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2017 Joint Committee on Finance Paper #596

Transfer of Petroleum Inspection Fund Revenue (Transportation -- Transportation Finance)

Base Agency

[LFB 2017-19 Budget Summary: Page 431, #1 & #2]

CURRENT LAW

The petroleum inspection fund (PIF) was originally established to fund the petroleum environmental cleanup fund award (PECFA) program, which was created in response to federal legislation requiring the cleanup of underground storage tanks. The fund receives revenue from a 2.0¢ per gallon petroleum inspection fee on petroleum products (primarily gasoline, diesel, and home heating fuel) distributed in the state. Revenues to the petroleum inspection fund are first used by a trustee to pay for annual debt service on outstanding PECFA revenue bond obligations issued to fund cleanup and remediation actions at PECFA sites. Remaining funds, after annual PECFA debt service obligations are met, are currently deposited to the petroleum inspection fund and used to cover: (a) PECFA program costs and administration; (b) petroleum inspection and tank regulation; (c) transfers to the transportation fund; and (d) environmental and other programs in several state agencies.

Under current law, a number of statutory transfers and appropriations from PIF are made each year, including the following items related to transportation in 2015-17: (a) an annual appropriation that transfers $6,258,500 from the petroleum inspection fund to the transportation fund in each year of a biennium; (b) an appropriation related to environmental-quality, transportation planning positions equal to $393,600 annually; and (c) non-statutory (one-time) transfers equal to $21,000,000 annually.

GOVERNOR

Transfer $24,000,000 annually during the 2017-19 biennium from PIF to the transportation fund. This transfer would be in addition to the existing appropriation that transfers $6,258,500 annually from PIF to the transportation fund. As a result, the total estimated PIF revenues provided to the transportation fund would be $30,258,500 annually compared to a total of $27,258,500 annually in the 2015-17 biennium in ongoing ($6,258,500) and one-time ($21,000,000) transfers.

Require the Secretary of the Department of Administration (DOA), beginning on June 30, 2020, and on June 30 of each subsequent fiscal year, to transfer the unencumbered balance of PIF to the transportation fund, except for an amount equal to not less than 5% of the gross revenues received by PIF during the fiscal year in which the transfer is made.

DISCUSSION POINTS

1. This paper provides background information on the motor vehicle fuel tax and petroleum inspection fee, describes the Governor's 2017-19 recommendations regarding the use of PIF moneys for transportation purposes, and provides a possible alternative to the Governor's recommendations.

Motor Vehicle Fuel Tax and Petroleum Inspection Fee

2. The state imposes a motor vehicle fuel excise tax at 30.9¢ per gallon on gasoline, including gasoline blended with ethanol, and diesel, which is levied primarily at the terminal level. Motor vehicle fuel tax receipts are deposited in the state's transportation fund, a separate, nonlapsible trust fund used to finance transportation-related programs. Alternate vehicle fuels, such as liquefied propane gas, compressed natural gas, and liquid natural gas are subject to separate excise tax rates based on the energy content of the alternate fuel. Approximately 3.38 billion gallons of diesel and gasoline fuels are annually subject to this tax. At currently estimated consumption levels, each 1.0¢ increase to the motor vehicle fuel tax rate would result in estimated annual transportation fund revenue of about $33.85 million, assuming a full year of revenue collection. As a point of reference, motor vehicle fuel tax collections in the past several years have averaged slightly more than $1.0 billion.

3. A 2.0¢ petroleum inspection fee is also imposed on all inspected petroleum products (such as gasoline, diesel, home heating oil, and dyed diesel). Revenue from the petroleum inspection fee is deposited to PIF. The PIF was established to fund the PECFA program and several other appropriations. The PECFA program was created in response to federal legislation requiring the cleanup of underground storage tanks. Approximately 3.85 billion gallons of petroleum are inspected annually, with each 1.0¢ of the fee equaling approximately $38.5 million annually.

4. The first use of revenue from the petroleum inspection fee is required to be for payment of the revenue obligations that were issued between 2000 and 2008 to address a backlog of PECFA claims. Approximately $387 million in PECFA revenue obligations were issued to pay PECFA claims, and eliminate the claim backlog. No bonding authority is available for future issuance. Remaining debt service on PECFA bonds is $28,631,700 in 2017-18 and $25,925,900 in

2018-19, which represent the final payments owed on PECFA debt obligations. Under 2015 Wisconsin Act 55, eligibility was eliminated for new sites as of July 20, 2015. The Act also specified that no claims for reimbursement of eligible costs can be submitted after June 30, 2020. Therefore, ongoing PECFA program demands on PIF will be significantly diminished in the 2019-21 biennium and beyond. [A fund condition that summarizes the impact of transfers and appropriations on the PIF balance in the 2015-17 biennium and in the 2017-19 biennium under the Governor's budget recommendations is provided in the attachment.]

