



Legislative Fiscal Bureau

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February 27, 2018

TO: Representative Gordon Hintz
Senator Jennifer Shilling
State Capitol

FROM: John Wilson-Tepeli, Fiscal Analyst

SUBJECT: Issues Related to 2017-19 State Highway Rehabilitation Program Budget

As you requested, this memorandum provides information related to the following topics: (a) a December 21, 2017, letter sent by the four Democratic members of the Joint Committee on Finance (the Committee) to the Department of Transportation (DOT) Secretary related to the use of state highway rehabilitation funding for roadwork associated with the Foxconn project in Racine County; (b) the Department's February 7, 2018, response to this letter; and (c) information on estimated state highway conditions under the 2017-19 budget for the state highway rehabilitation program.

Background

The state highway rehabilitation (SHR) program is responsible for the reconstruction, reconditioning, and resurfacing of the highways and bridges of the state highway system, except for highway projects that exceed the capacity expansion thresholds established for the major highway development, southeast Wisconsin freeway megaprojects, high-cost bridge, and major interstate bridge programs.

State Highway Rehabilitation Program. In the 2015-17 biennium, the SHR program was funded at \$1,698.0 million. In February, 2017, the Governor recommended a \$1,701.6 million program funding level for 2017-19 (a 0.2% increase over the prior biennium). During deliberations on the 2017-19 transportation budget, the administration and DOT proposed reducing the Governor's recommended SHR funding level by \$82.2 million and reducing the amount of bonds authorized for highway purposes by the same amount, due to the following: (a) DOT's reestimate of construction inflation (which was estimated to reduce the 2017-19 cost of the SHR program by \$45.2 million); and (b) 2016-17 SHR program let savings (which resulted in the advancement of \$37.0 million of project work from the 2017-19 biennium into 2016-17). These proposed modifications were made to 2017 AB 64/SB 30 and resulted in the final 2017-19 SHR program

funding of \$1,619.4 million enacted under 2017 Act 59. As shown in Table 1, this funding level represents a 4.6% reduction compared to 2015-17 program funding.

TABLE 1

**Comparison of State Highway Rehabilitation Program Funding Levels
(\$ in Millions)**

<u>Fund Source</u>	<u>2015-17</u>	2017-19 <u>(Gov.)</u>	2017-19 <u>(Act 59)</u>
SEG	\$627.3	\$557.9	\$770.6
FED	920.7	835.0	848.8
Bonds	<u>150.0</u>	<u>308.7</u>	<u>0.0</u>
Total	\$1,698.0	\$1,701.6	\$1,619.4
% Change to 2015-17		0.2%	-4.6%
% Change to 2017-19 (Gov.)			-4.8%

State Highway Program Financing Related to Foxconn Development. 2017 Act 58 (the Foxconn legislation) was effective on September 20, 2017. In addition to other provisions related to the planned manufacturing development, Act 58 authorizes \$252.4 million in general fund-supported, general obligation bonds, which may be used for the state's I-94 North-South corridor project enumerated under the southeast Wisconsin freeway megaprojects program. The bonds, along with potential federal grant funding, are intended to help fund an accelerated completion of this project, which is the transportation corridor that would serve the proposed Foxconn manufacturing development. Act 58 specifies that DOT may not expend the proceeds from the bonds authorized under this provision unless the state receives an award of federal moneys for the I-94 North-South corridor project.

Subsequent to the passage of Acts 58 and 59, the Department submitted a November, 2017, federal (INFRA) grant application requesting \$246.2 million related to I-94 North-South corridor project. Any grant received by the state is likely to be announced in the spring or summer of 2018. The grant application, while outlining the potential work to be completed on the I-94 North-South corridor project, also indicated that the state would fund additional work on other state and local roads associated with the Foxconn development project that could cost up to \$134.0 million. In November, 2017, DOT entered into jurisdictional transfer agreements with Racine County and the Village of Mount Pleasant to transfer the affected local roads to state jurisdiction, which was required in order to allow the use of SHR program funds on what had been locally administered highways. Projects listed in DOT's master contract schedule through February, 2019 (as shown in the attachment to this memorandum), indicate that between \$102.0 million and \$122.0 million in SHR work has been tentatively scheduled on these local roads and adjacent state highways. Because the current master contract schedule extends only through February, 2019, the remainder of this Foxconn-related project work would likely be scheduled for let later in 2018-19 and in the next biennium. Under the jurisdictional transfer agreements, up to \$23.0 million in local funds

