State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1999/P1
ALL:all:all

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

AN ACT **relating to:** state finances and appropriations and making diverse other changes in the statutes.

Analysis by the Legislative Reference Bureau

COMMERCE AND ECONOMIC DEVELOPMENT

ECONOMIC DEVELOPMENT

Under current law, the Department of Commerce (Commerce) may designate a portion of the state as a development zone, a development opportunity zone, an enterprise development zone, an agricultural development zone, an enterprise zone, an airport development zone, or a technology zone. Commerce may also certify persons who agree to undertake certain eligible activities in one of the designated zones. Eligible activities include job creation, environmental remediation, and capital investment. Persons who obtain certification are eligible for tax benefits.

This bill consolidates the development zones, enterprise development zones, agricultural development zones, technology zones, and airport development zones (five development zone programs) into a program that provides tax benefits to persons who enter into a contract with Commerce to undertake eligible activities anywhere in the state. Eligible activities under the bill include all of the following:

1. Projects that result in the creation and maintenance of jobs paying wages and providing benefits at a level approved by Commerce.

2. Projects that involve a significant investment of capital in new equipment, machinery, real property, or depreciable personal property.

3. Projects that involve significant investments in the training or reeducation of employees for the purpose of improving the productivity or competitiveness of the business of the person.

4. Projects that will result in the location or retention of a person's corporate headquarters in Wisconsin or that will result in the retention of employees if the person's corporate headquarters are located in Wisconsin.

Commerce may allocate tax benefits under the consolidated program up to the total amount remaining to be allocated under the five development zone programs on the effective date of this bill. Tax benefits are allocated under the bill only after the person has verified to Commerce that the person has met the performance obligations established under the contract.

The value of tax benefits for which a person is eligible under the new tax credit program depends on the number of jobs created, the amount of the capital investment made, the amount of training or reeducation provided to employees, or the number of jobs retained by having corporate headquarters located in Wisconsin.

Under the bill, Commerce may award additional tax benefits to a person that conducts eligible activities in an economically distressed area or if the eligible activities benefit members of a targeted group. The bill requires Commerce to develop a methodology for designating an area as an economically distressed area. The bill defines targeted groups to include persons who reside in an area designated by the federal government as an economic revitalization area, persons who are eligible for child care assistance, persons who are food stamp recipients, or persons who are economically disadvantaged.

The bill requires the Legislative Audit Bureau, by no later than July 1, 2014, to prepare a financial and program evaluation audit of the consolidated economic development tax benefit program created by the bill.

Under current law, the Wisconsin Health and Educational Facilities Authority (WHEFA) may issue bonds to finance certain projects of health or educational institutions, to refinance outstanding debt of health or educational institutions, and to finance a purchase of the state's right to receive any of the payments under the Attorneys General Master Tobacco Settlement Agreement of November 23, 1998. Projects of health or educational institutions that may be financed include, among others, the acquisition of a hospital, the construction or operation of an ambulatory surgery center or home health agency, and the construction, remodeling, furnishing, or equipping of a health or educational facility or related structure.

This bill authorizes WHEFA to issue bonds to finance any project undertaken by a research institution for a research facility, or to refinance outstanding debt of a research institution. A research institution is defined in the bill as an entity that provides or operates a research facility. A research facility is defined in the bill as a building, institution, place, or agency of a nonprofit entity that is or will be used in whole or in part for the advancement of scientific, medical, or technological knowledge and that does not have a specific commercial objective. Project activities for which WHEFA may issue bonds include construction, acquisition, remodeling, furnishing, and equipping of research facilities, related structures, and structures or items that are useful for the operation of research facilities.

This bill provides a total of $2,630,000 in grant moneys to certain organizations in the building trades to provide job training and retraining programs, including training in green building and the installation of alternative energy systems. The following organizations receive funds under this bill: 1) the Wisconsin Regional Training Partnership/Building Industry Group Skilled Trades Employment Program; 2) Painters and Allied Trades, District Council 7; 3) Wisconsin State Council of Carpenters; 4) Wisconsin Pipe Trades Association, Local 75; 5) Wisconsin Laborers' District Council; 6) Wisconsin Operating Engineers; and 7) International Brotherhood of Electrical Workers. As a condition of receiving the grant moneys, each organization must enter into a contract with Commerce that specifies permissible uses of the grant moneys and requires the organization to comply with reporting and accountability measures.

