



Legislative Fiscal Bureau

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February 10, 2016

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Plans for Unsupported Overdraft Appropriations, 2014-15 -- Agenda Item I

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 30, 2015, DOA Secretary Neitzel submitted plans under s. 16.513 for unsupported overdrafts in nine appropriations. The overdrafts were determined at the conclusion of the 2014-15 fiscal year. The submittal identifies nine appropriations whose unsupported overdrafts totaled \$57.8 million.

On January 21, 2016, an objection was raised regarding the plans. Therefore, the request to approve the plans has been scheduled for the Committee's February 4, 2016, meeting under s. 13.10 of the statutes.

A list of the overdrafts, by appropriation, follows:

2014-15 Unsupported Overdrafts

<u>Agency/Appropriation</u>	<u>Unsupported Overdraft</u>
<i>Administration</i>	
• Enterprise Resource Planning System	\$25,508,600
• Information Technology Investment Fund	2,664,000
• Justice Information Fee Receipts	2,800,900
 <i>Agriculture, Trade and Consumer Protection</i>	
• Grain Inspection Program	563,800
 <i>Health Services</i>	
• Interagency and Intra-agency Programs	6,091,900
• Alternative Services of Institutes and Centers	14,601,900
 <i>Justice</i>	
• Penalty Surcharge; Receipts	3,701,100
• Grants for Substance Abuse Treatment Programs for Criminal Offenders	<u>1,823,500</u>
Total	\$57,755,700

Administration

Enterprise Resource Planning System. Under 2007 Wisconsin Act 20, the Department was required to implement, operate, maintain, and upgrade an integrated business information system for all executive branch agencies for the following: (a) all financial services (including accounting and auditing of payroll); (b) procurement; (c) human resources; and (d) other administrative duties. The Department was authorized to provide these services to any executive branch agency as long as those services could be provided efficiently and economically. Legislative and judicial branch agencies were allowed to participate at their discretion.

The appropriation is a PR-continuing appropriation with forestalling authority, which allows an agency to spend in excess of the revenues received to the extent that the non-depreciated assets under the appropriation offset the excess expenditures. While DOA initially purchased hardware and software under the state's master lease program, the project was put on hold in April, 2008. Maintenance payments for the purchased software continued to be made from the appropriation through 2010-11, at which time payments were suspended "to look at options of moving forward with an enterprise resource planning (ERP) system." In June, 2013, following a revised cost estimate and development of plans for implementation, the administration expended \$17,069,700 in software license, hardware, and support purchases for the project, financed through the state's master lease program. In 2013-14, DOA purchased new software for the project at a cost of \$10.0 million, after determining that upgrades to the existing software would incur a greater expense, and additionally "incurred personnel and professional

services costs and made other license, hardware and support purchases totaling \$15,510,253 as it undertook the plan, analyze and design phases" of the project (\$20,074,200 of 2013-14 expenditures for the project was financed by the state's master lease program). In 2014-15, expenditures for the ERP system totaled \$50,598,000, of which \$36,770,600 was financed by the master lease program.

As of the end of 2014-15, the appropriation overdraft was \$34,268,900, with support of \$8,760,300 from the value of equipment, software, and intangible assets in excess of master lease obligations. As a result, the unsupported overdraft was \$25,508,600 as of June 30, 2015. The unsupported overdraft at the end of 2013-14 was \$16,504,700 (2014-15 represents an increase of \$9,003,900 to the unsupported deficit). 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. According to the plan, the third and final phase of the project will be deployed July 1, 2016. The Department's s. 16.513 plan indicates that it is developing two assessments that will be charged to state agencies for: (a) costs already incurred by the project (which includes contractual services, salaries, and fringe benefit expenses), with assessments beginning in 2016-17; and (b) ongoing costs to maintain and operate the system, with assessments beginning in 2015-16.

