

State of Wisconsin

SENATE CHAIR
Howard Marklein

316 East, State Capitol
P.O. Box 7882
Madison, WI 53707-7882
Phone: (608) 266-0703



ASSEMBLY CHAIR
Mark Born

308 East, State Capitol
P.O. Box 8952
Madison, WI 53708-8953
Phone: (608) 266-2540

Joint Committee on Finance

MEMORANDUM

To: Members
Joint Committee on Finance

From: Senator Howard Marklein
Representative Mark Born

Date: (Insert date)

Re: s. 16.515/16.505(2), Stats. Request

Attached is a copy of a request from the Department of Administration, received April 3, 2024, pursuant to s. 16.515/16.505(2), Stats.

Please review the material and notify **Senator Marklein** or **Representative Born** no later than **Monday, April 22, 2024**, if you have any concerns about the request or if you would like the Committee to meet formally to consider it.

Also, please contact us if you need further information.

Attachments

HM:MB;jm



STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION

Tony Evers, Governor
Kathy Blumenfeld, Secretary

Date: April 3, 2024
To: The Honorable Howard Marklein, Co-Chair
Joint Committee on Finance
The Honorable Mark Born, Co-Chair
Joint Committee on Finance
From: Kathy K. Blumenfeld, Secretary ^{DS} KB
Department of Administration
Subject: s. 16.515/16.505(2) Request(s)

APR 03 2024
J. Finance

Enclosed are request(s) that have been approved by this department under the authority granted in s. 16.515 and s. 16.505(2). The explanation for each request is included in the attached materials. Listed below is a summary of each item:

<u>AGENCY</u>	<u>DESCRIPTION</u>	<u>2023-24</u>		<u>2024-25</u>	
		<u>AMOUNT</u>	<u>FTE</u>	<u>AMOUNT</u>	<u>FTE</u>
DOA 20.505(2)(ki)	Risk management administration	\$2,425,800			

As provided in s. 16.515, the request(s) will be approved on April 24, 2024, unless we are notified prior to that time that the Joint Committee on Finance wishes to meet in formal session about any of the requests.

Please contact Kirsten Grinde at (608) 266-1353, or the analyst who reviewed the request in the Division of Executive Budget and Finance, if you have any additional questions.

Attachments



STATE OF WISCONSIN

DEPARTMENT OF ADMINISTRATION

Tony Evers, Governor
Kathy Blumenfeld, Secretary
Brian Pahnke, Administrator

Date: March 29, 2024

To: Kathy Blumenfeld, Secretary
Department of Administration

From: Olivia Rice
Executive Policy and Budget Analyst

Subject: Request under s. 16.515 from the Department of Administration for increased expenditure authority to cover excess insurance premiums paid by the department.

Request:

The Department of Administration requests additional expenditure authority of \$2,425,800 PR-S in fiscal year 2023-24 in the risk management administration appropriation under s. 20.505(2)(ki).

Revenue Source for Appropriation:

The program revenue appropriation for risk management administration under s. 20.505(2)(ki) is funded from revenue transferred annually from the risk management costs appropriation under s. 20.505(2)(k), which is funded from charges to state agencies for: (a) paying claims for losses of, and damage to, state property; (b) settlements of state liability; (c) state employer costs for worker's compensation claims of state employees; and (d) related administrative costs.

Background:

The Department of Administration manages a self-funded risk management program to insure state agencies against liability, property and worker's compensation losses. Coverage is provided to all state agencies, including the University of Wisconsin System, and is funded by an annual premium based on prior losses and current exposure. The state also purchases excess coverage from private insurance carriers to provide coverage for losses in excess of self-funded coverage for the property and liability programs.

The excess insurance premiums paid by the department in fiscal year 2023-24 will total \$16,846,430, a 22.5 percent increase over fiscal year 2022-23 premiums of \$13,756,800. The department has \$12,978,100 budgeted in fiscal year 2023-24 for both property and liability excess insurance premiums. Large state government losses that have occurred since fiscal year 2016-17 and overall market pressures have resulted in significant year-over-year excess insurance premium costs.

