

# LEGISLATIVE BULLETIN

## Federal Funding for COVID-19

One of the challenges in dealing with COVID-19 is understanding the federal funding that is available to help states and local governments respond to public safety concerns and continue providing government services to the citizens of New Hampshire. Complicating the funding discussion is the fact that there are many different “pots” of money, often referred to by different names, that have different spending authorizations, with different eligibility periods, administered by different federal agencies. The following explanation will, we hope, provide a clearer picture of the federal funding for COVID-19, focusing on the funding available to New Hampshire municipalities and the types of expenses generally covered.

**Federal Legislation.** To date, there have been four pieces of federal legislation enacted dealing with Coronavirus:

- HR 6074 Coronavirus Preparedness and Response Supplemental Appropriations Act (Enacted 3/6/20)
- HR 6201 Families First Coronavirus Response Act (Enacted 3/18/20)
- HR 748 Coronavirus Aid, Recovery, and Economic Security (CARES) Act (Enacted 3/27/20)
- HR 266 Paycheck Protection Program and Health Care Enhancement Act (Enacted 4/24/20).

The Legislative Budget Assistant’s Office (LBA) of the New Hampshire General Court has a [Summary of Federal COVID-19 Funds](#) (from all sources) allocated to New Hampshire on its [COVID-19 Information](#) page. The summary dated May 11, 2020, totals \$1.75 billion in grant funding and \$3.5 billion in non-grant funding available to New Hampshire.

None of the federal funding in the four coronavirus legislative acts listed above provides assistance to state or local governments to compensate for revenue shortfalls from taxes, fees, or revenue-generating operations that have been suspended due to COVID-19 (with one minor exception described below). However, there are discussions in Congress about a fifth funding proposal in which the National League of Cities is advocating for direct funding to municipalities to help address local revenue shortfalls. We will provide additional information as those discussions progress.

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May 15, 2020

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**Federal Emergency Management Agency (FEMA).** What is notably absent from the LBA summary is funding from the Federal Emergency Management Agency (FEMA). Funding for emergency operations and other FEMA-eligible expenses are in addition to the federal funding included in the LBA summary. There is no “grant” allocation for FEMA funding, nor is there a cap on the amount that will be reimbursed to the state and municipalities for FEMA eligible expenses. Under the FEMA emergency declaration, 75 percent of eligible costs will be reimbursed. The 25 percent local match for FEMA eligible expenses must come from municipal appropriations, donations, or volunteer time, and cannot be matched with money from other federal programs. The State has requested that FEMA provide 100 percent reimbursement, but as of this date that request remains pending and has not been approved.

Generally, FEMA reimbursement is for emergency protective measures in response to COVID-19, including, for example, personal protective equipment for first responders, costs for emergency operation centers, shelter for vulnerable populations, temporary lodging for first responders needing to isolate, and overtime costs for first responders. Additional information about eligible expenses and the reimbursement process is available on the [FEMA Public Assistance Eligibility for COVID-19](#) website, which includes the [Applicant Briefing Slides](#) from an April 24 presentation.

**Families First Coronavirus Response Act (FFCRA).** While the expanded wage and benefit provisions of this act apply to local governments, the payroll tax credit provision to pay for those additional wages and benefits does not apply. The only form of “funding” to municipalities is a provision exempting municipal employers from having to pay the 6.2 percent Social Security portion of FICA on wages *required* to be paid under this act. See NHMA [Guidance Regarding Employment Taxes Under the Families First Coronavirus Response Act](#). However, the increased wages and benefits (such as certain childcare costs) required under this act are eligible for reimbursement from the Municipal Relief Fund, explained below.

**CARES Act - Coronavirus Relief Fund.** Of the four federal bills, the CARES Act has received considerable attention recently due to the amount of funding provided directly to the state for use at the discretion of the governor. New Hampshire received \$1.25 billion from the US Treasury for a Coronavirus Relief Fund, the first item listed on the LBA summary, which is sometimes referred to as Flex Funds. As we explained in previous Legislative Bulletins, the governor created the Governor’s Office for Emergency Relief and Recovery (GOFERR) and established two advisory committees – the Legislative Advisory Committee and the Stakeholders Advisory Committee to recommend allocations and disbursements of money from the Coronavirus Relief Fund. Information about the work and recommendations of these two Boards is available on the [GOFERR website](#).