BUSINESS ORGANIZATIONS AND FINANCIAL INSTITUTIONS

The federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act) establishes certain nationwide standards for mortgage loan originators. If a state does not meet a certain level of compliance with the federal standards established under the SAFE Act, the federal Department of Housing and Urban Development must undertake the licensing and registration of mortgage loan originators operating within that state. One required component under the SAFE Act is that states must license and register mortgage loan originators through the Nationwide Mortgage Licensing System and Registry (NMLSR).

This bill makes numerous changes, both substantive and stylistic, in the statutes relating to the regulation of mortgage loan originators, mortgage brokers, and mortgage bankers (mortgage regulatory provisions). The bill requires the division of banking (division) in the Department of Financial Institutions (DFI) to participate in NMLSR and authorizes the division to process and maintain mortgage loan originator licenses through, and register mortgage loan originators with, NMLSR.

The bill modifies various definitions applicable to all mortgage regulatory provisions, thereby changing the scope of regulation. Under the bill, a "residential mortgage loan" is any loan primarily for personal, family, or household use that is secured by a lien or mortgage, or equivalent security interest, on a dwelling or residential real property located in this state. With certain exceptions, a "mortgage loan originator" under the bill is an individual who, for compensation or gain, takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan. However, certain persons are exempt from all mortgage regulatory provisions, including a mortgage loan originator who is an employee of a depository institution or its regulated subsidiary and who is registered with NMLSR. A "depository institution" is a federally chartered or state-chartered bank, savings association, or credit union. The bill essentially maintains the current law definitions of "mortgage banker" and "mortgage broker," but eliminates the exceptions under current law to these definitions and replaces them with new exceptions. Among the exceptions under the bill to the definitions of "mortgage banker" and "mortgage broker" are depository institutions and regulated subsidiaries of depository institutions.

The bill includes a number of changes to current law with respect to the regulation of mortgage loan originators, including the following:

1. The bill requires that the division's licensing of mortgage loan originators be processed through NMLSR and that all mortgage loan originator licensees be registered with NMLSR.

2. The bill requires each applicant for a mortgage loan originator license to furnish to NMLSR specified information concerning the applicant's identity, including the applicant's fingerprints, personal history, and authorization for credit and criminal history checks.

3. The bill specifies certain disqualifying factors preventing the issuance of a mortgage loan originator license, including that the applicant has had a mortgage loan originator license revoked or has been convicted of a felony within a specified period. As derived from the SAFE Act, an applicant may be issued a mortgage loan originator license only if the applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently under applicable law.

4. The bill modifies current law requirements related to professional education and testing for mortgage loan originators. The bill modifies education and testing requirements, requires each education course to be reviewed and approved by NMLSR, and requires each test to be developed by NMLSR and administered by a test provider approved by NMLSR.

5. The bill requires each mortgage loan originator to be covered by a surety bond in an amount, as determined by the division, reflecting the dollar amount of residential mortgage loans originated by the mortgage loan originator.

6. The bill requires each mortgage loan originator to submit to NMLSR an annual report of condition.

7. Under the bill, each mortgage loan originator must be issued a unique number or other identifier (unique identifier). The bill requires any person originating a residential mortgage loan to place the person's unique identifier on all residential mortgage loan application forms, solicitations, and advertisements.

8. The bill contains provisions relating to confidentiality of information provided by the division to NMLSR, but allows NMLSR to provide public access to information relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators. The division must regularly report to NMLSR violations and enforcement actions involving mortgage loan originators.

The bill also includes some changes to current law relating to the regulation of mortgage bankers and mortgage brokers, including requiring mortgage bankers and mortgage brokers to annually submit call reports to NMLSR and to maintain surety bonds in the amount of $300,000 and $120,000, respectively, and a minimum net worth of $250,000 and $100,000, respectively.

The bill creates a number of violations, and modifies certain current-law violations, relating to prohibited acts and practices of mortgage bankers, mortgage

brokers, mortgage loan originators, and officers and directors of corporate mortgage bankers and mortgage brokers, including the following:

1. The bill modifies and expands current law provisions to prohibit materially false or deceptive statements or representations or knowing omissions of material facts.

2. The bill prohibits mortgage bankers and mortgage brokers from paying commissions to unassociated or unlicensed mortgage loan originators.

3. The bill prohibits mortgage bankers and mortgage brokers from conducting business at an unlicensed office.

4. The bill prohibits the impeding of an investigation or examination or the denial of access to or destruction of books, records, or other information that the division is authorized to obtain.

5. The bill prohibits contracts with borrowers that provide in substance that the mortgage banker, mortgage broker, or mortgage loan originator may earn a fee through "best efforts" to obtain a residential mortgage loan even if no loan is actually obtained for the borrower.

