



JULY 8, 2022

SENATOR VINCENT HUGHES
Democratic Chairman

Fiscal Code: American Rescue Plan

House Bill 1421, Printer's Number 3379, distributes remaining American Rescue Plan Act (ARPA) funding as appropriated in the General Appropriations Act. For further details and information on other policy changes, please see the summary below.

COVID-19 Response Restricted Account

Repeals the automatic transfer provisions for money remaining in the COVID-19 Response Restricted Account (Account).

Unemployment Compensation Trust Fund

COVID Relief – ARPA – Transfer to the Unemployment Compensation Fund - \$42,328,000

Requires the Secretary of Labor and Industry to certify to the Secretary of the Budget (secretary) and the Appropriations Committees no later than September 1, 2022, November 1, 2022, December 15, 2022 and February 1, 2023:

- The balance of the Unemployment Compensation Trust Fund (fund) as of the date of the certification;
- The estimated revenues to be deposited into the fund for the remainder of the fiscal year;
- The estimated expenditures from the fund for the remainder of the fiscal year;
- The balance of the loans from the Federal Government as of the date of the certification; and,
- Whether the balance of the loans will subject the Commonwealth to a FUTA credit reduction if the loans are not repaid by January 1, 2023.

Upon receipt of the certification, the secretary shall transfer from money appropriated for COVID Relief – ARPA – Transfer to the Unemployment Compensation Trust Fund to the fund. Transfers shall be used as follows:

- To repay advances prior to November 10, 2022 to avoid a reduction in the tax credit available to employers under Federal law;
- To repay the entire outstanding advances prior to January 1, 2023 to avoid a reduction in the tax credit available to employers under Federal Law;
- Excess money remaining after the above advances are paid shall be used to pay outstanding advances prior to April 30, 2023; and, after April 30, 2023:
 - Repayment of outstanding advances;
 - Payment of benefits under the Unemployment Compensation Law, if determined advances will not be needed for at least one year.

Local Law Enforcement Support Grant Program

COVID Relief – ARPA Local Law Enforcement Support - \$135,000,000

Establishes the Local Law Enforcement Support Grant Program at the Pennsylvania Commission for Crime and Delinquency (PCCD). Eligible law enforcement agencies include local police, campus police, transit officers, airport authority police and county park police. On an annual basis, PCCD shall make applications available for law enforcement to apply for grants. Grants may be used for:

- Technology and information technology improvements;
- Hardware and software equipment;
- Nonsworn personnel costs;
- Nonrecurring personnel costs for sworn officers; and,
- Policy development, evidence-based practices and training.

Grants shall be geographically diverse, and priority shall be given to areas with high rates of violence or to law enforcement agencies with low clearance rates. Funding should supplement, not supplant a law enforcement agencies funding. Limitations on maximum awards are included. Grant awards shall include performance metrics to measure the progress of grants awarded.

Gun Violence Investigation and Prosecution Grant Program

COVID Relief – ARPA – Gun Violence Investigation and Prosecution - \$50,000,0000

Establishes the Gun Violence Investigation and Prosecution Grant Program at PCCD. Grants shall be awarded to district attorneys and law enforcement agencies to investigate and prosecute violations of the firearms act and crimes of violence. Grant funds may be used to:

- Improve and enhance coordination between Federal, State and local law enforcement agencies,
- To support personnel costs;
- To purchase technology systems, initiatives that support the tracing of firearms used to commit crimes; and,
- Any other efforts that aid in the investigation, arrest and prosecution of crimes.

Grants shall be prioritized for areas in the Commonwealth experiencing high rates of gun violence, with no less than 10% of available funds to be made available for rural communities. Requires PCCD to work with the Administrative Offices of the Pennsylvania Courts (AOPC) to provide real-time data on all individuals charged with firearm offenses and their disposition outcomes.

Violence Intervention and Prevention

COVID Relief – ARPA – Violence Intervention and Prevention - \$75,000,000

Directs the funding to be used for grants and technical assistance to community-based organizations, institutions of higher education, municipalities, district attorneys and other entities for community violence reduction programs.

