Agenda Item No. 9.1

Chicago Metropolitan Agency for Planning

233 South Wacker Drive
Suite 800
Chicago, Illinois 60606

312 454 0400
www.cmap.illinois.gov

MEMORANDUM

To: CMAP Board

From: CMAP staff

Date: September 4, 2019

Re: FY2020 operating budget and non-transportation measures enacted in 2019

In addition to a suite of measures to boost transportation infrastructure investments, spring session closed with the successful passage of an operating budget and other legislation. Communities throughout northeastern Illinois will have to contemplate changes introduced by measures such as an historic expansion of gaming, legalization of recreational cannabis, and reforms to sales tax collection. The capital package also included funding for natural resources, affordable housing, and appropriated funds for projects throughout the region for a wide variety of purposes. This analysis provides a synopsis of this legislation and a brief discussion of ongoing policy priorities for the implementation of ON TO 2050, excluding transportation infrastructure investments. A companion memo examines transportation infrastructure in the capital package, and implications for ON TO 2050 implementation.

Operating budget passed

In the final days of session, the General Assembly passed a $79.71 billion operating budget, $38.46 billion of which are General Funds,[1] Public Act 101-0007, and a budget implementation bill (BIMP), Public Act 10-0010, that are largely in line with the administration's revenue projections. However, projections rely on a number of new and still-unproven revenues which are explored in this memo. The approved package closely matches Governor Pritzker's original budget proposal, which does not deviate significantly from FY2019 spending.

The operations appropriations maintain funding for the Illinois Department of Transportation (IDOT), Illinois Department of Natural Resources (IDNR), Illinois Environmental Protection Agency (IEPA), and Department of Commerce and Economic Opportunity (DCEO) consistent with FY2019 levels. State and federal pass-through funds included in the budget for metropolitan planning and research purposes are also maintained, supporting CMAP and the

[1] Office of Management and Budget, Executive Office of the Governor, "Table I-A Operating and Capital," https://www2.illinois.gov/sites/budget/Pages/default.aspx, accessed August 27, 2019.

15 other metropolitan planning organizations in Illinois. The budget further provides appropriations close to FY2019 levels for Amtrak ($50 million), RTA free and reduced fare reimbursement ($17.6 million), and Pace Paratransit ($8.4 million). Pace Paratransit funds will all come from the Road Fund; previously, about half came from the General Revenue Fund (GRF). The Public Transportation Fund (PTF), which includes the State's statutorily required 30 percent match to the Regional Transportation Authority (RTA) sales tax and Chicago real estate transfer tax, remains at FY2019 levels, which continue a 5 percent reduction. In addition, Public Act 10-0010 continues the 5 percent reduction to the Local Government Distributive Fund (LGDF) from FY2019. The budget also includes $29 million to the Department of Human Services (DHS) to issue grants in support of the 2020 Census, focusing on historically undercounted populations.

In May, Governor Pritzker announced the State had collected an additional $1.4 billion from individual and corporate tax revenues. This influx of funds was used to address the shortfalls of the FY2019 budget.

However, a General Funds bill backlog of approximately $6.5 billion remains and accrues interest at a rate of 9 to 12 percent per year. Other funds have backlogs as well. In FY19, the State paid $140 million in interest. Public Act 101-0030 authorizes the State to issue $1.2 billion in bonds to help pay down this backlog, speeding the pay down process at a comparatively better interest rate, yet establishing a different long term liability. The issue of prompt payment remains a serious challenge throughout the state, including for regional partners such as the RTA.

General Funds changes include sales tax shift

The portion of state sales tax revenue attributable to motor fuel purchases will be incrementally shifted from the GRF and the Common School Fund to the Road Fund, a change that will be phased in between fiscal years 2022 and 2026. The state may have pursued this change to head off concerns about sales tax on motor fuel violating the recent Safe Roads Amendment to the state constitution. This will provide additional resources for the State's transportation needs and related debt service, but will reduce funding available for other State programs and services. The impact is dependent on the price of gas, and based on historic prices and expected drops in fuel consumption, the shift could range from $400 to $800 million annually. The portion of state sales tax on motor fuel that is disbursed to local governments would not be affected, nor would revenues accruing to the Build Illinois Bond Fund.

