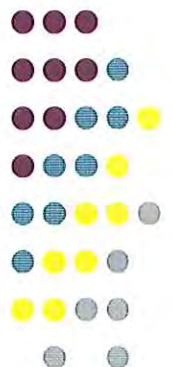


# State General Fund Expenditure Limits

Wisconsin Legislative Fiscal Bureau  
January, 2011



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## Introduction

The purpose of this paper is to summarize the various constitutional and statutory provisions relating to limits or requirements for state spending. While the state's biennial budget encompasses expenditures from all of the state's revenue sources [general purpose revenues (GPR), program revenues, segregated funds, and federal funds], many of the provisions described in this paper focus on the GPR or general fund budget. The statutory provisions described in this paper have developed over time in response to concerns about the size of the budget in relation to available revenues and the levels of taxation in the state.

The paper is divided into the following sections: (1) Constitutional Balanced Budget Requirement; (2) Budget Structural Balance; (3) State General Fund Spending Limit; (4) Fiscal Emergency Provisions; and (5) Joint Committee on Finance Fiscal Emergency Powers.

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## Constitutional Balanced Budget Requirement

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Section 5 of Article VIII of the state Constitution provides as follows: "The legislature shall provide for an annual tax sufficient to defray the estimated expenses of the state for each [fiscal] year, and whenever the expenses of any year shall exceed the income, the legislature shall provide for levying a tax for the ensuing [fiscal] year, sufficient, with other sources of income, to pay the deficiency as well as the estimated expenses of such ensuing year." While widely accepted in practice as a balanced budget requirement, an examination of the wording shows the following:

- The requirement is on the Legislature; nothing is specified with regard to the Governor. It is likely that the reason for this is that the provision predates the statutory requirement for the submission of an executive budget by the Governor and the current practice of having an omnibus budget bill incorporating appropriations for all state agencies. In practice, Governors have always submitted budget proposals that were balanced, based on the assumptions contained in that document.

- The wording of the requirement is that tax revenues must be sufficient to fund budgeted expenditures at the time that the Legislature adopts the budget. However, the constitutional provision anticipates the potential situation of actual expenditures in a fiscal year exceeding actual revenue collections in that fiscal year and it specifies how that the resulting unbalanced budget is to be handled. This is addressed by the qualifying phrase regarding the action that must occur if "the expenses of any [fiscal] year shall exceed the income."

If the imbalance occurs in the first fiscal year of a biennium, the balanced budget requirement means that the deficit has to be fixed during the second fiscal year of that biennium. If the imbalance occurs in the second fiscal year of a biennium, the adjustment has to be made in the first fiscal year of the next biennial budget.

There is nothing in the requirement that prevents the Legislature from addressing the imbalance in the same year that it develops. However, the balanced budget requirement allows the Legislature the additional option of levying additional taxes or reducing appropriations in the ensuing fiscal year to cover the shortfall.

Although the Constitution states that "the legislature shall provide for levying a tax for the

ensuing [fiscal] year..." if a deficit were to occur, any imbalance can be addressed by raising taxes or other revenues, reducing appropriations, or some combination of these items.

In the last 35 years, the state has finished a fiscal year with a general fund deficit two times. For fiscal year 1982-83, the ending general fund balance was a deficit of \$182.1 million, while in 2002-03, the general fund had a deficit of \$282.2 million. For each of those years, the deficit was carried into the next fiscal year and funded within the total budget for that year.

While the balanced budget requirement is usually discussed in relationship to the general fund (GPR) budget, it may also apply to the portions of the budget that are financed from segregated, program revenue, or federal funds. However, segregated funds usually have a balance that is available to cover deficits and may have some flexibility to raise revenues for the individual fund. Program revenue funded appropriations similarly have individual program accounts that usually will have a balance available. Further, program revenue appropriations are permitted to borrow from the general fund to meet expenditures until sufficient revenues are available to cover the expenditures.

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### Budget Structural Balance

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Section 20.003(4m) of the statutes is entitled "Required General Fund Structural Balance" and stipulates that: "No bill may be adopted by the legislature if the bill would cause in any fiscal year the amount of moneys designated as "Total Expenditures" in the summary under s. 20.005(1) [the general fund condition statement as shown in the statutes] for that fiscal year, less any amounts transferred to the budget stabilization fund in that fiscal year, to exceed the sum of the amount of moneys designated as "Taxes" and "Departmental Revenues" in the summary under s. 20.005(1) for

that fiscal year." The general fund condition statement for 2009-11 as printed in the 2009-10 Statutes is shown in Table 1.