6. The bill prohibits the solicitation or advertisement of interest rates, points, or other financing terms unless the terms are actually available at the time of the solicitation or advertisement.

7. The bill prohibits assisting, aiding, or abetting any person in unlawfully conducting mortgage-related business without a valid license.

8. The bill prohibits withholding payments or making payments, threats, or promises for the purpose of influencing a person's independent judgment in connection with a residential mortgage loan or withholding payments or making payments, threats, or promises to a property appraiser for the purpose of influencing the appraiser's independent judgment with respect to the value of the property.

9. The bill prohibits requiring a borrower to obtain property insurance coverage in an amount exceeding the replacement cost of improvements on the property.

The bill increases the penalty for violations from a maximum of $2,000 to a maximum of $25,000. This increase applies both to civil forfeitures imposed by the division as administrative assessments and to criminal fines imposed by a court. The bill does not change any term of incarceration for a violation. The bill expands the number of violations for which these penalties are applicable. Under current law, these penalties apply only to specified violations. Under the bill, these penalties may be applied to any violation of a mortgage regulatory provision or of any rule promulgated by the division under a mortgage regulatory provision. The bill allows the division to order restitution in connection with a violation in the same manner in which the division may impose an administrative assessment for the violation. The bill expands the number of violations for which a civil cause of action may be brought to correspond to the expansion of violations for which penalties are applicable. The bill increases the maximum limit for recovery of certain damages in civil actions from $2,000 to $25,000.

HOUSING

Under current law, Commerce awards grants and loans to low income persons or families to defray housing costs and to community based organizations to provide

housing opportunities to low income persons and families. The grants and loans are funded by general purpose revenue.

This bill directs Commerce to make a one-time grant of not more than $200,000 to the Tenant Resource Center in Madison, from the appropriation that funds the grants and loans described above, to provide foreclosure education and assistance to tenants. The bill increases the appropriation for fiscal year 2008-09 by $200,000.

COURTS AND PROCEDURE

Under current law, if the owner of real property that is subject to a mortgage defaults in making payments, the mortgagee, which is usually a financial institution, may commence a foreclosure action. If the mortgagee prevails and obtains a foreclosure judgment, the property owner (mortgagor) may redeem the property before a sheriff's sale by paying the amount of the judgment to the clerk of court. If the mortgagor does not redeem the property, it will be sold at a sheriff's sale after six months to one year, depending on the type of property and whether the mortgagor will owe a deficiency, which is the amount by which the judgment exceeds the amount obtained at the sale.

This bill addresses foreclosure reconveyances. A foreclosure reconveyance is defined as a transaction under which the mortgagor transfers title to residential real property in foreclosure to a third party, called a foreclosure purchaser in the bill. The foreclosure purchaser redeems the property and subsequently conveys, or promises to subsequently convey, to the mortgagor (foreclosed homeowner) an interest in the property that allows the foreclosed homeowner to remain in possession of the property, such as an interest in a land contract, a purchase agreement, an option to purchase, or a lease.

Under the bill, if a foreclosure purchaser enters into a foreclosure reconveyance, it must be by a written contract. The bill specifies the information that the contract must contain and requires that duplicate copies of a completed notice of cancellation be attached to the contract. The foreclosed homeowner may cancel the foreclosure reconveyance contract by delivering personally or by certified mail a signed and dated notice of cancellation to the foreclosure purchaser within five business days after the foreclosed homeowner signs the contract. The bill prohibits any waiver of any of the foreclosure reconveyance provisions, except for the five-day right to cancel the contract if the property is to be sold at sheriff's sale within those five days and the foreclosed homeowner waives his or her right to cancel in a handwritten statement.

The bill contains various prohibitions and requirements that apply generally to foreclosure purchasers, including:

1. Prohibiting a foreclosure purchaser from entering into a foreclosure reconveyance unless, among other things, the foreclosure purchaser verifies that the foreclosed homeowner has the ability to pay for the subsequent conveyance of the interest back to the foreclosed homeowner.

2. Requiring a foreclosure purchaser either to ensure that title to the dwelling has been reconveyed to the foreclosed homeowner or to pay to the foreclosed homeowner consideration of at least 82 percent of the fair market value of the property within 150 days of either the eviction from the property of, or the voluntary

relinquishment of possession of the property by, the foreclosed homeowner. If the foreclosure purchaser pays the foreclosed homeowner, the foreclosure purchaser must provide a detailed accounting of the basis for the payment amount on a form prescribed by the attorney general, in consultation with the secretary of agriculture, trade and consumer protection.

