



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

April 15, 2022

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Summary of Department of Transportation's Plan for 2021-22 Appropriations
Adjustments to Allocate Additional Federal Aid

REQUEST

The Department of Transportation requests increases to 2021-22 federal (FED) program appropriations to allocate \$282,971,600 in additional federal highway aid, as follows: (a) \$123,566,800 FED to the state highway rehabilitation (SHR) program; (b) \$83,843,000 FED to the local transportation facility improvement assistance appropriation, which primarily funds the surface transportation program (STP); (c) \$60,730,200 FED to the local bridge improvement assistance program; (d) \$4,288,000 FED to the congestion mitigation and air quality improvement (CMAQ) program; and (e) \$10,543,600 FED to the transportation alternatives program (TAP).

The Department also requests corresponding adjustments to segregated local (SEG-L) appropriations, reflecting the matching requirements for project funds from local governments. The proposed increases are: (a) \$20,960,800 SEG-L for local transportation facility improvement assistance, (b) \$15,182,600 SEG-L for local bridge improvement assistance, (c) \$1,072,000 SEG-L for CMAQ, and (d) \$2,635,900 SEG-L for TAP.

In addition, the Department requests a net increase of \$249,800 in funding to its departmental management and operations appropriations, while transferring expenditure authority between these appropriations. It proposes: (a) increasing the departmental management and operations, state funds appropriation by \$6,988,900 SEG, (b) decreasing the departmental management and operations, federal funds appropriation by \$6,370,100 FED, and (c) decreasing the departmental management and operations, local funds appropriation by \$369,000 SEG-L.

The federal funding authority requested is provided to the Department through all moneys received continuing federal appropriations, which means the moneys are expendable until fully depleted or repealed. For state and local highway and bridge projects, which typically take longer than a year to complete, continuing appropriations allow the Department to obligate the funds in one

fiscal year and expend the funds for those projects over separate fiscal years.

BACKGROUND

Committee Review of DOT's Plan

1997 Act 86 included a provision, codified under s. 84.03(2)(b) of the statutes, that requires the Department of Transportation (DOT) to submit a plan to the Joint Committee on Finance for adjusting the Department's appropriations if federal transportation aid received by the state differs from the amounts estimated in the biennial budget by more than 5%. After the plan is submitted, the Co-chairs of the Committee are required to jointly determine if the plan is complete. If no meeting is held within 14 calendar days or the Committee does not approve a plan at a meeting, the DOT Secretary is required to implement the plan initially submitted if that plan has been found to be complete.

On April 11, 2022, the Department submitted a federal appropriations adjustment plan to the Committee. After receiving the plan, the Co-chairs of the Committee must determine that the plan is complete. If the plan is determined to be complete, the Committee will have 14 days to approve, or modify and approve the plan.

Federal Highway Aid

2021 Act 58 (the 2021-23 biennial budget) appropriated \$803,443,100 for federal highway aid in fiscal year 2021-22, as detailed in Table 1. Attachment 1 provides information for all of DOT's 2021-22 federal highway aid appropriations under Act 58 and the proposed plan.

TABLE 1

DOT's Act 58 2021-22 Federal Highway Aid Appropriations

<u>Appropriation</u>	<u>Amount</u>
State Highway Rehabilitation	\$466,997,400
Major Highway Development	182,176,800
Local Transportation Facilitate Improvement Assistance	72,282,800
Local Bridge Improvement Assistance	24,475,400
Southeast Freeway Megaprojects	16,000,000
Departmental Management and Operations	15,525,100
Congestion Mitigation/Air Quality Improvement	10,719,000
Transportation Alternatives	7,049,300
Administration and Planning	3,753,300
Railroad Crossing Improvements	3,291,800
Highway System Management and Operations	<u>1,172,200</u>
Total	\$803,443,100

Subsequent to Act 58, the federal government passed two complementary bills that reauthorized federal transportation programming and increased federal highway funding to states. The first, the Infrastructure Investment and Jobs Act (IIJA), passed in November, 2021, reauthorizes and modifies the overarching framework for how federal transportation funding (subject to annual appropriation) is to be allocated over the next five years (federal fiscal years 2022-26). The second, the Consolidated Appropriations Act, 2022 (CRA), is the annual funding bill, passed on March 15, 2022. CRA provides funding in federal fiscal year (FFY) 2022 for many transportation programs authorized under IIJA, including highway programs. This two-stage legislative process is the procedure that is normally used to allocate and appropriate federal transportation funding.