**Table 1: 2009-11 General Fund Condition Statement (\$ in Millions)**

	2009-10	2010-11
<b>Opening Balance, July 1</b>	\$90	\$336
<b>Revenues</b>		
Taxes	\$12,132	\$12,787
Departmental Revenues	<u>818</u>	<u>803</u>
Total Available (opening balance plus revenues)	\$13,040	\$13,926
<b>Appropriations and Reserves</b>		
Gross Appropriations	\$12,940	\$14,109
Compensation Reserves	47	97
Less Lapses	<u>-283</u>	<u>-324</u>
Total Expenditures	\$12,704	\$13,882
<b>Balances</b>		
Gross Balance	\$336	\$44
Less Required Statutory Balance	<u>-65</u>	<u>-65</u>
Net Balance, June 30	\$271	-\$21

The structural balance examination compares on-going revenues with on-going expenditures. The statutory requirement under s. 20.003(4m) is designed to ensure that each fiscal year of a biennial budget is structurally balanced by subtracting any carry-over balances from the prior year from on-going revenues.

The requirement for a structural balance for each fiscal year of the biennium is applicable to the budget bill and to any fiscal bills that may be considered by the Legislature after enactment of the biennial budget.

The prohibition on having a structural imbalance in any fiscal year requires a separate measurement for each fiscal year. Referring to the general fund condition statement in Table 1, the calculation to determine if the budget is in structural balance is shown in Table 2.

Table 2 excludes the opening balance amounts

of Table 1. The table shows that the structural balance in 2009-10 is \$246 million and in 2010-11 it is -\$292 million. Therefore, the GPR budget is structurally balanced in 2009-10 but is not structurally balanced in 2010-11. In enacting the 2009-11 budget (2009 Act 28), the Legislature recognized that there was a structural imbalance in 2010-11, and specified by law that the requirement for a structural balance did not apply to 2010-11.

**Table 2: 2009-11 Calculation of Statutory Structural Balance (\$ in Millions)**

	2009-10	2010-11
Taxes	\$12,132	\$12,787
Departmental Revenues	<u>818</u>	<u>803</u>
Total Revenues	\$12,950	\$13,590
Total Expenditures	\$12,704	\$13,882
Revenues Less Expenditures	\$246	-\$292

**General Fund Balance for Ensuing Fiscal Years.** Another concern relating to the general fund balance involves the relationship between on-going revenues and on-going expenditure commitments in future years.

To address this, 2001 Act 16 established budgetary reporting requirements for both the Department of Administration (DOA) and the Legislative Fiscal Bureau, which were modified in 2005 Act 25. The scope of the reporting requirements is identical for each agency, but the timing of the reporting requirements differs. For DOA, the requirement applies for the Governor's biennial budget recommendations. For the Legislative Fiscal Bureau, the requirement applies for the biennial budget as adopted by the Joint Committee on Finance, the Assembly, the Senate, and by any Committee of Conference.

These reports relate to a statement of estimated general purpose revenues and expenditures for the next biennial budget period after the budget under consideration. The intent is to provide decision-makers with information regarding the balance of the budget over a longer time frame.

As of this writing, this calculation is not available for the 2013-15 biennium. This calculation will be included when the Governor's 2011-13 budget is introduced. However, to provide an illustration of such a calculation, Table 3 shows the

**Table 3: 2009 Assembly Bill 75 General Fund Balance Report (\$ in Millions)**

	Comparative General Fund Balances			
	<u>Gov. 2009-11 Budget</u>		<u>Estimated 2011-13</u>	
	2009-10	2010-11	2011-12	2012-13
<b>Opening Balance, July 1</b>	\$216	\$236	\$269	-\$128
<b>Revenues and Transfers</b>				
Taxes	\$12,845	\$13,377	\$13,472	\$13,448
Departmental Revenues	561	573	449	449
Tribal Gaming Revenues	<u>27</u>	<u>31</u>	<u>31</u>	<u>31</u>
Total Available	\$13,469	\$14,217	\$14,221	\$13,801
<b>Appropriations, Transfers and Reserves</b>				
Gross Appropriations	\$13,702	\$14,230	\$14,574	\$14,586
Compensation Reserves	47	96	96	96
Less Estimated Lapses	<u>-336</u>	<u>-378</u>	<u>-321</u>	<u>-321</u>
Total Expenditures	\$13,413	\$13,948	\$14,349	\$14,360
<b>Balance</b>				
Gross Balance	\$236	\$269	-\$128	-\$559
<b>Structural Balance -- Total Available -</b>				
Opening Balance - Total Expenditures	\$20	\$33	-\$397	-\$431

report for 2009-11 and 2011-13, which was included in the budget documents for the 2009-11 budget as introduced by the Governor.

