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May 4, 2017

TO: Representative Dale Kooyenga
Room 324 East, State Capitol

FROM: Bob Lang, Director

SUBJECT: Transportation Funding Proposal and Other Program Changes

As you requested, this memorandum provides a summary of your proposal regarding transportation funding and changes to various state programs. Each item of your proposal is listed under a bold heading and includes the estimated fiscal effects compared to AB 64/SB 30, the 2017-19 biennial budget bill, as well as any policy considerations.

Transportation Funding Proposal

Your proposal would expand the sales and use tax base to include motor vehicle fuel sales and deposit those revenues to the transportation fund. In the 2017-19 biennium, the additional revenue from the base expansion ($660 million in increased transportation fund revenue) would be used to: (a) reduce the amount of transportation fund-supported bonding that would be available for immediate use under AB 64/SB 30 by $300 million; (b) eliminate the current law transfer of GPR to the transportation fund (an $81.4 million decrease in revenue); and (c) decrease the motor vehicle fuel tax rate by 4.8 cents per gallon ($278 million decrease in revenue). In addition, provide $70 million in contingent, transportation fund-supported general obligation bonds, the use of which would be subject to the amount of federal highway aid received in August, 2017, through the annual redistribution process.

The proposal would also assess additional annual registration fees on hybrid and electric vehicles, which would increase revenue to the transportation fund by an estimated $4.8 million in the 2017-19 biennium.

Eliminate the Sales Tax Exemption for Motor Fuels

Your proposal would eliminate the current sales tax exemption for gasoline and diesel purchases in the state and deposit the associated revenues to the transportation fund. In general, a 5.0% sales tax is imposed on the purchase price from the sale, lease, or rental of tangible personal property and services identified by state law. A companion 5.0% use tax is imposed on the storage, use, or other consumption of the property or services purchased from out-of-state retailers if the sale would have been taxable had the property or services been purchased in the state. In addition, counties may impose local sales and use taxes of up to 0.5% on the purchase price. As discussed below, in limited circumstances other taxes may apply (such as the stadium district tax).

Current law provides a sales and use tax exemption for the sales price from the sales of and the storage, use, or other consumption of motor vehicle fuel (gasoline and diesel fuel), general aviation fuel, and alternate fuel (such as compressed natural gas and liquid propane gas). Under the proposal, the sales and use tax exemption for motor vehicle fuel would be eliminated, effective October 1, 2017. Thus, the proposal would extend the state and local sales tax to the retail price of gasoline and diesel fuel. This includes any increases in the retail price due to federal and state motor vehicle fuel excise taxes that have been passed through to the consumer.

Based on price information and forecasts from the U.S. Energy Information Administration, as well as growth estimates from IHS Markit, it is estimated that expanding the sales tax base to include gasoline and diesel fuel effective October 1, 2017, would increase collections by $270.0 million in 2017-18 and by $390.0 million in 2018-19.

These revenues would be deposited directly to the transportation fund. However, retailers do not currently report sales tax revenues associated with individual items at the retail level to the Department of Revenue (DOR). In order to determine the amount of sales tax revenue associated with motor fuel sales to deposit to the transportation fund, the proposal could require retailers to report to DOR the amount of sales of motor fuel each month.

One concern with replacing a portion of a volume-based excise tax with a price based sales tax is that revenues from price-based taxes can be more volatile due to swings in prices. Conversely, volume-based taxes are affected by product demand, which tends to be more stable for fuel purchases. Volatility in price is especially a concern when the tax is applied to a limited number of items as would be the case under the proposal. Gasoline and diesel fuel have been shown to have substantial price swings over short periods of time. Imposing a sales tax on these items would lead to similar swings in revenues from such a tax, which would make estimating revenues and budgeting based on those revenues more difficult. For example, if average gas prices were $0.50 cents per gallon below forecasted prices, estimated revenues from the 5% state sales tax would be lower by $55.0 million in 2017-18.

Also, by eliminating the sales tax exemption on motor fuel purchases in the state, the proposal would increase sales tax revenues for the counties that currently collect the optional 0.5% sales and use tax. Currently, 64 of Wisconsin's 72 counties collect the optional 0.5% county sales and use tax. From the amounts generated from the county sales and use tax expansion, the proposal would require the state to retain $18.0 million in 2017-18 and $25.0 million in 2018-19 and thereafter from the amounts that would otherwise be distributed to counties in those years and deposit those revenues to the state's general fund.