Whole-Home Repairs

COVID Relief – ARPA – Whole Home Repairs - \$125,000,000

Establishes the Whole-Home Repairs Program (WHRP) within the Department of Community and Economic Development (DCED). DCED shall award no more than one grant per county to a government agency or nonprofit to provide grants to homeowners, whose income does not exceed 80% of the area median income, and small landlords. A county may subgrant out funding they receive. If a county subgrants out, they shall provide DCED with the name of the subgrantees and the name of subgrantees shall be posted on DCED's website. No grant to a homeowner or grant or loan to a small landlord may exceed \$50,000. If a small landlord meets certain criteria, they may have their loan forgiven. Funds may be used to administer the program and invest in workforce development programs, and address habitability, water or energy concerns. Administrative fees on both DCED and a local government agency or nonprofit are capped at 4%.

Arts and Culture Recovery Grant

COVID Relief – ARPA – Arts and Culture - \$15,000,000

Transfers funds to the Commonwealth Financing Authority (CFA) for the Cultural and Museum Preservation Grant Program to award grants to nonprofit arts and culture organizations, local arts and culture districts, and arts and culture professionals in the Commonwealth for recovery related to COVID-19. The CFA shall issue guidelines that, at a minimum, include eligibility requirements for grant awards and allowable uses of grant funds. No grant award may exceed \$500,000.

ARPA Funding for Emergency Education Relief to Nonpublic Schools (Fiscal year 2021-2022)

Reallocates \$1,400,000 in funding appropriated in the 2021-2022 fiscal year for Emergency Education Relief to Nonpublic Schools to COVID Relief GEER to support nonpublic schools. Requires each intermediate unit who contracted with the Department of Education (PDE) to certify no later than February 14, 2023, the amount of money available from the 2021-2022 appropriation for COVID Relief – ARPA – Emergency Assistance to Nonpublic Schools that remains unexpended.

ARPA Funding for Libraries (Fiscal year 2021-2022)

Allows the State Librarian, in their discretion, to distribute any ARPA funds previously appropriated for library services and remaining unspent from the 2021-2022 fiscal year.

Biotechnology Research

COVID Relief – ARPA – Biotechnology Research - \$5,000,000

The Department of Health (DOH) shall award grants to any of the following statewide priorities:

- Attract, grow and expand biotechnology, pharmaceutical, life science or health research and development;
- Increase biotechnology, pharmaceutical, life science or health manufacturing capacity;
- Promote the growth or development of new and innovative technologies from biotechnology, pharmaceutical, life science or health fields; and,

- Support the commercialization of research in biotechnology, pharmaceutical, life science or health fields.

Requires the DOH to issue guidelines to implement these provisions.

Long Term Care

COVID Relief – ARPA – Long-Term Living Programs - \$250,000,000

Includes distribution formulas for a total appropriation of \$250 million for COVID Relief – Long-Term Living Programs.

- A total of \$131.157 million shall be distributed to public and non-public skilled nursing facilities.
 - \$104.926 million shall be distributed as a one-time payment determined as follows:

Facility's # of MA days for the 3rd qtr of CY 2021	÷	Total # of MA days for all facilities for the 3 rd qtr of CY 2021	×	\$104,926,000	=	One-time payment to the eligible facility
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- \$26.231 million shall be distributed as a one-time payment determined as follows:

Facility's # of licensed beds as of July 1, 2022	÷	Total # of licensed beds of all facilities as of July 1, 2022	×	\$26,231,000	=	One-time payment to the eligible facility
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- \$74.946 million shall be distributed to make payments for personal assistance services provided by home health care agencies, home care agencies, and direct care workers employed through the participant-directed service delivery model.
 - \$59.957 million shall be distributed in one-time payments to a home health care provider or home care provider to be determined as follows:

Provider's # of MA 15-minute units, excluding overtime, invoiced in the 3 rd qtr of CY 2021	÷	Total # of MA 15-minute units for all home health care providers, excluding overtime, invoiced in the 3 rd qtr of CY 2021	×	\$59,957,000	=	One-time payment to the eligible facility
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- \$14.989 million shall be distributed as a one-time payment to each direct care worker employed through the participant-directed employer model who provides personal assistance services to be determined as follows:

