Vermont State and Local Fiscal Recovery Funds: Revenue Loss Overview

Recent updates to Treasury guidance have led to a re-examination of funding available to Vermont under the *Revenue Loss* section of Treasury's State and Local Fiscal Recovery Fund (SLFRF) final rule. Funds allocated by recipient governments to the *Revenue Loss* section may be spent on a broad latitude of uses, in contrast to other SLFRF final rule sections that prescribe specific enumerated uses for expense eligibility. The amount that a recipient government can allocate to *Revenue Loss* is based on that government's reduction in revenue following the onset of the COVID-19 public health emergency.[1]

Treasury provides two options for recipients to determine their *Revenue Loss* amount. The first option allows recipients to elect a "standard allowance." This allowance is set at $10 million total for the entire period of performance (ending December 31, 2026). The second option enables recipients to calculate their actual revenue loss according to a formula detailed in the final rule. Neither option alters a state's total SLFRF fund allocation, but rather enables existing SLFRF funds to be used for the provision of government services with fewer eligibility restrictions. While the State of Vermont initially planned to elect the standard allowance of $10 million, updates to Treasury's revenue loss methodology have led to the calculation becoming the preferred option.

Use of SLFRF Funds for Government Services

Through *Revenue Loss*, Treasury allows recipients to use SLFRF funds to pay for "government services," described as generally including "any service traditionally provided by a government."[2] Treasury notes the following uses as eligible under the *Revenue Loss* section of the final rule: "maintenance or pay-go funded building of infrastructure, including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure; health services; environmental remediation; school or educational services; and the provision of police, fire, and other public safety services,"[3] though this is not an exhaustive list.

These uses are still subject to restrictions detailed in the *Restrictions on Use* section of the final rule, which includes restrictions on the use of SLFRF funds for debt service, to replenish financial reserves, or to satisfy an obligation arising from a judicial settlement.

Calculating Revenue Loss

Revenue loss can be calculated by comparing *actual revenue* collected by the state (including money received from tax revenue, current charges, and miscellaneous general revenue) to an estimated *counterfactual revenue* that incorporates a growth adjustment to predict how much a state's revenue would have grown had the pandemic not occurred. Treasury's final rule and recently published FAQs have updated the previous guidance in two ways that are significant for Vermont.

First, revenue loss calculation dates have become more flexible. Recipients are required to calculate revenue loss at four distinct points in time, either at the end of each calendar year (e.g., December 31 for years 2020, 2021, 2022, and 2023) or at the end of each fiscal year, depending on what the recipient elects to use. Under previous guidance, calculating revenue loss at the end of each fiscal year was not an option.[4]

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[1] Federal Register, Vol. 87, No. 18, Rules and Regulations. January 27, 2022 (p. 4400).
[2] U.S. Department of the Treasury, Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule. January 2022 (p. 9).
[3] Federal Register, Vol. 87, No. 18, Rules and Regulations. January 27, 2022 (p. 4408).
[4] Federal Register, Vol. 87, No. 18, Rules and Regulations. January 27, 2022 (p. 4405).

Second, the assumed counterfactual revenue growth rate was previously set at 4.1%, but under the most recent guidance, this rate increased to 5.2%.[5]

At each point in time, recipients can calculate revenue loss by subtracting actual revenue from the counterfactual revenue (taking into account the growth adjustment). For each year that a recipient calculates a counterfactual revenue that is more than its actual revenue, the recipient can be said to have experienced a revenue loss. For each year that a recipient calculates a counterfactual revenue that is less than its actual revenue, the recipient's revenue loss is set to zero. The recipient's revenue loss for the entire period of performance is equal to the sum of the revenue loss for each of the four calculation dates.

Recipients are not yet able to calculate the total amount of revenue loss for the entire period of performance, as not enough time has elapsed to calculate revenue loss for four distinct calendar or fiscal years following the onset of the pandemic. However, previous revenue loss will not be offset due to future growth in revenue, because "[i]f actual revenue exceeds counterfactual revenue, the loss is set to zero for that twelve-month period."[6]

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[5] Federal Register, Vol. 87, No. 18, Rules and Regulations. January 27, 2022 (p. 4401).
[6] *Coronavirus State and Local Fiscal Recovery Funds Final Rule: Frequently Asked Questions*, July 27, 2022 (p. 24).

Appendix 1: Proposed Appropriations for Revenue Loss

The initial proposal of appropriations to be transferred to the *Revenue Loss* section of the final rule is captured in the table below. These appropriations face either significant inconsistencies with final rule eligibility guidance or prohibitively complex administrative requirements if allocated under a different section of the final rule, heightening the risk of an ineligibility determination by Treasury. The total dollar amount of the appropriations in the table below falls within the expected revenue loss total resulting from the calculation.

