



## Legislative Fiscal Bureau

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April 1, 2020

TO: Members  
Wisconsin Legislature

FROM: Bob Lang, Director

SUBJECT: State Funding Under Coronavirus Aid, Relief, and Economic Security (CARES) Act

On March 17 and March 20, this office distributed memoranda to the Legislature on the federal Families First Coronavirus Response Act (FFCRA). That legislation was signed into law on March 18, 2020. Those memoranda described, among other things, the enhanced Medicaid match funding that is available.

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act was enacted by the federal government in response to the coronavirus pandemic. This memorandum describes the major items of the CARES Act and the potential amount of funding that Wisconsin is eligible to receive under that federal legislation. Although the Act appropriates funds to individuals, businesses, and governments, this memorandum addresses the fiscal effects of the legislation and the potential impact that they may have on Wisconsin government and in some instances, local governments and educational institutions. Following is a brief description of the provisions of the federal legislation and the funding that may be received under each item. In some instances, it has not yet been determined what the state's share of the funding will be. If an estimated fiscal effect is available, it will be indicated in the summary of the provision. Estimates are generally based on briefs issued by Federal Funds Information for States (FFIS). It is important to note that the focus of the memorandum is not a comprehensive discussion of all items that potentially impact Wisconsin, but rather a description of the major items based on our review of the federal Act and materials that are available to us. In addition to the items specifically included in the CARES Act, the memorandum discusses provisions that impact Unemployment Insurance (UI). Both the FFCRA and CARES Act include provisions which affect UI. This memorandum describes the items in each Act related to the UI program. The estimated state fiscal effects of federal tax law changes that are automatically adopted under Wisconsin law are also described in this memorandum.

It is important to note that although this memorandum describes provisions of the federal legislation based upon materials currently available, the administration of and funding of the Act will be known once guidelines from the federal government have been promulgated.

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Attachment

# Coronavirus Aid, Relief, and Economic Security (CARES) Act

## ADMINISTRATION

The Act provides funding for housing and energy assistance programs administered by the Department of Administration (DOA). According to Federal Funds Information for States (FFIS), the Act provides DOA with approximately: (a) \$16.1 million for community development block grants (CDBG), which support activities such as home ownership assistance, public facilities improvements, and economic development; (b) \$25.4 million for emergency solutions grants (ESG), which support homelessness prevention, rapid re-housing, street outreach, emergency shelter, and data collection; and (c) \$238,000 for housing opportunities for persons with AIDS. In addition, the Act would direct the U.S. Department of Housing and Urban Development (HUD) to provide an estimated \$21.2 million in CDBG funds and \$11.9 million in ESG funds directly to local units of government in Wisconsin, according to FFIS. Further, the Act provides the Secretary of HUD with \$2 billion in ESG funds which may be distributed to states or local units of government at the Secretary's discretion. The Act also provides Wisconsin an estimated \$8.0 million for the Low Income Home Energy Assistance program to support costs associated with home energy bills and weatherization. While several of these programs generally require a state funding match, it is currently unknown if the emergency supplemental funds will be exempted from the match requirement.

## CHILDREN AND FAMILIES

**Child Care and Development Block Grant.** Wisconsin's child care subsidy program, known as "Wisconsin Shares," provides child care assistance for low-income families to enable them to work or prepare for employment through Wisconsin Works, the FoodShare employment and training (FSET) program, or through a combination of work and education or training programs. Under the program, the state subsidizes the cost of child care charged by providers chosen by the parent. Federal funding of \$126.9 million annually from the child care and development block grant (CCDBG) is budgeted to support the program.

The Act provides \$3.5 billion to increase CCDBG funding through September 30, 2021, to prevent, prepare for, and respond to the coronavirus (including for reimbursement of such costs and obligations made prior to the enactment of CARES). This funding must supplement general revenue funds, and cannot be used to supplant state funding for current programs. The additional funding may be used to provide continued payments and assistance to child care providers in the case of decreased enrollment or closures related to coronavirus, and to assure that providers are able to remain open or reopen as appropriate. States are encouraged, but not required, to place conditions on payments to child care providers that ensure that child care providers use a portion of funds received to continue to pay the salaries and wages of staff. Funding must be available to eligible child care providers even if such providers were not receiving CCDBG assistance prior to the public health emergency for the purposes of cleaning and sanitation, and other activities necessary to maintain or resume the operation of programs.

