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# HOWARD MARKLEIN

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STATE SENATOR • 17<sup>TH</sup> SENATE DISTRICT

## Senator Howard Marklein Testimony in Support of Senate Bill 49

Good afternoon Senators, and thank you for the opportunity to testify in favor of Senate Bill 49. This bill is a combination of the proposal that was promoted by Governor Scott Walker on December 1, 2016 and recommendations made by the 2016 Study Committee on Rural Broadband, which I chaired last fall. Combining our ideas, we produced legislation that will make an immediate, significant impact on rural broadband in Wisconsin.

The bill allocates \$15.5 million more for rural broadband grants during the current fiscal year. This means, when the bill passes, the Public Service Commission (PSC) will be able to make \$15.5 million more in awards before the fiscal year ends on June 30, 2017. This is in addition to the \$1.5 million the PSC has already awarded this year. The funding comes from surpluses in the Universal Service Fund (USF) and the E-Rate reimbursement fund. No other programs are being impacted by this allocation. This bill will not result in any new taxes, fees or assessments.

The Study Committee developed several recommendations for improving the Rural Broadband Expansion Grant program including improving the definition of economic development, prioritizing unserved areas more than areas that have some sort of broadband technology and expanding the consideration for broadband in the home from an educational and healthcare perspective. This bill insures that these ideas are applied to any new grants from the program.

In addition to broadband grant expansion the bill adds funding to the Technology for Educational Achievement (TEACH) program and focuses the program more heavily on rural schools. Expanding rural broadband is one of my top priorities. There are many communities in the 17<sup>th</sup> Senate District that have little-to-no broadband service. Obviously, it is difficult to run a business, communicate or take advantage of current technology when we don't have broadband access. We must also consider the way education and healthcare are changing and their increasing reliance on the internet.

The Rural Broadband Expansion Grant program is a positive way for Wisconsin to encourage investment in broadband in locations where it is difficult for a private company to justify the expense of installation. It also helps municipalities, community organizations and community champions work with their telecommunications providers to build projects that might not otherwise happen.

Thank you again for allowing me the opportunity to testify in support of this bill, and I would welcome any questions.



# Warren Petryk

State Representative • 93rd Assembly District

Date: February 23, 2017

To: Members of the Committee on Revenue, Financial Institutions and Rural Issues

From: Representative Petryk

Re: Testimony regarding Senate Bill 49 –“Broadband Expansion Grant Program”

Good afternoon Chairman Marklein and members of the committee. I write to you today in strong support of Senate Bill 49.

As you know, I had the honor of serving as Vice Chair of the 2016 Legislative Study Committee on Rural Broadband. The committee met from August through October and reviewed the Wisconsin Broadband Expansion Grant Program, specifically how the program helps to expand broadband infrastructure in parts of the state with few broadband providers.

The Committee proposed several changes to the Broadband Expansion Grant Program including:

- Reserving \$1.5 million annually from the funding the Public Service Commission (PSC) currently receives from assessment paid into the Universal Service Fund from telecommunications providers for the Grant Program
- Further clarifying how two priority criteria for the grant; Economic Development and Areas With No Broadband Service Providers should be applied for grant applicants as well as creating a new priority criteria for projects that will not delay the provision of Broadband Service to Neighboring Areas
- Requiring the PSC to consider certain impacts of proposed projects including how much a proposed project would duplicate existing broadband infrastructure and how a proposed project would impact the ability of individuals to access health care services and educational opportunities from home.

I am extremely supportive of this bill as it does the following: furthers the work of the committee by allocating an additional \$15.5 million to the Rural Broadband Expansion Grant Program for additional 2017 grant awards; removes limitations to the total annual value of grants that may be made through the Rural Broadband Expansion Grant program; prohibits the Department of Natural Resources (DNR) and the Department of Transportation (DOT) from requiring any appraisal or charging any fee prior to granting an easement for construction of broadband infrastructure in underserved areas; allocates an additional \$7.5 million to the Technology for Educational Achievement (TEACH) Program from a surplus in the E-Rate program fund; allows the Department of Administration (DOA) to award an additional round of information

technology block grants before July 1, 2017; and expands TEACH program eligibility to schools with 16 pupils per mile and fewer than 2500 members.

I'm pleased that the bill incorporates the Study Committee on Rural Broadband's recommendations for priority criteria and definitions used by the Rural Broadband Expansion Grant Program to make grant awards.

As Representative of the very rural 93<sup>rd</sup> Assembly District which covers parts of Pierce, Pepin, Dunn, Buffalo, St. Croix and Eau Claire counties, I understand firsthand the challenges of living in an underserved broadband area of Wisconsin.

As was repeatedly pointed out in testimony throughout the committee hearings, high speed broadband internet service is a necessity in today's world for economic, business, education and healthcare development and expansion. It will serve as an important tool for encouraging small and large employers to create more jobs and decide to grow and remain within Wisconsin borders.

I am proud of this broadband expansion legislation put forth by Senator Marklein and Representative Quinn that furthers the work of the Study Committee on Rural Broadband and seeks to better help in serving our most rural parts of the state. I ask for your support today. Thank you for your time and consideration.



# Romaine Quinn

STATE REPRESENTATIVE • 75th ASSEMBLY DISTRICT

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## Senate Bill 49

Mr Chair and members of the committee, thank you for inviting me to testify today. Broadband is a critically important infrastructure for rural Wisconsin, and I was proud to work with Senator Marklein on this bill.

A little more than a year ago, 24 rural Assembly legislators formed the Rural Wisconsin Initiative, and pledged to focus on the issues that have the greatest impact on outstate areas: education, health care, workforce readiness, and technology. Our tentpole piece of legislation was Assembly Bill 798, which called for expanding funding to Wisconsin's Broadband Expansion Grant Program to \$10 million over the biennium. Although that bill did not pass, we began a conversation that continues with Senate Bill 49.

