



June 2021

Work and Wages

Four ways the American Rescue Plan can support working people

Local governments can drive equitable recover

Michael Shields

Government works best when it works for all people, not just the wealthy few and corporations. The American Rescue Plan (ARP) approaches economic recovery from the ground up by helping people pay the rent, feed their families, fix the car and resume their lives after an unprecedented pandemic and recession. The ARP, passed by Congress and signed by President Joe Biden in March, will send almost \$33 billion to individuals, programs and jurisdictions in Ohio. Of those funds, the Ohio state government will receive \$5.4 billion. Local governments – including municipalities and counties – will receive \$5.3 billion in flexible federal Fiscal Recovery Funds to help those most harmed by the COVID-19 pandemic and recession, particularly people who are paid low wages, women, and people of color. State and local governments can spend the funds in any of four categories, subject to interim rules provided by the United States Department of Treasury:¹ 1) respond to the pandemic and its negative economic impacts; 2) provide bonus pay to essential workers; 3) restore cuts in public services caused by pandemic-induced revenue losses and avoid additional cuts; and 4) invest in water, sewer or broadband infrastructure.

State governments cannot use funds to finance tax cuts, bolster pension funds, pay fees or other costs associated with the issuing of debt, pay for state or local match needed for ongoing federal programs or save in rainy day funds. While local governments face somewhat different rules, no government should use ARP dollars for tax cuts: These funds are intended to restore those hit hardest by COVID-19.

To maximize benefits to working people, local governments should:

- Provide bonus or hazard pay to essential workers.
- Mandate businesses receiving ARP dollars comply with labor laws.
- Fund workplace rights enforcement and create a fund to provide working people with workplace rights education and legal services.
- Mandate Community Benefit Agreements for infrastructure projects that require employers pay good wages and respect workers' right to join a union.

The American Rescue Plan is an historic opportunity to dismantle longstanding racial and economic barriers that the pandemic exposed and worsened.² Black, Indigenous and Latinx people, along with women, immigrants, and low-paid people of all backgrounds shouldered a disproportionate amount of suffering during the

¹ Center on Budget and Policy Priorities, Summary of U.S. Department of Treasury's Interim Final Rule for the Rescue Plan's Fiscal Recovery Funds, May 12, 2021, <https://federalscoop.org/wp-content/uploads/2021/05/Treasury-guidance-summary-FNL.pdf>

² Center on Budget and Policy Priorities, "Priorities for Spending the American Rescue Plan's State and Local Fiscal Recovery Funds," May 7, 2021, <https://bit.ly/3v7kdZi>

pandemic because of unjust labor, public health, and economic systems.³ Rescue funds should be used to reduce new illness and deaths from COVID-19 and improve health conditions in the hardest hit communities; ensure families impacted by the recession can pay for basic household needs; and to build a more egalitarian future.⁴

ARP funds for state & local governments

The pandemic and abrupt, dramatic recession it caused took a toll on state and local governments. Governments suddenly faced more community needs not only because of the illness, but from rising hunger and unemployment as businesses closed to stem the spread of the virus. Meanwhile, with fewer people working, tax bases quickly contracted. Policymakers were forced to lay off many public employees and cut services even as need for them grew.

State and local governments deliver the services that people rely on to educate our children, keep our neighborhoods clean and ensure the places we eat, drink and play are safe and healthy. The ARP provides state, local and tribal governments with \$350 billion and wide discretion on how to use them.⁵ ARP allocates a total of \$10.66 billion to state and local governments in Ohio, including:

- \$5.37 billion to the state in direct assistance.⁶
- \$2.18 billion in direct assistance for “metro cities.”⁷
- \$844 million that flows through the state of Ohio to small cities and villages.⁸
- \$2.27 billion in direct assistance for Ohio counties.⁹

