



# NORTH DAKOTA DEPARTMENT OF **PUBLIC INSTRUCTION**

## **An Overview of the American Rescue Plan**

**March 25, 2021**



# American Rescue Plan Enacted

The American Rescue Plan (ARP) Act, was signed into law by President Biden on March 11, 2021. This legislation includes \$122 billion for a new ESSER III fund.

ESSER I	ESSER II	ESSER III
\$13.2 billion	\$54.3 billion	\$122 billion

# Training Purpose

The purpose of today's training is to provide an overview of the ARP Act and share key provisions within the new legislation.

# Acronyms

- ARP: American Rescue Plan Act
- CARES: Coronavirus Aid, Relief and Economic Security Act
- CRRSA: Coronavirus Response and Relief Supplemental Appropriations Act
- EANS: Emergency Assistance for Nonpublic Schools
- EDGAR: Education Department General Administrative Regulations
- LEA: Local Education Agency
- MOE: Maintenance of Effort
- MOEquity: Maintenance of Equity (new in American Recovery Plan)
- SEA: State Education Agency
- UGG: Uniform Grant Guidance

# Rollout of ESSER II and III Funding

It is notable that this funding is being handled differently than the rollout of ESSER I funding. On January 5, 2021, the North Dakota 67<sup>th</sup> Legislative Assembly convened. North Dakota legislators have elected to weigh in on the rollout of ESSER II and III funding.

All COVID funding is included in HB1394. As soon as the bill is passed and signed by the Governor, the NDDPI will disseminate information on how districts apply for ESSER II and III funding.

# ESSER III Allocations

- The United States Education Department (USED) released a state-by-state [allocations](#) table for ESSER III funding on March 17, 2021.
- North Dakota's ESSER III state allocation is \$305,266,879.
- The NDDPI will post district ESSER III allocations once our grant award is received.
- State education departments are required to use the Title I funding formula from the 2020-2021 school year to determine ESSER III allocations, as was the case for ESSER II funding.

# Period of Funds Availability

- ESSER III funding may be used for pre-award costs dating back to March 13, 2020, when the national emergency was declared.
- The funds are available for obligation by SEAs and subrecipients through September 30, 2023. The Tydings Amendment will furthermore give states and districts an additional year.
- Timeline: March 13, 2020 – September 30, 2024

# Allowable Activities

All expenditures with ESSER dollars must be COVID-related and for the purpose of preventing, preparing, and responding to the pandemic.

The United States Education Department (USED) provided a list of categories where districts may spend ESSER I, II, and III funding. In order to claim reimbursement, districts must ensure the expense is COVID-related and falls into one of the allowable categories.



# Allowable Uses of ESSER Funding

- Coordinate emergency response
- Ensure preparedness and coordination
- Purchase cleaning supplies
- Educational technology
- Mental health supports
- Supplemental learning
- Added needs of at-risk population
- Transportation
- Coordinate long-term closures
- Professional development
- ESSA (New federal law replacing NCLB)
- IDEA (Special Education)
- Perkins (Career & Technical Education)
- McKinney-Vento Homeless Assistance Act
- Adult Education and Family Literacy Act
- Indian, Native Hawaiian, and Alaska Native Act
- Address learning loss
- School facility repairs and improvements
- Improving air quality
- Implement public health protocols
- Additional pay
- High quality instructional materials and curricula
- Acquisition of real property or modular classrooms
- Construction renovation
- Budgetary shortfalls

# Back-to-School Plan

ARP Section 2001(i)(1) says local educational agencies (LEAs) must develop and publish on the LEA website a return to in-person instruction plan that includes details on the districts' continuity of education plans within 30 days of receipt of ARP ESSER III funds. These plans must be made available to the public in a notice and comment period, and LEA officials should include public comments in the plan's development.

# Learning Loss Requirement

An LEA must reserve no less than 20% of its total ARP ESSER III allocation to address learning loss through the implementation of evidence-based interventions.

Districts will need to submit both federal and state reports outlining what initiatives were funded with ESSER II and III funding to address learning loss and recovery.

# Learning Loss Requirement, Cont.

## Ideas for the 20% set-aside include:

- Offer or extend summer school programming
- Offer or extend before or after school programming
- Intensive one-to-one or small group tutoring
- Expand Advanced Placement (AP) and dual credit for students
- Expand CTE offerings for students
- MTSS supports
- Additional counseling time
- Expand Title I direct services
- Provide prep courses for ACT/College Algebra or other areas of need
- Contract for tutoring services
- Behavioral health supports and interventions
- Hire additional staff to work with at-risk students
- Conduct a four-week prestart of school camp
- Offer an intense week-long acceleration for students
- Pay for additional CDE courses for students
- Pay for students to take CREAM reading and math courses

# Tracking/Coding of Funds

LEAs must track these funds separately to report use of funds and expenses in the future. The following codes have been established and align with the NDSDFARM.

- Revenue Coding: 4590 – Other Restricted Federal Revenue
  
- Project Expense Coding:
  - ESSER I - 104
  - ESSER II - 109
  - ESSER III - 110
  
- Program Code 298 should only be used with function code 1000. If using a function code other than 1000, use the program code identified in the NDSDFARM manual for each expenditure.