Increasing our efforts to expand broadband access to rural areas is a crucial step in maintaining the viability of our rural communities. We know that broadband access is crucial infrastructure for businesses to set up or remain in a community; for students to be able to complete their homework; and for hospitals to communicate effectively, both internally and with their community. When buying a new home, one of the top criteria for the millennial generation is broadband access. I recently bought a home, and my staff can tell you how difficult it was for us to communicate before I had a strong internet connection in my house.

Senate Bill 49 expands on Governor Walker's call for \$35.5 million in funding for the Broadband Expansion Grant Program. It targets the areas that need it most. While the significant amounts of federal money provided by CAF II and related programs will do great things in many parts of the state, that money simply is not going to get to the last-mile rural areas that are most in need of this access. Through the Study Committee on Rural Broadband's efforts, we have been able to craft a bill that ensures that Wisconsin money goes to the areas of highest need.

We have targeted this money in a number of ways: Previously, although the Public Service Commission was required to use economic development as a priority, this criteria was not defined. We have corrected that, ensuring that we target projects that promote job growth or retention, or expand an area's tax base.



# Romaine Quinn

STATE REPRESENTATIVE • 75th ASSEMBLY DISTRICT

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We have targeted this money in a number of ways: Previously, although the Public Service Commission was required to use economic development as a priority, this criteria was not defined. We have corrected that, ensuring that we target projects that promote job growth or retention, or expand an area's tax base.

## Summary of FY 2016 Broadband Grants

| Applicant(s)  | Grant amount awarded | Matching funds | Total project cost | Status | Description  |
|---|----------------------|----------------|--------------------|--------|--|
| Amery Telephone Co.   | \$99,000.00          | \$393,200.00   | \$492,200.00       |        | This project will build a fiber route along rural roads in the Amery Tel. Clayton exchange. The project area is located in the Town of Vance Creek in southwest Barron County. The fiber route will pass about 150 locations. Initially, Amery expects to install its broadband fiber to the home service to about 110 of those locations. |
| CenturyTel of the Midwest - Wisconsin, LLC<br>Cumberland Project      | \$140,970.00         | \$303,030.00   | \$444,000.00       |        | This project will build 9 mile fiber route and upgrade electronics at five serving devices. Potential service to 34 businesses and 490 residences.   |
| CenturyTel of the Midwest - Wisconsin, LLC<br>Sullivan Project        | \$145,558.00         | \$235,442.00   | \$381,000.00       |        | This project will construct 7.3 mile fiber route and upgrade electronics at two serving devices. Potential service to 15 businesses and 242 residences.  |
| Chequamegon Communications Cooperative, Inc.<br>Town of Cable Project | \$98,000.00          | \$123,095.00   | \$221,095.00       |        | This project will provide fiber to the home to 65 locations in the Town of Cable, southwest of City of Cable, WI. Town of Cable will contribute \$5,000 and assist future development by securing easements and rights of way.   |
| Chippewa County, Wisconsin Independent Network,<br>LLC                | \$286,165.00         | \$260,000.00   | \$546,165.00       |        | This project will build a 5.4 mile fiber route to connect two business parks on the south side of Chippewa River to existing fiber facilities. 25 existing businesses have indicated interest in fiber service from the fiber ring. Spare fiber could support additional public and private use in the future.                             |
| ChoiceTel LLC, Town of Land O'Lakes                                   | \$249,093.00         | \$249,092.00   | \$498,185.00       |        | This project will build an 18 mile route to serve locations in Town of Land O' Lakes in Vilas County. Initially, potential service to 59 businesses and 250 residences. ChoiceTel will expand its network to cover potential 97 businesses and 1,184 residences within 2 years.  |
| GogebicRange.net, Iron County Resource<br>Development Association     | \$41,914.00          | \$36,785.00    | \$78,699.00        |        | This is a fixed wireless project. It will build 3 wireless towers in northern Iron County, 1 in Hurley and 2 others west of Hurley. Potential service to 30 businesses and 2,293 residences.   |
| City of Reedsburg, Reedsburg Utility Commission                       | \$69,300.00          | \$254,000.00   | \$323,300.00       |        | Extend fiber service to 2 rural subdivisions in Town of Delton in Sauk County. Potential service to 100+ residences in the 2 subdivisions. The extent of current broadband service is disputed. The residents of the subdivisions consider themselves to be unserved.  |

## Continued

|  |                       |                       |                       |   |
|--|-----------------------|-----------------------|-----------------------|---|
| Siren Telephone Co. (Village of Webster project)     | \$150,000.00          | \$778,854.00          | \$928,854.00          | This project will provide fiber to the home service to potentially 310 homes in the Village of Webster. Siren Telco also intends to expand this project to over 1,000 homes and small businesses in Webster area in future years.   |
| Wittenberg Wireless LLC (Silver Birch Ranch project) | \$150,000.00          | \$266,125.00          | \$416,125.00          | This project will build a fiber route to a Cellcom cellular tower north of White Lake, and north to vicinity of Sawyer Lake and Silver Birch Ranch. Will initially serve potential of 305 households and seasonal residences in the Sawyer Lake Silver Birch Ranch area and the Cellcom tower in White Lake. Wittenberg Wireless plans to would also expand its fiber service south to the Village of White Lake in 2017. |
| Wittenberg Wireless LLC (Village of Mattoon)         | \$70,000.00           | \$73,608.00           | \$143,608.00          | This project will build a fiber route to Village of Mattoon in Shawano County. Will provide fiber to the home service a potential 15 businesses and 180 residences in Mattoon, and an additional 20 residences along fiber route.   |
| <b>TOTAL</b>   | <b>\$1,500,000.00</b> | <b>\$2,973,231.00</b> | <b>\$4,473,231.00</b> |   |

