

# AMERICAN RESCUE PLAN ACT:

Local Fiscal Recovery Fund (Title IX, Part 8, Subtitle M, Sec. 9901;  
42 USC 801 et seq.)

Berrien County is expected to receive **\$29,796,346**

# Allowable Uses for Recovery Funds

- Respond to or mitigate the public health emergency with respect to the COVID-19 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.
- Provide government services to the extent of the reduction in revenue (i.e. fees and charges, property tax, State Revenue Sharing) due to the public health emergency.
- Make necessary investments in water, sewer, or broadband infrastructure.
- Respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the county that are performing such essential work.

# Allowable Uses for Recovery Funds (continued)

- State and local governments can transfer the funds to a private nonprofit organization, a public benefit corporation involved in the transportation of passengers or a special-purpose unit of State or local government.
- In such case, the transferee may expend the transferred funds to respond to or mitigate the public health emergency or its negative economic impacts.

# Ineligible Uses and Penalties

- 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. If a state violates this provision, it will be required to repay the amount of the applicable reduction to net tax revenue.
- No funds shall be deposited into any pension fund.
- Any local government, including counties, that fail to comply with the federal law and related guidelines shall be required to repay the federal Treasury.

# Fund Administration and Reporting Requirements

- The deadline to commit funds is **December 31, 2024**.
- The U.S. Treasury is required to pay the first tranche to counties no later than 60-days after enactment, and second payment no earlier than 12 months after the first payment.
- 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.
- Local governments, including counties, are required to provide “periodic reports” providing a detailed accounting of the use of funds consistent with 2 CFR 200.
- If a state, county or municipality does not comply with any provision of this bill, they are required to repay the U.S. Treasury an equal amount to the funds used in violation.

# Berrien County – Uses of Recovery Funds

- Broadly speaking, Berrien County can divide its allocation into two “pots”:
  - 1 – lost revenue/pandemic costs
  - 2 – external community projects
- In all instances uses must:
  - Be consistent with “eligible use” categories ascribed by ARPA SLFRF language and elaborated by the Treasury Final Rule (31 CFR 35 effective April 1, 2022).
  - Be consistent with the requirements of 2 CFR 200 (procurement/cost principles/monitoring and reporting)
- These requirements (eligibility and 2 CFR 200) apply to both the primary recipient (Berrien County) and any sub-recipients receiving grants or transfers from Berrien County

# Lost Revenue – Calculations and Uses

- Using Treasury guidance we have calculated our 2020 lost revenue to be approximately \$6.3M. We expect that lost revenue from 2021 through 2023 will be about \$4.5M to \$5.5M per year, assuming that Treasury doesn't drastically reduce its inflation factor guidance.
- Thus, over a 4 year period we may be able to draw as much as \$20M-22M of our total allocation as lost revenue.
- We can use this revenue for any capital or operational cost associated with providing ongoing services. But we cannot use it to create new services that are not associated with a response to the pandemic.
- We **cannot** use this revenue to supplement our pension funding.
- Examples of uses are: buildings and facilities, roads, public safety, parks

# External Community Projects – Uses

- Berrien County can sub-grant funds to municipalities, non-profits, special purpose government units for any eligible use. These sub-grants are subject to the same federal funds management requirements.
- The Final Rule provides numerous examples of community uses that meet the criteria “responding to or mitigating” the public health emergency with respect to the COVID-19 emergency or its negative economic impacts.
- The Final Rule also provides clearer guidance on the types of projects that qualify as “necessary” investments in water, sewer and broadband.

# External Community Projects – Uses (cont.)

- The Board of Commissioners is currently considering which categories of community projects and internal uses to fund with our allocation.
- Additionally, we are still estimating the amount of our allocation that will be retained as lost revenue replacement. Until this amount is better estimated, we don't know how much of our allocation can be dedicated to external community projects. But we can safely estimate that \$5M or more will be available.
- There appears to be consensus that funding rural broadband is a high priority external community project. And there are a number of these projects that are near “shovel-ready” and require current funding support.
- Staff is suggesting, therefore, that the Board circulate an application specifically for communities to apply for ARPA sub-grants issued by Berrien County to support local broadband projects.
- Additional applications can be created for other categories of community projects as the Board reaches consensus of future funding priorities.

# Broadband Projects – Application and Project Management

- Successful community projects will need to demonstrate:
  - That the broadband project will result in minimum high-speed service and will provide access commensurate with the FCC's affordable connectivity program.
  - That the applicant has experience in managing federal funds and has the capacity to ensure compliance with the 2 CFR 200.
  - That the applicant will comply with all monitoring and auditing including, if necessary, Single Audit compliance.
  - That the sub-grant funds will be fully committed by Dec, 2024 (this should not be an issue).
- Once a determination of award is made by the Board, the applicant will execute a sub-grant and monitoring agreement with Berrien County.

# Broadband Projects – Application and Project Management (cont.)

- Staff is preparing model sub-grants agreements for broadband projects and monitoring agreements.
- To assist sub-grant recipients, we are also preparing a monitoring handbook that provides guidance on procurement, financial management and reporting compliance.
- As a final consideration, the Board should give some thought into empaneling a review team to score applications and provide recommendations on sub-grant awards. We suggest including some staff on this team for technical advice regarding the management of federal funds.