



Legislative Fiscal Bureau

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January 6, 2022

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Plans for Unsupported Overdraft Appropriations, 2020-21

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 22, 2021, DOA Secretary Brennan submitted plans under s. 16.513 for unsupported overdrafts.

The overdrafts identified by DOA were determined at the conclusion of the 2020-21 fiscal year. The submittal identifies 13 appropriations whose unsupported overdrafts totaled \$117.6 million. The amount of unsupported overdrafts for 2020-21 and the previous five fiscal years is shown below.

<u>Fiscal Year</u>	<u>Amount (In Millions)</u>
2015-16	\$66.0
2016-17	76.1
2017-18	94.6
2018-19	101.0
2019-20	103.6
2020-21	117.6

Table 1 identifies the 2020-21 overdrafts included in the December 23, 2021, plan, by appropriation. Each of the appropriations is subsequently addressed in more detail.

TABLE 1

2020-21 Unsupported Overdrafts

<u>Agency/Appropriation</u>	<u>Unsupported Overdraft</u>
<i>Administration</i>	
• Services to Nonstate Governmental Units	\$381,000
• Transportation and Records	830,200
• Enterprise Resource Planning System	47,040,400
• General Program Operations; Bingo	228,900
• Information Technology Investment Fund	2,513,900
• Justice Information Fee Receipts	7,870,700
<i>Agriculture, Trade and Consumer Protection</i>	
• Grain Inspection Program	381,900
• Dog Licenses, Rabies Control, and Related Services	413,000
<i>Corrections</i>	
• Juvenile Correctional Services	15,849,700
<i>Health Services</i>	
• Interagency and Intra-agency Programs	6,691,200
• Alternative Services of Institutes and Centers	10,770,100
<i>Justice</i>	
• Penalty Surcharge; Receipts	23,015,500
• Grants for Substance Abuse Treatment Programs for Criminal Offenders	<u>1,572,100</u>
Total	\$117,558,600

Table 2 displays a comparison of unsupported overdrafts for 2019-20 and 2020-21. Each of the appropriations with an unsupported overdraft for 2020-21 is addressed in detail following Table 2.

TABLE 2
Comparison of Unsupported Overdrafts
2019-20 and 2020-21

<u>Agency/Appropriation</u>	<u>2019-20</u>	<u>2020-21</u>	<u>2020-21 Change to 2019-20</u>
<i>Administration</i>			
• Services to Nonstate Governmental Units	\$0	\$381,000	\$381,000
• Transportation and Records	0	830,200	830,200
• Enterprise Resource Planning System	47,245,300	47,040,400	-204,900
• General Program Operations; Bingo	38,100	228,900	190,800
• Information Technology Investment Fund	2,538,900	2,513,900	-25,000
• Justice Information Fee Receipts	5,952,200	7,870,700	1,918,500
<i>Agriculture, Trade and Consumer Protection</i>			
• Grain Inspection Program	563,800	381,900	-181,900
• Dog Licenses, Rabies Control, and Related Services	249,700	413,000	163,300
<i>Corrections</i>			
• Juvenile Correctional Services	9,054,300	15,849,700	6,795,400
<i>Health Services</i>			
• Interagency and Intra-agency Programs	6,698,900	6,691,200	-7,700
• Alternative Services of Institutes and Centers	10,786,700	10,770,100	-16,600
<i>Higher Educational Aids Board</i>			
• Gifts and Grants	212,000	0	-212,000
<i>Justice</i>			
• Penalty Surcharge; Receipts	17,565,100	23,015,500	5,450,400
• Grants for Substance Abuse Treatment Programs for Criminal Offenders	1,613,700	1,572,100	-41,600
<i>Public Instruction</i>			
• Federal Aids, Local Aids	154,900	0	-154,900
<i>Transportation</i>			
• Other Department Services, Operations, Service Funds	881,500	0	-881,500
<i>Wisconsin Technical College System</i>			
• Fire Schools, State Operations	<u>14,400</u>	<u>0</u>	<u>-14,440</u>
Total	\$103,569,500	\$117,558,600	\$13,989,100

ADMINISTRATION

Services to Nonstate Governmental Units; Entity Contract. In 2020-21, the appropriation overdraft was \$938,300, with support from capital assets of \$556,500 and accounts receivable of \$800. As a result, the unsupported overdraft was \$381,000.