(\$11.5 million from the Village of Mount Pleasant and \$11.5 million from Racine County) to partially offset these costs. The Village of Mount Pleasant amount would be required to be paid by no later than January 1, 2023. Racine County's amount would be required to be paid from the receipt of county taxes from the Village of Mount Pleasant's TIF district #5, only between the time of TIF closure and 2043, provided that the district closes by 2043.

State Highway Conditions. One method that DOT uses to assess the impact of a given funding level within the SHR program over time is estimating the percentage of state highways that would be in "fair and above" condition at the end of a 10-year period at that funding level. Generally, a highway in "fair or above" condition can be treated to extend pavement life without a more costly, full-depth reconstruction. In its December, 2016 Solvency Study, DOT estimated that 79% of state highways would be in fair and above condition at the start of 2017-18. Subsequently, during 2017-19 budget deliberations, DOT prepared several highway condition analyses, one of which showed that over a 10-year period, the biennial funding level recommended by the Governor (\$1,701.6 million), with no inflationary increases, would result a decline in highways rated at fair and above to 61.7% (by the end of 2027-28). If the \$1,619.4 million in SHR funding provided under Act 59 (4.8% less than the Governor's recommendations), were held constant over time, an even greater decline state highway conditions could be expected to occur over the same ten-year period.

Letter to Department of Transportation

On December 21, 2017, the four Democratic members of the Joint Committee on Finance sent a letter to the DOT Secretary outlining several questions and concerns related to the Department's planned expenditure of SHR funding on highway improvements associated with the Foxconn project. These questions and concerns are as follows:

- (a) "Where is the state highway rehabilitation funding being used for Foxconn coming from (In his statements, Governor Walker's spokesperson seems to point to funding that has already been accounted for in the 2017-19 budget, and thus cannot be used for this purpose)?"
- (b) "Why was this state funding for Foxconn not previously disclosed to legislators or taxpayers?"; and
- (c) "How will this impact and/or delay previously planned rehabilitation projects on state highways (What specific projects and communities will be affected and how much funding will each project lose)?"

Department of Transportation Response to Letter

On February 7, 2018, the DOT Budget Director sent a response to the Democratic members of the Committee. The following two statements relate specifically to the members' questions:

(a) "Let savings in all programs (including local programs) totaled \$127.2 million in fiscal year 2017...[which] allowed the Department to maximize investments by moving 33 state highway projects into state fiscal year 2017."

(b) "No projects previously planned for the current state fiscal year were delayed."

The Department's initial statement discusses \$127.2 million of let savings across all DOT programs (including local programs), rather than specifically addressing SHR funding as requested by the Democratic members of the Committee. Contract let savings occur when a bid for a particular project is awarded at a lower level than the amount that was budgeted. When let savings are realized within the state highway program, any previously budgeted moneys not needed for that contract become available to advance (move forward) additional work in the highway program component in which the savings occurred. [DOT sometimes describes this type of project advancement as having a "cascading effect" on project scheduling because it has the effect of moving the cost of affected projects from one year to another.] Specifically, in 2016-17, DOT advanced total SHR project work of \$45.1 million from 2017-18 into 2016-17 due to let savings. Typically, this "cascading effect" would have meant that the same \$45.1 million in savings would have advanced the same amount of future year project work into 2017-18. However, as described above, \$37.0 million of these let savings were instead used as a rationale to reduce the amount of 2017-19 SHR funding in 2017 AB 64/SB 30 by an equal amount. Consequently, those savings are no longer available to advance project work in the current biennium. However, the remaining \$8.1 million in SHR program let savings that were not accounted for in the Act 59 SHR program budget level could be used to advance \$8.1 million in project work (\$45.1 million let savings - \$37.0 million budget reduction) in 2017-18.