There would also be an increase in revenues for the Southeast Wisconsin Professional Baseball Park District due to the expansion of the sales tax base to include motor vehicle fuel sales. The fiscal estimate of the increase in revenue to the Southeast Wisconsin Professional Baseball Park District is not provided. The additional revenue to the District as a result of this proposal would assist the District in meeting its obligations, at which point the sales and use tax could sunset.

Decrease the Motor Vehicle Fuel Excise Tax Rate

The proposal would decrease the motor vehicle fuel excise tax rate by 4.8 cents per gallon, from 30.9 cents per gallon to 26.1 cents per gallon, effective October 1, 2017. This would reduce motor vehicle fuel tax revenues deposited to the transportation fund by $117.5 million in 2017-18 and $160.5 million in 2018-19.

As indicated in Table 1, using the estimated, average gas prices included in this analysis, the equivalent gas tax rate would be 38.1 cents per gallon for gasoline and 40.9 cents per gallon for diesel under the proposal. As a result, the equivalent tax rate increase would be 7.2 cents per gallon for gasoline and 10.0 cents per gallon for diesel fuel. These equivalent rates assume that the state motor vehicle fuel excise tax would be lowered to 26.1 cents per gallon and are inclusive of the proposed imposition of the state's 5% sales tax on fuel purchases.

TABLE 1

Change in State Fuel Tax Rates
(Cents Per Gallon)

Motor Vehicle Fuel Tax	Gasoline	Diesel Fuel
Existing Tax Rate	30.9¢	30.9¢
Proposed Rate Reduction	-4.8	-4.8
Tax Rate Under Proposal	26.1¢	26.1¢
Sales Tax Expansion on Motor Fuel		
Estimated Equivalent Tax Rate Under Proposal	12.0¢	14.8¢
Total Estimated Equivalent Tax Rate Under Proposal	38.1¢	40.9¢
Estimated Tax Rate Increase	7.2¢	10.0¢

*Estimated per gallon equivalent rate based on average gasoline prices of $2.40 per gallon and average diesel fuel prices of $2.95 per gallon in the biennium.

Whenever the fuel tax rate is changed, a floor tax is imposed on any person possessing motor vehicle fuel on which the previous fuel tax has been paid, if the fuel is being held for sale or resale. This tax is equal to the number of gallons multiplied by the difference between the old and new tax rates. If the fuel tax rate is decreased, as under the proposal, the floor tax provision is used to provide a refund to any person holding fuel for sale or resale purposes. An estimate of the amount of refunds that would be claimed from the floor tax provision is not provided.

Under current law, a portion of the motor fuel gas tax revenue is transferred to the conservation fund based on the use of motor fuel by snowmobiles, all-terrain vehicles, utility terrain vehicles, and motorboats. Transfers to the conservation fund would decrease with each decrease in the gas tax rate since the transfers are based on formulas that include the motor vehicle fuel tax rate. An estimate of the decrease in revenue transferred to the conservation fund is not provided.

Reduce Transportation Bonding Under AB 64/SB 30 by $300 Million

The proposal would use $300 million of the estimated revenue deposited to the transportation fund associated with imposing the state's 5% sales tax on motor vehicle fuel sales and make a corresponding reduction in the amount of transportation fund-supported bonding included under AB 64/SB 30 (the biennial budget bill). As a result, compared to the Governor's 2017-19 budget recommendations, only $200 million in bonding would be available for immediate use. This would, initially, reduce the 2017-19 transportation-related bonding authorization to $200 million. The bonding reduction would be made as follows: (a) eliminate $153.3 million of transportation revenue bonds for highway purposes included under the bill ($82.6 million in 2017-18 and $70.7 million in 2018-19); and (b) reduce the recommended level of transportation fund-supported, general obligation bonds by the remaining $146.7 million in 2017-18. Estimated debt service payments in the 2017-19 biennium would decrease by $1.0 million SEG in 2017-18 and $21.2 million SEG in 2018-19, due to the lower level of bonding, which would result in a corresponding increase to the transportation fund balance by the same annual amounts.

The effect of these changes on the composition of highway improvement program funding (no change in total funding) is shown in Table 2.

