

Committee Name:

**Senate Committee – Privacy, Electronic Commerce and Financial Institutions
(SC-PECFI)**

Appointments

01hr_SC-PECFI_Appoint_pt00

Clearinghouse Rules

01hr_SC-PECFI_CRule_01-

Committee Hearings

01hr_SC-PECFI_CH_pt00

Committee Reports

01hr_SC-PECFI_CR_pt00

Executive Sessions

01hr_SC-PECFI_ES_pt00

Hearing Records

01hr_ab0000

01hr_sb0000

Misc.

01hr_SC-PECFI__Misc__pt05b

Record of Committee Proceedings

01hr_SC-PECFI_RCP_pt00

Department of Electronic Government

Senate Committee On Privacy, Electronic
Commerce and Financial Institutions

March 20, 2001

Why do we need change?

Faster/Better/More Effective

Need	Action	Result
Internal		
Single point of accountability	Create State CIO	Better accountability for state IT projects/programs
Consolidation of Infrastructure	Department of E-gov	Saves Money/FTE
Reduce Duplication/Leverage Application Development	Portfolio Management & Performance Measurement	Avoid additional costs/quicker action by the state
Uniform Project Management	Reduce risk/better use of resources	Reduce political exposure and avoid waste
External		
Better citizen services	Streamlined Processes -- Portal	Higher customer satisfaction; greater efficiency
Better environment for business	Streamlined Processes -- Portal	Higher customer satisfaction; greater efficiency
Better environment for business	State leads by example	Attracts people Attracts business
Better environment for local government	State CIO/IT department	One voice/presence for county and other local governments

WeGov and Privacy

- E-government is inevitable -- choice is not between “do we” or “don’t we”
- 73% view e-government as “high priority”
- Choice is to the degree of effectiveness
- CIO/central department needed for:
 - Accountability
 - Security
 - Information Management

Accountability

- Electronic government raises the stakes in privacy and security
- Requires a higher level and more active interaction at the executive management level & between government branches & levels
- Public perception is a key to success -- need to believe that action can be taken quickly and effectively to protect citizen interest

Security

- Security is a crucial aspect -- cannot assure privacy without proper security
- Must take necessary steps towards uniform application of security -- in an Internet environment, agencies are more linked together than ever before
- Enforcement of security will need to be much more aggressive due to this common network

Security

- Proposal maintains the strength of current environment -- clear ownership of data/information by program areas
 - Existing infrastructure of staff, policies and technology
 - Current project to improve the security environment -- ensure there are no missing pieces
 - Agency owns data -- unauthorized use is flatly against the law (s.943.70)

Information Management

- You cannot protect what you cannot manage
- Eliminate duplication -- having information in numerous places makes protection that much more difficult
- Challenge the need for obtaining and keeping certain types of information

Conclusion

- No easy answers
- Requires diligence and on-going discussion and interest
- We are very interested in beginning that discussion

UETA, Privacy and Consumer Protection

March 20, 2001

3-20-01 Department of Administration Testimony to the Senate Privacy Committee

Where are we now?

- Law and Business practices beginning to adopt to information age
- Early in the process -- to adjust, more change is likely
- Interoperability is critical
 - levels (federal, state and local) and branches
 - business partners
 - public at large

3-20-01 Department of Administration Testimony to the Senate Privacy Committee

Why UETA?

- Enable e-commerce and e-government
 - Remove artificial barriers
 - Broader than E-Sign
- Updates contract law to electronic age
- States rights : contracts law is traditional area of state control
- State interoperability - Model Act adopted by 24 others states; pending in 20 + D.C.

3-20-01

Department of Administration Testimony to the Senate Privacy Committee

Broader than E-Sign

- Attribution
 - judged by context and surrounding circumstances
- Effect of Party Agreement
 - factor in determining effect of record
 - agreement to use security procedures

3-20-01

Department of Administration Testimony to the Senate Privacy Committee

Broader than E-Sign

- Send and receive addressed
 - principal place of business / residence unless agreed otherwise
 - defines receipt
- Change or error addressed
 - failure to use agreed upon security procedure
 - impact of mistakes

3-20-01

Department of Administration Testimony to the Senate Privacy Committee

Broader than E-Sign

- Admissibility
 - Not to be denied admissibility solely because electronic
- Transferable records
 - UETA -- all records on paper including negotiable instruments (s. 403) or documents of title (such as bills of lading) (s. 407)
 - E-Sign -- only transactions secured by real estate

3-20-01

Department of Administration Testimony to the Senate Privacy Committee

Consumer Protection

■ E-Sign

- Protections focussed solely on assent
- Federal agencies to review federal rules' impact on e-commerce

■ UETA

- Comply with state consumer protection laws

3-20-01

Department of Administration Testimony to the Senate Privacy Committee

Effect of other State Law

■ E-Sign

- Explicitly affects only law of writings, signatures and such

■ UETA

- Defers explicitly to other areas of substantive law (e.g. forgery, authentication, contract formation . . .)