States may use the funds to provide child care assistance to health care sector employees, emergency responders, sanitation workers, and other workers deemed essential during the response to coronavirus by public officials, without regard to the income eligibility requirements under the CCDBG Act. Further, requirements under the CCDG Act to reserve certain portions of funding for quality improvement initiatives and to ensure that a substantial portion of the funding provides assistance to certain families (low income working families, including or in addition to, children in underserved areas, infants and toddlers, children with disabilities, and children receiving care during nontraditional hours), do not apply to the additional CCDBG funding received under the CARE Act.

Federal Funds Information for States (FFIS) estimates that Wisconsin will be allocated approximately \$51.3 million of the additional funding provided under the Act. No amendments to the state's CCDBG plan are required in order to receive funding. Payments may be obligated in the current federal fiscal year or the next two fiscal years.

**Community Services Block Grant.** The community services block grant (CSBG) provides funding to states, territories, and tribes for distribution to local organizations to alleviate the causes and conditions of poverty in communities. Funding provides a range of services and activities to address the needs of low-income individuals, including the homeless, migrants, and the elderly. Federal CSBG funding of approximately \$8.7 million annually supports contracts between the Department of Children and Families (DCF) with eligible community services organizations. To be eligible, the majority of the persons served by the organization must be at or below the poverty level. CSBG funding also supports the tribal family services program (if a tribe receives direct CSBG funding, DCF reduces the tribe's allocation under the family services program).

CARES provides \$1.0 billion to increase funding states receive under the community services block grant. FFIS estimates that Wisconsin's share of this funding will be approximately \$12.0 million. Such funding may be used for administrative expenses and is not subject to the 9% limitation on discretionary activities. To the extent CSBG funds are distributed as grants to an eligible entity and have not been expended by that entity, the funding may carry over to be used by that entity for the next two fiscal years.

For purposes of the CSBG eligibility, federal law allows states to define the poverty line as being 125% of the official measurement by the federal Office of Budget and Management. For federal fiscal years 2020 and 2021, the Act allows states to define the poverty line as being up to 200% of this measure.

**Family Violence Prevention.** The Act provides \$45 million to increase funding for programs to prevent family violence. FFIS estimates that Wisconsin will receive approximately \$0.5 million in additional federal funds for the program.

**Child Welfare Services.** Title IV-B, Subpart 1 of the Social Security Act is a federal block grant that can be used for a broad range of child welfare services. States are required to provide a 25% funding match to the federal grant. The Act provides an additional \$45 million for services provided under Title IV-B, subpart 1 (except for research, family connection grants, and random sample studies), without regard to matching requirements or any applicable reductions in federal

financial participation. FFIS estimates that Wisconsin's allocation of these additional funds would receive approximately \$0.8 million.

## **ELECTIONS**

The Act provides Wisconsin with an estimated \$7.3 million in federal elections security grant funds to prevent, prepare for, and respond to the coronavirus, according to the Election Assistance Commission (EAC). In order to receive the federal grant, there is a 20% required state match (\$1.5 million). The Act specifies that any federal funds unobligated as of December 31, 2020, would be returned to the federal government.

## **GENERAL FUND TAXES**

**Required Minimum Retirement Distributions Waived.** Under federal law, each employee's interest in a qualified retirement trust must generally begin to be distributed not later than the "required beginning date", which is generally defined as April 1 following the calendar year in which the employee reaches age 72 (70 and a half for individuals that reach the age of 70 and a half prior to January 1, 2020). After the first year, this required minimum distribution must be made by December 31 for each calendar year.

The Act specifies that these required minimum distribution provisions do not apply for calendar year 2020 for certain defined contribution plans, or for an individual retirement plan, as established under federal law. It is estimated that this provision would reduce state individual income tax revenues by \$34.0 million in 2019-20 and \$41.0 million in 2020-21.

However, it is estimated that income tax revenues will increase after 2020-21. A taxpayer's required minimum distribution is primarily based on the balance in their retirement account in the most recent calendar year. To the extent that waiving taxpayers' required minimum distributions in calendar year 2020 leads to higher aggregate account balances in succeeding years, the taxable distribution amounts in future years would be higher than under current law. The resulting estimated fiscal effect is an increase in individual income tax revenues of \$6.0 million in 2021-22 and in 2022-23.

**Certain Tax Filing Deadlines Extended.** On March 13, 2020, President Trump declared a national emergency in response to the coronavirus outbreak. Following this declaration, the Treasury Department and Internal Revenue Service announced on March 21, 2020, that the deadline for filing federal income tax returns is extended from April 15, 2020, to July 15, 2020. Taxpayers who make estimated income tax payments that would otherwise be due on April 15 can make such payments by July 15 without incurring any interest or penalties, regardless of amounts owed by a taxpayer. A taxpayer need not file any additional forms in order to qualify for this extended due date.