### Summary of FY 2017 Broadband Grants

| Applicant(s)  | Grant amount requested | Matching funds | Total project cost | County    | Description   |
|---|------------------------|----------------|--------------------|-----------|---|
| Amherst Telephone Company<br>(Town of Hull project)   | \$150,000.00           | \$382,921.00   | \$532,921.00       | Portage   | This project proposes to build a fiber to the home service in rural Portage County, northeast of Stevens Point. The 16-mile fiber route will build past 167 residential and business locations in three townships: Hull, Dewey, and Sharon.   |
| Black Earth Telephone Company,<br>LLC d/b/a TDS Telecom<br>(Town of Berry project)          | \$156,500.00           | \$156,500.00   | \$313,000.00       | Dane      | This project proposes to build a dsl service in rural Dane County, northeast of the Village of Black Earth. TDS would provide dsl service to 166 households in the Town of Berry.   |
| CenturyTel of the Midwest -<br>Kendall, LLC d/b/a CenturyLink<br>(City of Peshtigo project) | \$39,900.00            | \$93,100.00    | \$133,000.00       | Marinette | This project proposes to build a 2.4-mile fiber route in the Peshtigo Industrial Park in the City of Peshtigo. The route will pass 58 business and 98 residential locations in the project area. Century currently provides dsl broadband service to 66 locations. It anticipates that if this project is built, an additional 109 locations could be connected within 24 months, or a total of 175 locations served. |
| Telephone USA of Wisconsin,<br>LLC d/b/a CenturyLink<br>(Berry Lake project)                | \$134,625.00           | \$134,625.00   | \$269,250.00       | Oconto    | This project proposes to build an 8.37-mile fiber route in Oconto County to support an upgraded dsl service in the vicinity of Berry Lake. Century currently provides broadband service to 67 locations. It anticipates that if this project is built, an additional 123 locations could be connected within 24 months, or a total of 190 locations served.   |



|  |                     |                     |                     |                   |  |
|--|---------------------|---------------------|---------------------|-------------------|--|
| <p>CenturyTel of the Midwest - Kendall, LLC d/b/a CenturyLink (Big Top Chautauqua project)</p> | <p>\$25,000.00</p>  | <p>\$32,000.00</p>  | <p>\$57,000.00</p>  | <p>Bayfield</p>   | <p>This project proposes to build a fiber route along Ski Hill Road in Bayfield County. The route will provide 1 Gbps to the Ski Hill and Big Top sites. This level of service will support the business operations of both enterprises, and also provide support for a Wi-Fi service for approximately 48,000 guests annually. The project would also locate a DSL service node along Ski Hill Road. CenturyLink currently provides broadband service to 52 locations in the area. These locations would be upgraded. Century anticipates that if this project is built, an additional 12 locations could be connected within 24 months, or a total of 64 locations served.</p> |
| <p>CenturyTel of Central Wisconsin, LLC d/b/a CenturyLink (Hickory Park project)</p>           | <p>\$10,000.00</p>  | <p>\$30,000.00</p>  | <p>\$40,000.00</p>  | <p>Eau Claire</p> | <p>This project proposes to update the electronics at the Hickory Park subdivision, south of Eau Claire in Eau Claire County. CenturyLink currently provides dsl broadband service to 96 locations in the project area. Century anticipates that with the upgraded service it will add an additional 94 broadband subscribers within 24 months, or a total of 190 locations served.</p>  |
| <p>Chibardun Telephone Cooperative (Indianhead Holsteins project)</p>                          | <p>\$38,477.00</p>  | <p>\$42,000.00</p>  | <p>\$80,477.00</p>  | <p>Barron</p>     | <p>This project proposes to build fiber to the home service in the Town of Clinton in Barron County, just north of Poskin. The route will build past 13 farms and 1 business location.</p>   |
| <p>ChoiceTel (Land O'Lakes Phase II project)</p>   | <p>\$131,475.10</p> | <p>\$131,475.10</p> | <p>\$262,950.20</p> | <p>Vilas</p>      | <p>This project proposes to build a 50-mile fiber to the home service in the Town of Land O'Lakes in Vilas County. This is a partial grant award. The intention is to connect as many as business and residential locations in Land O'Lakes as possible this year. ChoiceTel may reapply for the balance of the project next year.</p>   |
| <p>Ethoplex, LLC (Town of Oconomowoc project)</p>  | <p>\$7,886.00</p>   | <p>\$8,208.00</p>   | <p>\$16,094.00</p>  | <p>Waukesha</p>   | <p>This project proposes to build a fixed wireless service to serve 21 locations along Highlander Road in the Town of Oconomowoc in Waukesha County. The fixed wireless service will reach an additional 50 business and residential locations within the footprint of the service.</p>  |

|  |              |              |              |           |   |
|--|--------------|--------------|--------------|-----------|---|
| Frontier North Inc.<br>(Town of Weston project)                            | \$201,750.00 | \$301,750.00 | \$503,500.00 | Marathon  | This project proposes to build a 10-mile fiber route, upgrade the existing dsl service at three remote terminals, and install one new terminal in a housing subdivision southeast of Wausau in the Town of Weston. This project will provide approximately 1,245 households with broadband service with a maximum speed of 25/3, and 2,333 households with a maximum speed of 10/1. The project area includes 41 business locations as well.  |
| Hagar Telecom, Inc. dba<br>BEVCOMM   | \$43,775.60  | \$65,663.40  | \$109,439.00 | Pierce    | This project proposes to build a 1.24-mile fiber route to connect 35 residential locations in the Town of Diamond Bluff in Pierce County.   |
| Iron County Resource<br>Development Association, Inc.,<br>Gogebicrange.net | \$79,101.30  | \$80,101.30  | \$159,202.60 | Iron      | This project proposes to expand the fixed wireless service that GogebicRange.net provides in Iron County. The applicants propose to place GogebicRange.net's fixed wireless equipment on four additional antenna locations. There are 1,743 business and residential locations within the footprint of the proposed fixed wireless service. Based upon the PSC's experience with fixed wireless projects, this project could be expected to serve 20% of these locations, or about 350 new customers. |
| Lafayette Development<br>Corporation                                       | \$86,084.00  | \$344,336.00 | \$430,420.00 | Lafayette | This project proposes to build a fixed wireless internet service in Lafayette County. This is a partial award that funds fixed wireless service to Shuberts, Gratiot and Wiota. LDC may reapply for the balance of the project next year.   |
| MH Telecom, LLC<br>(City of Dodgeville project)                            | \$55,360.00  | \$83,040.00  | \$138,400.00 | Iowa      | This project proposes to build a fiber route through a business park on the east side of Dodgeville. The route will build past 8 existing businesses and 28 potential commercial locations. The fiber route could also be used to service new and existing residential locations adjacent to the business park.   |