3-20-01

Department of Administration Testimony to the Senate Privacy Committee

Adopting UETA What Changes?

- Wisconsin Definition of E-signature
- Applicability ("Transactions")
- E-sign Preemption Displaced
- Come Into Line With Other States

3-20-01

Department of Administration Testimony to the Senate Privacy Committee

What Changes? Definition of E-Signature

- Was
 - | Identity focussed
 - | Technology specific
- Will Become
 - | Intent Focussed
 - | Technology Neutral
 - | Less restrictive / Less protective
 - | Consistent E-Signature Commission recommendations

3-20-01

Department of Administration Testimony to the Senate Privacy Committee

What changes? Applicability Transactions

- What's a transaction?
 - E-Sign focussed on business / commercial and interstate commerce
 - Specifies some exemptions
 - UETA includes "governmental affairs"
- UETA includes negotiable instruments and U.C.C. documents of title such as bills of lading

3-20-01

Department of Administration Testimony to the Senate Privacy Committee

What Changes? E-Sign Preemption

- Can be displaced w/ passage of UETA
 - State decides
 - Broader commercial applicability
 - Applicability beyond commercial transactions "governmental affairs"
- E-Sign will still rule in area it occupies (interstate transactions)

3-20-01

Department of Administration Testimony to the Senate Privacy Committee

Opportunities Identified

- We have identified opportunities to fine tune the first draft
- State consumer protection impact
 - 3-day right to cancel and principal place of business
 - Direct marketing rule
 - Responsibilities to protect e-signature from misuse and misappropriation

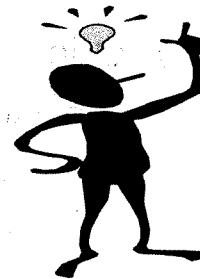
3-20-01

Department of Administration Testimony to the Senate Privacy Committee

Questions and Discussion



amy.moran@doa.state.wi.us



3-20-01

Department of Administration Testimony to the Senate Privacy Committee

Appendix

- What's a transaction?
- Signatures
 - manual, electronic and digital
- E-Sign Consumer protections
 - conspicuous notice
 - hardware/software requirements
 - other

3-20-01

Department of Administration Testimony to the Senate Privacy Committee

What's a transaction? E-Sign

- Action or set of actions relating to conduct of business, consumer or commercial affairs between two or more persons
 - includes the sale, lease, exchange, licensing or other disposition of real or personal property or services
 - "person" defined as including governmental agency, public corporation and other

3-20-01

Department of Administration Testimony to the Senate Privacy Committee

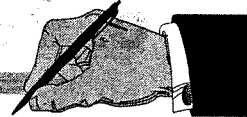
What's a transaction? UETA

"An action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs."

3-20-01

Department of Administration Testimony to the Senate Privacy Committee

Signature



- "... any name word or mark used with the intention to authenticate a writing"
- Statute of Frauds - writing requirements
- Common law of "writings" or signatures
 - demonstrate signer's intent
 - serve as evidence
 - serve as formalities

3-20-01

Department of Administration Testimony to the Senate Privacy Committee

Electronic Signature

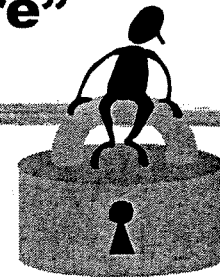


- Technology Neutral Term
 - e.g. digital images of signatures, biometric devices, PIN numbers
- Intent of Signer focus
 - “any symbol or method executed or adopted by a party with a present intent to be bound by or to authenticate a record, including electronic means.”

3-20-01

Department of Administration Testimony to the Senate Privacy Committee

“Digital Signature” Characteristics



- Technology specific term
- Identity of Sender focus
 - is a security procedure
 - “transformation of a message using an asymmetric cryptosystem such that a person having the initial message and the signer’s public key can accurately determine whether:
 - transformation was created using the private key that corresponds to the signer’s public key and
 - the message has been altered since the transformation was made” (Utah Code 46-3-103)

3-20-01

Department of Administration Testimony to the Senate Privacy Committee



Authentication

■ E-Identity

- Electronic differs from in-person
- Increased risks
 - | e.g. spoofing, eavesdropping and other mischief

■ How certain do I have to be?

- Transaction dependent
 - | less risk, less certainty required
 - | more risk, more certainty required

3-20-01

Department of Administration Testimony to the Senate Privacy Committee

Wisconsin's Current E- Signature Legislation

■ Signature must meet all stated criteria:

- (1) Unique to the person using it;
- (2) Capable of verification;
- (3) Under the sole control of the person using it;
- (4) Linked to data in such a manner that if the data are changed, the digital signature is invalidated;
- (5) Conforms to regulations adopted by . . .

