

The American Rescue Plan Act of 2021 (ARPA) was signed into law by the President on March 11, 2021. The State of Nebraska was allocated \$1.04 billion of Coronavirus State Fiscal Recovery Funds, which in part may be used to make necessary investments in water and sewer infrastructure. In the final rule adopted for implementation of these funds, the U.S. Department of the Treasury aligned the eligible uses of these funds with the wide range of types or categories of projects that would be eligible to receive financial assistance through the Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF). In Nebraska, the SRF programs are administered by Nebraska Department of Environment and Energy (NDEE).

As part of LB 1014e, the legislation stipulates the following requirements to ensure federal compliance, accountability, and reporting obligations are met:

1) "All grants utilizing Federal funds allocated to the State of Nebraska from the federal Coronavirus State Fiscal Recovery Fund shall meet the eligible uses under the federal American Rescue Plan Act of 2021 and any relevant guidance on the use of such funds by the United States Department of the Treasury." (Page 2, section 10, 1st paragraph)

2) "Each such agency, board, or commission shall provide a report to the Executive Board of the Legislative Council within ninety days after the effective date of this act that outlines whether the projects or appropriations assigned to the agency, board, or commission by the Legislature comply with the federal act or regulations." (Page 2, section 10, 3rd paragraph).

NDEE Eligibility Determination: In accordance with the requirements above, Sections 51, 52, and 53 of LB 1014e have been reviewed and determined to be eligible under the ARPA final rule starting on **Page 271 through 275** as described in detail below

LB 1014e Section 51: Reverse Osmosis

1014e states that these funds are "...for grants for reverse osmosis systems, which shall only be used for such purpose". The narrative of the legislation further clarified that the NDEE "...shall provide grants for villages and cities of the second class to install reverse osmosis systems in community water systems where drinking water test levels are above ten parts per million of nitrate and, if appropriate, provide grant funds for use to install reverse osmosis systems if test levels for nitrate in drinking water pumped from private wells are above ten parts per million"

Reverse Osmosis treatment to remove nitrates from drinking water is eligible for assistance under the DWSRF, and therefore under ARPA. The ARPA final rule states that eligible projects can also include rehabilitation of private wells, testing initiatives to identify contaminants in wells, and treatment activities and remediation strategies that address contamination.

For Public Water Systems, NDEE will enter into a contract with the community(ies) to provide the authorized grant assistance up to the \$2,800,000 for State Fiscal Year 2022-23 authorized in Section 51 of LB1014e. The contract will contain provisions to ensure the funds meet the requirements of ARPA

noted in the U.S. Department of Treasury State and Local Fiscal Recovery Funds Final Rule ([SLFRF-Final-Rule.pdf \(treasury.gov\)](#)).

For the rebate program the NDEE will be responsible for documenting that the requirements of ARPA noted in the U.S. Department of Treasury State and Local Fiscal Recovery Funds Final Rule ([SLFRF-Final-Rule.pdf \(treasury.gov\)](#)).

LB 1014e Section 52: State Fair Grounds Project

Signed into law by Governor Pete Ricketts on April 13, 2021, Section 52 of Legislative Bill No. 1014e states that these funds are to be used “...for wastewater and drainage system updates at the state fair grounds, which shall only be used for such purpose”. Wastewater and drainage system updates are eligible for assistance under the CWSRF, and therefore under ARPA, when a project provides a water quality benefit or for measures to manage, reduce, treat, or recapture stormwater or subsurface drainage water.

The NDEE will enter into a contract to provide the authorized grant assistance in the amount of \$20,000,000 in State Fiscal Year 2022-23 authorized in Section 52 of LB1014e. The contract will contain provisions to ensure use of the funds meets the requirements of ARPA noted in the U.S. Department of Treasury State and Local Fiscal Recovery Funds Final Rule.

LB 1014e Section 53: Rural Drinking Water Project

Signed into law by Governor Pete Ricketts on April 13, 2021, Section 53 of Legislative Bill No. 1014e states that these funds are “...to provide grant assistance for a rural drinking water project that serves rural water connections and at least four communities in two contiguous counties in order to convert to ground water sources and to provide for water system infrastructure and distribution, which shall only be used for such purpose”. Drinking water projects to convert to ground water sources and to provide water system infrastructure and distribution is eligible for assistance under the DWSRF, and therefore under ARPA.

The NDEE will enter into a contract with the applicant to provide the authorized grant assistance in an amount of \$1,000,000 in State Fiscal Year (SFY) 2021-22 plus \$6,000,000 in SFY2022-2023, for the \$7,000,000 total authorized in Section 53 of LB1014e. The contract will contain provisions to ensure the use of the funds meets the requirements of ARPA noted in the U.S. Department of Treasury State and Local Fiscal Recovery Funds Final Rule.