Revenues are primarily from the state vanpool program, which provides group transportation for employees commuting to work in exchange for a fee. Participation in the vanpool program declined during the COVID-19 pandemic, from 617 riders in calendar year 2018 to 74 riders in 2020. Revenues declined accordingly, from \$980,900 in 2017-18 to \$260,000 in 2020-21. Program costs are dependent on the number of riders, the number of vans, and the operational needs of the vans. Expenditures decreased from \$1,125,000 in 2017-18 to \$430,300 in 2020-21, in part because of lower mileage and fewer active vans. However, the reduction in service costs was not sufficient to offset lost revenue. The Department anticipates that ridership will continue to decline and is evaluating changes to the service model and fleet size to address the overdraft.

Transportation and Records. In 2020-21, the appropriation overdraft was \$29,534,900, with support from capital assets of \$27,449,100 and accounts receivable of \$1,255,600. As a result, the unsupported overdraft was \$830,200. The appropriation funds the state's vehicle fleet (central fleet and enterprise fleet), air fleet, records center, and mail transportation services through fees associated with each program. The Department indicates that enterprise fleet management and mail transportation services maintain a positive or net-zero program position.

The central fleet program provides short- and long-term leased vehicles to state employees for work-related travel. Rates are based on mileage and either a daily or a monthly rate, and were last modified in 2011-12. The Department indicates that fees have generally covered the cost of the fleet; however, the use of fleet vehicles decreased during the pandemic. Fleet mileage totaled approximately 11.4 million in calendar year 2020, compared to 19.6 million in 2018. Revenues decreased accordingly, from approximately \$9.7 million in 2017-18 to \$7.4 million in 2020-21. The Department is currently evaluating the structure, fleet size, and rate schedules to adjust for decreases in program demand.

Wisconsin Air Services provides air transportation for state employees and leases work aircraft for law enforcement, fire protection, and resource management. The number of flight hours decreased from 4,150 in calendar year 2018 to 3,144 in calendar year 2020. Program revenues declined accordingly, from approximately \$1.5 million in 2017-18 to \$681,000 in 2020-21. Transportation fees are based on mileage and flight crew expenses. The Department is currently reviewing options for the air transportation fleet due to changes in program demand. Work aircraft fees were based on the number of flight hours; however, starting in 2021-22, fees have been modified to reflect program costs, including aircraft maintenance and depreciation.

The state records center provides security, maintenance, management, storage, retrieval, and disposition of public records. Costs to operate the center include personnel, rental space, operating supplies, and other administrative expenses. The center charges fees for monthly storage services and for retrieval requests. The volume of records has trended downward due to changes in

technology that have resulted in less physical records storage. As a result, program revenues decreased from \$1,215,200 in 2017-18 to \$980,300 in 2020-21. Beginning in 2021-22, the Department raised rates, last modified in 2014-15, by 40% to recover operating costs.

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

Under 2013 Act 20, the appropriation was renamed the enterprise resource planning (ERP) system. The appropriation is a program revenue continuing appropriation with forestalling authority, which allows the agency to spend in excess of revenues to the extent that non-depreciated assets under the appropriation offset excess expenditures. In 2013, DOA purchased new software for the ERP system, commonly known as STAR (State Transforming Agency Resources), and incurred costs to support system development. In October, 2015, the financial and procurement applications of the system were deployed, and, in December, 2015, the human resources and payroll application was deployed. System implementation for the Department of Transportation was deployed in July, 2016.

In 2020-21, costs incurred for the ERP system totaled \$16,866,900. Additionally, the Department repaid \$5,878,100 of master lease principal and \$2,605,800 of interest in 2020-21. As of June 30, 2021, the appropriation overdraft was \$70,014,900, with support from the value of equipment, software, and intangible assets in excess of master lease obligations of \$22,775,200 and accounts receivable of \$199,300. As a result, the unsupported overdraft was \$47,040,400. Table 3 shows the total overdrafts, supporting assets, and unsupported overdrafts from 2011-12 to 2020-21.

TABLE 3

**Enterprise Resource Planning System Appropriation
Overdrafts and Supporting Assets, 2011-12 to 2020-21**

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

The Department charges state agencies for: (a) ongoing costs to maintain and operate the system; (b) costs already incurred to develop the system and prepare for implementation (such as hardware, software, contractual services, and employee compensation expenses); and (c) previously unrecovered costs incurred from IBIS. In 2020-21, DOA assessed agencies \$15,407,800 for current-year operations and maintenance, a true-up of -\$434,200 for prior-year assessments, \$7,263,200 for development, and \$591,200 for IBIS project costs.

In the s. 16.513 plan, DOA indicates that it will continue to annually assess agencies for ongoing costs and to fully collect development and IBIS costs over the next 16 years. Assessments are based on an allocation of costs according to each agency's share of statewide full-time equivalent positions, procurement spending, and expenditures.