# of personal assistance 15-minute units provided by a direct care worker in this model, excluding overtime, invoiced in the 3 rd qtr of CY 2021	÷	# of all personal assistance 15-minute units provided by all direct care workers employed in this model, excluding overtime, invoiced in the 3 rd qtr of CY 2021	×	\$14,989,000	=	One-time payment to the eligible facility
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- \$26.767 million for payments to assisted living residences and personal care homes.
 - \$24.090 million to be distributed in one-time payments to each assisted living residence and personal care home to be determined as follows:

Occupancy of the assisted living residence or personal care home as determined by DHS's most recent inspection on or before July 1, 2022	÷	Total occupancy of the assisted living residence or personal care home as determined by DHS's most recent inspection on or before July 1, 2022	×	\$24,090,000	=	One-time payment to the eligible facility
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- \$2.677 million to be distributed as a one-time payment to each personal care home to be determined as follows:

Facility's # of individuals for whom the facility received a payment of DHS for SSI in March 2022	÷	Total of all facilities' # of individuals for whom the facility received a payment of DHS for SSI in March 2022	×	\$2,677,000	=	One-time payment to the eligible facility
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- \$6.959 million for one-time payments to adult day care services providers to be determined as follows:

Provider's total MA fee-for-service and CHC payments for the 3 rd qtr of CY 2021	÷	Sum of all providers MA fee-for-service and CHC payments for 3 rd qtr of CY 2021	×	\$6,959,000	=	One-time payment to the eligible facility
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- \$535,000 for one-time payments for residential habilitation services to be determined as follows:

Provider's total MA fee-for-service and CHC payments for the 3 rd qtr of CY 2021	÷	Sum of all providers MA fee-for-service and CHC payments for 3 rd qtr of CY 2021	×	\$535,000	=	One-time payment to the eligible facility
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- \$4.283 million to make one-time payments for eligible MA ventilator or tracheostomy skilled nursing facilities. To qualify, a facility must have qualified for a payment under Act 56 of 2021 for the quarter ending March 31, 2022. Payments will be determined as follows:

Facility's payment amount received under Act 56 of 2021, for the qtr ending March 31, 2022	÷	Sum of all payment amounts received under Act 56 of 2021, for the qtr ending March 31, 2022	×	\$4,283,000	=	One-time payment to the eligible facility
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- \$5.353 million for one-time payments to LIFE providers to be determined as follows:

LIFE provider's total amount reimbursed for LTCMC for the 3 rd qtr of CY 2021	÷	Total amount reimbursed for LTCMC for the 3 rd qtr of CY 2021	×	\$5,353,000	=	One-time payment to the eligible facility
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In order to receive Long-Term Living funding, a person or entity must have been in operation as of July 1, 2022 and provide documentation requested to DHS for an audit review. Funds may not be otherwise reimbursed by a Federal, State or other source of funding.

Low-Income Home Energy Assistance Programs

COVID Relief – ARPA – Low-Income Home Energy Assistance Programs - \$25,000,000

Allows the expenditure of up to \$25,000,000 of ARPA funds if: all other money received from the Federal government for the LIHEAP Program, less any amounts allowed to be carried over under Federal law, are expended or committed, and the Secretary of the Budget notifies the Appropriations Committees that all non-ARPA funds have been expended.

Child Care Staff Supports Program

COVID Relief – ARPA – Child Care Stabilization - \$90,000,000

Establishes an ARPA Child Care Staff Supports Program in the Department of Human Services (DHS) for the purpose of making retention and recruitment payments to qualified staff to be distributed as one-time payments to providers that apply and qualify. The program will apply qualified staff at child day care center providers, group child day care homes, family child care homes, and relative providers. Qualified staff represent employees involved in direct supervision of children or environmental services, excluding executives, contracted staff, administrators and administrative support staff, or owners of child-care providers.

Provider applications shall be developed by DHS and posted on DHS's publicly accessible internet website. The application submission starting date is at the discretion of DHS, but shall begin no later than January 1, 2023, with the DHS accepting and processing applications on a rolling basis until funding is exhausted or the federal deadline for expending ARPA funds has occurred. DHS determinations on applications must occur no later than 30 days after the submission.

