

**Committee Name:**  
**Joint Committee – Finance**  
**(JC–Fi)**

**Appointments**

99hr\_JC–Fi\_Appt\_pt00

**Committee Hearings**

99hr\_JC–Fi\_CH\_pt00

**Committee Reports**

99hr\_JC–Fi\_CR\_pt00

**Clearinghouse Rules**

99hr\_JC–Fi\_CRule\_99–

**Executive Sessions**

99hr\_JC–Fi\_ES\_pt00

**Hearing Records**

99hr\_ab0000

99hr\_sb0000

**Misc.**

99hr\_JC–Fi\_\_Misc\_\_s.13.10\_pt12b1

**Record of Committee Proceedings**

99hr\_JC–Fi\_RCP\_pt00

~~INDIGALB FACTOR~~ ~~INCORPORATED~~ ~~REPORTING~~

S. 13.10      May 3, 2000

**13.10 Meeting**  
**Wednesday, May 3, 2000**  
**Agenda Item I**

**Issue:**

DOA – Release of \$500,000 PR to the Management Assistance Grant Program

**Comments:**

Menominee County needs funding for several issues related to public safety, public health, public infrastructure, public employee training and economic development. Grants through the Management Assistance Grant Program can be made with JFC approval for any county that does not contain incorporated municipalities and has a geographic area of less than 400 square miles. (Menominee County is the only county that qualifies under this criteria.)

A 1998 LAB audit identified a variety of financial problems facing Menominee County. They outlined some options to address these problems which included finding additional state assistance.

The County would use the grant to fund computer upgrades, highway maintenance equipment, and squad cars and a new communications system for the sheriff's department.

**Staff Recommendation:**

Alternative 1 (approve the request)

**Prepared by:** Julie



## Legislative Fiscal Bureau

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

May 3, 2000

TO: Members  
Joint Committee on Finance

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FROM: Bob Lang, Director

SUBJECT: Administration: Section 13.10 Request for the Release of \$500,000 PR to the Management Assistance Grant Program -- Agenda Item I

### REQUEST

The Department of Administration (DOA) requests release of \$500,000 PR from the Joint Committee on Finance appropriation under s. 20.865(4)(g) to the management assistance grant program under s. 20.505(1)(ku) for distribution to Menominee County.

### BACKGROUND

Since its creation in 1961, Menominee County has had difficulty meeting its financial needs due to a limited property tax base. Recently, these issues have been the focus of an evaluation by the Legislative Audit Bureau (LAB) and a management review task force authorized by state law.

Concerns about the County's finances led the Joint Legislative Audit Committee to request the LAB to examine the County's financial practices. This examination was completed in February, 1998. The LAB evaluation highlighted a series of financial problems faced by Menominee County, including:

- an operating deficit caused by expenditures in excess of revenues;
- high property tax bills;
- low service levels;
- demand for improved road and fire protection services;
- high human services caseloads;
- uncertainty regarding the adequacy of law enforcement services;

- limited potential for tax base growth; and
- loss of state aid under the shared revenue program.

The LAB presented four options for addressing these problems. First, the County could be dissolved, and land in the County could be added to Shawano County or divided between Oconto and Shawano Counties. In 1961, Menominee County was created from lands in Oconto and Shawano Counties. Second, Menominee County could contract for county services from Shawano County. Currently, the two counties share a circuit court and district attorney. Third, existing federal assistance should be continued and could be expanded. The federal government provides impact aid that has been used for the school system and for a public health clinic, and additional assistance for payments in lieu of taxes and for law enforcement is needed. Finally, additional state assistance could be provided.

Regarding the state assistance option, the LAB outlined several alternatives. Among these were a series of grants for equipment and other capital needs in the highway and sheriff's departments, special grants for road improvements, a grant to offset the 5% annual reduction in the County's shared revenue payment, and additional state assistance to enhance the County's human services and law enforcement functions. However, the LAB cautioned that additional state assistance should be preceded by the County addressing certain problems and thereby ensuring that any forthcoming state funds are well managed. Among the management problems in need of improvement, the LAB urged the County to improve its financial reporting, comply with open meeting laws and improve its budgeting practices. Subsequently, the LAB has commented that Menominee County has "taken a number of positive steps to improve their management and fiscal accountability to taxpayers."

A seven-member task force was created by 1997 Act 237 to review the actions taken by the Menominee County Board in response to the management problems raised by the LAB. In addition, the task force was directed to report its findings to the Joint Committee on Finance and to make recommendations regarding additional state aid for Menominee County. A preliminary draft of the report was issued in April, 1999, and a final report was transmitted in June, 1999. In addition to finding that the County had made "significant progress ... in addressing each of the concerns" raised by the LAB, the task force recommended creating a management assistance grant program and providing \$500,000 annually for five years to be used in the areas of public safety, health, infrastructure, employee training and economic development. The recommendations of the task force were incorporated into provisions in 1999 Act 9 (the biennial budget), which created the management assistance grant program.

## **DESCRIPTION**

The management assistance grant program was created to provide financial assistance to counties to fund public security (public safety), public health, public infrastructure, public employee training and economic development. Grants are to be provided to any county that does not contain

any incorporated municipalities and has a geographic area of less than 400 square miles. In addition, the county is required to maintain its financial records in accordance with accounting procedures established by the Department of Revenue (DOR). Finally, the county must submit a detailed expenditure plan that identifies how the funds are proposed to be expended and how those expenditures meet the program's goals. The Department of Administration (DOA) administers the program.

Act 9 established grant amounts at \$500,000 annually for each eligible county and set aside \$500,000 in tribal gaming revenue for each year of the 1999-01 biennium in the PR appropriation of the Joint Committee on Finance. The authorized amounts are to be transferred to DOA's management assistance grant appropriation under the s. 13.10 process upon request from DOA and a finding that a county has met the eligibility criteria of the grant program.

Grants are limited to Menominee County, because it is the only county that does not contain any incorporated municipalities and has a geographic area of less than 400 square miles. On February 17, 2000, DOR notified DOA that Menominee County had met the financial recordkeeping requirements of the grant program. Finally, Menominee County has provided a detailed listing of the planned expenditures resulting from the receipt of a grant.

## ANALYSIS

Menominee County proposes to spend the \$500,000 in grant proceeds for the following items:

<u>Computer-Related Expenses</u>	
Financial management software package	\$30,000
Payroll software	20,000
Property tax administration software	31,200
Project/grant accounting	5,000
Internet connection	2,500
Data controller/firewall	<u>2,000</u>
Subtotal	\$90,700
 <u>Highway Department Equipment</u>	
Fully-equipped trucks (2)	\$220,000
Plows for trucks	10,000
Pre-mix storage shed	30,000
Keyed gasoline system	25,000
Matching funds for town road paving	<u>39,300</u>
Subtotal	\$324,300

<u>Sheriff's Department Equipment</u>	
Fully-equipped squad cars (2)	\$60,000
Grant for new communications system	<u>25,000</u>
Subtotal	\$85,000
 Grand Total	 \$500,000

State law restricts management assistance grants to counties that identify how the proceeds will be used relative to the five enumerated functions. One of the enumerated functions is "public infrastructure" which would encompass the preceding expenditures identified by Menominee County. Another enumerated function is "public security," which would encompass the proposed equipment expenditures for the sheriff's department. Also, the identified expenditures would allow the County to address some of the needs previously identified by the LAB. For example, computer software would improve the County's financial reporting and budgeting practices. The additional highway equipment would address concerns regarding the ability of existing equipment to provide reliable road maintenance services due to the age of existing equipment. The LAB observed that over half of all town roads in the County are unpaved, but that number would be reduced by using grant proceeds as matching funds for town road paving. The additional equipment for the sheriff's department would enhance law enforcement services, which the LAB characterized as "perhaps the area of most pressing concern to taxpayers."

Over half of the proposed expenditures (\$280,000) are for vehicles for the highway and sheriff's departments. The County's vehicle inventory reflects that model years for the 15 trucks employed by the highway department range from 1958 to 1995 and that four of the five sheriff's department squad cars are from the 1995 and 1996 model years. Currently, the Wisconsin Department of Transportation is phasing out state patrol vehicles from the 1996 and 1997 model years, although DOT's replacement policy is based on miles traveled, rather than model year. DOA has reviewed the proposed amounts for the vehicle purchases and found them to be "necessary" and "consistent with the cost experience of the department vehicle fleet operation."

The next largest category of expenditures relates to the County's computer system. Menominee County has replaced its computer system because the previous system was not "Y2K" compliant. The County has requested \$90,200 for the additional software, Internet access and hardware. These expenditures would allow the County to further improve its financial management practices, a concern raised by the LAB. DOA has characterized the expenditures as useful and standard.

The County would use \$64,300 to leverage additional resources through state and federal grants. Of that amount, \$39,300 would be used for matching funds for town road paving. The Town of Menominee is requesting \$10,000 in town road improvement program (TRIP) funding from the Wisconsin DOT, which requires a local match of 50% or greater. The Town has budgeted \$212,125 for capital outlays for road improvements in 2000. In addition, \$25,000 would be used as matching funds for a \$62,636 grant for law enforcement communications equipment under the

tribal resources grant program, administered by the Office of Community Oriented Policing Services in the U.S. Department of Justice.

### ALTERNATIVES

1. Approve the request to release \$500,000 PR from the Joint Committee on Finance appropriation under s. 20.865(4)(g) to the management assistance grant program under s. 20.505(1)(ku) for distribution to Menominee County.

2. Deny the request.

Prepared by: Rick Olin

MO# Alt 1

BURKE	<input checked="" type="radio"/>	N	A
DECKER	<input checked="" type="radio"/>	N	A
JAUCH	<input checked="" type="radio"/>	N	A
MOORE	<input checked="" type="radio"/>	N	A
SHIBILSKI	<input checked="" type="radio"/>	N	A
PLACHE	<input checked="" type="radio"/>	N	A
COWLES	<input checked="" type="radio"/>	N	A
DARLING	<input checked="" type="radio"/>	N	A
GARD	<input checked="" type="radio"/>	N	A
PORTER	<input type="radio"/>	N	<input checked="" type="radio"/>
KAUFERT	<input type="radio"/>	N	<input checked="" type="radio"/>
ALBERS	<input type="radio"/>	N	<input checked="" type="radio"/>
DUFF	<input checked="" type="radio"/>	N	<input checked="" type="radio"/>
WARD	<input checked="" type="radio"/>	N	A
HUBER	<input checked="" type="radio"/>	N	A
RILEY	<input checked="" type="radio"/>	N	A

AYE 13 NO 0 ABS 3

**Agency:** Higher Educational Aids Board -- Supplemental Funds

**Recommendations:**

**Agenda Item II:** Alternative 2

**Comments:** HEAB is seeking funds for additional clerical positions, which were partially funded in Act 9 using unspent money originally intended for a vacant executive secretary slot. The salary diverted from the deputy position is not sufficient to fund the 1.86 positions authorized in Act 9.

**Alternative 2** provides supplemental funds to maintain the positions. It is less than HEAB requested because Fiscal Bureau argues it reflects lower costs due to one of the positions being filled only recently. Alternative 1, however, is OK.

