



Legislative Fiscal Bureau

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May 26, 2021

TO: Senator Jon Erpenbach
Room 130 South, State Capitol

FROM: Christa Pugh, Fiscal Analyst

SUBJECT: Maintenance of Effort Requirements Under Federal Coronavirus Acts

At your request, I am providing information about maintenance of effort requirements under federal coronavirus acts.

Background

The Coronavirus Aid, Relief, and Economic Security (CARES) Act, which was enacted by the federal government on March 27, 2020, created an education stabilization fund that provided funding for institutions of higher education and K-12 schools. Additional funding was provided under the Consolidated Appropriations Act (CAA), which was enacted on December 27, 2020, and the American Rescue Plan Act (ARPA), which was enacted on March 11, 2021. The table below shows total funding allocated to Wisconsin in elementary and secondary school emergency relief (ESSER) funds, governor's emergency education relief (GEER) funds, and emergency assistance to nonpublic schools (EANS) funding under the three acts.

Wisconsin K-12 Funding Under CARES Act, CAA, and ARPA (\$ in Millions)

	<u>CARES Act</u>	<u>CAA</u>	<u>ARPA</u>	<u>Total</u>
Elementary and Secondary School Emergency Relief	\$174.8	\$686.1	\$1,540.8	\$2,401.7
Governor's Emergency Education Relief*	46.6	20.8	0.0	67.4
Emergency Assistance for Nonpublic Schools	<u>0.0</u>	<u>77.5</u>	<u>73.9</u>	<u>151.4</u>
	\$221.4	\$784.4	\$1,614.7	\$2,620.5

*Excludes Emergency Assistance for Nonpublic Schools; CARES Act GEER moneys were allocated to K-12 education, but the allocation of the CAA GEER moneys has not yet been determined.

Maintenance of Effort Requirement

Under the CAA, the proportion of state spending allocated to K-12 and higher education in 2021-22 must be maintained at the same level as the state's average allocation in the 2016-17, 2017-18, and 2018-19 fiscal years as a condition of receiving ESSER funds, GEER funds, or EANS funding under the act. ARPA includes the same requirement applicable to both 2021-22 and 2022-23 as a condition of receiving ESSER funds.

The Department of Administration submitted baseline state and education expenditures data to the federal government on May 17, 2021. Total state spending includes all GPR expenditures, excluding transfers, as shown in the state's annual fiscal report. Total K-12 spending includes actual expenditures on general aids, GPR categorical aids, and funding for the state's choice and charter programs, less lapses made to fund the choice and charter programs. For the higher education calculation, GPR expenditures for the UW System, the Wisconsin Technical College System, and the Higher Educational Aids Board are included, excluding funding for UW debt service and UW research, plus UW SEG funding. For all three programs, actual expenditures are used, so funds that are appropriated but not expended are not included in the calculations. Based on these calculations, to meet the CAA and ARPA maintenance of effort requirements, the state's GPR expenditures on K-12 school aids must be equal to or greater than 35.28% of total GPR expenditures in each year of the 2021-23 biennium. The state's GPR expenditures on higher education must be equal to or greater than 8.87% of GPR expenditures in each year of the biennium.

The attachments show the historical state spending amounts used to calculate the maintenance of effort percentage described above, and applies the percentage to decisions made by the Joint Committee on Finance to date on the 2021-23 budget. The actual dollar amount that must be spent on K-12 and higher education to meet the maintenance of effort requirement will depend on total GPR expenditures in the specified years. However, the attachments show examples of the amounts that would be required based on the current status of the budget. The K-12 estimated maintenance of effort calculations are shown in Attachment 1, and the estimated higher education maintenance of effort calculations are shown in Attachment 2.

Waivers

Under the federal acts, states may request a waiver from the maintenance of effort requirements. ARPA allows the Secretary of Education may waive the requirements "for the purpose of relieving fiscal burdens incurred by states in preventing, preparing for, and responding to the coronavirus."

