



Legislative Fiscal Bureau

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February 1, 2024

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Military Affairs: Section 13.10 Request to Provide Additional Funding to the Wisconsin Disaster Fund -- Agenda Item II

REQUEST

On November 29, 2023, the Department of Military Affairs (DMA) requested a one-time transfer of \$3,093,000 SEG from the Joint Committee on Finance's SEG sum sufficient general program supplementation appropriation [s. 20.865(4)(u)] to DMA's SEG continuing state disaster assistance appropriation [s. 20.465(3)(s)] to provide additional funding for the state disaster assistance program. Funding would be provided from the petroleum inspection fund (PIF). [Note that based on the review of claims in process during the intervening two months, the request would be for \$3,074,000 SEG. This paper addresses the revised funding amount.]

BACKGROUND

State Disaster Assistance Program. The state disaster assistance program, created in 2005 Act 269, makes payments to local units of government, retail electric cooperatives, and federally-recognized American Indian tribes or bands in the state for damages and cost incurred as the result of a disaster, if federal disaster assistance is not available. In 2022-23, for example, DMA provided assistance for ice, wind, and flooding damage in various locations throughout the state.

Under administrative rule, local governmental units may be reimbursed if the following eligibility criteria are satisfied: (a) the local governmental unit has suffered a major catastrophe; (b) the damages suffered and eligible costs incurred are the direct result of the event; (c) federal disaster assistance is not available because the Governor's request that the President declare the catastrophe a major disaster has been denied or no federal assistance is requested because the event does not meet the per capita impact indicator issued by the Federal Emergency Management Agency (FEMA); (d) at least one local governmental unit or a tribal governmental unit within the county has incurred public assistance costs that equal or exceed the per capita impact indicator under the public

assistance program guidelines issued by FEMA; and (e) the local governmental unit will contribute at least 30% of the total amount of eligible costs incurred from other funding sources.

Two appropriations authorize DMA to provide disaster assistance. A state disaster assistance GPR appropriation is funded at \$0 annually during the 2023-25 biennium. Since its creation in 2005 Act 269, the Legislature has not used this appropriation to provide funds. Further, DMA has a SEG continuing state disaster assistance appropriation supported by PIF. As a continuing appropriation, any amounts appropriated do not lapse back to PIF at the end of a fiscal year, but remain in the DMA appropriation until expended. Table 1 below shows expenditure authority under the SEG disaster assistance fund appropriation since 2012-13.

TABLE 1

State Disaster Assistance Program Expenditure Authority

<u>Fiscal Year</u>	<u>Expenditure Authority</u>
2012-13*	\$1,000,000
2013-14	257,900
2014-15	711,200
2015-16	711,200
2016-17	711,200
2017-18	711,200
2018-19*	2,711,200
2019-20* **	3,321,000
2020-21**	1,711,200
2021-22*	2,247,200
2022-23*	1,460,400
2023-24	711,200
2024-25	711,200

* In addition to amounts appropriated during the biennial budget process, expenditure authority includes amounts authorized by the Joint Committee on Finance under s. 13.10 of the statutes (\$1.0 million in 2012-13, \$2.0 million in 2018-19, \$1.6 million in 2019-20, \$1.5 million in 2021-22, and \$749,200 in 2022-23).

** Under 2019 Act 9, the appropriation was provided one-time expenditure authority of \$2.0 million SEG (\$1.0 million annually) during the 2019-21 biennium to replace the underwater cable that brings electricity to Washington Island. Therefore, expenditure authority included \$2.0 million that could not be utilized for other projects.

Table 2 identifies amounts that have been expended under the state disaster assistance program for the last 12 fiscal years. Expenditures in 2019-20 and 2020-21 include \$1 million SEG annually for Washington Island. Annual expenditures have ranged from a low of \$364,900 in 2016-17 to a high of \$2,765,700 in 2018-19.

TABLE 2

State Disaster Assistance Program Expenditure History

<u>Fiscal Year</u>	<u>Expenditures</u>
2012-13	\$618,000
2013-14	517,600
2014-15	705,400
2015-16	424,100
2016-17	364,900
2017-18	1,405,100
2018-19	2,765,700
2019-20	2,501,200
2020-21	2,289,800
2021-22	983,800
2022-23	2,758,000
2023-24*	710,700

*As of January 24, 2024.