Information Technology Investment Fund. Under 1995 Wisconsin Act 27, the Legislature created the information technology investment fund (ITIF) as a source of revenue for the initiation and development of IT in state agencies. 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 awarded resulted in unsupported borrowing from the general fund. Under 1999 Wisconsin Act 9, the grant program was repealed and the ITIF was renamed the VendorNet Fund with a purpose of administering VendorNet and repayment of the loan to the fund.

A total of \$3,957,700 was initially borrowed against the general fund, of which \$111,500 was unspent and returned. Between 1997-98 and 2002-03 a total of \$862,200 was repaid from VendorNet fees (\$810,500) and revenue from other agencies (\$51,700). Between 2003-04 and 2014-15, all repayments came from DOA general program operations, totaling \$320,000, leaving a negative balance of \$2,664,000 (the 2014-15 deficit represents a \$25,000 reduction to the deficit from 2013-14). 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 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 for 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 related to the criminal justice system. In 2014-15, the fund was statutorily required to transfer the following amounts:

Justice Information Surcharge Fund Obligations, 2014-15

		<u>Amount Transferred 2014-15</u>
<u>Obligation</u>		
	Lapse requirement	\$700,000
Administration	Justice information systems	4,097,000
Justice	Law enforcement officer supplement grant program	1,224,900
	Treatment alternatives and diversion (TAD) grant program	1,078,400
	Interoperable communications system	1,019,700
	Wisconsin justice information sharing programs	661,700
	Child advocacy center grant program	238,100
Corrections	Victim notification	682,300
Circuit Courts	Court interpreters	<u>232,700</u>
Total		\$9,934,800

The JIS surcharge fund was first created under 2011 Act 32. The following table identifies the following information regarding the fund for 2011-12 through 2014-15: (a) revenues; (b) obligations; and (c) ending balances. As identified in the table, from 2011-12 through 2014-15, annual revenues have decreased by \$1,610,200 while obligations have increased by \$730,100. As a result, the fund concluded 2013-14 with a deficit of \$1,227,200, and concluded 2014-15 with a deficit of \$2,800,900. [The deficit increased by \$1,573,700.]

**JIS Surcharge Fund Revenues and Obligations
2011-12 through 2014-15**

<u>Fiscal Year</u>	<u>Collections</u>	<u>Obligations</u>	<u>Difference</u>	<u>Ending Balance</u>
2011-12	\$9,971,300	\$9,204,700	\$766,600	\$766,600
2012-13	9,470,300	10,146,900	-676,600	90,000
2013-14	8,617,600	9,934,800	-1,317,200	-1,227,200
2014-15	8,361,100	9,934,800	-1,573,700	-2,800,900

In order to partially address the deficit, 2015 Act 55 (the 2015-17 biennial budget) made two modifications to the JIS surcharge fund. First, Act 55 provided that the JIS surcharge fund would no longer transfer funding to the Court System to provide partial support for court interpreters. Rather, revenues from the penalty surcharge would be utilized to provide partial support for court interpreters (see "Justice - Penalty Surcharge; Receipts"). The result of this modification was that annual obligations for the JIS surcharge fund were reduced by \$232,700 annually. Second, Act 55 provided that unencumbered balances in appropriations supported by a transfer from the JIS surcharge fund would revert to the fund at the end of the fiscal year. Further, any unencumbered balances in those appropriations at the conclusion of 2014-15 would

revert to the fund. In September, 2015, appropriations supported by the JIS surcharge fund reverted \$1,527,100 to the fund from unencumbered balances that had accrued over several fiscal years.

The Department indicates that, "...these changes will positively impact the appropriation [JIS surcharge fund] balance but anticipates that additional legislative changes to appropriations supported by the justice information fee will be required to address 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 ports of Superior, and of Duluth, Minnesota. The grain inspection program is authorized 15.0 positions and is budgeted \$1,082,300 PR each year under 2015 Act 55. The program is supported by fees charged on the basis of either: (a) an hourly rate for staff required; or (b) the type of service provided.

