



Legislative Fiscal Bureau

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June 16, 2020

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Plans for Unsupported Overdraft Appropriations, 2018-19 -- Agenda Item II

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 23, 2019, DOA Secretary Brennan submitted plans under s. 16.513 for unsupported overdrafts in 13 appropriations. On January 16, 2020, an objection was raised regarding the plans. Therefore, the request to approve the plans has been scheduled for a meeting of the Committee under s. 13.10 of the statutes.

The overdrafts identified by DOA were determined at the conclusion of the 2018-19 fiscal year. The submittal identifies 13 appropriations whose unsupported overdrafts totaled \$101.0 million. The amount of unsupported overdrafts for 2018-19 and the previous five fiscal years is shown below.

| <u>Fiscal Year</u> | <u>Amount (In Millions)</u> |
|--------------------|-----------------------------|
| 2013-14 | \$50.5 |
| 2014-15 | 57.8 |
| 2015-16 | 66.0 |
| 2016-17 | 76.1 |
| 2017-18 | 94.6 |
| 2018-19 | 101.0 |

Table 1 identifies the 2018-19 overdrafts included in the December 23, 2019, plan, by appropriation. Each of the appropriations is subsequently addressed in more detail.

TABLE 1

2018-19 Unsupported Overdrafts

| <u>Agency/Appropriation</u> | <u>Unsupported Overdraft</u> |
|---|------------------------------|
| <i>Administration</i> | |
| • Enterprise Resource Planning System | \$46,251,300 |
| • General Program Operations; Bingo | 32,500 |
| • Information Technology Investment Fund | 2,563,900 |
| • Justice Information Fee Receipts | 5,379,800 |
| • Printing Mail, Communication, Document Sales and Information Technology Services; State Agencies; Veterans Services | 4,148,400 |
| <i>Agriculture, Trade and Consumer Protection</i> | |
| • Grain Inspection Program | 596,300 |
| • Dog Licenses, Rabies Control, and Related Services | 185,400 |
| <i>Corrections</i> | |
| • Juvenile Correctional Services | 7,721,100 |
| <i>Health Services</i> | |
| • Interagency and Intra-agency Programs | 6,693,500 |
| • Alternative Services of Institutes and Centers | 11,016,000 |
| <i>Justice</i> | |
| • Penalty Surcharge; Receipts | 12,607,100 |
| • Grants for Substance Abuse Treatment Programs for Criminal Offenders | 1,652,700 |
| <i>Transportation</i> | |
| • Other Department Services, Operations, Service Funds | <u>2,165,900</u> |
| Total | \$101,013,800 |

Administration

Enterprise Resource Planning System. Under 2007 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.

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 continued to be made through 2010-11, at which time payments were suspended to consider options for producing a system to manage the administrative functions specified above.

Under 2013 Act 20, the appropriation was renamed the enterprise resource planning (ERP) system. The appropriation is a program revenue (PR) continuing appropriation with forestalling authority, which allows the agency to spend in excess of the revenues received to the extent that the non-depreciated assets under the appropriation offset the excess expenditures. In June, 2013, following a revised cost estimate and implementation plan, DOA purchased new software for the ERP system and incurred costs to support system development.

Implementation of the ERP system, commonly known as STAR (State Transforming Agency Resources), began in 2015-16. 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. The third and final phase of the project, system implementation for the Department of Transportation, was deployed in July, 2016.

In 2018-19, costs incurred for the ERP system totaled \$14,206,500. As of June 30, 2019, the appropriation overdraft was \$67,820,000, with support from the value of equipment, software, and intangible assets in excess of master lease obligations of \$20,932,700 and accounts receivable of \$636,000. As a result, the unsupported overdraft was \$46,251,300. Additionally, the Department repaid \$6,163,600 of master lease principal and \$2,893,200 of interest in 2018-19.

Table 2 shows the year-end total overdrafts, supporting assets, and unsupported overdrafts for the appropriation from 2010-11 to 2018-19.