Following passage of the CRA, the Department received the state's annual federal highway funding allocations from the Federal Highway Administration (FHWA). While not all final amounts have been provided, the Department has produced an estimate of the amount of federal highway aid it will receive in 2021-22. It is estimated that the state will receive 35.2% more federal highway funding than what was appropriated for 2021-22 under Act 58. Table 2 compares the Department's estimate with the amount appropriated under Act 58 for fiscal year 2021-22.

TABLE 2

Sources of 2021-22 Federal Highway Aid

	<u>2021-22</u>
<i>Federal Highway Aid</i>	
Federal Highway Formula Aid (Estimated)	\$970,684,500
Bridge Formula Program	45,000,000
General Fund Bridge Supplement (Estimated)	15,730,200
Redistribution Aid	<u>55,000,000</u>
Total Available	\$1,086,414,700
Act 58 Federal Highway Aid Appropriations	<u>\$803,443,100</u>
Difference in Estimated Federal Funding	\$282,971,600
% Difference	35.2%

Federal highway formula aid is comprised of the following federal programs: (a) the national highway performance program; (b) the surface transportation block grant program (STBG), including the transportation alternatives set-aside; (c) the highway safety improvement program, including the safety related activities and rail highway grade set-asides; (d) the congestion mitigation and air quality (CMAQ) improvement program; (e) metropolitan planning; (f) the national highway freight program; (g) to carry out activities under the carbon reduction program; (h) for a newly-created program titled promoting resilient operations for transformative, efficient, and cost saving transportation (PROTECT), to provide resilience improvements using formula and competitive funds for the planning and carrying out certain activities for the assessment of vulnerabilities to current and future weather events and natural disasters, and for improvements to surface transportation assets that make them more resilient to these weather events and natural disasters.

Each federal highway aid program has eligibility requirements that specify how funds can be

spent. For example, the bridge formula program and general fund bridge supplement must be used for bridge projects on public roads. Furthermore, federal highway aid funds are almost entirely focused on funding highway improvement construction projects. Funds generally do not support routine maintenance (such as mowing roadsides and filling potholes). These requirements mean that each source of funding can only be spent under certain state programs whose activities align with federal requirements. Local aid programs, such as the general transportation aids program, would not be eligible for federal highway aid funding because they do not meet the corresponding requirements.

Each year, if a state can demonstrate to FHWA that it has obligated all of its federal highway formula aid, that state will retain its current FFY funds, and will also gain eligibility for a portion of any federal aid amounts that other states have not obligated in that fiscal year. This is called redistribution aid. Because the state demonstrated that it could obligate its full amount of FFY 2021 federal highway formula aid by September 30, 2021, FHWA released \$55.0 million in redistribution aid to the state on August 30, 2021. These FFY 2021 redistribution amounts were required to be obligated by September 30, 2021. As a result, the Department allocated all of these redistribution funds to the SHR program. These funds are included in the plan because they were not reflected in the SHR federal appropriation under Act 58.

IJA continues the requirement that the \$970.7 million in federal highway formula aid funds must be obligated by September 30, 2022. If the full amount of federal highway formula aid is not obligated by this deadline, the unobligated funds would lapse, and the state would also lose eligibility for FFY 2022 redistribution aid.

SUMMARY OF PLAN

Table 3 indicates the Department's proposed allocation of the additional \$283.0 million in federal aid by appropriation.