DOT's response also indicates that "no projects previously planned for the current state fiscal year were delayed" as a result of using SHR program funding on roadwork associated with the Foxconn development. As justification for this statement, DOT apparently relied on: (a) the 2016-17 let savings amount discussed above; and (b) that due to the delayed passage of the 2017-19 state budget, DOT's 2017-19 SHR project schedule only planned for a "base budget" amount of SHR funding for the biennium. [Under state law, if the Legislature does not amend or eliminate existing appropriations on or before July 1 of odd-numbered (base) years, the appropriations from the previous fiscal year remain in effect in the new fiscal year and all subsequent fiscal years until amended. No new bonding authority is provided under a base budget.] A 2017-19 SHR program base budget would have been equal to the 2016-17 base appropriations for this program (\$757.3 million) doubled, or \$1,514.6 million in the biennium. Act 59 provided SHR program funding of \$811.8 million (\$54.5 million above base) in 2017-18 and \$807.6 million (\$50.3 million) in 2018-19 or \$1,619.4 million in 2017-19 (6.9% more than the base amount). Table 2 compares these funding levels.

TABLE 2

**Comparison of State Highway Rehabilitation Program
Base and Act 59 Funding Levels
(\$ in Millions)**

<u>Fund Source</u>	<u>2017-19 (Base Doubled)</u>	<u>2017-19 (Act 59)</u>
SEG	\$578.6	\$770.6
FED	936.0	848.8
Bonds	<u>0.0</u>	<u>0.0</u>
Total	\$1,514.6	\$1,619.4
% Change to Base Doubled		6.9%

Because this SHR funding level is more than the "base" amount DOT had planned for, the Department contends that it has advanced additional project work in the biennium. Based a review of recent DOT master contract schedules, it would appear that between \$48.0 million and \$57.0 million of Foxconn-related, SHR construction is planned for let in 2017-18. Combining the \$8.1 million in previously unallocated 2016-17 SHR let savings with the \$54.5 million in 2017-18 above base SHR program funding could be the rationale for what DOT has described as "no delay" of the previously planned SHR projects in the current fiscal year.

However, the SHR funding level established by the Legislature each biennium is the baseline level of program work that is expected to be completed in that biennium. In turn, the concept of "project advancement" is then associated with efficiencies or savings on that amount of baseline work. By not accounting for the "above base" level of funding in establishing its initial SHR project schedule, DOT is able to use the above base amounts of \$54.5 million in 2017-18 and \$50.3 million in 2018-19 to help draw the conclusion that no SHR projects previously planned for the current fiscal year were delayed due to the use of SHR funding for Foxconn-related roadwork. This conclusion is largely an artifact of using the lower base amount of funding in establishing the SHR schedule, as opposed to establishing a project schedule that matches the program funding provided by the Legislature and the Governor.

While not noted in the Department's response, through December, 2017, DOT has realized additional SHR program let savings of \$23.9 million, relative to the 2017-19 baseline of SHR project work, as established under the Act 59 funding level. This amount, which presumably resulted from the Department's actions in conjunction with market factors, is available to advance previously unscheduled SHR project work. These savings would be available to mitigate some of the effects of using SHR program funding to fund previously unscheduled work related to Foxconn.

Finally, the use of any SHR program funding for previously unscheduled Foxconn-related local and state highway work will also impact the overall backlog of SHR roadwork, which can be

measured by the estimated decline in the condition of state highways. As noted earlier in this memorandum, even at the higher amount of biennial rehabilitation program funding initially proposed by the Governor (\$1,701.6 million), state highway conditions would be expected to decline substantially over a ten-year period, assuming a constant funding level. Estimates by the Department during 2017-19 budget deliberations indicated that funding in excess of \$2.4 billion per biennium would be needed over a ten-year period to maintain (prevent a decline in) current state highway conditions. Given the expected deterioration of state highway conditions, using any SHR funding for completing work on roads that were previously under local jurisdiction or for advancing state highway work related to the Foxconn development, whether budgeted or through let savings, limits the funding that could have otherwise been used to make needed improvements to state highways throughout the state.

