



Legislative Fiscal Bureau

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6

April 27, 1999

Joint Committee on Finance

Paper #810

Assistance to Institutions Program Elimination (Public Service Commission -- Universal Service Fund)

[LFB 1999-01 Budget Summary: Page 517, #1, Page 519, #3 and Page 569, #12]

CURRENT LAW

The PSC assistance to institutions program (also known as the 30-20-10 program or the institutional discount program) provides three-year grants for partial reimbursement for new telecommunication services to eligible not-for-profit schools, private schools, charter schools, colleges and universities, technical college districts, public libraries and not-for-profit hospitals. Reimbursable services include two-way interactive video services, high-speed data transfer, toll call access to the internet, and direct internet access. Grant levels are set at the lower of 30% of the monthly charge or \$300 per month the first year, 20% of the monthly charge or \$200 per month the second year, and 10% of the monthly charge or \$100 per month the third year. This program is funded from the universal service fund (USF) and the base budget for this program in 1998-99 is \$2,000,000 SEG.

GOVERNOR

Reduce funding in the universal telecommunications service appropriation funded from the USF by \$1,700,000 SEG in 1999-00 and \$2,000,000 SEG in 2000-01 and repeal the PSC assistance for institutions program.

Transfer existing remaining commitments for the grant program to the TEACH Board on the general effective date of the bill and require the Board to provide remaining payments to those institutions eligible for remaining grants under the program. A TEACH Board appropriation, funded from the USF at \$67,200 SEG in 1999-01 and \$9,100 SEG in 2000-01, would be created to pay for the cost of these remaining grants in the 1999-01 biennium. Expenditures from this appropriation would be prohibited after June 30, 2001. Create language

authorizing the transfer of assets and liabilities from PSC to the TEACH Board and modify the USF statute relating to assessment of telecommunications providers for USF programs.

DISCUSSION POINTS

1. The USF was established under 1993 Wisconsin Act 496 to ensure that all state residents receive essential telecommunications services and have access to advanced telecommunications capabilities such as the internet. The focus of Act 496 was to deregulate the telecommunications utilities in Wisconsin, increase competition among telecommunications companies and, as part of the agreement on deregulation, provide universal service to Wisconsin residents by establishing the USF to fund programs for this purpose.

2. The statutory uses of the USF for PSC-related programs are to: (a) assist customers in areas of this state that have relatively high costs of telecommunications services, low-income customers and disabled customers in obtaining affordable access to a basic set of essential telecommunications services; (b) assist in the deployment of advanced service capabilities of a modern telecommunications infrastructure throughout the state; (c) promote affordable access throughout this state to high quality education, library and health care information services; and (d) pay for the costs of administering the fund.

3. To implement the legislative directive to provide universal service, the PSC was authorized to promulgate, by administrative rule, the programs to be funded from the USF. To ensure both consumer and telecommunications provider input into this process, Act 496 authorized the PSC to appoint a USF Council to advise the Commission on the creation and implementation of PSC programs to be funded from the USF. The USF Council consists of representatives of the telecommunications providers and consumers of telecommunications services and the statutes require that a majority of members be representatives of telecommunications consumers. As part of its responsibilities, the Council is to make recommendations to the PSC on the administration of the USF statute and the content of rules promulgated by the PSC under that statute.

4. To fund expenditures from the USF appropriation, the PSC assesses telecommunication utilities that have gross intrastate telecommunications revenues of greater than \$200,000. Act 496 authorized the PSC to set the level of assessments sufficient to fund the PSC programs. Assessments are made monthly; however, assessments for the PSC programs were suspended in January of 1998 because of surplus revenues in the USF relative to actual expenditure levels.

5. The assistance to institutions program was established in 1996 when the first USF administrative rules became effective. The program is aimed at meeting the statutory goal of promoting affordable access throughout this state to high quality education, library and health care information services. The program provides partial reimbursement for new telecommunications services to eligible not-for-profit schools, private schools, charter schools, colleges and universities, technical college districts, public libraries and not-for-profit hospitals. Since the program's first inclusion in the USF budget in 1997-98, the PSC has budgeted \$2,000,000 SEG annually for this

program. However, the largest amount expended for this program in any fiscal year, including estimated expenditures for this fiscal year, was in 1997-98 when a total of \$285,000 SEG was expended. To date, 255 schools, 26 libraries and four non-profit hospitals have received grants under the program.

6. Subsequent to the establishment of the PSC programs funded under the USF, 1997 Act 27 created the Technology for Educational Achievement (TEACH) Board and established an educational telecommunications access program under the Board to support the provision of advanced telecommunication services to eligible school districts, private schools, CESAs, technical college districts, private and tribal colleges and public library boards. Under the TEACH access program, an eligible entity pays, not to exceed \$250 per month, for a data line or video link and the TEACH access program pays the remainder of the cost. The TEACH access program, like the PSC assistance to institutions program, is funded from the USF. However, separate assessment processes fund the two programs. In 1998-99, a total of 598 entities have received telecommunications access services at an estimated cost of \$12,316,400 SEG under the TEACH access program. The entities consisted of 355 public school districts, four CESAs, 16 technical college districts, 168 public library boards, 18 private colleges, 36 private K-12 schools and one tribal school.

7. The Legislature recognized the potential for overlap between the PSC assistance to institutions program and the new TEACH access program when the latter program was created by 1997 Act 27. Therefore, as a part that Act, the Legislature directed the PSC to report to the Governor and the Legislature with recommendations for reducing programmatic and funding differences between the two programs. That report was submitted by the PSC on December 23, 1998. In its report, the PSC recommended that DOA and the PSC continue discussions on developing a legislative proposal for the possible combination of the two programs, including possibly phasing out the PSC assistance to institutions program for schools and libraries.

8. The Governor's budget eliminates the PSC assistance to institutions program and makes a corresponding reduction of \$1,700,000 SEG in 1999-00 and \$2,000,000 SEG in 2000-01 in PSC's appropriation funded from the USF. Existing commitments estimated at \$67,200 SEG in 1999-00 and \$9,100 SEG in 2000-01 are transferred to the TEACH Board and an appropriation, funded from the USF, is created to fund the cost of these remaining grants in the 1999-01 biennium. Lastly, language authorizing the transfer to the TEACH Board of all assets and liabilities, contracts, rules and orders associated with the assistance to institutions program is included in the bill along with a modification of the current assessment language.

9. In an April 8, 1999, letter to the Joint Committee on Finance, Secretary Bugher has indicated that DOA now supports a modification to the Governor's recommendation regarding the PSC's assistance to institutions program. The requested modification would retain the repeal of the assistance to institutions program but have PSC retain the responsibilities for paying the remaining commitments under the program. As a result, under the requested modification, all of the proposed changes to the TEACH Board's budget and responsibilities would be deleted from the bill, including the proposed change in assessment language. According to DOA staff, the intent is that the only

statutory changes that would then remain in the bill would be the provision that repeals the use of USF funds for the assistance to institutions program and the reduction of funding budgeted for that program.

10. If the Committee agrees with the recommendation to terminate the assistance to institutions program, the modifications proposed by Secretary seem reasonable. It is not necessary to involve the TEACH Board in the remaining commitments under the PSC assistance to institutions program. The PSC already has a relationship with these institutions and the remaining activity associated with phasing out the program would consist simply of providing the two additional years of grants (under the three-year grant program) to institutions that are already receiving funding. However, since the statutory authorization for the program would be repealed on the effective date of the budget bill, a session law provision would be necessary to allow the PSC to make the remaining payments due under the program.

11. If the Committee decides to eliminate the assistance to institutions program, it should consider a further modification to the Governor's proposal to provide a reduction to the USF appropriation under the PSC that more accurately accounts for the remaining PSC commitments. The Governor's reduction of \$1,700,000 SEG in 1999-01 left \$300,000 SEG in the universal telecommunications service appropriation that was previously budgeted for the assistance to institutions program. Using updated estimates from PSC, if the assistance to institutions program were eliminated, the remaining commitments would be \$71,000 SEG in 1999-00 and \$10,900 SEG in 2000-01. Therefore, the Committee could reduce the base level appropriation amount by a total of \$1,929,000 SEG in 1999-00 and \$1,989,100 SEG in 2000-01 to more accurately reflect the remaining commitments under the assistance to institutions program that need to be funded in the next biennium.

12. The primary arguments for eliminating the assistance to institutions program are that the PSC program is substantially duplicative of the TEACH program and the latter program is being more widely used because it provides larger grants. Both programs are: (a) primarily used by educational institutions and libraries; (b) support the broad purpose of improving access to advanced telecommunications services; and (c) are funded from assessments levied against telecommunications providers. In terms of usage, the TEACH program has provided grants to almost 600 participants in 1998-99 at a cost of approximately \$12.3 million SEG while the PSC program is expected to expend about \$205,000 SEG in 1998-99 for grants to less than 300 participants. The PSC report illustrated why the TEACH educational telecommunications access program is so much more financially attractive than the PSC assistance to institutions grant program. Assuming a \$1,500 charge for a video link, a school or other institution would pay \$250 per month on an ongoing basis under the TEACH program with the TEACH telecommunications access program paying the remainder. Under the assistance to institutions program, the school or other institution would have to pay \$1,200 per month in the first year, \$1,300 in the second year and \$1,400 in the third year and then the full \$1,500 per month thereafter.

13. While the two programs are programmatically similar, particularly in fact that the overall goal of both programs is to support the provision of advanced telecommunications services

to schools, libraries and certain other institutions, there are several differences that can be pointed out. These differences are identified below:

- Services -- The PSC grant is limited to new services while the TEACH program includes support to schools that have existing data lines or video links.

- Eligible institutions -- Non-profit hospitals are eligible under the PSC program whereas the TEACH grants are only for educational institutions and public libraries. A total of four non-profit hospitals are estimated to receive grants in 1998-99 totaling \$3,300 SEG. Among educational institutions, the PSC grant may be awarded to each school in a school district while the number of TEACH grants available to a school district is limited to the number of high schools in that school district. Also, CESAs are not eligible under the PSC program but are eligible under the TEACH program.

- Grant amounts -- The PSC grant is limited to 30% of the cost of the service the first year, then declines to 20% in the second year, then to 10% in the third year of the grant and then is eliminated after the third year. The TEACH grant sets a maximum cost to the institution of \$250 per month and is ongoing so long as funds are appropriated for the program.

- Assessments -- While both programs are funded by assessments on the same telecommunication providers, how these providers recover their universal service fund assessments from their customers is different for each program. In the case of the PSC program assessments, the telecommunications providers may not change their rates due to the assessments without following established rate changing procedures. These procedures include not exceeding maximum increases for price regulated telecommunication providers and obtaining PSC rate approval for other providers. In the case of assessments for TEACH programs, all telecommunication providers may change their rates without seeking PSC approval to recover the amounts they pay in TEACH assessments. Furthermore, a reference to the rate increase may be included on a customers bill but a provider may not impose a surcharge on bills for the assessments.

14. Two other points regarding the elimination of the assistance to institutions program may be noted. First, while the TEACH program does provide more financially attractive grants, some institutions have continued to take PSC grants in 1998-99. Second, the PSC is authorized to modify the universal service fund programs administratively and could modify the program to make it more attractive, including targeting other institutions. The PSC on February 28, 1999, issued a proposed administrative rule which would modify a number of the USF programs and also create some new programs. This proposed rule includes proposals to: (a) change the reimbursement rate under the assistance to institutions program to a flat 20% annually for the three-year period of the grant; and (b) expand the eligible institutions to include CESAs, school administration buildings and public library systems (only individual public libraries are eligible now).

15. One alternative the Committee could choose, anticipating the current rulemaking, would be to eliminate the assistance to institutions program but retain the \$2,000,000 SEG to pay the remaining commitments and use the remainder for different USF programs. The proposed

rulemaking includes several new programs and an expansion of existing programs. This option would retain the \$2,000,000 in question for allocation to existing or new USF programs, except for the assistance to institutions program.

16. A second alternative the Committee could choose would be to retain the program, but budget the program at an appropriation level equal to this biennium's average level of spending, an estimated \$245,000 annually. This would ensure that all current eligible participants in the program, whether eligible for the TEACH program or not, would have access to a program that provides some support for new telecommunications services. Under this alternative, the net adjustment to PSC's base level USF appropriation would be a reduction of \$1,715,000 SEG in 1999-00 and in 2000-01.