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**State General Fund Spending Limit**

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In addition to the constitutional requirement for the enactment of a balanced budget, the state also has a statutory provision that limits the amount by which a specified portion of the total general fund (GPR) budget can increase, over the base budget year, in each year of the succeeding budget biennium. This provision, contained in s. 13.40 of the statutes, was created by 2001 Act 16 and was first effective for the 2003-05 biennial budget.

Section 13.40 of the statutes contains two requirements that are involved in the calculation of the percentage amount by which certain appropriations can increase. First, the Legislative Fiscal Bureau, in consultation with the Department of Revenue, is required to estimate, by November 20 of each even-numbered year, the annual percentage change in the state's aggregate personal income for the subsequent two calendar years. These personal income growth estimates are then used as the allowable percentage increase for spending limits for the next biennial budget period.

Under s. 13.40, the GPR budget for an ensuing fiscal biennium, for a specified portion of total GPR appropriations (as explained below), cannot exceed a level that is the result of multiplying the total of those appropriations for the second year of the prior fiscal biennium by the estimated percentage increases in personal income. The projected percentage increases in state personal income are for the two calendar years for which January 1 of each calendar year precedes the July 1 of the respective fiscal year. For the 2009-11 biennial budget, the applicable years are shown in Table 4.

For the 2011-13 biennial budget, the Legislative Fiscal Bureau estimated that Wisconsin personal

**Table 4: Corresponding Calendar Years for Personal Income Projections**

Fiscal Year (for biennial budget)	Calendar Year (for personal income projection)
2011-12	2011
2012-13	2012

income would increase by 3.3% in calendar year 2011 and by 4.0% in calendar year 2012.

There are a number of appropriations that are excluded from the limit on annual increases in GPR spending. The statutes provide that any appropriation contained in a bill passed by at least a two-thirds vote of each house of the Legislature is excluded from the limit. In addition, any GPR appropriation for any of the following purposes is also excluded from the limit.

- All appropriations to each of the following agencies: (1) Higher Educational Aids Board; (2) Department of Public Instruction; and (3) University of Wisconsin System.
- Any appropriation for the payment of tax relief under s. 20.835(2) of the statutes.
- Any appropriation for the payment of principal and interest on public debt, or operating notes.
- Any appropriation for payments to honor statutory moral obligation pledges.
- Any appropriation for payments to the federal government to avoid a designation of state bonds as arbitrage bonds.
- Any appropriation for payments for legal expenses and the costs of judgments, orders, and settlements of actions and appeals incurred by the state.
- The appropriations for debt service costs on appropriation obligation bonds relating to unfunded liabilities under the Wisconsin

Retirement System and sick leave credit conversion program, as well as to the tobacco settlement repurchase transaction.

- Any appropriation to transfer moneys from the general fund to the budget stabilization fund.

Under s. 13.40(4) of the statutes, the Legislative Fiscal Bureau is required to determine the amount of GPR funding appropriated that is subject to the spending limit and report this amount by December 1 of each even-numbered year. Table 5 shows the fiscal year 2010-11 GPR appropriation categories that were exempt from the limit. As shown in Table 5, total GPR appropriations in fiscal year 2010-11 were \$14.1 billion. Of that total, less than half -- \$6.3 billion (44.6% of the total) -- was subject to the limit. Under the spending limit provision, it was determined these appropriations, in total, could increase by \$207,449,300 (3.3%) in fiscal year 2011-12 and could increase by an additional \$259,751,600 (4.0%) in fiscal year 2012-13. Under s. 13.40(2) of the statutes, this establishes a statutory limit of \$13,247,333,600 in the 2011-13 biennium for the appropriations subject to this limit.