# Reporting Requirements

LEAs that receive ESSER funds must report certain information regarding their spending:

- Quarterly Reports
- Financial Transparency Reporting
- Learning Loss Reports
- Maintenance of Equity Report

# New Maintenance of Equity Requirement

- The ARP contains a new maintenance of equity requirement for both the state and LEAs for the 2022 and 2023 fiscal years.
- This provision is aimed at protecting funding levels for districts and schools that have high percentages of students living in poverty.
- SEAs cannot reduce per-student funding in districts by more than statewide per-student reductions, and LEAs cannot reduce funding or staffing per student in schools with high rates of students living in poverty by more than district-wide funding or staffing reductions.
- This new requirement only applies to 14 districts in North Dakota:

Belcourt	Bismarck	Devils Lake	Dickinson	Fargo
Grand Forks	Jamestown	Mandan	McKenzie Co	Minot
Valley City	Wahpeton	West Fargo	Williston	

# Capital Expenditures

Recipients of federal funds must get written approval before spending ESSER funds on **capital expenditures**. ([2 CFR § 200.439\(b\)\(1\)](#)). Capital expenditures include the funds an entity spends to buy, maintain, or improve its fixed assets, such as buildings, vehicles, equipment, or land. The standard threshold for getting prior approval is \$5,000.

Additional requirements to consider:

- Procurement: [2 CFR § 200.317-327](#)
- Construction: [34 CFR § 75.600-617](#)
- Davis-Bacon Prevailing Wage Rules: [20 U.S. Code § 1232b](#)
- Uniform Grant Guidance Rules: [2 CFR § 200.439](#)
  - Prior Approval Rules: [2 CFR § 200.439](#)
  - Rules on Real Property: [2 CFR § 200.311](#)
  - Rules on Financing Costs: [2 CFR § 200.449](#)
- EDGAR Construction Rules: [34 CFR § 76.660](#), [34 CFR § 75.600-75.617](#)
- Construction projects are also subject to the Americans with Disabilities Act



# Capital Expenditures (Continued)

- The NDDPI form to obtain approval on capital expenses funded with ESSER dollars can be accessed [here](#).
- This form can be submitted to Lisa Johnson at [lisaajohnson@nd.gov](mailto:lisaajohnson@nd.gov).
- Districts will also need to submit [SFN 52304](#) (School Construction Approval Request) for any requests in excess of \$150,000 to Adam Tescher at [atescher@nd.gov](mailto:atescher@nd.gov).

# New Special Education Funding

- The ARP also appropriated \$3 billion for Individuals with Disabilities Education Act (IDEA) state formula grants.
- These additional funds appropriated by Congress will provide additional resources to help address challenges posed by the pandemic and to continue to meet the needs of infants, toddlers, children, and youth with disabilities, and their families.
- In general, these funds are subject to the same requirements under IDEA and the Uniform Grant Guidance (UGG) as all IDEA funds.
- There is a new IDEA American Rescue Plan funds [webpage](#). Documents relative to the IDEA American Rescue Plan (e.g., 2021 allocations tables, interactive spreadsheets, Fact Sheet, etc.) will be posted there as they become available.

# IDEA Allocations

## Estimated ARP IDEA Supplemental Grant Allocations

State	Part B Grants to States (Section 611)	Part B Preschool Grants (Section 619)	Part C Grants for Infants and Families
North Dakota	\$6,871,953	\$441,974	\$1,040,479

# Reservation for Homeless Children & Youth

- The ARP also appropriated \$800 million to support efforts to identify homeless children and youth, and provide them with comprehensive, wrap-around services that address needs arising from the COVID-19 pandemic and allow them to attend school and participate fully in all school activities.
- Each state will receive a Homeless Children & Youth grant.
- The Office of Educational Equity & Support will oversee this grant.

**Emergency Assistance for Nonpublic Schools (EANS)**

**Reserved under the American Rescue Plan (ARP) Act**



# ARP – EANS II

- Focus on:
  - Health and safety measures consistent with CDC guidance
  - Address the disruptions to teaching and learning resulting from the pandemic
  - Get students back in the classroom quickly and safely
- Prioritizes nonpublic schools that enroll low-income students and are most impacted by COVID-19.
- States must obligate funding by September 30, 2023 and liquidate by December 15, 2023.

# ARP – EANS II, Cont.

- LEAs do not provide equitable services under ARP ESSER.
- The State must provide services or assistance to nonpublic schools.
  - NDDPI may lean on LEAs to assist in providing services
- Nonpublic reimbursement is **NOT** an allowable activity.

# ESSER II and III Application Process

- Once the Governor has signed HB 1394, the NDDPI will disseminate information regarding the process for districts to apply for ESSER II and III funding.
- The NDDPI is committed to providing an expedited process for districts to apply for funding to ensure these dollars can be used to meet immediate needs.
- We are hopeful in being able to allow districts to apply for both ESSER II and III funding together in one application.



# State Set-Aside for ESSER III

- SEAs may set-aside up to 10% of ESSER III funds to address needs for statewide activities.
- The ARP ESSER III fund includes three State-level reservations:
  - 5% of the total ARP ESSER allocation for the implementation of evidence-based interventions aimed specifically at addressing learning loss;
  - 1% of the total ARP ESSER allocation for evidence-based summer enrichment programs;
  - 1% of the total ARP ESSER allocation for evidence-based comprehensive afterschool programs.

# Questions regarding ESSER funding can be directed to:

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