General Program Operations; Bingo. The Office of Charitable Gaming regulates bingo and raffle games. Under current law, bingo and raffle licenses may be granted to a local religious, charitable, service, fraternal, or veterans' organization, and to an organization to which contributions are tax-deductible. Bingo fees include: (a) \$5 per year for the member responsible for handling receipts; (b) \$10 per bingo session; and (c) a one or two percent tax on gross receipts, depending on the value of receipts. Suppliers of bingo equipment are also required to pay an annual licensing fee of \$25 and a gross sales fee. The annual raffle license fee is \$25 per organization. In calendar year 2020, DOA issued 139 bingo licenses and 10,760 raffle licenses.

The Department indicates that revenues from bingo gaming have declined in recent years while revenues from raffle gaming have increased, although the number of bingo licenses is projected to increase. As of June 30, 2021, the unsupported overdraft for bingo regulation was \$228,900, with revenues of \$89,900, expenditures of \$268,100, and an opening balance of -\$50,700 in 2020-21. The closing balance in the raffle appropriation was \$91,700, with revenues of \$275,600, expenditures of \$303,300, and an opening balance of \$119,400 in 2020-21.

Under 2021 Act 58, the appropriations for bingo and raffle program operations are combined starting in 2021-22. The s. 16.513 plan states that the new appropriation structure will allow DOA the flexibility to utilize the revenues associated with charitable gaming to offset the overdraft and prevent future overdrafts.

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

A total of \$3,957,700 was initially borrowed against the general fund for IT projects. Between 1997-98 and 2002-03, a total of \$862,200 was repaid from a combination of unspent funds, VendorNet fees, and investment pool earnings from fund balances. Between 2003-04 and 2019-20, repayments totaled \$445,000 from DOA general program operations. In 2020-21, repayments totaled \$25,000 from DOA general program operations, leaving a negative balance of \$2,513,900. 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. 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. Net of required reversions, the fund concluded 2019-20 with a deficit of \$5,952,200, and concluded 2020-21 with a deficit of \$7,870,700. Therefore, the deficit increased by \$1,918,500 during 2020-21.

In 2020-21, the fund was statutorily required to transfer \$9,036,300 to various appropriations and the general fund. These amounts are identified in Table 4. While the JIS surcharge fund was required to transfer \$9,036,300 in 2020-21, \$94,500 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 4**Justice Information System Surcharge Fund Obligations, 2020-21**

<u>Obligation</u>	<u>Amount Appropriated in 2020-21</u>
Lapse requirement	\$700,000
Justice information systems (District Attorney information technology)	4,169,900
Law enforcement officer supplement grant program	224,900
Treatment alternatives and diversion (TAD) grant program	1,078,400
Wisconsin interoperable system for communications (WISCOM)	1,262,400
Wisconsin justice information sharing program	680,400
Child advocacy center grant program	238,000
Victim notification	<u>682,300</u>
Total	\$9,036,300

Table 5 identifies the following information for the fund for 2016-17 through 2020-21: (a) revenue; (b) obligations; (c) reversions; and (d) ending balances.

TABLE 5**JIS Surcharge Fund Revenues and Obligations, 2016-17 through 2020-21**

<u>Fiscal Year</u>	<u>Collections</u>	<u>Obligations</u>	<u>Reversions</u>	<u>Difference</u>	<u>Ending Balance</u>
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
2019-20	8,215,500	9,010,800	222,900	-572,400	-5,952,200
2020-21	7,023,300	9,036,300	94,500	-1,918,500	-7,870,700

The Department of Administration indicates that changes to the amounts transferred to the general fund and the appropriated amounts supported by the fee will be necessary 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 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 PR positions with \$1,282,600 PR each year under 2021 Act 58. The program is

supported by fees charged on the basis of either: (a) an hourly rate for staff required; or (b) the type of service provided.

The grain inspection PR continuing appropriation had a cash overdraft of \$425,500 as of June 30, 2021. Of this amount, \$43,600 was supported by receivable income, for an unsupported overdraft of \$381,900. The unsupported overdraft decreased by \$181,900 during 2020-21. Table 6 shows the condition of the grain inspection PR appropriation since 2016-17. The appropriation has carried an unsupported overdraft since 2000-01.

