



Legislative Fiscal Bureau

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TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Plans for Unsupported Overdraft Appropriations, 2022-23

Section 16.513 of the statutes requires state agencies to submit quarterly reports to the Department of Administration (DOA) on projected revenues and expenditures for each appropriation supported with program or segregated revenues. If it is projected that there will be insufficient revenues in the ensuing quarter to meet expenditures in any appropriation, the agency must submit a plan to DOA to "assure that there are sufficient moneys, assets, or accounts receivable to meet projected expenditures under the appropriation." If the plan is approved by DOA, it must then be submitted to the Joint Committee on Finance for its approval under a 14-day passive review process.

On December 20, 2023, DOA Secretary-designee Blumenfeld submitted plans under s. 16.513 for unsupported overdrafts.

The overdrafts identified by DOA were determined at the conclusion of the 2022-23 fiscal year. The submittal identifies 15 appropriations whose unsupported overdrafts totaled \$171.9 million. The amount of unsupported overdrafts for 2021-22 and the previous five fiscal years is shown below.

<u>Fiscal Year</u>	<u>Amount (In Millions)</u>
2017-18	\$94.6
2018-19	101.0
2019-20	103.6
2020-21	117.6
2021-22	163.7
2022-23	171.9

Table 1 identifies the 2022-23 overdrafts included in the December 20, 2023, plan, by appropriation. Each of the appropriations is subsequently addressed in more detail.

TABLE 1

2022-23 Unsupported Overdrafts

<u>Agency/Appropriation</u>	<u>Unsupported Overdraft</u>
<i>Administration</i>	
• Services to Nonstate Governmental Units; Entity Contract	\$27,400
• Transportation and Records	3,605,600
• Enterprise Resource Planning System	48,126,700
• General Program Operations; Raffles and Bingo	361,100
• Information Technology Investment Fund	2,463,900
• Justice Information Fee Receipts	11,865,800
<i>Agriculture, Trade and Consumer Protection</i>	
• Grain Inspection Program	816,400
<i>Health Services</i>	
• Congenital Disorders; Diagnosis, Special Dietary Treatment and Counseling	681,100
• Interagency and Intra-agency Programs	7,411,800
• Alternative Services of Institutes and Centers	12,164,400
<i>Justice</i>	
• Penalty Surcharge; Receipts	33,424,400
• Grants for Substance Abuse Treatment Programs for Criminal Offenders	1,492,300
<i>Military Affairs</i>	
• Gifts and Grants	3,021,400
• Federal Aid, State Operations	779,200
<i>Workforce Development</i>	
• Unemployment Insurance Employer Charging Relief	<u>45,683,700</u>
Total	\$171,925,200

Table 2 displays a comparison of unsupported overdrafts for 2021-22 and 2022-23. Each of the appropriations with an unsupported overdraft for 2022-23 is addressed in detail following Table 2.

TABLE 2

**Comparison of Unsupported Overdrafts
2022-23 and 2021-22**

<u>Agency/Appropriation</u>	<u>2021-22</u>	<u>2022-23</u>	<u>2022-23 Change to 2020-21</u>
<i>Administration</i>			
• Services to Nonstate Governmental Units; Entity Contract	\$159,300	\$27,400	-\$131,900
• Transportation and Records	1,960,900	3,605,600	1,644,700
• Enterprise Resource Planning System	45,343,200	48,126,700	2,783,500
• General Program Operations; Raffles and Bingo	278,300	361,100	82,800
• Information Technology Investment Fund	2,488,900	2,463,900	-25,000
• Justice Information Fee Receipts	9,911,700	11,865,800	1,954,100
<i>Agriculture, Trade and Consumer Protection</i>			
• Grain Inspection Program	636,100	816,400	180,300
• Dog Licenses, Rabies Control, and Related Services	70,200	0	-70,200
<i>Corrections</i>			
• Juvenile Correctional Services	2,888,400	0	-2,888,400
<i>Health Services</i>			
• Congenital Disorders, Special Dietary Treatment	535,000	681,100	146,100
• Interagency and Intra-agency Programs	6,442,700	7,411,800	969,100
• Alternative Services of Institutes and Centers	11,551,100	12,164,400	613,300
<i>Justice</i>			
• Penalty Surcharge; Receipts	27,697,300	33,424,400	5,727,100
• Grants for Substance Abuse Treatment Programs for Criminal Offenders	1,531,800	1,492,300	-39,500
<i>Military Affairs</i>			
• Gifts and Grants	3,050,800	3,021,400	-29,400
• Federal Aid, Homeland Security	3	0	-3
• Federal Aid, State Operations	0	779,200	779,200
<i>Workforce Development</i>			
• Unemployment Insurance Employer Charging Relief	<u>49,201,500</u>	<u>45,683,700</u>	<u>-3,517,800</u>
Total	\$163,747,203	\$171,925,200	\$8,177,997

ADMINISTRATION

Services to Nonstate Governmental Units; Entity Contract. In 2022-23, the appropriation overdraft was \$154,800, with support from capital assets of \$127,400. As a result, the unsupported overdraft was \$27,400.

