

XI. University of Wisconsin-Madison -- John Torphy, Vice Chancellor for Administration

The University of Wisconsin-Madison requests the approval of position and funding transfers related to the restructuring of the University of Wisconsin Hospitals and Clinics (UWHC) into the UWHC Board and UWHC Authority.

Governor's Recommendation

Approve the request related to position and funding transfers as requested by the UW and place \$237,700 GPR from the UW's s. 20.285 (1)(a) appropriation in unallotted reserve in FY97 to reflect additional GPR savings accruing to the state due to the UWHC restructuring.



**Legislative Fiscal Bureau**

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 266-3848

MO# Conclusion + ready

June 27, 1996

ZBURKE	(Y)	N	A
ANDREA	(Y)	N	A
GEORGE	Y	N	A
DECKER	(Y)	N	A
JAUCH	(Y)	N	A
WINEKE	(Y)	N	A
WEEDEN	(Y)	N	A
COWLES	(Y)	N	A
<del>BRANCEL</del>	(Y)	N	A
FOTI	(Y)	N	A
SCHNEIDERS	(Y)	N	A
OURADA	(Y)	N	A
HARSDORF	(Y)	N	A
PORTER	(Y)	N	A
LINTON	(Y)	N	A
COGGS	(Y)	N	A

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: University of Wisconsin System--Modifications to 1996-97 C  
Plan--Agenda Item XII

AYE 15 NO 0 ABS 1

**BACKGROUND**

Under the provisions of the 1995-97 state budget (1995 Act 27), the UW System's general program operations appropriation [s. 20.285(1)(a)] was reduced by \$8,049,000 GPR in 1995-96 and \$15,700,900 GPR in 1996-97. The Board of Regents was directed to submit to the Committee by September 1, 1995, a report recommending how these reductions should be allocated among the agency's GPR appropriations (excluding financial aid, energy costs and debt service). Thus, the UW System was provided the opportunity to reallocate this reduction to as many as twelve other GPR appropriations. The allocation report was to include a specific plan for implementing the reductions which identifies the programs, positions and expenditure categories to be eliminated or reduced.

In its report, which was submitted to the Committee prior to September 1, 1996, the University proposed the reallocation of \$293,500 in 1995-96 and \$567,900 in 1996-97 from six other GPR appropriations to general program operations. As required by Act 27, the UW System's report included a specific plan identifying by campus, the programs, positions and expenditure categories affected by the funding reductions. Although information for both years of the biennium was provided, greater detail was provided for fiscal year 1995-96. The University indicated that it would develop more specific details for fiscal year 1996-97 and would report that information to the Committee when the Regents approves the System's annual budget in June, 1996.

On October 4, 1996, the Joint Committee on Finance approved the UW System's budget reduction report related to the unallocated reductions, as well as two other reports regarding administrative reductions and capital planning reductions. The Committee also deleted from the

UW System's authorized position count 166.26 GPR positions in 1995-96 and 322.17 GPR positions in 1996-97.

## REQUEST

The UW System requests several changes to its GPR appropriations for fiscal year 1996-97 in order to implement the final allocation of the general budget reductions approved by the Board of Regents. Specifically, the general program operations appropriation [s. 20.285(1)(a)] would increase by \$36,100 GPR. This increase would be offset by reductions of \$36,100 in three other GPR appropriations:

- -\$14,500 in the industrial and economic development research appropriation [s. 20.285(1)(as)].
- -\$20,000 in the schools of business appropriation [s. 20.285(1)(em)].
- -\$1,600 in the minority and disadvantaged programs appropriation [s. 20.285(4)(a)].

The following table compares the Act 27 appropriations with the UW System's reallocation which was approved by the Committee in October, 1995, and the System's proposed modification to that reallocation.

<u>Appropriation</u>	<u>Act 27</u>	<u>Reallocation Approved October, 1995</u>	<u>Change to Act 27</u>	<u>Proposed Modification</u>	<u>Change to 10/95 Reallocation</u>
General Program Operations	\$670,847,700	\$671,415,600	\$567,900	\$671,451,700	\$36,100
Dept. of Family Medicine	6,345,100	6,207,400	-137,700	6,207,400	0
AODA Prevention & Intervention	86,400	43,000	-43,400	43,000	0
Schools of Business	1,360,000	1,335,500	-24,500	1,315,500	-20,000
System Administration	8,517,600	8,299,800	-217,800	8,299,800	0
Minority & Disadvantaged Programs	7,046,600	6,914,100	-132,500	6,912,500	-1,600
UW-Madison Athletics	561,700	549,700	-12,000	549,700	0
Industrial and Economic Development Research	<u>1,392,300</u>	<u>1,392,300</u>	<u>0</u>	<u>1,377,800</u>	<u>-14,500</u>
Total	\$696,157,400	\$696,157,400	\$0	\$696,157,400	\$0

\$36,100 + (-20,000) + (-1,600) = \$14,500  
 \$14,500 + (-14,500) = \$0  
 Total change to 10/95 reallocation: \$0

## CONCLUSION

The University's request provides for minor adjustments to the allocation of the general budget reductions required under Act 27. The proposal still complies with the requirements of Act 27. Therefore, the Committee may wish to approve the University's request.