Prepared by: Bob



## Legislative Fiscal Bureau

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

May 3, 2000

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Higher Educational Aids Board: Section 13.10 Request for Supplemental Funds --  
Agenda Item II

### REQUEST

The Higher Educational Aids Board (HEAB) requests a supplement of \$34,500 GPR annually from the Committee's appropriation to provide funding for a 0.86 FTE position that was converted from SEG to GPR funding in 1999 Act 9 (the 1999-01 state budget).

### BACKGROUND

The Higher Educational Aids Board is an 11-member board with primary responsibility for the management and oversight of the state's student financial aid system for Wisconsin residents attending institutions of higher education. In 1999-00, HEAB is responsible for administering a total of approximately \$59.8 million under eleven state-funded grant and loan programs. The agency also monitors and services outstanding student loans made under defunct programs. In addition, HEAB administers the Minnesota-Wisconsin higher education tuition reciprocity agreement and capitation payments for students attending the Marquette Dental School and the Medical College of Wisconsin.

HEAB is currently authorized a staff of 13.0 FTE positions including an Executive Secretary, an administrative manager who serves as the Division of Programs and Policy Manager and a Budget and Policy Analyst. The remaining 10.0 positions consist of: 6.0 Grants Specialists or Program Assistants who work exclusively with the agency's grant and loan programs; 2.0 information technology professionals; 1.0 Human Resources Coordinator; and 1.0 Clerical Assistant position which was authorized under Act 9.

## ANALYSIS

In its action on the 1999-01 budget bill, the Joint Committee on Finance deleted \$69,000 GPR and 1.0 GPR position annually to remove position authority and funding for a vacant Deputy Executive Secretary position. An amendment to the budget bill offered in the Assembly Republican Caucus and adopted by the Legislature provided \$34,500 GPR and 1.86 GPR positions annually, including 0.86 position transferred from SEG funding. In the description of the amendment, it was noted that HEAB had been using the funds associated with its vacant Deputy position to support LTE clerical assistants. The amendment specified that of the 1.86 GPR positions, 1.0 FTE would be a clerical assistant position, which the Board had included in its 1999-01 biennial budget request.

The \$34,500 GPR provided in Act 9 was based on 50% of annual salary and fringe benefits for the Deputy Executive Secretary position and is not sufficient to support the costs associated with the three employees that were intended to comprise the 1.86 positions affected by Act 9. The annual cost of salaries, fringe benefits and supplies and services for the 0.86 position transferred from SEG to GPR funding, which consists of a 0.5 FTE human resources coordinator position and a 0.36 FTE program assistant, is \$36,400. The total annual cost of salary, fringe benefits and ongoing supplies and services for the clerical assistant position is \$26,500, bringing the annual cost of the 1.86 positions to \$62,900.

Since the clerical assistant position has only recently been filled, for 1999-00, the total cost of salary, fringe benefits and supplies and services for this position is \$12,100. This figure includes one-time funding for a computer and furniture. However, the agency indicates that since July, 1999, limited-term employees and other staff members have performed the functions of the position, at a total cost of \$18,100. Further, HEAB has received SEG funding for the program assistant and human resources coordinator positions for the first six months of 1999-00. Therefore, the total cost of the 1.86 FTE positions for 1999-00 is \$50,000.

Based on these calculations, HEAB would need an additional \$15,500 GPR in 1999-00 and \$28,400 GPR in 2000-01 in order to fully fund the 1.86 positions, after consideration of the \$34,500 GPR of annual funding provided in Act 9.

## ALTERNATIVES

1. Approve HEAB's request to provide a supplement of \$34,500 GPR annually to the agency's s. 20.235(2)(aa) general program operations appropriation from the Joint Finance Committee's s. 20.865(4)(a) appropriation to fund 1.86 GPR positions that were provided in the 1999-01 budget, including a 0.86 FTE position that was converted from SEG to GPR funding.

2. Provide a supplement of \$15,500 GPR in 1999-00 and \$28,400 GPR in 2000-01 to HEAB's s. 20.235(2)(aa) appropriation from the Joint Finance Committee's s. 20.865(4)(a) appropriation to reflect a reestimate of the costs associated with the 1.86 positions.

3. Deny the request.

Prepared by: Merry Larsen

MO# Alt 2

2	BURKE	Y	N	A
	DECKER	Y	N	A
	JAUCH	Y	N	A
	MOORE	Y	N	A
	SHIBILSKI	Y	N	A
	PLACHE	Y	N	A
	COWLES	Y	N	A
	DARLING	Y	N	A
1	GARD	Y	N	A
	PORTER	Y	N	A
	KAUFERT	Y	N	A
	ALBERS	Y	N	A
	DUFF	Y	N	A
	WARD	Y	N	A
	HUBER	Y	N	A
	RILEY	Y	N	A

AYE 14 NO 0 ABS 2

**Agency:** Higher Education Aids Board: Tech school reciprocity

**Recommendations:**

**Agenda Item III:** Alternative 2

**Comments:** Wisconsin and Illinois border tech schools, Gateway Technical College, McHenry County College and College of Lake County, would have student tuition reciprocity agreements amended under this proposal. Essentially, this broadens course availability for students who are employed across the boarder and attend school near their employer.

**Alternative 2** approves the request but asks for the WTCS board to report next year on how it's going. Certainly Alternative 1 would be fine.

Prepared by: Bob



## Legislative Fiscal Bureau

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

May 3, 2000

TO: Members  
Joint Committee on Finance

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FROM: Bob Lang, Director

SUBJECT: Higher Educational Aids Board: Section 13.10 Request for Approval of Interstate Educational Agreements Between Gateway Technical College and McHenry County College and College of Lake County in Illinois -- Agenda Item III

### BACKGROUND

Under s. 39.42 of the statutes, the governing boards of any publicly-supported, postsecondary institution, with the approval of the Higher Educational Aids Board (HEAB) and the Joint Committee on Finance, are permitted to enter into tuition reciprocity agreements with appropriate state educational institutions in other states. Wisconsin Technical College System (WTCS) districts currently have agreements with institutions in four states: Minnesota, Michigan, Illinois and Iowa. These agreements are intended to provide students the opportunity to attend institutions which are more conveniently located or which offer programs not available in the students' states of residency. In addition, the agreements permit the individual institutions to offer programs that would otherwise be impractical due to low enrollment.

Under the current reciprocity agreements between Gateway Technical College and McHenry County College and College of Lake County in Illinois, participating students from both states are charged Wisconsin resident tuition. Wisconsin's tuition is \$59.25 per credit for the 1999-00 academic year and \$61.50 per credit for 2000-01. For Illinois residents, tuition is \$54 per credit at College of Lake County and \$44 per credit at McHenry County College. Nonresident tuition is \$329 per credit at Lake County and \$269.24 per credit at McHenry County. Priority for admission is given to residents of the state of the receiving institution and no state residents may be displaced due to the agreements. However, after the first semester, students enrolled under the agreement are given the same priority as residents of the district in which they are enrolled.

Under the current reciprocity agreements, participating students may enroll only in certain programs, which are specified in the agreements. In addition, a student may enroll in any individual course not offered by the sending institution.

Gateway's agreements with College of Lake County and McHenry County College have been in effect since 1978 and 1986, respectively. Since they do not include specific expiration dates, the agreements remain in effect until terminated or amended. The terms of the agreements stipulate that amendments may be made at any time by mutual consent of all parties, following the same procedure as that followed in securing approval of the original agreement. That is, any amendments to the agreements must be approved by HEAB and the Joint Committee on Finance prior to implementation. The proposed amendments to the agreements were approved by the WTCS Board at its January, 2000 meeting and by HEAB in February, 2000.

According to staff at the WTCS Board, two students from McHenry County and 10 students from Lake County currently attend Gateway under the agreements while five students from the Gateway district attend McHenry County College and 35 students from Gateway attend College of Lake County.

## **REQUEST**

HEAB requests approval of the amended agreements between Gateway and McHenry County College and College of Lake County as required by s. 39.42 of the statutes. If approved, the amendments would become effective immediately. The proposed agreements include the following substantive changes:

*Eligible Students.* The proposed agreements would permit residents of Illinois who are employed within the Gateway district to register and enroll in any course offered by Gateway after first obtaining approval from their employer. Similarly, Wisconsin residents who are employed within McHenry County College district or College of Lake County district could enroll in any course offered by the appropriate Illinois college with prior approval of their employer.

*Modifications to the Agreements.* The proposed agreements would change the approval process for certain modifications. Specifically, the agreements would stipulate that minor changes which primarily modify the programs or courses covered by the agreements and which will have no effect on the basic terms of the agreement, could be made in writing at any time by mutual consent of both parties. Both parties would confer and agree upon the educational programs or courses to be included under the agreement and any modifications to the programs or courses would have to receive prior approval from the State Director of the WTCS Board. Notice of such approval would then be sent to the Joint Committee on Finance and HEAB. In Illinois, the board of trustees of the appropriate community college district would approve modifications.

Under the proposed agreements, amendments or revisions to the basic terms of the agreements would still have to be approved by the Joint Committee on Finance and HEAB.

*Eligible Programs.* The programs in which reciprocity students could enroll would be included in attachments to the agreements, rather than in the agreements themselves, as is currently the case.

## ANALYSIS

The proposed agreements would permit a nonresident to enroll in any course offered at the technical college located in the state in which he or she is employed with the approval of the employer. According to State WTCS Board staff, this provision would help employers located near the border of both states to offer technical college training related to the employers' businesses. Businesses often contract with the local technical college to offer a particular course or customized training to their employees. In many cases the course is offered on site at the business and may or may not be open to enrollment by individuals who are not employees. WTCS Board staff indicate that it is Gateway's policy to set the contract price to recover the entire cost of a course when it is open only to employees of the business. However, if the course is made available to individuals who are not employees, Gateway may simply charge an amount based on tuition for each student. In such a case, a company that employs both residents and nonresidents must pay different rates for each employee based on his or her residency. The proposed change to the agreements would permit Gateway to charge a Wisconsin employer an amount based on resident tuition for each participating employee, regardless of his or her state of residence.

Under current law, resident tuition for postsecondary and vocational-adult programs must be set to cover at least 14% of the statewide operational cost of the programs. Nonresident tuition, however, is based on 100% of the statewide operational cost per full-time equivalent student. For 2000-01, tuition has been set at \$61.50 per credit for residents and \$481.35 per credit for nonresidents. To the extent that this proposed modification would reduce the total amount charged by Gateway to provide a course for a business, the provision could have an impact on the District's property tax levy. If the total amount charged to the employer is not sufficient to cover the District's costs to provide a course, another revenue source, typically the property tax, would have to be used to supplement the cost of the course. However, since the number of nonresident employees who would enroll in courses under the provision is not known, the actual impact of the proposed modification cannot be determined. Further, the new provision's potential to reduce charges to employers may encourage more employers to contract with Gateway to provide courses for their employees.