Governor's Transportation-Related Recommendations for PIF

5. The Governor recommends the transfer of $24,000,000 annually during the 2017-19 biennium from PIF to the transportation fund. [Alternative A1] This transfer would be in addition to the existing appropriation that transfers $6,258,500 annually from PIF to the transportation fund. As a result, the total estimated PIF revenues provided to the transportation fund would be $30,258,500 annually compared to a total of $27,258,500 annually in the 2015-17 biennium in ongoing ($6,258,500) and one-time ($21,000,000) transfers. A history of PIF transfers to the transportation fund, including the Governor's recommendations, is shown in the following table.

TABLE 1

Petroleum Inspection Fund Transfers to Transportation Fund
($ in Millions)

Fiscal Year	Annual Appropriation	One-time	Total
Past Transfers			
2007-08	$6.3	$14.0	$20.3
2008-09	6.3	0.0	6.3
2009-10	6.3	10.0	16.3
2010-11	6.3	17.8	24.1
2011-12	6.3	19.5	25.8
2012-13	6.3	19.5	25.8
2013-14	6.3	16.0	22.3
2014-15	6.3	16.0	22.3
2015-16	6.3	21.0	27.3
2016-17	6.3	21.0	27.3
Subtotal	$63.0	$154.8	$217.8
Governor's Recommended Transfers			
2017-18	$6.3*	$24.0	$30.3
2018-19	6.3*	24.0	30.3
Subtotal	$12.6	$48.0	$60.6
Total of All Transfers	$75.6	$202.8	$278.4

*Is the base amount and does not require additional legislative approval.

6. The Governor's recommendations also include a provision that would require the DOA Secretary, beginning on June 30, 2020, and on June 30 of each subsequent fiscal year, to transfer the unencumbered balance of PIF to the transportation fund, except for an amount equal to not less than 5% of the gross revenues received by PIF during the fiscal year in which the transfer is made. Although this provision of the bill would have no fiscal effect in 2017-19, beginning in 2019-20, under current estimates, it would result in an unencumbered PIF balance of an estimated $3.9 million at the end of each fiscal year. [Alternative B1]

7. In addition to the transfers to the transportation fund, PIF also directly funds a DOT appropriation for "demand management," which is a DOT program intended to reduce traffic volume, especially during peak hours of traffic congestion. In 2017-19, annual funding of $393,600 would support 4.0 urban and regional planning positions in the DOT's southeast regional office. Because these positions provide an environmental improvement function consistent with the purpose of PIF, this funding has not been included in the alternative discussed later in this paper.

Possible Alternative to Ongoing and One-time Transfers

8. One alternative to the Governor's recommendation would be to delete the existing appropriation that transfers $6.3 million from the PIF to the transportation fund in 2018-19 as well as the Governor's recommended one-time transfer of $24.0 million in 2018-19 and instead increase the motor vehicle fuel tax rate by 1.1¢ per gallon to 32.0¢ and make a corresponding reduction of 1.0¢ per gallon to the petroleum inspection fee. The rate changes could take effect on July 1, 2018, which would have the following revenue effects in 2018-19: (a) an estimated increase in transportation fund revenue of $37.2 million; and (b) an estimated reduction in PIF revenue of $38.5 million. The overall fiscal effect of these tax rate changes would result in an estimated reduction to revenue between the two funds of $1.3 million in 2018-19 (-$38.5 million PIF revenue + $37.2 million transportation fund revenue). However, compared to the Governor's recommendations, these actions would add $6.9 million to the transportation fund's balance ($37.2 million transportation fund revenue - $30.3 million in transfers under the bill). Under this alternative, as shown in the following table relating to the revenue impact of the alternative between the two funds, the motor vehicle fuel tax rate would increase from 30.9¢ per gallon to 32.0¢ per gallon and the petroleum inspection fee would decrease from 2.0¢ per gallon to 1.0 ¢ per gallon, effective July 1, 2018. [Alternative A2]