3-20-01

Department of Administration Testimony to the Senate Privacy Committee

E-Signatures Existing Law

Wisconsin 1997 Act 306 Enacted

- Electronic signature defined (s. 137.04)
- Notary e-signatures (s. 137.01(4)(a))
- E-document submission with consent of receiving governmental unit (s. 137.05)
- E-signatures meeting all criteria same force and effect as manual, facsimile or other form of signature (s.137.06)

3-20-01

Department of Administration Testimony to the Senate Privacy Committee

UETA Transactions and Consumer Impact

- Requires agreement to transact electronically
- E- information must be capable of retention by the recipient at the time the information is received (i.e. recipient must be able to print or store) if a writing is legally required
- Allows for transactions w/out humans

3-20-01

Department of Administration Testimony to the Senate Privacy Committee

E-Sign Provisions

- Exemptions
- Consumer requirements
 - Affirmative and current consent
 - Clear and Conspicuous notice
 - Hardware / Software notice
 - Other

3-20-01

Department of Administration Testimony to the Senate Privacy Committee

E-Sign Exemptions **(Most not in UETA current draft)**

- Wills, codicils or testamentary trusts; adoption, divorce or other family law
- Court orders, notices, official documents
- Documents regarding hazardous/toxic materials transportation
- State Procurements
- UCC other than 1-107 or 1-206, Arts 2 and 2A

3-20-01

Department of Administration Testimony to the Senate Privacy Committee

Federal E-Sign Consumer Requirements

- Where information is required to be provided or made available to consumer in writing, you must
 - Obtain affirmative consent to e-records
 - Assure consumer has not withdrawn consent
 - Provide clear and conspicuous notice to customer before obtaining consent

3-20-01

Department of Administration Testimony to the Senate Privacy Committee

Federal E-Sign Clear and Conspicuous Statement

- Right to non-electronic form and right to withdraw consent
- Whether consent is applied only to particular transaction or to identified categories of records
- Procedures for consumer withdrawal of consent and updating of consumer information
- How consumer may obtain paper copy of an electronic record and whether there is any charge attached

3-20-01

Department of Administration Testimony to the Senate Privacy Committee

Federal E-Sign Hardware and Software Notice

- Prior to consenting, consumer provided statement of the h/w and s/w requirements
- If h/w s/w changes creating material risk to accessibility are made after consent, consumer must be provided with statement of:
 - l revised requirements for access to and retention of records and
 - l right to withdraw without imposition of any condition or consequence not disclosed before consumer provided ~~original consent~~

3-20-01

Department of Administration Testimony to the Senate Privacy Committee

Federal E-Sign -- Other Consumer Requirements

- Must consent electronically
 - l in manner that reasonably demonstrates capability to access information in the electronic form that will be used
- Must be provided verification or acknowledgment of receipt
 - l as expressly required by laws enacted prior to E-Sign
- Other consumer disclosure preserved

3-20-01

Department of Administration Testimony to the Senate Privacy Committee



State of Wisconsin
Scott McCallum, Governor

Department of Agriculture, Trade and Consumer Protection
Ben Brancel, Secretary

DATE: March 20, 2001

TO: Senator Jon Erpenbach and Committee Members
Senate Committee on Privacy, Electronic Commerce
and Financial Institutions

FROM: Bill Oemichen, Administrator
Division of Trade & Consumer Protection

RE: Uniform Electronic Transactions Act

Bill Oemichen

*Let's
Take a look
at
§.3
stuff.*

Thank you for providing the Department of Agriculture, Trade & Consumer Protection with the opportunity to present our views of the Uniform Electronic Transactions Act (UETA).

We are working with the Department of Administration to discuss issues arising from potential state legislation on electronic signatures.

We believe it is vital that a consumer's electronic signatures be: (1) securely kept by the business that obtained the consumer's signature as part of a contract relationship with the consumer, and (2) the business be prohibited from misusing or selling the consumer's electronic signature. Potential violation penalties could come directly from Wis. Stat. Section 100.26, the statute, which provides the applicable penalties for nearly all of our Consumer Protection laws.

We also believe it is vital to ensure nothing in the state law would override the consumer protections provided by Wis. Stat. Sections 100.18 and 100.20, as well as the associated administrative rules. One such consumer protection is the "three day right to cancel."

These are some of the issues we have discussed with the Department of Administration and look forward to further discussion of this important legislation.

Please let me know if you have any questions.



State of Wisconsin • DEPARTMENT OF REVENUE

2135 RIMROCK ROAD • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933 • 608-266-6466 • FAX 608-266-5718 • <http://www.dor.state.wi.us>

Scott McCallum
Governor

Shirley Eckes-Meyer
Acting Secretary

March 20, 2001

Honorable Senator Erpenbach, Chair
Senate Committee on Privacy, E-Commerce and Financial Institutions
319 South Capitol
Madison, WI

Senator Erpenbach:

Thank you for taking the time to review the provisions of the 2001-03 state budget relating to the Uniform Electronic Transactions Act (UETA). The Department of Revenue supports the provisions of UETA because we believe they will enable us to offer taxpayers the option of using electronic signatures when they file their tax returns electronically. This option is important to both taxpayers and the department.