17. A final alternative would be to maintain current law and retain \$2,000,000 SEG annually in the USF appropriation for the assistance to institutions program.

ALTERNATIVES TO BASE

1. Approve the Governor's modified recommendation by: (a) repealing the assistance to institutions program effective with the passage of the budget; (b) reducing the base level of the universal telecommunications service appropriation by \$1,929,000 SEG in 1999-00 and \$1,989,100 million SEG in 2000-01 to reflect the funding only of remaining commitments under the program; (c) deleting any transfer of the program to the TEACH Board; (d) retaining the current law assessment language; and (e) deleting the appropriation of \$67,200 SEG in 1999-00 and \$9,100 SEG in 2000-01 under the TEACH Board to pay remaining commitments under the program. *(Under this alternative, base funding of \$2,000,000 SEG annually for the assistance to institutions program would be eliminated, except that funds to pay remaining commitments of \$71,000 SEG in 1999-00 and \$10,900 SEG in 2000-01 would be retained in the appropriation.)*

<u>Alternative 1</u>	<u>SEG</u>
1999-01 FUNDING (Change to Base)	-\$3,918,100
<i>[Change to Bill]</i>	<i>-\$294,400]</i>

2. Eliminate the assistance to institutions program but retain the funding for the remaining commitments under the assistance to institutions program and for other USF programs. *(Under this alternative, the assistance to institutions program would be eliminated but funding of \$2,000,000 SEG annually would be retained in the USF appropriation for expenditures on other programs as determined by the PSC.)*

<u>Alternative 2</u>	<u>SEG</u>
1999-01 FUNDING (Change to Base)	\$0
<i>[Change to Bill]</i>	<i>\$3,623,700]</i>

3. Continue the assistance to institutions program but reduce the base level funding for the USF appropriation by \$1,715,000 SEG annually to provide funding for this program in 1999-01 at the current expenditure level estimated for this biennium. (Under this alternative, no appropriation would be created under the TEACH Board, no statutory changes would be made to the language for the assistance to institutions program and the budget for assistance to institutions program would be set at \$245,000 SEG annually.)

<u>Alternative 3</u>	<u>SEG</u>
1999-01 FUNDING (Change to Base)	-\$3,510,000
[Change to Bill]	-\$113,700]

4. Maintain current law. (Under this alternative, the assistance to institutions program would be continued and funding of \$2,000,000 SEG annually would be budgeted for the program.)

<u>Alternative 4</u>	<u>SEG</u>
1999-01 FUNDING (Change to Base)	\$0
[Change to Bill]	\$3,623,700]

Prepared by: David Worzala

MO# AH 2

1	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
	PANZER	Y	N	A
2	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 15 NO 1 ABS 0

PUBLIC SERVICE COMMISSION -- UNIVERSAL SERVICE FUND

Assistance to Institutions Program Elimination
(Paper # 810 - Substitute for Alternative 2)

Motion:

Move to eliminate the assistance to institutions program as it relates to educational institutions but retain the program for nonprofit hospitals. Retain the current level of program funding for remaining commitments under the existing assistance to institutions program, for future awards under the current program for nonprofit hospitals and for other USF programs. Amend the Governor's statutory language that would eliminate the assistance to institutions program to retain the existing program for nonprofit hospitals.

Note:

This motion would eliminate the current assistance to institutions program for educational institutions but continue the program for nonprofit hospitals. The \$2,000,000 SEG currently budgeted annually for the assistance to institutions program would be retained for existing commitments, awards to nonprofit hospitals under the continued program, and for other USF programs.

[Change to Base: \$0]
[Change to Bill: \$3,623,700 SEG]

MO#	BURKE	DECKER	JAUCH	MOORE	SHIBILSKI	PLACHE	COWLES	PANZER	GARD	PORTER	KAUFERT	ALBERS	DUFF	WARD	HUBER	RILEY	AYE	NO	ABS
	A	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	N			
	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	7	9	

PUBLIC SERVICE COMMISSION -- UNIVERSAL SERVICE FUND

Assistance to Institutions Program Elimination
(Paper # 810 - Substitute for Alternative 2)

Motion:

Move to eliminate the assistance to institutions program but retain the current level of program funding for remaining commitments under the assistance to institutions program and for other USF programs. In addition, create a statutory enumeration for a new program under the USF to provide assistance to nonprofit medical clinics and public health agencies for the purchase of telecommunications equipment that would be used by these entities to assist clients. Require the PSC to promulgate rules to implement this new program and specify that expenditures for this program be capped at \$500,000 SEG per year.

Note:

This motion would eliminate the current assistance to institutions program but retain the \$2,000,000 SEG budgeted annually for existing commitments under the assistance to institutions program, for other USF programs and for \$500,000 SEG annually for a new program that would provide funding to purchase telecommunications equipment for non-profit clinics and public health agencies. Statutory language would be drafted to make funding telecommunication equipment purchases by nonprofit medical clinics and public health agencies an eligible expense from the universal service fund. The PSC would be directed to promulgate rules for the operation of this new program.

[Change to Base: \$0]

[Change to Bill: \$3,623,700 SEG]

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
PANZER	Y	N	A
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 9 NO 7 ABS

(Base) Agency: Public Service Commission - Universal Service Fund
Budgeting for USF Programs

Recommendations:

Paper No. 811: Part A - Burke Motion (see below)
Part B - Alternative 1

Comments: The USF is good in theory, but in practice PSC is having a hard time getting things off the ground (it's relatively new). Specifically, they aren't spending the \$8 million a year they are allocated.

For Part A: FB has a motion drafted for you that let's current grant recipients receive their grants and lets the current USF rulemaking process continue, but puts the PSC's plans for the USF in the second year of the biennium on hold until they demonstrate to JFC that they have a good plan of action for the Fund and clearly identify their fiscal needs. They would have to come back to JFC to get their funding released - once they have a plan.

((**side bar:** this is why I recommended keeping the \$2 million in the USF account in FB Paper 810. Let's keep their feet to the fire, but keep the flexibility to fund more initiatives if needed))

Burke Motion: FB can explain in more detail at the pre-meeting. But, essentially, this motion puts the \$\$ in a JFC account for the second year of the biennium, and it can only be released when PSC has their act together on the Universal Service Fund. The USF can be a great program if it's managed wisely.

prepared by: Barry



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April 27, 1999

Joint Committee on Finance

Paper #811

Budgeting for USF Programs (Public Service Commission -- Universal Service Fund)

CURRENT LAW

The Public Service Commission currently operates eight programs that are funded out of the Universal Service Fund (USF). In 1997-98 and 1998-99, \$8,000,000 SEG annually was appropriated in PSC's universal telecommunications service appropriation (USF appropriation) to fund these programs. Actual expenditures for these programs (plus administrative costs) totaled \$2,795,600 SEG in 1997-98 and estimated 1998-99 expenditures are \$3,105,000 SEG.

GOVERNOR

Eliminate the assistance to institutions program, one of the eight PSC programs currently funded from the USF, and reduce funding by \$1,700,000 SEG in 1999-00 and \$2,000,000 SEG in 2000-01.

DISCUSSION POINTS

1. A separate paper (LFB Paper #810) addresses the issue of the level of funding in the USF appropriation for the assistance to institutions program that is recommended for elimination by the Governor. This paper addresses the broader issue of how the remaining current and any new or modified existing PSC programs to be funded from the USF should be budgeted for within the total funding established for the USF appropriation. Specifically, this paper reviews how the individual budgets for existing programs have been established, how the PSC sets budgets for these programs in connection with the biennial budget process and whether an adjustment to the appropriation level relative to these other PSC programs funded from the USF might be considered at this time.

Background

2. The USF was established under 1993 Wisconsin Act 496 to ensure that all state residents receive essential telecommunications services and have access to advanced telecommunications capabilities such as the internet. The focus of Act 496 was to: (a) deregulate the telecommunications utilities in Wisconsin; (b) increase competition among telecommunications companies; and (c) as part of the agreement on deregulation of telecommunication providers, provide universal service to Wisconsin residents by establishing the USF to fund programs for this purpose.

3. The statutory uses of the USF for PSC-related programs are to: (a) assist customers in areas of this state that have relatively high costs of telecommunications services, low-income customers and disabled customers in obtaining affordable access to a basic set of essential telecommunications services; (b) assist in the deployment of advanced service capabilities of a modern telecommunications infrastructure throughout the state; (c) promote affordable access throughout this state to high quality education, library and health care information services; and (d) pay for the costs of administering the fund.

4. To implement the legislative directive to provide universal service, the PSC was authorized to promulgate, by administrative rule, the programs to be funded from the USF. To ensure both consumer and telecommunications provider input into this process, Act 496 authorized the PSC to appoint a USF Council to advise the Commission on the creation and implementation of PSC programs to be funded from the USF. The USF Council consists of representatives of the telecommunications providers and consumers of telecommunications services and the statutes require that a majority of the members be representatives of telecommunications consumers. As part of its responsibilities, the Council is to make recommendations to the PSC on the administration of the USF statute and the content of rules promulgated by the PSC under that statute.

5. To fund expenditures from the USF appropriation, the PSC assesses telecommunication utilities that have gross intrastate telecommunications revenues of greater than \$200,000. Act 496 authorized the PSC to set the level of assessments sufficient to fund the PSC programs. Assessments are made monthly; however, assessments for the PSC programs were suspended in January of 1998 because of a surplus in the USF relative to actual expenditure levels.

6. The PSC was authorized to develop programs to be funded from the USF by administrative rule. In May of 1996, the PSC first promulgated rules that formally established the programs as recommended by the USF Council and approved by the PSC. In general, the programs were designed to ensure telecommunications access for low-income residents, provide assistance to disabled residents, provide safeguards against fluctuations in rates, and provide grants to institutions for advanced telecommunication services. A brief description of each of the current programs and 1997-99 budgeted and expended levels for these programs are provided in the attachment to this paper.

7. Since 1996, when the first USF programs were established, expenditures under the USF appropriation have never been close to \$8 million budgeted for expenditures from the fund. Prior to 1997-99 budget, the fund was actually operated off-budget. Prior to being brought on budget in 1997-98, calendar year expenditures totaled \$2,769,600 SEG in CY 1996 and \$2,816,600 SEG in CY 1997. Act 27, the 1997-99 budget bill, brought the USF on-budget, established a state appropriation for expenditures from the fund and provided expenditure authority of \$8,000,000 SEG annually. Actual expenditures from the new appropriation in 1997-98 totaled \$2,795,600 SEG and estimated expenditures for 1998-99 total \$3,105,000 SEG (see the table in the attachment for details).

Current Budget Setting Process

8. In developing its 1999-01 biennial budget request, no review of the base level of the appropriation was apparently undertaken by the PSC. Rather, the \$8,000,000 SEG level that had been appropriated each year for the 1997-99 biennium was simply carried forward.

9. Under the rules for the USF, the PSC is to at least annually set the budget for the programs funded from the USF. The Commission is to provide notice of such proposed budget for the fund and any proposed changes to the USF Council and other interested parties. While the PSC has in the past set an annual budget as required, these budgets have been set on a calendar year rather than fiscal year basis. Further, these budgets have never had a total budget amount nor a budget by program different than the same programmatic distribution of the \$8 million appropriation that was set when the state appropriation was first created.

10. The agenda papers prepared for the Commission's 1996 budget setting (for a CY 1997 budget) noted that "if expenditures for the itemized uses [individual amounts budgeted by program] on the attachment vary substantially from the current estimates, budget modifications and potential assessment rate changes can be considered as the needs arise." However, neither in CY 1997 or nor in CY 1998 has the PSC taken any action to adjust the budgets for the individual programs. Rather, the Commission has continued budgeting a total of \$8 million for the various programs. However, because actual total program expenditures have been considerably below the budgeted level, the PSC has suspended assessment of telecommunication providers as of July 1, 1998. Further, the Commission indicates that no annual budget was set under this process for CY 1999.

11. As a part of creating the USF under 1993 Act 496, the Legislature anticipated the need for there to be a periodic review of the status of universal service in the state. That Act required the PSC to annually submit a report to the Legislature's Joint Committee on Information Policy regarding the USF. The statute requires that the report include information on all of the following: (a) the affordability of and accessibility to a basic set of essential telecommunications services and of advanced service capabilities throughout the state; (b) the affordability of and accessibility to high-quality education, library and health care information services; (c) financial assistance provided under the universal service fund; and (d) an assessment of what the successes of these USF and other investments have been.