Since it is not possible to predict the effect that the proposed modification would have on the property tax levy, the Committee could approve the agreements as submitted but require the WTCS Board to report to the Joint Committee on Finance by May 1, 2001, on the number of nonresidents who have enrolled in courses with the approval of their employer under the proposed agreements



**13.10 Meeting**  
**Wednesday, May 3, 2000**  
**Agenda Item IV**

**Issue:**

TEACH Board – Funding for the Telecommunications Access Program

**Comments:**

As usual, this TEACH request is thoroughly convoluted. Actually, this is their third request on the topic. The initial request was objected to by Senator Jauch. Upon objection, TEACH withdrew the request and then resubmitted it in a different form. The second request was also objected to (by the Co-Chairs on the advice of Bob Lang), so TEACH revised it for a request under s. 13.10.

The big question here is whether or not to provide funding for gateways for four networks (one in Milwaukee.) While the installation of gateways seems warranted, LFB raises questions about whether funding from this appropriation for gateways is appropriate. They suggest that it may be better to hold off on that portion of the funding for now, and have TEACH resubmit the request during the next budget deliberations. This would allow for more legislative oversight of the program and its use of funding. I agree, it seems like a lot of money to be throwing at them with little review.

In the end, you should probably defer to Senator Jauch, but my recommendation would be for Alternative 3, which does not fund the gateway networks at this time. However, Alternative 2 is okay if that's what Sen. Jauch wants.

**Staff Recommendation:**

Alternative 3

**Prepared by:** Julie



## Legislative Fiscal Bureau

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

May 3, 2000

TO: Members  
Joint Committee on Finance

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FROM: Bob Lang, Director

SUBJECT: TEACH Board: Section 13.10 Request for Release of Funding for the  
Telecommunications Access Program -- Agenda Item IV

### REQUEST

The TEACH Board requests release of \$1,997,300 SEG in 1999-00 from the Committee's appropriation to supplement the following telecommunications access appropriations: (a) \$927,100 SEG to the telecommunications access--school districts appropriation [s. 20.275(1)(s)]; (b) \$759,400 SEG to the telecommunications access--private and technical colleges and libraries appropriation [s. 20.275(1)(t)]; and (c) \$310,800 SEG to the telecommunications access--private schools appropriation [s. 20.275(1)(tm)].

In a revised request submitted on April 19, 2000, TEACH requests that in addition to the above supplements: (a) \$84,200 SEG be transferred from the access appropriation for private and technical colleges and libraries to the access appropriation for school districts; and (b) \$500,000 SEG be transferred from the access appropriation for private K-12 schools to the access appropriation for school districts, in order to fund increased projected telecommunications access costs due to the installation of two gateways in 1999-00.

### BACKGROUND

The TEACH telecommunications access program provides educational agencies with subsidized access to new data lines and video links or grants for data lines and video links in existence prior to October 14, 1997 (date of enactment of the 1997-99 biennial budget). Eligible entities include school districts, CESAs, private colleges, technical college districts, public libraries

and private K-12 schools. Funding for the program is provided through the segregated universal service fund (USF), which receives its funding for this program through assessments on annual gross operating revenues from intrastate telecommunications providers. In addition, participants are required to pay the Department of Administration (DOA) \$100 per month for new data lines or video links that operate at speeds of 1.544 megabits per second and \$250 per month for new data lines or video links that operate at different speeds. Total expenditure authority for the program during the 1997-99 biennium was \$12,316,400 SEG.

As part of the 1999-00 biennial budget process, the Governor recommended that funding for the program be increased by \$10,528,700 SEG in the 1999-01 biennium. However, due to a desire to have more information on the actual costs of the program before providing the full amount of additional expenditure authority, the Joint Finance Committee and Legislature transferred one-half of the proposed annual funding increases to the Committee's appropriation (\$1,997,300 SEG in 1999-00 and \$3,267,100 SEG in 2000-01). Act 9 provides for release of the funding to the Board under a 14-day passive review process after receipt of additional information relating to estimated program demand and finalized annual costs.

On November 11, 1999, TEACH submitted a request for release of the \$1,997,300 SEG in 1999-00 held in the Joint Finance Committee's appropriation for total expenditure authority of \$10,941,000 SEG in 1999-00. At that time, TEACH's projected costs for the program were \$9,225,500 SEG in 1999-00. An objection was raised regarding the request and the matter was set aside for consideration under s. 13.10 of the statutes. On December 3, 1999, the Board withdrew its request and indicated it would resubmit the request at a later date when more complete information was available regarding federal E-rate discounts and video link costs for 2000-01.

On February 25, 2000, the TEACH Board resubmitted a request for release of the \$1,997,300 SEG in 1999-00 held in the Joint Finance Committee's appropriation for total expenditure authority of \$10,941,000 SEG in 1999-00. TEACH's request projected costs of \$9,472,100 SEG in 1999-00 for the program. The Co-Chairs of the Committee, in a letter to the Secretary of DOA on March 14, 2000, indicated that an objection had been raised to this request and that the Committee would schedule a meeting to consider the matter.

On April 19, 2000, TEACH submitted a revised request indicating that projected 1999-00 costs for the program have increased by \$1,300,000 SEG in 1999-00 because of increased cost estimates for the installation of two gateways. Under its revised request, TEACH's total projected costs are \$10,772,100 SEG in 1999-00. While TEACH did not modify the amount of funding it requested to be released from the Committee, TEACH did request that funding also be transferred from the appropriations for colleges and libraries and private K-12 schools to fund the projected shortfall in the school district's access appropriation due to the increased cost of gateway installation.

## ANALYSIS

In its revised request, TEACH estimates total costs for the telecommunications access program, excluding funding for the state residential schools which is not part of this request, will be \$10,772,100 SEG in 1999-00. Funding available for the telecommunications access program in TEACH's biennial appropriations (s. 20.275(1)(s), (t) and (tm)) totals \$8,943,700 SEG in 1999-00. TEACH has requested release of all of the funding held in the Committee's appropriation for 1999-00 (\$1,997,300 SEG). If the Committee approves TEACH's request, total funding for the program would be \$10,941,000 SEG in 1999-00. Table 1 below shows, by appropriation, TEACH's projected costs, the total funding requested by TEACH and the balance after funding projected costs.

**TABLE 1**

**TEACH's Projected Costs, Funding and Appropriation Balances Requested  
for the 1999-00 Telecommunications Access Program**

	<u>TEACH's Appropriations</u>	<u>Projected Net Costs</u>	<u>Balance</u>	<u>Requested Supplement</u>	<u>Requested Transfers</u>	<u>Balance After Requested Supplements</u>
School Districts and CESAs	\$6,427,100	\$7,918,500	-\$1,491,400	\$927,100	\$584,200	\$19,900
Private and Technical Colleges and Public Libraries	1,850,700	2,437,800	-587,100	759,400	-84,200	88,100
Private K-12 Schools	<u>665,900</u>	<u>415,800</u>	<u>250,100</u>	<u>310,800</u>	<u>-500,000</u>	<u>60,900</u>
Totals	\$8,943,700	\$10,772,100	-\$1,828,400	\$1,997,300	\$0	\$168,900

### Projected Costs

*Data Lines, Video Links and Existing Contracts.* The attachment to this paper describes by appropriation TEACH's projected costs for each type of service to be provided to the educational agencies under the program: data lines, video links and existing contracts. The attachment also lists the number of entities that would receive these services in 1999-00. In addition, the attachment shows revised estimates of other costs from these appropriations.

For most of these services, TEACH used actual costs, for example, \$640 annually per data line and a \$350 installation charge for each new data line. However, because costs for the video link services are site specific and placed on TEACH's master lease, TEACH prorated the total 1999-00 master lease payments by the number of entities receiving video link services. Therefore, TEACH's projections for video link services reflect 1999-00 master lease costs rather than actual annual costs. TEACH estimates that the average annual video link cost is \$37,000 SEG. While it would be desirable to have cost projections based on actual video link service costs by institution, TEACH's method of projecting costs for video links appears reasonable given the data currently available.

*Other Costs.* The attachment also lists other costs totaling \$1,924,500 SEG that TEACH intends to fund under the program in 1999-00. These costs include: (a) contracting for network scheduling (\$29,700); (b) purchasing two gateways, which allow connections between distance education networks with different types of technology (\$1,801,000); and (c) one-time funding for the ERVING upgrade as required by 1999 Act 9 (\$93,800).

Costs for the distance education network scheduling services, which include ensuring signals from one video network to another are occurring at the correct time and place, are based on an agreement signed in November 1999 between TEACH and the Division of Technology Management (DTM) in the Department of Administration. The agreement provides that the Wisconsin Overlay Network for Distance Education Resources (WONDER) will provide BadgerNet video inter-network scheduling services from August 1, 1999, through June 30, 2000, at a cost of approximately \$60,000. Under the agreement, TEACH pays DTM for one-half of the cost and the remaining costs are paid to WONDER by the networks that use the scheduling services. As part of the agreement, TEACH is to receive monthly intercluster link usage reports from DTM that would be used to justify future purchases of intercluster links. Intercluster links are used to connect video switches together which then connect network groups together.

Under its revised request, TEACH would also fund the installation of gateways for two networks, KSCADE (located in the Fox River Valley area) and JEDI (located in South Central Wisconsin), at a cost of \$1,801,000 SEG in 1999-00. TEACH indicates that in 2000-01 two more gateways would be installed, one in Milwaukee and one for the Project Circuit network (located in the Western Wisconsin), at a cost of \$930,900 SEG. The costs included in the installation of the two gateways in 1999-00 total \$1,801,000 and include: (a) gateway hardware and networking costs (\$1,285,500); (b) scheduling software (\$275,100); (c) DTM administrative charges (\$234,100); and (d) DTM system testing and certifications charges (\$6,300).

Staff from TEACH indicate that the cost of the gateways would be fully paid from the school district appropriation. However, there are private schools and technical colleges that are also part of these networks. Therefore, it appears reasonable that each appropriation should be charged its proportional share of the costs, based on the number of each type of entity participating in these networks. The attachment revises TEACH's projections for these other costs to reflect funding of \$1,801,000 for the gateways being provided from all three appropriations. Table 2 also shows, by appropriation, the recalculated projected costs and the supplement amount needed to fund the revised projected costs. The projected costs differ slightly from TEACH's to adjust its projections to reflect that funding for these gateways would not be charged to the state residential schools.

**TABLE 2**

**Recalculated Projected Costs for the 1999-00 Telecommunications Access Program**

	<u>TEACH's Appropriation</u>	<u>Projected Net Costs</u>	<u>Balance</u>
School Districts and CESAs	\$6,427,100	\$7,625,700	-\$1,198,600
Private and Technical Colleges and Public Libraries	1,850,700	2,642,000	-791,300
Private K-12 Schools	<u>665,900</u>	<u>510,400</u>	<u>155,500</u>
Totals	\$8,943,700	\$10,778,100	-\$1,834,400

In reviewing TEACH's request the Committee may wish to consider the following: (a) whether there are other available revenues that could be used to offset costs thereby reducing the total amount of supplement needed; (b) whether funding under this program should be provided at this time to pay for the installation of gateways; and (c) whether DOA's administrative charges for this program should be reviewed in further detail.

**Available Revenues**

As noted above, funding for the program is currently provided through two sources: (a) monthly payments of either \$100 or \$250 made by participating entities; and (b) telecommunications provider assessments.

