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May 24, 2011 Joint Committee on Finance Paper #642

Use of Revenues from Other Funds to Support Transportation Programs (DOT -- Transportation Finance)

[LFB 2011-13 Budget Summary: Page 427, #2]

CURRENT LAW

The transportation fund consists of state collections on various transportation-related taxes and fees, including: (a) excise taxes on motor vehicle fuel; (b) vehicle registration, title, and other related fees; (c) driver's license and other related fees; (d) aeronautical taxes and fees; (e) railroad property taxes; (f) miscellaneous Department of Transportation revenues, such as driver license abstract fees and vehicle rental fees; and (g) investment earnings on fund deposits.

The transportation fund revenue is the funding source for various transportation programs, including: (a) state highway construction and maintenance; (b) local road and bridge aid and assistance; (c) mass transit aid; (d) freight rail and harbor assistance; (e) passenger rail operating support; (d) airport assistance; (e) the Division of Motor Vehicles; and (f) the Wisconsin State Patrol (including the transportation safety program).

GOVERNOR

The bill includes the following provisions that, in effect, involve the use of what are currently not transportation fund revenues to fund transportation programs: (a) the transfer of a portion of the sales and use tax on motor vehicles, parts, and accessories from the general fund to the transportation fund; (b) the use of general fund appropriations to support mass transit operating assistance; (c) the authorization of general fund-supported bonds for the state highway rehabilitation program; (d) conversion of the $9 vehicle environmental impact fee, which is currently deposited in the environmental fund, to an additional $9 title fee, which would be deposited in the transportation fund; and (e) a transfer from the petroleum inspection fund to the transportation fund. The following table summarizes the benefit to transportation programs from each of these provisions.

Other Fund Revenues Used To Support Transportation Programs

	2011-12	2012-13	Biennial Total
General Fund			
Sales Tax on Vehicles	$0	$35,127,000	$35,127,000
Mass Transit Appropriations	0	106,478,300	106,478,300
State Highway Rehabilitation Bonds	115,351,500	0	115,351,500
General Fund Subtotal	$115,351,500	$141,605,300	$256,956,800
Environmental Fund			
Shift Environmental Impact Fee	$10,500,000	$10,500,000	$21,000,000
Petroleum Inspection Fund			
Transfer to Transportation Fund	$19,500,000	$19,500,000	$39,000,000
Grand Total	$145,351,500	$171,605,300	$316,956,800

DISCUSSION POINTS

1. This paper provides a general discussion of several measures in the bill that involve the use of general fund or other fund revenues to assist transportation programs. More information on individual items, as well as a discussion of alternatives, is provided in issue papers prepared for each item.

2. Over 90% of transportation fund revenue is generated from the motor fuel tax and vehicle fees (vehicle registration and title fees). These are sometimes referred to as user fees, since it is the users of transportation facilities, through the payment of fuel taxes and vehicle fees, who are charged for the construction of the roads and highways that they use. The transportation fund also includes revenue from other sources that could be considered user fees for other transportation modes and functions. For instance, aeronautical taxes and fees (aviation fuel taxes, aircraft registration fees, and ad valorem property taxes on airline property), railroad property taxes, and driver's license fees are deposited in the transportation fund, to help support related programs.

3. Without changes in statutory tax and fee rates, any revenue growth generated by the motor fuel tax and vehicle registration fees must come from increases in the number of gallons of fuel consumed or the number of vehicles registered. Consequently, revenues can grow as the use of the transportation system grows, but this growth may not be sufficient to offset the demands associated with growing use and inflation in the cost of construction and maintenance programs.

4. In general terms, the "use" of the state's transportation system, measured by motor fuel consumed or vehicles registered, has remained relatively constant, or even fallen, in the past several years. Some of this is clearly related to the economic recession of 2008 and 2009, although some of these trends predate the recession. The following table shows the number of gallons of fuel consumed, and the number of automobiles, light trucks, and heavy trucks registered over the past 10 completed fiscal years, as well a projections for 2010-11 through 2012-13.

