



Legislative Fiscal Bureau

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April 18, 2018

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Plans for Unsupported Overdraft Appropriations, 2016-17 -- Agenda Item X

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 29, 2017, DOA Secretary Neitzel submitted plans under s. 16.513 for unsupported overdrafts in 10 appropriations. On January 18, 2018, 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 2016-17 fiscal year. The submittal identifies 10 appropriations whose unsupported overdrafts totaled \$76.1 million. The amount of unsupported overdrafts for 2016-17 and the previous five fiscal years is shown below.

<u>Fiscal Year</u>	<u>Amount (In Millions)</u>
2011-12	\$43.6
2012-13	32.8
2013-14	50.5
2014-15	57.8
2015-16	66.0
2016-17	76.1

Table 1 identifies the 2016-17 overdrafts included in the December 29, 2017, plan, by appropriation. Each of the appropriations is subsequently addressed in more detail.

TABLE 1

2016-17 Unsupported Overdrafts

<u>Agency/Appropriation</u>	<u>Unsupported Overdraft</u>
<i>Administration</i>	
• Enterprise Resource Planning System	\$35,860,600
• Information Technology Investment Fund	2,614,000
• Justice Information Fee Receipts	3,471,200
<i>Agriculture, Trade and Consumer Protection</i>	
• Grain Inspection Program	289,800
<i>Corrections</i>	
• Juvenile Correctional Services	3,227,500
<i>Health Services</i>	
• Interagency and Intra-agency Programs	6,441,400
• Alternative Services of Institutes and Centers	14,430,100
<i>Justice</i>	
• Penalty Surcharge; Receipts	7,971,900
• Grants for Substance Abuse Treatment Programs for Criminal Offenders	1,737,900
• Sobriety Programs	<u>21,600</u>
Total	\$76,066,000

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 consider options for continuing work to produce a system for managing the administrative functions specified above. At the end of 2010-11, the appropriation overdraft totaled \$13,102,500 with support of \$4,903,400 in non-depreciated assets.

Under 2013 Act 20, the appropriation was renamed the enterprise resource planning (ERP) system. In June, 2013, following a revised cost estimate and development of plans for implementation, the administration began incurring additional expenses for 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 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 to plan and design the ERP system. In 2014-15, expenses continued to be incurred to develop the system and prepare for implementation.

Implementation of the 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. In July, 2016, the third and final phase of the project, system implementation for the Department of Transportation, was deployed. In 2016-17, DOA incurred costs of \$5,888,400 for system development and \$12,794,600 for ongoing maintenance and operations, not including repayment of master lease principal and interest, of which \$2,769,700 was financed by the master lease program. The Department also repaid \$5,867,000 in master lease principal and \$3,203,100 in interest. As of the end of 2016-17, the appropriation overdraft was \$65,419,300, with support from the value of equipment, software, and intangible assets in excess of master lease obligations of \$21,399,600 and accounts receivable of \$8,159,100. As a result, the unsupported overdraft was \$35,860,600 as of June 30, 2017. The unsupported overdraft at the end of 2015-16 was \$30,442,100.

Table 2 shows the year-end total overdrafts, supporting assets, and unsupported overdrafts for the appropriation from 2010-11 to 2016-17.

TABLE 2

**Enterprise Resource Planning System Appropriation
Overdrafts and Supporting Assets, 2010-11 to 2016-17**

<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	-65,419,300	29,558,700	-35,860,600

The Department of Administration has developed two assessments that will be charged to state agencies for: (a) ongoing costs to operate and maintain the system; and (b) costs already incurred by the project to develop the system and prepare for implementation (such as hardware, software, contractual services, salaries, and fringe benefit expenses). In 2015-16, DOA first charged agencies for ongoing costs to operate and maintain the system, totaling \$9,064,900 in assessments. In 2016-17, agencies were assessed \$14,018,700 for same-year operations and maintenance costs and were additionally charged true-up operations and maintenance assessments totaling \$1,913,600 to account for costs in 2015-16 that exceeded initial estimates.

In its s. 16.513 plan, DOA indicates that, beginning in 2017-18, it "will begin to assess state agencies for the STAR Project costs in an amount necessary to fully recover project and financing costs incurred in its development" over a period of 19 years, phased in over three fiscal years in increasing amounts. In 2017-18, assessments to agencies for project costs will total \$4,357,900. The assessment will increase in 2018-19 and 2019-20 and remain the same for each year thereafter. The Department will also continue to annually assess state agencies to recover ongoing maintenance and operations costs for the system, for which charges will total \$11,370,700 in 2017-18. Each of the assessment amounts will be based on an allocation of costs according to each agency's percentage share of the following measures relative to totals for all state agencies: number of authorized full-time equivalent positions, procurement spending, and adjusted state operations expenditures.