At the start of 2023-24, the SEG continuing state disaster assistance appropriation had an available balance of \$711,200 (limited funding (\$21) was carried over from 2022-23). The Department indicates that it has expended \$710,700 since July, 2023, resulting in a current balance of \$500. As of October 25, 2023, approved claims and claims under review from 2022-23 totaled \$3,093,500. The Department's original request under s. 13.10 of the statues was, therefore, \$3,093,000. However, data updated as of January 24, 2024, indicate that approved claims and claims under review now total \$3,074,500, as identified in Table 3. Claims under review will require more review by DMA staff prior to final approval for payment.

TABLE 3**2023-24 Estimated Disaster Assistance Program Payments***

<u>County or Tribe</u>	<u>Approved</u>	Claim Status Under Review, Payment <u>Anticipated</u>	<u>Total</u>
Adams	\$22,000	-	\$22,000
Ashland	85,400	-	85,400
Bayfield	73,500	-	73,500
Buffalo	70,600	-	70,600
Clark	25,000	\$5,100	30,100
Columbia	24,600	4,900	29,500
Crawford	178,700	95,000	273,700
Douglas	72,000	125,100	197,100
Forest	51,100	12,000	63,100
Grant	96,200	-	96,200
Iron	333,600	-	333,600
Jackson	18,900	-	18,900
Jefferson	147,300	97,900	245,200
Juneau	10,500	-	10,500
Lac Courte Oreilles Band of Lake Superior Chippewa	86,800	-	86,800
La Crosse	30,300	-	30,300
Manitowoc	32,600	-	32,600
Oconto	67,900	-	67,900
Pepin	22,100	-	22,100
Price	49,500	-	49,500
Rusk	164,300	188,500	352,800
Sauk	44,400	82,500	126,900
Sawyer	9,300	206,400	215,700
St. Croix	385,000	-	385,000
Taylor	43,100	-	43,100
Vernon	8,500	-	8,500
Vilas	7,000	-	7,000
Walworth	30,000	-	30,000
Washburn	65,500	-	65,500
Wood	<u>-</u>	<u>1,400</u>	<u>1,400</u>
Total	\$2,255,700	\$818,800	\$3,074,500

*As of January 24, 2024.

Funding for the SEG disaster assistance appropriation is provided from the PIF. Petroleum inspection fund revenue is primarily generated from a 2¢ per gallon (including gasoline, diesel, and heating oil) petroleum inspection fee, which generated \$75.6 million in 2022-23. Under current law, 1¢ of the 2¢ fee is deposited directly in the transportation fund. In addition, two annual transfers are made from the PIF to the transportation fund: (a) an ongoing annual transfer of \$6,258,500; and (b)

an annual transfer of the unencumbered balance of the PIF as of June 30 each year is required to be transferred to the transportation fund, except for an amount equal to not less than 5% of the gross PIF revenues received during the fiscal year. Total deposits to the transportation fund under these provisions are budgeted at \$62.1 million in both 2023-24 and 2024-25 under 2023 Act 19. Programs supported by PIF include petroleum tank and inspection programs (administered by DATCP), contaminated land cleanup and air management programs (administered by DNR), and demand management and air quality assessment activities (administered by DOT).

Additional Sources of Disaster Assistance. In addition to the DMA disaster assistance program, communities may be eligible to receive assistance from DOT or FEMA. Applications are reviewed by DMA to determine if they qualify for DOT's disaster damage aid program or FEMA assistance before they receive funds through DMA. DOT conducts an investigation of road-related disaster claims and makes a determination whether to grant funding. Claims to DOT generally must be filed within two months of a disaster. To the extent other funds become available, costs to DMA over the biennium for claims currently pending review (\$818,800 as of January 24, 2024) could be reduced. Note that DMA funds are awarded on a project-basis, and counties cannot apply for multiple fund sources to cover costs associated with a single project.

The DOT disaster damage aid program, which aids local governments for road-related disaster costs, receives funding through two sum-sufficient appropriations: a transportation fund-supported (SEG) appropriation and a general fund-supported (GPR) appropriation. The SEG-supported appropriation is estimated at \$1.0 million each year. Expenditures from the SEG-supported appropriation may not exceed \$1.0 million for a single disaster without the Governor's approval. Each year, individual disasters with road damages below this \$1.0 million threshold are also paid with SEG. If the expenditures for smaller disasters collectively exceed the estimated amount, the program's sum-sufficient appropriation draws on the transportation fund to cover costs. For individual disasters exceeding \$1.0 million, the Governor may approve the transfer of GPR to the transportation fund for the costs exceeding the \$1.0 million threshold. These GPR transfers may only be made in the second fiscal year of each biennium. In 2022-23, no funds were transferred from the disaster damage-related, GPR appropriation to the transportation fund.