Provide Contingent Bonding Authority of $70 Million

The proposal would also authorize $70 million in contingent, transportation fund-supported general obligation bonds that could only be used for state highway rehabilitation program purposes. The use of this bonding would be contingent on the amount of redistributed federal highway aid received by the state as part of the federal highway administration's August, 2017, redistribution of this aid. The contingent bonding authority would be reduced by the amount that the August, 2017, federal redistribution amount exceeds the prior year federal redistribution amount ($30.1 million). No contingent bonding could be issued prior to October 1, 2017. The net effect would be the authorization of $200 million in bonding available for immediate use as described in the prior section and $70 million in contingent bonding, for a total transportation fund-supported bond authorization of $270 million in the 2017-19 biennium (a reduction of $230 million compared to the Governor's recommendations). If the 2017 federal aid redistribution amount exceeds the 2016 amount, the total bonding available could be reduced by up to $70 million.

TABLE 2

Highway Improvement Program
Governor's 2017-19 Budget Recommendations Compared to Proposal*

	Governor	Proposal	Biennial Change in Resources	% Change in Biennial Resources
State Highway Rehabilitation				
SEG	$557,866,400	$704,584,700	$146,718,300	
FED	835,027,700	835,027,700	0	
General Obligation Bonds	308,738,300	162,020,000	-146,718,300	
Subtotal	$1,701,632,400	$1,701,632,400	$0	0.0%
Major Highway Development				
SEG	$152,947,700	$306,229,400	$153,281,700	
FED	363,636,100	363,636,100	0	
Trans. Revenue Bonds	153,281,700	0	-153,281,700	
Subtotal	$669,865,500	$669,865,500	$0	0.0%
SE Wis. Freeway Megaprojects				
SEG	$27,210,100	$27,210,100	$0	
FED	94,733,100	94,733,100	0	
Subtotal	$121,943,200	$121,943,200	$0	0.0%
Major Interstate Bridge Construction				
SEG	$8,000,000	$8,000,000	$0	0.0%
Total -- State Highway Improvement Program	$2,501,441,100	$2,501,441,100	$0	0.0%

*Amounts shown comprise all highway improvement program items under the bill including federal aid reestimates and standard budget adjustments.
*The proposal would include $70.0 million in contingent, transportation fund-supported, general obligation bonds that could only be used for state highway rehabilitation purposes, subject to the amount of federal redistribution aid received in August, 2017. These bonds are not included in this table.

Eliminate General Fund Transfer to Transportation Fund

Delete the existing statutory transfer of 0.25% of general fund taxes to the transportation fund in each fiscal year. This annual transfer is based on the estimates published in the general fund condition statement in the budget act, with a minimum, annual transfer of $35.1 million. Eliminating the transfers would reduce estimated annual revenues to the transportation fund by $39.9 million in 2017-18 and $41.4 million in 2018-19 compared to the bill and would result in corresponding increases in general fund revenues each year.

Hybrid and Electric Vehicle Fees

This proposal would assess additional, annual registration fees on light (8,000 pounds or less) hybrid and electric vehicles. Light hybrid (hybrid-electric and hybrid-electric plug-in) vehicles would pay an additional, annual registration fee of $30 and electric vehicles (non-hybrid plug-in) would pay an additional, annual registration fee of $125. Estimated revenue from these fees would be equal to $1.4 million in 2017-18 (following a six-month implementation period) and $3.4 million in 2018-19.

Estimated Fiscal Changes under Transportation Funding Proposal

The following table provides a summary of the fiscal changes that would occur under the proposal compared to the Governor's 2017-19 budget recommendations. As shown in the table, on a biennial basis, general fund revenue would increase by an estimated $124.4 million. Transportation fund revenue would increase by an estimated $314.0 million in the biennium. Total new tax revenues would equal $382.0 million in the biennium, with $660.0 million in additional sales tax revenues associated with expanding the sales tax base to include motor fuels (an estimated increase in the equivalent tax rate of 12.0 cents per gallon for gasoline and 14.8 cents per gallon for diesel fuel) being partially offset by the $278.0 million reduction in motor vehicle fuel excise tax revenues associated with the reduction in the motor vehicle fuel excise tax rate (-4.8 cents per gallon). Transportation registration fees would increase by $4.8 million associated with the proposed fee on hybrid and electric vehicles. Compared to the Governor's recommendations, transportation fund-supported bonding would decrease by $230.0 million and expenditures associated with debt service on general obligation bonds would decrease by $4.6 million.