Public Act 101-0032 repeals the Commercial Distribution Fee (CDF), a 14.35 percent surcharge on heavy truck registrations, which had previously been directed to the GRF. The CDF generated $55 million in fiscal year 2019. In addition, Public Act 101-0010, the operating budget implementation bill, made changes to the funds that flow into the PTF. An additional $50 million annually will be directed to the PTF from the Road Fund rather than the GRF, which will largely offset the decreased GRF revenue resulting from the CDF repeal.

Measures with revenue and local planning implications

The State of Illinois enacted other legislation this session, which will have ramifications not only for state and local revenues, but also local planning decisions. This section will address some larger policy changes: significant expansions to gaming, the legalization and taxation of recreational cannabis, modernization of the sales tax, and a proposed constitutional amendment that could result in a new graduated income tax structure.

Expansion of gaming and casino revenues

Public Act 101-0031 creates new one-time and ongoing revenues from the expansion of existing casinos and electronic gambling, the establishment of up to six new casinos in the state, and the legalization of sports betting, among other changes. The Governor's office estimates that new ongoing revenues from casino gaming, video gaming, and sports wagering will be $350 million annually at full implementation. However, with siting and other considerations involved with the development of new casinos, it is unclear how long it will take to reach full implementation. Given the magnitude of the gambling expansion, it is also unclear if the revenue projections properly reflect market demand.

Revenues from gaming and wagering are not consistent and sustainable sources of capital funding. CMAP analysis has shown that many of the unproven revenue sources from the previous capital bill did not live up to initial estimates. After the passage of Illinois Jobs Now! in 2009, eight years lapsed before revenue projections from video gaming were realized, primarily due to communities opting out of electronic gambling. Gaming and casino revenues identified in Rebuild Illinois are equally susceptible to implementation factors that may delay or reduce revenue projections. One such factor is demand for gambling and other gaming activities. Rebuild Illinois will add up to 13,200 gaming stations between new casinos and increased limits on electronic gaming terminals, yet tax revenue collected at Illinois' casinos have decreased by 14 percent in the last five years. Future revenues will be dependent on the sustained use of new gaming facilities and terminals, with such a substantial expansion of gaming it is unclear how the multiple new options will fare as they compete for some of the same customers.

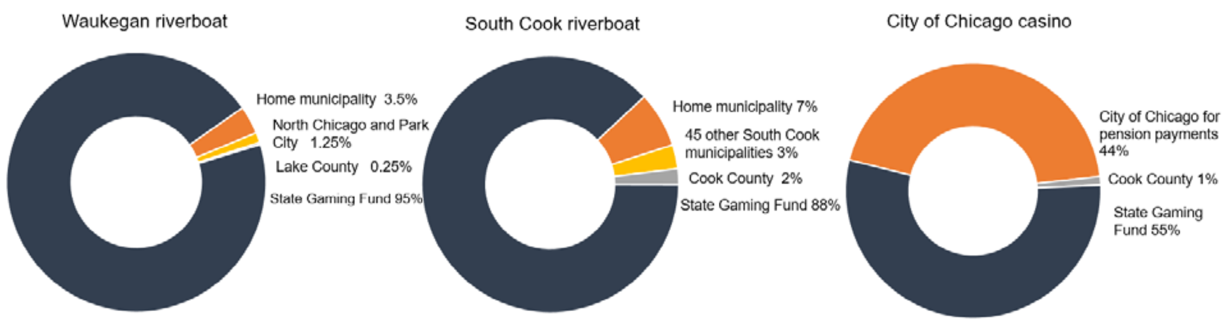
New casinos licensed in northeastern Illinois

The legislation allows for the licensing of up to six new casinos. Of the six, three will be located in northeastern Illinois— a casino in the City of Chicago and riverboats in Waukegan and a designated area of south Cook County. Locations for the new facilities are yet to be determined, though the casino to be located within the City of Chicago is subject to final determination by the Illinois Gaming Board after the submission of a commissioned feasibility study. Prior to submitting an application to the state, casino developers may negotiate a revenue sharing agreement with the host municipality or county where the facility will be located. The bidder selected for the Chicago casino will also have the right to install electronic gaming stations in both Midway and O'Hare airports.