TABLE 2

**Enterprise Resource Planning System Appropriation
Overdrafts and Supporting Assets, 2010-11 to 2018-19**

| <u>Fiscal Year</u> | <u>Total Overdraft</u> | <u>Supporting Assets</u> | <u>Unsupported Overdraft</u> |
|--------------------|------------------------|--------------------------|------------------------------|
| 2010-11 | -\$13,102,500 | \$4,903,400 | -\$8,199,100 |
| 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 |

The Department charges state agencies for: (a) ongoing costs to maintain and operate the

system; and (b) costs already incurred to develop the system and prepare for implementation (such as hardware, software, contractual services, and employee compensation expenses). In 2015-16, DOA began to assess agencies for ongoing costs to operate the STAR system and, in 2017-18, DOA began to assess agencies for costs incurred to develop the system. In 2018-19, the Department assessed agencies \$5,810,500 for STAR development costs, calculated as 80% of the annual amount necessary to fully recover costs incurred in development over a period of 19 years. In addition, DOA assessed agencies \$17,385,500 for STAR operations and maintenance in 2018-19.

In its s. 16.513 plan, DOA indicates that it "will continue to annually assess state agencies for ongoing operations and maintenance costs and to fully collect project and financing costs over a period of 19 years." Assessment amounts are based on an allocation of costs according to each agency's percentage share of the following relative to totals for all state agencies: number of authorized full-time equivalent positions, procurement spending, and adjusted state operations expenditures. Starting in 2019-20, the Department also plans to assess agencies for previously unrecovered costs incurred from IBIS, an amount of \$15,007,000. Cost recovery will include a one-time assessment of \$5,547,600 in 2019-20 and annual assessments of \$591,200 over the subsequent 16 years.

General Program Operations; Bingo. The Office of Charitable Gaming under DOA regulates bingo and raffle games. Under current law, bingo and raffle licenses may be granted to any local religious, charitable, service, fraternal, or veterans' organization, and to any organization to which contributions are deductible for tax purposes. Fees are deposited in appropriations for bingo and raffle regulation, respectively. 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 supplementary fee based on gross sales. The annual raffle license fee is \$25 per organization.

In calendar year 2019, DOA issued approximately 370 bingo licenses and 11,700 raffle licenses. As of June 30, 2019, the unsupported overdraft for bingo regulation was \$32,500, with revenues of \$271,800 and expenditures of \$304,300 in 2018-19. The closing balance in the raffle appropriation was \$118,000, with revenues of \$305,600, expenditures of \$283,900, and an opening balance of \$96,300 in 2018-19.

The Department indicates that revenues from bingo gaming have declined in recent years while revenues from raffle gaming have increased. The Department's s. 16.513 plan states it has reduced expenses attributable to bingo gaming and increased expenses attributable to raffle gaming to account for the change in gaming trends. Further, DOA is currently conducting a study of options to refine the assignment of costs to each appropriation and resolve the overdraft.

Information Technology Investment Fund. Under 1995 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 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 and repaying the loan.

A total of \$3,957,700 was initially borrowed against the general fund, of which \$3,668,700 was provided to state agencies for grants (net of unspent funds that were returned). 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 2017-18, repayments came from DOA general program operations and totaled \$395,000. In 2018-19, repayments totaled \$25,000, leaving a negative balance of \$2,563,900. 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.

The JIS surcharge fund was first created under 2011 Act 32. [Prior to Act 32, JIS surcharge revenues were not centrally received by DOA and then transferred to other state agencies. Rather, amounts were received directly by state agencies.] Under 2015 Act 55, unencumbered balances in appropriations supported by a transfer from the JIS surcharge fund were required to 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. The fund concluded 2017-18 with a deficit of \$4,500,100, and concluded 2018-19 with a deficit of \$5,379,800. Therefore, the deficit increased by \$879,700 during 2018-19.

In 2018-19, the fund was statutorily required to transfer \$10,069,600 to various appropriations and the general fund. These amounts are identified in Table 3. While the JIS surcharge fund was required to transfer \$10,069,600 in 2018-19, \$395,100 of this funding was unencumbered by state agencies and, therefore, reverted back to the JIS surcharge fund at the end of the fiscal year.