Payments to child care providers are subject to the following conditions:

- May not supplant existing staff wages or otherwise be reimbursable by federal or state funding.
- A qualified staff member may only receive one payment for retention or recruitment
- Payment to a qualified staff member may not exceed \$2,500
- The provider awarded funding must be in operation as of June 30, 2022 and must maintain operations until at least December 31, 2022.

The DHS may recover a payment for noncompliance or failure to submit requested documentation. Provider awardees must submit a report to DHS by June 30, 2023 or by September 30, 2023 regarding staff retention payments. The DHS must then issue a report to the General Assembly and on its publicly accessible internet website within 90 days of the provider reporting.

Behavioral Health Commission for Adult Mental Health

COVID Relief – ARPA – Adult Mental Health Programs - \$100,000,000

Creates the Behavioral Health Commission for Adult Mental Health (commission) within DHS. The commission members will be:

- Secretary of DHS, or a designee;
- Insurance Commissioner, or a designee;
- Secretary of Drug and Alcohol Programs, or a designee;
- Secretary of Health, or a designee;
- A representative of the Pennsylvania Commission on Crime and Delinquency;
- An individual appointed by the President Pro Tempore of the Senate;
- An individual appointed by the Minority Leader of the Senate;
- An individual appointed by the Speaker of the House;
- An individual appointed by the Minority Leader of the House;
- The following appointed by the Governor:
 - Two active members of the Mental Health Planning Council;
 - Two current or former behavioral health consumers or family members with lived experience of navigating diagnosis, treatment and recovery.
 - An individual from a list of recommendations provided by the Pennsylvania Association of County Administrators of Mental Health and Development Services with experience in county provisions of mental health;
 - Two representatives of behavioral health managed care organizations, one providing services in a rural area and one providing services in an urban area;
 - An individual recommended by the Hospital and Healthsystem Association of Pennsylvania;
 - An individual member of local law enforcement who is certified in crisis intervention;
 - A psychologist who specializes in mental, social and emotion development recommended by the Pennsylvania Psychological Association;
 - A licensed clinical social worker recommended by the National Association of Social Workers;
 - An individual who is a subject matter expert in evidence-based trauma-informed treatment;
 - An individual who specializes in culturally competent behavioral health care;

- A recognized subject matter expert in treatment of co-occurring mental health and substance use disorder recommended by the Rehabilitation and Community Providers Association with experience in behavioral health matters; and,
- A recognized subject matter expert in behavioral health recommended by the Pennsylvania Association of Community Health Centers.

A chair shall be appointed by the Governor and the commission shall hold its first meeting within 60 days and at least two meetings must be convened with county mental health administrations to review the provisions of behavioral health care and identify recommendations for improvements in coordination of care.

The commission shall make recommendations and issue a report regarding the allocation of funding to:

- Delivery of services by telemedicine;
- Behavioral health rates, network adequacy and mental health payment parity;
- Workforce development and retention;
- Expansion of certified peer support specialist services and peer-run services;
- Development and provisions of crisis services;
- Integration of behavioral health and substance use disorder treatment;
- Cultural competencies when providing behavioral health care;
- Impact of social determinants of health on behavioral health;
- Intersection of behavioral health and the criminal justice system; and,
- Establishing an integrated care model that can deliver timely psychiatric care in a primary care setting.

The report shall be provided to the Governor and members of the General Assembly. The commission terminates upon transmission of the report above.

Prohibits money appropriated for COVID Relief – ARPA – Adult Mental Health Programs from being spent until the General Assembly passes enabling legislation.

Property Tax and Rent Rebate

COVID Relief – ARPA – Property Tax Relief - \$140,000,000

Transfers an appropriation for property tax rent rebate from the COVID-19 Response Restricted Account to the State Lottery Fund.

With the additional funding, program claimants for CY 2021 will receive an additional payment equal to 70% of their 2021 claim.

No additional application will be necessary, rather the additional funding will be provided automatically.

This section shall expire on December 31, 2023.

