-day fund or financial reserves

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Principles to consider for use of Local Fiscal Recovery Fund

- Use Dedicated grants and programs first whenever possible
  - Save Local Fiscal Recovery Funds for gaps and priorities not eligible for other federal and state assistance programs
- Use Revenue Loss funding category last for priorities not eligible either with federal or state grants or other Local Fiscal Recovery Fund categories
- Assess government operations and community needs
  - Look for areas where funding has not been possible previously
  - Transformative and catalytic community projects with broad public need and support
- Projects/programs in partnership with Greene County or other partners
  - Use existing programs and partnerships already established
- Tapping into State Fiscal Recovery Funds
  - There may also be remaining CARES funds (must be spent by 12/31/21)
- Use this one-time funding for one-time expenses
- Analyze fit with City Council Priorities

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Transformative Project Examples

- Listing of project/expenditures by category and projected costs ($, $$, $$$, $$$$, $$$$$)
- See separate handout in workbook
- Includes organizational requests received to date

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Previous COVID-19 Recovery Assistance

- CARES/COVID funding received
- Greene County CARES assistance
- CDBG funding received
- Small Business Assistance
- Emergency Rental Assistance (ERA) Greene County
- Other

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Considerations

- Engaging auditing team for fiscal review, accountability and eligibility
- Currently meeting with Greene County Admin. on coordination
- Currently meeting with Community Foundation of the Ozarks on coordination/discussions with Greene County, MSU, OTC, SPS and City
- Timing (deadlines for spending or encumbering)
- Website Portal with projects/plans
- Interim Guidance from Treasury...Final sometime in July 2021

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Process

- Determine process
  - City Council as a Whole to determine plan? **and/or**
  - Refer to City Council Finance & Administration Committee? **and/or**
  - AD hoc citizen committee or committees formed to develop proposal?
- Identify priorities and/or funding by category
  - Evaluate readiness, confirm costs and timelines
- Conduct Joint Planning with Greene County Commission
- Public Engagement Process

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Public Engagement Process

- Analyze data to understand the community impact of COVID-19 to help guide how the funding can best align with local priorities and need.
- Input from residents is essential in the decision-making process on how these funds are used.
- Think as an **entire community** not just as a city. Consider keeping the Fiscal Recovery Fund proposal separate but coordinated with other ARPA funding proposals and communicated about together.
- Make sure we hear from people on the front end instead of having them react to something we already did.
- Begin with educational outreach and awareness about the federal aid package itself and collect baseline information about what citizens would like to see prioritized for ARPA spending. *(e.g. listening sessions, online and print surveys, and interactive budget simulations)*
- Strive to reach members of the community where they are.

Each of these methods have been successfully enacted in Springfield in different contexts. It is important to note that the type of engagement is less important than the fact that the voice of the community is helping drive the conversation about how to deploy these ARPA funds.

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Public Engagement Examples

No-tech: Direct communication between city leaders and the community.

Listening Sessions

Low-tech: Minimal technology (devices, software, tools, etc.) is used to facilitate communication and share details with participants.

Online & Print Surveys

High-tech: Lots of technology (personal or handheld devices, new software programs, interactive tools, etc.) is used to enable in-depth conversations about future possibilities

Interactive Budget Simulations

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Public Engagement Examples

Aurora, Colorado City leaders launched a dynamic online website that showcases different city projects and allows community members to share their input.

Greensboro, North Carolina is using an interactive budget simulation tool, A Balancing Act, to give residents the ability to give input into how they would allocate ARPA funding for different categories.

Norfolk, Virginia is utilizing an interactive mapping system to allow residents to provide geo-coded comments on transportation infrastructure projects.

Kansas City and Lexington, Kentucky have used ArcGIS mapping software to gather feedback on transportation projects.

St. Louis; Manchester, New Hampshire; Youngstown, Ohio and Santa Ana, California are using online surveys published on the city's website and other social media platforms to gather resident feedback.

Atlanta, Georgia City leaders launched a COVID-19 Community Impact Survey, in collaboration with the Latino Community Fund and other national partners, to gather insights from Black, Latinx and immigrant residents to better understand the short-term and structural challenges that they faced over the course of the pandemic.

Tulsa, Oklahoma also piloted a similar survey as they plan to incorporate the results into their recovery efforts centered around racial equity considerations.

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Next Steps

- (Process/meetings/etc)

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SENATE RPC

Senator Roy Blunt, Chairman
March 10, 2021

H.R.1319 – AMERICAN RESCUE PLAN ACT OF 2021 – FINAL TEXT

KEY TAKEAWAYS

- The Senate passed the Democrats' nearly $2 trillion reconciliation bill on a party-line vote of 50-49 on March 6.
- The House passed the final version of the bill on March 10 by a vote of 220-211, with all Republicans and one Democrat voting against it.
- This paper summarizes the notable provisions of H.R.1319 as amended in the Senate and passed by both chambers.

The American Rescue Plan Act of 2021 was considered under the budget reconciliation process. The partisan fiscal year 2021 budget resolution included reconciliation instructions for 12 House committees and 11 Senate committees. The House committees reported legislation in February that was combined into the American Rescue Plan Act of 2021, H.R.1319. It passed the House on February 27 by a vote of 219-212. The reconciliation package bypassed Senate committees and went straight to the Senate floor. The legislation was amended on the floor and it passed the Senate on March 6 by a vote of 50-49. The House passed the Senate-passed version of the legislation on March 10 by a vote of 220-211 – all Republicans and one Democrat voted against it. The president is expected to sign the legislation on Friday.

SUMMARY OF FINAL TEXT OF H.R.1319

Title I – Committee on Agriculture, Nutrition, and Forestry

Subtitle A – Agriculture

$3.6 billion for the secretary of agriculture to purchase commodities to be disbursed to people in need and facilitate grants and loans to small and midsize food processors and distributors, as well as grants and loans to bolster supply chains.

Provides a payment to each "socially disadvantaged farmer or rancher" with an outstanding USDA farm loan, in an amount up to 120% of his or her outstanding indebtedness. CBO scores this at a cost of $4 billion.

Appropriates an additional $1 billion in further support for socially disadvantaged farmers and ranchers.

Appropriates $500 million to the secretary of agriculture to establish an emergency community facilities pilot program to provide grants for COVID-related needs.

Subtitle B – Nutrition

Extends the 15% increase in Supplemental Nutrition Assistance Program benefits provided under the Consolidated Appropriations Act, 2021 through fiscal year 2021, which CBO scores at a cost of $3.54 billion.

Expands and extends the Pandemic EBT program, which CBO scores with a cost of $5.6 billion.

$1 billion for nutrition grants to Puerto Rico, American Samoa, and the Northern Mariana Islands, and $1.2 billion for administration of the SNAP program by states.

Title II – Committee on Health, Education, Labor, and Pensions

Subtitle A – Education Matters

$122.8 billion more for K-12 schools through the CARES Act's elementary and secondary school emergency relief fund. The bill includes "maintenance of effort" and "maintenance of equity" funding requirements. It reserves $800 million of the K-12 funding for identifying and providing services to homeless children and youth, as well as providing assistance to enable them to attend school. It also requires local educational agencies to seek public comment and then put a plan for returning to in-person learning on their website within 30 days of receiving funds.

$2.8 billion for emergency assistance to non-public schools. The bill requires schools to "enroll a significant percentage of low-income students" and be most affected by the pandemic in order to be eligible. The money cannot be used to reimburse schools for expenses they have incurred.

$39.6 billion for institutions of higher education through the higher education emergency relief fund.

$850 million for the outlying areas.

Funding for other education programs, such as $91.1 million for student aid administration at the Department of Education and $35 million for Howard University.

$3 billion for grants and programs under the Individuals with Disabilities Education Act.

Changes the Higher Education Act's "90-10 rule," which requires proprietary institutions of higher education to get at least 10% of their revenue from sources beyond Title IV federal education aid. The bill broadens the rule to require that these schools receive at least 10% of their revenue from sources beyond all "federal education assistance funds." The term "federal education assistance funds" is not defined in the U.S. Code, but House Democrats' summary document says the provision is intended to include GI Bill education benefits, which are not under Title IV. The bill requires these changes to go

through negotiated rulemaking no sooner than October 1. The rulemaking will apply to schools' fiscal years beginning on or after January 1, 2023.

$135 million for the National Endowment for the Arts.

$135 million National Endowment for the Humanities.

$200 million for the Institute of Museum and Library Services.

Subtitle B – Labor Matters

$200 million for worker protection activities at the Department of Labor. At least half of this total is for the Occupational Safety and Health Administration. The bill reserves $5 million of the OSHA funds for COVID-related enforcement in high-risk workplaces such as meat and poultry processing facilities.

Subtitle C – Human Services and Community Supports

$15 billion in Child Care and Development Block Grant funding.

$24 billion for Child Care Stabilization grants.

$1 billion for Head Start agencies.

Provides $425 million to HHS to be used as the secretary determines for cost increases resulting from the pandemic to carry out programs under the Administration for Children and Families.

Subtitle D – Public Health

$7.5 billion for the Centers for Disease Control and Prevention for vaccine distribution.

$1 billion for CDC vaccine confidence activities, including vaccine education and increasing vaccination rates.

$5.6 billion for vaccine and treatment supply chain activities, including research, development, manufacturing, and purchasing of vaccines, treatments, and ancillary supplies.

$500 million for vaccine, treatment, and diagnostics activities at the FDA.

Subtitle E – Testing

$47.8 billion for coronavirus testing, contact tracing, surveillance, and mitigation of COVID-19.

$1.8 billion is provided to CDC for genome sequencing and surveillance to identify and characterize viruses.

$750 million for global health activities conducted through the CDC.

Subtitle F – Public Health Workforce

$7.7 billion to HHS for a new public health workforce, including contact tracers and community health workers.

Subtitle G – Public Health Investments

$7.6 billion to community health centers to distribute vaccines and to test and monitor coronavirus infections $50 million for the Title X family planning program

Subtitle H – Mental Health and Substance Use Disorder

$1.5 billion for community mental health block grant programs.

$1.5 billion for block grants for the Substance Abuse Prevention and Treatment.

Subtitle L – Assistance for Older Americans, Grandfamilies, and Kinship Families

Provides $1.4 billion to fund programs authorized through the Older Americans Act.

Title III – Committee on Banking, Housing, and Urban Affairs

Subtitle A – Defense Production Act of 1950

Provides $10 billion for Defense Production Act activities including purchase or production of COVID-related medical supplies and equipment under DPA Titles I, III, and VII authorities.

Subtitle B – Housing Provisions

Provides $21.6 billion to the Treasury, available through September 2027, for emergency assistance grants for rent, utilities, and other housing expenses by eligible households, including those that have COVID-related financial hardships or have someone who qualifies for unemployment. The bill reserves $2.5 billion of the total for high-need grantees. It allows grantees to use, subject to certain restrictions, any funds unobligated after September 2022 for other affordable housing purposes, to be defined by Treasury. This is in addition to the $25 billion Congress provided for rental assistance in December in the Consolidated Appropriations Act, 2021.

$5 billion to the Department of Housing and Urban Development, available through September 2030, to provide emergency rental assistance vouchers to people who are homeless, at risk of homelessness, or fleeing domestic violence or human trafficking.

$100 million, available through September 2022, to support unassisted households living in USDA-subsidized properties.

$100 million, available through September 2025, for the Neighborhood Reinvestment Corporation to make grants to organizations it approves for activities including housing counseling, operational funding of grantees, and technology upgrades.

$5 billion, generally available through September 2025, to state and local government grantees for homelessness assistance, including financing support, housing counseling, and acquiring non-congregate shelters such as hotels.

$10 billion to the Treasury, available through September 2025, for a new homeowner assistance fund, through which states and other grantees could use the funds to assist people with paying for things such as mortgages, utilities, and homeowner's insurance.

$39 million for other homeowner assistance funding for section 502 and 504 loans at the USDA.

$20 million to HUD to fund legal aid, fair housing, and other eligible nonprofit organizations promoting fair housing initiatives program activities.

Subtitle C – Small Business

Provides $10 billion to the Treasury to restart the Obama-era State Small Business Credit Initiative, which provides funding to states to use for state programs that lend to or invest in small businesses.

Subtitle D – Public Transportation

$30.5 billion for the Federal Transit Administration grants.

Title IV – Committee on Homeland Security and Governmental Affairs

$50 billion for the Disaster Relief Fund under the Federal Emergency Management Agency.

$400 million to the FEMA emergency food and shelter program.

$110 million for FEMA assistance at the border. This departs from FEMA's traditional mission by using the agency to help process migrants at the border.

$300 million for fire-related grants given out by the Department of Homeland Security.

$100 million for FEMA emergency management performance grants.

$650 million to the Cybersecurity and Infrastructure Security Agency for cybersecurity risk mitigation.

$200 million to the U.S. Digital Service.

$1 billion to the Technology Modernization Fund.

$150 million to the General Services Administration for the Federal Citizen Services Fund.

Creates a $570 million Emergency Federal Employee Leave Fund.

Extends the expiration date for agencies to modify contract terms and conditions without consideration from September 30, 2020, to September 30, 2021. Agencies were authorized to make those payments by section 3610 of the CARES Act of 2020. The authority applies only to contractors whose employees or subcontractors cannot perform work due to COVID-19.

Title V – Committee on Small Business and Entrepreneurship

Provides $7.3 billion for the Paycheck Protection Program.

Expands program eligibility to a number of non-profits, as well as certain internet publishing organizations. Does not allow individual Planned Parenthood locations to be eligible for PPP. Does not allow larger non-profits, like labor unions to qualify for PPP.

Provides $15 billion for the Targeted Economic Injury Disaster Loan program and sets aside $5 billion for entities with 50% or more revenue disruption and with 10 or fewer employees.

Establishes a program to assist restaurants and other food and drinking establishments and provides $28.6 billion for it.

Provides $1.3 billion for the SBA Shuttered Venue Operators Grant Program.

$175 million for a new community navigators program.

Title VI – Committee on Environment and Public Works

$3 billion for the Economic Development Administration to facilitate economic adjustment assistance for pandemic response and preparedness.

$100 million for the Environmental Protection Agency to respond to health disparities stemming from pollution and the pandemic.

$105 million for the U.S. Fish and Wildlife Service: $20 million to address wildlife trafficking; $30 million for efforts pertaining to care of species including in facilities that lost revenue during COVID; $45 million for research to avoid and mitigate future pandemics stemming from wildlife disease outbreaks; and $10 million to implement the Lacey Act.

Title VII – Committee on Commerce, Science, and Transportation

Subtitle A – Transportation and Infrastructure

$1.7 billion for Amtrak.

$8 billion for airports, including $800 million to aid airport concessionaires.

$9 million for FAA employee leave fund.

$13 million for Transportation Security Administration employee leave fund.

Subtitle B – Aviation Manufacturing Jobs Protection

$3 billion to provide relief for aviation manufacturing businesses.

Subtitle C – Airlines

$15 billion to extend payroll support provisions for aviation sector employees, including $14 billion for passenger airlines and $1 billion for contractors.

Subtitle D – Consumer Protection and Commerce Oversight

Establishes a $7.6 billion Emergency Connectivity Fund at the Federal Communications Commission to provide funding for eligible schools and libraries to offer connected devices, internet service, hotspots, etc. to students and teachers to connect to the internet at home.

Subtitle E – Science and Technology

$150 million for the National Institute of Standards and Technology to support COVID-related research at existing Manufacturing USA institutes.

$600 million for the National Science Foundation to fund new and existing research grants aimed at supporting COVID-related impacts and response efforts.

Title VIII – Committee on Veterans' Affairs

$14.5 billion for VA medical services.

$100 million for supply chain modernization efforts.

$500 million for VA for State Veterans Homes construction funds.

$250 million in emergency payments for State Veterans Homes operations.

$386 million for the VA rapid retraining program.

Waives copayment requirements until September 30, 2021, which CBO scores at $1 billion.

Title IX – Committee on Finance

Subtitle A – Crisis Support for Unemployed Workers

Extends the "pandemic unemployment assistance" program – for independent contractors, the self-employed, and other workers who normally do not qualify for regular state benefits – to September 6.

Extends the "federal pandemic unemployment compensation" program to September 6 at the current level of $300 per week.

Extends the "mixed-earner supplemental benefit" – for people with at least $5,000 of self-employment income who do not qualify for PUA because they also have wage income that makes them qualify for some amount of regular state benefits – to September 6.

Extends the "pandemic emergency unemployment compensation" program to September 6. This is for people who have used up regular state benefits.

Adds a special rule for 2020 that the first $10,200 of unemployment compensation someone receives is not included as gross income for tax purposes. This applies for households with incomes under $150,000. Pays for this provision by extending, through 2026, section 461(l) of the tax code, which pertains to limits on excess business losses of noncorporate taxpayers.

$2 billion for a program administered by the Department of Labor to help states upgrade their unemployment insurance systems.

Subtitle C – Emergency Assistance to Children and Families

$1 billion for pandemic emergency assistance to provide nonrecurring short-term benefits to low-income families.

Subtitle D – Elder Justice and Support Guarantee

Provides $276 million in elder justice funding for fiscal years 2021 and 2022

Subtitle E – Support to Skilled Nursing Facilities in Response to COVID-19

Provides $200 million for infection-control support for skilled nursing facilities.

Subtitle F – Preserving Health Benefits for Workers

Provides additional federal assistance to people who have lost their jobs due to the coronavirus pandemic. Pays for the full premium of their COBRA continuation insurance until September 30.

Subtitle G – Promoting Economic Security

Tax code provisions for individuals, including additional "recovery rebates" and changes to the child tax credit, Earned Income Tax Credit, child and dependent care tax credit, and ACA marketplace subsidies. Includes COVID-related tax provisions for employers and self-employed people, including credits for paid sick and family leave and the employee retention credit.

2021 Recovery Rebates to Individuals

- Provides a $1,400 refundable tax credit to individuals with up to $75,000 in adjusted gross income (or AGI of $112,500 for heads of household and $150,000 for married couples filing jointly). For couples filing jointly, the credit is $2,800.
- The refundable tax credit will be paid out in advance like the Economic Impact Payments previously provided in the CARES Act and the Consolidated Appropriations Act, 2021.
- The credit will be phased out entirely for those with incomes above $80,000 (or $120,000 for heads of household and $160,000 for married couples filing jointly). The credit is reduced between $75,000 and 80,000 (or $112,500 and $120,000 for heads of household and $150,000 and $160,000 for married couples filing jointly).
- Provides $1,400 for both children and non-child dependents.

Child Tax Credit

- Increases the CTC amount to $3,000 per child for 2021, up from $2,000 under current law. For children under the age of six, the credit is increased to $3,600. The provision also broadens the definition of "qualifying child" to include children under 18 years old instead of 17.
- Phases out the additional credit amount – $1,000 per child six and over; $1600 per child under six – for joint filers with a modified adjusted gross income above $150,000 ($112,500 for head of household filers and $75,000 for other filers).
- Makes the CTC fully refundable in 2021. The CTC is currently only refundable up to $1,400 per qualifying child. With a refundable tax credit, taxpayers can generate a refund in excess of their income tax liability.
- Creates a new program at the IRS to make periodic advance payments of the CTC based on 2019 or 2020 tax return information, from July 2021 through December 2021. These payments would comprise half of the child tax credit for which the taxpayer is otherwise entitled for 2021, with the remaining half claimed on the 2021 tax return.
- Directs the IRS to establish an online portal to allow taxpayers to opt out of receiving advanced payments and provide information regarding changes in income, marital status, and number of qualifying children for purposes of CTC eligibility.
- JCT estimates that these changes would increase outlays by $88 billion and reduce revenues by $21 billion over the 2021-2030 period.

Earned Income Tax Credit

- For 2021, the bill expands eligibility requirements for the EITC for taxpayers without dependents, reducing the minimum age from 25 years old to 19 years old and increasing the upper age limit to include taxpayers over 64 years old. Special age provisions for students, qualified former foster youth, and qualified homeless youth are applicable.
- For 2021, the bill increases the maximum credit amount for taxpayers without dependents.
- The bill also makes several permanent changes to the EITC, including increasing the amount of investment income that would disqualify a taxpayer from receiving the credit.
- JCT estimates these changes would reduce revenues by $4 billion and increase outlays by $21 billion over the 2021-2030 period.

Premium Tax Credit

- Expands ACA subsidies for 2021 and 2022 to higher-income earners who currently do not qualify for ACA coverage. Allows households making above 400% of the federal poverty level eligible for a premium cap of 8.5%. These subsidies vary in generosity based on the eligibility income level.
- Waives the requirement for taxpayers to pay back excess advance premium tax credits to the IRS for the 2020 tax year. ACA marketplace enrollees receive APTCs, which are based on their annual income and lower the amount they pay monthly throughout the plan year.
- Increases the amount of premium tax credits for people receiving unemployment insurance benefits during 2021. This provision would take UI payments out of the calculation of eligibility for PTCs if their income was 133% of the federal poverty level or less.

Exempts student loan forgiveness in years 2021-2025 from federal income tax.

Subtitle H – Pensions

Provides taxpayer assistance for underfunded multiemployer pension plans. Under the bill, the Pension Benefit Guaranty Corporation would give grants, called "special financial assistance," to eligible MEP plans out of a newly established PBGC fund, which will be funded with money from the Treasury. Plans would have to apply by December 31, 2025, and the grants will cover projected benefits through 2051. Plans must meet one of several criteria, which include already having been approved by Treasury to reduce participant benefits or being in critical and declining status in any plan year from 2020 through 2022. The bill also increases MEP premiums to $52 per participant in 2031 and then indexes the rate to inflation. Under current law, CBO projects premium rates would increase from $31 in 2021 to $44 in 2031. CBO projects an average of 185 MEP plans will receive $86 billion in federally funded grants.

The bill makes changes that reduce employer funding requirements for single-employer pension plans. It includes a provision for community newspapers that allows them to contribute less to their pension plans and fund their plan shortfalls over a longer period of time.

Expands the limitation on deducting compensation for publicly traded companies' five most highly paid executives to include the next five highly compensated employees beginning in 2027.

Subtitle I – Child Care for Workers

Increases funding for the child care entitlement to states program to $3.6 billion per year.

Subtitle J – Medicaid

Requires Medicaid coverage for coronavirus vaccines and treatment with no cost sharing for beneficiaries. Vaccines are matched at 100% federal Medicaid matching rate for one year after the public health emergency.

Incentivizes Medicaid expansion by increasing states' base FMAP by five points for two years for states that expand their Medicaid programs. The FMAP increase would apply to states that expand their Medicaid program after this legislation is enacted.

Provides additional federal support for Medicaid home and community-based services. Increases the FMAP by 10 percentage points for expenditures for these services for the duration of the public health emergency.

Provides $250 million for "strike teams" to assist skilled nursing facilities with diagnosed or suspected coronavirus cases among residents and staff.

Subtitle K – Children's Health Insurance Program

Requires CHIP coverage for coronavirus vaccines and treatment with no cost sharing to the beneficiary. Vaccines are matched at 100% FMAP for one year after the public health emergency.

Subtitle L – Medicare

Allows ambulance providers to receive reimbursement for services delivered to Medicare beneficiaries during the coronavirus pandemic. Currently, Medicare does not cover ambulance providers when an enrollee is treated on-location. The provision would give the Centers for Medicare and Medicaid Services the authority to reimburse ambulance providers for care provided to beneficiaries even if the patient is not transported to a health care facility due to the coronavirus public health emergency protocols.

Subtitle M – Coronavirus State and Local Fiscal Recovery Funds

Provides $350 billion for states, localities, tribes, and territories.

$4.5 billion for territories – half equally divided and half based on population.

$20 billion for federally recognized tribes.

- $1 billion equally divided.
- $19 billion divided by the secretary of the treasury.

$195.3 billion for states and the District of Columbia.

- $25.5 billion divided equally among the states and D.C.
- $169.8 billion divided based on state's and D.C.'s share of total unemployed people in the country.
- Treats D.C. as if it were a state under the CARES Act.
- Gives the treasury secretary the authority to withhold payment of up to 50% of the amount allocated to each state and territory for up to a year, based on the unemployment rate in the state or territory. Before paying the remainder withheld funds, the secretary must require the state or territory to submit a second certification that the funds are needed and will be used in compliance with statutory limitations.

$130.2 billion for cities and counties.

- $65.1 billion for counties, divided based on population.
- $65.1 billion for cities, divided based on a modified CDBG formula.
    - $45.6 billion for cities with populations over 50,000.
    - $19.5 billion for cities with populations under 50,000.

Allows states and territories to use funds to provide premium pay to eligible workers of the state, territory, or tribal government who are performing "essential" work or provide grants to eligible employers that have eligible workers who perform essential work.

Adds "broadband infrastructure" to the list of permitted uses of state and local fiscal recovery funds.

Adds $10 billion for making payments to states, territories, and tribal governments to carry out critical capital projects directly enabling work, education, and health monitoring, including remote options, in response to COVID-19.

Final bill adds another $2 billion for counties and tribal governments.

- County payments will be allocated by the treasury secretary, "taking into account economic conditions of each eligible revenue sharing county, using measurements of poverty rates, household income, land values, and unemployment rates as well as other economic indicators, over the 20-year period ending with September 30, 2021."

- Tribal payments will be allocated by the treasury secretary, taking into account economic conditions of each eligible tribe.

Subtitle N – Other Provisions

Allocates $8.5 billion to rural hospitals and providers.

Title X – Committee on Foreign Relations

Global Response

$8.7 billion to prepare, prevent, and respond to coronavirus.

- $3.8 billion for HIV/AIDS programs to control coronavirus, with $3.5 billion of this going to the Global Fund to Fight AIDS, Tuberculosis, and Malaria.

- $3 billion to the U.S. Agency for International Development to address COVID-19 internationally.

Multilateral Assistance

$580 million to support the United Nations Global Humanitarian Response Plan for COVID-19.

Title XI – Committee on Indian Affairs

$900 million for Indian affairs, including $772.5 million for tribal government services and assistance, $100 million to support tribal housing, and $20 million to facilitate potable water.

$850 million for the Bureau of Indian Education.

$6.1 billion for tribal health programs.

$750 million, available through September 2025, for housing assistance and support services through Indian Community Development Block Grants, Native American Housing Block Grants, and Native Hawaiian Housing Block Grant programs.

$20 million for the preservation of Native American languages.

American Rescue Plan Act of 2021: Summary

The U.S. House of Representatives on March 10, 2021, passed the Senate-amended H.R. 1319, the American Rescue Plan (ARP). The ARP provides $1.9 trillion in additional relief to respond to the novel coronavirus (COVID-19). This follows the enactment of nearly $4 trillion in COVID relief in 2020. President Joe Biden called for Congress to enact the ARP to provide relief for individuals and business struggling due to COVID-19, as well as to achieve other priorities of the Biden Administration and Congress. ARP includes provisions on aid to state and local governments, hard-hit industries and communities, tax changes affecting individuals and business, and other provisions.

The latest COVID relief legislation was enacted as part of Congress' fiscal year (FY) 2021 budget, and includes provisions impacting a wide variety of stakeholders. The following chart highlights some noteworthy provisions.

	Key Provisions of American Rescue Plan

Agriculture	<u>Food supply chain and agriculture pandemic response</u>
	• Provides $4 billion for the U.S. Department of Agriculture (USDA) Secretary to:
	  ○ Purchase food and agricultural commodities
	  ○ Purchase and distribute agricultural commodities (including fresh produce, dairy, seafood, eggs and meat) to individuals in need
	  ○ Make grants and loans for small or midsized food processors or distributors, producers or other organizations to respond to COVID
	  ○ Make loans and grants to maintain and improve food and agricultural supply chain resiliency
	• Provides $300 million to monitor and survey susceptible animals for incidents of COVID
	• Provides $100 million to reduce the amount of overtime inspection costs of federally inspected small establishments and very small establishments engaged in meat processing
	
	<u>Emergency rural development grants for rural healthcare</u>
	• Provides $500 million to establish an emergency pilot program within 150 days after the enactment of ARP to increase capacity for vaccine distribution, purchase medical supplies, reimburse lost revenue, increase telehealth capabilities, construct temporary or permanent structures to provide healthcare services, support staffing needs for vaccine administration and testing, and engage in other efforts to support rural healthcare facilities in addressing COVID
	
	<u>Pandemic program administration funds</u>
	• Provides $47.5 million for necessary expenditures associated with carrying out the agriculture subtitle
	
	<u>Funding for the USDA Office of Inspector General for oversight of COVID-related programs</u>
	• Provides $2.5 million for audits, investigations and other oversight activities carried out with funds made available to the USDA related to the COVID pandemic
	
	<u>Farm loan assistance for socially disadvantaged farmers and ranchers</u>
	• Provides that the USDA Secretary shall provide a payment up to 120 percent of the outstanding indebtedness of each socially disadvantaged farmer or rancher as of Jan. 1, 2021, to pay off the loan directly or to the

	socially disadvantaged farmer or rancher for a direct farm loan or farm loan guaranteed by the Secretary
	
	<u>USDA assistance and support for socially disadvantaged farmers, ranchers, forest land owners and operators, and groups</u>
	• Provides $1.01 billion to provide assistance for socially disadvantaged farmers, ranches, forest land owners, operators and groups, including:
	  ○ not less than 5 percent to provide outreach, mediation, financial training, capacity building training, cooperative development training and support, and other technical assistance
	  ○ not less than 5 percent to provide grants and loans to improve land access for socially disadvantaged farmers, ranchers or forest landowners
	  ○ not less than 0.5 percent to support the activities of equity commissions
	  ○ not less than 5 percent to support research, education and extension, including scholarships and internships that provide pathways to federal employment
	  ○ not less than 5 percent to provide assistance to socially disadvantaged farmers, ranchers, or forest landowners who have suffered adverse actions, past discrimination or bias
	
	<u>Use of the Commodity Credit Corporation (CCC) for commodities and associated expenses</u>
	• Provides $800 million for the CCC to acquire and make available commodities under Section 406(b) of the Food for Peace Act

Nutrition Assistance	<u>Supplemental nutrition assistance program (SNAP)</u>
	• Extends the 15 percent increase in SNAP benefits through Sept. 30, 2021, to address the hunger crisis.
	• Provides $1.15 billion for SNAP. Of these funds:
	  ○ $15 million for the management and oversight of the program
	  ○ $1.135 billion to make grants to each state agency for fiscal years 2021-2023:
	  ▪ 75 percent of funds will be distributed based on the share of each state's households that participated in the program for the most recent 12-month period
	  ▪ 25 percent of funds will be distributed based on the increased number of households that participated in the program for the most recent 12-month period
	
	<u>Additional assistance for SNAP online purchasing and technology improvements</u>
	• Provides $25 million to make technological improvements to improve online purchasing, modernize electronic benefit transfer technology, support mobile technologies demonstration projects and provide technical assistance to educate retailers on the online acceptance of SNAP benefits
	
	<u>Additional funding for nutrition assistance programs</u>
	• Provides $1 billion in nutrition assistance for the Commonwealth of Northern Mariana Islands, Puerto Rico and American Samoa
	
	<u>Commodity supplemental food program</u>
	• Provides $37 million for the commodity distribution program to maintain the traditional levels of assistance for food assistance programs, including but not limited to, distribution to institutions (including hospitals and facilities caring for needy infants and children), supplemental feeding programs serving women, infants and children (WIC) or elderly persons, disaster areas, summer camps for children, the Trust Territory of the

	Pacific Islands and tribal organization requests for the distribution of federally donated foods pursuant to Section 4(b) of the Food and Nutrition Act of 2008 Improvements to WIC benefits • Provides $490 million to increase cash vouchers for any state agency that notifies the Secretary of the Department of Agriculture of the intent to use the increased amounts. The authority of a state agency to increase the amount of a cash-value voucher will terminate on Sept. 30, 2021 WIC program modernization • Provides $390 million to carry out outreach, innovation and program modernization efforts, including appropriate waivers and flexibility, to increase participate in and redemption of benefits under programs established under Section 17 of the Child Nutrition Act of 1966 Meals and supplements reimbursements for individuals who have not attained the age of 25 • Permits the Secretary of the Department of Agriculture to reimburse emergency shelter institutions for meals and supplements serving individuals who are under the age of 25 and are receiving assistance, including non-residential assistance, from the emergency shelter Pandemic Electronic Benefit Transfer (P-EBT) program • Amends Section 1101 of the Families First Coronavirus Response Act to permit a state agency to extend a state agency plan for 90 days for the purpose of operating a program during a covered summer period when the school lunch program under the Richard B. Russell National School Lunch Act or the school breakfast program under Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) and covered child care facilities are closed

Education	K-12 Education
	• Nearly $122 billion for the K-12 General Stabilization Fund
	• $2.6 billion for State Special Education Grants under the Individuals with Disabilities Education Act (IDEA), to be used in FY 2021.
	• $800 million to help children experiencing homelessness
	• Stipulations for use:
	  ○ States are required to sub-grant at least 90 percent of the Elementary and Secondary School Emergency Relief Fund (ESSERF) to school districts according to Title I of the Every Student Succeeds Act (ESSA) – this includes charter schools that are considered Local Educational Agencies (LEAs)
	  ○ Of these funds, State Educational Agencies (SEAs) need to reserve at least 5 percent and LEAs must reserve at least 20 percent 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"
	  ○ States need to disseminate the funding within 60 days of receipt; within 30 days of getting the new relief funding, school districts have to publish "a plan for the safe return to in-person instruction" if they have not already done so

	Higher Education
	• $40 billion to colleges and universities through the Higher Education Emergency Relief Fund (HEERF), which will remain available through Sept. 30, 2023, including:
	  ○ $36 billion for public and nonprofit institutions of higher education
	  ▪ institutions are required to direct 50 percent of their funding to students in the form of emergency grants
	  ○ $3 billion for Historically Black Colleges and Universities (HBCUs), Tribal Colleges and Universities (TCUs) and other Minority Serving Institutions (MSIs)
	  ○ $198 million for institutions with the greatest pandemic-related needs

Child Care	Child Care
	• $40 billion for child care agencies and aid to providers affected by the pandemic:
	  ○ $15 billion of these funds will go to the Child Care and Development Block Grant (CCDBG) to subsidize child care for 875,000 children during the next year
	  ○ $24 billion is for child care stabilization funds to save and sustain nearly 449,000 child care programs, impacting 7.3 million children
	  ○ $1 billion for Head Start to ensure that programs can continue to provide vital services to children and families

Water and Utility Assistance	Funding for LIHEAP • Provides $4.5 billion for utility assistance through the Low Income Home Energy Assistance Program (LIHEAP) Funding for water assistance program • $500 million for water assistance grants to states "to assist low-income households, particularly those with the lowest incomes, that pay a high proportion of household income for drinking water and wastewater services"; the states will provide the funds to" owners or operators of public water systems or treatment works to reduce arrearages of and rates charged to such households for such services"
Healthcare	**Public Health** Funding for COVID-19 vaccine activities at the Centers for Disease Control and Prevention (CDC) • Provides $7.5 billion to the CDC for activities to plan, distribute and track COVID-19 vaccines; these funds may also go to state, local, tribal and territorial public health departments for wraparound support for vaccine distribution and administration, and will be available until expended and will be distributed through existing CDC vehicles/cooperative agreements to the public health departments/officials in the 64 CDC jurisdictions • This section also provides additional supplemental funding to states, localities and territories within 21 days of enactment above and beyond similar funding provided in the FY 2021 regular appropriations bill based upon the difference between FY 2021 funding and the FY 2020 Public Health Emergency Preparedness grant formula funding Funding for Vaccine Confidence Activities • Provides $1 billion to the CDC to strengthen public understanding and confidence in COVID-19 vaccines to ultimately improve U.S. vaccination rates; the funds will be available until expended and will be distributed through existing CDC vehicles/cooperative agreements to the public health departments/officials in the 64 CDC jurisdictions

Funding for Supply Chain for COVID-19 Vaccines, Therapeutics and Medical Supplies

- Provides $6.05 billion for research, development, manufacturing, production and purchase of vaccines, therapeutics and ancillary medical products and supplies to respond to COVID; funding may apply not only to COVID-19 but also to any pandemic-capable disease, and will be available until expended and will likely be available through U.S. Department of Health and Human Services (HHS) contract vehicles/Broad Agency Announcements

Funding for COVID-19 Vaccine, Therapeutic and Device Activities at the FDA

- Provides $500 million to the U.S. Food and Drug Administration (FDA) to evaluate the continued effectiveness of FDA-regulated products approved to address COVID-19; funding also applies to expand continuous manufacturing abilities to ensure a robust supply chain of COVID-related products, and also may also be used to expand FDA facility inspections to accelerate the review of products delayed due to COVID

Reduced Cost-Sharing

- Ensures that individuals who received unemployment compensation in 2021 receive cost-sharing subsidies as those whose family income is no greater than 133 percent of the federal poverty line

Testing

Funding for COVID-19 Testing, Contact Tracing and Mitigation Activities

- Provides HHS with $47.8 billion to fund activities to respond to and mitigate the spread of COVID-19, and that may be used to:
  - implement a national COVID-19 testing strategy
  - provide technical assistance to state, local and territorial public health departments to detect, diagnose and trace COVID-19
  - support expanded COVID-19 testing and development, including through the acquisition of non-federally owned facilities to increase testing capacity
  - enhance IT resources for public health data sharing.
- The funds will be available until expended and will be distributed through existing CDC vehicles/cooperative agreements, including and especially the Epidemiology and Laboratory Capacity (ELC) Cooperative Agreement to the public health departments/officials in the 64 CDC jurisdictions

Funding for SARS-COV-2 Genomic Sequencing and Surveillance

- Provides HHS/CDC with $1.75 billion to expand and improve activities around the sequencing of COVID-19 and its variants; funding may also apply to local, state and territorial health departments to develop COVID variant mitigation strategies

Funding for Global Health

- Provides $750 million to HHS/CDC to combat COVID-19 and emerging infectious diseases globally

Funding for Data Modernization and Forecasting Center

- Provides $500 million to HHS/CDC for public health data surveillance and analytics infrastructure modernization

Public Health Workforce

Funding for Public Health Workforce

- Provides $7.66 billion to HHS to maintain and expand the U.S. public health workforce, including through grant support to public health departments to recruit and hire new public health workers and related administrative support as well as providing PPE and other supplies to new workers

Funding for Medical Reserve Corps

- Provides $100 million for the Medical Reserve Corps

Public Health Investments

Funding for community health centers and community care

- Provides $7.6 billion to HHS to be awarded for grants and cooperative agreements to community health centers and qualified Hawaiian entities for COVID-19 vaccine distribution, testing, contract tracing, equipment, staff, infrastructure, and community education and outreach

Funding for National Health Service Corps

- Provides $800 million to HHS for state loan repayment programs

Funding for Nurse Corps

- Provides $200 million to HHS for loan repayment programs

Funding for teaching health centers that operate graduate medical education

- Provides $330 million through FY 2023 to HHS for new graduate medical residency training programs, maintaining existing staff and expanding existing programs, establishing new or expanding existing primary care residency programs, funding a per resident increase of $10,000 and boosting the federal response to public health emergencies

Funding for family planning

- Provides $50 million to HHS for federal grants to assist in the establishment and operation of family planning and preventive health projects and services not including abortion services

Mental Health and Substance Use Disorder

Funding for block grants for community mental health services

- Provides $1.5 billion to HHS through FY 2025 for grants to states for providing community mental health services

Funding for block grants for prevention and treatment of substance abuse

- Provides $1.5 billion to HHS through FY 2025 for substance abuse prevention and treatment

Funding for mental health and substance use disorder training for healthcare professionals, paraprofessionals, and public safety officers

- Provides $80 million to HHS and the Health Resources and Services Administration (HRSA) for grants or contracts with qualifying entities in rural and underserved communities to train health professionals in evidence-informed strategies for reducing and addressing suicide, burnout, mental health conditions and substance use disorders among healthcare professionals

Funding for education and awareness campaign encouraging healthy work conditions and use of mental health and substance use disorder services by healthcare professionals

- Provides $20 million to HHS/CDC to carry out a national evidence-based education and awareness campaign directed at healthcare professionals and first responders by encouraging them to identify risk factors and seek support and treatment for their own mental health and substance use concerns

Funding for grants for healthcare providers to promote mental health among their health professional workforce

- Provides $40 million to HHS/HRSA for grants or contracts with healthcare entities, including provider trade associations and Federally Qualified Health Centers (FQHCs), to establish or expand protocols to promote mental health among healthcare providers, particularly in rural and underserved communities

Funding for community-based funding for local substance use disorder services

- Provides $30 million to HHS to support community-based overdose prevention programs, syringe services programs and other harm reduction services

Funding for community-based funding for local behavioral health needs

- Provides $50 million to HHS for grants to address increased community behavioral health needs worsened by the COVID-19 public health emergency to be used for care coordination, workforce training, surge capacity, integrating evidence-based care models, providing mental and behavioral health services via telehealth, and preventive and crisis intervention services

Funding for the National Child Traumatic Stress Network

- Provides $10 million to HHS in funding for the national child traumatic stress network

Funding for Project AWARE

- Provides $30 million to HHS for Project AWARE for advancing wellness and resiliency in education

Funding for youth suicide prevention

- Provides $20 million to HHS for grants for youth suicide and early prevention programs

Funding for behavioral health workforce education and training

- Provides $100 million to HHS for grants for mental and behavioral health education and training programs

Funding for pediatric mental health care access

- Provides $80 million to HHS for grants to promote behavioral health integration in pediatric primary care by supporting the development of new or improvement of existing statewide or regional pediatric mental health care telehealth access programs

Funding for expansion grants for certified community behavioral health clinics

- Provides $420 million to HHS for grants to Certified Community Behavioral Health Clinics

Exchange Grant Program

Establishing a grant program for ACA Exchange modernization

- Provides $20 million through FY 2022 to HHS to award grants to Affordable Care Act (ACA) Exchanges to modernize or update systems, programs or other technology

Medicaid

Mandatory coverage of COVID–19 vaccines and administration and treatment under Medicaid

- The bill builds on provisions in the Families First Coronavirus Response legislation that required Medicaid and Children's Health Insurance Program (CHIP) coverage of COVID-19 testing without cost-sharing to explicitly require Medicaid and CHIP coverage of COVID-19 vaccines, treatment including prescription drugs and treatment of conditions that complicate COVID-19 treatment, without the imposition of cost-sharing charges

Modifications to certain coverage under Medicaid for pregnant and postpartum women

- Full benefits would be available to women during pregnancy and throughout the 12-month postpartum period, or up to a year after the last day of her pregnancy, extending their coverage well beyond the current cutoff of 60 days; if a state selects this option for its Medicaid program, it must provide it under its CHIP program

State option to provide qualifying community-based mobile crisis intervention services

- The bill allows states to offer community-based mobile crisis intervention services for five years, with an 85 percent Federal Medical Assistance Percentage (FMAP)

Temporary increase in FMAP for medical assistance under state Medicaid plans that begin to expend amounts for certain mandatory individuals

- States that newly expand Medicaid would receive an additional 5 percentage point increase in their regular FMAP for two years, no matter when they newly expand – this increase would be in addition to the temporary 6.2 percentage point FMAP increases enacted as part of the Families First Coronavirus legislation available through the duration of the COVID-19 public health emergency; the 5-percentage point increase would not apply to other Medicaid spending that is not subject to the regular FMAP, such as administrative costs and Disproportionate Share Hospital (DSH) spending

Extension of 100 percent federal medical assistance percentage to Urban Indian Health Organizations and Native Hawaiian Health Care Systems

- For two years, the bill would temporarily apply the 100 percent FMAP available to Indian Health Service (IHS) providers furnishing care to Medicaid beneficiaries to include Urban Indian Health Programs and Native Hawaiian Health Care Systems services; such providers are grantees of the IHS and serve IHS-eligible patients on Medicaid, but they are not formally part of the IHS and, as a result, do not receive the 100 percent FMAP like other IHS providers

	Sunset of limit on maximum rebate amount for single-source drugs and innovator multiple source drugs • The bill delayed by one year, until 2024, the removal of the cap on Medicaid inflation rebates; Medicaid requires a minimum 23 percent rebate on brand drugs, and companies pay an additional inflation rebate when they raise prices faster than inflation – that inflationary rebate is currently capped at 100 percent of the Average Manufacturer Price (AMP) to avoid making drug companies pay rebates that are greater than the price of drugs Additional support for Medicaid home and community-based services during the COVID–19 emergency • States would have the option of receiving a 7.35 percentage point increase in their Medicaid matching rate for home and community-based services (subject to a 95 percent limit) for one year starting April 1, 2021; as a condition of the increase, states would be required to use this additional funding to expand and enhance home and community-based services in one or more enumerated ways, including increasing home and community-based reimbursement rates and providing payments to financially stressed providers Funding for state strike teams for resident and employee safety in nursing facilities • The bill appropriates $250 million to support state-based "strike" teams to help respond to COVID-19 in nursing homes **Medicare** Floor on the Medicare area wage index for hospitals in all-urban states • The bill restores an area wage index floor for hospitals in all-urban states starting Oct. 1, 2021, and directs the HHS Secretary to create a Medicare area wage index for hospitals in all-urban states to address a 2019 rule that imposed across-the-board cuts to increase pay for low-wage hospitals Secretarial authority to temporarily waive or modify application of certain Medicare requirements with respect to ambulance services furnished during certain emergency periods • The bill provides for Medicare reimbursement to ambulance providers even if the patients aren't transported to a healthcare facility; the authority would last the duration of the public health emergency Funding for Office of Inspector General • The bill provides $5 million to the HHS Office of Inspector General (OIG) for oversight activities with respect to the Provider Relief Fund
Defense Production Act	• Provides $10 billion to carry out the Defense Production Act for medical supplies and equipment such as testing, personal protective equipment (PPE) and vaccines.

Housing, Homelessness and Rental Assistance	Emergency rental assistance
	• Of the $27.4 billion provided for rental assistance, $21.55 billion will be funded through the Coronavirus Relief Fund (CRF) and administered by the U.S. Department of the Treasury:
	  ○ $305 million is set aside for territories
	  ○ $152 million is set aside for states
	  ○ $2.5 billion will be distributed to high-need communities and will be distributed based on the number of very low-income renter households paying more than 50 percent of income on rent or

living in substandard or overcrowded conditions, rental market costs and employment trends.
    - See State Estimates for Emergency Rental Assistance
- **Allocations**: The first 40 percent of funds must be paid to grantees within 60 days of enactment; when a grantee has obligated not less than 75 percent of funds already dispersed, the Treasury Secretary may provide additional disbursements of the grantee's allocation
- **Eligibility**: Under the bill, households are eligible for emergency rental assistance funds if one or more individuals: 1) has qualified for unemployment benefits or experienced a reduction in household income, incurred significant costs, or experienced other financial hardship during or due, directly or indirectly, to the pandemic; 2) can demonstrate a risk of experiencing homelessness or housing instability; and 3) has a household income below 80 percent of the Area Median Income (AMI)
    - States and localities must prioritize households below 50 percent of AMI or those who are unemployed and have been unemployed for 90 days; states and localities can provide additional prioritization of funds
- **Use of Funds**: The funds must be used to provide financial assistance, including back and forward rent and utility payments, and other housing expenses, and assistance can be provided for 18 months; not more than 10 percent of funds may be used to provide case management and other services intended to help keep households stably housed, and not more than 15 percent of funds paid to a state or local government can be used for administrative costs
- **Deadlines**: After March 31, 2022, the Treasury Secretary may recapture excess funds not obligated by a state or locality and reallocate and repay these dollars to eligible grantees who, at the time of such reallocation, have obligated at least 50 percent of the amount originally allocated and have met other criteria; funds not obligated may be used to provide affordable housing to very low-income households, so long as the grantee has obligated at least 75 percent of its total allocation, and funds provided under this bill are available until Sept. 30, 2025
    - The bill extends the deadline to spend the initial $25 billion tranche of funding provided by Congress in December 2020 from Dec. 31, 2021 to Sept. 30, 2022.

Emergency housing vouchers

- Provides $5 billion for housing vouchers with funds available through Sept. 30, 2030.
- **Use of Funds**: These funds must be used to provide and renew emergency vouchers, to cover administrative costs and to make adjustments for public housing agencies that would otherwise be required to terminate rental assistance due to a significant increase in voucher per-unit costs due to extraordinary circumstances
- **Eligibility**: Under the bill, households are eligible for emergency vouchers if they 1) are or are at risk of experiencing homelessness, 2) are fleeing or attempting to flee domestic violence, dating violence, stalking, sexual assault or human trafficking, or 3) are recently homeless and rental assistance will prevent the family's homelessness or having a high risk of housing instability
- **Allocations**: Public housing agencies will be notified of the number of vouchers allocated to them within 60 days, with vouchers to be distributed by a formula that includes capacity and ensures geographic diversity, and the Secretary may revoke and redistribute any unleased vouchers after a reasonable time; a public housing agency may not reissue any vouchers after Sept. 30, 2023, when assistance for the family assisted ends

Emergency assistance for rural housing

- Provides $100 million in rental assistance to assist rural households living in USDA-financed properties; funds are available until Sept. 30, 2022, and they may be used to cover back rent and ongoing rental assistance

Housing counseling

- $100 million for housing counseling through NeighborWorks America. Of the funds provided, not less than 40 percent must be provided to housing counseling organizations that 1) target minority and low-income homeowners, renters and individuals experiencing homelessness or 2) provide services in neighborhoods with high concentrations of minority and low-income homeowners, renters and individuals experiencing homelessness.

Homelessness assistance and supportive services program

- Provides $5 billion to provide rental assistance and supportive services, to develop affordable rental housing, to help acquire non-congregate shelter to be converted into permanent affordable housing or used as emergency shelter
- **Eligibility**: These funds must primarily benefit 1) individuals or households that are or are at risk of experiencing homelessness, 2) people who are fleeing or attempting to flee domestic violence, dating violence, stalking, sexual assault or human trafficking, 3) populations for whom supportive services would prevent the family's homelessness or having a high risk of housing instability, or 4) households with a veteran family member that meets one of these criteria
- **Allocations**: Funds will be allocated within 30 days of enactment using the HOME Investment Partnerships program formula; the bill waives statutory requirements, including a commitment deadline, matching requirements and set-aside for Community Housing Development Organizations (CHDOs).
    - See National Low Income Housing Coalition Estimated Allocations of Homeless Assistance Grants
- **Administrative Costs**: Up to 15 percent of the funds may be used to cover administrative costs; a grantee may receive up to an additional 5 percent of its allocation for operating costs for certain CHDOs and nonprofit organizations if the funds are used to build capacity

Homeowner Assistance Fund

- Provides $9.961 billion in funding to be distributed to states through the U.S. Department of the Treasury
- States can apply for the fund 45 days after enactment – reducing the likelihood that there will be implementing regulations; instead, Treasury will dictate terms through the contracts with the states
- Impacts existing pipeline of delinquencies – tolling date is Jan 21, 2020; expenses related to delinquencies prior to January 2020 are not eligible, but there is no requirement that the loan be performing as of January 2020 in order to avail themselves of support
- Eligible uses of the funds include: mortgage payments; principal reduction; interest rate reductions; funds to reinstate a mortgage after forbearance, delinquency or default; payment assistance for utilities, internet, property taxes, homeowners insurance, mortgage insurance, flood insurance, condo fees and homeowner association fees; and a catch-all for "any other assistance to promote housing stability"
- Unlike the Hardest Hit Fund, the money is not directly earmarked to state housing finance agencies (HFAs), but it is likely that states will rely on state HFAs to do principal write-downs and interest rate reduction refinance loans (IRRLs)

	• States can also use the money to reimburse themselves for their own programs that pre-date disbursement from the Treasury Department • States have to spend 60 percent of the funds on borrowers at or below the AMI • The maximum amount of support is the government-sponsored enterprise (GSE) conforming loan limit <u>Relief measures for Section 502 and 504 direct loan borrowers</u> • Provides $39 million to assist rural homeowners through USDA's Section 502 and Section 504 direct loan programs <u>Fair Housing Initiatives Program</u> • $20 million increase to the U.S. Department of Housing and Urban Development's (HUD) Fair Housing Initiatives Program (FHIP) to help identify government agencies that handle complaints of housing discrimination • Eligible grantees include state or local governments, qualified fair housing enforcement organizations with at least two years of experience, and other public or private nonprofit organizations representing individuals who have been victims of housing discrimination

Public Transportation	<u>Federal Transit Administration Grants</u>
	• $30.5 billion for transit
	  ○ $26.086 billion for Federal Transit Administration (FTA) Urbanized Area Formula Grants (Section 5307)
	  ▪ This amount, combined with CARES Act and Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) grants, allows urbanized areas to receive 132 percent of their 2018 operating costs; for urbanized areas that received grants totaling 130 to 132 percent of operating costs from the CARES Act and CRRSAA, they receive an additional 10 percent of their 2018 operating costs
	  ○ $317 million for FTA Rural Area Formula Grants (Section 5311)
	  ○ $50 million for FTA Enhanced Mobility for Seniors and Individuals with Disabilities Grants (Section 5310)
	  ○ $100 million for non-urbanized intercity bus program recipients
	  ○ $25 million for Section 5307 planning grants to restore service
	• $2.21 billion for operating assistance grants to eligible recipients that require additional support for operations, personnel, cleaning, sanitization and debt payments costs incurred to maintain operations and avoid layoffs and furloughs due to COVID-19, with grants to be evaluated by the FTA based on the level of financial need demonstrated; the FTA is required to issue a Notice of Funding Opportunity (NOFO) for these grants within 180 days after the bill is signed into law
	• $1.675 billion for Capital Investment Grants (CIG)
	  ○ $1.425 billion for New Start and Core Capacity projects:
	  ▪ $1.25 billion for CIG project sponsors that have an existing Full Funding Grant Agreement (FFGA) and have received a FY 2019 or FY 2020 CIG allocation.
	  ▪ $175 million to CIG projects with an existing FFGA that received a CIG allocation prior to FY 2019
	  ○ $250 million for Small Start projects that are a recipient of a CIG allocation or an applicant in the project development phase

Disaster Relief	<u>Emergency Federal Employee Leave Fund</u> • Provides $570 million to establish a fund, the Emergency Federal Employee Leave Fund, to be administered by the Office of Personnel Management (OPM) to remain available through Sept. 30, 2022; funds may be used for reimbursement to an agency or for paid leave by any employee who is unable to work due to quarantine or isolation related to COVID-19, including caring for family members or dependents, and paid leave may not exceed 600 hours for each full-time employee <u>Pandemic Response Accountability Committee funding availability</u> • Provides $40 million to support oversight of the coronavirus response via the Pandemic Response Accountability Committee <u>Funding for the White House</u> • Provides $12.8 million for the White House to prevent, prepare for and respond to the coronavirus <u>Federal Emergency Management Agency appropriation</u> • Provides $50 billion for the Federal Emergency Management Agency (FEMA) for the purposes of the Disaster Relief Fund (DRF) for cost associated with major disaster declarations <u>Emergency food and shelter program funding</u> • Provides $400 million for the emergency food and shelter program <u>Humanitarian relief</u> • Provides $110 million for the emergency food and shelter program for the purposes of providing humanitarian relief to families and individuals encountered by the U.S. Department of Homeland Security (DHS) <u>AFG and SAFER program funding</u> • Provides $100 million for Assistance to Firefighter Grants (AFG) and $200 million for Staffing for Adequate Fire and Emergency Response Grants (SAFER) <u>Emergency management performance grant funding</u> • Provides $100 million for emergency management performance grant funding
Cybersecurity and Technology Modernization	<u>Cybersecurity and Infrastructure Security Agency.</u> • Provides $650 million for the DHS Cybersecurity and Infrastructure Security Agency (CISA) to mitigate cybersecurity risks <u>Appropriation for the U.S. Digital Service</u> • Provides $200 million for the U.S. Digital Service, a White House unit that provides IT support to federal agencies <u>Appropriation for the Technology Modernization Fund</u> • Provides $1 billion for the General Services Administration Technology Modernization Fund, which was established to upgrade federal agency IT systems
Paycheck Protection Program (PPP)	• Appropriates an additional $7.25 billion to the U.S. Small Business Administration (SBA) for the PPP program • Expands PPP eligibility to include:

	○ Additional tax-exempt nonprofits, such as 501(c)(5) labor and agricultural organizations and community locations of larger nonprofits, whose lobbying activities do not comprise more than 15 percent of its activities ○ Internet publishing organizations assigned a North American Industry Classification System (NAICS) Code of 519130 and engaged in the collection and distribution of local or regional and national news and information • Adds COBRA premium assistance as an allowable payroll cost under the PPP program • Program expires March 31, 2021
Economic Injury Disaster Loans (EIDL)	• Appropriates $15 billion to the SBA to provide EIDL $10,000 grants to small businesses eligible under Section 331 of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act or Section 1110(e) of the CARES Act
Restaurants	• Appropriates $28.6 billion for the SBA to administer a grant program to restaurants through a new Restaurant Revitalization Fund • The new grant program follows the enactment of a similar grant program for shuttered live venues enacted in Section 324 of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act enacted in December 2020 • Eligible restaurants must certify that the uncertainty of current economic conditions makes necessary the grant request to support the ongoing operations of the restaurant • The bill prohibits eligibility of a restaurant that: ○ is a state or local government operated business ○ owns or operates more than 20 locations as of March 13, 2020 ○ has a pending application for or has received a grant under SBA shuttered live venues grant program, or ○ is a publicly traded company • The maximum grant amount is: ○ $10 million per eligible entity and any affiliated businesses, and ○ $5 million per physical location of the eligible entity
Shuttered Venue Operators	• This bill provides $1.25 billion in additional funds for the Shuttered Venue Operators Grant Program enacted in Section 324 of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act enacted in December 2020 • The bill also allows eligible applicants to access both the Shuttered Venue Operators Grant (SVOG) and PPP to address SVOG's delayed start
Aviation/Airlines	<u>Air Transportation Payroll Support Program Extension</u> • Provides $14 billion to extend Payroll Support Program funding for eligible air carriers and contractors, with the new round of funding extending restrictions on involuntary furloughs and reductions in pay rates or benefits through Sept. 30, 2021, or the date on which funds are expended; it also extends the restrictions on stock buybacks, dividends and capital distributions through Sept. 30, 2022, and restrictions on executive compensation to April 1, 2023. • The Secretary of the Treasury is required to issue streamlined procedures within five days of enactment and make initial payments under the program within 10 days of enactment <u>Relief for Airports</u> • $8 billion for airports ○ $6.492 billion for primary airports and certain cargo airports to use for "costs related to operations, personnel, cleaning, sanitization, janitorial services, combating the spread of pathogens at the airport, and debt service payments"; the federal share is 100 percent

	• $800 million "to provide relief from rents and minimum annual guarantees to airport concessions" • $608 million to pay the federal share of 100 percent for Airport Improvement Program (AIP) grants awarded in FY 2021 or FY 2020 Emergency TSA Employee Leave Fund • The legislation also adds an $13 billion emergency paid leave fund for TSA employees that is similar to a leave program for FAA employees included in the bill; the fund expires in September 2022.
Broadband	Funding for E-Rate support for emergency educational connections and devices • Nearly $7.2 billion to create an Emergency Connectivity Fund to reimburse schools and libraries for internet access and connected devices for students and teachers learning remotely due to the pandemic; requires the FCC to issue rules within 60 days of enactment to provide funding to eligible schools and libraries to enable them to provide eligible connected devices, internet service and equipment necessary to support internet service to students and teachers, regardless of technology, for internet use in locations other than a school or library, among other things • $10 billion for states, territories and tribal governments to carry out critical capital projects directly enabling work, education and health monitoring, including remote options, in response to the public health emergency with respect to COVID-19; this funding is intended to be focused on broadband investment
Unemployment Provisions	Unemployment Insurance extension • Extends enhanced unemployment insurance until Sept. 6. 2021, including the extra $300 Federal Pandemic Unemployment Compensation • Extends Pandemic Unemployment Assistance to the self-employed, gig workers, freelancers and others who would otherwise not regularly qualify for unemployment insurance • Extends Pandemic Emergency Unemployment Compensation for those who exhaust state benefits to 53 weeks, from 24 weeks Unemployment Insurance tax relief • Creates a $10,200 tax exclusion for unemployment compensation in tax year 2020 for those with incomes under $150,000
Tax	Stimulus payments • Provides an additional $1,400 per qualifying individual in direct stimulus payments; in addition to the $600 in supplemental payments enacted in the December 2020 relief bill, this would fulfill Democratic demands for $2,000 in payments Child Tax Credit • Temporary, fully refundable enhancement of the value of the Child Tax Credit to $3,000 for children older than 6 and to $3,600 for children younger than 6 – an increase in the current credit of $2,000, of which only $1,400 is refundable; envisions that the tax credit can be claimed on a monthly basis, rather than annually Earned Income Tax Credit • Temporarily and significantly increases the value of the Earned Income Tax Credit, along with loosening eligibility requirements on income

	Dependent Care Assistance • Child and Dependent Care Tax Credit: Temporary, fully refundable enhancement of the Child and Dependent Care Credit from the current limitation of $1,050 per child or dependent up to $4,000 Credits for Paid Sick and Family Leave • Extends the availability of paid sick and paid family leave tax credits, as established in the Families First Coronavirus Response Act through Sept. 30, 2021 • Also expands eligibility to state and local governments that provide this benefit Employee Retention Credit • Increases the availability and value of credit to those employers who "severely financially distressed" (i.e., those who experienced a severe decline in gross receipts) by allowing such employers to take all wages into account, not just those that are paid for employees not providing services • Expands credit availability to employers who qualify as a "recovery startup business" (i.e., those employers who began a trade or business after Feb. 15, 2020, and whose gross receipts average less than $1 million) • Expands availability of the credit from the current deadline of June 30, 2021, to those wages paid in 2021 Premium Tax Credit • Expands the Affordable Care Act's premium tax credits for health insurance that is purchased through an exchange **Miscellaneous Provisions** Repeal of election to allocate on worldwide basis • Revokes an election that came into effect in 2021 to allow multinational companies to allocate their interest expenses on a worldwide basis Extension of Excess Business Loss Limitation • Extends the limitation on excess business losses of non-corporate taxpayers for one year, through 2026 **Pensions** Expansion of limitation on excessive employee remuneration • Expands the denial of deductibility currently found in IRC Section 162(m) to an additional five highest compensated individuals Pension Benefit Guaranty Corporation (PBGC) fund • Creates a fund for the PBGC to assist certain struggling multiemployer plans to cover benefits due through plan years ending in 2051

State and Local Assistance	Coronavirus State and Local Fiscal Recovery Funds
	• Of the approximately $350 billion for fiscal relief, 57 percent is allocated to states and 35 percent to local governments
	• The distribution formula is as follows:
	  ○ **States and District of Columbia**: $195.3 billion
	  • $25.5 billion is equally divided with state minimum of $500 million

        - $169 billion based on the state share of unemployed workers over a three-month period from October to December 2020
    - **Local Governments**: $130.2 billion divided evenly between non-county municipalities and counties
        - **Counties**: $65.1 billion in direct federal aid to all counties based on the county share of the U.S. population based on the most recent data available from the Census Bureau
        - **Non-County Municipalities**: $65.1 billion to cities and other non-county municipalities:
            - $45.57 billion in **direct federal aid for municipalities with populations of at least 50,000**, using a modified Community Development Block Grant formula
            - $19.53 billion for **municipalities with populations of less than 50,000** based on each jurisdiction's percentage of the state's population; aid is distributed through the states, with the ability for states to request an extension if they are unable to distribute within 30 days
            - See State and Local Allocation Estimates
    - U.S. Territories: $4.5 billion
    - $20 billion to federally recognized tribal governments
- **Allowable Uses of Funds:** Funds may be used to:
    1. respond to the public health emergency with respect to COVID-19 or its negative economic impacts, including assistance to households, small businesses and nonprofits, or aid to impacted industries such as tourism, travel and hospitality
    2. for the provision of government services to the extent of the reduction in revenue (i.e. online, property or income tax) due to the public health emergency
    3. make necessary investments in water, sewer or broadband infrastructure, or
    4. include premium pay for eligible workers performing essential work (as determined by each state or tribal government) during the pandemic
        - Other key provisions:
            - states are not allowed to use the funds to either directly or indirectly offset a reduction in the net tax revenue that results from a change in law, regulation or administrative interpretation during the covered period that reduces any tax
            - No funds shall be deposited into any pension fund
            - State and local governments are allowed to transfer to a private nonprofit organization, a public benefit corporation involved in the transportation of passengers or cargo, or a special-purpose unit of state or local government
- **Reporting Requirements, Certification and Recoupment:** Requires state and local governments to fulfill reporting requirements, such as:
    - states are required to report how funds are used and how their tax revenue was modified during the time that funds were spent during the covered period (covered period begins on March 3, 2021, and ends on the last day of the fiscal year a state or local government has expended or returned all funds to the U.S. Treasury).
    - local governments would be required to provide "periodic reports" providing a detailed accounting of the use of funds
    - if a state, county or municipality does not comply with any provision of this bill, they will be required to repay the U.S. Treasury an equal amount to the funds used in violation

	• **Administration of Recovery Funds:** Funds will administered as follows:
	  ○ funds would be distributed by the U.S. Department of the Treasury
	  ○ the deadline to spend funds would be Dec. 31, 2024
	  ○ payments will be divided into two equal tranches – within 60 days after enactment, the U.S. Treasury is required to release the first tranche allocated to a city, county or state; the second tranche cannot be released earlier than 12 months after the first payment
	  ○ in order to receive a payment either under the first or second tranche, local governments must provide the U.S. Treasury with a certification signed by an authorized officer; the U.S. Treasury is required to pay the first tranche to counties not later than 60 days after enactment and the second payment no earlier than 12 months after the first payment
	  ○ The bill would provide $117 million for oversight and to promote transparency and accountability of all federal coronavirus relief funds, with $77 million for the Government Accountability Office and $40 million for the Pandemic Response and Accountability Committee
	
	<u>State Small Business Credit Initiative</u>
	• $10 billion for the fund, administered by the Treasury Department
	• The money is allocated to states to support programs of their own design and can include: loan participation programs, venture capital programs, collateral support programs, loan guarantee programs and capital access programs
	
	<u>Funding for providers relating to COVID-19</u>
	• The bill provides an additional $8.5 billion in relief funding for rural entities – far short of the $35 billion sought by stakeholders

Tribal Provisions	<u>COVID State Fiscal Recovery Fund</u>
	• Provides $20 billion (of $219.8 billion allocated to the COVID State Fiscal Recovery Fund) for tribal governments to mitigate the fiscal effects stemming from the COVID pandemic
	  ○ $1 billion will be allocated equally among all tribal governments
	  ○ $19 billion will be allocated among all tribal governments in amounts determined by the Secretary
	  ○ Payments will be made to each tribal government within 60 days of enactment
	  ○ Tribal governments can use the funds by Dec. 31, 2024, to:
	  ▪ respond to or mitigate the COVID public health emergency and its negative economic impacts, including assistance to households, small businesses and nonprofits or to impacted industries such as tourism, travel and hospitality
	  ▪ respond to workers performing essential work during the COVID public health emergency by providing premium pay to eligible workers of tribal governments that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work
	  ▪ provide government services to the extent of the reduction in revenue due to the pandemic in the most recent full fiscal year
	  ▪ make necessary investments in water, sewer or broadband infrastructure
	  ○ A tribal government is defined as the governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band or component reservation individually identified

in the annual list published pursuant to the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131)

Indian Health Service

- Provides $6.094 for Indian health
- $5.484 billion is allocated to carry out the Transfer Act, the Indian Self-Determination and Education Assistance Act, the Indian Health Care Improvement Act, and titles II and III of the Public Health Service Act.
  - $2 billion is for lost reimbursements in accordance with Section 207 of the Indian Health Care Improvement Act
  - $500 million is for Purchased/Referred Care
  - $140 million is for information, technology, telehealth infrastructure, and the Indian Health Service electronic health records system
  - $84 million is for maintaining operations of the Urban Indian health program
  - $600 million is for necessary expenses to plan, prepare for, promote, distribute, administer and track COVID vaccines
  - $1.5 billion is for necessary expenses to detect, diagnose, trace and monitor COVID infections; mitigate the spread of COVID; and purchase supplies necessary for these activities
  - $240 million is to establish, expand and sustain a public health workforce to prevent, prepare for and respond to COVID
  - $420 million is for necessary expenses related to mental and behavioral health prevention and treatment services
- $600 million is for lease, purchase, construction, alteration, renovation or equipping health facilities to respond to COVID
- $10 million is for expenses relating to potable water delivery

Bureau of Indian Affairs

- Provides $900 million to the Bureau of Indian Affairs
  - $100 million for tribal housing improvement
  - $772.5 million for tribal government services, public safety and justice, social services, child welfare assistance and other related expenses
  - $7.5 million for federal administrative costs and oversight
  - $20 million to provide and deliver potable water

Housing Assistance and Supportive Services Programs for Native Americans

- Provides $750 million to remain available until Sept. 30, 2025, for tribal housing, of which:
  - $450 million is allocated for the Native American Housing Block Grant program and $5 million for the Native Hawaiian Housing Block Grant program
    - distributed according to the same funding formula used in FY 2021
    - may be used to prevent, prepare for and respond to COVID, including maintaining normal operations and funding affordable housing activities
  - $280 million is allocated for Indian Community Development Block Grants
    - may be used to address emergencies that constitute imminent threats to health and safety and are designed to prevent, prepare for and respond to COVID
  - $10 million is allocated for technical assistance
  - $5 million is allocated for administrative costs

	COVID-19 Response Resources for the Preservation and Maintenance of Native American Languages
	• Provides $20 million for grants to ensure the survival and continuing vitality of Native American languages during the COVID pandemic
	
	Bureau of Indian Education
	• Provides $850 million to be allocated by the Director of the Bureau of Indian Education for programs and activities operated or funded by the Bureau of Indian Education, for Bureau-funded schools, and for tribal colleges and universities
	
	American Indian, Native Hawaiian and Alaska Native Education
	• Provides $190 million to be allocated by the Secretary of the Department of Education, of which:
	  ○ $20 million for tribal education agencies pursuant to Section 612(c) of the Elementary and Secondary Education Act of 1965
	  ○ $85 million in grants pursuant to Section 6205(a)(1) of the Elementary and Secondary Education Act of 1965
	  ○ $85 million for grants pursuant to Section 6304(a)(1) of the Elementary and Secondary Education Act of 1965
	
	For a complete list of tribal provisions, please email Kayla Gebeck Carroll at kayla.gebeck@hklaw.com.