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 \$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. Over this time period, VendorNet fees totaled \$841,900 and investment pool earnings totaled \$57,600. Between 2003-04 and 2016-17, all repayments came from DOA general program operations, totaling \$370,000, leaving a negative balance of \$2,614,000 (the 2016-17 deficit represents a \$25,000 reduction to the deficit from 2015-16). 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. In September, 2015, appropriations supported by the JIS surcharge fund reverted \$1,527,100 to the fund from unencumbered balance that had accrued over several fiscal years. The fund concluded 2015-16 with a deficit of \$2,343,300, and concluded 2016-17 with a deficit of \$3,471,200. Therefore, the deficit increased by \$1,127,900 during 2016-17.

In 2016-17, the fund was statutorily required to transfer \$9,830,600 to various appropriations and the general fund. These amounts are identified in Table 3. While the JIS surcharge fund was required to transfer \$9,830,600 in 2016-17, \$248,300 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, 2016-17

	<u>Obligation</u>	Amount Appropriated <u>in 2016-17</u>
	Lapse requirement	\$700,000
Administration	Justice information systems	4,140,100
Justice	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)	1,052,000
	Wisconsin justice information sharing program	714,800
	Child advocacy center grant program	238,100
Corrections	Victim notification	<u>682,300</u>
	Total	\$9,830,600

Table 4 identifies the following information for the fund for 2011-12 through 2016-17: (a) revenue; (b) obligations; and (c) ending balances. In reviewing Table 4, note that reversions for 2015-16 are higher than 2016-17 due to the accumulated reversion amount discussed above.

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	\$0,000
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

The Department of Administration states that while the changes made to the JIS surcharge fund under 2015 Act 55 positively impacted that the fund's balance in 2015-16, "... legislative changes to appropriations supported by the surcharge 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 port of Superior and the port of Duluth, Minnesota. The grain inspection program is authorized 15.0 positions and is budgeted \$1,004,300 PR each year under 2017 Act 59. 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 an unsupported cash overdraft of approximately -\$383,500 as of June 30, 2017. Of this amount, \$93,700 was supported by receivable income, for an unsupported overdraft of -\$289,800. The unsupported overdraft decreased by \$114,900 in the 2016-17 fiscal year. Table 5 shows the condition of the grain inspection PR appropriation, on a cash basis, from 2014-15 through 2016-17.

TABLE 5**DATCP Grain Inspection Appropriation Condition**

	<u>Actual 2014-15</u>	<u>Actual 2015-16</u>	<u>Actual 2016-17</u>
Opening Balance	-\$933,100	-\$674,400	-\$500,600
Revenues	1,480,400	1,473,500	1,594,700
Expenditures	-1,378,700	-1,511,900	-1,543,900
Transfers	<u>157,000</u>	<u>212,200</u>	<u>66,300</u>
Closing Balance	-\$674,400	-\$500,600	-\$383,500

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 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. DATCP reports that it is in the process of reviewing changes to its fee schedule, including seeking customer input, to submit to the U.S. Department of Agriculture for review. The Department anticipates it will have a new fee schedule in place for the 2018-19 fiscal year. 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.

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 \$66,300 was transferred in 2016-17, as well as \$157,000 in 2014-15 and \$212,200 in 2015-16. Approximately \$1.8 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 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 was 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 was 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 program revenue balances of the state telemarketing no-call program. No PR/SEG transfers were made in 2014-15, 2015-16 or 2016-17. DATCP has forgone PR/SEG transfers in recent years, noting the shortfall has decreased on a cash basis by \$258,700 in 2014-15, \$173,800 in 2015-16 and \$117,100 in 2016-17, through a combination of the program's net revenue and GPR transfers under s. 16.56. The Department reports it plans to reassess the need for transfers in 2017-18 later in the fiscal year.

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. For 2016-17, the Department reports expenditures exceeded revenue by \$3,227,500 for a year-end deficit of \$3,227,500. Factors contributing to the deficit include: (a) declining juvenile populations in 2015-16 and 2016-17; and (b) unanticipated expenditures to fund contracted health staff.

The Department's s. 16.513 plan would continue to utilize the additional \$6 per day rate for deficit reduction. In addition, 2017 Act 59 shifted some PR-supported costs to GPR funding.

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 2016-17, NWC had an average monthly population of 13 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 2016-17, the appropriation had an unsupported deficit of \$6,441,400. 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 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 2009-10 to 2016-17.

TABLE 6

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

	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>	<u>2015-16</u>	<u>2016-17</u>
Unsupported Overdraft	\$5,449,300	\$5,800,600	\$5,954,600	\$6,132,500	\$5,949,800	\$6,091,900	\$6,130,000	\$6,441,400

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 \$14,430,100 at the end of the 2016-17 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 2011-12 through 2016-17.