Motor Fuel Consumption and Motor Vehicle Registrations
(In Millions of Gallons or Vehicles)

	Motor Fuel		Automobiles		Light Trucks		Heavy Trucks	
Fiscal Year	Gallons	% Change	Number	% Change	Number	% Change	Number	% Change
2000-01	3,112.9		3.168		0.824		0.172	
2001-02	3,209.6	3.1%	3.225	1.8%	0.846	2.6%	0.181	5.3%
2002-03	3,214.1	0.1	3.287	1.9	0.861	1.8	0.191	5.3
2003-04	3,280.8	2.1	3.324	1.1	0.879	2.1	0.201	5.6
2004-05	3,224.6	-1.7	3.363	1.2	0.895	1.8	0.214	6.2
2005-06	3,185.9	-1.2	3.415	1.5	0.903	0.9	0.230	7.5
2006-07	3,259.9	2.3	3.477	1.8	0.910	0.9	0.231	0.2
2007-08	3,247.4	-0.4	3.521	1.3	0.907	-0.4	0.237	2.8
2008-09	3,146.6	-3.1	3.507	-0.4	0.895	-1.4	0.233	-1.6
2009-10	3,143.6	-0.1	3.516	0.3	0.892	-0.4	0.233	-0.3
2010-11*	3,233.0	2.8	3.509	-0.2	0.889	-0.4	0.234	0.6
2011-12*	3,187.9	-1.4	3.499	-0.3	0.886	-0.3	0.240	2.4
2012-13*	3,166.8	-0.7	3.490	-0.2	0.882	-0.5	0.247	3.1

* Projections.

5. Although heavy truck registrations are projected to increase over the next several years, the other items are generally projected to continue falling. Annual fuel consumption in the state peaked in 2003-04 at 3.28 billion gallons, and is projected to remain below that level throughout the 2011-13 biennium and beyond as the fuel economy of vehicles continues to improve. The number of light vehicles registered (automobiles and light trucks) peaked in 2007-08, and is, likewise, projected to remain below that level through the 2011-13 biennium.

6. The following table shows total, gross transportation fund revenues, and the annual rate of growth for the past 10 completed years, and projections for 2010-11 through 2012-13 under current law tax and fee levels. In order to portray revenues generated by current transportation taxes and fees, the amounts shown exclude actual transfers from the petroleum inspection fund ($6.3 million annually from 2004-05 to 2008-09, $16.3 million in 2009-10, and $24.1 million in 2010-11). Likewise, the two years of the 2011-13 biennium exclude additional proposed transfers from the petroleum inspection fund ($25.8 million annually), the proposed increase to the vehicle title fee ($10.5 million annually), and the proposed transfer of vehicle-related sales tax from the general fund ($35.1 million in 2012-13).

Gross Transportation Fund Revenue History and Projections, Excluding Certain Transfers to the Fund and the Proposed Title Fee Increase

Fiscal Year	Gross Revenues	Percent Increase
2000-01	$1,283,376,900	--
2001-02	1,337,655,400	4.2%
2002-03	1,386,588,400	3.7
2003-04	1,440,412,000	3.9
2004-05	1,476,579,000	2.5
2005-06	1,516,985,700	2.7
2006-07	1,606,531,900	5.9
2007-08	1,674,980,200	4.3
2008-09	1,687,289,900	0.7
2009-10	1,697,850,400	0.6
2010-11*	1,711,438,700	0.8
2011-12*	1,714,576,200	0.2
2012-13*	1,712,606,000	-0.1

*Projected amounts, excluding proposed transfers to the fund and the title fee increase.

7. As the preceding table shows, gross revenue growth, in the absence of actual and proposed transfers to the fund, has been, and is projected to be, less than 1.0% since 2008-09. Notably, the last year with a rate of growth higher than that was also the last year in which there was a significant change to transportation fund taxes and fees. On January 1, 2008, the automobile registration fee was increased from $55 to $75, and the registration fees for trucks were also increased for all weight classifications.