Wisconsin law provides similar treatment such that state income and franchise taxpayers with tax filing due dates of April 15, 2020, will have until July 15, 2020, to file their state income or franchise tax returns for tax year 2019, or make their first tax year 2020 estimated payment, without interest, penalty, or underpayment interest applying until that date.

Under current law, individuals and corporations that make estimated tax payments during the tax year owe interest on any amount by which they underpaid their estimated payments for taxes owed when filing their tax return in the following year. This interest accrues at a rate of 12% per year for the period of the underpayment. However, underpayment interest does not apply under current law if the taxpayer qualifies for a federal extension of time to file their return due to a presidentially declared disaster. As a result of the federal actions described above, no underpayment interest will be owed on tax year 2019 estimated payments for taxpayers with a tax return due date of April 15, 2020 (now extended to July 15, 2020). It is estimated that the provisions described above will reduce state income and franchise tax collections by up to \$28.0 million in 2019-20.

**Single-Employer Pension Plan Deadline Extension.** Federal law sets forth minimum required contribution rules for pension plans in order to meet plan funding targets. Under the Act, any minimum required contribution for single-employer pension plans which would otherwise be due in calendar year 2020 will be extended to January 1, 2021. The amount of each minimum required contribution will be increased by the interest which accrues during the period between the original due date and the date of payment of the contribution.

This provision is expected to increase income and franchise tax revenues by \$12.3 million in 2019-20, \$14.2 million in 2020-21, and \$1.6 million in 2021-22. However, the provision is expected to decrease income and franchise tax revenues by \$2.5 million in 2022-23. By delaying their minimum required contributions in the short term, employers will forego the tax deduction they could otherwise claim for such payments. This will lead to a revenue increase in the short term, as highlighted above. The subsequent revenue decrease is expected to occur when employers resume such contributions (which will be larger due to the interest accrual described above), and claim the associated deductions on their income and franchise tax returns.

**Certain Pension Plan as a Defined Benefit Plan.** Under federal law, a defined benefit plan provides a fixed, predetermined retirement benefit for employees. Generally, the employer makes contributions to such a plan (certain plans also allow or require employee contributions), and the employer can deduct such contributions from their income and franchise taxes. Under the Act, a cooperative and small employer charity pension plan is considered a defined benefit plan under federal law if, as of January 1, 2000, such plan was maintained by an employer that: (a) is a nonprofit under 501(c)(3), as defined under federal law; (b) has been in existence since at least 1938; (c) conducts medical research directly or indirectly through grant making; and (d) has the primary tax exempt purpose of providing services with respect to mothers and children. This treatment will apply to plan years beginning in tax year 2019. It is estimated that this provision will lead to a minimal reduction in state revenues.

## **HEALTH SERVICES**

**Centers for Disease Control and Prevention (CDC).** The Act provides an additional \$4.3 billion to the CDC to prevent, prepare for, and respond to coronavirus. This funding is available through September 30, 2024. Of this amount, at least \$1.5 billion will be provided as grants to states, localities, territories and tribes. It is not known what portion of this funding Wisconsin will receive.

In addition, the Act ensures that entities that received public health emergency preparedness grant awards in 2019 will receive at least 100% of their federal fiscal year (FFY) 2018-19 award amounts. Wisconsin received approximately \$11.3 million in FFY 2018-19. [The Coronavirus Preparedness and Response Supplemental Appropriations Act (P.L. 116-123), ensured that entities would receive awards equal to 90% of their FFY 2018-19 award amounts.]

**Administration for Community Living.** The Act provides \$955 million for aging and disability service programs, divided as follows: (a) \$820 million for activities authorized under the Older Americans Act of 1965 (OAA), (b) \$50 million for aging and disability resource centers authorized under the OAA to prevent, prepare for, and respond to coronavirus, and (c) \$85 million for centers for independent living that receive federal grants under the Rehabilitation Act of 1973.

The Act specifies that the \$820 million provided for activities authorized under the OAA will be divided as follows: (a) \$200 million for supportive services under OAA provisions relating to supportive services and senior centers; (b) \$480 million for nutrition services under OAA provisions relating to congregate nutrition services and home delivered nutrition services; (c) \$20 million for nutrition services under OAA provisions relating to grants for Native Americans; (d) \$100 million for support services for family caregivers under OAA provisions relating to the national family caregiver support program; and (e) \$20 million for elder rights protection activities, including the long-term ombudsman program under OAA provisions relating to allotments for vulnerable elder rights protection activities.

The Act specifies that certain matching requirements under the OAA do not apply to funds made available through these provisions.