This summary was compiled by members of Holland & Knight's Public Policy & Regulation Group. If you have questions or need further information, please contact the authors.

DISCLAIMER: Please note that the situation surrounding COVID-19 is evolving and that the subject matter discussed in these publications may change on a daily basis. Please contact the your responsible Holland & Knight lawyer for timely advice.

WHAT IT MEANS FOR STATES

The American Rescue Plan Act Provisions

The latest COVID-19 relief package provides $1.9 trillion in mandatory funding, program changes and tax policies aimed at mitigating the continuing effects of the pandemic.

The American Rescue Plan builds upon previously enacted aid measures in 2020:

- The year-end spending and aid package.
- The Coronavirus Aid, Relief, and Economic Security (CARES) Act.
- The Families First Coronavirus Response Act (FFCRA).

Please see below for a summary of provisions of interest.

State and Local Aid

- Provides $350 billion to help states, counties, cities and tribal governments cover increased expenditures, replenish lost revenue and mitigate economic harm from the COVID-19 pandemic.
- State and local government recipients could use the funds to cover costs incurred by Dec. 31, 2024. The funds would be distributed in two tranches, with 50% delivered no later than 60 days from the date of enactment, and the remainder delivered no earlier than one year later. States would have to distribute funds to smaller towns within 30 days of receiving a payment from the department. States that miss the deadline would have to pay back any undistributed funds. A town cannot receive more than 75% of its budget as of Jan. 27, 2020. The Treasury Department could also withhold up to half of a state or territory's allocation for as long as 12 months based on its unemployment rate and require an updated certification of its funding needs.
- **Provides $195.3 billion to states and the District of Columbia:**
  - $25.5 billion would be equally divided to provide each state a minimum of $500 million.
  - $169 billion would be allocated based on the states' share of unemployed workers over a three-month period, from October-December 2020.
- **Provides $130.2 billion to Local Governments:**
  - $65.1 billion for counties.
  - $45.6 billion for metropolitan cities.
  - $19.5 billion for towns with fewer than 50,000 people.
- Provides $4.5 billion to U.S. territories.
- Provides $20 billion to tribal governments.
- Provides $10 billion for a Coronavirus Capital Projects Fund to carry out projects to support work, education and health monitoring during COVID-19.

- **Use of funds:**
  - Respond to the COVID-19 emergency and address its economic effects, including through aid to households, small businesses, nonprofits, and industries such as tourism and hospitality.
  - Provide premium pay to essential employees or grants to their employers. Premium pay couldn't exceed $13 per hour or $25,000 per worker.
  - Provide government services affected by a revenue reduction resulting from COVID-19.
  - Make investments in water, sewer and broadband infrastructure.
- State and local governments cannot use the funds towards pensions or to offset revenue resulting from a tax cut enacted since March 3, 2021.
- State and local governments could transfer funds to private nonprofit groups, public benefit corporations involved in passenger or cargo transportation, and special-purpose units of state or local governments.

Direct Payments to Citizens

- Provides another round of direct payments of $1,400 for individuals, $2,800 for joint filers, and $1,400 for each qualifying dependent.
- Dependents would include full-time students younger than 24 and adult dependents.
- The payments would begin to phase out for individuals with an adjusted gross income (AGI) of $75,000 ($150,000 for couples) and would be zero for AGIs of $80,000 ($160,000 for couples) or more. Heads of households will receive the full amount if they earned up to $112,500, and it will phase out completely at $120,000.
- Payments would be based on 2019 or 2020 tax returns. The Treasury Department could provide payments to individuals who have not filed based on return information available to the department.

Tax Provisions

- **Earned Income Tax Credit**: Raises the maximum Earned Income Tax Credit (EITC) for adults without children from $543 to $1,502. It would also lower the age eligibility for the childless EITC from 25 to 19 and eliminate the upper age limit, which currently bars the credit for childless people age 65 and older. Other changes include eliminating a rule that bars individuals who have children without Social Security numbers from claiming the childless EITC and allowing individuals who are separated from their spouses to claim the EITC on a separate return if they live with their child for more than half of the year.
- **Child Tax Credit**: Increases the Child Tax Credit maximum amount to $3,000 per child and $3,600 for children under age 6. It would also extend the credit to 17-year-olds. The increase in the maximum amount would begin to phase out at $150,000 in income for married couples, $112,500 for heads of households and $75,000 for other parents. Other changes to the Child Tax Credit include making it fully refundable, meaning the entire credit could be provided as a refund if it exceeds an individual's income tax liability, instead of partially refundable under current law.
- **Dependent Care:** Temporarily increases the value of the child and dependent care tax credit, which currently covers 35% of care expenses up to $3,000 for one dependent or $6,000 for two or more dependents. The measure would make the credit refundable, increases the maximum allowable expenses to $8,000 for one dependent and $16,000 for two or more, and allows the credit to cover 50% of expenses.

- **Employee Retention Credit:** Extends the employee retention credit established by the CARES Act through Dec. 31, 2021. The measure also would expand eligibility for the credit to new startups that were established after Feb. 15, 2020, and companies if their revenue declined by 90% compared to the same calendar quarter of the previous year. The credit would be capped at $50,000 per calendar quarter for startups.
- **Paid Leave Credits**: Extends tax credits for employer-provided paid sick and family leave established under the Families First Coronavirus Response Act through Sept. 30, 2021. The measure would also increase the wages covered by the paid family leave credit to $12,000 per worker, from $10,000; cover as many as 60 days of paid family leave for self-employed individuals, instead of 50; and bar employers from receiving credits if their paid leave favors highly compensated employees, full-time workers, or employees based on tenure.
- Makes state and local governments eligible for the FFCRA paid leave reimbursable tax credit.
- Due to budget reconciliation rules the reimbursable tax credit will not be retroactive (for state and local governments) prior to FFCRA becoming law, and the effective date begins after March 31, 2021.

Expanded Unemployment Benefits

- Extends the Pandemic Unemployment Assistance program through Sep. 6, 2021, while increasing the total number of weeks of benefits available to individuals who are not able to return to work from 50 to 79 weeks and provides guidance to states on coordinating with other unemployment benefits when needed.
- Extends the CARES Act provisions that provided a 75% subsidy for costs incurred by employers who provide unemployment benefits on a reimbursable basis rather than via tax contributions through Sep. 6, 2021.
- Extends the Federal Pandemic Unemployment Compensation (FPUC) through Sep. 6, 2021, while maintaining the FPUC benefit amount of $300.
- Exempts the first $10,200 in 2020 unemployment benefits from federal income tax for households with incomes below $150,000 per year.
- Restores full reimbursement for state costs related to waiving the waiting week beginning Dec. 31, 2020, and continues it through Sep. 6, 2021.
- Extends temporary exceptions to state unemployment insurance staffing restrictions from the CARES Act through Sep. 6, 2021.
- Increases the number of weeks of benefits an individual worker may receive in the Pandemic Emergency Unemployment Compensation (PEUC) program from 24 to 53 and extends the length of time in which workers can receive PEUC benefits if they exhaust regular state unemployment insurance benefits to last until Sep. 6, 2021.
- Extends full federal financing of benefits provided in the Short-Time Compensation program for states that have laws establishing such programs through Sep. 6, 2021.
- Ensures the earliest date on which states would begin accumulating interest of federal loans they have taken out to pay state unemployment benefits would be Sep. 6, 2021.
- Extends the FFCRA provisions that provided temporary full federal financing of extended benefits (EB) through Sep. 6, 2021. States are traditionally required to pay 50% of the cost of the EB.
- Appropriates $2 billion to the Department of Labor specifically to support program integrity and timely and equitable access to benefits. The secretary of Labor would be authorized to use the funds directly to develop system-wide program integrity solutions and address access barriers or processing backlogs, distribute funds to state and territorial unemployment insurance programs for these purposes, or make transfers to the Office of the Inspector General or the Department of Justice, or other agencies to support unemployment fraud investigations or prosecutions.

Small Business Provisions

- Provides $7.25 billion for the Paycheck Protection Program (PPP) forgivable loans.
  - With about half of the $284 billion in current funding available, the American Rescue Plan Act appropriates just $7.25 billion in additional funding and does not extend the PPP's current application period, which is scheduled to close March 31.
  - Makes more not-for-profits eligible for the PPP by creating a new category called "additional covered nonprofit entity," which are those not-for-profits listed in Sec. 501(c) of the Internal Revenue Code other than 501(c)(3), 501(c)(4), 501(c)(6), or 501(c)(19) organizations, that can receive an initial PPP loan, provided that:
    - The organization does not receive more than 15% of receipts from lobbying activities.
    - The lobbying activities do not comprise more than 15% of activities.
    - The cost of lobbying activities of the organization did not exceed $1 million during the most recent tax year that ended prior to Feb. 15, 2020.
    - The organization employs not more than 300 employees.
  - Also made eligible for the PPP are some larger not-for-profits.
    - Larger 501(c)(3) organizations and veterans' organizations that employ not more than 500 employees per physical location.
    - Larger 501(c)(6) organizations, domestic marketing organizations, and additional covered not-for-profit entities that employ not more than 300 employees per physical location.
- $15 billion for targeted Economic Injury Disaster Loan (EIDL) advance payments.
  - Provides funds to businesses located in low-income communities that have no more than 300 employees and that have suffered an economic loss of more than 30%, as determined by the amount that the entity's gross receipts declined during an eight-week period, between March 2, 2020 and Dec. 31, 2021, relative to a comparable eight-week period immediately preceding March 2, 2020.
  - Funds from Targeted EIDL Advances shall not be included in the gross income of the person who receives the grant and that no tax deductions will be denied, no tax attribute reduced, and no basis increase denied due to the exclusion of the grant funds from gross income.
- $25 billion for restaurants, bars, and other eligible providers of food and drink.
  - Allows for grants equal to the pandemic-related revenue loss of the eligible entity, up to $10 million per entity, or $5 million per physical location. The grants are calculated by subtracting 2020 revenue from 2019 revenue. Entities are limited to 20 locations.
- $1.25 billion for shuttered venue operators.
- $175 million to create a "community navigator" pilot program to increase awareness of and participation in COVID-19 relief programs for business owners currently lacking access, with priority for businesses owned by socially and economically disadvantaged individuals, women, and veterans.

Health and Human Services Provisions

HEALTH FUNDING

- The bill provides:
- $8.5 billion to the Centers for Disease Control and Prevention (CDC) for vaccine activities.
- $47.8 billion for testing and tracing activities for COVID-19.
- $8.5 billion for vaccine activities at the CDC, including a supplemental funding opportunity for state, locality and territory vaccine distribution grants from the December COVID relief package based on entities receiving the higher of the two distribution formulas as well as clarifies use of standards for data and data sharing.
- $7.66 billion for state, local and territorial public health departments to establish, expand and sustain their public health workforce.
- $7.6 billion for community health centers.
- $3 billion for block grant programs under the Substance Abuse and Mental Health Services Administration.
- $6.09 billion to the Indian Health Service.
- $800 million for the health workforce.
- $200 million to support COVID-19 infection control in skilled nursing facilities and $250 million for "strike teams" to assist skilled nursing facilities, funding will be provided until one year after the end of the public health emergency. Clarifies that secretary of Health and Human Services (HHS) most require Quality Improvement Organizations to provide support to skilled nursing facilities and add vaccination uptake support as a part of required activities.
- In total, $92.2 billion allocated for various activities aimed at improving public health and responding to COVID-19.

HUMAN SERVICES FUNDING

The bill provides:

- $39 billion for child care through:
  - $15 billion for the Child Care and Development Block Grant (CCDBG) and
  - $24 billion for newly created child care stabilization grants.
- $1 billion for Head Start programs.
- $150 million in additional funds for the Maternal, Infant, and Early Childhood Home Visiting program.
- $1 billion for the Pandemic Emergency Fund, which provides one-time benefits such as cash and vouchers to eligible families with low incomes.
- $1.5 billion for Community Mental Health Services Block grant for 2021.
- $1.5 billion for Prevention and Treatment of Substance Abuse Block grants for 2021.
- $420 million for grants to Certified Community Behavioral Health Clinics.
- $450 million for programs under the Family Violence Prevention and Services Act, including $198 million for grants to support survivors of sexual assault.
- $250 million for programs under the Child Abuse Prevention and Treatment Act.

- Permanently increases the total funding for the Child Care Entitlement to States from $2.9 billion to $3.05 billion per year (an increase of $130 million) and temporarily waived state matching funds for 2021 and 2022.

ADDITIONAL HHS PROGRAMS FUNDING

The bill provides:

- $1.434 billion for programs under the Older Americans Act, including $750 million for nutrition programs for 2021.
- $4.5 billion for the Low-Income Home Energy Assistance Program.
- $50 million for the Title X Family Planning program.

Medicaid/Medicare Policy Funding

- Requires state Medicaid and Children's Health Insurance Program (CHIP) to cover vaccines and COVID treatment without any cost sharing and extends the period of this policy by a year for one year after the end of the Public Health emergency. Would increase federal FMAP to 100 percent for vaccine costs during this period.
- States that extended a Medicaid option to provide testing and treatment to uninsured people must also do so without cost sharing.
- Outpatient drugs used for COVID-19 treatment will be included in the Medicaid Drug Rebate program.
- Provides a five-year state plan option of health coverage for women enrolled in Medicaid for 12 months after the birth of a child, instead of the previous 60 days.
- Establishes a minimum wage index for hospitals in all-urban states for Medicare hospital payments starting Oct. 1, 2021.
- Allows CMS to waive a Medicare requirement that a ground ambulance service include the transportation to a hospital to receive Medicare payments, if they didn't transport the beneficiary due to COVID-19 related protocols.
- Creates an $8.5 billion fund for rural providers.

MEDICAID FMAP FUNDING

- Provides a temporary (two year) 5 percentage point increase in the Medicaid FMAP to states that enact the Affordable Care Act's (ACA) Medicaid expansion and covers the newly eligible adult population per requirements of the ACA.
- Provides a 100 % FMAP for services to Medicaid enrollees, who access care in the Urban Indian Health Programs or the Native Hawaiian Health Care System for two years.
- Provides an 85% FMAP for the first three years that a state covers mobile crisis intervention services for mental health or substance use disorders, expiring after five years.
- Increases the federal FMAP by 10 percentage points for state expenditures on home and community-based services (HCBS) for four fiscal quarters.
- Eliminates the cap on the rebate amount manufacturers are required to pay Medicaid on covered drugs, starting in 2024. Currently, the cap is limited to 100% of the average manufacture price. Once this cap is reached prescription drug manufacturers can raise their prices without increasing the net rebates that have to be paid.

- Modifies Medicaid allotments for disproportionate share hospitals (DSH) to account for the 6.2 percentage point increase to states' FMAP. The HHS would have to ensure that the total DSH payments that a state may make in a fiscal year is equal to the total payments it could have made without the FMAP increase during the pandemic.

HEALTH INSURANCE FUNDING AND POLICY PROVISIONS

- Subsidizes 100% of premiums for individuals eligible for the *Consolidated Omnibus Budget Reconciliation Act* continuation coverage if they lose their job through September 30, 2021. The individual won't have to pay any premiums, and the employer or health insurance plan could claim a refundable tax credit against its Medicare payroll tax liability for the cost of the premiums.
- If someone becomes eligible for coverage under another group health plan or Medicare, a $250 penalty could be imposed if individuals who do not notify the plan when they are no longer eligible or as much as 110% of the premium assistance due after they are no longer eligible for a fraudulent failure to notify.
- Provides $20 million to the HHS for grants to eligible states to modernize the health insurance marketplaces established under the ACA with funding limited to two years.
- Would expand the ACA's premium tax credits for health insurance purchased through an exchange.
- Provides refundable credits for households with income that is 100% to 400% of the federal poverty level (FPL), capping health insurance premium costs based on a percentage of income and the credit would cover any amount above that cap up to the cost of a "benchmark" insurance plan.
- For 2021 and 2022, eliminates insurance premiums for individuals at 150% of FPL or less and reduces insurance premiums for all other households. Also makes households above 400% of the FPL eligible for a premium cap of 8.5% of income. Premium caps currently range from around 2% to 9.8% and are adjusted annually for inflation.
- Taxpayers receiving unemployment compensation in 2021, to qualify for reduced cost-sharing under the ACA, would require insurers to reduce out-of-pocket costs, for enrollees whose income is between 100% and 400% of the FPL and who enroll in a silver plan through the law's exchanges. Disregards income exceeding 133% of the FPL for purposes of determining the cost-sharing reduction amounts.

Nutrition Provisions

- Extends a 15% increase to monthly benefits under the Supplemental Nutrition Assistance Program (SNAP) through Sept. 30; currently scheduled to lapse on June 30.
- Provides $1.15 billion to states for SNAP administration, as well as $1 billion for grants for nutrition assistance programs in U.S. territories.
- Provides $490 million to the USDA to increase the amount of the cash-value voucher provided under the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) to up to $35 during the pandemic.
    - Participating states can apply the increase for as long as four months after opting in, but not after it expires on Sept. 30.
    - Allocates $390 million to increase participation in WIC through outreach and program modernization.
- Directs the USDA to reimburse emergency shelters under the National School Lunch Program for meals provided to individuals younger than 25 who receive services there.

- Extends the Pandemic Electronic Benefit Transfer program through any school year or summer period following a designated public health emergency. The program, which provides food aid to families during school closures, had initially been limited to fiscal years 2020 and 2021 and to school year 2020-2021, and now includes select American territories.

Homeland Security Provisions

- Appropriates $50 billion to the Disaster Relief Fund for COVID-19 and other disaster assistance under FEMA. The assistance is meant to bolster vaccine rollout efforts under FEMA and provide assistance to state and local governments at 100% federal cost share.
- Directs the President to provide disaster-related funeral expenses to individuals and households at 100% federal cost share.
- Provides $400 million to the Emergency Food and Shelter Program.
- Provides $300 million for assistance to firefighter grants.
- Provides $100 million via the Emergency Management Performance Grants to state and local emergency management agencies to help communities address COVID-19 and facilitate vaccine rollout.

Agriculture Provisions

- Provides $4 billion to the U.S. Department of Agriculture (USDA), of which:
  - $3.6 billion is dedicated to supporting the food supply chain, including purchasing food and agricultural commodities; making grants and loans for small to mid-size processors; seafood processing facilities; farmers markets, producers and other organizations responding to COVID; providing assistance to maintain and improve food and agricultural supply chain resiliency; and making payments for expenses related to crop losses pursuant to the Wildfire Hurricane Indemnity Program Plus.
  - $300 million is dedicated to the surveillance and monitoring of animals susceptible to COVID-19 transmission.
  - $100 million is dedicated to reducing the amount of overtime meat, poultry and egg inspection costs at small establishments.
- $1.01 billion is dedicated for grants and loans to improve land access for socially disadvantaged farmers, ranchers, and forest landowners, in addition to scholarships, outreach, financial training, and other technical assistance.
- $800 million is provided to use the Commodity Credit Corporation to make purchases and distributions under the Food for Peace Program.
- Appropriates funds as may be necessary for loan modifications and payments to farmers and ranchers, who are members of groups that have been socially disadvantaged in the USDA programs. The department could pay as much as 120% of each such farmer's or rancher's debt on loans it made or guaranteed.

Transportation and Infrastructure Provisions

TRANSIT FUNDING

- Provides $30.5 billion for grants to transit agencies for use for operating expenses, including payroll and personal protective equipment costs.
  - $26.1 billion for Urbanized Area Formula Grants to aid transit service in urbanized areas.

- $2.21 billion for urban and rural area grantees that require additional assistance due to the pandemic.
- $1.7 billion for Capital Investment Grants.
- $281 million in operating assistance formula grants for states to support rural transit agencies in areas with fewer than 50,000 people.
- $100 million for intercity bus services to support essential connections in rural areas.

AVIATION FUNDING

- Provides $8 billion for airports and airport concessions, with a caveat that those receiving funding must retain a minimum of 90% of personnel employed as of March 27, 2020 thru Sept. 30. However, the *Department of Transportation* can issue a waiver if the airport is experiencing significant economic hardship, or if the requirement has negative impacts on aviation safety or security. Of that amount:
  - $6.4 billion is distributed for costs related to operations, personnel, and combating the spread of COVID-19 at airport facilities.
  - $800 million for sponsors of primary airports ad concession relief.
  - $600 million to ensure all airports receive 100% federal cost share for any airport improvement grant awarded to them in FY 2021.
  - $100 million to non-primary airports to aid in the costs related to the pandemic.
- Provides $18 billion for aviation manufacturers and airlines.
  - $3 billion for airline manufacturers to create a payroll support program.
  - $14 billion to airlines to extend the payroll support program.
  - $1 billion for contractors to extend the payment of wages, salaries and benefits.

RAILWAY FUNDING

- Provides $1.7 billion for Amtrak in FY 2021.
  - $970 million to support the Northeast Corridor.
  - $730 million to support the National Network, of which:
    - $175 million is to be used by Amtrak to offset amounts required to be paid by states for state-supported routes.
  - $166 million out of the amounts allocated for the Northeast Corridor, and the National Network, to support the restoration of long-distance service and employee recalls.

Education Provisions

- Provides $122.7 billion for the existing Elementary and Secondary School Emergency Relief Fund to remain available through Sept. 30, 2023.
  - States receive funds based on the same proportion that each state receives under the Elementary and Secondary Education Act (ESEA) Title-IA. State Education Agencies (SEAs) must distribute at least 90% of funds to local education agencies (LEAs) based on their proportional share of ESEA Title I-A funds.

- The LEAs must reserve at least 20% of the funding they receive to address learning loss. Remaining funds are flexible and can address a variety of needs, including repairing ventilation systems, reducing class sizes and implementing social distancing guidelines, purchasing personal protective equipment, and hiring support staff to care for students' health and well-being. School districts will be required to create and share plans publicly for returning to in-person instruction within 30 days.
- The SEAs are also required to reserve their allocations to carry out activities: 5% to address learning loss, 1% for afterschool activities, and 1% for summer learning programs. Funds to the SEAs must be spent within one year of receipt.

- Provides $3.03 billion in additional FY21 funding for IDEA
  - $2.58 billion for grants to states under Part B of IDEA
  - $200 million for preschool grants under IDEA
  - $250 million for programs for infants and toddlers under Part C of IDEA
- Provides $2.75 billion to governors through the existing Emergency Assistance to Non-Public Schools Program to provide services or assistance to non-public schools that enroll a significant percentage of low-income students and are most impacted by the qualifying emergency.
- Provides $800 million to support the identification, enrollment, and school participation of children and youth experiencing homelessness, including through wrap-around services.
- Provides $850 million for grants to Bureau of Indian Education-operated and funded elementary and secondary schools and Tribal Colleges or Universities.
- Provides $40 billion through the existing Higher Education Emergency Relief (HEER) Fund.
  - $36 billion is allocated to public and private non-profit institutions to remain available through Sept. 30, 2023. Institutions must spend at least 50% of their allocation on emergency financial aid grants provided directly to students. Institutions can use remaining funds to replace lost revenue, reimburse for emergency expenses, and more. Funds are allocated as follows:
    - 37.5% based on full-time equivalent (FTE) enrollment of Federal Pell Grant recipients.
    - 37.5% based on headcount enrollment of Pell recipients.
    - 11.5% based on FTE enrollment of non-Pell recipients.
    - 11.5% based on headcount enrollment of non-Pell recipients.
    - 1% based on the relative share of FTE enrollment of students who were Federal Pell Grant recipients and who were exclusively enrolled in distance education courses prior to the qualifying emergency.
    - 1% based on the relative share of the total number of students who were Federal Pell grant recipients and who were exclusively enrolled in distance education courses prior to the qualifying emergency.
  - Provides $3 billion to historically Black colleges and universities, tribal colleges and minority-serving institutions.
  - Provides $400 million to for-profit colleges to provide financial aid grants to students.
  - Provides $200 million for institutions with the greatest unmet need related to the pandemic or those not served by the HEER formula.
- **Maintenance of Effort (MOE)**: States must maintain spending on both K-12 and higher education in FY 2022 and FY 2023 at least at the proportional levels relative to a state's overall spending, averaged over FY 2018, FY 2019 and FY 2020. The MOE can be waived by the secretary of Education.

- **Maintenance of Equity:** All provisions apply to FY 2022 and FY 2023.
  - State Maintenance of Equity:
    - States cannot cut per-pupil spending for "high-need" LEAs (group of LEAs that serve the highest percentages of low-income, which collectively serve at least 50% of state's total student enrollment) at a rate steeper than overall cuts in per-pupil spending across all local education agencies.
    - States cannot fund "highest poverty" LEAs (group of LEAs that serve highest percentages of low-income students which collectively serve at least 20% of state's total student enrollment) below their FY 2019 funding.
  - LEA Maintenance of Equity:
    - LEAs cannot cut per-pupil spending for any high-poverty school at a rate steeper than overall cuts in per-pupil spending across all schools served by the LEA.
    - LEAs cannot reduce per-pupil staffing for any high-poverty school at a rate steeper than overall cuts in per-pupil staffing across all schools served by the LEA.
    - The provision does not apply if an LEA serves less than 1,000 students or operates a single school or serves all students in single grade span in one school or is granted waiver by secretary of Education.
- Makes changes to the federal 90/10 rule, which prohibits for-profit colleges from receiving more than 90% of their revenue from federal aid programs. Regulations would not take effect until January 2023.
- Treats any student loan forgiven or discharged on a tax-free basis from 2021 through 2025.

Environmental Provisions

- Provides $100 million for the Environmental Protection Agency to provide grants to address disproportionate environmental harms to minority and low-income populations, in addition to funding air quality monitoring grants under the Clean Air Act.
- Provides $95 million to the Fish and Wildlife Service for wildlife inspections, care of captive endangered species, and research related to wildlife disease outbreaks.

Energy and Utility Provisions

- Provides $4.5 billion for the Low-Income Home Energy Assistance Program to assist eligible low-income households with heating and cooling energy costs.
- Provides $500 million for the Low-Income Household Drinking Water and Wastewater Emergency Assistance Program created under the FY 2021 Omnibus to assist with payments for drinking water and wastewater expenses.

Consumer Protection Provisions

- Provides $50 million in funding for Consumer Product Safety Fund to protect consumers from potentially dangerous products related to Covid-19.
  - Enhance targeting, surveillance and screening of consumer products entering the United States at ports of entry.

Housing Provisions

- Appropriates $27.4 billion in emergency rental assistance including:
  - $21.55 billion for emergency rental assistance via Corona Relief Fund (remains available through Sept. 30, 2027 if obligated by Oct. 1, 2022).
  - $5 billion for emergency housing vouchers (funds available through Sept. 30, 2030).
  - $750 million for tribal housing needs.
  - $100 million for rural housing.
- Appropriates $305 million to Puerto Rico, the U.S. Virgin Islands, the Northern Mariana Islands and American Samoa for emergency rental assistance.
- Appropriates $5 billion to assist people who are homeless with immediate and long-term assistance (emergency housing vouchers). Funds will remain available until September 20, 2030.
- Provides $9.96 billion for a Homeowner Assistance Fund.
  - $100 million for housing counseling via NeighborWorks America (funding remains available through Sept. 30, 2022).
- The first 40% of funding for the emergency rental assistance program will be provided within 60 days of enactment.
- Appropriates $750 million for the Native American Housing Block Grants, Native Hawaiian Housing Block Grant and Indian Community Block Grant programs.
- Not more than 15% of funds paid to state and local governments can be used for administrative costs.
- Appropriates $39 million to assist rural homeowners through the USDA's Section 502 and Section 504 direct loan programs.

Veterans

- Provides $14.4 billion for the Veterans Health Administration (VA) to provide healthcare services and related support to eligible veterans, which includes funding for sustainment of CARES Act-supported staffing and service-level expansions, inclusive of areas such as suicide prevention, women's health, the VA homelessness programs and telehealth.
- Includes $750 million for the VA to provide construction funds to states, provided they have required matching funds to projects that will upgrade and enhance safety and operation of state veterans' homes.
- Provides $250 million in one-time emergency federal payments to support these state-operated facilities, to be allocated based on the number of beds at each home that could be occupied by eligible veteran residents. This emergency funding can be used to enhance treatment of veterans during the pandemic, including by enhancing cleaning services, procuring personal protective equipment or other equipment, and temporarily expanding staffing levels to care for veterans.
- Allocates $386 million for up to 12 months of retraining assistance for veterans who are unemployed due to COVID-19 and do not have other veteran education benefits. This funding covers the cost of the retraining program and provides a housing allowance for veterans while they undergo this training.

Technology, Broadband and Cyber

- Creates a $7.2 billion Emergency Connectivity Fund to reimburse schools and libraries for internet access and connected devices.
  - Includes wi-fi hotspots, modems, routers, devices that combine a modem and router, connected devices.
- Provides $650 million for cybersecurity risk mitigation at the Cybersecurity and Infrastructure Security Agency, which is leading the federal response to the SolarWinds Corp. breach of government networks.
- Provides $1 billion for the Technology Modernization Fund.
- Provides $200 million for the U.S. Digital Service.
- Provides $150 million to the National Institute of Standards and Technology to fund awards for research, development, and testbeds to prevent, prepare for, and respond to coronavirus.
- Provides $175 million to the Corporation for Public Broadcasting to prevent, prepare for, and respond to coronavirus.
  - Includes fiscal stabilization grants to public telecommunications entities to maintain programming and services and preserve small and rural stations threatened by declines in non-Federal revenues.

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U.S. DEPARTMENT OF THE TREASURY

Coronavirus State and Local Fiscal Recovery Funds

The American Rescue Plan will deliver $350 billion for state, local, territorial, and Tribal governments to respond to the COVID-19 emergency and bring back jobs.

The Coronavirus State and Local Fiscal Recovery Funds provide a substantial infusion of resources to help turn the tide on the pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery.

Funding Objectives

- **Support urgent COVID-19 response efforts** to continue to decrease spread of the virus and bring the pandemic under control
- **Replace lost public sector revenue** to strengthen support for vital public services and help retain jobs
- **Support immediate economic stabilization** for households and businesses
- **Address systemic public health and economic challenges** that have contributed to the inequal impact of the pandemic

Eligible Jurisdictions & Allocations

Direct Recipients

- States and District of Columbia ($195.3 billion)
- Counties ($65.1 billion)
- Metropolitan cities ($45.6 billion)
- Tribal governments ($20.0 billion)
- Territories ($4.5 billion)

Indirect Recipients

- Non-entitlement units ($19.5 billion)

Support Public Health Response
Fund COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff

Address Negative Economic Impacts
Respond to economic harms to workers, families, small businesses, impacted industries, and the public sector

Replace Public Sector Revenue Loss
Use funds to provide government services to the extent of the reduction in revenue experienced due to the pandemic

Premium Pay for Essential Workers
Offer additional support to those who have and will bear the greatest health risks because of their service in critical infrastructure sectors

Water and Sewer Infrastructure
Make necessary investments to improve access to clean drinking water and invest in wastewater and stormwater infrastructure

Broadband Infrastructure
Make necessary investments to provide unserved or underserved locations with new or expanded broadband access

For More Information: Please visit www.treasury.gov/SLFRP
For Media Inquiries: Please contact the U.S. Treasury Press Office at (202) 622-2960
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U.S. DEPARTMENT OF THE TREASURY

Example Uses of Funds

Support Public Health Response

- **Services to contain and mitigate the spread of COVID-19,** including vaccination, medical expenses, testing, contact tracing, quarantine costs, capacity enhancements, and many related activities
- **Behavioral healthcare services,** including mental health or substance misuse treatment, crisis intervention, and related services
- **Payroll and covered benefits** for public health, healthcare, human services, and public safety staff to the extent that they work on the COVID-19 response

Replace Public Sector Revenue Loss

- **Ensure continuity of vital government services** by filling budget shortfalls
- **Revenue loss is calculated** relative to the expected trend, beginning with the last full fiscal year pre-pandemic and adjusted annually for growth
- **Recipients may re-calculate revenue loss** at multiple points during the program, supporting those entities that experience revenue loss with a lag

Water & Sewer Infrastructure

- **Includes improvements to infrastructure**, such as building or upgrading facilities and transmission, distribution, and storage systems
- **Eligible uses aligned to Environmental Protection Agency project categories** for the Clean Water State Revolving Fund and Drinking Water State Revolving Fund

Equity-Focused Services

- **Additional flexibility for the hardest-hit communities and families** to address health disparities, invest in housing, address educational disparities, and promote healthy childhood environments
- **Broadly applicable** to Qualified Census Tracts, other disproportionately impacted areas, and when provided by Tribal governments

Address Negative Economic Impacts

- **Deliver assistance to workers and families**, including support for unemployed workers, aid to households, and survivor's benefits for families of COVID-19 victims
- **Support small businesses** with loans, grants, in-kind assistance, and counseling programs
- **Speed the recovery of impacted industries**, including the tourism, travel, and hospitality sectors
- **Rebuild public sector capacity** by rehiring staff, replenishing state unemployment insurance funds, and implementing economic relief programs

Premium Pay for Essential Workers

- **Provide premium pay to essential workers**, both directly and through grants to third-party employers
- **Prioritize low- and moderate-income workers**, who face the greatest mismatch between employment-related health risks and compensation
- **Key sectors include** healthcare, grocery and food services, education, childcare, sanitation, and transit
- **Must be fully additive** to a worker's wages

Broadband Infrastructure

- **Focus on households and businesses** without access to broadband and those with connections that do not provide minimally acceptable speeds
- **Fund projects that deliver reliable service** with minimum 100 Mbps download / 100 Mbps upload speeds unless impracticable
- **Complement broadband investments** made through the Capital Projects Fund

Ineligible Uses

- **Changes that reduce net tax revenue** must not be offset with American Rescue Plan funds
- **Extraordinary payments into a pension fund** are a prohibited use of this funding
- **Other restrictions apply** to eligible uses

The examples listed in this document are non-exhaustive, do not describe all terms and conditions associated with the use of this funding, and do not describe all the restrictions on use that may apply. The U.S. Department of the Treasury provides this document, the State and Local contact channels, and other resources for informational purposes. Although efforts have been made to ensure the accuracy of the information provided, the information is subject to change or correction. Any Coronavirus State and Local Fiscal Recovery Funds received will be subject to the terms and conditions of the agreement entered into by Treasury and the respective jurisdiction, which shall incorporate the

FACT SHEET: The Coronavirus State and Local Fiscal Recovery Funds Will Deliver $350 Billion for State, Local, Territorial, and Tribal Governments to Respond to the COVID-19 Emergency and Bring Back Jobs

May 10, 2021

Aid to state, local, territorial, and Tribal governments will help turn the tide on the pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery

Today, the U.S. Department of the Treasury announced the launch of the Coronavirus State and Local Fiscal Recovery Funds, established by the American Rescue Plan Act of 2021, to provide $350 billion in emergency funding for eligible state, local, territorial, and Tribal governments. Treasury also released details on how these funds can be used to respond to acute pandemic response needs, fill revenue shortfalls among these governments, and support the communities and populations hardest-hit by the COVID-19 crisis. With the launch of the Coronavirus State and Local Fiscal Recovery Funds, eligible jurisdictions will be able to access this funding in the coming days to address these needs.

State, local, territorial, and Tribal governments have been on the frontlines of responding to the immense public health and economic needs created by this crisis – from standing up vaccination sites to supporting small businesses – even as these governments confronted revenue shortfalls during the downturn. As a result, these governments have endured unprecedented strains, forcing many to make untenable choices between laying off educators, firefighters, and other frontline workers or failing to provide other services that communities rely on. Faced with these challenges, state and local governments have cut over 1 million jobs since the beginning of the crisis. The experience of prior economic downturns has shown that budget pressures like these often result in prolonged fiscal austerity that can slow an economic recovery.

To support the immediate pandemic response, bring back jobs, and lay the groundwork for a strong and equitable recovery, the American Rescue Plan Act of 2021 established the Coronavirus State and Local Fiscal Recovery Funds, designed to deliver $350 billion to state, local, territorial, and Tribal governments to bolster their response to the COVID-19 emergency and its economic impacts. Today, Treasury is launching this much-needed relief to:

- Support urgent COVID-19 response efforts to continue to decrease spread of the virus and bring the pandemic under control;
- Replace lost public sector revenue to strengthen support for vital public services and help retain jobs;
- Support immediate economic stabilization for households and businesses; and,
- Address systemic public health and economic challenges that have contributed to the inequal impact of the pandemic on certain populations.

The Coronavirus State and Local Fiscal Recovery Funds provide substantial flexibility for each jurisdiction to meet local needs—including support for households, small businesses, impacted industries, essential workers, and the communities hardest-hit by the crisis. These funds also deliver resources that recipients can invest in building, maintaining, or upgrading their water, sewer, and broadband infrastructure.

Starting today, eligible state, territorial, metropolitan city, county, and Tribal governments may request Coronavirus State and Local Fiscal Recovery Funds through the Treasury Submission Portal. Concurrent with this program launch, Treasury has published an Interim Final Rule that implements the provisions of this program.

FUNDING AMOUNTS

The American Rescue Plan provides a total of $350 billion in Coronavirus State and Local Fiscal Recovery Funds to help eligible state, local, territorial, and Tribal governments meet their present needs and build the foundation for a strong recovery. Congress has allocated this funding to tens of thousands of jurisdictions. These allocations include:

Type	Amount ($ billions)
States & District of Columbia	$195.3
Counties	$65.1
Metropolitan Cites	$45.6
Tribal Governments	$20.0
Territories	$4.5
Non-Entitlement Units of Local Government	$19.5

Treasury expects to distribute these funds directly to each state, territorial, metropolitan city, county, and Tribal government. Local governments that are classified as non-entitlement units will receive this funding through their applicable state government. Treasury expects to provide further guidance on distributions to non-entitlement units next week.

Local governments should expect to receive funds in two tranches, with 50% provided beginning in May 2021 and the balance delivered 12 months later. States that have experienced a net increase in the unemployment rate of more than 2 percentage points from February 2020 to the latest available data as of the date of certification will receive their full allocation of funds in a single payment; other states will receive funds in two equal tranches. Governments of U.S. territories will receive a single payment. Tribal governments will receive two payments, with the first payment available in May and the second payment, based on employment data, to be delivered in June 2021.

USES OF FUNDING

Coronavirus State and Local Fiscal Recovery Funds provide eligible state, local, territorial, and Tribal governments with a substantial infusion of resources to meet pandemic response needs and rebuild a stronger, more equitable economy as the country recovers. Within the categories of eligible uses, recipients have broad flexibility to decide how best to use this funding to meet the needs of their communities. Recipients may use Coronavirus State and Local Fiscal Recovery Funds to:

- **Support public health expenditures,** by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
- **Address negative economic impacts caused by the public health emergency,** including economic harms to workers, households, small businesses, impacted industries, and the public sector;
- **Replace lost public sector revenue**, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
- **Provide premium pay for essential workers**, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
- **Invest in water, sewer, and broadband infrastructure**, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

Within these overall categories, Treasury's Interim Final Rule provides guidelines and principles for determining the types of programs and services that this funding can support, together with examples of allowable uses that recipients may consider. As described below, Treasury has also designed these provisions to take into consideration the disproportionate impacts of the COVID-19 public health emergency on those hardest-hit by the pandemic.

1. **Supporting the public health response**

Mitigating the impact of COVID-19 continues to require an unprecedented public health response from state, local, territorial, and Tribal governments. Coronavirus State and Local Fiscal Recovery Funds provide resources to meet these needs through the provision of care for those impacted by the virus and through services that address disparities in public health that have been exacerbated by the pandemic. Recipients may use this funding to address a broad range of public health needs across COVID-19 mitigation, medical expenses, behavioral healthcare, and public health resources. Among other services, these funds can help support:

- **Services and programs to contain and mitigate the spread of COVID-19, including:**
  - ✓ Vaccination programs
  - ✓ Medical expenses
  - ✓ Testing
  - ✓ Contact tracing
  - ✓ Isolation or quarantine
  - ✓ PPE purchases
  - ✓ Support for vulnerable populations to access medical or public health services
  - ✓ Public health surveillance (e.g., monitoring for variants)
  - ✓ Enforcement of public health orders
  - ✓ Public communication efforts
  - ✓ Enhancement of healthcare capacity, including alternative care facilities
  - ✓ Support for prevention, mitigation, or other services in congregate living facilities and schools
  - ✓ Enhancement of public health data systems
  - ✓ Capital investments in public facilities to meet pandemic operational needs
  - ✓ Ventilation improvements in key settings like healthcare facilities

- **Services to address behavioral healthcare needs exacerbated by the pandemic, including:**
  - ✓ Mental health treatment
  - ✓ Substance misuse treatment
  - ✓ Other behavioral health services
  - ✓ Hotlines or warmlines
  - ✓ Crisis intervention
  - ✓ Services or outreach to promote access to health and social services

- **Payroll and covered benefits expenses** for public health, healthcare, human services, public safety and similar employees, to the extent that they work on the COVID-19 response. For public health and safety workers, recipients can use these funds to cover the full payroll and covered benefits costs for employees or operating units or divisions primarily dedicated to the COVID-19 response.

2. **Addressing the negative economic impacts caused by the public health emergency**

The COVID-19 public health emergency resulted in significant economic hardship for many Americans. As businesses closed, consumers stayed home, schools shifted to remote education, and travel declined precipitously, over 20 million jobs were lost between February and April 2020. Although many have since returned to work, as of April 2021, the economy remains more than 8 million jobs below its pre-pandemic peak, and more than 3 million workers have dropped out of the labor market altogether since February 2020.

To help alleviate the economic hardships caused by the pandemic, Coronavirus State and Local Fiscal Recovery Funds enable eligible state, local, territorial, and Tribal governments to provide a wide range of assistance to individuals and households, small businesses, and impacted industries, in addition to enabling governments to rehire public sector staff and rebuild capacity. Among these uses include:

- **Delivering assistance to workers and families**, including aid to unemployed workers and job training, as well as aid to households facing food, housing, or other financial insecurity. In addition, these funds can support survivor's benefits for family members of COVID-19 victims.

- **Supporting small businesses,** helping them to address financial challenges caused by the pandemic and to make investments in COVID-19 prevention and mitigation tactics, as well as to provide technical assistance. To achieve these goals, recipients may employ this funding to execute a broad array of loan, grant, in-kind assistance, and counseling programs to enable small businesses to rebound from the downturn.

- **Speeding the recovery of the tourism, travel, and hospitality sectors**, supporting industries that were particularly hard-hit by the COVID-19 emergency and are just now beginning to mend. Similarly impacted sectors within a local area are also eligible for support.

- **Rebuilding public sector capacity,** by rehiring public sector staff and replenishing unemployment insurance (UI) trust funds, in each case up to pre-pandemic levels. Recipients may also use this funding to build their internal capacity to successfully implement economic relief programs, with investments in data analysis, targeted outreach, technology infrastructure, and impact evaluations.

3. **Serving the hardest-hit communities and families**

While the pandemic has affected communities across the country, it has disproportionately impacted low-income families and communities of color and has exacerbated systemic health and economic inequities. Low-income and socially vulnerable communities have experienced the most severe health impacts. For example, counties with high poverty rates also have the highest rates of infections and deaths, with 223 deaths per 100,000 compared to the U.S. average of 175 deaths per 100,000.

Coronavirus State and Local Fiscal Recovery Funds allow for a broad range of uses to address the disproportionate public health and economic impacts of the crisis on the hardest-hit communities, populations, and households. Eligible services include:

- **Addressing health disparities and the social determinants of health,** through funding for community health workers, public benefits navigators, remediation of lead hazards, and community violence intervention programs;
- **Investments in housing and neighborhoods**, such as services to address individuals experiencing homelessness, affordable housing development, housing vouchers, and residential counseling and housing navigation assistance to facilitate moves to neighborhoods with high economic opportunity;
- **Addressing educational disparities** through new or expanded early learning services, providing additional resources to high-poverty school districts, and offering educational services like tutoring or afterschool programs as well as services to address social, emotional, and mental health needs; and,
- **Promoting healthy childhood environments,** including new or expanded high quality childcare, home visiting programs for families with young children, and enhanced services for child welfare-involved families and foster youth.

Governments may use Coronavirus State and Local Fiscal Recovery Funds to support these additional services if they are provided:

- within a Qualified Census Tract (a low-income area as designated by the Department of Housing and Urban Development);
- to families living in Qualified Census Tracts;
- by a Tribal government; or,
- to other populations, households, or geographic areas disproportionately impacted by the pandemic.

4. **Replacing lost public sector revenue**

State, local, territorial, and Tribal governments that are facing budget shortfalls may use Coronavirus State and Local Fiscal Recovery Funds to avoid cuts to government services. With these additional resources, recipients can continue to provide valuable public services and ensure that fiscal austerity measures do not hamper the broader economic recovery.

Many state, local, territorial, and Tribal governments have experienced significant budget shortfalls, which can yield a devastating impact on their respective communities. Faced with budget shortfalls and pandemic-related uncertainty, state and local governments cut staff in all 50 states. These budget shortfalls and staff cuts are particularly problematic at present, as these entities are on the front lines of battling the COVID-19 pandemic and helping citizens weather the economic downturn.

Recipients may use these funds to replace lost revenue. Treasury's Interim Final Rule establishes a methodology that each recipient can use to calculate its reduction in revenue. Specifically, recipients will compute the extent of their reduction in revenue by comparing their actual revenue to an alternative representing what could have been expected to occur in the absence of the pandemic. Analysis of this expected trend begins with the last full fiscal year prior to the public health emergency and projects forward at either (a) the recipient's average annual revenue growth over the three full fiscal years prior to the public health emergency or (b) 4.1%, the national average state and local revenue growth rate from 2015-18 (the latest available data).

For administrative convenience, Treasury's Interim Final Rule allows recipients to presume that any diminution in actual revenue relative to the expected trend is due to the COVID-19 public health emergency. Upon receiving Coronavirus State and Local Fiscal Recovery Funds, recipients may immediately calculate the reduction in revenue that occurred in 2020 and deploy funds to address any shortfall. Recipients will have the opportunity to re-calculate revenue loss at several points through the program, supporting those entities that experience a lagged impact of the crisis on revenues.

Importantly, once a shortfall in revenue is identified, recipients will have broad latitude to use this funding to support government services, up to this amount of lost revenue.

5. **Providing premium pay for essential workers**

Coronavirus State and Local Fiscal Recovery Funds provide resources for eligible state, local, territorial, and Tribal governments to recognize the heroic contributions of essential workers. Since the start of the public health emergency, essential workers have put their physical well-being at risk to meet the daily needs of their communities and to provide care for others.

Many of these essential workers have not received compensation for the heightened risks they have faced and continue to face. Recipients may use this funding to provide premium pay directly, or through grants to private employers, to a broad range of essential workers who must be physically present at their jobs including, among others:

- ✓ Staff at nursing homes, hospitals, and home-care settings
- ✓ Workers at farms, food production facilities, grocery stores, and restaurants
- ✓ Janitors and sanitation workers
- ✓ Public health and safety staff
- ✓ Truck drivers, transit staff, and warehouse workers
- ✓ Childcare workers, educators, and school staff
- ✓ Social service and human services staff

Treasury's Interim Final Rule emphasizes the need for recipients to prioritize premium pay for lower income workers. Premium pay that would increase a worker's total pay above 150% of the greater of the state or county average annual wage requires specific justification for how it responds to the needs of these workers.

In addition, employers are both permitted and encouraged to use Coronavirus State and Local Fiscal Recovery Funds to offer retrospective premium pay, recognizing that many essential workers have not yet received additional compensation for work performed. Staff working for third-party contractors in eligible sectors are also eligible for premium pay.

6. **Investing in water and sewer infrastructure**

Recipients may use Coronavirus State and Local Fiscal Recovery Funds to invest in necessary improvements to their water and sewer infrastructures, including projects that address the impacts of climate change.

Recipients may use this funding to invest in an array of drinking water infrastructure projects, such as building or upgrading facilities and transmission, distribution, and storage systems, including the replacement of lead service lines.

Recipients may also use this funding to invest in wastewater infrastructure projects, including constructing publicly-owned treatment infrastructure, managing and treating stormwater or subsurface drainage water, facilitating water reuse, and securing publicly-owned treatment works.

To help jurisdictions expedite their execution of these essential investments, Treasury's Interim Final Rule aligns types of eligible projects with the wide range of projects that can be supported by the Environmental Protection Agency's Clean Water State Revolving Fund and Drinking Water State Revolving Fund. Recipients retain substantial flexibility to identify those water and sewer infrastructure investments that are of the highest priority for their own communities.

Treasury's Interim Final Rule also encourages recipients to ensure that water, sewer, and broadband projects use strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions.

7. **Investing in broadband infrastructure**

The pandemic has underscored the importance of access to universal, high-speed, reliable, and affordable broadband coverage. Over the past year, millions of Americans relied on the internet to participate in remote school, healthcare, and work.

Yet, by at least one measure, 30 million Americans live in areas where there is no broadband service or where existing services do not deliver minimally acceptable speeds. For millions of other Americans, the high cost of broadband access may place it out of reach. The American Rescue Plan aims to help remedy these shortfalls, providing recipients with flexibility to use Coronavirus State and Local Fiscal Recovery Funds to invest in broadband infrastructure.

Recognizing the acute need in certain communities, Treasury's Interim Final Rule provides that investments in broadband be made in areas that are currently unserved or underserved—in other words, lacking a wireline connection that reliably delivers minimum speeds of 25 Mbps download and 3 Mbps upload. Recipients are also encouraged to prioritize projects that achieve last-mile connections to households and businesses.

Using these funds, recipients generally should build broadband infrastructure with modern technologies in mind, specifically those projects that deliver services offering reliable 100 Mbps download and 100

Mbps upload speeds, unless impracticable due to topography, geography, or financial cost. In addition, recipients are encouraged to pursue fiber optic investments.

In view of the wide disparities in broadband access, assistance to households to support internet access or digital literacy is an eligible use to respond to the public health and negative economic impacts of the pandemic, as detailed above.

8. **Ineligible Uses**

Coronavirus State and Local Fiscal Recovery Funds provide substantial resources to help eligible state, local, territorial, and Tribal governments manage the public health and economic consequences of COVID-19. Recipients have considerable flexibility to use these funds to address the diverse needs of their communities.

To ensure that these funds are used for their intended purposes, the American Rescue Plan Act also specifies two ineligible uses of funds:

- **States and territories may not use this funding to directly or indirectly offset a reduction in net tax revenue due to a change in law from March 3, 2021 through the last day of the fiscal year in which the funds provided have been spent.** The American Rescue Plan ensures that funds needed to provide vital services and support public employees, small businesses, and families struggling to make it through the pandemic are not used to fund reductions in net tax revenue. Treasury's Interim Final Rule implements this requirement. If a state or territory cuts taxes, they must demonstrate how they paid for the tax cuts from sources other than Coronavirus State Fiscal Recovery Funds—by enacting policies to raise other sources of revenue, by cutting spending, or through higher revenue due to economic growth. If the funds provided have been used to offset tax cuts, the amount used for this purpose must be paid back to the Treasury.
- **No recipient may use this funding to make a deposit to a pension fund.** Treasury's Interim Final Rule defines a "deposit" as an extraordinary contribution to a pension fund for the purpose of reducing an accrued, unfunded liability. While pension deposits are prohibited, recipients may use funds for routine payroll contributions for employees whose wages and salaries are an eligible use of funds.

Treasury's Interim Final Rule identifies several other ineligible uses, including funding debt service, legal settlements or judgments, and deposits to rainy day funds or financial reserves. Further, general infrastructure spending is not covered as an eligible use outside of water, sewer, and broadband investments or above the amount allocated under the revenue loss provision. While the program offers broad flexibility to recipients to address local conditions, these restrictions will help ensure that funds are used to augment existing activities and address pressing needs.

Mississippi	Biloxi	$11,098,303.00
Mississippi	Gulfport	$19,503,534.00
Mississippi	Hattiesburg	$12,875,821.00
Mississippi	Jackson	$42,098,330.00
Mississippi	Moss Point	$2,722,613.00
Mississippi	Pascagoula	$5,167,294.00
Mississippi	Southaven city	$7,604,974.00
Missouri	Blue Springs	$6,190,665.00
Missouri	Cape Girardeau city	$8,280,673.00
Missouri	Columbia	$25,284,624.00
Missouri	Florissant	$6,677,255.00
Missouri	Independence	$21,485,924.00
Missouri	Jefferson City	$7,586,581.00
Missouri	Joplin	$13,779,739.00
Missouri	Kansas City	$194,776,376.00
Missouri	Lees Summit	$8,310,882.00
Missouri	O'Fallon	$7,774,553.00
Missouri	Springfield	$40,276,290.00
Missouri	St Joseph	$38,704,807.00
Missouri	St Louis	$439,692,690.00
Missouri	St. Charles city	$7,157,499.00
Missouri	St. Peters city	$4,570,716.00
Montana	Billings	$15,940,314.00
Montana	Great Falls	$19,472,737.00
Montana	Missoula	$14,192,996.00
Nebraska	Bellevue	$8,395,637.00
Nebraska	Grand Island	$9,093,880.00
Nebraska	Lincoln	$45,949,074.00
Nebraska	Omaha	$112,591,455.00
Nevada	Carson City	$9,912,979.00
Nevada	Henderson	$37,368,428.00
Nevada	Las Vegas	$130,568,739.00
Nevada	North Las Vegas	$46,340,548.00
Nevada	Reno	$51,519,997.00
Nevada	Sparks	$16,230,272.00
New Hampshire	Dover	$7,535,686.00
New Hampshire	Manchester	$43,281,853.00
New Hampshire	Nashua	$16,138,777.00
New Hampshire	Portsmouth	$12,880,280.00
New Hampshire	Rochester	$6,147,502.00
New Jersey	Asbury Park	$9,962,705.00
New Jersey	Atlantic City	$32,417,555.00
New Jersey	Bayonne	$35,655,886.00

Mississippi	Webster County	$1,881,975.00
Mississippi	Wilkinson County	$1,676,276.00
Mississippi	Winston County	$3,487,548.00
Mississippi	Yalobusha County	$2,351,837.00
Mississippi	Yazoo County	$5,766,934.00
Missouri	Adair County	$4,922,581.00
Missouri	Andrew County	$3,440,348.00
Missouri	Atchison County	$998,967.00
Missouri	Audrain County	$4,931,321.00
Missouri	Barry County	$6,951,594.00
Missouri	Barton County	$2,283,077.00
Missouri	Bates County	$3,141,221.00
Missouri	Benton County	$3,776,575.00
Missouri	Bollinger County	$2,356,693.00
Missouri	Boone County	$35,052,822.00
Missouri	Buchanan County	$16,969,433.00
Missouri	Butler County	$8,250,854.00
Missouri	Caldwell County	$1,752,029.00
Missouri	Callaway County	$8,690,803.00
Missouri	Camden County	$8,994,203.00
Missouri	Cape Girardeau County	$15,319,767.00
Missouri	Carroll County	$1,685,794.00
Missouri	Carter County	$1,161,933.00
Missouri	Cass County	$20,546,525.00
Missouri	Cedar County	$2,787,125.00
Missouri	Chariton County	$1,442,413.00
Missouri	Christian County	$17,208,540.00
Missouri	Clark County	$1,320,238.00
Missouri	Clay County	$48,549,469.00
Missouri	Clinton County	$3,959,936.00
Missouri	Cole County	$14,906,817.00
Missouri	Cooper County	$3,439,766.00
Missouri	Crawford County	$4,646,180.00
Missouri	Dade County	$1,468,636.00
Missouri	Dallas County	$3,278,354.00
Missouri	Daviess County	$1,607,904.00
Missouri	DeKalb County	$2,437,108.00
Missouri	Dent County	$3,024,873.00
Missouri	Douglas County	$2,561,032.00
Missouri	Dunklin County	$5,658,355.00
Missouri	Franklin County	$20,194,371.00
Missouri	Gasconade County	$2,856,468.00
Missouri	Gentry County	$1,276,340.00
Missouri	Greene County	$56,928,520.00
Missouri	Grundy County	$1,913,247.00

State	Total Funding	Funding Based on Average Number of Unemployed	Funding from Even Distribution	CRF Top Up
Alabama	$2,120,279,417.00	$1,620,279,417.00	$500,000,000.00	$0.00
Alaska	$1,011,788,220.00	$511,788,220.00	$500,000,000.00	$0.00
Arizona	$4,182,827,491.60	$3,682,827,491.60	$500,000,000.00	$0.00
Arkansas	$1,573,121,580.80	$1,073,121,580.80	$500,000,000.00	$0.00
California	$27,017,016,860.10	$26,517,016,860.10	$500,000,000.00	$0.00
Colorado	$3,828,761,789.90	$3,328,761,789.90	$500,000,000.00	$0.00
Connecticut	$2,812,288,081.60	$2,312,288,081.60	$500,000,000.00	$0.00
Delaware	$924,597,608.00	$424,597,608.00	$500,000,000.00	$0.00
District of Columbia	$1,802,441,116.20	$547,579,179.80	$500,000,000.00	$754,861,936.40
Florida	$8,816,581,838.70	$8,316,581,838.70	$500,000,000.00	$0.00
Georgia	$4,853,535,459.70	$4,353,535,459.70	$500,000,000.00	$0.00
Hawaii	$1,641,602,609.60	$1,141,602,609.60	$500,000,000.00	$0.00
Idaho	$1,094,018,353.40	$594,018,353.40	$500,000,000.00	$0.00
Illinois	$8,127,679,948.70	$7,627,679,948.70	$500,000,000.00	$0.00
Indiana	$3,071,830,673.20	$2,571,830,673.20	$500,000,000.00	$0.00
Iowa	$1,480,862,558.00	$980,862,558.00	$500,000,000.00	$0.00
Kansas	$1,583,680,553.30	$1,083,680,553.30	$500,000,000.00	$0.00
Kentucky	$2,183,237,290.90	$1,683,237,290.90	$500,000,000.00	$0.00
Louisiana	$3,011,136,886.60	$2,511,136,886.60	$500,000,000.00	$0.00
Maine	$997,495,130.10	$497,495,130.10	$500,000,000.00	$0.00
Maryland	$3,717,212,336.40	$3,217,212,336.40	$500,000,000.00	$0.00
Massachusetts	$5,286,067,526.40	$4,786,067,526.40	$500,000,000.00	$0.00
Michigan	$6,540,417,626.70	$6,040,417,626.70	$500,000,000.00	$0.00
Minnesota	$2,833,294,345.30	$2,333,294,345.30	$500,000,000.00	$0.00
Mississippi	$1,806,373,345.90	$1,306,373,345.90	$500,000,000.00	$0.00
Missouri	$2,685,296,130.80	$2,185,296,130.80	$500,000,000.00	$0.00
Montana	$906,418,527.00	$406,418,527.00	$500,000,000.00	$0.00
Nebraska	$1,040,157,440.40	$540,157,440.40	$500,000,000.00	$0.00
Nevada	$2,738,837,228.70	$2,238,837,228.70	$500,000,000.00	$0.00
New Hampshire	$994,555,877.60	$494,555,877.60	$500,000,000.00	$0.00
New Jersey	$6,244,537,955.50	$5,744,537,955.50	$500,000,000.00	$0.00
New Mexico	$1,751,542,835.00	$1,251,542,835.00	$500,000,000.00	$0.00
New York	$12,744,981,589.00	$12,244,981,589.00	$500,000,000.00	$0.00
North Carolina	$5,439,309,692.20	$4,939,309,692.20	$500,000,000.00	$0.00
North Dakota	$1,007,502,515.00	$507,502,515.00	$500,000,000.00	$0.00
Ohio	$5,368,386,901.00	$4,868,386,901.00	$500,000,000.00	$0.00
Oklahoma	$1,870,417,575.70	$1,370,417,575.70	$500,000,000.00	$0.00
Oregon	$2,648,024,988.20	$2,148,024,988.20	$500,000,000.00	$0.00
Pennsylvania	$7,291,328,098.40	$6,791,328,098.40	$500,000,000.00	$0.00
Rhode Island	$1,131,061,056.70	$631,061,056.70	$500,000,000.00	$0.00
South Carolina	$2,499,067,328.50	$1,999,067,328.50	$500,000,000.00	$0.00
South Dakota	$974,478,793.00	$474,478,793.00	$500,000,000.00	$0.00
Tennessee	$3,725,832,113.00	$3,225,832,113.00	$500,000,000.00	$0.00
Texas	$15,814,388,615.00	$15,314,388,615.00	$500,000,000.00	$0.00
Utah	$1,377,866,887.60	$877,866,887.60	$500,000,000.00	$0.00
Vermont	$1,049,287,303.00	$549,287,303.00	$500,000,000.00	$0.00
Virginia	$4,293,727,162.20	$3,793,727,162.20	$500,000,000.00	$0.00
Washington	$4,427,709,355.90	$3,927,709,355.90	$500,000,000.00	$0.00
West Virginia	$1,355,489,988.00	$855,489,988.00	$500,000,000.00	$0.00
Wisconsin	$2,533,160,626.50	$2,033,160,626.50	$500,000,000.00	$0.00
Wyoming	$1,068,484,768.00	$568,484,768.00	$500,000,000.00	$0.00
TOTAL	**$195,300,000,000.00**	**$169,045,138,063.60**	**$25,500,000,000.00**	**$754,861,936.40**

DEPARTMENT OF THE TREASURY

31 CFR Part 35

RIN 1505-AC77

Coronavirus State and Local Fiscal Recovery Funds

AGENCY: Department of the Treasury

ACTION: Interim Final Rule

SUMMARY: The Secretary of the Treasury (Treasury) is issuing this Interim Final Rule to implement the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund established under the American Rescue Plan Act.

DATES: *Effective date:* The provisions in this Interim Final Rule are effective [____], 2021. *Comment date:* Comments must be received on or before [____], 2021.

ADDRESSES: Please submit comments electronically through the Federal eRulemaking Portal: *http://www.regulations.gov* [(if hard copy, preferably an original and two copies to the [Office of the Undersecretary for Domestic Finance], Attention: [Name], Room [####] MT, Department of the Treasury, 1500 Pennsylvania Avenue, NW, Washington, DC 20220. Because postal mail may be subject to processing delay, it is recommended that comments be submitted electronically.] All comments should be captions with "Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule Comments." Please include your name, organization affiliation, address, email address and telephone number in your comment. Where appropriate, a comment should include a short executive summary (no more than [#] single-spaced pages).] In general, comments received will be posted on *http://www.regulations.gov* without change, including any business or personal information provided. Comments received, including attachments and other supporting materials, will be part of the public record and subject to public

disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT:

[Name], [Title], [Office], 202-622-[####], or [Name], [Title], [Office], 202-622-[####].

SUPPLEMENTARY INFORMATION:

I. Background Information

A. Overview

Since the first case of coronavirus disease 2019 (COVID-19) was discovered in the United States in January 2020, the disease has infected over 32 million and killed over 575,000 Americans.[1] The disease has impacted every part of life: as social distancing became a necessity, businesses closed, schools transitioned to remote education, travel was sharply reduced, and millions of Americans lost their jobs. In April 2020, the national unemployment rate reached its highest level in over seventy years following the most severe month-over-month decline in employment on record.[2] As of April 2021, there were still 8.2 million fewer jobs than before the pandemic.[3] During this time, a significant share of households have faced food and housing insecurity.[4] Economic disruptions impaired the flow of credit to households, State and

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[1] Centers for Disease Control and Prevention, COVID Data Tracker, http://www.covid.cdc.gov/covid-data-tracker/#datatracker-home (last visited May 8, 2021).

[2] U.S. Bureau of Labor Statistics, Unemployment Rate [UNRATE], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/UNRATE, May 3, 2021. U.S. Bureau of Labor Statistics, Employment Level [LNU02000000], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/LNU02000000, May 3, 2021.

[3] U.S. Bureau of Labor Statistics, All Employees, Total Nonfarm [PAYEMS], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/PAYEMS, May 7, 2021.

[4] Nirmita Panchal et al., The Implications of COVID-19 for Mental Health and Substance Abuse (Feb. 10, 2021), https://www.kff.org/coronavirus-covid-19/issue-brief/the-implications-of-covid-19-for-mental-

local governments, and businesses of all sizes.[5] As businesses weathered closures and sharp declines in revenue, many were forced to shut down, especially small businesses.[6]

Amid this once-in-a-century crisis, State, territorial, Tribal, and local governments (State, local, and Tribal governments) have been called on to respond at an immense scale. Governments have faced myriad needs to prevent and address the spread of COVID-19, including testing, contact tracing, isolation and quarantine, public communications, issuance and enforcement of health orders, expansions to health system capacity like alternative care facilities, and in recent months, a massive nationwide mobilization around vaccinations. Governments also have supported major efforts to prevent COVID-19 spread through safety measures in settings like nursing homes, schools, congregate living settings, dense worksites, incarceration settings, and public facilities. The pandemic's impacts on behavioral health, including the toll of pandemic-related stress, have increased the need for behavioral health resources.

At the same time, State, local and Tribal governments launched major efforts to address the economic impacts of the pandemic. These efforts have been tailored to the needs of their communities and have included expanded assistance to unemployed workers; food assistance;

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health-and-substance-use/#:~:text=Older%20adults%20are%20also%20more,prior%20to%20the%20current%20crisis; U.S. Census Bureau, Household Pulse Survey: Measuring Social and Economic Impacts during the Coronavirus Pandemic, https://www.census.gov/programs-surveys/household-pulse-survey.html (last visited Apr. 26, 2021); Rebecca T. Leeb et al., Mental Health-Related Emergency Department Visits Among Children Aged <18 Years During the COVID Pandemic – United States, January 1 – October 17, 2020, Morb. Mortal. Wkly. Rep. 69(45):1675-80 (Nov. 13, 2020), https://www.cdc.gov/mmwr/volumes/69/wr/mm6945a3.htm.

[5] Board of Governors of the Federal Reserve System, Monetary Policy Report (June 12, 2020), https://www.federalreserve.gov/monetarypolicy/2020-06-mpr-summary.htm.

[6] Joseph R. Biden, Remarks by President Biden on Helping Small Businesses (Feb. 22, 2021), https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/02/22/remarks-by-president-biden-on-helping-small-businesses/.

rent, mortgage, and utility support; cash assistance; internet access programs; expanded services to support individuals experiencing homelessness; support for individuals with disabilities and older adults; and assistance to small businesses facing closures or revenue loss or implementing new safety measures.

In responding to the public health emergency and its negative economic impacts, State, local, and Tribal governments have seen substantial increases in costs to provide these services, often amid substantial declines in revenue due to the economic downturn and changing economic patterns during the pandemic.[7] Facing these budget challenges, many State, local, and Tribal governments have been forced to make cuts to services or their workforces, or delay critical investments. From February to May of 2020, State, local, and Tribal governments reduced their workforces by more than 1.5 million jobs and, in April of 2021, State, local, and Tribal government employment remained nearly1.3 million jobs below pre-pandemic levels.[8] These cuts to State, local, and Tribal government workforces come at a time when demand for government services is high, with State, local, and Tribal governments on the frontlines of fighting the pandemic. Furthermore, State, local, and Tribal government austerity measures can hamper overall economic growth, as occurred in the recovery from the Great Recession.[9]

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[7] Michael Leachman, House Budget Bill Provides Needed Fiscal Aid for States, Localities, Tribal Nations, and Territories (Feb. 10, 2021), https://www.cbpp.org/research/state-budget-and-tax/house-budget-bill-provides-needed-fiscal-aid-for-states-localities.

[8] U.S. Bureau of Labor Statistics, All Employees, State Government [CES9092000001] and All Employees, Local Government [CES9093000001], retrieved from FRED, Federal Reserve Bank of St. Louis, https://fred.stlouisfed.org/series/CES9092000001 and https://fred.stlouisfed.org/series/CES9093000001 (last visited May 8, 2021).

[9] Tracy Gordon, State and Local Budgets and the Great Recession, Brookings Institution (Dec. 31, 2012), http://www.brookings.edu/articles/state-and-local-budgets-and-the-great-recession.

Finally, although the pandemic's impacts have been widespread, both the public health and economic impacts of the pandemic have fallen most severely on communities and populations disadvantaged before it began. Low-income communities, people of color, and Tribal communities have faced higher rates of infection, hospitalization, and death,[10] as well as higher rates of unemployment and lack of basic necessities like food and housing.[11] Pre-existing social vulnerabilities magnified the pandemic in these communities, where a reduced ability to work from home and, frequently, denser housing amplified the risk of infection. Higher rates of pre-existing health conditions also may have contributed to more severe COVID-19 health outcomes.[12] Similarly, communities or households facing economic insecurity before the pandemic were less able to weather business closures, job losses, or declines in earnings and were less able to participate in remote work or education due to the inequities in access to reliable and affordable broadband infrastructure.[13] Finally, though schools in all areas faced challenges, those in high poverty areas had fewer resources to adapt to remote and hybrid

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[10] Sebastian D. Romano et al., Trends in Racial and Ethnic Disparities in COVID-19 Hospitalizations, by Region – United States, March-December 2020, MMWR Morb Mortal Wkly Rep 2021, 70:560-565 (Apr. 16, 2021), https://www.cdc.gov/mmwr/volumes/70/wr/mm7015e2.htm?s_cid=mm7015e2_w.

[11] Center on Budget and Policy Priorities, Tracking the COVID-19 Recession's Effects on Food, Housing, and Employment Hardships, https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-housing-and (last visited May 4, 2021).

[12] Lisa R. Fortuna et al., Inequity and the Disproportionate Impact of COVID-19 on Communities of Color in the United States: The Need for Trauma-Informed Social Justice Response, Psychological Trauma Vol. 12(5):443-45 (2020), *available at* https://psycnet.apa.org/fulltext/2020-37320-001.pdf.