*Telecommunications Assessments.* Current law provides that the funding received through the telecommunications provider assessments may be passed through by the utilities to customers as an increase on their monthly telephone bill. As a result, expenditures for this program will affect the amount of those assessments during the biennium. Staff from the Public Service Commission, which currently sets the assessment rate for the TEACH access program, indicates that the current assessment rate is based on all of the funding in the Joint Finance Committee's appropriation being released. However, if the Joint Finance Committee does not release all of the funding for this biennium, the assessment rate would be reduced during the biennium to reflect actual expenditure authority for the program.

Under Act 9, \$10.7 million in 1999-00 and \$12.8 million in 2000-01, excluding the \$2.0 million in 1999-00 and \$3.3 million in 2000-01 held in reserve in Joint Finance Committee's appropriation would be assessed to fund the TEACH program, UW BadgerNet program and BadgerLink. Because the pass-through assessment affects millions of telephone customers, the Committee may wish to limit expenditure authority for the TEACH access program to projected costs that cannot otherwise be funded.

*Federal E-Rate Monies.* Another revenue source that TEACH receives related to the telecommunications access services is the funding provided from the federal universal service fund under the federal E-Rate program. The federal E-Rate program provides eligible schools and

libraries with federally funded discounts on telecommunications services, Internet access and internal connections (computer wiring, hubs and routers). Discounts, which range from 20 to 90 percent, are based in part on the number of students eligible for the federal free and reduced price school lunch program and the classification of the school or library as rural or urban.

For the 1999-00 program year, the TEACH Board filed the state's 1999 E-Rate application on behalf of anticipated TEACH telecommunications access applicants. As a result of this filing, the TEACH Board received a funding commitment decision letter indicating that the Board could receive up to \$3,884,900 in discounts for the second year of the federal program. This amount reflects a 52% discount for schools and libraries receiving TEACH eligible telecommunications services. Actual E-Rate revenues received by TEACH may be less than the indicated \$3.9 million due to participation of the schools and libraries. As of March 31, 2000, the Board had received \$537,700 in E-Rate funding from telecommunications providers. Of this funding, \$405,600 was for discounts to school districts and CESAs, \$104,100 was for discounts to libraries and \$28,000 was for discounts to private K-12 schools. As of March 31, 2000, no expenditures had been made from this revenue source. Staff from TEACH indicates that the Board has not yet approved an expenditure plan for the E-Rate funds.

During the 1999-00 budget deliberations, the Joint Finance Committee and subsequently the Legislature approved provisions that would have ensured that the federal E-Rate moneys received by the TEACH Board would be directly applied to reduce the total costs of the state's telecommunications access program, thus reducing the amount of assessments needed to fund the program. Under the budget bill as approved by the Legislature, appropriations would have been created for the receipt of any E-Rate funding and these appropriations would have specified that all monies received under the appropriations would be used to offset the spending in the SEG appropriations that fund schools and libraries.

The Governor vetoed these new appropriations and in his veto message directed the TEACH Board to offset state spending on telecommunications access subsidies to the extent possible and not to use the federal E-Rate money for additional staff. As a result of this veto, any funding received under the E-Rate program is currently deposited into TEACH's federal appropriation. The TEACH Board may administer and expend all monies deposited into a federal appropriation according to the provisions of the federal grant or program under which the monies were received. In addition, the Board can request that the Governor create or abolish positions to be funded from the appropriation. The Governor is required to report to the Committee, at least quarterly, of any federal funds received in excess of those approved in the biennial budget process and of any federal positions created or abolished.

If the revenues received from the E-Rate program would be used to directly offset the costs of the telecommunications access program, the need for a release of the reserves from the Committee's appropriation could be reduced. Table 3 shows the balance by appropriation, if the E-Rate funding received by TEACH as of March 31, 2000, would be applied to projected program costs in 1999-00. It is anticipated that TEACH will receive additional E-Rate funding; however, the timing and amount of those payments is currently unknown.

**TABLE 3**

**Effects of Applying E-Rate Funding to Offset  
1999-00 Projected Telecommunications Access Costs**

	<u>TEACH's Appropriation</u>	<u>Projected Net Costs</u>	<u>Balance</u>	<u>E-Rate Funding*</u>	<u>Balance After E-Rate Funding</u>
School Districts and CESAs	\$6,427,100	\$7,625,700	-\$1,198,600	\$405,600	-\$793,000
Private and Technical Colleges and Public Libraries	1,850,700	2,642,000	-791,300	104,100	-687,200
Private K-12 Schools	<u>665,900</u>	<u>510,400</u>	<u>155,500</u>	<u>28,000</u>	<u>183,500</u>
Totals	\$8,943,700	\$10,778,100	-\$1,834,400	\$537,700	-\$1,296,700

\* Funding received as of March 31, 2000.

After applying the E-Rate funding received through March 2000 to offset 1999-00 projected costs for the TEACH access program, projected unfunded costs are reduced by \$537,700 SEG. The Finance Committee could consider directing TEACH to use the E-Rate revenues it receives to offset unfunded projected costs, thereby decreasing the amount of assessment funding needed for the program.

*Transfer of Projected Surplus Funding.* In addition to the applying the federal E-Rate monies to offset projected costs of the program, the Joint Finance Committee could consider transferring the projected surplus funding from the appropriation which funds private K-12 schools to an appropriation with a projected funding shortfall. This would further reduce the amount of supplemental funding needed from the Joint Finance Committee's appropriation to fund TEACH's request in 1999-00.

TEACH's revised request also asks that surplus funding in the access appropriations be transferred to cover the projected shortfall in funding. Under TEACH's request, all three appropriations would first receive a supplement and then money would be transferred from two appropriations with projected excess funding into the school district appropriation. However, the private K-12 school appropriation does not require a supplement. Therefore, it would be simpler to transfer the excess funding from the private schools appropriation to an appropriation with a projected funding shortfall and then supplement only those appropriations that still are projected to have a shortfall.

The Joint Finance Committee could consider transferring the projected surplus funding after taking into account the E-Rate monies received by TEACH through March 2000. Under this alternative, \$183,500 SEG could be transferred from the private K-12 schools appropriation to the colleges and libraries appropriation, and the Committee could provide a supplement to cover the remaining projected unfunded costs of \$1,296,700 SEG for the colleges and libraries (\$503,700) and school districts (\$793,000) appropriations.

## Other Costs

In its revised request, TEACH identified a number of other costs it wishes to fund in 1999-00. These other costs total \$1,924,500 SEG in 1999-00. Of this amount, \$93,800 is statutorily required to be paid for upgrades to the ERVING network. Of the remaining amounts, \$1,801,000 million is for the installation of two gateways and \$29,700 for distance education scheduling. Both of these are items that have not been previously funded by TEACH nor specifically required by statute to be funded. The Committee may wish to consider whether funding should now be provided for these additional items. As noted above, funding for these items would be from telecommunication provider assessments that could be directly passed on the customer. Any increased costs for the access program will directly affect this assessment.

*Scheduling Costs.* As indicated above, TEACH has already entered into an agreement in which it paid DTM \$30,000 for the video network scheduling and tracking usage services. Under the agreement, TEACH is to receive monthly usage reports and distance education networks receive scheduling services. The statutes do not require that TEACH fund this service for distance education networks. Through its administrative rules; however, TEACH is authorized to provide scheduling software, while specifically prohibited from funding personnel costs associated with scheduling. Due to the fact the agreement is already in place and paid for it may be unreasonable at this time to deny TEACH's request for funding this cost. If the Committee denied this portion of the request, TEACH would have to find another source of funding to pay these costs as services have already been provided under the agreement.

*Gateways.* TEACH is also requesting funding for the gateway installation in 1999-00. Gateways are used to allow video networks with different technology to connect. TEACH believes it should fund the costs of these gateways so that all networks can share educational programming resources statewide and outside the state. TEACH staff indicate that these gateways are needed to meet the Board's goal of a common statewide network for interactive video.

In its first request in November, TEACH projected the installation of four gateways at \$350,000 in 1999-00. In its March submission, TEACH projected that the cost of four gateways would be \$500,000 in 1999-00. In its most recent revised request, TEACH projected that costs for installation of two gateways would be \$1,801,000 in 1999-00 and an additional \$930,900 in 2000-01 for the installation of two more gateways. This would result in a total cost of \$2,731,900 for the installation of four gateways over two years. In 1999-00, the gateways would be installed for two distance education networks, KSCADE and JEDI, and in 2000-01, TEACH intends to install one gateway for the Project Circuit Network and one in Milwaukee.

Staff from TEACH indicate the cost estimates for the gateways have increased due to advances in technology and the purchase of better quality gateway configurations that would promote more usage by the networks. DTM provided TEACH with cost estimates for the installation of the four gateways over two years. TEACH notes in its revised request that the cost estimates are based on e-mails sent to DTM and that no formal proposals have been presented nor has a contract or amendment been signed to guarantee these prices. The 1999-00 costs include: (a)

gateway hardware and networking costs (\$1,285,500); (b) scheduling software (\$275,100); (c) DTM administrative charges (\$234,100); and (d) DTM system testing and certifications charges (\$6,300). TEACH indicates, that if funding is approved, it would order the gateways by May 31, 2000 so installation could occur by July 31, 2000 and the networks could begin scheduling programs for the upcoming school year.

There are several factors that warrant consideration regarding the request for funding for these gateways. First, over the last seven months the cost estimates for these gateways have increased dramatically (approximately 680%), and due to the informal nature of the most recent estimates it is possible actual costs will be different from the \$1,801,000 requested. Second, it is questionable given the remaining time this fiscal year and an intended installation date of July 31, 2000, that TEACH would expend all of funding provided for the gateways in this fiscal year. Third, of the \$1,801,000 requested for this service, \$240,400 or 13% would be for administrative and testing costs that would be charged to TEACH by DTM. The Division indicates that the payments for administrative costs would include: (a) engineering and design; (b) managing the implementation of the gateway; (c) system check-out; (d) project management; (e) vendor oversight; and (f) on-going administration of the network. However, because this is new technology, DTM was unable to allocate the expenses by type of service to be provided. DTM notes that because this technology has never been implemented before, the cost estimates are based on prior experience with the TEACH video and data network. DTM did indicate that the majority of the costs would be in engineering and design, managing the implementation, system check-out and project management.

One could also question whether the requested funding for these gateways should be provided at this time. In the 1997-99 and 1999-01 budgets funding for the access program was provided based on cost estimates for individual data lines and video links. Specific costs for gateways were not discussed by the Legislature; rather TEACH through administrative rules has determined that these costs may be funded. Given the substantial cost in funding these gateways and the lack of finalized cost information, it may be desirable to deny funding for gateways at this time and instead have TEACH include this item in its biennial budget request. This would provide the opportunity to review this issue as it relates to the entire TEACH program and allow the entire Legislature to vote on this issue.

Table 4 below shows, by appropriation, projected costs for the program excluding funding for gateways and using E-Rate revenues to offset projected costs.