TABLE 7

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

	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>	<u>2015-16</u>	<u>2016-17</u>
Amounts Receivable	\$29,975,500	\$32,031,800	\$3,965,200	\$6,721,800	\$1,010,300	\$6,182,100

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 2016-17, the appropriation had an estimated cash deficit of \$20,612,200 and receivables totaling \$6,182,100. Accordingly, at the close of fiscal year 2016-17, this appropriation had an estimated unsupported overdraft of \$14,430,100.

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; and (c) 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 address the deficit through changes in 2017 Wisconsin Act 59. First, Act 59 allows DHS to retain \$1,000,000 per year in current year GPR-Earned revenues to apply against the deficit. Second, Act 59 authorizes 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 will allow DHS to account for such assets in future cash overdraft statements, which DHS states will provide 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 \$20.9 million at the end of 2016-17. 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 2016-17, the fund was statutorily required to support the amounts identified in Table 8. While the agencies identified below were appropriated a total of \$17,065,900 PR in penalty surcharge revenues for the operations of various state programs, only \$16,943,200 PR was transferred from the penalty surcharge fund in 2016-17 as a result of actual agency expenditures.

TABLE 8

Penalty Surcharge Fund Obligations, 2016-17

	<u>Obligation</u>	Amount Appropriated in 2016-17
Justice	Law enforcement training fund; local assistance	\$4,364,800
	Law enforcement training fund; state operations	3,067,000
	Drug enforcement intelligence operations	1,667,500
	Reimbursement for county victim-witness services	748,900
	Drug crimes enforcement; local grants	717,900
	Transaction information management of enforcement (TIME) system	714,300
	Youth diversion grant program	672,400
Public Instruction	Law enforcement programs and youth diversion - administration	146,000
	Aid for alcohol and other drug abuse programs	1,284,700
Corrections	Alcohol and other drug abuse programs	609,500
	Correctional officer training	2,416,600
Circuit Courts	Victim services and programs	271,700
	Court interpreters	232,700
Public Defender	Conferences and training	<u>151,900</u>
	Total	\$17,065,900

Penalty surcharge revenue totaled \$15,135,100 in 2015-16, while in 2016-17 revenue totaled \$14,572,600 (a decrease of \$562,500). Due to transfers from the fund exceeding revenues, the penalty surcharge fund has operated in deficit since 2007-08. In 2015-16, the fund concluded with a deficit of \$5,601,300, while in 2016-17 the fund concluded with a deficit of \$7,971,900 (an increase of \$2,370,600). Table 9 identifies the condition of the fund from 2011-12 through 2016-17.

TABLE 9

Penalty Surcharge Fund Condition, 2011-12 thru 2016-17

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

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, "...on a long term basis, it is expected that this appropriation will continue to have an unsupported cash deficit without significant changes in the funding structure of penalty surcharge receipts or increases in surcharges." 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 2015-16, the appropriation received \$44,700 of revenue from these surcharges, while in 2016-17, the appropriation received \$40,900. 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 2015-17 biennium, the annual expenditure authority for the grants for substance abuse treatment programs appropriation was \$5,600 in 2015-16 and \$5,700 in 2016-17.

The appropriation concluded 2015-16 with a deficit of \$1,778,800. The appropriation concluded 2016-17 with a deficit of \$1,737,900. Therefore, during 2016-17, the deficit decreased by \$40,900. Since Act 28 significantly reduced the expenditure authority of the appropriation, revenues received by the appropriation have exceeded expenditures. According to the administration, "...it will take time to eliminate the unsupported overdraft that had accumulated over several years. At current revenue levels, the deficit will remain through fiscal year 2055-56."

Sobriety Programs. The 2015-17 biennial budget established the Frequent Sobriety Testing Pilot program. Under the pilot program, DOJ is authorized to designate up to five counties to participate in a 24/7 sobriety program that is intended to provide a high level of monitoring to participants convicted of multiple operating while intoxicated (OWI) offenses to ensure that the participants are not consuming alcohol or controlled substances, with immediate sanctions if a violation occurs. Revenue for the appropriation may be generated from agreements between DOJ and participating counties that require the county to provide DOJ a portion of the fees the county collects from participants to operate the 24/7 sobriety project. Under 2017 Act 59, the sobriety program appropriation did not have any expenditure authority and no revenue was received by the appropriation in 2015-16. [Revenue is anticipated in future fiscal years as counties designated to establish a 24/7 sobriety project will implement their projects and collect fees from participants.] The 24/7 sobriety pilot program sunsets after June 30, 2021.

On November 13, 2017, the Joint Committee on Finance approved a s. 16.515/16.505(s) request for increased expenditure authority of \$110,000 PR in 2017-18. The program has a deficit of \$21,600 at the end of 2016-17 as the program will be supported by revenues from fees charged to participants, but startup costs have been incurred, even though the program is not yet ready to enroll participants. The Department of Administration recommends to, "Approve the plan but continue to monitor participation levels to ensure sufficient revenues exist to cover one-time and ongoing costs."

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.