Revenues are primarily from the state vanpool program, which provides group transportation for employees commuting to work in exchange for a fee. Program costs are dependent on the number of riders, the number of vans, and the operational needs of the vans. Participation in the vanpool program declined during the COVID-19 pandemic, from 596 riders and 61 active vans in calendar year 2019 to 74 riders and 58 active vans in 2021. In 2023, there were 84 riders and 13 active vans participating in the vanpool program. Revenues declined accordingly, from \$908,800 in 2018-19 to an average of \$510,000 annually between 2020-21 and 2022-23. According to the Department, the reduction of van maintenance expenditures and one-time revenues from sales of vehicles have improved the program's position. However, the Department determined in 2022-23 that it would pursue a service model utilizing a private service provider. As a result, the Department intends to sell all vanpool assets during 2023-24.

Transportation and Records. In 2022-23, the appropriation overdraft was \$29,626,800, with support from capital assets of \$25,074,100 and accounts receivable of \$947,100. As a result, the unsupported overdraft was \$3,605,600. The appropriation funds the state's vehicle fleet (central fleet and enterprise fleet), air fleet, records center, and mail transportation services through fees associated with each program. The Department indicates that enterprise fleet management and mail transportation services maintain a positive or net-zero program position. The unsupported overdraft increased by \$1,644,700 compared to 2021-22.

The central fleet program provides short- and long-term leased vehicles to state employees for work-related travel. Rates are based on factors such as the type and duration of the lease as well as mileage and, prior to 2023-24, had last been modified in 2011-12. The Department indicates that, prior to the pandemic, fees had generally covered the cost of the fleet; however, the use of fleet vehicles decreased during the pandemic. Fleet mileage fell from 19.2 million miles driven in 2019 to 9.8 million miles driven in 2023. Revenues decreased accordingly, from approximately \$9.7 million in 2018-19 to \$7.6 million in 2022-23. Overall, due to lower levels of assets and equipment used to support the program position, there was a net loss of \$1,004,700 in 2022-23. The Department indicates that, in 2023-24, modifications were made to the rate structure and insurance deductibles in an effort to improve the program position.

Wisconsin Air Services provides air transportation for state employees and leases work aircraft to the Departments of Natural Resources and Transportation for law enforcement, fire protection, and resource management. The number of flight hours decreased from 3,737 in calendar year 2019 to 2,552 in calendar year 2023. While program revenues declined from approximately \$1.3 million in 2018-19 to \$681,000 in 2020-21, changes to fees for work aircraft (noted subsequently) had the result of increasing revenue to approximately \$2.0 million in 2021-22 and \$1.7 million in 2022-23. Transportation fees are based on mileage and flight crew expenses. The Department is continuing to evaluate the air transportation fleet recovery model and has

implemented a new fuel surcharge in 2023-24. Prior to 2021-22, work aircraft fees were based only on miles flown or the number of flight hours. Starting in 2021-22, work aircraft fees were modified to charge annual assessments reflecting program costs, including aircraft maintenance and depreciation.

The state records center provides security, maintenance, management, storage, retrieval, and disposition of public records. Costs to operate the center include personnel, rental space, operating supplies, and other administrative expenses. The center charges fees for monthly storage services and for retrieval requests. The volume of records has trended downward due to changes in technology that have resulted in less physical records storage. As a result, program revenues decreased from \$1,220,600 in 2018-19 to \$980,300 in 2020-21. Beginning in 2021-22, the Department raised rates, last modified in 2014-15, by 40% to recover operating costs. Revenues in 2022-23 were \$1,567,400.

Enterprise Resource Planning System. Under 2007 Act 20, the Department was required to implement a statewide system for executive branch agencies for: (a) all financial services (including accounting and payroll); (b) procurement; (c) human resources; and (d) other administrative duties. In 2006, the Department utilized the state's master lease program to purchase an integrated business information system (IBIS). However, the project was put on hold in 2008. Maintenance payments for the IBIS software were paid through 2010-11, at which time payments were suspended to consider options for procuring a different system to manage the functions specified above.