TABLE 3

Estimated Fiscal Changes under Proposal

	2017-18	2018-19	Biennium
General Purpose Revenue			
Delete 0.25% GPR Transfer to Transportation Fund	$39,932,900	$41,432,500	$81,365,400
Retain County Sales Tax Revenues	18,000,000	25,000,000	43,000,000
Total	$57,932,900	$66,432,500	$124,365,400
Transportation Fund Revenue			
Deposit of Sales Tax on Motor Fuel	$270,000,000	$390,000,000	$660,000,000
Decrease Motor Vehicle Fuel Tax Rate by 4.8¢/gal.	-117,500,000	-160,500,000	-278,000,000
Delete 0.25% GPR Transfer to Transportation Fund	-39,932,900	-41,432,500	-81,365,400
Reduce Transportation Revenue Bond Debt Service	1,032,900	7,513,800	8,546,700
Impose Hybrid/Electric Vehicle Registration Fees	1,398,500	3,412,000	4,810,500
Total	$114,998,500	$198,993,300	$313,991,800
Transportation Fund-Supported Appropriations			
Reduce SEG General Obligation Bond Debt Service	$0	-$4,608,400	-$4,608,400
Appropriation of Revenue to Replace Bonding	114,966,000	185,034,000	300,000,000
Total	$114,966,000	$180,425,600	$295,391,600
Transportation Fund-Supported Bonds			
Reduce Transportation Bond Authorization	-$114,966,000	-$185,034,000	-$300,000,000
Contingent Bonding			70,000,000
Total			-$230,000,000

* This bonding would be contingent on the amount of redistributed federal highway aid received by the state as part of the federal highway administration's August, 2017, redistribution of aid. The contingent bonding authority would be reduced by the amount that the August, 2017, federal aid redistribution amount exceeds the 2016 amount ($30.1 million).

The estimated net impact on the transportation fund balance compared to AB 64/SB 30 would be to increase the ending balance in the fund by $18.5 million associated with the following changes: (a) an increase in transportation fund revenue of $8.5 million in the biennium associated with lower debt service on transportation revenue bonds; (b) an increase in transportation fund revenue of $4.8 million in the biennium associated with the imposition of additional registration fees on hybrid and electric vehicles; (c) reduced expenditures of $4.6 million in the biennium associated with a decrease in debt service on transportation fund-supported general obligation bonds; and (d) $0.6 million in motor fuel sales tax revenue not offset by the proposed reduction bonding.

Other Program Changes

Your proposal would also make several other changes to transportation-related programs, as well as the state's prevailing wage and minimum mark-up laws. These changes are described in this section.

Local Roads Optional Sales Tax

Under a draft of the proposal, this provision would allow a county to adopt an ordinance to impose up to a 0.5% sales and use tax rate, for the purposes of maintaining and repairing highways in the county ("local roads optional sales tax"), if electors of a county approve the ordinance at a referendum at the spring or general election. The taxes may be imposed only in their entirety and may be in addition to the existing 0.5% county sales and use tax. Under the proposal, the sales tax rate could be as high as 6% (5% state and 1% county) in counties with an existing sales tax.

County Ordinance. An ordinance adopted under the proposal must be effective at the start of a calendar year quarter. A certified copy of the ordinance must be delivered to the DOR Secretary at least 120 days prior to its effective date. The repeal of any such ordinance would be effective on December 31. A certified copy of a repeal ordinance must be delivered to DOR at least 120 days before the effective date of the repeal.

An ordinance adopted to impose the local roads optional sales tax would be valid for four years but may be renewed for an additional four years by the approval of the electors of the county at a referendum at the spring or general election. A county would be required to provide a certified copy of the renewal ordinance to the DOR Secretary at least 120 days prior to its effective date. If a county holds a referendum to approve or renew the ordinance and the referendum is not approved, the county could not hold another referendum to approve or renew the ordinance until at least 12 months after the date on which the first referendum failed.

No county could impose the local roads optional sales tax after December 31, 2027, regardless of when the county adopts an ordinance to impose the tax, and regardless of when the electors approve any renewal of the ordinance.