|   |                              |                              |                              |                 |   |
|---|------------------------------|------------------------------|------------------------------|-----------------|---|
| <p>Oneida County Economic Development Corporation, Northwoods Telecommunications Technologies, LLC d/b/a Northwoods Connect</p> | <p>\$180,566.00</p>          | <p>\$222,670.00</p>          | <p>\$403,236.00</p>          | <p>Oneida</p>   | <p>This project proposes to build an expansion of the existing fixed wireless service in the northern portion of Oneida County. The project will install service on three existing and four new communications towers at an advertised speed of 25 Mbps down. The footprint of these towers is approximately 310 sq miles, reaching 7,957 local residences and businesses. The applicants state that they believe the project will eventually sign up 3,750 customers, including 40 business locations.</p> |
| <p>24-7 Telcom, Inc.<br/>(Town of Red Cedar project)</p>  | <p>\$67,500.00</p>           | <p>\$67,500.00</p>           | <p>\$135,000.00</p>          | <p>Dunn</p>     | <p>This project proposes to build fiber to the premises service in the vicinity of the Village of Rusk, adjacent to I-94, just east of City of Menomonie in Dunn County. The route will build past 17 homes and 16 businesses. The project area is a narrow strip of land bounded on the north by an active rail corridor and on the south by the interstate. The purpose of this project is to improve the usefulness of this area for commercial development.</p>   |
| <p>Wittenberg Wireless<br/>(Village of White Lake project)</p>  | <p>\$92,000.00</p>           | <p>\$97,734.93</p>           | <p>\$189,734.93</p>          | <p>Langlade</p> | <p>This project proposes to build fiber to the home service in the Village of White Lake in Langlade County. Wittenberg expects to connect about 100 businesses and residences to its fiber service.</p>  |
| <p><b>TOTAL</b></p>   | <p><b>\$1,500,000.00</b></p> | <p><b>\$2,273,624.73</b></p> | <p><b>\$3,773,624.73</b></p> |                 |   |



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**KATHLEEN VINEHOUT**  
STATE SENATOR

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**Committee on Revenue, Financial Institutions and Rural Affairs**

**February 23, 2017**

**TESTIMONY**

**By Senator Kathleen Vinehout**

Mr. Chairman and Committee members, thank you for the opportunity to testify before you today. I strongly support the stated purpose of this bill “to make immediate and significant impact on rural broadband in Wisconsin.”

However, there are a number of concerns I have about the way the bill is written and the unintended consequences that may prevent the bill from succeeding in meeting your goals for broadband expansion.

First, as written, this bill is not a “rural” broadband bill. Nowhere in the bill does the word “rural” appear. In fact, the way certain provisions in the bill are written, the bill would favor broadband expansion in more populated areas.

The bill uses a statutory definition of economic development found at 196.796 (1) (c):

*“Economic Development means development that is designed to promote job growth or retention, expand the property tax base or improve the overall economic vitality of a municipality, as defined in s. 30.01 (4), or region.*

Many farmers talk with me about labor issues. Some want to invest in robotic milking but need a dedicated fiber-optic line for the equipment. The definition would not encourage the PSC to award a grant to an application that helped farmers obtain broadband. No new jobs would be created (in fact they would be lost); property tax base would not increase, but without the broadband, the farmer might not be able to keep the cows.

Which brings me to the second problem with the bill: it is not a “broadband” bill.

The bill defines “unserved area” (p. 11 Section 29) as actual speeds of 5 Mbps download/600 Kilobits per second upload. Any service slightly higher than this speed would not be “unserved” and would not be within the criteria set in the bill.

This defined minimum speed is in no way, shape or form “broadband.” My constituent in Pierce County now must travel to a neighbor’s home and work in her basement as she does medical transcribing for Mayo Clinic. She needs 25 Mbps down and 3 Mbps up. The farmer I mentioned trying to get a \$2 million robotic milking project off the ground needs a dedicated fiber-optic line with at least 25 Mbps down and 3 Mbps up.

I heard from a local co-op manager who told me the way the bill is currently written most of the rural projects **that were approved under this grant program** would not be approved if this bill – as written – becomes law. One provision of concern is on page 12, Line 2-8. This Section (31) sets out the criteria for the grant applicants and says the successful projects “will not result in delaying the provision of broadband service to areas neighboring areas to be served by the proposed project” nor “duplicate existing broadband infrastructure.” The effective definition of “broadband” is absurdly low. With this low definition, many areas with low Internet speed would never be built out with true broadband. Some co-ops are eager to go into these areas and bring fiber, but they need help.