³ <https://www.earn.us/building-a-just-and-inclusive-recovery-for-all-workers/>

⁴ https://bit.ly/ARPA_OH

⁵ <https://bit.ly/3v7kdZi>

⁶ U.S. Department of the Treasury, Coronavirus State and Local Fiscal Recovery Funds, <https://bit.ly/3iic7ZE>

⁷ U.S. Department of the Treasury, Coronavirus State and Local Fiscal Recovery Funds, “Allocation for Metropolitan Cities,” <https://bit.ly/3docqaa>

⁸ U.S. Department of the Treasury, Coronavirus State and Local Fiscal Recovery Funds, “Allocation for Non-Entitlement Units,” <https://bit.ly/3docqaa>

⁹ U.S. Department of the Treasury, Coronavirus State and Local Fiscal Recovery Funds, “Allocation for Counties,” <https://bit.ly/3docqaa>

ARP funds will help Ohio cities rebuild from pandemic recession

City	Population	ARP funds
Columbus	878,553	\$187 million
Cleveland	385,282	\$512 million
Cincinnati	301,394	\$280 million
Toledo	276,614	\$181 million
Akron	198,051	\$145 million
Dayton	140,569	\$138 million
Parma	79,091	\$24 million
Canton	71,243	\$64 million

Source: U.S. Department of Treasury, Allocation for Metropolitan Cities table, <https://home.treasury.gov/system/files/136/fiscalrecoveryfunds-metrocitiesfunding1-508A.pdf> accessed June 9, 2021.

Ohio’s 32 Appalachian counties will receive \$386 million directly, and the region will receive additional funds to cities allocated through the state of Ohio.¹⁰

Local governments will receive their funds in two tranches, with the first payments arriving in the coming weeks, and the second to follow one year later. While the primary goal of ARP funds is short-term recovery from COVID-19 and the recession it caused, these dollars also represent a sizeable federal down payment toward promoting a more equitable and healthy society over the long run. Congress is currently debating President Biden’s American Jobs Plan, which — if passed — will be the next major installment in this endeavor. The steps communities take now to tie proper labor protection and community standards to ARP spending can lay the groundwork for how Ohio uses the American Jobs Plan, and carry over into any economic development projects local governments finance in the future.

Because a strong, fair recovery starts with treating working people with respect and protecting working people equally, lawmakers should apply strong job quality standards to any public expenditures of these funds. Rules should combine job

¹⁰ Funding levels from U.S. Department of the Treasury, Coronavirus State and Local Fiscal Recovery Funds, “Allocation for Non-Entitlement Units,” <https://bit.ly/3docqaa>. Ohio’s Appalachian region spans the borders with Pennsylvania, West Virginia, and Kentucky. A map and list of counties can be found at The Foundation for Appalachian Ohio, <https://appalachianohio.org/about/service-area/>.

stability and wage and employment protections with meaningful enforcement mechanisms. These standards will ensure that all Rescue Act dollars are spent in ways that bring people into the recovery and expand opportunity — no exceptions.

Rescue Act funds can be used for community planning to lay the groundwork for a healthier and stronger future, including getting people to work in high-quality jobs building the infrastructure we need; fairly paying the essential workers who risked their lives staying on the job throughout the pandemic; attaching job quality enforcement and reporting standards to any ARP dollars that go to businesses; and endowing a worker rights fund that gives working people access to workplace rights education and legal counsel. The following sections outline four uses for ARP dollars that can restart our economy in ways that benefit working people.