The grain inspection PR continuing appropriation had a cash balance of approximately -\$674,400 on June 30, 2015, with \$110,600 supported by receivable income and \$563,800 being an unsupported overdraft. The unsupported overdraft decreased by \$201,100 over the 2014-15 fiscal year. The table below shows the condition of the grain inspection PR appropriation, on a cash basis, from 2012-13 through 2014-15.

DATCP Grain Inspection Appropriation Condition

	Actual <u>2012-13</u>	Actual <u>2013-14</u>	Actual <u>2014-15</u>
Opening Balance	-\$981,300	-\$1,118,600	-\$933,100
Revenues	984,200	929,500	1,480,400
Expenditures	-1,121,500	-1,147,800	-1,378,700
Transfers	<u>0</u>	<u>403,800</u>	<u>157,000</u>
Closing Balance	-\$1,118,600	-\$933,100	-\$674,400

Multiple actions have been taken to improve the account's condition. The 2013-15 and 2015-17 biennial budget acts deleted a total of 6.0 vacant positions and associated funding for the grain inspection program. DATCP also in recent years has increased inspection and weighing fees and has maintained scheduling and overtime practices intended to minimize staffing costs. However, shipping volume is significantly dependent on international conditions in grain markets, and future revenues and costs are difficult to predict as a result.

Two additional legislative directives are intended to correct the appropriation's accumulated shortfall. First, s. 16.56 of the statutes requires unencumbered amounts in DATCP's GPR general operations appropriations to be transferred to the grain inspection PR account at the close of each fiscal year. A total of \$157,000 was transferred in 2014-15. Approximately \$1.5 million has been transferred since the requirement took effect in 2005-06.

Second, as passed by the Legislature, 2013 Assembly Bill 40 would have required DATCP to transfer, by December 31, 2013, an amount sufficient to eliminate the accumulated shortfall in the account. DATCP was directed to make the transfer from funds available in program revenue appropriations, the agrichemical management fund or the agricultural chemical cleanup program fund. The proposed transfers were to be submitted to the Joint Committee on Finance by November 15, 2013, under a 14-day passive review process. The Governor item-vetoed both the November 15 and December 31 deadlines, as well as the Joint Finance passive review. Under 2013 Act 20, DATCP is required to develop and implement a plan to transfer an amount equal to the June 30, 2013, grain inspection appropriation deficit, or about \$1.1 million, from available PR and segregated (SEG) balances to the appropriation. DATCP also is required to report the plan to the Joint Committee on Finance.

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 the program revenue appropriation for the state telemarketing do-not-call program. No transfers were made in 2014-15. DATCP reports it elected not to make a PR/SEG transfer in 2014-15 due to the grain inspection appropriation shortfall decreasing by \$258,600, on a cash basis, through a combination of the program's operations and the GPR transfers. DATCP reports it would resume PR/SEG transfers in the future should these other means be insufficient to reduce the appropriation balance further for any individual fiscal year.

Health Services

Interagency and Intra-agency Programs. The Department of Health Services (DHS), Division of Long-Term Care (DLTC) operates three residential treatment 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. As of November, 2015, there were 12 individuals participating in the program.

DHS uses a program revenue appropriation [20.435(2)(kx)] in the Division 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 2014-15, the appropriation had an unsupported deficit of \$6,091,900. This 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.

DHS indicates that it intends to address the deficit by: (a) seeking the approval of the Governor and the Joint Finance Committee to credit revenue from the future sales of surplus land at NWC to the appropriation (currently estimated at a value of \$3 million); (b) applying any

balances in the agency's annual operating budget to reduce the deficit; and (c) continuing to allocate all utility and common area maintenance costs proportionately to state agencies on the NWC campus (Corrections, Military Affairs, and Veterans Affairs).

In addition, DHS recommends that the Department of Administration (DOA) assume responsibility for all power plant, utility, maintenance, and grounds keeping operations at NWC because DHS believes that DOA would be in a better position to reduce campus operations costs and implement a uniform cost allocation methodology. Finally, DHS indicates that the agency may consider moving its short-term care unit from NWC to another location in the Chippewa Valley area, although such a move would affect infrastructure costs that would be borne by agencies that remain on the NWC campus.