8. As the previous points illustrate, without the use of sources of revenue from outside the traditional user fees or increases in those fees, the transportation fund could not support significant funding increases to programs to offset the effect of inflation. Furthermore, since transportation fund debt service has generally increased at a faster rate than revenue growth, net revenues have actually fallen in many recent years. By using other revenue sources, the bill offsets the decline in net transportation fund revenue, thereby supporting transportation program spending at a higher level than otherwise would be the case. [Although it should be noted that the use of transportation bonds and the reallocation of funding between programs also plays a role in the level of funding for particular programs.]

9. The largest, single budgetary measure involving the use of non-transportation fund sources for transportation programs is the authorization of $115.4 million in general fund-supported, general obligation bonds for the state highway rehabilitation program. The use of these bonds would be a one-time measure, applied in the first year of the biennium to replace SEG funds in the state highway program. In the second year, SEG funds would replace the bonds in that program, largely made possible by the other general fund measures, which are discussed in more detail below. The one-time use of general fund-supported bonds may be justified, independent of the other measures, on the grounds that the bonds would allow the general fund to continue to "repay"

the transportation fund for amounts that were transferred to the general fund over the past several biennia. Furthermore, the amount of bonds authorized could be increased, in addition to or in place of the other general fund measures discussed in this paper, to hold the transportation fund harmless for past transfers. For a further discussion of this issue, including a discussion of these alternatives, see LFB Issue Paper #665 on the state highway rehabilitation program.

10. In addition to the use of general fund-supported bonds, the bill includes two other provisions involving the use of general fund revenues for transportation purposes. Briefly, one provision would involve substituting general fund appropriations for transportation fund appropriations for making mass transit aid payments. In 2012-13, the first year of this shift, the general fund appropriations would total $106,478,300, replacing an equal amount of SEG appropriations. The other provision would require the deposit of a portion of the sales and use tax on motor vehicles and motor vehicle parts and accessories into the transportation fund instead of, under current law, into the general fund. In 2012-13, the first year of the change, the amount transferred would be 7.5% of these collections, capped at a maximum of $35,127,000. After the 2011-13 biennium, the percentage would grow to 10.0% in 2013-14 and 15.0% in 2014-15, and would grow by an additional five percentage points each subsequent year until reaching 50.0% in 2021-22. Based on estimated 2012-13 sales tax collections, the 50% transfer would be $292 million in 2021-22. Growth in total sales (due to inflation and real growth) would increase the transfer above that amount.

11. Unlike the use of general fund-supported bonds, as described above, the other two provisions involving the use of general fund revenues for transportation programs would have an ongoing impact. Some have justified this shift on the grounds that transportation fund revenues were used for general fund purposes over the past several biennia. However, it should be noted that if these provisions are unchanged, the loss to the transportation fund due to these transfers would be fully "repaid" in the second year of the 2013-15 biennium, and the balance between the two funds would shift, to become an ongoing, and increasing, loss to the general fund. The following points provide various arguments for and against the use of general fund revenues, as proposed in these two provisions.

12. Unlike for most other state-supported, transportation programs, mass transit user fees (fares) are collected at the local level and, therefore, are not deposited in the state transportation fund. To the extent that the transportation fund is primarily reserved for programs with a direct relationship to the user fees that are deposited in the fund, a case could be made that the fund should not be the source of mass transit aids. The switch from the transportation fund to the general fund as the source of mass transit aids, as proposed under the bill, would be consistent with that principle.

13. Traditionally, the state has not tied spending on particular programs to the amounts generated from specific users. Rather, all transportation programs have been supported from the transportation fund in the interest of establishing a comprehensive, intermodal transportation system. In some cases, the amount spent for a particular part of the system may exceed the amount of user revenue generated from that system. For instance, under the bill, state funding for the airport improvement program would exceed estimated aeronautical revenues collected by over 70% in each year of the biennium. Likewise, within the state's road and highway network, because of low population and traffic density, some parts of the system cost more to build and maintain than the

amount of road user fees that are generated on those parts. In both cases, costs in excess of associated user revenues are, in effect, paid by users of other parts of the system. The proposal to remove mass transit aid from this financing system may be justified on the grounds outlined in the previous point, but mass transit is only one of various parts of the overall transportation system that are not fully covered by direct user fees.