Prepared by: Dan Clancy

## CORRESPONDENCE MEMORANDUM

STATE OF WISCONSIN  
Department of Administration

**Date:** June 11, 1996

**To:** Members, Joint Committee on Finance

**From:** James R. Klauser, Secretary  
Department of Administration *James R. Klauser*

**Subject:** Section 13.10 Request from the University of Wisconsin System to Modify its 1996-97 Budget Reduction Plan.

**Request**

The UW System proposes several modifications to its 1996-97 GPR budget reduction plan approved in September, 1995. The proposal would:

- Increase the general program operations appropriation [s.20.285(1)(a)] by \$36,057
- Decrease the industrial and economic development research appropriation [s.20.285(1)(as)] by \$14,500
- Decrease the schools of business appropriation [s.20.285(1)(em)] by \$20,000 and
- Decrease the minority and disadvantaged programs appropriation by \$1,557.

The changes net to zero.

**Background**

The UW System budget reduction plan was formed in response to GPR budget reductions approved by the Governor and Legislature as part of the 1995-97 biennial budget. The plan outlines the intended UW distribution of broad "lump sum" budget reductions for the 1995-96 and 1996-97 fiscal years. It was approved by the Joint Committee on Finance in September 1995. The proposed changes would affect FY97 only.

**Analysis**

When the UW System submitted its budget reduction plan in August 1995 it contained specific cuts for FY96 and a projected outline of cuts for FY97. There was an understanding that as refinements were made to the plan, the UW System would seek approval of the Joint Committee on Finance. The proposed changes are the result of many individual changes made by the 26 UW institutions and, as mentioned above, the changes net to zero.

In the "General GPR Reduction" portion of the plan, net additional cuts (among all UW campuses) are made in institutional support [\$193,939], instruction [\$19,107], research

[\$28,907], public service [\$119,708] and farm operations [\$2,584]. Decreases in the original cuts amounts are made in student services [-\$45,090], academic support [-\$109,931] and physical plant [-\$209,224]. The differences net to zero.

In the "Administrative Reductions" portion of the plan, additional cuts are made (again, net across all campuses) in student services [\$47,329], research [\$15,000], public service [\$19,198], physical plant [\$74,918] and farm operations [\$28,619]. Decreases in the original cuts amounts are made in institutional support [-\$35,204] and academic support [-\$149,860]. The differences net to zero.

(It should be noted that most of the changes are within the same appropriation and do not require JCF approval.)

Some of the modifications to the original plan are actions taken by the UW to minimize layoffs, as in eliminating unplanned vacant positions. Other modifications were made to comply with recently adopted campus strategic plans. After all of the proposed changes are combined, there are four appropriations changes necessary as listed below. The changes appear reasonable. Changes of this type were anticipated as the UW institutions refined their budget reductions plans for the second year of the biennium.

<u>UW Appropriation</u>	<u>FY97 Original Reduction Amount</u>	<u>FY97 Revised Reduction Amount</u>	<u>Requested Change</u>
Gen. Program Operations [(1)(a)]	\$8,660,536	\$8,624,479	-\$36,057
Industrial & Econ. Devt. Research [(1)(as)]	\$0	\$14,500	+\$14,500
Schools of Business [(1)(em)]	\$15,200	\$35,200	+\$20,000
Minority & Disadvantaged [(4)(a)]	\$53,168	\$54,725	+\$1,557
Net Change			\$0

**Recommendation**

Approve the request.

Prepared by: Marty Olle  
 266-2843



# The University of Wisconsin System

Office of the President

1720 Van Hise Hall, 1220 Linden Drive  
Madison, Wisconsin 53706  
(608) 262-2321 FAX (608) 262-3985

June 19, 1996

## MEMORANDUM

To: Senator Brian Burke, Co-Chair, Joint Committee on Finance  
Representative Ben Brancel, Co-Chair, Joint Committee on Finance

From: Katharine C. Lyall *KChyall*

Re: Items for June s.13.10 Hearing

The UW System will have two items for the next s.13.10 hearing agenda: (1) Appropriations Changes to the UW System 1996-97 General GPR and Administrative Budget Reduction Plans and (2) UW Hospital Agreement changes related to position transfers among appropriations between UW-Madison, the Hospital Authority and the Board.

1. As agreed at the time of the Joint Committee on Finance review and approval of the UW System 1995-97 General GPR and Administrative Budget Reductions in September, 1995, the UW System is submitting appropriation changes of \$36,057 from the General GPR reductions for approval. As shown on the attached table the cut to UW System General Program Operations (1)(a) was reduced by \$36,057 from the plan submitted last Fall, while the reduction to Industrial and Economic Development Research (1)(as) was increased by \$14,500, Schools of Business (1)(cm) was increased by \$20,000 and Minority/Disadvantaged (4)(a) was increased by \$1,557. Please note that there were no appropriation changes from the original Administrative Reduction Plans sent in September 1995.