The third problem with this bill is the “promised” service may never be delivered because of the way the bill is written. Here are a few parts of a long letter I received from Justin Fortney in Clifton Township in Pierce County:

*“All we seek is help to get the basic broadband services that you all take for granted... it has been frustrating for us families to watch the digital revolution pass us by... we often had to pack the family into the car and drive to a relative’s house or commercial business to use their Internet... in fact our area is CAF-II Subsidized Area, but still no Internet... these limited funds are being used by the... company to further increase the speed of areas that already have broadband. ... I cannot believe how inaccurate the data is that is displayed by the Wisconsin State Broadband Office and the National Broadband Map. They both show that our area does have broadband and that we are in [company name] service area.*”

Mr. Fortney then explains that large “company A” has no intention of coming to him – they are one mile away – and large “company B” who has his telephone service who also received a CAF grant “has made no efforts to upgrade in any of our area.”

I received a very similar complaint about large “company C” who also received a large federal grant. Bruce Fuerbringer lives near Mondovi in rural Buffalo County. He is very upset about the advertised speed and the actual speed he receives. He complained and complained to the company. The advertised speed the company promised is over the definition in the bill for “underserved” but the actual speed he received is 1.5 Mbps down and as low as .65 Mbps on nights and weekends. The only explanation the company gave him is that he is located “a fair distance from their service hub” and “my speed was dependent on how many customers closer to the hub were using the service.” He wrote me three times with similar stories.

I have many stories. Constituents are very frustrated with the large companies promising one thing, taking federal and state money and delivering something else or not delivering at all. In some cases the large companies have trenched fiber right in front of the customer’s house and will not connect the house.

Many months ago I attended a community meeting put together by the businesses in Ellsworth in Pierce County. Ellsworth is a community not served by a broadband provider. Large “companies A & B” were represented at the meeting. Both of these companies received federal funds and used the problems in western Wisconsin in their grant applications. But neither company would commit to building out Pierce County.

In their own words they said, "I don't want to promise you fiber where fiber is not going to come; It's not a great business investment to put in copper or fiber and We're not going to go trenching through a bluff ... We are a large wireless company...how do we leverage [our assets] to get the best bang for the buck...where can we grab the low hanging fruit...where do we have cell towers with capacity...there is a lot of engineering that goes into this."

Cell towers, Mr. Chairman, are not going to work in the Driftless Area. Your world and mine are filled with beautiful rolling hills. Fixed wireless is not an option in the Driftless Area. Fixed wireless is not a replacement for fiber.

Local co-ops are doing a much better job of actually getting fiber into people's home. In fact, I heard this morning from a constituent that Nelson Co-op on January 11, 2017 - who already offered 30 Mbps down and 15 Mbps up – tripled their speed to 90 Mbps down and 45 Mbps up with no additional charge to customers.

[I have not been able to verify this with Nelson Co-op. I must say this bill deserves a lot of attention. The short notice the Chairman gave – two days – for the committee to prepare for this hearing, means that I am testifying today without adequate preparation and my constituents really want to be here, but cannot because of the short notice.]

If we are going to focus on the small companies and co-ops, we need to think carefully about the steps these companies will need to take before they can compete for a grant.

The bill appears to be written [page 14, section 36] so an additional \$7,500,000 is awarded before the end of June 2017. I heard from a local co-op manager this time frame is very rushed for smaller companies. The manager asked me, "How can a company get engineering work done with a consultant, get quotes from vendors on pricing, look into matching funds from local government, come up with financing for their part of the project? The grant program is looking at a public private partnership but to go to the towns or the counties? They've already done their budget for 2017."

The manager also explained the PSC would need a two-week window for people to comment on the grant applications and another week for the awardees to accept the grant and commit to the proposed project. "How do we get this all done by June 30<sup>th</sup>?" the manager asked me.

There is a danger here, Mr. Chairman and Committee members, that the only companies that can make this tight deadline are the companies that have already received federal funds.

I suggest we focus our hard-earned state tax dollars on those smaller companies and co-ops that are actually bringing fiber to our rural families and farmers. I suggest we make the companies who have already received tens and hundreds of millions of federal dollars ineligible for the state grant program.

Thank you for your consideration.



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## WISCONSIN LEGISLATIVE COUNCIL

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Terry C. Anderson, Director

Jessica Karls-Ruplinger, Deputy Director

TO: SENATOR KATHLEEN VINEHOUT

FROM:  Zach Ramirez and Julia Norsetter, Staff Attorneys

RE: 2017 Senate Bill 49, Relating to the Information Technology Block Grant Program, the Broadband Expansion Grant Program, Waiving Certain Fees and Appraisals, and Making Appropriations

DATE: February 22, 2017

You requested a summary of 2017 Senate Bill 49 ("the bill") and a description of the funding that has been provided over the past few years for certain programs intended to increase the availability of broadband Internet service.

As discussed in detail below, the bill: (1) modifies the criteria that govern the Public Service Commission's (PSC's) review of applications for Broadband Expansion Grants; (2) provides additional funding and expenditure authority for the Broadband Expansion Grant Program; (3) delays from July 1, 2017 to July 1, 2019, the sunset of the Information Technology Block Grant subprogram of the Technology for Educational Achievement (TEACH) Program administered by the Department of Administration (DOA); (4) modifies the criteria that determine whether a school district is eligible for an Information Technology Block Grant; (5) authorizes DOA to award an additional round of Information Technology Block Grants before July 1, 2017, that are in addition to any grants a school district may have already received under the subprogram in the 2015-17 biennium; (6) makes certain changes to funding for the TEACH Program; and (7) exempts broadband infrastructure construction projects in underserved areas from certain fees charged by the Department of Natural Resources (DNR) and the Department of Transportation (DOT).

### **BROADBAND EXPANSION GRANT PROGRAM CRITERIA**

#### **Current Law**

The Broadband Expansion Grant Program was created by 2013 Act 20 (the 2013-15 Biennial Budget Act) to provide funding for the construction of broadband infrastructure in

underserved areas of the state, which are areas that are served by fewer than two broadband service providers, as determined by the PSC. [s. 196.504 (1) (b), Stats.]