Due to the volatility of excess insurance premiums and the unpredictability of insurable events, the Joint Committee on Finance has approved under s.16.515 the following adjustments to the appropriation under s. 20.505(2)(ki) in recent years:

- \$561,100 PR-S in fiscal year 2015-16;
- \$1,894,900 PR-S in fiscal year 2016-17;

Kathy Blumenfeld, Secretary

Page 2

March 29, 2024

- \$1,412,500 PR-S in fiscal year 2018-19;
- \$2,269,000 PR-S in fiscal year 2019-20;
- \$5,637,600 PR-S in fiscal year 2020-21 and annually thereafter; and
- \$1,044,800 PR-S in fiscal year 2022-23.

The cost for excess insurance premiums will constitute 81.2 percent of fiscal year 2023-24 costs in the appropriation under s. 20.505(2)(ki). The department intends to transfer \$1,442,500 of unallotted reserve expenditure authority to the supplies and services line, which will partially offset the higher premium payments. This appropriation also funds other costs necessary for the administration of the risk management program, including the salary and fringe benefits for 16.45 FTE positions. The appropriation authority in fiscal year 2023-24 under s. 20.505(2)(ki) is \$18,153,000. In total, the department expects to expend \$20,758,700 from the appropriation, including premium costs, salaries, fringe benefits costs, and supplies and services. The total anticipated shortfall is \$2,605,700, of which \$2,425,800 would be provided through the request, plus an additional amount through the year-end pay plan supplement process.

Analysis:

Premiums for excess property insurance have increased consistently since fiscal year 2010-11. The most considerable annual excess insurance premium costs have occurred during the past several fiscal years. Between fiscal years 2010-11 and 2023-24, state government excess property insurance premiums have increased by 452.2 percent. The state's total reported insurable values increased by 61.7 percent during this time frame, from \$22.2 billion in fiscal year 2010-11 to \$35.9 billion in fiscal year 2023-24. Additionally, state government experienced significant property losses during fiscal year 2018-19, including damage resulting from flooding in south central Wisconsin and the January 2019 polar vortex. Nationwide, property insurance market conditions have been impacted by recent catastrophic hurricane and flood losses, which have further contributed to increased excess property insurance premiums.

Premiums for excess liability insurance have also increased substantially over the past several fiscal years. Between fiscal years 2010-11 and 2023-24, excess liability insurance premium costs paid by the department increased 816 percent. Claims reported by state government and general market conditions have driven up liability insurance premiums during recent years. For example, during fiscal year 2017-18, an \$18.9 million claim involving the Department of Corrections was settled and paid. The department also cites the increasingly limited public entity insurance market as a contributing factor to the significant premium increases over the past several years. Additional nationwide trends attributed to automobile liability, sexual misconduct claims and police brutality allegations have also fueled overall increases in excess liability insurance premiums.

The risk management program has taken steps to mitigate the impact of excess property and liability insurance premium increases. In fiscal year 2018-19, the department increased the self-funded aggregate retention amount for the property program (the amount that must be used prior to use of excess insurance) from \$2.7 million to \$5 million and increased the maintenance deductible from \$25,000 to \$100,000. In addition, beginning in fiscal year 2019-20, the department increased the self-funded property deductible from \$3 million to \$4 million per occurrence. During fiscal year 2019-20, the department also increased the self-funded aggregate property deductible from \$5 million to \$6 million. In fiscal year 2020-21, the department again increased the self-funded aggregate annual deductible from \$6 million to \$6.5 million.

Kathy Blumenfeld, Secretary

Page 3

March 29, 2024

Further, the department increased the self-funded retention amount for the liability program from \$4 million per occurrence to \$5 million per occurrence during fiscal year 2019-20. Prior to fiscal year 2020-21, liability occurrences exceeding the self-funded retention amount were paid through traditional reinsurance coverage. During that fiscal year, the department maintained the \$5 million per occurrence deductible and agreed to share 16.6 percent of each loss occurring in the primary layer excess reinsurance coverage of between \$6 million and \$15 million. In fiscal year 2022-23, the state's share in this layer increased to 33.3 percent of each loss. Moreover, beginning in fiscal year 2022-23, the state shared 10 percent of each loss in the insurance layer exceeding \$15 million per loss.

In fiscal year 2023-24, the state was able to add a new liability carrier to the five incumbent insurers, something that has proved difficult in recent years due to historical challenges in the public entity insurance market. With the addition of the sixth carrier, the bureau has been able to restructure and reduce more expensive limits, which has granted positive program benefits and resulted in only a 3 percent liability excess insurance premium increase from fiscal year 2022-23 to fiscal year 2023-24.