When applying for a license to operate one of the new casinos, Public Act 101-0031 requires the owner to work in good faith with the host municipality or county to negotiate the permanent location and any necessary zoning accommodations. Additionally, the corporate authority of the municipality or county must hold a public hearing to discuss the negotiated details of the casino proposal and pass a resolution by majority of the corporate authority or board, thereby mitigating siting and zoning setbacks.

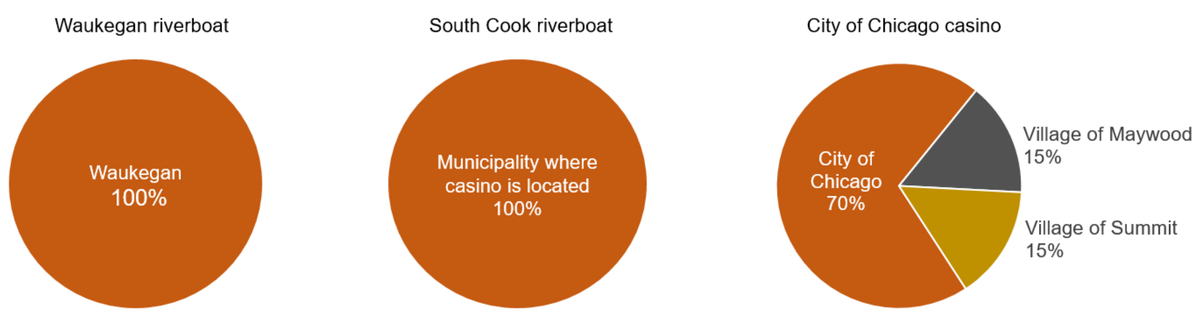
The tax rate on the operation of the new casinos will vary based on the annual adjusted gross receipts (AGR) of each casino. For electronic gaming at new casinos, the rate may range from 15 percent on adjusted gross receipts of $25 million and under, up to 50 percent on AGRs in excess of $200 million. For table gaming, the rate is 15 percent for casinos with AGRs under $25 million and 20 percent above. A portion of each admission fee will also be distributed to local governments. Of taxes collected on AGRs, local disbursements vary by casino, as shown in the graphic below.

Local disbursement from taxes collected at new casinos in northeastern Illinois



Note: Chicago casino revenue projections based on the Illinois Gaming Board's "City of Chicago Casino Financial Feasibility Analysis."
Source: Chicago Metropolitan Agency for Planning analysis of State of Public Act 101-0031.

Local disbursement of $1.00 from each admission fee collected at new casinos in northeastern Illinois



Source: Chicago Metropolitan Agency for Planning analysis of State of Public Act 101-0031.

Sports betting legalized

Public Act 101-0031 makes sports betting legal in Illinois, with revenues to be deposited into the Capital Projects Fund. The Illinois Gaming Board will award up to seven licenses to allow betting at venues with more than 17,000 seats. In addition to expected ongoing revenues, there are a number of one-time upfront fees to be collected. Licensing fees for new sports betting facilities will be $10 million, with an additional $1 million renewal fee every four years. For three eligible online sports wagering operators, the initial renewal fee is $20 million, which can then be renewed after four years for $1 million. Licensing revenues are scheduled to support ongoing capital costs. For sports betting facilities, 15 percent of gross wagering receipts will go into the Sports Wagering Fund, which in turn is transferred to the Capital Projects Fund monthly. In Cook County, an additional 2 percent will be collected for the purpose of enhancing the county's criminal justice system.

Video gaming expanded

Public Act 101-0031 increases the maximum number of video gaming terminals at a licensed location from five to six. Currently, a tax of 30 percent is collected on net terminal income, 83 percent of which is deposited into the Capital Projects Fund and the rest of which is deposited into the Local Government Video Gaming Distribution Fund. Starting July 1, 2019, an additional 3 percent tax will be collected on net terminal income, with another 1 percent to be added on July 1, 2020. Both increases will be deposited into the Capital Projects Fund.