3. Prohibiting a foreclosure purchaser from entering into repurchase or lease terms, as part of the subsequent conveyance, that are unfair or commercially unreasonable and from engaging in any other unfair conduct.

4. Prohibiting a foreclosure purchaser from acting as an advisor or consultant or in any other manner representing that the foreclosure purchaser is acting on behalf of the foreclosed homeowner.

5. Prohibiting a foreclosure purchaser from taking certain actions, such as accepting from the foreclosed homeowner any instrument of conveyance of any interest in the residence in foreclosure or transferring any interest in the residence to a third party, before the time for the foreclosed homeowner to cancel the transaction has fully elapsed.

The bill specifies penalties that apply if a foreclosure purchaser violates any of the provisions, authorizes a court to order punitive damages for a violation, and specifies that a violation shall be considered a fraud and that a foreclosed homeowner may bring an action for damages. The bill also provides that a court must grant a 90-day stay in an eviction action if the property was the subject of a foreclosure reconveyance and the defendant was the owner of the property, has continuously occupied the property since it was conveyed to a third party, and has either commenced an action concerning the foreclosure reconveyance or asserts fraud or other deceptive practices in connection with the foreclosure reconveyance.

The bill also addresses foreclosure consultants. With numerous specified exceptions, a foreclosure consultant is defined as a person who offers to a foreclosed homeowner to perform for compensation any of various services that will assist the foreclosed homeowner with the loan default or foreclosure, such as stopping the foreclosure sale, assisting the foreclosed homeowner to obtain a loan, or saving the property from foreclosure.

The bill provides that any agreement (contract) between a foreclosure consultant and a foreclosed homeowner for the rendition of services must be in writing, and that a foreclosed homeowner who enters into a contract for services with a foreclosure consultant has the right to cancel the contract without penalty within three days by delivering, personally or by certified mail, a notice of cancellation to the foreclosure consultant. The bill specifies the information that the contract must contain and requires that duplicate copies of a notice of cancellation be attached to the contract.

The bill sets out actions by a foreclosure consultant that are violations and provides that the Department of Agriculture, Trade and Consumer Protection (DATCP) may investigate violations of the requirements under the bill and may commence an action to restrain a violation or to recover a forfeiture for a violation. The Department of Justice is required to furnish legal services to DATCP. The bill

also provides that any person suffering pecuniary loss because of a violation of the requirements under the bill may commence an action against the violator.

Under current law, if property that is subject to a mortgage is leased after the lien of the mortgage attaches, the lease is subject to termination if the interest of the mortgagor terminates. Thus, the lease of a tenant to property that is subject to a mortgage terminates and the tenant may be evicted, if the landlord loses the property in a foreclosure action.

This bill requires the plaintiff in a foreclosure action against residential rental property to provide the tenants of the property with notice that a foreclosure action has been filed, notice that the plaintiff has been granted judgment, along with notice of the date on which the redemption period ends, and notice of the date and time of the hearing to confirm the sale of the property. The bill also requires a landlord to notify any prospective tenant in writing that a foreclosure action has been commenced and, if judgment has been entered, the date on which the redemption period ends. In addition, the bill provides that a tenant may retain possession of the rental unit for up to two months after the end of the month in which the sale of the property is confirmed, and may withhold rent in the amount of the security deposit for the last period during which the tenant actually retains possession of the rental unit.

Under current law, the director of state courts has established a consolidated electronic system that contains information about cases filed in the circuit courts in the state, including both civil cases and criminal cases. This system, known as the Consolidated Court Automation Programs (CCAP), contains a variety of information about circuit court cases. The information regarding case data contained on the CCAP system is available in the court's Internet Web site called the Wisconsin Circuit Court Access (WCCA). This bill prohibits the placing of any information on a civil action concerning the removal of a tenant from a residential rental property in the WCCA Internet Web site if that removal was the result of a mortgage foreclosure of the residential rental property.

EDUCATION

This bill directs the Wisconsin Technical College System Board to award to technical college district boards at least $1,000,000 annually in training program grants for training in advanced manufacturing skills, with priority given to welding.

HEALTH AND HUMAN SERVICES

Hospital assessment and Medical Assistance

Under current law, the state assesses hospitals a total of $1,500,000 each year. The amount each hospital pays is allocated in proportion to the hospital's gross private pay revenues. The hospital assessment revenue is used to support the Medical Assistance (MA) Program, long-term care programs, and community-based mental health services.

This bill increases the amount of the hospital assessment to $275,445,110 for state fiscal year (SFY) 2008-09. The bill provides that the amount of the assessment in future years shall be established in the biennial budget act. The bill charges the total assessment amount against eligible hospitals in proportion to their gross patient revenues. Under the bill, all hospitals in the state other than critical access

hospitals, institutions for mental diseases, and certain psychiatric hospitals that are not a satellite of an acute care hospital from the assessment are eligible hospitals.