While these measures have helped to manage premium costs, the existing expenditure authority is still insufficient to cover the rate of premium increases. If the request to provide sufficient expenditure authority is denied, the department's excess insurance coverage would need to be canceled for April, May and June 2024. If the excess insurance coverage is canceled, the state's self-funded insurance program would need to cover any potential liability and property claims that occur during the final three months of fiscal year 2023-24. This would expose the state to increased risk of significant loss in the case of accidents, fire and weather that cause damage to state-owned property, as well as any liability losses that occur during this period. This would also result in significantly increased self-funded insurance premiums assessed to state agencies and the University of Wisconsin System. Further, the department indicates that forced insurance cancellation would create reputational damage for the state within the insurance industry and could jeopardize the state's ability to reenter the insurance market.

Recommendation:

Approve the request.

CORRESPONDENCE / Memorandum

State of Wisconsin
Department of Administration

Date: March 29, 2024
To: Brian Pahnke
From: Olivia Rice
Subject: Section 16.515 Request

Attached is a s. 16.515 request analysis for your approval and processing. Listed below is a summary of each item:

DOA RECOMMENDATION:

<u>AGENCY</u>	<u>DESCRIPTION</u>	<u>2023-24</u>		<u>2024-25</u>	
		<u>AMOUNT</u>	<u>FTE</u>	<u>AMOUNT</u>	<u>FTE</u>
DOA 20.505(2)(ki)	Risk management administration	\$2,425,800			

AGENCY REQUEST:

<u>AGENCY</u>	<u>DESCRIPTION</u>	<u>2023-24</u>		<u>2024-25</u>	
		<u>AMOUNT</u>	<u>FTE</u>	<u>AMOUNT</u>	<u>FTE</u>
DOA 20.505(2)(ki)	Risk management administration	\$2,425,800			

BP APPROVAL 



STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION

Tony Evers, Governor
Kathy Blumenfeld, Secretary

Date: March 21, 2024

To: Brian Pahnke, Administrator
Division of Executive Budget and Finance

From: Kathy Blumenfeld, Secretary DS
KB
Department of Administration

Subject: Request for Expenditure Authority Increase Under s. 16.515

REQUEST

The Department of Administration (Department) requests an increase of \$2,425,800 program revenue – services (PR-S) expenditure authority in fiscal year (FY) 2023-24 in the Department’s risk management administration appropriation under s. 20.505 (2) (ki), Wis. Stats., *Risk management administration*, appropriation numeric 22700. The request is necessary to provide for the continuation of excess property and liability insurance coverage for state agencies and the University of Wisconsin (UW) System through the remainder of the current fiscal year.

FY 2023-24 expenditure authority under s. 20.505 (2) (ki), Wis. Stats., is not sufficient to provide for the cost of excess insurance premiums which have continued to substantially increase without a commensurate increase to the annual expenditure authority of this sum certain appropriation.

BACKGROUND

The Department’s Bureau of State Risk Management (BSRM) operates a self-funded risk management program to insure against liability, property, and worker’s compensation losses. Coverage is provided to state agencies and the UW, funded by an annual premium generally based on prior losses and current exposure. Costs for the administration of the risk management program are paid from the appropriation under s. 20.505 (2) (ki), Wis. Stats.

The risk management appropriation costs include \$16,846,430 for excess insurance premiums, which comprises 81.2% of FY 2023-24 estimated costs. The remaining amount estimated for expenditures authorized from the appropriation include costs such as: salary and fringe benefits for its authorized FTE positions; the review/auditing of worker’s compensation medical and other bills; the Department of Workforce Development’s (DWD) worker’s compensation assessment of insurance carriers and self-funded employers; preventative safety projects conducted by state agencies; staff travel and training; IT/telecommunications; and space rent. The following table summarizes the FY 2023-24 expenditure authority and estimated expenditures for s. 20.505 (2) (ki), Wis. Stats.:

Table 1. Expenditure Authority and Estimated Expenditures under s. 20.505 (2) (ki)

Allotment Line	FY 2023-24 Expenditure Authority	FY 2023-24 Estimated Expenditures
0/Unallotted Reserve ¹	\$ 1,442,500	\$ 0
1/Salaries (including LTE)	\$ 1,149,400	\$ 1,281,600
3/Fringe	\$ 445,200	\$ 492,900