As required by Act 27, the UW System Budget Reduction Report submitted in September 1995 identified reductions by campus, program, position and expenditure. Although information for both years of the biennium was provided, greater detail was available for fiscal 1995-96. UW System institutions have prepared more specific details for fiscal year 1996-97 as part of the annual budget process and will provide that information to the Regents for approval at the June Board meeting. We have provided the 1996-97 UW System Annual Budget including Changes to the Budget Reduction Plan to the Department of Administration and Legislative Fiscal Bureau.

2. UW-Madison will submit, under separate cover, information and materials regarding changes to dollar and position transfers to s.20.285 (6a) relative to transfers between UW-Madison and the UW Hospital Authority and Board.

cc: Legislative Fiscal Bureau Director Lang  
Team Leaders Dan Clancy and Bob Hanle  
Budget Analysts Brian Pahnke and Marty Olle  
Vice President Marnocha  
Associate Vice President Sell  
Vice Chancellor Torphy

G:\Budplan\s1310Hea

Changes in Appropriations for the 1996-97 General GPR Reduction

<u>APPROPRIATION</u>	<u>1996-97 Final Reduction</u>	<u>1996-97 Original Reduction</u>	<u>Difference</u>
Gen. Program Operations (1)(a)	\$8,624,479	\$8,660,536	-\$36,057
Industrial & Economic Development Research (1)(as)	\$14,500	\$0	+\$14,500
Dept. of Family Medicine and Practice (1)(fc)	\$90,600	\$90,600	+\$0
Schools of Business (1)(em)	\$35,200	\$15,200	+\$20,000
System Administration (3)(a)	\$107,600	\$107,600	+\$0
Minority & Disadvantaged (4)(a)	\$54,725	\$53,168	+\$1,557
UW-Mad. Intercollegiate Athletics (5)(a)	<u>\$7,800</u>	<u>\$7,800</u>	<u>+\$0</u>
Total	\$8,934,904	\$8,934,904	+\$0

XII. University of Wisconsin System -- Margaret Lewis, Associate Vice President for Government Relations

The University of Wisconsin System requests several modifications to the 1996-97 GPR Budget Reduction Plan approved in September, 1995. The general program operations appropriation [s. 20.285(1)(a)] would be increased by \$36,057. The industrial and economic development research appropriation [s. 20.285(1)(as)] would decrease by \$14,500. The schools of business appropriation [s. 20.285(1)(em)] would decrease by \$20,000 and the minority and disadvantaged programs appropriation [s. 20.285(4)(a)] would decrease by \$1,557. The changes net to zero.

Governor's Recommendation

Approve the request.



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

June 27, 1996

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Public Service Commission--Section 16.515 Request for Appropriation and Expenditure Authority to Implement the Universal Service Fund--Agenda Item XIII

### INTRODUCTION

On April 5, 1996, a s. 16.515 request was submitted to the Joint Committee on Finance from the Department of Administration (DOA), requesting increased expenditure authority of \$3,420,000 PR in 1995-96 and \$8,000,000 PR in 1996-97 in order to allow the Public Service Commission (PSC) to implement the Universal Service Fund. The Fund was established under s. 196.218 of the statutes, as created by 1993 Wisconsin Act 496. Since the provisions of 1993 Wisconsin Act 496 did not establish an appropriation for the Fund, the PSC had proposed that the increased expenditure authority be provided under its general program operations appropriation [s. 20.155(1)(g) of the statutes]. However, DOA's recommendation to the Committee proposed that the appropriation and the expenditure authority to support Fund operations be provided instead under s. 20.855(6)(i) of the statutes, an appropriation account into which miscellaneous program revenues received by an agency for which there is not an agency appropriation may be deposited for expenditure.

The Co-chairs of the Committee, in a letter to Secretary Klauser on April 25, 1996, indicated that this request should receive further review by the Committee and that the Committee would schedule a meeting to consider the matter.

### BACKGROUND

**Nature and Purpose of the Universal Service Fund.** The Universal Service Fund was created by 1993 Wisconsin Act 496, which substantially deregulated the telecommunications

industry in Wisconsin. Under Act 496, the PSC was directed to establish the Fund, contract with an outside vendor for actual administration of the Fund and obtain an annual independent audit of the Fund [s. 196.218(2) of the statutes]. The PSC was directed to require telecommunications providers to contribute to the Fund, commencing January 1, 1996, in amounts sufficient to support its annual budget, as set by the Commission. Contributions for this purpose are required to be apportioned in accordance with each telecommunication provider's proportionate share of gross operating revenues [s. 196.218(3) of the statutes]. The methods by which contributions to the Fund are to be calculated and collected are established by the Commission by rule.

Under s. 196.218(4) of the statutes, the PSC must promulgate additional rules, which must be revised biennially, defining those essential telecommunications services that must be made available to all customers at affordable prices and that are a necessary component of universal service. At a minimum, these essential services must include single-party service with touch-tone capability, line quality capable of carrying facsimile and data transmissions, equal access, emergency services number capability, a statewide telecommunications relay service and blocking of long distance toll service. Further, under s. 196.218(5) of the statutes, the PSC must ensure that contributions to the Fund be used only to support the following purposes:

- To assist customers located in areas of the state that have relatively high costs of telecommunications services, low-income customers and disabled customers in obtaining affordable access to a basic set of essential telecommunications services;
- To assist in the deployment of the advanced service capabilities of a modern telecommunications infrastructure throughout the state;
- To promote affordable access throughout Wisconsin to high-quality education, library and health care information services; and
- To administer the Fund.