[13] Emily Vogles et al., 53% of Americans Say the Internet Has Been Essential During the COVID-19 Outbreak (Apr. 30, 2020), https://www.pewresearch.org/internet/2020/04/30/53-of-americans-say-the-internet-has-been-essential-during-the-covid-19-outbreak/.

learning models.[14] Unfortunately, the pandemic also has reversed many gains made by communities of color in the prior economic expansion.[15]

B. The Statute and Interim Final Rule

On March 11, 2021, the American Rescue Plan Act (ARPA) was signed into law by the President.[16] Section 9901 of ARPA amended Title VI of the Social Security Act[17] (the Act) to add section 602, which establishes the Coronavirus State Fiscal Recovery Fund, and section 603, which establishes the Coronavirus Local Fiscal Recovery Fund (together, the Fiscal Recovery Funds).[18] The Fiscal Recovery Funds are intended to provide support to State, local, and Tribal governments (together, recipients) in responding to the impact of COVID-19 and in their efforts to contain COVID-19 on their communities, residents, and businesses. The Fiscal Recovery Funds build on and expand the support provided to these governments over the last year, including through the Coronavirus Relief Fund (CRF).[19]

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[14] Emma Dorn et al., COVID-19 and student learning in the United States: The hurt could last a lifetime (June 2020), https://webtest.childrensinstitute.net/sites/default/files/documents/COVID-19-and-student-learning-in-the-United-States_FINAL.pdf; Andrew Bacher-Hicks et al., Inequality in Household Adaptation to Schooling Shocks: Covid-Induced Online Engagement in Real Time, J. of Public Econ. Vol. 193(C) (July 2020), *available at* https://www.nber.org/papers/w27555.

[15] *See, e.g.,* Tyler Atkinson & Alex Richter, Pandemic Disproportionately Affects Women, Minority Labor Force Participation, https://www.dallasfed.org/research/economics/2020/1110 (last visited May 9, 2021); Jared Bernstein & Janelle Jones, The Impact of the COVID19 Recession on the Jobs and Incomes of Persons of Color, https://www.cbpp.org/sites/default/files/atoms/files/6-2-20bud_0.pdf (last visited May 9, 2021).

[16] American Rescue Plan Act of 2021 (ARPA) § 9901, Pub. L. No. 117-2, codified at 42 U.S.C. § 802 *et seq.*

[17] 42 U.S.C. 801 *et seq.*

[18] §§ 602, 603 of the Act.

[19] The CRF was established by the section 601 of the Act as added by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Pub. L. No. 116-136, 134 Stat. 281 (2020).

Through the Fiscal Recovery Funds, Congress provided State, local, and Tribal governments with significant resources to respond to the COVID-19 public health emergency and its economic impacts through four categories of eligible uses. Section 602 and section 603 contain the same eligible uses; the primary difference between the two sections is that section 602 establishes a fund for States, territories, and Tribal governments and section 603 establishes a fund for metropolitan cities, nonentitlement units of local government, and counties. Sections 602(c)(1) and 603(c)(1) provide that funds may be used:

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.

In addition, Congress clarified two types of uses which do not fall within these four categories. Sections 602(c)(2)(B) and 603(c)(2) provide that these eligible uses do not include, and thus funds may not be used for, depositing funds into any pension fund. Section 602(c)(2)(A) also provides, for States and territories, that the eligible uses do not include:

> "directly or indirectly offset[ting] a reduction in the net tax revenue of [the] State or territory resulting from a change in law, regulation, or administrative interpretation."

The ARPA provides a substantial infusion of resources to meet pandemic response needs and rebuild a stronger, more equitable economy as the country recovers. First, payments from the Fiscal Recovery Funds help to ensure that State, local, and Tribal governments have the resources needed to continue to take actions to decrease the spread of COVID-19 and bring the pandemic under control. Payments from the Fiscal Recovery Funds may also be used by recipients to provide support for costs incurred in addressing public health and economic challenges resulting from the pandemic, including resources to offer premium pay to essential workers, in recognition of their sacrifices over the last year. Recipients may also use payments from the Fiscal Recovery Funds to replace State, local, and Tribal government revenue lost due to COVID-19, helping to ensure that governments can continue to provide needed services and avoid cuts or layoffs. Finally, these resources lay the foundation for a strong, equitable economic recovery, not only by providing immediate economic stabilization for households and businesses, but also by addressing the systemic public health and economic challenges that may have contributed to more severe impacts of the pandemic among low-income communities and people of color.

Within the eligible use categories outlined in the Fiscal Recovery Funds provisions of ARPA, State, local, and Tribal governments have flexibility to determine how best to use payments from the Fiscal Recovery Funds to meet the needs of their communities and populations. The Interim Final Rule facilitates swift and effective implementation by establishing a framework for determining the types of programs and services that are eligible under the ARPA along with examples of uses that State, local, and Tribal governments may consider. These uses build on eligible expenditures under the CRF, including some expansions in eligible uses to respond to the public health emergency, such as vaccination campaigns. They

also reflect changes in the needs of communities, as evidenced by, for example, nationwide data demonstrating disproportionate impacts of the COVID-19 public health emergency on certain populations, geographies, and economic sectors. The Interim Final Rule takes into consideration these disproportionate impacts by recognizing a broad range of eligible uses to help States, local, and Tribal governments support the families, businesses, and communities hardest hit by the COVID-19 public health emergency.

Implementation of the Fiscal Recovery Funds also reflect the importance of public input, transparency, and accountability. Treasury seeks comment on all aspects of the Interim Final Rule and, to better facilitate public comment, has included specific questions throughout this Supplementary Information. Treasury encourages State, local, and Tribal governments in particular to provide feedback and to engage with Treasury regarding issues that may arise regarding all aspects of this Interim Final Rule and Treasury's work in administering the Fiscal Recovery Funds. In addition, the Interim Final Rule establishes certain regular reporting requirements, including by requiring State, local, and Tribal governments to publish information regarding uses of Fiscal Recovery Funds payments in their local jurisdiction. These reporting requirements reflect the need for transparency and accountability, while recognizing and minimizing the burden, particularly for smaller local governments. Treasury urges State, territorial, Tribal, and local governments to engage their constituents and communities in developing plans to use these payments, given the scale of funding and its potential to catalyze broader economic recovery and rebuilding.

II. Eligible Uses

A. Public Health and Economic Impacts

Sections 602(c)(1)(A) and 603(c)(1)(A) provide significant resources for State, territorial, Tribal governments, and counties, metropolitan cities, and nonentitlement units of local governments (each referred to as a recipient) to meet the wide range of public health and economic impacts of the COVID-19 public health emergency.

These provisions authorize the use of payments from the Fiscal Recovery Funds to respond to the public health emergency with respect to COVID-19 or its negative economic impacts. Section 602 and section 603 also describe several types of uses that would be responsive to the impacts of the COVID-19 public health emergency, including assistance to households, small businesses, and nonprofits and aid to impacted industries, such as tourism, travel, and hospitality.[20]

Accordingly, to assess whether a program or service is included in this category of eligible uses, a recipient should consider whether and how the use would respond to the COVID- 19 public health emergency. Assessing whether a program or service "responds to" the COVID-19 public health emergency requires the recipient to, first, identify a need or negative impact of the COVID-19 public health emergency and, second, identify how the program, service, or other intervention addresses the identified need or impact. While the COVID-19 public health emergency affected many aspects of American life, eligible uses under this category must be in response to the disease itself or the harmful consequences of the economic disruptions resulting from or exacerbated by the COVID-19 public health emergency.

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[20] §§602(c)(1)(A), 603(c)(1)(A) of the Act.

The Interim Final Rule implements these provisions by identifying a non-exclusive list of programs or services that may be funded as responding to COVID-19 or the negative economic impacts of the COVID-19 public health emergency, along with considerations for evaluating other potential uses of the Fiscal Recovery Funds not explicitly listed. The Interim Final Rule also provides flexibility for recipients to use payments from the Fiscal Recovery Funds for programs or services that are not identified on these non-exclusive lists but that fall under the terms of section 602(c)(1)(A) or 603(c)(1)(A) by responding to the COVID-19 public health emergency or its negative economic impacts. As an example, in determining whether a program or service responds to the negative economic impacts of the COVID-19 public health emergency, the Interim Final Rule provides that payments from the Fiscal Recovery Funds should be designed to address an economic harm resulting from or exacerbated by the public health emergency. Recipients should assess the connection between the negative economic harm and the COVID-19 public health emergency, the nature and extent of that harm, and how the use of this funding would address such harm.

As discussed, the pandemic and the necessary actions taken to control the spread had a severe impact on households and small businesses, including in particular low-income workers and communities and people of color. While eligible uses under sections 602(c)(1)(A) and 603(c)(1)(A)provide flexibility to recipients to identify the most pressing local needs, Treasury encourages recipients to provide assistance to those households, businesses, and non-profits in communities most disproportionately impacted by the pandemic.

1. Responding to COVID-19

On January 21, 2020, the Centers for Disease Control and Prevention (CDC) identified the first case of novel coronavirus in the United States.[21] By late March, the virus had spread to many States and the first wave was growing rapidly, centered in the northeast.[22] This wave brought acute strain on health care and public health systems: hospitals and emergency medical services struggled to manage a major influx of patients; response personnel faced shortages of personal protective equipment; testing for the virus was scarce; and congregate living facilities like nursing homes and prisons saw rapid spread. State, local, and Tribal governments mobilized to support the health care system, issue public health orders to mitigate virus spread, and communicate safety measures to the public. The United States has since faced at least two additional COVID-19 waves that brought many similar challenges: the second in the summer, centered in the south and southwest, and a wave throughout the fall and winter, in which the virus reached a point of uncontrolled spread across the country and over 3,000 people died per day.[23] By early May 2021, the United States has experienced over 32 million confirmed COVID-19 cases and over 575,000 deaths.[24]

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[21] Press Release, Centers for Disease Control and Prevention, First Travel-related Case of 2019 Novel Coronavirus Detected in United States (Jan. 21, 2020), https://www.cdc.gov/media/releases/2020/p0121-novel-coronavirus-travel-case.html.

[22] Anne Schuchat et al., Public Health Response to the Initiation and Spread of Pandemic COVID-19 in the United States, February 24 – April 21, 2021, MMWR Morb Mortal Wkly Rep 2021, 69(18):551-56 (May 8, 2021), https://www.cdc.gov/mmwr/volumes/69/wr/mm6918e2.htm.

[23] Centers for Disease Control and Prevention, COVID Data Tracker: Trends in Number of COVID-19 Cases and Deaths in the US Reported to CDC, by State/Territory, https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendscases (last visited May 8, 2021).

[24] *Id.*

Mitigating the impact of COVID-19, including taking actions to control its spread and support hospitals and health care workers caring for the sick, continues to require a major public health response from State, local and Tribal governments. New or heightened public health needs include COVID-19 testing, major expansions in contact tracing, support for individuals in isolation or quarantine, enforcement of public health orders, new public communication efforts, public health surveillance (e.g., monitoring case trends and genomic sequencing for variants), enhancement to health care capacity through alternative care facilities, and enhancement of public health data systems to meet new demands or scaling needs. State, local, and Tribal governments have also supported major efforts to prevent COVID-19 spread through safety measures at key settings like nursing homes, schools, congregate living settings, dense worksites, incarceration settings, and in other public facilities. This has included implementing infection prevention measures or making ventilation improvements in congregate settings, health care settings, or other key locations.

Other response and adaptation costs include capital investments in public facilities to meet pandemic operational needs, such as physical plant improvements to public hospitals and health clinics or adaptations to public buildings to implement COVID-19 mitigation tactics. In recent months, State, local, and Tribal governments across the country have mobilized to support the national vaccination campaign, resulting in over 250 million doses administered to date.[25]

The need for public health measures to respond to COVID-19 will continue in the months and potentially years to come. This includes the continuation of the vaccination campaign for the general public and, if vaccinations are approved for children in the future, eventually for

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[25] Centers for Disease Control and Prevention, COVID Data Tracker: COVID-19 Vaccinations in the United States, https://covid.cdc.gov/covid-data-tracker/#vaccinations (last visited May 8, 2021).

youths. This also includes monitoring the spread of COVID-19 variants, understanding the impact of these variants (especially on vaccination efforts), developing approaches to respond to those variants, and monitoring global COVID-19 trends to understand continued risks to the United States. Finally, the long-term health impacts of COVID-19 will continue to require a public health response, including medical services for individuals with "long COVID," and research to understand how COVID-19 impacts future health needs and raises risks for the millions of Americans who have been infected.

Other areas of public health have also been negatively impacted by the COVID-19 pandemic. For example, in one survey in January 2021, over 40 percent of American adults reported symptoms of depression or anxiety, up from 11 percent in the first half of 2019.[26] The proportion of children's emergency department visits related to mental health has also risen noticeably.[27] Similarly, rates of substance misuse and overdose deaths have spiked: preliminary data from the CDC show a nearly 30 percent increase in drug overdose mortality from September 2019 to September 2020.[28] Stay-at-home orders and other pandemic responses may have also reduced the ability of individuals affected by domestic violence to access services.[29]

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[26] Panchal, *supra* note 4; Mark É. Czeisler et al., Mental Health, Substance Abuse, and Suicidal Ideation During COVID-19 Pandemic– United States, June 24-30 2020, Morb. Mortal. Wkly. Rep. 69(32):1049-57 (Aug. 14, 2020), https://www.cdc.gov/mmwr/volumes/69/wr/mm6932a1.htm.

[27] Leeb, *supra* note 4.

[28] Centers for Disease Prevention and Control, National Center for Health Statistics, Provisional Drug Overdose Death Counts, https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm (last visited May 8, 2021).

[29] Megan L. Evans, et al., A Pandemic within a Pandemic – Intimate Partner Violence during Covid-19, N. Engl. J. Med. 383:2302-04 (Dec. 10, 2020), *available at* https://www.nejm.org/doi/full/10.1056/NEJMp2024046.

Finally, some preventative public health measures like childhood vaccinations have been deferred and potentially forgone.[30]

While the pandemic affected communities across the country, it disproportionately impacted some demographic groups and exacerbated health inequities along racial, ethnic, and socioeconomic lines.[31] The CDC has found that racial and ethnic minorities are at increased risk for infection, hospitalization, and death from COVID-19, with Hispanic or Latino and Native American or Alaska Native patients at highest risk.[32]

Similarly, low-income and socially vulnerable communities have seen the most severe health impacts. For example, counties with high poverty rates also have the highest rates of infections and deaths, with 223 deaths per 100,000 compared to the U.S. average of 175 deaths per 100,000, as of May 2021.[33] Counties with high social vulnerability, as measured by factors such as poverty and educational attainment, have also fared more poorly than the national

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[30] Jeanne M. Santoli et al., Effects of the COVID-19 Pandemic on Routine Pediatric Vaccine Ordering and Administration – United States, Morb. Mortal. Wkly. Rep. 69(19):591-93 (May 8, 2020), https://www.cdc.gov/mmwr/volumes/69/wr/mm6919e2.htm; Marisa Langdon-Embry et al., Notes from the Field: Rebound in Routine Childhood Vaccine Administration Following Decline During the COVID-19 Pandemic – New York City, March 1-June 27, 2020, Morb. Mortal. Wkly. Rep. 69(30):999-1001 (Jul. 31 2020), https://www.cdc.gov/mmwr/volumes/69/wr/mm6930a3.htm.

[31] Office of the White House, National Strategy for the COVID-19 Response and Pandemic Preparedness (Jan. 21, 2021), https://www.whitehouse.gov/wp-content/uploads/2021/01/National-Strategy-for-the-COVID-19-Response-and-Pandemic-Preparedness.pdf.

[32] In a study of 13 states from October to December 2020, the CDC found that Hispanic or Latino and Native American or Alaska Native individuals were 1.7 times more likely to visit an emergency room for COVID-19 than White individuals, and Black individuals were 1.4 times more likely to do so than White individuals. *See* Romano, *supra* note 10.

[33] Centers for Disease Control and Prevention, COVID Data Tracker: Trends in COVID-19 Cases and Deaths in the United States, by County-level Population Factors, https://covid.cdc.gov/covid-data-tracker/#pop-factors_totaldeaths (last visited May 8, 2021).

average, with 211 deaths per 100,000 as of May 2021.[34] Over the last year, Native Americans have experienced more than one and a half times the rate of COVID-19 infections, more than triple the rate of hospitalizations, and more than double the death rate compared to White Americans.[35] Low-income and minority communities also exhibit higher rates of pre-existing conditions that may contribute to an increased risk of COVID-19 mortality.[36]

In addition, individuals living in low-income communities may have had more limited ability to socially distance or to self-isolate when ill, resulting in faster spread of the virus, and were over-represented among essential workers, who faced greater risk of exposure.[37] Social distancing measures in response to the pandemic may have also exacerbated pre-existing public health challenges. For example, for children living in homes with lead paint, spending substantially more time at home raises the risk of developing elevated blood lead levels, while

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[34] The CDC's Social Vulnerability Index includes fifteen variables measuring social vulnerability, including unemployment, poverty, education levels, single-parent households, disability status, non-English speaking households, crowded housing, and transportation access.

Centers for Disease Control and Prevention, COVID Data Tracker: Trends in COVID-19 Cases and Deaths in the United States, by Social Vulnerability Index, https://covid.cdc.gov/covid-data-tracker/#pop-factors_totaldeaths (last visited May 8, 2021).

[35] Centers for Disease Control and Prevention, Risk for COVID-19 Infection, Hospitalization, and Death By Race/Ethnicity, https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html (last visited Apr. 26, 2021).

[36] *See, e.g.*, Centers for Disease Control and Prevention, Risk of Severe Illness or Death from COVID-19 (Dec. 10, 2020), https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/racial-ethnic-disparities/disparities-illness.html (last visited Apr. 26, 2021).

[37] Milena Almagro et al., Racial Disparities in Frontline Workers and Housing Crowding During COVID-19: Evidence from Geolocation Data (Sept. 22, 2020), NYU Stern School of Business (forthcoming), *available at* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3695249; Grace McCormack et al., Economic Vulnerability of Households with Essential Workers, JAMA 324(4):388-90 (2020), *available at* https://jamanetwork.com/journals/jama/fullarticle/2767630.

screenings for elevated blood lead levels declined during the pandemic.[38] The combination of these underlying social and health vulnerabilities may have contributed to more severe public health outcomes of the pandemic within these communities, resulting in an exacerbation of pre-existing disparities in health outcomes.[39]

Eligible Public Health Uses. The Fiscal Recovery Funds provide resources to meet and address these emergent public health needs, including through measures to counter the spread of COVID-19, through the provision of care for those impacted by the virus, and through programs or services that address disparities in public health that have been exacerbated by the pandemic. To facilitate implementation and use of payments from the Fiscal Recovery Funds, the Interim Final Rule identifies a non-exclusive list of eligible uses of funding to respond to the COVID-19 public health emergency. Eligible uses listed under this section build and expand upon permissible expenditures under the CRF, while recognizing the differences between the ARPA and CARES Act, and recognizing that the response to the COVID-19 public health emergency has changed and will continue to change over time. To assess whether additional uses would be eligible under this category, recipients should identify an effect of COVID-19 on public health, including either or both of immediate effects or effects that may manifest over months or years, and assess how the use would respond to or address the identified need.

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[38] *See, e.g.*, Joseph G. Courtney et al., Decreases in Young Children Who Received Blood Lead Level Testing During COVID-19 – 34 Jurisdictions, January-May 2020, Morb. Mort. Wkly. Rep. 70(5):155-61 (Feb. 5, 2021), https://www.cdc.gov/mmwr/volumes/70/wr/mm7005a2.htm; Emily A. Benfer & Lindsay F. Wiley, Health Justice Strategies to Combat COVID-19: Protecting Vulnerable Communities During a Pandemic, Health Affairs Blog (Mar. 19, 2020), https://www.healthaffairs.org/do/10.1377/hblog20200319.757883/full/.

[39] *See, e.g.*, Centers for Disease Control and Prevention, *supra* note 34; Benfer & Wiley, *supra* note 38; Nathaniel M. Lewis et al., Disparities in COVID-19 Incidence, Hospitalizations, and Testing, by Area-Level Deprivation – Utah, March 3-July 9, 2020, Morb. Mortal. Wkly. Rep. 69(38):1369-73 (Sept. 25, 2020), https://www.cdc.gov/mmwr/volumes/69/wr/mm6938a4.htm.

The Interim Final Rule identifies a non-exclusive list of uses that address the effects of the COVID-19 public health emergency, including:

- *COVID-19 Mitigation and Prevention.* A broad range of services and programming are needed to contain COVID-19. Mitigation and prevention efforts for COVID-19 include vaccination programs; medical care; testing; contact tracing; support for isolation or quarantine; supports for vulnerable populations to access medical or public health services; public health surveillance (e.g., monitoring case trends, genomic sequencing for variants); enforcement of public health orders; public communication efforts; enhancement to health care capacity, including through alternative care facilities; purchases of personal protective equipment; support for prevention, mitigation, or other services in congregate living facilities (e.g., nursing homes, incarceration settings, homeless shelters, group living facilities) and other key settings like schools;[40] ventilation improvements in congregate settings, health care settings, or other key locations; enhancement of public health data systems; and other public health responses.[41] They also include capital investments in public facilities to meet pandemic operational needs, such as physical plant improvements to public hospitals and health clinics or adaptations

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[40] This includes implementing mitigation strategies consistent with the Centers for Disease Control and Prevention's (CDC) Operational Strategy for K-12 Schools through Phased Prevention, *available at* https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/operation-strategy.html.

[41] Many of these expenses were also eligible in the CRF. Generally, funding uses eligible under CRF as a response to the direct public health impacts of COVID-19 will continue to be eligible under the ARPA, including those not explicitly listed here (e.g., telemedicine costs, costs to facilitate compliance with public health orders, disinfection of public areas, facilitating distance learning, increased solid waste disposal needs related to PPE, paid sick and paid family and medical leave to public employees to enable compliance with COVID–19 public health precautions), with the following two exceptions: 1) the standard for eligibility of public health and safety payrolls has been updated (see details on page 20) and 2) expenses related to the issuance of tax-anticipation notes are no longer an eligible funding use (see discussion of debt service on page 44).

to public buildings to implement COVID-19 mitigation tactics. These COVID-19 prevention and mitigation programs and services, among others, were eligible expenditures under the CRF and are eligible uses under this category of eligible uses for the Fiscal Recovery Funds.[42]

- *Medical Expenses.* The COVID-19 public health emergency continues to have devastating effects on public health; the United States continues to average hundreds of deaths per day and the spread of new COVID-19 variants has raised new risks and genomic surveillance needs.[43] Moreover, our understanding of the potentially serious and long-term effects of the virus is growing, including the potential for symptoms like shortness of breath to continue for weeks or months, for multi-organ impacts from COVID-19, or for post-intensive care syndrome.[44] State and local governments may need to continue to provide care and services to address these near- and longer-term needs.[45]
- *Behavioral Health Care.* In addition, new or enhanced State, local, and Tribal government services may be needed to meet behavioral health needs exacerbated by the pandemic and respond to other public health impacts. These services include mental health treatment, substance misuse treatment, other behavioral health services, hotlines or

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[42] Coronavirus Relief Fund for States, Tribal Governments, and Certain Eligible Local Governments, 86 Fed. Reg. 4182 (Jan. 15, 2021), *available at* https://home.treasury.gov/system/files/136/CRF-Guidance-Federal-Register_2021-00827.pdf.

[43] Centers for Disease Control and Prevention, *supra* note 24.

[44] Centers for Disease Control and Prevention, Long-Term Effects (Apr. 8, 2021), https://www.cdc.gov/coronavirus/2019-ncov/long-term-effects.html (last visited Apr. 26, 2021).

[45] Pursuant to 42 CFR 433.51 and 45 CFR 75.306, Fiscal Recovery Funds may not serve as a State or locality's contribution of certain Federal funds.

warmlines, crisis intervention, overdose prevention, infectious disease prevention, and services or outreach to promote access to physical or behavioral health primary care and preventative medicine.

- *Public Health and Safety Staff.* Treasury recognizes that responding to the public health and negative economic impacts of the pandemic, including administering the services described above, requires a substantial commitment of State, local, and Tribal government human resources. As a result, the Fiscal Recovery Funds may be used for payroll and covered benefits expenses for public safety, public health, health care, human services, and similar employees, to the extent that their services are devoted to mitigating or responding to the COVID–19 public health emergency.[46] Accordingly, the Fiscal Recovery Funds may be used to support the payroll and covered benefits for the portion of the employee's time that is dedicated to responding to the COVID-19 public health emergency. For administrative convenience, the recipient may consider public health and safety employees to be entirely devoted to mitigating or responding to the COVID-19 public health emergency, and therefore fully covered, if the employee, or his or her operating unit or division, is primarily dedicated to responding to the COVID-19 public health emergency. Recipients may consider other presumptions for assessing the extent to which an employee, division, or operating unit is engaged in activities that respond to

[46] In general, if an employee's wages and salaries are an eligible use of Fiscal Recovery Funds, recipients may treat the employee's covered benefits as an eligible use of Fiscal Recovery Funds. For purposes of the Fiscal Recovery Funds, covered benefits include costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (federal and state), workers compensation insurance, and Federal Insurance Contributions Act (FICA) taxes (which includes Social Security and Medicare taxes).

the COVID-19 public health emergency, provided that the recipient reassesses periodically and maintains records to support its assessment, such as payroll records, attestations from supervisors or staff, or regular work product or correspondence demonstrating work on the COVID-19 response. Recipients need not routinely track staff hours.

- *Expenses to Improve the Design and Execution of Health and Public Health Programs.* State, local, and Tribal governments may use payments from the Fiscal Recovery Funds to engage in planning and analysis in order to improve programs addressing the COVID-19 pandemic, including through use of targeted consumer outreach, improvements to data or technology infrastructure, impact evaluations, and data analysis.

Eligible Uses to Address Disparities in Public Health Outcomes. In addition, in recognition of the disproportionate impacts of the COVID-19 pandemic on health outcomes in low-income and Native American communities and the importance of mitigating these effects, the Interim Final Rule identifies a broader range of services and programs that will be presumed to be responding to the public health emergency when provided in these communities. Specifically, Treasury will presume that certain types of services, outlined below, are eligible uses when provided in a Qualified Census Tract (QCT),[47] to families living in QCTs, or when these services are provided

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[47] Qualified Census Tracts are a common, readily-accessible, and geographically granular method of identifying communities with a large proportion of low-income residents. Using an existing measure may speed implementation and decrease administrative burden, while identifying areas of need at a highly-localized level.

While QCTs are an effective tool generally, many tribal communities have households with a wide range of income levels due in part to non-tribal member, high income residents living in the community. Mixed income communities, with a significant share of tribal members at the lowest levels of income, are often not included as eligible QCTs yet tribal residents are experiencing disproportionate impacts due to the pandemic. Therefore, including all services provided by Tribal governments is a more effective means of ensuring that disproportionately impacted Tribal members can receive services.

by Tribal governments.[48] Recipients may also provide these services to other populations, households, or geographic areas that are disproportionately impacted by the pandemic. In identifying these disproportionately-impacted communities, recipients should be able to support their determination that the pandemic resulted in disproportionate public health or economic outcomes to the specific populations, households, or geographic areas to be served.

Given the exacerbation of health disparities during the pandemic and the role of pre-existing social vulnerabilities in driving these disparate outcomes, services to address health disparities are presumed to be responsive to the public health impacts of the pandemic. Specifically, recipients may use payments from the Fiscal Recovery Funds to facilitate access to resources that improve health outcomes, including services that connect residents with health care resources and public assistance programs and build healthier environments, such as:

- Funding community health workers to help community members access health services and services to address the social determinants of health;[49]
- Funding public benefits navigators to assist community members with navigating and applying for available Federal, State, and local public benefits or services;

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[48] U.S. Department of Housing and Urban Development (HUD), Qualified Census Tracts and Difficult Development Areas, https://www.huduser.gov/portal/datasets/qct.html (last visited Apr. 26, 2021); U.S. Department of the Interior, Bureau of Indian Affairs, Indian Lands of Federally Recognized Tribes of the United States (June 2016), https://www.bia.gov/sites/bia.gov/files/assets/bia/ots/webteam/pdf/idc1-028635.pdf (last visited Apr. 26, 2021).

[49] The social determinants of health are the social and environmental conditions that affect health outcomes, specifically economic stability, health care access, social context, neighborhoods and built environment, and education access. *See, e.g.*, U.S. Department of Health and Human Services, Office of Disease Prevention and Health Promotion, Healthy People 2030: Social Determinants of Health, https://health.gov/healthypeople/objectives-and-data/social-determinants-health (last visited Apr. 26, 2021).

- Housing services to support healthy living environments and neighborhoods conducive to mental and physical wellness;
- Remediation of lead paint or other lead hazards to reduce risk of elevated blood lead levels among children; and
- Evidence-based community violence intervention programs to prevent violence and mitigate the increase in violence during the pandemic.[50]

2. Responding to Negative Economic Impacts

Impacts on Households and Individuals. The public health emergency, including the necessary measures taken to protect public health, resulted in significant economic and financial hardship for many Americans. As businesses closed, consumers stayed home, schools shifted to remote education, and travel declined precipitously, over 20 million jobs were lost in March and April 2020.[51] Although many have returned to work, as of April 2021, the economy remains 8.2 million jobs below its pre-pandemic peak,[52] and more than 3 million workers have dropped out of the labor market altogether relative to February 2020.[53]

Rates of unemployment are particularly severe among workers of color and workers with lower levels of educational attainment; for example, the overall unemployment rate in the United

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[50] National Commission on COVID-19 and Criminal Justice, Impact Report: COVID-19 and Crime (Jan. 31, 2021), https://covid19.councilonc j.org/2021/01/31/impact-report-covid-19-and-crime-3/ (showing a spike in homicide and assaults); Brad Boesrup et al., Alarming Trends in US domestic violence during the COVID-19 pandemic, Am. J. of Emerg. Med. 38(12): 2753-55 (Dec. 1, 2020), *available at* https://www.ajemjournal.com/article/S0735-6757(20)30307-7/fulltext (showing a spike in domestic violence).

[51] U.S. Bureau of Labor Statistics, All Employees, Total Nonfarm (PAYEMS), retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/PAYEMS (last visited May 8, 2021).

[52] *Id.*

[53] U.S. Bureau of Labor Statistics, Civilian Labor Force Level [CLF16OV], retrieved from FRED, Federal Reserve Bank of St. Louis, https://fred.stlouisfed.org/series/CLF16OV (last visited May 8, 2021).

States was 6.1 percent in April 2021, but certain groups saw much higher rates: 9.7 percent for Black workers, 7.9 percent for Hispanic or Latino workers, and 9.3 percent for workers without a high school diploma.[54] Job losses have also been particularly steep among low wage workers, with these workers remaining furthest from recovery as of the end of 2020.[55] A severe recession–and its concentrated impact among low-income workers–has amplified food and housing insecurity, with an estimated nearly 17 million adults living in households where there is sometimes or often not enough food to eat and an estimated 10.7 million adults living in households that were not current on rent.[56] Over the course of the pandemic, inequities also manifested along gender lines, as schools closed to in-person activities, leaving many working families without child care during the day.[57] Women of color have been hit especially hard: the

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[54] U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian population by sex and age (May 8 2021), https://www.bls.gov/news.release/empsit.t01.htm (last visited May 8, 2021); U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian noninstitutional population by race, Hispanic or Latino ethnicity, sex, and age (May 8, 2021), https://www.bls.gov/web/empsit/cpseea04.htm (last visited May 8, 2021); U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian noninstitutional population 25 years and over by educational attainment (May 8, 2021), https://www.bls.gov/web/empsit/cpseea05.htm (last visited May 8, 2021).

[55] Elise Gould & Jori Kandra, Wages grew in 2020 because the bottom fell out of the low-wage labor market, Economic Policy Institute (Feb. 24, 2021), https://files.epi.org/pdf/219418.pdf. *See also*, Michael Dalton et al., The K-Shaped Recovery: Examining the Diverging Fortunes of Workers in the Recovery from the COVID-19 Pandemic using Business and Household Survey Microdata, U.S. Bureau of Labor Statistics Working Paper Series (Feb. 2021), https://www.bls.gov/osmr/research-papers/2021/pdf/ec210020.pdf.

[56] Center on Budget and Policy Priorities, Tracking the COVID-19 Recession's Effects on Food, Housing, and Employment Hardships, https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-food-housing-and (last visited May 8, 2021).

[57] Women have carried a larger share of childcare responsibilities than men during the COVID-19 crisis. *See, e.g.*, Gema Zamarro & María J. Prados, Gender differences in couples' division of childcare, work and mental health during COVID-19, Rev. Econ. Household 19:11-40 (2021), *available at* https://link.springer.com/article/10.1007/s11150-020-09534-7; Titan Alon et al., The Impact of COVID-19 on Gender Equality, National Bureau of Economic Research Working Paper 26947 (April 2020), *available at* https://www.nber.org/papers/w26947.

labor force participation rate for Black women has fallen by 3.2 percentage points[58] during the pandemic as compared to 1.0 percentage points for Black men[59] and 2.0 percentage points for White women.[60]

As the economy recovers, the effects of the pandemic-related recession may continue to impact households, including a risk of longer-term effects on earnings and economic potential. For example, unemployed workers, especially those who have experienced longer periods of unemployment, earn lower wages over the long term once rehired.[61] In addition to the labor market consequences for unemployed workers, recessions can also cause longer-term economic challenges through, among other factors, damaged consumer credit scores[62] and reduced familial and childhood wellbeing.[63] These potential long-term economic consequences underscore the continued need for robust policy support.

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[58] U.S. Bureau of Labor Statistics, Labor Force Participation Rate - 20 Yrs. & Over, Black or African American Women [LNS11300032], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/LNS11300032 (last visited May 8, 2021).

[59] U.S. Bureau of Labor Statistics, Labor Force Participation Rate - 20 Yrs. & Over, Black or African American Men [LNS11300031], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/LNS11300031 (last visited May 8, 2021).

[60] U.S. Bureau of Labor Statistics, Labor Force Participation Rate - 20 Yrs. & Over, White Women [LNS11300029], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/LNS11300029 (last visited May 8, 2021).

[61] *See, e.g.*, Michael Greenstone & Adam Looney, Unemployment and Earnings Losses: A Look at Long-Term Impacts of the Great Recession on American Workers, Brookings Institution (Nov. 4, 2021), https://www.brookings.edu/blog/jobs/2011/11/04/unemployment-and-earnings-losses-a-look-at-long-term-impacts-of-the-great-recession-on-american-workers/.

[62] Chi Chi Wu, Solving the Credit Conundrum: Helping Consumers' Credit Records Impaired by the Foreclosure Crisis and Great Recession (Dec. 2013), https://www.nclc.org/images/pdf/credit_reports/report-credit-conundrum-2013.pdf.

[63] Irwin Garfinkel, Sara McLanahan, Christopher Wimer, eds., Children of the Great Recession, Russell Sage Foundation (Aug. 2016), *available at* https://www.russellsage.org/publications/children-great-recession.

Impacts on Businesses. The pandemic has also severely impacted many businesses, with small businesses hit especially hard. Small businesses make up nearly half of U.S. private-sector employment[64] and play a key role in supporting the overall economic recovery as they are responsible for two-thirds of net new jobs.[65] Since the beginning of the pandemic, however, 400,000 small businesses have closed, with many more at risk.[66] Sectors with a large share of small business employment have been among those with the most drastic drops in employment.[67] The negative outlook for small businesses has continued: as of April 2021, approximately 70 percent of small businesses reported that the pandemic has had a moderate or large negative effect on their business, and over a third expect that it will take over 6 months for their business to return to their normal level of operations.[68]

This negative outlook is likely the result of many small businesses having faced periods of closure and having seen declining revenues as customers stayed home.[69] In general, small businesses can face greater hurdles in accessing credit,[70] and many small businesses were

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[64] Board of Governors of the Federal Reserve System, *supra* note 5.

[65] U.S. Small Business Administration, Office of Advocacy, Small Businesses Generate 44 Percent of U.S. Economic Activity (Jan. 30, 2019), https://advocacy.sba.gov/2019/01/30/small-businesses-generate-44-percent-of-u-s-economic-activity/.

[66] Biden, *supra* note 6.

[67] Daniel Wilmoth, U.S. Small Business Administration Office of Advocacy, The Effects of the COVID-19 Pandemic on Small Businesses, Issue Brief No. 16 (Mar. 2021), *available at* https://cdn.advocacy.sba.gov/wp-content/uploads/2021/03/02112318/COVID-19-Impact-On-Small-Business.pdf.

[68] U.S. Census Bureau, Small Business Pulse Survey, https://portal.census.gov/pulse/data/ (last visited May 8, 2021).

[69] Olivia S. Kim et al., Revenue Collapses and the Consumption of Small Business Owners in the Early Stages of the COVID-19 Pandemic (Nov. 2020), https://www.nber.org/papers/w28151.

[70] *See e.g.,* Board of Governors of the Federal Reserve System, Report to Congress on the Availability of Credit to Small Businesses (Sept. 2017), *available at* https://www.federalreserve.gov/publications/2017-september-availability-of-credit-to-small-businesses.htm.

already financially fragile at the outset of the pandemic.[71] Non-profits, which provide vital services to communities, have similarly faced economic and financial challenges due to the pandemic.[72]

Impacts to State, Local, and Tribal Governments. State, local, and Tribal governments have felt substantial fiscal pressures. As noted above, State, local, and Tribal governments have faced significant revenue shortfalls and remain over 1 million jobs below their pre-pandemic staffing levels.[73] These reductions in staffing may undermine the ability to deliver services effectively, as well as add to the number of unemployed individuals in their jurisdictions.

Exacerbation of Pre-existing Disparities. The COVID-19 public health emergency may have lasting negative effects on economic outcomes, particularly in exacerbating disparities that existed prior to the pandemic.

The negative economic impacts of the COVID-19 pandemic are particularly pronounced in certain communities and families. Low- and moderate-income jobs make up a substantial portion of both total pandemic job losses,[74] and jobs that require in-person frontline work, which

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[71] Alexander W. Bartik et al., The Impact of COVID-19 on small business outcomes and expectations, PNAS 117(30): 17656-66 (July 28, 2020), *available at* https://www.pnas.org/content/117/30/17656.

[72] Federal Reserve Bank of San Francisco, Impacts of COVID-19 on Nonprofits in the Western United States (May 2020), https://www.frbsf.org/community-development/files/impact-of-covid-nonprofits-serving-western-united-states.pdf.

[73] Wolfe & Kassa, *supra* note 7; Elijah Moreno & Heather Sobrepena, Tribal entities remain resilient as COVID-19 batters their finances, Federal Reserve Bank of Minneapolis (Nov. 10, 2021), https://www.minneapolisfed.org/article/2020/tribal-entities-remain-resilient-as-covid-19-batters-their-finances.

[74] Kim Parker et al., Economic Fallout from COVID-19 Continues to Hit Lower-Income Americans the Hardest, Pew Research Center (Sept. 24, 2020), https://www.pewresearch.org/social-trends/2020/09/24/economic-fallout-from-covid-19-continues-to-hit-lower-income-americans-the-hardest/; Gould, *supra* note 55.

are exposed to greater risk of contracting COVID-19.[75] Both factors compound pre-existing vulnerabilities and the likelihood of food, housing, or other financial insecurity in low- and moderate-income families and, given the concentration of low- and moderate-income families within certain communities,[76] raise a substantial risk that the effects of the COVID-19 public health emergency will be amplified within these communities.

These compounding effect of recessions on concentrated poverty and the long-lasting nature of this effect were observed after the 2007-2009 recession, including a large increase in concentrated poverty with the number of people living in extremely poor neighborhoods more than doubling by 2010-2014 relative to 2000.[77] Concentrated poverty has a range of deleterious impacts, including additional burdens on families and reduced economic potential and social cohesion.[78] Given the disproportionate impact of COVID-19 on low-income households discussed above, there is a risk that the current pandemic-induced recession could further increase concentrated poverty and cause long-term damage to economic prospects in neighborhoods of concentrated poverty.

The negative economic impacts of COVID-19 also include significant impacts to children in disproportionately affected families and include impacts to education, health, and welfare, all

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[75] *See infra* Section II.B of this Supplementary Information.

[76] Elizabeth Kneebone, The Changing geography of US poverty, Brookings Institution (Feb. 15, 2017), https://www.brookings.edu/testimonies/the-changing-geography-of-us-poverty/.

[77] Elizabeth Kneebone & Natalie Holmes, U.S. concentrated poverty in the wake of the Great Recession, Brookings Institution (Mar. 31, 2016), https://www.brookings.edu/research/u-s-concentrated-poverty-in-the-wake-of-the-great-recession/.

[78] David Erickson et al., The Enduring Challenge of Concentrated Poverty in America: Case Studies from Communities Across the U.S. (2008), *available at* https://www.frbsf.org/community-development/files/cp_fullreport.pdf.

of which contribute to long-term economic outcomes.[79] Many low-income and minority students, who were disproportionately served by remote or hybrid education during the pandemic, lacked the resources to participate fully in remote schooling or live in households without adults available throughout the day to assist with online coursework.[80] Given these trends, the pandemic may widen educational disparities and worsen outcomes for low-income students,[81] an effect that would substantially impact their long-term economic outcomes. Increased economic strain or material hardship due to the pandemic could also have a long-term impact on health, educational, and economic outcomes of young children.[82] Evidence suggests

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[79] Educational quality, as early as Kindergarten, has a long-term impact on children's public health and economic outcomes. *See, e.g.,* Tyler W. Watts et al., The Chicago School Readiness Project: Examining the long-term impacts of an early childhood intervention, PLoS ONE 13(7) (2018), *available at* https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0200144; Opportunity Insights, How Can We Amplify Education as an Engine of Mobility? Using big data to help children get the most from school, https://opportunityinsights.org/education/ (last visited Apr. 26, 2021); U.S. Department of Health and Human Services (HHS), Office of Disease Prevention and Health Promotion, Early Childhood Development and Education, https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-health/interventions-resources/early-childhood-development-and-education (last visited Apr. 26, 2021).

[80] *See, e.g.*, Bacher-Hicks, *supra* note 14.

[81] A Department of Education survey found that, as of February 2021, 42 percent of fourth grade students nationwide were offered only remote education, compared to 48 percent of economically disadvantaged students, 54 percent of Black students and 57 percent of Hispanic students. Large districts often disproportionately serve low-income students. *See* Institute of Education Sciences, Monthly School Survey Dashboard, https://ies.ed.gov/schoolsurvey/ (last visited Apr. 26, 2021). In summer 2020, a review found that 74 percent of the largest 100 districts chose remote learning only. *See* Education Week, School Districts' Reopening Plans: A Snapshot (Jul. 15, 2020), https://www.edweek.org/leadership/school-districts-reopening-plans-a-snapshot/2020/07 (last visited May 4, 2021).

[82] HHS, *supra* note 79.

that adverse conditions in early childhood, including exposure to poverty, food insecurity, housing insecurity, or other economic hardships, are particularly impactful.[83]

The pandemic's disproportionate economic impacts are also seen in Tribal communities across the country—for Tribal governments as well as families and businesses on and off Tribal lands. In the early months of the pandemic, Native American unemployment spiked to 26 percent and, while partially recovered, remains at nearly 11 percent.[84] Tribal enterprises are a significant source of revenue for Tribal governments to support the provision of government services. These enterprises, notably concentrated in gaming, tourism, and hospitality, frequently closed, significantly reducing both revenues to Tribal governments and employment. As a result, Tribal governments have reduced essential services to their citizens and communities.[85]

Eligible Uses. Sections 602(c)(1)(A) and 603(c)(1)(A) permit use of payments from the Fiscal Recovery Funds to respond to the negative economic impacts of the COVID-19 public health emergency. Eligible uses that respond to the negative economic impacts of the public health emergency must be designed to address an economic harm resulting from or exacerbated by the public health emergency. In considering whether a program or service would be eligible under this category, the recipient should assess whether, and the extent to which, there has been

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[83] Hirokazu Yoshikawa, Effects of the Global Coronavirus Disease – 2019 Pandemic on Early Childhood Development: Short- and Long-Term Risks and Mitigating Program and Policy Actions, J. of Pediatrics Vol. 223:188-93 (Aug. 1, 2020), *available at* https://www.jpeds.com/article/S0022-3476(20)30606-5/abstract.

[84] Based on calculations conducted by the Minneapolis Fed's Center for Indian Country Development using Flood et al. (2020)'s Current Population Survey." Sarah Flood, Miriam King, Renae Rodgers, Steven Ruggles and J. Robert Warren. Integrated Public Use Microdata Series, Current Population Survey: Version 8.0 [dataset]. Minneapolis, MN: IPUMS, 2020. https://doi.org/10.18128/D030.V8.0; *see also* Donna Feir & Charles Golding, Native Employment During COVID-19: Hard hit in April but Starting to Rebount? (Aug. 5, 2020), https://www.minneapolisfed.org/article/2020/native-employment-during-covid-19-hit-hard-in-april-but-starting-to-rebound.

[85] Moreno & Sobrepena, *supra* note 73.

an economic harm, such as loss of earnings or revenue, that resulted from the COVID-19 public health emergency and whether, and the extent to which, the use would respond or address this harm.[86] A recipient should first consider whether an economic harm exists and whether this harm was caused or made worse by the COVID-19 public health emergency. While economic impacts may either be immediate or delayed, assistance or aid to individuals or businesses that did not experience a negative economic impact from the public health emergency would not be an eligible use under this category.

In addition, the eligible use must "respond to" the identified negative economic impact. Responses must be related and reasonably proportional to the extent and type of harm experienced; uses that bear no relation or are grossly disproportionate to the type or extent of harm experienced would not be eligible uses. Where there has been a negative economic impact resulting from the public health emergency, States, local, and Tribal governments have broad latitude to choose whether and how to use the Fiscal Recovery Funds to respond to and address the negative economic impact. Sections 602(c)(1)(A) and 603(c)(1)(A) describe several types of uses that would be eligible under this category, including assistance to households, small businesses, and nonprofits and aid to impacted industries such as tourism, travel, and hospitality.

To facilitate implementation and use of payments from the Fiscal Recovery Funds, the Interim Final Rule identifies a non-exclusive list of eligible uses of funding that respond to the negative economic impacts of the public health emergency. Consistent with the discussion above, the eligible uses listed below would respond directly to the economic or financial harms resulting from and or exacerbated by the public health emergency.

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[86] In some cases, a use may be permissible under another eligible use category even if it falls outside the scope of section (c)(1)(A) of the Act.

- *Assistance to Unemployed Workers.* This includes assistance to unemployed workers, including services like job training to accelerate rehiring of unemployed workers; these services may extend to workers unemployed due to the pandemic or the resulting recession, or who were already unemployed when the pandemic began and remain so due to the negative economic impacts of the pandemic.
- *State Unemployment Insurance Trust Funds.* Consistent with the approach taken in the CRF, recipients may make deposits into the state account of the Unemployment Trust Fund established under section 904 of the Social Security Act (42 U.S.C. 1104) up to the level needed to restore the pre-pandemic balances of such account as of January 27, 2020 or to pay back advances received under Title XII of the Social Security Act (42 U.S.C. 1321) for the payment of benefits between January 27, 2020 and [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], given the close nexus between Unemployment Trust Fund costs, solvency of Unemployment Trust Fund systems, and pandemic economic impacts. Further, Unemployment Trust Fund deposits can decrease fiscal strain on Unemployment Insurance systems impacted by the pandemic. States facing a sharp increase in Unemployment Insurance claims during the pandemic may have drawn down positive Unemployment Trust Fund balances and, after exhausting the balance, required advances to fund continuing obligations to claimants. Because both of these impacts were driven directly by the need for assistance to unemployed workers during the pandemic, replenishing Unemployment Trust Funds up to the pre-pandemic level responds to the pandemic's negative economic impacts on unemployed workers.

- *Assistance to Households.* Assistance to households or populations facing negative economic impacts due to COVID-19 is also an eligible use. This includes: food assistance; rent, mortgage, or utility assistance; counseling and legal aid to prevent eviction or homelessness; cash assistance (discussed below); emergency assistance for burials, home repairs, weatherization, or other needs; internet access or digital literacy assistance; or job training to address negative economic or public health impacts experienced due to a worker's occupation or level of training. As discussed above, in considering whether a potential use is eligible under this category, a recipient must consider whether, and the extent to which, the household has experienced a negative economic impact from the pandemic. In assessing whether a household or population experienced economic harm as a result of the pandemic, a recipient may presume that a household or population that experienced unemployment or increased food or housing insecurity or is low- or moderate-income experienced negative economic impacts resulting from the pandemic. For example, a cash transfer program may focus on unemployed workers or low- and moderate-income families, which have faced disproportionate economic harms due to the pandemic. Cash transfers must be reasonably proportional to the negative economic impact they are intended to address. Cash transfers grossly in excess of the amount needed to address the negative economic impact identified by the recipient would not be considered to be a response to the COVID-19 public health emergency or its negative impacts. In particular, when considering the appropriate size of permissible cash transfers made in response to the COVID-19 public health emergency, State, local and

Tribal governments may consider and take guidance from the per person amounts previously provided by the Federal government in response to the COVID-19 crisis. Cash transfers that are grossly in excess of such amounts would be outside the scope of eligible uses under section 602(c)(1)(A) and 603(c)(1)(A) and could be subject to recoupment. In addition, a recipient could provide survivor's benefits to surviving family members of COVID-19 victims, or cash assistance to widows, widowers, and dependents of eligible COVID-19 victims.

- *Expenses to Improve Efficacy of Economic Relief Programs.* State, local, and Tribal governments may use payments from the Fiscal Recovery Funds to improve efficacy of programs addressing negative economic impacts, including through use of data analysis, targeted consumer outreach, improvements to data or technology infrastructure, and impact evaluations.
- *Small Businesses and Non-profits.* As discussed above, small businesses and non-profits faced significant challenges in covering payroll, mortgages or rent, and other operating costs as a result of the public health emergency and measures taken to contain the spread of the virus. State, local, and Tribal governments may provide assistance to small businesses to adopt safer operating procedures, weather periods of closure, or mitigate financial hardship resulting from the COVID-19 public health emergency, including:
    - Loans or grants to mitigate financial hardship such as declines in revenues or impacts of periods of business closure, for example by supporting payroll and benefits costs, costs to retain employees, mortgage, rent, or utilities costs, and other operating costs;

- Loans, grants, or in-kind assistance to implement COVID-19 prevention or mitigation tactics, such as physical plant changes to enable social distancing, enhanced cleaning efforts, barriers or partitions, or COVID-19 vaccination, testing, or contact tracing programs; and
- Technical assistance, counseling, or other services to assist with business planning needs.

As discussed above, these services should respond to the negative economic impacts of COVID-19. Recipients may consider additional criteria to target assistance to businesses in need, including small businesses. Such criteria may include businesses facing financial insecurity, substantial declines in gross receipts (e.g., comparable to measures used to assess eligibility for the Paycheck Protection Program), or other economic harm due to the pandemic, as well as businesses with less capacity to weather financial hardship, such as the smallest businesses, those with less access to credit, or those serving disadvantaged communities. Recipients should consider local economic conditions and business data when establishing such criteria.[87]

- *Rehiring State, Local, and Tribal Government Staff.* State, local, and Tribal governments continue to see pandemic impacts in overall staffing levels: State, local, and Tribal government employment remains more than 1 million jobs lower

[87] *See* Federal Reserve Bank of Cleveland, An Uphill Battle: COVID-19's Outsized Toll on Minority-Owned Firms (Oct. 8, 2020), https://www.clevelandfed.org/newsroom-and-events/publications/community-development-briefs/db-20201008-misera-report.aspx (discussing the impact of COVID-19 on minority owned businesses).

in April 2021 than prior to the pandemic.[88] Employment losses decrease a state or local government's ability to effectively administer services. Thus, the Interim Final Rule includes as an eligible use payroll, covered benefits, and other costs associated with rehiring public sector staff, up to the pre-pandemic staffing level of the government.

- *Aid to Impacted Industries.* Sections 602(c)(1)(A) and 603(c)(1)(A) recognize that certain industries, such as tourism, travel, and hospitality, were disproportionately and negatively impacted by the COVID-19 public health emergency. Aid provided to tourism, travel, and hospitality industries should respond to the negative economic impacts of the pandemic on those and similarly impacted industries. For example, aid may include assistance to implement COVID-19 mitigation and infection prevention measures to enable safe resumption of tourism, travel, and hospitality services, for example, improvements to ventilation, physical barriers or partitions, signage to facilitate social distancing, provision of masks or personal protective equipment, or consultation with infection prevention professionals to develop safe reopening plans.

  Aid may be considered responsive to the negative economic impacts of the pandemic if it supports businesses, attractions, business districts, and Tribal development districts operating prior to the pandemic and affected by required

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[88] U.S. Bureau of Labor Statistics, All Employees, State Government [CES9092000001] and All Employees, Local Government [CES9093000001], retrieved from FRED, Federal Reserve Bank of St. Louis, https://fred.stlouisfed.org/series/CES9092000001 and https://fred.stlouisfed.org/series/CES9093000001 (last visited May 8, 2021).

closures and other efforts to contain the pandemic. For example, a recipient may provide aid to support safe reopening of businesses in the tourism, travel, and hospitality industries and to business districts that were closed during the COVID-19 public health emergency, as well as aid for a planned expansion or upgrade of tourism, travel, and hospitality facilities delayed due to the pandemic.

When considering providing aid to industries other than tourism, travel, and hospitality, recipients should consider the extent of the economic impact as compared to tourism, travel, and hospitality, the industries enumerated in the statute. For example, on net, the leisure and hospitality industry has experienced an approximately 24 percent decline in revenue and approximately 17 percent decline in employment nationwide due to the COVID-19 public health emergency.[89] Recipients should also consider whether impacts were due to the COVID-19 pandemic, as opposed to longer-term economic or industrial trends unrelated to the pandemic.

To facilitate transparency and accountability, the Interim Final Rule requires that State, local, and Tribal governments publicly report assistance provided to private-sector businesses under this eligible use, including tourism, travel, hospitality, and other impacted industries, and its connection to negative

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[89] From February 2020 to April 2021, employment in "Leisure and hospitality" has fallen by approximately 17 percent. *See* U.S. Bureau of Labor Statistics, All Employees, Leisure and Hospitality, retrieved from FRED, Federal Reserve Bank of St. Louis, https://fred.stlouisfed.org/series/USLAH (last visited May 8, 2021). From 2019Q4 to 2020Q4, gross output (e.g. revenue) in arts, entertainment, recreation, accommodation, and food services has fallen by approximately 24 percent. *See* Bureau of Economic Analysis, News Release: Gross Domestic Product (Third Estimate), Corporate Profits, and GDP by Industry, Fourth Quarter and Year 2020 (Mar. 25, 2021), Table 17, https://www.bea.gov/sites/default/files/2021-03/gdp4q20_3rd.pdf.

economic impacts of the pandemic. Recipients also should maintain records to support their assessment of how businesses or business districts receiving assistance were affected by the negative economic impacts of the pandemic and how the aid provided responds to these impacts.

As discussed above, economic disparities that existed prior to the COVID-19 public health emergency amplified the impact of the pandemic among low-income and minority groups. These families were more likely to face housing, food, and financial insecurity; are over-represented among low-wage workers; and many have seen their livelihoods deteriorate further during the pandemic and economic contraction. In recognition of the disproportionate negative economic impacts on certain communities and populations, the Interim Final Rule identifies services and programs that will be presumed to be responding to the negative economic impacts of the COVID-19 public health emergency when provided in these communities.

Specifically, Treasury will presume that certain types of services, outlined below, are eligible uses when provided in a QCT, to families and individuals living in QCTs, or when these services are provided by Tribal governments.[90] Recipients may also provide these services to other populations, households, or geographic areas disproportionately impacted by the pandemic. In identifying these disproportionately impacted communities, recipients should be able to support their determination that the pandemic resulted in disproportionate public health or economic outcomes to the specific populations, households, or geographic areas to be served. The Interim Final Rule identifies a non-exclusive list of uses that address the disproportionate negative economic effects of the COVID-19 public health emergency, including:

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[90] HUD, *supra* note 48.

- *Building Stronger Communities through Investments in Housing and Neighborhoods*. The economic impacts of COVID-19 have likely been most acute in lower-income neighborhoods, including concentrated areas of high unemployment, limited economic opportunity, and housing insecurity.[91] Services in this category alleviate the immediate economic impacts of the COVID-19 pandemic on housing insecurity, while addressing conditions that contributed to poor public health and economic outcomes during the pandemic, namely concentrated areas with limited economic opportunity and inadequate or poor-quality housing.[92] Eligible services include:
  - Services to address homelessness such as supportive housing, and to improve access to stable, affordable housing among unhoused individuals;
  - Affordable housing development to increase supply of affordable and high-quality living units; and
  - Housing vouchers, residential counseling, or housing navigation assistance to facilitate household moves to neighborhoods with high levels of economic opportunity and mobility for low-income residents, to help residents increase their economic opportunity and reduce concentrated areas of low economic opportunity.[93]

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[91] Stuart M. Butler & Jonathan Grabinsky, Tackling the legacy of persistent urban inequality and concentrated poverty, Brookings Institution (Nov. 16, 2020), https://www.brookings.edu/blog/up-front/2020/11/16/tackling-the-legacy-of-persistent-urban-inequality-and-concentrated-poverty/.

[92] U.S. Department of Health and Human Services (HHS), Office of Disease Prevention and Health Promotion, Quality of Housing, https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-health/interventions-resources/quality-of-housing#11 (last visited Apr. 26, 2021).

[93] The Opportunity Atlas, https://www.opportunityatlas.org/ (last visited Apr. 26, 2021); Raj Chetty & Nathaniel Hendren, The Impacts of Neighborhoods on Intergenerational Mobility I: Childhood Exposure Effects, Quarterly J. of Econ. 133(3):1107-162 (2018), *available at* https://opportunityinsights.org/paper/neighborhoodsi/.

- *Addressing Educational Disparities.* As outlined above, school closures and the transition to remote education raised particular challenges for lower-income students, potentially exacerbating educational disparities, while increases in economic hardship among families could have long-lasting impacts on children's educational and economic prospects. Services under this prong would enhance educational supports to help mitigate impacts of the pandemic. Eligible services include:
    - New, expanded, or enhanced early learning services, including pre-kindergarten, Head Start, or partnerships between pre-kindergarten programs and local education authorities, or administration of those services;
    - Providing assistance to high-poverty school districts to advance equitable funding across districts and geographies;
    - Evidence-based educational services and practices to address the academic needs of students, including tutoring, summer, afterschool, and other extended learning and enrichment programs; and
    - Evidence-based practices to address the social, emotional, and mental health needs of students;
- *Promoting Healthy Childhood Environments.* Children's economic and family circumstances have a long-term impact on their future economic outcomes.[94] Increases in economic hardship, material insecurity, and parental stress and behavioral health challenges all raise the risk of long-term harms to today's children due to the pandemic. Eligible services to address this challenge include:

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[94] *See* supra notes 52 and 84.

- New or expanded high-quality childcare to provide safe and supportive care for children;
- Home visiting programs to provide structured visits from health, parent educators, and social service professionals to pregnant women or families with young children to offer education and assistance navigating resources for economic support, health needs, or child development; and
- Enhanced services for child welfare-involved families and foster youth to provide support and training on child development, positive parenting, coping skills, or recovery for mental health and substance use challenges.

State, local, and Tribal governments are encouraged to use payments from the Fiscal Recovery Funds to respond to the direct and immediate needs of the pandemic and its negative economic impacts and, in particular, the needs of households and businesses that were disproportionately and negatively impacted by the public health emergency. As highlighted above, low-income communities and workers and people of color have faced more severe health and economic outcomes during the pandemic, with pre-existing social vulnerabilities like low-wage or insecure employment, concentrated neighborhoods with less economic opportunity, and pre-existing health disparities likely contributing to the magnified impact of the pandemic. The Fiscal Recovery Funds provide resources to not only respond to the immediate harms of the pandemic but also to mitigate its longer-term impact in compounding the systemic public health and economic challenges of disproportionately impacted populations. Treasury encourages recipients to consider funding uses that foster a strong, inclusive, and equitable recovery, especially uses with long-term benefits for health and economic outcomes.

Uses Outside the Scope of this Category. Certain uses would not be within the scope of this eligible use category, although may be eligible under other eligible use categories. A general infrastructure project, for example, typically would not be included unless the project responded to a specific pandemic public health need (e.g., investments in facilities for the delivery of vaccines) or a specific negative economic impact like those described above (e.g., affordable housing in a QCT). The ARPA explicitly includes infrastructure if it is "necessary" and in water, sewer, or broadband. *See* Section II.D of this Supplementary Information. State, local, and Tribal governments also may use the Fiscal Recovery Funds under sections 602(c)(1)(C) or 603(c)(1)(C) to provide "government services" broadly to the extent of their reduction in revenue. *See* Section II.C of this Supplementary Information.

This category of eligible uses also would not include contributions to rainy day funds, financial reserves, or similar funds. Resources made available under this eligible use category are intended to help meet pandemic response needs and provide relief for households and businesses facing near- and long-term negative economic impacts. Contributions to rainy day funds and similar financial reserves would not address these needs or respond to the COVID-19 public health emergency but would rather constitute savings for future spending needs. Similarly, this eligible use category would not include payment of interest or principal on outstanding debt instruments, including, for example, short-term revenue or tax anticipation notes, or other debt service costs. As discussed below, payments from the Fiscal Recovery Funds are intended to be used prospectively and the Interim Final Rule precludes use of these funds to cover the costs of debt incurred prior to March 3, 2021. Fees or issuance costs associated with the issuance of new debt would also not be covered using payments from the Fiscal Recovery Funds because such costs would not themselves have been incurred to address

the needs of pandemic response or its negative economic impacts. The purpose of the Fiscal Recovery Funds is to provide fiscal relief that will permit State, local, and Tribal governments to continue to respond to the COVID-19 public health emergency.

For the same reasons, this category of eligible uses would not include satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring plan in a judicial, administrative, or regulatory proceeding, except to the extent the judgment or settlement requires the provision of services that would respond to the COVID-19 public health emergency. That is, satisfaction of a settlement or judgment would not itself respond to COVID-19 with respect to the public health emergency or its negative economic impacts, unless the settlement requires the provision of services or aid that did directly respond to these needs, as described above.

In addition, as described in Section V.III of this Supplementary Information, Treasury will establish reporting and record keeping requirements for uses within this category, including enhanced reporting requirements for certain types of uses.

Question 1: Are there other types of services or costs that Treasury should consider as eligible uses to respond to the public health impacts of COVID-19? Describe how these respond to the COVID-19 public health emergency.

Question 2: The Interim Final Rule permits coverage of payroll and benefits costs of public health and safety staff primarily dedicated to COVID-19 response, as well as rehiring of public sector staff up to pre-pandemic levels. For how long should these measures remain in place? What other measures or presumptions might Treasury consider to assess the extent to which public sector staff are engaged in COVID-19 response, and therefore reimbursable, in an easily-administrable manner?

Question 3: The Interim Final Rule permits rehiring of public sector staff up to the government's pre-pandemic staffing level, which is measured based on employment as of January 27, 2021. Does this approach adequately measure the pre-pandemic staffing level in a manner that is both accurate and easily administrable? Why or why not?

Question 4: The Interim Final Rule permits deposits to Unemployment Insurance Trust Funds, or using funds to pay back advances, up to the pre-pandemic balance. What, if any, conditions should be considered to ensure that funds repair economic impacts of the pandemic and strengthen unemployment insurance systems?

Question 5: Are there other types of services or costs that Treasury should consider as eligible uses to respond to the negative economic impacts of COVID-19? Describe how these respond to the COVID-19 public health emergency.

Question 6: What other measures, presumptions, or considerations could be used to assess "impacted industries" affected by the COVID-19 public health emergency?

Question 7: What are the advantages and disadvantages of using Qualified Census Tracts and services provided by Tribal governments to delineate where a broader range of eligible uses are presumed to be responsive to the public health and economic impacts of COVID-19? What other measures might Treasury consider? Are there other populations or geographic areas that were disproportionately impacted by the pandemic that should be explicitly included?

Question 8: Are there other services or costs that Treasury should consider as eligible uses to respond to the disproportionate impacts of COVID-19 on low-income populations and communities? Describe how these respond to the COVID-19 public health emergency or its negative economic impacts, including its exacerbation of pre-existing challenges in these areas.

Question 9: The Interim Final Rule includes eligible uses to support affordable housing and stronger neighborhoods in disproportionately-impacted communities. Discuss the advantages and disadvantages of explicitly including other uses to support affordable housing and stronger neighborhoods, including rehabilitation of blighted properties or demolition of abandoned or vacant properties. In what ways does, or does not, this potential use address public health or economic impacts of the pandemic? What considerations, if any, could support use of Fiscal Recovery Funds in ways that do not result in resident displacement or loss of affordable housing units?

B. Premium Pay

Fiscal Recovery Funds payments may be used by recipients to provide premium pay to eligible workers performing essential work during the COVID-19 public health emergency or to provide grants to third-party employers with eligible workers performing essential work.[95] These are workers who have been and continue to be relied on to maintain continuity of operations of essential critical infrastructure sectors, including those who are critical to protecting the health and wellbeing of their communities.

Since the start of the COVID-19 public health emergency in January 2020, essential workers have put their physical wellbeing at risk to meet the daily needs of their communities and to provide care for others. In the course of this work, many essential workers have contracted or died of COVID-19.[96] Several examples reflect the severity of the health impacts

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[95] §§602(c)(1)(B), 603(c)(1)(B) of the Act.

[96] *See, e.g.*, Centers for Disease Control and Prevention, COVID Data Tracker: Cases & Death among Healthcare Personnel, https://covid.cdc.gov/covid-data-tracker/#health-care-personnel (last visited May 4, 2021); Centers for Disease Control and Prevention, COVID Data Tracker: Confirmed COVID-19 Cases and Deaths among Staff and Rate per 1,000 Resident-Weeks in Nursing Homes, by Week – United States, https://covid.cdc.gov/covid-data-tracker/#nursing-home-staff (last visited May 4, 2021).

for essential workers. Meat processing plants became "hotspots" for transmission, with 700 new cases reported at a single plant on a single day in May 2020.[97] In New York City, 120 employees of the Metropolitan Transit Authority were estimated to have died due to COVID-19 by mid-May 2020, with nearly 4,000 testing positive for the virus.[98] Furthermore, many essential workers are people of color or low-wage workers.[99] These workers, in particular, have borne a disproportionate share of the health and economic impacts of the pandemic. Such workers include:

- Staff at nursing homes, hospitals, and home care settings;
- Workers at farms, food production facilities, grocery stores, and restaurants;
- Janitors and sanitation workers;
- Truck drivers, transit staff, and warehouse workers;
- Public health and safety staff;
- Childcare workers, educators, and other school staff; and
- Social service and human services staff.

During the public health emergency, employers' policies on COVID-19-related hazard pay have varied widely, with many essential workers not yet compensated for the heightened

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[97] *See, e.g.*, The Lancet, The plight of essential workers during the COVID-19 pandemic, Vol. 395, Issue 10237:1587 (May 23, 2020), *available at* https://www.thelancet.com/journals/lancet/article/PIIS0140-6736%2820%2931200-9/fulltext.

[98] *Id.*

[99] Joanna Gaitens et al., Covid-19 and essential workers: A narrative review of health outcomes and moral injury, Int'l J. of Envtl. Research and Pub. Health 18(4):1446 (Feb. 4, 2021), *available at* https://pubmed.ncbi.nlm.nih.gov/33557075/; Tiana N. Rogers et al., Racial Disparities in COVID-19 Mortality Among Essential Workers in the United States, World Med. & Health policy 12(3):311-27 (Aug. 5, 2020), *available at* https://onlinelibrary.wiley.com/doi/full/10.1002/wmh3.358 (finding that vulnerability to coronavirus exposure was increased among non-Hispanic blacks, who disproportionately occupied the top nine essential occupations).

risks they have faced and continue to face.[100] Many of these workers earn lower wages on average and live in socioeconomically vulnerable communities as compared to the general population.[101] A recent study found that 25 percent of essential workers were estimated to have low household income, with 13 percent in high-risk households.[102] The low pay of many essential workers makes them less able to cope with the financial consequences of the pandemic or their work-related health risks, including working hours lost due to sickness or disruptions to childcare and other daily routines, or the likelihood of COVID-19 spread in their households or communities. Thus, the threats and costs involved with maintaining the ongoing operation of vital facilities and services have been, and continue to be, borne by those that are often the most vulnerable to the pandemic. The added health risk to essential workers is one prominent way in which the pandemic has amplified pre-existing socioeconomic inequities.

The Fiscal Recovery Funds will help respond to the needs of essential workers by allowing recipients to remunerate essential workers for the elevated health risks they have faced and continue to face during the public health emergency. To ensure that premium pay is targeted to workers that faced or face heightened risks due to the character of their work, the Interim Final Rule defines essential work as work involving regular in-person interactions or regular physical handling of items that were also handled by others. A worker would not be engaged in essential work and, accordingly may not receive premium pay, for telework performed from a residence.

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[100] Economic Policy Institute, Only 30% of those working outside their home are receiving hazard pay (June 16, 2020), https://www.epi.org/press/only-30-of-those-working-outside-their-home-are-receiving-hazard-pay-black-and-hispanic-workers-are-most-concerned-about-bringing-the-coronavirus-home/.

[101] McCormack, *supra* note 37.

[102] *Id.*

Sections 602(g)(2) and 603(g)(2) define eligible worker to mean "those workers needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as each Governor of a State or territory, or each Tribal government, may designate as critical to protect the health and well-being of the residents of their State, territory, or Tribal government."[103] The rule incorporates this definition and provides a list of industries recognized as essential critical infrastructure sectors.[104] These sectors include healthcare, public health and safety, childcare, education, sanitation, transportation, and food production and services, among others as noted above. As provided under sections 602(g)(2) and 603(g)(2), the chief executive of each recipient has discretion to add additional sectors to this list, so long as additional sectors are deemed critical to protect the health and well-being of residents.

In providing premium pay to essential workers or grants to eligible employers, a recipient must consider whether the pay or grant would "respond to" to the worker or workers performing essential work. Premium pay or grants provided under this section respond to workers performing essential work if it addresses the heightened risk to workers who must be physically present at a jobsite and, for many of whom, the costs associated with illness were hardest to bear financially. Many of the workers performing critical essential services are low- or moderate-income workers, such as those described above. The ARPA recognizes this by defining premium pay to mean an amount up to $13 per hour in addition to wages or remuneration the worker otherwise receives and in an aggregate amount not to exceed $25,000 per eligible worker. To ensure the provision is implemented in a manner that compensates these workers, the Interim

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[103] §§602(g)(2), 603(g)(2) of the Act.

[104] The list of critical infrastructure sectors provided in the Interim Final Rule is based on the list of essential workers under The Heroes Act, H.R. 6800, 116th Cong. (2020).

Final Rule provides that any premium pay or grants provided using the Fiscal Recovery Funds should prioritize compensation of those lower income eligible workers that perform essential work.