FFIS estimates that Wisconsin's share of this funding will be approximately: \$3.6 million for supportive services; \$8.7 million for congregate and home delivered meals; \$1.8 million for family caregivers; \$0.4 million for the protection of vulnerable older Americans; and \$1.3 million for centers for independent living. However, it is not known at this time how the \$20 million for nutrition services under OAA provisions relating to grants for Native Americans or the \$50 million for aging and disability resource centers will be divided.

**Public Health and Social Services Emergency Fund.** The Act provides \$100 billion in the federal public health and social services emergency fund to prevent, prepare for, and respond to COVID-19. The funds are to be distributed to health care providers for expenses or lost revenues that are attributable to the coronavirus. Only expenses or losses that have not been reimbursed from other sources are eligible for payment from this fund. The Act lists the eligible expenses as: building or construction of temporary structures, leasing of properties, medical supplies and equipment including personal protective equipment and testing supplies, increased workforce and trainings, emergency operation centers, retrofitting facilities, and surge capacity. Although this funding is not designated for state or local governments, it could be distributed to healthcare facilities in Wisconsin. The Secretary of the Department of Health and Human Services is responsible for developing criteria for distributing funds, and it is unknown how much funding, if any, Wisconsin healthcare providers will receive from this source.

## **JUSTICE**

The Act provides \$850,000,000 for "State and Local Law Enforcement Assistance" to remain available until expended, to prevent, prepare for, and respond to coronavirus, domestically or internationally, to be awarded pursuant to the formula allocation (adjusted in proportion to the relative amounts statutorily designated) that was used in fiscal year 2019 for the Edward Byrne Memorial Justice Assistance Grant (JAG) program. According to FFIS and applying the 2019 allocation criteria to the \$850 million, the state's (Department of Justice) allocation would be approximately \$9.1 million, and an additional \$4.9 million for local jurisdictions.

## **K-12 AND HIGHER EDUCATION FUNDING**

The Act creates an education stabilization fund totaling \$30.75 billion to support K-12 and higher education institutions. Of that amount, \$3.0 billion will create a governor's emergency education relief fund that will be distributed to the governor of each state based on relative population, as follows: (a) 60 percent will be distributed the basis of each state's relative population of individuals aged 5 through 24; and (b) 40 percent will be distributed on the basis of each state's relative number of children counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (ESEA), which includes low-income children ages five to 17. These funds can be distributed by the governor to institutions of higher education or local education agencies which have been significantly impacted by coronavirus, and can be used by the recipients to support their ability to provide ongoing educational programming. The local education agencies (including school districts and independent charter schools) with the greatest need will be determined by each state's education agency, while each state's governor will determine the institutions of higher education at greatest need. FFIS estimates that Wisconsin could receive \$46.7 million for the governor's emergency education relief fund.

Another \$13.2 billion of the education stabilization fund will create an elementary and secondary school emergency relief fund, and will be distributed in the same proportion as each state received under Title I, Part A of the ESEA in the most recent fiscal year. The federal Secretary of Education is required under the bill to do the following: (a) issue a notice inviting applications no later than 30 days after the enactment of the Act; (b) approve or deny applications no later than 30 days after receipt; and (c) allocate funds to each state with an approved application. Each state will be required to distribute at least 90% of its total allocation under the fund to local education agencies. Of the remaining amount, at least 9.5% will be distributed to districts on the basis of need, as determined by the state educational agency, and no more than 0.5% can be retained by the state educational agency for administrative costs. FFIS estimates that Wisconsin's portion of this fund could total \$174.8 million.

The Act provides \$13.95 billion to institutions of higher education, of which 90% is provided directly to each institution of higher education to prevent, prepare for, and respond to the coronavirus. Of this, 75% is apportioned according to each institution's relative share of enrollment of Federal Pell Grant recipients and 25% based on relative share of non-Pell Grant recipients. The Act specifies that no less than 50% of this funding be used to provide emergency financial aid grants to students for expenses related to the disruption of campus operations due to coronavirus (including eligible expenses under a student's cost of attendance, such as food, housing, course materials, technology,

health care, and child care). The remaining 50% of funds may be used to cover any costs associated with significant changes to the delivery of instruction due to the coronavirus, so long as such costs do not include payment to contractors for the provision of pre-enrollment instruction, or religious worship. FFIS estimates that Wisconsin institutions of higher education could receive approximately \$186 million under these provisions. The Act also provides 7.5% of the \$13.95 billion to Historically Black Colleges and Universities and Minority-Serving institutions, allocated by a combination of Federal aid formula and non-formula criteria. The final 2.5% is awarded at the Secretary of Education's discretion to institutions determined to have the greatest unmet needs related to coronavirus.