The bill provides that a specified portion of the assessment revenue shall be used to pay hospitals for services provided under MA and transfers the remaining amount of assessment revenue to the MA trust fund. Under the bill, the amount allocated to hospitals for MA services in SFY 2008-09, including both the state and federal share under MA, is the amount of the hospital assessment revenue divided by 57.75 percent, which is $476,961,200. In SFY 2008-09, $79,604,800 in assessment revenue is transferred to the MA trust fund. Of the amount transferred to the MA trust fund, 0.5 percent ($398,000) is appropriated to the Department of Health Services (DHS) for the administrative costs associated with the hospital assessment and the other $79,206,800 is appropriated for MA. For SFY 2008-09, the bill also appropriates general purpose revenue in the amount of $750,000 for supplemental payments to certain rural hospitals in counties that border another state. Finally, in SFY 2008-09, the bill reduces the amount of general purpose revenues appropriated for MA by $78,456,800.

Beginning in SFY 2009-10, the amount of payments to hospitals for MA services from hospital assessment revenue plus the federal share of MA is equal to the amount of the total assessment revenue divided by 61.68 percent. The remainder of the hospital assessment revenue is transferred to the MA trust fund. One-half of one percent of the transferred amount is appropriated to DHS for administrative costs associated with the hospital assessment. Also beginning in SFY 2009-10, the bill requires DHS to pay the University of Wisconsin Hospitals and Clinics $3,000,000 annually from the MA trust fund for the costs of providing uncompensated care.

The bill provides that DHS shall spend the portion of the hospital assessment revenue that is allocated to pay for hospital services under MA on the following: increased reimbursement for eligible hospitals that are reimbursed on a fee-for-service basis; payments to health maintenance organizations (HMOs) that the HMOs must use to increase reimbursement to eligible hospitals; an increase of $2,744,000 in supplemental payments to certain rural hospitals; $8,000,000 in supplemental payments to hospitals that satisfy criteria established by the American College of Surgeons for classification as a Level I adult trauma center; and supplemental payments to hospitals based on performance, under a methodology developed by DHS.

The bill provides that if the federal government does not pay the federal share under MA for any payment made with hospital assessment revenue, DHS must refund to hospitals the amount of the hospital assessment revenue used to make the payment. DHS must make refunds to hospitals in proportion to the percent of the assessment that the hospitals paid. In addition, DHS must recoup any payments that are made with hospital assessment revenue and for which the federal government does not pay the federal share under MA.

In addition to the decrease in general purpose revenue appropriated for MA in association with the hospital assessment, the bill increases the amount of general purpose revenue appropriated for MA for SFY 2008-09 by $50,000,000.

Under current law, a hospital must be approved by DHS to operate in this state. Upon approval, DHS issues a hospital a certificate of approval. This bill provides that DHS must issue a single hospital certificate of approval for the University of Wisconsin Hospitals and Clinics Authority (UWHCA) that applies to all of UWHCA's inpatient and outpatient facilities that satisfy DHS's requirements for a hospital and for which UWHCA requests approval. The bill also provides that all facilities listed on the hospital certificate of approval for UWHCA are a hospital for purposes of reimbursement under MA.

PUBLIC ASSISTANCE

Under current law, $365,197,900 in federal block grant aids is appropriated to the Department of Children and Families (DCF) in fiscal year 2008-09 for aids to individuals and organizations. Of that amount, $355,352,000 is allocated for child care services for persons participating in the Wisconsin Works (W-2) program. This bill increases that appropriation by $47,175,000 and that allocation by $20,384,400. The bill also increases allocations for fiscal year 2008-09 of federal child care development funds and federal moneys received under the Temporary Assistance for Needy Families block grant program for emergency assistance and child care administration.

Under current law, $121,021,700 in general purpose revenue is appropriated to DCF in fiscal year 2008-09 for administration and benefits payment under the W-2 program and other Temporary Assistance to Needy Families programs. This bill decreases that appropriation by $22,529,000.

STATE GOVERNMENT

This bill requires the secretary of administration to lapse or transfer to the general fund from the unencumbered balances of appropriations to executive state agencies, other than sum sufficient appropriations and appropriations of federal revenues, an amount equal to $125,000,000 before July 1, 2011. Under the bill, all executive branch state agencies, except for the Investment Board and the Department of Employee Trust Funds, are subject to the lapse and transfer provisions. The bill also requires the cochairpersons of the Joint Committee on Legislative Organization to take actions before July 1, 2011, to ensure that from general purpose revenue appropriations to the legislature an amount equal to $500,000 is lapsed from sum certain appropriation accounts or is subtracted from the expenditure estimates for any other types of appropriations, or both. The lapse from appropriations to the legislature is included as part of the $125,000,000 lapse and transfer requirement.