As such, providing premium pay to eligible workers responds to such workers by helping address the disparity between the critical services and risks taken by essential workers and the relatively low compensation they tend to receive in exchange. If premium pay would increase a worker's total pay above 150 percent of their residing state's average annual wage for all occupations, as defined by the Bureau of Labor Statistics' Occupational Employment and Wage Statistics, or their residing county's average annual wage, as defined by the Bureau of Labor Statistics' Occupational Employment and Wage Statistics, whichever is higher, on an annual basis, the State, local, or Tribal government must provide Treasury and make publicly available, whether for themselves or on behalf of a grantee, a written justification of how the premium pay or grant is responsive to workers performing essential worker during the public health emergency.[105]

The threshold of 150 percent for requiring additional written justification is based on an analysis of the distribution of labor income for a sample of 20 occupations that generally correspond to the essential workers as defined in the Interim Final Rule.[106] For these

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[105] County median annual wage is taken to be that of the metropolitan or nonmetropolitan area that includes the county. *See* U.S. Bureau of Labor Statistics, State Occupational Employment and Wage Estimates, https://www.bls.gov/oes/current/oessrcst.htm (last visited May 1, 2021); U.S. Bureau of Labor Statistics, May 2020 Metropolitan and Nonmetropolitan Area Estimates listed by county or town, https://www.bls.gov/oes/current/county_links.htm (last visited May 1, 2021).

[106] Treasury performed this analysis with data from the U.S. Census Bureau's 2019 Annual Social and Economic Supplement. In determining which occupations to include in this analysis, Treasury excluded management and supervisory positions, as such positions may not necessarily involve regular in-person interactions or physical handling of items to the same extent as non-managerial positions.

occupations, labor income for the vast majority of workers was under 150 percent of average annual labor income across all occupations. Treasury anticipates that the threshold of 150 percent of the annual average wage will be greater than the annual average wage of the vast majority of eligible workers performing essential work. These enhanced reporting requirements help to ensure grants are directed to essential workers in critical infrastructure sectors and responsive to the impacts of the pandemic observed among essential workers, namely the mis-alignment between health risks and compensation. Enhanced reporting also provides transparency to the public. Finally, using a localized measure reflects differences in wages and cost of living across the country, making this standard administrable and reflective of essential worker incomes across a diverse range of geographic areas.

Furthermore, because premium pay is intended to compensate essential workers for heightened risk due to COVID-19, it must be entirely additive to a worker's regular rate of wages and other remuneration and may not be used to reduce or substitute for a worker's normal earnings. The definition of premium pay also clarifies that premium pay may be provided retrospectively for work performed at any time since the start of the COVID-19 public health emergency, where those workers have yet to be compensated adequately for work previously performed.[107] Treasury encourages recipients to prioritize providing retrospective premium pay where possible, recognizing that many essential workers have not yet received additional compensation for work conducted over the course of many months. Essential workers who have already earned premium pay for essential work performed during the COVID-19 public health

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[107] However, such compensation must be "in addition to" remuneration or wages already received. That is, employers may not reduce such workers' current pay and use Fiscal Recovery Funds to compensate themselves for premium pay previously provided to the worker.

emergency remain eligible for additional payments, and an essential worker may receive both retrospective premium pay for prior work as well as prospective premium pay for current or ongoing work.

To ensure any grants respond to the needs of essential workers and are made in a fair and transparent manner, the rule imposes some additional reporting requirements for grants to third-party employers, including the public disclosure of grants provided. *See* Section VIII of this Supplementary Information, discussing reporting requirements. In responding to the needs of essential workers, a grant to an employer may provide premium pay to eligible workers performing essential work, as these terms are defined in the Interim Final Rule and discussed above. A grant provided to an employer may also be for essential work performed by eligible workers pursuant to a contract. For example, if a municipality contracts with a third party to perform sanitation work, the third-party contractor could be eligible to receive a grant to provide premium pay for these eligible workers.

Question 10: Are there additional sectors beyond those listed in the Interim Final Rule that should be considered essential critical infrastructure sectors?

Question 11: What, if any, additional criteria should Treasury consider to ensure that premium pay responds to essential workers?

Question 12: What consideration, if any, should be given to the criteria on salary threshold, including measure and level, for requiring written justification?

C. Revenue Loss

Recipients may use payments from the Fiscal Recovery Funds for the provision of government services to the extent of the reduction in revenue experienced due to the COVID-19

public health emergency.[108] Pursuant to sections 602(c)(1)(C) and 603(c)(1)(C) of the Act, a recipient's reduction in revenue is measured relative to the revenue collected in the most recent full fiscal year prior to the emergency.

Many State, local, and Tribal governments are experiencing significant budget shortfalls, which can have a devastating impact on communities. State government tax revenue from major sources were down 4.3 percent in the six months ended September 2020, relative to the same period 2019.[109] At the local level, nearly 90 percent of cities have reported being less able to meet the fiscal needs of their communities and, on average, cities expect a double-digit decline in general fund revenues in their fiscal year 2021.[110] Similarly, surveys of Tribal governments and Tribal enterprises found majorities of respondents reporting substantial cost increases and revenue decreases, with Tribal governments reporting reductions in healthcare, housing, social services, and economic development activities as a result of reduced revenues.[111] These budget shortfalls are particularly problematic in the current environment, as State, local, and Tribal governments work to mitigate and contain the COVID-19 pandemic and help citizens weather the economic downturn.

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[108] ARPA, *supra* note 16.

[109] Major sources include personal income tax, corporate income tax, sales tax, and property tax. *See* Lucy Dadayan., States Reported Revenue Growth in July- – September Quarter, Reflecting Revenue Shifts from the Prior Quarter, State Tax and Econ. Rev. (Q. 3, 2020), *available at* https://www.urban.org/sites/default/files/publication/103938/state-tax-and-economic-review-2020-q3_0.pdf

[110] National League of Cities, City Fiscal Conditions (2020), *available at* https://www.nlc.org/wp-content/uploads/2020/08/City_Fiscal_Conditions_2020_FINAL.pdf

[111] Surveys conducted by the Center for Indian Country Development at the Federal Reserve Bank of Minneapolis in March, April, and September 2020. *See* Moreno & Sobrepena, *supra* note 73.

Further, State, local, and Tribal government budgets affect the broader economic recovery. During the period following the 2007-2009 recession, State and local government budget pressures led to fiscal austerity that was a significant drag on the overall economic recovery.[112] Inflation-adjusted State and local government revenue did not return to the previous peak until 2013,[113] while State, local, and Tribal government employment did not recover to its prior peak for over a decade, until August 2019 – just a few months before the COVID-19 public health emergency began.[114]

Sections 602(c)(1)(C) and 603(c)(1)(C) of the Act allow recipients facing budget shortfalls to use payments from the Fiscal Recovery Funds to avoid cuts to government services and, thus, enable State, local, and Tribal governments to continue to provide valuable services and ensure that fiscal austerity measures do not hamper the broader economic recovery. The Interim Final Rule implements these provisions by establishing a definition of "general revenue" for purposes of calculating a loss in revenue and by providing a methodology for calculating revenue lost due to the COVID-19 public health emergency.

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[112] *See, e.g.,* Fitzpatrick, Haughwout & Setren, Fiscal Drag from the State and Local Sector?, Liberty Street Economics Blog, Federal Reserve Bank of New York (June 27, 2012), https://www.libertystreeteconomics.newyorkfed.org/2012/06/fiscal-drag-from-the-state-and-local-sector.html; Jiri Jonas, Great Recession and Fiscal Squeeze at U.S. Subnational Government Level, IMF Working Paper 12/184, (July 2012), *available at* https://www.imf.org/external/pubs/ft/wp/2012/wp12184.pdf; Gordon, *supra* note 9.

[113] State and local government general revenue from own sources, adjusted for inflation using the GDP price index. U.S. Census Bureau, Annual Survey of State Government Finances and U.S. Bureau of Economic Analysis, National Income and Product Accounts,

[114] U.S. Bureau of Labor Statistics, All Employees, State Government [CES9092000001] and All Employees, Local Government [CES9093000001], retrieved from FRED, Federal Reserve Bank of St. Louis, https://fred.stlouisfed.org/series/CES9092000001 and https://fred.stlouisfed.org/series/CES9093000001 (last visited Apr. 27, 2021).

General Revenue. The Interim Final Rule adopts a definition of "general revenue" based largely on the components reported under "General Revenue from Own Sources" in the Census Bureau's Annual Survey of State and Local Government Finances, and for purposes of this Interim Final Rule, helps to ensure that the components of general revenue would be calculated in a consistent manner.[115] By relying on a methodology that is both familiar and comprehensive, this approach minimizes burden to recipients and provides consistency in the measurement of general revenue across a diverse set of recipients.

The Interim Final Rule defines the term "general revenue" to include revenues collected by a recipient and generated from its underlying economy and would capture a range of different types of tax revenues, as well as other types of revenue that are available to support government services.[116] In calculating revenue, recipients should sum across all revenue streams covered as general revenue. This approach minimizes the administrative burden for recipients, provides for greater consistency across recipients, and presents a more accurate representation of the overall impact of the COVID-19 public health emergency on a recipient's revenue, rather than relying

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[115] U.S. Census Bureau, Annual Survey of State and Local Government Finances, https://www.census.gov/programs-surveys/gov-finances.html (last visited Apr. 30, 2021).

[116] The Interim Final Rule would define tax revenue in a manner consistent with the Census Bureau's definition of tax revenue, with certain changes (i.e., inclusion of revenue from liquor stores and certain intergovernmental transfers). Current charges are defined as "charges imposed for providing current services or for the sale of products in connection with general government activities." It includes revenues such as public education institution, public hospital, and toll revenues. Miscellaneous general revenue comprises of all other general revenue of governments from their own sources (i.e., other than liquor store, utility, and insurance trust revenue), including rents, royalties, lottery proceeds, and fines.

on financial reporting prepared by each recipient, which vary in methodology used and which generally aggregates revenue by purpose rather than by source.[117]

Consistent with the Census Bureau's definition of "general revenue from own sources," the definition of general revenue in the Interim Final Rule would exclude refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, and agency or private trust transactions. The definition of general revenue also would exclude revenue generated by utilities and insurance trusts. In this way, the definition of general revenue focuses on sources that are generated from economic activity and are available to fund government services, rather than a fund or administrative unit established to account for and control a particular activity.[118] For example, public utilities typically require financial support from the State, local, or Tribal government, rather than providing revenue to such government, and any revenue that is generated by public utilities typically is used to support the public utility's continued operation, rather than being used as a source of revenue to support government services generally.

The definition of general revenue would include all revenue from Tribal enterprises, as this revenue is generated from economic activity and is available to fund government services. Tribes are not able to generate revenue through taxes in the same manner as State and local governments and, as a result, Tribal enterprises are critical sources of revenue for Tribal

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[117] Fund-oriented reporting, such as what is used under the Governmental Accounting Standards Board (GASB), focuses on the types of uses and activities funded by the revenue, as opposed to the economic activity from which the revenue is sourced. *See* Governmental Accounting Standards Series, Statement No. 54 of the Governmental Accounting Standards Board: Fund Balance Reporting and Governmental Fund Type Definitions, No. 287-B (Feb. 2009).

[118] *Supra* note 116.

of available data.[122] This approach provides recipients with a standardized growth adjustment when calculating the counterfactual revenue trend and thus minimizes administrative burden, while not disadvantaging recipients with revenue growth that exceeded the national average prior to the COVID-19 public health emergency by permitting these recipients to use their own revenue growth rate over the preceding three years.

Recipients should calculate the extent of the reduction in revenue as of four points in time: December 31, 2020; December 31, 2021; December 31, 2022; and December 31, 2023. To calculate the extent of the reduction in revenue at each of these dates, recipients should follow a four-step process:

- Step 1: Identify revenues collected in the most recent full fiscal year prior to the public health emergency (i.e., last full fiscal year before January 27, 2020), called the *base year revenue.*
- Step 2: Estimate *counterfactual revenue*, which is equal to *base year revenue* * [(1 + *growth adjustment*) ^(*n*/12)], where *n* is the number of months elapsed since the end of the base year to the calculation date, and *growth adjustment* is the greater of 4.1 percent and the recipient's average annual revenue growth in the three full fiscal years prior to the COVID-19 public health emergency.
- Step 3: Identify *actual revenue*, which equals revenues collected over the past twelve months as of the calculation date.

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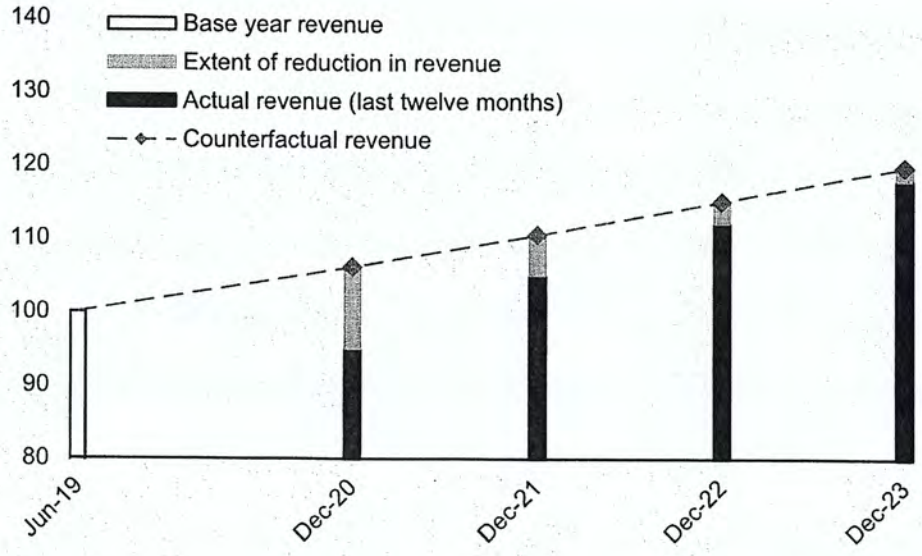
[122] Together with revenue from liquor stores from 2015 to 2018. This estimate does not include any intergovernmental transfers. A recipient using the three-year average to calculate their growth adjustment must be based on the definition of general revenue, including treatment of intergovernmental transfers. 2015 – 2018 represents the most recent available data. *See* U.S. Census Bureau, State & Local Government Finance Historical Datasets and Tables (2018), https://www.census.gov/programs-surveys/gov-finances/data/datasets.html.

- Step 4: The extent of the reduction in revenue is equal to *counterfactual revenue* less *actual revenue*. If actual revenue exceeds counterfactual revenue, the extent of the reduction in revenue is set to zero for that calculation date.

For illustration, consider a hypothetical recipient with *base year revenue* equal to 100. In Step 2, the hypothetical recipient finds that 4.1 percent is greater than the recipient's average annual revenue growth in the three full fiscal years prior to the public health emergency. Furthermore, this recipient's base year ends June 30. In this illustration, *n* (months elapsed) and *counterfactual revenue* would be equal to:

As of:	12/31/2020	12/31/2021	12/31/2022	12/31/2023
n (months elapsed)	18	30	42	54
Counterfactual revenue:	106.2	110.6	115.1	119.8

The overall methodology for calculating the reduction in revenue is illustrated in the figure below:



Upon receiving Fiscal Recovery Fund payments, recipients may immediately calculate revenue loss for the period ending December 31, 2020.

Sections 602(c)(1)(C) and 603(c)(1)(C) of the Act provide recipients with broad latitude to use the Fiscal Recovery Funds for the provision of government services. Government services can include, but are not limited to, maintenance or pay-go funded building[123] of infrastructure, including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure; health services; environmental remediation; school or educational services; and the provision of police, fire, and other public safety services. However, expenses associated with obligations under instruments evidencing financial indebtedness for borrowed money would not be considered the provision of government services, as these financing expenses do not directly provide services or aid to citizens. Specifically, government services would not include interest or principal on any outstanding debt instrument, including, for example, short-term revenue or tax anticipation notes, or fees or issuance costs associated with the issuance of new debt. For the same reasons, government services would not include satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring in a judicial, administrative, or regulatory proceeding, except if the judgment or settlement required the provision of government services. That is, satisfaction of a settlement or judgment itself is not a government service, unless the settlement required the provision of government services. In addition, replenishing financial reserves (e.g., rainy day or other reserve funds) would not be considered provision of a

[123] Pay-go infrastructure funding refers to the practice of funding capital projects with cash-on-hand from taxes, fees, grants, and other sources, rather than with borrowed sums.

government service, since such expenses do not directly relate to the provision of government services.

Question 13: Are there sources of revenue that either should or should not be included in the Interim Final Rule's measure of "general revenue" for recipients? If so, discuss why these sources either should or should not be included.

Question 14: In the Interim Final Rule, recipients are expected to calculate the reduction in revenue on an aggregate basis. Discuss the advantages and disadvantages of, and any potential concerns with, this approach, including circumstances in which it could be necessary or appropriate to calculate the reduction in revenue by source.

Question 15: Treasury is considering whether to take into account other factors, including actions taken by the recipient as well as the expiration of the COVID-19 public health emergency, in determining whether to presume that revenue losses are "due to" the COVID-19 public health emergency. Discuss the advantages and disadvantages of this presumption, including when, if ever, during the covered period it would be appropriate to reevaluate the presumption that all losses are attributable to the COVID-19 public health emergency.

Question 16: Do recipients anticipate lagged revenue effects of the public health emergency? If so, when would these lagged effects be expected to occur, and what can Treasury to do support these recipients through its implementation of the program?

Question 17: In the Interim Final Rule, paying interest or principal on government debt is not considered provision of a government service. Discuss the advantages and disadvantages of this approach, including circumstances in which paying interest or principal on government debt could be considered provision of a government service.

D. Investments in Infrastructure

To assist in meeting the critical need for investments and improvements to existing infrastructure in water, sewer, and broadband, the Fiscal Recovery Funds provide funds to State, local, and Tribal governments to make necessary investments in these sectors. The Interim Final Rule outlines eligible uses within each category, allowing for a broad range of necessary investments in projects that improve access to clean drinking water, improve wastewater and stormwater infrastructure systems, and provide access to high-quality broadband service. Necessary investments are designed to provide an adequate minimum level of service and are unlikely to be made using private sources of funds. Necessary investments include projects that are required to maintain a level of service that, at least, meets applicable health-based standards, taking into account resilience to climate change, or establishes or improves broadband service to unserved or underserved populations to reach an adequate level to permit a household to work or attend school, and that are unlikely to be met with private sources of funds.[124]

It is important that necessary investments in water, sewer, or broadband infrastructure be carried out in ways that produce high-quality infrastructure, avert disruptive and costly delays, and promote efficiency. Treasury encourages recipients to ensure that water, sewer, and broadband projects use strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions, not only to promote effective and efficient delivery of high-quality infrastructure projects but also to support the economic recovery through strong employment opportunities for workers. Using these practices in construction projects may help to ensure a reliable supply of

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[124] Treasury notes that using funds to support or oppose collective bargaining would not be included as part of "necessary investments in water, sewer, or broadband infrastructure."

skilled labor that would minimize disruptions, such as those associated with labor disputes or workplace injuries.

To provide public transparency on whether projects are using practices that promote on-time and on-budget delivery, Treasury will seek information from recipients on their workforce plans and practices related to water, sewer, and broadband projects undertaken with Fiscal Recovery Funds. Treasury will provide additional guidance and instructions on the reporting requirements at a later date.

1. Water and Sewer Infrastructure

The ARPA provides funds to State, local, and Tribal governments to make necessary investments in water and sewer infrastructure.[125] By permitting funds to be used for water and sewer infrastructure needs, Congress recognized the critical role that clean drinking water and services for the collection and treatment of wastewater and stormwater play in protecting public health. Understanding that State, local, and Tribal governments have a broad range of water and sewer infrastructure needs, the Interim Final Rule provides these governments with wide latitude to identify investments in water and sewer infrastructure that are of the highest priority for their own communities, which may include projects on privately-owned infrastructure. The Interim Final Rule does this by aligning eligible uses of the Fiscal Recovery Funds with the wide range of types or categories of projects that would be eligible to receive financial assistance through the Environmental Protection Agency's (EPA) Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF).[126]

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[125] §§ 602(c)(1)(D), 603(c)(1)(D) of the Act.

[126] Environmental Protection Agency, Drinking Water State Revolving fund, https://www.epa.gov/dwsrf (last visited Apr. 30, 2021); Environmental Protection Agency, Clean Water State Revolving Fund, https://www.epa.gov/cwsrf (last visited Apr. 30, 2021).

Established by the 1987 amendments[127] to the Clean Water Act (CWA),[128] the CWSRF provides financial assistance for a wide range of water infrastructure projects to improve water quality and address water pollution in a way that enables each State to address and prioritize the needs of their populations. The types of projects eligible for CWSRF assistance include projects to construct, improve, and repair wastewater treatment plants, control non-point sources of pollution, improve resilience of infrastructure to severe weather events, create green infrastructure, and protect waterbodies from pollution.[129] Each of the 51 State programs established under the CWSRF have the flexibility to direct funding to their particular environmental needs, and each State may also have its own statutes, rules, and regulations that guide project eligibility.[130]

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[127] Water Quality Act of 1987, P.L. 100-4.

[128] Federal Water Pollution Control Act as amended, codified at 33 U.S.C. §§ 1251 *et. seq.,* common name (Clean Water Act). In 2009, the American Recovery and Reinvestment Act created the Green Project Reserve, which increased the focus on green infrastructure, water and energy efficient, and environmentally innovative projects. P.L. 111-5. The CWA was amended by the Water Resources Reform and Development Act of 2014 to further expand the CWSRF's eligibilities. P.L. 113-121. The CWSRF's eligibilities were further expanded in 2018 by the America's Water Infrastructure Act of 2018, P.L. 115-270.

[129] *See* Environmental Protection Agency, The Drinking Water State Revolving Funds: Financing America's Drinking Water, EPA-816-R-00-023 (Nov. 2000), https://nepis.epa.gov/Exe/ZyPDF.cgi/200024WB.PDF?Dockey=200024WB.PDF; *See also* Environmental Protection Agency, Learn About the Clean Water State Revolving Fund, https://www.epa.gov/cwsrf/learn-about-clean-water-state-revolving-fund-cwsrf (last visited Apr. 30, 2021).

[130] 33 U.S.C. § 1383(c). *See also* Environmental Protection Agency, Overview of Clean Water State Revolving Fund Eligibilities(May 2016), https://www.epa.gov/sites/production/files/2016-07/documents/overview_of_cwsrf_eligibilities_may_2016.pdf; Claudia Copeland, Clean Water Act: A Summary of the Law, Congressional Research Service (Oct. 18, 2016), https://fas.org/sgp/crs/misc/RL30030.pdf; Jonathan L Ramseur, Wastewater Infrastructure: Overview, Funding, and Legislative Developments, Congressional Research Service (May 22, 2018), https://fas.org/sgp/crs/misc/R44963.pdf.

The DWSRF was modeled on the CWSRF and created as part of the 1996 amendments to the Safe Drinking Water Act (SDWA),[131] with the principal objective of helping public water systems obtain financing for improvements necessary to protect public health and comply with drinking water regulations.[132] Like the CWSRF, the DWSRF provides States with the flexibility to meet the needs of their populations.[133] The primary use of DWSRF funds is to assist communities in making water infrastructure capital improvements, including the installation and replacement of failing treatment and distribution systems.[134] In administering these programs, States must give priority to projects that ensure compliance with applicable health and environmental safety requirements; address the most serious risks to human health; and assist systems most in need on a per household basis according to State affordability criteria.[135]

By aligning use of Fiscal Recovery Funds with the categories or types of eligible projects under the existing EPA state revolving fund programs, the Interim Final Rule provides recipients with the flexibility to respond to the needs of their communities while ensuring that investments in water and sewer infrastructure made using Fiscal Recovery Funds are necessary. As discussed above, the CWSRF and DWSRF were designed to provide funding for projects that protect public health and safety by ensuring compliance with wastewater and drinking water health

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[131] 42 U.S.C. 300j-12.

[132] Environmental Protection Agency, Drinking Water State Revolving Fund Eligibility Handbook, (June 2017), https://www.epa.gov/sites/production/files/2017-06/documents/dwsrf_eligibility_handbook_june_13_2017_updated_508_version.pdf; Environmental Protection Agency, Drinking Water Infrastructure Needs Survey and Assessment: Sixth Report to Congress (March 2018), https://www.epa.gov/sites/production/files/2018-10/documents/corrected_sixth_drinking_water_infrastructure_needs_survey_and_assessment.pdf ".

[133] *Id.*

[134] *Id.*

[135] 42 U.S.C. 300j-12(b)(3)(A).

standards.[136] The need to provide funding through the state revolving funds suggests that these projects are less likely to be addressed with private sources of funding; for example, by remediating failing or inadequate infrastructure, much of which is publicly owned, and by addressing non-point sources of pollution. This approach of aligning with the EPA state revolving fund programs also supports expedited project identification and investment so that needed relief for the people and communities most affected by the pandemic can deployed expeditiously and have a positive impact on their health and wellbeing as soon as possible. Further, the Interim Final Rule is intended to preserve flexibility for award recipients to direct funding to their own particular needs and priorities and would not preclude recipients from applying their own additional project eligibility criteria.

In addition, responding to the immediate needs of the COVID-19 public health emergency may have diverted both personnel and financial resources from other State, local, and Tribal priorities, including projects to ensure compliance with applicable water health and quality standards and provide safe drinking and usable water.[137] Through sections 602(c)(1)(D) and 603(c)(1)(D), the ARPA provides resources to address these needs. Moreover, using Fiscal Recovery Funds in accordance with the priorities of the CWA and SWDA to "assist systems most in need on a per household basis according to state affordability criteria" would also have

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[136] Environmental Protection Agency, Learn About the Clean Water State Revolving Fund, https://www.epa.gov/cwsrf/learn-about-clean-water-state-revolving-fund-cwsrf (last visited Apr. 30, 2021); 42 U.S.C. 300j-12.

[137] House Committee on the Budget, State and Local Governments are in Dire Need of Federal Relief (Aug. 19, 2020), https://budget.house.gov/publications/report/state-and-local-governments-are-dire-need-federal-relief.

the benefit of providing vulnerable populations with safe drinking water that is critical to their health and, thus, their ability to work and learn.[138]

Recipients may use Fiscal Recovery Funds to invest in a broad range of projects that improve drinking water infrastructure, such as building or upgrading facilities and transmission, distribution, and storage systems, including replacement of lead service lines. Given the lifelong impacts of lead exposure for children, and the widespread nature of lead service lines, Treasury encourages recipients to consider projects to replace lead service lines.

Fiscal Recovery Funds may also be used to support the consolidation or establishment of drinking water systems. With respect to wastewater infrastructure, recipients may use Fiscal Recovery Funds to construct publicly owned treatment infrastructure, manage and treat stormwater or subsurface drainage water, facilitate water reuse, and secure publicly owned treatment works, among other uses. Finally, consistent with the CWSRF and DWSRF, Fiscal Recovery Funds may be used for cybersecurity needs to protect water or sewer infrastructure, such as developing effective cybersecurity practices and measures at drinking water systems and publicly owned treatment works.

Many of the types of projects eligible under either the CWSRF or DWSRF also support efforts to address climate change. For example, by taking steps to manage potential sources of pollution and preventing these sources from reaching sources of drinking water, projects eligible under the DWSRF and the ARPA may reduce energy required to treat drinking water. Similarly,

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[138] Environmental Protection Agency, Drinking Water State Revolving Fund (Nov. 2019), https://www.epa.gov/sites/production/files/2019-11/documents/fact_sheet_-_dwsrf_overview_final_0.pdf; Environmental Protection Agency, National Benefits Analysis for Drinking Water Regulations, https://www.epa.gov/sdwa/national-benefits-analysis-drinking-water-regulations (last visited Apr. 30, 2020).

projects eligible under the CWSRF include measures to conserve and reuse water or reduce the energy consumption of public water treatment facilities. Treasury encourages recipients to consider green infrastructure investments and projects to improve resilience to the effects of climate change. For example, more frequent and extreme precipitation events combined with construction and development trends have led to increased instances of stormwater runoff, water pollution, and flooding. Green infrastructure projects that support stormwater system resiliency could include rain gardens that provide water storage and filtration benefits, and green streets, where vegetation, soil, and engineered systems are combined to direct and filter rainwater from impervious surfaces. In cases of a natural disaster, recipients may also use Fiscal Recovery Funds to provide relief, such as interconnecting water systems or rehabilitating existing wells during an extended drought.

Question 18: What are the advantages and disadvantages of aligning eligible uses with the eligible project type requirements of the DWSRF and CWSRF? What other water or sewer project categories, if any, should Treasury consider in addition to DWSRF and CWSRF eligible projects? Should Treasury consider a broader general category of water and sewer projects?

Question 19: What additional water and sewer infrastructure categories, if any, should Treasury consider to address and respond to the needs of unserved, undeserved, or rural communities? How do these projects differ from DWSFR and CWSRF eligible projects?

Question 20: What new categories of water and sewer infrastructure, if any, should Treasury consider to support State, local, and Tribal governments in mitigating the negative impacts of climate change? Discuss emerging technologies and processes that support resiliency of water and sewer infrastructure. Discuss any challenges faced by States and local governments when pursuing or implementing climate resilient infrastructure projects.

Question 21: Infrastructure projects related to dams and reservoirs are generally not eligible under the CWSRF and DWSRF categories. Should Treasury consider expanding eligible infrastructure under the Interim Final Rule to include dam and reservoir projects? Discuss public health, environmental, climate, or equity benefits and costs in expanding the eligibility to include these types of projects.

2. Broadband Infrastructure.

The COVID-19 public health emergency has underscored the importance of universally available, high-speed, reliable, and affordable broadband coverage as millions of Americans rely on the internet to participate in, among critical activities, remote school, healthcare, and work. Recognizing the need for such connectivity, the ARPA provides funds to State, territorial, local, and Tribal governments to make necessary investments in broadband infrastructure.

The National Telecommunications and Information Administration (NTIA) highlighted the growing necessity of broadband in daily lives through its analysis of NTIA Internet Use Survey data, noting that Americans turn to broadband Internet access service for every facet of daily life including work, study, and healthcare.[139] With increased use of technology for daily activities and the movement by many businesses and schools to operating remotely during the pandemic, broadband has become even more critical for people across the country to carry out their daily lives.

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[139] *See, e.g.,* https://www.ntia.gov/blog/2020/more-half-american-households-used-internet-health-related-activities-2019-ntia-data-show; https://www.ntia.gov/blog/2020/nearly-third-american-employees-worked-remotely-2019-ntia-data-show; and generally, https://www.ntia.gov/data/digital-nation-data-explorer.

By at least one measure, however, tens of millions of Americans live in areas where there is no broadband infrastructure that provides download speeds greater than 25 Mbps and upload speeds of 3 Mbps.[140] By contrast, as noted below, many households use upload and download speeds of 100 Mbps to meet their daily needs. Even in areas where broadband infrastructure exists, broadband access may be out of reach for millions of Americans because it is unaffordable, as the United States has some of the highest broadband prices in the Organisation for Economic Co-operation and Development (OECD).[141] There are disparities in availability as well; historically, Americans living in territories and Tribal lands as well as rural areas have disproportionately lacked sufficient broadband infrastructure.[142] Moreover, rapidly growing demand has, and will likely continue to, quickly outpace infrastructure capacity, a phenomenon acknowledged by various states around the country that have set scalability requirements to account for this anticipated growth in demand.[143]

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[140] As an example, data from the Federal Communications Commission shows that as of June 2020, 9.07 percent of the U.S. population had no available cable or fiber broadband providers providing greater than 25 Mbps download speeds and 3 Mbps upload speeds. Availability was significantly less for rural versus urban populations, with 35.57 percent of the rural population lacking such access, compared with 2.57 percent of the urban population. Availability was also significantly less for tribal versus non-tribal populations, with 35.93 percent of the tribal population lacking such access, compared with 8.74 of the non-tribal population. Federal Communications Commission, Fixed Broadband Deployment, https://broadbandmap.fcc.gov/#/ (last visited May 9, 2021).

[141] How Do U.S. Internet Costs Compare To The Rest Of The World?, BroadbandSearch Blog Post, *available at* https://www.broadbandsearch.net/blog/internet-costs-compared-worldwide.

[142] *See, e.g.,* Federal Communications Commission, Fourteenth Broadband Deployment Report, *available at* https://docs.fcc.gov/public/attachments/FCC-21-18A1.pdf.

[143] *See, e.g.,* Illinois Department of Commerce & Economic Opportunity, Broadband Grants, h (last visited May 9, 2021), https://www2.illinois.gov/dceo/ConnectIllinois/Pages/BroadbandGrants.aspx; Kansas Office of Broadband Development, Broadband Acceleration Grant, https://www.kansascommerce.gov/wp-content/uploads/2020/11/Broadband-Acceleration-Grant.pdf (last visited May 9, 2021); New York State Association of Counties, Universal Broadband: Deploying High Speed Internet Access in NYS (Jul. 2017), https://www.nysac.org/files/BroadbandUpdateReport2017(1).pdf.

The Interim Final Rule provides that eligible investments in broadband are those that are designed to provide services meeting adequate speeds and are provided to unserved and underserved households and businesses. Understanding that States, territories, localities, and Tribal governments have a wide range of varied broadband infrastructure needs, the Interim Final Rule provides award recipients with flexibility to identify the specific locations within their communities to be served and to otherwise design the project.

Under the Interim Final Rule, eligible projects are expected to be designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical upload and download speeds of 100 Mbps. There may be instances in which it would not be practicable for a project to deliver such service speeds because of the geography, topography, or excessive costs associated with such a project. In these instances, the affected project would be expected to be designed to deliver, upon project completion, service that reliably meets or exceeds 100 Mbps download and between at least 20 Mbps and 100 Mbps upload speeds and be scalable to a minimum of 100 Mbps symmetrical for download and upload speeds.[144] In setting these standards, Treasury identified speeds necessary to ensure that broadband infrastructure is sufficient to enable users to generally meet household needs, including the ability to support the simultaneous use of work, education, and health applications, and also sufficiently robust to meet increasing household demands for bandwidth. Treasury also recognizes that different communities and their members may have a broad range of internet needs and that those needs may change over time.

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[144] This scalability threshold is consistent with scalability requirements used in other jurisdictions. *Id.*

In considering the appropriate speed requirements for eligible projects, Treasury considered estimates of typical households demands during the pandemic. Using the Federal Communication Commission's (FCC) Broadband Speed Guide, for example, a household with two telecommuters and two to three remote learners today are estimated to need 100 Mbps download to work simultaneously.[145] In households with more members, the demands may be greater, and in households with fewer members, the demands may be less.

In considering the appropriate speed requirements for eligible projects, Treasury also considered data usage patterns and how bandwidth needs have changed over time for U.S. households and businesses as people's use of technology in their daily lives has evolved. In the few years preceding the pandemic, market research data showed that average upload speeds in the United States surpassed over 10 Mbps in 2017[146] and continued to increase significantly, with the average upload speed as of November, 2019 increasing to 48.41 Mbps,[147] attributable, in part to a shift to using broadband and the internet by individuals and businesses to create and share content using video sharing, video conferencing, and other applications.[148]

The increasing use of data accelerated markedly during the pandemic as households across the country became increasingly reliant on tools and applications that require greater

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[145] Federal Communications Commission, Broadband Speed Guide, https://www.fcc.gov/consumers/guides/broadband-speed-guide (last visited Apr. 30, 2021).

[146] Letter from Lisa R. Youngers, President and CEO of Fiber Broadband Association to FCC, WC Docket No. 19-126 (filed Jan. 3, 2020), including an Appendix with research from RVA LLC, *Data Review Of The Importance of Upload Speeds* (Jan. 2020), and Ookla speed test data, *available at https://ecfsapi.fcc.gov/file/101030085118517/FCC%20RDOF%20Jan%203%20Ex%20Parte.pdf.*

Additional information on historic growth in data usage is provided in Schools, Health & Libraries Broadband Coalition, *Common Sense Solutions for Closing the Digital Divide,* Apr. 29, 2021.

[147] *Id. See also* United States's Mobile and Broadband Internet Speeds - Speedtest Global Index, *available at* https://www.speedtest.net/global-index/united-states#fixed.

[148] *Id.*

internet capacity, both to download data but also to upload data. Sending information became as important as receiving it. A video consultation with a healthcare provider or participation by a child in a live classroom with a teacher and fellow students requires video to be sent and received simultaneously.[149] As an example, some video conferencing technology platforms indicate that download and upload speeds should be roughly equal to support two-way, interactive video meetings.[150] For both work and school, client materials or completed school assignments, which may be in the form of PDF files, videos, or graphic files, also need to be shared with others. This is often done by uploading materials to a collaboration site, and the upload speed available to a user can have a significant impact on the time it takes for the content to be shared with others.[151] These activities require significant capacity from home internet connections to both download and upload data, especially when there are multiple individuals in one household engaging in these activities simultaneously.

This need for increased broadband capacity during the pandemic was reflected in increased usage patterns seen over the last year. As OpenVault noted in recent advisories, the pandemic significantly increased the amount of data users consume. Among data users observed by OpenVault, per-subscriber average data usage for the fourth quarter of 2020 was 482.6 gigabytes per month, representing a 40 percent increase over the 344 gigabytes consumed in the fourth quarter of 2019 and a 26 percent increase over the third quarter 2020 average of

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[149] One high definition Zoom meeting or class requires approximately 3.8 Mbps/3.0 Mbps (up/down).

[150] *See, e.g.,* Zoom, System Requirements for Windows, macOS, and Linux, https://support.zoom.us/hc/en-us/articles/201362023-System-requirements-for-Windows-macOS-and-Linux#h_d278c327-e03d-4896-b19a-96a8f3c0c69c (last visited May 8, 2021).

[151] By one estimate, to upload a one gigabit video file to YouTube would take 15 minutes at an upload speed of 10 Mbps compared with 1 minute, 30 seconds at an upload speed of 100 Mbps, and 30 seconds at an upload speed of 300 Mbps. Reviews.org: What is Symmetrical Internet? (March 2020).

383.8 gigabytes.[152] OpenVault also noted significant increases in upstream usage among the data users it observed, with upstream data usage growing 63 percent – from 19 gigabytes to 31 gigabytes – between December, 2019 and December, 2020.[153] According to an OECD Broadband statistic from June 2020, the largest percentage of U.S. broadband subscribers have services providing speeds between 100 Mbps and 1 Gbps.[154]

Jurisdictions and Federal programs are increasingly responding to the growing demands of their communities for both heightened download and upload speeds. For example, Illinois now requires 100 Mbps symmetrical service as the construction standard for its state broadband grant programs. This standard is also consistent with speed levels, particularly download speed levels, prioritized by other Federal programs supporting broadband projects. Bids submitted as part of the FCC in its Rural Digital Opportunity Fund (RDOF), established to support the construction of broadband networks in rural communities across the country, are given priority if they offer faster service, with the service offerings of 100 Mbps download and

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[152] OVBI: Covid-19 Drove 15 percent Increase in Broadband Traffic in 2020, OpenVault, Quarterly Advisory, (Feb. 10, 2021), *available at* https://openvault.com/ovbi-covid-19-drove-51-increase-in-broadband-traffic-in-2020; *See* OpenVault's data set incorporates information on usage by subscribers across multiple continents, including North America and Europe. Additional data and detail on increases in the amount of data users consume and the broadband speeds they are using is provided in *OpenVault Broadband Insights Report Q4,* Quarterly Advisory (Feb. 10, 2021), *available at* https://openvault.com/complimentary-report-4q20/.

[153] OVBI Special Report: 202 Upstream Growth Nearly 4X of Pre-Pandemic Years, OpenVault, Quarterly Advisory, (April 1, 20201), *available at* https://openvault.com/ovbi-special-report-2020-upstream-growth-rate-nearly-4x-of-pre-pandemic-years/; Additional data is provided in *OpenVault Broadband Insights Pandemic Impact on Upstream Broadband Usage and Network Capacity*, *available at* https://openvault.com/upstream-whitepaper/.

[154] Organisation for Economic Co-operation and Development, Fixed broadband subscriptions per 100 inhabitants, per speed tiers (June 2020), https://www.oecd.org/sti/broadband/5.1-FixedBB-SpeedTiers-2020-06.xls www.oecd.org/sti/broadband/broadband-statistics.

20 Mbps upload being included in the "above baseline" performance tier set by the FCC.[155] The Broadband Infrastructure Program (BBIP)[156] of the Department of Commerce, which provides Federal funding to deploy broadband infrastructure to eligible service areas of the country also prioritizes projects designed to provide broadband service with a download speed of not less than 100 Mbps and an upload speed of not less than 20 Mbps.[157]

The 100 Mbps upload and download speeds will support the increased and growing needs of households and businesses. Recognizing that, in some instances, 100 Mbps upload speed may be impracticable due to geographical, topographical, or financial constraints, the Interim Final Rule permits upload speeds of between at least 20 Mbps and 100 Mbps in such instances. To provide for investments that will accommodate technologies requiring symmetry in download and upload speeds, as noted above, eligible projects that are not designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical speeds of 100 Mbps because it would be impracticable to do so should be designed so that they can be scalable to such speeds. Recipients are also encouraged to prioritize investments in fiber optic infrastructure where feasible, as such advanced technology enables the next generation of application solutions for all communities.

Under the Interim Final Rule, eligible projects are expected to focus on locations that are unserved or underserved. The Interim Final Rule treats users as being unserved or underserved if they lack access to a wireline connection capable of reliably delivering at least minimum speeds

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[155] *Rural Digital Opportunity Fund*, Report and Order, 35 FCC Rcd 686, 690, para. 9 (2020), *available at* https://www.fcc.gov/document/fcc-launches-20-billion-rural-digital-opportunity-fund-0.

[156] The BIPP was authorized by the Consolidated Appropriations Act, 2021, Section 905, Public Law 116-260, 134 Stat. 1182 (Dec. 27, 2020).

[157] Section 905(d)(4) of the Consolidated Appropriations Act, 2021.

of 25 Mbps download and 3 Mbps upload as households and businesses lacking this level of access are generally not viewed as being able to originate and receive high-quality voice, data, graphics, and video telecommunications. This threshold is consistent with the FCC's benchmark for an "advanced telecommunications capability."[158] This threshold is also consistent with thresholds used in other Federal programs to identify eligible areas to be served by programs to improve broadband services. For example, in the FCC's RDOF program, eligible areas include those without current (or already funded) access to terrestrial broadband service providing 25 Mbps download and 3 Mbps upload speeds.[159] The Department of Commerce's BBIP also considers households to be "unserved" generally if they lack access to broadband service with a download speed of not less than 25 Mbps download and 3 Mbps upload, among other conditions. In selecting an area to be served by a project, recipients are encouraged to avoid investing in locations that have existing agreements to build reliable wireline service with minimum speeds of 100 Mbps download and 20 Mbps upload by December 31, 2024, in order to avoid duplication of efforts and resources.

Recipients are also encouraged to consider ways to integrate affordability options into their program design. To meet the immediate needs of unserved and underserved households and businesses, recipients are encouraged to focus on projects that deliver a physical broadband connection by prioritizing projects that achieve last mile-connections. Treasury also encourages recipients to prioritize support for broadband networks owned, operated by, or affiliated with

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[158] *Deployment Report*, *supra* note 142.

[159] *Rural Digital Opportunity Fund*, *supra* note 156.

local governments, non-profits, and co-operatives—providers with less pressure to turn profits and with a commitment to serving entire communities.

Under sections 602(c)(1)(A) and 603(c)(1)(A), assistance to households facing negative economic impacts due to COVID-19 is also an eligible use, including internet access or digital literacy assistance. As discussed above, in considering whether a potential use is eligible under this category, a recipient must consider whether, and the extent to which, the household has experienced a negative economic impact from the pandemic.

Question 22: What are the advantages and disadvantages of setting minimum symmetrical download and upload speeds of 100 Mbps? What other minimum standards would be appropriate and why?

Question 23: Would setting such a minimum be impractical for particular types of projects? If so, where and on what basis should those projects be identified? How could such a standard be set while also taking into account the practicality of using this standard in particular types of projects? In addition to topography, geography, and financial factors, what other constraints, if any, are relevant to considering whether an investment is impracticable?

Question 24: What are the advantages and disadvantages of setting a minimum level of service at 100 Mbps download and 20 Mbps upload in projects where it is impracticable to set minimum symmetrical download and upload speeds of 100 Mbps? What are the advantages and disadvantages of setting a scalability requirement in these cases? What other minimum standards would be appropriate and why?

Question 25: What are the advantages and disadvantages of focusing these investments on those without access to a wireline connection that reliably delivers 25 Mbps download by 3 Mbps upload? Would another threshold be appropriate and why?

Question 26: What are the advantages and disadvantages of setting any particular threshold for identifying unserved or underserved areas, minimum speed standards or scalability minimum? Are there other standards that should be set (e.g., latency)? If so, why and how? How can such threshold, standards, or minimum be set in a way that balances the public's interest in making sure that reliable broadband services meeting the daily needs of all Americans are available throughout the country with the providing recipients flexibility to meet the varied needs of their communities?

III. Restrictions on Use

As discussed above, recipients have considerable flexibility to use Fiscal Recovery Funds to address the diverse needs of their communities. To ensure that payments from the Fiscal Recovery Funds are used for these congressionally permitted purposes, the ARPA includes two provisions that further define the boundaries of the statute's eligible uses. Section 602(c)(2)(A) of the Act provides that States and territories may not "use the funds … to either directly or indirectly offset a reduction in … net tax revenue … resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax … or delays the imposition of any tax or tax increase." In addition, sections 602(c)(2)(B) and 603(c)(2) prohibit any recipient, including cities, nonentitlement units of government, and counties, from using Fiscal Recovery Funds for deposit into any pension fund. These restrictions support the use of funds for the congressionally permitted purposes described in Section II of this Supplementary Information by providing a backstop against the use of funds for purposes outside of the eligible use categories.

These provisions give force to Congress's clear intent that Fiscal Recovery Funds be spent within the four eligible uses identified in the statute—(1) to respond to the public health

emergency and its negative economic impacts, (2) to provide premium pay to essential workers, (3) to provide government services to the extent of eligible governments' revenue losses, and (4) to make necessary water, sewer, and broadband infrastructure investments—and not otherwise. These four eligible uses reflect Congress's judgment that the Fiscal Recovery Funds should be expended in particular ways that support recovery from the COVID-19 public health emergency. The further restrictions reflect Congress's judgment that tax cuts and pension deposits do not fall within these eligible uses. The Interim Final Rule describes how Treasury will identify when such uses have occurred and how it will recoup funds put toward these impermissible uses and, as discussed in Section VIII of this Supplementary Information, establishes a reporting framework for monitoring the use of Fiscal Recovery Funds for eligible uses.

A. Deposit into Pension Funds

The statute provides that recipients may not use Fiscal Recovery Funds for "deposit into any pension fund." For the reasons discussed below, Treasury interprets "deposit" in this context to refer to an extraordinary payment into a pension fund for the purpose of reducing an accrued, unfunded liability. More specifically, the Interim Final Rule does not permit this assistance to be used to make a payment into a pension fund if both:

1. the payment reduces a liability incurred prior to the start of the COVID-19 public health emergency, and
2. the payment occurs outside the recipient's regular timing for making such payments.

Under this interpretation, a "deposit" is distinct from a "payroll contribution," which occurs when employers make payments into pension funds on regular intervals, with contribution amounts based on a pre-determined percentage of employees' wages and salaries.

As discussed above, eligible uses for premium pay and responding to the negative economic impacts of the COVID-19 public health emergency include hiring and compensating public sector employees. Interpreting the scope of "deposit" to exclude contributions that are part of payroll contributions is more consistent with these eligible uses and would reduce administrative burden for recipients. Accordingly, if an employee's wages and salaries are an eligible use of Fiscal Recovery Funds, recipients may treat the employee's covered benefits as an eligible use of Fiscal Recovery Funds. For purposes of the Fiscal Recovery Funds, covered benefits include costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (Federal and State), workers' compensation insurance, and Federal Insurance Contributions Act taxes (which includes Social Security and Medicare taxes).

Treasury anticipates that this approach to employees' covered benefits will be comprehensive and, for employees whose wage and salary costs are eligible expenses, will allow all covered benefits listed in the previous paragraph to be eligible under the Fiscal Recovery Funds. Treasury expects that this will minimize the administrative burden on recipients by treating all the specified covered benefit types as eligible expenses, for employees whose wage and salary costs are eligible expenses.

Question 27: Beyond a "deposit" and a "payroll contribution," are there other types of payments into a pension fund that Treasury should consider?

B. Offset a Reduction in Net Tax Revenue

For States and territories (recipient governments[160]), section 602(c)(2)(A)—the offset provision—prohibits the use of Fiscal Recovery Funds to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation[161] during the covered period. If a State or territory uses Fiscal Recovery Funds to offset a reduction in net tax revenue, the ARPA provides that the State or territory must repay to the Treasury an amount equal to the lesser of (i) the amount of the applicable reduction attributable to the impermissible offset and (ii) the amount received by the State or territory under the ARPA. *See* Section IV of this Supplementary Information. As discussed below Section IV of this Supplementary Information, a State or territory that chooses to use Fiscal Recovery Funds to offset a reduction in net tax revenue does not forfeit its entire allocation of Fiscal Recovery Funds (unless it misused the full allocation to offset a reduction in net tax revenue) or any non-ARPA funding received.

The Interim Final Rule implements these conditions by establishing a framework for States and territories to determine the cost of changes in law, regulation, or interpretation that reduce tax revenue and to identify and value the sources of funds that will offset—i.e., cover the cost of—any reduction in net tax revenue resulting from such changes. A recipient government would only be considered to have used Fiscal Recovery Funds to offset a reduction in net tax revenue resulting from changes in law, regulation, or interpretation if, and to the extent that, the

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[160] In this sub-section, "recipient governments" refers only to States and territories. In other sections, "recipient governments" refers more broadly to eligible governments receiving funding from the Fiscal Recovery Funds.

[161] For brevity, referred to as "changes in law, regulation, or interpretation" for the remainder of this preamble.

recipient government could not identify sufficient funds from sources other than the Fiscal Recovery Funds to offset the reduction in net tax revenue. If sufficient funds from other sources cannot be identified to cover the full cost of the reduction in net tax revenue resulting from changes in law, regulation, or interpretation, the remaining amount not covered by these sources will be considered to have been offset by Fiscal Recovery Funds, in contravention of the offset provision. The Interim Final Rule recognizes three sources of funds that may offset a reduction in net tax revenue other than Fiscal Recovery Funds—organic growth, increases in revenue (e.g., an increase in a tax rate), and certain cuts in spending.

In order to reduce burden, the Interim Final Rule's approach also incorporates the types of information and modeling already used by States and territories in their own fiscal and budgeting processes. By incorporating existing budgeting processes and capabilities, States and territories will be able to assess and evaluate the relationship of tax and budget decisions to uses of the Fiscal Recovery Funds based on information they likely have or can obtain. This approach ensures that recipient governments have the information they need to understand the implications of their decisions regarding the use of the Fiscal Recovery Funds—and, in particular, whether they are using the funds to directly or indirectly offset a reduction in net tax revenue, making them potentially subject to recoupment.

Reporting on both the eligible uses and on a State's or territory's covered tax changes that would reduce tax revenue will enable identification of, and recoupment for, use of Fiscal Recovery Funds to directly offset reductions in tax revenue resulting from tax relief. Moreover, this approach recognizes that, because money is fungible, even if Fiscal Recovery Funds are not explicitly or directly used to cover the costs of changes that reduce net tax revenue, those funds may be used in a manner inconsistent with the statute by indirectly being used to substitute for

the State's or territory's funds that would otherwise have been needed to cover the costs of the reduction. By focusing on the cost of changes that reduce net tax revenue—and how a recipient government is offsetting those reductions in constructing its budget over the covered period—the framework prevents efforts to use Fiscal Recovery Funds to indirectly offset reductions in net tax revenue for which the recipient government has not identified other offsetting sources of funding.

As discussed in greater detail below in this preamble, the framework set forth in the Interim Final Rule establishes a step-by-step process for determining whether, and the extent to which, Fiscal Recovery Funds have been used to offset a reduction in net tax revenue. Based on information reported annually by the recipient government:

- First, each year, each recipient government will identify and value the changes in law, regulation, or interpretation that would result in a reduction in net tax revenue, as it would in the ordinary course of its budgeting process. The sum of these values in the year for which the government is reporting is the amount it needs to "pay for" with sources other than Fiscal Recovery Funds (total value of revenue reducing changes).
- Second, the Interim Final Rule recognizes that it may be difficult to predict how a change would affect net tax revenue in future years and, accordingly, provides that if the total value of the changes in the year for which the recipient government is reporting is below a de minimis level, as discussed below, the recipient government need not identify any sources of funding to pay for revenue reducing changes and will not be subject to recoupment.
- Third, a recipient government will consider the amount of actual tax revenue recorded in the year for which they are reporting. If the recipient government's actual tax revenue is

greater than the amount of tax revenue received by the recipient for the fiscal year ending 2019, adjusted annually for inflation, the recipient government will not be considered to have violated the offset provision because there will not have been a reduction in net tax revenue.

- Fourth, if the recipient government's actual tax revenue is less than the amount of tax revenue received by the recipient government for the fiscal year ending 2019, adjusted annually for inflation, in the reporting year the recipient government will identify any sources of funds that have been used to permissibly offset the total value of covered tax changes other than Fiscal Recovery Funds. These are:
    - State or territory tax changes that would increase any source of general fund revenue, such as a change that would increase a tax rate; and
    - Spending cuts in areas not being replaced by Fiscal Recovery Funds.

The recipient government will calculate the value of revenue reduction remaining after applying these sources of offsetting funding to the total value of revenue reducing changes—that, is, how much of the tax change has not been paid for. The recipient government will then compare that value to the difference between the baseline and actual tax revenue. A recipient government will not be required to repay to the Treasury an amount that is greater than the recipient government's actual tax revenue shortfall relative to the baseline (i.e., fiscal year 2019 tax revenue adjusted for inflation). This "revenue reduction cap," together with Step 3, ensures that recipient governments can use organic revenue growth to offset the cost of revenue reductions.

- Finally, if there are any amounts that could be subject to recoupment, Treasury will provide notice to the recipient government of such amounts. This process is discussed in greater detail in Section IV of this Supplementary Information.

Together, these steps allow Treasury to identify the amount of reduction in net tax revenue that both is attributable to covered changes and has been directly or indirectly offset with Fiscal Recovery Funds. This process ensures Fiscal Recovery Funds are used in a manner consistent with the statute's defined eligible uses and the offset provision's limitation on these eligible uses, while avoiding undue interference with State and territory decisions regarding tax and spending policies.

The Interim Final Rule also implements a process for recouping Fiscal Recovery Funds that were used to offset reductions in net tax revenue, including the calculation of any amounts that may be subject to recoupment, a process for a recipient government to respond to a notice of recoupment, and clarification regarding amounts excluded from recoupment. *See* Section IV of this Supplementary Information.

The Interim Final Rule includes several definitions that are applicable to the implementation of the offset provision.

Covered change. The offset provision is triggered by a reduction in net tax revenue resulting from "a change in law, regulation, or administrative interpretation." A covered change includes any final legislative or regulatory action, a new or changed administrative interpretation, and the phase-in or taking effect of any statute or rule where the phase-in or taking effect was not prescribed prior to the start of the covered period. Changed administrative interpretations would not include corrections to replace prior inaccurate interpretations; such corrections would instead be treated as changes implementing legislation enacted or regulations issued prior to the covered

period; the operative change in those circumstances is the underlying legislation or regulation that occurred prior to the covered period. Moreover, only the changes within the control of the State or territory are considered covered changes. Covered changes do not include a change in rate that is triggered automatically and based on statutory or regulatory criteria in effect prior to the covered period. For example, a state law that sets its earned income tax credit (EITC) at a fixed percentage of the Federal EITC will see its EITC payments automatically increase—and thus its tax revenue reduced—because of the Federal government's expansion of the EITC in the ARPA.[162] This would not be considered a covered change. In addition, the offset provision applies only to actions for which the change in policy occurs during the covered period; it excludes regulations or other actions that implement a change or law substantively enacted prior to March 3, 2021. Finally, Treasury has determined and previously announced that income tax changes—even those made during the covered period—that simply conform with recent changes in Federal law (including those to conform to recent changes in Federal taxation of unemployment insurance benefits and taxation of loan forgiveness under the Paycheck Protection Program) are permissible under the offset provision.

Baseline. For purposes of measuring a reduction in net tax revenue, the Interim Final Rule measures actual changes in tax revenue relative to a revenue baseline (baseline). The baseline will be calculated as fiscal year 2019 (FY 2019) tax revenue indexed for inflation in

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[162] *See, e.g.*, Tax Policy Center, How do state earned income tax credits work?, https://www.taxpolicycenter.org/briefing-book/how-do-state-earned-income-tax-credits-work/ (last visited May 9, 2021).

each year of the covered period, with inflation calculated using the Bureau of Economic Analysis's Implicit Price Deflator.[163]

FY 2019 was chosen as the starting year for the baseline because it is the last full fiscal year prior to the COVID-19 public health emergency.[164] This baseline year is consistent with the approach directed by the ARPA in sections 602(c)(1)(C) and 603(c)(1)(C), which identify the "most recent full fiscal year of the [State, territory, or Tribal government] prior to the emergency" as the comparator for measuring revenue loss. U.S. gross domestic product is projected to rebound to pre-pandemic levels in 2021,[165] suggesting that an FY 2019 pre-pandemic baseline is a reasonable comparator for future revenue levels. The FY 2019 baseline revenue will be adjusted annually for inflation to allow for direct comparison of actual tax revenue in each year (reported in nominal terms) to baseline revenue in common units of measurement; without inflation adjustment, each dollar of reported actual tax revenue would be worth less than each dollar of baseline revenue expressed in 2019 terms.

Reporting year. The Interim Final Rule defines "reporting year" as a single year within the covered period, aligned to the current fiscal year of the recipient government during the covered period, for which a recipient government reports the value of covered changes and any sources of offsetting revenue increases ("in-year" value), regardless of when those changes were enacted. For the fiscal years ending in 2021 or 2025 (partial years), the term "reporting year"

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[163] U.S. Department of Commerce, Bureau of Economic Analysis, GDP Price Deflator, https://www.bea.gov/data/prices-inflation/gdp-price-deflator (last visited May 9, 2021).

[164] Using Fiscal Year 2019 is consistent with section 602 as Congress provided for using that baseline for determining the impact of revenue loss affecting the provision of government services. *See* section 602(c)(1)(C).

[165] Congressional Budget Office, An Overview of the Economic Outlook: 2021 to 2031 (February 1, 2021), *available at* https://www.cbo.gov/publication/56965.

refers to the portion of the year falling within the covered period. For example, the reporting year for a fiscal year beginning July 2020 and ending June 2021 would be from March 3, 2021 to July 2021.

Tax revenue. The Interim Final Rule's definition of "tax revenue" is based on the Census Bureau's definition of taxes, used for its Annual Survey of State Government Finances.[166] It provides a consistent, well-established definition with which States and territories will be familiar and is consistent with the approach taken in Section II.C of this Supplementary Information describing the implementation of sections 602(c)(1)(C) and 603(c)(1)(C) of the Act, regarding revenue loss. Consistent with the approach described in Section II.C of this Supplementary Information, tax revenue does not include revenue taxed and collected by a different unit of government (e.g., revenue from taxes levied by a local government and transferred to a recipient government).

Framework. The Interim Final Rule provides a step-by-step framework, to be used in each reporting year, to calculate whether the offset provision applies to a State's or territory's use of Fiscal Recovery Funds:

(1) *Covered changes that reduce tax revenue.* For each reporting year, a recipient government will identify and value covered changes that the recipient government predicts will have the effect of reducing tax revenue in a given reporting year, similar to the way it would in the ordinary course of its budgeting process. The value of these covered changes may be reported based on estimated values produced by a budget model, incorporating reasonable assumptions, that aligns with the recipient government's existing approach for measuring the

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[166] U.S. Census Bureau, Annual Survey of State and Local Government Finances Glossary, https://www.census.gov/programs-surveys/state/about/glossary.html (last visited Apr. 30, 2021).

effects of fiscal policies, and that measures relative to a current law baseline. The covered changes may also be reported based on actual values using a statistical methodology to isolate the change in year-over-year revenue attributable to the covered change(s), relative to the current law baseline prior to the change(s). Further, estimation approaches should not use dynamic methodologies that incorporate the projected effects of macroeconomic growth because macroeconomic growth is accounted for separately in the framework. Relative to these dynamic scoring methodologies, scoring methodologies that do not incorporate projected effects of macroeconomic growth rely on fewer assumptions and thus provide greater consistency among States and territories. Dynamic scoring that incorporates macroeconomic growth may also increase the likelihood of underestimation of the cost of a reduction in tax revenue.

In general and where possible, reporting should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. This approach offers recipient governments the flexibility to determine their reporting methodology based on their existing budget scoring practices and capabilities. In addition, the approach of using the projected value of changes in law that enact fiscal policies to estimate the net effect of such policies is consistent with the way many States and territories already consider tax changes.[167]

(2) *In excess of the de minimis*. The recipient government will next calculate the total value of all covered changes in the reporting year resulting in revenue reductions, identified in Step 1. If the total value of the revenue reductions resulting from these changes is below the de

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[167] *See, e.g.,* Megan Randall & Kim Rueben, Tax Policy Center, Sustainable Budgeting in the States: Evidence on State Budget Institutions and Practices (Nov. 2017), *available at* https://www.taxpolicycenter.org/sites/default/files/publication/149186/sustainable-budgeting-in-the-states_1.pdf.

minimis level, the recipient government will be deemed not to have any revenue-reducing changes for the purpose of determining the recognized net reduction. If the total is above the de minimis level, the recipient government must identify sources of in-year revenue to cover the full costs of changes that reduce tax revenue.

The de minimis level is calculated as 1 percent of the reporting year's baseline. Treasury recognizes that, pursuant to their taxing authority, States and territories may make many small changes to alter the composition of their tax revenues or implement other policies with marginal effects on tax revenues. They may also make changes based on projected revenue effects that turn out to differ from actual effects, unintentionally resulting in minor revenue changes that are not fairly described as "resulting from" tax law changes. The de minimis level recognizes the inherent challenges and uncertainties that recipient governments face, and thus allows relatively small reductions in tax revenue without consequence. Treasury determined the 1 percent level by assessing the historical effects of state-level tax policy changes in state EITCs implemented to effect policy goals other than reducing net tax revenues.[168] The 1 percent de minimis level reflects the historical reductions in revenue due to minor changes in state fiscal policies.

(3) *Safe harbor.* The recipient government will then compare the reporting year's actual tax revenue to the baseline. If actual tax revenue is greater than the baseline, Treasury will deem the recipient government not to have any recognized net reduction for the reporting year, and therefore to be in a safe harbor and outside the ambit of the offset provision. This approach is consistent with the ARPA, which contemplates recoupment of Fiscal Recovery Funds only in the event that such funds are used to offset a reduction in net tax revenue. If net tax revenue has not

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[168] Data provided by the Urban-Brookings Tax Policy Center for state-level EITC changes for 2004-2017.

been reduced, this provision does not apply. In the event that actual tax revenue is above the baseline, the organic revenue growth that has occurred, plus any other revenue-raising changes, by definition must have been enough to offset the in-year costs of the covered changes.

(4) *Consideration of other sources of funding.* Next, the recipient government will identify and calculate the total value of changes that could pay for revenue reduction due to covered changes and sum these items. This amount can be used to pay for up to the total value of revenue-reducing changes in the reporting year. These changes consist of two categories:

(a) *Tax and other increases in revenue.* The recipient government must identify and consider covered changes in policy that the recipient government predicts will have the effect of increasing general revenue in a given reporting year. As when identifying and valuing covered changes that reduce tax revenue, the value of revenue-raising changes may be reported based on estimated values produced by a budget model, incorporating reasonable assumptions, aligned with the recipient government's existing approach for measuring the effects of fiscal policies, and measured relative to a current law baseline, or based on actual values using a statistical methodology to isolate the change in year-over-year revenue attributable to the covered change(s). Further, and as discussed above, estimation approaches should not use dynamic scoring methodologies that incorporate the effects of macroeconomic growth because growth is accounted for separately under the Interim Final Rule. In general and where possible, reporting should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. This approach offers recipient governments the flexibility to determine their reporting methodology based on their existing budget scoring practices and capabilities.

(b) *Covered spending cuts.* A recipient government also may cut spending in certain areas to pay for covered changes that reduce tax revenue, up to the amount of the recipient government's net reduction in total spending as described below. These changes must be reductions in government outlays not in an area where the recipient government has spent Fiscal Recovery Funds. To better align with existing reporting and accounting, the Interim Final Rule considers the department, agency, or authority from which spending has been cut and whether the recipient government has spent Fiscal Recovery Funds on that same department, agency, or authority. This approach was selected to allow recipient governments to report how Fiscal Recovery Funds have been spent using reporting units already incorporated into their budgeting process. If they have not spent Fiscal Recovery Funds in a department, agency, or authority, the full amount of the reduction in spending counts as a covered spending cut, up to the recipient government's net reduction in total spending. If they have, the Fiscal Recovery Funds generally would be deemed to have replaced the amount of spending cut and only reductions in spending above the amount of Fiscal Recovery Funds spent on the department, agency, or authority would count.

To calculate the amount of spending cuts that are available to offset a reduction in tax revenue, the recipient government must first consider whether there has been a reduction in total net spending, excluding Fiscal Recovery Funds (net reduction in total spending). This approach ensures that reported spending cuts actually create fiscal space, rather than simply offsetting other spending increases. A net reduction in total spending is measured as the difference between total spending in each reporting year, excluding Fiscal Recovery Funds spent, relative to total spending for the recipient's fiscal year ending in 2019, adjusted for inflation. Measuring reductions in spending relative to 2019 reflects the fact that the fiscal space created by a

spending cut persists so long as spending remains below its original level, even if it does not decline further, relative to the same amount of revenue. Measuring spending cuts from year to year would, by contrast, not recognize any available funds to offset revenue reductions unless spending continued to decline, failing to reflect the actual availability of funds created by a persistent change and limiting the discretion of States and territories. In general and where possible, reporting should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. Treasury chose this approach because while many recipient governments may score budget legislation using projections, spending cuts are readily observable using actual values.

This approach—allowing only spending reductions in areas where the recipient government has not spent Fiscal Recovery Funds to be used as an offset for a reduction in net tax revenue—aims to prevent recipient governments from using Fiscal Recovery Funds to supplant State or territory funding in the eligible use areas, and then use those State or territory funds to offset tax cuts. Such an approach helps ensure that Fiscal Recovery Funds are not used to "indirectly" offset revenue reductions due to covered changes.

In order to help ensure recipient governments use Fiscal Recovery Funds in a manner consistent with the prescribed eligible uses and do not use Fiscal Recovery Funds to indirectly offset a reduction in net tax revenue resulting from a covered change, Treasury will monitor changes in spending throughout the covered period. If, over the course of the covered period, a spending cut is subsequently replaced with Fiscal Recovery Funds and used to indirectly offset a reduction in net tax revenue resulting from a covered change, Treasury may consider such change to be an evasion of the restrictions of the offset provision and seek recoupment of such amounts.

(5) *Identification of amounts subject to recoupment.* If a recipient government (i) reports covered changes that reduce tax revenue (Step 1); (ii) to a degree greater than the de minimis (Step 2); (iii) has experienced a reduction in net tax revenue (Step 3); and (iv) lacks sufficient revenue from other, permissible sources to pay for the entirety of the reduction (Step 4), then the recipient government will be considered to have used Fiscal Recovery Funds to offset a reduction in net tax revenue, up to the amount that revenue has actually declined. That is, the maximum value of reduction in revenue due to covered changes which a recipient government must cover is capped at the difference between the baseline and actual tax revenue.[169] In the event that the baseline is above actual tax revenue and the difference between them is less than the sum of revenue reducing changes that are not paid for with other, permissible sources, organic revenue growth has implicitly offset a portion of the reduction. For example, if a recipient government reduces tax revenue by $1 billion, makes no other changes, and experiences revenue growth driven by organic economic growth worth $500 million, it need only pay for the remaining $500 million with sources other than Fiscal Recovery Funds. The revenue reduction cap implements this approach for permitting organic revenue growth to cover the cost of tax cuts.

Finally, as discussed further in Section IV of this Supplementary Information, a recipient government may request reconsideration of any amounts identified as subject to recoupment under this framework. This process ensures that all relevant facts and circumstances, including information regarding planned spending cuts and budgeting assumptions, are considered prior to a determination that an amount must be repaid. Amounts subject to recoupment are calculated

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[169] This cap is applied in section 35.8(c) of the Interim Final Rule, calculating the amount of funds used in violation of the tax offset provision.

on an annual basis; amounts recouped in one year cannot be returned if the State or territory subsequently reports an increase in net tax revenue.

To facilitate the implementation of the framework above, and in addition to reporting required on eligible uses, in each year of the reporting period, each State and territory will report to Treasury the following items:

- Actual net tax revenue for the reporting year;
- Each revenue-reducing change made to date during the covered period and the in-year value of each change;
- Each revenue-raising change made to date during the covered period and the in-year value of each change;
- Each covered spending cut made to date during the covered period, the in-year value of each cut, and documentation demonstrating that each spending cut is covered as prescribed under the Interim Final Rule;

Treasury will provide additional guidance and instructions the reporting requirements at a later date.

Question 28: Does the Interim Final Rule's definition of tax revenue accord with existing State and territorial practice and, if not, are there other definitions or elements Treasury should consider? Discuss why or why not.

Question 29: The Interim Final Rule permits certain spending cuts to cover the costs of reductions in tax revenue, including cuts in a department, agency, or authority in which the recipient government is not using Fiscal Recovery Funds. How should Treasury and recipient governments consider the scope of a department, agency, or authority for the use of funds to

ensure spending cuts are not being substituted with Fiscal Recovery Funds while also avoiding an overbroad definition of that captures spending that is, in fact, distinct?

Question 30: Discuss the budget scoring methodologies currently used by States and territories. How should the Interim Final Rule take into consideration differences in approaches? Please discuss the use of practices including but not limited to macrodynamic scoring, microdynamic scoring, and length of budget windows.

