



Legislative Fiscal Bureau

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June 23, 2010

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Governor's Request for Approval of Allocation of Federal Economic Stimulus Funds for Department of Children and Families Transitional Jobs Demonstration Project and the Earned Income Tax Credit and for Department of Public Instruction Summer Food Service Program -- Agenda Item VIII

REQUEST

The Governor requests approval of an increase in expenditure authority in the economic support federal block grant aids appropriation [20.437(2)(md)] of \$88,747,600 FED in 2010-11 to reflect the allocation of federal American Recovery and Reinvestment Act of 2009 (ARRA) funds in the Department of Children and Families (DCF) to support the transitional jobs demonstration project (\$17,151,500), to increase temporary assistance for needy families (TANF) funds for the earned income tax credit (EITC) program (\$19,240,700), and to provide additional funding to the Department of Public Instruction (DPI) for the summer food service program (\$300,000). These three proposals total \$36,629,200. The remaining \$52,055,400 would be available for expenditure on TANF-related programs in 2010-11.

BACKGROUND

Provisions of the federal ARRA established a TANF emergency fund of \$5 billion, which set aside a maximum amount that each state can access equal to one-half of the state's TANF block grant. Until September 30, 2010, states can claim emergency funds in an amount equal to 80% of the increased expenditures in the following areas: (a) TANF caseload and basic assistance costs; (b) non-recurrent, short-term benefits; (c) subsidized employment costs; and (d) certain costs of running a summer food service site under the summer food service program. Once claimed, TANF emergency funds can be spent for any TANF-approved purpose. Because TANF emergency funds may only be claimed for these specified expenditures, a state may receive less of these funds than

the amount set aside under the federal ARRA if the state does not have sufficient expenditures in one or more of these categories. Under the federal ARRA, Wisconsin's maximum allocation of TANF emergency funds is \$157.2 million (one-half of the \$314.5 million TANF block grant).

Prior to the TANF emergency fund under the federal ARRA, states were able to access additional funding for TANF-related programs from the TANF contingency fund during times of economic downturns if certain conditions were met. In order to receive a payment of contingency funds, a state had to: (a) be a needy state; (b) submit a request for contingency funds during an eligible month; and (c) meet maintenance of effort and matching requirements. In federal fiscal year (FFY) 2008-09, the state applied for and was awarded \$62.9 million in TANF contingency funds. Provisions of 2009 Wisconsin Act 2 and 2009 Wisconsin Act 28 appropriated these funds in state fiscal year (SFY) 2008-09 and SFY 2009-10.

Under federal law, the \$62.9 million in TANF contingency funds was deducted from the maximum allocation amount under the TANF emergency fund. Therefore, \$94.3 million remained available to claim for expenditures made for one of the allowed purposes under the federal ARRA. Under Act 28, \$5.6 million was appropriated for the Wisconsin Works (W-2) program based on an estimate of the increase in the W-2 caseload. As a result, \$88.7 million in TANF emergency funds has not been appropriated and would need approval from the Committee before any of these funds may be allocated and expended.

DCF submitted an application to the federal Department of Health and Human Services (DHHS) for TANF emergency funds for all of FFY 2008-09 and for the first three quarters of FFY 2009-10 for increases in caseload and expenditures for basic assistance, for non-recurrent, short-term benefits, and for subsidized employment. Based on the data submitted, the state was awarded \$50.5 million in TANF emergency funds on May 25, 2010. DCF will submit another application(s) to access the remaining \$43.8 million in TANF emergency funds for the fourth quarter of FFY 2009-10 and for any other qualifying expenditures before the deadline of September 30, 2010.

The Governor requests the appropriation of the entire remaining \$88.7 million in TANF emergency funds, even though \$43.8 million has not yet been approved by the federal DHHS, and \$8.2 million of the current \$50.5 million award has not been allocated for a specific expenditure. Of the \$50.5 million in TANF emergency funds that has been awarded, the Governor requests that \$36,692,200 FED in 2010-11 be appropriated to support the transitional jobs demonstration project (\$17,151,500), to increase TANF funding for the EITC (\$19,240,700), and to provide additional funding to DPI for the summer food service program (\$300,000).

The Department of Administration (DOA) indicates that if the Committee approves the request as submitted, DCF would not be required to seek Committee approval for expenditure of the remaining unclaimed TANF emergency funds (\$43.8 million) once received or for expenditure of the unallocated \$8.2 million from the first TANF emergency fund award. Since the TANF program became law in 1996, TANF-related expenditures have been authorized through the state budget process or through the passive review procedure under s. 16.54(2)(a)2. Approval of the

administration's current request to permit DCF to spend up to \$52.1 million of TANF emergency funds without further legislative oversight would be a significant departure from past practice. Therefore, if the Committee approves this portion of the ARRA request, it may wish to specify that DCF could not spend the additional funds without submitting a subsequent request and receiving approval under the 14-day passive review process in s. 16.54(2)(a)2.