Sales tax to remote sellers expanded and other sales tax revenue increases

Public Act 100-0587, enacted in 2018, required out-of-state retailers to collect the 6.25 percent use tax on sales to Illinois purchasers if such transactions total $100,000 or number more than 200 transactions as of October 1, 2018. This legislation was modeled after a similar law in the State of South Dakota and prevailed in a challenge from a remote seller case that was decided by the U.S. Supreme Court. This session, the State enacted a further reform to remote sales tax collection. The Leveling the Playing Field for Illinois Retail Act, Public Act 101-0031, will require, starting July 1, 2020, that these remote retailers charge Illinois consumers all state and local retailers occupation taxes, rather than just the state use tax, as well as other changes.

The changes are expected to result in an increase in overall state sales tax revenue, a portion of which accrues to the Build Illinois Bond Fund. The State of Illinois estimates that improved compliance via a new Illinois Department of Revenue (IDOR) sales tax rate database required in the Leveling the Playing Field for Illinois Retail Act -- as well as changes to how third party retailers and marketplace facilitators determine whether to charge use taxes, in separate legislation, Public Act 101-0009 -- will generate an additional $200 million in state sales tax revenue annually.[2] In addition, Public Act 101-0031 puts a $10,000 cap on the sales tax exemption amount for vehicle trade-ins for sales taxes on vehicle purchases, estimated to generate $40 million annually.

Other provisions of the Leveling the Playing Field for Illinois Retail Act will primarily have local impacts. Remote sales will be taxed and sourced at the location where the purchase is shipped or delivered. Local governments with home rule and non-home rule sales taxes will experience revenue increases, including the RTA, counties, and municipalities. Municipalities' state tax disbursements will change, as revenues that had previously been state use tax, and disbursed by population, will now be state sales tax and disbursed by the location of delivery.

[2] The State of Illinois' Rebuild Illinois summary states that these changes will generate $200 million annually. See https://www2.illinois.gov/IISNews/20266-Rebuild_Illinois_Capital_Plan.pdf.

Municipalities that have low levels of remote sales relative to their population may experience decreases in revenue. Conversely, municipalities with high levels of remote sales relative to their population may see increases in state disbursements. If ecommerce – which currently comprises approximately 10 percent of retail sales nationwide – continues to grow, this could substantially change how sales taxes are distributed in the region.

Ecommerce is changing which jurisdictions are experiencing the cost of supporting retail sales. Today, jurisdictions may house distribution facilities where goods originate or residences where they are delivered. This creates more truck traffic in these locations, along with the higher cost of wear and tear that trucks generate. To respond to ecommerce and the growing consumer preference for services over goods, ON TO 2050 recommends modernizing state disbursements of revenues to local governments. Allocating some revenues to the point of purchase for online sales is a step in the right direction to help communities address these costs.

