



# SENATE BILL 172: Additional COVID-19 Response & Relief.

2021-2022 General Assembly

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<b>Committee:</b>		<b>Date:</b>	February 21, 2022
<b>Introduced by:</b>		<b>Prepared by:</b>	Phyllis Pickett Staff Attorney
<b>Analysis of:</b>	S.L. 2021-25		

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**OVERVIEW:** *S.L. 2021-25 establishes the following reserves and funds to handle grant funds received by the State under the federal American Rescue Plan Act: State Fiscal Recovery Reserve and Fund, Coronavirus Capital Projects Reserve and Fund, and Local Fiscal Recovery Reserve and Fund. This act also appropriates funds from the Local Fiscal Recovery Fund for distribution to various local governments and appropriates grant funds provided to the State under the American Rescue Plan Act. Technical and other changes are also included in the legislation.*

*This act became effective May 24, 2021.*

## INTRODUCTION:

S.L. 2021-25 consists of five (5) Parts:

- Part I. -- General Provisions
- Part II. -- Establishment of Reserves and Funds
- Part III. -- Appropriations of Certain Federal Grant Funds and Local Fiscal Recovery Funds
- Part IV. -- Technical and Other Changes
- Part V. -- Miscellaneous.

## BILL ANALYSIS:

**Part I** of S.L. 2021-25 contains, in **Section 1.1**, the definitions that apply in the act and, in **Section 1.2**, the reporting requirements that follow the various funds appropriated in the act to State agencies.

**Part II** of the S.L. 2021-25 sets up how federal funds provided to the State under the federal *American Rescue Plan Act (ARPA)* must be handled:

- **Section 2.1 – Establishes the State Fiscal Recovery Reserve.** -- This Reserve holds federal funds received from the Coronavirus State Fiscal Recovery Fund authorized under the ARPA.
- **Section 2.2 – Establishes the State Fiscal Recovery Fund.** Provides that funds from the State Fiscal Recovery Reserve will be transferred to the State Fiscal Recovery Fund and used for purposes allowed under ARPA pursuant to legislation passed subsequently by the General Assembly.
- **Section 2.3 – Establishes the Coronavirus Capital Projects Reserve.** This Reserve holds federal funds received from the Coronavirus Capital Projects Fund authorized under ARPA.
- **Section 2.4 – Establishes the Coronavirus Capital Projects Fund.** Provides that funds from the Coronavirus Capital Projects Reserve will be transferred to the Coronavirus Capital Projects

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Fund and used for purposes allowed under ARPA, pursuant to legislation passed subsequently by the General Assembly.

- **Section 2.5 – Establishes the Local Fiscal Recovery Reserve (Local Reserve).** This Reserve holds federal funds received from the Coronavirus Local Fiscal Recovery Fund authorized under ARPA.
- **Section 2.6 – Establishes the Local Fiscal Recovery Fund (Local Fund).** -- Provides funds to nonentitlement units of local government to use in accordance with ARPA.

**Part III** of S.L. 2021-25 passes through federal local fiscal recovery funds to local governments as required by ARPA. **Part III** also appropriates ARPA grants funds to various State agencies.