12. Presumably, this type of report was intended to assist the Legislature, as well as the USF Council and the PSC, in assessing the success of these USF programs and reviewing these programs in the course of setting future budget levels. To date, the PSC has never submitted such a report. However, it is understood that a draft of such a report is currently under review within the PSC.

13. The Legislative Audit Bureau (LAB), at the request of the PSC, conducted a financial audit of the USF in 1998. The audit found no problems with the financial operations of the USF; however, the LAB report did note that the "PSC has not fully developed all of the programs it established to enhance telecommunication capabilities around the state." In a letter responding to the audit report, the then Chair of the Commission noted that "Recognizing, as has the Legislative Audit Bureau, that the program budget and spending levels [for USF programs] have not meshed, the Commission will certainly be examining the need for some programs, the specific nature of the programs, and budget levels on which to base future assessments." The Commission suspended assessments for the PSC programs funded from the USF in January of 1998 because of a substantial surplus in the fund. The PSC has indicated that, based on current expenditure levels, assessments will likely be re-instituted beginning in October or November of this year.

14. The Governor's budget recommendation for the PSC programs funded from the USF started from the Commission's historic appropriation level of \$8 million annually and then modified that amount only to reflect the recommended repeal of the aids to institutions program and a corresponding reduction of \$1,700,000 SEG in 1999-00 and \$2,000,000 SEG in 2000-01. The PSC indicates that a budget by program has not yet been developed for 1999-00. However, the PSC has indicated that the budgeted amounts for the remaining programs will likely be about the same as 1998-99, with the exception that the Newline funding would be eliminated because Act 27 only required funding of that program for the current biennium. The PSC anticipates that the amounts for the Newline funding would be reallocated to other program budgets such as the telecommunication equipment purchases program, which provides purchase vouchers for disabled telecommunications customers, including the blind, to purchase telecommunications equipment needed to access and use a telecommunications network.

15. Shortly after the introduction of the Governor's Budget, the PSC released proposed rules relating to the USF and USF-funded programs, including proposals for the creation of some new programs and the modification of other existing programs. The PSC is required by statute to biennially review and revise rules for the USF. These pending administrative rules represent the first proposed revision of the rules since they initially became effective on May 1, 1996. A public hearing was held on these proposed rules on April 6, 1999, but due to the number of people appearing to speak, that hearing will be continued on May 11, 1999. Given the interest expressed in the proposed rules, the PSC anticipates that the revised rules will likely not be finalized until this fall (well after the start of the 1999-00 fiscal year).

16. The changes proposed in the rule would modify many of the current USF programs and would also create some new programs. For example, the existing Lifeline and Link-up rates would be modified as would the equipment voucher amounts for the disabled. In addition, the

credit formulas for the high rate assistance program and the rate-shock mitigation program would also be adjusted. Proposed new programs include the expansion of the uses of the USF to include reimbursements for urban and rural telephone access rate differences and the creation of a program to fund non-profit organization programs to further universal service goals. In addition, expenditures for publicizing the USF programs would be specified as an eligible expense.

17. The PSC does not yet have any fiscal estimate for the anticipated funding impact of these changes. However, the proposed rule does indicate that the outreach program would be capped at a maximum of \$250,000 per year and the non-profit organizations program would be capped at \$500,000 annually.

18. Typically in any budget, appropriations are set based on established program activities, expected program growth, experienced expenditure levels and any approved program modifications. The total expenditure experience in this program reflects expenditures substantially below the total appropriated levels. The PSC's budget submittal provided no indication of program specific future spending levels and gave no indication that any new programs were planned. Rather, the request simply continued as a base funding request the historic \$8 million appropriation level. As of this writing, the PSC has provided no projections by program as to what level of expenditures it expects for 1999-01.

19. Given recent history and the recently announced proposal from the PSC for several modifications to existing programs and the creation of new programs, the Committee could consider making modifications to: (a) the USF appropriation level as recommended by the Governor; and (b) the process by which the specific programs to be funded from the USF are identified so that fiscal year appropriation levels can be set as a part of the biennial budget process.

Appropriation Level

20. One alternative would be for the Committee to set the appropriation amount at the level of expenditures estimated to be incurred in fiscal year 1998-99, excluding consideration of funding for assistance to institutions program which is addressed in a separate budget issue paper (LFB Paper #810) and Newsline expenses of \$35,000 SEG which under 1997 Act 27 was a one-time expenditure in this biennium. That level would be \$2,865,000 SEG, as shown in the following table.

**PSC Programs Funded from the USF - Budgeted and Expended Amounts
FY 1998-99**

<u>PSC Program</u>	<u>FY 1998-99</u>	
	<u>Budgeted</u>	<u>Estimated Expenditures</u>
Telecommunications Equipment Purchases	\$1,200,000	\$710,000
Voice Mail for Homeless	20,000	20,000
Rate Shock Mitigation	1,059,500	15,000
High Rate Assistance Credit	1,855,000	1,495,000
Lifeline Assistance	1,000,000	280,000
Link-Up America	620,000	205,000
Fund Administrative Costs	<u>210,500</u>	<u>140,000</u>
Total	\$5,965,000	\$2,865,000

Any needed adjustments to this appropriation could then be made, upon request from the PSC, by the Committee under s.13.10 as developments (increased program demand or the establishment or modification of PSC programs by rule) warranted during the next biennium.

21. Another alternative would be to continue funding the Newline program in 1999-01 as an enumerated USF program. If the Newline program were included, the revised USF appropriation total would be \$2,900,000 SEG annually, an increase of \$35,000 SEG, to reflect the most recent expenditure level for that program. To establish the program as an enumerated program under the USF, a statutory language change would also be required.

22. It could be argued, however, that it is premature to lower the program budget levels for these programs because the current rulemaking is the first adjustment to the programs since their inception and it is unknown what future amounts will be necessary. Further, several components of the rulemaking, specifically the new programs and promotional spending, are designed to increase expenditures. In addition, it could be argued that the PSC report on the status of universal service should be available before total funding levels are significantly reduced. Lastly, the formula-based programs such as rate shock mitigation may result in spending spikes outside of the control of the PSC and this might then necessitate several 13.10 requests.

23. A second alternative would be to leave the appropriation at the level recommended by the Governor for these programs (excluding the assistance to institutions program), but include a session law requirement that before any funds could be expended by the PSC in 2000-01, the PSC would be required to submit to the Committee, for approval, under s. 13.10, a detailed expenditure plan which identifies each program or activity on which funds are proposed to be expended for the second year of the biennium, the basis for the estimated expenditure level and an explanation of each program or activity to be funded. This alternative would provide time for the new administrative rules to be implemented, the required PSC report to the Joint Committee on

Information Policy to be completed and submitted, and the USF Council and the PSC to reexamine the budget priorities.

USF Budget Setting Process

The Committee could also consider creating statutory language to do the following:

24. First, the Committee could change the current biennial sum certain appropriation for the program to an annual appropriation. Under an annual appropriation, an agency may only expend up to the amounts in the appropriation for that year. Any unexpended monies at the end of a fiscal year revert to the fund from which the monies were appropriated (in this case, the USF). In contrast, under a biennial appropriation, while expected expenditure levels for each fiscal year are indicated in the schedule for the appropriation, the amounts by year are not controlling. Rather, an agency may expend at any level in a given year so long as the total amount expended in the biennium does not exceed the total amount appropriated by the Legislature. Unspent monies in a biennial appropriation revert to the fund from which they were appropriated only at the end of the fiscal biennium.

25. Second, the Committee could create an express statutory requirement that as a part of the PSC's biennial budget request, the PSC would have to submit a proposed budget for each program for which the Commission proposes to expend monies from the USF, identify the proposed expenditure amount by fiscal year and include a description of each program to be funded.

ALTERNATIVES TO BASE

A. Appropriation Level

[NOTE: The following three alternatives address funding for the USF appropriation exclusive of a decision on the funding level needed with regard to the assistance to institutions program. That issue is addressed separately in LFB Paper #810.]

1. Reduce the base level for the USF appropriation by \$3,135,000 SEG in 1999-00 and in 2000-01 to reflect funding the appropriation at the level of the most recent level of expenditures for these USF programs.

<u>Alternative 1</u>	<u>SEG</u>
1999-01 FUNDING (Change to Base)	- \$6,270,000
[Change to Bill]	- \$6,270,000]

2. Reduce the base level for the USF appropriation by \$3,100,000 SEG in 1999-00 and 2000-01 to reflect funding the appropriation at the level of the most recent level of funding that includes the Newline program and include statutory language to enumerate the Newline program as a USF program.

Alternative 2	SEG
1999-01 FUNDING (Change to Base)	- \$6,200,000
[Change to Bill]	\$6,200,000]

3. Maintain current law. (This would be the same as approving the Governor's recommendation to provide funding of \$6,000,000 SEG in 1999-00 and in 2000-01 for these programs.)

B. USF Budget Setting Process

1. Include statutory language to: (a) change the current biennial appropriation for expenditures of monies from the universal service fund for Public Service Commission (PSC) programs to an annual appropriation; and (b) provide that as a part of each biennial budget request submittal, the PSC must include a proposed budget for each individual program for which the Commission proposes to expend monies in the forthcoming biennium, including identifying the proposed expenditure amount for each program by fiscal year and including a description of each program to be funded.

2. Maintain current law.

Prepared by: David Worzala
Attachment

MO# B-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
PANZER	<input checked="" type="radio"/>	N	A
GARD	<input checked="" type="radio"/>	N	A
PORTER	<input checked="" type="radio"/>	N	A
KAUFERT	<input checked="" type="radio"/>	N	A
ALBERS	<input checked="" type="radio"/>	N	A
DUFF	<input checked="" type="radio"/>	N	A
WARD	<input checked="" type="radio"/>	N	A
HUBER	<input checked="" type="radio"/>	N	A
RILEY	<input checked="" type="radio"/>	N	A

AYE 16 NO 0 ABS 0

ATTACHMENT

USF Budget for PSC Programs. As shown in Table 1, the 1997-99 budget provided a total of \$16 million in a biennial appropriation for all the universal service fund (USF) programs administered by the PSC. This funding is distributed between eight programs and administrative costs. The PSC has the authority to shift funding between programs if customer demand warrants a shift. In terms of actual expenditures in FY 1997-98 and expenditures estimated by PSC for FY 1998-99, the table shows that all of the programs (except Newline expenses) are estimated to be less than the budgeted amount. In total, PSC program expenditures in 1997-99 from the USF are estimated to be less than half the amount budgeted for the biennium.

TABLE 1

**PSC Programs Funded from the USF - Budgeted and Expended Amounts
1997-1999**

PSC Program	FY 1998		FY 1999		Biennial Budget	Estimated Expenditures
	Budget	Expended	Budget	Estimated Expenditures		
Aids to Institutions	\$2,000,000	\$284,891	\$2,000,000	\$205,000	\$4,000,000	\$569,891
Telecommunications						
Equip. Purchases	1,200,000	271,705	1,200,000	710,000	2,400,000	1,001,705
Voice Mail for						
Homeless	20,000	0	20,000	20,000	40,000	20,000
Rate Shock Mitigation	983,500	28,251	1,059,500	15,000	2,043,000	43,251
High Rate Assistance						
Credit	1,855,000	1,471,494	1,855,000	1,495,000	3,710,000	3,246,494
Lifeline Assistance	1,000,000	332,280	1,000,000	280,000	2,000,000	597,280
Link-up America	620,000	170,972	620,000	205,000	1,240,000	455,972
Newline Expenses	111,000	111,000	35,000	35,000	146,000	146,000
Fund Administrative						
Costs	<u>210,500</u>	<u>124,970</u>	<u>210,500</u>	<u>140,000</u>	<u>421,000</u>	<u>269,970</u>
Total PSC	\$8,000,000	\$2,795,563	\$8,000,000	\$3,105,000	\$16,000,000	\$6,350,563

Description of Programs Funded from the USF. A brief description of each of the PSC programs funded from the USF is provided below.