Of the seven programs the governor has established to date using money from the Coronavirus Relief Fund, two of the programs directly impact municipalities:

**Municipal Relief Fund (MRF).** Last week the governor allocated \$32 million from the \$1.25 billion Coronavirus Relief Fund for a municipal relief program. The MRF is a reimbursement program, with each municipality allocated a maximum amount for which reimbursement requests may be submitted to cover COVID-19 related expenses incurred between March 1 and August 31 and not covered by FEMA or another federal program. Additional MRF funding may be provided after August 31.

The MRF may be used for a variety of COVID-19-related expenses, including increased welfare costs, interest on tax anticipation notes, building disinfecting and modifications for social distancing, telework costs for remote municipal operations, payroll costs for increased wages and benefits

required under the Families First Coronavirus Response Act, employer payroll taxes associated with First Responder Stipends explained below, and more. However, the MRF may not be used for:

- Costs accounted for in the budget most recently approved as of March 27, 2020;
- Compensating for revenue shortfalls;
- FEMA-eligible expenses;
- The 25% local match required for FEMA-eligible expenses;
- COVID-19 expenses covered by other federal programs or grants;
- Workforce bonuses other than hazard pay or overtime;
- Severance pay or legal settlements.

The Town-by-Town allocation of the MRF along with the required grant agreement and reimbursement request form are available on the [Municipal & County Payments](#) page of the GOFERR website. Additionally, the [MRF Frequently Asked Questions \(FAQs\)](#) explaining the details of this program is available on the [NHMA COVID-19 Resources](#) page.

**First Responders COVID-19 Stipend.** Also last week the Governor announced the allocation of \$25 million from the Coronavirus Relief Fund for a First Responder Stipend program providing a \$300 per week stipend to full-time and a \$150 per week stipend to part-time first responders for the period May 4 through June 30. Municipal participation in the program is voluntary, and municipalities may submit the First Responder Stipend Worksheet for the entire 8-week and 2-day period up front, then pay the stipend to eligible first responders weekly, bi-weekly, or in a single lump sum. The stipend is subject to applicable employer and employee payroll taxes, with the employer taxes reimbursable from the MRF. The stipend is included in the calculation of the Fair Labor Standards Act (FLSA) overtime rate but is not considered earnable compensation for New Hampshire Retirement System purposes.

The [First Responder COVID-19 Stipend Program](#) and the [First Responders COVID-19 Stipend FAQs](#) on the Department of Safety, Division of Homeland Security and Emergency Management (HSEM) website includes detailed information about the program, eligibility criteria, payment instructions and more.

**Justice Assistance Grants (JAG).** The New Hampshire Department of Justice received \$3.4 million under the JAG program of the CARES Act for law enforcement and other first responders to prevent, prepare for, and respond to COVID-19. Funding is available retroactive to January 20, 2020 and will be available for a period of up to two years. To date, \$876,000 has been awarded with approximately \$2.5 million remaining. Allowable projects and purchases include, but are not limited to, overtime, equipment (including law enforcement and medical personal protective equipment), hiring, supplies (such as gloves, masks, sanitizer), training, travel expenses, and addressing the medical needs of inmates in state and local prisons, jails, and detention centers. Additional information and applications are available on the [Department of Justice website](#).