Summary of Actions Affecting Available 2017-19 Funding

The following table summarizes actions affecting 2017-19 SHR funding prior to and following the enactment of 2017 Act 59. As indicated in the table, after accounting for SHR program let savings through December, 2017, the previously unscheduled Foxconn-related roadwork could reduce the amount of SHR program funding in the biennium to between \$1,529.4 million and \$1,549.4 million. As compared to the Act 59 funding level, this would be a reduction of between \$70.0 million and \$90.0 million in the biennium.

TABLE 3

**Actions Affecting 2017-19 State Highway Rehabilitation Program Funding
(\$ in Millions)**

	<u>2017-19 SHR Funding</u>
Governor Budget Recommendation	\$1,701.6
Less 2016-17 Advanced Project Work	-37.0
Less Inflation Adjustment	<u>-45.2</u>
2017 Act 59 Funding Level	\$1,619.4
 2017 Act 59	 \$1,619.4
Plus Unallocated 2016-17 Let Savings	8.1
Plus 2017-18 Let Savings	23.9
Less Planned Foxconn Work (High/Low)*	<u>-122.0 to -102.0</u>
Adjusted Funding Available	\$1,529.4 to \$1,549.4

*Data from DOT's December, 2017, and February, 2018, master contract schedules. These reports provide one-year summaries of planned contracts. The end date for the report is February 28, 2019. Additional state highway rehabilitation work near the Foxconn site may be planned for 2018-19.

Note: Under jurisdictional transfer agreements, up to \$23.0 million (\$11.5 million from the Village of Mount Pleasant and up to \$11.5 million from Racine County) will be paid to DOT, as specified in these agreements. This would, when received by DOT, mitigate some of the effects of these expenditures on state highway rehabilitation programming.

I hope this information is helpful. Please let me know if you have any questions.

Attachment

ATTACHMENT

Planned State Highway Rehabilitation Work Related to Foxconn Development -- 2017-19* (\$ in Millions)

<u>Road Name</u>	<u>Project Boundaries</u>	<u>Planned Work</u>	<u>Miles of Improvement</u>	<u>Low</u>	<u>High</u>	<u>Fiscal Year</u>
Formerly Local/New Roads						
CTH H	CTH, V. Sturtevant/Mt. Pleasant/Other	Resurfacing	3.6	\$3.0	\$4.0	2018
CTH KR	I-41 E. Frontage Rd. to 90th St.	Reconstruction	2.6	25.0	30.0	2018
Braun Road	I-41 to 90th St.	Reconstruction	2.8	15.0	17.0	2018
Wisconn Valley Way	CTH KR to STH 11	New Roadway	**	20.0	25.0	2019
International Drive	STH 11 to STH 20	Reconstruction	0.5	<u>9.0</u>	<u>10.0</u>	2019
Subtotal				\$72.0	\$86.0	
State Highways						
STH 20	Washington Ave, Mount Pleasant, I-94 to CTH H	Resurfacing	2.6	\$5.0	\$6.0	2018
STH 11	Durand Ave, Mt. Pleasant, 56th Rd. to CTH H	Reconstruction	2.0	<u>25.0</u>	<u>30.0</u>	2019
Subtotal				\$30.0	\$36.0	
Total				\$102.0	\$122.0	

*Data from DOT's December, 2017, and February, 2018, master contract schedules. These reports provide one-year summaries of planned contracts. The end date for the report is February 28, 2019. Additional state highway rehabilitation work near the Foxconn site may be planned for 2018-19.

** Not listed in master contract schedule.

Note: Under jurisdictional transfer agreements, up to \$23.0 million (\$11.5 million from the Village of Mount Pleasant and up to \$11.5 million from Racine County) will be paid to DOT, as specified in these agreements. This would, when received by DOT, mitigate some of the effects of these expenditures on state highway rehabilitation programming.