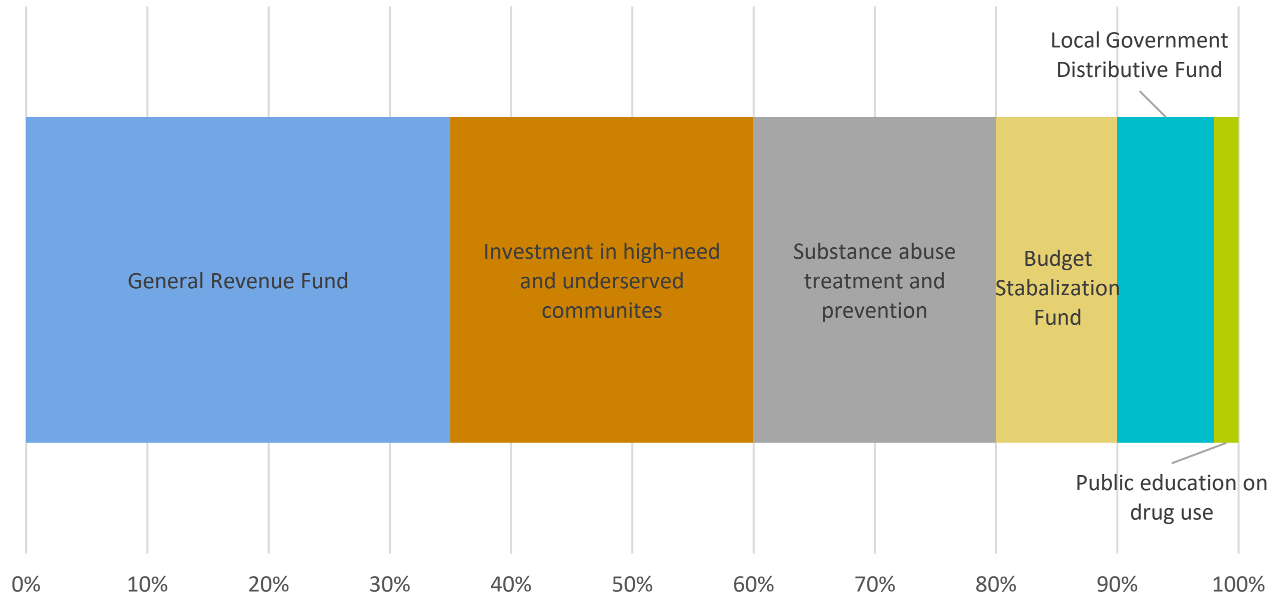
Parking and cigarette revenues

Public Act 101-0031 implements a state parking excise tax, estimated to generate $60 million annually. Starting January 1, 2020, drivers parking in parking lots and garages will be subject to a 6 percent tax, and parking paid on a monthly or annual basis will be subject to a 9 percent tax. This structure is very similar to one already in place in Cook County. The funding package increased cigarette taxes by 5 cents per cigarette and electronic cigarettes will be taxed at a rate of 15 percent. These increases are expected to generate $160 million annually. Revenues will be deposited into the Capital Projects Fund, which is primarily used for buildings, natural resources, and local transportation, including for bond repayment purposes.

Recreational cannabis revenues and regulation

The Cannabis Regulation and Tax Act, Public Act 101-0027, allows cannabis possession, consumption, and use for persons aged 21 and over beginning January 1, 2020. The law provides for many state regulations for possession, use, cultivation, and dispensing; but this section will focus on various provisions contained in the law pertaining to state and local taxation, and local regulations. In addition to licensing fees and fines for businesses cultivating or dispensing cannabis, growers are subject to a 7 percent gross receipts tax. Consumers will be subject to state excise taxes, at rates of 10 percent for products with lower THC levels, 25 percent for products with higher THC levels, and 20 percent for infused products. Revenues generated from these state fees and taxes to go the Cannabis Regulation Fund (CRF). After funding is utilized by the State to implement, administer, and enforce the Cannabis Regulation and Tax Act and expunge of previous cannabis offenses, disbursements are made as depicted in the chart below. It is unclear how much revenue will actually accrue to the CRF and will be available for these purposes.

Distribution of revenues from the Cannabis Regulation Fund after other statutory requirements are fulfilled



Source: Chicago Metropolitan Agency for Planning analysis of Cannabis Regulation and Tax Act

The new law provides counties and municipalities with some taxation and regulatory authority. Counties may impose sales taxes on cannabis by ordinance, with maximum rates of 3.75 percent for unincorporated areas and 0.75 percent for incorporated areas, except Cook County can impose 3 percent in incorporated areas. Municipalities may impose sales taxes by ordinance up to 3 percent. If counties and municipalities impose these taxes, the resulting maximum aggregate local tax rate is 3.75 percent in non-home rule counties and unincorporated Cook County, and 6 percent in incorporated areas of Cook County.