Under 2013 Act 20, the appropriation was renamed the enterprise resource planning (ERP) system. The appropriation is a program revenue continuing appropriation with forestalling authority, which allows the agency to spend in excess of revenues to the extent that non-depreciated assets under the appropriation offset excess expenditures. In 2013, DOA purchased new software for the ERP system, commonly known as STAR (State Transforming Agency Resources), and incurred costs to support system development. In October, 2015, the financial and procurement applications of the system were deployed, and in December, 2015, the human resources and payroll application was deployed. System implementation for the Department of Transportation was deployed in July, 2016. In 2022-23, costs incurred for the ERP system totaled \$19,105,900. Additionally, the Department repaid \$5,025,600 of master lease principal and \$1,356,900 of interest in 2022-23. As of June 30, 2023, the appropriation overdraft was \$68,978,300, with support from the value of equipment, software, and intangible assets in excess of master lease obligations of \$20,851,600. As a result, the unsupported overdraft was \$48,126,700. Table 3 shows the total overdrafts, supporting assets, and unsupported overdrafts from 2012-13 to 2022-23.

TABLE 3

**Enterprise Resource Planning System Appropriation Overdrafts and Supporting Assets,
2011-12 to 2022-23**

<u>Fiscal Year</u>	<u>Total Overtaft</u>	<u>Supporting Assets</u>	<u>Unsupported Overtaft</u>
2011-12	-\$14,155,500	\$6,056,600	-\$8,098,900
2012-13	-15,323,700	6,880,000	-8,443,700
2013-14	-20,629,800	4,125,100	-16,504,700
2014-15	-34,268,900	8,760,300	-25,508,600
2015-16	-55,911,700	25,469,600	-30,442,100
2016-17	-65,419,400	29,558,800	-35,860,600
2017-18	-67,387,000	22,559,300	-44,827,700
2018-19	-67,820,000	21,568,700	-46,251,300
2019-20	-68,046,100	20,800,800	-47,245,300
2020-21	-70,014,900	22,974,500	-47,040,400
2021-22	-66,981,300	21,638,100	-45,343,200
2022-23	-68,978,300	20,851,600	-48,126,700

The Department charges state agencies for: (a) ongoing costs to maintain and operate the system; (b) costs already incurred to develop the system and prepare for implementation (such as hardware, software, contractual services, and employee compensation expenses); and (c) previously unrecovered costs incurred from IBIS. In 2022-23, DOA assessed agencies \$16,760,500 for current-year operations and maintenance, an adjustment of -\$1,485,200 for prior-year assessments, \$7,127,800 for development, \$591,200 for IBIS project costs, and \$497,100 for operations and maintenance of the Cornerstone learning management system.

In the s. 16.513 plan, DOA indicates that it will continue to annually assess agencies for ongoing costs and to fully collect development and IBIS costs over the next 13 years (through 2035-36). Assessments are based on an allocation of costs according to each agency's share of statewide full-time equivalent positions, procurement spending, and expenditures.

General Program Operations; Raffles and Bingo. The Office of Charitable Gaming regulates bingo and raffle games. Under current law, bingo and raffle licenses may be granted to a local religious, charitable, service, fraternal, or veterans' organization, and to an organization to which contributions are tax-deductible. Bingo fees include: (a) \$5 per year for the member responsible for handling receipts; (b) \$10 per bingo session; and (c) a one or two percent tax on gross receipts, depending on the value of receipts. Suppliers of bingo equipment are also required to pay an annual licensing fee of \$25 and a gross sales fee. The annual raffle license fee is \$25 per organization. In calendar year 2022, DOA issued 308 bingo licenses and 11,596 raffle licenses.

The Department indicates that revenues from bingo gaming have declined in recent years while revenues from raffle gaming have been more stable, although bingo revenues increased in 2021-22 and 2022-23. As of June 30, 2023, the unsupported overdraft for bingo regulation was

\$286,600, with revenues of \$256,200, expenditures of \$254,000, and an opening balance of -\$288,800 in 2022-23. The closing balance in the raffle account was -\$74,500, with revenues of \$310,100, expenditures of \$395,100, and an opening balance of \$10,500 in 2022-23.

Under 2021 Act 58, the appropriations for bingo and raffle program operations were combined starting in 2021-22. As a result, the unsupported overdraft for the combined appropriation is \$361,100. The s. 16.513 plan states that the Department has implemented cost-saving measures, including digitizing documents and decreasing office rental space, and that it will continue to evaluate options to address the overdraft.

Information Technology Investment Fund. Under 1995 Act 27, the Legislature created the information technology investment fund (ITIF) to facilitate the development of IT projects. Revenue was to be generated from assessments on vendors doing business with the state. A grant program was established for state agencies for IT projects. The amount of estimated revenue was never realized and the grant award resulted in unsupported borrowing from the general fund. Under 1999 Act 9, the grant program was repealed and the ITIF was renamed the VendorNet Fund with a purpose of administering VendorNet (the procurement webpage for state vendors) and repaying the loan.