**TABLE 4**

**Projected Costs and Balances Excluding Gateways and after Receipt of E-Rate Funding  
for the 1999-00 Projected Telecommunications Program**

	<u>TEACH's Appropriations</u>	<u>Projected Net Costs</u>	<u>Balance</u>	<u>E-Rate Funding*</u>	<u>Balance After E-Rate Funding</u>
School Districts and CESAs Private and Technical Colleges and Public Libraries	\$6,427,100	\$6,223,500	\$203,600	\$405,600	\$609,200
Private K-12 Schools	<u>1,850,700</u>	<u>2,352,800</u>	<u>-502,100</u>	<u>104,100</u>	<u>-398,000</u>
	<u>665,900</u>	<u>400,800</u>	<u>265,100</u>	<u>28,000</u>	<u>293,100</u>
Totals	\$8,943,700	\$8,977,100	-\$33,400	\$537,700	\$504,300

\* Funding received as of March 31, 2000.

As can be seen in Table 4, if funding for gateways is not approved at this time and E-Rate revenues were used to offset program costs, only the appropriation for colleges and libraries is projected to have a funding shortfall and this shortfall could be funded by transferring \$398,000 from the school district appropriation to the colleges and libraries appropriation.

It is also possible that the additional E-Rate funding that TEACH is expected to receive could cover the remaining projected shortfall. Consequently, releasing the reserve for funding at this time could be considered premature. The Committee could consider denying the request for a supplement at this time based on the assumption of receipt of E-rate monies over the course of the 1999-01 biennium sufficient to cover any shortfalls in SEG funding. If TEACH does not receive E-Rate monies sufficient to cover the projected costs, excluding gateways, the Board could return to the Joint Finance Committee and request release of additional funding.

**DOA's Division of Technology Management Charges**

In addition to the administrative gateway charges of \$240,400 in 1999-00, DTM, under TEACH's request would also receive approximately \$558,400 in charges for the following: (a) \$222,800 for video link services; (b) \$245,000 for router services; (c) \$60,600 for each new data line installation; and (d) \$30,000 for scheduling services. Therefore, under this request DTM would receive a total of approximately \$798,800 or 40% of the total requested funding. Given the amount of money being spent on these services, it may be appropriate to review these charges in detail during the next biennial budget process.



**ATTACHMENT**

**1999-00 Projected Telecommunications Access Costs, Revenues from  
Monthly Charges and Entities Served by Appropriation**

**School Districts and CESAs**

	<u>Entities</u>	<u>Costs</u>	Revenues from Monthly <u>Charges</u>	<u>Net Cost</u>
Data Lines	166	\$1,298,500	\$201,300	\$1,097,200
Video Links (A)	113	3,031,900	297,500	2,734,400
Existing Contracts	119	2,274,400	0	2,274,400
Other Costs (B)	<u>0</u>	<u>1,519,700</u>	<u>0</u>	<u>1,519,700</u>
<b>Totals</b>	<b>398</b>	<b>\$8,124,500</b>	<b>\$498,800</b>	<b>\$7,625,700</b>

**Private and Technical Colleges and Public Libraries**

Data Lines	299	\$2,073,200	\$304,600	\$1,768,600
Video Links (A)	25	652,400	73,300	579,100
Other Costs (C)	<u>0</u>	<u>294,300</u>	<u>0</u>	<u>294,300</u>
<b>Totals</b>	<b>324</b>	<b>\$3,019,900</b>	<b>\$377,900</b>	<b>\$2,642,000</b>

**Private K-12 Schools**

Data Lines	46	\$269,500	\$40,800	\$228,700
Video Links (A)	5	115,200	15,000	100,200
Existing Contracts	9	71,000	0	71,000
Other Costs (D)	<u>0</u>	<u>110,500</u>	<u>0</u>	<u>110,500</u>
<b>Totals</b>	<b>60</b>	<b>\$566,200</b>	<b>\$55,800</b>	<b>\$510,400</b>

- (A) Includes a portion of Division of Technology Management charges of \$222,800 for 43 new video links.
- (B) Includes a portion of the costs for: (1) contracting for network scheduling (\$23,700); and (2) purchasing two gateways that would allow connections between distance education networks with different types of technology (\$1,402,200). In addition, includes the one-time funding for the ERVING upgrade as required by 1999 Act 9 (\$93,800).
- (C) Includes a portion of the costs for: (1) contracting for network scheduling (\$5,100); and (2) installation of two gateways (\$289,200).
- (D) Includes a portion of the costs for: (1) contracting for network scheduling (\$900); and (2) installation of two gateways (\$109,600).

TEACH BOARD

E-Rate Funding -- \$400,000 Retained by TEACH and  
Future E-Rate Monies Reduce PSC Assessment

Motion:

Move to release \$1,696,700 SEG in 1999-00 from the Committee's appropriation (s.20.865.(4)(u)) to supplement the following TEACH telecommunications access appropriations: \$1,193,000 to s. 20.275(1)(s) and \$503,700 to s.20.275(1)(t). In addition, transfer \$183,500 SEG in 1999-00 from the private K-12 school access appropriation (s. 20.275(1)(tm)) to the colleges and public libraries appropriation (s. 20.275(1)(t)). Finally, require that all E-Rate funding, except for \$400,000 in 1999-00, received in each year would be used to reduce the PSC assessment on telephone customers.

Note:

Under this motion, \$137,700 of available E-Rate monies would be used to reduce the amount of SEG funding released to TEACH and \$400,000 of E-Rate monies would remain available for other use by TEACH. The motion would require that future E-Rate monies be used to reduce the PSC assessment on telephone companies.

MO#			
	BURKE	Y	N A
	DECKER	Y	N A
	JAUCH	Y	N A
	MOORE	Y	N A
	SHIBILSKI	Y	N A
	PLACHE	Y	N A
	COWLES	Y	N A
	DARLING	Y	N A
2	GARD	Y	N A
	PORTER	Y	N A
	KAUFERT	Y	N A
	ALBERS	Y	N A
1	DUFF	Y	N A
	WARD	Y	N A
	HUBER	Y	N A
	RILEY	Y	N A
	AYE	8	NO 8 ABS

Motion #102

**13.10 Meeting**  
**Wednesday, May 3, 2000**  
**Agenda Item V**

**Issue:** District Attorneys: Request for Transfer of 0.2 GPR Assistant District Attorney Position from Rusk County to Adams County

**Recommendation:** (Alternative 1 **OR** Alternative 2 – *see discussion below*)  
**and** Alternative 3.

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**Comments:**

Rusk County is willing to reduce an ADA position by 0.2. The WDAA recommended transferring the position to Adams County, assuming that AB 721 funding 5 ADA positions would become law, which did not happen.

Without passage of AB 721, Columbia County shows the greatest need based on workload.

**Alternative 1:** This alternative sticks with the WDAA's original recommendation to transfer the 0.2 position to Adams County, even though Columbia County shows the greatest need. **WDAA continues to support Alternative 1** because it is holding out hope that the Legislature will still reach agreement on funding 5 district attorney positions included in AB 721, which failed to pass.

**OR**

**Alternative 2:** This alternative transfers the 0.2 position to Columbia County which currently shows the greatest need based on caseload analysis. In the past, positions have traditionally been allocated based on a weighted caseload analysis. Consistency and logic would seem to dictate that Columbia County receives the 0.2 position.

**AND**

**Alternative 3** deletes \$4,200 to reflect the cost savings associated with the difference in current wage rates between the Rusk County ADA and an ADA hired at the entry-level wage. This is fiscally responsible.

**Prepared by:** Deb



## Legislative Fiscal Bureau

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

May 3, 2000

TO: Members  
Joint Committee on Finance

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FROM: Bob Lang, Director

SUBJECT: District Attorneys: Section 13.10 Request for Transfer of 0.2 GPR Assistant District Attorney Position From Rusk County to Adams County -- Agenda Item V

### REQUEST

The Department of Administration (DOA) requests the transfer of 0.2 GPR assistant district attorney (ADA) position from the Rusk County District Attorney's Office to the Adams County District Attorney's Office.

### BACKGROUND

District Attorneys are currently authorized 370.0 GPR and 42.50 PR positions for a total of 412.5 prosecutor positions, including district attorneys (DAs), deputy district attorneys (DDAs) and assistant district attorneys (ADAs). This includes 10.0 PR project positions, 4.0 of which were recently approved for Milwaukee County by the Joint Committee on Finance on March 20, 2000, under a s. 16.505 passive review.

1999 Act 9, the biennial budget act, provided a total of \$217,200 GPR and 6.0 GPR prosecutor positions in 1999-00 and \$318,700 GPR and 6.65 GPR prosecutor positions in 2000-01. The additional positions were allocated as follows: (a) 6.0 ADA positions in Milwaukee County for the "Project Ceasefire" initiative; and (b) 0.4 position in Forest County, 0.05 position in Richland County and 0.2 position in Rusk County to make those district attorneys full-time, effective with the 2000 general election. A gubernatorial veto deleted funding and position authority for an additional 17.0 ADA positions.

Act 9 provided Rusk County with an additional \$9,000 GPR and 0.2 GPR position in 2000-01 and associated statutory language changes to make the DA full-time. Currently, the Rusk

County DA is a 0.8 GPR position. There is also a 0.7 GPR ADA position in the Rusk County office, for a total of 1.5 GPR positions in Rusk County.

According to the DOA request, the person who holds the ADA position is also employed by Rusk County as its 0.3 full-time equivalent (FTE) corporation counsel (county-funded). The Rusk County Board of Supervisors, the Rusk County DA and the Rusk County ADA reached written agreements under which the Rusk County DA petitioned DOA to reduce the ADA position by 0.2 GPR effective January 1, 2001, so that the ADA can increase his employment as corporation counsel by 0.2 FTE.

As a result, DOA requested that the Wisconsin District Attorneys Association (WDAA) advise it as to which district attorney office should receive the additional 0.2 position. In December, 1999, the WDAA asked all interested DA offices to submit an application for the 0.2 position to the WDAA. An Ad Hoc Allocation Committee, consisting of DAs who did not request the position, was created to consider the requests.

Concurrent with the application process for the 0.2 position, the WDAA was asked to recommend the allocation of 5.0 GPR ADA positions that would have been provided under Assembly Bill 721. Assembly Bill 721 would have required DOA, in consultation with the WDAA, to determine the counties to which the positions would be allocated. As a result, the Ad Hoc Allocation Committee was asked to recommend both the transfer of the 0.2 ADA position from Rusk County and the distribution of the 5.0 ADA positions in AB 721. Consequently, the Ad Hoc Allocation Committee made its recommendations based on the presumed availability of 5.2 ADA positions.

On March 28, 2000, the Joint Committee on Finance recommended AB 721 for passage by a vote of 15 to 1, as amended by Assembly Amendments 1 and 2. Assembly Amendment 1 would have allowed DOA, after receiving a recommendation from the WDAA, to transfer ADA positions from a county that has a vacancy to another county, provided that: (a) the vacancy occurs in a county that has a workload of less than 100% of a standard full-time workload, according to the weighted prosecutor caseload measurement formula; (b) the county receiving the position has a prosecutor workload of more than 100% of a standard full-time workload and has requested additional ADA position authorization; and (c) the transfer would not result in the county with the vacancy to have a prosecutor workload of more than 100%. Assembly Amendment 2 would have deleted DOA's authority to determine where the 5.0 positions would be allocated and would have instead assigned the positions to specific counties as recommended by the WDAA (discussed below).

