Fiscal Estimate - 2017 Session

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number **17-6075/1**	Introduction Number **SB-883**

Description
state and local highway projects; expenditure of transportation moneys received from the federal government; determining a reduction in individual income tax rates; and election of pass-through entities to be taxed at the entity level

Fiscal Effect

State:

☐ No State Fiscal Effect
☐ Indeterminate

☐ Increase Existing Appropriations
☐ Decrease Existing Appropriations
☐ Create New Appropriations

☒ Increase Existing Revenues
☒ Decrease Existing Revenues

☒ Increase Costs - May be possible to absorb within agency's budget
☒ Yes ☐ No
☐ Decrease Costs

Local:

☒ No Local Government Costs
☐ Indeterminate

1. ☐ Increase Costs
☐ Permissive ☐ Mandatory
2. ☐ Decrease Costs
☐ Permissive ☐ Mandatory
3. ☐ Increase Revenue
☐ Permissive ☐ Mandatory
4. ☐ Decrease Revenue
☐ Permissive ☐ Mandatory
5. Types of Local Government Units Affected
☐ Towns ☐ Village ☐ Cities
☐ Counties ☐ Others
☐ School Districts ☐ WTCS Districts

Fund Sources Affected

☒ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEGS

Affected Ch. 20 Appropriations

Agency/Prepared By	Authorized Signature	Date
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Fiscal Estimate Narratives

DOR 12/5/2018

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Description state and local highway projects; expenditure of transportation moneys received from the federal government; determining a reduction in individual income tax rates; and election of pass-through entities to be taxed at the entity level		

Assumptions Used in Arriving at Fiscal Estimate

This bill relates specifically to the Department of Revenue by changing statutes related to the individual income tax rate reduction due to remote retailer sales tax collections and allowing pass-through entities to elect to be taxed at the entity level for purposes of the state's income and franchise taxes.

INDIVIDUAL INCOME TAX RATE REDUCTION DUE TO REMOTE RETAILER SALES TAX COLLECTION

This bill clarifies that the recent U.S. Supreme Court Decision in South Dakota v. Wayfair, Inc. triggers the current state law under sec. 73.03(71). That law requires that the Department of Revenue determine the amount of additional revenue collected from the state sales and use tax as a result of any federal law that expands the state's authority to collect sales and use taxes from out-of-state retailers..

Under the bill, DOR must determine the additional sales and use tax revenue during the period beginning on October 1, 2018 and ending on September 30, 2019. The Department of Administration, in consultation with DOR shall determine the new individual income tax rates for the taxable year ending on December 31, 2019, in order to reduce revenue by the same amount as the additional sales and use tax collections.

The bill also provides that the new individual income tax rates based on the determinations would not take effect automatically in the year following DOR's certification. Instead, DOA, in consultation with DOR, would determine the new tax rates to take effect for tax year 2019. The Legislative Audit Bureau would then review the determinations. If LAB's review results in a re-determination of the rates, the Joint Committee on Finance would determine which rates apply.

Finally, the bill includes in the definition of a "retailer engaged in business in this state" any retailer that has annual gross sales into this state in excess of $100,000 or an annual number of separate sales transactions into this state of 200 or more.

The current graduated individual income tax rates in statute are 4.0%, 5.84%, 6.27%, and 7.65%. Based on current projections, if DOR collects an additional $60 million of sales and use tax revenue from out-of-state retailers during the designated period, the department expects that new individual income tax rates could be reduced to 3.98%, 5.81%, 6.23%, and 7.61%. The bill results in an income tax reduction of $60 million based on the department's estimate of incremental sales tax collections resulting from the Wayfair decision.

ENTITY LEVEL TAX ELECTION

This bill allows pass-through entities to elect to be taxed at the entity level for purposes of the state's income and franchise taxes.

Under current law, pass-through entities, such as tax-option corporations and partnerships, are generally not subject to the income or franchise tax at the entity level. Rather, any item of income, loss, or deduction flows through to their shareholders, partners, or members, who are then subject to tax. The bill allows tax option corporations and partnerships, including limited liability companies and other entities that are treated as partnerships under federal tax law, to elect to be taxed at the entity level for purposes of the income and franchise taxes. Persons who hold more than 50 percent ownership of the pass-through entity must consent to the election and must consent to any revocation of the election. The bill allows the election to be made for taxable years beginning in 2018 for tax-option corporations and 2019 for other entities.

It is unclear how many entities will elect to pay tax at the entity level, how many individual income tax returns the elections will affect, and how much income will be taxed differently. As such, the revenue effect is an indeterminate increase. However, for context, 148,000 Wisconsin resident 2016 tax returns reported $11.37 billion of partnership/s-corporation net income, excluding pass-through income reported elsewhere on the returns. Based on an analysis of returns with pass-through income, the state average effective marginal tax rate was approximately 5.9%. Based on that figure, for each $1 million of income tax paid by entities at the 7.9% corporate rate instead of the 5.9% marginal individual rate, revenue would increase by approximately $20,000.

The Department expects to incur administrative costs of approximately $704,400 in order to implement the change. The costs can be absorbed, but would displace or delay other work. Though the change will initially be effective for 2018, forms have already been finalized and new forms reflecting the provisions of the bill will not be available for approximately four months.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2017 Session

Detailed Estimate of Annual Fiscal Effect

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I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

The Department expects to incur administrative costs of approximately $704,400 in order to implement the change.

II. Annualized Costs:	**Annualized Fiscal Impact on funds from:**	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	$	$
(FTE Position Changes)		
State Operations - Other Costs		
Local Assistance		
Aids to Individuals or Organizations		
TOTAL State Costs by Category	**$**	**$**
B. State Costs by Source of Funds		
GPR		
FED		
PRO/PRS		
SEG/SEG-S		

III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)

	Increased Rev	Decreased Rev
GPR Taxes	$	$
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		
TOTAL State Revenues	**$**	**$**

NET ANNUALIZED FISCAL IMPACT

	State	Local
NET CHANGE IN COSTS	$	$
NET CHANGE IN REVENUE	$See Text	$

Agency/Prepared By	**Authorized Signature**	**Date**
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