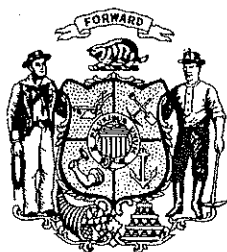


State of Wisconsin

SENATE CHAIR
Howard Marklein

316 East, State Capitol
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ASSEMBLY CHAIR
Mark Born

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Joint Committee on Finance

MEMORANDUM

To: Members
Joint Committee on Finance

From: Senator Howard Marklein
Representative Mark Born

Date: February 13, 2023

Re: 14-Day Passive Review Approval – DOT

Pursuant to s. 84.03(2)(b), 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, February 27, 2023.**

Please review the material and notify **Senator Marklein** or **Representative Born**, if you have any concerns about the request 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
4822 Madison Yards Way, S903
Madison, WI 53705

Governor Tony Evers
Secretary Craig Thompson
wisconsindot.gov
Telephone: (608) 266-1114
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Email: sec.exec@dot.wi.gov

January 12, 2023

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

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), Wisconsin Statutes, 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 2023 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 current 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 second stage of the legislative process necessary for federal-aid highway funding is an appropriations act. The Consolidated Appropriations Act, 2023 was signed and became Public Law 117-328 on December 29, 2022. Based on past experience, it will be several weeks before the final funding amounts are provided to the states. Given the state fiscal year is more than halfway completed and the timelines required for the project development process, especially for local program projects, the Department believes it is prudent to move forward with the Federal Expenditure Plan at this time based on estimates of federal-aid highway formula funding rather than wait additional weeks for final formula funding allocations to be provided.

SFY 2023 federal highway funding is composed of traditional FFY 2023 federal-aid highway formula funding, FFY 2023 funding allocation for a new Bridge Program created in the BIL, and

FFY 2022 redistribution funds received in SFY 2023 (August 30, 2022). Both the FFY 2023 Bridge funding and FFY 2022 redistribution funds have already been allocated. FFY 2023 federal-aid highway formula funding is estimated based on FFY 2023 actual apportionments and the apportionment to funding ratio provided by Congress in FFY 2022.

In addition to the federal-aid highway funding above, the BIL included a new National Electric Vehicle Infrastructure (NEVI) formula funding program. Wisconsin's allocations of funding from that program so far are \$11,642,061 in FFY 2022 and \$16,753,057 in FFY 2023. 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.

This funding can only be used for electric vehicle infrastructure in the state. In order to utilize these funds, the BIL required states to submit a plan related to this funding by August 1, 2022 with USDOT review and approval required by September 30, 2022. The Department submitted the required plan – the Wisconsin Electric Vehicle Infrastructure Plan - on August 1, 2022 and it was approved by the Federal Highway Administration on September 14, 2022. Given the plan requirement and it's timing, the Department did not use any of these funds in SFY 2022. While implementation of the plan requires planning and statutory changes, the Department does plan to spend some of this funding in SFY 2023 on the planning and program development efforts. This is reflected in the Department Management and Operations request below.

As shown in the following table, total federal-aid highway funding available in SFY 2023 is estimated to be \$1,006,093,300 or 22.77 percent more than the appropriated amounts for SFY 2023, not including NEVI funding, and \$1,022,846,357 or 24.81 percent over appropriated amounts with NEVI funding. Both surpass the statutory threshold thereby requiring a Federal Expenditure Plan:

	<u>Amount</u>
FFY 2023 Federal-aid Highway Formula Funding (Estimate)	906,093,300
FFY 2023 Bridge Formula Program (Actual)	45,000,000
FFY 2022 Redistribution Funds (Actual)	<u>55,000,000</u>
SFY 2023 Federal Highway Funds	1,006,093,300
SFY 2023 Chapter 20	<u>819,501,800</u>
Difference	186,591,500
Percentage Over (Under) Ch. 20	22.77%
National Electric Vehicle Infrastructure (NEVI) Funding	16,753,057
Percentage Over Ch. 20 including NEVI	24.81%

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 NEVI funding in the table above) must be obligated by September 30, 2023 or will be lost. In addition, failure to obligate the funds by September 30, 2023 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.