TABLE 3**Justice Information System Surcharge Fund Obligations, 2018-19**

| <u>Obligation</u> | <u>Amount Appropriated in 2018-19</u> |
|--|---|
| Lapse requirement | \$700,000 |
| Justice information systems (District Attorney information technology) | 4,223,300 |
| Law enforcement officer supplement grant program | 1,224,900 |
| Treatment alternatives and diversion (TAD) grant program | 1,078,400 |
| Wisconsin interoperable system for communications (WISCOM) | 1,264,800 |
| Wisconsin justice information sharing program | 657,900 |
| Child advocacy center grant program | 238,000 |
| Victim notification | <u>682,300</u> |
| Total | \$10,069,600 |

Table 4 identifies the following information for the fund for 2011-12 through 2018-19: (a) revenue; (b) obligations; (c) reversions; and (d) ending balances. In reviewing Table 4, note that reversions for 2015-16 are higher than subsequent years since it was the first required reversion.

TABLE 4**JIS Surcharge Fund Revenues and Obligations, 2011-12 through 2016-17**

| <u>Fiscal Year</u> | <u>Collections</u> | <u>Obligations</u> | <u>Reversions</u> | <u>Difference</u> | <u>Ending Balance</u> |
|------------------------|--------------------|--------------------|-------------------|-------------------|---------------------------|
| 2011-12 | \$9,971,300 | \$9,204,700 | \$0 | \$766,600 | \$766,600 |
| 2012-13 | 9,470,300 | 10,146,900 | 0 | -676,600 | 90,000 |
| 2013-14 | 8,617,600 | 9,934,800 | 0 | -1,317,200 | -1,227,200 |
| 2014-15 | 8,361,100 | 9,934,800 | 0 | -1,573,700 | -2,800,900 |
| 2015-16 | 8,428,100 | 9,821,000 | 1,850,500 | 457,600 | -2,343,300 |
| 2016-17 | 8,454,400 | 9,830,600 | 248,300 | -1,127,900 | -3,471,200 |
| 2017-18 | 8,759,700 | 10,056,000 | 267,400 | -1,029,000 | -4,500,100 |
| 2018-19 | 8,794,800 | 10,069,600 | 395,100 | -879,700 | -5,379,800 |

The Department of Administration states that continued review of the allocation JIS receipts would occur in order "to determine the most appropriate use of funds and reduce the deficit." It should be noted that in 2019 Act 9 the beat patrol grants were funded with \$1,000,000 GPR annually for the 2019-2021 biennium instead of being funded from the JIS.

Printing, Mail, Communication and Information Technology Services; State Agencies; Veterans Services. Under this appropriation, the Department provides document sales, printing,

mail processing, electronic communications, information technology (IT) development, management, and processing services to state agencies and veterans services. As of June 30, 2019, the appropriation overdraft was \$19,443,200, with support from the value of equipment, software, and intangible assets in excess of master lease obligations of \$6,232,000 and accounts receivable of \$9,062,800. As a result, the unsupported overdraft was \$4,148,400.

According to DOA, the overdraft amount is attributable to the depreciated value of IT equipment and increased utilization of cloud-based subscription services. Currently, assessments are based on services associated with on-premises IT infrastructure rather than cloud-based infrastructure.

Further, the negative balance includes unrecovered costs associated with the replacement of the enterprise-wide Automated Call Distribution (ACD) System, a management service that assists agencies with queueing and assigning calls. The Department initially contracted for the replacement of the ACD system because the current system will no longer be supported by its proprietary vendor. However, DOA cancelled the contract due to a lack of functional options presented by the vendor. Instead of developing an enterprise-wide replacement system, DOA indicates that separate ACD systems will be procured by user agencies to meet each agency's various needs. From 2015-16 to 2018-19, DOA incurred \$6.35 million in costs associated with the replacement of the ACD system, in addition to \$3.0 million of associated future master lease payment obligations.

The Department indicates in its s. 16.513 plan that it is considering assessing agencies that participated in the ACD project to recover associated costs. Further, the Department indicates it will continue to reduce costs and develop assessments that recognize expenses associated with the delivery of evolving technology services, including the use of cloud-based services. The Department also states that it will begin a review process for paying of master leases and will formalize the application and review of master lease feasibility and payoff processes.