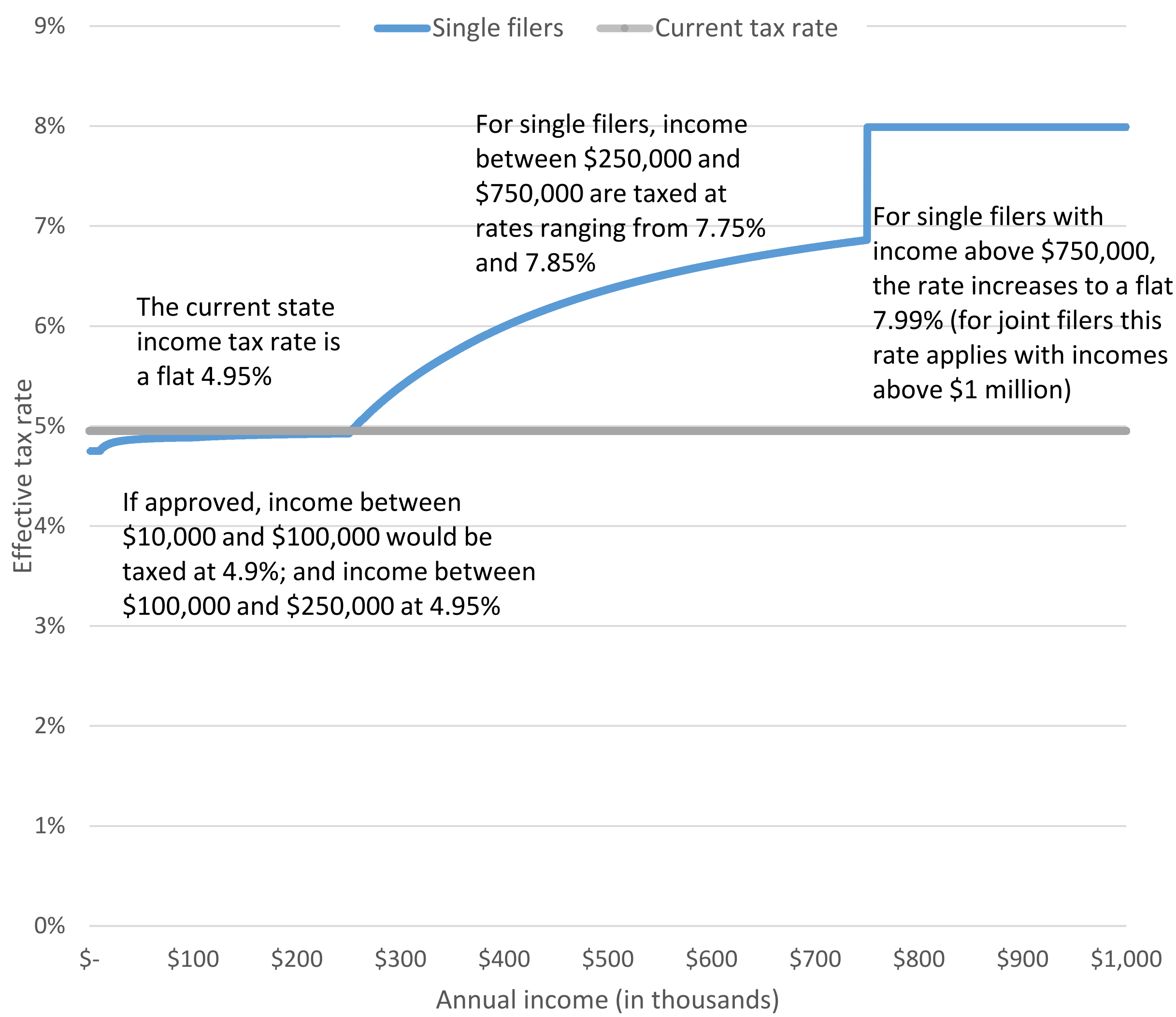
As of January 1, 2020, only currently operating medical dispensaries will be allowed to sell cannabis recreationally under "early approval" licenses. On an ongoing basis through 2022, the State will issue up to 500 licenses for new recreational dispensaries. While licensing for dispensaries, cultivation centers, transporters, and processors is the purview of the State, local governments may impose additional business registration requirements for recreational cannabis businesses. Such local licensing may be used, in addition to zoning ordinances, to restrict the number of cannabis businesses in operation.

