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April 7, 2021

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Bill 272: Relating to the Allocation of Federal Funds for Retiring Debt

Senate Bill (SB) 272 was introduced on April 5, 2021, and referred to the Joint Committee on Finance. (The companion bill to SB 272 is Assembly Bill 241.)

SUMMARY OF BILL

Senate Bill 272 would require the Governor to allocate $250,000,000 of the funds accepted under the American Rescue Plan Act of 2021 (ARPA) for the payment of principal and interest costs on outstanding general obligation debt. Debt service on general obligation debt is projected to total $922.7 million in 2021-22 ($526.7 million GPR, $193.4 million PR, and $202.6 million SEG). If this type of payment is not eligible for federal ARPA funding, then the Governor would be required to allocate $250,000,000 of those moneys for finance building projects in the 2021-23 state building program in lieu of borrowing. The Governor's recommended 2021-23 building program would include $1,504.8 million of GPR supported bonding, $403.4 million of PR supported bonding, and $43.8 million of SEG supported bonding.

Senate Bill 272 would also require the Governor to allocate $250,000,000 of the funds accepted under ARPA to retire transportation revenue bonds, which are paid for from a specific fund consisting of vehicle registration fees and other vehicle-related revenue such as title fees. As of March 2021, outstanding principal for transportation revenue bonds totaled $1,819,055,000. The bill further specifies that if the retirement of transportation revenue bonds is not eligible for funding under ARPA, the bill would require the Governor to allocate the specified amounts for the financing of building projects in the 2021-23 biennial state building program in lieu of borrowing.

FEDERAL STATE FISCAL RECOVERY FUND (SFRF)

The state of Wisconsin is expected to receive up to $3.2 billion of the $219.8 billion provided under ARPA to the state fiscal recovery fund (SFRF) under that Act. Although final federal guidance related to the allowable use of these funds has not yet been issued, the Act provides the following general outline of the allowable uses of funds received from the SFRF, as well as restrictions on the use of these funds.

Allowable Use of Funds. SFRF payments may be used to cover costs incurred prior to December 31, 2024, for the following purposes:

a. to respond to the coronavirus pandemic or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;

b. to replace revenues lost as a result of the public health emergency caused by the coronavirus pandemic, for the purposes of providing government services;

c. to make investments in water, sewer, or broadband infrastructure;

d. to provide premium pay of up to $13 per hour per worker, in addition to a worker's usual wage or remuneration (up to $25,000 in total for any single worker) for workers employed by the state who perform essential work during the pandemic, or to provide grants to eligible employers that have eligible workers who perform essential work. The term "eligible workers" is defined to mean those workers needed to maintain continuity of operations of essential critical infrastructure sectors, as well as additional sectors designated by the Governor of a state or territory as critical to protect the health and well-being of residents of the state or territory.

e. to transfer funds to private nonprofit organizations, tribal organizations, public benefit corporations involved in the transportation of passengers or cargo, or special-purpose units of state or local governments.

Restrictions on the Use of Funds. SFRF monies may not be used for the following:

a. to either directly or indirectly offset a reduction in net tax revenues resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase. The covered period begins on March 3, 2021, and ends on the last day of the fiscal year in which all funds have been either expended, or returned to or recovered by, the Department of Treasury.

b. for deposit into any pension funds.

Under ARPA, the U.S. Department of Treasury is charged with distributing SFRF funds and providing guidance on how these funds may be spent by the states. The federal ARPA legislation does not explicitly include the retirement of bonds or funding capital projects, as provided under SB 272, as an allowable use of SFRF funding. While the U.S. Department Treasury could allow such uses under future guidance, absent that guidance it does not currently appear that allocating SFRF funding to pay principal and interest costs on general obligation bonds, or for retiring transportation revenue bonds would be considered an allowable use of this federal funding. It appears that whether allocating these moneys to fund building projects in the 2021-23 building program would be allowable, could depend on whether those projects are viewed as a response to COVID.

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