TABLE 2

Conversion of PIF Transfers under Bill to Transportation Fund Revenue -- Alternative A2 ($ in Millions)

	2018-19		
	Transportation Fund	PIF	Change
Revenue			
Motor Vehicle Fuel Tax -- 1.1¢ Increase	$37.2	$0	$37.2
Petroleum Inspection Fee -- 1.0¢ Reduction	0.0	-38.5	-38.5
Change in Revenue	$37.2	-$38.5	-$1.3
Recommended Transfers			
Delete Existing PIF Transfer Appropriation	-$6.3	$6.3	$0.0
Delete Onetime PIF Transfer under Bill	-24.0	24.0	0.0
Change in Revenue	-$30.3	$30.3	$0.0
Net Change in Revenue	$6.9	-$8.2	-$1.3

9. Under this alternative, the new petroleum inspection fee would be 1.0¢ per gallon instead of the current 2.0¢ for 2018-19 and beyond. Based on current consumption estimates, the 1.0¢ per gallon fee would continue to generate about $38.5 million annually. Remaining, ongoing PIF commitments in 2019-20 and beyond are estimated at $22.2 million annually. Therefore, ongoing annual PIF revenue would be about $16.3 million more than would be required to fund these out-year commitments ($38.5 million - $22.2 million). However, if the Committee were to approve this alternative as well as the Governor's recommended unencumbered PIF balance transfer provision (Alternative B1), additional revenues would flow to the transportation fund and the estimated, annual PIF ending balance for 2019-20 and beyond would be reduced to $1.9 million ($38.5 million * 5% of annual revenue), which would be about $2.0 million lower than under the bill.

10. The petroleum inspection fee, unlike the motor vehicle fuel tax, applies to a broad base of petroleum products, some of which are used for non-highway purposes, such as home heating oil and fuel used for non-highway purposes, such as farming. The motor vehicle fuel tax and the petroleum inspection fee are imposed when the fuel leaves terminal storage and is collected monthly from licensed suppliers (typically the terminal operator who sells the fuel to wholesalers). It is generally assumed that suppliers pass on these taxes to consumers in the price of fuel.

11. Many contend that the state's transportation system should be a "user-based system," whereby users of the state's transportation infrastructure pay into the fund and these revenues are expended to support that same transportation infrastructure. To this end, in 2014, the state passed a constitutional amendment that is intended to require that existing transportation revenues continue to be deposited to the transportation fund and to prevent future lapses and transfers from the fund for any non-transportation-related use or any program not directly administered by DOT.

12. Although most petroleum inspection fee revenue is generated by fuel purchased for

highway uses, some may argue that the continued transfer and appropriation of petroleum inspection fee revenue for transportation purposes, a portion of which is generated by non-highway uses, is not totally consistent with this transportation system user fee model. In addition, because the petroleum inspection fee had been increased in the 1990s to cover the estimated costs of the cleanup of leaking underground petroleum storage tanks, it could be argued that the use of this revenue for transportation infrastructure is not consistent with the intent of the increased fee. However, under Alternative A2, users of home heating oil and dyed diesel would no longer be paying for a portion of PIF transfers to the transportation fund. Rather, users of the transportation system would be paying an increased motor vehicle fuel tax rate. In addition, the remaining level of annual PIF revenue ($38.5 million) would be more commensurate with the expected remaining size of that fund's ongoing commitments ($22.2 million).

13. In discussions related to transportation finance over the past year, the Governor has indicated that he would not be amenable to increasing the motor vehicle fuel tax without a corresponding tax reduction. The alternative discussed above would increase the motor vehicle fuel tax rate by 1.1¢ per gallon while decreasing the petroleum inspection fee by only 1.0¢ per gallon. The net effect of these actions would be an overall reduction in revenue between PIF and the transportation fund equal to an estimated $1.3 million in beginning in 2018-19. Again, this is due to the fact that the petroleum inspection fee applies to a larger base of products than the motor vehicle fuel tax. As a result, decreasing or increasing the petroleum inspection fee by any given increment generates a proportionately larger revenue effect than an equal rate change to the motor vehicle fuel tax.

14. However, the concern over the potential increase of fuel taxes may extend to the concept that an increase in a tax rate or fee, regardless of its fiscal effect, could be perceived by some as a tax increase. For example, even though Alternative A2 would have the effect of reducing the overall amount of taxes paid in the state on fuel, the motor vehicle fuel tax rate under the alternative would be increased by one-tenth of a cent more than the corresponding reduction in the tax rate of the petroleum inspection fee.