According to DMA, 28% of damages reported in 2022-23, and 6% of damage reports year-to-date in 2023-24 were attributable to flood-caused road damage. Military Affairs staff indicate that it is not clear at this time how much of this road damage may be compensated under DOT disaster damage aids program and how much may be reimbursed by DMA. The determination as to whether any of such road damage costs could be funded would be made by DOT.

Additionally, it is possible that funding from FEMA may be made available, and thus reduce the amount of repairs funded by DMA. FEMA's public assistance program requires a Presidential declaration of a federal disaster and provides reimbursement for projects submitted by counties, cities, townships, and not-for-profit organizations. Eligible projects include repairs to roads and bridges and costs for debris removal. Under the program, FEMA provides 75% reimbursement of eligible costs, while the state and local agencies share the remaining 25% equally. Note that since 2018-19, only three weather events in Wisconsin have resulted in federal disaster assistance. In October, 2018, the President approved a declaration for severe storms in August and September,

2018, which resulted in estimated damage to public infrastructure of \$50.2 million. In August, 2019, the President approved a declaration for straight-line winds, severe storms, and flooding in July, 2019, which resulted in estimated damage to public infrastructure of \$21.7 million. In March, 2020, the President approved a declaration for a severe winter storm and flooding along Lake Michigan, which resulted in estimated damage to public infrastructure of \$10 million.

Although other sources of disaster assistance exist, it is likely that all or most of the claims pending review as of January, 2024, will be covered by DMA's state disaster assistance program. According to DMA, none of the \$818,800 in claims currently pending review will be covered by FEMA's public assistance program. Additionally, only three of the 17 claims currently pending review are due to flood damage, which would be the most likely cause of any road damage potentially covered by DOT's disaster damage aid program.

ANALYSIS

To provide funding for approved claims in excess of available balances and to assist with additional disasters during the 2023-25 biennium, DMA is requesting that the Committee transfer funding from the petroleum inspection fund to the state disaster assistance appropriation. Approving the request would reduce the total amount available for the scheduled transfer of the fund's balance to the transportation fund in the 2023-25 biennium by \$3,074,000. As of December, 2023, revenues for the petroleum inspection fund total \$40.0 million and expenditures total \$23.3 million. Thus, a sufficient balance exists to support the request.

The Department's request for 2023-2024 as of January, 2024, is identified in Table 4. Through January 24, 2024, the disaster assistance program had expenditures of \$710,700, pending claims of \$2,255,700, claims under review with anticipated payment of \$818,800, and an available balance of \$500.

TABLE 4

2023-24 Estimated Supplemental Funding Need*

Chapter 20 Appropriation	\$711,200
Opening Balance	<u>0</u>
Total Budget Authority	\$711,200
Expenditures	\$710,700
Estimated Balance Remaining	\$500
Approved Claims Pending Payment	\$2,255,700
Submitted Claims Pending Review	<u>818,800</u>
Total Estimated Claims	\$3,074,500
Total s. 13.10 Request	\$3,074,000

*As of January 24, 2024.

The state disaster assistance appropriation is insufficient to accomplish the purpose for which it was made (the supplementation of local government disaster expenses). As a result, the Committee could provide \$3,074,000 in 2023-24 to the DMA SEG continuing disaster assistance appropriation from the petroleum inspection fund. Given that the state disaster assistance appropriation is a continuing appropriation and the request addresses claims as of January 24, 2024, and does not address any claims that may occur in the remainder of 2023-24 or 2024-25 that exceed the appropriated amount of \$711,200 SEG, any amount not expended during the 2023-25 biennium would be available for future disaster assistance. [Alternative 1]

If the request is not approved, DMA administrative rules for the state disaster assistance program provides for the proration of damage claims if available balances are insufficient to fully fund all claims. Since administrative rules specifically address this eventuality, the Committee could deny the request. Under this alternative, DMA would prorate the available funding to eligible claimants. [Alternative 2]

ALTERNATIVES

1. Approve the DMA request to transfer \$3,074,000 in 2023-24 from the Joint Committee on Finance's SEG sum sufficient general program supplementation appropriation [s. 20.865(4)(u)] to DMA's SEG continuing state disaster assistance appropriation [s. 20.465(3)(s)] to provide increased expenditure authority for the state disaster assistance program. Funding would be provided from the petroleum inspection fund.

2. Deny the request.

Prepared by: Brianna Murphy