Assistance to Institutions. This program, also referred to as the institutional discount program or the 30-20-10 program, provides partial reimbursement for new telecommunications services to eligible not-for-profit schools, private schools, charter schools, colleges and universities, technical college districts, public libraries and not-for-profit hospitals. New services eligible for reimbursement include two-way interactive video services, high-speed data transfer, toll call access to the internet, and direct internet access. Grant levels are set at the lower of 30%

of the monthly charge or \$300 per month the first year, 20% of the monthly charge or \$200 per month the second year, and 10% of the monthly charge or \$100 per month the third year. No institution may receive a grant after three years of participating in the program for a given service. Institutions are limited to one grant per site for one new service provided. However, a site may receive a second three-year grant for a different service after the initial three-year grant is completed.

Service and Equipment Pricing for Individuals with Special Needs. This program provides vouchers to disabled customers to purchase telecommunications equipment needed in their homes to access and use the telecommunications network. Vouchers are available from the PSC and the voucher amounts are established by administrative rule based upon different disabilities. Vouchers require a co-payment of \$100 by the voucher recipient at time of purchase.

Voice Mail for Homeless. In areas where the local exchange service, or its affiliate, offers voice-mail services and has available capacity on its voice-mail system, a social services agency, a job service agency, or other homeless shelter authority may receive, upon request, voice mail service to be used for the benefit of the entity's homeless clients or residents. Under this program, the local exchange service provider or its affiliate is eligible for reimbursement of the incremental cost of providing the voice-mail service from the USF.

Rate Shock Mitigation. Under this program, the PSC may provide temporary rate credits for customers of rate of return regulated telecommunications utilities to mitigate the impact of large increases in authorized rates. These credits are generally the result of rate cases before the PSC when a utility wishes to increase rates significantly. In cases where the PSC determines a rate increase is necessary, credits may be provided to customers to temporarily lessen the impact of the increase. A utility is first required to pay a portion of the credits from other available utility revenues. PSC credits, which generally are available for three years or less, are provided to the customer by the utility and the utility is reimbursed by the USF. The PSC is required to specify the individual cases where rate shock mitigation credits apply.

High Rate Assistance Credits. This program, also referred to as the rate ceiling credits program, provides credits for a portion of the local service rates when the rate charged for service exceeds levels set in administrative rule for this program. When the local access charge exceeds an amount equal to 0.75% of the median household income of a county, a credit is provided. As the local access charge increases as a percentage of the median household income, the credit increases. Local exchange service utilities issue the credits and are eligible for reimbursement from the USF for the cost of the credits provided.

Lifeline Assistance Program. Under this program, local exchange service utilities are required to provide reduced monthly service rates for certain low-income residential customers. Low-income customers include those that receive benefits from any of the following programs: (1) TANF; (2) medical assistance; (3) SSI; (4) food stamps; (5) low-income household energy assistance (LIHEAP); or (6) the Wisconsin homestead tax credit. The minimal level of service,

which must be provided at \$15 monthly, includes: (1) single party residential service including touch-tone; (2) 911 charges billed on the telephone bill; (3) the federal subscriber line charge; and (4) a maximum of 120 local monthly calls. Local exchange service utilities may receive reimbursement from the USF for 25% of the difference between the lifeline rate and the standard rate. The remaining 75% of the cost may be partially offset by federal programs, if available, or else must be absorbed by the utility.

Link-up America Program. This program provides qualified low-income residential customers with a waiver for the cost of initiating or moving line service. Low-income eligibility is based upon eligibility for the same low income programs as the lifeline assistance program discussed above. Typical charges that are waived include those for new service installations, moves from one residence to another, and reconnecting existing service. Local exchange service utilities receive reimbursement from the USF for 25% of the waived charges. Like the lifeline assistance program, the remaining 75% of the cost may be partially offset by federal programs, if available, or else must be absorbed by the utility.

Newsline Expenses. 1997 Wisconsin Act 27 included a requirement that the PSC allocate funds from the USF to support a pilot project for the provision of an electronic news service, *Newsline*, to the blind and disabled in Wisconsin. PSC was required to provide the Department of Public Instruction with funding from the USF in the amount of \$111,000 SEG in 1997-98 and \$35,000 SEG in 1998-99 to provide *Newsline* at two local service centers located in Milwaukee and Madison.

PUBLIC SERVICE COMMISSION -- UNIVERSAL SERVICE FUND

Budgeting for the USF Program - Appropriation Level
[Paper #811 -- Additional Alternative]

Motion:

Move to modify the Governor's recommendation by deleting \$6,000,000 SEG in 2000-01 from the universal telecommunications service appropriation and instead place these funds in the Joint Committee on Finance's SEG appropriation with the understanding that such funds could be transferred to the universal telecommunications service appropriation once the PSC submits to the Committee, for approval under s. 13.10, a detailed expenditure plan which identifies each program or activity on which those funds are proposed to be expended for the second year of the biennium, the basis for the estimated expenditure level and an explanation of each program or activity to be funded.

Note:

This motion would continue the budgeted level of funding in 1999-00 for the PSC USF programs, excluding the assistance to institutions program, at the current level of \$6,000,000 SEG. However, it would place the second year funding level of \$6,000,000 SEG as recommended by the Governor in the Committee's SEG appropriation. Release of funds to the USF appropriation would be dependent upon the Committee's approval under s. 13.10 of a detailed expenditure plan for the second year of the biennium. The PSC would have to provide a detailed expenditure plan that would identify each program or activity on which funds are proposed to be expended, the basis for the estimated expenditure level and an explanation of each program or activity to be funded.

Motion #584

MO# 584

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

AYE 16 NO 0 ABS

PUBLIC SERVICE COMMISSION

Use of Transmission Equipment and Property

Motion:

Move to incorporate the provisions of LRB 2426/1 which would authorize cities, villages, towns, counties or school boards to use transmission equipment or property subject to the same conditions as a public utility or telecommunications provider under current law.

Note:

This motion would authorize cities, villages, towns, counties or school boards to use transmission equipment or property subject to the same conditions as a public utility or telecommunications provider under current law.

Under current law, transmission equipment or property is defined as any conduit, subway, pole, tower, transmission wire or other equipment on, over or under a street or highway. The use must be allowed if the following conditions are satisfied: (1) public convenience and necessity require the use; (2) the use will not irreparably injure the owner or another user; (3) the use will not result in a substantial detriment to service that is rendered by the owner or another user; and (4) the user pays reasonable compensation for the use. The Public Service Commission is authorized to resolve any disagreement over the use, including a disagreement over the amount of compensation.

w/DEAN

MO#	BURKE	DECKER	JAUH	MOORE	SHIBILSKI	PLACHE	COWLES	PANZER	GARD	PORTER	KAUFERT	ALBERS	DUFF	WARD	HUBER	RILEY	AVE	NO	ABS
	A	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	N			
	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y			

PUBLIC SERVICE COMMISSION -- UNIVERSAL SERVICE FUND

Budgeting for USF Programs -- Appropriation Level
Funding for Newsline for the Blind

(Paper #811 -- Additional Alternative)

Motion:

Move to direct the PSC to allocate \$43,500 SEG in 1999-00 and \$45,500 SEG in 2000-01 from the USF appropriation for continuation of the Newsline program. Further, include statutory language to enumerate the Newsline program as a USF program.

Note:

This motion would provide funding for the Newsline for the Blind at \$43,500 SEG in 1999-00 and \$45,500 SEG in 2000-01, compared to the \$35,000 SEG that was provided for this purpose in 1998-99.

The Newsline for the Blind provides dial-up telephone access to audio versions of major national newspapers for sight-impaired individuals. The National Federation of the Blind operates the Newsline. DPI contracts with the Federation to provide service from two local service centers: one located at the Wisconsin Regional Library for the Blind and Physically Handicapped in Milwaukee and the other at the main public library in Madison. There are currently an estimated 400 to 500 users in the Madison and Milwaukee areas.

MO#	BURKE	DECKER	JAUCH	MOORE	SHIBILSKI	PLACHE	COWLES	PANZER	GARD	PORTER	KAUFERT	ALBERS	DUFF	WARD	HUBER	RILEY
	A	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	N
	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

AVE 9 NO 7 ABS

PUBLIC SERVICE COMMISSION -- UNIVERSAL SERVICE FUND

PSC Coordination with W-2 Agencies

Motion:

Move to require that the PSC annually provide all W-2 agencies, as identified by the Department of Workforce Development, with information about the existence of all the current USF programs that are available to low-income individuals served by these agencies and how assistance under those programs may be obtained by these individuals.

Note:

This motion would require PSC to annually inform W-2 agencies of the USF funded programs operated by the PSC that are available to those low-income individuals who are served by these agencies.

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
PANZER	Y	N	A
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 15 NO 1 ABS 0

(Base) Agency: Public Service Commission - Universal Service Fund

Recommendations:

Paper No. LFB Summary Items for Which No Issue Paper Has Been Prepared:

Comments: This item looks fine to me. Since this is a base agency, you need to approve the item to include it in the committee bill.

prepared by: Barry

PUBLIC SERVICE COMMISSION

Universal Service Fund

LFB Summary Item for Which No Issue Paper Has Been Prepared

Item #

Title

2

Transfer PSC Responsibilities for the Educational Telecommunications Access Program

MO# 02010001

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
PANZER	<input checked="" type="radio"/>	N	A
GARD	<input checked="" type="radio"/>	N	A
PORTER	<input checked="" type="radio"/>	N	A
KAUFERT	<input checked="" type="radio"/>	N	A
ALBERS	<input checked="" type="radio"/>	N	A
DUFF	<input checked="" type="radio"/>	N	A
WARD	<input checked="" type="radio"/>	N	A
HUBER	<input checked="" type="radio"/>	N	A
RILEY	<input checked="" type="radio"/>	N	A

AYE 16 NO 0 ABS 0

Public Service Commission

Office of the Commissioner of Railroads

(LFB Budget Summary Document: Page 520)

LFB Summary Items for Which Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
2	Budget Requests (Paper #815)
3	Railroad Grade Crossings Committee (Paper #816)

(Gov) Agency: PSC - Office of the Commissioner of Railroads
Budget Requests

Recommendations:

Paper No. 815: Alternative 3

Comments: DOT is trying to micro-manage Uncle Rodney's biennial budget requests. I think it would be best to maintain current law (i.e. Alternative 3).

However, I suppose alternative 2 would be an acceptable middle ground.

prepared by: Barry



Legislative Fiscal Bureau

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

June 1, 1999

Joint Committee on Finance

Paper #815

Budget Requests (PSC -- Office of the Commissioner of Railroads)

[LFB 1999-01 Budget Summary: Page 520, #2]

CURRENT LAW

The Office of the Commissioner of Railroads (OCR) is attached, for administrative purposes, to the Public Service Commission (PSC). The PSC is required to process and forward all of OCR's personnel and biennial budget requests without change, except as requested and concurred in by OCR. Base funding and staffing levels for OCR are \$457,800 PR and 7.0 PR positions. Funding for OCR operations derives from direct and remainder assessments of railroad companies based on their gross revenues from intrastate railroad operations.

GOVERNOR

Delete the provision that requires that all personnel and budget requests of the Office be forwarded by the PSC without change. Instead, require that personnel and budget requests be processed by the Department of Transportation.

DISCUSSION POINTS

1. OCR was created by 1993 Act 123 to administer railroad regulatory functions. These functions had earlier been transferred to the PSC by 1993 Act 16 as part of the elimination of the Office of the Commissioner of Transportation (OCT). OCT had been an independent regulatory body, attached administratively to DOT, and had the responsibility, among other duties, for railroad regulatory matters in the state.

2. The Governor's 1995-97 budget recommended that OCR be eliminated and its regulatory functions be transferred to DOT and DOA. The Legislature, however, retained OCR as an independent agency. The bill would retain OCR as an independent agency, but its budget and personnel requests would be processed by DOT and could be modified without OCR's consent.

3. There could potentially be a conflict of interest if OCR's budget requests were subject to DOT's review. OCR orders the installation of railroad crossing signals or gates based on an assessment of the safety of the crossing. Since the funding for the installation of crossing devices comes from sources that could otherwise be used for other DOT programs, DOT may have an interest in limiting the amounts that are spent for that purpose.

4. DOT is sometimes a petitioner in cases decided by OCR. For instance, DOT may petition to have crossings closed or modified because of a highway project, which may require the railroad to pay a portion of the costs. If there is a dispute on these issues between the Department and the affected railroad, OCR may conduct a hearing to resolve the dispute. If OCR's budget requests were subject to DOT's review, OCR's independence in these hearings may be questioned by the railroads.