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 17.0 positions and is budgeted \$1,221,700 PR each year under 2019 Act 9. 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 was reported to have a cash overdraft of approximately -\$686,800 as of June 30, 2019. Of this amount, \$90,400 was supported by receivable income, for an unsupported overdraft of -\$596,400. The unsupported overdraft increased by \$298,100 in the 2018-19 fiscal year. Table 5 shows the condition of the grain inspection PR appropriation, on a cash basis, since 2014-15. DATCP reports that the overdraft increased in 2018-19 due to: (a) rising salary and fringe benefit costs associated with market adjustments and the general wage adjustment under the state compensation plan; (b) retirement of a long-term program manager, which resulted in several months of staff overlap while training a new manager; and (c) lower-than-expected shipping volume during 2018-19.

TABLE 5**DATCP Grain Inspection Appropriation Condition**

| | Actual <u>2014-15</u> | Actual <u>2015-16</u> | Actual <u>2016-17</u> | Actual <u>2017-18</u> | Actual <u>2018-19</u> | Year-to-Date <u>2019-20</u> |
|-----------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------------|
| Opening Balance | -\$933,100 | -\$674,400 | -\$500,600 | -\$383,500 | -\$453,300 | -\$686,700 |
| Revenues | 1,480,400 | 1,473,500 | 1,594,700 | 1,122,000 | 1,087,400 | 1,440,600 |
| Expenditures | -1,378,700 | -1,511,900 | -1,543,900 | -1,289,300 | -1,487,700 | -1,432,800 |
| Transfers | <u>157,000</u> | <u>212,200</u> | <u>66,300</u> | <u>97,500</u> | <u>166,800</u> | <u>N/A</u> |
| Closing Balance | -\$674,400 | -\$500,600 | -\$383,500 | -\$453,300 | -\$686,700 | -\$678,900 |
| Receivable Income | \$110,600 | \$95,900 | \$93,700 | \$155,000 | \$90,400 | \$88,300 |
| Unsupported Overdraft | -\$563,800 | -\$404,700 | -\$289,800 | -\$298,300 | -\$596,300 | -\$590,600 |

Grain inspection revenues have rebounded in 2019-20, totaling \$1,440,600 as of June 11, 2020. Combined with year-to-date expenditures of \$1,432,800 and receivable income of \$88,300, the grain inspection appropriation condition is estimated to have a current unsupported overdraft of approximately \$590,600 as of June 11, 2020. It should be noted that shipping volume and associated inspection activity is dependent on international conditions in grain markets; therefore, future revenues and costs are difficult to predict. Further, the extent to which the COVID-19 pandemic has impacted shipping volume and resulting grain inspection revenues is not immediately clear.

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. During the 2019-21 biennial budget process, DATCP requested and was granted reallocation of 2.0 PR positions from other program areas after reporting the positions were necessary to avoid refusing service. DATCP reports that since the addition of these 2.0 positions, it has not refused service. However, DATCP notes several instances where it was close to refusing service, and argues that current permanent staffing levels are the minimum amount suitable to meet service requests. Further, DATCP has in recent years maintained practices intended to minimize staffing costs, such as using limited-term staff during seasonal increases and scheduling permanent staff in ways to reduce overtime expenses.

In August, 2018, a new grain inspection fee schedule was established to provide more consistent revenues during off-peak months. The new fee schedule instituted a minimum fee for service to contracted customers, requiring them to request a minimum amount of services during off-peak months, or end up paying an assessment. DATCP reports that the mechanism has been effective in developing a consistent revenue stream for the Department, and only one contracted customer received an assessment for failing to meet their minimum contracted service requests. DATCP notes that the 2018 amendment to its fee schedule did not take into account increasing staffing costs described previously, and is in the process of further updating the schedule for enactment in the summer of 2020.

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. As seen in Table 5, \$97,500 was transferred in 2017-18 and \$166,800 was transferred in 2018-19. Approximately \$2.0 million has been transferred since the requirement took effect in 2005-06. Given DOA-directed state operations reductions in 2019-20 in response to the COVID-19 pandemic, any transfer under s. 16.56 is expected to be minimal.