On March 29, 2000, the Assembly passed AB 721 on a vote of 90 to 6, as amended by AA 1 to AA 1, AA 1 and AA 2. Assembly Amendment 1 to AA 1 would have required that the WDAA and DOA also consider population trends in a county with a vacancy when contemplating position transfers. The bill was not taken up in the Senate.

## ANALYSIS

The following 16 counties originally applied for the 0.2 ADA position: (a) Adams; (b) Ashland; (c) Brown; (d) Columbia; (e) Dane; (f) Dodge; (g) Jefferson; (h) Langlade; (i) Kenosha; (j) Marathon; (k) Marinette; (l) Oneida; (m) Outagamie; (n) Pepin; (o) Rock; and (p) Taylor. In addition, 13 counties submitted separate requests for a portion of the 5.0 ADA positions. The following counties submitted a request, with the number of positions requested, if specified by the county, in parentheses: (a) Brown; (b) Columbia (1.0); (c) Dane (1.0 or more); (d) Grant (0.5); (e) Kenosha (0.7); (f) La Crosse (at least 0.3, but preferably 0.5); (g) Oneida (1.0); (h) Outagamie; (i) Rock (1.0); (j) Sauk (2.0); (k) Sheboygan (1.0); (l) Taylor (0.2); (m) Washburn (0.5); and (n) Winnebago (1.0).

The Ad Hoc Allocation Committee limited its consideration to those counties whose workload was greater than 130% (that is, the prosecutors in the office handle 130% or more of the caseload). This calculation is based on a weighted prosecutor caseload analysis that uses: (a) the average of 1996-98 case filings by type of case; (b) the assumption that, on average, each prosecutor has 1,227 hours per year to prosecute cases; and (c) an average number of hours for each type of case.

Using this methodology, the following counties demonstrate a 130% or greater workload: (a) Adams; (b) Ashland; (c) Burnett; (d) Columbia; (e) La Crosse; (f) Manitowoc; (g) Marathon; (h) Marquette; (i) Monroe; (j) Oneida; (k) Rock; (l) Sauk; (m) Sawyer; (n) Sheboygan; (o) Washburn; and (p) Winnebago. The attachment lists how all counties rank with respect to workload, based on 1996-98 average case filings and current positions. Note that the attachment does not include the Act 9 provisions making Forest, Richland and Rusk County DAs full-time, which will be effective with the year 2000 general election.

In making its recommendations, the Ad Hoc Committee examined available data, reviewed the requests and held a hearing at which district attorneys could present their reasons for requesting a position. The WDAA recommended the following distribution of 5.2 ADA positions.

<b>County</b>	<b>Recommended Positions</b>
	<u>S. 13.10 Request</u>
Adams	0.20 (transfer from Rusk County)
	<u>AB 721</u>
Burnett/Washburn	Share 0.5 position or create two separate 0.25 positions
Columbia	0.50
La Crosse	0.30
Marathon	0.50
Manitowoc/Sheboygan	Share 1.0 position or create two separate 0.5 positions
Marquette	0.20
Oneida	0.50
Rock	0.75
Winnebago	<u>0.75</u>
TOTAL	5.20

According to a letter submitted by Adams County DA, the additional 0.2 ADA position would be used to handle all types of cases. Initially, however, it would handle juvenile delinquency cases. The Adams County DA letter indicates that since 1978, when the current DA was first elected, Adams County has been a single DA office. According to the weighted caseload analysis based on 1996-98 case filings, the Adams County DA office needs an additional 0.46 ADA position and handles 146% of a full-time caseload.

Consequently, the Committee could adopt the WDAA recommendation by approving the transfer of 0.2 GPR ADA position from Rusk County to Adams County. However, it should be noted that the WDAA recommendation was based on passage of AB 721, which did not occur. As a result, the Committee may wish to allocate the 0.2 position to the county showing the greatest need based on workload that applied for the position and was recommended by the WDAA to receive a position.

According to the weighted caseload analysis, Columbia County needs an additional 1.99 ADA positions and the prosecutors handle 166% of the caseload. As shown in the above table, the WDAA recommended a 0.5 ADA position for Columbia County. In the letter of application for the 0.2 position, the Columbia County DA stated that the 0.2 ADA position would be a separate position that would be assigned to traffic and ordinance pretrials and would assist with reviewing reports and drafting complaints. In addition, the letter states that the DA office has a person who currently works in Columbia County as a public interest special prosecutor who is willing to take the part-time position. The letter also adds that the DA office has space and equipment to accommodate the new position. Consequently, the Committee could allocate the 0.2 GPR ADA position to Columbia County.

If the Committee chooses to transfer the 0.2 ADA position, the Committee could delete \$4,200 GPR in 2000-01 to reflect the cost savings associated with the difference in current wage

rates between the Rusk County ADA and an ADA hired at the entry-level wage. Alternatively, the Committee could choose to deny the request, in which case the 0.2 ADA position would remain in Rusk County. DOA could then request the transfer of the position during the 2001-03 biennial budget process. Finally, the Committee could choose to delete 0.2 Rusk County ADA position, effective January 1, 2001. This would result in savings of \$9,000 GPR in 2000-01.

## ALTERNATIVES

1. Approve DOA's request to transfer 0.2 GPR ADA position from Rusk County to Adams County, effective January 1, 2001.

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2. Effective January 1, 2001, transfer 0.2 GPR ADA position from Rusk County to Columbia County, which shows the greatest prosecutorial need of the counties that submitted a request for the position.

3. In conjunction with either alternative 1 or 2, delete \$4,200 GPR in 2000-01 to reflect the cost savings associated with the difference in current wage rates between the Rusk County ADA and an ADA hired at the entry-level wage.

4. Deny the request and, effective January 1, 2001, delete 0.2 GPR ADA position from Rusk County and \$9,000 GPR in 2000-01.

5. Take no action.

Prepared by: Barbara Zabawa  
Attachment

## ATTACHMENT

### District Attorney Weighted Caseload Using 1996-98 Average Cases Filed

<u>County</u>	<u>Current Positions (Inc. Project Positions)</u>	<u>Additional Positions Needed</u>	<u>Current Prosecutor Workload</u>	<u>County</u>	<u>Current Positions (Inc. Project Positions)</u>	<u>Additional Positions Needed</u>	<u>Current Prosecutor Workload</u>
Forest*	0.60	0.61	202%	Dodge	4.00	0.24	106%
Burnett	1.00	0.68	168	Juneau	2.00	0.12	106
Columbia	3.00	1.99	166	Clark	2.00	0.11	106
Oneida	2.00	1.29	165	Milwaukee**	120.00	3.85	103
Manitowoc	4.00	2.47	162	Dane	34.00	0.87	103
Washburn	1.00	0.57	157	Trempealeau	1.60	0.04	103
Winnebago	8.00	4.40	155	Price	1.00	0.02	102
Monroe	3.00	1.45	148	Walworth	5.00	-0.12	98
Marathon	7.00	3.38	148	Portage	4.00	-0.15	96
Ashland	1.50	0.71	147	Dunn	3.50	-0.14	96
Sheboygan	7.00	3.22	146	Barron	3.00	-0.21	93
Adams	1.00	0.46	146	Waupaca	4.00	-0.30	93
La Crosse	7.50	2.79	137	Wausara	1.50	-0.12	92
Sawyer	2.00	0.68	134	Waukesha	18.50	-1.56	92
Rock	13.50	4.40	133	Calumet	2.00	-0.19	91
Eau Claire	8.00	2.60	133	Pepin	0.60	-0.08	87
Marquette	1.00	0.32	132	Florence	0.50	-0.08	84
Sauk	4.50	1.35	130	Green Lake	1.50	-0.25	83
Ozaukee	3.00	0.86	129	Crawford	1.00	-0.18	82
Shawano/Men.	3.00	0.85	128	Buffalo	1.00	-0.21	79
Jefferson	5.30	1.47	128	Jackson	2.00	-0.44	78
Polk	2.00	0.52	126	Kewaunee	1.50	-0.33	78
Langlade	1.50	0.38	125	Iowa	1.75	-0.43	75
Fond du Lac	5.00	1.26	125	Rusk*	1.50	-0.40	73
Outagamie	9.00	1.93	121	Richland*	1.75	-0.58	67
Kenosha	12.00	2.48	121	Iron	1.00	-0.34	66
Taylor	1.00	0.20	120	Vilas	2.00	-0.71	65
Washington	5.00	0.92	118	Lafayette	1.00	-0.38	62
Grant	2.00	0.35	118	St. Croix	6.00	-2.34	61
Brown**	12.00	2.07	117	Pierce	3.00	-1.51	50
Lincoln	2.00	0.34	117	Vernon	<u>2.40</u>	<u>-1.23</u>	<u>49</u>
Oconto	1.50	0.24	116	TOTAL	412.50	43.84	111%
Marinette	2.50	0.38	115				
Bayfield	1.00	0.15	115				
Douglas	3.50	0.36	110				
Chippewa	4.00	0.40	110				
Green	2.00	0.20	110				
Door	2.00	0.18	109				
Wood	4.00	0.36	109				
Racine	19.00	1.60	108				

\*Forest, Richland and Rusk Counties will have a full-time District Attorney beginning 1-1-01.

\*\*Includes 1.0 sexually violent person commitment prosecutor.

**13.10 Meeting**  
**Wednesday, May 3, 2000**  
**Agenda Item VI**

**Issue:** Supreme Court: Request for Funding Supplement Regarding a Judicial Selection Study

**Recommendation:** Alternative 1

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**Comments:** This alternative provides funding from JFC's supplemental appropriation to support the hiring of a research reporter for the Committee to Study and Report on Methods of Judicial Selection that would result in increased racial and ethnic diversity of judges in the courts.

A research reporter is needed because the staff of the Director of State Courts Office lacks the background needed to meet the study committee's needs and the study committee members are unable to provide on their own the research and drafting necessary.

Professor Charles D. Clausen of the Marquette University Law School faculty has been selected to serve as the research reporter.

FYI: Judge Maxine White called to encourage you to approve the request and ask if you had any questions. (414) 278-4482

**Prepared by:** Deb



## Legislative Fiscal Bureau

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

May 3, 2000

TO: Members  
Joint Committee on Finance

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FROM: Bob Lang, Director

SUBJECT: Supreme Court: Section 13.10 Request for Funding Supplement Regarding a Judicial Selection Study -- Agenda Item VI

### REQUEST

The Director of State Courts Office requests a supplement of \$16,000 GPR in 1999-00 and \$24,000 GPR in 2000-01 to its general program operations appropriation to support the hiring of a consultant to help staff the Committee to Study and Report on Methods of Judicial Selection, as created in 1999 Act 9, the biennial budget act.