TABLE 3

DOT's 2021-22 Federal Highway Aid Appropriations Under the Adjustment Plan

<u>Appropriation</u>	<u>Act 58</u>	<u>Adjustment</u>	<u>Adjusted Total</u>	<u>% Change</u>
Proposed Adjustments				
State Highway Rehabilitation	\$466,997,400	\$123,566,800*	\$590,564,200	26.5%
Local Transportation Facilities	72,282,800	83,843,000	156,125,800	116.0
Local Bridge Improvement	24,475,400	60,730,200	85,205,600	248.1
CMAQ	10,719,000	4,288,000	15,007,000	40.0
Transportation Alternatives	<u>7,049,300</u>	<u>10,543,600</u>	<u>17,592,900</u>	149.6
Subtotal	\$581,523,900	\$282,971,600	\$864,495,500	48.7%
Other Federal Appropriations	<u>221,919,200</u>	<u>0</u>	<u>221,919,200</u>	0.0
Total	\$803,443,100	\$282,971,600	\$1,086,414,700	35.2%

*\$55.0 million has already been obligated, and the remaining \$68.6 million must be obligated by Sept. 30, 2022.

With the federal highway formula aid funding September 30, 2022, deadline to obligate funds in mind, the Department has initiated the project selection process for each of the programs included in its request. For the SHR program, the Department has made preparations to advance numerous eligible projects. The Department indicates that has completed an initial review of SHR projects to determine which projects are able to be advanced using the additional federal funds. They note that this is part of a dynamic process of taking inventory of SHR projects to identify those projects that are eligible to be advanced and balancing that inventory against the federal eligibility for the various components of those projects, project cost trends, and natural project priority movement within the existing inventory, as well as other factor that may arise. Some of these SHR projects could be let as early as May, 2022, if the requested funding is approved. For the four local programs included in the plan, the Department completed a special project solicitation from local governments. Ranking of those projects within each programs' requirements is being completed this month and the Department anticipates that projects will be selected in May, 2022, and let in the Fall of 2022.

State Highway Rehabilitation (SHR) Program. The SHR program is one of four program components under the state highway improvement (SHIP) program that fund capital projects on the state trunk highway system: over 11,000 miles of roadways and bridges generally consisting of U.S. interstates, U.S. highways, and state highways. The other three SHIP programs (major highway development, southeast Wisconsin freeway megaprojects, and the major interstate bridge/high-cost bridge programs) fund larger projects that conduct large-scale construction, reconstruction, or expansion on both backbone and non-backbone state highways. Conversely, the SHR program funds relatively smaller-scale projects such as reconstruction, reconditioning, and resurfacing of highways and bridges.

The SHR program receives both FED and SEG funding. Table 4 compares the SHR program appropriations under Act 58 to those in the Department's plan.

TABLE 4

**State Highway Rehabilitation Program 2021-22 Funding
Under Current Law and Adjustment Plan**

	<u>Act 58</u>	<u>Adjustment</u>	<u>Adjusted Total</u>	<u>% Change</u>
SEG	\$561,827,900	\$0	\$561,827,900	0.0%
FED	<u>466,997,400</u>	<u>123,566,800</u>	<u>590,564,200</u>	26.5
Total	\$1,028,825,300	\$123,566,800	\$1,152,392,100	12.0%

Under the Department's plan, the increase of \$123,566,800 FED for the SHR program would be provided from \$68.6 million of additional federal highway formula aid, which must be obligated by September 30, 2022, and \$55.0 million of the redistribution aid, which the Department was required to obligate by September 30, 2021.

The Department's plan proposes increasing funding for the SHR, the state's primary highway improvement program, which involves a large number of projects on the state highway system that can be easily advanced. The Department has assembled a preliminary list of SHR projects (see

Attachment 2) that could be advanced with the additional \$68.6 million in additional federal highway formula aid proposed in the plan. The list of projects is subject to change in the event some of the projects encounter delivery or other issues or other projects take precedent. Further, additional SHR projects could be advanced if local programs are not able to use all of their designated additional federal funds. The Department indicates that this allocation will help to ensure that all the additional federal funds are obligated by September 30, 2022, and the state remains eligible for redistribution.