Under 2013 Act 20, DATCP was required to develop and implement a plan to transfer an amounts from available PR and segregated (SEG) balances to the appropriation sufficient to resolve its 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.

Dog Licenses, Rabies Control, and Related Services. DATCP is required by statute to: (a) regulate and license animal shelters and control facilities, and dog breeders and sellers; (b) assist local governments in administering dog licensing and rabies control laws; and (c) train and certify humane officers. The dog licenses, rabies control, and related services appropriation receives revenue from: (a) fees imposed on dog sellers, shelters, and animal control facilities (\$181,300 in 2018-19); (b) a portion of dog license fees paid by owners to local units of government (\$71,200); (c) training fees associated with rabies control programs (\$3,200); and (d) training and certification fees associated with its humane officer training and certification program (\$1,100).

The dog licenses, rabies control, and related services appropriation had an unsupported overdraft of \$185,400 as of June 30, 2019, and \$299,900 as of June 11, 2020. DATCP is authorized to expend all monies received by the appropriation, with expenditures of \$477,700 and revenues of \$256,900 in 2018-19, and year-to-date expenditures of \$381,200 and revenues of \$266,700 in 2019-20 as of June 11, 2020. DATCP reports that revenues have been unable to support expenditures associated with these programs in recent years, and that it has supported a portion of these expenditures with its Division of Animal Health general program operations GPR appropriation, including \$160,100 in 2015-16, \$219,000 in 2016-17 and \$187,500 in 2017-18. However DATCP was unable to support expenditures associated with its dog regulation, rabies control, and humane officers programs with its general program operations appropriation in 2018-19. Further, given DOA-directed state operations reductions in response to the COVID-19 pandemic, supplementation of the program with Division of Animal Health general program operations funding is expected to be minimal.

The Department reports it cannot reduce program expenditures within the appropriation further, noting that it is already minimizing nonessential expenses, including travel and training. Further, DATCP notes that 87% of appropriation expenditures in 2018-19 supported staff salary and fringe benefit costs for 4.0 permanent positions, including 1.0 veterinarian and 3.0 inspectors, which it sees as the minimum possible staff allocation sufficient to meet its statutorily required program duties. Remaining expenditures are primarily associated with fleet vehicle costs (4.3%), and information technology (3.6%). DATCP argues that because program expenditures cannot be

decreased, fees must be increased.

DATCP has convened a workgroup to consider different solutions to the program overdraft. DATCP reports the workgroup has held three meetings and includes regulated individuals, local government regulatory staff and elected officials, and DATCP animal health program staff. Staff observations from meeting discussions include: (a) there are opportunities for changes to the structure of the dog licensing program and difficulties with enforcement in the dog licensing program; (b) it could be beneficial to fund animal control, rabies, and humane officer programs from a fee base beyond dog owners; and (c) the Department could consider increasing the state share of dog license fees, and/or increasing dog seller fees. DATCP notes that several of these changes would require amendments to statutory language, which could be considered as part of its 2021-23 biennial budget request.

Corrections

Juvenile Correctional Services. The juvenile correctional services appropriation funds the operations of juvenile correctional facilities and certain community supervision services provided to juveniles following release from facilities. Program revenue credited to the appropriation derives from daily rates charged by facility care that are paid by counties or the state for certain serious juvenile offenders. If monies generated by the daily rate exceed actual institutional costs in a fiscal year by 2% or more, the amounts in excess of 2% must be remitted to the counties during the subsequent fiscal year, in an amount proportionate to the total number of days of juvenile placements at the facilities for each county and for the state.

The appropriation operated with a year-end deficit from 2004-05 to 2014-15, with the deficit amount decreasing each year from 2011-12 to 2014-15. In 2014-15, the deficit was retired and the year ended with a cash surplus. However, since 2014-15 there has again been a deficit in the appropriation. For 2018-19, the unsupported overdraft increased by \$3,279,700 for a total deficit of \$7,721,100. Factors contributing to the deficit include: (a) declining juvenile populations in 2017-18 and 2018-19; and (b) unanticipated expenditures to fund contracted health staff to handle medication administration.

The Department's s. 16.513 plan would continue to utilize the additional \$6 per day rate for deficit reduction.

