

Fiscal Estimate Narratives

DOA 6/1/2023

LRB Number	23-2067/1	Introduction Number	AB-0121	Estimate Type	Original
Description requiring the Department of Financial Institutions to implement a section 529A ABLE savings account program and granting rule-making authority					

Assumptions Used in Arriving at Fiscal Estimate

Assembly Bill 121 (AB-121) requires the Wisconsin Department of Financial Institutions (DFI) to implement an Achieving a Better Life Experience (ABLE) program under section 529A of the Internal Revenue Code. This program allows tax-exempt accounts for eligible expenses incurred by individuals with disabilities. Additionally, this bill grants rulemaking authority for an ABLE program and accounts.

The U.S. Department of the Treasury (Treasury) issued a Final Rule (FR) to implement the Coronavirus State and Local Fiscal Recovery Fund (SLFRF) under section 602 of the Social Security Act, as amended by the federal American Rescue Plan Act of 2021 (ARPA). The State's Recovery Fund amount under the program is \$2,533,160,626.50, and the Department of Administration (Department) is responsible for its administration.

Under ARPA, states are prohibited from utilizing funds under the SLFRF program to either directly or indirectly fund tax reductions (the "tax offset" provision). To enforce the tax offset provision of ARPA, Treasury promulgated a rule that specified the circumstances that would constitute a breach of the statutory prohibition against utilizing SLFRF distributions to fund tax reductions and therefore require repayment of SLFRF funds distributed by the federal government up to the violation amount. The rule created several concepts that govern the analysis of whether a tax reduction would be a violation that would trigger repayment.

The first of these is a concept of "baseline tax revenue" that is defined as Fiscal Year 2018-19 tax revenue, as specified by the U.S. Census Bureau definition of state tax revenue, adjusted in each subsequent fiscal year by the Bureau of Economic Analysis's Implicit Price Deflator for the gross domestic product of the United States. The Census Bureau definition of state tax revenue includes a variety of taxes and fees that are not included in Wisconsin's definition of general fund tax revenue and is therefore meaningfully more expansive. Among other revenue sources included in this definition are motor fuel taxes, motor vehicle registration and title fees, the economic development surcharge, a variety of professional licensing fees and natural resource fees.

The second of these is a concept of a "covered change," that involves reductions in net taxes that result from a reduction in rates, a rebate, deduction, a credit or otherwise enacted after March 3, 2021, that exceed a de minimis threshold of 1 percent of baseline tax revenue.

If a state reports actual revenues that are below the reported baseline tax revenues for a fiscal year, two tests are conducted to determine whether a state must repay SLFRF distributions to the federal government due to a breach of the tax offset provision. The first test is whether there are "covered changes". Since the State of Wisconsin has already enacted more than \$1 billion annually in covered tax changes in tax reductions since March 3, 2021, this condition would be satisfied, and this bill would also constitute a covered change under the Treasury rule. If there are covered changes, the second test is whether the state has (1) sufficient organic revenue growth above the baseline or (2) offsetting revenue increases and spending reductions to fund the covered tax changes.

The Department is responsible for regular reporting to Treasury related to compliance with these provisions.

The organic revenue growth in excess of the inflation-adjusted baseline tax revenues for the current fiscal year and the following two fiscal years are as follows under current estimates of tax revenues and fees subject to the Census Bureau definition of taxes as well as current economic assumptions:

Fiscal Year 2022-23: \$981.6 million
Fiscal Year 2023-24: \$542.7 million
Fiscal Year 2024-25: \$918.0 million

The Wisconsin Department of Revenue (DOR) estimates that the bill's provisions would have a minimal effect on tax collections as it does not modify existing deductions or the exemption for withdrawals. Existing law reduced revenue by approximately \$180,000 annually in Fiscal Year 2021-22. As more Wisconsin residents may be encouraged to create or contribute to the ABLE accounts under the proposed bill, it may result in an increase to claimed deductions that is not currently able to be estimated. If analyzed independent of any other tax change and given the anticipated minimal revenue estimate impact, there is no anticipated impact to the Department resulting from AB-121.

Any additional tax changes adopted by the Legislature for these fiscal years would need to be assessed in sum total with this bill to determine whether and to what extent repayment would be required, such as tax revenue increases that would offset the total State Recovery Fund repayment required herein. If the sum total of this bill as well as additional tax changes implemented during the covered period exceed the estimated remaining organic revenue growth and there is an absence of offsetting covered tax revenue increases or expenditure reductions, this bill and other tax changes would cause the state to breach the statutory prohibition against utilizing SLFRF to fund tax reductions. In the event that sufficient tax reduction legislation is enacted to reduce revenues below the inflation-adjusted baseline, the enactment of this bill and other bills would force the repayment of the deficiency in revenues relative to the baseline up to a maximum cumulative exposure of the \$2.5 billion State Recovery Fund amount.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2023 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

LRB Number 23-2067/1	Introduction Number AB-0121	
Description requiring the Department of Financial Institutions to implement a section 529A ABLE savings account program and granting rule-making authority		
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, etc.)		
	Increased Rev	Decreased Rev
GPR Taxes	\$	\$
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		
TOTAL State Revenues	\$	\$
NET ANNUALIZED FISCAL IMPACT		
	<u>State</u>	<u>Local</u>
NET CHANGE IN COSTS	\$	\$
NET CHANGE IN REVENUE	\$	\$
Agency/Prepared By		
DOA/ Chris Paul (608) 264-9775	Authorized Signature	
	Robin Malicki (608) 264-9576	Date
		6/1/2023