**Table 5: Appropriations Exempt from Spending Limit in 2010-11**

	Amount	% of Total
<b>Not Subject to Limit</b>		
Public Instruction	\$5,487,073,600	38.9%
UW System (Less Debt Service)	993,956,500	7.0
Debt Service	468,917,300	3.3
Appropriation Obligations	367,349,000	2.6
Tax Relief	338,810,100	2.4
Higher Educational Aids Board	160,144,700	1.1
Interest on Operating Notes	5,000,000	< 0.1
Justice--Certain Legal Costs	<u>1,690,900</u>	<u>&lt; 0.1</u>
Subtotal	\$7,822,942,100	55.4%
<b>Subject to Limit</b>		
All Other Appropriations	\$6,286,341,700	44.6
Total	\$14,109,283,800	100.0%

It should be noted, however, that any statutory provision, including a spending limit, can always be modified by the enactment of subsequent legislation. This happened in the first budget to be

considered under the statutory spending limit provision. In the 2003-05 budget, the Governor proposed and the Legislature approved the creation of an additional, one-time exemption from the spending limit of any GPR appropriation established for purpose of making payments to counties, towns, village and cities under s. 79.035 of the statutes (relating to county and municipal aid payments). The rationale for doing this was that the GPR payment level for this appropriation in the base year (2002-03) was artificially low because, in that year, a total of \$598,300,000 of segregated funds from tobacco settlement proceeds had been used to offset GPR appropriations for this purpose.

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### Fiscal Emergency Provisions

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In a previous section of this paper, the provision of the state Constitution requiring the enactment of a balanced budget was reviewed. As noted, an enacted balanced budget may become unbalanced due to actual expenditures or revenues in a fiscal year varying from the budgeted levels. It was also noted in that section that under the Constitutional provision, the Legislature is allowed to fix the deficit situation in the ensuing fiscal year. However, depending on the severity of a projected deficit, either the Governor, Legislature, or both may address the situation as soon as possible.

Before reviewing the statutory provisions dealing with fiscal emergencies, it may be helpful to first review the general statutory provisions relating to state fiscal management and past actions taken under those provisions.

**Governor.** The Wisconsin Constitution deals very generally with the powers of the Governor. Article V of the Constitution addresses the executive branch. Section 1 of that article says simply that the executive power shall be vested in a Governor. Section 4 lists the following duties for the Governor: serve as commander-in-chief of the military and naval forces of the state; convene the Leg-

islature on extraordinary occasions; communicate to the Legislature at every session on the condition of the state; recommend to the Legislature such matters for consideration as the Governor deems expedient; transact all necessary business with the officers of the government; expedite all such measures as may be resolved upon by the Legislature; and take care that the laws of the state be faithfully executed.

Under the statutes (Subchapter I of Chapter 14) dealing with the Governor's Office, there are also relatively few powers specifically identified for the Governor and none of those that are listed relate to any overall authority concerning state fiscal affairs.

**Department of Administration.** Most of the statutory provisions relating to the general execution of state fiscal matters are located in Chapter 16 of the statutes; that chapter is entitled "Department of Administration." Chapter 16 begins with a purpose statement for the Department of Administration. That statement [s. 16.001(1)] includes as one purpose the responsibility "to anticipate and resolve administrative and financial problems faced by the agencies, governor and legislature of the state." In addition, s. 16.001(2) states that, "Statutes applicable to the department of administration shall be construed liberally in aid of the purposes declared in sub. (1)."

Subchapter III of Chapter 16 addresses state finance. Much of that subchapter deals with the preparation and execution of the state biennial budget and the monitoring of state expenditures. Included in the subchapter are provisions that relate to post-budget enactment and the authority and duties of the administration in addressing fiscal emergencies. In particular, sections 16.50(1) and 16.50(2) address how state agencies obtain access to their appropriated funds once the budget has been enacted.

Section 16.50(1) requires each executive branch agency, in concert with DOA, to prepare estimates of the amount of money that it expects to expend, encumber or distribute from each of its

appropriations provided under the biennial budget. With the permission of DOA, agencies may subsequently adjust such estimates through the allotment process among expenditure categories (between salaries and supplies and services, for example). Although such initial estimates are now required only once a biennium following the enactment of the biennial budget, the statute gives DOA authority to determine when, and for what period of time (quarterly, for example), such estimates shall be prepared and also allows for the preparation of revised and supplemental estimates.