5. Allowing DOT to have some review of OCR's budget requests, however, may be appropriate, since the installation of railroad crossing signals that have been ordered by OCR are funded with state transportation funds and federal highway aid. The decision to provide additional funds for crossing devices should be weighed against the relative priority of other possible transportation uses of those funds.

6. Ultimately, however, the Legislature, not DOT, is responsible for the approval of budget requests. Consequently, it may be appropriate to continue to allow OCR to determine funding needs and make the requests independent of DOT's review.

7. OCR made a request in September, 1998, to the Joint Committee on Finance under s. 13.10 for \$500,000 FED to make improvements at several railroad crossings. DOT indicates that the Department had little or no knowledge of this request before it was made, which limited the Department's input on the issue. One alternative that may improve the communication between the two agencies on railroad crossing issues, without subjecting OCR's budget requests to DOT's control, would be to retain current law with respect to the processing of OCR's budget requests, but to require OCR to notify DOT at least 14 days prior to making any budget or personnel requests that would affect DOT's appropriations. This would ensure that DOT has time to respond to the request.

ALTERNATIVES

1. Approve the Governor's recommendation to require that personnel and budget requests be processed by DOT, instead of by the PSC.

2. Delete the Governor's recommendation and, instead, require OCR to notify DOT at least 14 days prior to making any budget or personnel request that affects DOT's appropriations.

3. Maintain current law.

Prepared by: Jon Dyck

MO# Alternative 3

A	A	A	A	A	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	N	N	N	N	N
<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
BURKE	DECKER	JAUCH	MOORE	SHIBILSKI	PLACHE	COWLES	PANZER	GARD	PORTER	KAUFERT	ALBERS	DUFF	WARD	HUBER	RILEY				

AYE 16 NO 0 ABS 0

(Gov) Agency: PSC - Office of the Commissioner of Railroads
Railroad Grade Crossings Committee

Recommendations:

Paper No. 816: Alternative 3

Comments: DOT is trying to corral Commissioner Krueenen. Personally, I think OCR is doing a good job identifying problems at railroad crossings and getting signals and gates installed. I don't know what the problem is or why DOT would want to hamper safety improvement upgrades. Hence my choice to maintain current law (i.e. Alternative 3).

This is a big issue for WUTA. The people who drive the trains need these safety improvements as much as the motorists.

I suppose alternative 2 would be an acceptable middle ground, but only if you can't get the votes to maintain current law.

prepared by: Barry



Legislative Fiscal Bureau

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

June 1, 1999

Joint Committee on Finance

Paper #816

Railroad Grade Crossings Committee (PSC -- Office of the Commissioner of Railroads)

[LFB 1999-01 Budget Summary: Page 520, #3 and Page 585, #7]

CURRENT LAW

Upon the petition of the Department of Transportation, local governments, railroads or at least five persons, the Office of the Commissioner of Railroads (OCR) is required to investigate a public railroad crossing to determine whether the crossing protects and promotes public safety. If OCR determines that a crossing does not adequately protect public safety, it may order the railroad to install a railroad crossing signal or gates. The cost of the installation is paid from one of two DOT appropriations (\$450,000 SEG and \$3,549,300 FED in 1998-99). There are 4,457 public, at-grade railroad crossings in the state.

There are currently 28 crossings for which OCR has ordered a crossing device installed, but for which funding is not yet available.

GOVERNOR

Create a Railroad Grade Crossings Committee composed of two members appointed by the Secretary of the Department of Transportation and two members appointed by the Office of the Commissioner of Railroads (OCR). Require the Committee to review each at-grade railroad crossing in the state and permit the Committee to recommend to OCR that improvements be considered to any crossing if the Committee determines that existing warning or safety devices or other conditions at the crossing do not adequately protect and promote public safety. Specify that provisions requiring DOT to pay the cost of a crossing project that has been ordered by the OCR only apply if: (a) the Committee or the DOT Secretary has recommended that the OCR consider improvements at the crossing; or (b) the OCR determines that immediate improvements are needed at the crossing to protect public safety. This would not apply to OCR orders issued before the effective date of the bill.

Specify that recommendations of the Committee shall be made by a majority of the Committee members, but that if no majority agrees on whether or not to recommend a crossing for improvements, then the DOT Secretary shall make that recommendation. Specify that a majority of the members of the Committee may reverse a recommendation by providing notice of the reversal to the OCR and the DOT Secretary.

Require the Committee to: (a) maintain a railroad grade crossings database; (b) establish threshold requirements for recommendations made under this provision; and (c) recommend to the DOT Secretary desirable funding levels for the railroad crossing improvement program.

Require the OCR and the DOT Secretary to make appointments to the Committee within 45 days of the effective date of the bill. Eliminate the Committee after it has reviewed every railroad grade crossing in the state and made its final recommendations, or on July 1, 2002, whichever occurs sooner.

DISCUSSION POINTS

1. DOA indicates that the intent of this provision was to: (a) establish a process by which a determination of which crossings should have safety devices installed would be made in the context of a comprehensive review of the needs at all crossings in the state and the amount of funding available, instead of on a case-by-case basis; and (b) improve communication between DOT and OCR on railroad crossing issues.

2. DOT and OCR are currently cooperating to prioritize the list of crossings that have been ordered by OCR for improvement. During this process, it may be determined that some ordered crossings, because of changes in railroad traffic, no longer need signal improvements and so OCR's order should be canceled.

3. Both DOT and OCR indicate that reviewing all crossings in the state would require their staffs to devote a significant amount of time to the effort. DOT indicates that, since up-to-date data on railroad and motor vehicle traffic at crossings is not always available, staff in transportation district offices would be required to collect current data. In addition, DOT staff may be required to visit the site of crossings under consideration to collect information on the physical layout of the crossings, including the presence of trees, buildings or other objects that might impair visibility. Since the size of the highway program has increased in recent years due to an increase in federal and state funding, the workload for DOT district employes has increased as well, and, therefore, it may be difficult for them to devote additional time to the review of railroad crossings.

4. The Railroad Grade Crossings Committee would be dissolved when it has completed the review of all railroad crossings in the state, or on July 1, 2002, whichever occurs sooner. Since railroad and motor vehicle traffic are subject to rapid change, the recommendations made by the Committee may no longer be current shortly after the Committee completes its work.

5. The DOT Secretary would appoint two out of the four members of the Committee, and would make the recommendation on a particular crossing if no majority of the Committee agrees on whether or not to recommend the crossing for improvements. This could create a conflict of interest since the funding for installation of crossing devices comes from sources that could otherwise be used for other DOT programs. DOT may have an interest, therefore, in limiting the number of crossings that are recommended by the Committee.

6. One alternative to increase the cooperation between the two agencies on railroad crossing issues, without requiring a review of all crossings would be to require OCR and DOT to jointly develop a railroad crossing improvement plan that would: (a) identify standards for reviewing railroad crossings to determine the need for crossing safety devices; and (b) recommend funding levels that are necessary to improve dangerous crossings, while considering the safety benefits of alternative uses of federal and state transportation funds. The agencies could be required to periodically update the plan.

ALTERNATIVES

1. Approve the Governor's recommendation to create a Railroad Grade Crossings Committee to review all at-grade crossings in the state and make recommendations to OCR on which crossings should be ordered for improvement.

2. Delete the Governor's recommendation and, instead, require DOT and OCR, within twelve months of the passage of the bill, to jointly develop a railroad crossing improvement plan that would: (a) identify standards for reviewing railroad crossings to determine the need for crossing safety devices; and (b) recommend funding levels that are necessary to improve dangerous crossings, while considering the safety benefits of alternative uses of federal and state transportation funds. Specify that OCR may not order improvements at a crossing, unless it is determined that immediate improvements are needed to protect public safety, after the first day of the twelfth month following the passage of the bill, if the railroad crossing improvement plan has not been completed. Require OCR and DOT to update the plan every four years.

3. Maintain current law.

Prepared by: Jon Dyck

MO# Alt. 3

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
	PANZER	(Y)	N	A
	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 16 NO 0 ABS _____

(Gov) Agency: PSC - Office of the Commissioner of Railroads

Recommendations:

Paper No. LFB Summary Item for Which No Issue Paper Has Been Prepared:

Comments: This item looks fine. No action is needed since this is a gov/bill agency.

prepared by: Barry

PUBLIC SERVICE COMMISSION

Office of the Commissioner of Railroads

LFB Summary Item for Which No Issue Paper Has Been Prepared

<u>Item #</u>	<u>Title</u>
1	Computer Equipment

Senator Burke
Senator Moore
Representative Riley

PUBLIC SERVICE COMMISSION/ADMINISTRATION

Utility Holding Company Asset Cap/Transmission Company/Public Benefits Programs

Motion:

Move to include the provisions of LRB 3150/2, to provide as follows:

ASSET CAP

Requirements to receive asset cap relief. Create a modification to the current asset cap limitation provision of the statutes for public utility holding companies if all public utility affiliates in a holding company system agree to do the following: (1) transfer transmission facilities and land rights to a newly created transmission utility; and (2) satisfy the following requirements: (a) petition the PSC and the Federal Energy Regulatory Commission for approval to transfer operational control of their electric transmission facilities that are located in Wisconsin, Iowa, Michigan, Minnesota and Illinois to the Midwest Independent System Operator (MISO); (b) file an unconditional, irrevocable and binding commitment to contribute, no later than June 30, 2000, all of the affiliate's transmission facilities in this state and land rights to the new transmission company; (c) file with the PSC an unconditional, irrevocable and binding commitment to also contribute transmission facility and land rights it may obtain after the effective date in Wisconsin from any entity it may join through merger, consolidation or transfer; and (d) notify the PSC in writing that it has become a member of the Midwest Independent System Operator and has committed not to withdraw its membership prior to contributing its transmission facilities to a new company in this state that wholesale purpose would be operating and maintaining electric transmission facilities.

Asset cap relief provided. Specify that if a public utility holding company meets the requirements above, then the asset cap for the holding company is modified in the following three ways:

First, provide that the eligible assets of a nonutility affiliate in the holding company system are excluded from both the sum of the assets of the public utility affiliates and of the nonutility affiliates in the asset cap formula. Define eligible assets of a nonutility affiliate as any asset that is used for any of the following: (1) producing, generating, transmitting, delivering, selling or furnishing gas, oil, electricity or steam energy; (2) providing an energy management, conservation or efficiency product or service or a demand-side management product or service; (3) providing an energy customer services, including metering or billing; (4) recovering or

producing energy from waste materials; (5) processing waste materials; (6) manufacturing, distributing or selling products for filtration, pumping water or other fluids, processing or heating water, handling fluids or other related activities; or (7) providing a telecommunication service, as defined under s. 196.01(am) of the statutes. Further, specify that all of the assets of a nonutility affiliate are eligible assets if: (1) all the assets of a nonutility affiliate are considered eligible assets by the bylaws of the nonutility affiliate; or (2) a resolution adopted by its board of directors specifies that the business of the nonutility affiliate is limited to activities involving eligible assets and substantially all the assets of the nonutility affiliate are eligible assets.

Second, provide that the net book value of the transmission facility assets that the public utility contributes to a transmission company is included in the sum of the assets of the public utility affiliate in the asset cap formula.

Third, specify that if the PSC, a court or a federal regulatory agency orders the public utility affiliate contributing transmission assets to the transmission company to transfer generation assets to another person, the net book value of the sum of these generation assets shall be included in the sum of the assets of the public utility affiliate in the asset cap formula.

Other relief. Specify that PSC may not impose upon a holding company established prior to 1985 and which is not itself a public utility any condition that limits the sum of the holding company's nonutility affiliate assets to less than 25% of the sum of the holding company's utility affiliate assets and that the conditions on nonutility affiliate assets shall not apply to the ownership, operation, management or control of any eligible asset, or an asset that is used for manufacturing, distributing or selling swimming pools or spas.

TRANSMISSION SYSTEM OPERATION

Authorization of transfer to the transmission company. Authorize public utility companies in the eastern portion of the state to transfer ownership of their transmission facilities, in exchange for stock, to a new transmission company that has as its sole purpose the planning, construction, operating and maintaining and expanding its transmission facilities to provide adequate and reliable transmission system. Authorize public utility affiliates to join as a condition of receiving asset cap relief. Further, permit electric cooperatives and other public utilities to transfer their transmission facilities to the new transmission company under the same terms. Allow transmission-dependent utilities and retail electric cooperatives to purchase equity interest in the transmission company.