With the state government failing to step up for working people, local governments can step up to direct ARP dollars to those most harmed by COVID-19 and the recession. By announcing plans to spend \$1.5 billion of Ohio's \$5.4 billion to bail out the state's long under-funded unemployment trust fund, Gov. DeWine has signaled that he will prioritize a corporate wish list over rapid and equitable recovery, and created urgency for local governments to better utilize their ARP funds in ways that benefit the hardest hit. Gov. DeWine's measure would come after he blocked \$1 billion in federal funds from flowing into the state by prematurely ending \$300-per-week supplemental unemployment compensation. Spending ARP dollars this way is allowed under Treasury rules but is enormously costly and wasteful. It would offset employer taxes to otherwise be paid over the next several years, at the expense of those most harmed by COVID-19. Long-time underfunding by policymakers put Ohio in the minority of states that had to borrow from the federal government to pay benefits. Ohio employers pay taxes only on the first \$9,000 in each worker's wages: less than half a penny on each dollar in wages.¹ Lawmakers should fix the underfunding at the core of the unemployment trust fund solvency problem, and use ARP funding as it was intended — to help those most harmed by COVID-19 emerge from this recession stronger than before. Because Gov. DeWine has signaled that state policymakers may not, local governments face special urgency to spend their dollars to drive an equitable recovery.

Hazard pay for essential workers

Everyone who works deserves a wage that covers the basic cost of living. Many of the Ohio workers who took on added risk to themselves and their families to do critical jobs on the frontlines during COVID-19 are also among Ohio's lowest paid. ARP allows for up to \$25,000, and \$13-per-hour in premium pay for frontline workers. Premium pay can be paid retroactively.

Following a recommendation by Attorney General Dave Yost, Ohio lawmakers have proposed that the state use some of its \$5.3 billion in ARP funds to provide \$1,000 bonus payments to all Ohio police officers, firefighters, highway patrol officers, county deputy sheriffs, Bureau of Criminal Identification agents, jail officers, volunteer firefighters and emergency medical technicians. Yost noted that “more law enforcement officers died in the line of duty last year than any previous year, with the leading cause of death being COVID-19.”¹¹

Other Ohio essential workers should also receive premium pay. Ohio Means Jobs this year added a second job category to the state’s “Top Jobs” list. Previously, Ohio spotlighted in-demand jobs, which grew faster than average and paid at least 80% of the state’s median wage; now Ohio Means Jobs is also highlighting critical infrastructure jobs as priorities for the state. Adding these jobs to Ohio’s Top Jobs list is an acknowledgement of how vital they are. Yet many of the jobs that made this list pay wages at or near poverty. They include home health aides (paid \$23,000 at the median) and personal and home care aides (\$24,000), nursing assistants (\$29,000), teacher assistants (\$28,000) and child care workers (\$22,000). Without these workers, more Ohioans would have been lost to COVID-19, children would miss more schooling, and parents would be unable to return to work. Just as Ohio lawmakers recognized that first responders should receive premium pay for their valuable service and the added risk they took on, so should all Ohio’s frontline essential workers whose pay is under 150% of the state’s average wage.

At least six states and many local governments have issued hazard pay to their frontline essential workers. These include Ohio’s neighbors in Pennsylvania, which made \$1,200 payments to essential workers out of CARES Act dollars, and Michigan, which paid \$1,000 to first responders¹² and \$2-per-hour premium pay to direct care workers.¹³ Some of the states that have paid hazard pay so far did it out of unallocated CARES Act money and are now looking at additional payments.

At a minimum, Ohio should pay \$1,200 to all low- and middle-income essential workers. A better benchmark would be the \$600-per-week supplemental payment made to unemployed workers from March through July of 2020. Out-of-work Americans received those payments based on the understanding that having most workers isolate at home was the most effective way to keep them and their families safe and control the pandemic’s spread. Those who took on the risks to go to work providing vital services should also be paid a wage that covers the cost of living.

¹¹ J.D. Davidson, “Lawmakers want to use federal money for Ohio first-responder bonuses,” The Center Square, June 3, 2021, <https://bit.ly/3diHcsn>

¹² Michigan Department of Treasury, “First Responders Hazard Pay Premiums Program,” <https://bit.ly/3x2HNX5>

¹³ Robin Erb, “Michigan caregivers got a \$2 hourly boost in COVID. Should it be permanent?” Michigan Health Watch, March 22, 2021, <https://www.bridgemi.com/michigan-health-watch/michigan-caregivers-got-2-hourly-boost-covid-should-it-be-permanent>



Communities should step in now to retroactively provide premium pay to Ohioans who worked frontline essential jobs through the pandemic.