Following the preparation of these budget estimates, the Secretary of DOA, under s. 16.50(2), is authorized to approve or disapprove such estimates in whole or in part. Among the tests that the Secretary is to use in reviewing the estimates for approval is to determine: (1) whether the appropriations are adequate to support the estimates; (2) whether the estimated expenditures under the appropriations can be made without incurring danger of exhausting the appropriations before the end of the appropriation period; (3) whether there will be sufficient revenue to meet such contemplated expenditures; and (4) whether the expenditure will reflect the budget intentions of the Joint Committee on Finance, Governor, and Legislature. The budget estimate process is initially conducted for agencies following the enactment of the biennial budget. However, DOA can direct agencies to subsequently adjust their spending (budget estimates) to reflect changing fiscal situations.

**Brief History of Departmental Estimates Language.** The origin of the current provisions of ss. 16.50 (1) and (2) can be traced back to Chapter 97, Laws of 1929. This legislation created a State Budget Bureau in the then Executive Department, provided for a Director of the State Budget Bureau to be appointed by the Governor with the advice and consent of the Senate, and created what was referred to as a "state budget system." The provisions of this legislative enactment included the requirements for: (1) preparation of a biennial state budget report [the compilation of state agency budget requests as now performed by the Depart-



ment of Administration]; and (2) the Governor to transmit a biennial budget bill to the Legislature constituting a single appropriations bill for the state to be known as the "Executive Budget Bill." Chapter 97 also created a statutory section (s. 15.14) that was entitled "Departmental Estimates." The first two subsections of this statutory section dealt with the same provisions as reflected in the current ss. 16.50(1) and (2) with the exceptions that the Chapter 97 language required that state departments submit these estimates quarterly and for each of the department's divisions, activities and functions.

In 1947, the State Budget Bureau was eliminated and a Department of Budget and Accounts (outside of the Executive Department) was created. The Department was headed by a Director who was appointed by the Governor, with Senate confirmation, to a six-year term. The departmental estimate submittal requirements and review provisions by this new Director were essentially unchanged from the original language of Chapter 97, Laws of 1929.

In 1959, the Department of Budget and Accounts was replaced by a Department of Administration headed by a Commissioner. The departmental estimates responsibility was placed with a director within that department (budget bureau director). Then Chapter 276, Laws of 1969, provided that the Department of Administration was to be headed by a Secretary appointed by the Governor and the s. 16.50 departmental estimates responsibility was made an ultimate responsibility of the Secretary.

Thus, from 1929 until 1981, the review of departmental spending plans under the enacted state budget resided almost solely with the Governor's chief budget official, however denominated.

**Examples of Past Actions Taken Under ss. 16.50(1) and (2).** On September 1, 2000, the Secretary of DOA directed 14 of the larger state agencies with GPR funding to adjust their budget estimates by increasing their turnover savings (salary dollars

not spent due to vacancies) from the budgeted 3% of salaries amount to an amount equal to 7% of salaries and to place that increased amount of turnover savings in the unallotted reserve line so that these funds would lapse to the general fund. The Secretary indicated that this action was being taken not because of a shortfall in fiscal year 2000-01, but rather because of an expected imbalance in the budget for the next biennium.

Another example was in January, 2001, when Governor Thompson asked agencies to reduce their GPR spending for the remainder of fiscal year 2000-01. The Secretary of DOA then issued a directive that all executive branch agencies generate savings from their budgeted levels for the remainder of that fiscal year equal to 0.5% of their state operations appropriations level (excluding appropriations for debt service and fuel and utilities). Agencies were asked to focus on the following actions as ways to achieve the required savings: (1) freeze hiring for non-essential positions; (2) cease permanent property expenditures; (3) eliminate all non-essential travel; and (4) cease from entering into any new discretionary contracts. Agencies were directed to provide to DOA an enumeration of the means by which specific savings would be achieved to reach the overall target amount and then, as an update to the earlier budget estimates, to move the funding within the agency's individual appropriations to the unallotted reserve line for lapse to the general fund (with the goal of increasing the ending balance for that year).

