



North Dakota Legislative Council

Prepared for the Interim Senate Appropriations Committee
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INTERIM SENATE APPROPRIATIONS COMMITTEE - BACKGROUND MEMORANDUM

COMMITTEE ESTABLISHMENT AND DUTIES

Pursuant to the *Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management*, the Chairman of the Legislative Management has appointed ([appendix](#)) an Interim Senate Appropriations Committee. The committee consists of the members of the Senate Appropriations Committee that was in place during the regularly convened session of the 67th Legislative Assembly. The committee has been assigned the following duties:

- Review proposals to use funding from the State Fiscal Recovery Fund established through the federal American Rescue Plan Act of 2021 and develop recommendations for the use of funds.
- Review legislative appropriations from the federal Coronavirus Capital Projects Fund and recommend any necessary changes to existing appropriations from the fund and develop recommendations regarding the use of any remaining available funding.
- Consider any other budget adjustments requiring legislation that are necessary before the 2023 regular legislative session.

The committee is to reconcile any differences in recommendations with the Interim House Appropriations Committee and work with the Legislative Council staff to prepare a bill draft implementing the recommendations for submission to the Legislative Management meeting on November 1, 2021.

Guidelines for Use of Funds

Legislative leadership established guidelines for the interim appropriations committees as they consider budget proposals. The guidelines are as follows:

1. The proposal must be for a one-time purpose.
2. Only proposals that must receive funding authorization before the 2023 regular legislative session should be considered. All other proposals should be considered during the 2023 regular legislative session.
3. Proposals should not appropriate funding from the general fund or the strategic investment and improvements fund.
4. All proposals received will be considered and the interim appropriations committees are to build their recommendations from a starting point of zero.

STATE FISCAL RECOVERY FUND

Background

The American Rescue Plan Act of 2021 included \$219.8 billion for the State Fiscal Recovery Fund. Of this amount, \$195.3 billion is available to states, \$25.5 billion will be distributed equally to the states and District of Columbia, resulting in \$500 million allocated to each state. After an additional \$755 million is distributed to the District of Columbia, the remaining \$169 billion will be distributed to the states based on each state's share of seasonally adjusted unemployed persons for the 3-month period ending December 2020. North Dakota's allocation from the State Fiscal Recovery Fund is \$1,007,502,515. The funds have been received and are on deposit in the Bank of North Dakota.

Allowable Uses

Allowable uses of funding from the State Fiscal Recovery Fund, which must be obligated by December 31, 2024, and spent by December 31, 2026, are as follows:

- Costs related to the COVID-19 pandemic, including assistance to households, small businesses, nonprofits, and affected industries, such as tourism, travel, and hospitality;
- Provide premium pay of up to \$13 per hour in addition to base pay, up to a maximum of \$25,000, to state, territory, or tribal government workers who perform essential work during the COVID-19 pandemic, or provide grants to employers with employees who perform essential work, which is defined as work needed to maintain continuity of operations of critical infrastructure and other sectors designated by the Governor as critical to protect the health and well-being of residents;
- The cost of providing government services to the extent there was lost revenue as a result of the COVID-19 pandemic; and
- Investment costs in water, sewer, and broadband infrastructure.

States may not use the funding to reduce taxes directly or indirectly between March 3, 2021, and the last day of the fiscal year in which funds received have been spent or returned. States cannot use funds to make payments to pension plans. The Office of Management and Budget submitted \$1.8 billion of revenue loss as of December 2020; therefore, the funds should be able to be used for the cost of government services.

FEDERAL CORONAVIRUS CAPITAL PROJECTS FUND

Background

The American Rescue Plan Act of 2021 appropriated \$10 billion to the United States Department of the Treasury for a Coronavirus Capital Projects Fund to provide payments to states, territories, freely associated states, 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 the Coronavirus Disease (COVID-19)."

North Dakota received an initial allocation of \$112,473,563 from the Coronavirus Capital Projects Fund. North Dakota's allocation was later increased to \$113,276,228. The Legislative Assembly, based on initial information provided regarding the fund, approved using \$106,474,000 of the funding for the following projects for the 2021-23 biennium:

Agency	Project	Amount
Office of Management and Budget	Medical center construction grant	\$500,000
Judicial branch	Information technology equipment	157,600
Department of Public Instruction	Children's science center grant	5,900,000
University of North Dakota	Airport apron project	5,000,000
Dickinson State University	Pulver Hall and meat processing laboratory projects	4,000,000
Department of Career and Technical Education	Statewide area career center initiative grant program	70,000,000
Highway Patrol	Law Enforcement Training Academy remodel project	3,000,000
State Historical Society	Capital project planning and historic site repairs	4,200,000
Parks and Recreation Department	Deferred maintenance projects and repayment of International Peace Garden project loan	11,716,400
Agriculture Commissioner	Intermodal facility grant program	2,000,000
Total - 2021-23 appropriations		\$106,474,000

Eligible Uses Based on September 2021 Guidance

The September 2021 guidance provides grant funds may be used for critical capital projects that directly enable work, education, and health monitoring in response to COVID-19. To be eligible for funding, a project must meet all of the following criteria:

1. The capital project invests in capital assets designed to directly enable work, education, and health monitoring;
2. The capital project is designed to address a critical need that resulted from or was made apparent or exacerbated by the COVID-19 public health emergency; and
3. The capital project is designed to address a critical need of the community to be served by it.

Presumptively Eligible Projects

The guidance provides certain projects are presumed eligible for the use of funds. The presumptively eligible projects include:

- Broadband infrastructure projects - The construction and deployment of broadband infrastructure projects are eligible for funding under the Coronavirus Capital Projects Fund program if the infrastructure is designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical download and upload speeds of 100 Mbps.
- Digital connectivity technology projects - The purchase and installation of devices and equipment to facilitate broadband Internet access are eligible for funding under the Coronavirus Capital Projects Fund program where affordability has been identified by the state as a barrier to broadband adoption and use. Permitted devices and equipment include laptops, tablets, and desktop personal computers for distribution to members of the public through a short- or long-term loan program or to be made available for use in public facilities. Permitted equipment includes equipment installed as part of public Wi-Fi infrastructure.
- Multipurpose community facility projects - Projects to construct or improve buildings designed to jointly and directly enable work, education, and health monitoring are eligible for funding under the Coronavirus Capital Projects Fund program.

Case-by-Case Review of Projects

In addition to the presumptively eligible capital projects described above, a recipient may propose a different use of funds. The use must meet each of the statutory criteria. The recipient must demonstrate its project meets the criteria for eligible uses identified earlier in this memorandum.

Ineligible Projects

The guidance indicates general infrastructure projects, such as highways, bridges, transit systems, and ports, are ineligible under the Coronavirus Capital Projects Fund program. General construction and improvement of hospitals and traditional schools also are not presumed to be eligible.

Grant Timeline

States must complete an application by December 27, 2021, to receive funding from the Coronavirus Capital Projects Fund. States will have additional time to submit detailed grant plans to use the funding. States must submit grant plans within 365 days of the launch of the Coronavirus Capital Projects Fund submission portal. All grant funds must be expended by December 31, 2026.

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