No county could impose the local roads optional sales tax if the county imposes a fee or other tax for the purposes of maintaining streets and highways (for example, a local vehicle registration fee). No municipality that imposes such a fee or tax could receive revenues from the local roads optional sales tax.

If a county holds a referendum under the proposal, the question appearing on the ballot would be "Shall .... (name of the county) impose a local sales and use tax for ....(four years) (an additional four years) at the rate of .... (see "Rate Calculation" below) to provide for the maintenance and repair of county highways and municipal streets?".

No county or local government would be allowed to expend public funds in support of a local roads optional sales tax referendum.

Rate Calculation. Under the proposal, the rate of the additional tax would be determined as follows: (a) compute the total number of miles of all arterial, collector, and local roads in the county; (b) multiply the number computed under (a) by $4,000; and (c) using an estimate of the annual taxable sales in the county in the year before the year in which the tax is first imposed, as determined by DOR, determine the sales tax rate that when multiplied by the estimated annual taxable sales in the county equals the amount determined under (b). The sales tax rate would be rounded to the nearest 0.1%, but would have to be a minimum rate of 0.1% and could not exceed 0.5%.

50% Distribution Formula. Subject to the enactment of an ordinance or adopting of a resolution by a town, city, or village to accept the additional revenue from the local roads optional sales tax, the county would be required to distribute 50% of the revenue it received in the previous calendar year from the tax to each town, city, and village in the county, and retain for the county, to use for maintaining and repairing streets, roads, and highways, an amount determined as follows:

(1) Compute the total center line road miles of the county as follows:

a. The number of miles for urban arterial roads multiplied by 1.51;
b. The number of miles for rural arterial roads multiplied by 1.51;
c. The number of miles for urban collector roads multiplied by 1.26;
d. The number of miles for rural collector roads multiplied by 1.23;
e. The number of miles for urban local roads multiplied by 1.01; and
f. The number of miles for rural local roads.

(2) Sum the numbers determined under (1).

(3) Compute the total road miles for each town, city, and village in the county, not including county roads, and the total road miles of county roads, as provided under (1).

(4) Divide the number determined under (3) for each town, city, and village and for the county by the number determined under (2).

(5) For each town, city, and village and for the county, multiply the amount equal to 50% percent of the revenue the county received from the tax in the previous calendar year by the number determined for the town, city, village, or county under (4).

25% Distribution Formula. Subject to the enactment of an ordinance or adopting of a resolution by a town, city, or village to accept the additional revenue from the local roads optional sales tax, the county would have to distribute 25% of the revenue it received in the previous calendar year from the tax to each town, city, and village in the county to use for maintaining and repairing streets and roads in an amount determined as follows:

(1) Determine the population of the county.

(2) Determine the population of each town, city, or village.

(3) Divide the number determined for each town, city, or village under (2) by the number determined under (1).

(4) For each town, city, and village, multiply the amount equal to 25% of the revenue the county received from the tax in the previous calendar year by the number determined for the town, city, or village under (3).

Receipt of Revenues. No town, city, or village could receive any revenue distribution from a county that has adopted an ordinance to impose a local roads optional sales tax, unless the governing body of the town, city, or village enacts an ordinance or adopts a resolution to accept the revenue. If a town, city, or village does not enact an ordinance or adopt a resolution to accept the revenue, the county would retain the revenue to use for maintaining and repairing streets, roads, and highways

In addition to the amount the county receives under the 50% distribution formula as well as the amount the county receives when a town, city, or village does not enact an ordinance or adopt a resolution to accept the additional revenue, the county would retain 25% of the revenue it receives from the tax in each calendar year to maintain and repair roads and highways.

Maintenance of Effort. For each year in which a county imposes the local roads optional sales tax, the county and each town, city, or village in the county that receives revenue under the local roads sales tax, would have to expend, for the purposes of maintaining and repairing roads, streets, and highways, no less than the total of the following amounts: (a) the average of the amount spent for such purposes in the previous five years from all sources other than from the local roads optional sales tax; and (b) the average of the amounts received under the local roads optional sales tax in the previous five years. However, these amounts would not include state contributions for such purposes, all local match moneys under the local road improvement program, all other public agency fund contributions, and all private contributions other than local assessments or special assessments paid by governmental agencies.