A total of \$3,957,700 was initially borrowed against the general fund for IT projects. Between 1997-98 and 2002-03, a total of \$862,200 was repaid from a combination of unspent funds, VendorNet fees, and investment pool earnings from fund balances. Between 2003-04 and 2021-22, repayments totaled \$495,000 from DOA general program operations. In 2022-23, repayments totaled \$25,000 from DOA general program operations, leaving a negative balance of \$2,463,900. The Department's s. 16.513 plan states that it will continue to make payments toward the amount owed.

Justice Information Fee Receipts. Subject to certain exceptions, a \$21.50 justice information system (JIS) surcharge is assessed with a circuit court fee for the commencement or filing of certain court proceedings, including: civil, small claims, forfeiture, wage earner or garnishment actions; an appeal from municipal court; a third party complaint in a civil action; or a counterclaim or cross complaint in a small claims action. Of the \$21.50 received from the JIS surcharge, \$6 is allocated to the court system to support the operation of the Consolidated Court Automation Programs (CCAP). The remaining revenue (\$15.50) is received by the Department of Administration's (DOA) justice information fee receipts appropriation (henceforth called the JIS surcharge fund). The JIS surcharge fund is required to lapse the first \$700,000 it receives to the general fund to be recorded as GPR-earned. Subsequent JIS surcharge revenues received by DOA are transferred to state agencies to support various programs generally related to the criminal justice system.

Net of required reversions, the fund concluded 2021-22 with a deficit of \$9,911,700, and concluded 2022-23 with a deficit of \$11,865,800. Therefore, the deficit increased by \$1,954,100 during 2022-23. In 2022-23, the fund was statutorily required to transfer \$9,352,900 to various appropriations and the general fund. These amounts are identified in Table 4. While the JIS surcharge fund was required to transfer \$9,352,700 in 2022-23, \$87,800 of this funding was unencumbered by

state agencies and, therefore, reverted back to the JIS surcharge fund at the end of the fiscal year.

Beginning under 2023 Wisconsin Act 19, the Legislature converted \$1,000,000 PR annually in justice information fee-funded Treatment Alternative and Diversion grants to \$1,000,000 GPR annually. Further, Act 19 converted \$1,000,000 PR annually for District Attorney Information Technology to \$1,000,000 GPR annually for the 2023-25 biennium only.

TABLE 4

Justice Information System Surcharge Fund Obligations, 2022-23

<u>Obligation</u>	<u>Amount Appropriated in 2022-23</u>
Lapse requirement	\$700,000
Justice information systems (District Attorney information technology)	4,273,000
Law enforcement officer supplement grant program	224,900
Treatment alternatives and diversion (TAD) grant program	1,078,400
Wisconsin interoperable system for communications (WISCOM)	1,246,900
Wisconsin justice information sharing program	892,400
Child advocacy center grant program	255,000
Victim notification	<u>682,300</u>
Total	\$9,352,900

Table 5 identifies the following information for the fund for 2018-19 through 2022-23: (a) revenue; (b) obligations; (c) reversions; and (d) ending balances.

TABLE 5

JIS Surcharge Fund Revenues and Obligations, 2018-19 through 2022-23

<u>Fiscal Year</u>	<u>Collections</u>	<u>Obligations</u>	<u>Reversions</u>	<u>Difference</u>	<u>Ending Balance</u>
2018-19	\$8,794,800	\$10,069,600	\$395,100	-\$879,700	-\$5,379,800
2019-20	8,215,500	9,010,800	222,900	-572,400	-5,952,200
2020-21	7,023,300	9,036,300	94,500	-1,918,500	-7,870,700
2021-22	7,223,800	9,352,500	87,800	-2,040,900	-9,911,700
2022-23	7,172,100	9,352,900	226,600	-1,954,100	-11,865,800

The Department of Administration indicates that it plans to continue to review the allocation of the justice information fee "to determine the most appropriate use of the funds and reduce the deficit."

AGRICULTURE, TRADE AND CONSUMER PROTECTION

Grain Inspection Program. The Department of Agriculture, Trade and Consumer Protection (DATCP) conducts inspection, weighing, and testing of grain shipped through the port of Superior and the port of Duluth, Minnesota as a delegated authority of the U.S. Department of Agriculture's (USDA) Federal Grain Inspection Service. The grain inspection program is authorized 15.0 PR positions with \$1,303,000 PR each year under 2023 Act 19.

The program is supported by fees charged on the basis of either: (a) an hourly rate for staff required; (b) the type of service provided; and (c) fees for each ton of grain inspected or weighed. The grain inspection PR continuing appropriation had a cash overdraft of \$847,400 as of June 30, 2023. Of this amount, \$31,000 was supported by receivable income, for an unsupported overdraft of \$816,400. The unsupported overdraft increased by \$180,300 during 2022-23. Table 6 shows the condition of the grain inspection PR appropriation since 2018-19. The appropriation has carried an unsupported overdraft since 2000-01.