The remaining SHIP program components (Majors, Southeast Megaprojects, and Interstate and High Cost Bridge) involve larger projects that require lengthy, multi-year project design and approval processes and cannot be easily advanced. Additionally, Act 58 funded all the anticipated expenditures in the 2021-23 biennium for the active projects under these SHIP program components.

Local Transportation Facilities Improvement/STP. The surface transportation program (STP) is entirely funded from the STBG component of the federal highway formula aid funding. The Department's local transportation facilities improvement assistance appropriation primarily provides funding for the state STP program. STP provides grants to local governments in both urban and rural areas, with a required 20% local match from recipients. In past federal reauthorizations, STP funds could only be used for capital projects on roads classified as either "arterials" or "major collectors," in line with federal rules. These roads are more significant on the statewide or regional level, span longer distances, and have fewer access points, higher speeds, and more lanes. However, IJA allows some federal funds to be used for roads classified as "minor collectors" and "local roads," which generally serve lower density areas, provide direct access to properties, and have lower speeds and few signalized intersections. This change in federal rules will increase the number of local projects that are now eligible for STP funds.

The state's STP program is entirely funded from the STBG component of the federal highway formula aid funding. The Department's adjustment plan would provide \$83.8 million FED to the local transportation facilities improvement assistance federal appropriation, which funds the state's STP program. The plan would allocate additional money to existing sub-programs that fund projects on arterial and major collector roads, and also create a new STP sub-program, STP-Local, to finance projects on minor collectors and local roads. Additionally, it would allocate a \$300,000 IJA set-aside for urban and rural tribal road projects.

The Department indicates that the proposed increase of \$83.8 million to STP is the maximum amount that is possible given the overall increase to federal highway formula aid. Because STP is financed with federal highway formula aid funding, these additional STP funds must be obligated by September 30, 2022. With this deadline in mind, and in preparation of the STP funding increase under IJA, the Department indicates it completed a special solicitation for additional 2021-22 local road projects. Due to federal matching requirements for these funds, the Department also requests a corresponding increase of \$21.0 million SEG-L to the program's local appropriation to reflect the additional local matching funds.

Local Bridge Improvement Assistance Program. The local bridge improvement assistance program makes grants to local governments for rehabilitation and replacement of bridges not on state trunk highways or connecting highways (urban streets marked with a state highway or U.S. highway

number). Local governments must provide a match equal to at least 20% of the total cost of the awarded project. The program is financed with both FED and SEG funding. Table 5 compares program appropriations under Act 58 to the program funding level proposed in the Department's plan.

TABLE 5

**Local Bridge Improvement Assistance Program 2021-22 Funding
Under Current Law and Adjustment Plan**

	<u>Act 58</u>	<u>Adjustment</u>	<u>Adjusted Total</u>	<u>% Change</u>
SEG	\$18,470,600	\$0	\$18,470,600	0.0%
FED	<u>24,475,400</u>	<u>60,730,200</u>	<u>85,205,600</u>	248.1
Total	\$42,946,000	\$60,730,200	\$103,676,200	141.4%

The \$60.7 million FED includes \$45.0 million from the federal Bridge Formula program and \$15.7 million from the federal general fund bridge supplement. These funds can only be spent on local bridge projects. Due to federal matching requirements for these funds, the Department also requests a corresponding increase of \$15.2 million SEG-L for the local bridge improvement appropriation.

Congestion Mitigation and Air Quality Improvement (CMAQ) Program. The CMAQ program provides grants for projects designed to reduce transportation-related air pollution or reduce traffic congestion, with a minimum 20% required local match. Eligible projects include the installation of alternate fueling facilities, improvements to traffic signal timing to improve traffic flow, the construction of bicycle facilities for commuters, and capital or operating assistance for new or alternate transit services. Under federal law, CMAQ funds may only be used in counties that are classified as non-attainment or maintenance areas for ozone, carbon-monoxide, or particulate matter pollution. In Wisconsin, these counties are Door, Kenosha, Kewaunee, Manitowoc, Milwaukee, Ozaukee, Racine, Sheboygan, Walworth, Washington, and Waukesha.