On the other hand, the Committee may choose to deny the request to increase expenditure authority by \$52.1 million that is not allocated for a specific purpose. The Committee may wish to limit the increase in expenditure authority to \$36,692,200 FED in 2010-11 in order to require DCF to return to the Committee under Act 2 ARRA requirements for any additional spending requests or to allocate the funds during the 2011-13 biennial budget process.

ANALYSIS

Transitional Jobs Demonstration Project

2009 Wisconsin Act 28. Act 28 required DCF to conduct a demonstration project that offers transitional jobs to low-income adults. The demonstration project would provide up to 2,500 transitional jobs allocated among Milwaukee County, Dane County, Racine County, Kenosha County, Rock County, Brown County, and other regions of the state, as determined by DCF, in the same proportion as the total number of W-2 participants was allocated among those counties and other regions as of June 30, 2009.

In order to be eligible for the demonstration project, an individual must satisfy all of the following criteria: (a) be at least 21 years of age, but not more than 64 years of age; (b) be ineligible for W-2; (c) have an annual household income below 150% of the federal poverty level; (d) be unemployed for at least four weeks; and (e) be ineligible to receive unemployment insurance benefits.

DCF was also required to seek federal funds to pay for the cost of operating the demonstration project and was authorized to conduct the demonstration project only to the extent that federal funds were obtained. Finally, DCF must promulgate rules for the operation of the demonstration project.

2009 Wisconsin Act 333. Act 333 authorizes DCF to modify the transitional jobs demonstration project only if DCF determines that these modifications are the preferred mechanism for obtaining some or all of the available TANF emergency funds.

Should DCF determine that modifications to the transitional jobs demonstration project are the preferred mechanism to obtain TANF emergency funds then the demonstration project would be modified, if necessary, from Act 28 and from rules promulgated pursuant to Act 28 in several ways. First, Act 333 would specify that the parameters of the transitional jobs demonstration project for participants and employers must include: (a) the provision of a wage subsidy to an

employer equal to the amount of wages that the employer actually pays the participant, up to 40 hours per week at minimum wage; (b) the requirement that the employer employ the participant at least 20 hours per week; (c) a maximum of 1,040 hours for a participant to work in a transitional job; and (d) a specific requirement that the employer pay the individual for hours actually worked, up to 40 hours per week, at not less than minimum wage.

Second, the transitional jobs demonstration project would be modified to eliminate the maximum number of 2,500 transitional jobs and the allocation of these jobs among Milwaukee County, Dane County, Racine County, Kenosha County, Rock County, Brown County, and other regions of the state in the same proportion as the total number of W-2 participants were allocated as of June 30, 2009. As a result, the transitional jobs demonstration project would be a statewide program with no limit on the number of participants.

Third, the transitional jobs demonstration project would be modified to specify that employment of an individual in a transitional job could not do any of the following: (a) have the effect of filling a vacancy created by an employer terminating a regular employee or otherwise reducing its work force for the purpose of hiring an individual under the transitional jobs demonstration project; (b) fill a position when any other person is on layoff or strike from the same or a substantially equivalent job within the same organizational unit; or (c) fill a position when any other person is engaged in a labor dispute regarding the same or a substantially equivalent job within the same organizational unit.

Finally, these modifications would sunset when TANF emergency funds may no longer be obtained. As under Act 28, DCF must promulgate rules for the operation of this modified demonstration project.

Request for Proposals. DCF has not yet determined that the Act 333 modifications are the preferred mechanism for obtaining some or all of the available TANF emergency funds. In addition, DCF has not yet promulgated rules with respect to the transitional jobs demonstration project. DCF indicates that the rules are in development and would be published if the Committee approved funding for the demonstration project. Should the Committee approve this ARRA request, DCF anticipates the rules to take effect on July 1, 2010.

However, DCF has issued a request for proposals (RFP) for governmental agencies, corporations, partnerships, cooperatives, or sole proprietorships to offer transitional work programs by providing immediate income, diagnosing work readiness, creating a positive work history, and encouraging longer-term career preparation to assist individuals in securing and maintaining unsubsidized employment. These entities would either recruit host employers for placement of individuals eligible for the transitional jobs demonstration project or develop work crews made up of eligible individuals that go to different work sites under the supervision of the entity.

The RFP is based on the requirements of Act 28. Pursuant to Act 28, TANF emergency funds have been identified as a source of federal funding for the transitional jobs demonstration

project. However, in order to use these funds for the transitional jobs demonstration project, an additional criterion for eligibility was added. The RFP requires a participant, who is older than 24 years of age, to be the biological or adoptive parent of a child under the age of 18 or the primary caregiver for a child under the age of 18 who is a relative. This additional criterion is necessary in order to be able to use TANF emergency funds for a TANF-related purpose.