For taxpayers, the UETA provisions will provide a way to make income tax filing a one-step process. Currently when a taxpayer files electronically with DOR, he or she must then submit a paper copy of a signature document (Wisconsin Form 8453W-OL) to the department before the filing process is complete. Our discussions with the Department of Administration indicate that under the provisions of UETA this extra effort and inconvenience on the part of the taxpayer will no longer be necessary.

For DOR, the provisions of UETA are important because they will aid the department in its continuing quest to eliminate paper processing from the point of receiving the mail through storing and retrieving the documents. It is especially important to move in this direction as the department continues to meet customer needs and expectations by expanding ways to do business electronically.

DOR is committed to providing taxpayers with the ability to file returns and reports and to pay amounts due without using paper. For these processes to be truly paperless, the department must have a paperless way to validate the information submitted by the taxfiler. The budget bill makes provision for that.

Thank you.

Sincerely,

Shirley Eckes-Meyer
Acting Secretary



**Testimony before the Senate Committee on Privacy, Electronic
Commerce & Financial Institutions**

**In Support of the Universal Bank Provision in the 2001-2003
State Budget**

10:00 a.m., March 20, 2001

by Jodi Bloch, Wisconsin Bankers Association

Chair Erpenbach and members of the Committee, my name is Jodi Bloch. I am the assistant director of government relations with the Wisconsin Bankers Association. Appearing with me is John Knight, WBA's general counsel from the Boardman Law Firm.

WBA comes before the Committee today to testify in support of the Universal Bank provision in the budget. There are many reasons why we support the Universal Bank provision, but most importantly because it insures that state chartered banks are on an equal footing with their federal counterparts – nationally chartered banks.

As many of you may recall, Congress enacted landmark banking reform legislation in 1999 called the Gramm-Leach-Bliley Act, which opened the door for national banks and federal thrifts to offer more products and services because of broader powers. Consumers benefit by being provided with one stop financial shopping, which saves them time and money.

Four years ago WBA foresaw that state chartered banks and thrifts would be at a competitive disadvantage if Congress reformed the nation's banking laws. Representatives from WBA and the former Wisconsin League of Financial Institutions met with DFI to discuss how the future of the dual banking system could be protected. The dual banking system is the structure by which all financial institutions in the United States are chartered either by the state or federal government.

We decided that the best answer was a new state charter called the Universal Bank. The Universal Bank Provisions in the Budget (SB 55/AB 144) would allow a savings bank, a savings and loan association and a state bank to become certified by the Division of Banking in DFI as a universal bank. Essentially what the provisions in the budget do is allow a universal bank to exercise all powers of a national bank, a federally chartered savings bank or a federally chartered savings and loan. Specific activities under the

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bill include: real estate-related services; insurance services other than insurance underwriting; securities brokerage; investment advice; securities and bond underwriting; mutual fund activities; financial consulting; and tax planning and preparation. The bill also allows a universal bank to engage in reasonably related activities. Also, any activity permitted under the federal Bank Holding Company Act satisfies the reasonably related criteria. The Division of Banking by rule may also determine whether an activity is reasonably related.

Only the most well capitalized and managed state chartered institutions will qualify for a universal bank certificate. In addition to being well capitalized and managed, before qualifying the bank must not have had any enforcement action against them within the 12 months preceding the application; must have a rating of outstanding or satisfactory on their last Community Reinvestment Act examination; and must be in substantial compliance with the new federal law under Gramm-Leach-Bliley with regard to protecting customer privacy.

All banks whether they are state or federally chartered, will be examined by the FDIC for compliance with the privacy provisions in Gramm-Leach-Bliley. With regard to protecting customer privacy, it is worth mentioning that another adjustment was made to the bill last year that is included in the version in the budget bill. This was the adoption of an amendment that prohibits a universal bank from using health information obtained from an insurance affiliate in the determination of credit worthiness, unless a customer has consented to its use. This even goes beyond the privacy restrictions in Gramm-Leach-Bliley.

The Division of Banking has the authority to limit, restrict or revoke the powers of the universal bank, as they deem appropriate if the bank becomes ineligible.

Last year, the Universal Bank bill won unanimous approval from the Assembly Financial Institutions Committee (15-0) and passed the Assembly by a 96-1 vote. After coming to a historic compromise with the credit union industry and combining our two bills, we ran out of time to get the combined bill passed in the Senate. This strong endorsement is the result of numerous adjustments made to the bill in order to satisfy concerns raised by committee members and others.

Already some state chartered institutions have begun the transition to a federal charter. Everybody loses if there is a further decline in the number of state chartered institutions in Wisconsin: Wisconsin lawmakers and regulators lose strong state regulatory control and GPR revenue; Wisconsin customers of state chartered institutions lose in product choice and decreased competition, not to mention that they lose local state agency

response to complaints and disputes; and Wisconsin's dual banking system loses because Wisconsin thus far has failed to keep up with federal law. Congress took the first step, but true banking reform which benefits Wisconsin consumers, the State, and Wisconsin's state-chartered banks can only be achieved by granting expanded optional powers to Wisconsin's state-chartered tax-paying financial institutions through the establishment of the universal bank.