Limitations on Revenues. No county, town, city, or village that receives revenue from the local roads optional sales and use tax may use such revenue in order to receive matching federal funds, secure federal funds, or support borrowing. Revenue received from the local roads optional sales tax would not be included as transportation revenues nor as transportation expenditures for purposes of calculating state general transportation aids. All counties and municipalities that receive revenue under the proposal, must deposit all local roads optional sales tax revenue into a segregated fund called the "local transportation sales tax revenue fund."

Local Contract Requirements. Any highway improvement project, defined as the construction, reconstruction, rehabilitation, and processes incidental to building, fabricating, or bettering a highway or street, that is financed in whole or in part from such a fund, and that has an estimated cost exceeding $25,000, must be let by contract to the lowest responsible bidder.

Proposed Wheel Tax Limits

The proposal would eliminate the ability of a local government to enact a local registration fee for motor vehicles ("wheel tax") unless approved by voters by referendum. Local governments that either have authorized or have enacted a wheel tax would be able to retain the wheel tax. However, any county that first imposed a wheel tax in 2017, that was in effect prior to April 1, 2017, would only be allowed to retain their existing wheel tax if approved by voters by referendum. In addition, allow local governments the authority to impose a separate local registration fee on hybrid and electric vehicles.

As of January 1, 2017, 15 municipalities and five counties had either authorized or enacted a wheel tax. In 2016, the three counties and 10 municipalities that had a wheel tax in place for the entire year collected a total of $12.8 million.

There would be no state fiscal effect related to this proposal.

Direct DOT to Seek Tolling Exemption

The proposal would direct DOT to seek changes in federal law, or exemptions from federal requirements, that would allow Wisconsin to consider instituting toll roads in the state. Title 23 of the United States Code (Highways) includes a general prohibition on the imposition of tolls on Federal-aid-highways. This proposal would seek to change this prohibition for Wisconsin.

Under current federal law, 23 U.S.C. 129 allows for limited exceptions to the general prohibition against the use of tolls. For example, under this section of the code, the state could opt to do any of the following: (a) initial construction of a new, tolled highway, bridge, or tunnel; (b) initial construction of new lanes on highways, bridges, and tunnels (including interstates), as long as the number of toll-free lanes is not reduced; (c) reconstruction or replacement of a toll-free bridge or tunnel and its conversion to a tolled facility; (d) reconstruction of a toll-free, federal-aid highway (other than an interstate) and the conversion of that highway to a toll facility; and (e) reconstruction, restoration, or rehabilitation of an interstate highway, as long as the number of toll-free lanes is not reduced

Also under current federal law, two pilot programs offer states opportunities to use tolling to generate revenue to support highway construction activities and implement priced-managed lanes on federal-aid highways. One alternative to your proposal would be to direct DOT to apply for one of these open pilot programs slots.

Interstate System Reconstruction and Rehabilitation Pilot Program. This program permits up to three existing interstate facilities to be tolled to fund needed reconstruction or rehabilitation on interstate corridors that could not otherwise be adequately maintained or functionally improved without the collection of tolls. In order to receive tolling authority under the pilot program, project sponsors are required to have their program application approved by FHWA and execute a tolling agreement. Currently, Missouri is the only state that holds a provisional approval that will expire no later than December 4, 2017. The provisional reservation is intended to allow the state to undertake the studies necessary to develop a complete application to the program. Two slots are currently available for use by any state with eligible tolling projects under the pilot program.

Value Pricing Pilot Program. Value pricing is a congestion pricing method that is intended to reduce congestion in high traffic areas by varying the toll price in these areas according to factors such as time or traffic volume. Although funding for a discretionary grant component of this program is no longer available, FHWA continues to have the authority to enter into cooperative agreements for tolling projects. Of the 15 slots authorized for this program, seven have been permanently reserved for states that have executed tolling cooperative agreements under this pilot program. Five of the remaining eight slots are currently reserved for state agencies that are undertaking studies or non-toll projects under the program. Three slots are available for use by any states with eligible tolling projects under the pilot program.

There would be no state fiscal effect related to this proposal.

Proposed Use of Public Private Partnerships

This proposal would allow DOT and local units of government to give consideration to any infrastructure project for which 10% or more of the cost is covered by a private interest or a coalition of private interests. While priority could be given to such projects, DOT and local governments would retain some flexibility in weighing the priority of projects under such a provision because there may be instances in which prioritizing projects with private funding over other infrastructure projects could result in budgetary issues and/or the delay of other projects that may have a greater public safety interest.