**Fund Budget for 1995-97.** Based on these statutory program purposes and in accordance with administrative rules [PSC 160] directing the Commission to set an annual budget for program activities to be financed by the Fund, the following expenditures have been approved by the PSC from projected Fund contributions during the 1995-97 fiscal biennium:

**TABLE 1**

**1995-97 Universal Service Fund Budget**

<u>Program Purpose</u>	<u>Fiscal Year</u>	
	<u>1995-96*</u>	<u>1996-97</u>
Special Needs Equipment Purchase	\$600,000	\$1,200,000
Assistance to Institutions	1,000,000	2,000,000
Lifeline Assistance and Related	275,000	1,620,000
Voice Mail Services for the Homeless	10,000	20,000
Rate Shock Mitigation	536,000	1,117,000
High Rate Assistance Credit	875,000	1,960,000
Fund Administration	<u>121,500</u>	<u>83,000</u>
Total	\$3,417,500	\$8,000,000

\*January 1, 1996 to June 30, 1996

The firm of Williams, Young & Associates was selected by the Commission to administer the Fund and to make disbursements to eligible parties in accordance with the above approved budget.

**Ability to Make Expenditures from Fund Contributions.** Prior to the formal establishment of the Fund by 1993 Wisconsin Act 496, the PSC had earlier acted in a series of telecommunications utility dockets to establish a similar type of universal service fund to which telecommunications utilities were required to contribute at levels set by the Commission. This earlier fund was administered by the Wisconsin State Telephone Association which disbursed monies from that fund for activities designed to increase the availability of essential telecommunications services. The Commission did not deem this predecessor fund to be a state fund, and no expenditure authority under any existing statutory appropriation was ever requested for disbursements by the Wisconsin State Telephone Association from that Fund. It may be noted that the residual balance in this predecessor Fund (\$800,000) has now been transferred to the new Fund established by 1993 Wisconsin Act 496.

Notwithstanding the manner by which the predecessor fund operated, the State Controller's Office in DOA concluded earlier this spring that because the statutes [s. 196.218] direct the PSC to require certain contributions by telecommunications utilities to the Universal Service Fund created by 1993 Wisconsin Act 496 and to ensure certain uses of revenues in the Fund, that "all receipts and disbursements for the Universal Service Fund must be recorded to a state appropriation." Based on this conclusion, the State Controller's Office informed the PSC that all revenues and expenditures related to the Fund must be recorded into the state accounting system. To accomplish this, the State Controller indicated that the PSC should "establish an appropriation via a s. 16.515 request."

## ANALYSIS

Supplementation requests may be approved by the Committee under s. 16.515 of the statutes if it is determined that: (1) an emergency exists; (2) no funds are available for the purpose requested; and (3) the purposes for which the supplemental appropriation is requested have been authorized or approved by the Legislature. In reviewing whether or not the supplementation request for Universal Service Fund activities meets these statutory criteria, the Committee may wish to consider the following policy and procedural questions which arise with respect to this request:

- Did the Legislature intend that the Universal Service Fund created under s. 196.218 of the statutes be established as a state fund?
- Must the Fund be deemed a state fund?
- If contributions to the Fund are to be treated as state monies subject to appropriation, what options are available to establish an appropriation for the Fund?
- What is the current status of the Fund?

**Legislative Intent with Respect to Establishing the Universal Service Fund.** When the Legislature established the Fund under 1993 Wisconsin Act 496, it gave the PSC clear direction that the Fund be administered under contract by a party other than the agency, and the Fund was not enumerated as a separate state fund under Chapter 25 of the statutes. Further, there was an explicit decision not to provide an appropriation under the PSC into which Fund revenues from telecommunications provider contributions could be credited and from which expenditures could be made for the purposes of the Fund. In addition, the Legislature directed that the PSC obtain an independent audit of the Fund each year. All state funds are currently subject to audit by the Legislative Audit Bureau under s. 13.94(1) of the statutes, rather than by an independent auditor. Further, the PSC believed that contributions to the Fund were not to be treated as state monies which required appropriation and, therefore, the agency did not seek an appropriation of Fund monies as part of its 1995-97 biennial budget request.

The thrust of all of the foregoing suggests that the Legislature intended that the Universal Service Fund was not to be a state fund and that revenues and expenditures from the Fund were not intended to be considered subject to the state appropriation process. If the Committee were to conclude that the legislative intent under 1993 Wisconsin Act 496 was to establish the Fund as a nonstate account, then approving the supplementation request under s. 16.515 would appear to violate that legislative intent and the supplementation request should be denied.

If the Committee adopts this approach, the Fund would presumably continue to operate under procedures which have recently been set in place (described below in a discussion of the Fund's current operations).