Any unit of local government may, through zoning ordinance, restrict the sale of recreational cannabis by restricting the zoning types that allow for retail sales. Within the region, Naperville and Oak Brook have indicated they do not plan on updating village zoning code to allow for recreational cannabis sales. Other regional municipalities, such as Joliet, La Grange, Lombard, Oak Park, and Tinley Park are bringing the topic to their governing boards over the summer of 2019 to discuss next steps for zoning changes. For municipalities seeking to update zoning to allow for retail sales, the law allows for the regulation of operating hours, location, and the number of businesses that may be allowed. Additionally, typical zoning specifications can be applied, such as parking requirements, signage, minimum distances between cannabis businesses and sensitive locations through conditional use permits, and the regulation of on-premises consumption within a zoning type.

Income tax reform proposed via constitutional amendment

This spring, General Assembly passed a Senate Joint Resolution Constitutional Amendment to strike out the state constitutional requirement that income taxes be imposed at a non-graduated rate. The constitutional amendment question will appear on the November 2020 general election ballot where 60 percent of those voting would have to approve the measure for it to be enacted. Should voters approve the change, the Illinois Income Tax Act, Public Act 101-0008, would go into effect creating a graduated individual income tax structure. The following chart shows effective tax rates resulting from the rate schedule in the legislation for single filers, and reflects the proposed shift from graduated rates to a flat rate at the highest income levels.

Effective income tax rates as of January 2021 if voter referendum passes, as compared to current tax rate



Source: Chicago Metropolitan Agency for Planning analysis of Public Act 101-0008

If the referendum passes next year, changes to the income tax rates and structure would go into effect January 1, 2021. The Governor's Office estimates that additional revenues in the first year would total $3.4 billion. Proceeds from the income tax are deposited into General Funds and the Local Government Distribution Fund, which disburses revenues to counties and municipalities based on their share of the state's population. The proportion of overall income tax revenues accruing to the LGDF would decrease in order to keep revenues constant. As a result, municipalities and counties would not experience additional disbursements as a result of the income tax increase.

Support for ON TO 2050 natural resources and housing priorities

Public Act 101-0031 enacts several new revenue and funding sources to support capital investments in infrastructure such as public facilities, green infrastructure, affordable housing, and local economic development projects. Many of the new revenues will be used to support the Capital Projects Fund. Under Public Act 101-0030, the Capital Projects Fund will be used to repay general obligation bonds, such as those that supply the Capital Development Fund, and Build Illinois Bonds. Public Act 101-0029 appropriated $2.7 billion in Build Illinois Bond funds for local infrastructure and other projects and $5.9 billion from the Capital Development Fund for natural resources infrastructure, and State of Illinois and higher education facility improvements.

Public Act 101-0029 invests in a wide range of projects and programs in areas that support the three plan principles in ON TO 2050. The topic areas below highlight some of the largest non-transportation investments in the suite of legislation passed as part of the capital funding package.

Investments in water infrastructure

Public Act 101-0029 funds statewide programs for wastewater facilities and sewerage, stormwater drainage, flood prevention, water supply, and other water infrastructure projects, in addition to numerous appropriations for projects in specific communities.

The Water Revolving Loan Program funds projects through the Water Pollution Control Loan Program and the Public Water Supply Loan Program (PWSLP). The capital package provides $100 million for the fund, which will be made available through one or both of the loan programs over the next six years. Another $100 million is appropriated specifically for the PWSLP to fund drinking water projects. PWSLP projects are ranked and selected based on their relative public health benefits and violation of the Safe Drinking Water Act. The program has additional incentives for small communities, low-income communities and green infrastructure projects. Projects funded through the program have primarily included water main replacements, water storage improvements, and transmission upgrades in recent funding years. In FY2019, the PWSLP programmed $300 million, 90 percent of which were located in northeastern Illinois. Given the growing need to replace lead service lines, new funding allocated through the PWSLP is not expected to meaningfully increase the capacity of the program. In FY2019 alone, the total amount of project applications exceeded available funds by more than $400 million.

Public Act 101-0029 appropriates $85 million from the Anti-Pollution Bond Fund and $25 million from Build Illinois Bond Fund to the Illinois Environmental Protection Agency (IEPA) for the purposes of providing grants to local units of government for addressing water quality issues and sewage treatment works. It is unclear how this bucket of funding will be programmed across the state. Additionally, $55 million of Build Illinois Bond Funds are allocated for specific line-item projects in northeastern Illinois communities, including sewer replacements, water main improvements, and flood mitigation efforts among other water infrastructure investments.