TABLE 6

DATCP Grain Inspection Appropriation Condition

	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>
Opening Balance	-\$500,600	-\$383,500	-\$453,300	-\$686,800	-\$754,000
Revenues	1,594,700	1,122,000	1,087,400	1,469,800	1,053,900
Expenditures	-1,543,900	-1,289,300	-1,487,700	-1,537,000	-1,357,000
Transfers	<u>66,300</u>	<u>97,500</u>	<u>166,800</u>	<u>0</u>	<u>631,600</u>
Closing Balance	-\$383,500	-\$453,300	-\$686,800	-\$754,000	-\$425,500
Receivable Income	93,700	155,000	90,500	190,200	43,600
Unsupported Overdraft	-\$289,800	-\$298,300	-\$596,300	-\$563,800	-\$381,900

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

To limit unrecovered staff costs during low-activity periods, DATCP has implemented practices such as using limited-term staff during seasonal increases and scheduling permanent staff in ways to reduce overtime expenses. Further, beginning in 2018, DATCP implemented a fee schedule that instituted an opt-in minimum fee for contracted customers during off-peak months. Under the agreement, contracted customers agree to request a minimum amount of services during off-peak months, or end up paying an assessment. In exchange, contracted customers are subject to lower inspection rates during the regular shipping season. An additional amendment to the fee schedule in April, 2021, instituted increased hourly fees for staff time, and other incremental increases to per-service fees.

Section 16.56 of the statutes requires unencumbered amounts in DATCP's general operations appropriations to be transferred to the grain inspection PR account at the close of each fiscal year. As seen in Table 6, \$631,600 was transferred in 2020-21. Due to lapse requirements in

response to the COVID-19 pandemic, DATCP did not transfer any funding to the appropriation in 2019-20. Approximately \$2.7 million has been transferred since the requirement took effect in 2005-06. DATCP plans to continue such transfers in future years to reduce the deficit in the grain inspection appropriation.

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

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. These activities are supported by a PR continuing appropriation, authorized to expend all monies received for the purposes of operating the program. The dog licenses, rabies control, and related services appropriation receives revenues from: (a) fees imposed on dog sellers, shelters, and animal control facilities (\$219,300 in 2020-21); (b) a portion of dog license fees paid by owners to local units of government (\$75,000); (c) training and certification fees associated with its humane officer training and certification program; and (d) training fees associated with rabies control programs. (Humane officer and rabies control training programs were temporarily suspended in 2020-21 due to the COVID-19 pandemic, with revenues totaling \$5,400 and \$3,300, respectively, in 2019-20.)

The dog licenses, rabies control, and related services appropriation had an unsupported overdraft of \$413,000 as of June 30, 2021. In 2020-21, expenditures totaled \$457,600 and revenues totaled \$294,300, increasing the overdraft by \$163,300. The appropriation has carried an unsupported overdraft since 2018-19. DATCP reports the overdraft has resulted from increasing costs of regulation over time, noting that the fee schedule has not been modified since it was established in 2011.

Section 173.41 of the statutes allows DATCP to promulgate rules specifying higher fee amounts for dog sellers, animal shelters, and animal control facilities if necessary to cover the costs of regulating those entities. In response to increasing costs and the resulting overdraft, DATCP convened an advisory committee and initiated rulemaking to consider increasing fees. On December 8, 2021, a final draft rule was submitted to the Legislature for consideration. The final draft rule would increase fees by: (a) 100% for licensed animal shelters and control facilities, to \$250 per year; (b) 120% for other licensed dog sellers, to \$550 to \$2,200 per year, depending on number of dogs sold; and (c) 167% for facility reinspection, to \$400 per reinspection. If approved, the rule is anticipated to become effective by September 30, 2023, for the 2023-24 licensing period.

2021 Act 58 requires DATCP to transfer \$450,000 in 2021-22 from its Veterinary Examining Board PR appropriation to the dog licenses, rabies control, and related services PR appropriation to offset the June 30, 2021, appropriation overdraft. DATCP reports that, combined with the Act 58 transfer, the proposed fee increases are expected to eliminate the appropriation overdraft over a five-year period.

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. Under 2015 Act 55, a \$6 per day add-on was specified to address the deficit. For 2020-21, the unsupported overdraft increased by \$6,795,400 for a total deficit of \$15,849,700. Since 2015-16, declining juvenile populations have contributed to the deficit.

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

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 2020-21, the appropriation had an unsupported deficit of \$6,691,150. The deficit occurred primarily because costs that were previously eligible for reimbursement under the state's medical assistance (MA) program are no longer MA-eligible, due to the reduction in long-term care services provided by the facility since 2004-05. Currently, 46% of the total square footage of buildings on the property are vacant, and therefore cannot be reimbursed by MA.