Thank you for the opportunity to testify before you today. Mr. Knight and I would be happy to answer any questions you may have.



State of Wisconsin
Scott McCallum, Governor

Department of Agriculture, Trade and Consumer Protection
Ben Brancel, Secretary

DATE: March 20, 2001

TO: Senator Jon Erpenbach and Committee Members
Senate Committee on Privacy, Electronic Commerce
and Financial Institutions

FROM: Bill Oemichen, Administrator
Division of Trade & Consumer Protection *Bill Oemichen*

RE: Uniform Electronic Transactions Act

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We also believe it is vital to ensure nothing in the state law would override the consumer protections provided by Wis. Stat. Sections 100.18 and 100.20, as well as the associated administrative rules. One such consumer protection is the "three day right to cancel."

These are some of the issues we have discussed with the Department of Administration and look forward to further discussion of this important legislation.

Please let me know if you have any questions.

Laundrie, Julie

From: Burnett, Douglas
Sent: Friday, March 23, 2001 1:55 PM
To: Aaron Nuutinen; Adam Korbitz; Amber Meyer; Anne Eskeitz; Barbara Worcester; Bruce Humphrey; Bryan Brooks; Cindy Ashley; Dan Rossmiller; Dave Jahr; David Austin; Donna Doyle; Elizabeth Piliouras; Grant Huber; Jay Wadd; Jessica Clark; John Anderson; Julie Laundrie; Julie Swiderski; Kathy Soderbloom; Kelly Bablitch; Lance Walter; Lisa Ellinger; Lisa Moen; Margaret Haker; Melissa White; Patrick Henderson; Patrick Walsh; Tanya Bjork; Tryg Knutson; Vaughn Vance
Subject: Reporting matters out of committee for the May 1-10 floor period

To: Committee Clerks and Interested Staff
From: Doug Burnett
Date: March 23, 2001
RE: Reporting Matters out of Committee

For the upcoming 2-week May 1-10 floor period, we plan to meet both weeks, and will try to meet only on the Tuesdays, May 1 and May 8, but could meet on Thursdays if necessary due to procedural problems or emergencies.

As usual, the Senate Organization Committee will meet on the Thursday prior to the scheduled Tuesday session day. This means that committees must have their paper work reporting matters out of committee to Donna in the Clerk's office by Wednesday at 5:00 p.m..

For the May 1-3 session week, this means that all paper work needs to be in to Donna by Wednesday, April 25.

For the May 8-10 session week, this means that all paper work needs to be in to Donna by Wednesday, May 2.

Exceptions in extraordinary circumstances can be made to these cutoff dates. If you are running into a situation where you don't think you can make the cutoff date, call me as soon as you are aware of it, so we can try to work something out.

Also, for planning purposes, please let me know as soon as possible any legislation or appointments you are planning to move out of your committees for the upcoming floor period.

Thanks!

Laundrie, Julie

From: Roys, Lisa
Sent: Monday, April 02, 2001 5:46 PM
To: Laundrie, Julie
Cc: Erpenbach, Jon; Anderson, David
Subject: RE: Consumer Credit Services

Julie -

The Wisconsin Consumer Act Section of the DFI requires creditors (e.g., banks, savings and loans, credit unions, loan companies, etc.) to pay an annual registration fee. The variables used to determine the amount of the fee are currently in the statutes. The budget proposal would move the fee variables out of statute to administrative rules. Having the fee variables in administrative rule will provide the department with greater flexibility in managing fee revenue. This flexibility is necessary to ensure the Department can carry out its regulatory responsibilities in a timely manner without interruption.

The current formula for the fee is: Average monthly outstanding credit balance x registration rate = registration fee with minimum of \$25 and maximum of \$1,500

The proposed formula will be: Year-end outstanding credit balance x reg. rate = registration fee with a minimum and maximum yet to be determined.

DFI currently collects \$330,000 annually in registration fees. DFI plans on changing the registration rate and the minimum and maximum to increase revenue to about \$430,000, which more adequately reflects our current cost of operation.

Moving the fee formula from the statutes to the regulations will not change who pays the reg. fee. The proposed change will also not exempt any creditors from paying the registration fee that are currently not exempt. The only reason DFI is seeking a year-end balance variable rather than an average monthly balance is to make it easier for creditors to calculate the fee. Making the calculation easier will hopefully reduce some of the mistakes creditors now make in the calculation. Going from a year-end balance to an average monthly balance will have virtually no affect on the amount of the registration fee a creditor pays as a creditor's year-end balance and average monthly balance is usually very similar.

Let me know if you have any additional questions.

Lisa Roys

Policy Advisor, DFI
(608) 266-0450

-----Original Message-----

From: Laundrie, Julie
Sent: Monday, April 02, 2001 12:13 PM
To: Roys, Lisa
Cc: Erpenbach, Jon
Subject: Consumer Credit Services

Lisa,

At the Financial Institutions hearing on March 20th Senator Erpenbach requested more information regarding the changes to Consumer Credit Services in the agency budget.

