Wisconsin Department of Administration
Division of Executive Budget and Finance

Fiscal Estimate - 2019 Session

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number 19-4005/1	Introduction Number SB-440

Description
income and franchise tax benefit for investment in Wisconsin opportunity zones and providing a penalty

Fiscal Effect

State:

☐ No State Fiscal Effect
☐ Indeterminate
- ☐ Increase Existing Appropriations
- ☐ Decrease Existing Appropriations
- ☐ Create New Appropriations
- ☐ Increase Existing Revenues
- ☒ Decrease Existing Revenues
- ☒ Increase Costs - May be possible to absorb within agency's budget ☒ Yes ☐ No
- ☐ Decrease Costs

Local:

☐ No Local Government Costs
☐ Indeterminate
1. ☐ Increase Costs ☐ Permissive ☐ Mandatory
2. ☐ Decrease Costs ☐ Permissive ☐ Mandatory
3. ☐ Increase Revenue ☐ Permissive ☐ Mandatory
4. ☐ Decrease Revenue ☐ Permissive ☐ Mandatory
5. Types of Local Government Units Affected
   ☐ Towns ☐ Village ☐ Cities
   ☐ Counties ☐ Others
   ☐ School Districts ☐ WTCS Districts

Fund Sources Affected
☒ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEGS

Affected Ch. 20 Appropriations

Agency/Prepared By	Authorized Signature	Date
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Fiscal Estimate Narratives

DOR 10/7/2019

LRB Number **19-4005/1**	Introduction Number **SB-440**	Estimate Type **Original**
Description income and franchise tax benefit for investment in Wisconsin opportunity zones and providing a penalty		

Assumptions Used in Arriving at Fiscal Estimate

Under a provision contained in the federal Tax Cuts and Jobs Act of 2017 (TCJA), which was adopted by Wisconsin, a taxpayer may defer paying federal and state income tax on capital gains by investing the gains in a qualified opportunity zone fund. The fund must hold at least 90% of its assets in opportunity zone property. If the fund's opportunity zone assets fall below the 90% threshold, it is subject to a federal fine that is based on the shortfall for each month the threshold is not met.

Under the current law, the taxpayer defers paying tax on the capital gains until the earlier of the sale date or December 31, 2026. The taxpayer may permanently exclude 10% of the deferred gains from income if the investment was held for at least five years (or 15% for seven years). Additionally, if the taxpayer holds the investment for at least ten years, the investment's earnings are not taxed.

Under this bill, for income and franchise tax purposes, a taxpayer may exclude an additional 10% of the deferred gains if the taxpayer holds the investment in a Wisconsin qualified opportunity fund for at least five years or an additional 15% of the deferred gains if the taxpayer holds the investment for at least seven years. A Wisconsin qualified opportunity fund must hold at least 90 percent of its assets in property that qualifies under the federal program and is located in a Wisconsin opportunity zone. If the fund is liable for the federal penalty for failing to meet the 90 percent threshold for opportunity zone assets, the fund must also pay a state civil penalty that is equal to 33 percent of the federal penalty.

For example, if a taxpayer realized a gain of $1 million and reinvested the gain in a qualifying Wisconsin opportunity zone fund on January 1, 2019, current law would allow the taxpayer to defer paying tax on the gain. The basis of the new investment would be set to zero. If the taxpayer immediately sold the asset, they would have to recognize the full $1 million of capital gain and pay tax on that amount.

However, if the taxpayer held the asset until January 1, 2024, they would be able increase their basis by 10% of the $1 million, or $100,000 under current federal and Wisconsin law. This bill would allow them to increase their basis for Wisconsin by another $100,000. As a result, if they sold the asset in 2024, the taxpayer would realize $900,000 of the original gain under current law or $800,000 under this bill.

If the taxpayer held the asset until January 1, 2026, (seven years) their basis would become $150,000 under current federal and Wisconsin law, or $300,000 for Wisconsin tax purposes under this bill. $850,000 of the original gain would be taxable under current law or $700,000 would be taxable under this bill.

If the asset is held beyond December 31, 2026, current federal and Wisconsin law requires that the taxpayer recognize the deferred gain on the original investment at that time.

The primary fiscal effect of this bill will be reduced revenue from the sale of Wisconsin opportunity zone fund investments in tax year 2024, 2025, and 2026. Based on federal Joint Finance Committee estimates for the federal TCJA provision, which was adopted by Wisconsin, the state expected to collect approximately $9 million less revenue from the current law provision during the period from FY18 to FY27. The fiscal effect for that period would largely measure the five-year and seven-year holding period basis adjustments that this bill would add to for Wisconsin opportunity zone investments.

The share of opportunity zone fund investments that are eligible for the current law treatment and will also meet the requirement that 90% of assets are held in Wisconsin opportunity zones is unknown. However, if it is assumed that the bill reduces revenue by another 50% relative to current law in the period ending in FY27, the bill could reduce revenue by a total of about $4.5 million during the period from FY25 to FY27. The fiscal effect could be larger (smaller) to the extent that the share is greater (lesser) than 50%.

Long-Range Fiscal Implications

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Fiscal Estimate Worksheet - 2019 Session

Detailed Estimate of Annual Fiscal Effect

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income and franchise tax benefit for investment in Wisconsin opportunity zones and providing a penalty

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	**Annualized Fiscal Impact on funds from:**	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	$	$
(FTE Position Changes)		
State Operations - Other Costs		
Local Assistance		
Aids to Individuals or Organizations		
TOTAL State Costs by Category	**$**	**$**
B. State Costs by Source of Funds		
GPR		
FED		
PRO/PRS		
SEG/SEG-S		

III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)

	Increased Rev	Decreased Rev
GPR Taxes	$	$
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		
TOTAL State Revenues	**$**	**$**

NET ANNUALIZED FISCAL IMPACT

	State	Local
NET CHANGE IN COSTS	$	$
NET CHANGE IN REVENUE	$See Text	$

Agency/Prepared By	**Authorized Signature**	**Date**
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