A third example was when Governor Doyle took office in January of 2003 and was faced with a projected deficit for 2002-03. In addition to proposing legislation to address the shortfall, the Governor directed the Secretary of Administration to require state agencies to take the following actions: (1) avoid filling any vacant positions to the extent practicable; (2) place strict limitations on the use of out-of-state travel and to make quarterly reports to the State Budget Office on any approved out-of-state travel; (3) find savings in their current administrative budgets that could be lapsed to the general fund; (4) place all state building projects

that had not been contractually obligated on hold until reviewed by DOA; and (5) place a moratorium on requests for additional space and for renewals of existing space leases.

A fourth example was in February, 2008. In response to preliminary estimates of weakness in state tax collections, the Secretary of Administration acted under s. 16.50 to require cabinet agencies to lapse \$111 million in the 2007-09 biennium. Although this action was later replaced by spending reductions required under the provisions of 2007 Act 226 (the budget adjustment act), it is the most recent example of the use of the authority under s. 16.50 by the Secretary of Administration.

**Scope of Authority Under s. 16.50(1) and (2).** With regard to s. 16.50(2), the Secretary's actions are limited to refusing to allot, through the estimate process, the full level of appropriated funds. This power does not allow the Secretary of DOA to actually reduce the statutory appropriation amount. However, if an agency cannot access some of its appropriated funds because they are placed in unallotted reserve, the ultimate result is the same in that the moneys cannot be expended and therefore, will lapse to the general fund (or program revenue account or segregated fund balance) at the end of the fiscal period for which the appropriation is effective.

Beyond the statutory provisions discussed above, there are also a number of statutory procedural requirements where the approval of the DOA Secretary and/or the Governor is required before agencies can take certain actions which will ultimately result in the expenditure of funds. These include such things as approval of building construction plans and projects, building rentals, land purchases, vehicle purchases, and the contracting of public debt. While the timing of the approval of such purchases or activities could affect when expenditures begin to be incurred, these are not powers that are primarily intended to constrain expenditures, but rather are intended to provide for a review of the appropriateness of the individual transactions.

**History of Changes to These Powers.** As noted above, the estimate review provisions have remained relatively unchanged over the years (except for organizational reference updates). However, the creation of a new limiting section [s. 16.50(7)] by the 1981 Legislature established limits on the scope of action possible under s. 16.50(2). The recent history of these two sections is useful in understanding how section 16.50(7), dealing with revenue shortfalls, came to be created.

In 1980, the Secretary of the Department of Administration under Governor Dreyfus, Mr. Ken Lindner, exercised his authority under s. 16.50(2) and withheld 4.4% of most GPR appropriations in order to address a projected deficit in the 1980-81 fiscal year of approximately \$145 million. In addition to other appropriations, the 4.4% to be withheld applied to the appropriations for shared revenues to counties and municipalities, and elementary and secondary school aids.

After the 4.4% reduction directive of the DOA Secretary was issued, two cases were filed with the Wisconsin Supreme Court. The first, City of Milwaukee v. Lindner, challenged the validity of the Secretary's 4.4% directive on shared revenue payments. The second, School District of La Farge v. Lindner, challenged the authority to reduce general and categorical school aid payments.

At the time of the 1980 directive, s. 16.50(1) stated that "Each department... shall prepare and submit to the secretary an estimate by quarter of the amount of money which it proposes to expend upon each of its divisions, activities, functions and programs." [emphasis added].

Under s. 16.50(2), the DOA Secretary could then approve or disapprove the estimates. If the estimate was disapproved, the Secretary could withhold all or some portion of the appropriation amount. It was under this provision that the Dreyfus administration withheld the 4.4% amounts.

The Supreme Court determined that the DOA Secretary could not reduce the payments for shared

revenues and school aids because these appropriations were not "divisions, activities, functions or programs" of the two administering agencies (the Departments of Revenue and Public Instruction). The Departments simply had a "mechanical role" in the disbursement of the funds.

In response to this development, Chapter 30, Laws of 1981, was enacted which amended the s. 16.50 process. That act made a number of significant changes. First, s. 16.50(1) was modified to delete references to "the divisions, activities, functions and programs" of each department. That section now states, "Each department...shall prepare and submit to the secretary an estimate of the amount of money which it proposes to expend, encumber or distribute under any appropriation in Chapter 20..." [emphasis added].

Second, the section was further amended to state that the estimate process (and thus, the authority to withhold payments by the DOA Secretary) could not apply to any appropriations for general equalization school aids, supplemental appropriations under the Joint Committee on Finance, or appropriations under s. 20.835 for shared revenue and tax relief.