There would be no state fiscal effect related to this proposal.

Reduce DOT Engineering Staff

Eliminate 180 FTE associated with engineering positions at DOT in the 2017-19 biennium, as follows: (a) 60 FTE in 2017-18; and (b) 120 FTE in 2018-19. No fiscal effect would occur as the proposal would reallocate funding associated with these positions reductions to DOT's appropriation that funds consultant engineering costs.

In 2013-15 the Governor recommended, and the Legislature approved, 180 FTE engineering positions in DOT. At that time, the Department cited the need to increase the depth and range of state staff engineering expertise and a desire to reduce highway delivery costs as the primary reasons for replacing engineering consulting services with state staff. These positions were funded using existing moneys in the line of DOT's budget that funds consultant engineering costs.

Limitations on the Use of Roundabouts

The proposal would prohibit DOT and local governments from designing a roundabout on any state or local highway for a period of two years unless the roundabout is approved by the local government in which the project is located. This provision would first apply to any project for which construction has not commenced on the effective date of the bill.

In the past, DOT has indicated that roundabouts and signalized intersections of a similar scale are of a similar cost to construct, but that the operating and maintenance costs associated with roundabouts are typically lower. The Department has generally used roundabout designs where its traffic safety data suggests there would be a public safety benefit (such as reducing the speed at which traffic crashes occur or improving traffic flow).

There would be no state fiscal effect related to this proposal.

Establish Local Bridge Weight Limit Appeals Process

The proposal would provide a local business an option to appeal any reduction of posted weight limits on a bridge under local jurisdiction to DOT. Under your proposal, the reduced posted weight would remain in place through the DOT's review of the appeal. The Department would be required to complete the review and provide a decision affirming or denying the weight reduction to the appellant and local government within 120 days of the appeal being filed. In completing such a review, the proposal specifies that DOT's primary focus would be to ensure that any reduction of a posted weight limit is appropriate. Because no effective date for this proposed provision was provided, the provision would first be effective on the general effective date of the proposal. As a result, any bridge positing in effect on that date would be subject to the provision.

There would be no state fiscal effect related to this proposal.

Consolidation of State Funds in Local Program

This item is similar to other recent proposals that would consolidate state funding in the surface transportation program (STP) and federal funds in the state highway rehabilitation program with the intent of limiting federal environmental and labor requirements on local projects. Under the proposal, sequential funding transfers would occur over a three-year period beginning 2018-19, such that, by 2020-21, the STP program would be entirely state (SEG)-funded using transferred moneys from the state highway rehabilitation program. In each year, the proposed transfer of SEG funding to the STP program would be offset by transferring the same amounts of that program's existing federal (FED) funding to the state highway rehabilitation program.

These transfers would be accomplished as follows: (a) in the first year (2018-19), 33% of the STP program's existing FED funding would be transferred to the state highway rehabilitation program, which would be replaced with an equal amount of SEG funding transferred from the state highway rehabilitation program; (b) in the second year (2019-20), 66% of the existing STP's FED would be transferred and replaced with SEG in the same manner; and (c) in the third year (2019-20), 100% of the existing STP's FED would be transferred and replaced with SEG in the same manner. Again, the intent is that by 2019-20, the STP program would be 100% SEG-funded and 100% of the STP program's existing FED would be transferred to the state highway rehabilitation program.

The effect of this proposal on program appropriations, relative to the Governor's recommendations, is shown in Table 4. Total funding would remain the same for both programs each year.

TABLE 4

Proposed Funding Transfers

	Base Funding	Proposal		
	2017-18	2018-19	2019-20	2020-21
Surface Transportation Program				
SEG (proposed)	$0	$23,829,800	$48,381,500	$72,211,300
FED	72,211,300	48,381,500	23,829,800	0
Total	$72,211,300	$72,211,300	$72,211,300	$72,211,300
State Highway Rehabilitation Program				
SEG	$278,933,200	$255,103,400	$230,551,700	$206,721,900
FED	417,144,700	440,974,500	465,526,200	489,356,000
Bonds	152,238,300	156,500,000	152,238,300	156,500,000
Total	$848,316,200	$852,577,900	$848,316,200	$852,577,900

2017 SB 85 / AB 142 (DOT Audit Bill)

The proposal would include various recommendations made by the Legislative Audit Bureau in relation to the recent audit of the state highway program, as drafted in 2017 SB 85 / AB 142 (the bill). As requested, the proposal would include all of the provisions of the bill with the exception of the provisions relating to the construction manager/general contractor pilot program.