Provide that the transmission company is subject to PSC jurisdiction except to the extent that it is subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission. Require the PSC to determine the date on which the transmission company is authorized to commence operations. Specify that the transmission company may not begin operation until it provides an opinion to the PSC from a nationally recognized banking firm that it will be able to be financially viable at a reasonable cost.

Transmission company duties. Require the transmission company to do all of the following: (1) apply for any state or federal approval to begin operations no later than January 1,

2000; (2) enter into a three-year contract with the transmission utilities that transfer their facilities to provide operation and maintenance; (3) assume existing obligations associated with the transferred facilities; (4) apply for membership in the Midwest Independent System Operator (MISO) system as a single zone; (5) transfer, upon determination by the PSC, operational control to the MISO; (6) remain a member of the MISO or any federally approved successor for at least six years; and (7) elect to be included in a single zone for tariff purposes.

Provide that after the PSC has authorized the transmission company to begin operations, a transmission utility or cooperative that has transferred ownership of its transmission facilities to the transmission company no longer has a duty to provide transmission services. Specify instead, that the transmission company has the exclusive duty to provide transmission service in a specified area of the state. Provide that the transmission company's duty terminates when the MISO begins operations. Provide that after the MISO begins operations, the MISO shall have the exclusive duty to provide transmission service in the transmission area.

Authorize the transmission company to construct transmission facilities, with PSC approval, in the transmission area or in other areas of the state where transmission facilities have been transferred to the company and, subject to any approval required under federal law, purchase or acquire additional transmission facilities.

Require the transmission company to develop a five-year phase-in plan for the purpose of developing a single zone pricing system if the transmission costs of any transmission utility in eastern Wisconsin are 10% or more below the average transmission costs of the transmission utilities in eastern Wisconsin on the date that the last public utility affiliate files a commitment with the PSC to contribute transmission facilities. Specify that the transmission company must consult with all of the public utility affiliates that have made a commitment to contribute transmission facilities in developing the plan for phasing in a combined single zone for the purpose of a pricing network used by users of the transmission system operated by the MISO. Require the company to also seek plan approval from the FERC and the MISO. Specify that this plan must phase in an average-cost price for the combined single zone in equal increments over a five-year period, except that under the plan, transmission service must be provided to all users of the transmission system on a single-zone basis during the phase-in period.

Prohibitions on the transmission company. Prohibit the transmission company from doing any of the following: (1) selling or transferring its assets unless they are sold, transferred or merged in an integrated manner that ensures that transmission facilities are planned, constructed, operated, maintained and controlled in a single transmission system; (2) bypassing the distribution facilities of an electric utility or provide direct retail service; (3) owning generation facilities or selling, marketing or brokering electric capacity or energy, except if authorized or required by the Federal Energy Regulatory Commission.

Contribution of transmission facilities. Require the PSC to review the terms and conditions of any transfer of transmission facilities to the transmission company and issue an order approving or modifying the transfer prior to the transfer taking place. Specify that a PSC order that modifies the terms and conditions of a transfer as proposed to the PSC may allow a public utility affiliate to recover in its retail rates any adverse tax consequences of the transfer as a transition cost. Require that any transmission facility that is contributed to the transmission

company must be valued at net book value at the time of the transfer.

Require the transmission company and public utility affiliate to structure the transfer of the transmission facility to satisfy the following conditions: (1) minimize the material adverse tax consequences to the public utility affiliate and any other material adverse tax consequence that result from the transfer; and (2) to the extent practicable, satisfy the requirements of the IRS for tax-free transfer. Specify that if practicable this requirement shall be satisfied by the transmission company's issuance of a preferred class of securities that provides the fixed cost portion of the resulting capital structure of the transmission company. Require that the transmission company issue preferred securities under this provision on a basis that does not dilute the voting rights of the initial security holders relative to the value of their initial contributions.

Require the public utility affiliates to enter into a contract with the transmission company if the transfer of transmission assets result in a capital structure of the transmission company in which the percentage of common equity is materially higher than that of the public utility affiliate who made the transfer, or if the cost of the fixed-cost portion of the capital structure of the transmission company is materially higher than that of the public utility affiliates who made the transfer. Require that, under the contract, the public utility affiliates agree to accept from the transmission company a return on common equity based upon the equity rate of return approved by FERC and upon an imputed capital structure that assigns to a portion of the public utility affiliate's common equity holdings an imputed debt return that is consistent with the requirements of this provision. Specify that public utility affiliates must accept this return on common equity until the FERC determines that the actual capital structure and capital costs of the transmission company are appropriate and consistent with industry practice for a regulated public utility that provides electric transmission service in interstate commerce.

Stipulate that if at the time a public utility affiliate files a commitment to transfer its transmission facilities, it has applied for or obtained a certificate of public convenience and necessity (CPCN) from the PSC for the construction of a transmission facility, the affiliate must proceed with due diligence in obtaining this certificate and in constructing the transmission facility. Provide that if the PSC determines that the cost of the transmission facility is reasonable and prudent, the affiliate must transfer these facilities to the transmission company at net book value when the construction is completed in exchange for additional securities of the transmission company on a basis that is consistent with the securities that were initially issued to the affiliate. Specify that if the construction of the transmission facility is not completed within three years after the CPCN is issued by the PSC, the transmission company may assume responsibility for completing construction of the transmission facility. Require that, if the transmission company assumes this responsibility, it must carry out any obligation under any contract entered into by the public utility with respect to the construction of the transmission facility until the contract is modified or rescinded by the company, to the extent allowed under the contract.

Specify that if a public utility affiliate is not able to transfer ownership of its transmission facilities to the transmission company due to merger-related accounting requirements, the affiliate must transfer the facilities to the company under a lease for the period of time during which the accounting requirements are in effect. Further, stipulate that once these requirements

are no longer in effect, the affiliate must then contribute the facilities to the company. Provide that an affiliate that transfers facilities under a lease under this provision does not qualify for the revised treatment of the asset cap, unless during the term of the lease, the affiliate does not receive any voting interest in the transmission company.

Provide that the duty of any public utility or electric cooperative that has contributed its transmission facilities to a transmission company to finance, construct, maintain or operate a transmission facility terminates on the date, as determined by the PSC, that the transmission company is authorized to begin operations.

Specify that a public utility affiliate that fails to complete the contribution of its transmission facilities to the transmission company by the completion date that it specified in its filing with the PSC shall forfeit \$25,000 for each day that completion of the contribution is delayed if the transmission company is legally able to accept the contribution. In addition, provide that a wholesale or retail customer of a public utility affiliate may petition the circuit court of Dane County for specific performance of a commitment to contribute transmission facilities and land rights to the transmission company that is filed with the PSC.

Contributions of land rights. Require that if a public utility affiliate commits to contributing land rights to the transmission company, then the public utility affiliate must comply with the following:

1. If the land right is assigned to a transmission account for rate-making purposes and is not jointly used for electric and gas distribution facilities by the affiliate, the affiliate must convey at book value all of its interest in the land right to the transmission company, except that any conveyance or assignment under this provision must be subject to the rights of any joint user of the land right and to the right of the public utility affiliate to nondiscriminatory access to the real estate that is subject to the land right.

2. If the land right is jointly used or intended to be jointly used, for electric and gas distribution facilities by the affiliate, the affiliate must enter into a contract with the transmission company that grants the company a right to place, maintain, modify or replace the transmission company's transmission facilities on the property that is subject to the land right during the life of the facilities and the life of any replacements of the facilities. Specify that these rights must be paramount to the right of any other user of the land right except the right granted in the contract shall be on a par with the right of the public utility affiliate to use the land right for electric or gas facilities.

3. If the public utility affiliate is prohibited from making the conveyance described in the preceding paragraph, the affiliate must enter into a contract with the transmission company that grants the company substantially the same rights as under such a conveyance.

Further, require the PSC to resolve any dispute over the contribution of a land right, including a dispute over valuation, unless a federal agency exercises jurisdiction over the dispute. Provide that while any dispute is being resolved before the PSC or the federal agency, the transmission company is entitled to use the land right that is the subject to the dispute and is required to pay any compensation that is in dispute into an escrow account.

Transmission company organization. Specify that the transmission company can be either a corporation or a limited liability corporation. Provide that the board of directors/managers shall consist of no less than five and no more than 14 managers or directors. Require that: (1) at least four of the directors/managers are elected by a majority vote of the security holders of the company and not be employees or independent contractors of a person engaged in the production, sale, marketing, transmission or distribution of electricity or natural gas or an affiliate of such a person; (2) the remaining directors/managers be appointed by shareholders, or combination of shareholders, that have a minimum ownership stake criteria; and (3) each shareholder that meets the criteria may appoint one, and only one, director/manager.

Specify that during the first five-years, no public utility affiliate that contributes transmission facility assets and no affiliate of such a public utility affiliate may increase its percentage share of the outstanding securities of the company prior to any initial issuance of securities by the company to any third party. Provide an exception to this limit for an issuance of securities to a third party who is a transmission-dependent utility or retail electric cooperative exercising its right to purchase equity interest in the company at a price that is equivalent to net book value and on terms and conditions that are comparable to those for public utility affiliates who have contributed transmission facilities to the company. Specify that this provision does not apply to securities that are issued by the company in exchange for transmission facilities that are contributed in addition to the transmission facilities that are contributed by a public utility affiliate. Allow these requirements to be modified upon a unanimous vote of the managers or directors of the company. Specify that, beginning three years after the organizational start-up date, any holder of 10% or more of the company's securities may require the company to comply with any state or federal law necessary for the holder to sell or transfer its share.

Transfer of operational control. Amend the requirement of a transmission utility to transfer control over its transmission facilities by June 30, 2000, to an independent system operator or independent transmission owner, to authorize the PSC provide a waiver if the Commission finds that the transmission owner has proposed to transfer control to MISO the but that the transfer would jeopardize the tax-exempt status of the transmission utility or its securities under the IRC.

Require the PSC to determine the date on which the MISO is authorized to begin operation. Provide that if the PSC determines the MISO is authorized to begin operations, each transmission utility in the transmission area that is a public utility shall transfer operations control over its transmission facilities to the MISO and require all public utilities that did not contribute their transmission facilities to the transmission company to become part of the single zone within the MISO.

Specify that if the PSC determines the MISO has failed to commence operations or has ceased operations, the PSC shall designate another independent system operator that is authorized under federal law to operate in Wisconsin.

PSC authority over transmission company finances. Delete the current requirement for the PSC to approve any issuance of securities by the company and exclude the transmission company from the definition of a holding company and, thus, the state holding company law. Prohibit the PSC from treating any dividends from the transmission company received by a

transmission utility or gain or profit of a transmission utility from the sale or disposition of securities in the company may not be credited against the retail revenue requirements of the utility. Amend the affiliated interest statute to provide an exclusion from PSC review under that statute for the sale or disposition by transmission utilities of their securities in the transmission company.

LICENSE FEES FOR LIGHT, HEAT AND POWER COMPANIES

Specify that a "transmission company" is a corporation or limited liability company that has as its sole purpose the planning, constructing, operating, maintaining and expanding of transmission facilities that it owns to provide for an adequate and reliable transmission system that meets the needs of all users that are dependent on the transmission system and that supports effective competition in energy markets without favoring any market participant.

Provide that a transmission company is a light, heat and power company for the purposes of the annual license fee on such companies and therefore exempt from general property taxes.

Provide that the annual license fee imposed on a transmission company is an amount equal to the gross revenues multiplied by the rate specified for gross revenues of a private light, heat and power company. Specify that, for a transmission company, "gross revenues" means total operating revenues as reported to the PSC except revenues for transmission service that is provided to a municipal light, heat and power company, or to a public utility.

Provide that transmitting electric current for light, heat or power be added to the businesses that, when carried out by an electric cooperative taxed under the license fee for electric cooperatives, is not included in the definition of a "light, heat and power company" for the purpose of the license fee on such companies.

Specify that these provisions would first apply to taxable years beginning on January 1 of the year in which the bill generally takes effect, unless the bill's general effective date is after July 31. In that case, the provisions would first apply to taxable years beginning on January 1 of the following year.

