

State of Wisconsin

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Joint Committee on Finance

MEMORANDUM

To: Members
Joint Committee on Finance

From: Senator Howard Marklein
Representative Mark Born

Date: April 18, 2022

Re: 14-Day Passive Review Approval – DOT

Pursuant to s. 84.03(2), Stats., attached is a 14-day passive review plan from the Department of Transportation. The Committee has 14 days to review or meet to modify and approve the plan submitted by the Department which ends **Monday, May 2, 2022**

Please review the material and notify **Senator Marklein** or **Representative Born**, if you have any concerns about the plan or if you would like the Committee to meet formally to consider it.

Also, please contact us if you need further information.

Attachments

HM:MB:jm



Wisconsin Department of Transportation
Office of the Secretary
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Madison, WI 53705

Governor Tony Evers
Secretary Craig Thompson
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April 11, 2022

The Honorable Howard Marklein
Senate Chair, Joint Committee on Finance
316 East, State Capitol
PO Box 7882
Madison, WI 53707-7882

APR 18 2022
J. Finance

The Honorable Mark Born
Assembly Chair, Joint Committee on Finance
308 East, State Capitol
PO Box 8952
Madison, WI 53708-8952

Dear Senator Marklein and Representative Born:

Section 84.03(2)(b), Wis. Stats., requires the Department of Transportation to submit a Federal Expenditure Plan to the Joint Committee on Finance (Committee) if the amount of federal-aid highway funds provided by federal transportation authorization and appropriations bills for the current State Fiscal Year (SFY) is less than 95 percent or greater than 105 percent of the amounts appropriated under s. 20.395, Wis. Stats. The Department has determined a Federal Expenditure Plan for SFY 2022 is required.

Federal-aid highway funding requires a two-stage legislative process. Both an authorization act and an appropriations act must be in place. Typically, authorization acts cover multiple years while appropriations acts cover single, individual federal fiscal years (FFY). The federal surface transportation authorization act, the Infrastructure Investment and Jobs Act, also referred to as the Bipartisan Infrastructure Law (BIL), was signed into law on November 15, 2021 (Public Law 117-58). Among other things, the BIL authorizes surface transportation programs and funding for FFYs 2022-2026.

The BIL provides a significant increase in authorized federal-aid highway funding, with a larger increase in the first year (FFY 2022) and more modest increases each year from FFY 2023-2026. Also, the BIL modifies some existing federal transportation programs and creates new federal transportation programs.

As mentioned above, the second stage of the legislative process necessary for federal-aid highway funding is an appropriations act. Congress passed a series of Continuing Resolutions (CR) of FFY 2021 appropriations as they continued to work on an FFY 2022 appropriations act. On March 15, 2022 the Consolidated Appropriations Act, 2022 (Public Law 117-103) was signed into law providing funding for the full year. The Department was notified of partial FFY 2022 federal-aid highway funding allocations by the Federal Highway Administration (FHWA) on April 4, 2022. The notice of funding allocations are incomplete – funding notices have not been provided for two small formula programs and the General Fund Supplement - and the FHWA is unable to estimate when the additional allocations will become available. Given how late it is in

the state and federal fiscal years, there is a need to move forward now in order to try and avoid lapsing of federal funds. The funding amounts for those programs mentioned above with no allocation are estimated based on currently available information.

SFY 2022 federal highway funding is composed of traditional FFY 2022 federal-aid highway formula funding, FFY 2022 funding allocation for a new Bridge Program created in the BIL, FFY 2022 General Fund supplement formula funding included in the Consolidated Appropriations Act, 2022, and FFY 2021 redistribution funds received in SFY 2022 (August 30, 2021). In addition, the Consolidated Appropriations Act, 2022 included Congressionally designated project funding, also referred to as earmarks. The earmarked funding is allocated in this Federal Expenditure Plan.

The BIL included a new National Electric Vehicle Infrastructure formula funding program. Wisconsin's FFY 2022 share of funding from that program is \$11,642,061. Funding for the program comes from the federal General Fund and, therefore, does not have to be obligated by September 30, 2022, but will continue to be available in the future. In order to utilize these funds, the BIL requires states to submit a plan related to this funding by August 1, 2022 with USDOT review and approval required by September 30, 2022. Given the requirement and its timing, the Department does not plan to spend any portion of these funds in SFY 2022 and, therefore, expenditure authority for those funds is not requested in this plan.