**Must the Universal Service Fund be Deemed a State Fund?** Notwithstanding the above, several agencies other than the PSC have reviewed the status of the Universal Service Fund with respect to whether or not it is a "state fund."

Following the selection of Williams, Young & Associates to administer the Fund, the PSC requested an opinion of the Commissioner of Banking as to whether the PSC would still be considered a "public depositor" with respect to the Universal Service Fund under provisions of Chapter 34 of the statutes, thereby securing a major portion of the balances in the Fund (with expected average daily balances of \$400,000 to \$500,000) against loss. Under the statutes, qualification as a "public depositor" would allow funds collected for the Universal Service Fund to qualify under s. 34.08 of the statutes in the case of financial institution failure where the Fund's revenues were in a depository financial institution. Under s. 34.08 of the statutes, subject to the available balances in the state deposit guarantee fund [s. 20.124(1)(a) of the statutes], public depositors may be repaid for their losses by the guarantee fund up to not more than \$400,000 above the amount of any applicable federal deposit insurance. The Office of the Commissioner of Banking stated that "it is our belief that the PSC on behalf of the [Fund] is a public depositor."

The Office of the Commissioner of Banking also forwarded the PSC's inquiry to the Department of Justice for further review. That Department's review of the matter indicated that it: (1) concurred that the PSC would be considered a public depositor for the Fund's monies; and (2) advised that "the funds in the Universal Service Fund ... are state funds, administered by a state agency, the PSC."

A subsequent May 20, 1996, memorandum from the State Controller's Office to the PSC on the status of the Fund held that the Fund was not a legally separate nonstate entity. Therefore, the fund must be reported for accounting purposes in the same manner as other state agencies and departments for the purpose of the state's consolidated annual fiscal report, which is prepared according to generally accepted accounting principles (GAAP). The Controller's analysis noted that most legally separate organizations are readily identifiable as such by virtue of having a separate corporate charter or by having powers qualifying them as a "special-purpose government" or authority. The Controller cited the Wisconsin Advanced Telecommunication Foundation, also created by 1993 Wisconsin Act 496, as such a legally separate entity and argued that by contrast, the Fund "is not granted [nor] does it possess any of these powers which would allow it to be considered a legally separate entity."

The above reviews of the status of the Universal Service Fund have been cited by those who believe that the Fund should be deemed a state fund under the PSC. Such a conclusion would also indicate that any expenditures from the Fund should be subject to the state appropriation process. If the Committee concurs in this view, then it may wish to consider the supplementation request submitted to it.

**Options Available to Provide a Supplementation for the Operation of the Fund.** If the Committee concludes that contributions to the Universal Service Fund should be treated as

state monies, then the amounts to be expended from the Fund need to be appropriated for expenditure. The PSC originally proposed that the increased expenditure authority be provided under its general program operations appropriation account [s. 20.155(1)(g) of the statutes]. However, a review of the program purpose for this and any other Commission appropriation suggests that there is no currently available agency appropriation account which has a suitable program purpose which would permit such expenditures for the Fund. Therefore, DOA has recommended using the miscellaneous program revenue appropriation under s. 20.855(6)(i) of the statutes to "create" an appropriation for the Fund.

This miscellaneous program revenue appropriation was created a number of years ago to allow for situations where miscellaneous monies received by a state agency for deposit in the general fund and not otherwise appropriated could be deposited and expended by individual agencies. This appropriation is used to allow DOA to establish a separate account (subunit) within this appropriation for an individual agency. Since the overall appropriation is established with zero appropriation authority, funding of a separate account for any agency requires a s. 16.515 request submitted for this appropriation. Requests in the past have generally been limited to relatively small amounts of budget authority to allow the expenditure of miscellaneous revenues. The appropriation generally has not been used on continuing basis for such expenditures. Rather, if continued expenditures in future years have appeared likely, agencies have sought the establishment of a separate appropriation for the required purpose.

The current statutes do specify that the PSC shall direct the establishment of a Universal Service Fund and prescribe uses for the Fund. However, in the absence of a specific appropriation for this purpose under the PSC, a question arises concerning the extent to which the s. 20.855(6)(i) appropriation should be used to circumvent the need for the statutory creation of an appropriation for the Fund. Arguably, the s. 20.855(6)(i) appropriation should be used only for incidental and largely unexpected revenues received by state agencies for various purposes that are difficult to anticipate and not for the purpose of expending a total of \$11,420,000 (equivalent to nearly 50% of the PSC's biennial appropriation) over the course of the 1995-97 fiscal biennium. A further consideration is whether approval of the use of this appropriation for this purpose would establish an undesirable precedent implying a method for creation of a major appropriation in the future for an agency in lieu of legislation.

The DOA original recommendation to the Committee was based on the view that the PSC's existing PR appropriation cannot appropriately be used to receive and expend Universal Service Fund revenues. DOA had initially concluded that the PSC could not proceed with administration of the Fund without having appropriate expenditure authority and, given the immediacy of these expenditure demands, the use of this miscellaneous revenues appropriation was necessary since the request could not be deferred until the next budget. The Department also indicated in its recommendation that the use of this miscellaneous program revenues appropriation for the Fund would be limited to this biennium to allow implementation of the Fund, but that "the statutory omission [lack of a separate specific appropriation for expenditure of fund revenues] will be corrected in the next biennial budget."