RENEWABLE RESOURCES ENERGY

Required renewable resources energy retail sales. Require that each electric utility or retail electric cooperative provide the following proportions of its total retail energy sales from renewable resources energy by the dates specified: (1) 0.5% by December 31, 2000; (2) 0.85% by December 31, 2002; (3) 1.2% by December 31, 2004; and (4) 1.55% by December 31, 2006; (5) 1.9% by December 31, 2008; and (6) 2.2% by December 31, 2010. Define total retail energy sales of a provider as the average of the energy sales over the preceding three years.

Exempt from this requirement an electric provider which supplies more than 10% of its summer peak demand in this state from renewable resource energy in this state. Also, exempt an electric provider which supplies more than 10% of its summer peak demand in and outside this

state from renewable resources energy facilities that the provider owns and operates in or outside this state.

Definition of renewable resources energy. Specify that electricity derived from any of the following constitute renewable resource energy: (1) a fuel cell that uses a fuel determined by the PSC to be renewable; (2) tidal or wave action; (3) solar, thermal, electric or photovoltaic energy; (4) wind power; (5) geothermal technology; (6) biomass; (7) a hydroelectric facility with a capacity of less than 60 megawatts; or (8) any other resource the PSC designates as a renewable resource by rule. Provide that if a facility burns a biomass fuel along with conventional fuel, the amount of renewable energy produced by that facility is considered to be the same proportion of the total energy output of the facility as the proportion of the energy input provided by the biomass fuel.

Limit the amount of electricity, derived from facilities that were placed in service and generating electricity from hydroelectric power before January 1, 1998, that may be counted toward meeting the requirement for providing renewable energy to 0.6% of a utility or cooperative's total capacity.

Purchase of renewable resources energy credits. Authorize public utilities and retail cooperatives that provide total renewable energy in excess of the specified statutory percentages to sell to any other electric provider a renewable resources credit at a negotiated price to allow the purchasing entity to meet the renewable resources energy requirements. Require the PSC to promulgate rules specifying the procedures for the calculation of the amount of credits. Direct the PSC to promulgate the rules as emergency rules and to submit draft final rules to the Legislative Council Rules Clearinghouse for review within six months of the effective date of the proposal. Authorize the PSC to promulgate rules establishing requirements and procedures for the sale of credits, but prohibit the PSC from placing restrictions on the sale price.

Administration and enforcement. Authorize the PSC to allow utilities to fully recover the cost of complying with the renewable resource standard through their rates by: (1) allocating the costs equally to all customers on a kilowatt hour basis; (2) through alternative pricing structures, including pricing structures under which customers pay a premium for renewable energy; or (3) any combination of these methods.

Require electric providers to report to DOA by April 15 of each year certifying compliance with the renewable resources energy requirements and the sources and amounts of energy provided. Require the Attorney General to enforce the standard and provide that a person who violates the standard or submits a false or misleading certification regarding the source or amount of energy provided to the utility or cooperative is subject to a forfeiture of not less than \$5,000 nor more than \$500,000. Direct that a court, in imposing a forfeiture, consider the appropriateness of the forfeiture to the volume of the person's business, the gravity of the violation and whether a violation of the standard was beyond the person's control.

EMPLOYMENT REQUIREMENTS FOR ACQUIRED ENERGY UNITS

Require any person that sells a business unit engaged in activities related to production, generation, transmission or distribution of electricity gas or steam or the recovery of energy from waste materials to make a condition of the sale that existing nonsupervisory employees necessary to operate and maintain operations are offered employment. Provide that if a nonutility affiliate acquires an energy-related unit of a public utility within the same holding company, all nonsupervisory employees must be retained. Specify that employees must be retained for a 30-month period after the acquisition at the same of higher wage rates and similar terms and conditions of employment, including fringe benefits. Stipulate that no person may sell an energy business unless PSC certifies that these conditions have been met.

HIGH-VOLTAGE TRANSMISSION LINES AND FEES

Approval of lines. Specify that the PSC may not issue a certificate of public convenience and necessity for a high-voltage transmission line that is proposed to increase transmission capacity into this state unless, in addition to the findings under current law, the PSC also makes specified findings regarding the use of existing rights-of-way and the routing and design of the line minimizes environmental impacts consistent with achieving reasonable electric rates. In addition, provide that the PSC may not issue a certificate for a high-voltage transmission line that is designed for operation at 345 kilovolts or more unless the PSC finds that usage, service or increased reliability benefits accrue to wholesale and retail customers in the state are reasonable in relation to the cost of the line.

Fees. Specify that DOA shall promulgate rules for two fees related to the PSC approval high-voltage transmission lines for operation at 345 kilovolts or more. Provide that, prior to PSC issuing a certificate of public convenience and necessity to allow construction of a transmission line, an applicant must pay to DOA an annual impact fee equal to 0.03% of the cost of the transmission line and a one-time environmental impact fee equal to 5% of the cost of the transmission line. Provide that DOA shall distribute the fees by statutory formula to counties, towns, cities and villages through which the high-voltage transmission line is routed. Specify that the receiving jurisdictions may only use the funds for park, conservancy, wetland or other environmental offset programs and may not be used for any mitigation measure required as part of a PSC order regarding the project. Create two appropriations in DOA for the receipt and expenditure of these fee revenues.

NITROGEN OXIDE EMISSIONS

Require that when DNR issues, by rule, a state implementation plan in response to a U.S. Environmental Protection Agency (EPA) requirement issued prior to the effective date of the bill, the DNR rule may not regulate nitrogen oxide emissions from utilities located in Ashland, Barron, Bayfield, Buffalo, Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Iron, Jackson, La Crosse, Monroe, Pepin, Pierce, Polk, Price, Rusk, Sawyer, St. Croix, Taylor, Trempealeau, Vernon or Washburn Counties. In addition, prohibit DNR from requiring nitrogen oxide

emission reductions that are more stringent than for any other electric utility or large industrial core sources in Wisconsin identified by EPA.

OTHER PROVISIONS

Public intervenor financing. Modify existing PSC authority to provide intervenor financing to certain organizations by requiring that PSC shall, rather than may, intervenor financing and by providing an additional \$250,000 PR annually for this activity.

Interstate transmission compact. Authorize the Governor, on behalf of the state, to enter into a compact, with one or more states in the upper Midwest to create a joint process for the member states to determine the need for and siting of regional electric transmission facilities that may affect electric service in Wisconsin. Require that any such compact must: (1) require compliance with each member state's environmental and siting standards for transmission facilities; (2) provide for a regional determination of the need for transmission facilities; and (3) establish a mechanism to resolve transmission facility siting conflicts between the states.

PSC construction orders. Amend the PSC authority to order investor owned utility to construct or procure transmission facilities by: (1) including any public utility, not just investor owned utilities; (2) changing the PSC charge from "may order" to "shall order"; and (3) eliminating the December 31, 2004, sunset date and the requirement that the order be based upon a September, 1998, transmission constraint study. Specify that if a public utility or transmission company is so ordered by the PSC, it is required to provide security in an amount and form acceptable to the PSC to ensure the expeditious investment that is ordered. Provide that the PSC shall allow the public utility, public utility affiliate or transmission company to recover these costs through retail rates.

Other requirements. Impose the following other duties on the PSC:

1. Require the PSC to promulgate rules establishing requirements and procedures for environmental impact reviews which shall include standards for: (a) determining the necessity of preparing an environmental impact statement; (b) providing adequate public participation in the review process; and (c) setting deadlines that provide review but do not delay construction of additional electric transmission capacity in the state.

2. Require the PSC to promulgate rules requiring certain electric utilities and cooperative associations to submit reports on their electric reliability status. Authorize the PSC to delay release of the reports to prevent adverse impact on the supply or price of energy in the state.

3. Require the PSC, along with DOA and DOR, to study the establishment of a program for providing incentives for the development of certain high-efficiency, small-scale electric generating facilities. Require the PSC to provide a report to the Legislature no later than January 1, 2001.

4. Require the PSC to contract for a study with an expert economic consultant on the potential for the horizontal market power of electric generators to frustrate the creation of an effectively competitive retail electric market in the state. Require the PSC to submit a report to the Legislature by January 1, 2001.

5. Require investor-owned electric utilities to file with the PSC, no later than March 1, 2000: (a) rates that result in customers receiving market-based compensation for voluntary interruption of firm load during peak demand; and (b) market-based pricing and individual contract options that allow customers to receive market benefits and subject themselves to market risks in purchasing capacity or energy from its existing public utility. Direct the PSC to establish market-based rates that are consistent with such market-based pricing options and individual contract options, except provide that the PSC may not establish such rates if the rates are likely to harm the utility's shareholders or customers who are not subject to the rates. Also, authorize municipal utilities, subject to PSC approval, to implement the same types of rates and contract options

6. Require the PSC to order a public utility affiliate or the transmission company to make certain investments in its facilities if the PSC determines that the public utility affiliate or transmission company is not making investments that are sufficient to ensure reliable electric service.

PUBLIC BENEFITS PROGRAMS

Public benefits program elements. Direct DOA, in consultation with a new Council on Public Benefits, to establish the following low-income energy assistance and energy conservation and efficiency services public benefit programs.

Low-Income Energy Assistance Programs. Create a program for awarding grants to provide assistance to low-income households for weatherization and other energy conservation services, payment of energy bills and the early identification and prevention of energy crises. Require DOA to establish eligibility requirements for the low-income programs by rule. Specify that individuals who receive low-income services under a commitment to community program offered by a municipal utility would not be eligible to receive services under the low-income program.

Energy Conservation and Efficiency and Renewable Resources Programs. Create a program for awarding grants for energy conservation and efficiency services and for renewable resources programs. Require that the program must give priority to proposals directed at: (1) sectors of the energy conservation and efficiency services market that are least competitive; and (2) promoting environmental protection, electric system reliability or rural economic development. Require the program to focus specifically on encouraging the development or use of customer applications of renewable resources, including educating customers about renewable resources, encouraging use of renewable resources by customers or encouraging research technology transfers. Specify that 4.5% of the funds available for this program must be expended for the renewable resources portion of the program and 1.75% of the funds available must be used for research and development proposals regarding the environmental impacts of the electric

industry.

Direct DOA to establish requirements and grant application procedures for grants by rule. Specify that in making awards under the program, the administrators may not discriminate against an electric provider, a wholesale electric supplier or an affiliate of one of these solely on the basis of its status as an electric provider, a wholesale electric supplier or an affiliate of one of these.

Program administration. Provide for the administration of the public benefits program, as follows:

Department of Administration. Direct DOA to establish each of the above public benefits programs after holding one or more public hearings. Assign the administration of the low-income programs specifically to DOA's Division of Housing.

Direct the Division of Housing to contract with community action agencies, nonprofit corporations or local units of government to provide the low-income program services. Direct DOA to contract with a nonprofit corporation to administer the energy conservation and related programs. Specify that the administrative functions of the energy conservation and related programs contractor shall include soliciting proposals, processing grant applications, selecting proposals to receive grants (on the basis of criteria specified by the DOA in rules) and distributing grants to recipients. Require that all contracts must be awarded on the basis of competitive bids. Direct DOA to establish criteria for the selection of a contractor to administer the energy conservation and related programs by rule.

Require DOA, beginning in the 2004-05 fiscal year, to determine whether to continue, discontinue or reduce any of the programs related to energy conservation and efficiency and renewable resources. Direct DOA to determine the amount of funding necessary for the programs that are continued or reduced and to notify the PSC of this funding determination. Provide that DOA shall promulgate rules to establish criteria for determining whether to continue, discontinue or reduce any of the programs and to determine the level of funding for the continued or reduced programs.

Other DOA Duties. Direct DOA to encourage customers to make voluntary contributions to help support public benefit programs. Require DOA to promulgate rules to require that electric utilities allow customers to include such voluntary payments with their bill payments.

Specify that DOA shall conduct an annual independent audit and submit a report to the Legislature describing the expenses of administering the public benefit programs, the effectiveness of the programs and any other topics as identified by the Governor, the Speaker of the Assembly or the Majority Leader of the Senate.

Emergency Rules. Specify that the administrative rules that DOA must promulgate for the public benefits programs be promulgated as emergency rules and direct DOA to submit draft final rules to the Legislative Council within six months of the general effective date of the act. Provide that DOA would not be required to make a finding of emergency in order to promulgate the initial emergency rules.