The Transportation Projects Commission (TPC) is the body responsible for making recommendations for enumeration of (and in some cases approving) major highway development projects. The bill would provide the TPC with more expansive authority to require DOT to produce or contract for any studies and costs estimates related to any proposed project.

The bill would require that when DOT provides project cost estimates to the Commission as a part of its biennial submission of project recommendations, these estimates would include all costs associated with the projects, including all costs before enumeration, design engineering, and construction engineering costs, the costs of environmental studies, and costs of the project that are paid by another program of the Department, the expected date of project completion, and an estimate of the effects of construction cost inflation and unexpected costs on the cost of the project.

The bill would require that the Department's statutory, twice-yearly report to the TPC on the costs and progress of major highway development and southeast Wisconsin freeway megaprojects and potential studies, include the following for each project: (a) the full project cost estimate as of the date of the enumeration (or approval); (b) the year in which the Department expects to complete the project as of the date of enumeration; (c) the costs incurred as the date of preparation of the report; (d) the full project cost estimate as of the date of the report; (e) the year in which the Department expects to complete the project as of the date of preparation of the report; (f) an explanation of any difference between the full project costs estimates between the estimate of those costs at the time of enumeration or approval and the most recent estimate included in the report; and (g) the opinion of the Department as to whether the project will be completed as originally scheduled without the allocation of additional funds. The information provided in the report would be required to treat separately enumerated and approved major highway development projects, as well as southeast Wisconsin freeway megaprojects.

Under current law, DOT is required to perform a uniform cost-benefit analysis for any engineering services contract that is estimated to cost more than $300,000 to identify and compare the total cost, quality, technical expertise, and timeliness of a service performed by state employees and resources with the total cost, quality, technical expertise, and timeliness of the same service obtained by means of a contract for contractual services. The bill would require that the Department consider and document the results of the analysis before the determination of whether to contract for engineering services.

One item included in the bill that would not be included in the proposal would be the construction manager/general contractor provision, which relates to providing DOT with the statutory authority to engage in a pilot program that would use an alternative bidding method.

Transportation Projects Commission

The proposal would require the TPC to meet and vote on the approval of each project included in the Department's list of enumeration recommendations for the major highway development program. The TPC chair would be required to have legislation drafted or introduction that would enumerate in the statutes any projects approved. Under the proposal, if the Commission does not hold a meeting to consider approval of the list of major highway development projects recommended by the Department for enumeration, the projects would be considered approved and the chairs of the appropriate standing committees of each house would be required to introduce legislation enumerating the projects in statute.

In order to assist in the process of enumerating major highway development projects, the TPC was created to review proposals for major projects and make recommendations to the Governor and Legislature as to which ones should be enumerated. The TPC includes the Governor, who acts as the chairperson, five senators, five representatives, three public members appointed by the Governor, and the Secretary of Transportation (a nonvoting member).

Under current law, by September 15 of even-numbered years, DOT submits to the TPC a recommendation of projects to be enumerated. The environmental study for these projects must be completed and approved by the Federal Highway Administration prior to recommendation. By December 15 of even-numbered years, the TPC submits its recommended list of projects to be enumerated to the Governor and Legislature. The TPC may or may not include the projects recommended by DOT and may add additional projects.

Repeal Prevailing Wage Requirements

The proposal would repeal the prevailing wage requirements on state construction projects. There would be no change to any Department appropriations related to this proposal.

Reduce Minimum Markup Requirements

Wisconsin law prohibits sales below cost, also known as the Unfair Sales Act or minimum markup law. Under the law, certain products, namely motor vehicle fuel, tobacco products, and alcoholic beverages are to be sold at certain levels or percentages above cost. All other products may not be sold below the seller's cost. For motor vehicle fuel, this minimum markup is 3% of the wholesale price, plus 6% of retail price, for a compounded total of 9.18%.

Under your proposal, the wholesaler markup on motor vehicle fuel would be eliminated and the retailer markup would be reduced to 3%. There would be no estimated state fiscal effect related to this proposal.

BL/JWT/RH/JG/sas