If the Committee concurs: (1) that the Fund should appropriately be considered as a state account; and (2) that providing an appropriation for this purpose by approving a supplementation request under s. 20.855(6)(i) of the statutes is the only course of action currently available for the balance of this biennium, then it may wish to approve providing increased expenditure authority of \$3,420,000 PR in 1995-96 and \$8,000,000 PR in 1996-97 under s. 20.855(6)(i) of the statutes to implement the Universal Service Fund. In addition, the Committee could direct the PSC to submit a report at the Committee's December 1996, meeting under s. 13.10 detailing the Commission's recommendations concerning necessary remedial legislation to clearly establish the Fund as a state fund with the necessary appropriation structure.

**Current Status of the Fund.** Notwithstanding the earlier decision by the Committee to delay this s. 16.515 request for further review at this time, the following steps have been taken by the PSC and the State Controller's Office to proceed with implementation of the Universal Service Fund.

Initial telecommunications provider contributions to the Fund and residual balances from the predecessor fund administered by the Wisconsin State Telephone Association have been deposited in a separate account established at the state bank (Firststar Bank, Milwaukee). Williams, Young & Associates, as the Fund administrator, has begun issuing checks drawn on this account to eligible individuals and organizations for program purposes consistent with the Fund budget approved by the PSC. Monies in the Fund account are not subject to management by the Investment Board since the funds are not deemed to be part of the State Investment Fund. Further, all interest accruing on Fund deposits are credited to the Fund and earnings do not accrue to the general fund.

The State Controller's Office has established an independent ledger account for the Fund and has directed the PSC to collect summary data from the Fund administrator relating to all Fund revenues and expenditures. Further, for the purpose of the GAAP-based consolidated annual fiscal report, the Controller's Office has informed the PSC that this information "shall be included (blended) and reported with the PSC general fund financial data" as contained in the state's annual Comprehensive Annual Financial Report. Discussions with staff at the PSC and the State Controller's Office suggest that in the absence of any further action by the Committee on the PSC's supplementation request, these current Fund expenditure and reporting arrangements would continue until such time as any remedial legislation clarifying the exact status of the Fund is enacted.

This general arrangement has established the Fund as an "off budget" account. While this approach has been used to enable the Fund to commence its operations immediately, it has the undesirable effect of minimizing the level of legislative oversight and control through the formal appropriation process. Notwithstanding this concern, if the Committee believes that the question of formally establishing the Fund as a state fund must ultimately be resolved through adoption of future legislation but the operation of the Fund should be allowed to continue, then the Committee could act not provide a supplementation at this time, thereby allowing these current operating arrangements to proceed. The Committee could further direct the PSC to submit a

report at the Committee's December 1996, meeting under s. 13.10 detailing the Commission's recommendations concerning necessary remedial legislation to clearly establish the Fund either as a state fund with the necessary appropriation structure or as a separate, nonstate entity.

**ALTERNATIVES**

1. Approve the Public Service Commission's s. 16.515 request, as submitted by the Department of Administration, to provide increased expenditure authority of \$3,420,000 PR in 1995-96 and \$8,000,000 PR in 1996-97 under s. 20.855(6)(i) of the statutes in order to implement the Universal Service Fund.

2. Deny the Public Service Commission's s. 16.515 request, as submitted by the Department of Administration, thereby providing that the Universal Service Fund continue functioning under current operating procedures which have been developed by the PSC and the State Controller's Office.

3. *In addition to either Alternative 1 or Alternative 2*, direct the Commission to submit a report to the Committee at its December 1996, meeting under s. 13.10 detailing the Commission's recommendations, including the necessary remedial legislation, to clearly establish the Fund either as a state fund with the necessary appropriation structure or as a separate, nonstate entity.

Prepared by: Tony Mason

MO# Alt. #2 & 3

BURKE	<input checked="" type="radio"/>	N	A
ANDREA	<input checked="" type="radio"/>	N	A
GEORGE	<input checked="" type="radio"/>	N	A
DECKER	<input checked="" type="radio"/>	N	A
JAUCH	<input checked="" type="radio"/>	N	A
WINEKE	<input checked="" type="radio"/>	N	A
WEEDEN	<input checked="" type="radio"/>	N	A
COWLES	<input checked="" type="radio"/>	N	A
BRANCEL	<input checked="" type="radio"/>	N	A
FOTI	<input checked="" type="radio"/>	N	A
SCHNEIDERS	<input checked="" type="radio"/>	N	A
OURADA	<input checked="" type="radio"/>	N	A
HARSDORF	<input checked="" type="radio"/>	N	A
PORTER	<input checked="" type="radio"/>	N	A
LINTON	<input checked="" type="radio"/>	N	A
COGGS	<input checked="" type="radio"/>	N	A