### BACKGROUND

1999 Act 9 established a committee to study judicial subdistricts and other methods of judge selection that would result in increased racial and ethnic diversity of judges in the courts. Act 9 provided that the Committee be comprised of nine members as follows: (a) the Chief Justice of the Supreme Court; (b) the Chief Judge of the Milwaukee County Judicial Administrative District serving as vice-chair; (c) three additional judges appointed by the Chief Justice, with at least one judge being a member of a minority group; and (d) four public members, appointed by the Governor, with at least two of the members being from a minority group. The Governor is responsible for designating the chair of the study committee. The study committee is required to submit a report of its findings and recommendations to the appropriate Senate and Assembly standing committees, the Governor and the Supreme Court by December 31, 2000. Although Act 9 did not provide funding for staff support, it required the Director of State Courts to provide staff services to the study committee. The members of the study committee are to be reimbursed for their actual and necessary expenses incurred in performing their duties as members of the study committee from the Supreme Court's general program operations appropriation (a sum sufficient appropriation).

On December 8, 1999, the Governor announced his four appointees to the study committee: (a) Judge Maxine White of Milwaukee (chair); (b) Judge M. Joe Donald of Wauwatosa; (c) Marquette Law Professor Frank De Guire; and (d) Attorney Jerry Boyle of Mequon. Chief Justice Shirley Abrahamson appointed the following study committee members: (a) Judge Angela Bartell of Madison; (b) Judge Dennis Flynn of Racine; and (c) Judge Stanley Miller of Milwaukee. In addition, Judge Michael Skwierawski of Milwaukee County is vice-chair (as required by 1999 Act 9). The Director of State Courts indicates that Chief Justice Abrahamson declined to serve on the study committee due to the risk of having to disqualify herself if issues relating to the committee's work came before the Supreme Court. Consequently, the Chief Justice appointed Appeals Court Judge Neal Nettesheim to take her place on the committee.

The study committee held its first meeting in Milwaukee on February 11, 2000, and expects to meet 10 or 11 more times during the year. The study committee plans to have a preliminary draft report completed by September, 2000, in order to meet the December 31, 2000, deadline for the final report.

## ANALYSIS

Although 1999 Act 9 requires the Director of State Courts Office to provide staff services to the study committee, the Office indicates that its current staff does not have the appropriate background needed to meet the study committee's needs, and study committee members are unable to provide on their own the research and drafting necessary to meet the requirements of 1999 Act 9. As a result, the Director of State Courts Office indicates in its request that a research reporter is needed to conduct research and provide: (a) reports and other data concerning methods of judicial selection employed within the United States; (b) an analysis of the advantages and disadvantages associated with those methods; and (c) demographic and historical data concerning the Wisconsin population and judicial elections. In addition, the research reporter would draft the report that is to be provided to the Legislature, Governor and Supreme Court.

The chair and vice-chair, both of whom are Milwaukee County Circuit Court judges, indicate that it would be beneficial to have the research reporter in close proximity to their offices. In addition, the committee work requires a person with substantial practice experience in Wisconsin courts, academia, and with serving as a research reporter in study/reform committees. With these criteria in mind, the chair and vice-chair selected Professor Charles D. Clausen of the Marquette University Law School faculty to serve as research reporter. According to the request, Professor Clausen has practiced law in Wisconsin for 25 years and has been a member of the Marquette University faculty for 22 years. In addition, he has served as a reporter on several committees and is author of a book on campaign ethics rules for Wisconsin judges.

The Director of State Courts Office indicates that Professor Clausen and the study committee chair, Judge Maxine White, agreed that he would serve as the research reporter for the study

committee for a flat fee of \$4,000 per month for ten months, for a total of \$40,000. This amount assumes Professor Clausen would work approximately 500 hours at an hourly rate of \$80. According to the Director of State Courts Office, Professor Clausen's normal billing rate is \$150-\$200 per hour. However, Professor Clausen has agreed to perform the research reporter services at a rate that is less than half his normal rate. According to Judge White, Professor Clausen has been doing work for the study committee since February under the goodwill representations made by the chair and vice-chair of the committee.

The Director of Sate Courts Office indicates that its general program operations appropriation has no money available for reallocation to support these specialized services needed by the study committee, due to prior obligations and salary increases for information technology staff. A review of expenditures, encumbrances and budget projections of this appropriation appears to support this. However, the Office has indicated that wherever possible, current staff, resources and in-kind services would be used to help support the study committee's efforts.

As a result, the Committee could provide \$16,000 GPR in 1999-00 and \$24,000 GPR in 2000-01 in the Director of State Courts' general program operations appropriation to fund the research reporter services from March 1, 2000 through December 31, 2000. Alternatively, the Committee may wish to deny the request. If denied, Judge White has indicated that Professor Clausen would not be able to perform the research reporter duties. Furthermore, Judge White states that without the services of Professor Clausen, the study committee's mission and work would be critically impaired.

**ALTERNATIVES**

1. Approve the Director of State Court Office's request to provide \$16,000 GPR in 1999-00 and \$24,000 GPR in 2000-01 from the Committee's supplemental appropriation under s. 20.865(4)(a) to the Director of State Courts' general program operations appropriation under s. 20.680(2)(a) to support the hiring of a research reporter for the Committee to Study and Report on Methods of Judicial Selection.

2. Deny the request.

Prepared by: Barbara Zabawa

MO#		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
		N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
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		BURKE	DECKER	JAUCH	MOORE	SHIBILSKI	PLACHE	COWLES	DARLING	GARD	PORTER	KAUFERT	ALBERS	DUFF	WARD	HUBER	RILEY
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## Legislative Fiscal Bureau

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

May 3, 2000

TO: Members  
Joint Committee on Finance

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FROM: Bob Lang, Director

SUBJECT: Corrections: Parole Commission Supplies and Services -- Agenda Item VII

### BACKGROUND

Under current law, the six-member Parole Commission is created in the Department of Corrections. Members of the Commission include a chairperson who is nominated by the Governor and, with the advice and consent of the Senate, appointed for a two-year term, and five members in the classified service appointed by the Chairperson. Statutes require that members have knowledge of or experience in corrections or criminal justice. The Parole Commission Chairperson may be removed by the Governor at his or her pleasure.

The Chairperson of the Parole Commission is required to administer and supervise the Commission and its activities and be the final parole granting authority. (Statutes do allow the Secretary of the Department of Corrections to make parole release decisions in certain circumstances.) The Parole Commission is required to conduct regularly-scheduled interviews to consider the parole of eligible inmates from adult correctional institutions, eligible inmates transferred to mental health facilities and under the control of the Department of Health and Family Services and eligible inmates in any county house of correction. The Department of Corrections is required to provide all of the following to the Parole Commission: (a) records relating to inmates who are in the custody of the Department and are necessary to the conduct of the Commission's responsibilities; (b) scheduling assistance for parole interviews at the correctional institutions; (c) clerical support related to the parole interviews; and (d) appropriate physical space at the correctional institutions to conduct the parole interviews.

Funding for the Parole Commission in the 1999-01 biennium is \$727,800 GPR annually with 12.0 GPR positions (the six members of the Commission and six staff). In addition, the

Department of Corrections has \$45,000 GPR annually allocated to support salary and fringe benefit costs of the Parole Commission.

## REQUEST

The Department of Corrections requests that \$30,000 GPR in 1999-00 be transferred from the Committee's appropriation under s. 20.865(4)(a) to the Parole Commission's appropriation under s. 20.410(2)(a) for supplies and services costs. According to Corrections, the Commission will exceed its supplies and services budget for 1999-00 as a result of an increase in the inmate population and the number of facilities housing inmates.

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## ANALYSIS

Under 1999 Act 9, the Parole Commission's budget is divided as follows for both 1999-00 and 2000-01:

<u>Item</u>	<u>Amount</u>
Permanent Salaries	\$457,700
Fringe Benefits	172,700
Supplies and Services	<u>97,400</u>
Total	\$727,800

In addition, the Department of Corrections has \$45,000 GPR budgeted for costs associated with the Parole Commission. While Corrections does not have a position associated with this funding, costs are budgeted to salary and fringe benefits. Corrections indicates that these monies in Corrections' budget would be used to offset any salary and fringe benefit costs of the Commission that exceed the Commission's funding. Currently, Corrections estimates that \$13,000 of this funding will be utilized in 1999-00. Thus, \$32,000 will be available for other purposes.

In February, 2000, \$30,918 GPR in 1999-00 was transferred from the Commission's supplies and services line to salaries to fund a one-time pay out of sabbatical leave by a longtime commissioner who retired. In order to offset this cost, \$30,918 GPR in supplies and services expenditures was transferred from the Parole Commission to the Department of Corrections.

The Parole Commission's supplies and services expenses include travel, telephone, data processing, space rental and office equipment costs. As of April 24, 2000, the supplies and services budget for the Parole Commission, after the transfer to salaries and including a \$9,800 encumbrance from 1998-99, was \$76,300 GPR in 1999-00. Corrections estimates that the

Commission will receive a \$2,600 supplement from DOA for rental space costs. Corrections estimates that total supplies and services expenses for the Commission will be \$108,900 in 1999-00. As a result, it is estimated that the Commission will need \$30,000 GPR in 1999-00 for the remainder of the fiscal year. To date, the Commission has expended or encumbered \$72,400 for supplies and services, leaving approximately \$3,900 for the remainder of the fiscal year.

It could be argued that the additional supplies and services funding is needed given that the Parole Commission has already utilized the majority of its supplies and services budget for 1999-00 and needs continued travel and other supply-related funding to conduct parole hearings during the remainder of the fiscal year.

Alternatively, since funding in the Department's general program operations appropriation (s. 20.410(1)(a)) currently budgeted for Parole Commission salaries and fringe benefits may not be fully utilized, the Committee could direct Corrections to allocate \$30,000 for supplies and services expenses in the Commission. While this funding is currently estimated to be available, Corrections indicates that union contract settlements will require that these funds be utilized in July, 2000, for 1999-00 salary and fringe benefit costs and "[t]herefore, these funds are not available for non-salary expenditures." However, to the extent that salary and fringe benefit costs exceed the budgeted amounts, supplemental funding may be provided through pay plan supplements. If salary and fringe benefit costs are not fully supplemented, Corrections would be required to reallocate funding from existing resources or request supplemental funding under s. 13.10.

**ALTERNATIVES**

1. Approve the Department of Corrections request to transfer \$30,000 GPR in 1999-00 from the Committee's appropriation under s. 20.865(4)(a) to the Parole Commission's appropriation under s. 20.410(2)(a) for supplies and services costs.
2. Direct the Department of Corrections to reallocate \$30,000 GPR in 1999-00 from its general program operations appropriation (s. 20.410(1)(a)) currently budgeted for Parole Commission salaries and fringe benefits to supplies and services expenses in the Commission.
3. Deny the request.

Prepared by: Jere Bauer

MO#	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
2	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N		
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BURKE	DECKER	JAUCH	MOORE	SHIBILSKI	PLACHE	COWLES	DARLING	GARD	PORTER	KAUFERT	ALBERS	DUFF	WARD	HUBER	RILEY						
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**Agency:** Department of Revenue -- Cigarette Tax Tracking System

**Recommendations:**

**Agenda Item VIII:** Alternative 2

*Withdrawn*

**Comments:** As part of the big cigarette settlement, states are supposed to track sales of different manufacturers to make sure non-participating companies don't benefit at the expense of participants. DOR insists it needs to add 2.5 full timers and spend heavily on computer consultants to develop a tracking system capable of distinguishing individual brands.