DHS indicates that it intends to address the deficit 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. The Department identified these strategies in previous plans submitted to the Committee.

DHS first submitted this plan to address the overdraft in 2009-10, when it reported on the 2008-09 overdraft in this appropriation. During the past four years, the year-end unsupported overdraft amount has remained at approximately \$6.9 million.

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

DHS indicates that this overdraft relates to the provision of intensive treatment services to residents at NWC, as discussed below.

Each year, DHS establishes an interim per diem rate for treatment services provided at NWC. DHS bills counties, managed care organizations, and the Medicaid program based on this interim rate. 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 2015-16 through 2020-21.

TABLE 7

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

	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>
Amounts Receivable	\$1,010,300	\$6,182,100	\$5,800,700	\$3,275,800	\$4,623,900	\$2,543,314

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 2020-21, the appropriation had an estimated cash deficit of \$13,617,982 offset by receivables totaling \$2,543,314 and capital assets totaling \$304,538. Accordingly, at the close of fiscal year 2020-21, this appropriation had an estimated unsupported overdraft of \$10,770,130.

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 \$17,461,280 at the end of 2020-21, which is approximately equal to the total unsupported deficits the administration reported at the close of the 2019-20 fiscal year (\$17,485,600). It is unlikely that DHS will be able to address these overdrafts in the near future under the plan submitted by the administration. However, the Department has limited options in addressing these unsupported

overdrafts, other than increasing charges for the services NWC provides.

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 2020-21, the fund was statutorily required to support the amounts identified in Table 8. While the agencies identified below were appropriated a total of \$18,164,800 PR in penalty surcharge revenues for the operations of various state programs, only \$18,050,900 PR was transferred from the penalty surcharge fund in 2020-21 as a result of actual agency expenditures.

TABLE 8

Penalty Surcharge Fund Obligations, 2020-21

<u>Obligation</u>		<u>Amount Appropriated in 2020-21</u>
Justice	Law enforcement training fund; local assistance	\$4,364,800
	Law enforcement training fund; state operations	3,329,200
	Drug enforcement intelligence operations	2,199,100
	Reimbursement for county victim-witness services	748,900
	Transaction information management of enforcement (TIME) system	730,300
	Drug crimes enforcement; local grants	717,900
	Youth diversion grant program	672,400
	Law enforcement programs and youth diversion - administration	140,400
Public Instruction	Aid for alcohol and other drug abuse programs	1,284,700
	Alcohol and other drug abuse programs	618,900
Corrections	Correctional officer training	2,612,500
	Victim services and programs	318,600
Circuit Courts	Court interpreters	232,700
Public Defender	Conferences and training	<u>194,400</u>
Total		\$18,164,800

Penalty surcharge revenue totaled \$13,128,000 in 2019-20, while in 2020-21 revenue totaled \$12,600,500 (a decrease of \$527,500). Due to transfers from the fund exceeding revenues, the penalty surcharge fund has operated in deficit since 2007-08. In 2019-20, the fund concluded with a deficit of \$17,565,100, while in 2020-21 the fund concluded with a deficit of \$23,015,500 (an increase of \$5,450,400). Table 9 identifies the condition of the fund from 2016-17 through 2020-21.

TABLE 9

Penalty Surcharge Fund Condition, 2016-17 thru 2020-21

	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>
Opening Balance	-\$5,601,300	-\$7,971,900	-\$10,631,400	-\$12,607,100	-\$17,565,100
Revenues	14,572,600	14,448,100	15,583,300	13,128,000	12,600,500
Obligations	16,943,200	17,107,600	17,559,000	18,086,000	18,050,900
Ending Balance	-7,971,900	-10,631,400	-12,607,100	-17,565,100	-23,015,500

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 2019-20, the appropriation received \$39,100 of revenue from these surcharges, while in 2020-21, the appropriation received \$41,500. Note that all of the revenue received by the appropriation was generated by the drug offender diversion surcharge. Under current law, the first \$850,000 collected from DAPIS is received by DHS for alcohol and other drug abuse initiatives, while revenues between \$850,000 and \$1,275,000 are collected by DOJ. Over the last decade, revenue from DAPIS has not exceeded the \$850,000 threshold.

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.] The annual expenditure authority for the grants for substance abuse treatment programs appropriation was \$10,800 annually in 2019-20 and in 2020-21.

The appropriation concluded 2019-20 with a deficit of \$1,613,700. The appropriation concluded 2020-21 with a deficit of \$1,572,100. No expenditures were made from the appropriation in 2020-21. Therefore, during 2020-21, the deficit decreased by \$41,500. 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."

BL/lb