Third, a statutory section [s. 16.50(7)] headed "revenue shortfall" was created.

**Revenue Shortfall Provision.** Section 16.50(7) establishes a separate process that must be followed if there is a larger revenue shortfall. Under this provision, if at any time after enactment of the biennial budget, the Secretary of Administration determines that previously authorized expenditures will exceed revenues in either year of the biennium by more than 0.5% of the estimated GPR appropriations for that fiscal year, the Secretary cannot address that revenue shortfall by use of the budget estimate process. Instead, the Secretary is required to immediately notify the Governor, the presiding officer of each house of the Legislature, and the Joint Committee on Finance of the revenue shortfall.

Following this notification, the Governor is required to submit to the Legislature a bill containing his or her recommendations for correcting the imbalance between projected revenues and authorized expenditures. Further, if the Legislature is not in a floor period at the time of the Secretary's notification, the Governor is required to call a special session of the Legislature to take up the matter of the projected revenue shortfall and to submit a bill dealing with the shortfall to the Legislature for consideration at that special session.

These provisions of s. 16.50(7), as enacted in Chapter 30, Laws of 1981, remain unchanged in the current statutes.

**Timing of Revenue Shortfall Determination.** The statutes do not provide any direction as to when, under s. 16.50(7), the DOA Secretary is to make a determination of any projected revenue shortfall. There is another statutory requirement [s. 16.43] that the Department of Administration provide the Governor and the Legislature by November 20 of each even-numbered year, as a part of the biennial state budget report (summary of agency budget requests), an estimate of general fund revenues for that current fiscal biennium and the subsequent fiscal biennium. However, other than that provision, there is no statutory specification for the issuance by DOA of updated revenue estimates.

As a part of its responsibility for the collection of state taxes, the Department of Revenue monitors, on an on-going basis, tax collections and state and national economic conditions. It also issues a quarterly report entitled "Wisconsin Economic Outlook" that reviews national and state economic conditions and provides information on state tax collections. In addition, the Department of Administration has a general responsibility to anticipate financial problems faced by state agencies and inform the Governor and the Legislature.

Implicit in this DOA responsibility is the duty to monitor state fiscal conditions. But s. 16.50(7) gives the Secretary of DOA discretion as to how and when the determination of a revenue shortfall

is to take place. However, once the Secretary has reached that determination and the conditions of s. 16.50(7) are met, the Secretary has the responsibility to immediately notify the Governor, the presiding officer of each house of the Legislature, and the Joint Committee on Finance of that determination. While this statutory section is entitled "Revenue Shortfall," the notification requirement would also be triggered in either year if the DOA Secretary determined that projected GPR expenditures would increase and exceed general fund revenues by more than 0.5% of expenditures.

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### **Joint Committee on Finance Fiscal Emergency Powers**

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The Joint Committee on Finance would be involved in the legislative review of any recommendations from the Governor regarding legislation required to address a fiscal emergency as identified under s. 16.50(7). However, there is also a separate statutory provision, which predates the creation of s. 16.50(7), that separately authorizes the Joint Committee on Finance to take action on its own to directly make reductions of certain appropriations in the event of a fiscal emergency caused by a decline in anticipated state revenues.

This Joint Committee on Finance power is enumerated under s. 13.101(6) of the statutes. That section states that "As an emergency measure necessitated by decreased state revenues and to prevent the necessity for a state tax on general property, the committee may reduce any appropriation made to any board, commission, department, the University of Wisconsin System or to any other state agency or activity by such amount as it deems feasible, not exceeding 25% of the appropriations...", except that certain appropriations are excluded. The appropriations excluded are: (1) any appropriations of moneys to be distributed to any county, city, village, town or school district; and (2) a number of other specific appropriations which

are shown in the Appendix.

**History of Provision.** An Emergency Board (composed of the Governor and the Co-chairs of the Joint Committee on Finance), that had been created in 1929 to deal with providing emergency supplemental funding to state agencies, was authorized by the Legislature in 1931 to reduce any state appropriation by up to 20% during fiscal year 1932-33 in order to keep the state budget in balance. That Board did make significant reductions in the state budget during the 1932-33 fiscal year. That reduction authority amount was then increased to be up to 25% for the 1933-35 and succeeding biennia. Reductions under this statutory authority were also made by the Emergency Board during the 1939-41 and 1947-49 biennia.