As shown in the following table, total federal highway funding available in SFY 2022 is estimated to be \$1,086,414,700 or 35.2 percent more than the appropriated amounts for SFY 2022 thereby surpassing the statutory threshold and requiring a Federal Expenditure Plan to allocate \$282,971,600 in federal-aid highway funds to appropriations in s. 20.395, Wis. Stats.:

	Amount
FFY 2022 Federal-aid Highway Formula Funding (Partial Estimate)	970,684,500
FFY 2022 Bridge Formula Program (Actual)	45,000,000
FFY 2022 General Fund Supplement (Estimate)	15,730,200
FFY 2021 Redistribution Funds (Actual)	<u>55,000,000</u>
SFY 2022 Federal Highway Funds	1,086,414,700
SFY 2022 Chapter 20	<u>803,443,100</u>
Difference	282,971,600
Percentage Over (Under) Ch. 20	35.22%

It is important to note that the majority of the federal funding in this plan (all except for the new Bridge Formula Program and the General Fund Supplement in the table above) must be obligated by September 30, 2022 or will be lost. In addition, failure to obligate the funds by September 30, 2022 will make the state ineligible for redistribution funding, which provides a significant amount of additional funding to the state each year. As shown, last year Wisconsin received an extra \$55 million through redistribution. It is anticipated that the overall amount of federal-aid highway funding available for redistribution could reach a record high in FFY 2022.

Federal Expenditure Plan

The table below illustrates the Department's plan to allocate the additional federal highway funding. The allocation of funds is split roughly evenly between state and local programs.

While this Federal Expenditure Plan only covers SFY 2022, it is the Department's intent to continue this split between state and local programs through the life of the BIL. Looking just at additional FFY 2022 funding (taking out the FFY 2021 redistribution funds that had to be obligated by September 30, 2021), the funding split shifts to 37 percent state and 63 percent local.

Appropriation Title	s. 20.395	Amount
State Highway Rehabilitation, Federal Funds	(3)(cx)	123,566,800
Local Transportation Facility Improvement Assistance, Federal Funds	(2)(fx)	83,843,000
Local Transportation Facility Improvement Assistance, Local Funds	(2)(fv)	20,960,800
Local Bridge Improvement Assistance, Federal Funds	(2)(ex)	60,730,200
Local Bridge Improvement Assistance, Local Funds	(2)(ev)	15,182,600
Congestion Mitigation and Air Quality, Federal Funds	(2)(kx)	4,288,000
Congestion Mitigation and Air Quality, Local Funds	(2)(kv)	1,072,000
Transportation Alternatives Program, Federal Funds	(2)(jx)	10,543,600
Transportation Alternatives Program, Local Funds	(2)(jv)	2,635,900

State Highway Rehabilitation – The Department requests an increase of \$123,566,800 to the program's federal appropriation. The State Highway Rehabilitation program is the state's main highway improvement program and includes reconstruction, preservation, service life extension, and safety enhancements on Wisconsin's portion of the Interstate System, the state trunk highway system, and connecting highways in the state. Typical program projects might include resurfacing, structural overlay, crack and joint repair, minor lane and shoulder widening, minor alterations to vertical grades and horizontal curves, bridge repair, removal or protection of roadside obstacles, and other safety enhancements. Due to the abundance of projects in this program that are ready to advance pending additional funding, this allocation will help to ensure the federal-aid highway funds are obligated by September 30, 2022, thus avoiding loss of unobligated funds and ineligibility to receive additional funding through the federal redistribution process.

Local Transportation Facility Improvement Assistance – The Department requests increases of \$83,843,000 to the program's federal appropriation and \$20,960,800 to the program's local appropriation (to reflect the minimum local cost share). The funding is specifically for the Surface Transportation Program (STP) Urban and Rural subprograms. These programs provide funding for improvement of federally eligible local roads. Given the federal requirement that funds must be federally obligated by September 30, 2022 and the timeframes necessary to prepare projects for bid, the Department released a special solicitation for additional local road projects for SFY 2022 on January 31, 2022 and has been meeting regularly with local government officials and groups and has provided webinars to assist local governments. This allocation will also provide funding for the state's tribal governments in small urban and rural areas to address tribal roads through a \$300,000 set-aside in the program. Previously, STP funding had been limited to tribal roads in large urban areas. The set-aside is based on the percentage of tribal-owned roads in the State.