Council on Public Benefits. Create an 11-member Council on Public Benefits, attached to DOA for administrative purposes. Specify that the members be appointed as follows (Senate confirmation would not be required) to three-year terms: (1) two appointed by the Governor; (2) two members each appointed by the Senate Majority Leader and the Assembly Speaker; (3) one member each appointed by the Senate and Assembly Minority Leaders; and (3) one member each selected by the Secretaries of DOA and DNR and the Chairperson of the PSC. Include initial transition terms for members appointed to the first Council. Require DOA to develop the public benefits programs in consultation with the Council.

Revenue sources for the public benefits programs. Specify the following three sources of funding for these public benefits programs:

Continuation of Existing Utility Funding. Direct the PSC to determine the amount each investor-owned electric or gas utility spent on public benefit programs in calendar year 1998, including the write-off of the unpaid utility bills of low-income households. Require these utilities to continue to collect such amounts through rates. Direct the PSC to devise a methodology to be used in calendar years 1999, 2000 and 2001 to phase the expenditure of these revenue amounts out of the utilities' programs and into the programs administered by the DOA. Require, commencing in 2002, that the utilities contribute the entire amount to the DOA programs. Authorize these utilities to continue public benefit activities of their own, in addition to raising funds for the state programs. Direct the PSC to reduce the amount of funds raised by this mechanism if DOA acts to reduce the required funding level of the energy conservation public benefit programs beginning in 2004-05.

New Fees -- Collected by Investor-Owned Utilities. Require DOA to set the fees collected from such utilities by rule. Specify that the fees must be flat fees, not based on the customer's electric usage, but permit the fee levels to vary between customer classes. Require that 70% of the revenues collected by any utility must be from fees charged to residential customers and 30% must be from nonresidential customers. Through June 30, 2008, cap the total amount of fees required to be paid by an individual customer at a 3% increase in the customer's total bill for all other charges or \$750 per month, whichever is less. Require utilities to include the fee in customers' bills and provide an annual statement and description of the charges. Specify that the fees collected by these utilities must raise specified amounts to fund low-income and energy conservation and related programs. Allow utilities to include in the fees an amount to recover the utilities' cost of meeting these requirements.

For the low-income programs in 1999-00, require the fees to be sufficient to generate \$27 million minus one-half of the amount raised in fees collected by municipal utilities and cooperatives. In subsequent years, require the total amount raised to be "the low-income need target" minus all of the following: (1) one-half of the amount raised in fees collected by municipal utilities and cooperatives; (2) all federal funds received for low-income programs; and (3) all funds collected by utilities representing the 1998 level of public benefit program expenditures by the utilities. Specify "low-income need" as the amount by which the cumulative energy bills of all low-income households in the state exceed 2.2% of the cumulative incomes of those households. Define "low-income need target" as the proportion of the low-income need funded in fiscal year 1999-00 times the low-income need of a given year. Set the low-income

need target such that it would fund from these fees the same proportion of a given year's low-income need as was funded in 1999-00 outside of funding from other sources. Require DOA to determine this funding target that must be supported from fees for each subsequent fiscal year after 1998-99. Direct DOA to establish, by rule, a method for estimating the total of low-income energy bills, the average annual income of low-income households and the number of low-income households in this state in a fiscal year, for the purpose of determining the amount of low-income need in that fiscal year.

For the energy conservation and efficiency services program in 1999-00, require the fees to be sufficient to generate \$20 million minus one-half of the amount raised in fees collected by municipal utilities and cooperatives. Specify that, after 1999-00, the portion of fees for this program would be the same as determined for 1999-00, except require that DOA reduce the required funding level of the energy public benefit programs if DOA determines to reduce the required funding level of the energy conservation public benefit programs beginning in 2004-05.

New Fees -- Collected by Municipal Utilities and Cooperatives. Require municipal utilities and cooperatives to collect fees from their customers that average \$17 per electric meter per year. Authorize such utilities to charge different fee levels for different customer classes. Specify that, through June 30, 2008, the total amount of fees paid by an individual customer could not increase the customer's bill by more than 3% or \$750 per month, whichever is less.

Federal Revenues. Include the amount of federal revenues received by the state for the existing federal funding amounts under the low-income weatherization assistance program and the low-income home energy assistance program as part of the formula used to set the public benefit fees.

Municipal utilities and cooperatives "commitment to community" programs. Authorize municipal utilities and cooperatives to implement all or part of the public benefit programs (called "commitment to community" programs) for their customers. Specify that such utilities and cooperatives may implement such programs individually or jointly with other municipal utilities or cooperatives. Provide that, if a municipal utility or cooperative chooses to implement both components of the state public benefits program, it would retain all of the revenues from the fees it collects and use them for that purpose. Further, specify that: (1) if a municipal utility or cooperative chooses to implement one but not both components, specify that it would retain one-half of the revenues for its program and pay the other half to the state for the state program; or (2) if a municipal utility or cooperative chooses not to implement a commitment to community program, it would be required to pay all of the fee revenues to the state.

Require each municipal utility or cooperative to notify DOA whether the utility intends to implement a commitment to community program within one year of the effective date of the proposal and every three years thereafter. Provide that, once a municipal utility or cooperative has chosen to implement a commitment to community program, it must continue the program for a period of three years.

Specify that if a municipal utility or cooperative that implements a commitment to community program is served by a wholesale electric supplier that has established a low-income

assistance program or an energy conservation program, the municipal utility or cooperative may treat a portion of the revenues spent for the supplier's program toward its required expenditures under its commitment to community program. Specify that the municipal utility or cooperative may claim a credit in proportion to its purchases from the supplier.

Require a municipal utility or cooperative that implements a commitment to community program to submit annually a report to DOA regarding its program. Specify that the report must provide an accounting of fees charged to customers, program expenditures and credits claimed for the programs of a wholesale electric supplier. In addition, stipulate that it must provide a description of the program.

Public benefits fund and appropriations structure. Establish a new segregated utility public benefits fund as a separate nonlapsible trust fund. Provide that investor-owned utility public benefits fees, municipal utility and cooperatives public full or partial benefits fees payments to DOA and voluntary contributions from utility customers would be deposited to this fund.

Create a new SEG-funded annual appropriation under DOA that would be funded from the utility public benefits fund to support the general program operations of the public benefits function under DOA. Create two additional SEG-funded sum sufficient appropriations funded from the utility public benefits fund to support, respectively, low-income assistance grants and energy conservation and efficiency and renewable resource grants.

Note:

FISCAL EFFECTS

Public Benefits

The motion would require DOA to set public benefit fees such that: (1) for low-income program in 1999-00, \$27 million would have to be collected (less one-half of any amounts raised in fees collected by municipal utilities and cooperatives); and (2) for the energy conservation and efficiency services program in 1999-00, \$20 million would have to be collected (less one-half of any amount raised in fees collected by municipal utilities and cooperatives). It is estimated that municipal utilities and cooperatives would collect an estimated total of \$7.4 million of public benefits fee revenues. Thus, it is estimated that in 1999-00 investor-owned utilities would be required to contribute a minimum of \$23.3 million to the utility public benefits fund for low-income programs and a minimum of \$16.3 million to the utility public benefits fund for energy conservation activities (for a combined total of \$39.6 million for 1999-00).

Contribution rates for the 2000-01 fiscal year would have to be determined by DOA during the 1999-00 fiscal year. However, if it is assumed that they would be comparable to those set by this proposal for the 1999-00 fiscal year, additional contributions of \$39.6 million from

investor-owned public utilities in 2000-01 could be expected, representing a total of \$79.2 million for the 1999-01 biennium.

The amounts contributed to the utility public benefits fund in either fiscal year could be further increased to the extent that: (1) municipal utilities and cooperatives elected not to offer commitment to community programs on their own and instead contributed their public benefits fees (in whole or in part) to DOA; and (2) investor-owned utilities began to phase-down their current utility-sponsored programs and began instead to shift their use of revenues for such programs to DOA. The extent to which either of these shifts would occur during the next biennium cannot be determined at this time.

The amounts credited to the utility public benefits fund would be actually be expended through the sum sufficient appropriations to fund low-income assistance grants and energy conservation and efficiency grants. The final expenditure amounts would be determined by the number and amount of grant applications received by DOA. The proposal would estimate expenditures at the amount of estimated revenue in each year. Further, no funds have actually been appropriated under the proposal for DOA's administrative costs of implementing the public benefits function.

Finally, the federal funds for low-income weatherization assistance and energy assistance programs are currently funding existing programs and these appropriation amounts are already in the bill.

Impact Fees

The motion would establish a transmission facility impact fee and an environmental impact fee that would be collected prior to the approval by the PSC of new construction of transmission line of 345 kilovolts or larger. The transmission facility fee would be equal to 5% of the cost of the facility and would be a one-time fee. The environmental fee would be an annual fee equal to 0.03% of the cost of the facility. The fees would be collected by DOA and paid to counties and municipalities based upon a statutory formula. Payment of these fees would be required as a condition of receiving approval from the PSC to construct a new transmission facility. The public utility would be authorized to recoup the cost of these fees through customer rates.

According to the PSC, there is only one proposed transmission line known at this time that could potentially be subject to this fee in the next biennium. The line would be from Duluth, MN to Weston, WI and include approximately 210 miles of transmission lines in Wisconsin. Since design and cost details are not finalized, a definitive cost of that project is not available. Assuming a single circuit design, documents submitted to the PSC indicate seven cost options ranging from \$528,300 to \$747,200 per mile, with an average cost of \$679,200 per mile. Assuming the average cost per mile, the project cost would be estimated at \$142,632,000. Using that estimated cost, the one-time facility impact fee would generate \$7,131,600 and the annual environmental impact fee would generate \$42,800 annually.

Since these fees would be paid to DOA, which would be required to distribute the fees to counties and municipalities by statutory formula, spending would be assumed to increase by an equivalent amount when any such fees are collected.

Intervenor Financing

Intervenor funding is compensation provided to any non-utility participant in PSC proceedings. Funding is provided to a participant if the PSC finds that: (1) the position of the participant is necessary for the record and would not be possible without the grant; or (2) the participation has provided significant contribution to the record and has caused significant hardship to the participant.

The motion increases intervenor financing by \$250,000 PR annually above what is currently provided by the budget to a total of \$500,000 PR annually. Intervenor financing is funded through assessments on utilities.

License Fees for Light, Heat and Power Companies

Under current law, "light, heat and power companies" must pay an annual license fee to the Department of Revenue (DOR). For private light, heat and power companies, these fees are based upon apportioning the company's payroll, value of utility plant and sales in Wisconsin (the apportionment factor) and multiplying this factor by the sum of: (1) gross revenues from the sale of gas services multiplied by 0.975%; and (2) all other gross revenues multiplied by 3.19%.

The proposal would establish that a transmission company is a light, heat and power company and apply the license fee applicable to private light, heat and power companies to the transmission company except that the gross revenues of the transmission company would exclude revenues for transmission service over its facilities that it provides to public utilities subject to the license fee.

If a transmission company is formed and has operating revenue other than exempt revenue from sales to a municipal light, heat and power company or a public utility, it is possible that there would be some additional general fund tax collections from the license fee on revenue from such sales. However, a reliable estimate of the magnitude of such sales is not available.

In addition, if these provisions were to result in changes in the gross revenues of municipal light, heat and power companies or public utilities, the general fund taxes collected in the form of license fees on such companies would also change. It is not possible to estimate the fiscal effect without knowing whether these provisions would lead to changes in the gross revenues of such companies.

[Change to Bill: \$79,200,000 SEG and \$500,000 PR]

Regulation and Licensing

(LFB Budget Summary Document: Page 522)

LFB Summary Items for Which Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
1	Technical Change -- Standard Budget Adjustments (Paper #820)
2	Examination Fees -- Vendor Payments (Paper #821)
6a,b,d & f	Information Technology Initiatives (Paper #822)
6c	Technical Change -- Information Technology Initiatives (Paper #823)
7	Information Technology Staffing (Paper #824)
8	Technical Change -- Revised Credential Fee (Paper #825)
9	Additional Supplies and Services for Newly-Regulated Professions (Paper #826)
10	Regional Meetings of Barbering and Cosmetology Examining Board (Paper #827)

Base Agency: Department of Regulation and Licensing—Technical Change

Recommendations:

Paper No. 820: Approve Modification

Comments: This reduction reflects the actual salary and fringe benefits costs associated with a position that was eliminated, rather than the budgeted salary and fringe benefits amount.

Prepared by: Julie