Federal Expenditure Plan

The table below illustrates the Department's plan to allocate the additional federal-aid highway funding. This allocation is very similar to that in the SFY22 Federal Expenditure Plan:

<u>Appropriation Title</u>	<u>s. 20.395</u>	<u>Amount</u>
State Highway Rehabilitation, Federal Funds	(3)(cx)	21,316,400
Local Transportation Facility Improvement Assistance, Federal Funds	(2)(fx)	105,153,200
Local Transportation Facility Improvement Assistance, Local Funds	(2)(fv)	26,288,300
Local Bridge Improvement Assistance, Federal Funds	(2)(ex)	45,000,000
Local Bridge Improvement Assistance, Local Funds	(2)(ev)	11,250,000
Congestion Mitigation and Air Quality, Federal Funds	(2)(kx)	4,201,000
Congestion Mitigation and Air Quality, Local Funds	(2)(kv)	1,050,300
Transportation Alternatives Program, Federal Funds	(2)(jx)	10,920,900
Transportation Alternatives Program, Local Funds	(2)(jv)	2,730,200
Department Management and Operations, Federal Funds	(4)(ax)	122,800

State Highway Rehabilitation – The Department requests an increase of \$21,316,400 to the program's federal appropriation. The State Highway Rehabilitation program is the state's largest 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, 2023, 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 \$105,153,200 to the program's federal appropriation and \$26,288,300 to the program's local appropriation (to reflect the minimum local cost share). The requested federal funding amount includes:

- \$57,495,600 for the Surface Transportation Program (STP) Urban and Rural subprograms. These programs provide funding for improvement of federally eligible local roads. 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.
- \$16,200,000 for federal Highway Safety Improvement Program projects on local roads and bridges.

- \$31,457,600 for the Carbon Reduction Program (CRP). The BIL created the CRP to reduce transportation emissions. The Department's intent is to distribute population sub-allocated CRP funding to local governments for projects eligible under state and federal law. Such projects would include replacement of street lighting and traffic control devices with more energy efficient alternatives, transportation and congestion management, travel demand management, public transportation projects, and other projects which can demonstrate a reduction in transportation emissions. This amount represents two years of funding (FFY 2022 and FFY 2023) due to the timing of federal guidance on the new program and other factors which made implementation of the program in SFY 2023 impractical.

Local Bridge Improvement Assistance – The Department requests increases of \$45,000,000 to the program's federal appropriation and \$11,250,000 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. Wisconsin has more than 14,000 bridges that carry motor vehicle traffic. Of those, 63 percent are locally owned with 8.5 percent of those in poor condition, which, while still safe, require higher cost rehabilitation or replacement. In addition, many 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 \$4,201,000 to the program's federal appropriation and \$1,050,300 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 \$10,920,900 to the program's federal appropriation and \$2,730,200 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, safe routes to school, and other alternatives to automobile transportation. The increased federal funding in BIL prompted the Department to create the Safe Transportation Alternatives for Rural Schools (STARS) program within the Transportation Alternatives Program. The STARS program makes funding available to rural communities and schools to address safe routes to school in their areas, which often have a great need for such projects. The initial STARS program solicitation opened on November 1, 2022 with applications due by March 24, 2023.

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 2023 funding must be obligated by September 30, 2023. 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.

Departmental Management and Operations - The Department requests an increase of \$122,800 to the program's federal appropriation. The requested increase reflects the anticipated amount of federal NEVI program funds that will be spent in SFY23. Funds will be used for program planning and development costs to establish the new program this fiscal year.

Thank you for your consideration of the Department's SFY 2023 Federal Expenditure Plan. 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