



Legislative Fiscal Bureau

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June 29, 2021

TO: Senator Jon Erpenbach
Room 130 South, State Capitol

FROM: Christa Pugh, Fiscal Analyst

SUBJECT: Maintenance of Effort Requirements Under Federal Coronavirus Acts If Budget Bill is Vetoed In Full

At your request, I am providing information about maintenance of effort requirements under federal coronavirus acts if Assembly Bill 68/Senate Bill 111 is vetoed in full, and no new budget is passed.

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 CAA GEER moneys were allocated for coronavirus testing at institutions of higher education.

Maintenance of Effort Requirement

Under the CARES Act, each state receiving funds must maintain state support for K-12 and higher education in 2019-20 and 2020-21 equal to the average level of support in the 2016-17, 2017-18, and 2018-19. This provision requires that a minimum dollar amount be spent on K-12 and higher education, based on historical state spending. ESSER I totaling \$174.8 million and GEER I funds totaling \$46.6 million are subject to this requirement. It is anticipated that Wisconsin will meet the CARES Act maintenance of effort requirement.

A proportional maintenance of effort requirement applies to the CAA and ARPA. 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 II funds (\$686.1 million), GEER II funds (\$20.8 million), or EANS funds for private schools (\$77.5 million).

ARPA includes the same requirement applicable to both 2021-22 and 2022-23 as a condition of receiving the \$1,540.8 million allocated to the state under ESSER III. EANS funding under ARPA is not subject to the maintenance of effort requirement.

The Department of Administration (DOA) submitted baseline state and education expenditures data to the federal government on May 17, 2021. In the documentation submitted by DOA, state spending is defined as including 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. It is expected that the same methodology will be used to calculate whether the state has met the requirement, unless DOA requests a modification to the methodology from the federal government.

You asked whether the state would meet the maintenance of effort requirements under the CAA and ARPA if Assembly Bill 68/Senate Bill 111 was vetoed in full, and no new budget was passed. If this occurs, Wisconsin statutes dictate that the appropriation levels that were in effect for the fiscal year just ended are automatically continued for the new fiscal year (and all subsequent years) until amended or repealed by subsequent legislative enactment. Based on the methodology used by DOA in its May 17, 2021, submission, this office estimates that the state would not meet the CAA and ARPA maintenance of effort requirements in 2021-22 or 2022-23 if AB 68/SB 111 was vetoed in full.

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

CP/ml