DHS first submitted this plan in 2009-10, when it reported on the 2008-09 overdraft in this appropriation. Since that time, the deficit has increased in most years. The table below shows the year-end unsupported overdraft amounts in this appropriation from 2007-08 to 2014-15.

**DLTC Interagency and Intra-agency Programs
Year-End Unsupported Overdrafts**

	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>
Unsupported Overdraft	\$3,008,900	\$4,463,100	\$5,449,300	\$5,800,600	\$5,954,600	\$6,132,500	\$5,949,800	\$6,091,900

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 for Persons with Developmental Disabilities (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 and 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.

This appropriation had an unsupported overdraft of \$14,601,900 at the end of the 2014-15 fiscal year. DHS indicates that this overdraft was the result of providing intensive treatment services to residents at NWC that were not fully reimbursed by the MA program.

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. At the close of the year, 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. Because this settlement is not finalized until after the close of the fiscal year, DHS records a "receivable" in the appropriation based on the amount it anticipates receiving from the Medicaid program. The following table shows the amounts

receivable in this appropriation for fiscal years 2010-11 through 2014-15.

**Alternative Services of Institutes and Centers
Amounts Receivable**

	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>
Amounts Receivable	\$25,886,700	\$29,975,500	\$32,031,800	\$3,965,200	\$6,721,800

DHS indicates that, in previous years, the amounts receivable were calculated as the difference between total costs expended for intensive treatment services at NWC and the revenue NWC received through the interim rate. DHS recorded these receivables based on the assumption that NWC would receive full reimbursement of the amounts receivable from the Medicaid program.

At the close of fiscal year 2014-15, the appropriation had a cash deficit of \$21,323,700 and receivables totaling \$6,721,800, which included: (a) \$1,296,200 related to services provided at Central Wisconsin Center; (b) \$1,103,800 related to services provided at Southern Wisconsin Center; (c) \$5,473,000 related to services at NWC; (d) \$58,700 in miscellaneous adjustments; and (e) less \$1,209,900 of deferred revenue that was used to offset these receivables. Accordingly, at the close of fiscal year 2014-15, this appropriation had an unsupported overdraft of \$14,601,900. This deficit resulted from DHS having reconciled all settlements from previous years in fiscal year 2013-14, which largely eliminated the receivables that the Department identified as the means of balancing this appropriation in previous years.

DHS indicates that it intends to address the deficit by using remaining revenue balances to offset the deficit over multiple years and more accurately reflecting revenues earned but not paid until final fiscal year-end cost reporting is completed. DHS has similarly planned to use revenue balances to resolve the recurring unsupported overdraft in the interagency and intra-agency programs appropriation [20.435(2)(kx)], as described in the previous item.

Together, the unsupported overdrafts in 20.435(2)(kx) and 20.435(2)(g) totaled approximately \$20.7 million at the end of 2014-15. At this time, it does not appear likely that DHS will be able to address these overdrafts in the near future under the plan submitted by the administration. Moreover, the plan does not address broader issues relating to the cost-effectiveness of continuing to provide intensive treatment services at NWC.

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 2014-15, the fund was statutorily required to support the following amounts identified in the

table below. While the agencies identified below were appropriated a total of \$17,263,600 PR in penalty surcharge revenue for the operations of various state programs, only \$17,029,600 was transferred from the penalty surcharge fund in 2014-15 as a result of actual agency expenditures.