Open space investments

The capital package appropriates $1.8 million for the acquisition, preservation, and stewardship of open spaces and natural areas in northeastern Illinois. Another $101 million in funding will be available statewide, though it is unclear how much of these additional funds will come to the region. Of the statewide funds, $23 million will come from the Open Space Lands Acquisition and Development (OSLAD) Fund—which funded $28.9 million in grants in 2019, the first time grants were made from the fund since 2015. OSLAD grants require a 50 percent local match, which limits the number and types of communities that can apply if local funding is unavailable for smaller and low-resourced communities. The capital package appropriated $25 million from the Open Lands Trust Fund, which has not awarded any funding since 2014, and $10 million from the Natural Areas Acquisition Fund (NAAF), which restores high quality natural habitat. NAAF has been nearly dormant since 2010, awarding less than $1.5 million over the last nine years. The remaining $43 million to be available statewide will be made available from the Capital Development Fund through IDNR.

Capital funds for affordable housing initiatives

Both the operating budget and the capital package allocate new resources for affordable housing initiatives across the state and in the region. Public Act 101-0029 appropriates $200 million from the Build Illinois Bond Fund to the Illinois Department of Revenue (IDOR) for the Illinois Housing Development Authority (IHDA). These funds will be available statewide for the purpose of making affordable housing grants, loans, and investments for low-income families, low-income senior citizens, low-income persons with disabilities, and at risk displaced veterans. In addition to funds made available to IHDA, the legislation also appropriates an additional $37 million to a number of non-profit, civic, and private institutions in the region for the purposes of both social services targeted towards housing issues, as well as land acquisition and construction of affordable housing.

Other legislation

The General Assembly also passed legislation concerning government consolidation, data, water infrastructure, and conservation. The bills that were supported by the Board and are of direct relevance to CMAP and ON TO 2050 include Public Act 101-0230, McHenry County Township Dissolution, and Public Act 101-0485, short-term borrowing authorization for RTA and CTA.

In an effort to incentivize the growth of data centers in Illinois, Public Act 101-0031 exempts qualified facilities from remitting retailer's occupation tax, use tax, service use tax, and service occupation tax, in addition to local retailers occupation taxes and Chicago's non-titled tax on certain equipment purchases. To qualify, existing data centers must have made a capital investment of at least $250 million in the five years prior to 2020 and new data centers must make a similar investment within five years. Additionally, facilities must create at least twenty full time jobs. CMAP recommends that the State closely monitor these incentives, provide transparent information about the investment during the incentive, and evaluate the program on an ongoing basis.

Moving forward

While additional capital funding for our state is paramount, other legislative changes have significant impact on the region. The legislation makes changes to the state's General Funds revenues by shifting funds to the Road Fund, shifting some PTF support from the General Funds to the Road Fund, and repealing the CDF. On the whole, these changes provide more support for the state's transportation system, but potentially at the expense of other priorities in the state, such as natural resources, human services, education, and more. Having insufficient funding to pursue all of these priorities is a result of the state's ongoing fiscal challenges. New revenues such as the proposed graduated income tax may help, the State should engage in fiscally sustainable practices to guarantee the reliability of state support for a range of key services and investments.

Local governments may also benefit from several changes that will help them generate revenue that supports their ability to adapt to changing national and local economic conditions. These reforms begin to implement ON TO 2050's recommendation that the state's tax structure ensure that communities have sufficient revenues to cover the cost of public services and infrastructure. Sourcing online sales where deliveries are made will help municipalities and counties maintain services and infrastructure as more goods are delivered straight to consumers rather than to retail stores. While additional revenues will accrue to municipalities and counties through shares of state taxes on cannabis and potentially local taxes, local governments will not receive additional state income tax revenue should voters approve a constitutional amendment to allow a graduated income tax structure. Some of the legislation will require municipalities to go through decision making processes regarding whether or not to pursue cannabis sales and/or casinos, which have implications on the potential for additional local tax revenue as well as necessary public services and infrastructure for those activities.

ACTION REQUESTED: Discussion

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