The Act provides \$75 million for the National Endowment for the Humanities to prevent, prepare for, and respond to coronavirus. Of this, 40% would be distributed to state humanities councils and 60% used for direct grants. No matching funds are required under the Act. Federal Funds Information for States estimates that the Wisconsin Humanities Council would be expected to receive \$0.5 million under this provision.

The Act also provides an additional \$750 million for Head Start, to be distributed to existing Head Start agencies based on the number of children served by each agency in proportion to the total number served nationwide. Of this amount, up to \$500 million is provided for the purpose of providing supplemental summer programming. FFIS estimates that Wisconsin agencies could receive an additional \$11.4 million in Head Start funding under the Act.

## **MILITARY AFFAIRS**

The Act provides funding for programs administered by FEMA with assistance from the Wisconsin Department of Military Affairs. According to FFIS, Wisconsin will receive approximately \$1.8 million for emergency management performance grants, which support implementation of the national preparedness system, and \$2.3 million for the emergency food and shelter program, which provides shelter, food, and supportive services to individuals with economic emergencies. Further, while the emergency management performance grant program generally requires a state funding match, it is currently unknown if the supplemental funds will be exempted from the match requirement.

## **DIRECT PAYMENTS TO STATE AND LOCAL GOVERNMENTS**

The Act creates the Coronavirus Relief Fund and appropriates \$150 billion to state, local, and Tribal governments. The funds appropriated are only to be used for expenses incurred in response to the public health emergency, which were not accounted for in the most recent budget, and were incurred between March 1 and December 30, 2020. The Act further provides that up to 45% of a state's overall payment can be paid directly to local units of government (defined as any unit of general government below the state level) with populations of at least 500,000, provided that the chief executive of the unit of government certifies that the intended use of the funds complies with the guidelines above. Because the funds are distributed to states based on population, Wisconsin is expected to receive an estimated \$2.3 billion. Wisconsin has three local units of government that qualify to receive funds directly, based on their population: Dane County, Milwaukee County, and the City of Milwaukee. These governments could receive an estimated \$360.6 million of the total

state payment, with the remaining \$1.9 billion being paid to the state government.

Preliminary information received from the U.S. Department of Treasury indicates that the funds received under this program may not be used to fill in revenue gaps caused by slowing state revenues as a result of the public health emergency, but rather must be used only for unanticipated expenses due to the public health emergency. The Department of Treasury has also indicated that the state may, at its discretion, use the funds provided to cover eligible expenses of any local unit of government, including those with populations of less than 500,000. Wisconsin's payment will take the form of direct aid to the state's general fund, and it is expected that the payment will be made around April 24, 2020. The Department of Treasury further indicates that states that have enacted budgets prior to March 27, 2020, may use the funds for unanticipated expenses related to the public health emergency.

### **TOURISM (ARTS BOARD)**

The Act provides additional funding of \$75 million expiring September 30, 2021, to the National Endowment for the Arts (NEA) for grants to regional, state, and individual arts organizations to support general operating expenses of recipient organizations. Under the Act, 40% of funding (\$30 million) will be allocated to state and regional arts organizations, such as the Wisconsin Arts Board, and 60% (\$45 million) will be awarded directly to individual organizations. The Act exempts grant recipients from usually required match funding.

NEA awards to state arts organizations are allocated as a flat amount per state plus an adjustment based on population. FFIS estimates the Arts Board could receive approximately \$467,000 under the Act. Further, individual arts organizations in Wisconsin could also receive direct grants from the \$45 million allocation. Exact award amounts have yet to be determined, and NEA reports further guidance is forthcoming.

The Wisconsin Arts Board, budgeted as part of the Department of Tourism, administers several grant programs in which it distributes state and federal funds to Wisconsin arts organizations. State funding is primarily supported by GPR, as well as program revenue (PR) from tribal gaming receipts, and federal (FED) funding is provided by NEA.

### **TRANSPORTATION**

**Transit Infrastructure Grants.** The Act makes \$25 billion available in transit infrastructure grants to transit providers for capital and operating assistance without requiring a state match. Notwithstanding existing federal regulations, funds may reimburse operating costs to maintain service and lost revenue beginning on January 20, 2020, due to the coronavirus public health emergency, including the purchase of personal protective equipment, and paying the administrative leave of operations personnel due to reductions in service. Awards are required to be allocated among certain federal transit programs in the same ratio as the funds were provided in federal fiscal year 2020 appropriations. The funds are to be apportioned no later than seven days after the date of enactment of the Act.