The PSC sets the criteria for determining whether an area is underserved, and thus eligible for grant funding, by specifying the transmission speed and technology required to qualify as broadband service. Since the program began, the PSC has used different definitions of broadband service. PSC policy currently requires a minimum transmission speed of 25 megabits per second (Mbps) for download and 3 Mbps for upload, which corresponds with certain benchmarks set by the Federal Communications Commission (FCC). PSC policy also requires that, in order to qualify as broadband service, a service must be provided via wired or fixed wireless technology.

To be eligible for the program, the statutes require that an applicant must be either an organization operated for profit or not-for-profit, including a cooperative; a telecommunications utility; or a city, village, town, or county that submits an application in partnership with a telecommunications utility or a for-profit or not-for-profit organization. [s. 196.504 (1) (a), Stats.]

In selecting among eligible projects, the statutes require the PSC to give priority to projects that: include matching funds, involve public-private partnerships, affect areas with no broadband service providers, are "scalable,"<sup>1</sup> promote economic development, affect a large geographic area, or affect a large number of underserved individuals or communities. [s. 196.504 (2) (c), Stats.]

The PSC has discretion in implementing the priorities because the statutes do not define the terms "broadband service" or "economic development," and also do not prescribe the relative weight to be given to each of the priorities.

### **The Bill**

As discussed in detail below, the bill clarifies how two priority criteria in current law should be applied, creates an additional priority criterion, and requires the PSC to consider certain project impacts when evaluating grant applications.

#### **Priority Criteria**

The bill clarifies how the economic development priority criterion should be implemented by defining "economic development" to mean development that is designed to promote job growth or retention, expand the property tax base, or improve the overall economic vitality of a town, village, city, county, or region.

The bill repeals the requirement that priority must be given to projects that affect areas with no broadband service providers, and replaces it with a requirement that priority must be given to projects in "unserved areas." The bill authorizes the PSC to designate areas of the state

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<sup>1</sup> "Scalable" is defined to mean that the broadband network has the ability to maintain the quality of its services while increasing the number of users, the geographic area covered by the network, or the number of services provided. [s. 196.504 (1) (am), Stats.]



as "unserved," and it defines an "unserved area" to mean an area of the state that is not served by an Internet service provider offering Internet service that is all of the following:

- Wired service or fixed wireless service, which includes service that is a telecommunications service that provides radio communications between fixed points but which excludes mobile wireless service and satellite service.
- Provided at actual speeds of at least 20% of the upload and download speed for high-speed, switched, broadband telecommunications capability as designated by the FCC in its annual inquiries regarding advanced telecommunications capability. Currently, the FCC's standard for this purpose is 25 Mbps download/3 Mbps upload. Therefore, the current speed specified in the bill is 5 Mbps download/600 Kilobits per second upload.

The bill adds a requirement that priority must be given to projects that will not result in delaying the provision of broadband service to areas neighboring areas to be served by the proposed project.

#### **Consideration of Certain Project Impacts**

The bill requires the PSC to consider certain project impacts when evaluating grant applications under the Broadband Expansion Grant Program, but it does not require priority to be given to projects based on these considerations. Specifically, the bill requires that the PSC must consider:

- The degree to which the proposed projects would duplicate existing broadband infrastructure, information about the presence of which is provided to the PSC by the applicant or another person within a time period designated by the PSC.
- The impacts of the proposed projects on the ability of individuals to access healthcare services from home and the cost of those services.
- The impacts of the proposed projects on the ability of students to access educational opportunities from home.

### **BROADBAND EXPANSION GRANT PROGRAM FUNDING**

#### **Current Law**

2013 Act 20 (the 2013-15 Biennial Budget Act) funded the Broadband Expansion Grant Program by transferring \$4.3 million from DOA's Information Technology and Communications Services Account, which the statutes designate for DOA to use to provide information technology services to nonstate entities, such as local governments. The Act authorized the PSC to annually award a total of \$500,000 in broadband expansion grants in fiscal year (FY) 2013-14 and FY 2014-15. The remaining unspent \$3.3 million was transferred to the General Fund in FY 2015-16.

2015 Act 55 (the 2015-17 Biennial Budget Act) authorized the PSC to annually award a total of \$1.5 million in broadband expansion grants in FY 2015-16 and FY 2016-17. To fund the grants, the Act created an appropriation for the program using a one-time transfer of \$6 million from a fund balance that had accumulated in the Universal Service Fund (USF), described in more detail below. [s. 20.155 (3) (r), Stats.]

Under current law, the PSC is not authorized to raise additional funding for the Broadband Expansion Grant Program or use funds in the USF that have not been specifically appropriated for Broadband Expansion Grants. If the current funding structure continues, the PSC will have sufficient funds to annually award up to \$1.5 million in grants through FY 2018-19.

### The USF

The USF was created by 1993 Act 496 to provide Wisconsin residents access to telecommunications service. The USF is funded through an assessment on telecommunications providers, which the providers are statutorily permitted to recover directly from consumers. [s. 196.218 (3) (e), Stats.]

The USF assessment generates funding for 12 programs. The PSC administers six of these programs, which generally assist individuals with disabilities, low-income individuals, and certain consumers located in high-cost, rural areas of the state in obtaining and using telecommunications services. The Department of Public Instruction (DPI) administers four programs that generally provide financial assistance to libraries. The University of Wisconsin (UW) System administers one program that helps four-year UW campuses maintain access to BadgerNet. [s. 196.218 (3) (a) 3., Stats.] DOA administers one program, the TEACH Program, discussed in detail below.

The statutes provide that the assessment is to be collected from the gross revenue that providers receive from providing intrastate retail voice telecommunications service and certain other services. [s. 196.218 (3) (a) 3m., Stats.] The Biennial Budget Act sets the budget for each of the 12 programs supported by USF funding, and the PSC is responsible for setting assessment rates specific to each provider that the PSC estimates will generate the total amount needed to fund the programs in the subsequent year. [s. 196.218 (3) (a) 3., Stats.]