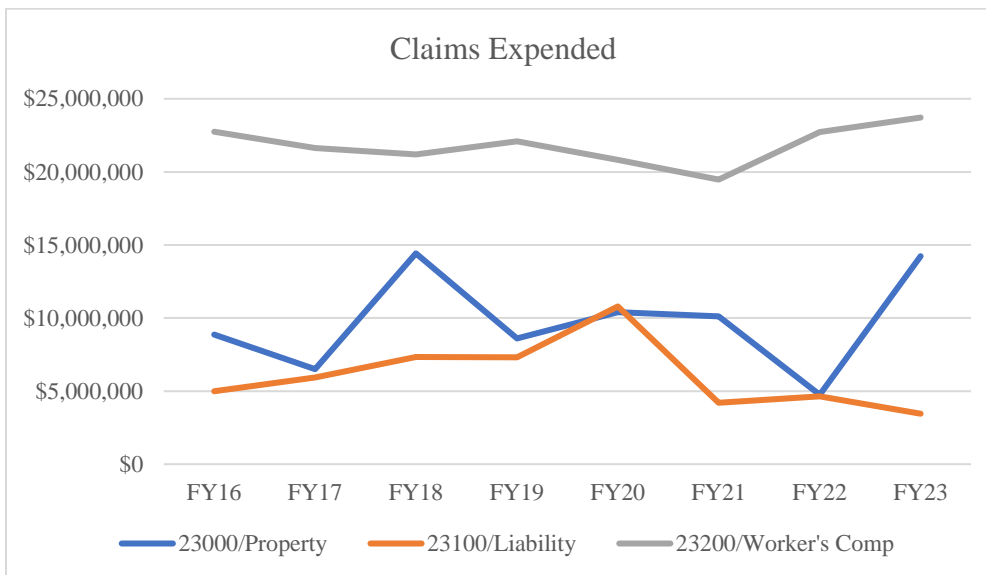
Allotment Line	FY 2023-24 Expenditure Authority	FY 2023-24 Estimated Expenditures
4/Supplies (excluding Excess Insurance Premiums)	\$ 2,137,800	\$ 2,137,800
4/Supplies (Excess Insurance Premiums) ²	\$ 12,978,100	\$ 16,846,400
Totals	\$ 18,153,000	\$ 20,758,700

¹ Original line 0/Unallocated statutory expenditure authority of \$1,442,500 will be moved to line 4/Supplies.

² Expenditures provided for Excess Insurance Premiums are the actual FY 2023-24 costs.

Costs for property, liability and worker's compensation claims are paid from the appropriation under s. 20.505 (2) (k), Wis. Stats., *Risk management costs*, corresponding with the appropriation numerics 23000, 23100 and 23200. Claims expenditures from FY 2015-16 through FY 2022-23 are indicated in the graph below. The expenditure authority of these continuing appropriations can be increased by the Department to provide for these costs and, therefore, is not the subject of this request.

Figure 1. State Historical Claims Expenditures; FY 2015-16 through FY 2022-23



Excess insurance coverage from private insurance carriers provides coverage for losses in excess of self-funded limits for the property and liability programs. The following table shows the excess insurance premiums, by program and in total, paid by the Department since FY 2010-11. As the table shows, the total cost for excess insurance premiums has increased substantially, by 452.2% from FY 2010-11 to FY 2023-24.

Table 2. State Property and Liability Excess Insurance Premium Payments History

FY	Property Excess Insurance Exp	Liability Excess Insurance Exp	Total
FY 2010-11	\$ 2,450,322	\$ 600,700	\$ 3,051,022
FY 2011-12	\$ 2,649,645	\$ 582,520	\$ 3,232,165
FY 2012-13	\$ 2,708,607	\$ 651,231	\$ 3,359,838
FY 2013-14	\$ 4,686,945	\$ 682,766	\$ 5,369,711
FY 2014-15	\$ 4,728,726	\$ 682,766	\$ 5,411,492
FY 2015-16	\$ 5,866,197	\$ 691,159	\$ 6,557,356
FY 2016-17	\$ 5,365,008	\$ 742,871	\$ 6,107,879

FY	Property Excess Insurance Exp	Liability Excess Insurance Exp	Total
FY 2017-18	\$ 5,294,292	\$ 1,474,652	\$ 6,768,944
FY 2018-19	\$ 5,899,766	\$ 2,805,187	\$ 8,704,953
FY 2019-20	\$ 6,546,799	\$ 3,014,692	\$ 9,561,491
FY 2020-21	\$ 7,957,537	\$ 4,566,201	\$ 12,523,738
FY 2021-22	\$ 7,901,635	\$ 5,000,069	\$ 12,901,704
FY 2022-23	\$ 8,450,098	\$ 5,306,709	\$ 13,756,807
FY 2023-24	\$ 11,346,220	\$ 5,500,210	\$ 16,846,430