In total, the Department of Transportation estimates that the state could receive \$202.7 million

in additional federal transit funding under the Act. Under the federal urbanized area transit formula grant program, it is currently estimated that state transit systems serving a population of 200,000 or more could directly receive an additional \$97.1 million in transit funding as follows: an estimated \$61.2 million for transit systems serving the Milwaukee area (Tier A-1); an estimated \$22.1 million for transit systems serving the Madison area (Tier A-2); an estimated \$7.4 million for transit systems serving the Appleton area; and an estimated \$6.4 million for transit systems serving the Green Bay area. In addition, for transit systems serving areas with a population of 50,000 to 200,000 (primarily Tier B Systems), the state could receive an estimated \$50.1 million in additional funds to be distributed to these systems. Under the rural area formula grant program for systems serving populations of less than 50,000 (Tier C Systems), it is estimated the state could receive \$51.5 million for distribution to those systems. Finally, the state could receive an estimated \$4.0 million under the federal transit state of good repair program.

**Grants-In-Aid for Airports.** The Act provides a total of \$10.0 billion in grants to airports to prevent, prepare for, and respond to coronavirus. Funding provided is derived from the federal general fund without requiring a state match. Of this total, the Act apportions: (a) \$3.7 billion among commercial service airports based on their portion of total national 2018 enplanements; (b) \$3.7 billion among commercial service airports based on an equal combination of their portion of total national fiscal year 2018 debt service and their ratio of available reserves to their debt service; (c) \$2.0 billion under an existing federal airport aid formula based on annual enplanements; (d) \$500 million to pay the federal share of costs for grants made under Public Law 116-94; and (e) \$100 million to general aviation airports. Hub and primary airports receiving funds must continue to employ through December 31, 2020, at least 90 percent of the number of individuals employed by the airport as of the date of enactment of the Act.

**National Network Grants to the National Railroad Passenger Corporation.** The Act provides \$526 million to Amtrak to prevent, prepare for, and respond to coronavirus. The Act specifies \$239 million of this amount is to be made available for use in lieu of any increase in a state's payment under the Passenger Rail Investment and Improvement Act of 2008, and prohibits any state from paying Amtrak more than 80 percent of the amount paid in federal fiscal year 2019 under that Act. In lieu of this additional state funding to support continued operations, estimated at \$2.5 million, this Act provides funds directly to Amtrak.

**Essential Air Service.** The Act provides \$56 million from the federal general fund to the Essential Air Service and Rural Improvement Fund of the Essential Air Service program to maintain existing air service to rural areas. This program is intended to ensure that small communities that had scheduled passenger air service prior to federal airline deregulation in 1978 continue to have access to the nation's air transportation system by awarding subsidies to carriers willing to provide service to communities that would not otherwise receive it.

**REAL ID Act of 2005 Deadline.** The Act extends the October 1, 2020, deadline by which states are required to meet the driver license and identification card issuance requirements under the REAL ID Act of 2005 until not earlier than September 30, 2021.

## UNEMPLOYMENT INSURANCE PROVISIONS UNDER THE FFCRA

**Emergency Administrative Grants.** Under the FFCRA, Wisconsin's share of Fiscal Year 2020 unemployment insurance (UI) emergency administrative grants is \$18,914,772. The funding will be allocated in two equal allotments of \$9,457,386, if the following criteria are satisfied.

To receive Allotment I funding, the state must show that certain basic UI processing, accessibility and notification procedures are in place. According to the Department of Workforce Development (DWD), the Department has already adopted these procedures in some form, or they were already in place. The state is likely to qualify for this funding and no legislative action is required.

The United States Department of Labor (USDOL) will award the remaining 50% of the state's available emergency administrative grant (Allotment II) if the following requirements are all satisfied:

1. The state's initial claims for unemployment have increased by at least 10% over the same rolling quarter in the previous calendar year. This criteria will likely be satisfied immediately in Wisconsin given the recent rise in initial claims. Based on 51,023 initial claims filed in Wisconsin for the UI week ending on March 21, 2020, initial claims for the most recent three-month period dating to the week ending December 28, 2019, would total 135,800. This would be 35% higher than the approximately 100,000 initial claims reported in the state for the same three-month period in late 2018 and early 2019, therefore surpassing the 10% threshold specified under the FFCRA. Further, it is anticipated initial claims in March and April of 2020 will continue to exceed initial claims recorded in the corresponding weeks of 2019.

2. The state expresses its commitment to maintain and strengthen access to the unemployment insurance system, including through initial and continued claims. DWD has said that it will commit to this.