Current statutes contain a rule of proceeding that provides that no bill may be adopted by the legislature if the bill would cause in any fiscal year the amount of moneys designated as "Total Expenditures" in the general fund summary for that fiscal year, less any amounts transferred to the budget stabilization fund in that fiscal year, to exceed the sum of the amount of moneys designated as "Taxes" and "Departmental Revenues" in the general fund summary for that fiscal year. This bill provides that this requirement does not apply to the 2008-09 fiscal year.

This bill increases the legislature's role in approving the expenditure of federal economic stimulus funds during the 2008-09 fiscal year and the 2009-11 fiscal

biennium. Under the bill, "federal economic stimulus funds" are defined to mean federal moneys received by the state beginning on the bill's effective date and ending on June 30, 2011, pursuant to federal legislation enacted during the 111th Congress for the purpose of reviving the economy of the United States. The bill involves the legislature in approving the expenditure of federal economic stimulus funds in two general ways.

First, the bill provides that, as soon as practical after the receipt of any federal economic stimulus funds by the state, the governor must submit to the Joint Committee on Finance (JCF) a plan or plans for the expenditure of the federal economic stimulus funds. After receiving the plan or plans, the cochairpersons of JCF may direct the governor to implement the plan or plans. In lieu of directing the governor to implement the plan or plans, the cochairpersons must convene a meeting of JCF within 14 days after the plan or plans are submitted to either approve or modify and approve the plan or plans. The governor shall then implement the plan or plans as approved by JCF. The bill requires that a separate plan be submitted for transportation expenditures. This process, however, does not apply to federal economic stimulus funds the expenditure of which is contained in any bill introduced in either house of the legislature at the request of the governor. If for any reason a project specified in a plan cannot be completed on a timely basis, or if federal economic stimulus funds cannot be expended as proposed in the plan, the governor must submit a revised plan to the cochairpersons of JCF. The revised plan may only be implemented if approved by JCF using the procedures specified in this paragraph.

Second, the bill creates a new procedure for review of the use of federal economic stimulus funds for state building projects. Currently, with certain exceptions, the Building Commission is prohibited from authorizing the design, construction, repair, remodeling, or improvement, or the acquisition of land by the state for the construction, repair, remodeling, or improvement of any state building, structure, or facility for any project costing more than $500,000, regardless of funding source, unless the project is enumerated by law in the Authorized State Building Program.

This bill provides that, if a state building, structure, or facility is proposed to be designed or constructed, if an existing state building, structure, or facility is proposed to be repaired, remodeled, or improved, or if land is proposed to be acquired by the state for any such purpose, and the design, construction, repair, remodeling, improvement, or acquisition is proposed to be financed solely with federal economic stimulus funds, the project, if approved by JCF as part of a plan, is not subject to an enumeration requirement.

Current statutes contain a rule of proceeding governing legislative action on certain bills. Generally, the rule provides that no bill directly or indirectly affecting general purpose revenues may be adopted if the bill would cause the estimated general fund balance on June 30 of any fiscal year to be less than a certain amount of the total general purpose revenue appropriations for that fiscal year. For fiscal year 2008-09, the amount is $65,000,000. This bill provides that this requirement does not apply to the 2008-09 fiscal year.

The bill makes the following changes to the loan program administered by the Board of Commissioners of Public Lands (BCPL):

1. Provides that any borrower, after January 1 and before September 1 in any year, may prepay one or more installments of a state trust fund loan in advance of the due date and that all interest upon the advance payment terminates. Currently, a borrower may do this only after March 15 and before August 1 in any year.

2. Requires that borrowers repay loans directly to BCPL and not to the secretary of administration.

3. With respect to loans to counties, provides that a county must demonstrate to BCPL that the loan is for the purpose of acquiring or installing energy efficient equipment. Currently, counties must demonstrate to BCPL that the loan is for one of a number of enumerated purposes, or satisfies certain conditions, which do not specifically include the acquisition or installation of energy efficient equipment.

4. Clarifies the conditions under which school districts may receive short-term loans of ten years or less from BCPL without the approval of the electors of the school districts. These conditions are currently specified in chapter 67 of the Wisconsin Statutes, by cross-reference, and this bill recreates these conditions in chapter 24 of the Wisconsin Statutes.