We haven't gotten anything yet and I am preparing the Committee recommendations. Could you please track down the information for me, I want the recommendations to reflect the changes accurately.

Specifically Senator Erpenbach asked for examples of consumer credit service organizations. In addition, with the change from monthly reporting to annual reporting to DFI will there be any organization/s that currently report to DFI that would be exempt with these proposed recommendations (the ceiling on reporting)? Perhaps a little background on the change would be helpful as well.

Thank you - The recommendation will be on the Senator's desk tomorrow so an answer on or before tomorrow would be most appreciated.

Julie

Julie Laundrie
Office of Senator Jon Erpenbach
Room 319 South, 266-6670



SCHOOL ADMINISTRATORS ALLIANCE

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Madison, Wisconsin 53704
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E-Mail: kammerud@wasda.org

Jennifer A. Kammerud
Director of
Government Relations

TO: Members of the Jt. Committee on Information Policy and Technology
FROM: Jennifer Kammerud, Director of Government Relations
DATE: April 3, 2001
RE: Department of Electronic Government in SB 55

An Alliance of:

**Association of
Wisconsin School
Administrators**

**Wisconsin Association
of School District
Administrators**

**Wisconsin Association
of School Business
Officials**

**Wisconsin Council for
Administrators of
Special Services**

The Governor's budget provides the Department of Electronic Government with significant powers over local units of government and significant authority over the TEACH program. The School Administrators Alliance (SAA) is very concerned about the affect these provision will have on school district technology procurement, technology and telecommunications planning, and grants associated with the TEACH program.

In this budget, the Department of Electronic Government is given the power to establish master contracts for the purchase of materials, supplies, equipment or contractual services relating to information technology or telecommunications for use by local governments. The chief information officer of the Department may also develop or operate and maintain any system or device facilitating Internet or telephone access to information about programs of local government or otherwise permitting the transaction of business by local governments. Obviously, these powers would have a huge impact on the ability of local school districts to control not only the types of hardware or software they use for educating the children in their district and transmitting information to the public, but also on the ability of a district to pursue a technology or telecommunications path that is different than the one advocated by the state.

While the idea of streamlining operations, systems, and other materials or equipment associated with technology or telecommunications may sound like a good idea, the SAA feels that it would in fact hinder creativity at the local level. Moreover, it is our belief the technology and telecommunication needs of education are different in many ways from those of the state and thus should not be controlled by the state.

The SAA is opposed to the authority given to the Department of Electronic Government over the TEACH board. This budget specifies that rules promulgated by the TEACH board are subject to the approval of the Department, that procurement standards and specifications established by the TEACH board are subject to the approval of the Department, and that the TEACH board may only purchase or permit educational agencies to purchase or lease technology equipment with the approval of the Department.

In our opinion, these provisions essentially eliminate the independence of the TEACH board. The TEACH board was given some independence in order to make relatively impartial decisions on the awarding of grants for technology. It concerns us that under this budget, some independence would be lost to a department that is not solely focused on education and may have other priorities.

If you have any questions or would like additional information, please contact me at 242-1370.

Laundrie, Julie

From: Forbes McIntosh [mcintosh@broydrick.com]
Sent: Wednesday, April 04, 2001 12:40 PM
To: Julie.Laundrie@legis.state.wi.us
Subject: DEG

The Governor's budget provides the Department of Electronic Government with significant powers over IT policies affecting all State government, UW-System, local government including school districts and TEACH Wisconsin.

There are three areas in particular that DEG will control that are generating a great deal of concern. These areas when created were designed to be somewhat independent of state agency control to better serve their constituency and education. The areas which could be adversely affected by DEG control include:

1. TEACH Wisconsin:

Remove the "approval provision" of DEG over the TEACH Board.

2. LOCAL GOVERNMENT AND SCHOOL DISTRICTS:

Make it Voluntary for Local Governments to Purchase through DEG and Continue Educational Technology Purchasing Through the TEACH Wisconsin Program

3. UW-SYSTEM:

Preserve the Board of Regents' Delegated Authority to Approve the Purchase of Information Technology Hardware, Software and Materials.

Testimony of Edward Meachen
Associate Vice President
Office of Learning & Information Technology
University of Wisconsin System Administration
March 20, 2001

Thank you for giving me the opportunity to speak today on the proposed amendment to Section 1. 13.101 (14) of the statutes, authorizing the creation of a "department of electronic government." My name is Ed Meachen. I am the Associate Vice President for Learning & Information Technology in the University of Wisconsin System Administration. I serve as the CIO [chief information officer] for the University of Wisconsin System.

It is not my intention to speak to the wisdom of creating a new executive department focused exclusively on digital technologies. It is my intention to brief you as to why the University of Wisconsin should be explicitly excluded from the provisions of this bill.

There are three provisions of this bill that the University of Wisconsin believes are seriously harmful to the orderly and efficient operation of the University.