Covid Relief – State University Assistance for Fiscal Year 2022-2023

COVID Relief – ARPA – State System of Higher Education - \$125,000,000

The Board of Governors of the State System of Higher Education in consultation with the Chancellor of the State System of Higher Education shall make payments of in the aggregate amount of \$34,294,978 to the integrated universities (Commonwealth University of Pennsylvania and Pennsylvania Western University).

\$7,371,688 shall be paid to Cheyney University, to be directed by the president of the university, in consultation with the university's council of trustees.

The remaining \$83,333,334 shall be made available for the other State universities, the president of each university, in consultation with the university's council of trustees, an amount shall be determined by:

- multiplying the average of the 2020 and 2021 fall full-time equivalent enrollment for the State university by \$83,333,334 and
- dividing the product by the average of the 2020 and 2021 fall full-time equivalent enrollment for all State universities eligible to receive payments.

Payments must be made no later than August 1, 2022.

The Chancellor shall issue an interim report by December 31, 2022 and a final report by July 15, 2023.

The reports will include:

- 2020 and 2021 fall full-time equivalent enrollment for each State university
- 2020 and 2021 fall full-time equivalent enrollment for all State universities
- The payment made to each State university under this section.
- The total payments made to all State universities under this section.
- A description of the use by the State university of the payment.

Development Cost Relief Program

COVID Relief – ARPA – Cost Relief Program - \$150,000,000

Establishes the Development Cost Relief Program (program) within the Pennsylvania Housing Finance Agency (PHFA) to support the production of developments by addressing financial deficiencies attributable to the COVID-19 pandemic and other economic factors.

A development which meets all of the following criteria shall be eligible for an award:

- Has applied for or received a conditional or full allocation from PHFA of low-income housing tax credits (LIHTC) during the 2019, 2020, 2021, 2022, or 2023 application cycles;
- Has not received a certificate of occupancy for each unit within the development; and,
- Has experienced cost increases, or a loss in equity investment, as a result of conditions arising from or related to the COVID-19 pandemic.

Requires PHFA to develop an application and to verify the need for the development. PHFA is required to ensure any grant award keeps the project in compliance with the LIHTC program. Upon a

determination of eligibility, PHFA shall provide a conditional award and PHFA shall use the same closing process as provided in the Pennsylvania Housing Affordability and Rehabilitation Enhancement Program (PHARE).

Money provided for this program may not be used to supplant other agency-committed resources except if the development risks noncompliance with the low-income housing tax credit program.

Housing Options Grant Program

COVID Relief – ARPA – Affordable Housing Construction - \$100,000,000

Establishes the Housing Options Grant Program (HOP) within the Pennsylvania Housing Finance Agency (PHFA) to make grants available for the development of affordable housing units, including building new units, rehabbing existing properties to make them affordable housing units or preserving existing affordable units. Grants shall be made to a developer or nonprofit for projects that meet the requirements of the Federal Low Income Housing Tax Credit (LIHTC) and provide at least a 25% match. Awards shall be geographically diverse throughout the Commonwealth.

By June 30, 2023 and each June 30 thereafter, the agency shall report to the Governor and the General Assembly on the number of grants awarded, the county in which each grant is awarded, the total number of applications received and any other information PHFA deems necessary.

Department of Conservation and Natural Resources (DCNR) – State Parks and Outdoor Recreation Program

COVID Relief – ARPA – State Parks and Outdoor Recreation Program - \$100,000,000

Establishes the State Parks and Outdoor Recreation Program in DCNR to support the rehabilitation, repair and development of park and forest areas within this Commonwealth.

A project shall be eligible if:

1. One of the following apply:
 - It rehabilitates, repairs, or develops State Park or State Forest land or facilities.
 - It involves the acquisition of State Park or State Forest land.
2. It involves planning, educating, acquiring, developing, rehabilitating, or repairing:
 - Greenways.
 - Recreational trails, including connectors.
 - Open space, natural areas, river corridors and access to riverfronts.
 - Watersheds.
 - Community parks and recreations facilities.
 - Community conservation and beautification projects.
 - Heritage areas and other conservation and recreation.