15. If concern exists that some may view the differential in these rate changes as a tax increase, the Committee could instead increase the motor vehicle fuel tax rate and decrease the petroleum inspection fee by 1.0¢ per gallon each. Under this alternative, effective July 1, 2018, the motor vehicle fuel tax rate would be increased by 1.0¢ per gallon and the petroleum inspection fee would be decreased by 1.0¢ per gallon. The overall fiscal effect of these tax rate changes would be an estimated reduction to revenue between the two funds of $4.7 million in 2018-19 (-$38.5 million PIF revenue + $33.8 million transportation fund revenue). However, compared to the Governor's recommendations, these actions would add $3.5 million to the transportation fund's balance ($33.8 million transportation fund revenue - $30.3 million in deleted transfers). The PIF balance would decrease by $8.2 million compared to current law (-$38.5 million associated with the 1.0¢ per gallon fee reduction + $30.3 million in deleted transfers). Under this alternative, the motor vehicle fuel tax rate would increase to 31.9¢ per gallon and the petroleum inspection fee would also decrease to 1.0¢ per gallon, effective July 1, 2018. [Alternative A3]

16. Over the past decade, relatively limited transportation fund revenue growth and the state's extensive use of transportation fund-supported debt to finance highway infrastructure have

contributed to an increasing percentage of transportation fund revenue being used to pay debt service (principal and interest). During this period, transportation fund-supported debt service as a percentage of that fund's gross revenue (excluding transfers from other funds) has increased from 10.3% in 2006-07 to an estimated 19.0% in 2016-17. In 2017-19, under the Governor's budget recommendations (as reestimated in LFB Paper #595), this percentage would increase to an estimated 20.0% in 2017-18 and 21.8% in 2018-19. Either of the alternatives discussed in this section would have the effect of reducing these estimated, out year percentages as a result of increasing revenue to the transportation fund, as opposed to transferring a similar amount. Under Alternative A2, which would increase the motor vehicle fuel tax rate by 1.1¢ per gallon, the 2018-19 percentage would decrease from 21.8% to 21.4%. A similar decrease in the 2018-19 percentage would occur under Alternative A3, which would increase the motor vehicle fuel tax rate by 1.0¢ per gallon.

ALTERNATIVES

A. Use of PIF Revenue for Transportation Purposes

1. Approve the Governor's recommendation and transfer $24,000,000 annually during the 2017-19 biennium from PIF to the transportation fund. This transfer would be in addition to the annual appropriation of $6,258,500 annually from PIF to the transportation fund. As a result, the total estimated PIF revenues provided to the transportation fund would be $30,258,500 annually compared to a total of $27,258,500 annually in the 2015-17 biennium in ongoing ($6,258,500) and one-time ($21,000,000) transfers.

ALT A1	Change to	
	Base	Bill
SEG-REV	$24,000,000	$0

2. Approve the Governor's recommendation for 2017-18 and modify the 2018-19 recommendation and current law as follows: (a) delete the annual appropriation that transfers $6,258,500 from the petroleum inspection fund to the transportation fund beginning with the transfer that would occur in 2018-19; (b) delete the onetime transfer of $24,000,000 in 2018-19 that would occur under the bill; (c) increase the motor vehicle fuel tax rate by 1.1¢ per gallon, effective July 1, 2018; and (d) reduce the petroleum inspection fee by 1.0¢ per gallon, effective July 1, 2018. The net effect of these actions would be a reduction in overall SEG revenue of $1,300,000 ($6.9 million in transportation fund SEG-REV and -$8.2 million in PIF SEG-REV) in 2018-19. Under this alternative, the motor vehicle fuel tax rate would increase from 30.9¢ per gallon to 32.0¢ per gallon and the petroleum inspection fee would decrease from 2.0¢ per gallon to 1.0¢ per gallon, effective July 1, 2018.