3. The state demonstrates steps it has taken or will take to ease eligibility requirements and access to UI, including modifying or suspending:

- a) work search requirements, which was satisfied in Wisconsin by Emergency Order #7; and

- b) the waiting week, for which legislation is likely required, although only a temporary repeal of the waiting week requirement appears to be necessary for the purposes of securing the second allotment of emergency administrative grant funding; and

- c) non-charging employers directly impacted by COVID-19 due to an illness in the workplace or direction from a public health official to isolate or quarantine workers. During the March 19, 2020 Unemployment Insurance Advisory Committee (UIAC) meeting, DWD stated that it was waiting for guidance from USDOL as to what would be required of states to implement this provision. USDOL guidance was provided March 22, 2020, in Program Letter No. 13-20 but

the guidance provided on this matter was not definitive. USDOL guidance states:

"When determining, in the context of COVID-19, whether certain unemployment benefits should be charged to employers, states should consider how to fairly distribute the costs to employers. Additionally, states are reminded that if they opt to provide non-charging relief to reimbursable employers, then the same non-charging relief must also be provided to contributory employers. Importantly, states must still apply the provisions under Section 3303(f), FUTA, which prohibit non-charging due to employer fault."

The intent of this provision in the FFCRA is to encourage states to place certain COVID-19 related charges against the state's UI balancing account, instead of the employer's UI experience account. It is not yet clear how broadly USDOL's guidance could be interpreted when determining who should be non-charged, and whether this could be accomplished by DWD without legislation.

Regarding the timing of applying for emergency administrative grants under the FFCRA, USDOL states in its guidance letter that: "States have the option of applying for each of the two allotments separately, which may be particularly beneficial in the event that the state has not met the 10% increase in initial claims activity to meet the requirement of the second allotment, or where the state is only able to commit to meeting requirements for Allotment I but not Allotment II. States that meet the requirements for both allotments may submit a single application requesting both allotments." The FFCRA requires that USDOL release Allotment I funding within 60 days of enactment of the law. Given that many states are likely to immediately trigger the 10% initial claims increase provision included in the bill, these states will likely choose to apply for both Allotment I and Allotment II funding at the same time, in a single application.

## **UNEMPLOYMENT INSURANCE PROVISIONS UNDER THE CARES ACT**

**Supplemental Payments.** The Act provides that from the date the bill is signed through July 31, 2020, the federal government will provide temporary pandemic unemployment compensation of \$600 a week to any worker eligible for state or federal unemployment insurance benefits. The \$600 would be paid in addition to and at the same time as regular state UI benefits. The federal supplement would not affect income eligibility for Medicaid or the Children's Health Insurance Program. State UI programs would be fully reimbursed for the cost of administering the supplement and for the cost of the supplement itself.

**Expanded Eligibility.** The Act creates a pandemic unemployment assistance program that expands unemployment insurance coverage to certain workers who are typically not eligible for UI benefits, such as self-employed workers, independent contractors, freelancers, and workers who do not have a sufficient work history to qualify for regular state UI benefits. The temporary federal expansion of UI would be for those workers not eligible for regular or extended benefits under state or federal law, or who have exhausted their regular state UI benefits, so long as their unemployment was connected to COVID-19. The total number of weeks qualified individuals may receive pandemic unemployment assistance may not exceed 39 weeks and includes any weeks for which an individual received regular compensation or extended benefits under any federal or state law. Pandemic unemployment assistance is for weeks of unemployment beginning on or after January 27, 2020, and ending on or before December 31, 2020, with qualifying individuals eligible to claim

benefits retroactively.

Claimants under the expanded program would apply for benefits through state UI offices, and states would be fully reimbursed for the cost of benefits and administration. Qualifying individuals would be eligible to receive a weekly benefit amount as determined by state law, but not less than 50% of the average weekly payment of regular UI compensation in the state, in addition to the weekly \$600 pandemic compensation payment. Notwithstanding state law, pandemic unemployment assistance payments under the Act would not be subject to a waiting period. The Act requires the USDOL Secretary to provide pandemic unemployment assistance through agreements with states which, in the judgment of the Secretary, have an adequate system for administering such assistance through existing state agencies. The pandemic unemployment assistance program is modeled after, and substantially similar to, the state-federal disaster unemployment assistance program provided in current state law (s. 108.145) and federal code (42 U.S.C. 5177a).

**Extended Benefits.** The Act provides for an additional 13 weeks of unemployment benefits to UI claimants that have exhausted regular state UI benefits. In Wisconsin, regular UI benefits can be claimed for a maximum of 26 weeks. The Act would therefore extend UI benefits in the state to 39 weeks. The additional 13 weeks of extended benefits would be fully federally funded for those states that enter into an agreement with the USDOL. Claimants for these extended benefits would also qualify for the \$600 supplemental weekly payment under the bill.

