

**Coronavirus State and Local Fiscal Recovery Funds
Federal Assistance Listing Number (ALN) 21.027**

**Grants to community colleges for a capital project or for
offering a course or program that meets the criteria
established by the federal American Rescue Plan Act of 2021
and the commission.**

31 CFR Part 35 and LB 1014 (2022), Sec. 36

Compliance Document

July 13, 2022

NEBRASKA'S



**COORDINATING COMMISSION
FOR POSTSECONDARY EDUCATION**

As required by LB 1014, "All grants utilizing Federal Funds allocated to the State of Nebraska from the federal Coronavirus State Fiscal Recovery Fund shall meet the eligible uses under the federal American Rescue Plan Act of 2021 and any relevant guidance on the use of such funds by the United States Department of the Treasury."

"Each such agency, board, or commission shall provide a report to the Executive Board of the Legislative Council within ninety days after the effective date of this act that outlines whether the projects or appropriations assigned to the agency, board, or commission by the Legislature comply with the federal act or regulations." (Due 7/13/2022)

LB 1014, Sec. 36 provides

There is included in the appropriation to this program for FY2021-22 \$25,000,000 Federal Funds for state aid, which shall only be used for such purpose.

There is included in the appropriation to this program for FY2022-23 \$35,000,000 Federal Funds for state aid, which shall only be used for such purpose. The Coordinating Commission for Postsecondary Education shall administer the Community Colleges ARPA Grant program. The commission shall designate a subprogram for each community college as defined in section 85-1503 in the following structure: Subprogram 011, Western Community College; subprogram 012, Mid-Plains Community College; subprogram 013, Central Community College; subprogram 014, Northeast Community College; subprogram 015, Southeast Community College; and subprogram 016, Metropolitan Community College. Each community college shall not receive more than \$10,000,000 in total funding from the appropriation to this program.

A community college shall make a grant application to the commission for funding for a capital project or for offering a course or program that meets the criteria established by the federal American Rescue Plan Act of 2021 and the commission. A community college receiving funding from this program shall meet all necessary federal and commission compliance and reporting requirements. The grant funds shall not be used to offset student or institutional costs for (1) individuals currently enrolled in secondary school or (2) individuals enrolled in programs with the primary purpose of earning general academic transfer credits applicable toward a four-year degree.

Expenditures from the appropriation to this program shall not be restricted to state aid if operating and administrative expenditures are necessary to administer the funding appropriated pursuant to this section. In such instances, an agency, board, or commission shall be reimbursed through the Federal Fund appropriation to the Military Department, Agency No. 31, Program No. 191, as identified in section 34 of this act.

The ultimate decision on compliance under the federal *American Rescue Plan Act of 2021* and any relevant guidance on the use of such funds by the United States Department of the Treasury will be determined by the U.S. Treasury. What follows is the commission's opinion, based on its understanding of the Act and related documents, from a programmatic perspective, on whether the projects or appropriations related to LB 1014, Sec. 36 comply with the Act and should not be considered a legal opinion.

Eligible uses of funds are identified under four broad categories: 1) responding to the public health and negative economic impacts of the pandemic (which includes several sub-categories), 2) providing premium pay to essential workers, 3) providing government services to the extent of revenue loss due to the pandemic, and 4) making necessary investments in water, sewer, and broadband infrastructure.

In the final rule, Treasury maintained the interim final rule's approach that general economic development or workforce development, meaning activities that do not respond to negative economic impacts of the pandemic and rather seek to more generally enhance the jurisdiction's business climate, would generally not be eligible under this eligible use category. To identify an eligible use of funds under this category, a recipient must identify a beneficiary or class of beneficiaries that experienced a harm or impact due to the pandemic, and eligible uses of funds must be reasonably designed to respond to the harm, benefit the beneficiaries that experienced it, and be related and reasonably proportional to that harm or impact.

Capital expenditures, in certain cases, can be appropriate responses to the public health and economic impacts of the pandemic, in addition to programs and services. Like other eligible uses of SLFRF funds in this category, capital expenditures should be a related and reasonably proportional response to a public health or negative economic impact of the pandemic.

Treasury has addressed the eligibility standards for capital expenditures, or investments in property, facilities, or equipment, in the final rule. In recognition of the importance of capital expenditures in the COVID-19 public health response, Treasury enumerates that the following projects are examples of eligible capital expenditures, as long as they meet the standards for capital expenditures.

- Installation and improvements of ventilation systems;
- Adaptations to congregate living facilities, including skilled nursing facilities, other long-term care facilities, incarceration settings, homeless shelters, residential foster care facilities, residential behavioral health treatment, and other group living facilities, **as well as public facilities and schools** (excluding construction of new facilities for the purpose of mitigating spread of COVID-19 in the facility); and
- job and workforce training centers.

As of the date of this report, the Commission has yet to receive any grant proposals. In conversations with the community colleges, most, if not all grant proposals will request funding for capital projects or equipment. As proposals are received, the Commission will evaluate them based on U.S. Treasury's final rule and other federal guidance.

The Commission believes that the uses as appropriated in LB 1014, Sec. 36 by the 107th Legislature are allowable as eligible uses as outlined in the *American Rescue Plan Act of 2021* and relevant guidance on the use of such funds by the U.S. Department of the Treasury.