TABLE 6

DATCP Grain Inspection Appropriation Condition

	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>	<u>2022-23</u>
Opening Balance	-\$453,300	-\$686,800	-\$754,000	-\$425,500	-\$665,800
Revenues	1,087,400	1,469,800	1,053,900	615,600	775,000
Expenditures	-1,487,700	-1,537,000	-1,357,000	-1,170,100	-1,198,600
Transfers	<u>166,800</u>	<u>0</u>	<u>631,600</u>	<u>314,200</u>	<u>242,000</u>
Closing Balance	-\$686,800	-\$754,000	-\$425,500	-\$665,800	-\$847,400
Receivable Income	90,500	190,200	43,600	29,700	31,000
Unsupported Overdraft	-\$596,300	-\$563,800	-\$381,900	-\$636,100	-\$816,400

Shipping volume and associated inspection activity are dependent on international grain market conditions. Therefore, future revenues and costs are difficult to predict. Regardless of market conditions, DATCP is prohibited from refusing service to a grain inspection customer due to insufficient resources as a condition of its agreement with USDA. As it is unable to anticipate demand, DATCP must maintain certain minimum staffing levels to ensure sufficient service if such need arises. As a result, the fee-for-service structure of the grain inspection program may not produce sufficient revenue to cover staff costs during periods of low shipping activity.

To limit unrecovered staff costs during low-activity periods, DATCP has implemented practices such as using limited-term staff during seasonal increases and scheduling permanent staff in ways to reduce overtime expenses. Further, beginning in 2018, DATCP implemented a fee schedule that instituted an opt-in minimum fee for contracted customers during off-peak months. Under the agreement, contracted customers agree to request a minimum amount of services during off-peak months, or pay an assessment. In exchange, contracted customers are subject to lower inspection rates during the regular shipping season. In April 2022, the new fee schedule

implemented incremental increases to some inspection service fees.

Section 16.56 of the statutes requires unencumbered amounts in DATCP's general operations appropriations to be transferred to the grain inspection PR account at the close of each fiscal year. As seen in Table 6, \$314,200 was transferred in 2021-22 and \$242,000 was transferred in 2022-23. Due to lapse requirements in response to the COVID-19 pandemic, DATCP did not transfer any funding to the appropriation in 2019-20. Approximately \$3.2 million has been transferred since the requirement took effect in 2005-06. Under its plan, the Department indicates that it will continue to lapse any remaining GPR balances to reduce the deficit.

Under 2013 Act 20, DATCP was required to develop and implement a plan to transfer an amount from available PR and certain segregated (SEG) balances to the appropriation sufficient to resolve the unsupported overdraft. In September, 2014, DATCP reported to the Committee that instead of a one-time transfer to correct the account condition, the Department intended to transfer funds from the allowable sources to the grain inspection appropriation over several years. DATCP subsequently transferred \$200,000 in 2013-14 from program revenue balances of the state telemarketing no-call program. No PR/SEG transfers have been made since 2013-14. DATCP has forgone PR/SEG transfers in recent years, and argues that other licensing programs should not subsidize grain inspection activities.

HEALTH SERVICES

Congenital Disorders; Diagnosis, Special Dietary Treatment and Counseling. At the end of 2022-23, the Department of Health Services (DHS) PR appropriation that supports services for children who have congenital disorders had an unsupported overdraft of \$681,100, an increase of \$146,100 from the unsupported overdraft of \$535,000 the Department reported at the end of 2021-22.

State law requires attending physicians and other health care professionals to ensure that every infant born in Wisconsin is tested for the congenital and metabolic disorders listed in administrative rule (DHS 115). This screening can find hidden disorders, which may require early treatment. Exceptions to the testing requirement apply if the parents or legal guardians object, based on their religious tenets and practices or their personal convictions. The statutes direct DHS to contract with the State Laboratory of Hygiene (SLH) to perform laboratory tests and to furnish materials for use in the tests. Further, DHS is required to provide necessary diagnostic services, special dietary treatment as prescribed by a physician for a newborn with a congenital disorder, and follow-up family counseling services.

Currently, infants are screened for 47 blood disorders, hearing loss, and critical congenital heart disease. A few drops of blood are collected from each infant's heel, which are placed on a blood collection card and sent to the SLH for testing. The baby's doctor or midwife receives a report with the test results, and notifies the parents or legal guardian of the results.

Hospitals, and medical professionals attending births outside of hospitals purchase blood collection cards from SLH. The fee for each card is established by administrative rule. The fee

must be sufficient to pay for services provided under the contract with SLH and all of the services DHS is required to provide under the program, including related administrative costs. All revenue collected from the fee is credited to a DHS program revenue appropriation that funds all service costs (including the contract with SLH) less an amount budgeted for DHS administrative costs.