Worker protection mandates

Cities and other local governments should guarantee that workers and independent contractors employed by businesses that receive American Rescue Plan funds are treated with dignity and respect, by mandating that recipients comply with all local, state and federal labor, employment, health and safety laws. These laws exist already. What is needed is reporting requirements and oversight.

Some 217,000 Ohioans become victims of wage theft every year, accounting for nonpayment of the minimum wage alone.¹⁴ The typical victim loses about \$2,800. Local governments should use ARP dollars to ensure that any business receiving funds under the ARP priority to “respond to the pandemic and its negative economic impacts” complies with all labor laws and treats its workers with dignity and respect.

The Cincinnati Interfaith Workers Center has proposed the “Preventing Labor and Employment Violations and Discrimination with American Rescue Plan Funds” ordinance. The measure would mandate that any business receiving Fiscal Recovery dollars adhere to all existing labor laws. These include the Fair Labor Standards Act laws governing hours and pay; the National Labor Rights Act, which protects workers’ right to form a union; Occupational Safety and Health Administration (OSHA) requirements on workplace safety; non-discrimination laws and all other local, state and federal laws governing workplace rights. All of these are existing laws; the proposed ordinance would not create new rights for working people, but rather would implement a new enforcement mechanism to ensure that businesses wanting to receive ARP dollars comply. All Ohio local governments distributing Fiscal Recovery Funds to businesses should adopt standards as modeled in the bill.

Applying strong job quality thresholds for private entities receiving Fiscal Recovery Fund dollars is in keeping with the intent of the ARP. In its guidance, the Department of Treasury specifically encourages governments who spend funds on water, sewer and broadband infrastructure investments to apply strong labor standards to those contracts, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions.¹⁵

¹⁴ Michael Shields, “Wage theft: A quiet crisis in Ohio,” Policy Matters Ohio, April 10, 2019, <https://www.policymattersohio.org/research-policy/fair-economy/work-wages/wage-theft-a-quiet-crisis-in-ohio>

¹⁵ (See pp. 62-78)

Communities should apply these standards to any business receiving recovery funds, and all infrastructure projects receiving at least \$100,000 in federal ARP dollars.

Business recipients of rescue dollars should develop a workforce diversity plan and comply with all labor and employment protections guaranteed under local, state and federal laws, while ensuring that workers:

- Are able to form a union and collectively bargain should they choose to do so.
- Enjoy equal treatment in all aspects of employment.
- Receive proper compensation for their work.
- Can effectively hold employers accountable for any violations.

To achieve these goals and protect working people in their communities, local governments should implement ARP spending rules which include at a minimum a clear requirement that employers meet existing labor laws and standards. Employers receiving ARP funds should be required to report any past violations of local, state and federal labor and employment laws. Employers should have fully compensated affected workers as a condition of receiving ARP funds, and repeat violators should be barred from receiving any. Communities should mandate that employers post notice to all employees of their right to form a union and work collectively for better treatment without fear of retaliation. Employers receiving ARP funds should be prohibited from discharging an employee after 30 days or reducing their average hours by more than 15 percent without “just cause.”¹⁶

Protecting workers’ rights

Enhanced labor law enforcement

Successfully implementing worker protections as part of business recovery requires oversight.¹⁷ Ohio has just five wage and hour investigators and a supervisor to protect a workforce of over 5 million against theft by their employers. In the context of COVID-19, OSHA under President Trump scaled back investigations into workplace safety violations even as complaints of violations increased. The American Rescue Plan allocates \$200 million in federal supplemental funding to the Department of Labor for worker protection.¹⁸ Half will go to OSHA, and the remainder will be divided

¹⁶ “Just cause” should be defined as the failure to satisfactorily perform job duties, or the employee’s engagement in misconduct that is harmful to the employer’s legitimate business interests. The rules should require any employer claiming to fire an employee based on “just cause” to have first utilized a progressive discipline policy and applied it consistently.