AYE 15 NO 0 ABS 1



## **Legislative Fiscal Bureau**

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

April 24, 1996

**TO:** Members  
Joint Committee on Finance

**FROM:** Bob Lang, Director

**SUBJECT:** PSC Section 16.515 Request for Appropriation and Expenditure Authority to Implement the Universal Service Fund

### **INTRODUCTION**

In a s. 16.515 submission to the Joint Committee on Finance, dated April 5, 1996, the Department of Administration (DOA) has recommended approving a request from the Public Service Commission (PSC) to provide expenditure authority of \$3,420,000 PR in 1995-96 and \$8,000,000 PR in 1996-97 in order to implement the Universal Service Fund, created under s. 196.218 of the statutes. An appropriation was not provided for fund expenditure in the law creating the fund. The DOA recommendation proposes that appropriation and expenditure authority for the fund now be created by requesting expenditure authority for the fund under s. 20.855(6)(i) of the statutes, an appropriation account into which miscellaneous program revenues received by an agency for which there is not an agency appropriation may be deposited for expenditure. Unless the Committee schedules this request for a meeting under s. 13.10, the request will be approved on Friday, April 26, 1996.

### **BACKGROUND**

The Universal Service Fund was created by 1993 Wisconsin Act 496, which substantially deregulated the telecommunications industry in Wisconsin. Under Act 496, the PSC was directed to establish the fund, contract with an outside vendor for its administration and obtain an annual independent audit of the fund [s. 196.218(2) of the statutes]. Commencing January 1, 1996, the PSC was directed to require telecommunications providers to contribute to the fund in an amount sufficient to support the fund's annual budget. Contributions for this purpose are required to be

apportioned in accordance with each telecommunication provider's proportionate share of gross operating revenues [s. 196.218(3) of the statutes].

Under s. 196.218(5) of the statutes, the PSC must ensure that contributions to the fund be used only for the following purposes:

- To assist customers located in areas of the state that have relatively high costs of telecommunications services, low-income customers and disabled customers in obtaining affordable access to a basic set of essential telecommunications services;
- To assist in the deployment of the advanced service capabilities of a modern telecommunications infrastructure throughout the state;
- To promote affordable access throughout Wisconsin to high-quality education, library and health care information services; and
- To administer the fund.

Based on these program purposes, the following expenditures are being proposed from fund contributions during the 1995-97 fiscal biennium as a part of this request:

**TABLE 1**  
**Proposed Universal Service Fund Budget**

<u>Program Purpose</u>	<u>Fiscal Year</u>	
	<u>1995-96*</u>	<u>1996-97</u>
Special Needs Equipment Purchase	\$600,000	\$1,200,000
Assistance to Institutions	1,000,000	2,000,000
Lifeline Assistance and Related	275,000	1,620,000
Voice Mail Services for the Homeless	10,000	20,000
Rate Shock Mitigation	536,000	1,117,000
High Rate Assistance Credit	875,000	1,960,000
Fund Administration	<u>121,500</u>	<u>83,000</u>
Total	\$3,417,500	\$8,000,000

\*January 1, 1996 to June 30, 1996

Supplementation requests may be approved by the Committee under s. 16.515 of the statutes if it is determined that: (1) an emergency exists; (2) no funds are available for the

purpose requested; and (3) the purposes for which the supplemental appropriation is requested have been authorized or approved by the Legislature.

## CONSIDERATIONS

In reviewing this request, the Committee may wish to note the following policy questions which arise as a result of this s. 16.515 request:

- Did the Legislature intend that the Universal Service Fund be established as a state fund?
- If the Legislature intended that the Universal Service Fund be a state fund, is it appropriate for an appropriation for that purpose to in effect be established by the use of this general miscellaneous revenues appropriation or would it be more appropriate that remedial legislation be put forth to specifically establish the fund as a state fund and to create a separate specific statutory appropriation for the fund and set appropriation levels for expenditure from the fund?

The following material presents related questions regarding this request that could be considered in the context of these overall policy questions.

When the Legislature established the Universal Service Fund, it gave the PSC clear direction that the fund be administered under contract by a party other than the agency and the fund was not enumerated as a state fund under Chapter 25 of the statutes. Further, no appropriation was created under the PSC to which revenues to the fund (telecommunication provider contributions) would be credited and from which expenditures could be made for the purposes of the fund. In addition, the Legislature directed that the PSC obtain an independent audit of the fund each year. All state funds are currently subject to audit by the Legislative Audit Bureau under s. 13.94(1) of the statutes. Further, it appears that the PSC believed that contributions to the fund were not to be treated as state monies since the agency did not seek an appropriation of fund monies as part of its 1995-97 biennial budget request.

The thrust of all of the foregoing suggests that the Legislature intended that the fund was not to be a state fund and that revenues and expenditures from the Universal Service Fund were not intended to be considered subject to the state appropriation. If the Committee were to conclude that the legislative intent under Act 496 was to establish the fund as a nonstate account, then approving the supplementation request under s. 16.515 would appear to violate that legislative intent.