2023 Wisconsin Act 19 (the 2023-25 biennial budget act) increased the blood collection card fee from \$109 to "no less than \$195" per card, and specified that at least \$75 from each newborn screening card sold be credited to support SLH general program operations costs. DHS implemented the fee increase on July 11, 2023. Under the current memorandum of understanding between DHS and SLH, SLH receives \$104.66 for each card sold, plus 100% of revenue from re-tests and DHS receives \$90.34 per card. Each agency receives the same percentage of the total fee that the agency received prior to the fee increase. The 2023 fee increase was anticipated to increase program revenues by approximately \$4.6 million annually, beginning in 2023-24.

Based on declining births (and therefore card sales) in Wisconsin and projected increases in program costs, DHS is currently revising DHS 115, and has indicated that it may propose increases to the \$195 fee as part of its revised rule proposal.

Interagency and Intra-agency Programs. The DHS, Division of Care and Treatment Services operates three residential treatment centers (the State Centers) for individuals with intellectual disabilities -- Central Wisconsin Center in Madison, Southern Wisconsin Center in Union Grove, and Northern Wisconsin Center in Chippewa Falls. At Northern Wisconsin Center (NWC), DHS administers a short-term treatment program that specializes in serving adults and children with intellectual disabilities that also have mental illness and aggressive or challenging behaviors

DHS uses a program revenue appropriation [20.435(2)(kx)] to expend all moneys it receives from other state agencies and all moneys transferred from other units within DHS to fund the costs of utilities and maintenance of common areas and vacant buildings at NWC. At the end of 2022-23, the appropriation had an unsupported deficit of \$7,411,800. The deficit occurred primarily because costs that were previously eligible for reimbursement under the state's medical assistance (MA) program are no longer MA-eligible, due to the reduction in long-term care services provided by the facility since 2004-05. Currently, 46% of the total square footage of buildings on the property are vacant, and therefore cannot be reimbursed by MA.

DHS indicates that it intends to address the deficit using two primary strategies. First, in April, 2022, DHS sold five parcels of land on the Northern Center campus for \$2,330,000. The Wisconsin statutes authorize DHS to sell surplus land on the Northern Center campus, with proceeds deposited in the appropriation under s. 20.435(2)(gk) as required under s. 51.06(6).

In order to expend these proceeds DHS must seek and receive approval from the Joint Committee on Finance. Under Wis. Stat. 13.101(17), JFC may approve expenditure of these funds "only to support any state activity, including by the department of veterans affairs, that is conducted or performed on the property that is occupied or managed by the department of health services or the department of corrections...at the Northern Center for the Developmentally

Disabled." If the Committee approves DHS' plan to address the unsupported overdrafts as submitted, it is likely that DHS will consider such approval to meet the requirement under Wis. Stat. 13.101(17). Alternatively, the Committee could address the use of the \$2.3 million at a separate meeting under s. 13.101.

Second, 2023 Wisconsin Act 19 (the 2023-25 biennial budget) provided DHS the authority to retain \$3 million in GPR-earned and apply it to the Northern Center deficit. This revenue is generated from Medicaid reimbursements received by the State Centers for depreciation and interest costs, that would otherwise lapse to the general fund as GPR-earned. DHS indicates in its submission that it intends to split the retained amount between the unsupported overdrafts in appropriations 20.435 (2)(kx) and 20.435 (2)(g), with \$2 million GPR-earned applied annually to the deficit in 20.435 (2)(kx).

Alternative Services of Institutes and Centers. In addition to the PR appropriation that supports utility and maintenance costs at NWC described in the previous section, DHS is budgeted funding to support "alternative services" offered at the three State Centers and the two state mental health institutes (MHIs). At the MHIs, these alternative services may include mental health outpatient treatment and services, day programming, consultation and services in residential facilities, including group homes, residential care centers for children and youth, and community-based residential facilities. The State Centers may offer the following alternative services: short-term residential services, dental services, mental health services, therapy services, psychiatric and psychological services, general medical services, pharmacy services, and orthotics. The costs of these alternative services are budgeted under s. 20.435(2)(g) of the statutes. DHS indicates that this overdraft relates to the provision of intensive treatment services to residents at NWC, as discussed below.

Each year, DHS establishes an interim per diem rate for treatment services provided at NWC. DHS bills counties, managed care organizations, and the Medicaid program based on this interim rate. Subsequently, DHS prepares a cost settlement based on actual costs of providing these services, and submits an additional Medicaid claim for the difference between the amounts claimed and its actual costs. The Department records a receivable for days of care billed under the interim rate but not reimbursed by the end of the fiscal year; it does not record any receivable for the Medicaid settlement. DHS estimates that NWC's cost settlement will average approximately \$4 million per year. However, the actual settlement amount varies from year to year.