CMAQ is a federal program initiative that is funded by the federal formula highway aid program. The IIJA provides the state with annual funding authority for the CMAQ program for the five-year reauthorization period. However these amounts are subject to annual appropriation. Federal law allows the Department to transfer up to 50% of this authority to other federal highway formula aid programs. In past years, the Department has utilized this rule to transfer the full 50% of this authority from the CMAQ program to other federal formula highway aid programs.

The adjustment plan requests an increase of \$4.3 million FED to the Department's federal CMAQ appropriation, for a new appropriation total of \$15.0 million. The Department indicates that this increase is needed because it is limited in the amount of funds that can be allocated into other federal formula highway aid appropriations this year. Further, doing so could also jeopardize the state's ability to obligate any FFY 2022 redistribution aid that is received. Due to the federal matching requirements for these funds, the Department also requests a corresponding increase of \$1.1 million SEG-L for the CMAQ local appropriation.

Transportation Alternatives Program (TAP). TAP is a federally-funded state program that provides funding for a variety of generally smaller-scale, non-motorized vehicle transportation projects. Eligible activities include construction and planning of on-road and off-road bicycle, pedestrian, and other non-motorized vehicle facilities, viewing areas such as overlooks and turnouts, historic preservation activities, environmental mitigation, and safe routes to school projects. Local TAP recipients must provide a 20% local match of the grant amounts received.

Transportation alternatives is a federal program initiative reauthorized under IJA that is funded from a designated set-aside within the STBG component of the federal highway formula aid program. Like CMAQ, states are allowed to transfer a portion of federal TAP funds to other federal highway formula aid programs. However, the Department must utilize the remaining portion of federal transportation alternatives funds for eligible projects, such as those funded under the state TAP program. The Department has utilized this rule in past years to transfer some of its federal transportation alternatives funding to appropriations other than TAP. Because TAP is funded with federal highway formula aid, these funds must be obligated by September 30 of each year.

The adjustment plan requests an increase of \$10.5 million FED to the Department's federal TAP appropriation, which would be needed to meet the federal minimum requirement for state transportation alternatives funding due to the overall increase in federal STBG funding. Any lesser amount could jeopardize the state's eligibility for FFY 2022 redistribution aid. Due to the federal matching requirements for these funds, the Department also requests a corresponding increase of \$2.6 million SEG-L for the TAP local appropriation.

Federal Motor Carrier Safety Position. The Department requests 1.0 FTE FED for a sworn sergeant position in the State Patrol's motor carrier investigation unit. The position would be funded from FED appropriation for vehicle inspection and traffic enforcement. IJA authorizes increased motor carrier safety funds, which is the primary funding source for this unit. The Department is not requesting additional funding to this appropriation but anticipates that given the overall FED funding increase they will be required to allocate more resources to this activity.

Departmental Management and Operations. In addition to its proposal for allocation of increased federal highway aid, the Department also requests an adjustment to its departmental management and operations appropriations to correct a mismatch in funding and expenditures among these appropriations. The proposed funding changes would increase the SEG management and operation appropriation by \$6,488,000 and make corresponding reductions to the FED appropriation of \$6,370,100 and to the SEG-L appropriation of \$369,000. This change would require a net increase of \$249,800 in funding, but would reallocate funding to the correct appropriation.

The \$6,488,000 SEG funding increase would be provided from the transportation's fund balance. The transportation fund had an estimated ending fund balance of \$2.3 million in 2021-22 under Act 58. However, the 2020-21 ending balance was \$13.1 million higher than anticipated under Act 58, which increases the projected 2021-22 ending balance to \$15.4 million, an amount sufficient to cover this \$6,488,000 SEG increase.