Penalty Surcharge Fund Obligations, 2014-15

	<u>Obligation</u>	<u>Amount Appropriated 2014-15</u>
Justice	Law enforcement training fund; local assistance	\$4,364,800
	Law enforcement training fund; state operations	3,015,200
	Drug enforcement intelligence operations	1,680,500
	Reimbursement to counties for victim-witness services	748,900
	Transaction information management of enforcement (TIME) system	724,300
	Drug crimes enforcement; local grants	717,900
	Youth diversion grant program	672,400
	Crime laboratory equipment and supplies	558,100
	Law enforcement programs - administration	161,100
	Public Instruction	Aid for alcohol and other drug abuse programs
Alcohol and other drug abuse programs		591,800
Corrections	Correctional officer training	2,322,600
	Victim services and programs	276,500
Public Defender	Conferences and training	<u>144,800</u>
	Total	\$17,263,600

Penalty surcharge revenue totaled \$18,438,200 in 2013-14, while in 2014-15 revenue totaled \$15,376,500 (a decrease of \$2,971,700). It should be noted that surcharge revenue from 2013-14 includes a one-time judgment of \$1,444,900 from the state's litigation against Pharmacia, a drug company and subsidiary of Pfizer, Inc., for Medicaid fraud and deceptive trade practices.

The penalty surcharge fund concluded 2013-14 with a deficit of \$2,048,000. In 2014-15, the amount transferred from the penalty surcharge fund (\$17,029,600) exceeded revenues (\$15,376,500) by \$1,653,100 causing the fund to conclude 2014-15 with a deficit of \$3,701,100.

In order to partially address the deficit in the penalty surcharge fund, 2015 Act 55 provided that crime laboratory equipment and supplies would be supported by revenue from the crime laboratory and drug law enforcement surcharge and the DNA surcharge, rather than by revenue from the penalty surcharge. As a result, annual obligations of the penalty surcharge fund were reduced by \$558,100 annually. In addition, in order to partially address the deficit in the justice information system surcharge fund, Act 55 provided that funding for court interpreters would be partially supported by penalty surcharge revenue, rather than by revenue from the JIS surcharge (see "Administration - Justice Information Fee Receipts"). As a result, annual obligations for the penalty surcharge were increased by \$232,700 annually. The net effect of these two modifications was that penalty surcharge obligations were reduced by \$325,400

annually.

The Department indicates that, "...without significant changes in either appropriated amounts or increased surcharges, the deficit [in the penalty surcharge fund] is expected to continue." The administration recommends that the Committee approve the Department's plan and, "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 is utilized to provide partial support for the treatment alternatives and diversion (TAD) grant program. The TAD program provides grants to counties to establish and operate programs that provide alternatives to prosecution and incarceration for criminal offenders who abuse drugs and alcohol.

Funding for this 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 2013-14, the appropriation received \$44,900 of revenue from these surcharges, while in 2014-15, the appropriation received \$46,000. It should be noted that all 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 the Department of Health Services for alcohol and other drug abuse initiatives, while revenues between \$850,000 and \$1,275,000 are collected by DOJ. In recent years, revenue from DAPIS has not exceeded the \$850,000 threshold.

Under 2009 Act 28, annual expenditure authority for the appropriation was reduced from \$755,000 to \$7,500. Further, Act 28 increased the justice information system (JIS) surcharge from \$12 to \$21.50, specified that a portion of the JIS surcharge be provided to support the TAD program, and created a separate appropriation for the receipt and expenditure of JIS revenues for TAD. [Since Act 28, additional GPR resources have been appropriated for the TAD program as well.] During the 2015-17 biennium, the annual expenditure authority for the grants for substance abuse treatment programs appropriation is \$5,600 in 2015-16 and \$5,700 in 2016-17.

The appropriation concluded 2013-14 with a deficit of \$1,877,000. The appropriation concluded 2014-15 with a deficit of \$1,823,500. [During 2014-15, the deficit decreased by \$53,500.] According to DOJ, "At the current rate of revenues and expenditures, it will take approximately 45 years to eliminate this deficit." The administration recommends that the Committee approve the Department's plan and continue to review fund balances within DOJ for potential reallocation to address the deficit.

ALTERNATIVES

1. Approve the plans to address the overdrafts as submitted.
2. Deny any of the plans in the request and direct the administration to submit a revised plan(s) for the Committee's approval.

BL/sas