This bill requires UWHCA to pay, no later than June 30, 2009, $49,000,000 to the state for deposit into the general fund.

TAXATION

INCOME TAXATION

Under current law, a person may claim a credit against the person's income or franchise tax liability that is equal to 10 percent of the amount that the person paid in the taxable year for dairy manufacturing modernization or expansion related to the claimant's dairy manufacturing operation. If the amount of the credit exceeds the amount of the person's tax liability, the person receives a refund. Under current law, dairy cooperatives are, generally, not subject to state income or franchise taxes and, therefore, are not eligible to claim the credit for dairy manufacturing modernization or expansion.

This bill allows the members of a dairy cooperative to claim the credit for the dairy manufacturing modernization or expansion expenses paid by the cooperative. The dairy cooperative determines the amount of the credit that each member may claim, based on the amount of milk each member delivers to the cooperative.

This bill requires that all related corporations file a combined report for state income and franchise tax purposes and calculate their state tax liability based on the business activity of all the related corporations.

This bill provides an income and franchise tax credit for 10 percent of the amount that a person pays in the taxable year for meat processing modernization or expansion related to the person's meat processing operation.

Under current law, a person may claim as credit against the person's income or franchise tax liability, in each of two consecutive taxable years, 12.5 percent of the person's investment in a qualified new business venture, as determined by Commerce. The maximum amount of a person's investment that can be used as the basis for the credit is $2,000,000 and a business may receive no more than $1,000,000 in investments that qualify for the credit.

Under this bill, a person may claim an income and franchise tax credit equal to 25 percent of the person's investment in a qualified new business venture. The bill allows a person to use more than $2,000,000 in investments as the basis for the credit and to transfer the amount of any unused credit to another taxpayer.

Under current law, a person must add to the person's taxable income the amount of any deduction the person claimed for interest expenses and rental expenses paid to a related entity, unless the expenses are paid primarily for business purposes and not in order to avoid taxes. Under this bill,a person must add to the person's taxable income the amount of any deduction the person claimed for interest expenses, rental expenses, intangible expenses, and management fees paid to a related entity, unless the expenses or fees are paid primarily for business purposes and not in order to avoid taxes.

OTHER TAXATION

This bill adopts the substantive provisions of the Main Street Equity Act for purposes of administering and collecting state, county, and stadium district sales and use taxes. The act is intended to modernize sales and use tax administration for the states that adopt the act and to encourage out-of-state retailers to collect the state, county, and stadium district sales and use taxes voluntarily. Under current federal law, generally, an out-of-state retailer who sells tangible personal property or services to customers in this state is not required to collect the sales tax or use tax imposed on such sales, if the retailer has no physical presence in this state. See *Quill v. North Dakota*, 504 U.S. 298; 112 S. Ct. 1904 (1992).

This bill also imposes sales and use taxes on specified digital goods and additional digital goods. "Specified digital goods" are digital audio works, digital audiovisual works, and digital books. "Additional digital goods" means greeting cards, finished artwork, periodicals, and video or electronic games, if all such items are transferred electronically. Under the bill, the sale of specified digital goods or additional digital goods that are transferred electronically to the purchaser are exempt from the sales and use taxes, if the sale of the goods in tangible form is exempt from the sales and use taxes.

TRANSPORTATION

Under current law, the Department of Transportation (DOT) must annually submit to the Joint Committee on Finance (JCF) a plan for adjusting DOT's federal funds appropriations if the most recent federal funds estimates vary from DOT's federal funds appropriations by more than 5 percent.

This bill specifies that this requirement does not apply with respect to the first $300,000,000 of federal economic stimulus funds, intended to be used for transportation purposes, resulting from federal legislation enacted between January 2009 and January 2011 (stimulus funds). The bill also requires DOT, with one exception, to encumber or expend the first $300,000,000 of stimulus funds only for specified projects.

WISCONSIN HOUSING AND ECONOMIC DEVELOPMENT AUTHORITY

Under current law, the Wisconsin Housing and Economic Development Authority (WHEDA) makes, participates in making, and issues bonds or notes to fund homeownership mortgage loans on behalf of qualified, low-income applicants.

Homeownership mortgage loans include loans to finance the construction or long-term financing of a residential structure or dwelling unit that is the principle residence of the applicant. Homeownership mortgage loans may not be made to finance the acquisition or replacement of an applicant's existing mortgage.