Health Services

Interagency and Intra-agency Programs. The Department of Health Services (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. In 2018-19, NWC had an average monthly population of 15 individuals.

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 2018-19, the appropriation had an unsupported deficit of \$6,693,500. 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.

DHS indicates that it intends to address the deficit by: (a) seeking the approval of the Governor and the Joint Committee on Finance 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 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 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 to address the overdraft in 2009-10, when it reported on the 2008-09 overdraft in this appropriation. Since that time, the deficit has increased in most years. Table 6 below shows the year-end unsupported overdraft amounts in this appropriation from 2011-12 to 2018-19.

TABLE 6

**Care and Treatment Services -- Interagency and Intra-agency Programs
Year-End Unsupported Overdrafts**

| | <u>2011-12</u> | <u>2012-13</u> | <u>2013-14</u> | <u>2014-15</u> | <u>2015-16</u> | <u>2016-17</u> | <u>2017-18</u> | <u>2018-19</u> |
|-----------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Unsupported Overdraft | \$5,954,600 | \$6,132,500 | \$5,949,800 | \$6,091,900 | \$6,130,000 | \$6,441,400 | \$6,689,900 | \$6,693,500 |

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.

This appropriation had an estimated unsupported overdraft of \$11,016,000 at the end of the

2018-19 fiscal year. DHS indicates that this overdraft was primarily 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. Table 7 shows the amounts receivable in this appropriation for fiscal years 2013-14 through 2018-19.

TABLE 7

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

| | <u>2013-14</u> | <u>2014-15</u> | <u>2015-16</u> | <u>2016-17</u> | <u>2017-18</u> | <u>2018-19</u> |
|-----------------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Amounts Receivable | \$3,965,200 | \$6,721,800 | \$1,010,300 | \$6,182,100 | \$5,800,700 | \$3,275,800 |

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 2018-19, the appropriation had an estimated cash deficit of \$14,291,800 and receivables totaling \$3,275,800. Accordingly, at the close of fiscal year 2018-19, this appropriation had an estimated unsupported overdraft of \$11,016,000.

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.

DHS indicates that it intends to continue addressing the deficit through changes in 2017 Wisconsin Act 59. These changes allow DHS to retain \$1,000,000 per year in current year GPR-

Earned revenues to apply against the deficit. Second, they authorize DHS to incur liabilities in this appropriation, in excess of revenues, up to the value of equipment and buildings financed from the appropriation. This latter change allows DHS to account for such assets in future cash overdraft statements, which DHS states provides a more complete picture of the appropriation by accounting for both cash and non-cash assets.

Together, the unsupported overdrafts in 20.435(2)(kx) and 20.435(2)(g) totaled approximately \$17.7 million at the end of 2018-19. 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 2018-19, the fund was statutorily required to support the amounts identified in Table 8. While the agencies identified below were appropriated a total of \$17,744,900 PR in penalty surcharge revenues for the operations of various state programs, only \$17,559,000 PR was transferred from the penalty surcharge fund in 2018-19 as a result of actual agency expenditures.

TABLE 8

Penalty Surcharge Fund Obligations, 2018-19

| | <u>Obligation</u> | <u>Amount Appropriated in 2018-19</u> |
|--------------------|---|---|
| Justice | Law enforcement training fund; local assistance | \$4,364,800 |
| | Law enforcement training fund; state operations | 3,260,600 |
| | Drug enforcement intelligence operations | 2,146,400 |
| | Reimbursement for county victim-witness services | 748,900 |
| | Drug crimes enforcement; local grants | 717,900 |
| | Transaction information management of enforcement (TIME) system | 715,700 |
| | Youth diversion grant program | 672,400 |
| | Law enforcement programs and youth diversion - administration | 143,700 |
| Public Instruction | Aid for alcohol and other drug abuse programs | 1,284,700 |
| | Alcohol and other drug abuse programs | 600,200 |
| Corrections | Correctional officer training | 2,468,100 |
| | Victim services and programs | 218,500 |
| Circuit Courts | Court interpreters | 232,700 |
| Public Defender | Conferences and training | <u>170,300</u> |
| | Total | \$17,744,900 |

Penalty surcharge revenue totaled \$14,448,100 in 2017-18, while in 2018-19 revenue totaled \$15,583,300 (an increase of \$1,135,200). Due to transfers from the fund exceeding revenues, the penalty surcharge fund has operated in deficit since 2007-08. In 2017-18, the fund concluded with a deficit of \$10,631,400, while in 2018-19 the fund concluded with a deficit of \$12,607,100 (an increase of \$1,975,700). Table 9 identifies the condition of the fund from 2011-12 through 2018-19.