Estimated Revenue Loss Replacement Available: $242,787,538

Recommended Appropriations

Agency/Entity	Appropriation Name	Act	Section	Total Spending Authority
Agency of Commerce & Community Development - Department of Economic Development	Capital Investment Grant Program	74	G.300(a)(12)	$10,580,000
Agency of Transportation - Department of Motor Vehicles	DMV IT System Replacement	74	G.501(a)(1)	$14,120,000
Department of Buildings and General Services	Municipal Energy Resilience	172	4(1)	$2,400,000
Department of Buildings and General Services	Municipal Energy Resilience Assessments	172	4(2)(A)	$5,000,000
Department of Buildings and General Services	Municipal Energy Resilience Assessments	172	4(2)(B)	$1,000,000
Department of Buildings and General Services	Municipal Energy Resilience Assessments	172	4(2)(C)	$36,600,000
Department of Housing and Community Development	Vermont Rental Housing Investment *(ADU portion)*	181	8(b)(2)	$4,000,000
Department of Housing and Community Development	Manufactured Home Community	182	3(2)	$2,500,000
Department of Housing and Community Development	Manufactured Home Repairs	182	3(2)	$750,000
Department of Housing and Community Development	Manufactured Home Foundation	182	3(2)	$750,000
Department of Housing and Community Development	Predevelopment Grants	182	4(f)	$1,000,000
Department of Housing and Community Development	VHFA Grant	182	11(a)(1)	$5,000,000
Department of Housing and Community Development	VHFA Grant	182	11(a)(2)	$10,000,000

Agency of Commerce and Community Development	BIPOC Business Coaching	183	4	$250,000
Agency of Commerce and Community Development	Community Recovery/Revitalization	183	53(c)	$10,000,000
Agency of Commerce and Community Development	Community Recovery Grant	185	G.300(a)(5)	$30,000,000
Department of Public Service	Efficiency Vermont	185	G.600(a)(2)	$35,000,000
Agency of Transportation	Electrical Vehicle Charging	185	G.600(a)(3)	$2,000,000
			Total	**$170,950,000**

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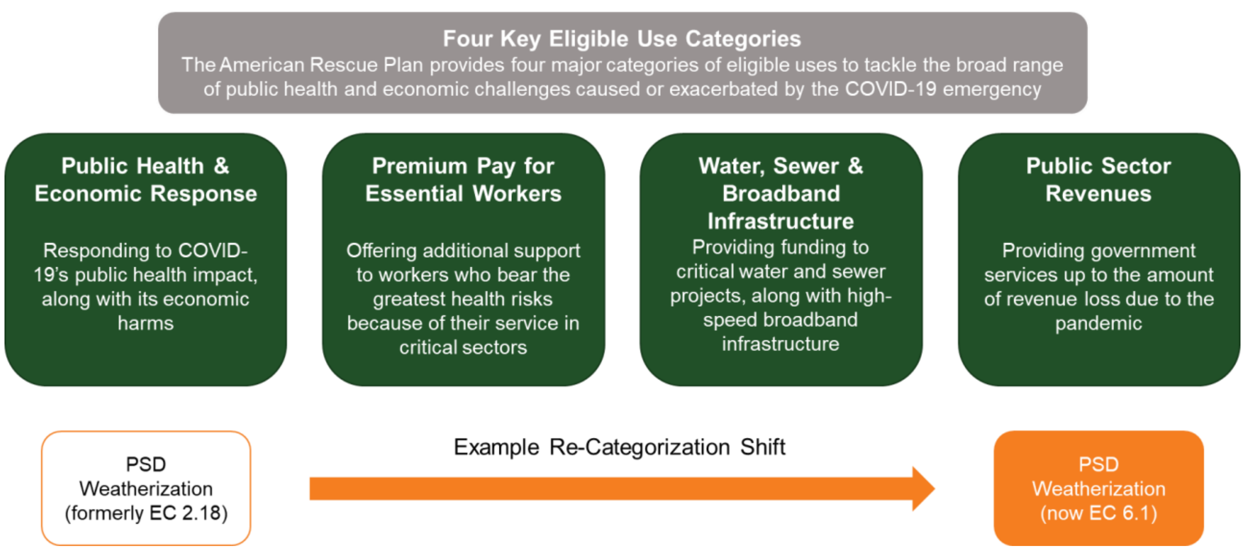
An estimated $71,837,538 of revenue loss funds remain for future consideration for other SLFRF programs. These programs will be tracked as further program design and risk information becomes available. Additionally, certain portions of appropriations (for example, the more administratively complex or riskier elements) may be carved out from larger appropriations to be covered by revenue loss funds.

Appendix 2: Eligible Use Recategorization

There are four main eligible use categories under the final rule, one of which is *Revenue Loss*.[7] The category is also sometimes referred to as ‘Public Sector Revenues’ or ‘Revenue Replacement’ in Treasury’s guidance. Programs that are recategorized under *Revenue Loss* still derive their eligibility from the final rule, though fewer restrictions and reporting requirements apply relative to the other three eligible use categories.



[7] US Department of the Treasury, “An Introduction to the Final Rule: Coronavirus State and Local Fiscal Recovery Funds for Recipients and Stakeholders.” January 2022.