However, the State Controller's Office in DOA has held that because the statute [s. 196.218] directs that the PSC require certain contributions by utilities to the fund and ensure certain uses of revenues in the fund, that "all receipts and disbursements for the Universal Service Fund must be recorded to a state appropriation." Based on this conclusion, the State Controller's

Office informed the PSC that all revenues and expenditures related to the fund must be recorded into the state accounting system. To accomplish this, the State Controller indicated that the PSC should "establish an appropriation via a s. 16.515 request."

To determine what course of action is appropriate, it is necessary to judge whether it was intended that the fund should or should not be a state fund. A decision could then be made on whether what is required is clarification of the status of the fund or rather that what is needed is the creation of an appropriation for the fund.

If Committee members feel that the intent was indeed that the Universal Service Fund was not to be considered a state fund but the existing statutes apparently need clarification, then a course of action that could be considered would be to pursue remedial legislation to clearly make that specification.

Alternatively, if Committee members feel that intent was unclear and that it appears that the fund is actually a state fund, then a different type of consideration is required. That consideration involves how a state appropriation for the fund can be created.

If contributions to the Universal Service Fund are to be treated as state monies and the amounts to be expended from fund are to be appropriated, there does not appear to be any currently available appropriation account under the PSC which has a suitable program purpose which would permit expenditures for the fund. Therefore, DOA has recommended using the miscellaneous program revenue appropriation under s. 20.855(6)(i) of the statutes to "create" an appropriation for the fund.

This miscellaneous program revenue appropriation was created a number of years ago to allow for situations where miscellaneous monies received by a state agency for deposit in the general fund and not otherwise appropriated may be received and expended by individual agencies. This appropriation is used to allow DOA to establish a separate account (subunit) within this appropriation for an individual agency. Since the overall appropriation is established with zero appropriation authority, funding of a separate account for an agency then requires a s. 16.515 request submitted for this overall appropriation. Requests in the past have generally been limited to relatively small amounts of budget authority to allow the expenditure of miscellaneous revenues.

The current statutes do specify that the PSC shall direct the establishment of a Universal Service Fund and prescribe uses for the fund. However, in the absence of a specific appropriation for this purpose under the PSC a question arises considering the extent to which the s. 20.855(6)(i) appropriation should be used to circumvent the otherwise necessity for legislative creation of an appropriation. Arguably, the s. 20.855(6)(i) appropriation should be used only for incidental and largely unintended revenues received by state agencies for various purposes which are difficult to anticipate but not for the purpose of expending a total of \$11,420,000 (equivalent to nearly 50% of the PSC's biennial appropriation) over the course of the 1995-97 fiscal biennium. A further consideration is whether approval of the use of this

appropriation for this purpose would establish an undesirable precedent implying a method for creation of a major appropriation for an agency in lieu of legislation.

The DOA recommendation is based on the view that the PSC's existing PR appropriation cannot appropriately be used to receive and expend these fund revenues. However, DOA believes that the PSC cannot proceed with administration of the fund without having appropriate expenditure authority and that given the immediacy of these expenditure demands, the use of this miscellaneous revenues appropriation is necessary since the request cannot be deferred until the next budget. The Department does indicate in its recommendation, however, that the use of this miscellaneous program revenues appropriation for this purpose would be intended to be limited to this biennium to allow implementation of the fund's program during this biennium, but that "the statutory omission [lack of a separate specific appropriation for expenditure of fund revenues] will be corrected in the next biennial budget."

If it is determined that the fund should appropriately be established as a state account but that creating an appropriation for this purpose by approving a supplementation request under s. 20.855(6)(i) of the statutes would be inappropriate, then a course of action to be considered would be to introduce remedial legislation. Such remedial legislation could establish the fund as a state fund and create the necessary appropriations and funding levels for this purpose.

BL/TM/all

## Universal Service Fund Council

To: Members of the Joint Committee on Finance

From: The Universal Service Fund Council

SUBJECT: Public Service Commission - Section 16.515 Request for Appropriation and Expenditure Authority to Implement the Universal Service Fund -- Agenda Item XIII

Dear Members:

The Universal Service Fund Council was established under 1993 Wisconsin Act 496 to advise the Public Service Commission on issues related to universal telecommunications service in Wisconsin. The Council's recommendations on programs to protect universal service were substantially adopted by the Public Service Commission, and form the basis for Chapter PSC 160, Wis. Admin. Code.

The Council is composed of representatives of the telecommunications industry, telecommunications users, educational and library institutions, representatives of low income and aging groups and other interested parties. The Council's ongoing goal is to formulate means of protecting universal service throughout Wisconsin.

The Council is concerned that the Council's ability to achieve its purpose may be adversely affected by the proposed 16.515 request. The change may affect the needed flexibility of the fund, and the Council's ability to address the mandates of the federal 1996 Telecommunications Act. These issues merit further study. Therefore, the Council, in its meeting on July 9, 1996, unanimously recommends that the Joint Committee on Finance adopt option 3, requesting the Public Service Commission to investigate these issues and report back to the Committee. The Council will work closely with the Commission in preparing that report.

Sincerely,



FUR Rolf Wegenke, Chair  
for the Universal Service Fund Council