¹⁷ Wage theft is illegal. However, Ohio’s limited enforcement — staffing just five investigators and a supervisor — means that some 217,000 Ohioans fall victim each year through minimum wage violations alone. See <https://www.policymattersohio.org/research-policy/fair-economy/work-wages/wage-theft-a-quiet-crisis-in-ohio>

¹⁸ U.S. Department of Labor, “American Rescue Plan - Worker Protection Supplemental Appropriation,” <https://www.dol.gov/general/american-rescue-plan/worker-protection-supplemental-appropriation>, accessed June 13, 2021.

among other enforcement divisions, including \$21 million to the federal Wage and Hour Division. This earmark begins to address the shortfall in oversight, but Ohio local governments can do more within their jurisdictions.

ARP funds should be used to create an independent Labor Standards and Enforcement Division in communities that lack them. For example, Columbus could use ARP funding to strengthen its existing labor standards enforcement division. Local governments should direct a percentage of all ARP dollars awarded to businesses to these oversight divisions. Even a nominal set-aside for compliance would greatly expand capacity. Every local government receiving at least \$100 million in ARP funding should establish its own enforcement division or a joint division shared with other communities. Smaller communities should establish regional joint enforcement divisions and similarly direct a portion of all business recovery funds to them. Communities should also use ARP dollars to establish a workers' defense fund, and a hotline to allow workers to quickly report violations and rapidly restore their rights. These enforcement bodies and worker resources can be partially funded through fines assessed for labor law violations and minimal filing fees. Local governments should implement clawback measures so that if businesses or their contractors violate labor and employment laws, cities can recoup their investment to the extent allowed under the laws and regulations governing those incentive programs.

A labor rights fund endowment

Working people do not always know their rights, and Ohio has little wage and hour enforcement in place. Besides funding a Labor Standards Enforcement Division, communities should endow an independent Worker Rights Fund. Local governments should use a portion of their ARP dollars to create a fund to provide marginalized workers with legal help and know-your-rights education.

The fund would provide for:

- 1) Legal defense for workers — providing the right to counsel for victims of labor law violations, including civil rights at work.
- 2) Educating workers, especially the most vulnerable, on their rights and how to exercise them, including the right to organize a union.

With too little enforcement capacity, Ohio's private right of action in wage theft cases can help bridge the gap, yet many working people — especially those who are victims of wage theft — lack the resources to hire an attorney to represent them. Endowing a worker rights fund would address this need.

The Cincinnati Workers' Rights Project has proposed model legislation that other Ohio communities could follow. Some Cincinnati workers have access to legal

counsel through the Cincinnati Workers' Rights Project (CWRP), a partnership between the Cincinnati Employment Lawyers' Association, the Cincinnati Interfaith Workers Center, and others. Yet CWRP is a volunteer-led effort with limited resources. Making a small one-time investment in such services could create a lasting resource to protect working people from employers that steal from them, shirk workplace safety laws or discriminate against workers. CWRP's proposal that Cincinnati invest just \$2 million of the \$280 million in ARP funding the city will receive would create an endowment that could be replenished through attorney's fees to last a generation. CWRP's proposal would cost less than 1% of Cincinnati's ARP funds. All Ohio local governments should invest a similar share of their ARP funds to establish a local or regional endowment to provide working people with workplace rights education and access to legal help.

Community benefit agreements

The fourth provision for ARP spending allows for the development of water, sewer or broadband infrastructure. Often used for public procurement, community benefit agreements (CBAs) are legally binding contracts between businesses receiving a contract paid by public dollars; unions; and the community in which the project will take place, often represented by an advocacy group or coalition based in the community. CBAs can incorporate all the same job protection standards described in this report into infrastructure projects funded by the ARP. They can even reach further, to require that recipients adopt labor peace agreements, meaning companies agree not to oppose efforts by their workers to form a union; pay a minimum wage of \$15 per hour and provide health benefits; take measures to ensure the workforce reflects the diversity of the community; ban the use of temporary workers for non-construction work; adopt and implement "buy local, union and sustainable" purchasing policies; and provide unions with lists of employees and access to worksites. One goal of public policy should be to ensure that jobs created by federal stimulus dollars are good union jobs that pay family-sustaining wages. Mandating a CBA for ARP-funded infrastructure projects is one way to achieve this.