1. The first is the bill's provision in Section 18.16.505 (2e) that allows the Secretary of the Department of Electronic Government to transfer Information Technology staff from any executive branch agency to the department of electronic government.
2. The second is the bill's provision in Section 29.16.71 (1m) and Section 35.16.72 (4) (a) and Section 44. 16.78 to remove from the Board of Regents of the University of Wisconsin the delegated authority for final approval of all information technology contracts for materials supplies, equipment or contractual services, and to place that responsibility with the secretary of the department of electronic government.
3. The third is the bill's provision in Section 56.16.971 (2) (L) to require each executive branch agency to adopt and submit to the department of electronic government a strategic plan for the utilization of technology each year by March 1.

First, let me offer some general observations about information technology in the University of Wisconsin and then address specifically the three provisions of this legislation that would cause serious harm if enacted. As you undoubtedly know, information technology has permeated every aspect of the University's business.

- Tens of thousands of students now register for classes online.
- Thousands of students take advantage of technology to receive information about their academic status, about their financial aid, and about their courses.

- Almost all students access library holdings using highly complex and specialized hardware and software.
- Students read electronic journal articles and electronic books on their computers in their residence halls.
- Over 100,000 students in this current semester utilize Web-based learning tools.
- Tens of thousands of students order desktop software and curricular materials online.
- Thousands of faculty do research and provide curriculum for their students utilizing Web-based information technologies.
- Faculty, staff and students in the University of Wisconsin now depend upon networked technologies to such an extent that without these technologies the University simply could not accomplish its mission.

As a result of this broad and deep utilization of digital technologies our 15 institutions and 26 campuses have done extensive strategic planning for the past three biennia. This planning has focused on a comprehensive digital infrastructure that includes networking, hardware and software applications. We have made great strides in collaborative planning across all our institutions. These plans have focused on our collective missions, NOT on information technology as a discrete set of activities. Networking, academic systems and administrative systems have been knit together to create an efficient service array that improves teaching, research and public service in our University System. In fact, the University of Wisconsin System is a widely recognized national leader in technology planning and business integration. I offer a copy of the University's 1999-2001 Systemwide IT plan for the Committee's perusal.

To remove the Board of Regents' delegated authority to approve the purchase of information technology hardware, software and materials and to place that authority with the secretary of the department of electronic government puts the new state CIO in the unenviable position of having to know more about the business of higher education than the Board of Regents! The decisions the CIO would have to make would clearly affect faculty research, student learning, and university business. This statute, in effect, proposes that the state does not trust the Board of Regents to make wise decisions about educational technology purchasing and planning. I submit to you that such a position is untenable, and ultimately, unworkable. The state CIO would be forced—by a lack of knowledge of the business of higher education—to ask the advice of the University CIO and other educational experts when making large purchasing decisions. This would not benefit efficient state government, but would rather layer another bureaucratic hurdle in the process of technology acquisition and use.

Let me briefly explain how technology planning works in the University System to provide you with some benchmarks for effective integration of technology into the business of higher education. As the UW System CIO I am tasked with the responsibility for System-wide information technology planning. Each month I meet with the institutional CIOs to discuss technology issues, to exchange information about new technologies on the horizon and how they might apply to education and research, and to do ongoing planning. I have no direct authority over these CIOs. I cannot dictate—nor

do I want to—what technologies these individual institutions must adopt to achieve their missions. This is a truly “**DISTRIBUTIVE**” and “**COLLABORATIVE**” model of technology planning and adoption.

It is not the “command and control” model of information technology planning envisioned in the statute. And this collaborative model works incredibly well for the University System. Together, the CIOs and my staff work on the outlines of a two year plan. When that outline is finished, the chief business officers and chief academic officers of all our institutions modify and expand the plan to meet System-wide as well as local needs. Together these CIOs, CBOs and CAOs write the draft IT plan. The plan is then modified and approved by the chancellors of all the UW institutions, and then reviewed and approved by the Board of Regents at their October meeting of each odd-numbered year. This process has worked remarkably well. Over the past four years our institutions have developed linked administrative and academic systems, massive improvements in networked applications and student services, and a level of collaboration that is a national model.

With this background before you, let me address each of the three issues I enumerated at the outset, and give you even more concrete reasons for exempting the University of Wisconsin from this statutory amendment.

Information technology planning has become an integral component of how we do business in the University. This effective planning depends critically on the hiring and assignment of capable information technology staff specialists. For the largest university to the smallest, our technical staff are our most important resource. How could we continue that effective planning if we had to contend with the possibility that one or more key technical personnel might be conscripted from one or more of our campuses by the department of electronic government at any time? I submit that this is very bad business practice, and implies again that the state CIO knows better the business of higher education than do the Board of Regents. The legislature’s delegation of responsibility to the Board of Regents for all aspects of the University’s business—including technology—is a wise policy and ought not to be abrogated for any reason. If severe problems arise about how technology is acquired and used within the University System, the Board is in the best position to rectify these problems. Our technology stewardship is not broken—far from it, we are becoming more efficient and improving services every year—and therefore, it is unwise to try to fix it by imposing the power of a state CIO upon it.