- **Section 3.1 – Transfer and Appropriation of Local Fiscal Recovery Funds --**
  - Subsection (a) directs the State Controller to transfer funds from the Local Reserve to the Local Fund.
  - Subsection (b) appropriates the funds in the Local Fund to the Office of State Budget and Management (OSBM) to be distributed to and used by nonentitlement units of local government in accordance with the ARPA and any applicable federal guidance.
  - Subsection (c) directs OSBM to distribute the funds within a certain timeframe to the nonentitlement units of local government and directs OSBM to submit a copy to the chairs of the Senate Appropriations/Base Budget Committee, the chairs of the House Appropriations Committee, and the Fiscal Research Division, of any extension it submits to the United States Secretary of Treasury seeking more time to distribute the funds to the nonentitlement units of local government.
  - Subsection (d) directs the return to the United States Secretary of the Treasury of any funds received in excess of the capped amount provided to nonentitlement units of local government.
  - Subsection (e) directs OSBM to submit a report to the chairs of the Senate Appropriations/Base Budget Committee, the chairs of the House Appropriations Committee, and the Fiscal Research Division, detailing the amount of funds provided to nonentitlement units of local government under this act.
- **Section 3.2 –** Appropriates \$6,400,545,070 in federal funds received by the State under the ARPA and specifies the estimated amounts to be received by the State. **Section 3.2 was amended by Section 4.8 of S.L. 2021-180**, the 2021 Appropriations Act, to make technical clarifications related to public school funding using ARPA funds and to adjust the schedule of funding going out to local school administrative units.
- **Section 3.3 –** Specifies that the Homeowner Assistance Fund funds received under the ARPA must be administered by the North Carolina Housing Finance Agency.
- **Section 3.4 – Emergency Rental Assistance Funds. --**
  - Subsection (a) establishes the definition of "Emergency Rental Assistance funds" used in the section.

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- Subsection (b) repeals prior requirements placed on Emergency Rental Assistance funds received by the State under The Consolidated Appropriations Act, 2021, P.L. 116-260.
- Subsection (c) specifies that the agency responsible for administering the Emergency Rental Assistance funds is the Office of Recovery and Resiliency in the Department of Public Safety (Office).
- Subsection (d) sets out the maximum amount of Emergency Rental Assistance funds reserved or allotted for counties that received a direct allocation from the federal Emergency Rental Assistance program.
- Subsection (e) provides that (i) the amounts in subsection (d) may be adjusted pursuant to other authority in the section, (ii) the counties listed in subsection (d) must exhaust their direct allotment before expending any of the State allotment provided in subsection (d), and (iii) the counties listed in subsection (d) are ineligible to receive funds under subsection (f).
- Subsection (f) sets out the maximum amount of Emergency Rental Assistance funds reserved or allotted for modified council of government regions.
- Subsection (g) provides (i) that the amounts in subsection (f) may be adjusted pursuant to other authority in the section, (ii) what the awards to residents shall be based on, and (iii) that the Office shall provide awards until the maximum allotments set forth in subsection (f) has been exhausted.
- Subsection (h) directs the Office, in administering the funds, to work with the applicable council of governments and regional planning commissions in planning, disseminating information, providing application assistance, and providing other services requested by the Office.
- Subsection (i) directs the Office to establish a hotline to provide eligible households with case management and other services related to the COVID-19 public health emergency, and sets a cap on the amount of Emergency Rental Assistance funds that may be used for administrative costs, housing stability services, and the hotline.
- Subsection (j) specifies that the use of Emergency Rental Assistance funds must be in accordance with applicable federal law or guidance.
- Subsection (k) directs the Office to report by July 1, 2021, to the Chairs of the House Appropriations Committee, the Chairs of the Senate Appropriations/Base Budget Committee, and the Fiscal Research Division, on the use of funds.
- Subsection (l) sets forth the process to be used by the Office if the amount of Emergency Rental Assistance funds is different from the amount estimated to be received.

Subsequently, **Section 3.4 was amended by Section 1 of S.L. 2021-190**, concerning the Housing Opportunities and Prevention of Evictions (HOPE) Program. The North Carolina Office of Recovery and Resiliency (NCORR) is directed to accept applications under the HOPE program that are submitted by a landlord on behalf of a tenant, provided that the submitted application meets all of the federal requirements for this program. A landlord's submission of an application on behalf of a tenant is then eligible retroactively for rental arrears, including current or previous tenant addresses, within allowable federal guidelines. Further, HOPE funds are to be used for the following purposes: (i) covering the cost of a hotel or motel room, excluding expenses incidental to the charge for the room, occupied by an eligible household that meets all other applicable

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program requirements; (ii) covering the cost of reasonable accrued late fees due to a landlord; (iii) covering utility or energy costs for renters' households, irrespective of an application for or receipt of rental assistance; (iv) ensuring assistance is provided for a period not to exceed 12 months except that NCORR may provide assistance for an additional three months only if necessary to ensure housing stability for a household subject to the availability of funds; and (v) covering rental arrears accrued after March 13, 2020, the date of the emergency declaration pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5191(b).