DOA apparently has expressed some doubt about the need for funding in this fiscal year. But DOR says it is itching to sign a contract and get started this year.

**Possible Questions:** Who is the contractor? Were there competitive bids? Why doesn't this fit in with the Integrated Tax System the department is supposed to be developing? Why is Wisconsin spending much more than surrounding states (JoAnna says North Dakota's efforts so far have consisted of sending a letter. Other states are adding maybe one or two people -- without the contractor windfall).

Given the Department's partisan tone on use value, it would be tempting to deny this request on general principle. But the state does need to make a good faith effort to uphold the terms of the settlement. One option would be to deny today's request and ask them to come back later this year when they approach the committee for release of additional money for the Integrated Tax System, with the instruction to demonstrate coordination and cost savings between the two projects.

*This might not be worth stirring up harsh feelings between co-chairs, given cooperation needed deeper in the agenda. However, if you sense a lack of enthusiasm from GOP members, deny away.*

**Alternative 2:** Approves the request but nicks them for the cost of one additional auditor position.

Prepared by: Bob



## Legislative Fiscal Bureau

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

May 3, 2000

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Revenue: Section 13.10 Request for 2.5 Permanent GPR Positions and Supplemental Funding for a Cigarette Excise Tax Tracking System -- Agenda Item VIII

The Department of Revenue (DOR) requests authorization of 2.5 GPR positions beginning in 2000-01 and supplemental funding of \$155,600 GPR in 1999-00 and \$338,100 GPR in 2000-01 from the Joint Committee on Finance's supplemental appropriation under s. 20.865 (4) (a) to the Department's general program operations appropriation under 20.566 (1) (a). The requested funding and positions would be used to implement and administer a cigarette excise tax tracking system related to provisions of the Master Settlement Agreement between the tobacco manufacturers and states that are included in 1999 Enrolled Senate Bill 122.

As of this writing, SB 122 had not yet been signed into law by the Governor. Therefore, if the Committee chooses to approve the Department's request, in whole or in part, it may wish to specify that the approval is contingent upon the bill being signed by the Governor.

### BACKGROUND

The Master Settlement Agreement (MSA) from the multi-state lawsuit against certain tobacco manufacturers contains a provision to protect the tobacco manufacturers that participated in the lawsuit ("participating manufacturers") from losing market share. Under the provision, the settling states may enact a "qualifying statute" that would prevent the tobacco manufacturers that did not participate in the agreement ("nonparticipating manufacturers") from increasing their share of the tobacco market as a result of the agreement's provisions. The MSA includes a model statute, which if enacted without substantive changes, would serve as a qualifying statute.

Under the provisions of Enrolled SB 122, any tobacco product manufacturer selling cigarettes to consumers within the state, whether directly or through a distributor, retailer or similar intermediary, would be required to do one of the following: (a) become a participating

manufacturer and generally perform its financial obligations under the MSA; or (b) annually place into a qualified escrow fund certain specified amounts per unit sold. Money would be released from escrow to the respective tobacco product manufacturers only under the following circumstances: (a) to pay a judgement or settlement on any released claim brought against that tobacco product manufacturer by the state or any releasing party located or residing in the state; (b) when there are excess monies because the amount the tobacco manufacturer was required to place in escrow in a particular year was greater than the state's allocable share of total payments that the manufacturer would have been required to make in that year under the MSA had it been a participating manufacturer; and (c) 25 years after the date on which the tobacco product manufacturer placed money in the escrow, any monies that remained after releases would revert to the tobacco product manufacturer.

Enrolled SB 122 would require tobacco product manufacturers that elect to place money into escrow to annually certify to the Attorney General that the manufacturer is in compliance with the escrow procedure. The Attorney General could bring a civil action on behalf of the state against any tobacco product manufacturer that fails to place the required monies into escrow. Tobacco product manufacturers that failed to place the required funds into escrow would be subject to various penalty provisions, depending upon the circumstances.

The Department of Revenue would be required to promulgate rules necessary to ascertain, each year, the amount of excise tax paid on the cigarettes of each tobacco product manufacturer that elects to place funds into escrow. This information could be used by the Attorney General to determine if a nonparticipating tobacco products manufacturer failed to place the required monies in escrow and to bring civil action against that manufacturer.

## **ANALYSIS**

Enrolled SB 122 would not provide DOR with any additional resources to conduct activities to determine the excise taxes paid by nonparticipating tobacco manufacturers. DOR indicates that, while it currently tracks cigarette excise taxes collected, it does not collect enough data to determine the cigarette excise taxes paid on cigarettes for which escrow payments must be made. Department regulations will require cigarette distributors to report the number of cigarettes that are stamped for sale in Wisconsin by each manufacturer. In addition, because some manufacturers sell brands that are covered by the MSA and other brands that are not, the Department will be required to track the sales of nonparticipating manufacturers by brand. DOR currently does not track cigarette sales by brand.

DOR will be required to obtain more detailed sales information than is currently collected in order to determine the amount of cigarette excise taxes paid by nonparticipating manufacturers. Consequently, DOR has requested funding to develop a new automated cigarette tax administration and enforcement system, including an electronic filing process. The new system would be used to administer all phases of collecting cigarette taxes such as tax processing, tax computation, auditing

file maintenance and producing reports. The Department would contract with a vendor to develop an automated system over a two-year period. The costs for the contractor would be paid through a masterlease over a seven-year time period. A total of \$154,200 in 1999-00 and \$162,500 in 2000-01 would be required for these masterlease payments. Supporting costs of \$1,400 in 1999-00 and \$44,400 in 2000-01 would be incurred for computer equipment (masterleased), furniture, telephone service, office supplies and InfoTech charges.

DOR also requests a total of \$131,200 and 2.5 positions beginning in 2000-01 to administer the automated cigarette processing and enforcement system and for audit activities. As noted, the new automated system would track more information than is currently collected for the cigarette tax. The system would store data for an estimated 750,000 transactions collected over a four-year period and would require \$90,900 and 1.5 permanent positions beginning in 2000-01 for ongoing application, data, network and business support and system maintenance.

The request also includes \$40,300 and 1.0 auditor position in 2000-01. The position would conduct audit and enforcement activities related to nonparticipating manufacturers and all other manufacturers and distributors subject to the cigarette tax. Reports would be audited to ensure the Department is collecting the required brand information. The position would also audit cigarette tax returns, investigate transaction discrepancies and verify adjustments generated by the new cigarette tax system. The auditor would provide assistance to relevant parties, including manufacturers, distributors, and state and federal agencies, regarding the state cigarette and tobacco product tax law. The following table summarizes the components of the request for the 1999-01 biennium and the total estimated costs over the term of the masterlease.

### Estimated Costs of Development and Support of the Cigarette Enforcement Program

<u>Expenses</u>	<u>1999-00</u>	<u>2000-01</u>	<u>2001-02</u>	<u>2002-03</u>	<u>2003-04</u>	<u>2004-05</u>	<u>2005-06</u>	<u>2006-07</u>	<u>2007-08</u>
Salaries & Fringe Benefits	\$0	\$131,200	\$131,200	\$131,200	\$131,200	\$131,200	\$131,200	\$131,200	\$131,200
Contract Programming									
Masterlease Allocations	154,200	162,500	147,200	155,800	155,800	155,800	155,800	131,500	61,100
Server/4PC Masterlease	1,400	31,100	31,100	15,500	1,400	31,100	31,100	15,500	1,400
Furniture	0	10,000	0	0	0	0	0	0	0
Infotech Charges, Telephone									
Service & Office Supplies	<u>0</u>	<u>3,300</u>							
<b>Total</b>	<b>\$155,600</b>	<b>\$338,100</b>	<b>\$312,800</b>	<b>\$305,800</b>	<b>\$291,700</b>	<b>\$321,400</b>	<b>\$321,400</b>	<b>\$281,500</b>	<b>\$197,000</b>

The essential component of DOR's request is funding and staff to develop, implement and administer the automated cigarette tax processing and enforcement system. The funding for contract programming to develop and implement the system (\$155,600 in 1999-00 and \$206,900 in 2000-01) and the 1.5 positions (\$90,900 in 2000-01) are viewed as the minimum level of support needed

to monitor the cigarette tax payments of nonparticipating manufacturers, as required under Enrolled SB 122. The auditor position (\$40,300 in 2000-01) would further improve the Department's ability to monitor tax payments by auditing reports filed by nonparticipating manufacturers. However, the auditor's activities would not be entirely focused on nonparticipating manufacturers but would also track and audit information and reports from all manufacturers and distributors. Since the audit position activities would be mostly related to the general administration of the cigarette tax, the Committee may wish to delete the auditor and related funding of \$40,300 in 2000-01.

DOR requests that a total of \$493,700 GPR (\$155,600 GPR in 1999-00 and \$338,100 GPR in 2000-01) be transferred from the Committee's supplemental appropriation under s. 20.865(4)(a) to the Department's general program operations appropriation under s. 20.566(1)(a) for the development and operation of the cigarette excise tax tracking system. No supplemental funding in the Committee's appropriation has been reserved for this purpose. Funding, therefore, would be provided from the unreserved portion of the Committee's supplemental appropriation. To date, the Committee has a total of \$424,900 GPR in unreserved supplemental funding for the remainder of the 1999-01 biennium. The Committee should note, however, in 1999 Act 9, \$1,299,600 GPR in 1999-00 and \$3,067,000 GPR in 2000-01 was placed in reserve for the operation of inmate work centers by the Department of Corrections while the location of the centers was determined and construction completed. The operation of the centers will not occur in 1999-00 but is anticipated to begin during 2000-01. As a result, funding for the development and operation of the cigarette excise tax tracking system in both years of the biennium could be transferred from the amounts reserved for inmate work centers in 1999-00.

## ALTERNATIVES

1. Contingent upon Enrolled SB 122 being signed into law by the Governor, approve the Department of Revenue's request for 2.5 GPR positions beginning in 2000-01 and supplemental funding of \$155,600 GPR in 1999-00 and \$338,100 GPR in 2000-01 from the Joint Committee on Finance's supplemental appropriation under s. 20.865 (4) (a) to the Department of Revenue's general program operations appropriation under s. 20.566 (1) (a) for a cigarette tax processing and enforcement system and audit staff. Transfer funding from the amounts reserved for the Department of Corrections' inmate work centers in 1999-00.

2. Contingent upon Enrolled SB 122 being signed into law by the Governor, authorize 1.5 GPR positions beginning in 2000-01 and supplemental funding of \$155,600 GPR in 1999-00 and \$297,800 GPR in 2000-01 from the Joint Committee on Finance's supplemental appropriation under s. 20.865 (4) (a) to the Department's general program operations appropriation under s. 20.566 (1) (a) for a cigarette tax processing and enforcement system. Transfer funding from the amounts reserved for the Department of Corrections' inmate work centers in 1999-00. Under this alternative, the Department's request would be modified to delete the auditor position.

3. Deny the request.

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