The PSC has not always considered unspent revenue remaining in the USF at the end of a year when determining assessment rates for a subsequent year, causing an unencumbered balance to accumulate in the USF.<sup>2</sup> The balance totaled \$8.5 million at the end of FY 2014-15, before \$6 million was transferred to the Broadband Expansion Grant Program.<sup>3</sup>

The Governor's 2015-17 budget proposal called for creating an ongoing funding source for the Broadband Expansion Grant Program by annually transferring the unencumbered balance in the USF at the end of each fiscal year to this program. The Legislature removed the

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<sup>2</sup> Legislative Audit Bureau Report 13-6: "Universal Service Fund" (April 2013).

<sup>3</sup> State of Wisconsin 2015 Annual Fiscal Report, Budgetary Basis.

ongoing funding mechanism and instead provided a one-time transfer of \$6.0 million from the fund balance and required the PSC to submit a report to the Joint Committee on Finance on the causes of the balance and options for reducing it in the future. The Governor vetoed the reporting requirement, but the one-time transfer of \$6 million was enacted. [s. 20.155 (3) (r), Stats.]

Under current law, funding for the Broadband Expansion Grant Program is limited to the unspent funds remaining from the \$6 million transfer. [s. 196.504 (2) (a), Stats.] The PSC is not authorized to raise additional funding for the program through the assessments paid by telecommunications providers. [s. 196.218 (3) (a) 3., Stats.]

The unencumbered balance in the USF totaled \$14.6 million at the end of FY 2015-16.<sup>4</sup>

### The Bill

The bill:

- Expands the PSC's authority to award grant funds by repealing a provision in current law that prohibits the PSC from awarding more than \$1.5 million in Broadband Expansion Grants each year.
- Provides additional funding for the Broadband Expansion Grant Program in FY 2016-17 by transferring to the grant program \$6 million from the USF and \$5 million from funds received by the state through the federal Schools and Libraries Educational Rate (E-Rate) program, described in detail below.
- Provides additional funding for the Broadband Expansion Grant Program beginning in FY 2017-18 by transferring to the program at the end of each fiscal year any unencumbered balances remaining in the appropriations for the USF-funded programs administered by the PSC, DOA, DPI, and the UW.
- Authorizes the PSC to use USF funds to fund its administrative costs associated with the Broadband Expansion Grant Program and award Broadband Expansion Grants in an amount determined by the PSC.

### THE TEACH PROGRAM

#### Current Law

The TEACH Program currently distributes funding through three subprograms: (1) Educational Telecommunications Access; (2) Information Technology Block Grants; (3) Educational Technology Teacher Training Grants.

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<sup>4</sup> State of Wisconsin 2016 Annual Fiscal Report, Budgetary Basis.

### **Educational Telecommunications Access**

The statutes authorize DOA to provide telecommunications services to certain governmental and educational entities.<sup>5</sup> [s. 16.972 (2), Stats.] DOA provides service by contracting with a consortium of private telecommunications service providers to obtain access to a wide area network called BadgerNet. Under the contract, each entity may connect to BadgerNet for a monthly fee that is based on the number of connections an entity has and the bandwidth of each connection.<sup>6</sup>

The statutes limit the amount that DOA may charge an "educational agency"<sup>7</sup> each month for BadgerNet access to \$100 per connection for basic service and \$250 for higher speed service. The statutes authorize DOA to determine whether to allow an educational agency to obtain more than one connection to BadgerNet. [ss. 16.99 (2g) and 16.997 (2) (d) and (2c), Stats.]

The Educational Telecommunications Access subprogram subsidizes the cost of providing educational agencies with access to BadgerNet. The difference between the cost of DOA's payments to the telecommunications service providers under the contract and the monthly payments made by educational agencies to DOA is subsidized using funds appropriated from the USF.

Under current law, eligible educational agencies are grouped into the following five categories: (1) school districts; (2) private and technical colleges and libraries; (3) private schools; (4) state schools; and (5) juvenile correctional facilities. [s. 20.505 (4) (s), (t), (tm), (tu), and (tw), Stats.] The statutes specify the maximum amount of USF funding that may be used to subsidize the cost of providing access to educational agencies in each category, and funds dedicated to a particular category that are not spent cannot be used for educational agencies in another category. In spring 2015, as part of the Governor's 2015-17 biennial budget proposal, DOA reported that funds dedicated to certain categories of educational agencies were not being used, causing unencumbered balances to accumulate.

The cost of providing access to agencies within a category that are in excess of the amount of USF funding provided for that category are covered by using federal funding received through the E-Rate Program.<sup>8</sup> Under the E-Rate Program, the federal government reimburses the state for a portion of the cost of providing telecommunications service to certain eligible schools and libraries. [47 CFR s. 54.501.] DOA provides BadgerNet access to these entities, applies for reimbursement, and typically receives funds two to three years later.<sup>9</sup>

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<sup>5</sup> These entities include state agencies, local governments, qualified private schools, tribal schools, postsecondary institutions, museums, and zoos.

<sup>6</sup> Legislative Audit Bureau Report 12-8: "UW System's Role in WiscNet and Grant-Funded Networks."

<sup>7</sup> "Educational agency" is defined to include: a school district, charter school sponsor, juvenile correctional facility, private school, tribal school, cooperative educational service agency, technical college district, private college, public library system, public library board, public museum, the Wisconsin Center for the Blind and Visually Impaired, and the Wisconsin Educational Services Program for the Deaf and Hard of Hearing.

<sup>8</sup> Legislative Fiscal Bureau, "2015 Budget Paper #128: Technology for Educational Achievement Program."

<sup>9</sup> Legislative Fiscal Bureau, "2015 Budget Paper #128: Technology for Educational Achievement Program."