- **Section 3.5 – ESSER Funds.** -- Provides that the Elementary and Secondary School Emergency Relief Fund (ESSER) funding appropriated by the act must only be used to allocate federal grant funds to public school units. The Department of Public Instruction must reserve those funds for the purpose of providing a minimum amount of per pupil federal grant funds for all public school units, including charter schools, and for certain residential schools for school facility repairs and improvements to respond to COVID-19.
- **Section 3.6** – Specifies that this act does not appropriate any federal funds received from the Coronavirus State Fiscal Recovery Fund or the Coronavirus Capital Projects Fund.

**Part IV** of S.L. 2021-25 contains technical and other changes:

- **Section 4.1** – Extends to June 30, 2024, the date by which certain disaster funds may be expended before reverting.
- **Section 4.2** – Revises how funds provided to the YMCA of the Triangle Area, Inc., from the Coronavirus Relief Fund under S.L. 2020-4 may be used. The act allows new grants for learning loss and enrichment and raises the cap on grant funds from \$25,000 to \$35,000 per grant. Further, it allows audit funding and sets June 7th as the deadline for submission of expenses through May 31, 2021.
- **Section 4.3 – Continuing Budget Authority.** -- Revises the continuing budget authority in G.S. 143C-5-4 as follows:
  - Specifies that funds are to be allocated at a level not to exceed the level of those funds in the recurring certified budget for the prior fiscal year.
  - Specifies that the Director of the Budget may continue to allocate funds appropriated for capital improvement projects and the implementation of information technology projects.
  - Eliminates the prohibition on automatic transfers to the Savings Reserve and the State Capital and Infrastructure Fund.
  - Specifies that the authority to spend grant funds applies to grant funds that were not included in the base budget for the fiscal year in which the grant was awarded.
  - Provides that State agencies may spend up to the greater of one percent (1%) or ten million dollars (\$10,000,000) of the total amount of grants awarded to respond to an emergency. This is subject to the approval of the Director of the Budget, and the relevant State agency is to report to the Joint Legislative Commission on Governmental Operations within 30 days of receipt of such funds.
- **Section 4.4** – Directs OSBM to reallocate up to the sum of ten million dollars (\$10,000,000) of unspent funds remaining in the Coronavirus Relief Fund established under S.L. 2020-4 to the

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Division of Emergency Management for unmet needs related to the FEMA Public Assistance program in response to COVID-19.

Subsequently, **Section 4.4 was amended by Section 4.7 of S.L. 2021-180 (2021 Appropriations Act)**, regarding the use of unspent finds such that the first ten million dollars (\$10,000,000) in nonrecurring funds allocated to the Department of Public Safety, Division of Emergency Management is used for unmet needs related to the Federal Emergency Management Agency Public Assistance program. The next one hundred fourteen million dollars (\$114,000,000) is allocated to the State Treasurer to be used for COVID-19 related expenses incurred by the North Carolina State Health Plan for Teachers and State Employees between the dates of March 1, 2020, and March 2, 2021. Any funds remaining after these two reallocations are directed to the Department of Agriculture and Consumer Services to distribute equally among each of the food banks in this State to reimburse for COVID-19 related expenses incurred between the dates of March 1, 2020, and December 31, 2021. Finally, any funds remaining after these three reallocations is reallocated to the Department of Public Safety to be used to offset General Fund expenditures eligible under the applicable federal law or guidelines.

- **Section 4.5 – Extra Credit Program.** -- Extends the time to apply for grants from May 31, 2021, to July 1, 2021.

**Part V** of S.L. 2021-25 contains boilerplate provisions:

- **Sections 5.1 and Section 5.2** – Explains the effect of headings and makes portions of the act severable.

**EFFECTIVE DATE:** **Section 5.3** states that, except as otherwise provided, the act is effective when it becomes law. The act became effective May 24, 2021.