**Provider Relief Funds (Ambulance Funding).** In mid-April some municipalities received an unexpected ACH deposit in their bank accounts with the notation “HHS Payment US HHS Stimulus.” This money is listed on the LBA summary as US DHHS Office of Secretary, Provider Relief Funds – General Allocation. The money was paid to healthcare providers that billed Medicare in 2019, making some municipal ambulance services eligible for this funding. Guidelines issued by the U.S. Department of Health and Human Service for use of [Provider Relief Funds](#) are different from the guidance issued by the [U.S. Treasury](#) for the Coronavirus Relief Fund (and subsequently the MRF). The terms and conditions for the Provider Relief

Funds state that the payment will be used only to “prevent, prepare for, and respond to coronavirus, and that the payment shall reimburse the Recipient only for health care related expenses **or lost revenues that are attributable to coronavirus.**” This is the one exception we have found so far to the general rule that COVID-19 funding cannot be used to compensate for local government revenue shortfalls.

**Election Support.** The Select Committee on 2020 Emergency Election Support is charged with advising the state on the use and allocation of \$3.2 million of CARES Act funding to address the many challenges of holding state and federal elections during a pandemic. (See article below.) NHMA submitted a [letter to the committee](#) last week summarizing the major municipal concerns. It is anticipated that committee discussions will continue for several weeks before determining final funding recommendations.

**What to Apply for First?** Based upon the many email inquiries, discussions on various list services, and questions posed on conference calls, we understand that COVID-19 funding and reimbursement processes are confusing, and in some cases seem to be a Catch-22 in terms of what to apply for first. Please know that we are working closely with state officials at GOFERR, HSEM, and other state agencies to help every New Hampshire cities and towns receive the federal funding intended to address the municipal costs associated with COVID-19. Here are a few general recommendations regarding the funding process:

1. Apply to FEMA for those expenses you know, or are fairly certain, are FEMA-eligible. Even though FEMA only reimburses 75 percent of eligible costs, there is no cap on the amount FEMA will cover. Additionally, the MRF does not reimburse for FEMA-eligible costs.
2. Do not double-dip by seeking reimbursement for the same costs from multiple funding sources.
3. Closely track expenses and reimbursements, and maintain supporting documentation necessary for audit purposes.

## Committee on Election Support

As discussed in [last week's Bulletin](#), the Select Committee on 2020 Emergency Election Support, which is charged with advising the state on the use of \$3.2 million in CARES Act money for election support, is meeting every Tuesday, Wednesday, and Thursday in May. State officials have indicated that they expect most of that money to go to municipalities for their COVID-19-related election needs.

As testimony to the committee last week and this week made clear, there are many complexities that need to be addressed to adapt the 2020 election processes to the COVID-19 emergency, in addition to financial needs. We have requested the formation of a group of moderators, clerks, and supervisors of the checklist to work with the attorney general's office and the secretary of state's office on these issues. Only the local officials who deal with the election laws every day really understand their full effect on the mechanics of elections and voter registration. We have been hearing the concerns of these officials many times a day for the last few weeks, and they are eager to work on solutions.

We hope state officials will take us up on this suggestion. We will keep you posted.

## More Legislative Action in June

The legislature remained unusually quiet this week, with only a few House committees holding virtual executive sessions. However, the big news in [today's House calendar](#) is that the full House will meet in session on June 11 at the Whittemore Center at the University of New Hampshire. The Whittemore Center

was identified as “a place that is large enough to allow us to socially distance while not being so large as to create its own logistical problems.”

The House has a few more virtual executive sessions scheduled for next week, and we understand that committees hope to begin holding hearings in June. We also understand that the Senate may be returning in June for full Senate sessions, to be held in the 400-seat Representatives’ Hall, where 24 senators should be able to maintain appropriate social distance. The Senate still has several dozen of its own bills to act on before they can go to the House.

We cannot predict what will happen, but it promises to be a summer like no other.

<b>2020 NHMA UPCOMING MEMBER EVENTS</b>	
May 19	<b>Virtual Workshop:</b> 2020 Local Officials
May 20	<b>Webinar:</b> What is Community Power and How Does Community Power Work? (12:00 – 1:00)
May 27	<b>Webinar:</b> Trails for People and Wildlife (12:00 – 1:00)
Please visit <a href="http://www.nhmunicipal.org">www.nhmunicipal.org</a> for the most up-to-date information regarding our upcoming training opportunities and events. For more information, please call NHMA’s Workshop registration line: (603) 230-3350.	