At the close of fiscal year 2022-23, the appropriation had an estimated cash deficit of \$14,801,000 offset by receivables totaling \$2,364,000 and capital assets totaling \$272,600. Accordingly, at the close of fiscal year 2022-23, this appropriation had an estimated unsupported overdraft of \$12,164,400.

DHS cites several additional factors that have resulted in the unsupported overdraft, including: (a) DHS' use of a single uniform charge for Intensive Treatment Program (ITP) services at the three State Centers, which is significantly below NWC's actual costs of providing ITP services; (b) the State Centers not being fully reimbursed for the cost of paying the state's assessment on licensed beds in intermediate care facilities for individuals with intellectual

disabilities, due to the vacancy rate at NWC; (c) the MA practice of reimbursing the State Centers' per capital assets based on multiyear depreciation schedules, which means the State Centers incur the cost of vehicles and equipment but must run a cash deficit until the depreciation schedule is complete; and (d) until state fiscal year 2014-15, DHS lapsed all depreciation and debt service costs relating to the State Centers to the general fund, including depreciation and debt service costs that were not reimbursed by Medicaid.

As previously mentioned, 2023 Act 19 provided DHS the authority to retain \$3 million in GPR-earned and apply it to the Northern Center deficit. In order to address the unsupported overdraft, DHS indicates that it intends to split the retained amount between the unsupported overdrafts in appropriations 20.435 (2)(kx) and 20.435 (2)(g), with \$1 million GPR-earned applied annually to the deficit in 20.435 (2)(g).

Together, the unsupported overdrafts in 20.435(2)(kx) and 20.435(2)(g) totaled \$19,576,200 at the end of 2022-23, compared to the total unsupported deficits the administration reported at the close of the 2021-22 fiscal year of \$17,993,800.

JUSTICE

Penalty Surcharge; Receipts. Under current law, when a court imposes a fine or forfeiture for most violations of state law or municipal or county ordinance, a penalty surcharge is imposed totaling 26% of the fine or forfeiture. Revenue from the penalty surcharge is deposited in the Department of Justice's (DOJ) penalty surcharge; receipts appropriation (henceforth called the penalty surcharge fund). Penalty surcharge revenue received by the fund is transferred to state agencies to support various programs related to the criminal justice system. In 2022-23, the fund was statutorily required to support the amounts identified in Table 7. While the agencies identified below were appropriated a total of \$18,721,200 PR in penalty surcharge revenues for the operations of various state programs, note that \$18,942,100 PR was transferred from the penalty surcharge fund in 2022-23 as a result of actual agency expenditures due to pay plan supplement adjustments.

TABLE 7**Penalty Surcharge Fund Obligations, 2022-23**

<u>Obligation</u>		<u>Amount Appropriated in 2022-23</u>
Justice	Law enforcement training fund; local assistance	\$4,425,000
	Law enforcement training fund; state operations	3,407,400
	Drug enforcement intelligence operations	2,270,000
	Reimbursement for county victim-witness services	748,900
	Transaction information management of enforcement (TIME) system	742,300
	Drug crimes enforcement; local grants	717,900
	Youth diversion grant program	672,400
	Law enforcement programs and youth diversion - administration	143,500
Public Instruction	Aid for alcohol and other drug abuse programs	1,284,700
	Alcohol and other drug abuse programs	628,500
Corrections	Correctional officer training	2,927,000
	Victim services and programs	301,100
Circuit Courts	Court interpreters	232,700
Public Defender	Conferences and training	<u>219,800</u>
Total		\$18,721,200

Penalty surcharge revenue totaled \$14,200,600 in 2021-22, while in 2022-23 revenue totaled \$13,215,100 (an decrease of \$985,500). Due to transfers from the fund exceeding revenues, the penalty surcharge fund has operated in deficit since 2007-08. In 2021-22, the fund concluded with a deficit of \$27,697,300, while in 2022-23 the fund concluded with a deficit of \$33,424,400 (an increase of \$5,727,300). Table 8 identifies the condition of the fund from 2018-19 through 2022-23.

TABLE 8**Penalty Surcharge Fund Condition, 2018-19 through 2022-23**

	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>	<u>2022-23</u>
Opening Balance	-\$10,631,400	-\$12,607,100	-\$17,565,100	-\$23,015,500	-\$27,697,300
Revenues	15,583,300	13,128,000	12,600,500	14,200,600	13,215,100
Obligations	17,559,000	18,086,000	18,050,900	18,882,400	18,942,100
Ending Balance	-12,607,100	-17,565,100	-23,015,500	-27,697,300	-33,424,400

Beginning in 2024-25 under 2023 Wisconsin Act 19, the penalty surcharge-supported local assistance law enforcement training appropriation was repealed and replaced by a SEG-supported appropriation, which will reduce the annual deficit to approximately \$450,000. The Department of Administration recommends to, "continue to review the allocation of penalty surcharge receipts to determine the most appropriate use of the funds and reduce the deficit."