Federal guidance indicates that in seeking a waiver, a state must submit the following information: (a) data substantiating the levels of state support for elementary and secondary education and for higher education for any fiscal year for which a waiver is requested; (b) data substantiating the state's overall spending or data on appropriated or allocated amounts available for state spending; (c) a description of the extent to which the state experienced fiscal burdens as a result of preventing, preparing for, and responding to the coronavirus and an explanation of how those fiscal burdens affected the state's ability to maintain fiscal effort; (d) documentation and data

supporting the description of the state's fiscal burdens, including any state actions that impacted state revenue; and (e) information on other relevant factors, including whether the state increased the dollar amount of its support for education over time, if there are exceptional circumstances that caused the state to be unable to maintain support for education, and whether the state used federal ESSER, GEER, or higher education funding to replace state funding for education.

The federal guidance indicates that a state may request a waiver of the maintenance of effort requirements under the CAA or ARPA when the state can fully demonstrate that it has failed to meet the requirement using expenditure data to document state spending for the applicable fiscal year. A state can request a preliminary waiver using projected data and could receive a preliminary approval, conditional on an assurance that the state will not subsequently decrease its level of state support for elementary and secondary education or higher education as demonstrated in the original waiver request.

I hope this information is helpful. Please contact me if you have additional questions.

CP/ml
Attachments

ATTACHMENT 1

Example of K-12 Maintenance of Effort Calculation

	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>
State Support K-12 Education	\$5,681,278,765	\$5,742,565,349	\$6,025,645,018
Overall State Spending	15,857,532,586	16,464,393,749	17,151,849,365
Proportion	35.8270%	34.8787%	35.1312%
Average Percentage is Support Goal	35.2790%		

Application of Support Goal to 2021-23 Budget

	<u>2021-22</u>	<u>2022-23</u>
Base GPR General Aid	\$4,920,420,000	\$4,920,420,000
Base GPR Categorical Aid	<u>1,317,068,400</u>	<u>1,317,068,400</u>
Subtotal	\$6,237,488,400	\$6,237,488,400
Per Pupil Aid Sum Sufficient	-\$8,216,200	-\$9,445,700
Statewide Choice	152,267,900	170,379,800
Milwaukee Choice	238,761,300	241,548,200
Milwaukee Choice Lapse	-22,921,100	-15,459,100
Statewide Lapse	<u>-143,594,100</u>	<u>-162,490,800</u>
Net Total GPR Spending	\$6,453,786,200	\$6,462,020,800
GPR Gross Appropriations (JFC to Date)	\$18,993,664,800	\$18,975,067,600
Less Lapses	<u>-300,659,100</u>	<u>-347,561,700</u>
Total GPR Spending (JFC to Date)	\$18,693,005,700	\$18,627,505,900
Current Percentage	34.52514%	34.69075%
MOE Percentage	35.27895%	35.27895%
Shortfall in Percentage Terms	-0.75382%	-0.58821%
Initial Shortfall in Dollars	\$140,910,842	\$109,568,598
Funding Needed to Address Initial Shortfall and Maintain Ratio Including that Additional Funding	\$217,720,215	\$169,293,564

ATTACHMENT 2

Example of Higher Education Maintenance of Effort Calculation

	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>
State support for higher education	1,390,188,093	1,473,472,143	1,523,038,902
Total GPR Spending	15,857,532,586	16,464,393,749	17,151,849,365
	8.7667%	8.9494%	8.8797%

Average Percentage is Support Goal 8.86531%

Application of Support Goal to 2021-23 Budget

	<u>2021-22</u>	<u>2022-23</u>
UW GPR	\$1,187,586,000	\$1,187,586,000
WTCS GPR	532,359,900	532,359,900
HEAB GPR	120,647,000	120,647,000
Less UW Debt Service	-213,970,700	-213,970,700
Less UW Research	-22,738,794	-22,738,794
Plus UW SBA	8,157,600	8,157,600
Plus UW SEG	<u>23,456,000</u>	<u>23,456,000</u>
Total	\$1,635,497,006	\$1,635,497,006

GPR Gross Appropriations (JFC to Date)	\$18,993,664,800	\$18,975,067,600
Less Lapses	<u>-300,659,100</u>	<u>-347,561,700</u>
Total GPR Spending (JFC to Date)	\$18,693,005,700	\$18,627,505,900

Current Percentage 8.74925% 8.78001%

MOE Percentage 8.86531% 8.86531%

Shortfall in Percentage Terms 0.11606% 0.08530%

Initial Shortfall in Dollars \$21,695,208 \$15,888,450

Funding Needed to Address Initial Shortfall and
Maintain Ratio Including that Additional Funding \$23,806,152 \$17,434,397