This bill authorizes WHEDA to issue bonds for and to make and participate in the making of loans for the refinancing of qualified subprime loans if WHEDA determines that the applicant will suffer financial hardship if the loan is not refinanced. A qualified subprime loan is defined as an adjustable rate single-family residential mortgage loan made after December 31, 2001 and before January 1, 2008. The bill directs the secretary of administration to determine the date after which no bonds or notes may be issued by WHEDA to refinance subprime loans.

This bill establishes a Homeowner Eviction and Lien Protection program under the authority of WHEDA. Under the program, WHEDA may enter into agreements with lenders to encourage the lenders to refinance mortgage loans of persons or families who are not able to obtain refinancing in the absence of an agreement. WHEDA may also make and participate in making loans to refinance mortgage loans. A mortgage loan is defined as a loan secured by a first lien real estate mortgage on a single-family dwelling that is used as the principal residence of the applicant. The bill appropriates a total of $4,000,000 in GPR in the 2008-09 and 2009-10 fiscal years to WHEDA to operate the program. The bill requires WHEDA to make quarterly reports to the Joint Committee on Finance, and authorizes the cochairpersons of the Joint Committee on Finance to convene a meeting at any time to review or dissolve the program.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

Because this bill directly or substantially affects the development, construction, cost or availability of housing in this state, the Department of Administration, as required by law, will prepare a report to be printed as an appendix to this bill.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

***-1942/P1.1* SECTION 1.** 13.94 (1) (ms) of the statutes is created to read:

13.94 **(1)** (ms) No later than July 1, 2014, prepare a financial and performance evaluation audit of the economic development tax benefit program under ss. 560.701

(15) and 229.824 (15) of the statutes; the repeal and recreation of sections 77.51 (7), 77.51 (12) (a), 77.51 (17m), 77.51 (20), 77.52 (1b), 77.52 (2n), 77.53 (1b), 77.63, 77.982 (2), 77.991 (2), 77.9951 (2), and 77.9972 (2) of the statutes; and the creation of sections 20.566 (1) (ho), 73.03 (28e), 73.03 (50b), 73.03 (61), 77.51 (1a), 77.51 (1b), 77.51 (1ba), 77.51 (1f), 77.51 (1fm), 77.51 (1pd), 77.51 (1r), 77.51 (2k), 77.51 (2m), 77.51 (3c), 77.51 (3n), 77.51 (3p), 77.51 (3pa), 77.51 (3pb), 77.51 (3pc), 77.51 (3pd), 77.51 (3pe), 77.51 (3pf), 77.51 (3pj), 77.51 (3pm), 77.51 (3pn), 77.51 (3po), 77.51 (3rm), 77.51 (3rn), 77.51 (3t), 77.51 (5d), 77.51 (5n), 77.51 (5r), 77.51 (7g), 77.51 (7k), 77.51 (7m), 77.51 (8m), 77.51 (9p), 77.51 (9s), 77.51 (10d), 77.51 (10f), 77.51 (10m), 77.51 (10n), 77.51 (10s), 77.51 (11d), 77.51 (11m), 77.51 (12m), 77.51 (12p), 77.51 (13g) (c), 77.51 (13rm), 77.51 (13rn), 77.51 (15a), 77.51 (15b), 77.51 (17w), 77.51 (17x), 77.51 (21n), 77.51 (21p), 77.51 (21q), 77.51 (22) (bm), 77.51 (24), 77.51 (25), 77.51 (26), 77.52 (1) (b), 77.52 (1) (c), 77.52 (1) (d), 77.52 (2) (a) 5. am., 77.52 (2) (a) 5. c., 77.52 (2) (a) 13m., 77.52 (7b), 77.52 (14) (am), 77.52 (14) (bm), 77.52 (20), 77.52 (21), 77.52 (22), 77.52 (23), 77.522, 77.524 (1) (ag), 77.53 (9m) (b), 77.53 (9m) (c), 77.53 (11) (b), 77.54 (20n), 77.54 (20r), 77.54 (22b), 77.54 (50), 77.54 (51), 77.54 (52), 77.58 (6m), 77.58 (9a), 77.585, 77.59 (2m), 77.59 (9n), 77.59 (9p) (b), 77.59 (9r), 77.60 (13), 77.61 (2) (b), 77.61 (3m), 77.61 (5m), 77.61 (16), 77.61 (17), 77.61 (18), 77.65 (4) (fm), 77.67, 77.73 (3) and 77.77 (1) (b) of the statutes take effect on October 1, 2009.

(2) MAIN STREET EQUITY ACT. The amendment of sections 77.51 (21m) (by SECTION 335) and 77.52 (2) (a) 5. a. (by SECTION 352) of the statutes takes effect on September 30, 2009.

(END)