Grants for Substance Abuse Treatment Programs for Criminal Offenders. With the elimination of the Office of Justice Assistance under 2013 Act 20, the grants for substance abuse treatment programs for criminal offenders appropriation was transferred to DOJ. The appropriation was utilized for the treatment alternatives and diversion (TAD) grant program.

Funding for the appropriation is generated from the following revenue sources: (a) a \$10 drug offender diversion surcharge that is imposed on individuals who are convicted of a property crime under Chapter 943 of the statutes; and (b) a portion of the drug abuse program improvement surcharge (DAPIS), which totals 75% of the fine and penalty surcharge imposed for certain violations of the uniform controlled substances act (Chapter 961 of the statutes). In 2021-22, the appropriation received \$40,300 of revenue from these surcharges, while in 2022-23, the appropriation received \$39,500. Note that all of the revenue received by the appropriation was generated by the drug offender diversion surcharge. Under current law, the first \$850,000 collected from DAPIS is received by DHS for alcohol and other drug abuse initiatives, while revenues between \$850,000 and \$1,275,000 are collected by DOJ. Over the last decade, revenue from DAPIS has not exceeded the \$850,000 threshold.

The annual expenditure authority for the grants for substance abuse treatment programs appropriation was \$0 annually in 2021-22 and in 2022-23.

The appropriation concluded 2021-22 with a deficit of \$1,531,800. The appropriation concluded 2022-23 with a deficit of \$1,492,300. No expenditures were made from the appropriation in 2022-23. Therefore, during 2022-23, the deficit decreased by \$39,500. According to the administration, DOJ does not plan to expend monies from the appropriation. As a result, DOA will "continue to review fund balances within the department for potential reallocation to address the deficit."

MILITARY AFFAIRS

Gifts and Grants. In 2022-23, the appropriation overdraft was \$3,050,800, with accounts receivable of \$29,400. As a result, the unsupported overdraft was \$3,021,400. The Department incurred costs related to a state active duty mission to assist with testing during the COVID-19 pandemic between March and June of 2020. Costs were originally covered by CARES funding allocated to the state. However, in January, 2021, the federal government changed its guidance to allow state active duty activities to be eligible for full reimbursement through the Federal Emergency Management Agency's (FEMA) disaster program. The Department has subsequently submitted a claim under the disaster declaration, which is under review by FEMA.

Federal Aid, State Operations. In 2022-23, the appropriation overdraft was \$1,146,800, with accounts receivable of \$367,600, resulting in an unsupported overdraft of \$779,200. The Department indicates that funds received in September, 2023, from a FEMA Emergency Management Planning Grant were sufficient to eliminate the overdraft.

WORKFORCE DEVELOPMENT

Unemployment Insurance Employer Charging Relief. Reimbursable employers, including almost all governmental units and certain nonprofit organizations, finance unemployment insurance (UI) claims on a reimbursement basis as they are filed by employees. For reimbursable employers, 2019 Act 185 and 2021 Act 4 provided that part of the UI benefits for initial claims related to the public health emergency declared on March 12, 2020, by Executive Order 72, would be charged to DWD's interest and penalties (I&P) appropriation; the remainder was paid by the federal government. The federal government paid up to 75% of those benefits. The charging relief for reimbursable employers under Acts 185 and 4 was effective for state UI benefits paid for the period of March 15, 2020, through March 13, 2021.

Following the passage of Acts 185 and 4, DWD promulgated emergency rules to clarify that all benefit charges for the period of March 15, 2020, through March 13, 2021, are related to the public health emergency declared by Executive Order 72 so that all employers who would be charged for a claimant's benefits would be relieved of those charges. Act 4 specifies that an employer is not required to submit a request to the Department for charging relief under this provision.

After paying the full \$69.7 million reimbursable employer liability in 2021-22, DWD's I&P appropriation closed the 2022-23 fiscal year with a \$45,683,700 negative continuing cash balance. DWD's I&P appropriation typically has a surplus, with revenues exceeding expenditures. The fiscal year 2022-23 ending balance in the I&P appropriation is decreased by \$3,517,800, from the unsupported overdraft of \$49,201,500 in fiscal year 2021-22. The Department's s. 16.513 overdraft plan is to maintain pre-pandemic levels of revenues and expenditures in fiscal year 2023-24 and thereafter, and utilize the excess I&P revenues collected annually for deficit reduction. Assuming revenue collections and annual expenditures continue at rates similar to prior years (\$3.9 million average annual revenues, \$1.0 million average annual expenditures), bringing the \$45,683,700 negative cash balance to a positive condition will take approximately 16 years.

BL/lb