**Full Federal Funding for States with No Waiting Week.** The Act provides temporary full federal funding of the first week of regular UI benefits for states with no waiting week, plus administrative expenses incurred to implement this provision. Under the Act, states may enter into an agreement with USDOL for this funding if the state law (including a waiver of state law) provides that compensation is paid to individuals for their first week of regular unemployment without a waiting week. A state-federal agreement would apply to weeks of unemployment beginning after the date on which the agreement is entered into and ending on or before December 31, 2020. Legislation would be required to either repeal or temporarily waive, through December 31, 2020, Wisconsin's waiting week requirement for the state to enter into an agreement with USDOL for full funding under this section of the Act.

**Full Federal Funding for States with a Work-Share Program.** Work-share programs (also called short-term compensation) are designed to provide a pro-rated unemployment benefit for employees of employers who voluntarily make an agreement with the state to reduce work hours instead of laying off workers. For states that currently have a federally approved work-share program, like Wisconsin, the Act would provide 100% federally funded UI benefits through December 31, 2020. Under current law, Wisconsin's work-share program is funded entirely through the employer's UI account. The Act also provides \$100 million in federal grants to states to support work-share programs. One-third of this grant funding is allocated for grants to states for implementation or improved administration of work-share programs, and two-thirds of this funding is allocated for grants to states for promotion and enrollment of employers in work-share programs.

**Relief for Governmental Entities and Non-Profit Organizations.** The Act would provide federal funding to states to reimburse nonprofits, government agencies, and Native American tribes

for 50% of the costs they incur to pay for UI benefits through December 31, 2020. Under the Act, the USDOL may issue clarifying guidance to allow states to interpret their state UI laws in a manner that would provide maximum flexibility to reimbursing employers as it relates to timely payment and assessment of penalties and interest pursuant to such state laws.

## **WISCONSIN HOUSING AND ECONOMIC DEVELOPMENT AUTHORITY**

The Act provides HUD \$1.25 billion for tenant-based rental assistance and \$1.0 billion for project-based rental assistance to low-income households. The Act reserves \$400 million of tenant-based assistance funding for adjustments to 2020 allocations to cover increased costs for tenant-based assistance associated with the current public health crisis, to be allocated on the basis of need. Of the remaining \$850 million for tenant-based assistance, FFIS estimates \$6.3 million will be provided to state and local public housing authorities in Wisconsin for allocation to low-income tenants. In federal fiscal year 2018, HUD expended approximately 1.59% of project-based rental assistance appropriations in Wisconsin. Assuming a similar allocation, it is estimated perhaps \$15.9 million in project-based funding would be directed by HUD towards properties serving low-income tenants in Wisconsin.

Under project-based rental assistance, HUD negotiates contracts with property owners to provide housing to low-income tenants. Under tenant-based rental assistance, tenants select a residence and subsidies are provided to the rental property owner. Both tenant- and project-based assistance is limited to households at or below 50% of county median household income, and tenants pay rent equal to 30% of their monthly income.

The Wisconsin Housing and Economic Development Authority (WHEDA) administers rental assistance programs in Wisconsin on behalf of HUD. WHEDA administers project-based assistance statewide. However, approximately 95% of tenant-based rental assistance is administered by local housing authorities. The remaining 5% is administered by WHEDA, primarily in smaller and less urban municipalities. In federal fiscal year 2018, HUD expended \$183.2 million for 32,400 units of project-based assistance and \$155.2 million for 31,000 units of tenant-based assistance in Wisconsin.

## **WORKFORCE DEVELOPMENT**

**Dislocated Workers Grants.** The Act provides \$345,000,000 for training and employment services, to remain available through September 30, 2022, for necessary expenses for the dislocated workers assistance national reserve to prevent, prepare for, and respond to coronavirus. Allotments to the national reserve primarily support national dislocated worker grants (DWGs), which are discretionary grants awarded by the USDOL Secretary under the Workforce Innovation and Opportunity Act. DWGs provide resources to states and other eligible applicants to respond to large, unexpected layoff events causing significant job losses.

USDOL guidance for the DWG program was provided on March 18, 2020. The guidance specified that employment recovery DWGs, disaster recovery DWGs, or both, would be available to applicants. For disaster recovery DWGs, applicants would be required to demonstrate that employment provided under the grant aligns with either: (a) clean-up and recovery efforts, such as

setting up quarantines and cleaning buildings; or (b) employment related to the delivery of appropriate humanitarian assistance, such as delivering medicine, food, or other supplies to older individuals.

On March 19, 2020, USDOL announced the availability of an estimated \$300 million in DWGs to eligible states and tribal governments to help address the workforce-related impacts of the public health emergency related to COVID-19. Discretionary grant amounts to eligible applicants would range from a minimum of \$150,000 and a maximum of \$25,000,000.