14. Regardless of whether or not one takes the position that the transportation system principle justifies continued use of transportation fund revenue for mass transit aid, several other arguments have been made in support of using highway user fees for mass transit costs. First, the presence of a reliable mass transit system may reduce road congestion by providing a transit option for persons who would otherwise drive in a personal vehicle. Since those who continue to drive in a personal vehicle benefit from this reduced congestion, it may be reasonable to levy a fee on those drivers to pay for that benefit. Second, while the construction of freeways has made travel faster and easier for those who have access to personal vehicles, it may have had a detrimental effect on urban mass transit systems by reducing the density of residential and commercial development. Providing mass transit services in lower density urban and suburban areas is more costly on a per-rider basis, thus necessitating a non-fare subsidy to continue serving persons who are transit dependent. Consequently, the payment of a portion of the highway user fees to support mass transit systems may be appropriate to compensate for these negative effects.

15. The mass transit assistance program began in 1973 and has been funded from the segregated transportation fund, or its predecessor fund, since 1976-77. Concerns have been raised that funding the state's mass transit operating assistance program from the general fund could make if more difficult for the program to receive consistent funding increases in the future. This stems from concerns that the state's general fund has been under consistent budget stress in recent years and that the mass transit operating assistance program would have a more difficult time competing for funding increases given the continued, significant funding priorities facing the general fund. Recent funding changes for two local aid programs may illustrate this concern. The mass transit operating assistance program has received funding increases in eight of the past ten years while funded from the transportation fund. Overall program funding increased by 22.3% over the ten-year period. Comparatively, funding for the state's county and municipal aid program (previously called the shared revenue program), provided through the general fund, has decreased by 5.9% over the same ten-year period.

16. The use of a portion of the motor fuel tax for mass transit assistance has been federal policy since the passage of the Surface Transportation Assistance Act of 1982. Currently, 2.86 cents per gallon of the 18.4 cent-per-gallon federal tax on gasoline (15.5%), as well as 2.86 cents of the 24.4 cent-per gallon tax on diesel fuel (11.7%) is deposited in the federal mass transit account, for payment of federal mass transit aid. Mass transit funding under the bill in 2012-13 is equivalent to 3.36 cents per gallon at the state level, or 10.9% of total motor fuel tax collections. On a total revenue basis, mass transit funding would equal 6.2% of the gross revenues for 2012-13.

17. When legislative bodies face decisions like the proposed conversion of mass transit funding from the segregated, transportation fund to the general fund, questions often arise as to how other states have chosen to fund their transit assistance programs. However, such a comparison may not be particularly meaningful because states tend to differ in the composition of revenues

deposited to their transportation and general funds. According to the American Association of State Highway and Transportation Officials (AASHTO) 2010 Survey of State Funding for Public Transportation, 20 states provide some level of transit funding from their transportation fund. However, as a comparison to Wisconsin, this is less telling than it would seem because some of those states include auto-related sales tax revenues and other revenues in their transportation fund that are currently deposited to the general fund in Wisconsin. In addition, while the AASHTO survey indicates that 13 states primarily use general fund revenues to fund transit, the general fund in some of those states includes revenues from motor vehicle fuel-related sales taxes. For example, while the AASHTO survey indicates that Illinois provides general fund assistance for transit, the Illinois general fund receives revenues from a 6.25% sales tax on motor vehicle fuel (currently equivalent to 22.6 cents per gallon), which is in addition to the state's excise tax on motor vehicle fuel.

18. All but four states (Alabama, Hawaii, Nevada, and Utah) provide either operating or capital assistance to their local transit systems, with most states providing both types of funding. Annual state funding levels range from less than $1 million in smaller states to nearly $3.0 billion in the more heavily populated states. Also, in addition to state funding, several states authorize counties, municipalities, or transit authorities to impose regional general sales and use taxes to assist with the costs of transit capital and operating expenses. From a policy perspective, a dedicated local sales tax authority for transit is similar to a user fee in that the population that benefits the most from having viable transit service as part of their region's overall transportation system would be paying for that service from a revenue source generated in the region.