TABLE 9

Penalty Surcharge Fund Condition, 2011-12 thru 2018-19

| | <u>2011-12</u> | <u>2012-13</u> | <u>2013-14</u> | <u>2014-15</u> | <u>2015-16</u> | <u>2016-17</u> | <u>2017-18</u> | <u>2018-19</u> |
|-----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Opening Balance | -\$5,732,400 | -\$3,588,800 | -\$3,999,100 | -\$2,048,000 | -\$3,701,100 | -\$5,601,300 | -\$7,971,900 | -\$10,631,400 |
| Revenues | 18,948,500 | 15,573,400 | 18,438,200 | 15,376,500 | 15,135,100 | 14,572,600 | 14,448,100 | 15,583,300 |
| Obligations | 16,804,900 | 15,983,700 | 16,487,100 | 17,029,600 | 17,035,300 | 16,943,200 | 17,107,600 | 17,559,000 |
| Ending Balance | -3,588,800 | -3,999,100 | -2,048,000 | -3,701,100 | -5,601,300 | -7,971,900 | -10,631,400 | -12,607,100 |

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 penalty surcharge revenue. 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 justice information system surcharge. 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.

According to DOJ, it "is anticipated that the deficit will continue to grow in future years without transferring expenditures to other funding sources or increasing penalty surcharge revenues." The Department of Administration recommends to, "Approve the 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 currently utilized to provide minor 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 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 2017-18, the appropriation received \$42,000 of revenue from these surcharges, while in 2018-19, the appropriation received \$43,200. 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. 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 surcharge revenues for TAD. [Since Act 28, additional GPR and PR resources have been appropriated for the TAD program.] During the 2017-19 biennium, the annual expenditure authority for the grants for substance abuse treatment programs appropriation was \$10,600 in 2017-18 and \$10,800 in 2018-19.

The appropriation concluded 2017-18 with a deficit of \$1,695,900. The appropriation concluded 2018-19 with a deficit of \$1,652,700. Therefore, during 2018-19, the deficit decreased by \$43,200. Since Act 28 significantly reduced the expenditure authority of the appropriation, revenues received by the appropriation have exceeded expenditures. According to the administration, "continued review of fund balances within the department" would occur "for potential reallocation to address the deficit."

Department of Transportation

Other Department Services, Operations, Service Funds. The Department of Transportation (DOT) other department services, operations SEG-S appropriation is funded from charges to Department appropriations for costs associated with operations relating to materials and equipment purchases, postage, and other such direct costs as the department deems appropriate. The SEG-S appropriation has specific statutory forestalling authority, which allows DOT to incur a liability under this appropriation by expending in excess of annual revenues received to the extent that the non-depreciated assets of the appropriation exceed the excess expenditures. The appropriation was reported to have an unsupported overdraft amount of \$2,165,900 in 2018-19, which is down from an unsupported overdraft balance of \$8,321,100 in 2017-18.

The Department indicates that over a three-year period ending in 2016-17, it expended \$14,290,170 in costs associated with the State Transforming Agency Resources (STAR) project. This created a liability within the forestalling appropriation. DOT began recovering these costs in 2016-17 through the SEG-S appropriation by amortizing these costs across each operating division within the Department. DOT indicates that it will eliminate the appropriation's remaining unamortized STAR implementation cost liability over next four years. DOT indicates that it will do so by assessing the Department's state operations appropriations for one-fourth of the liability each year. DOT indicates that these assessments are determined based on each division's operations appropriations share, as well as the state highway program's operations appropriations share, of total Department state operations funding. These assessments are then deposited to the SEG-S appropriation and used to retire the appropriation's overdraft relating to the STAR system

implementation.

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.