ALT A2	Change to Base	Bill
SEG (PIF)	- $6,258,500	- $6,258,500
SEG-REV (Trans)	$30,941,500	$6,941,500
SEG-REV (PIF)	- 32,241,500	- 8,241,500
SEG-REV	- $1,300,000	- $1,300,000

3. Approve the Governor's recommendation for 2017-18 and modify the 2018-19 recommendation and current law as follows: (a) delete the annual appropriation that transfers $6,258,500 from the petroleum inspection fund to the transportation fund beginning with the transfer that would occur in 2018-19; (b) delete the onetime transfer of $24,000,000 in 2018-19 that would occur under the bill; (c) increase the motor vehicle fuel tax rate by 1.0¢ per gallon, effective July 1, 2018; and (d) reduce the petroleum inspection fee by 1.0¢ per gallon, effective July 1, 2018. The net effect of these actions would be a reduction in overall SEG revenue of $4,700,000 ($3.5 million in transportation fund SEG-REV and -$8.2 million in PIF SEG-REV) in 2018-19. Under this alternative, the motor vehicle fuel tax rate would increase from 30.9¢ per gallon to 31.9¢ per gallon and the petroleum inspection fee would decrease from 2.0¢ per gallon to 1.0¢ per gallon, effective July 1, 2018.

ALT A3	Change to Base	Bill
SEG (PIF)	- $6,258,500	- $6,258,500
SEG-REV (Trans)	$27,541,500	$3,541,500
SEG-REV (PIF)	- 32,241,500	- 8,241,500
SEG-REV	- $4,700,000	- $4,700,000

4. Delete provision.

ALT A4	Change to Base	Bill
SEG-REV	$0	- $24,000,000

B. Balance of PIF in Future Biennia

1. Require the Secretary of DOA beginning on June 30, 2020, and on June 30 of each subsequent fiscal year, to transfer the unencumbered balance of PIF to the transportation fund, except for an amount equal to not less than 5% of the gross revenues received by PIF during the fiscal year in which the transfer is made. [This provision of the bill would have no fiscal effect in 2017-19.]

2. Delete provision.

Prepared by: John Wilson-Tepeli
Attachment

ATTACHMENT

Petroleum Inspection Fund Condition
Through May 16, 2017, Committee Action

	2015-16 Actual	2016-17 Estimated	2017-18 Budget Bill	2018-19 Budget Bill	2018-19 Staff
Opening Balance	$21,786,300	$19,330,400	$14,680,100	$10,975,500	
Revenues:					
Petroleum Inspection Fee	$74,804,900	$76,700,000	$77,100,000	$77,100,000	
Revenue Obligation Debt Service	-28,744,200	-31,084,400	-28,631,700	-25,925,900	
Petroleum Bulk Tank Fees and Other	278,300	370,000	300,000	300,000	
Total Revenues	$46,339,000	$45,985,600	$48,768,300	$51,474,100	
Total Revenue Available	$68,125,300	$65,316,000	$63,448,400	$62,449,600	
Expenditures:					
PECFA Awards	$5,525,600	$5,674,400*	$5,400,000*	$5,400,000	
PECFA Administration	2,281,700	2,329,900	2,254,800	2,254,800	20.30
Petroleum Inspection	4,369,300	4,515,200	4,501,200	4,504,700	36.05
Transportation Fund	6,584,600	6,629,000	6,652,100	6,652,100	4.00
Other Programs **	9,033,700	9,723,300	9,664,800	9,693,300	30.75
Expenditure of Prior Year Encumbrances	0	764,100	0	0	0.00
Total Expenditures	$27,794,900	$29,635,900	$28,472,900	$28,504,900	91.10
Less Transfer to Transportation Fund	$21,000,000	$21,000,000	$24,000,000	$24,000,000	
Cash Balance	$19,330,400	$14,680,100	$10,975,500	$9,944,700	
Encumbrances, Continuing Balances	-$764,100	$0	$0	$0	
Available Balance	$18,566,300	$14,680,100	$10,975,500	$9,944,700	

*2016-17 includes $2,100,000 provided in a March, 2017, s.13.10 approval, and does not include the same amount in 2017-18.

**Other programs include appropriations for transfer to the segregated environmental management account, Department of Administration (DOA) diesel truck idling reduction grants, Department of Agriculture, Trade and Consumer Protection weights and measures and unfair sales act, Department of Military Affairs emergency response board and major disaster assistance, Department of Revenue administration of petroleum inspection fee collections, and a reimbursement of the petroleum inspection fee paid on certain purchases of aviation fuel. Amounts include May 16, 2017, action of the Joint Committee on Finance to restore the DOA diesel truck idling reduction grant program, which would have been repealed under the bill.

Note: Under "Expenditures," the "Transportation Fund" item equal to $6,652,100 annually in 2017-19, is composed of the following: (a) the annual $6,258,500 PIF transfer to the transportation fund; and (b) a $393,600 annual appropriation that supports 4.00 DOT positions.