19. For alternatives related to the amount and source of funding for mass transit aid, see LFB Issue Paper #651.

20. The transfer of a portion of the sales and use tax on motor vehicles, and motor vehicle parts and accessories, has been justified by some on the grounds of its relationship to transportation. That is, the sales tax on these items could be seen as a separate transportation user fee that should be reserved for transportation purposes.

21. A counter argument could be made that the state's sales tax on all items is levied for the purpose of supporting the general operations of the state, regardless of what type of item is the subject of the sale. In other words, the fact that the sales tax is collected on the sale of motor vehicles does not make the tax a user fee. From this perspective, a case could be made that if the state's existing user fees for road and highway users (the motor fuel tax and the vehicle registration fees) are inadequate to support current transportation programs, then the amounts of those taxes and fees should be increased or the funding for those programs should be decreased.

22. The use of general sales tax proceeds for transportation may also be justified on the grounds that the state's transportation system contributes to the health of the overall economy. Furthermore, since, as noted above, some modes or parts of the system do not generate enough user fees to cover costs, the infusion of sales tax revenue would relieve some of the burden on other user fees to pay those excess costs.

23. As noted above, the percentage of motor vehicle-related sales tax that is deposited in

the transportation fund would grow each year, under the bill, until reaching 50% in 2021-22. During this phase-in period, transportation fund revenue would expand each year, even if motor vehicle and related sales do not increase (and provided, also, that sales do not fall by more than 5%). This growth could help alleviate the stagnation in transportation fund revenues, discussed above, providing a source of new revenues to increase funding for transportation programs. In contrast, the phase-in of the sales tax transfer would create a ten-year period in which the general fund would have an automatic structural deficit (technically, an advance commitment of general fund revenues).

24. The following table shows the percentage of motor vehicle-related sales tax revenue that would be deposited in the transportation fund and an estimate of the dollar amount that would be deposited, based on the assumption that the sale of motor vehicles and motor vehicle parts and accessories would remain at the same level as in 2012-13 (estimated by the Department of Revenue at $584 million). Although the bill would establish the initial percentage to be deposited in the transportation fund at 7.5%, that amount would be capped at $35.1 million (actually 6.0% of estimated collections). In subsequent years, there would be no such cap. The amount deposited in the transportation fund would increase by $23.3 million in 2013-14 from the 2012-13 level, and by an additional $29.2 million annually thereafter, representing the annual "structural" loss to the general fund and the revenue growth to the transportation fund during the phase-in period.

Percent and Amount of Sales Tax Revenue Deposited in the Transportation Fund, Based on 2012-13 Estimated Collections ($ in Millions)

Fiscal Year	Percentage Deposited	Amount Deposited
2012-13	7.5%	$35.1*
2013-14	10.0	58.4
2014-15	15.0	87.6
2015-16	20.0	116.8
2016-17	25.0	146.0
2017-18	30.0	175.2
2018-19	35.0	204.4
2019-20	40.0	233.6
2020-21	45.0	262.8
2021-22	50.0	292.0

* Amount shown represents the capped amount, instead of the percentage, deposited in the transportation fund.

25. The transfer of a portion of the sales tax on motor vehicles and motor vehicle parts and accessories could create a precedent for the transfer of sales tax revenue on other items to other funds. For instance, the sales tax on recreational vehicles or hunting and fishing equipment could be dedicated to the related conservation programs, or sales taxes collected on certain foods and products that have a detrimental effect on health could be dedicated to related health programs. Dedicating significant amounts of sales tax revenues to specific agencies or programs would erode the Legislature's discretion on how best to allocate general fund revenues among various agencies and programs.

26. States use a wide variety of approaches to funding transportation programs in general, and state highway systems in particular. Like Wisconsin, all states typically rely heavily on motor fuel taxes and vehicle registration fees. As proposed under the bill, many states either make general fund appropriations directly for transportation programs or allocate some sales tax revenue to transportation or highway funds.

27. True comparisons between states, however, are complicated by a variety of factors. As an example, some states, such as Illinois, levy a general fund sales tax (in addition to an excise tax) on motor fuel. This general fund revenue may, in turn, be used for transportation purposes in those states. However, the use of general fund revenues for transportation in this case may not be significantly different than Wisconsin, which has a higher excise tax, but no sales tax, on motor fuel. In other words, in one state (like Illinois), a portion of the motor fuel tax paid by the consumer is considered a general fund revenue, but in Wisconsin the full amount is considered to be a transportation fund revenue.