75% of funds shall be used by DCNR for projects listed under 1. and the remaining 25% of funds shall be used to provide grants to eligible entities for projects listed under 2. Eligible entities include a county, municipality, council of governments, conservation district or authorized organization. DCNR shall make applications for grants available, which shall include information determined necessary to verify the need for the project and extent to which grants will be awarded. Grant awards shall be \$50,000 to

\$5,000,000. DCNR may require matching funds for grants. DCNR shall provide a report to the chairs and minority chairs of the House and Senate Appropriations and Environmental Resources and Energy Committees that includes information on grants awarded.

ERAP1 and ERAP2

Gives the Department of Human Services (DHS) authority to determine the timeframe and the manner for redistribution unspent rental assistance to ensure that ERAP1 is spent by the September 30, 2022 deadline and ERAP2 is spent by the September 30, 2025 deadline.

Agriculture Conservation Assistance Program

COVID Relief – ARPA – Transfer to the Clean Streams Fund - \$220,000,000

Establishes the Agriculture Conservation Assistance Program in the State Conservation Commission to provide technical and financial assistance to implement best management practices (BMPs) on farmland operations to help meet the pollution reductions goals for the Chesapeake Bay and other major watersheds in Pennsylvania. Funding for the program may be provided through any of the following:

- Money appropriated for purposes of the program.
- Federal money appropriated or authorized for purposes of the program.
- Money received from another governmental agency through an interagency agreement or memorandum of understanding.
- A gift or other contribution from a public or private source.
- Return on money dedicated for the program, including interest on loans, investment interest or refunds.

The commission may dedicate up to 4% of funds for expenses incurred in administration of the program. Up to 4% of the funds may be committed by the commission to compensate the entities performing the administrative tasks.

The commission shall:

- Adopt performance standards for administration and oversight of the program, best management practices to be implemented and receive funding under the program.
- Provide a system of program evaluation and quality control.
- Develop a training, education and technical assistance program for technicians, engineers and other individuals performing work under the program.
- Create a system for collecting and reporting of collected data on funded practices to governmental agencies, in a manner consistent with criteria established under Federal and State laws.

The commission may delegate to The Pennsylvania State University, or other entity determined appropriate by the commission, to execute specific administrative tasks and activities.

The commission shall apportion the funds to participating conservation districts based on written apportionment criteria developed by the commission to address the areas with highest need for improvement. The apportionment criteria shall consider:

- Agriculturally impaired stream miles.

- The number of cropland acres.
- The number of farms.
- The number of livestock and poultry.
- Other criteria as established by the commission.

Any funds not used in any fiscal year may roll over for the following fiscal year. Any unused funds after two years shall be reapportioned to participating conservation districts in the following year, consistent with the apportionment criteria. Participating conservation districts shall enter into an agreement with the commission for the management and administration of funds as determined by the commission.

Funds may be used for:

- Approving and providing financial assistance to the person who received approval for the project to install and implement BMPs.
- Costs for technical training and education and technical assistance in administration of projects approved by the conservation district, including technical assistance provided by the Pennsylvania Fish and Boat Commission and third parties.
- Establishment of procedures for submission and approval of applications for financial assistance for BMPs that minimize, to the extent feasible, procedural tasks and obligations for applicants.
- Adoption of written criteria for ranking of applications for financial assistance and determination of proposed projects to be given priority.
- Entering into written agreements with recipients of approved funding.
- Administration and procedures to ensure recipients of financial assistance timely complete projects in a manner that meets established design and construction standards.
- Adoption of procedures to ensure that recipients of the approved funding will fully comply with requirements for future maintenance activities established under the terms of agreement.
- Development of procedures to ensure proper performance of agreements executed under the program.

A participating district may dedicate up to 6% of the annual amount for expenses incurred in administration of the program, not including technical assistance.

An advisory committee may be appointed by the conservation district board to advise the program and identify local priorities and opportunities to complement other programs. The committee shall include, at a minimum, one staff member of the conservation district and one local representative of the United States Department of Agriculture Natural Resources Conservation Service and may include up to three other local representatives who are knowledgeable of agricultural operations and conservation.