The RFP was issued on April 16, 2010. Based on the responses, DCF has prepared a proposed two-year budget for the transitional jobs demonstration project. As Act 28 considered this a demonstration project, DCF has committed to a two-year plan. Total costs are expected to be \$34.3 million (\$17,151,500 in 2010-11 and 2011-12) for 1,518 job slots.

The following organizations responded to the RFP: (a) Goodwill Industries of Southeastern Wisconsin, Inc.; (b) Milwaukee Area Workforce Investment Board, Inc.; (c) Milwaukee Careers Cooperative; (d) Policy Studies, Inc.; (e) Silver Spring Neighborhood Center; (f) United Migrant Opportunities Services; (g) Community Action Inc.; (h) Forward Service Corporation; (i) Racine County Human Services Department; (j) Workforce Development Board of South Central Wisconsin; (k) Indianhead Community Action Agency, Inc.; (l) Northwest Wisconsin Concentrated Employment Program, Inc.; (m) W-2 Lakeshore Consortium servicing Manitowoc and Sheboygan Counties; (n) Waukesha-Ozaukee-Washington Workforce Development, Inc.; (o) Workforce Connections, Inc.; and (p) Workforce Resource, Inc.

These organizations represent the following counties: Ashland, Barron, Bayfield, Brown, Burnett, Chippewa, Clark, Columbia, Dane, Dodge, Douglas, Dunn, Eau Claire, Iron, Jefferson, Kenosha, La Crosse, Manitowoc, Marquette, Milwaukee, Ozaukee, Pepin, Pierce, Polk, Price, Racine, Rock, Rusk, Sauk, Sawyer, Sheboygan, St. Croix, Taylor, Washburn, Washington, and Waukesha.

ARRA Request. The Governor requests that \$17,151,500 of TANF emergency funds be allocated to fund the first year of the transitional jobs demonstration project in 2010-11. Use of these funds for the transitional jobs demonstration project is consistent with the requirements under ARRA.

The Committee could deny the ARRA request with respect to the transitional jobs demonstration project. However, using the ARRA funds for this purpose satisfies the requirements under Act 28 for a transitional jobs demonstration project funded with federal monies. In addition, 80% of the expenditures for the demonstration project until September 30, 2010, could be used to claim additional TANF emergency funds. DCF estimates this amount to be \$3.4 million of the \$43.8 million yet to be claimed.

On the other hand, as shown in Attachments 1 and 2 of the overview paper, approval of all of DCF's pending requests would result in a reduction to the estimated TANF ending balance at the end of 2014-15 of \$156.7 million (from a surplus of \$5.9 million to a deficit of \$150.8 million). Of this amount, \$34.3 million of the reduction is due to the transitional jobs demonstration project.

Earned Income Tax Credit

Background. When the TANF block grant replaced the former aid to families with dependent children (AFDC) program, the caseload decreased from approximately 35,000 in August, 1997, to approximately 21,000 in September, 1998. Each state's TANF block grant was based on AFDC caseloads. As a result, there was a surplus of TANF funding for W-2 and related TANF programs. In order to improve the condition of the general fund, these surplus TANF funds were used to support eligible programs, such as immunization and head start programs, that had been funded with GPR. One of these eligible programs was the EITC.

The EITC is a refundable tax credit that provides assistance to low-income workers. The credit provides a supplement to the wages and self-employment income of lower-income families and is intended to offset the impact of the taxes paid by such families and increase the incentive to work. The federal TANF regulations allow states to utilize TANF funds for the refundable portion of the state EITC.

TANF funds were first used for the EITC in 1998-99 in the amount of \$48 million. By using TANF funds for eligible programs that had formerly been funded with GPR, a structural deficit was created in TANF-related programs in that expenditures exceeded the amount of ongoing revenues. As a result, the TANF surplus was depleted, and TANF funding was either reduced or eliminated for the eligible programs it had funded, including the EITC. TANF funding for the EITC was reduced from a peak of \$59.5 million in 2004-05 to \$6.7 million in 2008-09.

The EITC is currently funded with TANF and GPR. The EITC is estimated to cost \$126.7 million in 2009-10 (\$6.7 million FED and \$120 million GPR) and \$130.5 million in 2010-11 (\$6.7 million FED and \$123.8 million GPR). Approximately 77% of the EITC is refundable.