28. LFB Issue Paper #644 provides additional discussion related to the proposal to deposit vehicle-related sales tax revenue in the transportation fund. Included in that paper is a discussion of several administrative issues that the Committee may wish to consider concerning this proposal, including the volatility of such sales, and the difficulty in estimating the amounts to be transferred.

29. The other two provisions involving the use of other funds for transportation programs are a proposed transfer from the petroleum inspection fund and the substitution of the $9 vehicle environmental impact fee, levied upon the application for a vehicle title, with an increase to the standard vehicle title fee of an equal amount. In both cases, other funds lose revenues that otherwise could be used for programs that are supported from those funds, and the transportation fund gains revenue.

30. The proposed transfer from the petroleum inspection fund would be $19.5 million annually. This transfer would be in addition to an ongoing transfer from that fund, established in 2004-05, of $6.3 million annually. Consequently, the total biennial transfer, including the ongoing and proposed additional amounts, would be $51.5 million. Similar, additional transfers from the petroleum inspection fund were also made in both years of the 2009-11 biennium, of $10.0 million in 2009-10 and $17.8 million in 2010-11.

31. The vehicle title fee provision does not involve a transfer from another fund to the transportation fund, although the proposal has the same effect. By eliminating the current $9 environmental impact fee on vehicle titles and substituting an equal increase to the standard title fee, the environmental fund loses $10.5 million annually and the transportation fund gains a corresponding amount.

32. These two provisions have been justified by some on the grounds that the petroleum inspection fee (2.0 cents per gallon on petroleum products, including home heating oil) and the environmental impact fee are like transportation user fees, and so the revenues generated should be reserved for transportation. A case could also be made, however, that in both cases, the fees were established for specific purposes related to mitigation of the environmental impact of the use of

motor fuel and vehicles on soil and ground water, not for the construction and maintenance of transportation systems. In both cases, current programs funded with these revenues would be reduced or eliminated, effectively relieving motorists of the responsibility for paying for the cost of environmental impacts of their travel.

33. Subsequent LFB issue papers will provide a discussion of the issues related to the environmental management account of the environmental fund (the current account receiving the environmental impact fee on vehicle titles) and the petroleum environmental cleanup fund award program (the primary use of the petroleum inspection fund). LFB Issue Paper #645 provides a discussion of the proposed increase to the standard vehicle title fee. Decisions on these items will affect both of the other funds, as well as the available funding for transportation programs.

SUMMARY

This paper provides a general discussion of several proposals that would involve the use of revenues from other funds (the general fund, the petroleum inspection fund, and the environmental fund) for transportation purposes. These provisions may be justified on the grounds that revenues generated from traditional transportation user fees have generally fallen or grown slowly over the past several years, trends that are expected to continue. The infusion of other revenue sources can provide additional funding for transportation programs without raising taxes or fees.

Arguments against using those other revenues could be made on the grounds that the taxes and fees in the affected funds, although nominally related to transportation, were established for other purposes that would be negatively affected by these proposals. In particular, the ongoing dedication of general fund revenue to transportation programs would constrain the state's flexibility with respect to establishing the budget for current general fund programs.

Although various arguments can be made for or against these proposals, the decision on which fund's revenues to use for particular programs frequently rests more on the relative importance that one places on other uses of the funds. For instance, many advocates of increased spending for transportation infrastructure are likely to make the case that the responsibility for funding a program like mass transit aid belongs with the general fund, and that motor vehicle sales tax revenue should be treated as a user tax, rather than a general tax. In both cases, those decisions increase available funding for transportation infrastructure. Likewise, advocates of a particular general fund program, such as education aid or medical assistance, or advocates of tax rate reductions, may take the opposite position because that would retain the availability of general fund revenues for those purposes.

For all of these items, the Committee's decisions will affect the funding available for various transportation programs, as well as programs in the other affected funds. Consequently, it may be prudent to make these decisions with a consideration of these multi-faceted impacts.

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