Local Bridge Improvement Assistance – The Department requests increases of \$60,730,200 to the program's federal appropriation and \$15,182,600 to the program's local appropriation (to reflect the minimum local cost share). The funds allocated here reflect the new bridge program created in the BIL which will provide a minimum of \$45 million per year for five years and the bridge formula portion of the General Fund Supplement provided in the Consolidated Appropriations Act, 2022. Wisconsin has more than 14,000 bridges that carry motor vehicle

traffic. Of those, 63 percent are locally owned with ten percent of those in poor condition, which, while still safe, require higher cost rehabilitation or replacement. Also, 2,790 local bridges are over 50 years old. Allocating this funding targets local bridge needs to improve conditions and lower long-term costs.

Congestion Mitigation and Air Quality Program - The Department requests increases of \$4,288,000 to the program's federal appropriation and \$1,072,000 to the program's local appropriation (to reflect the minimum local cost share). The state program mirrors the federal program of the same name. The program's goal is to help address congestion and air quality issues in areas of the state designated as air quality non-attainment or maintenance areas. Typical projects funded by the program include bicycle and pedestrian facilities, highway signalization improvements, and mass transit capital projects and operational assistance.

Transportation Alternatives Program - The Department requests increases of \$10,543,500 to the program's federal appropriation and \$2,635,900 to the program's local appropriation (to reflect the minimum local cost share). The Transportation Alternatives Program mirrors the federal program of the same name. The program provides funding for alternative transportation such as bicycle and pedestrian facilities. The BIL modified the requirements for the federal Transportation Alternatives Program requiring additional funding authority be allocated for the program and limiting the state's ability to transfer any Transportation Alternatives Program funding authority unless it can demonstrate it had a competitive process to obligate all program funding authority and did not receive adequate eligible candidates to obligate funding. The increases requested would set program funding totals at levels required by the provisions in the BIL. As with other federal-aid highway funding, SFY 2022 funding must be obligated by September 30, 2022. Therefore, any program funding authority that does not result in obligated funding by that date will be transferred to assure no federal-aid highway funding is lost to the state and the state remains eligible for redistribution funds.

Additional Requests Related to the BIL

Departmental Management and Operations - The Department requests an increase of \$6,988,900 to the program's state appropriation and decreases of \$6,370,100 to the program's federal appropriation and \$369,000 to the program's local appropriation. The changes reflect a technical correction due to previous changes in the budgetary treatment of these appropriations. The Department requests this change be made now as it directly impacts the Department's ability to deliver new programs and funding in the BIL.

<u>Appropriation Title</u>	<u>s. 20.395</u>	<u>Amount</u>
Department Management and Operations, Federal Funds	(4)(ax)	(6,370,100)
Department Management and Operations, State Funds	(4)(aq)	6,988,900
Department Management and Operations, Local Funds	(4)(av)	(369,000)

Federal Motor Carrier Safety Position – The Department requests a 1.0 FTE federally funded sworn sergeant position in the Motor Carrier Investigation Unit in the Division of State Patrol. The BIL provides a significant increase in Federal Motor Carrier Safety funds, which is the primary funding source for this unit. The position is needed to effectively supervise the unit, ensure staff are properly trained, mentored, and performing job tasks with consideration to fairness, economic impact, and the safety of the transportation system.

Thank you for your consideration of the Department's SFY 2022 Federal Expenditure Plan and related requests. I look forward to your deliberations and decisions on our plan. Please contact Jim Donlin, the Department's Budget and Policy Director at (608) 266-9546 if the Committee requires additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Thompson', written in a cursive style.

Craig Thompson
Secretary

cc: Governor Tony Evers
Members of the Joint Committee on Finance
Kathy Blumenfeld, Secretary-designee DOA
Jim Donlin, DOT Budget Director