Under current law, E-Rate funding may only be used for certain purposes. Any funds remaining after covering the costs of providing BadgerNet access through the funding process, described above, may only be used to cover the cost of providing additional BadgerNet connections to educational agencies that already have at least one connection to BadgerNet and which are eligible for reimbursement under E-Rate. [s. 20.505 (4) (mp), Stats.]

In Spring 2015, as part of the Governor's 2015-17 biennial budget proposal, DOA reported that E-Rate revenues had exceeded expenses in recent years, causing there to be a \$32 million balance in the E-Rate appropriation at the beginning of FY 2014-15.<sup>10</sup>

The Governor's 2015-17 biennial budget proposal called for addressing the unencumbered balances, in part, by: (1) authorizing educational agencies to obtain more than one connection to BadgerNet; (2) eliminating the USF funding divisions between the categories of educational agencies; and (3) transferring the unencumbered balances in the USF to the Broadband Expansion Grant Program at the end of each odd-numbered year.

2015 Act 55 included the first item listed above, but it did not include items (2) and (3). In addition, it included a provision added by the Legislature that created the Information Technology Block Grant subprogram and the Educational Technology Teacher Training Grant subprogram, described in more detail below.

The balance in the E-Rate appropriation was \$39.7 million at the end of FY 2015-16, and \$39.5 million at the end of January 2017.<sup>11</sup>

### **Information Technology Block Grants**

2015 Act 55 (the 2015-17 Biennial Budget Act) authorized DOA to annually award \$7.5 million in Information Technology Block Grants in FY 2015-16 and FY 2016-17, and it provided that the subprogram will sunset on July 1, 2017.

Grant funds must be used for the purpose of improving information technology infrastructure, and they may only be awarded to school districts whose membership density is less than 13 students per square mile. DOA is required to prioritize grant requests based on the percentage of a school district's students who meet federal income criteria for free or reduced-price lunch. [s. 16.994, Stats.]

The maximum amount of funding that a school district may receive in the fiscal biennium depends on its number of students. School districts with fewer than 750 students may receive up to \$30,000; school districts with 750 to 1,500 students may receive up to \$40 per student; and school districts with more than 1,500 students may receive up to \$60,000. [s. 16.994 (3), Stats.]

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<sup>10</sup> Legislative Fiscal Bureau, "2015 Budget Paper #128: Technology for Educational Achievement Program."

<sup>11</sup> Information provided by DOA on February 17, 2017.

Of the total \$15 million that DOA was authorized to award in Information Technology Grants during the 2015-17 Biennium, DOA reported that it awarded no grants in FY 2015-16, and that it expects to award between \$3 million and \$5 million in FY 2016-17.<sup>12</sup>

### **Educational Technology Teacher Training Grants**

2015 Act 55 (the 2015-17 Biennial Budget Act) created the Educational Technology Teacher Training Grants subprogram, under which DOA may annually award up to \$1.5 million in grants to school district consortia for the purpose of training teachers to use educational technology.

To be eligible for a grant, a school district consortium must include three or more school districts, each of which must have a membership density of 13 or fewer students per square mile. [s. 16.996, Stats.]

The maximum amount of funding that a school district may receive each year depends on its number of students. School districts with fewer than 750 students may receive up to \$7,500; school districts with 750 to 1,500 students may receive up to \$10 per student; and school districts with more than 1,500 students may receive up to \$15,000. [s. 16.996 (3), Stats.]

Of the total \$3 million that DOA was authorized to award in Educational Technology Teacher Training Grants in the 2015-17 Biennium, DOA reported that it awarded approximately \$1.5 million in grants in both FY 2015-16 and FY 2016-17.<sup>13</sup>

### **The Bill**

The bill makes changes to current law relating to the TEACH program. Specifically, the bill makes the following changes:

- Delays the sunset of the Information Technology Block Grant subprogram from July 1, 2017 until July 1, 2019, so that grants may be awarded in FY 2017-18 and FY 2018-19.
- Changes the eligibility criteria for Information Technology Block Grants to provide that a school district must have 16 or fewer students per square mile and a membership of 2,500 or less, in order to be eligible.
- Authorizes DOA to award an additional round of Information Technology Block Grants before July 1, 2017, that are in addition to any grants a school district may have already received under the subprogram in the 2015-17 Biennium and therefore do not count towards the maximum amount a school district may receive. The bill transfers \$7.5 million in FY 2016-17 from the E-Rate Program appropriation to fund the additional grants.

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<sup>12</sup> Information provided by DOA on February 17, 2017.

<sup>13</sup> Information provided by DOA on February 17, 2017.

- Eliminates provisions in current law that divide eligible educational agencies into categories and specify the maximum amount of USF funding that may be used to provide BadgerNet access to the agencies within each category.
- Provides that any unencumbered balance of TEACH funds at the end of each fiscal year must be transferred to the Broadband Expansion Grant Program.
- Transfers \$5 million from the E-Rate appropriation to the Broadband Expansion Grant Program.

## EXEMPTIONS FROM CERTAIN FEES

### DOT Fees

Under current law, a person must obtain a permit from DOT in order to construct broadband infrastructure along, across, or within the limits of a highway under DOT's authority, and DOT may charge a fee for the permit.

The bill prohibits DOT from charging any fee for the initial issuance of a permit to construct broadband infrastructure in areas that have been designated by the PSC as underserved, which are areas that are served by fewer than two broadband service providers.

### DNR Fees

Under current law, DNR may grant an easement in land under its control to a public utility for the public utility's lines. DNR must charge the public utility a fee equal to the appraised value of the easement.

The bill prohibits DNR from requiring any appraisal or charging any fee for an easement granted for the construction of broadband infrastructure in areas that have been designated by the PSC as underserved, which are areas that are served by fewer than two broadband service providers.

If you have any questions, please feel free to contact us directly at the Legislative Council staff offices.

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