Question 31: If a recipient government has a balanced budget requirement, how will that requirement impact its use of Fiscal Recovery Funds and ability to implement this framework?

Question 32: To implement the framework described above, the Interim Final Rule establishes certain reporting requirements. To what extent do recipient governments already produce this information and on what timeline? Discuss ways that Treasury and recipient governments may better rely on information already produced, while ensuring a consistent application of the framework.

Question 33: Discuss States' and territories' ability to produce the figures and numbers required for reporting under the Interim Final Rule. What additional reporting tools, such as a standardized template, would facilitate States' and territories' ability to complete the reporting required under the Interim Final Rule?

C. Other Restrictions on Use

Payments from the Fiscal Recovery Funds are also subject to pre-existing limitations provided in other Federal statutes and regulations and may not be used as non-Federal match for other Federal programs whose statute or regulations bar the use of Federal funds to meet

matching requirements. For example, payments from the Fiscal Recovery Funds may not be used to satisfy the State share of Medicaid.[170]

As provided for in the award terms, payments from the Fiscal Recovery Funds as a general matter will be subject to the provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200) (the Uniform Guidance), including the cost principles and restrictions on general provisions for selected items of cost.

D. Timeline for Use of Fiscal Recovery Funds

Section 602(c)(1) and section 603(c)(1) require that payments from the Fiscal Recovery Funds be used only to cover costs incurred by the State, territory, Tribal government, or local government by December 31, 2024. Similarly, the CARES Act provided that payments from the CRF be used to cover costs incurred by December 31, 2021.[171] The definition of "incurred" does not have a clear meaning. With respect to the CARES Act, on the understanding that the CRF was intended to be used to meet relatively short-term needs, Treasury interpreted this requirement to mean that, for a cost to be considered to have been incurred, performance of the service or delivery of the goods acquired must occur by December 31, 2021. In contrast, the ARPA, passed at a different stage of the COVID-19 public health emergency, was intended to provide more general fiscal relief over a broader timeline. In addition, the ARPA expressly permits the use of Fiscal Recovery Funds for improvements to water, sewer, and broadband infrastructure, which entail a longer timeframe. In recognition of this, Treasury is interpreting

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[170] *See* 42 CFR 433.51 and 45 CFR 75.306.

[171] Section 1001 of Division N of the Consolidated Appropriations Act, 2021 amended section 601(d)(3) of the Act by extending the end of the covered period for CRF expenditures from December 30, 2020 to December 31, 2021.

the requirement in section 602 and section 603 that costs be incurred by December 31, 2024, to require only that recipients have obligated the Fiscal Recovery Funds by such date. The Interim Final Rule adopts a definition of "obligation" that is based on the definition used for purposes of the Uniform Guidance, which will allow for uniform administration of this requirement and is a definition with which most recipients will be familiar.

Payments from the Fiscal Recovery Funds are grants provided to recipients to mitigate the fiscal effects of the COVID-19 public health emergency and to respond to the public health emergency, consistent with the eligible uses enumerated in sections 602(c)(1) and 603(c)(1).[172] As such, these funds are intended to provide economic stimulus in areas still recovering from the economic effects of the pandemic. In implementing and interpreting these provisions, including what it means to "respond to" the COVID-19 public health emergency, Treasury takes into consideration pre-pandemic facts and circumstances (e.g., average revenue growth prior to the pandemic) as well as impact of the pandemic that predate the enactment of the ARPA (e.g., replenishing Unemployment Trust balances drawn during the pandemic). While assessing the effects of the COVID-19 public health emergency necessarily takes into consideration the facts and circumstances that predate the ARPA, use of Fiscal Recovery Funds is forward looking.

As discussed above, recipients are permitted to use payments from the Fiscal Recovery Funds to respond to the public health emergency, to respond to workers performing essential work by providing premium pay or providing grants to eligible employers, and to make necessary investments in water, sewer, or broadband infrastructure, which all relate to prospective uses. In addition, sections 602(c)(1)(C) and 603(c)(1)(C) permit recipients to use

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[172] §§ 602(a), 603(a), 602(c)(1) and 603(c)(1) of the Act.

Fiscal Recovery Funds for the provision of government services. This clause provides that the amount of funds that may be used for this purpose is measured by reference to the reduction in revenue due to the public health emergency relative to revenues collected in the most recent full fiscal year, but this reference does not relate to the period during which recipients may use the funds, which instead refers to prospective uses, consistent with the other eligible uses.

Although as discussed above the eligible uses of payments from the Fiscal Recovery Funds are all prospective in nature, Treasury considers the beginning of the covered period for purposes of determining compliance with section 602(c)(2)(A) to be the relevant reference point for this purpose. The Interim Final Rule thus permits funds to be used to cover costs incurred beginning on March 3, 2021. This aligns the period for use of Fiscal Recovery Funds with the period during which these funds may not be used to offset reductions in net tax revenue. Permitting Fiscal Recovery Funds to be used to cover costs incurred beginning on this date will also mean that recipients that began incurring costs in the anticipation of enactment of the ARPA and in advance of the issuance of this rule and receipt of payment from the Fiscal Recovery Funds would be able to cover them using these payments.[173]

As set forth in the award terms, the period of performance will run until December 31, 2026, which will provide recipients a reasonable amount of time to complete projects funded with payments from the Fiscal Recovery Funds.

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[173] Given the nature of this program, recipients will not be permitted to use funds to cover pre-award costs, *i.e.*, those incurred prior to March 3, 2021.

IV. Recoupment Process

Under the ARPA, failure to comply with the restrictions on use contained in sections 602(c) and 603(c) of the Act may result in recoupment of funds.[174] The Interim Final Rule implements these provisions by establishing a process for recoupment.

Identification and Notice of Violations. Failure to comply with the restrictions on use will be identified based on reporting provided by the recipient. As discussed further in Sections III.B and VIII of this Supplementary Information, Treasury will collect information regarding eligible uses on a quarterly basis and on the tax offset provision on an annual basis. Treasury also may consider other information in identifying a violation, such as information provided by members of the public. If Treasury identifies a violation, it will provide written notice to the recipient along with an explanation of such amounts.

Request for Reconsideration. Under the Interim Final Rule, a recipient may submit a request for reconsideration of any amounts identified in the notice provided by Treasury. This reconsideration process provides a recipient the opportunity to submit additional information it believes supports its request in light of the notice of recoupment, including, for example, additional information regarding the recipient's use of Fiscal Recovery Funds or its tax revenues. The process also provides the Secretary with an opportunity to consider all information relevant to whether a violation has occurred, and if so, the appropriate amount for recoupment.

The Interim Final Rule also establishes requirements for the timing of a request for reconsideration. Specifically, if a recipient wishes to request reconsideration of any amounts identified in the notice, the recipient must submit a written request for reconsideration to the

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[174] §§ 602(e) and 603(e) of the Act.

Secretary within 60 calendar days of receipt of such notice. The request must include an explanation of why the recipient believes that the finding of a violation or recoupable amount identified in the notice of recoupment should be reconsidered. To facilitate the Secretary's review of a recipient's request for reconsideration, the request should identify all supporting reasons for the request. Within 60 calendar days of receipt of the recipient's request for reconsideration, the recipient will be notified of the Secretary's decision to affirm, withdraw, or modify the notice of recoupment. Such notification will include an explanation of the decision, including responses to the recipient's supporting reasons and consideration of additional information provided.

The process and timeline established by the Interim Final Rule are intended to provide the recipient with an adequate opportunity to fully present any issues or arguments in response to the notice of recoupment.[175] This process will allow the Secretary to respond to the issues and considerations raised in the request for reconsideration taking into account the information and arguments presented by the recipient along with any other relevant information.

Repayment. Finally, the Interim Final Rule provides that any amounts subject to recoupment must be repaid within 120 calendar days of receipt of any final notice of recoupment or, if the recipient has not requested reconsideration, within 120 calendar days of the initial notice provided by the Secretary.

Question 34: Discuss the timeline for requesting reconsideration under the Interim Final Rule. What, if any, challenges does this timeline present?

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[175] The Interim Final Rule also provides that Treasury may extend any deadlines.

V. Payments in Tranches to Local Governments and Certain States

Section 603 of the Act provides that the Secretary will make payments to local governments in two tranches, with the second tranche being paid twelve months after the first payment. In addition, section 602(b)(6)(A)(ii) provides that the Secretary may withhold payment of up to 50 percent of the amount allocated to each State and territory for a period of up to twelve months from the date on which the State or territory provides its certification to the Secretary. Any such withholding for a State or territory is required to be based on the unemployment rate in the State or territory as of the date of the certification.

The Secretary has determined to provide in this Interim Final Rule for withholding of 50 percent of the amount of Fiscal Recovery Funds allocated to all States (and the District of Columbia) other than those with an unemployment rate that is 2.0 percentage points or more above its pre-pandemic (i.e., February 2020) level. The Secretary will refer to the latest available monthly data from the Bureau of Labor Statistics as of the date the certification is provided. Based on data available at the time of public release of this Interim Final Rule, this threshold would result in a majority of States being paid in two tranches.

Splitting payments for the majority of States is consistent with the requirement in section 603 of the Act to make payments from the Coronavirus Local Fiscal Recovery Fund to local governments in two tranches. [176] Splitting payments to States into two tranches will help

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[176] With respect to Federal financial assistance more generally, States are subject to the requirements of the Cash Management Improvement Act (CMIA), under which Federal funds are drawn upon only on an as needed basis and States are required to remit interest on unused balances to Treasury. Given the statutory requirement for Treasury to make payments to States within a certain period, these requirements of the CMIA and Treasury's implementing regulations at 31 CFR part 205 will not apply to payments from the Fiscal Recovery Funds. Providing funding in two tranches to the majority of States reflects, to the maximum extent permitted by section 602 of the Act, the general principles of Federal cash management and stewardship of federal funding, yet will be much less restrictive than the usual requirements to which States are subject.

encourage recipients to adapt, as necessary, to new developments that could arise over the coming twelve months, including potential changes to the nature of the public health emergency and its negative economic impacts. While the U.S. economy has been recovering and adding jobs in aggregate, there is still considerable uncertainty in the economic outlook and the interaction between the pandemic and the economy.[177] For these reasons, Treasury believes it will be appropriate for a majority of recipients to adapt their plans as the recovery evolves. For example, a faster-than-expected economic recovery in 2021 could lead a recipient to dedicate more Fiscal Recovery Funds to longer-term investments starting in 2022. In contrast, a slower-than-expected economic recovery in 2021 could lead a recipient to use additional funds for near-term stimulus in 2022.

At the same time, the statute contemplates the possibility that elevated unemployment in certain States could justify a single payment. Elevated unemployment is indicative of a greater need to assist unemployed workers and stimulate a faster economic recovery. For this reason, the Interim Final Rule provides that States and territories with an increase in their unemployment rate over a specified threshold may receive a single payment, with the expectation that a single tranche will better enable these States and territories to take additional immediate action to aid the unemployed and strengthen their economies.

Following the initial pandemic-related spike in unemployment in 2020, States' unemployment rates have been trending back towards pre-pandemic levels. However, some States' labor markets are healing more slowly than others. Moreover, States varied widely in

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[177] The potential course of the virus, and its impact on the economy, has contributed to a heightened degree of uncertainty relative to prior periods. *See, e.g.*, Dave Altig et al., Economic uncertainty before and during the COVID-19 pandemic, J. of Public Econ. (Nov. 2020), *available at* https://www.sciencedirect.com/science/article/abs/pii/S0047272720301389

their pre-pandemic levels of unemployment, and some States remain substantially further from their pre-pandemic starting point. Consequently, Treasury is delineating States with significant remaining elevation in the unemployment rate, based on the net difference to pre-pandemic levels.

Treasury has established that significant remaining elevation in the unemployment rate is a net change in the unemployment rate of 2.0 percentage points or more relative to pre-pandemic levels. In the four previous recessions going back to the early 1980s, the national unemployment rate rose by 3.6, 2.3, 2.0, and 5.0 percentage points, as measured from the start of the recession to the eventual peak during or immediately following the recession.[178] Each of these increases can therefore represent a recession's impact on unemployment. To identify States with significant remaining elevation in unemployment, Treasury took the lowest of these four increases, 2.0 percentage points, to indicate states where, despite improvement in the unemployment rate, current labor market conditions are consistent still with a historical benchmark for a recession.

No U.S. territory will be subject to withholding of its payment from the Fiscal Recovery Funds. For Puerto Rico, the Secretary has determined that the current level of the unemployment rate (8.8 percent, as of March 2021[179]) is sufficiently high such that Treasury should not withhold any portion of its payment from the Fiscal Recovery Funds regardless of its change in

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[178] Includes the period during and immediately following recessions, as defined by the National Bureau of Economic Research. National Bureau of Economic Research, US Business Cycle Expansions and Contractions, https://www.nber.org/research/data/us-business-cycle-expansions-and-contractions (last visited Apr. 27, 20201). Based on data from U.S. Bureau of Labor Statistics, Unemployment Rate [UNRATE], retrieved from FRED, Federal Reserve Bank of St. Louis, https://fred.stlouisfed.org/series/UNRATE (last visited Apr. 27, 2021).

[179] U.S. Bureau of Labor Statistics, Economic News Release – Table 1. Civilian labor force and unemployment by state and selected area, seasonally adjusted, https://www.bls.gov/news.release/laus.t01.htm (last visited Apr. 30, 2021).

unemployment rate relative to its pre-pandemic level. For U.S. territories that are not included in the Bureau of Labor Statistics' monthly unemployment rate data, the Secretary will not exercise the authority to withhold amounts from the Fiscal Recovery Funds.

VI. Transfer

The statute authorizes State, territorial, and Tribal governments; counties; metropolitan cities; and nonentitlement units of local government (counties, metropolitan cities, and nonentitlement units of local government are collectively referred to as "local governments") to transfer amounts paid from the Fiscal Recovery Funds to a number of specified entities. By permitting these transfers, Congress recognized the importance of providing flexibility to governments seeking to achieve the greatest impact with their funds, including by working with other levels or units of government or private entities to assist recipient governments in carrying out their programs. This includes special-purpose districts that perform specific functions in the community, such as fire, water, sewer, or mosquito abatement districts.

Specifically, under section 602(c)(3), a State, territory, or Tribal government may transfer funds to a "private nonprofit organization . . . a Tribal organization . . . a public benefit corporation involved in the transportation of passengers or cargo, or a special-purpose unit of State or local government."[180] Similarly, section 603(c)(3) authorizes a local government to transfer funds to the same entities (other than Tribal organizations).

The Interim Final Rule clarifies that the lists of transferees in Sections 602(c)(3) and 603(c)(3) are not exclusive. The Interim Final Rule permits State, territorial, and Tribal governments to transfer Fiscal Recovery Funds to other constituent units of government or

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[180] § 602(c)(3) of the Act.

private entities beyond those specified in the statute. Similarly, local governments are authorized to transfer Fiscal Recovery Funds to other constituent units of government (e.g., a county is able to transfer Fiscal Recovery Funds to a city, town, or school district within it) or to private entities. This approach is intended to help provide funding to local governments with needs that may exceed the allocation provided under the statutory formula.

State, local, territorial, and Tribal governments that receive a Federal award directly from a Federal awarding agency, such as Treasury, are "recipients." A transferee receiving a transfer from a recipient under sections 602(c)(3) and 603(c)(3) will be a subrecipient. Subrecipients are entities that receive a subaward from a recipient to carry out a program or project on behalf of the recipient with the recipient's Federal award funding. The recipient remains responsible for monitoring and overseeing the subrecipient's use of Fiscal Recovery Funds and other activities related to the award to ensure that the subrecipient complies with the statutory and regulatory requirements and the terms and conditions of the award. Recipients also remain responsible for reporting to Treasury on their subrecipients' use of payments from the Fiscal Recovery Funds for the duration of the award.

Transfers under sections 602(c)(3) and 603(c)(3) must qualify as an eligible use of Fiscal Recovery Funds by the transferor. Once Fiscal Recovery Funds are received, the transferee must abide by the restrictions on use applicable to the transferor under the ARPA and other applicable law and program guidance. For example, if a county transferred Fiscal Recovery Funds to a town within its borders to respond to the COVID-19 public health emergency, the town would be bound by the eligible use requirements applicable to the county in carrying out the county's goal. This also means that county A may not transfer Fiscal Recovery Funds to county B for use in

county B because such a transfer would not, from the perspective of the transferor (county A), be an eligible use in county A.

Section 603(c)(4) separately provides for transfers by a local government to its State or territory. A transfer under section 603(c)(4) will not make the State a subrecipient of the local government, and such Fiscal Recovery Funds may be used by the State for any purpose permitted under section 602(c). A transfer under section 603(c)(4) will result in a cancellation or termination of the award on the part of the transferor local government and a modification of the award to the transferee State or territory. The transferor must provide notice of the transfer to Treasury in a format specified by Treasury. If the local government does not provide such notice, it will remain legally obligated to Treasury under the award and remain responsible for ensuring that the awarded Fiscal Recovery Funds are being used in accordance with the statute and program guidance and for reporting on such uses to Treasury. A State that receives a transfer from a local government under section 603(c)(4) will be bound by all of the use restrictions set forth in section 602(c) with respect to the use of those Fiscal Recovery Funds, including the prohibitions on use of such Fiscal Recovery Funds to offset certain reductions in taxes or to make deposits into pension funds.

Question 35: What are the advantages and disadvantages of treating the list of transferees in sections 602(c)(3) and 603(c)(3) as nonexclusive, allowing States and localities to transfer funds to entities outside of the list?

Question 36: Are there alternative ways of defining "special-purpose unit of State or local government" and "public benefit corporation" that would better further the aims of the Funds?

VII. Nonentitlement Units of Government

The Fiscal Recovery Funds provides for $19.53 billion in payments to be made to States and territories which will distribute the funds to nonentitlement units of local government (NEUs); local governments which generally have populations below 50,000. These local governments have not yet received direct fiscal relief from the Federal government during the COVID-19 public health emergency, making Fiscal Recovery Funds payments an important source of support for their public health and economic responses. Section 603 requires Treasury to allocate and pay Fiscal Recovery Funds to the States and territories and requires the States and territories to distribute Fiscal Recovery Funds to NEUs based on population within 30 days of receipt unless an extension is granted by the Secretary. The Interim Final Rule clarifies certain aspects regarding the distribution of Fiscal Recovery by States and territories to NEUs, as well as requirements around timely payments from the Fiscal Recovery Funds.

The ARPA requires that States and territories allocate funding to NEUs in an amount that bears the same proportion as the population of the NEU bears to the total population of all NEUs in the State or territory, subject to a cap (described below). Because the statute requires States and territories to make distributions based on population, States and territories may not place additional conditions or requirements on distributions to NEUs, beyond those required by the ARPA and Treasury's implementing regulations and guidance. For example, a State may not impose stricter limitations than permitted by statute or Treasury regulations or guidance on an NEU's use of Fiscal Recovery Funds based on the NEU's proposed spending plan or other policies. States and territories are also not permitted to offset any debt owed by the NEU against the NEU's distribution. Further, States and territories may not provide funding on a reimbursement basis—e.g., requiring NEUs to pay for project costs up front before being

reimbursed with Fiscal Recovery Funds payments—because this funding model would not comport with the statutory requirement that States and territories make distributions to NEUs within the statutory timeframe.

Similarly, States and territories distributing Fiscal Recovery Funds payments to NEUs are responsible for complying with the Fiscal Recovery Funds statutory requirement that distributions to NEUs not exceed 75 percent of the NEU's most recent budget. The most recent budget is defined as the NEU's most recent annual total operating budget, including its general fund and other funds, as of January 27, 2020. Amounts in excess of such cap and therefore not distributed to the NEU must be returned to Treasury by the State or territory. States and territories may rely for this determination on a certified top-line budget total from the NEU.

Under the Interim Final Rule, the total allocation and distribution to an NEU, including the sum of both the first and second tranches of funding, cannot exceed the 75 percent cap. States and territories must permit NEUs without formal budgets as of January 27, 2020 to self-certify their most recent annual expenditures as of January 27, 2020 for the purpose of calculating the cap. This approach will provide an administrable means to implement the cap for small local governments that do not adopt a formal budget.

Section 603(b)(3) of the Social Security Act provides for Treasury to make payments to counties but provides that, in the case of an amount to be paid to a county that is not a unit of general local government, the amount shall instead be paid to the State in which such county is located, and such State shall distribute such amount to each unit of general local government within such county in an amount that bears the same proportion to the amount to be paid to such county as the population of such units of general local government bears to the total population of such county. As with NEUs, States may not place additional conditions or requirements on

distributions to such units of general local government, beyond those required by the ARPA and Treasury's implementing regulations and guidance.

In the case of consolidated governments, section 603(b)(4) allows consolidated governments (e.g., a city-county consolidated government) to receive payments under each allocation based on the respective formulas. In the case of a consolidated government, Treasury interprets the budget cap to apply to the consolidated government's NEU allocation under section 603(b)(2) but not to the consolidated government's county allocation under section 603(b)(3).

If necessary, States and territories may use the Fiscal Recovery Funds under section 602(c)(1)(A) to fund expenses related to administering payments to NEUs and units of general local government, as disbursing these funds itself is a response to the public health emergency and its negative economic impacts. If a State or territory requires more time to disburse Fiscal Recovery Funds to NEUs than the allotted 30 days, Treasury will grant extensions of not more than 30 days for States and territories that submit a certification in writing in accordance with section 603(b)(2)(C)(ii)(I). Additional extensions may be granted at the discretion of the Secretary.

Question 37: What are alternative ways for States and territories to enforce the 75 percent cap while reducing the administrative burden on them?

Question 38: What criteria should Treasury consider in assessing requests for extensions for further time to distribute NEU payments?

VIII. Reporting

States (defined to include the District of Columbia), territories, metropolitan cities, counties, and Tribal governments will be required to submit one interim report and thereafter

quarterly Project and Expenditure reports through the end of the award period on December 31, 2026. The interim report will include a recipient's expenditures by category at the summary level from the date of award to July 31, 2021 and, for States and territories, information related to distributions to nonentitlement units. Recipients must submit their interim report to Treasury by August 31, 2021. Nonentitlement units of local government are not required to submit an interim report.

The quarterly Project and Expenditure reports will include financial data, information on contracts and subawards over $50,000, types of projects funded, and other information regarding a recipient's utilization of the award funds. The reports will include the same general data (e.g., on obligations, expenditures, contracts, grants, and sub-awards) as those submitted by recipients of the CRF, with some modifications. Modifications will include updates to the expenditure categories and the addition of data elements related to specific eligible uses, including some of the reporting elements described in sections above. The initial quarterly Project and Expenditure report will cover two calendar quarters from the date of award to September 30, 2021, and must be submitted to Treasury by October 31, 2021. The subsequent quarterly reports will cover one calendar quarter and must be submitted to Treasury within 30 days after the end of each calendar quarter.

Nonentitlement units of local government will be required to submit annual Project and Expenditure reports until the end of the award period on December 31, 2026. The initial annual Project and Expenditure report for nonentitlement units of local government will cover activity from the date of award to September 30, 2021 and must be submitted to Treasury by October 31, 2021. The subsequent annual reports must be submitted to Treasury by October 31 each year.

States, territories, metropolitan cities, and counties with a population that exceeds 250,000 residents will also be required to submit an annual Recovery Plan Performance report to Treasury. The Recovery Plan Performance report will provide the public and Treasury information on the projects that recipients are undertaking with program funding and how they are planning to ensure project outcomes are achieved in an effective, efficient, and equitable manner. Each jurisdiction will have some flexibility in terms of the form and content of the Recovery Plan Performance report, as long as it includes the minimum information required by Treasury. The Recovery Plan Performance report will include key performance indicators identified by the recipient and some mandatory indicators identified by Treasury, as well as programmatic data in specific eligible use categories and the specific reporting requirements described in the sections above. The initial Recovery Plan Performance report will cover the period from the date of award to July 31, 2021 and must be submitted to Treasury by August 31, 2021. Thereafter, Recovery Plan Performance reports will cover a 12-month period, and recipients will be required to submit the report to Treasury within 30 days after the end of the 12-month period. The second Recovery Plan Performance report will cover the period from July 1, 2021 to June 30, 2022, and must be submitted to Treasury by July 31, 2022. Each annual Recovery Plan Performance report must be posted on the public-facing website of the recipient. Local governments with fewer than 250,000 residents, Tribal governments, and nonentitlement units of local government are not required to develop a Recovery Plan Performance report.

Treasury will provide additional guidance and instructions on the reporting requirements outlined above for the Fiscal Recovery Funds at a later date.

IX. Comments and Effective Date

This Interim Final Rule is being issued without advance notice and public comment to allow for immediate implementation of this program. As discussed below, the requirements of advance notice and public comment do not apply "to the extent that there is involved . . . a matter relating to agency . . . grants."[181] The Interim Final Rule implements statutory conditions on the eligible uses of the Fiscal Recovery Funds grants, and addresses the payment of those funds, the reporting on uses of funds, and potential consequences of ineligible uses. In addition and as discussed below, the Administrative Procedure Act also provides an exception to ordinary notice-and-comment procedures "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."[182] This good cause justification also supports waiver of the 60-day delayed effective date for major rules under the Congressional Review Act at 5 U.S.C. 808(2). Although this Interim Final Rule is effective immediately, comments are solicited from interested members of the public and from recipient governments on all aspects of the Interim Final Rule.

These comments must be submitted on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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[181] 5 U.S.C. 553(a)(2).

[182] 5 U.S.C. 553(b)(3)(B); *see also* 5 U.S.C. 553(d)(3) (creating an exception to the requirement of a 30-day delay before the effective date of a rule "for good cause found and published with the rule").

X. Regulatory Analyses

Executive Orders 12866 and 13563

This Interim Final Rule is economically significant for the purposes of Executive Orders 12866 and 13563. Treasury, however, is proceeding under the emergency provision at Executive Order 12866 section 6(a)(3)(D) based on the need to act expeditiously to mitigate the current economic conditions arising from the COVID-19 public health emergency. The rule has been reviewed by the Office of Management and Budget (OMB) in accordance with Executive Order 12866. This rule is necessary to implement the ARPA in order to provide economic relief to State, local, and Tribal governments adversely impacted by the COVID-19 public health emergency.

Under Executive Order 12866, OMB must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive Order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a significant regulatory action as an action likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or Tribal governments or communities in a material way (also referred to as "economically significant" regulations);

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive Order.

This regulatory action is an economically significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866. Treasury has also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, section 1(b) of Executive Order 13563 requires that an agency:

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives taking into account, among other things, and to the extent practicable, the costs of cumulative regulations;

(3) Select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including providing economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or providing information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." OMB's Office of Information and Regulatory Affairs (OIRA) has emphasized that these techniques may

include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

Treasury has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action, and is issuing this Interim Final Rule only on a reasoned determination that the benefits exceed the costs. In choosing among alternative regulatory approaches, Treasury selected those approaches that would maximize net benefits. Based on the analysis that follows and the reasons stated elsewhere in this document, Treasury believes that this Interim Final Rule is consistent with the principles set forth in Executive Order 13563. Treasury also has determined that this regulatory action does not unduly interfere with States, territories, Tribal governments, and localities in the exercise of their governmental functions.

This Regulatory Impact Analysis discusses the need for regulatory action, the potential benefits, and the potential costs.

Need for Regulatory Action. This Interim Final Rule implements the $350 billion Fiscal Recovery Funds of the ARPA, which Congress passed to help States, territories, Tribal governments, and localities respond to the ongoing COVID-19 public health emergency and its economic impacts. As the agency charged with execution of these programs, Treasury has concluded that this Interim Final Rule is needed to ensure that recipients of Fiscal Recovery Funds fully understand the requirements and parameters of the program as set forth in the statute and deploy funds in a manner that best reflects Congress' mandate for targeted fiscal relief. This Interim Final Rule is primarily a transfer rule: it transfers $350 billion in aid from the Federal government to states, territories, Tribal governments, and localities, generating a significant macroeconomic effect on the U.S. economy. In making this transfer, Treasury has sought to implement the program in ways that maximize its potential benefits while minimizing

its costs. It has done so by aiming to target relief in key areas according to the congressional mandate; offering clarity to States, territories, Tribal governments, and localities while maintaining their flexibility to respond to local needs; and limiting administrative burdens.

Analysis of Benefits. Relative to a pre-statutory baseline, the Fiscal Recovery Funds provide a combined $350 billion to State, local, and Tribal governments for fiscal relief and support for costs incurred responding to the COVID-19 pandemic. Treasury believes that this transfer will generate substantial additional economic activity, although given the flexibility accorded to recipients in the use of funds, it is not possible to precisely estimate the extent to which this will occur and the timing with which it will occur. Economic research has demonstrated that state fiscal relief is an efficient and effective way to mitigate declines in jobs and output during an economic downturn.[183] Absent such fiscal relief, fiscal austerity among State, local, and Tribal governments could exert a prolonged drag on the overall economic recovery, as occurred following the 2007-09 recession.[184]

This Interim Final Rule provides benefits across several areas by implementing the four eligible funding uses, as defined in statute: strengthening the response to the COVID-19 public health emergency and its economic impacts; easing fiscal pressure on State, local, and Tribal governments that might otherwise lead to harmful cutbacks in employment or government

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[183] Gabriel Chodorow-Reich et al., Does State Fiscal Relief during Recessions Increase Employment? Evidence from the American Recovery and Reinvestment Act, American Econ. J.: Econ. Policy, 4:3 118-45 (Aug. 2012), *available at* https://www.aeaweb.org/articles?id=10.1257/pol.4.3.118

[184] *See, e.g.,* Fitzpatrick, Haughwout & Setren, Fiscal Drag from the State and Local Sector?, Liberty Street Economics Blog, Federal Reserve Bank of New York (June 27, 2012), https://www.libertystreeteconomics.newyorkfed.org/2012/06/fiscal-drag-from-the-state-and-local-sector.html; Jiri Jonas, Great Recession and Fiscal Squeeze at U.S. Subnational Government Level, IMF Working Paper 12/184, (July 2012), *available at* https://www.imf.org/external/pubs/ft/wp/2012/wp12184.pdf; Gordon, *supra* note 9.

services; providing premium pay to essential workers; and making necessary investments in certain types of infrastructure. In implementing the ARPA, Treasury also sought to support disadvantaged communities that have been disproportionately impacted by the pandemic. The Fiscal Recovery Funds as implemented by the Interim Final Rule can be expected to channel resources toward these uses in order to achieve substantial near-term economic and public health benefits, as well as longer-term benefits arising from the allowable investments in water, sewer, and broadband infrastructure and aid to families.

These benefits are achieved in the Interim Final Rule through a broadly flexible approach that sets clear guidelines on eligible uses of Fiscal Recovery Funds and provides State, local, and Tribal government officials discretion within those eligible uses to direct Fiscal Recovery Funds to areas of greatest need within their jurisdiction. While preserving recipients' overall flexibility, the Interim Final Rule includes several provisions that implement statutory requirements and will help support use of Fiscal Recovery Funds to achieve the intended benefits. The remainder of this section clarifies how Treasury's approach to key provisions in the Interim Final Rule will contribute to greater realization of benefits from the program.

- Revenue Loss: Recipients will compute the extent of reduction in revenue by comparing actual revenue to a counterfactual trend representing what could have plausibly been expected to occur in the absence of the pandemic. The counterfactual trend begins with the last full fiscal year prior to the public health emergency (as required by statute) and projects forward with an annualized growth adjustment. Treasury's decision to incorporate a growth adjustment into the calculation of revenue loss ensures that the formula more fully captures revenue shortfalls relative to recipients' pre-pandemic expectations. Moreover, recipients will have the opportunity to re-calculate revenue loss

at several points throughout the program, recognizing that some recipients may experience revenue effects with a lag. This option to re-calculate revenue loss on an ongoing basis should result in more support for recipients to avoid harmful cutbacks in future years. In calculating revenue loss, recipients will look at general revenue in the aggregate, rather than on a source-by-source basis. Given that recipients may have experienced offsetting changes in revenues across sources, Treasury's approach provides a more accurate representation of the effect of the pandemic on overall revenues.

- Premium Pay: Per the statute, recipients have broad latitude to designate critical infrastructure sectors and make grants to third-party employers for the purpose of providing premium pay or otherwise respond to essential workers. While the Interim Final Rule generally preserves the flexibility in the statute, it does add a requirement that recipients give written justification in the case that premium pay would increase a worker's annual pay above a certain threshold. To set this threshold, Treasury analyzed data from the Bureau of Labor Statistics to determine a level that would not require further justification for premium pay to the vast majority of essential workers, while requiring higher scrutiny for provision of premium pay to higher-earners who, even without premium pay, would likely have greater personal financial resources to cope with the effects of the pandemic. Treasury believes the threshold in the Interim Final Rule strikes the appropriate balance between preserving flexibility and helping encourage use of these resources to help those in greatest need. The Interim Final Rule also requires that eligible workers have regular in-person interactions or regular physical handling of items that were also handled by others. This requirement will also help encourage use of

financial resources for those who have endured the heightened risk of performing essential work.

- Withholding of Payments to Recipients: Treasury believes that for the vast majority of recipient entities, it will be appropriate to receive funds in two separate payments. As discussed above, withholding of payments ensures that recipients can adapt spending plans to evolving economic conditions and that at least some of the economic benefits will be realized in 2022 or later. However, consistent with authorities granted to Treasury in the statute, Treasury recognizes that a subset of States with significant remaining elevation in the unemployment rate could face heightened additional near-term needs to aid unemployed workers and stimulate the recovery. Therefore, for a subset of State governments, Treasury will not withhold any funds from the first payment. Treasury believes that this approach strikes the appropriate balance between the general reasons to provide funds in two payments and the heightened additional near-term needs in specific States. As discussed above, Treasury set a threshold based on historical analysis of unemployment rates in recessions.
- Hiring Public Sector Employees: The Interim Final Rule states explicitly that recipients may use funds to restore their workforces up to pre-pandemic levels. Treasury believes that this statement is beneficial because it eliminates any uncertainty that could cause delays or otherwise negatively impact restoring public sector workforces (which, at time of publication, remain significantly below pre-pandemic levels).

Finally, the Interim Final Rule aims to promote and streamline the provision of assistance to individuals and communities in greatest need, particularly communities that have been historically disadvantaged and have experienced disproportionate impacts of the COVID-19

crisis. Targeting relief is in line with Executive Order 13985 On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, which laid out an Administration-wide priority to support "equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality."[185] To this end, the Interim Final Rule enumerates a list of services that may be provided using Fiscal Recovery Funds in low-income areas to address the disproportionate impacts of the pandemic in these communities; establishes the characteristics of essential workers eligible for premium pay and encouragement to serve workers based on financial need; provides that recipients may use Fiscal Recovery Funds to restore (to pre-pandemic levels) state and local workforces, where women and people of color are disproportionately represented;[186] and targets investments in broadband infrastructure to unserved and underserved areas. Collectively, these provisions will promote use of resources to facilitate the provision of assistance to individuals and communities with the greatest need.

Analysis of Costs. This regulatory action will generate administrative costs relative to a pre-statutory baseline. This includes, chiefly, costs required to administer Fiscal Recovery Funds, oversee subrecipients and beneficiaries, and file periodic reports with Treasury. It also requires States to allocate Fiscal Recovery Funds to nonentitlement units, which are smaller units of local government that are statutorily required to receive their funds through States.

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[185] Executive Order on Advancing Racial Equity and Support for Underserved Communities through the Federal Government (Jan. 20, 2021), https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/ (last visited May 9, 2021).

[186] David Cooper, Mary Gable & Algernon Austin, Economic Policy Institute Briefing Paper, The Public-Sector Jobs Crisis: Women and African Americans hit hardest by job losses in state and local governments, https://www.epi.org/publication/bp339-public-sector-jobs-crisis (last visited May 9, 2021).

Treasury expects that the administrative burden associated with this program will be moderate for a grant program of its size. Treasury expects that most recipients receive direct or indirect funding from Federal government programs and that many have familiarity with how to administer and report on Federal funds or grant funding provided by other entities. In particular, States, territories, and large localities will have received funds from the CRF and Treasury expects them to rely heavily on established processes developed last year or through prior grant funding, mitigating burden on these governments.

Treasury expects to provide technical assistance to defray the costs of administration of Fiscal Recovery Funds to further mitigate burden. In making implementation choices, Treasury has hosted numerous consultations with a diverse range of direct recipients—States, small cities, counties, and Tribal governments —along with various communities across the United States, including those that are underserved. Treasury lacks data to estimate the precise extent to which this Interim Final Rule generates administrative burden for State, local, and Tribal governments, but seeks comment to better estimate and account for these costs, as well as on ways to lessen administrative burdens.

Executive Order 13132

Executive Order 13132 (entitled Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State, local, and Tribal governments, and is not required by statute, or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This Interim Final Rule does not have federalism implications within the meaning of the Executive Order and does not impose substantial, direct compliance costs on State, local, and Tribal governments or preempt state law within the meaning of the Executive Order. The

compliance costs are imposed on State, local, and Tribal governments by sections 602 and 603 of the Social Security Act, as enacted by the ARPA. Notwithstanding the above, Treasury has engaged in efforts to consult and work cooperatively with affected State, local, and Tribal government officials and associations in the process of developing the Interim Final Rule. Pursuant to the requirements set forth in section 8(a) of Executive Order 13132, Treasury certifies that it has complied with the requirements of Executive Order 13132.

Administrative Procedure Act

The Administrative Procedure Act (APA), 5 U.S.C. 551 et seq., generally requires public notice and an opportunity for comment before a rule becomes effective. However, the APA provides that the requirements of 5 U.S.C. 553 do not apply "to the extent that there is involved . . . a matter relating to agency . . . grants." The Interim Final Rule implements statutory conditions on the eligible uses of the Fiscal Recovery Funds grants, and addresses the payment of those funds, the reporting on uses of funds, and potential consequences of ineligible uses. The rule is thus "both clearly and directly related to a federal grant program." *National Wildlife Federation v. Snow*, 561 F.2d 227, 232 (D.C. Cir. 1976). The rule sets forth the "process necessary to maintain state . . . eligibility for federal funds," *id.*, as well as the "method[s] by which states can . . . qualify for federal aid," and other "integral part[s] of the grant program," *Center for Auto Safety v. Tiemann*, 414 F. Supp. 215, 222 (D.D.C. 1976). As a result, the requirements of 5 U.S.C. 553 do not apply.

The APA also provides an exception to ordinary notice-and-comment procedures "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. 553(b)(3)(B); *see also* 5 U.S.C.

553(d)(3) (creating an exception to the requirement of a 30-day delay before the effective date of a rule "for good cause found and published with the rule"). Assuming 5 U.S.C. 553 applied, Treasury would still have good cause under sections 553(b)(3)(B) and 553(d)(3) for not undertaking section 553's requirements. The ARPA is a law responding to a historic economic and public health emergency; it is "extraordinary" legislation about which "both Congress and the President articulated a profound sense of 'urgency.'" *Petry v. Block*, 737 F.2d 1193, 1200 (D.C. Cir. 1984). Indeed, several provisions implemented by this Interim Final Rule (sections 602(c)(1)(A) and 603(c)(1)(A)) explicitly provide funds to "respond to the public health emergency," and the urgency is further exemplified by Congress's command (in sections 602(b)(6)(B) and 603(b)(7)(A)) that, "[t]o the extent practicable," funds must be provided to Tribes and cities "not later than 60 days after the date of enactment." *See Philadelphia Citizens in Action v. Schweiker*, 669 F.2d 877, 884 (3d Cir. 1982) (finding good cause under circumstances, including statutory time limits, where APA procedures would have been "virtually impossible"). Finally, there is an urgent need for States to undertake the planning necessary for sound fiscal policymaking, which requires an understanding of how funds provided under the ARPA will augment and interact with existing budgetary resources and tax policies. Treasury understands that many states require immediate rules on which they can rely, especially in light of the fact that the ARPA "covered period" began on March 3, 2021. The statutory urgency and practical necessity are good cause to forego the ordinary requirements of notice-and-comment rulemaking.

Congressional Review Act

The Administrator of OIRA has determined that this is a major rule for purposes of Subtitle E of the Small Business Regulatory Enforcement and Fairness Act of 1996 (also known as the

Congressional Review Act or CRA) (5 U.S.C. 804(2) et seq.). Under the CRA, a major rule takes effect 60 days after the rule is published in the Federal Register. 5 U.S.C. 801(a)(3). Notwithstanding this requirement, the CRA allows agencies to dispense with the requirements of section 801 when the agency for good cause finds that such procedure would be impracticable, unnecessary, or contrary to the public interest and the rule shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). Pursuant to section 808(2), for the reasons discussed above, Treasury for good cause finds that a 60-day delay to provide public notice is impracticable and contrary to the public interest.

Paperwork Reduction Act

The information collections associated with State, territory, local, and Tribal government applications materials necessary to receive Fiscal Recovery Funds (e.g., payment information collection and acceptance of award terms) have been reviewed and approved by OMB pursuant to the Paperwork Reduction Act (44 U.S.C. Chapter 35) (PRA) emergency processing procedures and assigned control number 1505-0271. The information collections related to ongoing reporting requirements, as discussed in this Interim Final Rule, will be submitted to OMB for emergency processing in the near future. Under the PRA, an agency may not conduct or sponsor and a respondent is not required to respond to, an information collection unless it displays a valid OMB control number.

Estimates of hourly burden under this program are set forth in the table below. Burden estimates below are preliminary.

Reporting	# Respondents (Estimated)	# Responses Per Respondent	Total Responses	Hours per response	Total Burden in Hours	Cost to Respondent ($48.80 per hour*)
Recipient Payment Form	5,050	1	5,050	.25 (15 minutes)	1,262.5	$61,610
Acceptance of Award Terms	5,050	1	5,050	.25 (15 minutes)	1,262.5	$61,610
Title VI Assurances	5,050	1	5,050	.50 (30 minutes)	2,525	$123,220
Quarterly Project and Expenditure Report	5,050	4 per year after first year	20,200	25	505,000	$24,644,000
Annual Project and Expenditure Report from NEUs	TBD	1 per year	20,000-40,000 (Estimate only)	15	300,000 – 600,000	$14,640,000 - $29,280,000
Annual Recovery Plan Performance report	418	1 per year	418	100	41,800	$2,039,840
Total	5,050 – TBD	N/A	55,768 - 75,768	141	851,850 - 1,151,850	$41,570,280 - $56,210,280

* Bureau of Labor Statistics, U.S. Department of Labor, Occupational Outlook Handbook, Accountants and Auditors, on the Internet at https://www.bls.gov/ooh/business-and-financial/accountants-and-auditors.htm (visited March 28, 2020). Base wage of $33.89/hour increased by 44 percent to account for fully loaded employer cost of employee compensation (benefits, etc.) for a fully loaded wage rate of $48.80.

Periodic reporting is required by section 602(c) of Section VI of the Social Security Act and under the Interim Final Rule.

As discussed in Section VIII of this Supplementary Information, recipients of Fiscal Recovery Funds will be required to submit one interim report and thereafter quarterly Project and Expenditure reports until the end of the award period. Recipients must submit interim reports to Treasury by August 31, 2021. The quarterly Project and Expenditure reports will include financial data, information on contracts and subawards over $50,000, types of projects funded, and other information regarding a recipient's utilization of the award funds.

Nonentitlement unit recipients will be required to submit annual Project and Expenditure reports until the end of the award period. The initial annual Project and Expenditure report for Nonentitlement unit recipients must be submitted to Treasury by October 31, 2021. The subsequent annual reports must be submitted to Treasury by October 31 each year. States, territories, metropolitan cities, and counties with a population that exceeds 250,000 residents will also be required to submit an annual Recovery Plan Performance report to Treasury. The Recovery Plan Performance report will include descriptions of the projects funded and information on the performance indicators and objectives of the award. Each annual Recovery Plan Performance report must be posted on the public-facing website of the recipient. Treasury will provide additional guidance and instructions on the all the reporting requirements outlined above for the Fiscal Recovery Funds program at a later date.

These and related periodic reporting requirements are under consideration and will be submitted to OMB for approval under the PRA emergency provisions in the near future.

Treasury invites comments on all aspects of the reporting and recordkeeping requirements including: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the collection of information; (c) ways to enhance the

quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Comments should be sent by the comment deadline to the www.regulations.gov docket with a copy to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, 725 17th Street NW, Washington, DC 20503; or email to oira_submission@omb.eop.gov.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) generally requires that when an agency issues a proposed rule, or a final rule pursuant to section 553(b) of the Administrative Procedure Act or another law, the agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the Federal Register. 5 U.S.C. 603, 604.

Rules that are exempt from notice and comment under the APA are also exempt from the RFA requirements, including the requirement to conduct a regulatory flexibility analysis, when among other things the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. Since this rule is exempt from the notice and comment requirements of the APA, Treasury is not required to conduct a regulatory flexibility analysis.

RULE TEXT

List of Subjects in 31 CFR Part 35

Executive compensation, State and Local Governments, Tribal Governments, Public health emergency.

Title 31—Money and Finance: Treasury

Part 35 - PANDEMIC RELIEF PROGRAMS

1. The authority citation for Part 35 is revised to read as follows:

Authority: 42 U.S.C. 802(f); 42 U.S.C. 803(f); 31 U.S.C. 321; Consolidated Appropriations Act, 2021 (Pub. L. 116-260), Division N, Title V, Subtitle B; Community Development Banking and Financial Institutions Act of 1994 (enacted as part of the Riegle Community and Regulatory Improvement Act of 1994 (Pub. L. 103-325)), as amended (12 U.S.C. 4701 et seq.), Section 104A; Pub. L. 117-2.

2. Revise the part heading as shown above.

3. Add Subpart A to read as follows:

Subpart A— CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

Sec.

35.1 Purpose.
35.2 Applicability.
35.3 Definitions.
35.4 Reservation of Authority, Reporting.
35.5 Use of Funds.
35.6 Eligible Uses.
35.7 Pensions.
35.8 Tax.
35.9. Compliance with Applicable Laws.
35.10. Recoupment.
35.11 Payments to States.
35.12. Distributions to Nonentitlement Units of Local Government and Units of General Local Government.

Authority: 42 U.S.C. 802(f); 42 U.S.C. 803(f)

§ 35.1 Purpose.

This part implements section 9901 of the American Rescue Plan Act (Subtitle M of Title IX of Public Law 117-2), which amends Title VI of the Social Security Act (42 U.S.C. 801 et seq.) by adding sections 602 and 603 to establish the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Fund.

§ 35.2 Applicability.

This part applies to States, territories, Tribal governments, metropolitan cities, nonentitlement units of local government, counties, and units of general local government that accept a payment or transfer of funds made under section 602 or 603 of the Social Security Act.

§ 35.3 Definitions.

Baseline means tax revenue of the recipient for its fiscal year ending in 2019, adjusted for inflation in each reporting year using the Bureau of Economic Analysis's Implicit Price Deflator for the gross domestic product of the United States.

County means a county, parish, or other equivalent county division (as defined by the Census Bureau).

Covered benefits include, but are not limited to, the costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (Federal and State), workers' compensation insurance, and Federal Insurance Contributions Act taxes (which includes Social Security and Medicare taxes).

Covered change means a change in law, regulation, or administrative interpretation. A change in law includes any final legislative or regulatory action, a new or changed administrative

interpretation, and the phase-in or taking effect of any statute or rule if the phase-in or taking effect was not prescribed prior to the start of the covered period.

Covered period means, with respect to a State, Territory, or Tribal government, the period that:

(1) Begins on March 3, 2021; and

(2) Ends on the last day of the fiscal year of such State, Territory, or Tribal government in which all funds received by the State, Territory, or Tribal government from a payment made under section 602 or 603 of the Social Security Act have been expended or returned to, or recovered by, the Secretary.

COVID-19 means the Coronavirus Disease 2019.

COVID-19 public health emergency means the period beginning on January 27, 2020 and until the termination of the national emergency concerning the COVID-19 outbreak declared pursuant to the National Emergencies Act (50 U.S.C. 1601 et. seq.).

Deposit means an extraordinary payment of an accrued, unfunded liability. The term deposit does not refer to routine contributions made by an employer to pension funds as part of the employer's obligations related to payroll, such as either a pension contribution consisting of a normal cost component related to current employees or a component addressing the amortization of unfunded liabilities calculated by reference to the employer's payroll costs.

Eligible employer means an employer of an eligible worker who performs essential work.

Eligible workers means workers needed to maintain continuity of operations of essential critical infrastructure sectors, including health care; emergency response; sanitation, disinfection, and cleaning work; maintenance work; grocery stores, restaurants, food production, and food delivery; pharmacy; biomedical research; behavioral health work; medical testing and

diagnostics; home- and community-based health care or assistance with activities of daily living; family or child care; social services work; public health work; vital services to Tribes; any work performed by an employee of a State, local, or Tribal government; educational work, school nutrition work, and other work required to operate a school facility; laundry work; elections work; solid waste or hazardous materials management, response, and cleanup work; work requiring physical interaction with patients; dental care work; transportation and warehousing; work at hotel and commercial lodging facilities that are used for COVID-19 mitigation and containment; work in a mortuary; work in critical clinical research, development, and testing necessary for COVID-19 response.

(1) With respect to a recipient that is a metropolitan city, nonentitlement unit of local government, or county, workers in any additional sectors as each chief executive officer of such recipient may designate as critical to protect the health and well-being of the residents of their metropolitan city, nonentitlement unit of local government, or county; or

(2) With respect to a State, Territory, or Tribal government, workers in any additional sectors as each Governor of a State or Territory, or each Tribal government, may designate as critical to protect the health and well-being of the residents of their State, Territory, or Tribal government.

Essential work means work that:

(1) Is not performed while teleworking from a residence; and

(2) Involves:

(i) Regular in-person interactions with patients, the public, or coworkers of the individual that is performing the work; or

(ii) Regular physical handling of items that were handled by, or are to be handled by patients, the public, or coworkers of the individual that is performing the work.

Funds means, with respect to a recipient, amounts provided to the recipient pursuant to a payment made under section 602(b) or 603(b) of the Social Security Act or transferred to the recipient pursuant to section 603(c)(4) of the Social Security Act.

General revenue means money that is received from tax revenue, current charges, and miscellaneous general revenue, excluding refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, agency or private trust transactions, and intergovernmental transfers from the Federal government, including transfers made pursuant to section 9901 of the American Rescue Plan Act. General revenue does not include revenues from utilities. Revenue from Tribal business enterprises must be included in general revenue.

Intergovernmental transfers means money received from other governments, including grants and shared taxes.

Metropolitan city has the meaning given that term in section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)) and includes cities that relinquish or defer their status as a metropolitan city for purposes of receiving allocations under section 106 of such Act (42 U.S.C. 5306) for fiscal year 2021.

Net reduction in total spending is measured as the State or Territory's total spending for a given reporting year excluding its spending of funds, subtracted from its total spending for its fiscal year ending in 2019, adjusted for inflation using the Bureau of Economic Analysis's Implicit Price Deflator for the gross domestic product of the United States.

Nonentitlement unit of local government means a "city," as that term is defined in section 102(a)(5) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(5)), that is not a metropolitan city.

Nonprofit means a nonprofit organization that is exempt from Federal income taxation and that is described in section 501(c)(3) of the Internal Revenue Code.

Obligation means an order placed for property and services and entering into contracts, subawards, and similar transactions that require payment.

Pension fund means a defined benefit plan and does not include a defined contribution plan.

Premium pay means an amount of up to $13 per hour that is paid to an eligible worker, in addition to wages or remuneration the eligible worker otherwise receives, for all work performed by the eligible worker during the COVID-19 public health emergency. Such amount may not exceed $25,000 with respect to any single eligible worker. Premium pay will be considered to be in addition to wages or remuneration the eligible worker otherwise receives if, as measured on an hourly rate, the premium pay is:

(1) With regard to work that the eligible worker previously performed, pay and remuneration equal to the sum of all wages and remuneration previously received plus up to $13 per hour with no reduction, substitution, offset, or other diminishment of the eligible worker's previous, current, or prospective wages or remuneration; or

(2) With regard to work that the eligible worker continues to perform, pay of up to $13 that is in addition to the eligible worker's regular rate of wages or remuneration, with no reduction, substitution, offset, or other diminishment of the workers' current and prospective wages or remuneration.

Qualified census tract has the same meaning given in 26 U.S.C. 42(d)(5)(B)(ii)(I).

Recipient means a State, Territory, Tribal government, metropolitan city, nonentitlement unit of local government, county, or unit of general local government that receives a payment made under section 602(b) or 603(b) of the Social Security Act or transfer pursuant to section 603(c)(4) of the Social Security Act.

Reporting year means a single year or partial year within the covered period, aligned to the current fiscal year of the State or Territory during the covered period.

Secretary means the Secretary of the Treasury.

State means each of the 50 States and the District of Columbia

Small business means a business concern or other organization that:

(1) Has no more than 500 employees, or if applicable, the size standard in number of employees established by the Administrator of the Small Business Administration for the industry in which the business concern or organization operates, and

(2) Is a small business concern as defined in section 3 of the Small Business Act (15 U.S.C. 632).

Tax Revenue means revenue received from a compulsory contribution that is exacted by a government for public purposes excluding refunds and corrections and, for purposes of § 35.8, intergovernmental transfers. Tax revenue does not include payments for a special privilege granted or service rendered, employee or employer assessments and contributions to finance retirement and social insurance trust systems, or special assessments to pay for capital improvements.

Territory means the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa.

Tribal enterprise means a business concern:

(1) That is wholly owned by one or more Tribal governments, or by a corporation that is wholly owned by one or more Tribal governments; or

(2) That is owned in part by one or more Tribal governments, or by a corporation that is wholly owned by one or more Tribal governments, if all other owners are either United States citizens or small business concerns, as these terms are used and consistent with the definitions in 15 U.S.C. 657a(b)(2)(D).

Tribal government means the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published on January 29, 2021, pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

Unemployment rate means the U-3 unemployment rate provided by the Bureau of Labor Statistics as part of the Local Area Unemployment Statistics program, measured as total unemployment as a percentage of the civilian labor force.

Unemployment trust fund means an unemployment trust fund established under section 904 of the Social Security Act (42 U.S.C. 1104).

Unit of general local government has the meaning given to that term in section 102(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(1)).

Unserved and underserved households or businesses means one or more households or businesses that are not currently served by a wireline connection that reliably delivers at least 25 Mbps download speed and 3 Mbps of upload speed.

§ 35.4 Reservation of Authority, Reporting.

(a) *Reservation of authority.* Nothing in this part shall limit the authority of the Secretary to take action to enforce conditions or violations of law, including actions necessary to prevent evasions of this subpart.

(b) *Extensions or accelerations of timing.* The Secretary may extend or accelerate any deadline or compliance date of this part, including reporting requirements that implement this subpart, if the Secretary determines that such extension or acceleration is appropriate. In determining whether an extension or acceleration is appropriate, the Secretary will consider the period of time that would be extended or accelerated and how the modified timeline would facilitate compliance with this subpart.

(c) *Reporting and requests for other information.* During the covered period, recipients shall provide to the Secretary periodic reports providing detailed accounting of the uses of funds, all modifications to a State or Territory's tax revenue sources, and such other information as the Secretary may require for the administration of this section. In addition to regular reporting requirements, the Secretary may request other additional information as may be necessary or appropriate, including as may be necessary to prevent evasions of the requirements of this subpart. False statements or claims made to the Secretary may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in Federal awards or contracts, and/or any other remedy available by law.

§ 35.5 Use of funds.

(a) *In General.* A recipient may only use funds to cover costs incurred during the period beginning March 3, 2021, and ending December 31, 2024, for one or more of the purposes enumerated in sections 602(c)(1) and 603(c)(1) of the Social Security Act, as applicable,

including those enumerated in section § 35.6 of this subpart, subject to the restrictions set forth in sections 602(c)(2) and 603(c)(2) of the Social Security Act, as applicable.

(b) *Costs incurred.* A cost shall be considered to have been incurred for purposes of paragraph (a) of this section if the recipient has incurred an obligation with respect to such cost by December 31, 2024.

(c) *Return of funds.* A recipient must return any funds not obligated by December 31, 2024, and any funds not expended to cover such obligations by December 31, 2026.

§ 35.6 Eligible uses.

(a) *In General.* Subject to §§ 35.7 and 35.8 of this subpart, a recipient may use funds for one or more of the purposes described in paragraphs (b)-(e) of this section

(b) *Responding to the public health emergency or its negative economic impacts.* A recipient may use funds to respond to the public health emergency or its negative economic impacts, including for one or more of the following purposes:

(1) *COVID-19 response and prevention.* Expenditures for the mitigation and prevention of COVID-19, including:

(i) Expenses related to COVID-19 vaccination programs and sites, including staffing, acquisition of equipment or supplies, facilities costs, and information technology or other administrative expenses;

(ii) COVID–19-related expenses of public hospitals, clinics, and similar facilities;

(iii) COVID-19 related expenses in congregate living facilities, including skilled nursing facilities, long-term care facilities, incarceration settings, homeless shelters, residential foster care facilities, residential behavioral health treatment, and other group living facilities;

(iv) Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs and other capital investments in public facilities to meet COVID-19-related operational needs;

(v) Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs and other capital investments in public facilities to meet COVID-19-related operational needs;

(vi) Costs of providing COVID-19 testing and monitoring, contact tracing, and monitoring of case trends and genomic sequencing for variants;

(vii) Emergency medical response expenses, including emergency medical transportation, related to COVID-19;

(viii) Expenses for establishing and operating public telemedicine capabilities for COVID-19-related treatment;

(ix) Expenses for communication related to COVID-19 vaccination programs and communication or enforcement by recipients of public health orders related to COVID-19;

(x) Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment;

(xi) Expenses for disinfection of public areas and other facilities in response to the COVID-19 public health emergency;

(xii) Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety;

(xiii) Expenses for quarantining or isolation of individuals;

(xiv) Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions;

(xv) Expenses for treatment of the long-term symptoms or effects of COVID-19, including post-intensive care syndrome;

(xvi) Expenses for the improvement of ventilation systems in congregate settings, public health facilities, or other public facilities;

(xvii) Expenses related to establishing or enhancing public health data systems; and

(xviii) Mental health treatment, substance misuse treatment, and other behavioral health services.

(2) *Public Health and Safety Staff.* Payroll and covered benefit expenses for public safety, public health, health care, human services, and similar employees to the extent that the employee's time is spent mitigating or responding to the COVID-19 public health emergency.

(3) *Hiring State and Local Government Staff.* Payroll, covered benefit, and other costs associated with the recipient increasing the number of its employees up to the number of employees that it employed on January 27, 2020.

(4) *Assistance to Unemployed Workers.* Assistance, including job training, for individuals who want and are available for work, including those who have looked for work sometime in the past 12 months or who are employed part time but who want and are available for full-time work;

(5) *Contributions to State Unemployment Insurance Trust Funds.* Contributions to an Unemployment Trust Fund up to the level required to restore the Unemployment Trust Fund to its balance on January 27, 2020 or to pay back advances received under Title XII of the Social Security Act (42 U.S.C. 1321) for the payment of benefits between January 27, 2020 and [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER];

(6) *Small Businesses.* Assistance to small businesses, including loans, grants, in-kind assistance, technical assistance or other services, that responds to the negative economic impacts of the COVID-19 public health emergency;

(7) *Nonprofits.* Assistance to nonprofit organizations, including loans, grants, in-kind assistance, technical assistance or other services, that responds to the negative economic impacts of the COVID-19 public health emergency;

(8) *Assistance to Households.* Assistance programs, including cash assistance programs, that respond to the COVID-19 public health emergency;

(9) *Aid to Impacted Industries.* Aid to tourism, travel, hospitality, and other impacted industries that responds to the negative economic impacts of the COVID-19 public health emergency;

(10) *Expenses to Improve Efficacy of Public Health or Economic Relief Programs.* Administrative costs associated with the recipient's COVID-19 public health emergency assistance programs, including services responding to the COVID-19 public health emergency or its negative economic impacts, that are not federally funded.

(11) *Survivor's Benefits.* Benefits for the surviving family members of individuals who have died from COVID-19, including cash assistance to widows, widowers, or dependents of individuals who died of COVID-19;

(12) *Disproportionately Impacted Populations and Communities.* A program, service, or other assistance that is provided in a Qualified Census Tract, that is provided to households and populations living in a Qualified Census Tract, that is provided by a Tribal government, or that is provided to other households, businesses, or populations disproportionately impacted by the COVID-19 public health emergency, such as:

(i) Programs or services that facilitate access to health and social services, including:

(A) Assistance accessing or applying for public benefits or services;

(B) Remediation of lead paint or other lead hazards; and

(C) Community violence intervention programs;

(ii) Programs or services that address housing insecurity, lack of affordable housing, or homelessness, including:

(A) Supportive housing or other programs or services to improve access to stable, affordable housing among individuals who are homeless;

(B) Development of affordable housing to increase supply of affordable and high-quality living units; and

(C) Housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity and to reduce concentrated areas of low economic opportunity;

(iii) Programs or services that address or mitigate the impacts of the COVID-19 public health emergency on education, including:

(A) New or expanded early learning services;

(B) Assistance to high-poverty school districts to advance equitable funding across districts and geographies; and

(C) Educational and evidence-based services to address the academic, social, emotional, and mental health needs of students;

(iv) Programs or services that address or mitigate the impacts of the COVID-19 public health emergency on childhood health or welfare, including:

(A) New or expanded childcare;

(B) Programs to provide home visits by health professionals, parent educators, and social service professionals to individuals with young children to provide education and assistance for economic support, health needs, or child development; and

(C) Services for child welfare-involved families and foster youth to provide support and education on child development, positive parenting, coping skills, or recovery for mental health and substance use.

(c) *Providing Premium Pay to Eligible Workers.* A recipient may use funds to provide premium pay to eligible workers of the recipient who perform essential work or to provide grants to eligible employers, provided that any premium pay or grants provided under this paragraph (c) must respond to eligible workers performing essential work during the COVID-19 public health emergency. A recipient uses premium pay or grants provided under this paragraph (c) to respond to eligible workers performing essential work during the COVID-19 public health emergency if it prioritizes low- and moderate-income persons. The recipient must provide, whether for themselves or on behalf of a grantee, a written justification to the Secretary of how the premium pay or grant provided under this paragraph (c) responds to eligible workers performing essential work if the premium pay or grant would increase an eligible worker's total wages and remuneration above 150 percent of such eligible worker's residing State's average annual wage for all occupations or their residing county's average annual wage, whichever is higher.

(d) *Providing Government Services.* For the provision of government services to the extent of a reduction in the recipient's general revenue, calculated according to paragraphs (d)(1) and (d)(2).

(1) *Frequency.* A recipient must calculate the reduction in its general revenue using information as-of December 31, 2020, December 31, 2021, December 31, 2022, and December 31, 2023 (each, a calculation date) and following each calculation date.

(2) *Calculation.* A reduction in a recipient's general revenue equals:

$$Max\ \{[Base\ Year\ Revenue * (1 + Growth\ Adjustment)^{\left(\frac{n_t}{12}\right)}] - Actual\ General\ Revenue_t; 0\}$$

Where:

(i) Base Year Revenue is the recipient's general revenue for the most recent full fiscal year prior to the COVD-19 public health emergency;

(ii) Growth Adjustment is equal to the greater of 4.1 percent (or 0.041) and the recipient's average annual revenue growth over the three full fiscal years prior to the COVID-19 public health emergency.

(iii) n equals the number of months elapsed from the end of the base year to the calculation date.

(iv) Actual General Revenue is a recipient's actual general revenue collected during 12-month period ending on each calculation date;

(v) Subscript t denotes the specific calculation date.

(e) *To Make Necessary Investments in Infrastructure.* A recipient may use funds to make investments in:

(1) *Clean Water State Revolving Fund and Drinking Water State Revolving Fund investments.* Projects or activities of the type that would be eligible under section 603(c) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c)) or section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12); or,

(2) *Broadband.* Broadband infrastructure that is designed to provide service to unserved or underserved households and businesses and that is designed to, upon completion:

(A) Reliably meet or exceed symmetrical 100 Mbps download speed and upload speeds; or

(B) In cases where it is not practicable, because of the excessive cost of the project or geography or topography of the area to be served by the project, to provide service meeting the standards set forth in paragraph (e)(2)(A) of this section:

(i) Reliably meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed; and

(ii) Be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.

§ 35.7 Pensions.

A recipient may not use funds for deposit into any pension fund.

§ 35.8 Tax.

(a) *Restriction.* A State or Territory shall not use funds to either directly or indirectly offset a reduction in the net tax revenue of the State or Territory resulting from a covered change during the covered period.

(b) *Violation.* Treasury will consider a State or Territory to have used funds to offset a reduction in net tax revenue if, during a reporting year:

(1) *Covered Change.* The State or Territory has made a covered change that, either based on a reasonable statistical methodology to isolate the impact of the covered change in actual revenue or based on projections that use reasonable assumptions and do not incorporate the effects of macroeconomic growth to reduce or increase the projected impact of the covered

change, the State or Territory assesses has had or predicts to have the effect of reducing tax revenue relative to current law;

(2) *Exceeds the De Minimis Threshold.* The aggregate amount of the measured or predicted reductions in tax revenue caused by covered changes identified under paragraph (b)(1) of this section, in the aggregate, exceeds 1 percent of the State's or Territory's baseline;

(3) *Reduction in Net Tax Revenue.* The State or Territory reports a reduction in net tax revenue, measured as the difference between actual tax revenue and the State's or Territory's baseline, each measured as of the end of the reporting year; and

(4) *Consideration of Other Changes.* The aggregate amount of measured or predicted reductions in tax revenue caused by covered changes is greater than the sum of the following, in each case, as calculated for the reporting year:

(i) The aggregate amount of the expected increases in tax revenue caused by one or more covered changes that, either based on a reasonable statistical methodology to isolate the impact of the covered change in actual revenue or based on projections that use reasonable assumptions and do not incorporate the effects of macroeconomic growth to reduce or increase the projected impact of the covered change, the State or Territory assesses has had or predicts to have the effect of increasing tax revenue; and

(ii) Reductions in spending, up to the amount of the State's or Territory's net reduction in total spending, that are in:

(A) Departments, agencies, or authorities in which the State or Territory is not using funds; and

(B) Departments, agencies, or authorities in which the State or Territory is using funds, in an amount equal to the value of the spending cuts in those departments, agencies, or authorities, minus funds used.

(c) *Amount and Revenue Reduction Cap.* If a State or Territory is considered to be in violation pursuant to paragraph (b) of this section, the amount used in violation of paragraph (a) of this section is equal to the lesser of:

(1) The reduction in net tax revenue of the State or Territory for the reporting year, measured as the difference between the State's or Territory's baseline and its actual tax revenue, each measured as of the end of the reporting year; and,

(2) The aggregate amount of the reductions in tax revenues caused by covered changes identified in paragraph (b)(1) of this section, minus the sum of the amounts in identified in paragraphs (b)(4)(i)-(ii).

§ 35.9. Compliance with Applicable Laws.

A recipient must comply with all other applicable Federal statutes, regulations, and executive orders, and a recipient shall provide for compliance with the American Rescue Plan Act, this Subpart, and any interpretive guidance by other parties in any agreements it enters into with other parties relating to these funds.

§ 35.10. Recoupment.

(a) *Identification of Violations* – (1) *In general.* Any amount used in violation of §§ 35.6 or 35.7 of this subpart may be identified at any time prior to December 31, 2026.

(2) *Annual Reporting of Amounts of Violations.* On an annual basis, a recipient that is a State or Territory must calculate and report any amounts used in violation of § 35.8 of this subpart.

(b) *Calculation of Amounts Subject to Recoupment* – (1) *In general.* Except as provided in paragraph (b)(2), Treasury will calculate any amounts subject to recoupment resulting from a violation of §§ 35.6 or 35.7 of this subpart as the amounts used in violation of such restrictions.

(2) *Violations of Section 35.8.* Treasury will calculate any amounts subject to recoupment resulting from a violation of § 35.8 of this subpart, equal to the lesser of:

(i) The amount set forth in § 35.8(c) of this subpart; and,

(ii) The amount of funds received by such recipient.

(c) *Notice.* If Treasury calculates an amount subject to recoupment under paragraph (b) of this section, Treasury will provide the recipient a written notice of the amount subject to recoupment along with an explanation of such amounts.

(d) *Request for Reconsideration.* Unless Treasury extends the time period, within 60 calendar days of receipt of a notice of recoupment provided under paragraph (c) of this section, a recipient may submit a written request to Treasury requesting reconsideration of any amounts subject to recoupment under paragraph (b) of this section. To request reconsideration of any amounts subject to recoupment, a recipient must submit to Treasury a written request that includes:

(i) An explanation of why the recipient believes all or some of the amount should not be subject to recoupment; and

(ii) A discussion of supporting reasons, along with any additional information.

(e) *Final Amount Subject to Recoupment.* Unless Treasury extends the time period, within 60 calendar days of receipt of the recipient's request for reconsideration provided pursuant to paragraph (d) of this section, the recipient will be notified of the Secretary's decision to affirm, withdraw, or modify the notice of recoupment. Such notification will include an

explanation of the decision, including responses to the recipient's supporting reasons and consideration of additional information provided.

(f) *Repayment of Funds.* Unless Treasury extends the time period, a recipient shall repay to the Secretary any amounts subject to recoupment in accordance with instructions provided by Treasury:

(i) Within 120 calendar days of receipt of the notice of recoupment provided under paragraph (c) of this section, in the case of a recipient that does not submit a request for reconsideration in accordance with the requirements of paragraph (d) of this section, or

(ii) Within 120 calendar days of receipt of the Secretary's decision under paragraph (e) of this section, in the case of a recipient that submits a request for reconsideration in accordance with the requirements of paragraph (d) of this section.

§ 35.11 Payments to States.

(a) *In General.* With respect to any State or Territory that has an unemployment rate as of the date that it submits an initial certification for payment of funds pursuant to section 602(d)(1) of the Social Security Act that is less than two percentage points above its unemployment rate in February 2020, the Secretary will withhold 50 percent of the amount of funds allocated under section 602(b) of the Social Security Act to such State or territory until the date that is twelve months from the date such initial certification is provided to the Secretary.