Excess property insurance premium costs are subject to increases in the amount of state property covered (replacement cost) and insurance market conditions. Excess property insurance premium costs are rate-based, and the rate is applied to total property values that increase annually due to factors such as new construction, industry indexing factors, or changes in state agency reported values. From FY 2010-11 to FY 2023-24, the state's total reported insurable values increased by approximately 61.7%, from \$22.2 billion to \$35.9 billion.

For the FY 2023-24 insurance renewal, challenges in the general insurance market continued because of reduced market capacity, large nationwide catastrophic losses, cost of insurer capital due to inflation, and several unprofitable years for insurers. Increased underwriting requirements and inflationary pressures (i.e., replacement costs related to construction indexing) contributed to raised pricing and to the availability of insurance markets. From FY 2022-23 to FY 2023-24, statewide building replacement values increased 12.0% (after indexing), which contributed to the total increase to excess insurance premiums of (34.3%), which was also driven, to a large extent, by the noted overall increase in market rates.

As with excess property insurance premium costs, the excess liability insurance premium costs are subject to significant losses and related recoveries, which are set by excess insurance carriers and caused by general insurance market conditions. As seen in Table 2, the state experienced a 273.0% increase in excess liability insurance premiums from FY 2017-18 (\$1,474,652) to FY 2023-24 (\$5,500,210). A large claim was settled and paid during FY 2017-18, resulting in an approximate \$18.9 million loss. The combination of this significant loss and the increasingly limited public entity insurance markets, driven by nationwide trends of police brutality allegations, incarceration liability, automobile losses, civil unrest, and sexual misconduct claims, resulted in an impact to the renewal pricing from FY 2018-19 through FY 2023-24.

The extremely challenging public entity market conditions during the FY 2020-21 renewal period necessitated the state's creation of a Memorandum of Coverage in order to access the liability reinsurance market for the primary layer of program coverage. This approach maintained the \$5 million per occurrence deductible, with the state agreeing to share in 16.6% of each loss occurring in the \$6 million primary layer excess reinsurance coverage in FY 2020-21 and 33.3% in FY 2022-23.

Through collaboration with its broker partners, in FY 2023-24 the state was able to market the liability program and add a new carrier to the five incumbent insurers that comprises its layers of insurance limits. While BSRM has attempted in recent years to add a new carrier during its renewal period, it has been unsuccessful until this year (FY 2023-24) due to the historical challenges in the public entity insurance market, which can be attributed to severely limited options and pricing competition. The addition of the carrier in FY 2023-24 has provided new insurance capacity for the liability program, which has been used to restructure and reduce more expensive limits and has moved the 20.0% co-participation (\$5 million portion) higher up the layers of insurance. The combination of these efforts yielded positive program benefits and resulted in a modest excess insurance premium increase of 3.0% from FY 2022-23 to FY 2023-24.

BSRM has continued to manage the cost of excess insurance premiums through extensive coverage negotiations and program management efforts. As contained in the table below, BSRM has made several measured increases since FY 2017-18 to the property program's self-funded aggregate retention amount (i.e., the annual aggregate amount which property losses must exceed for the use of excess insurance) and to its per occurrence deductible. Similarly, in FY 2019-20 the Department increased the liability program's self-funded retention from \$4 million per occurrence to \$5 million per occurrence.

Table 3. Excess Risk Management Property Program Self-Funded Deductible History

Fiscal Year	Self-Funded Per-Occurrence Deductible	Self-Funded Annual Aggregate Deductible
FY 2010-11	\$ 3,000,000	\$ 3,200,000
FY 2011-12 through FY 2012-13	\$ 3,000,000	\$ 4,000,000
FY 2013-14 through FY 2018-19	\$ 3,000,000	\$ 5,000,000
FY 2019-20	\$ 4,000,000	\$ 6,000,000
FY 2020-21 through FY 2023-24	\$ 4,000,000	\$ 6,500,000

Note: Although the amount of the excess property and liability insurance premiums may decrease if there is a period with no state losses more than the self-funded retentions and market conditions improve, the occurrence of losses and future premiums continue to be unpredictable.