For decades before COVID-19, corporations — with some policymakers' help — successfully held down wages and directed most of the Ohio economy's growth to the wealthiest. Community benefit agreements are a tool to maximize the positive impact of public spending by ensuring that community members hit hardest by COVID-19 are included in the recovery, and to craft this recovery as a tool to right long-standing inequities in Ohio's economy.

Ohio's 32 Appalachian counties will receive \$386 million directly, and the region will receive additional funds to cities allocated through the state of Ohio. ReImagine Appalachia has outlined an infrastructure program that would create more than 500,000 quality jobs in Ohio, Pennsylvania, West Virginia and Kentucky.¹⁹ Broadband and water infrastructure projects under this plan could be funded using ARP dollars. The Infrastructure Plan passed by Congress last week will fund many others; implementing them through a framework that centers working people could transform Appalachia from an extractive fossil fuel economy to one that empowers the people who live there. The principles and strategies in ReImagine's infrastructure plan for Appalachia has models that could be used in other Ohio communities.

Attach strings to expand opportunity

Local governments should require all infrastructure projects receiving at least \$100,000 in ARP money with project budgets of \$1 million or more to have a CBA, which includes the enhanced job quality measures described here and prohibits contractors and subcontractors that are pattern violators of OSHA, EPA/DEP, wage and hour provisions, from performing the work.

Conclusion

The American Rescue Plan is designed to provide a lifeline to those most harmed by COVID-19. Directing the benefits where they're needed most, and using this unprecedented stimulus as an opportunity to set right longstanding injustices requires wise policy decisions. The ARPA gives cities and other local governments extraordinary power to set the agenda for American Rescue Funds they control. Local governments should use this opportunity to lift up those most harmed, and dismantle longstanding barriers that have forced Black and brown people and those experiencing poverty to suffer the most from the COVID-19 pandemic.

To protect working people in their communities, local governments should:

- Use ARP dollars to provide premium pay to essential workers.
- Require any businesses receiving ARP dollars comply with all applicable labor laws, and provide for oversight.
- Protect working people by properly funding enforcement and endowing a worker rights fund to provide workplace rights education and legal services.
- Mandate Community Benefit Agreements for infrastructure projects that require employers to pay good wages and respect workers' right to form a union.

¹⁹ Amanda K. Woodrum, Kathleen Mulligan-Hansel, Stephen Herzenberg and Anna McLean, "Maximizing Value: Ensuring Community Benefits," ReImagine Appalachia," May 2021, <https://bit.ly/2ULJYis>



By using a substantial portion of their ARPA dollars to provide premium pay, local governments can fairly compensate those who took on the risk to provide the critical goods and services that got us through the pandemic so far. By mandating that any dollars directed to businesses carry strong job quality mandates, local governments can enhance the value of that spending by ensuring that recipients treat their workforce with dignity and follow labor and employment law. Local governments should create enforcement capacity and access to legal help to ensure workplace rights are followed. By mandating that any infrastructure project funded by ARPA – or the new infrastructure bill requires a CBA, local governments can use public spending to maximize shareholder benefits, with better community resources and better jobs.

The American Rescue Plan is intended to help those most impacted by COVID-19 and the recession. These recommendations provide local governments a guide they can use to spend their fiscal recovery funds in ways that put people first. With them, city officials can help Ohioans heal from this crisis, and begin to address long-standing inequities. Together, we can ensure that this time, all Ohioans emerge from a recession stronger than before.