(b) *Payment of Withheld Amount.* In order to receive the amount withheld under paragraph (a) of this section, the State or Territory must submit to the Secretary at least 30 days prior to the date referenced in paragraph (a) the following information:

(i) A certification, in the form provided by the Secretary, that such State or Territory requires the payment to carry out the activities specified in section 602(c) of the Social Security Act and will use the payment in compliance with section 602(c) of the Social Security Act; and,

(ii) Any reports required to be filed by that date pursuant to this part that have not yet been filed.

§ 35.12. Distributions to Nonentitlement Units of Local Government and Units of General Local Government.

(a) *Nonentitlement Units of Local Government.* Each State or Territory that receives a payment from Treasury pursuant to section 603(b)(2)(B) of the Social Security Act shall distribute the amount of the payment to nonentitlement units of government in such State or Territory in accordance with the requirements set forth in section 603(b)(2)(C) of the Social Security Act and without offsetting any debt owed by such nonentitlement units of local governments against such payments.

(b) *Budget Cap.* A State or Territory may not make a payment to a nonentitlement unit of local government pursuant to section 603(b)(2)(C) of the Social Security Act and paragraph (a) of this section in excess of the amount equal to 75 percent of the most recent budget for the nonentitlement unit of local government as of January 27, 2020. A State or Territory shall permit a nonentitlement unit of local government without a formal budget as of January 27, 2020, to provide a certification from an authorized officer of the nonentitlement unit of local government of its most recent annual expenditures as of January 27, 2020, and a State or Territory may rely on such certification for purposes of complying with this subsection.

(c) *Units of General Local Government.* Each State or Territory that receives a payment from Treasury pursuant to section 603(b)(3)(B)(ii) of the Social Security Act, in the case of an

amount to be paid to a county that is not a unit of general local government, shall distribute the amount of the payment to units of general local government within such county in accordance with the requirements set forth in section 603(b)(3)(B)(ii) of the Social Security Act and without offsetting any debt owed by such units of general local government against such payments.

(d) *Additional Conditions*. A State or Territory may not place additional conditions or requirements on distributions to nonentitlement units of local government or units of general local government beyond those required by section 603 of the Social Security Act or this subpart.

Dated:

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[ ]

Coronavirus State and Local Fiscal Recovery Funds

Frequently Asked Questions

AS OF JUNE 8, 2021

This document contains answers to frequently asked questions regarding the Coronavirus State and Local Fiscal Recovery Funds (CSFRF / CLFRF, or Fiscal Recovery Funds). Treasury will be updating this document periodically in response to questions received from stakeholders. Recipients and stakeholders should consult the Interim Final Rule for additional information.

- For overall information about the program, including information on requesting funding, please see https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments
- For general questions about CSFRF / CLFRF, please email SLFRP@treasury.gov
- Treasury is seeking comment on all aspects of the Interim Final Rule. Stakeholders are encouraged to submit comments electronically through the Federal eRulemaking Portal (https://www.regulations.gov/document/TREAS-DO-2021-0008-0002) on or before July 16, 2021. Please be advised that comments received will be part of the public record and subject to public disclosure. Do not disclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Questions added 5/27/21: 1.5, 1.6, 2.13, 2.14, 2.15, 3.9, 4.5, 4.6, 10.3, 10.4 (noted with "[5/27]")

Questions added 6/8/21: 2.16, 3.10, 3.11, 3.12, 4.7, 6.7, 8.2, 9.4, 9.5, 10.5 (noted with "[6/8]")

Answers to frequently asked questions on distribution of funds to non-entitlement units of local government (NEUs) can be found in this FAQ supplement, which is regularly updated.

1. Eligibility and Allocations

1.1. Which governments are eligible for funds?

The following governments are eligible:

- States and the District of Columbia
- Territories
- Tribal governments
- Counties
- Metropolitan cities
- Non-entitlement units, or smaller local governments

1.2. Which governments receive funds directly from Treasury?

Treasury will distribute funds directly to each eligible state, territory, metropolitan city, county, or Tribal government. Smaller local governments that are classified as non-entitlement units will receive funds through their applicable state government.

1.3. Are special-purpose units of government eligible to receive funds?

Special-purpose units of local government will not receive funding allocations; however, a state, territory, local, or Tribal government may transfer funds to a special-purpose unit of government. Special-purpose districts perform specific functions in the community, such as fire, water, sewer or mosquito abatement districts.

1.4. How are funds being allocated to Tribal governments, and how will Tribal governments find out their allocation amounts?

$20 billion of Fiscal Recovery Funds was reserved for Tribal governments. The American Rescue Plan Act specifies that $1 billion will be allocated evenly to all eligible Tribal governments. The remaining $19 billion will be distributed using an allocation methodology based on enrollment and employment.

There will be two payments to Tribal governments. Each Tribal government's first payment will include (i) an amount in respect of the $1 billion allocation that is to be divided equally among eligible Tribal governments and (ii) each Tribal government's pro rata share of the Enrollment Allocation. Tribal governments will be notified of their allocation amount and delivery of payment 4-5 days after completing request for funds in the Treasury Submission Portal. The deadline to make the initial request for funds is June 7, 2021.

In mid-June or shortly after completing the initial request for funds, Tribal governments will receive an email notification to re-enter the Treasury Submission Portal to confirm or amend their 2019 employment numbers that were submitted to the Department of the Treasury for the CARES Act's Coronavirus Relief Fund. The deadline to confirm employment numbers is June 21, 2021. Treasury will calculate each Tribal government's pro rata share of the Employment Allocation for those Tribal governments that confirmed or submitted amended employment numbers. In late-June, Treasury will communicate to Tribal governments the amount of their portion of the Employment Allocation and the anticipated date for the second payment.

1.5. My county is a unit of general local government with population under 50,000. Will my county receive funds directly from Treasury? [5/27]

Yes. All counties that are units of general local government will receive funds directly from Treasury and should apply via the online portal. The list of county allocations is available here.

1.6. My local government expected to be classified as a non-entitlement unit. Instead, it was classified as a metropolitan city. Why? [5/27]

The American Rescue Plan Act defines, for purposes of the Coronavirus Local Fiscal Recovery Fund (CLFRF), metropolitan cities to include those that are currently metropolitan cities under the Community Development Block Grant (CDBG) program but also those cities that relinquish or defer their status as a metropolitan city for purposes of the CDBG program. This would include, by way of example, cities that are principal cities of their metropolitan statistical area, even if their population is less than 50,000. In other words, a city that is eligible to be a metropolitan city under the CDBG program is eligible as a metropolitan city under the CLFRF, regardless of how that city has elected to participate in the CDBG program.

Unofficial allocation estimates produced by other organizations may have classified certain local governments as non-entitlement units of local government. However, based on the statutory definitions, some of these local governments should have been classified as metropolitan cities.

2. Eligible Uses – Responding to the Public Health Emergency / Negative Economic Impacts

2.1. What types of COVID-19 response, mitigation, and prevention activities are eligible?

A broad range of services are needed to contain COVID-19 and are eligible uses, including vaccination programs; medical care; testing; contact tracing; support for isolation or quarantine; supports for vulnerable populations to access medical or public health services; public health surveillance (e.g., monitoring case trends, genomic sequencing for variants); enforcement of public health orders; public communication efforts; enhancement to health care capacity, including through alternative care facilities; purchases of personal protective equipment; support for prevention, mitigation, or other services in congregate living facilities (e.g., nursing homes, incarceration settings, homeless shelters, group living facilities) and other key settings like schools; ventilation improvements in congregate settings, health care settings, or other key locations; enhancement of public health data systems; and other public health responses. Capital investments in public facilities to meet pandemic operational needs are also eligible, such as physical plant improvements to public hospitals and health clinics or adaptations to public buildings to implement COVID-19 mitigation tactics.

2.2. If a use of funds was allowable under the Coronavirus Relief Fund (CRF) to respond to the public health emergency, may recipients presume it is also allowable under CSFRF/CLFRF?

Generally, funding uses eligible under CRF as a response to the direct public health impacts of COVID-19 will continue to be eligible under CSFRF/CLFRF, with the following two exceptions: (1) the standard for eligibility of public health and safety

payrolls has been updated; and (2) expenses related to the issuance of tax-anticipation notes are not an eligible funding use.

2.3. If a use of funds is not explicitly permitted in the Interim Final Rule as a response to the public health emergency and its negative economic impacts, does that mean it is prohibited?

The Interim Final Rule contains a non-exclusive list of programs or services that may be funded as responding to COVID-19 or the negative economic impacts of the COVID-19 public health emergency, along with considerations for evaluating other potential uses of Fiscal Recovery Funds not explicitly listed. The Interim Final Rule also provides flexibility for recipients to use Fiscal Recovery Funds for programs or services that are not identified on these non-exclusive lists but which meet the objectives of section 602(c)(1)(A) or 603(c)(1)(A) by responding to the COVID-19 public health emergency with respect to COVID-19 or its negative economic impacts.

2.4. May recipients use funds to respond to the public health emergency and its negative economic impacts by replenishing state unemployment funds?

Consistent with the approach taken in the CRF, recipients may make deposits into the state account of the Unemployment Trust Fund up to the level needed to restore the pre-pandemic balances of such account as of January 27, 2020, or to pay back advances received for the payment of benefits between January 27, 2020 and the date when the Interim Final Rule is published in the Federal Register.

2.5. What types of services are eligible as responses to the negative economic impacts of the pandemic?

Eligible uses in this category include assistance to households; small businesses and non-profits; and aid to impacted industries.

Assistance to households includes, but is not limited to: food assistance; rent, mortgage, or utility assistance; counseling and legal aid to prevent eviction or homelessness; cash assistance; emergency assistance for burials, home repairs, weatherization, or other needs; internet access or digital literacy assistance; or job training to address negative economic or public health impacts experienced due to a worker's occupation or level of training.

Assistance to small business and non-profits includes, but is not limited to:

- loans or grants to mitigate financial hardship such as declines in revenues or impacts of periods of business closure, for example by supporting payroll and benefits costs, costs to retain employees, mortgage, rent, or utilities costs, and other operating costs;
- Loans, grants, or in-kind assistance to implement COVID-19 prevention or mitigation tactics, such as physical plant changes to enable social distancing,

enhanced cleaning efforts, barriers or partitions, or COVID-19 vaccination, testing, or contact tracing programs; and
- Technical assistance, counseling, or other services to assist with business planning needs

2.6. May recipients use funds to respond to the public health emergency and its negative economic impacts by providing direct cash transfers to households?

Yes, provided the recipient considers whether, and the extent to which, the household has experienced a negative economic impact from the pandemic. Additionally, cash transfers must be reasonably proportional to the negative economic impact they are intended to address. Cash transfers grossly in excess of the amount needed to address the negative economic impact identified by the recipient would not be considered to be a response to the COVID-19 public health emergency or its negative impacts. In particular, when considering appropriate size of permissible cash transfers made in response to the COVID-19 public health emergency, state, local, territorial, and Tribal governments may consider and take guidance from the per person amounts previously provided by the federal government in response to the COVID crisis.

2.7. May funds be used to reimburse recipients for costs incurred by state and local governments in responding to the public health emergency and its negative economic impacts prior to passage of the American Rescue Plan?

Use of Fiscal Recovery Funds is generally forward looking. The Interim Final Rule permits funds to be used to cover costs incurred beginning on March 3, 2021.

2.8. May recipients use funds for general economic development or workforce development?

Generally, not. Recipients must demonstrate that funding uses directly address a negative economic impact of the COVID-19 public health emergency, including funds used for economic or workforce development. For example, job training for unemployed workers may be used to address negative economic impacts of the public health emergency and be eligible.

2.9. How can recipients use funds to assist the travel, tourism, and hospitality industries?

Aid provided to tourism, travel, and hospitality industries should respond to the negative economic impacts of the pandemic. For example, a recipient may provide aid to support safe reopening of businesses in the tourism, travel and hospitality industries and to districts that were closed during the COVID-19 public health emergency, as well as aid a planned expansion or upgrade of tourism, travel and hospitality facilities delayed due to the pandemic.

Tribal development districts are considered the commercial centers for tribal hospitality, gaming, tourism and entertainment industries.

2.10. May recipients use funds to assist impacted industries other than travel, tourism, and hospitality?

Yes, provided that recipients consider the extent of the impact in such industries as compared to tourism, travel, and hospitality, the industries enumerated in the statute. For example, nationwide the leisure and hospitality industry has experienced an approximately 17 percent decline in employment and 24 percent decline in revenue, on net, due to the COVID-19 public health emergency. Recipients should also consider whether impacts were due to the COVID-19 pandemic, as opposed to longer-term economic or industrial trends unrelated to the pandemic.

Recipients should maintain records to support their assessment of how businesses or business districts receiving assistance were affected by the negative economic impacts of the pandemic and how the aid provided responds to these impacts.

2.11. How does the Interim Final Rule help address the disparate impact of COVID-19 on certain populations and geographies?

In recognition of the disproportionate impacts of the COVID-19 virus on health and economic outcomes in low-income and Native American communities, the Interim Final Rule identifies a broader range of services and programs that are considered to be in response to the public health emergency when provided in these communities. Specifically, Treasury will presume that certain types of services are eligible uses when provided in a Qualified Census Tract (QCT), to families living in QCTs, or when these services are provided by Tribal governments.

Recipients may also provide these services to other populations, households, or geographic areas disproportionately impacted by the pandemic. In identifying these disproportionately-impacted communities, recipients should be able to support their determination for how the pandemic disproportionately impacted the populations, households, or geographic areas to be served.

Eligible services include:

- Addressing health disparities and the social determinants of health, including: community health workers, public benefits navigators, remediation of lead paint or other lead hazards, and community violence intervention programs;

- Building stronger neighborhoods and communities, including: supportive housing and other services for individuals experiencing homelessness, development of affordable housing, and housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity;

- Addressing educational disparities exacerbated by COVID-19, including: early learning services, increasing resources for high-poverty school districts, educational services like tutoring or afterschool programs, and supports for students' social, emotional, and mental health needs; and

- Promoting healthy childhood environments, including: child care, home visiting programs for families with young children, and enhanced services for child welfare-involved families and foster youth.

2.12. May recipients use funds to pay for vaccine incentive programs (e.g., cash or in-kind transfers, lottery programs, or other incentives for individuals who get vaccinated)?

Yes. Under the Interim Final Rule, recipients may use Coronavirus State and Local Fiscal Recovery Funds to respond to the COVID-19 public health emergency, including expenses related to COVID-19 vaccination programs. See forthcoming 31 CFR 35.6(b)(1)(i). Programs that provide incentives reasonably expected to increase the number of people who choose to get vaccinated, or that motivate people to get vaccinated sooner than they otherwise would have, are an allowable use of funds so long as such costs are reasonably proportional to the expected public health benefit.

2.13. May recipients use funds to pay "back to work incentives" (e.g., cash payments for newly employed workers after a certain period of time on the job)? [5/27]

Yes. Under the Interim Final Rule, recipients may use Coronavirus State and Local Fiscal Recovery Funds to provide assistance to unemployed workers. See forthcoming 31 CFR 35.6(b)(4). This assistance can include job training or other efforts to accelerate rehiring and thus reduce unemployment, such as childcare assistance, assistance with transportation to and from a jobsite or interview, and incentives for newly employed workers.

2.14. The Coronavirus Relief Fund (CRF) included as an eligible use: "Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency." What has changed in CSFRF/CLFRF, and what type of documentation is required under CSFRF/CLFRF? [5/27]

Many of the expenses authorized under the Coronavirus Relief Fund are also eligible uses under the CSFRF/CLFRF. However, in the case of payroll expenses for public safety, public health, health care, human services, and similar employees (hereafter, public health and safety staff), the CSFRF/CLFRF does differ from the CRF. This change reflects the differences between the ARPA and CARES Act and recognizes that the response to the COVID-19 public health emergency has changed and will continue to change over time. In particular, funds may be used for payroll and covered benefits expenses for public safety, public health, health care, human services, and similar employees, including first responders, to the extent that the employee's time that is dedicated to responding to the COVID-19 public health emergency.

For administrative convenience, the recipient may consider a public health and safety employee to be entirely devoted to mitigating or responding to the COVID-19 public health emergency, and therefore fully covered, if the employee, or his or her operating unit or division, is primarily dedicated (e.g., more than half of the employee's time is dedicated) to responding to the COVID-19 public health emergency.

Recipients may use presumptions for assessing whether an employee, division, or operating unit is primarily dedicated to COVID-19 response. The recipient should maintain records to support its assessment, such as payroll records, attestations from supervisors or staff, or regular work product or correspondence demonstrating work on the COVID-19 response. Recipients need not routinely track staff hours. Recipients should periodically reassess their determinations.

2.15. What staff are included in "public safety, public health, health care, human services, and similar employees"? Would this include, for example, 911 operators, morgue staff, medical examiner staff, or EMS staff? [5/27]

As discussed in the Interim Final Rule, funds may be used for payroll and covered benefits expenses for public safety, public health, health care, human services, and similar employees, for the portion of the employee's time that is dedicated to responding to the COVID-19 public health emergency.

Public safety employees would include police officers (including state police officers), sheriffs and deputy sheriffs, firefighters, emergency medical responders, correctional and detention officers, and those who directly support such employees such as dispatchers and supervisory personnel. Public health employees would include employees involved in providing medical and other health services to patients and supervisory personnel, including medical staff assigned to schools, prisons, and other such institutions, and other support services essential for patient care (e.g., laboratory technicians, medical examiner or morgue staff) as well as employees of public health departments directly engaged in matters related to public health and related supervisory personnel. Human services staff include employees providing or administering social services; public benefits; child welfare services; and child, elder, or family care, as well as others.

2.16. May recipients use funds to establish a public jobs program? [6/8]

Yes. The Interim Final Rule permits a broad range of services to unemployed or underemployed workers and other individuals that suffered negative economic impacts from the pandemic. That can include public jobs programs, subsidized employment, combined education and on-the-job training programs, or job training to accelerate rehiring or address negative economic or public health impacts experienced due to a worker's occupation or level of training. The broad range of permitted services can also include other employment supports, such as childcare assistance or assistance with transportation to and from a jobsite or interview.

The Interim Final Rule includes as an eligible use re-hiring public sector staff up to the government's level of pre-pandemic employment. "Public sector staff" would not include individuals participating in a job training or subsidized employment program administered by the recipient.

3. Eligible Uses – Revenue Loss

3.1. How is revenue defined for the purpose of this provision?

The Interim Final Rule adopts a definition of "General Revenue" that is based on, but not identical, to the Census Bureau's concept of "General Revenue from Own Sources" in the Annual Survey of State and Local Government Finances.

General Revenue includes revenue from taxes, current charges, and miscellaneous general revenue. It excludes refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, agency or private trust transactions, and revenue generated by utilities and insurance trusts. General revenue also includes intergovernmental transfers between state and local governments, but excludes intergovernmental transfers from the Federal government, including Federal transfers made via a state to a locality pursuant to the CRF or the Fiscal Recovery Funds.

Tribal governments may include all revenue from Tribal enterprises and gaming operations in the definition of General Revenue.

3.2. Will revenue be calculated on an entity-wide basis or on a source-by-source basis (e.g. property tax, income tax, sales tax, etc.)?

Recipients should calculate revenue on an entity-wide basis. This approach minimizes the administrative burden for recipients, provides for greater consistency across recipients, and presents a more accurate representation of the net impact of the COVID- 19 public health emergency on a recipient's revenue, rather than relying on financial reporting prepared by each recipient, which vary in methodology used and which generally aggregates revenue by purpose rather than by source.

3.3. Does the definition of revenue include outside concessions that contract with a state or local government?

Recipients should classify revenue sources as they would if responding to the U.S. Census Bureau's Annual Survey of State and Local Government Finances. According to the Census Bureau's Government Finance and Employment Classification manual, the following is an example of current charges that would be included in a state or local government's general revenue from own sources: "Gross revenue of facilities operated by a government (swimming pools, recreational marinas and piers, golf courses, skating rinks, museums, zoos, etc.); auxiliary facilities in public recreation areas (camping areas,

refreshment stands, gift shops, etc.); lease or use fees from stadiums, auditoriums, and community and convention centers; and rentals from concessions at such facilities."

3.4. What is the time period for estimating revenue loss? Will revenue losses experienced prior to the passage of the Act be considered?

Recipients are permitted to calculate the extent of reduction in revenue as of four points in time: December 31, 2020; December 31, 2021; December 31, 2022; and December 31, 2023. This approach recognizes that some recipients may experience lagged effects of the pandemic on revenues.

Upon receiving Fiscal Recovery Fund payments, recipients may immediately calculate revenue loss for the period ending December 31, 2020.

3.5. What is the formula for calculating the reduction in revenue?

A reduction in a recipient's General Revenue equals:

$$\text{Max } \{[\text{Base Year Revenue}^* \ (1+\text{Growth Adjustment})^{\left(\frac{n_t}{12}\right)}] - \text{Actual General Revenue}_t \ ; 0\}$$

Where:

Base Year Revenue is General Revenue collected in the most recent full fiscal year prior to the COVD-19 public health emergency.

Growth Adjustment is equal to the greater of 4.1 percent (or 0.041) and the recipient's average annual revenue growth over the three full fiscal years prior to the COVID-19 public health emergency.

n equals the number of months elapsed from the end of the base year to the calculation date.

Actual General Revenue is a recipient's actual general revenue collected during 12-month period ending on each calculation date.

Subscript *t* denotes the calculation date.

3.6. Are recipients expected to demonstrate that reduction in revenue is due to the COVID-19 public health emergency?

In the Interim Final Rule, any diminution in actual revenue calculated using the formula above would be presumed to have been "due to" the COVID-19 public health emergency. This presumption is made for administrative ease and in recognition of the broad-based economic damage that the pandemic has wrought.

3.7. May recipients use pre-pandemic projections as a basis to estimate the reduction in revenue?

No. Treasury is disallowing the use of projections to ensure consistency and comparability across recipients and to streamline verification. However, in estimating the revenue shortfall using the formula above, recipients may incorporate their average annual revenue growth rate in the three full fiscal years prior to the public health emergency.

3.8. Once a recipient has identified a reduction in revenue, are there any restrictions on how recipients use funds up to the amount of the reduction?

The Interim Final Rule gives recipients broad latitude to use funds for the provision of government services to the extent of reduction in revenue. Government services can include, but are not limited to, maintenance of infrastructure or pay-go spending for building new infrastructure, including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure; health services; environmental remediation; school or educational services; and the provision of police, fire, and other public safety services.

However, paying interest or principal on outstanding debt, replenishing rainy day or other reserve funds, or paying settlements or judgments would not be considered provision of a government service, since these uses of funds do not entail direct provision of services to citizens. This restriction on paying interest or principal on any outstanding debt instrument, includes, for example, short-term revenue or tax anticipation notes, or paying fees or issuance costs associated with the issuance of new debt. In addition, the overarching restrictions on all program funds (e.g., restriction on pension deposits, restriction on using funds for non-federal match where barred by regulation or statute) would apply.

3.9. How do I know if a certain type of revenue should be counted for the purpose of computing revenue loss? [5/27]

As discussed in FAQ #3.1, the Interim Final Rule adopts a definition of "General Revenue" that is based on, but not identical, to the Census Bureau's concept of "General Revenue from Own Sources" in the Annual Survey of State and Local Government Finances.

Recipients should refer to the definition of "General Revenue" included in the Interim Final Rule. See forthcoming 31 CFR 35.3. If a recipient is unsure whether a particular revenue source is included in the Interim Final Rule's definition of "General Revenue," the recipient may consider the classification and instructions used to complete the Census Bureau's Annual Survey.

For example, parking fees would be classified as a Current Charge for the purpose of the Census Bureau's Annual Survey, and the Interim Final Rule's concept of "General

Revenue" includes all Current Charges. Therefore, parking fees would be included in the Interim Final Rule's concept of "General Revenue."

The Census Bureau's Government Finance and Employment Classification manual is available here.

3.10. In calculating revenue loss, are recipients required to use audited financials? [6/8]

Where audited data is not available, recipients are not required to obtain audited data. Treasury expects all information submitted to be complete and accurate. See 31 CFR 35.4(c).

3.11. In calculating revenue loss, should recipients use their own data, or Census data? [6/8]

Recipients should use their own data sources to calculate general revenue, and do not need to rely on published revenue data from the Census Bureau. Treasury acknowledges that due to differences in timing, data sources, and definitions, recipients' self-reported general revenue figures may differ somewhat from those published by the Census Bureau.

3.12. Should recipients calculate revenue loss on a cash basis or an accrual basis? [6/8]

Recipients may provide data on a cash, accrual, or modified accrual basis, provided that recipients are consistent in their choice of methodology throughout the covered period and until reporting is no longer required.

4. Eligible Uses – General

4.1. May recipients use funds to replenish a budget stabilization fund, rainy day fund, or similar reserve account?

No. Funds made available to respond to the public health emergency and its negative economic impacts are intended to help meet pandemic response needs and provide immediate stabilization for households and businesses. Contributions to rainy day funds and similar reserves funds would not address these needs or respond to the COVID-19 public health emergency, but would rather be savings for future spending needs. Similarly, funds made available for the provision of governmental services (to the extent of reduction in revenue) are intended to support direct provision of services to citizens. Contributions to rainy day funds are not considered provision of government services, since such expenses do not directly relate to the provision of government services.

4.2. May recipients use funds to invest in infrastructure other than water, sewer, and broadband projects (e.g. roads, public facilities)?

Under 602(c)(1)(C) or 603(c)(1)(C), recipients may use funds for maintenance of infrastructure or pay-go spending for building of new infrastructure as part of the general provision of government services, to the extent of the estimated reduction in revenue due to the public health emergency.

Under 602(c)(1)(A) or 603(c)(1)(A), a general infrastructure project typically would not be considered a response to the public health emergency and its negative economic impacts unless the project responds to a specific pandemic-related public health need (e.g., investments in facilities for the delivery of vaccines) or a specific negative economic impact of the pandemic (e.g., affordable housing in a Qualified Census Tract).

4.3. May recipients use funds to pay interest or principal on outstanding debt?

No. Expenses related to financing, including servicing or redeeming notes, would not address the needs of pandemic response or its negative economic impacts. Such expenses would also not be considered provision of government services, as these financing expenses do not directly provide services or aid to citizens.

This applies to paying interest or principal on any outstanding debt instrument, including, for example, short-term revenue or tax anticipation notes, or paying fees or issuance costs associated with the issuance of new debt.

4.4. May recipients use funds to satisfy nonfederal matching requirements under the Stafford Act? May recipients use funds to satisfy nonfederal matching requirements generally?

Fiscal Recovery Funds are subject to pre-existing limitations in other federal statutes and regulations and may not be used as non-federal match for other Federal programs whose statute or regulations bar the use of Federal funds to meet matching requirements. For example, expenses for the state share of Medicaid are not an eligible use. For information on FEMA programs, please see here.

4.5. Are governments required to submit proposed expenditures to Treasury for approval? [5/27]

No. Recipients are not required to submit planned expenditures for prior approval by Treasury. Recipients are subject to the requirements and guidelines for eligible uses contained in the Interim Final Rule.

4.6. How do I know if a specific use is eligible? [5/27]

Fiscal Recovery Funds must be used in one of the four eligible use categories specified in the American Rescue Plan Act and implemented in the Interim Final Rule:

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.

Recipients should consult Section II of the Interim Final Rule for additional information on eligible uses. For recipients evaluating potential uses under (a), the Interim Final Rule contains a non-exclusive list of programs or services that may be funded as responding to COVID-19 or the negative economic impacts of the COVID-19 public health emergency, along with considerations for evaluating other potential uses of Fiscal Recovery Funds not explicitly listed. See Section II of the Interim Final Rule for additional discussion.

For recipients evaluating potential uses under (c), the Interim Final Rule gives recipients broad latitude to use funds for the provision of government services to the extent of reduction in revenue. See FAQ #3.8 for additional discussion.

For recipients evaluating potential uses under (b) and (d), see Sections 5 and 6.

4.7. Do restrictions on using Coronavirus State and Local Fiscal Recovery Funds to cover costs incurred beginning on March 3, 2021 apply to costs incurred by the recipient (e.g., a State, local, territorial, or Tribal government) or to costs incurred by households, businesses, and individuals benefiting from assistance provided using Coronavirus State and Local Fiscal Recovery Funds? [6/8]

The Interim Final Rule permits funds to be used to cover costs incurred beginning on March 3, 2021. This limitation applies to costs incurred by the recipient (i.e., the state, local, territorial, or Tribal government receiving funds). However, recipients may use Coronavirus State and Local Fiscal Recovery Funds to provide assistance to households, businesses, and individuals within the eligible use categories described in the Interim Final Rule for economic harms experienced by those households, businesses, and individuals prior to March 3, 2021. For example,

- Public Health/Negative Economic Impacts – Recipients may use Coronavirus State and Local Fiscal Recovery Funds to provide assistance to households – such as rent, mortgage, or utility assistance – for economic harms experienced or costs incurred by the household prior to March 3, 2021 (e.g., rental arrears from preceding months), provided that the cost of providing assistance to the household was not incurred by the recipient prior to March 3, 2021.

- Premium Pay – Recipients may provide premium pay retrospectively for work performed at any time since the start of the COVID-19 public health emergency. Such premium pay must be "in addition to" wages and remuneration already received and the obligation to provide such pay must not have been incurred by the recipient prior to March 3, 2021.
- Revenue Loss – The Interim Final Rule gives recipients broad latitude to use funds for the provision of government services to the extent of reduction in revenue. The calculation of lost revenue begins with the recipient's revenue in the last full fiscal year prior to the COVID-19 public health emergency and includes the 12-month period ending December 31, 2020. However, use of funds for government services must be forward looking for costs incurred by the recipient after March 3, 2021.
- Investments in Water, Sewer, and Broadband – Recipients may use Coronavirus State and Local Fiscal Recovery Funds to make necessary investments in water, sewer, and broadband. See FAQ Section 6. Recipients may use Coronavirus State and Local Fiscal Recovery Funds to cover costs incurred for eligible projects planned or started prior to March 3, 2021, provided that the project costs covered by the Coronavirus State and Local Fiscal Recovery Funds were incurred after March 3, 2021.

5. Eligible Uses – Premium Pay

5.1. What criteria should recipients use in identifying essential workers to receive premium pay?

Essential workers are those in critical infrastructure sectors who regularly perform in-person work, interact with others at work, or physically handle items handled by others.

Critical infrastructure sectors include healthcare, education and childcare, transportation, sanitation, grocery and food production, and public health and safety, among others, as provided in the Interim Final Rule. Governments receiving Fiscal Recovery Funds have the discretion to add additional sectors to this list, so long as the sectors are considered critical to protect the health and well-being of residents.

The Interim Final Rule emphasizes the need for recipients to prioritize premium pay for lower income workers. Premium pay that would increase a worker's total pay above 150% of the greater of the state or county average annual wage requires specific justification for how it responds to the needs of these workers.

5.2. What criteria should recipients use in identifying third-party employers to receive grants for the purpose of providing premium pay to essential workers?

Any third-party employers of essential workers are eligible. Third-party contractors who employ essential workers in eligible sectors are also eligible for grants to provide

premium pay. Selection of third-party employers and contractors who receive grants is at the discretion of recipients.

To ensure any grants respond to the needs of essential workers and are made in a fair and transparent manner, the rule imposes some additional reporting requirements for grants to third-party employers, including the public disclosure of grants provided.

5.3. May recipients provide premium pay retroactively for work already performed?

Yes. Treasury encourages recipients to consider providing premium pay retroactively for work performed during the pandemic, recognizing that many essential workers have not yet received additional compensation for their service during the pandemic.

6. Eligible Uses – Water, Sewer, and Broadband Infrastructure

6.1. What types of water and sewer projects are eligible uses of funds?

The Interim Final Rule generally aligns eligible uses of the Funds with the wide range of types or categories of projects that would be eligible to receive financial assistance through the Environmental Protection Agency's Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF).

Under the DWSRF, categories of eligible projects include: treatment, transmission and distribution (including lead service line replacement), source rehabilitation and decontamination, storage, consolidation, and new systems development.

Under the CWSRF, categories of eligible projects include: construction of publicly-owned treatment works, nonpoint source pollution management, national estuary program projects, decentralized wastewater treatment systems, stormwater systems, water conservation, efficiency, and reuse measures, watershed pilot projects, energy efficiency measures for publicly-owned treatment works, water reuse projects, security measures at publicly-owned treatment works, and technical assistance to ensure compliance with the Clean Water Act.

As mentioned in the Interim Final Rule, eligible projects under the DWSRF and CWSRF support efforts to address climate change, as well as to meet cybersecurity needs to protect water and sewer infrastructure. Given the lifelong impacts of lead exposure for children, and the widespread nature of lead service lines, Treasury also encourages recipients to consider projects to replace lead service lines.

6.2. May construction on eligible water, sewer, or broadband infrastructure projects continue past December 31, 2024, assuming funds have been obligated prior to that date?

Yes. Treasury is interpreting the requirement that costs be incurred by December 31, 2024 to only require that recipients have obligated the funds by such date. The period of performance will run until December 31, 2026, which will provide recipients a reasonable amount of time to complete projects funded with Fiscal Recovery Funds.

6.3. May recipients use funds as a non-federal match for the Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF)?

Recipients may not use funds as a state match for the CWSRF and DWSRF due to prohibitions in utilizing federal funds as a state match in the authorizing statutes and regulations of the CWSRF and DWSRF.

6.4. Does the National Environmental Policy Act (NEPA) apply to eligible infrastructure projects?

NEPA does not apply to Treasury's administration of the Funds. Projects supported with payments from the Funds may still be subject to NEPA review if they are also funded by other federal financial assistance programs.

6.5. What types of broadband projects are eligible?

The Interim Final Rule requires eligible projects to reliably deliver minimum speeds of 100 Mbps download and 100 Mbps upload. In cases where it is impracticable due to geography, topography, or financial cost to meet those standards, projects must reliably deliver at least 100 Mbps download speed, at least 20 Mbps upload speed, and be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.

Projects must also be designed to serve unserved or underserved households and businesses, defined as those that are not currently served by a wireline connection that reliably delivers at least 25 Mbps download speed and 3 Mbps of upload speed.

6.6. For broadband investments, may recipients use funds for related programs such as cybersecurity or digital literacy training?

Yes. Recipients may use funds to provide assistance to households facing negative economic impacts due to Covid-19, including digital literacy training and other programs that promote access to the Internet. Recipients may also use funds for modernization of cybersecurity, including hardware, software, and protection of critical infrastructure, as part of provision of government services up to the amount of revenue lost due to the public health emergency.

6.7. How do I know if a water, sewer, or broadband project is an eligible use of funds? Do I need pre-approval? [6/8]

Recipients do not need approval from Treasury to determine whether an investment in a water, sewer, or broadband project is eligible under CSFRF/CLFRF. Each recipient

should review the Interim Final Rule (IFR), along with the preamble to the Interim Final Rule, in order to make its own assessment of whether its intended project meets the eligibility criteria in the IFR. A recipient that makes its own determination that a project meets the eligibility criteria as outlined in the IFR may pursue the project as a CSFRF/CLFRF project without pre-approval from Treasury. Local government recipients similarly do not need state approval to determine that a project is eligible under CSFRF/CLFRF. However, recipients should be cognizant of other federal or state laws or regulations that may apply to construction projects independent of CSFRF/CLFRF funding conditions and that may require pre-approval.

For water and sewer projects, the IFR refers to the EPA Drinking Water and Clean Water State Revolving Funds (SRFs) for the categories of projects and activities that are eligible for funding. Recipients should look at the relevant federal statutes, regulations, and guidance issued by the EPA to determine whether a water or sewer project is eligible. Of note, the IFR does not incorporate any other requirements contained in the federal statutes governing the SRFs or any conditions or requirements that individual states may place on their use of SRFs.

7. Non-Entitlement Units (NEUs)

Answers to frequently asked questions on distribution of funds to NEUs can be found in this FAQ supplement, which is regularly updated.

8. Ineligible Uses

8.1. What is meant by a pension "deposit"? Can governments use funds for routine pension contributions for employees whose payroll and covered benefits are eligible expenses?

Treasury interprets "deposit" in this context to refer to an extraordinary payment into a pension fund for the purpose of reducing an accrued, unfunded liability. More specifically, the interim final rule does not permit this assistance to be used to make a payment into a pension fund if both: (1) the payment reduces a liability incurred prior to the start of the COVID-19 public health emergency, and (2) the payment occurs outside the recipient's regular timing for making such payments.

Under this interpretation, a "deposit" is distinct from a "payroll contribution," which occurs when employers make payments into pension funds on regular intervals, with contribution amounts based on a pre-determined percentage of employees' wages and salaries. In general, if an employee's wages and salaries are an eligible use of Fiscal Recovery Funds, recipients may treat the employee's covered benefits as an eligible use of Fiscal Recovery Funds.

8.2. May recipients use Fiscal Recovery Funds to fund Other Post-Employment Benefits (OPEB)? [6/8]

OPEB refers to benefits other than pensions (see, e.g., Governmental Accounting Standards Board, "Other Post-Employment Benefits"). Treasury has determined that Sections 602(c)(2)(B) and 603(c)(2), which refer only to pensions, do not prohibit CSFRF/CLFRF recipients from funding OPEB. Recipients of either the CSFRF/CLFRF may use funds for eligible uses, and a recipient seeking to use CSFRF/CLFRF funds for OPEB contributions would need to justify those contributions under one of the four eligible use categories.

9. Reporting

9.1. What records must be kept by governments receiving funds?

Financial records and supporting documents related to the award must be retained for a period of five years after all funds have been expended or returned to Treasury, whichever is later. This includes those which demonstrate the award funds were used for eligible purposes in accordance with the ARPA, Treasury's regulations implementing those sections, and Treasury's guidance on eligible uses of funds.

9.2. What reporting will be required, and when will the first report be due?

Recipients will be required to submit an interim report, quarterly project and expenditure reports, and annual recovery plan performance reports as specified below, regarding their utilization of Coronavirus State and Local Fiscal Recovery Funds.

Interim reports: States (defined to include the District of Columbia), territories, metropolitan cities, counties, and Tribal governments will be required to submit one interim report. The interim report will include a recipient's expenditures by category at the summary level and for states, information related to distributions to non-entitlement units of local government must also be included in the interim report. The interim report will cover activity from the date of award to July 31, 2021 and must be submitted to Treasury by August 31, 2021. Non-entitlement units of local government are not required to submit an interim report.

Quarterly Project and Expenditure reports: State (defined to include the District of Columbia), territorial, metropolitan city, county, and Tribal governments will be required to submit quarterly project and expenditure reports. This report will include financial data, information on contracts and subawards over $50,000, types of projects funded, and other information regarding a recipient's utilization of award funds. Reports will be required quarterly with the exception of non-entitlement units, which will report annually. An interim report is due on August 31, 2021. The reports will include the same general data as those submitted by recipients of the Coronavirus Relief Fund, with some modifications to expenditure categories and the addition of data elements related to

specific eligible uses. The initial quarterly Project and Expenditure report will cover two calendar quarters from the date of award to September 30, 2021 and must be submitted to Treasury by October 31, 2021. The subsequent quarterly reports will cover one calendar quarter and must be submitted to Treasury within 30 days after the end of each calendar quarter.

Non-entitlement units of local government will be required to submit the project and expenditure report annually. The initial annual Project and Expenditure report for non-entitlement units of local government will cover activity from the date of award to September 30, 2021 and must be submitted to Treasury by October 31, 2021. The subsequent annual reports must be submitted to Treasury by October 31 each year.

Recovery Plan Performance reports: States (defined to include the District of Columbia), territories, metropolitan cities, and counties with a population that exceeds 250,000 residents will also be required to submit an annual recovery plan performance report to Treasury. This report will include descriptions of the projects funded and information on the performance indicators and objectives of each award, helping local residents understand how their governments are using the substantial resources provided by Coronavirus State and Local Fiscal Recovery Funds program. The initial recovery plan performance report will cover activity from date of award to July 31, 2021 and must be submitted to Treasury by August 31, 2021. Thereafter, the recovery plan performance reports will cover a 12-month period and recipients will be required to submit the report to Treasury within 30 days after the end of the 12-month period. The second Recovery Plan Performance report will cover the period from July 1, 2021 to June 30, 2022 and must be submitted to Treasury by July 31, 2022. Each annual recovery plan performance report must be posted on the public-facing website of the recipient. Local governments with fewer than 250,000 residents, Tribal governments, and non-entitlement units of local government are not required to develop a Recovery Plan Performance report.

Treasury will provide further guidance and instructions on the reporting requirements for program at a later date.

9.3. What provisions of the Uniform Guidance for grants apply to these funds? Will the Single Audit requirements apply?

Most of the provisions of the Uniform Guidance (2 CFR Part 200) apply to this program, including the Cost Principles and Single Audit Act requirements. Recipients should refer to the Assistance Listing for detail on the specific provisions of the Uniform Guidance that do not apply to this program. The Assistance Listing will be available on beta.SAM.gov.

9.4. Once a recipient has identified a reduction in revenue, how will Treasury track use of funds for the provision of government services? [6/8]

The ARPA establishes four categories of eligible uses and further restrictions on the use of funds to ensure that Fiscal Recovery Funds are used within the four eligible use

categories. The Interim Final Rule implements these restrictions, including the scope of the eligible use categories and further restrictions on tax cuts and deposits into pensions. Reporting requirements will align with this structure.

Consistent with the broad latitude provided to recipients to use funds for government services to the extent of the reduction in revenue, recipients will be required to submit a description of services provided. As discussed in IFR, these services can include a broad range of services but may not be used directly for pension deposits, contributions to reserve funds, or debt service. Recipients may use sources of funding other than Fiscal Recovery Funds to make deposits to pension funds, contribute to reserve funds, and pay debt service, including during the period of performance for the Fiscal Recovery Fund award.

For recipients using Fiscal Recovery Funds to provide government services to the extent of reduction in revenue, the description of government services reported to Treasury may be narrative or in another form, and recipients are encouraged to report based on their existing budget processes and to minimize administrative burden. For example, a recipient with $100 in revenue replacement funds available could indicate that $50 were used for personnel costs and $50 were used for pay-go building of sidewalk infrastructure.

In addition to describing the government services provided to the extent of reduction in revenue, all recipients will also be required to indicate that Fiscal Recovery Funds are not used directly to make a deposit in a pension fund. Further, recipients subject to the tax offset provision will be required to provide information necessary to implement the Interim Final Rule, as described in the Interim Final Rule. Treasury does not anticipate requiring other types of reporting or recordkeeping on spending in pensions, debt service, or contributions to reserve funds.

These requirements will be further detailed in forthcoming guidance on reporting requirements for the Fiscal Recovery Funds.

9.5. What is the Assistance Listing and Catalog of Federal Domestic Assistance (CFDA) number for the program? [6/8]

The Assistance Listing for the Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) was published May 28, 2021 on SAM.gov. This includes the final CFDA Number for the program, 21.027.

The assistance listing includes helpful information including program purpose, statutory authority, eligibility requirements, and compliance requirements for recipients. The CFDA number is the unique 5-digit code for each type of federal assistance, and can be used to search for program information, including funding opportunities, spending on usaspending.gov, or audit results through the Federal Audit Clearinghouse.

To expedite payments and meet statutory timelines, Treasury issued initial payments under an existing CFDA number. If you have already received funds or captured the initial CFDA number in your records, please update your systems and reporting to reflect the final CFDA number 21.027. **Recipients must use the final CFDA number for all financial accounting, audits, subawards, and associated program reporting requirements.**

To ensure public trust, Treasury expects all recipients to serve as strong stewards of these funds. This includes ensuring funds are used for intended purposes and recipients have in place effective financial management, internal controls, and reporting for transparency and accountability.

Please see Treasury's Interim Final Rule for more information. Further guidance on recipient compliance and reporting responsibilities is forthcoming.

10. Miscellaneous

10.1. May governments retain assets purchased with Fiscal Recovery Funds? If so, what rules apply to the proceeds of disposition or sale of such assets?

Yes, if the purchase of the asset was consistent with the limitations on the eligible use of funds. If such assets are disposed of prior to December 31, 2024, the proceeds would be subject to the restrictions on the eligible use of payments.

10.2. Can recipients use funds for administrative purposes?

Recipients may use funds to cover the portion of payroll and benefits of employees corresponding to time spent on administrative work necessary due to the COVID–19 public health emergency and its negative economic impacts. This includes, but is not limited to, costs related to disbursing payments of Fiscal Recovery Funds and managing new grant programs established using Fiscal Recovery Funds.

10.3. Are recipients required to remit interest earned on CSFRF/CLFRF payments made by Treasury? [5/27]

No. CSFRF/CLFRF payments made by Treasury to states, territories, and the District of Columbia are not subject to the requirement of the Cash Management Improvement Act and Treasury's implementing regulations at 31 CFR part 205 to remit interest to Treasury. CSFRF/CLFRF payments made by Treasury to local governments and Tribes are not subject to the requirement of 2 CFR 200.305(b)(8)–(9) to maintain balances in an interest-bearing account and remit payments to Treasury.

10.4. Is there a deadline to apply for funds? [5/27]

The Interim Final Rule requires that costs be incurred by December 31, 2024. Eligible recipients are encouraged to apply as soon as possible. For recipients other than Tribal governments, there is not a specific application deadline.

Tribal governments do have deadlines to complete the application process and should visit www.treasury.gov/SLFRPTribal for guidance on applicable deadlines.

10.5. May recipients use funds to cover the costs of consultants to assist with managing and administering the funds? [6/8]

Yes. Recipients may use funds for administering the CSFRF/CLFRF program, including costs of consultants to support effective management and oversight, including consultation for ensuring compliance with legal, regulatory, and other requirements.

11. Operations

11.1. How do I know if my entity is eligible?

The Coronavirus State and Local Fiscal Recovery Funds American Rescue Plan Act of 2021 set forth the jurisdictions eligible to receive funds under the program, which are:

- States and the District of Columbia
- Territories
- Tribal governments
- Counties
- Metropolitan cities (typically, but not always, those with populations over 50,000)
- Non-entitlement units of local government, or smaller local governments (typically, but not always, those with populations under 50,000)

11.2. How does an eligible entity request payment?

Eligible entities (other than non-entitlement units) must submit their information to the Treasury Submission Portal. Please visit the **Coronavirus State and Local Fiscal Recovery Fund website** for more information on the submission process.

11.3. I cannot log into the Treasury Submission Portal or am having trouble navigating it. Who can help me?

If you have questions about the Treasury Submission Portal or for technical support, please email covidreliefitsupport@treasury.gov.

11.4. What do I need to do to receive my payment?

All eligible payees are required to have a DUNS Number previously issued by Dun & Bradstreet (https://www.dnb.com/).

All eligible payees are also required to have an active registration with the System for Award Management (SAM) (https://www.sam.gov).

And eligible payees must have a bank account enabled for Automated Clearing House (ACH) direct deposit. Payees with a Wire account are encouraged to provide that information as well.

More information on these and all program pre-submission requirements can be found on the **Coronavirus State and Local Fiscal Recovery Fund website.**

11.5. Why is Treasury employing id.me for the Treasury Submission Portal?

ID.me is a trusted technology partner to multiple government agencies and healthcare providers. It provides secure digital identity verification to those government agencies and healthcare providers to make sure you're you – and not someone pretending to be you – when you request access to online services. All personally identifiable information provided to ID.me is encrypted and disclosed only with the express consent of the user. Please refer to ID.me Contact Support for assistance with your ID.me account. Their support website is https://help.id.me.

11.6. Why is an entity not on the list of eligible entities in Treasury Submission Portal?

The ARP statute lays out which governments are eligible for payments. The list of entities within the Treasury Submission Portal includes entities eligible to receive a direct payment of funds from Treasury, which include states (defined to include the District of Columbia), territories, Tribal governments, counties, and metropolitan cities.

Eligible non-entitlement units of local government will receive a distribution of funds from their respective state government and should not submit information to the Treasury Submission Portal.

If you believe an entity has been mistakenly left off the eligible entity list, please email SLFRP@treasury.gov.

11.7. What is an Authorized Representative?

An Authorized Representative is an individual with legal authority to bind the government entity (e.g., the Chief Executive Officer of the government entity). An Authorized Representative must sign the Acceptance of Award terms for it to be valid.

11.8. How does a Tribal government determine their allocation?

Tribal governments will receive information about their allocation when the submission to the Treasury Submission Portal is confirmed to be complete and accurate.

11.9. How do I know the status of my request for funds (submission)?

Entities can check the status of their submission at any time by logging into Treasury Submission Portal.

11.10. My Treasury Submission Portal submission requires additional information/correction. What is the process for that?

If your Authorized Representative has not yet signed the award terms, you can edit your submission with in the into Treasury Submission Portal. If your Authorized Representative has signed the award terms, please email SLFRP@treasury.gov to request assistance with updating your information.

11.11. My request for funds was denied. How do I find out why it was denied or appeal the decision?

Please check to ensure that no one else from your entity has applied, causing a duplicate submission. Please also review the list of all eligible entities on the **Coronavirus State and Local Fiscal Recovery Fund website.**

If you still have questions regarding your submission, please email SLFRP@treasury.gov.

11.12. When will entities get their money?

Before Treasury is able to execute a payment, a representative of an eligible government must submit the government's information for verification through the Treasury Submission Portal. The verification process takes approximately four business days. If any errors are identified, the designated point of contact for the government will be contacted via email to correct the information before the payment can proceed. Once verification is complete, the designated point of contact of the eligible government will receive an email notifying them that their submission has been verified. Payments are generally scheduled for the next business day after this verification email, though funds may not be available immediately due to processing time of their financial institution.

11.13. How does a local government entity provide Treasury with a notice of transfer of funds to its State?

For more information on how to provide Treasury with notice of transfer to a state, please email SLRedirectFunds@treasury.gov.

American Rescue Plan FAQ

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COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

What's in the ARP for families experiencing hunger?

The bill invests in nutrition programs to make it easier for families and seniors to put food on the table. Nutrition assistance programs like SNAP, WIC, P-EBT and CSFP are implemented by state and Tribal agencies. Please access the links below to contact your state or Tribal agencies:

- SNAP: https://www.fns.usda.gov/snap/state-directory
- WIC: https://www.fns.usda.gov/contacts?f%5B0%5D=program%3A32
- P-EBT- Some states are still in the process of submitting their state plans for the FY20-21 school year. To see if your state has been approved, please access this link: https://www.fns.usda.gov/snap/state-guidance-coronavirus-pandemic-ebt-pebt
- Commodity Supplemental Food Program: https://www.fns.usda.gov/contacts?f%5B0%5D=program%3A26

Does the bill include nutrition assistance for territories?

The bill includes $1 billion for nutrition assistance to Puerto Rico, American Samoa and the Commonwealth of Northern Mariana Islands, with $30 million designated for the Commonwealth of Northern Mariana Islands. The U.S. Virgin Islands and Guam will also benefit from the SNAP benefits extension included in the bill. For additional information from USDA, please access this website: https://www.fns.usda.gov/nap/nutrition-assistance-program-block-grants

How does this bill help farmers?

The American Rescue Plan provides $4 billion for the Secretary of Agriculture to purchase surplus food and agricultural commodities for distribution to those in need in the United States. USDA will also use these funds to help farmers and food processors respond to the pandemic by providing grants and loans for purchasing worker protection measures or infrastructure adjustments to improve the resilience of the food supply chain. Additional details for these programs will become available as USDA works to implement these funds.

Additionally, the ARP provides $100 million to reduce the cost of overtime food safety inspection costs for small (10-499 employees) and very small (less than 10 employees or less than $2.5 million in annual sales) meat and poultry processors. This will make it easier for smaller meat and poultry processors to extend their hours to address the backlog in processing capacity, without having to pay cost-prohibitive charges for overtime hours for inspectors.

The bill also supports American farmers by providing $800 million for the Food for Peace Title II program, which will send U.S. grown commodities to those experiencing hunger around the world .

The bill provides debt relief to socially disadvantaged farmers and ranchers. These producers have faced disproportionate impacts from the pandemic as a result of longstanding systemic discrimination. The bill also provides $1 billion in funding to support socially disadvantaged farmers and ranchers through technical assistance, financial planning, outreach, an equity commission, research and extension, heirs property, and financial assistance to former borrowers who lost their operations due to past discrimination. These provisions are an important step to address widespread

systemic discrimination, repair the diminished relationships with USDA, and improve awareness about USDA programs that can help socially disadvantaged farmers and ranchers grow and sustain their farms, especially during COVID-19.

How does the ARP make sure food is available on grocery store shelves?

The bill focuses on both responding to the immediate ongoing needs of the pandemic, but also investing in the food supply chain to build resiliency in the event of a future disruptive event. Building new processing facilities, helping existing facilities respond to changing demand, and ensuring that workers through the supply chain are able to continue working safely will help address and prevent the bottlenecks and breakdowns in the food supply chain that were experienced throughout the pandemic.

How does the ARP help protect workers along the food chain?

The bill provides funding for employers throughout the food supply chain, including but not limited to, farmers, small and midsized food processors, and fishing vessels, to protect their workers and eligible activities include: purchase of PPE, disinfectant, test kits, plexiglass, handwashing stations, housing to accommodate social distancing or to quarantine for sick workers, and others. USDA has not yet announced how these funds will be allocated. For information on USDA Covid-19 response, please visit this website: https://www.usda.gov/coronavirus/farmer-resources

What resources does the ARP commit to rural healthcare providers?

This bill will provide $500 million for healthcare in rural America by establishing a pilot grant program to support rural healthcare, including by increasing vaccine distribution capacity, providing medical supplies and medical surge capacity, expanding access to telehealth, and helping to fill other gaps faced by rural healthcare providers, many of whom were already stretched thin before COVID-19 and have suffered additional lost revenue due to the pandemic.

How will the ARP help prevent further spread of COVID-19 in animals?

The American Rescue Plan provides $300 million for the Secretary of Agriculture to conduct monitoring and surveillance of susceptible animals for incidence of COVID-19. As we have seen with this pandemic, zoonotic diseases can spread quickly between animals and humans with devastating impacts. USDA plays a critical role in responding to animal disease outbreaks and these funds will be used to support the animal disease diagnostic labs and other activities to safeguard public health and the food supply against infectious disease outbreaks.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Public Health

The majority of people in this country are still not vaccinated. What does this bill do to increase vaccination rates?

The American Rescue Plan provides $20 billion in funding for COVID-19 vaccinations. This includes$7.5 billion in funding through the Centers for Disease Control and Prevention (CDC) for vaccine activities which goes beyond supplying the vaccines themselves and includes activities like increased staffing, disseminating information on how to get vaccinated, transportation for people to reach vaccination sites, and mobile vans to reach underserved areas. Some of the other vaccination funding in the American Rescue Plan includes $1 billion to strengthen vaccine confidence in the United States, $7.5 billion for FEMA vaccination efforts, and $2.2 billion for a vaccine procurement reserve.

How does this bill help combat variants of the virus that causes COVID-19?

In order to detect variants, we need to conduct widespread testing, and then we need to sequence a sample of those tests. The American Rescue Plan provides $47.8 billion in funding for COVID-19 testing. This includes funding to develop tests, increase laboratory capacity, and improve data collection. Additionally, the American Rescue Plan provides $1.75 billion in funding for genomic sequencing, which allows the CDC to detect and track variants of the virus. Ultimately, the way to stop the spread of variants is to get as many people vaccinated as we can, and the American Rescue Plan provides $14 billion in funding for vaccinations. The American Rescue Plan also provides $500 million in funding to FDA to be used in part for the evaluation with respect to emerging variants of the continued performance, safety, and effectiveness of vaccines, therapeutics, and diagnostics.

Does the bill do anything to address COVID-19 globally?

The American Rescue Plan appropriates $750 million to address COVID-19 globally including efforts for global immunization and global coordination on public health.

What support is included for community health centers?

The American Rescue Plan provides $7.6 billion for community health centers, Federally Qualified Health Center Look-Alikes, and Native Hawaiian Health Centers. Of this total amount, at least $20 million must be awarded to Native Hawaiian Health Centers. These funds can cover retroactive costs incurred since the beginning of the pandemic and can be used for activities necessary to respond to COVID-19, including testing, vaccine administration, delivery of health care services, infrastructure modifications, and community outreach and education.

Does the bill do anything to address public health or health care workforce shortages?

The American Rescue Plan provides $7.66 billion for activities related to establishing, expanding, and sustaining a public health workforce, including by making awards to State, local, and territorial health departments. The bill also provides $800 million for scholarships and loan repayment through the National Health Service Corps (NHSC), as well as $200 million for scholarships and loan repayment through the Nurse Corps. These programs incentivize primary care providers and nursing professionals to practice in underserved areas across the country.

What does the American Rescue Plan do to address mental and behavioral health and substance use disorder concerns related to the COVID-19 pandemic?

The American Rescue Plan provides historic investments to address surging mental and behavioral health and substance use disorder concerns related to the COVID-19 pandemic. The bill funds a total of $3 billion in block grants for prevention and treatment of substance use disorders and community mental health care services. Another $420 million goes toward certified community behavioral health clinics. Relatedly, the bill supports community-based and local substance use disorder and behavioral health care, including $50 million for local behavioral health services, such as telehealth and crisis intervention, and $30 million for harm reduction services.

To support the mental and behavioral health workforce, the American Rescue Plan provides $100 million to support the recruitment, education and clinical training of mental and behavioral health providers. The bill also provides $140 million to support the mental health of essential health care workers. This includes $80 million for mental health and substance use disorder training for health care professionals, paraprofessionals, and public safety officers, $20 million for a national education and awareness campaign to encourage healthy work conditions, and $40 million to promote the mental health of the health professional workforce. For children and adolescents, the American Rescue Plan allocates $80 million for pediatric mental health care grants, $30 million for Project AWARE, which is a federal program that supports mental and behavioral health among school-aged children, and $20 million for youth suicide prevention.

Child Care and Early Childhood Education

I am a child care provider struggling to keep my program in business. What financial assistance is available for child care providers in this bill?

American Rescue Plan provides $24 billion in child care stabilization grants for child care providers to help meet their increased operating costs and backfill limited revenue due to the pandemic. Providers are eligible for assistance if they are 1) an eligible-provider as defined in the Child Care and Development Block Grant Act, or 2) a licensed, regulated, or registered provider in their state on the date of enactment of American Rescue Plan. Providers can be open, or temporarily closed due to COVID-19. Subgrants can be used for a variety of expenses, such as personnel expenses; rent, mortgage, and utility payments; cleaning supplies and personal protective equipment; mental health services for children and staff; and other activities to maintain or resume operations of the child care provider. States must base subgrant amounts on the child care provider's stated current operating expenses. A child care provider that receives funds must certify that for the duration of the subgrant, the child care provider will: implement policies in line with guidance from State, Tribal, and local authorities, and to the greatest extent possible, guidance from the Centers for Disease Control and Prevention; pay no less than the full compensation the provider was paying each employee on the date of submission of the application for the subgrant; and provide relief from copayments and tuition payments to families enrolled in the provider's program, to the greatest extent possible, and prioritize such relief for families struggling to make either type of payment.

Additionally, American Rescue Plan provides $15 billion for the Child Care and Development Block Grant program, which states can use flexibly, such as to pay child care providers based on enrollment rather than attendance; increase subsidy reimbursement rates, expand access to child care subsidies, and waive copayments for families receiving subsidies.

I am an essential worker in need of child care. Does this bill help me?

Yes. States can use their funding through the Child Care and Development Block Grant (CCDBG) to expand eligibility to provide child care assistance to health care sector employees, emergency responders, sanitation workers, and other workers that are deemed essential during the COVID-19 response by public officials.

How does this bill support the Head Start program?

American Rescue Plan includes $1 billion for Head Start to ensure Head Start grantees can continue to provide high-quality services to children and families.

How does this bill support the prevention of child abuse and neglect?

American Rescue Plan includes $350 million for the Child Abuse Prevention and Treatment Act (CAPTA). Of that total, $100 million is dedicated for CAPTA's State grants to provide necessary supports to prevent, investigate, and treat child abuse and neglect. In addition, $250 million will go to CAPTA's community-based child abuse and neglect prevention programs to provide vital community-based services to strengthen and support families during the pandemic.

LIHEAP and Water

How does this bill help families afford utility payments?

American Rescue Plan includes $4.5 billion for the Low-Income Home Energy Assistance Program (LIHEAP) to support families in meeting their heating and cooling costs. The bill also includes $500 million for a new water and wastewater assistance program, to award grants to States and Indian Tribes to provide payments to owners and operators of public water systems to reduce arrearages and rates charged to low-income households for drinking water and wastewater services.

K-12 Education

How will funds under the Elementary and Secondary School Emergency Relief Fund (ESSER) flow to States and school districts?

Funds will be allocated to States and school districts in proportion to what they received under the Title I-A formula of the Elementary and Secondary Education Act (ESEA). This is in the same manner that ESSER funds have flowed under the CARES Act and the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSAA). States will first receive funds under ESSER and be required to subgrant at least 90 percent of ESSER funds to school districts in proportion to what those school districts received under the Title I-A formula.

How much do states have to set-aside within ESSER and are each of these set-asides separate from each other?

When states receive their ESSER grant, they must set aside three mandatory reservations to comply with American Rescue Plan within the 10 percent of the ESSER grant that states can reserve at the state level. Each of these reservations is separate from the others. First, states must reserve at least 5 percent to support the implementation of evidence-based interventions to address learning loss. Second, states must reserve at least 1 percent to support evidence-based summer enrichment activities. Third, states must reserve at least 1 percent to support evidence-based comprehensive afterschool programs. States may also reserve up to half a percent for administration of the ESSER program.

How will the funds be used to address learning loss and help meet students' academic and other needs that were impacted by the pandemic?

States are required to use at least 5 percent of their ESSER state-level reservation, and school districts are required to use at least 20 percent of their ESSER subgrant to implement evidence-based interventions to address learning loss. These evidence-based interventions need to address students' academic, social, and emotional needs and respond to the disproportionate impact that the pandemic has had on students from families with low incomes, students of color, English learners, migrant students, students with disabilities, students experiencing homelessness, and children and youth in foster care. States and districts can also use their broader ESSER funds to address learning loss among students.

Is there funding for summer enrichment and afterschool programs?

Yes. States are required to set aside 1 percent of their ESSER State-level reservation to fund evidence-based summer enrichment programs and an additional 1 percent of those funds to fund evidence-based comprehensive afterschool programs. In using those funds, each state is required to ensure such programs respond to students' academic, social, and emotional needs and address the disproportionate impact of the coronavirus on students from families with low incomes, students of color, English learners, migrant students, students with disabilities, students experiencing homelessness, and children and youth in foster care. States and school districts can also use their broader ESSER funds to support summer enrichment and afterschool activities.

Will funds be used by schools to support safe reopening?

Funds that school districts receive under the Elementary and Secondary School Emergency Relief Fund under this legislation, the CARES Act and CRRSAA, are intended to be used for a variety of purposes to support safe reopening. These purposes include: implementing public health protocols (including policies in line with guidance from the Centers for Disease Control and Prevention for the reopening and operation of school facilities); purchasing supplies to sanitize and clean the facilities of a local educational agency; implement procedures and systems to improve the preparedness and response efforts of local educational agencies, and coordinate with State, local, Tribal, and territorial public health departments to prevent, prepare for, and respond to coronavirus, among other things. Districts are also required to develop a plan for the safe reopening of schools and solicit public comment from the community.

What are the requirements, if any, related to the safe reopening of schools?

Within 30 days of receiving their ESSER funds, school districts are required to develop and make publicly available on the school district's website a plan for the safe return to in-person instruction and continuity of services. Before publishing the plan on the school district website, each school district must seek public comment on the plan and take such comments into account in the development of the plan. If school districts already have reopening plans that received public comment and are publicly available on the school districts' websites, those previous plans can satisfy American Rescue Plan's requirement related to reopening plans.

Can ESSER funding for schools be used to support online or distance learning for students?

Yes. Funds that school districts receive under ESSER may be used to purchase broadband connectivity and educational technology for students, including computers, tablets, software, and hotspots. Funds may also be used to purchase assistive technology or adaptive equipment for students with disabilities, and to support professional development for educators and other school staff to support online learning.

How can ESSER funds be used to support students and families experiencing homelessness?

From the $122.8 billion provided for ESSER, the Secretary of Education must use $800 million to support the identification and provision of wraparound services for children and youth experiencing homelessness. Further information from the Department of Education is forthcoming regarding how these funds will be distributed to States and school districts. Additionally, states and school districts may use their regular ESSER allocations to meet the unique needs of students experiencing homelessness and purchase educational technology or broadband connectivity for such students.

What are the maintenance of equity provisions included in ESSER in American Rescue Plan?

American Rescue Plan includes state and district-level maintenance of equity requirements. As a condition of receiving ESSER funds, each State must agree not to disproportionately reduce state education funding on a per-pupil basis in FY22 and FY23 for their neediest schools districts who enroll 50 percent of total students in the state. States must also agree to not reduce state education funding on a per-pupil basis in FY22 or FY23 for their highest poverty school districts that enroll 20 percent of total students in the state.

School districts that receive ESSER funds must also submit an assurance they will not disproportionately, on a per-pupil basis, reduce funding or staffing levels in FY22 or FY23 at schools that serve the greatest percentage of students from families with low incomes.

These maintenance of equity requirements are designed to ensure that school districts and schools that serve a higher proportion of students from families with low incomes do not face disproportionate state and local education cuts if states and school districts make education cuts. These protections will help ensure that higher poverty school districts and schools serving large numbers of Black and Latinx students and higher poverty school districts or schools in rural communities do not face disproportionate state and local cuts.

Do students who attend private schools receive relief?

Yes. American Rescue Plan includes $2.75 billion in funding for services to private schools that enroll a significant percentage of students from families with low-incomes. This funding will be implemented under the terms and conditions of the Emergency Assistance to Non-Public Schools (EANS) program authorized under the CRRSAA, except funds provided under American Rescue Plan for EANS cannot be used for reimbursements to non-public schools and must be targeted to non-public schools that enroll a significant percentage of low-income students.

How can funds be used to support students with disabilities?

American Rescue Plan provides an additional $3.03 billion in dedicated funds to the Individuals with Disabilities Education Act (IDEA) programs for fiscal year 2021, including $2.58 billion for grants to states under Part B, $200 million for preschool grants under section 619, and $250 million for infants and toddlers programs under Part C. Additionally, school districts receiving grants through the Elementary and Secondary School Emergency Relief Fund (ESSER) can use funds for any authorized activities under IDEA, as well as to meet the needs of students of disabilities in outreach and service delivery, providing technology for online learning, purchasing assistive technology, and planning and implementing summer learning and supplemental afterschool programs. Districts must set aside not less than 20 percent of their ESSER grants for addressing learning loss, including for students with disabilities.

Higher Education

How is funding allocated to colleges and universities under the Higher Education Emergency Relief Fund?

The Higher Education Emergency Relief Fund (HEERF) allocates funds to public, private non-profit, and for-profit colleges and universities under a nearly identical formula as the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSAA). This formula equitably provides a total of $39.6 billion to colleges and universities based largely on the number of Pell Grant recipients they serve.

The main HEERF formula allocates $36.4 billion to virtually every college and university under the same basic formula as in CRRSAA—77 percent is allocated based on enrollment of Pell grant recipients and 23 percent based on enrollment of non-Pell students, including graduate students or undergraduates who do not qualify for Pell Grants. Of this amount, 2 percent is reserved for institutions that enrolled students exclusively online prior to the pandemic.

Historically Black Colleges and Universities, Tribal Colleges, Hispanic Serving Institutions, and other Minority Serving Institutions will also receive supplemental awards—in addition to the funding they receive under the main formula—totaling nearly $3 billion. This supplemental funding will be distributed, as it was in CRRSAA, based on the share of annual funding provided to each program in the Department of Education Appropriations Act, 2020 (Public Law 116–94), and other factors outlined in statute.

Finally, a small amount of funding ($198 million) is reserved, as it was in CRRSAA, for colleges and universities with significant unmet needs that are not addressed by the funding above because they have unique circumstances not reflected in those formulas. The Department is currently soliciting comments on how this funding should be prioritized.

What can colleges and universities spend HEERF on?

Colleges and universities will have broad flexibility in how they can use urgently needed HEERF funds. They may use funds to "defray expenses associated with coronavirus," which includes lost revenue, reimbursement for expenses already incurred, technology costs associated with a transition to distance education, faculty and staff trainings, and payroll. The U.S. Department of Education maintains guidance regarding specific or unique questions about how the Department determines whether expenses are sufficiently associated with coronavirus. Funding provided under American Rescue Plan and CRRSSA is more flexible than the funding provided under the CARES Act. Further guidance is expected from the Department as the implementation of American Rescue Plan moves forward.

Institutions must also generally provide at least half of their allocation directly to students in the form of emergency financial aid. Public and non-profit institutions must spend at least 50 percent on such aid (but can spend more), while for-profit colleges must spend 100 percent of their allocation on student aid.

What can students spend emergency financial aid on?

Of the funding provided under HEERF, no less than $18.4 billion is dedicated to emergency financial aid. Students may use their financial aid on any component of their "cost of attendance" which includes tuition, fees, books, supplies, transportation, health care, child care, and other expenses. They can also use such grants for "emergency costs that arise due to coronavirus" such as tuition, food, housing, health care (including mental health care), or child care, although these costs are already included in a student's cost of attendance. In making financial aid grants to students, an institution of higher education shall prioritize grants to students with exceptional need, such as students who receive Pell Grants.

What other support and assistance is available to help students in higher education?

American Rescue Plan provides a broad range of financial and income support to help the nation recover from the pandemic. Beyond funding allocated to emergency financial aid, students may be eligible for many of these sources of assistance. For example, the $1,400 economic impact payments now include adult dependents, which applies to many college students. Households will receive an additional $1,400 for each dependent.

Students without dependents may benefit from a tripling of the Earned Income Tax Credit (EITC), and student parents will benefit from a massive expansion of the Child Tax Credit (CTC) to $3,000 per child, or $3,600 for children under 6. Note that, to claim EITC or CTC, a student must file taxes, and many students are not aware of the benefits of tax filing (including education tax benefits). Additionally, economic impact payments are based on an individual's most recently completed tax return. Students may also be eligible for Pandemic Unemployment Assistance or premium subsidies for health insurance under the Affordable Care Act, both of which were extended and expanded by American Rescue Plan, or eligible for new supports provided for low-income students under CRRSAA, including subsidized broadband and expanded access to the Supplemental Nutrition Assistance Program (SNAP).