Reallocation Process. As noted in the overview paper, DOA has reallocated savings from Wisconsin Shares to increase TANF funding for the EITC. On April 7, 2010, the DOA Secretary approved the reallocation of \$20,337,600 in 2009-10 and \$4,494,300 in 2010-11 in Wisconsin Shares underspending to increase the amount of TANF funding for the EITC. In addition, on May 25, 2010, the DOA Secretary approved the reallocation of \$8,662,400 in 2009-10 and \$5,265,000 in 2010-11 in Wisconsin Shares underspending to increase the amount of TANF funding for the EITC. This would bring the total amount of TANF funding for the EITC to \$35,664,200 in 2009-10 and \$16,423,500 in 2010-11. As a result, \$29 million GPR less in 2009-10 and \$9.8 million GPR less in 2010-11 would be needed for the EITC and would, therefore, improve the condition of the general fund.

However, the TANF funds are transferred to an annual EITC supplement appropriation, the earned income tax credit; temporary assistance for needy families appropriation. In order to spend the TANF funds on the EITC, expenditure authority for this appropriation would need to be increased. The administration has requested this increase in expenditure authority in a 14-day passive review process. If this request is not approved, then even though the funds have been

reallocated, they could not be spent on the EITC. Approval of the increased expenditure authority of TANF funds for the EITC is discussed in a separate paper.

ARRA Request. The Governor requests that \$19,240,700 of TANF emergency funds be allocated to increase TANF funding for the EITC in 2010-11. Use of these funds for the EITC is consistent with the requirements under ARRA. As a result, along with the reallocations of child care savings for the EITC mentioned above, TANF funding for the EITC would total \$35.7 million annually in the current biennium, which would result in GPR savings of \$29 million annually.

However, approval of the ARRA request for increased TANF funding for the EITC would reduce the amount of TANF available for other TANF-related programs. Attachments 1 and 2 of the overview paper show that if all of DCF's pending requests are approved, the estimated TANF balance at the end of 2014-15 would be reduced by \$156.7 million (from a surplus of \$5.9 million to a deficit of \$150.8 million). The increase of TANF funding for the EITC through reallocations and this ARRA request accounts for \$58 million of this reduction.

The Committee could approve the ARRA request to increase TANF funding for the EITC to improve the condition of the general fund by \$58 million at the end of 2010-11. On the other hand, the Committee could deny the ARRA request to increase TANF funding for the EITC to improve the condition of the TANF balance for other TANF-related programs.

Summer Food Service Program

Background. During the school year, many children receive free and reduced-price breakfasts and lunches through the school breakfast and national school lunch programs. The summer food service program continues to provide nutritious meals during the summer months. Public or private non-profit schools; local, municipal, county, tribal or state governments; private non-profits; public or private non-profit camps; and private or non-profit universities or colleges are examples of local organizations that often serve as summer food service program sponsors. Sites are the physical locations where food is served. Each site location must work with a sponsor that is financially and administratively responsible for the meal service at the site. During the summer of 2009, 124 sponsors served a total of 1,756,600 meals across the state.

The TANF emergency fund can be used to cover portions of costs associated with operating a summer food service site that are not otherwise reimbursed. States can seek 80% reimbursement for a range of expenditures including the cost of compensation for staff support to provide supervision and programming at summer feeding sites, transportation services to transport food and/or children to feeding sites, recreational activities to attract more youth to program locations, and meal preparation costs that are not otherwise reimbursed under the summer food service program.

ARRA Request. The Governor requests that \$300,000 of TANF emergency funds be transferred from DCF to DPI for the summer food service program. According to DOA, the funding would be used to support: (a) extending the dates of program operation; (b) providing

additional meals; (c) increasing participation by offering activities for children; (d) transporting children; (e) purchasing small equipment; and (f) added staffing costs.

It is estimated that the additional \$300,000 could serve up to 110,000 additional meals during the summer of 2010.

The Committee could approve the ARRA request for the summer food service program in the amount of \$300,000. These funds could provide thousands of additional meals over the summer. On the other hand, the Committee could deny this ARRA request. The TANF emergency funds in the amount of \$300,000 could be used for other TANF-related activities.

ALTERNATIVES

1. Approve the Governor's request to increase expenditure authority in the economic support federal block grant aids appropriation [s. 20.437(2)(md)] by:

- a. \$17,151,500 in 2010-11 to support the transitional jobs demonstration project;
- b. \$19,240,700 in 2010-11 to increase TANF funds for the EITC program;
- c. \$300,000 in 2010-11 to provide additional funding to DPI for the summer food service program;
- d. \$52,055,400 in 2010-11 to authorize DCF to expend additional TANF funds on unspecified TANF programs. Specify that DCF would not be required to return to the Committee for additional authorization to spend these funds on TANF-related purposes;
- e. \$52,055,400 in 2010-11 to authorize DCF to expend additional TANF funds on unspecified TANF programs. Prohibit DCF from spending these funds unless the Department submits a subsequent request identifying specific expenditures and receives approval from the Committee under the 14-day passive review process in s. 16.54(2)(a)2.

2. Deny the Governor's request for all of the ARRA requests.

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