In an effort to combat the overall excess insurance premium pricing, as of FY 2023-24 the state also shares 20.0% of a loss in the primary \$10 million excess insurance layers, which means the state now pays 10.0% quota share or co-participation on claim amounts that would exceed either the \$4.0 million self-funded per occurrence retention or the \$6.5 million annual aggregate as seen in Table 3 above for the property program.

In FY 2023-24, a total of \$14,420,600 PR-S in expenditure authority (\$12,978,100 in supplies and services and \$1,442,500 transferred from unallotted reserve) is available in the appropriation under s. 20.505 (2) (ki), Wis. Stats., for excess insurance premium costs. The requested increase of \$2,425,800 PR-S to the supplies and services line for FY 2023-24 would provide for the excess insurance costs.

JUSTIFICATION

The Department requests an increase of \$2,425,800 PR-S expenditure authority in FY 2023-24 in its risk management administration appropriation under s. 20.505 (2) (ki), Wis. Stats., to provide for excess property and liability insurance premiums. The insufficiency in expenditure authority is the result of significant property losses since FY 2011-12, significant liability claims that have occurred since FY 2016-17, and general insurance market conditions.

Sufficient expenditure authority under s. 20.505 (2) (ki), Wis. Stats., in FY 2023-24 does not exist to provide for the shortfall associated with premium increases and, due to the portion of the appropriation's costs the premiums represent, reductions cannot be made in amounts sufficient to provide for the increase.

The Department paid excess insurance premiums for FY 2023-24 in a total amount of \$16,846,430, of which \$1,403,870 was immediately expensed and \$15,442,560 recognized as prepaid insurance based on cancellation provisions of the underlying policies. Monthly, \$1,403,870 of the prepaid premium is expensed as the premium is earned by the insurer. As of January 31, 2024, there remained \$7,019,346 of prepaid premiums.

If the request for additional expenditure authority to provide for the full annual cost of the excess insurance is not approved, the Department estimates that the expenditure authority under s. 20.505 (2) (ki), Wis. Stats., would be exhausted and insufficient to provide coverage beginning in April FY 2023-24, resulting in the potential

Page 5

cancellation of the Department's excess coverage for those periods. All other required administrative supplies and services that occur once the appropriation expenditure authority is exhausted would also cause expenditures under s. 20.505 (2) (ki), Wis. Stats, to exceed the expenditure authority.

Should the Department need to cancel its excess insurance coverage, any losses that would have been covered by excess insurance would be instead covered by the self-funded insurance program operated by the Department. Because the losses covered by excess insurance are significant and are in excess of the self-funded retentions for the programs, commensurate increases for self-funded premiums assessed to state agencies and the UW would be required to provide for the same.

For property-related claims, the increased amounts would be more immediately known because coverage is on a claims-made basis (i.e., the period in which the loss occurs). However, for liability losses, the impact of the terminated coverage may not be known for months or years subsequent to the event because liability coverage is on an occurrence-basis (i.e., claims may be made for a loss event that occurs at any time subsequent to the occurring period) resulting in a perpetual period of increased exposure for the self-funded programs. Additionally, negative industry reputational risk is a certain outcome of forced insurance cancellation as the state would be perceived as unable to fulfill the insurance obligations, making future re-engagement of markets exceptionally difficult.

In summary, excess insurance coverage would be required to be canceled for the periods of approximately April, May, and June FY 2023-24, in order to plan to cover the remainder of the year's administrative expenditures without forestalling or exceeding expenditure authority. This request is for a one-time increase in expenditure authority for the current fiscal year.

SUMMARY

The Department of Administration requests an increase of \$2,425,800 program revenue - services in FY 2023-24 in the Department's risk administration appropriation under s. 20.505 (2) (ki), Wis. Stats., to provide for increased excess liability and property insurance premiums that have resulted from significant property losses, liability claims, and general insurance market conditions. The increase is critical to continued insurance coverage of the state, and for the operations of the risk management program providing insurance for state agency liability, property, and worker's compensation losses.

Thank you for your consideration of the Department's request. Should you have any questions or require additional information, please contact Travis Martin of the Department's Bureau of Financial Management, at Travis.Martin@wisconsin.gov.

cc: Jana Steinmetz, Division of Enterprise Operations, Division Administrator
Colleen Holtan, Bureau of Financial Management, Director
Jason Gates, Bureau of Risk Management, Director
Robin Malicki, Bureau of Financial Management, Budget Section Chief