Institutions will need to use a portion of their HEERF allocation to conduct direct outreach to students about how they can receive a financial aid adjustment if they, or a supporting family member, have become recently unemployed. Most financial aid packages are based on tax data from two years prior, which means students enrolled in the current 2020-2021 school year are using tax data from 2019, predating massive employment and income disruptions from the pandemic. Financial aid adjustments that look a student's current financial situation could unlock additional Federal, State, or institutional financial aid.

Lastly, the Department of Education is directed to conduct direct outreach to students and borrowers about financial aid, economic impact payments, means-tested benefits, unemployment assistance, and tax benefits, for which the students and borrowers may be eligible.

National Service

How does this bill support national service?

American Rescue Plan provides $1 billion to the Corporation for National and Community Service (CNCS) to support AmeriCorps programs. Funding will be used to support new and existing grants, including AmeriCorps State and National (ASN), AmeriCorps VISTA, and AmeriCorps Seniors. This funding will help support tens of thousands of AmeriCorps members over three years, and provide an increase to the living allowance for ASN and VISTA members. American Rescue Plan also includes a prioritization to target assistance to communities disproportionately impacted by COVID-19. This funding will position CNCS to make immediate investments, including helping schools safely reopen, tackling the growing hunger crisis, and helping communities across the nation address other challenges brought on by the pandemic.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

The American Rescue Plan Act provides funding for Emergency Rental Assistance (ERA). Which renters are eligible for Emergency Rental Assistance and how can they access help?

The American Rescue Plan provides $21.6 billion to states, local governments with populations over 200,000, and territories to provide emergency rental, utility, and other housing-related assistance and housing stability services to renters. To be eligible for assistance, renters must have incomes below 80 percent of the area median income; qualify for unemployment insurance or have experienced financial hardship during or due, directly or indirectly, to COVID-19; and have a risk of homelessness. These funds augment $25 billion in funding provided for Emergency Rental Assistance in the December 2020 Consolidated Appropriations Act for FY 2021, but provide grantees with some additional flexibility to better stabilize renters. Many states, local governments, and territories have already opened or are about to open emergency rental assistance programs with funds provided in December. Many tribes are also operating Emergency Rental Assistance programs through funding provided in December or Housing Assistance and Supportive Services for Native Americans funding included in the American Rescue Plan Act.

More information about the ERA program, including a listing of local governments eligible to participate, is available on the U.S. Department of Treasury's website at: https://home.treasury.gov/policy-issues/cares/emergency-rental-assistance-program

The National Council of State Housing Agencies provides links to many of the state-wide ERA programs through a map on its website at: https://www.ncsha.org/emergency-housing-assistance/

Emergency Housing Vouchers

The American Rescue Plan provides $5 billion in new Emergency Housing Vouchers. Who will be eligible for these vouchers and how will they be distributed?

The bill provides new, targeted housing vouchers for individuals and households experiencing or at risk of homelessness and survivors of domestic violence and human trafficking. These emergency vouchers will operate much like Section 8 Housing Choice Vouchers administered by local public housing agencies (PHAs), but will sunset once no longer needed by the households to whom they have been awarded. The Department of Housing and Urban Development must notify PHAs of their allocations of emergency housing vouchers within 60 days of enactment.

Homeowner Assistance Fund

The bill provides funds to help homeowners. What homeowners are eligible and how will those funds be distributed?

The American Rescue Plan Act provides $9.961 billion for a Homeowner Assistance Fund at the Treasury Department, which will provide funds to states, Tribes, and territories to provide direct assistance to homeowners. The law makes assistance available for homeowners who are experiencing a financial hardship associated with the coronavirus pandemic and whose mortgage (if they have a mortgage) is below the conforming loan limit for the area, which is set annually by Fannie Mae and Freddie Mac and is currently between $548,250 and $822,375 for a one-family home. Homeowners are not required to have a mortgage to receive assistance, and funds can be used to provide mortgage payment assistance, help reinstate a mortgage, facilitate interest rate reductions, provide utility or broadband internet assistance,

cover housing-related insurance costs, among other purposes which may be determined in the future. We expect Treasury will put out guidance to further clarify eligible uses of funds, as well as more technical guidance on how funding recipients can determine whether a household is eligible for assistance.

When will Homeowner Assistance Fund money be available?

The American Rescue Plan Act requires the Treasury Department to determine how much in funding each state, Tribe, and territory will get and to begin making payments to those states, Tribes, and territories that tell Treasury they want to administer the funds within 45 days after the bill is enacted, which will be before the end of April. The minimum allocation to each state is $50 million, and funds to Tribes are distributed based on the FY 2020 Indian Housing Block Grant formula. Note that a state, Tribe, or territory will be required to tell Treasury that they wish to receive the funds in order to receive them. Treasury has not yet put out guidance on how states, Tribes, and territories will need to request the funds.

Transit

How can public transit providers in my state access the $30 billion in ARPA relief funds?

The vast majority of the funds will be provided through existing Federal Transit Administration (FTA) formula grant programs: Section 5307 for urban areas, Section 5311 for rural areas, and Section 5310 for specialized transportation for seniors and individuals with disabilities. Access to these funds will be similar to CARES and CRRSAA relief funding. Public transit providers should watch for FTA announcements regarding the apportionment of ARPA funds and any related application guidance. (Sign up for FTA's GovDelivery email notices here.)

Defense Production Act

How will the funding for DPA provided in the American Rescue Plan help our recovery from the pandemic?

The American Rescue Plan provides $10 billion for the purchase, production, and distribution of medical supplies and equipment. Throughout 2020, we saw what happened with an administration failed to use all of its authorities to respond to the pandemic. Now, the Biden Administration is taking decisive steps to combat the pandemic. This funding will enable the administration to ramp up domestic production of much-needed vaccines, PPE, and other medical supplies and equipment.

Small Business

What is the State Small Business Credit Initiative, and how does it work?

Following the previous financial crisis, Congress established the State Small Business Credit Initiative (SSBCI), with a one-time authorization of $1.5 billion, to increase small business lending and investment. In its initial round of funding (2010-2017), roughly 80% of SSBCI funding supported businesses with ten or fewer employees and 40% went to businesses in low- and moderate-income communities. For each $1 of federal funding, SSBCI participants leveraged $8.95 in new financing support for small businesses.

Through the SSBCI, the Treasury Department provides funding to states to expand or create their own small business financing programs. Treasury allocates funds according to a formula based on the number of jobs and job losses in each state in proportion to the aggregate number of jobs and job losses nationally. Each state receives a minimum allocation of 0.9% of the funding. Treasury provides the funding in three tranches. We expect additional information to be posted on the Treasury Department's website at: https://www.treasury.gov/resource-center/sb-programs/Pages/ssbci.aspx.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Disaster Relief Fund & Funeral Assistance

What is this funding, and what does it support?

The American Rescue Plan includes $50 billion for the Disaster Relief Fund (DRF) at the Federal Emergency Management Agency (FEMA). The DRF is the primary source of funding for the federal government's domestic general disaster relief programs. For COVID-19 response, it provides funding support for a variety of covered activities, such as expenses for vaccination campaigns and school reopening.

How can I access resources from the Disaster Relief Fund?

These funds support both FEMA Public Assistance and Individual Assistance.

- Public Assistance is funding for state, local, Tribal, and territorial governments and certain nonprofits to cover response and recovery costs for major disasters and emergencies. Communities interested in applying for a Public Assistance Grant should contact their local or state emergency manager to begin the process and submit a Request for Public Assistance form.
- FEMA's Individual Assistance provides financial and direct services to eligible individuals and households affected by a disaster, who have uninsured or underinsured necessary expenses and serious needs. Individuals should visit the FEMA website for information on what resources are available in response to COVID-19.

Is the Disaster Relief Fund only available for COVID-19 expenses?

No. As the primary source of funding for the federal government's disaster relief programs, the Disaster Relief Fund can be used for COVID-19 response, but also for other disaster relief, such as for hurricanes, wildfires, and floods.

What is FEMA funeral assistance, and what does it cover?

FEMA Funeral Assistance is provided to help with the cost of unexpected and uninsured expenses associated with the death of an immediate family member when attributed to a major disaster or emergency, such as the COVID-19 pandemic. Eligible expenses include the cost of the casket, mortuary services, and a burial plot. Congress has authorized COVID-19 funeral assistance costs to have a 100 percent federal cost share dating back to Jan. 20, 2020, through 2021.

When will funeral assistance be available for COVID-19?

FEMA will implement the COVID-19 funeral assistance program in April 2021. Additional guidance is being finalized and will be made available to potential applicants and community partners soon. In the meantime, people who have COVID-19 funeral expenses may want to keep and gather documentation.

FEMA Grants

What does the FEMA Emergency Food and Shelter Program (EFSP) support?

A: The American Rescue Plan includes $400 million for FEMA's Emergency Food and Shelter Program (EFSP) for support to homeless services providers. Funded services include overnight shelter, meals, assistance to food banks and pantries, rental or mortgage assistance to prevent evictions, and utility payments to prevent service cut-offs.

How can eligible applicants access EFSP funds?

Local non-profit, faith-based and governmental entities that provide these types of services in their communities are eligible to apply. Applications will be completed by local entities (including local government agencies) and submitted to EFSP local boards. State government facilities that provide eligible direct services will apply through their EFSP state set-aside committee. Additional information including local board and state set-aside committee contacts is available on the EFSP website. Organizations may also email suppfund@uww.unitedway.org or call at (703) 706-9660 to obtain local board and state set-aside contact information.

What do AFG and SAFER grants support?

A: The American Rescue Plan delivered $300 million to the FEMA Assistance to Firefighter Grants (AFG) and the Staffing for Adequate Fire and Emergency Response (SAFER) grant program. These critical funds will help ensure these frontline responders have access to PPE, are able to be paid for sick leave and overtime, and fire departments have the support they need in the face of revenue shortfalls due to the pandemic.

How can eligible applicants access AFG and SAFER Grant funds?

A: Eligible applicants can contact the FEMA AFG Program Help Desk toll-free at (866) 274-0960, or email firegrants@dhs.gov for more information.

What do FEMA Emergency Management Performance Grants (EMPG) support?

A: The American Rescue Plan included $100 million for FEMA's Emergency Management Performance Grant (EMPG) program, which supports efforts by emergency managers across the country to prepare for all hazards – a critical effort as we address the ongoing COVID-19 pandemic along with any other threats that may arise.

How can eligible applicants access EMPG funds?

State Administrative Agencies (SAAs) and State Emergency Management Agencies are eligible to apply for EMPG funding. Individuals interested in funding a project through EMPG should contact their relevant SAA, available on the FEMA website.

Federal Employees' Compensation Act

What workers' compensation benefits does this bill ensure for federal employees who contract COVID-19?

This bill ensures that a federal employee can receive Federal Employees' Compensation Act (FECA) workers' compensation benefits if they are diagnosed with COVID-19 while working for the federal government between January 27, 2020 and January 27, 2023; carried out duties during a covered exposure period prior to the diagnosis that required contact with patients, coworkers, or members of the public, or that included a risk of exposure to the coronavirus; and were not exclusively teleworking during the covered exposure period.

All federal employees who are already covered under FECA may file a claim to access these benefits. This bill applies to all types of FECA benefits. Employees can file a claim if they believe they meet the criteria above. To learn more about these criteria, employees should consult the Office of Workers' Compensation at the Department of Labor.

How can employees apply for the workers' compensation benefits?

These benefits are provided through the regular FECA claims process and systems. Employees can learn more by visiting the Office of Workers' Compensation at the Department of Labor, at https://www.dol.gov/agencies/owcp/dfec. Employees can file claims at https://www.ecomp.dol.gov.

This bill does not apply to an employee if the Department of Labor has already made a determination on their claim before the date of enactment.

Emergency Federal Employee Leave Fund

Which employees are eligible for emergency leave under this provision?

Employees for whom annual and sick leave is provided under subchapter I of chapter 63 of title 5 are eligible for emergency leave under this provision. This should cover most civilian federal employees, including postal workers and some DC employees. Transportation Security Administration, Veterans Health Administration, and Federal Aviation Administration employees will be eligible for similar benefits but through separate bill provisions.

In what circumstances can emergency leave be taken?

An eligible employee can take emergency leave for the following reasons:

(1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19

(2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19

(3) The employee is caring for an individual who is subject to such an order or has been so advised

(4) The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis

(5) The employee is caring for a child who is doing virtual instruction or a hybrid of in-person and virtual instruction, or the child care for such child is unavailable due to COVID-19 precautions.

(6) The employee is experiencing any other substantially similar condition

(7) The employee is caring for a disabled or elderly family member whose place of care is unavailable due to COVID-19

(8) The employee is obtaining immunization related to COVID-19 or isrecovering from any injury, disability, illness, or condition related to such immunization.

How much emergency leave does this provision provide?

This provision allows for up to 600 hours of paid emergency leave, or the proportional equivalent for part-time and seasonal employees. The benefit is capped at $2,800 per biweekly pay period. Emergency leave cannot be used concurrently with other types of leave.

How long is this leave available?

Emergency leave is available through September 30, 2021.

Cybersecurity and Information Technology

The bill includes $2 billion, which is not as much as the $10 billion that was proposed in the President's American Rescue Plan, but is still a meaningful investment to provide better and more secure services to the American public during the COVID-19 pandemic. This includes funding for new personnel, equipment, applications, and cybersecurity.

What cybersecurity support does the bill include?

The bill provides $650 million to the Cybersecurity and Infrastructure Security Agency (CISA) at the Department of Homeland Security to mitigate cybersecurity risks, such as those resulting from agencies' rapid shift to working from home, and hacks of agencies and researchers involved in vaccine development and distribution. CISA identifies threats, shares information and assists with incident response to defend our nation's critical infrastructure.

How can local governments and health systems get connected to these cybersecurity efforts?

CISA.gov has extensive resources for improving cybersecurity. To better coordinate and provide services with state, local, tribal, and territorial partners, CISA has regional offices and additional information is available on CISA's website.

How does the bill address information technology challenges that have hampered the response to COVID-19?

The bill supports new personnel, equipment and applications to improve the way government delivers services and information to the American public. These funds will allow the United States Digital Service (USDS) to surge top talent to help agencies use technology to better deliver services; provide a structured process through the Technology Modernization Fund (TMF) to accelerate modernization of outdated systems; and, provide government-wide technology products and services that agencies can leverage to improve how they interact with the public. Government services should be delivered in ways the public now demands and expects—quick, easy, secure, and accessible.

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

I represent a 501(c)(3)/501(c)(6) nonprofit organization that supports small businesses, will my firm be able to apply to be a Navigator?

Yes, the legislation to establish the Community Navigator pilot program states that private nonprofit organizations, those described in section 501 (c) of the Internal Revenue Code, as well as SBA resource partners - including Small Business Development Centers, Women's Business Centers, and SCORE chapters—and States, Tribes, and local governments are eligible to participate in the program to ensure the delivery of free community navigator services.

Will CDFIs be able to apply to be a Navigator?

If the CDFI is an organization described in section 501(c) of the Internal Revenue Code, they will be eligible to apply and participate in the program.

How large will the grants to each Community Navigator organization?

The SBA will establish the program parameters and determine the appropriate grant size.

Who is newly eligible for the Paycheck Protection Program (PPP) since the passage of the American Rescue Plan?

The American Rescue Plan expands PPP eligibility to include more nonprofits and digital news companies. PPP is expanded to nonprofits listed under Section 501(c) of the Internal Revenue Code, except for 501(c)(4)s which remain ineligible for PPP as well as those made ineligible in SBA regulations. The newly eligible nonprofit entities, including many labor unions, may receive PPP loans provided that the organization does not receive more than 15 percent of receipts from lobbying activities; the lobbying activities do not comprise more than 15 percent of activities; the cost of lobbying activities of the organization did not exceed $1,000,000 during the most recent tax year that ended prior to February 15, 2020; and the organization employs not more than 300 employees.

The plan also makes local offices of larger nonprofit organizations eligible for PPP. 501(c)(3)s, 501(c)(6)s, and the newly eligible nonprofits with multiple physical locations are eligible for PPP, provided that each location does not exceed its employee headcount cap.

Will PPP be extended beyond the current March 31 deadline in the American Rescue Plan Act?

The House is expected to consider a bill later the week of March 15th to extend the PPP program to May 31st, with an additional month thereafter for lenders and SBA to fully process applications. Should the bill pass the House, the Senate will take the bill up later that week.

Can I get a Shuttered Venue Operators Grant (SVOG) if I have received a second draw PPP?

Yes, entities are now eligible for SVOG, regardless of whether they have received a second draw PPP loan or a first draw PPP loan issued after December 27, 2020. However, once an entity applies for SVOG, they can no longer apply for PPP.

Can I apply for a Restaurants Grant if I have received a PPP loan?

Yes. However, an entity's award will be reduced by the amount of any PPP loan it has received.

Can businesses apply for Restaurants Grants if they opened after the start of the pandemic?

Yes, an entity that opened after the start of the pandemic or that has not yet opened, but incurred costs prior to March 10, 2021 in anticipation of opening in the future is eligible to receive a Restaurants Grant.

What do I need to do to access new EIDL targeted grant funding?

For those entities that have already applied for an EIDL loan, but did not receive a full $10,000 Advance, you will be contacted by SBA if you are eligible for a targeted grant. Grants are available for businesses with losses greater than 30 percent and that are located in a low-income census tract.

Who is eligible for a $5,000 supplemental EIDL grant?

Any business that suffered losses of greater than 50 percent and is located in a low-income census tract is eligible for a $5,000 supplemental grant from SBA. This grant may be in addition to any EIDL Advance or EIDL targeted grant that entity has received.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Environmental Pollution

How does the American Rescue Plan Act address health outcome disparities from pollution and the COVID-19 pandemic?

There's clear data (examples here and here) that shows pollution worsens outcomes for those who become ill with COVID-19 and communities with higher air and toxic pollution face higher mortality rates from COVID-19. These communities are both rural and urban and are often low income communities and communities of color. The American Rescue Plan provides $50 million in funding for EPA grants to help minority and low income communities reduce the pollution that is linked to COVID-19 health outcome disparities. This funding is going toward EPA programs, such as the Diesel Emissions Reduction Act (DERA) and Brownfields Program, known to have a proven track record for cleaning up deadly air and toxic pollution and creating good-paying American jobs.

How does the American Rescue Plan Act help communities monitor air pollution that is linked to higher COVID-19 death rates?

Communities with higher air pollution exposure experience significantly higher COVID-19 mortality rates. Just as air pollution poses special risks to those with asthma and other respiratory disease, pollution poses extra risks for those suffering from COVID-19. At the same time, our nation's air quality monitoring system that helps communities track air pollution and air quality is antiquated and in desperate need of updates to meet today's challenges, see here. The American Rescue Plan Act provides $50 million in funding to EPA to update our nation's air quality monitoring system and mitigate air pollution linked to higher COVID-19 mortality rates.

Economic Development

How does the American Rescue Plan Act use the Economic Development Administration to help struggling local economies?

The Economic Development Administration (EDA) at the U.S. Department of Commerce has been an essential tool is assisting communities that have suffered adverse economic impacts due to the COVID-19 pandemic. Previously, Congress invested $1.5 billion for the EDA in the CARES Act. These funds were directed through the EDA's flexible Economic Adjustment Assistance program and have been deployed for various economic development-related activities. The ARPA has provided an additional $3 billion for the Economic Adjustment Assistance Program. These funds will be able to assist communities through technical, planning, and financial assistance. In addition, $750 million will be targeted to negatively-impacted communities due to the coronavirus that rely heavily on the travel, tourism, and outdoor recreation industries.

More information about the assistance provided about the EDA's response to the coronavirus, please visit: https://www.eda.gov/coronavirus/.

Preventing Future Pandemics

How does the American Rescue Plan Act help prevent future pandemics caused by the spread of zoonotic disease?

COVID-19 is a zoonotic disease, meaning it can spread between species, and scientists believe it originated in wildlife. The majority of emerging infectious diseases are also zoonotic. Zoonotic diseases can spread when species that do not typically interact are forced do to so, and these interactions are common in the wildlife trade. The U.S. Fish and Wildlife Service (FWS) at the Department of the Interior plays a critical role in regulating that trade both domestically and internationally. The ARPA provides $20 million to the FWS to address wildlife trafficking and $10 million to restrict the trade of injurious species under the Lacey Act. Injurious species include those that pose a risk to human health. The ARPA also provides $45 million to the FWS to track and study wildlife diseases.

Aid to Zoos and Aquariums

How does the American Rescue Plan Act assist zoos and aquariums in their care of rescued, confiscated, endangered and threatened species?

Zoos, aquariums and research institutions are key partners to the FWS in conserving threatened and endangered species and in rescuing and rehabilitating confiscated and imperiled wildlife. For example, aquariums have helped rescue, rehabilitate and release hundreds of cold-stunned turtles this year, including in the Atlantic and on the Gulf Coast. Zoos and aquariums regularly care for species protected under the Endangered Species Act, such as Mexican wolves, black-footed ferrets and manatees. Zoos and aquariums typically invest private capital in these efforts, but due to lost revenues caused by the COVID-19 pandemic, zoos and aquariums require funding assistance to continue their important conservation efforts and partnership with the FWS. The ARPA provides $30 million to assist these facilities.

COMMITTEE ON VETERANS' AFFAIRS

Funding for Claims and Appeals Processing (Sec. 8001)

I am a veteran who is awaiting my federal records so I can file a disability claim with VA and receive compensation. How will this legislation help me?

Funds from the American Rescue Plan will be used to expand the scanning of service records from federal records facilities impacted by COVID-19 so that veterans can have speedier access to their documents and allow them to file their claims for benefits.

State Veterans Homes (Sec. 8004)

I run a State Veterans Home. How much can I expect to receive from VA for my one-time emergency payment?

The $250 million for one-time emergency payments to support State Veterans Homes will be apportioned to state homes based on the current census of veteran residents in the state home. Based on the most recent data, State Veterans Homes can expect about $14,285 per veteran who is residing in their state home (for whom VA already pays per diem).

I run a State Veteran Home, is there anything in the legislation that can help me with construction costs or renovations for my home?

Yes. There is $500 million for construction or renovation of state veterans homes – known as the Grants for Construction of State Extended Care Facilities program. This funding, overseen by the Department of Veterans Affairs (VA), will generally go toward federal-matching funds (up to 65 percent) for states and territories that have already submitted applications to VA and have also secured their state matching funds. In addition, the previous CARES Act law, as modified by Section 513 of Public Law 116-260, provides $150 million in construction funding specifically targeted at COVID-19 preparation, prevention, and response.

Rapid Retraining Program (Sec. 8006)

I'm a veteran who lost my job during the pandemic. Do I qualify for this program? And how do I apply?

Veterans between the ages of 22 and 66, who are unemployed due to COVID-19, and do not have any remaining eligibility under any other VA education benefits qualify for the Rapid Retraining Assistance Program. Similar to other VA education programs, veterans will apply to VA to confirm their eligibility before selecting a program of training or education.

VA Copayment Waiver (Sec. 8007)

I'm a veteran who uses VA health care. How does this legislation help me with copayments and health care costs?

VA paused medical billing and debt collection during the pandemic beginning on April 6, 2020. The American Rescue Plan waives any VA health care copayments incurred between April 6, 2020 to September 30, 2021, removing out-of-pocket costs as a barrier to health care access.

I'm a veteran who used VA health care during the pandemic and paid my bills in December after VA sent me a letter saying how much I owed. Will I get my money back?

Yes. The American Rescue Plan authorizes VA to reimburse any veteran who already submitted payments for VA health care received between April 6, 2020 to September 30, 2021.

Emergency VA Employee Leave Fund (Sec. 8008)

I'm a VA health care provider or employee under Title 38. How does legislation increase my leave options?

The American Rescue Plan provides full-time employees up-to 600 hours of emergency paid leave (proportional for part-time employees) for Title 38 employees who are unable to work for reasons including, but not limited to: being under a quarantine or isolation order due to COVID-19; having been advised by a health care provider to self-quarantine due to COVID-19; caring for a child who is affected by a school-closure; or is receiving a COVID-19 immunization or is receiving from that immunization.

COMMITTEE ON FINANCE

State and Local Fiscal Relief

How can recipient governments use relief allocations from the State and Local Fiscal Recovery Funds?

The Department of Treasury will issue guidance detailing its interpretation and implementation of eligible uses, but the statutory language specifically authorizes use of the funds. Each of the following is a separate allowable use of the funds for the recipient:

- To respond to the pandemic or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
- For premium pay to eligible workers performing essential work (as determined by each recipient government) during the pandemic, providing up to $13 per hour above regular wages;
- For the provision of government services to the extent of the reduction in revenue due to the pandemic (relative to revenues collected in the most recent full fiscal year prior to the emergency);
- To make necessary investments in water, sewer, or broadband infrastructure;

In addition, a recipient may transfer its allocation to a private nonprofit organization, Tribal organization, public benefit corporation involved in the transportation of passengers or cargo, or special-purpose unit of State or local government, if the recipient government so chooses. The recipient entity would need to use the funds consistent with the purposes listed above.

The recipient government must send Treasury periodic reports with a detailed accounting of the uses of the funds (States and territories must also provide all modifications to tax revenue sources since March 3, 2020).

The language explicitly prohibits funds from being deposited into a pension fund.

States and territories are also prohibited from using the funds to offset, either directly or indirectly, a tax cut made since March 3, 2021.

While the State and Local Fiscal Recovery Fund eligible uses are broader than those of the CARES Act Coronavirus Relief Fund, guidance previously released for the Coronavirus Relief Fund may provide insight into how Treasury may interpret and implement these American Rescue Plan provisions.

How will state and local governments receive the relief allocations?

States and territories will receive their allocations within 60 days of submitting to Treasury a certification signed by an authorized officer that the funds are needed to respond to the pandemic and will be used in compliance with the eligible uses. If Treasury decides that a payment to a state requires additional justification, the Secretary could choose to withhold up to 50% of the

allocation to each state and territory for up to 12 months from the date the certification of need is received. Such a withholding would not be required, and if the state or territory submits a second certification of need, the Secretary would be required to release the withheld amount by the 12-month deadline.

Funding for counties, metropolitan cities, and nonentitlement units of local government (generally those under 50,000 inhabitants) will be separated into two tranches. To the extent practicable, Treasury is required to send out the first tranche (equal to 50% of the recipient's allocation) within 60 days of enactment, and the second tranche (the remaining 50%) not earlier than one year after the first disbursement. Counties, metropolitan cities, and nonentitlement units of local government are not required to submit a signed certification of need to Treasury.

Because it could take a full year for Treasury to calculate and disburse the allocations for nonentitlement units of local government, Treasury is instead required to send the amounts intended for those recipients to each state (including territories) within 60 days. States and territories would then have 30 days to disburse the funds to the nonentitlements based on population. Because of the potential administrative burden of evaluating the eligibility for all of these smaller localities, a state could, if necessary, ask Treasury for up to three extensions for distributing one or more of those allocations. The state or territory would need to justify why the extension is warranted, and would have **no** authority to change the amount of, or attach additional requirements to, the payments allocated to the intended local government recipients.

Why have the allocations on the estimates spreadsheet changed over time?

- **States**: The bill was amended in the Senate to replace the minimum base payment to states of $500 million with a total state- and local-level combined allocation equal to what the states received under the CARES Act, guaranteeing a minimum of $1.25 billion for each state.
- **Counties**:
  - A correction was made to an error in the way the CDBG allocations were weighted across counties. This resulted in a greater number of urban counties receiving the CDBG markup (up to 14, from 11 previously) and a subsequent reduction in the amounts received by other counties.
  - A correction was made to a data sorting error that resulted in the wrong population inputs being used for roughly 3% of all counties.
- **Metropolitan Cities**:
  - A correction was made for an error in the way the CDBG allocations were weighted across metro cities. This resulted in increases in the projected assistance to each metropolitan city by about 9%.
  - Eligible metropolitan cities that did not receive a FY2020 CDBG award and were therefore left off initial runs were manually identified and added when possible.

- **Nonentitlement Units of Local Government**: The estimates gained more precision over time based on updates to how Treasury will calculate the nonentitlement allocation for each state, as well as a change to the definition of "nonentitlement unit of local government" to more accurately cover active local governments performing the functions of municipalities, as had been the intent. For example, the prior definition would have inadvertently made non-governmental entities eligible for allocations, which while appropriate for the CDBG program, was not the policy intent of the state and local funding in the American Rescue Plan.

What will cause final allocations to differ from the estimates spreadsheet?

- Interpretation and implementation decisions by the Department of Treasury, including the possibility of using the FY2021 CDBG formula for metro cities or 2020 population data for counties and nonentitlements (that data was not available at the time that the Congressional Research Service's preliminary estimates were calculated).
- The cap on nonentitlement allocations at 75% of the entity's most recent budget as of January 27, 2020. Congressional Research Service analysts do not have local budget information sufficient to calculate this cap, so it is not reflected in the estimates.
- Redistribution of funds from inactive counties to the local governments within the county.
- Potential addition of eligible metro cities that did not receive a FY2020 CDBG award and were therefore not included on the spreadsheet.
- Projected amounts for nonentitlements may be divided between more than one nonentitlement government to the extent that eligible nonentitlement governments have overlapping populations (for example, residents of a village government and town government in New York). In cases where an eligible government does not appear on this list but another government representing some or all of its population is listed, the total estimate provided represents all of the nonentitlement funding attributable to the government's underlying population. Treasury guidance on how to distribute amounts for overlapping government will be determinative.

What if a city, town, village, or township is not included on the estimates spreadsheet?

The updated spreadsheet is <u>not</u> a comprehensive list of eligible nonentitlement units of local government; rather, it uses publicly available data to estimate how Treasury might interpret the law.

The legislation defines "nonentitlement unit of local government" as either:

(1) Any "municipality" (as defined by the Census) that is a city, county, town, township, parish, village, or other general purpose political subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa, or a general purpose political subdivision thereof; a combination of such political subdivisions that, except as

provided in section 5306(d)(4) of this title, is recognized by the Secretary; and the District of Columbia.

or,

(2) any non-municipality (as defined by the Census) that is a town or township and which:

(i) possesses powers and performs functions comparable to these associated with municipalities,

(ii) is closely settled, and

(iii) contains within its boundaries no incorporated places as defined by the United States Bureau of the Census which have not entered into cooperation agreements with such town or township to undertake or to assist in the undertaking of essential community development and housing assistance activities.

The Treasury Department will determine how this will be interpreted and implemented.

In cases where an eligible government does not appear on this list but another government representing some or all of its population is listed, the total estimate provided represents all of the nonentitlement funding attributable to the government's underlying population. Treasury will determine how such amounts are divided among such overlapping units of government.

What about cases where a local government appears more than once?

The legislation provides for funding to cities (including both metro cities and nonentitlements) and counties to be separate and distinct. In cases where cities are also incorporated as counties, those governments should expect to receive funding both as a city and as a county.

However, any case where a local government is listed once as a city – either as both a metro city and a nonentitlement government, or twice as a nonentitlement government – is likely the product of error inherent in the estimating process. For any government that is listed as both a metro city and a nonentitlement government, the metro city estimate is likely to be more accurate. In cases where a government is listed more than once as a nonentitlement, any duplication should be ignored and the estimate should only be counted once, keeping in mind that some states have governments with identical names in different counties.

Unemployment Insurance

How long will enhanced unemployment benefits be available?

The American Rescue Plan extends all of the emergency unemployment programs from the CARES Act and the Families First Act until September 6, 2021. This includes coverage for self-employed workers (Pandemic Unemployment Assistance) and additional weeks of coverage for workers who have exhausted their state benefits. The weekly supplement (Federal Pandemic Unemployment Compensation) amount will be $300 per week until September 6. Each state administers its own unemployment insurance program, so unemployed workers should continue to apply for and receive these benefits through their state unemployment office.

Additional Recovery Rebates for Individuals in 2021

The Rescue Plan provides a third round of rebates worth $1,400 for individuals ($2,800 for couples) and $1,400 per dependent (including adults). A family of four would receive $5,600. This rebate phases out for adjusted gross incomes between $75,000 and $80,000 for single filers, $112,500 and $120,000 for heads of household, and $150,000 and $160,000 for married couples filing joint returns. You must file a tax return this year (or have filed last year) to receive a rebate check (or direct deposit). Rebates will start going out in the weeks following passage of the Act.

Do I need have income or earnings to receive a rebate? No, there is no income floor or phase-in of the rebate. People receiving Social Security or Supplemental Security Income (SSI) are eligible. Also, Rebates will not be counted as income for income-conditioned programs like Medicaid, SSI or SNAP.

Do I need a Social Security Number to receive a rebate? Yes, in general, only members of your family with a Social Security Number (SSN) are eligible for a rebate. Unlike previous rebates, this third rebate goes to children with SSNs even if their parents lack SSNs. The Rescue Plan also provides rebates to a spouse without an SSN if the taxpayer is an active member of the military.

Child Tax Credit (CTC)

The Rescue plan expands the Child Tax Credit for 2021 from $2,000 per child to $3,000 ($3,600 per child under 6). Makes the child tax credit fully refundable and also extends the credit to children age 17 for the first time. The additional $1,000 of credit ($1,600 for a child under 6) phases out at a 5 percent rate for single filers with incomes above $75,000 (and above $112,500 for heads of household and $150,000 for joint filers. (Just as under current law, the "base" child tax credit of $2,000 phases out at a 5 percent rate above $400,000 for joint filers and $200,000 for other filers).

Will families be eligible for monthly payments of the credit? Starting in July, the Rescue Plan directs the Treasury Secretary to make *periodic* credit payments to taxpayers based on 2019 or 2020 tax return information. The frequency of the payments will depend on IRS administrative capacity and whether the taxpayer has a direct deposit information on file with the IRS.

Can taxpayers update their account information and family composition with IRS? Yes, the Rescue Plan directs Treasury to develop an online portal to allow taxpayers to update their bank account information, filing status, number of dependents, and even a significant change in income. The online portal will also allow taxpayers to opt out from receiving periodic payments and instead claim the full refundable credit when they file their tax year 2021 tax return.

Will families who qualify for the advance credit based on their 2019 return but who earn above the income thresholds in 2020 have to repay excess credit amounts they received?

In the case of taxpayers who received an overpayment of the advance credit due to a child for whom the advance was paid in 2021 – when the child was no longer that taxpayer's dependent – a hold-harmless amount is allowed against the repayment obligation. Under this hold-harmless amount, a taxpayer below an income threshold ($40,000 for a single taxpayer, $50,000 for a head of household, and $60,000 for a joint filer) will be protected from repaying up to $2,000 in overpayments per child that was incorrectly taken into account. The hold-harmless threshold is decreased to $0 as the taxpayer's income rises to double the threshold amount.

Does the expanded Child Tax Credit apply in U.S. territories? Yes, the Rescue Plan extends the full refundable and advanceable child tax credit to Puerto Rico and other U.S. territories for the first time, and

the extension is permanent. Residents of Puerto Rico, which has its own tax code instead of a "mirror" tax code, will be able to apply for the child tax credit by filing a Federal 1040 tax return.

Child and Dependent Care Tax Credit (CDCTC)

The American Rescue Plan expands the child and dependent care credit for 2021 in several ways. First, it raises the credit percentage from 30 percent of child care expenses to 50 percent of such expenses. Second, it increases allowable child care expenses from $3,000 for one child to $8,000, and from $6,000 for 2 or more children to $16,000. These two changes result in a maximum credit of $4,000 for one child and $8,000 for two or more children (compared to $1,050 and $2,100, respectively, under current law). Finally, the Rescue Plan makes the credit refundable, allowing families with little tax liability to benefit from the credit.

At what income does the credit phase out?

The full credit is available to families with income under $125,000. At $125,000 the credit percentage of 50 percent begins to phase down 1 percentage point for every $2,000 of income until it plateaus at 20 percent for incomes above $185,000. This 20-percent credit rate phases out for taxpayers whose AGI is in excess of $400,000, such that taxpayers with income in excess of $500,000 are not eligible for the credit.

Is the expanded CDCTC available in U.S. possessions?

Yes, the Rescue Plan also provides for Treasury to reimburse mirror code territories for the costs of this refundable credit in 2021. Additionally, for non-mirror code territories (Puerto Rico and American Samoa), provides a reimbursement for the aggregate value of such a credit, provided the territory develops a plan, approved by the Secretary, to distribute these amounts to its residents.

Earned Income Tax Credit

The Rescue Plan nearly triples the EITC for 2021 for childless workers from $543 to $1,502 by: increasing the credit percentage from 7.65 to 15.3 percent of earnings; increasing the earnings level at which the maximum credit amount is reached to $9,820; and increasing the income at which the phase-out of the credit begins to $11,610 (for filers other than joint filers). The provision contains special rules regarding the application of the credit for former foster youth and homeless youth. The plan also makes several other expansions to the EITC:

- Permanently allows the childless EITC to otherwise-eligible taxpayers whose children fail to meet child identification requirements (including having a valid SSN for qualifying children).
- Permanently allows a married but separated individual to be treated as not married for purposes of the EITC if a joint return is not filed. Thus, the EITC may be claimed by the individual on a separate return.
- Permanently increases the limitation on disqualified investment income for purposes of claiming the EITC from $3,650 to $10,000. The $10,000 amount is indexed for inflation.
- Permanently extends the EITC to the U.S. territories for the first time by instructing Treasury to make payments to the territories that relate to the cost of each territory's EITC.
- Allows taxpayers in 2021, for purposes of computing the EITC, to substitute their 2019 earned income for their 2021 earned income, if 2021 earned income was less than 2019 earned income. This provision is also extended to U.S. territories.

Does the expansion of the Childless EITC change current age limits? For whom?

Generally, the expanded childless EITC lowers the first eligibility age from 25 to 19 and removes the maximum eligibility age of 65. Exceptions to first age eligibility include full-time students (age 24), qualified homeless youth (age 18) and qualified former foster youth (age 18). Qualified former foster youth are persons who have attained age 14, were in a foster care program, and consent to disclose this information to the IRS. Qualified homeless youth are individuals who certify to IRS they are unaccompanied homeless youth (or are at risk of becoming so) and are self-supporting, according to criteria and guidelines to be established by the Secretary of the Treasury.

What are the qualifications for allowing certain separated spouses to claim the EITC?

This new rule only applies if the taxpayer lives with a qualifying child for more than one-half of the taxable year and either does not have the same principal place of abode as his or her spouse for the last six months of the year, or has a separation decree, instrument, or agreement and doesn't live with his or her spouse by the end of the taxable year. This change aligns the EITC eligibility requirements with present-day family law practice

How will the EITC work in the U.S. territories?

In the case of Puerto Rico, Treasury will provide a match of up to three times the current cost of Puerto Rico's EITC, if Puerto Rico chooses to expand its current EITC. The other territories receive cost reimbursements of 75% of their EITC expenditures. The territories must provide Treasury with annual reports on the estimate of costs and a statement of costs with respect to the preceding year.

Pensions

How does the American Rescue Plan impact private sector pension plans?

The legislation includes a new financial assistance program that is available for certain multiemployer pension plans. Eligible plans are generally plans that are expected to become insolvent in the next 20 years. The financial assistance program will preserve plan solvency for 30 years—until 2051—with no benefit cuts for workers and retirees. The financial assistance program will be administered by the Pension Benefit Guaranty Corporation (PBGC). Due to the financial assistance program, the PBGC's insurance program for multiemployer pension plans is expected to remain solvent for another 20 years—until around 2046. Additionally, the legislation includes funding relief for employers that contribute to private-sector pension plans. This allows flexibility for employers that are struggling with competing needs for their cash resources. Treasury and IRS will issue guidance on the funding relief.

Small Business

How does the American Rescue Plan help small business?

The legislation extends the paid-leave tax credits through the end of September. The credits are fully refundable and advanceable. IRS will be providing information soon on the extension of these credits.

The legislation also extends, and expands, the employee retention tax credit through the end of the year. Any business that has been forced to fully or partially suspend operations, or that has seen a drop in revenues is eligible for a 70-percent credit for wages paid to furloughed or reduced-hour employees. For the third and fourth quarters of 2021, new businesses with $1 million or less in receipts are also eligible, regardless of whether they are subject to a government closure order or experienced a drop in receipts. For businesses with 500 employees or less, the credit is based on all wages paid, regardless of whether an

employee is providing services. The credit can be claimed against the business's quarterly payroll tax liability and is fully refundable to the extent of excess. There are also options to receive advance payments of the credit for businesses with 500 employees or less. Small business owners should lookout for updated information at IRS.gov and talk to their payroll service provider, as applicable.

Health and Human Services Provisions

How does the American Rescue Plan help people enroll in health insurance?

The American Rescue Plan includes multiple provisions that will help people access or maintain health coverage more affordably during the COVID-19 pandemic.

- Marketplace coverage: For 2021 and 2022, the American Rescue Plan increases and expands access to the premium tax credits available to help individuals purchase coverage through the health insurance marketplaces. The bill removes the 400% federal poverty level (FPL) cap on eligibility, allowing middle-income individuals and families to save potentially thousands of dollars a year in reduced premiums. The bill also makes these premium tax credits more generous across the board. As a result, for example, individuals with incomes from 100% to 150% FPL will be eligible for no-premium coverage.
- Coverage for recipients of unemployment compensation: In addition to expanding premium tax credits generally, the bill provides additional assistance to help individuals who experienced job loss access coverage. For 2021, recipients of unemployment compensation may receive premium tax credits to help enroll in coverage in the health insurance marketplaces. For purposes of calculating the size of the credit, income above 133% will be discarded, allowing these individuals to purchase coverage cost-free.
- Employer sponsored coverage: The American Rescue Plan fully subsidizes COBRA coverage for eligible individuals from April 1 through September 30, 2021. Individuals may receive premium assistance if they are eligible for and opt into COBRA, or if they would have been enrolled in COBRA had they elected or continued COBRA coverage after experiencing a qualifying event prior to enactment. Individuals will not be eligible for premium assistance if they voluntarily left their employment, are eligible for Medicare, or are eligible for another group health plan.

I lost my job and my employer-sponsored health insurance in 2020. Could I still be eligible for COBRA premium assistance?

Yes. The American Rescue Plan fully subsidizes COBRA premiums for eligible individuals from April 1 through September 30, 2021. Eligible individuals include those who are eligible for and opt into COBRA, so long as they did not voluntarily leave their employment, are not eligible for Medicare, and are not eligible for another group health plan. Individuals may receive premium assistance if they experienced a qualifying event prior to enactment, even if they did not opt into COBRA or discontinued COBRA at the time, as long as they would still be eligible for COBRA had they elected or not discontinued such coverage. These individuals may enroll in prospective subsidized COBRA coverage through an extended election period, and will not be required to back pay premiums to the date of the qualifying event. As a result, individuals who experienced job loss in 2020 but did not opt into or discontinued COBRA coverage at the time may have the opportunity to receive subsidized coverage under this bill. The bill does not extend an individual's underlying eligibility for COBRA continuation coverage.

How does the bill increase support for state Medicaid programs?

The American Rescue Plan provides state Medicaid programs with extra support through a number of ways. First, it provides states with a 100 percent federal matching rate for COVID-19 vaccines and administration for both Medicaid and CHIP during the public health emergency and the following year. This means the federal government will pick up 100 percent of those costs. It also provides states with a temporary federal medical assistance percentage (FMAP) increase of 10 percentage points for a period of one year to provide additional support for Medicaid home and community-based services. It provides states with a 100 percent Medicaid FMAP for services provided to Medicaid beneficiaries receiving care through Urban Indian Organizations and Native Hawaiian Health Care Systems for two years, additional federal Medicaid DSH support, and further incentivizes states that have yet to expand their Medicaid programs to do so by providing additional federal support through a FMAP increase of 5 percentage points to a state's base FMAP for two years. Finally, the American Rescue Plan provides $250 million to the Secretary for the purposes of allocating to States to establish and implement strike teams to nursing facilities to address COVID-19.

I've heard the bill expands postpartum health coverage and mental health services in Medicaid, how so?

In addition to requiring states to cover COVID-19 vaccines and treatment without beneficiary cost-sharing and encouraging states to expand their Medicaid programs to help close the coverage gap, the American Rescue Plan also provides states with additional options to improve coverage and care. It includes a downpayment on improving maternal health by providing states with a state plan option to extend Medicaid eligibility to individuals for 12 months postpartum in both Medicaid and CHIP. This option starts one year after enactment and lasts for five years. It also provides states with a state plan option and 12 quarters of enhanced federal support to provide qualifying mobile crisis intervention services to individuals experiencing a mental health or substance use disorder crisis. The option is available one year after enactment and lasts for 5 years. It also provides $15 million in funding to the Secretary to issue grants to states to plan for and apply for the option.

Are there drug pricing policies in the American Rescue Plan?

Yes. The American Rescue Plan includes a provision to remove the maximum rebate on Medicaid drug rebates starting January 1, 2024.

Emergency Assistance to Families through Home Visiting Programs

How does this bill increase support for home visiting programs?

The American Rescue Plan provides $150 million to MIECHV-funded home visiting programs which is available to be obligated until the end of fiscal year 2022.

Which home visiting programs are eligible for funding?

To receive funding, entities must be operating a Maternal, Infant, and Early Childhood Home Visiting (MIECHV) program. MIECHV home visiting programs must consent to amend their existing grants or contracts, agree not to reduce staffing levels during the COVID-19 pandemic, and if they choose to provide diapering supplies during the public health emergency, coordinate with diaper banks operating in their services areas to the extent practicable.

What can MIECHV-funded home visiting programs use the new funds for?

The emergency funds can be used for the following array of uses:

- Serving families with home visits, whether in person or virtually
- Staff costs associated with home visits (including hazard pay)
- Training for home visitors on virtual home visits, emergency preparedness, and conducting intimate partner violence screenings
- Helping enrolled families acquire technology needed to conduct a virtual home visit, including WiFi access or cell phone minutes
- Providing emergency supplies to enrolled families, including formula, food, water, hand soap and sanitizer, and diapers and diapering supplies
- Coordinating with and providing reimbursement to diaper banks when using them to provide emergency supplies
- Providing prepaid grocery cards to an eligible family

Emergency Assistance to Children and Families

What can this money be used for?

The American Rescue Plan provides $1 billion in emergency assistance within the Temporary Assistance for Needy Families (TANF) program. Funds can only be used to provide families Non-Recurrent Short-Term cash and other Non-Recurrent Short-Term benefits, as defined in ACF-196R, published on July 31, 2014, to help meet their basic needs (e.g., rent, utilities, food, clothing). States, tribes and territories cannot use more than 15 percent of the funds allotted to them to cover administrative costs.

How is it distributed to states/localities?

Of the $1 billion, $2 million is reserved for the Department of Health and Human Services (HHS) to cover administrative expenses and provide technical assistance and $74.85 million is set aside for Tribal TANF programs and all U.S. territories, to be distributed in a manner deemed appropriate by the HHS Secretary. The remaining $923.15 million is distributed to the 50 states and the District of Columbia based on an allotment formula that is half based on the population of children in the state and half based on fiscal year 2019 state expenditures on direct cash assistance and Non-Recurrent Short-Term benefits to low-income families with children.

What if a state/locality doesn't use their allotted funds?

The HHS Secretary is required to reallocate unspent funds among states, Indian tribes and U.S. territories in the same proportions as the original funding was provided. States, Indian tribes, and U.S. territories receiving reallocated funds have 12 months upon receipt to use the additional funds.

Are these funds subject to normal TANF requirements? For example, do I need to be working a set number of hours to receive assistance?

No traditional TANF requirements apply to the cash assistance or short-term benefits provided with these funds.

Child Care Assistance

What is the Child Care Entitlement to States and how is this different from other child care assistance provided in this bill?

The Child Care Entitlement to States (CCES) is annual mandatory child care funding within the Social Security Act. CCES funds are integrated, at the state level, with discretionary allotments from the Child Care and Development Block Grant (CCDBG).

The $633 million increase in CCES funds provided by this bill is permanent, unlike the other child care assistance provided in this bill which are one-time emergency appropriations. In other words, annual funding for the CCES is permanently increased to $3.55 billion per year, of which $3.375 million will be allotted for states and the District of Columbia, $100 million will be allotted for Indian tribes, and $75 million will be allotted to U.S. territories.

Did the U.S. territories always get funding from the Child Care Entitlement to States?

No, this bill expands eligibility to CCES funds to the Commonwealth of Puerto Rico, United States Virgin Islands, Guam, American Samoa, and Commonwealth of the Northern Mariana Islands and sets aside $75 million per year to be allotted to them in proportion to their respective needs.

What does the modification of state match requirements for fiscal year 2021 and fiscal year 2022 mean?

This bill waives the required state match on funding above $2.917 billion for fiscal year 2021 and fiscal year 2022. This means that states will not have to match any of the additional funds they receive from the $633 million per year increase for the applicable fiscal years.

COMMITTEE ON FOREIGN RELATIONS

What COVID-related funding does the ARP provide in the area of foreign affairs?

The ARP includes $8.675 billion in global health-related funding for the Department of State and the United States Agency for International Development (USAID), $580 million for U.S. contributions to multilateral organizations, $500 million for refugee and migration-related needs, and $245 million for operational expenses of the Department of State and USAID.

Why does the ARP provide $10 billion for international relief when Americans are still in need at home?

As long as the virus is spreading and mutating overseas, it is a threat to Americans and the United States. As we have seen, pandemics do not respect borders or nationalities. If we do not help countries that cannot control the virus themselves and whose economies are being decimated, the United States will continue to be vulnerable. The health and economic wreckage caused by COVID-19 will only end here when it ends everywhere.

What is covered under the international title of the ARP for global health-related activities?

The global health-related funding under the international title includes a U.S. contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria to support the Fund's effective rollout of vaccines and the distribution of COVID tests and PPE, and to address the impacts COVID has had on the Fund's ongoing work to fight AIDS, Tuberculosis and Malaria. The global response bucket also includes funding for COVID-related emergency humanitarian relief to provide life-saving assistance, including food aid, basic water and sanitation needs, and basic medical care, to those suffering as a result of humanitarian crises overseas. Additionally, economic support funding is included to ensure we can quickly address economic and stabilization requirements resulting from COVID.

How will funding be used for refugee needs and multilateral assistance?

Some of the most vulnerable populations in the world are displaced persons and refugees fleeing from conflict or other disasters. COVID presents an additional risk to them, and worsens the health, economic, and security conditions around them. The ARP provides $500m in COVID-related support for refugees. The ARP also provides $580 million for United States contributions to multilateral partners such as UNICEF, the World Health Organization, and others, who are working quickly to address the spread of COVID and its effects. We must leverage the collective action of the international community to address this crisis as quickly and efficiently as possible.

What are the current operational expense needs of the State Department and USAID?

The Department of State has faced significant shortfalls due to losses in visa and passport fee revenues resulting from the pandemic. The provision of $204 million for the Department of State will avoid staffing reductions and ensure continuity of operations overseas, including support for increased medical services capacity at U.S. embassies and consulates. Similarly, the ARP provides $41 million for USAID operational costs associated with COVID response activities, including improvements to IT infrastructure and the maintenance of additional technical support staff.

COMMITTEE ON INDIAN AFFAIRS

Indian Health Service (IHS) (Sec. 11001)

How will the $6,094,000,000 in ARPA IHS Sec. 11001 funding be allocated?

The ARPA requires IHS to divide the $6,094,000,000 provided in Sec. 11001 among the following activities:

- $2,340,000,000 for COVID-19 related expenses (e.g., vaccination campaigns, testing, mitigation, supplies, and sustaining/expanding a public health workforce);
- $2,000,000,000 for lost third party billing reimbursements to offset budget shortfalls;
- $600,000,000 for construction, maintenance, and sanitation projects;
- $420,000,000 for mental and behavioral health treatment and prevention services;
- $140,000,000 for health IT and telehealth;
- $84,000,000 for urban Indian health centers; and
- $10,000,000 for potable water delivery.

The ARPA provides broad flexibility in determining the allocation of funds within these seven categories to ensure Tribes and urban Indian health programs' unique needs are addressed. The IHS has already announced a Tribal consultation on March 17th and an urban confer on March 15th to seek input on how to allocate funds within these seven categories.

How long will ARPA IHS funding remain available?

All ARPA IHS funds will remain available until expended.

Can the ARPA IHS funding in Sec. 11001 be used to cover retroactive eligible expenses my Tribal Health Program or Urban Indian Health Program have already incurred while responding to the COVID-19 pandemic?

Yes. In addition to new expenses, ARPA IHS Sec. 11001 funds can be used to cover eligible COVID-19 related expenses incurred since January 31, 2020.

Does the IHS funding provide support to address my Tribe's immediate sanitation and water infrastructure needs?

Yes. The ARPA specifies that IHS must use $600,000,000 to address construction, maintenance, and sanitation projects. The ARPA provides broad flexibility to determine the allocation of these funds among different infrastructure activities so that Tribes and urban Indian health programs' unique needs are addressed. Interested Tribes should plan to participate in IHS's ARPA consultation, which begins on March 17th.

Which IHS funds are urban Indian health programs eligible for?

In addition to being eligible for $84,000,000 in direct funding, urban Indian health programs are also eligible under ARPA to receive funding from the other IHS categories. Interested urban Indian health programs should plan to participate in IHS's ARPA confer period, which begins on March 15th.

Bureau of Indian Affairs (BIA) (Sec. 11002)

How will the $900,000,000 in ARPA BIA Sec. 11002 funding be allocated?

The ARPA requires BIA to divide the $900,000,000 provided in Sec. 11002 among the following activities:

- $100,000,000 for BIA's Housing Improvement Program (HIP);
- $772,500,000 for Tribal government services, public safety/justice activities, social services, and child welfare services;
- $20,000,000 for provision and delivery of potable water;
- $7,500,000 for BIA administrative costs and oversight.

The ARPA provides broad flexibility in determining the allocation of funds within these four categories to ensure Tribes and Tribal organizations unique needs are addressed. Tribes should reach out to the BIA to inquire when the agency will schedule ARPA consultation sessions to seek input on allocation of funds within these four categories.

How long will ARPA BIA Sec. 11002 funding remain available?

All ARPA BIA funds will remain available until expended.

If my Tribe receives support through BIA's "Small and Needy" program, will ARPA BIA Sec. 11002 funds impact our continued participation in the "Small and Needy" program?

No. ARPA BIA funds will be excluded from calculations used to determine participation in the "Small and Needy" program.

Housing Assistance & Supportive Services Programs for Native Americans (Sec. 11003)

How will the $750,000,000 in Native housing funding in Sec. 110003 be allocated?

The ARPA requires the Department of Housing and Urban Development (HUD) to divide the $750,000,000 provided in Sec. 11003 among the following activities:

- $450,000,000 for Tribes and Tribally designated housing entities (TDHEs) through the Native American Housing and Self Determination Act (NAHASDA) Title I Indian Housing Block Grant (IHBG) formula;
- $280,000,000 for Indian Community Development Block Grants (ICDBG);
- $10,000,000 for technical assistance;
- $5,000,000 for the Department of Hawaiian Home Lands through the NAHASDA Title VIII grant program; and
- $5,000,000 for administrative costs.

How long will ARPA Native housing funding in Sec. 110003 remain available?

All ARPA Native housing funds provided through Sec. 110003 will remain available until September 30, 2025.

Can ARPA Native housing Sec. 11003 funds be used to cover retroactive eligible expenses my Tribe or TDHE incurred while responding to the COVID-19 pandemic?

Yes. In addition to new expenses, ARPA Native housing Sec. 11003 funds can be used to cover eligible COVID-19 related expenses incurred since January 21, 2020.

Are the ARPA IHBG and ICDBG Sec. 11003 funds subject to the same statutory and regulatory limitations that apply to these programs generally?

No. The ARPA recognizes that Tribes need broader flexibility to access and use ARPA funds in a way that makes sense for their communities' unique COVID-19 needs. The ARPA allows HUD to waive or alter any statutory or regulatory provisions related to IHBG and ICDBG necessary to expedite and facilitate the use of ARPA funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment). Tribes should reach out to HUD to inquire how the agency will determine what ARPA waivers and alternative requirements will govern the use of these funds.

Which Tribes and TDHEs are eligible to receive ARPA IHBG funding?

The ARPA requires that HUD distribute IHBG funding to Tribes and TDHEs using its FY 2021 allocation formula, which provided funding to over 590 eligible entities.

Can Tribes that do not participate in IHBG receive ARPA IHBG funding?

Tribes that do not participate in the annual IHBG program are eligible to receive IHBG funding provided by Sec. 11003 unless they have proactively opted out of the program.

What happens if any of the $450,000,000 reserved for IHBG funds in Sec. 110003 is returned or recaptured?

Any ARPA IHBG funds returned or recaptured will be transferred for ARPA ICDBG use to ensure ARPA Native housing funds remain in Indian Country.

Can the Department of Hawaiian Home Lands use its ARPA Sec. 11003 funds to provide rental assistance to eligible Native Hawaiian families? And, if so, is the Department limited to providing rental assistance only on Hawaiian Home Lands?

Yes, the Department of Hawaiian Home Lands may use any portion of the $5,000,000 it receives under ARPA Sec. 11003 to provide rental assistance to eligible Native Hawaiian families. Additionally, the Department of Hawaiian Home Lands may use these funds to provide rental assistance to eligible Native Hawaiian families on or off Hawaiian Home Lands.

Can my Tribe use ARPA ICDBG Sec. 11003 funds for its own planning and management expenses?

Yes. Tribes may use up to 20% of any ARPA ICDBG funds they receive for planning, management, and administration costs.

Can my Tribe use ARPA ICDBG Sec. 11003 funds for public services?

Yes. Tribes may use up to 100% of any ARPA ICDBG funds they receive for eligible public service activities related to their COVID-19 response (e.g., employment, public safety, child care, public health, education, energy conservation services).

Will the $280,000,000 in ARPA ICDBG funds be competitive?

The Department has yet to determine whether it may use its waiver authority under the ARPA ICDBG provisions to allow funds to be awarded using the CARES ICDBG "first-come-first-served". Tribes interested in this matter should contact HUD.

COVID-19 Response Resources for the Preservation & Maintenance of Native American Languages (Sec. 11004)

Who is eligible to receive an ARPA Native Language COVID-19 Emergency Preservation and Maintenance grant authorized under Sec. 11004?

Indian Tribes, Native Hawaiian organizations, Alaska Native organizations, Native American Pacific Islander organizations, and other agencies/organizations eligible to receive assistance from the Administration for Native Americans (ANA) are eligible to receive an ARPA Native Language COVID-19 Emergency Preservation and Maintenance grant. The full list of entities eligible to receive ANA assistance can be found at 42 U.S.C. 2991b(a).

What is the process for receiving an ARPA Native Language COVID-19 Emergency Preservation and Maintenance grant authorized under Sec. 110004?

The ARPA provides broad flexibility to establish the new Native Language COVID-19 Emergency Preservation and Maintenance grant program, but requires the ANA to finalize the grant program parameters within 180 days of ARPA enactment (i.e., September 7, 2021). Native communities should reach out to the ANA to inquire about how the agency will determine what parameters will govern this new grant.

Will ARPA Native Language COVID-19 Emergency Preservation and Maintenance grants require the same application materials as other ANA language grants?

No. The ARPA explicitly exempts the newly established Native Language COVID-19 Emergency Preservation and Maintenance grant program from the application requirements that apply to the ANA's existing language grants.

Bureau of Indian Education (BIE) (Sec. 11005)

How will the $850,000,000 in ARPA BIE Sec. 11005 funding be allocated?

The ARPA provides broad flexibility to determine the allocation of BIE Sec. 11005 funds so that Tribes, Tribal Colleges and Universities (TCUs), Tribal BIE school leaders, and BIE and TCU students and parents' unique needs are addressed. However, the ARPA requires the BIE Director to establish the method for allocating these funds among administrative activities, BIE K-12 schools and dormitories, and TCUs within 45 days of ARPA enactment (i.e., April 25, 2021). Anyone interested in weighing in on the method for allocating these funds should reach out to the BIE to inquire when the agency will schedule ARPA consultation sessions.

How long will ARPA BIE Sec. 11005 funding remain available?

All ARPA BIE Sec. 11005 funds will remain available until expended.

What types of activities and costs can ARPA BIE Sec. 11005 funding be used for?

The ARPA recognizes that TCUs, BIE schools, and BIE dormitories need broad flexibility to use ARPA funds in a way that makes sense for their communities' unique COVID-19 needs. For example, while

some schools may need support for expanding broadband access, other schools may need funds to modernize ventilation systems or provide student and staff supportive services. Anyone interested in weighing in on the scope of allowable uses for these funds should reach out to the BIE to inquire when the agency will schedule ARPA consultation sessions.

American Indian, Native Hawaiian, & Alaska Native Education (Sec. 11006)

How will the $190,000,000 in ARPA Native education Sec. 11006 funding be allocated?

The ARPA requires the Department of Education to divide the $190,000,000 provided in Sec. 11006 as follows:

- $20,000,000 for Tribal education agencies;
- $85,000,000 for Native Hawaiian education organizations and entities; and
- $85,000,000 for Alaska Native education organizations and entities.

The ARPA provides broad flexibility to determine the allocation method of funds within these three categories to ensure Tribal education agencies and Native organizations' unique needs are addressed. However, the ARPA requires the Department to establish the method for allocating these three sets of funds within 180 days of ARPA enactment (i.e., September 7, 2021). Anyone interested in weighing in on the allocation of these funds should reach out to the Department with inquires and input.

How long will ARPA Native education Sec. 11006 funding remain available?

All ARPA Sec. 11006 funds will remain available until expended.

What can Tribal education agencies use ARPA Sec. 11006 funding for?

Tribal education agencies that receive ARPA Sec. 11006 funding may use these funds for any of the purposes identified in Elementary and Secondary Education Act section 6121(c) (20 U.S.C. 7441(c)). Examples of allowable activities include student guidance/counseling services, additional instruction opportunities, bilingual/bicultural programs, and student health and nutrition services.

Who is eligible to receive funds from the $85,000,000 reserved for Native Hawaiian education organizations and entities under ARPA Sec. 11006?

Organizations and entities eligible to receive grants under Elementary and Secondary Education Act Section 6205(a)(1) (20 U.S.C. 7515(a)(1)) are eligible for ARPA Sec. 11006 funds. This list includes:

- Native Hawaiian education organizations;
- Native Hawaiian community-based organizations;
- Public and private nonprofit organizations, agencies, and institutions with experience in developing or operating Native Hawaiian programs or programs of instruction in the Native Hawaiian language;
- Charter schools; and
- Consortia of any of the above.

What can Native Hawaiian education organizations and entities use ARPA Sec. 11006 funding for?

Native Hawaiian education organizations and entities that receive ARPA Sec. 11006 funding may use these funds for any of the purposes identified in Elementary and Secondary Education Act section 6205(a)(3) (20 U.S.C. 7515(a)(3)). Examples of allowable activities include activities that enhance students' Hawaiian and English language literacy, meet the special needs of Native Hawaiian students with disabilities, support Native Hawaiian gifted and talented students, and provide professional development of educators.

Who is eligible to receive funds from the $85,000,000 reserved for Alaska Native education organizations and entities under ARPA Sec. 11006?

Organizations and entities eligible to receive grants under Elementary and Secondary Education Act Section 6304(a)(1) (20 U.S.C. 7544(a)(1)) are eligible for ARPA Sec. 11006 funds. This list includes:

- Alaska Native organizations with experience operating education and related programs;
- Alaska Native organizations that partner with a state or local education agency or Alaska Native organizations with experience operating education and other related programs; and
- An entity located in Alaska, predominately governed by Alaska Natives, that has experience operating education and related programs and is granted an official charter or sanction (as described in the definition of "Tribal organization" under 25 U.S.C. 5304) from an Alaska Native Tribe or an Alaska Native organization.

What can Alaska Native education organizations and entities use ARPA Sec. 11006 funding for?

Alaska Native education organizations and entities that receive ARPA Sec. 11006 funding may use these funds for any of the purposes identified in Elementary and Secondary Education Act section 6304(a)(2-3) (20 U.S.C. 7544(a)(2-3)). Examples of authorized activities include activities that improve the educational outcomes and school readiness of Alaska Natives, assist in the collection of data, develop curricula, provide professional development for educators, opportunities for student enrichment, and promote Alaska Native students' academic progress.

March 18, 2021

Presiding Commissioner Bob Dixon and Members of the Greene County Commission
Greene County Commission Office
1443 N. Robberson Ave., 10th Floor
Springfield, Missouri 65802

Mayor Ken McClure and Members of the Springfield City Council
Busch Municipal Building
840 Boonville Avenue
4th Floor
Springfield, Missouri 65802

Ladies and Gentlemen:

As you know, the American Rescue Plan Act was signed into law last week and included Coronavirus Fiscal Recovery Funds for states, counties, and cities. Initial indications are that Missouri will receive approximately $3.5 billion, Greene County will receive $57 million, and Springfield will receive $39 million. Although final details regarding the use of these funds are not yet available, general guidance on the use of these funds follows:

Funds can only be used for the following purposes until December 31, 2024:

- To respond to the COVID-19 public health emergency.
- To respond to the negative economic impacts of the pandemic, **including aid to impacted industries such as tourism, travel, and hospitality.**
- To cover premium pay to workers performing essential tasks during the pandemic.
- To cover government revenue losses that are due to the pandemic.
- To make necessary investments in water, sewer, or broadband infrastructure.

It is our understanding that funds will be available for capital projects and aid to the tourism, travel, and hospitality industry is specified in the language of the bill. Although final guidance on how funds can be used could be more restrictive than what is described in the general guidance, we believe there could be a one-time opportunity to vastly improve our amateur sports facilities over and above what Springfield City Council has already done for our soccer facilities.

Improving our amateur sports facilities would provide immediate and long-term benefits to Springfield's tourism, travel, and hospitality industry and Springfield's economy in general through the overnight travel generated by the ability to host more and larger sporting events. On top of the economic impact improved facilities would generate, they would enhance the quality of life and sense of place of our local citizens.

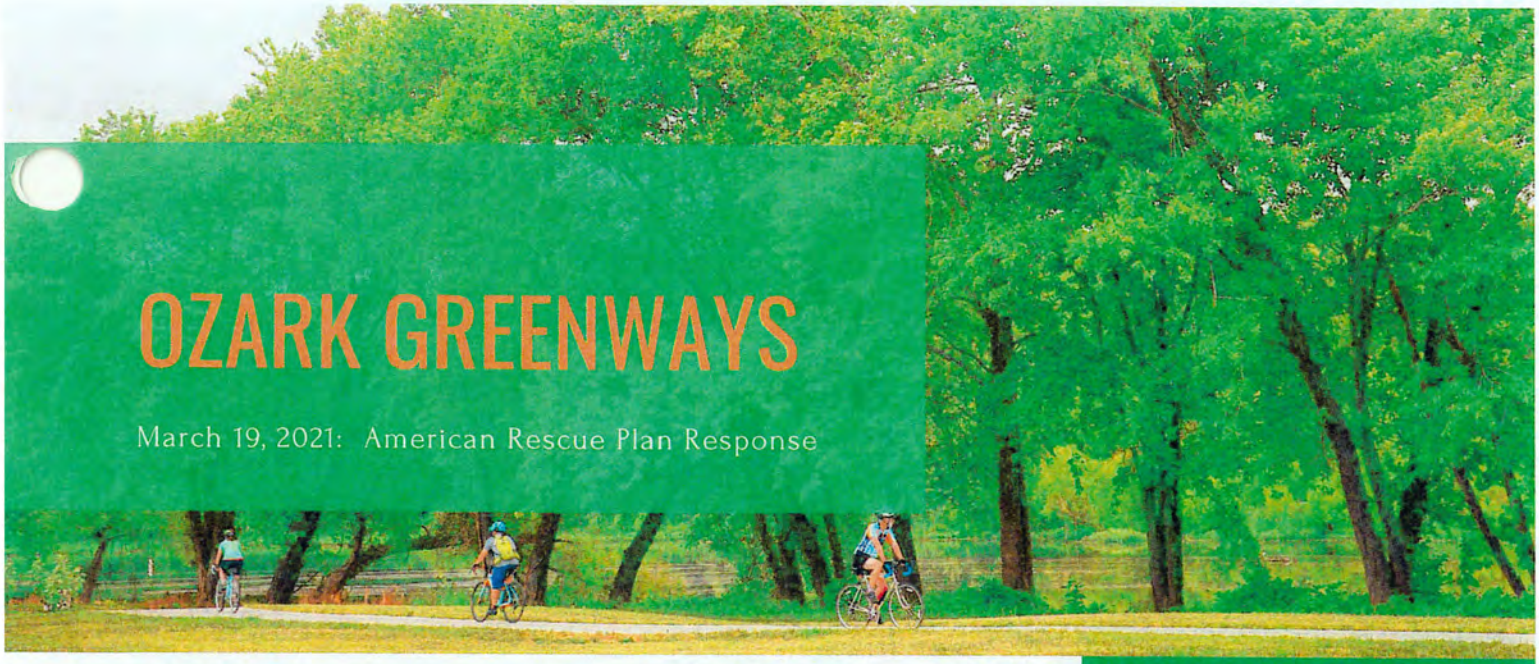
We encourage Greene County and Springfield to consider this suggestion and work together to maximize the opportunity before us. On behalf of the Springfield Convention and Visitors Bureau, we would love the opportunity to assist in any way possible.

Thank you for your consideration and please do not hesitate to contact Tracy Kimberlin or me if you have any questions.

Sincerely,

Amy Austin

Amy Austin
Chair
Springfield Convention & Visitors Bureau Board of Directors



OZARK GREENWAYS

March 19, 2021: American Rescue Plan Response

Presiding Commissioner Dixon and
Commissioners Russell & Maclachlan
1442 N. Robberson Avenue
Springfield, MO 65802

Mayor Ken McClure and
Members of the Springfield City Council
840 Boonville Avenue
Springfield, MO 65802

Dear Elected Officials,

e American Rescue Plan Act was signed into law last week and included ronavirus Fiscal Recovery Funds for states, counties, and cities. It has been estimated that Greene County will receive $57 million and Springfield will receive $39 million to be used between now and December 31, 2024 (1.)

We have outlined a strategy to respond to the COVID crisis that has eroded many aspects of our public health and our economy. Time in the outdoors has been a bright spot for many in our community. Let's build on our "bright spot" to address key dimensions of the crisis through visionary infrastructure investments that spur strong economic recovery and a healthy, equitable future.

