

Summary of the U.S. Department of the Treasury's Final Rule on the Coronavirus State and Local Fiscal Recovery Fund (SLFRF)

On March 11, 2021, President Biden signed into law the American Rescue Plan Act (ARPA), which includes \$350 billion for state and local governments to pay for much-needed investments to respond to the COVID-19 pandemic and to begin to build back stronger communities.

Available funds

In addition to the dozens of funding streams, made possible by ARPA, coming to North Carolina to address specific issue areas (see link below in resources), state and local governments are receiving flexible funds which can be used to address the specific needs identified in, and by, their communities.

These funds, called the State and Local Fiscal Recovery Funds (SLFRF), will go to the state, all 100 counties, 26 metro areas, and more than 500 smaller cities and towns in North Carolina. The state, counties, and larger cities will receive funds directly from U.S. Treasury, while smaller localities will receive funds through the North Carolina Pandemic Recovery Office. [Here is a breakdown of funding going to local governments in North Carolina.](#)

In November 2021, the North Carolina General Assembly (NCGA) appropriated the state's \$5.4 billion in Fiscal Recovery Funds. Here is [a comprehensive list of allocations](#) they included in the final budget, as well as the prior three proposals by the Governor, House, and Senate, respectively. These funds were appropriated through the state budget, in addition to the General Fund dollars generated from the state tax code.

Timeline for funds

North Carolina's state share and all local governments are receiving funds in two allocations, or "tranches." The first tranche was delivered in the summer of 2021, as long as certain deadlines were met, and the second tranche will be delivered in the summer of 2022. SLFRF dollars must be allocated by Dec. 31, 2024, and spent by Dec. 31, 2026.

How funds can be used

The following is an overview of key provisions in the final rule, but it is not an exhaustive summary. Please review the final rule for official guidance.

On Jan. 6, 2022, the U.S. Department of the Treasury released its final rule, which describes how state and local governments can, and cannot, use the funds. The final rule took effect on April 1, 2022, which replaced the Interim Final Rule released in 2021. The official U.S. Treasury summary and full text of the final rule can be found here:

<https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>.

The four broad eligible use categories are as follows:

- Responding to the public health and negative economic impacts of the pandemic (with several subcategories)
- Providing premium pay to essential workers
- Providing government services to the extent of revenue loss due to the pandemic
- Making necessary investments in water, sewer, and broadband infrastructure

Treasury does not pre-approve funds, so recipients are advised to pursue eligible projects as outlined. Ineligible uses include offsetting a reduction in tax revenue, deposits into pension funds, debt service and reserve replenishment, and settlements and judgments.

The final rule provides clarity as to how SLFRF dollars should be used to address the impact of the pandemic in ways that promote an equitable recovery, simplifies how the funds can be used for public sector revenue loss, clarifies capital expenditure uses that support a public health or economic response, provides an expanded definition for “impacted” and “disproportionately impacted” households and communities, and more.

Promoting an equitable recovery

[See final rule beginning on pages 12, 34, 104](#)

The final rule does not require that state and local governments invest in an equitable recovery with their SLFRF dollars, however they encourage this approach by requiring no additional documentation for uses directed at “impacted” or “disproportionately impacted” households and communities. These provisions build on the interim final rule, which presumed that services provided to those living in Qualified Census Tracts (QCTs) and receiving tribal government-provided services would provide a simple path for SLFRF recipients to provide services to underserved communities. The additions included in the final rule clarify standards for identifying disproportionately impacted populations.

The final rule defines the following:

- **“Impacted” households** are those with incomes below 300% of the federal poverty line (about \$66,000 for a family of three) or 65% of the median family income for the area, whichever is higher. Communities are considered “impacted” if they have median income below these levels. “Impacted households” also include those that have experienced unemployment or food insecurity, or who are eligible for Medicaid or childcare subsidies.

The services deemed allowable for “impacted” households or communities include food, emergency rent, affordable housing, child care, cash assistance and health services; services to address educational learning loss; workforce development; and more.

Example: A state can use FRF to support an affordable housing program targeted on households with incomes below 300% of poverty, with no further documentation that the households were negatively impacted by the pandemic.

- **“Disproportionately Impacted”** includes households below 185% of poverty or 40% of MFI, or communities with median income below these levels. It also includes recipients of a wide array of public benefits (SNAP, TANF, SSI, etc.), people receiving services from tribal governments, and people living in a Qualified Census Tract.

In addition to services allowable for “impacted” households, SLFRF can be used for a broader scope of services when targeted on “disproportionately” impacted households or communities, such as community health workers and primary care clinics, efforts to address neighborhood blight, remediation of lead, addressing educational disparities and more.

The final rule gives states added flexibility to define groups that have been “impacted” or disproportionately impacted, and the final rule also notes that the list of allowable services is not exhaustive but instead is intended to offer guidance on allowable services.

Example: A state can invest FRF to create green space in a community with median income below 185% of poverty with no additional documentation that the community was negatively affected by the pandemic.

See this Treasury tool for determining low- and moderate-income households:

<https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fhome.treasury.gov%2Fsystem%2Ffiles%2F136%2FSLFRF-LMI-tool.xlsx&wdOrigin=BROWSELINK>

Revenue Loss Provision

[See final rule beginning on pages 65, 105, and 113](#)

The final rule offers a “standard allowance” for revenue loss of up to \$10 million, without any calculation. This means that states can use up to this amount to pay for any government service, making this an important flexibility to ensure that government services aren’t cut due to a potential budget shortfall. If a local government’s total SLFRF allocation is less than \$10 million this means they can use the entirety of their allocation for revenue loss. This provision benefits smaller communities that may have difficulty demonstrating revenue loss.

Alternatively, SLFRF recipients can use a formula to calculate revenue loss on a calendar year or fiscal year basis, equal to 5.2% of projected growth in the absence of the pandemic. [See more about this beginning on page 113 of the final rule.](#)

Hiring Public Employees

[See final rule beginning on pages 49 and 103](#)

The final rule allows for states and localities to use SLFRF dollars to restore public employee positions eliminated in the pandemic, and to continue hiring public employees until the public employee workforce is 7.5% above its pre-pandemic level. This applies to any agency within local and state governments, it does not have to be pandemic related, and it is separate from the revenue loss/government service provision (above).

This is based on data from the 2007-2009 Great Recession, when state and local governments laid off workers due to budget shortfalls, which never fully recovered post-recession. This adjustment factor provision is aimed at restoring state and local government employment to pre-Great Recession levels. SLFRF dollars can also be used to maintain or increase employee compensation if that is needed to support employee retention.

Capital Construction

[See final rule beginning on pages 52 and 105](#)

The final rule delineates when capital construction meets the definition of responding to the health and economic impact of the pandemic. Capital projects connected to the economic or health impacts of the pandemic must demonstrate that they are reasonably connected to the pandemic. Projects above \$1 million must provide a written justification the capital expenditure, including describing the harm or need to be addressed, an explanation of why a capital expense is appropriate to address the harm or need, and a comparison of the proposed capital expense against alternatives to the proposed project.

Additional Resources

- U.S. Department of the Treasury: <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>
- National Association of Counties: <https://www.naco.org/resources/featured/overview-us-treasurys-final-rule-arpa-fiscal-recovery-fund>
- National League of Cities: <https://www.nlc.org/article/2022/01/11/final-rule-on-arpa-slfrf-grants-10-things-for-city-leaders-to-know/>
- North Carolina Pandemic Recovery Office: <https://ncpro.nc.gov/covid-19-funding/arpa>
- UNC School of Government: <https://arpa.sog.unc.edu/>