In a county with a participating conservation district, a person may apply to the person's applicable delegated conservation district for an eligible project under the program. In a county without a participating conservation district, a person may apply directly to the commission for an eligible project under the program. The application, at a minimum, shall include:

- The location of the project.
- The description of the project, including the planned BMPs.
- If applicable, the amount and sources of funding available for the project.
- The total cost of the project.

- Any other information as required by the conservation district or commission, as applicable.
- Relevance of the project to the development, improvement or implementation of the applicant's manure or nutrient management plan, conservation plan or agricultural erosion and sediment control plan.

Within 90 days of receipt of a complete application, the conservation district or commission, as applicable, shall notify the applicant of:

- Whether the project is approved for funding under the program.
- The total amount of funds approved for the project.
- The amount of each type of funding approved for the project.

Upon completion of a project, the person who received the approval for the project must notify the conservation district or commission of the completion of the project and submit all documents to certify the completion. Projects funded under this program may be subject to inspection by the commission, conservation district or their designated agent.

Funds shall be distributed upon certification and verification that the funded project has been completed and design and construction standards have been met.

Priority shall be given to applications based upon the following criteria:

- The project meets the goals of any applicable watershed implementation plan.
- If applicable to the agricultural operation, the applicant has a conservation plan or agricultural erosion and sediment control plan and a manure management plan or nutrient management plan. Development of such plans shall be included in the application if not yet developed prior to the application.
- The project implements BMPs included in a conservation plan, agricultural erosion and sediment control plan, manure management plan or nutrient management plan. The conservation district or commission shall give priority to projects that implement BMPs for control of nitrogen or phosphorus.
- An agricultural operation with an animal concentration area shall have implemented BMPs necessary to abate storm water runoff, loss of sediment, loss of nutrients and runoff of other pollutants from the animal concentration area, or the implementation of such BMPs shall be included in an application for funds.
- Proximity to surface waters, public drinking water sources or karst geology with underground drainage systems or open sinkholes.
- The project meets the design and construction standards established by the commission. If standards do not exist, the commission may establish or approve design, construction and certification standards for the proposed BMP.
- Any other criteria considered by the conservation district, as applicable, and approved by the commission.

The commission may take action against any applicant to enforce the terms of an agreement or recoup funds provided under an application, if the applicant fails to perform under the agreement.

The commission must assess the program and report the assessment annually.

Clean Water Procurement Program

COVID Relief – ARPA – Transfer to the Clean Streams Fund - \$220,000,000

Establishes the Clean Water Procurement Program (program) to provide for the purchase of verified nutrient and sediment reductions, to be implemented by the PA Infrastructure Investment Authority (PennVEST), in concert with the Department of Environmental Protection (DEP) and State Conservation Commission (Commission). Funding for the program may be provided through:

- Money appropriated.
- Amounts made available from the Clean Streams Fund.
- Federal money appropriated or authorized for the program.
- Money received from another governmental agency via an interagency agreement or memorandum of understanding.
- A gift or contribution from a public or private source.
- Returns on money dedicated to the program.

DEP may use no more than 4% of money appropriated to implement the program. PennVEST shall issue a request for proposals (RFP) or initiate a competitive bidding process for the supply of verified nutrient or sediment reductions toward the achievement of the Chesapeake Bay TMDL (the most current total maximum daily load for nitrogen, phosphorus, and sediment as established by the US Environmental Protection Agency). Verified reductions are those established as part of verification plans, which detail methods qualified bidders will use to verify performance of practices for reductions, and approved by DEP. Responses to the RFP or competitive bidding shall include:

- Contact and identifying information for the person submitting the proposal.
- A description of the project or practices to achieve nutrient or sediments reductions, including an estimate of the amount of reduction in pounds for each year of the contract and the basis for the estimates.
- The location of the project or practices.
- The expected life of each reduction that will be achieved from the projects or practices.
- A description of the ownership of each parcel, or written agreement with the owner, of land or facilities that will be used in implementing the projects or practices.
- A description of measures to be used to quantify the amounts of reductions from projects or practices, and a verification plan to verify the reductions at times or intervals specified by DEP or PennVEST.
- A suggested payment schedule.
- A statement of the qualified bidder's qualification, experience, and resources. A qualified bidder may not be on the Debarment and Suspension List maintained by the Department of General Services, is not in default of a loan or funding agreement administered by PennVEST or Commonwealth agency, and does not have a history of notice of violation of the Clean Streams Law or regulations of DEP.
- A statement of the qualified bidder's proposed surety and other financial assurances.