There are also many timely public health benefits. People are using greenway trails more than ever as they strive to maintain their mental and physical health. Dramatic increases in use are being recorded across the United States; an analysis of 31 trail counters for the week of March 16–22 by Rails-to-Trails Conservancy found a nationwide trail usage increase of nearly 200% from that same week in 2019 (2.) By providing a safe space for all to exercise outdoors, trails address leading factors to COVID severity such as obesity and Vitamin D deficiency. A robust trail system is also fun and provides both immediate and long-term benefits for residents and visitors alike.

Board of Directors

Christina Angle, President
Jason Krebs, Past President
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30 YEARS OF GREENWAYS

Residents want trails. Our community needs trails. You have the power to make trails possible. Such visionary investment would get us out of this crisis in a way that transforms our community by fast-tracking identified, shovel-ready projects from the Forward SGF Comprehensive Planning Process. Completing the trail system was among the top three items that Springfieldians indicated they wanted to see from each of the public engagement sessions (3.)

Trails, and related active transportation infrastructure, will play a critical role in contributing to healthy, safe, and enjoyable communities where we can walk, bike, and move. In addition to Forward SGF, our community had the pleasure of two study tours to Northwest Arkansas in 2019 to learn from and experience their trail system. On one of those visits, Councilman Ollis asked regional leaders if they could point to what their tipping point was. The response was unanimous, the completion of the trail spine –the Razorback Greenway trail. When the gaps within the main spine were filled, the benefits began to roll-in to the tune of $137 million in economic impact (4.)

We desire to expand upon our current partnerships with the City, County, & Springfield-Greene County Parks to undertake infrastructure projects that will continue the forward momentum of our region through filling key gaps in our trail system. Our trail system is critical for sustainable growth as it will improve water quality through the continued development of greenway riparian corridors, provide safe and equitable transportation choices, and create an exceptional place that will recruit and retain a talented workforce.

Specifically, we are proposing the acceleration of 3 Regional Trail Projects (5):

1. South Creek/Wilson's Creek Greenway Gap: ~$2 Million

The closure of this remaining gap in Greene County will directly connect the South Creek Greenway trail to the Wilson's Creek Greenway trail resulting in 10+ miles of connected trails. These funds will be used for land acquisition, trail construction, and riparian corridor improvements to 20+ acres.

2. Wilson's Creek Greenway Trail Gap: ~$3 Million

The closure of this gap between Ewing Park & Rutledge-Wilson Farm Park will result in an additional 2 miles of trail in Greene County, increasing the trail connectivity mentioned above to 12+ miles. This trail alignment provides connectivity from the west side of our community to the Jordan Creek Greenway trail, which will eventually connect to Downtown. These funds will be used for land acquisition, trail construction, and riparian corridor improvements.

3. Chadwick Flyer Trail Segment: ~$5 Million

This regional trail will connect Springfield to Ozark and is one of our most popular projects. The City of Ozark currently has more than a mile of the trail built within their city limits. These funds will be used for property acquisition, trail construction from Sunshine St. to the county line, and a new trailhead.

Accelerating the above projects will increase access to our beautiful outdoors and further connect our trail and park network. More people are walking and biking, and we predict that these behavior patterns will not only remain but also continue to increase. We must work together to create infrastructure that meets these needs. The pandemic has tested our community and proven the incredible value that trails, parks, and active transportation infrastructure provide. Let's continue this conversation together, please reach out at any time to Mary Kromrey or myself.

Forward together,

Christina Angle

Christina Angle
President, Ozark Greenways

Sources:
1. www.jdsupra.com/legalnews/americ
rescue-plan-act-of-2021
2.www.railstotrails.org
3.www.forwardsgf.com/pages/documents
4.www.waltonfamilyfoundation.org
5.ozarkstransportation.org

SPRINGFIELD SPORTS COMMISSION

March 31, 2021

Presiding Commissioner Bob Dixon and Members of the Greene County Commission
Greene County Commission Office
1443 N. Robberson Ave., 10th Floor
Springfield, Missouri 65802

Mayor Ken McClure and Members of the Springfield City Council
Busch Municipal Building
840 Boonville Avenue, 4th Floor
Springfield, Missouri 65802

Greetings County Commission and City Council:

The American Rescue Plan Act recently signed into law included Coronavirus Fiscal Recovery Funds for states, counties, and cities. Initial indications are that Missouri will receive about $3.5 billion, Greene County will receive $57 million, and Springfield will receive $39 million. We feel these resources could make a dramatic and significant impact on our sports infrastructure and enhance the economic driver that is sports tourism. Additionally, the opportunity to investigate EDA grants with the intentional use to make improvements to our sports facilities is of interest to the Sports Commission.

Because those funds can be used to help industries such as tourism, travel and hospitality that were severely affected by the pandemic, we encourage you to invest in capital projects that would aid the sports tourism industry. Encouraging Sports Tourism is a proven investment that yields positive returns both financially and in establishing a strong quality of place for community residents.

The potential use of these funds would vastly improve our sports tourism offerings, industry and ultimately our economy and the people who live here. We encourage Greene County and the City of Springfield to consider this opportunity and suggestion.

Thank you for your consideration.

Josh Scott
Chair, Springfield Sports Commission

Lance Kettering
Executive Director, Springfield Sports Commission

cc: Springfield Sports Commission Board of Directors

815 E. St. Louis Street • Springfield, MO 65806
417-881-5300 ext. 106 •fax 417-881-7201 • www.springfieldmosports.org

COMMUNITY PARTNERSHIP
Working Together to Build Strong Communities

May 5, 2021

American Rescue Plan Act of 2021
Local Community Response
Affordable Housing and Homelessness Prevention

INTRODUCTION

For nearly 30 years, Community Partnership of the Ozarks has convened stakeholders across the region to identify and address key challenges relating to housing affordability and homelessness. Using reliable data collection methods and integrating best practices, our community has responded to the needs of both households living in poverty and the agencies providing relief, recovery, and sustainability.

When the pandemic hit, we rallied as a community to provide quick responses to a wide range of immediate needs including basic hygiene through food and shower access; quarantine for hyper-vulnerable homeless due to chronic health conditions, and isolation units for individuals who were COVID positive. At the same time, we worked together to develop long term solutions that would stabilize households, creating lasting change through the expansion of safe, decent, affordable, and accessible housing as well as provisions for immediate access to shelter and housing services for the homeless.

Through the American Rescue Plan Act, we believe that our collective vision to create an immediately responsive homeless service system and expanded affordable housing options will become our reality. Targeted funding allocations will create 150 year-round crisis shelter beds, 100 Emergency Shelter units, and 75 new affordable housing units for low income households.

AFFORDABLE HOUSING:

<u>Springfield Community Land Trust:</u>
Total proposal for ARPA funding: $2,550,155
Result: 30 additional affordable rental units for low-income households

- Estimate for acquisition and rehabilitation per unit: $80,000 X 30 = $2,400,000
- 1 FTE to oversee acquisitions, rehabilitation, and housing counseling: $150,155

The Springfield Community Land Trust (SCLT) has recently determined that program sustainability can be achieved with approximately 50 rental units. They currently have 22 Center City affordable units in their rental portfolio, which includes scattered sites and multi-family units.

With designated ARPA funding, the SCLT would focus on acquiring and rehabbing 10 nuisance properties (already working with Housing Collaborative subcommittee to address and identify) per year for 3 years to add into their rental portfolio with the goal of becoming self-sustaining by 2025.

When rehabbing properties, the SCLT works to:

- improve energy efficiency through added insulation, construction, HVAC and appliances
- use Universal Design principals
- create safe, decent, affordable units for low to moderate income families
- promote neighborhood stabilization

The Gathering Tree: Eden Village 3:

Total proposal for ARPA Funding: $300,000

- Eden Village 3 Infrastructure Needs
- Result: 40 tiny home duplexes Affordable Housing Units

The Gathering Tree has acquired land to expand their Eden Village project to a third location. At this time, most of the funding have been raised totaling nearly $1 Million. The Gathering Tree is also soliciting funds from the Federal Home Loan Bank to complete the purchase of the tiny duplexes. The remainder of funding needed for infrastructure needs totals approximately $300,000 and includes sidewalks, parking lots and other easements. Eden Village houses and serves the chronically disabled homeless community.

HOMELESS CRISIS RESPONSE SYSTEM:

An effective crisis response system can identify and quickly connect people who are experiencing or are at risk of experiencing homelessness to housing assistance and other services. It works because it aligns a community, its programs, and services around one common goal — to make homelessness rare, brief, and nonrecurring.

To achieve this primary goal, key components of an effective crisis response system are identification of those experiencing homelessness, prevention of homelessness when possible, connection with housing quickly and service provisions when needed.

Emergency Shelter

Total proposed ARPA Funds: $6,000,000 (estimated)
Result: 100 Additional Emergency Shelter Beds

- The Gathering Tree: $2,000,000 for acquisition and renovation of the Redwood Inn providing 50 additional units for Emergency Shelter.
- The Kitchen, Inc: $4,000,000 for new construction on currently owned property providing 50 additional units for Emergency Shelter.

The Ozarks Alliance to End Homelessness (OAEH) has been working with local community stakeholders to expand Emergency Shelter in Springfield since last fall. This Emergency Shelter Task Force estimates that 150-200 additional units are needed to provide program-based services as a key component to our local Homeless Response System. The goal of this Task Force was to develop a model that would provide 90-day shelter following a Housing First Model. This approach is guided by the belief that people need basic necessities like food and a place to live before attending to anything less critical, such as employment, budgeting properly, or attending to substance use issues.

There are two agencies that have 'shovel ready' Emergency Shelter projects: The Gathering Tree and The Kitchen, Inc.

The Gathering Tree will acquire and renovate The Redwood Motel. Currently there are 20 units available that will be enclosed to provide secure access to individual rooms with 30 additional units added on to the current structure. The Gathering Tree will work directly with the City of Springfield's Planning and Zoning Department to comply with applicable ordinances. The motel is currently under contract and could be in service by end of 2021. This project would provide shelter to individuals, couples, and would be pet friendly, addressing key gaps in Emergency Shelter services in our Continuum of Care.

The Kitchen, Inc. will expand current Emergency Shelter services by adding a newly constructed site that will provide 50 additional beds. The building site is owned by The Kitchen and building plans have been submitted and approved by the City of Springfield. The Kitchen will work directly with the City of Springfield's Planning and Zoning Department to comply with

applicable ordinances. This project would provide shelter to individuals including seniors, couples, and families with children.

Crisis Sheltering Coordination:

Total proposed ARPA Funds: $180,155

Result: Create 150 Crisis Shelter Beds

- Operational support/supplies for volunteer sites: $30,000 ($10,000 annually)
- 1 FTE Crisis Shelter Coordination: $150,155

The Springfield community has created a model for crisis cold weather sheltering during the winter months and should expand this model to 365 nights per year. The current crisis shelter model embraces a Housing First approach, offers immediate and low-barrier access to anyone facing a housing crisis, and measures shelter performance to improve results. According to our Ozarks Alliance to End Homelessness, there are approximately 200 individuals who are sleeping outside or in a place not meant for human habitation and an average of 150 individuals seek crisis sheltering during the coldest winter months. An expansion of our crisis cold weather shelter to provide 150 beds for daily service will reduce the number of individuals sleeping outside on private property and increase access to our Coordinated Entry System/One Door and other community resources aimed at health care and stabilization.

Coupled with the recommended Emergency Shelter expansion, Springfield could reach functional zero for homelessness by 2022.

Homeless Hotline

Total proposed ARPA Funds: $131,425

- Program operational support: $30,000 ($10,000 annually)
- 1 FTE Crisis Shelter Coordination: $101,425

Burrell Behavioral Health will expand their current Crisis Line to include homeless services. This will allow for 24/7 access to housing stabilization and connection with CPO's Coordinated Entry System provider, One Door. The proposed project will provide funding for transportation to shelter, hotel stays when necessary and supplies to meet emergency needs. Burrell believes that current staffing could support the Homeless Hotline however, the need for additional staff is anticipated in year two and three.

At this time, the One Door program serves our community during regular business hours. Through our work with the Springfield Police Department and Burrell Behavioral Health, we

know that there is a large gap in serving the needs of individuals in crisis and homeless overnight and on weekends. The establishment of a Homeless Hotline will provide much needed support to law enforcement officers, deter individuals from hospitals and jails and connect them to the Coordinated Entry System for housing stabilization.

Community Based Case Management:

Total proposed ARPA Funds: $375,310

- Program operational support: $75,000 ($25,000 annually)
- 2 FTE Community Based Case Managers: $300,310

Using the Critical Time Intervention model, two Community Based Case Managers will provide resource navigation and connection to housing, mental health, and healthcare. Critical Time Intervention is a time-limited evidence-based practice that mobilizes support for vulnerable individuals during periods of transition. The CTI model facilitates housing stability, community integration, and continuity of care, and has been successful in supporting the return to housing for people with serious mental illness, people experiencing homelessness, veterans, and many other groups.

Quigley, Collin

m: Gage, Jason
nt: Monday, May 17, 2021 11:55 AM
To: Quigley, Collin; Jones, Maurice; Holtmann, David
Subject: FW: Potential Project for ARPA
Attachments: ARPA info for City.pdf

Fyi.

Jason A. Gage, ICMA-CM
City Manager

Busch Municipal Building
840 Boonville Ave.
Springfield, MO 65802
Phone: (417) 864-1006
Fax: (417) 864-1912
TTY: 1 (800) 877-8339
www.springfieldmo.gov

From: (adm) Regina Cooper <reginac@thelibrary.org>
nt: Monday, May 17, 2021 10:17 AM
, Gage, Jason <jgage@springfieldmo.gov>
Subject: Potential Project for ARPA

CAUTION This email originated from outside the organization. Do not open attachments or click links from sources you do not know and trust.

Jason,

Councilman Matt Simpson suggested to me that I send you information regarding a project that could potentially be eligible for ARPA funds that the City receives from the federal government. I have attached a summary of the project. Thank you.

Regina Greer Cooper, Executive Director
Springfield-Greene County Library District
4653 South Campbell Avenue
Springfield, MO 65810
417-883-5366 x2

reginac@thelibrary.org

Construction and services concentrated at the Library Center, 4653 S Campbell Avenue. The Library Center is our busiest and largest location. All aspects emphasize minimizing contact between individuals while still offering good service or creating space to accommodate needs created or highlighted during Covid 19.

Patron self service has been very important during the past year. Adding up to date, full functioning self check units will enable patrons to check out their materials with minimal contact with staff if that is their preference.

Currently items reserved for patrons are held behind the desk. Moving those so they can be accessed directly by patrons will also minimize contact greatly.

Staff in our circulation department typically handle over 70,000 items per month at the Library Center. Installation of an automated materials handling (AMH) system will significantly reduce the amount of time staff spend handling those materials. Nearly all the items will be automatically checked in and sorted to be reshelved.

The Library Center's largest meeting room is really only comfortable for smaller groups. A true auditorium will enable the Library to offer much larger events and to accommodate community events such as our recent cooperative with the Springfield Greene County Health Department for a Covid 19 immunization event. The number of participants for the event was really only limited by our lack of space for those wanting the vaccine.

Item	Quantity	Cost per unit	Total
Self checkout units	6	$11,000.00	$66,000.00
Self pickup shelves	16	$470	$7520.00
End panels	8	$500	$4000.00
Automated materials handling unit	1	$300,000	$300,000
Auditorium	1	$275 per sq ft / 5000 sq ft	$1,375,000.00
Professional services	1	$200,000.00	$200,000.00
Grand Total			$1,952,520.00

Patron self checkout units
Quantity 6
Cost per unit (including software) $11,000

Patron self pickup shelves
Quantity 16
Cost per unit $470

Wooden end panels for shelves
Quantity 8
Cost per unit $500

Automated Materials Handling unit
Quantity 1
Cost per unit $300.000

Auditorium 5000 square feet
Quantity 1
Cost per unit $275 sq ft

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS

Southern Missouri Professional Fire Fighters

IAFF Local 152

Springfield Republic Ozark Logan-Rogersville Nixa Battlefield Fair Grove Aurora Branson Strafford

Southern Missouri Professional Fire Fighters
1200 E. Woodhurst, Suite K400
Springfield, MO 65804

May 21, 2021

Re: America Rescue Plan Act funding request

Mayor McClure and Mr. Gage,

The City of Springfield will soon be discussing the allocation of the approximately 40 million dollars in funding that was accepted as part of the America Rescue Plan Act. As you are aware, these funds are intended to provide vital fiscal relief for those effected by the Covid-19 pandemic. While there are many provisions contained within this legislation, one of its primary purposes is "to respond to workers performing essential work during the COVID–19 public health emergency by providing premium pay to eligible workers of the State, territory, or Tribal government that are performing such essential work." Section 602 (c)(1)(B).

As the pandemic worsened and the city sheltered its citizens in place to protect their health, Fire Fighters were still on the frontline. When others were figuring out new ways to operate from the safety of their home and establish a new normal, we were asked to enter those homes to care for the citizens as they were struck with the virus. Fires continued to burn, medical emergencies continued to occur, and our services were still needed.

There is no work from home option in our profession. Each day the men and women of Local 152 dutifully protected the citizens of Springfield. This dedication has come at a great cost. In spite of the extraordinary precautions taken to try and protect ourselves while serving, many of our members contracted Covid through the course of their employment. These members then unknowingly took the virus home with them, infecting their wives, husbands, parents, children and grandchildren.

Aside from the financial burden associated with the illness, the Covid pandemic has created an incalculable hardship to our members mental health. The IAFF Peer Support program, which is designed to help our members seek assistance in a safe and confidential manner, has seen a **300%** increase in contacts during the past 14 months. The stress of exposing their families to this virus is an overriding factor for these increased requests and referrals to mental health professionals.

In spite of these risks our members have once again stepped up to protect the City of Springfield. On May 7th members of IAFF Local 152, in conjunction with Springfield Fire Department and Greene County Health hosted a vaccine clinic at Fire Station 8. The clinic vaccinated 111 citizens in one day and has led to the scheduling of five additional events.

Our members have endured all of these hardships and sacrifices without additional compensation. In fact, with the uncertainty of the City budget in July of 2020, many of our members endured a financial loss with the delay in merit funding they have come to depend upon. While not alone in this sacrifice, it did have a negative and compounding effect on the morale of our membership.

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS

Southern Missouri Professional Fire Fighters

IAFF Local 152

Springfield Republic Ozark Logan-Rogersville Nixa Battlefield Fair Grove Aurora Branson Strafford

The premium pay defined within the ARPA funding is designed to offset these hardships by compensating our Fire Fighters for the heightened risk and mental stress that has been endured during the pandemic. These funds must be additional to regular wages and not a substitute for normal wage earnings.

The ARPA recognizes this by defining *premium pay to mean an amount up to $13 per hour in addition to wages or remuneration the worker otherwise receives and in an aggregate amount not to exceed $25,000 per eligible worker.*

We are asking that the City and members of Council consider allocating a portion of these funds as "premium pay" to the members of IAFF Local 152. While there has been some question in the past of the legalities of "back pay" or "bonuses" for employees of the City, that is not an issue that we face with the use of this funding. The definition of **premium pay** contained within the legislation clarifies that *premium pay may be provided* ***retrospectively*** *for work performed at any time since the start of the COVID– 19 public health emergency, where those workers have yet to be compensated adequately for work previously performed.(31CFR Part 35)*

We respectfully request that the each of dedicated, frontline workers of IAFF Local 152 be paid the maximum amount of 25,000 dollars "premium pay" allowed under the ARPA for our work during this pandemic. This would include the rank of Firefighter, Equipment Operator, Rescue Specialist, Lieutenant, Captain and Fire Marshal. We believe this to be reasonable compensation for the immeasurable risk to our members mental and physical health as they protected the citizens of this great City during such dangerous and unprecedented times. While we cannot speak for our brothers and sisters in the Springfield Police Department, we would hope that their effort and sacrifice would be recognized as well.

Allocating these funds in the form of premium pay has numerous benefits for the City. Currently employers are struggling to recruit and retain talent and the City of Springfield is no different. Using these funds to provide renumeration will show potential employees the support our community shows its first responders. It will also aid in supporting the budget priorities of employee recruitment, retention and dedication to public safety. The fact that these dollars would most certainly be spent in Springfield, supporting our sales tax base and local businesses only adds to the benefit of using the funds in this manner.

We thank you for your time and consideration.

Respectfully,

Chad Davis, President

Devin Keeney, Executive Vice President

Brent Cox, Secretary Treasurer

Garett Olson, Political Director

1200 E Woodhurst Suite K400; Springfield, MO 65804 **Office (417) 864-5804**

www.iaff152.com

Together We Achieve the Extraordinary

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS

Southern Missouri Professional Fire Fighters

IAFF Local 152

Springfield Republic Ozark Logan-Rogersville Nixa Battlefield Fair Grove Aurora Branson Strafford

1200 E Woodhurst Suite K400; Springfield, MO 65804 **Office (417) 864-5804**

www.iaff152.com

Together We Achieve the Extraordinary

Springfield Police Officers Association
P.O. Box 6289
Springfield, MO 65801-6289

May 24, 2021

Re: America Rescue Plan Act: Coronavirus State and Local Fiscal Recovery Funds

The Springfield City Council will soon discuss the distribution of the $40,276,290 dollars that it is allocated as result of the federal American Rescue Plan Act ("ARPA"). These funds are intended to provide relief for the hardships of the Covid-19 pandemic. One of the Act's key purposes is to "to respond to workers performing essential work during the COVID–19 public health emergency by providing premium pay to eligible workers of the State, territory, or Tribal government that are performing such essential work. . .." Section 602 (c) (1)(B).

Police officers have been one of the few groups of City employees that have continually faced these elevated risks. During the pandemic, many City employees were able to work from home or otherwise mitigate contact with others. The Springfield Police Officers were unable to do so. We were steadfast as first responders to respond to every criminal action and non-criminal event including: general disturbance/ civil concerns, mental health, homeless concerns, ordinance violations, drug overdoses, all types of emergency medical assistance and any other events requiring a response from 911 calls and all other needs. While calls for service diminished in other City departments, they increased for police. As a result, many officers contracted Covid-19 along with their family members. Even though we knew these infections would continue to occur, we persevered to serve the citizens of Springfield thereby putting ourselves and our families in jeopardy. Our commitment to the safety and wellbeing of the citizens of Springfield remained our top priority. We continued to perform our jobs 24/7 during a City, State and Federal declared Emergency without additional pay.

The difficulty of working during the pandemic has been compounded by the increasing crime rate and difficulty in recruiting and retaining officers. As discussed at Council meetings, the Springfield Police Department is understaffed, and officers are underpaid for the dangerous work they perform (the lowest police wages for Missouri cities of 50,000 or more). Low pay and exposure to health risks by constantly interacting with the public make police officers precisely the kind of essential workers premium pay was designed to help. Unlike police in a number of other places, Springfield police did not receive any enhanced pay during the pandemic. The ARPA funds are clearly intended to make up for this situation:

"Furthermore, because premium pay is intended to compensate essential workers for heightened risk due to COVID–19, it must be entirely additive to a worker's regular rate of wages and other remuneration and may not be used to reduce or substitute for a worker's normal earnings. The definition of premium pay also clarifies that premium pay may be provided retrospectively for work performed at any time since the start of the COVID– 19 public health emergency, where those workers have yet to be compensated adequately for work previously performed." 31CFR Part 35

We respectfully request the maximum amount of 'premium pay' for all officers, corporals, and sergeants employed by the Springfield Police Department. We believe a payment of premium pay to each police officer in the amount of $10,000 dollars paid by July 1st 2021, July 1, 2022 and $5,000 dollars paid before July 1st 2023 is appropriate and properly compensates Springfield Police Officers for their heroic actions during this unprecedented time.

"The ARPA recognizes this by defining premium pay to mean an amount up to $13 per hour in addition to wages or remuneration the worker otherwise receives and in an aggregate amount not to exceed $25,000 per eligible worker.

Thank you for your consideration of our efforts to keep Springfield safe and acknowledgement of the heroic work performed during the Emergency Declaration. It is time to back up those words with renumeration.

Respectfully submitted,

Andrew Zinke

Andrew Zinke, President

Justin Hollingsworth

Justin Hollingsworth, Vice President

Matthew Shackelford

Matthew Shackelford, Secretary

Betsy Shipley

Betsy Shipley, Treasurer

attached: City, State, and Federal Declarations of Emergency

From: Katrena Wolfram <kwolfram@hasproperties.org>
Sent: Monday, June 7, 2021 3:48 PM
To: Gage, Jason <jgage@springfieldmo.gov>
Subject: American Rescue Plan

CAUTION This email originated from outside the organization. Do not open attachments or click links from sources you do not know and trust.

Hi Jason,

The Housing Authority of Springfield would like to apply for funds from the American Rescue Plan for our homeless veteran's place on Kingsley Street we wish to build.

We purchased the land behind Price Cutter at Kansas and Kingsley Street close to the Veteran's Clinic on Republic Road for this purpose. John Oke-Thomas is our Architect and has the rendering of the proposed Freedom Ridge Homes building. We currently operate 76 VASH (VA Supportive Housing) Vouchers in Springfield for homeless veterans. Freedom Ridge Homes would house 28 – 32 units for our most vulnerable population.

If you would like to meet with John and I about our proposal, please reach out to either John (861-0760) or myself. If there is an application process for these funds or I need to contact someone other than yourself, please let me know.

Thanks!

Katrena

MOBILE: 417-861-5539
EMAIL: kwolfram@hasproperties.org
WEB: hasproperties.net
ADDRESS: 421 W. Madison
Springfield, MO 65806

Katrena M. Wolfram, RAD/PBV
Executive Director/CEO
Housing Authority of
Springfield, Missouri
President Breckenridge
Development, Inc.

Ozark Empire Fairgrounds

New Arena Project

Greene County Agricultural and Mechanical Society d/b/a Ozark Empire Fairgrounds was established in 1937. The organization hosts over 140 events a year on 72 acres owned by the City of Springfield and operated by the Society pursuant to the provisions of a long term Lease. The Ozark Empire Fair has been a part of Springfield and southwest Missouri since the inception of the organization and has attendance of approximately 160,000 people per year. With the other events, there were over 560,000 people who came to the Fairgrounds in 2019. A 2016 Economic Impact Study showed the results of the events held at the Fairgrounds generated in excess of $29,500,000.00. The events have grown since that time and the estimate currently approaches $40,000,000.00. Exhibitors and visitors come from several states and add to our area tourism footprint.

The scope of the proposed project is to build a multipurpose indoor arena. The 100,000 square foot upper level will be used for livestock shows, horse shows, barrel racing, tractor pulls, dog shows, archery, volleyball, and trade shows. The grounds currently have ample parking to support the operations of the new facility. The organization has maintained profitability every year since 2012. An open-air event center was completed in 2020 and will support the type of events to be hosted in the new arena. This was constructed from private funding.

The 20,000 square foot lower level will be used nine months of the year for Hillcrest High School as an agricultural classroom for their FFA curriculum. They are currently on site working with the Water Shed Committee of the Ozarks, which is in the process of building a greenhouse on site at the Fairgrounds to raise native grasses as part of Hillcrest High School's agricultural curriculum. The other three months of the year the facility will be used for agricultural camps and for the Fair's annual "AgVenture" program.

The cost of the project is **$15,000,000.00**. The plans were first presented to City Council in February 2020 at a luncheon held at the Fairgrounds. This was made part of the Master Plan provided to the City.

Most significantly, during the 2021 legislative session the organization was able to secure **$5,000,000.00** for planning, design, and construction of this arena. This was pursuant to the provisions of House Bill 19, Section 19.405. Those funds are being administered through the Governor's Office of Administration and these are to be matching funds. In addition, the organization has engaged in preliminary conversations with the County Commission. The request to the City is for an additional **$5,000,000.00** toward the cost of this project. The economic impact returned by this project will return to the City for years to come.

Plans are finalized and construction can begin as soon as funding is secured. This is an opportunity for the City, County, and the organization that needs to occur now to take advantage of this legislative work.

DRAFT

ARPA Fiscal Recovery Fund

Project/Expenditure Examples by Category

a. To respond to the public health emergency or its negative economic impacts, including assistance to household, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality

$	< $1M
$$	$1M < $3M
$$$	$3M < $5M
$$$$	$5M < $10M
$$$$$	> $10M

Public Health				
	Continuing Covid Response in Greene County (staffing, supplies, services)	$$$	variable	
	Health Laboratory Equipment (Petrifilm Plate Reader, Ultracold freezer)	$		
	Health Promotion	$	variable	
	Jordan Valley Ice Park Emergency Generator	$		

Tourism, Travel and Hospitality		$ Estimate		
	Cooper Soccer improvements (turf, lighting, etc.)	$$$$		
	New Parks Indoor Sports facility	$$$$		
	Greenways trail Projects (multiple locations)	$$$	variable	
	Killian Softball Complex phase II	$$$$		
	Meador Park Complex (full restoration with synthetic turf)	$$$		
	Visual enhancements at City gateways and corridors	$$	variable	
	Cooper Baseball Park Complex (full renovation with synthetic turf)	$$$$		
	Bill and Payne Stewart Golf Course (facility improvements)	$$$$	variable	
	Rivercut Golf Course Events Center	$$		
	Botanical Gardens Outdoor Kitchen/Classroom	$$		
	Spokes BMX Track at Ewing Park	$$$$		
	Neighborhood Playground and Walking Trail Improvements	$	variable	
	Complete The Commons at Jordan Valley	$		
	Art Museum Education Wing	$$$		
	Multi-purpose Arena Facility (Fairgrounds)	$$$		

Workforce				
	Job Training Programs	$$	variable	

Homeless (assistance to non-profits)				
	Additional Transitional Shelter Space	$$$$	variable	
	Affordable Housing	$$$$	variable	

b. To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers

$	< $1M
$$	$1M < $3M
$$$	$3M < $5M
$$$$	$5M < $10M
$$$$$	> $10M

Premium Pay		$ Estimate		
	SPOA Request for Premium Pay	$$$$	variable	
	IAFF Request for Premium Pay	$$$$	variable	
	Other Eligible Public Employees	$$$$	variable	

DRAFT

ARPA Fiscal Recovery Fund

Project/Expenditure Examples by Category

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

			$	< $1M
			$$	$1M < $3M
			$$$	$3M < $5M
			$$$$	$5M < $10M
			$$$$$	> $10M
Maintenance of City Facilities		$ Estimate		
	Expo Center Building Upgrages (roof, HVAC, etc.)	$$$		
	Bengsh Building Windows	$		
	Westside Health Clinic Doors	$		
	Second public elevator in Busch municipal building	$		
	Busch Building East Entrance renovations	$		
New City Facilities/Projects				
	Centralized climate-controlled storage facility for supplies, materials, records, etc...	$$$		
	Digitizing City Records	$		
	Real Estate purchases in/around Government Plaza	$$	variable	
	Contingency for programmed projects (next 3 years)	$$$	variable	
Public Safety				
	Next Generation 911	$		
	Police Evidence Storage Facility inc. land procurement	$$		
	Fire SCBA replacements	$$		
	Cybersecurity protection for City	$		
	Fire Training Prop	$		
	Police Real-time Crime Center elements (cameras, equipment, etc.)	$$	variable	
	Fire Turnout gear replacements	$		
Studies				
	City-Wide Housing Study	$		
Auditing				
	Auditing work/ additional temp. staffing for ARPA inc. project mgmt.	$$		

d. To make necessary investments in water, sewer, or broadband infrastructure

			$	< $1M
			$$	$1M < $3M
			$$$	$3M < $5M
			$$$$	$5M < $10M
			$$$$$	> $10M
Stormwater		$ Estimate		
	Jordan Creek Stormwater multiple phases	$$$$$	variable	
	Contingency for stormwater projects	$$		
Wastewater				
	Wastewater Lateral Assistance Grant for low-income property owners	$$	variable	

City of Springfield
Schedule of CARES/COVID-19 Funding

Date	Amount	Budget Adjustment #	Ordinance	Department	Funding Source/Description
5/18/2020	$ 9,259,051	048	27318	Airport	Federal Aviation Administration / Airport Salaries and debt service expenses
6/1/2020	$ 364,000	053	27324	Health	Missouri Foundation for Health / COVID-19 testing kits
6/15/2020	$ 916,138	054	27336	Planning	HUD CDBG / COVID stimulus funding
6/29/2020	$ 517,083	003	27348	Police	Dept. of Justice JAG / COVID police response
8/24/2020	$ 240,163	009	27381	Workforce	Mo. Dept of Higher Health / Return Strong COVID-19 employment training
9/21/2020	$ 458,000	N/A	27393	Workforce	Mo. Dept of Higher Education / Job training for adult and dislocated workers
10/5/2020	$ 8,000	018	27399	PIO	Mo College Access Network / Publication costs of SGF Neighborhood News
10/19/2020	$ 200,000	N/A	27405	Workforce	Mo. Dept of Higher Education / Job training for adult and dislocated workers
11/2/2020	$ 6,170,227	019	27409	Health & Other	Greene County CARES Funding / Health Department and Other department COVID expenses
11/30/2020	$ 34,689	033	27413	Workforce	Greene County CARES Funding / Workforce Development COVID related expenses
11/30/2020	$ 71,150	037	27429	Health	Mo. Dept. of Health and Senior Services / Expanded Epidemiology and Laboratory Capacity
11/30/2020	$ 152,502	039	27428	Health	Springfield Public Schools Contact Tracing Contract
12/14/2020	$ 1,122,015	042	27445	Planning	HUD CDBG / COVID stimulus funding
1/11/2021	$ 128,480	049	27452	Health	Regional COVID vaccine effort
3/22/2021	$ 3,861,521	063	27478	Airport	FAA / CRRSA Funding
5/3/2021	$ 55,000	066	27494	Health	DHSS Additional Funding for Epi and Lab Capacity
	$ 434,045	072	TBD	Parks	Parks / Greene County CARES funding (first reading 6/14/2021)
	$ 197,913	073	TBD	Health	COVID-19 Adult Vaccination Supplemental Grant (first reading 6/28/2021)
Total	$ 24,189,977				

ARPA FUNDING

Health Department

June 2021

Summary of Funding

CARES Act Funding		
$	126,150	Epidemiology and Laboratory Capacity CARES
$	4,800,000	Greene County CARES Act Funding
$	**4,926,150**	**CARES Act Total**
Additional Funding		
$	364,000	Missouri Foundation for Health - COVID Test Kits
$	229,000	COVID Test Billing (LPHAs and other agencies)
$	129,000	RIT (Regional Vaccine Coordination)
$	198,000	COVID & Adult Vaccine Funding
$	35,000	Missouri Foundation for Health - 417 Finish Strong
$	**955,000**	**Additional Funding Total**
Anticipated Funding		
$	59,000	PHEP Additional Funding
$	432,000	Crisis Co-Ag 1 and 2
$	-	FEMA/SEMA
$	**491,000**	**Anticipated Funding Total**
$	**6,372,150**	**OVERALL TOTAL**

CITY OF Springfield

DATE: May 27, 2021

TO: Mayor and Members of City Council

FROM: Brendan Griesemer, Acting Planning & Development Director

RE: COVID-19 CDBG Funding Update

The purpose of this memorandum is to provide an update on the two rounds of Community Development Block Grant funds the City of Springfield has received through the CARES Act. There have been three rounds of CDBG funding from the CARES Act. We received funds from Rounds 1 and 3. Round 2 funding was allocated to the State of Missouri and sub-granted to Greene County.

The City of Springfield received $916,138 in first round CARES funding and coupled that with the redirection of $200,000 of HOME grant funds (CDBG funds were later substituted for the HOME funds via Council Bill 2021-077), making a total of $1,116,138 available to address COVID-19 related activities.

As you may recall, round two funding was only allocated to the State of Missouri, however, we received an additional $1,122,015 of round three CDBG funding late last year. Both rounds of funding (one and three) were allocated 36% to Economic Development Business Assistance, 34% to Affordable Housing Assistance and 30% to Public Services/Homeless Assistance.

CDBG-CV AFFORDABLE HOUSING ASSISTANCE

Round 1

The Housing Authority of Springfield was originally granted $75,000 for rent assistance but later requested that we reallocate those funds. Staff added $25,000 each to the OACAC and Catholic Charities of Southern Missouri contracts for rent and mortgage assistance and $25,000 to the Community Partnership of the Ozarks contract for homeless diversion. New contract amounts are reflected in the following tables. Please note that the City reimburses the agencies for funds expended.

AFFORDABLE HOUSING ASSISTANCE - ROUND 1					
Agency	**Purpose**	**Contract Amount**	**Reimbursed**	**Percent Reimbursed**	**Documented Households Assisted**
OACAC	Rent & Mortgage Assistance	$216,000	$216,000	100%	189
Catholic Charities of Southern Missouri	Rent & Mortgage Assistance	$121,000	$121,000	100%	67
Salvation Army	Rent & Mortgage Assistance	$96,000	$96,000	100%	82
Total		**$433,000**	**$433,000**	**100%**	**338**
Average Funding per Household - $1,281.07					

Planning and Development Department
840 Boonville Ave. P.O. Box 8368 • Springfield, Missouri 65801
(417) 864-1031 • Fax: (417) 864-1030 • www.springfieldmo.gov

Round 3

Contracts have been signed with the following agencies to provide rent, utility, and mortgage assistance. These agencies are also providing assistance with other Rent Assistance funding from Greene County.

AFFORDABLE HOUSING ASSISTANCE - ROUND 3					
Agency	**Purpose**	**Contract Amount**	**Reimbursed**	**Percent Reimbursed**	**Documented Households Assisted**
OACAC	Rent & Mortgage Assistance	$200,000	$2,007	1%	2
Catholic Charities of Southern Missouri	Rent & Mortgage Assistance	$100,000	$0	0%	
Salvation Army	Rent & Mortgage Assistance	$50,000	$4,410	0%	7
Total		**$350,000**	**$6,417**	**1.8%**	**9**
Average Funding per Household - $713.00					

CDBG-CV PUBLIC SERVICES / HOMELESS ASSISTANCE

Round 1

As with the Housing Assistance grants, the City reimburses the agencies for funds expended. Harmony House requested that $20,377 of their contract be reallocated to Round 3 grants since they received other funding for the Child Therapist.

PUBLIC SERVICES / HOMELESS ASSISTANCE – ROUND 1							
Agency	**Purpose**	**Contract Amount**	**Reallocated to Round 3**	**Revised Contract**	**Reimbursed**	**Percent Reimbursed**	**Assisted**
Community Partnership of the Ozarks	Homeless Diversion	$125,000			$121,452.53	97%	79
The Kitchen	Homeless Youth	$54,226			$54,226	100%	441
Harmony House	Child Therapy	$30,000	$20,377	$9,623	$7,971.33	83%	35
Catholic Charities of Southern Missouri	Housing Counseling	$18,000			$7,544.07	42%	16
Isabel's House	Direct Care to Children	$25,000			$25,000	100%	129
Salvation Army	Harbor House & Family Center Supplies	$7,663			$7,663	100%	75
Ozarks Food Harvest	Food for Springfield Pantries	$20,149			$20,149	100%	Area Benefit
Total		**$280,038**	**$20,377**	**$9,623**	**$244,005.93**	**94%**	**775+**

Round 3

Contracts have been signed with the following Public Service agencies to provide public services to address impacts of COVID-19. We are just now beginning to receive reimbursement requests for the assistance they have provided.

ROUND 3 PUBLIC SERVICES/HOMELESS ASSISTANCE

Agency	Purpose	Contract Amount	Reimbursed	Percent Reimbursed	Assisted
Community Partnership of the Ozarks	Homeless Diversion	$127,500	$26,211.21	21%	25
The Kitchen/ Rare Breed	Homeless Youth	$45,000	$15,741.62	35%	240
FVC/Harmony House	Shelter Staff	$78,100	$7,925.07	10%	121
Big Brothers/Big Sisters	Youth & Children Mentoring	$28,659	$0	0%	
Isabel's House/Crisis Nursery	Child Advocate Salaries	$25,000	$0	0%	
Betty & Bobby Allison Counseling Center	Therapist salaries	$33,000	$0	0%	
Child Advocacy Center	Medical Exams; Interviewer salaries	$50,000	$0	0%	
Total		**$387,259**	**$49,877.90**	**13%**	**386**

CDBG-CV ECONOMIC DEVELOPMENT BUSINESS ASSISTANCE

Combined Rounds 1 and 3

We had $9,503 remaining in the Round 1 Business Assistance fund at the time that Council allocated the Round 3 funds. That remainder was carried over to Round 3. The following information aggregates both Round 1 and Round 3 funds.

BUSINESS ASSISTANCE ROUND 3

	Round 1	Round 3	Total
CARES ACT FUNDS RECEIVED	$403,100	$405,223	$808,323
Approved	$393,597	$380,000	$773,597
Funds remaining	$9,503**	$25,223	$34,726
Total Approved	41	38	79
Total Pending	0	2	2
Woman owned	18	5	23
Minority owned	4	3	7
Veteran owned	1	0	1
Commercial Street	5	0	5
Downtown	14	10	24
Rountree	3	0	3

Other	19	25	44
Years in operation			
40+ years	3	1	4
30+ years	1	1	2
20+ years	7	3	10
10+ years	6	10	16
> 10 years	24	20	44
Low/mod jobs retained	90.1	136.68	226.78
Low/mod business owners	20	5	25

**Remaining $9,503 from Round 1 was carried over to be used in Round 3

Round 3 approved grants for Savoy, Blend & Springfield Pottery were additional funding so they are not recounted in the location or years in operation data.

Please let me know if you have any questions about this information.

Cc: Jason Gage, City Manager
Anita Cotter, City Clerk
Collin Quigley, Deputy City Manager
Maurice Jones, Deputy City Manager

Quigley, Collin

From: Griesemer, Brendan
Sent: Friday, April 30, 2021 3:26 PM
To: Gage, Jason; Jones, Maurice; Quigley, Collin
Subject: FW: Fiscal Year 2021 HOME-ARP Allocation Letter
Attachments: Springfield HOME ARP Award Letter.pdf

Here is the confirmation letter from HUD confirming our $3.8 million allocation of HOME funds. However it appears we won't be able to access the funds until later in the year due to HUD guidance. The good news is this confirms we can use these funds for development of a homeless shelter.

Let me know if you have questions.

Brendan

Brendan K. Griesemer, AICP
Assistant Director
Planning and Development
City of Springfield, Missouri
417-864-1695
Comprehensive Plan: https://www.FORWARDSGF.com
General Information: https://www.springfieldmo.gov/140/Planning-Development

From: Buckner, Dana <Dana.Buckner@hud.gov>
Sent: Friday, April 30, 2021 3:17 PM
To: McClure, Ken <kmcclure@springfieldmo.gov>
Cc: Griesemer, Brendan <bgriesemer@springfieldmo.gov>; Jones, Bob <rjones@springfieldmo.gov>; Berry, Hillard <Hillard.Berry@hud.gov>
Subject: Fiscal Year 2021 HOME-ARP Allocation Letter

CAUTION This email originated from outside the organization. Do not open attachments or click links from sources you do not know and trust.

Good afternoon,

Attached is the Fiscal Year (FY) 2021 allocation letter for HUD's HOME Investment Partnerships Program – American Rescue Plan (HOME-ARP) funding. This one-time funding is in addition to your regular FY 2021 HOME formula allocation.

Instructions and requirements for developing a substantial amendment to your jurisdiction's FY 2021 Annual Action Plan be issued later this year.

If you have any questions please feel free to contact me.

Thank you.

Dana Buckner
Director
Office of Community Planning & Development
Kansas City Regional Office
dana.buckner@hud.gov
CPD_GeneralCorr-KC@hud.gov
913-551-5546
913-551-5859 (fax)

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

April 28, 2021

The Honorable Ken McClure
Mayor of Springfield
840 N Boonville Avenue
Busch Municipal Floor
Springfield, MO 65802-3832

Dear Mayor McClure:

I am pleased to inform you of your jurisdiction's Fiscal Year (FY) 2021 allocation for HUD's HOME Investment Partnerships Program – American Rescue Plan (HOME-ARP) funding. The American Rescue Plan appropriated $5 billion to help communities provide housing, shelter, and services for people experiencing and other qualifying populations. These HOME-ARP funds are in addition to your regular FY 2021 HOME formula allocation. This one-time funding creates a significant opportunity for you to meet the housing and service needs of your community's most vulnerable populations.

Your jurisdiction's FY 2021 HOME-ARP allocation is $3,805,703.

HOME-ARP funding gives jurisdictions significant new resources to address their homeless assistance needs by creating affordable housing or non-congregate shelter units and providing tenant-based rental assistance or supportive services. Later this year, the Department will issue an implementing notice providing guidance on HOME-ARP, including instructions and requirements for developing a substantial amendment to your jurisdiction's FY 2021 Annual Action Plan describing your proposed use of the funds. HOME-ARP funds are available for expenditure until September, 2030.

HOME-ARP funds are allocated through the HOME formula to all participating jurisdictions that qualified for an annual HOME Program allocation for FY 2021. HOME-ARP funds must be used for individuals or families from the following qualifying populations: homeless; at-risk of homelessness; fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking; other populations where providing assistance would prevent the family's homelessness or would serve those with the greatest risk of housing instability; and veterans and families that include a veteran family member that meet one of the preceding criteria.

HOME-ARP funds can be used for four eligible activities including the production or preservation of affordable housing; tenant-based rental assistance; supportive services, including homeless prevention services and housing counseling; and the purchase or development of non-congregate shelter for individuals and families experiencing homelessness. Additionally, HOME-ARP provides up to 15 percent of the allocation for administrative and planning costs of the participating jurisdiction and for subrecipients administering all or a portion of the grant. HOME-

ARP can provide up to 5 percent of the grant for operating costs of Community Housing Development Organizations (CHDOs) and other non-profit organizations, including homeless providers. Additional funding is available to these organizations for capacity building. Like other formula grant funds, HOME-ARP funds will be administered in the Integrated Disbursement and Information System (IDIS).

While your jurisdiction will not have access to HOME-ARP funds until HUD has issued an implementing notice and subsequently reviewed and accepted a substantial amendment to your FY 2021 Annual Action Plan, I urge you to begin consulting with homeless service providers, domestic violence service organizations, public housing agencies, and other organizations and agencies that assist qualifying populations in your area. Early identification of the unmet needs among these populations and consideration of potential uses of HOME-ARP funds will position your jurisdiction to design and implement its HOME-ARP Program expeditiously.

The Office of Community Planning and Development looks forward to working with you to ensure the success of this critical program. If you or any member of your staff have questions, please contact your local CPD Office Director.

Sincerely,

James Arthur Jemison II
Principal Deputy Assistant Secretary
for Community Planning and Development

Quigley, Collin

m: Chris Coulter <CCoulter@greenecountymo.gov>
Sent: Tuesday, June 22, 2021 1:22 PM
To: Quigley, Collin
Subject: Numbers for your presentation
Attachments: ERA Status_Update_Jun_21_2021.pdf

CAUTION This email originated from outside the organization. Do not open attachments or click links from sources you do not know and trust.

Collin

I have attached an update on ERA

For CARES funding, the following was approved by the Commission:

Small Business - $5,716,717
Non-Profit - $5,330,766

Those will change some after they finish with the reserve fund, but those are solid numbers

is

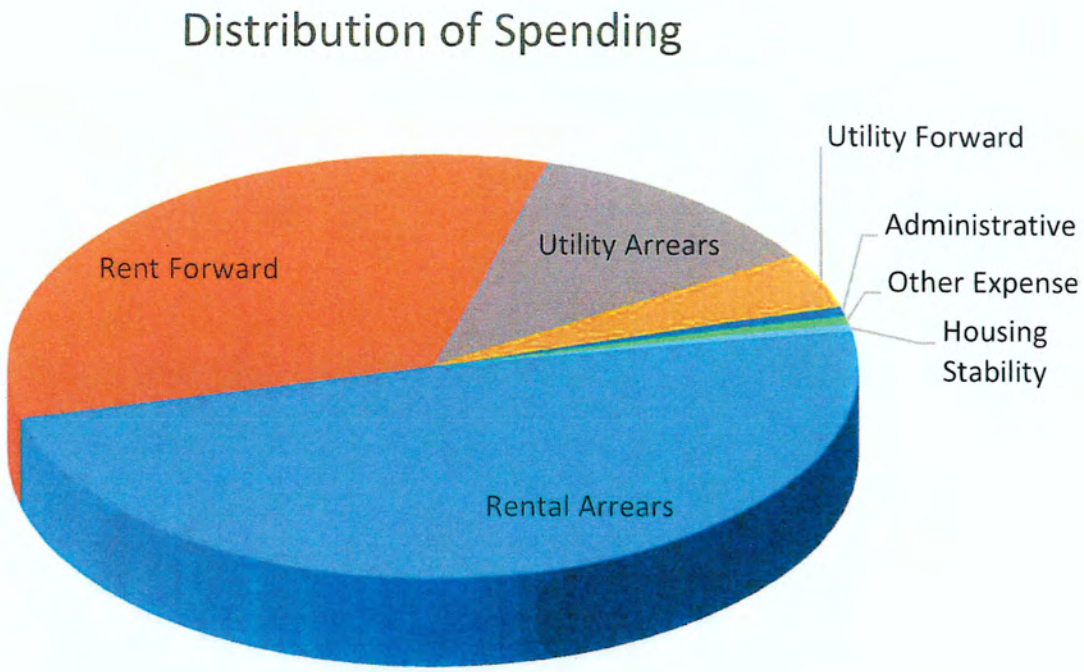
Christopher J. Coulter, AICP
County Administrator

Greene County
940 N. Boonville
Springfield, MO 65802

Phone: (417) 868-4873
Fax: (417) 868-4175

ERA Status Update as of June 21, 2021

Type	Awards	
Rental Arrears	1,012,595.13	46.30%
Rent Forward	749,954.61	34.29%
Utility Arrears	243,359.94	11.13%
Utility Forward	91,722.63	4.19%
Administrative	55,535.23	2.54%
Other Expense	17,638.80	0.81%
Housing Stability	16,073.68	0.74%
Grand Total	2,186,880.02	



EMERGENCY RENTAL ASSISTANCE PROGRAM
Allocations to States and Eligible Units of Local Government

	Washington County	6,216,052.90	
	Minimum payment to the state	228,991,809.90	
Mississippi	Total allocation	155,667,057.10	
	Eligible local governments		
	Harrison County	4,897,617.90	
	Hinds County	5,456,861.40	2,436,368.50
	Minimum payment to the state	145,312,577.80	
Missouri	Total allocation	322,771,299.80	
	Eligible local governments		
	Clay County	2,880,505.30	
	Greene County	6,936,111.90	
	Jackson County	9,139,136.60	6,460,691.30
	Jefferson County	5,326,719.80	
	Kansas City city	11,722,305.00	
	St. Charles County	9,514,168.40	
	St. Louis County	23,528,647.20	6,335,816.20
	St. Louis city	7,113,368.60	5,328,629.60
	State remainder high-needs		23,039,900.40
	Minimum payment to the state	246,610,337.00	
Montana	Total allocation and payment to th	152,000,000.00	
Nebraska	Total allocation	152,000,000.00	
	Eligible local governments		
	Douglas County	3,293,221.50	4,708,947.20
	Lancaster County	1,060,365.30	
	Lincoln city	10,222,547.10	
	Omaha city	16,908,704.30	
	Minimum payment to the state	120,515,161.80	
Nevada	Total allocation	164,664,233.60	
	Eligible local governments		
	Clark County	25,096,918.20	20,802,591.40
	Henderson city	7,702,744.40	
	Las Vegas city	15,668,695.00	
	North Las Vegas city	6,061,705.20	
	Reno city	6,148,959.40	
	Washoe County	5,194,310.70	
	Minimum payment to the state	98,790,900.70	
New Hampshire	Total allocation	152,000,000.00	
	Eligible local governments		

American Rescue Plan Spending: Recommended Guiding Principles

Signed into law on March 11, 2021, The American Rescue Plan Act of 2021 ("ARPA") provides $350 billion in additional funding for state and local governments. Please click here for GFOA's analysis of ARPA. The state funding portion is approximately $195 billion with $25.5 billion distributed equally among the 50 states and the District of Columbia and the remaining amount distributed according to a formula based on unemployment.

The local funding portion is approximately $130 billion, equally divided between cities and counties. Localities will receive the funds in two tranches–the first after the U.S. Treasury certifies the proceeds to each jurisdiction and the second one year later.

For cities, $65 billion is divided between jurisdictions that are Community Development Block Grant (CDBG) entitlement jurisdictions and those that are not. $45.5 billion of the $65 billion will be allocated to metropolitan cities utilizing a modified CDBG formula, and the remaining amount for jurisdictions that are non-entitlement CDBG, will be allocated according to population. For the non-entitlement jurisdictions, the amount will not exceed seventy- five percent of their most recent budget as of January 27, 2020. Additionally, non-entitlement jurisdictions proceeds will be allocated through the state for redistribution to local governments.

For counties, the $65 billion will be allocated based on the county's population. Counties that are CDBG recipients will receive the larger of the population or CDBG-based formula.

Eligible uses of these funds include:

- Revenue replacement 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 fiscal year prior to the emergency,
- COVID-19 expenditures or negative economic impacts of COVID-19, including assistance to small businesses, households, and hard-hit industries, and economic recovery,
- Premium pay for essential workers,
- Investments in water, sewer, and broadband infrastructure.

Restrictions on the uses of these funds include:

- Funds allocated to states cannot be used to directly or indirectly to offset tax reductions or delay a tax or tax increase;
- Funds cannot be deposited into any pension fund.

Funding must be spent by the end of calendar year 2024.

As with previous COVID-19 relief packages, implementation will be an extensive process as new or updated guidance and FAQs are developed and released by the U.S. Treasury. For example, the legislation requires each jurisdiction's executive to "certify" that the funds will be used for eligible purposes. That process is currently under development by the U.S. Treasury.

GFOA will provide regular updates as information becomes available. If you have specific questions or need clarification, GFOA has launched an online portal to gather member questions to help shape engagement and solicit answers from the Administration.

For many jurisdictions, the funding provided under ARPA is substantial and could be transformational for states and local governments in their pandemic rescue and recovery efforts. Elected leaders will need to decide how to best use the additional funding consistent with the ARPA requirements, which are very broad. Finance officers play a critical role in advising elected leaders on the prudent spending of moneys received under ARPA. *Finance officers are best positioned to help ensure the long-term value of investments and financial stability of its*

government using this one-time infusion of resources. When considering how to best advise elected officials and plan for the prudent use of ARPA funds, we offer the following outline of Guiding Principles for the use of ARPA funds:

GFOA American Rescue Plan Act Guiding Principles

Temporary Nature of ARPA Funds. ARPA funds are non-recurring so their use should be applied primarily to non-recurring expenditures.

- Care should be taken to avoid creating new programs or add-ons to existing programs that require an ongoing financial commitment.
- Replenishing reserves used to offset revenue declines during the pandemic should be given high priority to rebuild financial flexibility/stability and restore fiscal resiliency.
- Use of ARPA funds to cover operating deficits caused by COVID-19 should be considered temporary and additional budget restraint may be necessary to achieve/maintain structural balance in future budgets.
- Investment in critical infrastructure is particularly well suited use of ARPA funds because it is a non-recurring expenditure that can be targeted to strategically important long- term assets that provide benefits over many years. However, care should be taken to assess any on-going operating costs that may be associated with the project.

ARPA Scanning and Partnering Efforts. State and local jurisdictions should be aware of plans for ARPA funding throughout their communities.

- Local jurisdictions should be cognizant of state-level ARPA efforts, especially regarding infrastructure, potential enhancements of state funding resources, and existing or new state law requirements.
- Consider regional initiatives, including partnering with other ARPA recipients. It is possible there are many beneficiaries of ARPA funding within your community, such as schools, transportation agencies and local economic development authorities. Be sure to understand what they are planning and augment their efforts; alternatively, creating cooperative spending plans to enhance the structural financial condition of your community.

Take Time and Careful Consideration. ARPA funds will be issued in two tranches to local governments. Throughout the years of outlays, and until the end of calendar year 2024, consider how the funds may be used to address rescue efforts and lead to recovery.

- Use other dedicated grants and programs first whenever possible and save ARPA funds for priorities not eligible for other federal and state assistance programs.
- Whenever possible, expenditures related to the ARPA funding should be spread over the qualifying period (through December 31, 2024) to enhance budgetary and financial stability.
- Adequate time should be taken to carefully consider all alternatives for the prudent use of ARPA funding prior to committing the resources to ensure the best use of the temporary funding.

The influx of funds will undoubtedly benefit state and local finances, and aid in the recovery from the budgetary, economic, and financial impacts of the pandemic. Rating agencies will evaluate a government's use of the ARPA funds in formulating its credit opinion and, importantly, will consider your government's level of reserves and structural budget balance, or efforts to return to structural balance, as part of their credit analysis. Finance officers will play a critical role in highlighting the need to use ARPA funds prudently with an eye towards long-term financial stability and sustainable operating performance. The funding provided under ARPA provides a unique opportunity for state and local governments to make strategic investments in long-lived assets, rebuild reserves to enhance financial stability, and cover temporary operating shortfalls until economic conditions and operations normalize.

NLC DELIVERS

May 21, 2021

Coronavirus Local Fiscal Recovery Funds Guidance:

Prohibited Expenditures

On May 10, the U.S. Treasury released an Interim Final Rule to provide guidance on cities, states and tribal governments can spend funds allocated to them by the American Rescue Plan Act ("ARPA"). The guidance is effective immediately and summarizes the prohibited uses of the funds.

In Sections 602(c)(1) and 603(c)(1) of ARPA, Congress provided four eligible uses of funds:

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.[1]

In general, any use of ARPA funds outside of these categories is prohibited. ARPA also includes explicit prohibitions on how the funds can be used. The prohibitions include:

a) Depositing funds into any pension fund.
b) Using funds to directly or indirectly offset a reduction in the net tax revenue of [the] State or territory resulting from a change in law, regulation, or administrative interpretation.

[1] Interim Final Rule: Coronavirus State and Local Fiscal Recovery Funds, U.S. Department of Treasury (hereinafter "Treasury Guidance"), 7.

The Treasury Guidance provides additional clarifications on these prohibitions as summarized below. Despite these prohibitions, a City still has significant flexibility with how it spends the ARPA funds. The Treasury Guidance provides flexibility to use funds for programs and projects that are not expressly described in the Guidance, provided that it responds to the negative economic impacts of the COVID-19 public health emergency, and/or is designed to address an economic harm resulting from or exacerbated by the public health emergency.[2]

Spending on Projects Outside ARPA Timelines

The Guidance sets parameters on when funds can be used. The funds may be used for any allowed purpose starting on March 3, 2021, and must be encumbered by December 31, 2024. Funds that were encumbered during this period must be spent by December 31, 2026.[3] Use of funds for projets outside of these dates is prohibited. Funds not spent by the end of 2026 must be returned to the federal government.[4]

Pensions

Sections 602(c)(2)(B) and 603(c)(2) prohibit any recipient, including cities, non-entitlement units of government, and counties, from using Fiscal Recovery Funds for deposit into any pension fund. The prohibition is aimed at preventing cities from using the ARPA funds to make up deficits in their public employee pension funds that may be unrelated to the Pandemic.

Treasury interprets "deposit" to mean an "extraordinary payment into a pension fund for the purpose of reducing an accrued, unfunded liability."[5] The Rule sets forth two criteria which preclude a payment as eligible assistance. A payment is not allowed into a pension fund if:

1. the payment reduces a liability incurred prior to the start of the COVID-19 public health emergency, and

2. the payment occurs outside the recipient's regular timing for making such payments.

"Deposit" and "payroll contribution" are separate payments. A "payroll contribution" is when an employer makes "payments into pension funds on regular intervals, with contribution amounts based on a pre-determined percentage of employees' wages and salaries."[6] Payroll contributions are not prohibited, and are anticipated if they are made as part of an employee's premium pay otherwise authorized under ARPA.[7]

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[2] Treasury Guidance 11.
[3] Treasury Guidance 122.
[4] Treasury Guidance 122.
[5] Treasury Guidance 71.
[6] *Ibid.*
[7] *Ibid..*

Infrastructure that does not meet ARPA Criteria

Not all eligible infrastructure projects are within the scope of the infrastructure investment category. Funding for infrastructure projects may be related to water, sewer, broadband or respond to a "specific pandemic public health need."[8]

Water and sewer projects are allowed if they would otherwise qualify for funding under the Clean Water Act and Safe Drinking Water Act state revolving fund programs.[9] These programs are broad and will capture a variety of different types of drinking water and water quality projects. However, the Treasury Guidance provides more specific criteria for broadband projects. For example, the Guidance states that broadband projects must target underserved areas.[10] Cities will need to make sure that their broadband projects meet the requirements in the Guidance or risk losing funding.

Rainy Day Funds, Financial Reserves, and Outstanding Debt

Funds may not be used for rainy day funds, financial reserves, or funds of a similar nature. Treasury deemed these funds to be ineligible because contributions "would not address these needs or respond to the COVID-19 public health emergency but would rather constitute savings for future spending needs."[11]

Funds cannot be used for the payment of interest or principal on outstanding debt instruments. This includes short-term revenue or tax anticipation notes, or other debt service costs.[12]

Settlements, Judgements, Consent Decrees

Payments required from a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring plan in a judicial, administrative, or regulatory proceeding are not considered eligible uses of the funds. The exception to this is if "the judgment or settlement requires the provision of services that would respond to the COVID-19 public health emergency. That is, satisfaction of a settlement or judgment would not itself respond to COVID-19 with respect to the public health emergency or its negative economic impacts, unless the settlement requires the provision of services or aid that did directly respond to [those] needs."[13]

Non-essential Workers

ARPA allows cities to give Premium Pay to their essential workers. A worker is not considered to be engaged in essential work if the employee performed telework from a residence, which would exclude them from premium pay.[14] Payments to workers who do not meet these criteria are not authorized under ARPA (but of course can be made with a City's other funds).

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[8] Treasury Guidance 37.
[9] Treasury Guidance 56.
[10] Treasury Guidance 67.
[11] Treasury Guidance 38.
[12] Treasury Guidance 54.
[13] Treasury Guidance 38.
[14] Treasury Guidance 42.

Limits to Revenue Losses

Treasury is using the Census Bureau's definition of "general revenue from own sources" As the method of measuring whether a city had lost revenue.[15] The Guidance does not allow a city to use refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, and agency or private trust transactions are excluded from the eligible use of funds. Revenue generated by utilities and insurance trusts is also excluded.

Federal Matching Requirements

Funding from the Fiscal Recovery Funds may not be used as a non-Federal match for other Federal programs whose statute or regulations bar the use of Federal funds to meet matching requirements.[16]

Note: This summary has been prepared by Best, Best & Krieger LLP

If you have general questions about the Coronavirus State and Local Fiscal Recovery Funds, please email the U.S. Department of Treasury at SLFRP@treasury.gov or call 844-529-9527.

The information contained here is not legal advice. It will be subject to change based on updates from the U.S. Department of the Treasury, and any recipients should confirm applicability to their specific situation.

[15] Treasury Guidance 49.
[16] Treasury Guidance 86.

NLC DELIVERS

May 21, 2021

Coronavirus Local Fiscal Recovery Fund Guidance:

Reduction in Revenue

Budget shortfalls are particularly problematic in the current environment as local governments work to mitigate and contain the COVID-19 pandemic and help citizens weather the economic downturn.

The American Rescue Plan Act (ARPA) will allow recipients facing budget shortfalls to use payments from the Coronavirus State and Local Fiscal Recovery Funds to avoid cuts to government services and, thus local governments to continue to provide valuable services and ensure that fiscal austerity measures do not hamper the broader economic recovery.[1]

General Revenue

The Interim Final Rule (IFR) adopts a definition of "general revenue" based largely on the components reported under "General Revenue from Own Sources" in the Census Bureau's Annual Survey of State and Local Government Finances, and for purposes of this Interim Final Rule, helps to ensure that the components of general revenue would be calculated in a consistent manner.[2]

The IFR defines the term "general revenue" to include revenues collected by a recipient and generated from its underlying economy and would capture a range of different types of tax revenues, as well as other types of revenue that are available to support government services. In calculating revenue, **recipients should sum across all revenue streams covered as general revenue**.[3]

Excluded Revenue Sources[4]

The IFR would exclude:

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[1] Interim Final Rule: Coronavirus State and Local Fiscal Recovery Funds, U.S. Department of Treasury (hereinafter "Treasury Guidance"), 48.
[2] *Ibid.*
[3] *Ibid.*
[4] Treasury Guidance 49.

- refunds and other correcting transactions
- proceeds from issuance of debt or the sale of investments
- agency or private trust transactions
- utilities and insurance trusts

In this way, the definition of general revenue focuses on sources that are generated from economic activity and are available to fund government services, rather than a fund or administrative unit established to account for and control a particular activity.

Calculation of Loss

Recipients will compute the extent of the reduction in revenue by comparing actual revenue to a counterfactual trend representing what could have been expected to occur in the absence of the pandemic.

The counterfactual trend starts with the last full fiscal year prior to the COVID-19 public health emergency and then assumes growth at a constant rate in the subsequent years.[5]

Key Point

For purposes of measuring revenue growth in the counterfactual trend, recipients may use a growth adjustment of either 4.1 percent per year or the recipient's average annual revenue growth over the three full fiscal years prior to the COVID-19 public health emergency, whichever is higher. Recipients should calculate the extent of the reduction in revenue as of four points in time: December 31, 2020; December 31, 2021; December 31, 2022; and December 31, 2023.[6]

Four Steps for Calculating Lost Revenue

- Step 1: Identify revenues collected in the most recent full fiscal year prior to the public health emergency (i.e., last full fiscal year before January 27, 2020), called the base year revenue.

- Step 2: Estimate counterfactual revenue, which is equal to base year revenue * [(1 + growth adjustment) ^(n/12)], where n is the number of months elapsed since the end of the base year to the calculation date, and growth adjustment is the greater of 4.1 percent and the recipient's average annual revenue growth in the three full fiscal years prior to the COVID-19 public health emergency.

- Step 3: Identify actual revenue, which equals revenues collected over the past twelve months as of the calculation date

[5] Treasury Guidance 50.
[6] Treasury Guidance 52.

- Step 4: The extent of the reduction in revenue is equal to counterfactual revenue less actual revenue. If actual revenue exceeds counterfactual revenue, the extent of the reduction in revenue is set to zero for that calculation date.[7]

If you have general questions about the Coronavirus State and Local Fiscal Recovery Funds, please email the U.S. Department of Treasury at SLFRP@treasury.gov or call 844-529-9527.

The information contained here is not legal advice. It will be subject to change based on updates from the U.S. Department of the Treasury, and any recipients should confirm applicability to their specific situation.

[7] Treasury Guidance 52.

County average wages (effective until 6/30/2021)

*Average county wages are based on Census of Employment and Wages, MERIC.
*Updates to be made annually. Use 2,080 hours per year when converting from annual to hourly wages.

County	Average Annual Wage
ADAIR	$32,905
ANDREW	$34,334
ATCHISON	$34,550
AUDRAIN	$37,289
BARRY	$40,357
BARTON	$34,323
BATES	$31,981
BENTON	$28,112
BOLLINGER	$29,995
BOONE	$42,346
BUCHANAN	$46,831
BUTLER	$32,961
CALDWELL	$35,309
CALLAWAY	$48,100
CAMDEN	$34,652
CAPE GIRARDEAU	$41,876
CARROLL	$37,832
CARTER	$24,500
CASS	$36,417
CEDAR	$27,132
CHARITON	$33,399
CHRISTIAN	$32,939
CLARK	$26,678
CLAY	$50,393
CLINTON	$36,939
COLE	$42,380
COOPER	$33,394
CRAWFORD	$37,595
DADE	$32,411
DALLAS	$25,068
DAVIESS	$27,841
DEKALB	$35,349
DENT	$29,587
DOUGLAS	$27,115
DUNKLIN	$26,839
FRANKLIN	$42,993
GASCONADE	$30,888
GENTRY	$36,840
GREENE	$44,535

County	Average Annual Wage
GRUNDY	$32,628
HARRISON	$29,326
HENRY	$35,067
HICKORY	$25,493
HOLT	$38,781
HOWARD	$31,840
HOWELL	$33,981
IRON	$40,532
JACKSON	$51,134
JASPER	$40,664
JEFFERSON	$38,541
JOHNSON	$32,945
KNOX	$31,785
LACLEDE	$34,858
LAFAYETTE	$33,742
LAWRENCE	$37,401
LEWIS	$34,482
LINCOLN	$41,708
LINN	$35,614
LIVINGSTON	$34,456
MACON	$32,356
MADISON	$29,994
MARIES	$32,984
MARION	$38,530
MCDONALD	$36,719
MERCER	$38,593
MILLER	$31,666
MISSISSIPPI	$30,868
MONITEAU	$37,155
MONROE	$30,142
MONTGOMERY	$35,984
MORGAN	$29,005
NEW MADRID	$37,742
NEWTON	$42,061
NODAWAY	$35,017
OREGON	$25,139
OSAGE	$37,251
OZARK	$24,764
PEMISCOT	$29,872

County	Average Annual Wage
PERRY	$38,263
PETTIS	$36,225
PHELPS	$36,998
PIKE	$33,716
PLATTE	$49,016
POLK	$32,083
PULASKI	$29,341
PUTNAM	$27,463
RALLS	$46,091
RANDOLPH	$38,711
RAY	$37,074
REYNOLDS	$36,843
RIPLEY	$22,995
SALINE	$36,154
SCHUYLER	$28,396
SCOTLAND	$27,796
SCOTT	$38,281
SHANNON	$25,716
SHELBY	$32,374
ST CHARLES	$48,029
ST LOUIS CITY	$51,134
ST LOUIS CO	$51,134
ST. CLAIR	$26,929
ST. FRANCOIS	$31,982
STE. GENEVIEVE	$45,297
STODDARD	$37,570
STONE	$30,253
SULLIVAN	$44,450
TANEY	$31,499
TEXAS	$30,031
VERNON	$37,399
WARREN	$39,663
WASHINGTON	$27,524
WAYNE	$24,539
WEBSTER	$33,773
WORTH	$24,444
WRIGHT	$30,662
STATEWIDE	$51,134

- Statewide average of $51,134 applicable to any county over the statewide average when determining program eligibility. (Jackson, St. Louis County and City)
- The wage represents an average for all private industries.
- If a project is moving from one Missouri county to a county with a lower county average wage, the company must obtain endorsement from the governing body of the community where the jobs are located, or the higher county average wage will be used for calculations.