Higher education has a different mission and uses vastly different electronic technologies than any other branch of state government. Faculty chose academic technologies and administrators, in collaboration with faculty and staff, chose administrative technologies to meet the special needs of teaching and research. These electronic technologies have grown to be large and complex. Take the new electronic library system as an example. This system cost well over \$3 million to purchase and install. Hundreds of faculty and staff were involved in its selection and implementation. Moreover, the selection was done with the collaboration and advice of other university

systems across the country. What conceivable benefit in this process would a state government CIO contribute? And yet, this legislation would make the state CIO ultimately responsible for the purchase decision of this large information technology application. The same question might be asked for our large Web-based learning systems, our large educational administration systems and our large Internet contracts with our sister institutions across the country. In short, the Board of Regents—tasked with the responsibility for overseeing all aspects of the University—is the proper place to make the final decision about technology purchases of this scope and importance.

Additionally, higher education is in an enviable—and an exclusive—position with information technology vendors. In almost all instances, vendors such as Microsoft, Oracle, PeopleSoft, and Cisco, offer steep discounts on their products to institutions dedicated to teaching and research. For these and many other technology products, aggregating the purchasing power of state government and higher education is not possible because of differential pricing models. Let me offer up one example.

The University System and the Technical College System joined together in 1999 to purchase System-wide licenses for many of Microsoft's products. We engineered the lowest license price in the nation for any entity for the complete Microsoft office suite and operating systems. The price per student, faculty and staff member was less than \$10 per year for the entire suite of products. The price to state government employees, not working for the University or the Technical College System is many, many times that amount. The reason is Microsoft's policy of offering steep discounts to educational institutions. It is entirely likely that rather than reducing the costs of state government purchases, the removal of delegation authority for the purchase of information technology products from the Board of Regents would result in much higher technology prices for the University with no reduction in prices for other state workers.

It is clear that removing IT purchasing delegation authority from the Board of Regents would serve no useful purpose for the state, but would cause harm to the University of Wisconsin.

Finally, the University of Wisconsin System has developed a strategic planning process that works wonderfully well. It is built on a two-year cycle with a progress report in the intervening year. The report, of course, is shared with other state agencies as prescribed in the statutes. Additionally, the structure of the University IT plan does not fit standard enterprise planning exercises commonly used by state governments and corporations. It is built with a focus on the educational mission of the university. Changing the format and frequency of the UW IT plan would put an additional burden on UW System staff to rewrite and reformulate the plan and the process, with no gain to the state or the university. We would strongly recommend that the University NOT be excused from IT planning, but rather that our highly successful planning process and planning format be excluded from the purview and mandate of the state CIO.

Let me suggest a different way that the University of Wisconsin might contribute to the success of the proposed eGovernment initiative. The university has developed a

great depth of expertise in Web-based applications and technologies, in collaborative planning, and in incorporating cutting edge technologies into our business model. We would be pleased to serve in advisory capacities to the new state CIO, indeed, to serve on the proposed technology board. We would very much like to collaborate with the state CIO on critical technology initiatives. Let me suggest one example of many where we believe we could offer very valuable assistance to the state's new CIO and to the initiative to enhance services to our citizens.

Some years ago the University partnered with the Department of Administration to create BadgerNet. A member of my staff actually worked half-time with DOA to create this remarkable infrastructure. Since that time, however, we have conferred with DOA on the growth of this broadband network, but we have not been invited to help leverage our expertise and resources to acquire and implement new, more cost-effective network technologies. I would suggest that without compromising our own IT strategic planning, we could make our network engineering expertise and our wide area network management expertise available to state government to improve both their services and their efficiency. We believe that through collaborative agreements the University might even save state government and the new department of electronic government considerable consulting dollars.

Let me suggest another example where collaboration would not do violence to the university's strategic planning. We have pioneered a number of innovative eCommerce initiatives. We now provide students and faculty with literally tons of software products and computer hardware products over the Web. We would be eager to help the department of electronic government in implementing their own eCommerce initiatives that meet their own business needs. And yet another example: our expertise in creating online learning for our students might be used to provide online training for workers in state government. We are currently developing Web-based occupational safety training for university staff members. We might develop similar training for state workers that would allow them to receive education any time and any where.

In the new knowledge age, the most effective model for acquiring and using information technology is through partnerships and collaboration, not through command and control. We believe strongly that gains and efficiencies in service are made through cooperation between service units where technology is deeply integrated into their businesses, not by aggregating technology into a segregated unit divorced from the actual business of the department. Accordingly, we pledge to use the technology resources we have directed to teaching and research to help other government agencies where we can, but without doing violence to our own planning process and our own mission. For these reasons we strongly recommend that the legislature exempt the university from the provisions of the new department of electronic government and instead, direct the university to support and sustain the new eGovernment initiative through cooperation and collaboration.

Thank you for your time and attention. I would be glad to answer any questions you might have.