Prepared by: Peter Mosher
Attachments

ATTACHMENT 1

Comparison of DOT Federal Highway Aid Appropriations Under DOT's Plan and Act 58

<u>Appropriation</u>	<u>Plan 2021-22</u>	<u>Act 58 2021-22</u>	<u>Adjustment</u>
State Highway Rehabilitation	\$590,564,200	\$466,997,400	\$123,566,800
Major Highway Development	182,176,800	182,176,800	0
Local Transp. Facility Improvement Assistance	156,125,800	72,282,800	83,843,000
Local Bridge Improvement Assistance	85,205,600	24,475,400	60,730,200
Southeast Freeway Megaprojects	16,000,000	16,000,000	0
Departmental Management and Operations	15,525,100	15,525,100	0
Congestion Mitigation/Air Quality Improvement	15,007,000	10,719,000	4,288,000
Transportation Alternatives	17,592,900	7,049,300	10,543,600
Administration and Planning	3,753,300	3,753,300	0
Railroad Crossing Improvements	3,291,800	3,291,800	0
Highway System Management and Operations	<u>1,172,200</u>	<u>1,172,200</u>	<u>0</u>
Total	\$1,086,414,700	\$803,443,100	\$282,971,600

ATTACHMENT 2

Preliminary List of Fiscal Year 2021-2022 State Highway Rehabilitation Projects to be Let with Additional Federal Highway Formula Aid

<u>Region</u>	<u>County</u>	<u>Highway</u>	<u>Location</u>	<u>Limits</u>
North Central	Oneida	USH 45	Antigo - Monico	Local - County Highway B & County Highway Q - U.S. Highway 8 South
North Central	Oneida	USH 45	Antigo - Monico	County Highway B - County Highway Q
North Central	Forest	STH 32	Mountain - Wabeno	Oconto County Line - County Highway C
Southwest	Juneau	USH 12	Mauston - Wisconsin Dells	Meadow Lane - 0.07 miles east of County Highway J
Southeast	Walworth	STH 50	Delavan - Lake Geneva	Geneva National - Forest
Southeast	Washington	STH 28	Mayville - Kewauscum	West Washington County Line - U.S. Highway 45
Northwest	Sawyer	STH 27	Hayward - Brule	State Highway 77 West - Sawyer/Bayfield County Line
Southwest	Juneau	I-H 90	Tomah - Portage	24th Avenue - Mirror Lake Bridge
Northeast	Winnebago	USH 10	Waupaca - Menasha	Northern City Limits - State Highway 441
Northeast	Brown	I-H 43	City Of Green Bay	Leo Frigo Bridge
Northeast	Oconto	USH 41	Green Bay - Abrams	Norfield Road - U.S. Highway 141
North Central	Marathon	I-H 39	Stevens Point - Wausau	Portage County Line T - Maple Ridge Road
Southwest	Jefferson	I-H 94	Lake Mills - Oconomowoc	County Highway F
Southwest	Iowa	STH 39	Edmund - Mineral Point	U.S. Highway 18 - Village of Linden Northern Limit
Southwest	Iowa	STH 40	Edmund - Mineral Point	Village of Linden Northern Limit - Fair Street
Southwest	Dane	STH 92	Mount Horeb - Brooklyn	East Junction County Highway G - State Highway 69
Northwest	Trempealeau	STH 93	Independence - Eleva	Trout Creek Bridge
Northwest	Buffalo	USH 10	Durand - Mondovi	Pepin County Line - County Highway A
Northwest	Buffalo	STH 95	Fountain City - Arcadia	0.2 miles north of Jefferson Street - County Highway G
Northwest	Bayfield	STH 13	Cornucopia - Port Wing	Lost Creek Culverts
Northwest	Jackson	STH 121	Northfield - Alma Center	County Highway FF South - State Highway 95
Northwest	Dunn	USH 12	Baldwin - Menomonie	Wilson Creek Tributary Culvert