In its 1959 session, the Legislature abolished the Emergency Board and created a Board on Government Operations (BOGO), which was composed solely of legislators, but whose actions were now subject to gubernatorial veto. This reduction power was transferred to that new Board. In the 1975 session, the Legislature abolished the Board on Government Operations and assigned all of that Board's responsibilities, including the 25% reduction power, to the Joint Committee on Finance.

The statute contains the expression of intent that all state agencies' functions should be continued in an efficient manner, but no public funds should be expended or obligations incurred unless there are adequate revenues to meet the expenditures. This portion of the statute can be construed to be similar to the language of s. 16.50(2) and (7) as it relates to appropriation reduction powers that become available when there is a revenue shortfall after the enactment of a biennial budget. As with the provisions of s. 16.50(7), there is no explicit statement in the statute regarding when or how the determination that there is a revenue shortfall is to occur. However, included in s. 13.101(6) is a requirement that no reduction may be made until an opportunity to be heard is given to the affected state agency.

## APPENDIX

### Enumerated Appropriations Not Subject to Reduction Under Section 13.101(6)

Appropriation	Agency	Title	Fund Source
20.255(2)(ac)	DPI	General equalization aids	GPR
20.255(2)(bc)	DPI	Aid for children-at-risk programs	GPR
20.255(2)(bh)	DPI	Aid to county children with disabilities education boards	GPR
20.255(2)(cg)	DPI	Tuition payments; full-time open enrollment transfer payments	GPR
20.255(2)(cr)	DPI	Aid for pupil transportation	GPR
20.370(1)	DNR	Any moneys for forestry purposes under 20.370(1)	SEG
20.395(1)	DOT	All appropriations under 20.395(1)	SEG
20.395(2)(cq)	DOT	Harbor assistance, state funds	SEG
20.395(2)(eq)	DOT	Highway & local bridge improvement assistance, state funds	SEG
20.395(2)(ev)	DOT	Local bridge improvement and traffic marking enhancement assistance, local and transferred funds	SEG
20.395(2)(ex)	DOT	Local bridge improvement assistance, federal funds	FED
20.395(2)(gq)	DOT	Railroad crossing improvement & protection maintenance, state funds	SEG
20.395(2)(gr)	DOT	Railroad crossing improvement & protection maintenance, state funds	SEG
20.395(2)(gs)	DOT	Railroad crossing repair assistance, state funds	SEG
20.395(2)(gv)	DOT	Railroad crossing improvement, local funds	SEG
20.395(2)(gx)	DOT	Railroad crossing improvement, federal funds	FED
20.395(3)	DOT	All appropriations under 20.395(3)	SEG
20.395(4)(aq)	DOT	Departmental management and operations, state funds	SEG
20.395(4)(ar)	DOT	Minor construction projects, state funds	SEG
20.395(4)(at)	DOT	Capital building projects, service funds	SEG
20.395(4)(av)	DOT	Departmental management and operations, local funds	SEG
20.395(4)(ax)	DOT	Departmental management and operations, federal funds	FED
20.395(6)(af)	DOT	Principal repayment and interest, local roads for job preservation program, transit improvements, and major highway and rehabilitation projects, state funds	GPR
20.395(6)(aq)	DOT	Principal repayment & interest, DOT facilities, state highway rehabilitation, major highway projects, state funds	SEG
20.395(6)(ar)	DOT	Principal repayment & interest, buildings, state funds	SEG
20.395(6)(au)	DOT	Principal repayment & interest, Marquette interchange & I-94 N-S corridor reconstruction project, state funds	SEG
20.435(7)(a)	DHS	General prog. operations; long term care	GPR
20.435(7)(da)	DHS	Reimbursements to local units of government	GPR
20.437(2)(a)	DCF	General prog. operations [economic support program]	GPR
20.437(2)(dz)	DCF	Temporary assistance for needy families; maintenance of effort	GPR

"DPI" -- Department of Public Instruction; "DOT" -- Department of Transportation; "DHS" -- Department of Health Services; "DCF" -- Department of Children and Families.

**Note:** In addition to these enumerated appropriations, s. 13.101(6) provides that any other moneys not specifically enumerated here which are appropriated for distribution to any county, city, village, town or school district are also not subject to reduction under s. 13.101(6)