PennVEST shall evaluate, in consultation with DEP and the Commission, responses to the RFP or competitive bidding process. DEP must review and approve verification plans submitted in response to the RFP or competitive bidding process and advise PennVEST on the acceptability of plans, including any

changes needed. To be approved, a verification plan must describe procedures that can be used to inspect projects or practices and determine the amount of reductions in accordance with terms of the contract. PennVEST shall execute contracts with qualified bidders, which:

- May not be for a term of more than 10 years.
- Shall require periodic submissions from qualified bidders in accordance with approved verification plans.
- Shall require that payment be conditioned on achieving specific outcomes on defined performance targets in accordance with verification plans.
- Shall specify measures PennVEST will take if qualified bidders fail to satisfy performance obligations or terms of the contract, including withholding payment, the use of payment adjustments and time schedules if performance targets or schedules are not met, cancellation of the contract for substantial failure, and other measures necessary.

DEP, or a third-party DEP enters into an agreement with, shall ensure by inspections, audits, or other means that qualified bidders comply with approved verification plans. After DEP has verified reductions, PennVEST shall purchase them under the terms of the contract. Verified reductions funded entirely by public money are not eligible for purchase. For projects not entirely publicly funded, purchases shall be commensurate with the percentage of the verified reduction not publicly funding.

Criteria for evaluating responses to the RFP or competitive bidding process shall be determined by PennVEST, in consultation with DEP and the Commission, and shall be published as part of the RFP or competitive bidding process. Criteria to be considered must include the following:

- A verified reduction in a locally impaired watershed.
- A verified reduction in a county designated by DEP as a Tier 1 Chesapeake Bay county.
- The cost per pound of nutrient or sediment removed.
- The extent to which the project includes small farms.
- The quantity of nutrient or sediment loads anticipated to be reduced.
- The extent to which the project provides additional community and environmental benefits, including flood mitigation, exposure to toxic substances and climate change.
- Any additional criteria determined necessary by PennVEST, DEP and the Commission.

PennVEST shall make a public report available providing details on the program for the prior year. DEP may promulgate regulations to administer the program. However, a lack of regulations shall not preclude the administration and implementation of the program. The program expires 10 years after the effective date.

H2O PA

COVID Relief – ARPA – Transfer to Commonwealth Financing Authority – Water and Sewer Projects - \$214,400,000

Transfers \$214,400,000 to the CFA for the H2O PA program.

Small Water and Sewer Projects

COVID Relief – ARPA – Transfer to Commonwealth Financing Authority – Water and Sewer Projects - \$105,600,000

Transfers \$105,600,000 to the CFA for distribution or reimbursement for water and sewer projects with a cost of not less than \$30,000 and not more than \$500,000. In determining the grant amount, the matching funds requirement shall not be included in the calculation of the cost of the project. Grants awarded under this section shall be made in accordance with applicable Federal law.

Clean Streams Fund

Establishes the Clean Streams Fund (fund) in the State Treasury. The following shall be deposited into the Fund:

- Money appropriated from ARPA funds.
- Money appropriated to the fund.
- Federal money appropriated or authorized for the Fund.
- Money received from a governmental agency via an interagency agreement or memorandum of understanding.
- A gift or contribution from a public or private source.
- Returns on money dedicated for the Fund.

Funding shall be distributed as follows:

- 70% to the State Conservation Commission for the Agriculture Conservation Assistance Program.
- 10% to PennVEST for the Clean Water Procurement Program.
- 10% to the Nutrient Management Fund.
- 4% to DEP for grants and reimbursements to counties and municipalities under section 17 of the Storm Water Management Act (relating to costs in preparing storm water management plans, administrative and enforcement costs, and revisions to plans).
- 4% to DCNR for the Keystone Tree Restricted Account.
- 2% to the Acid Mine Drainage Abatement and Treatment Fund.