2017 ASSEMBLY BILL 123

March 2, 2017 – Introduced by Representatives QUINN, PETRYK, E. BROOKS, TRANEL, BALLWEG, BERNIER, EDMING, FELZKOWSKI, KITCHENS, KRUG, KULP, MURSAU, NERISON, NOVAK, PRONCHINSKE, RIP, SNYDER, SPIROS, SUMMERFIELD, TAUCHEN, TUSLER, VANDERMEEER, ZIMMERMAN, TITL, SKOWRONSKI, NYGREN, HORLACHER, SCHRAA, WACHS, CONSIDINE, MEYERS, SPREITZER and ALLEN, cosponsored by Senators MARKLEIN, TESTIN, FEYEN, LASEE, PETROWSKI, OLSEN, DARLING, RINGHAND and TIFFANY. Referred to Committee on Energy and Utilities.

AN ACT to repeal 20.505 (4) (t), 20.505 (4) (tm), 20.505 (4) (tu) and 20.505 (4) (tw); to renumber 196.504 (1) (a); to renumber and amend 16.994 (2); to amend 16.994 (1) (intro.) and (a), 16.994 (3) (intro.), 20.155 (1) (q), 20.155 (3) (r), 20.255 (1) (q), 20.255 (3) (q), 20.255 (3) (qm), 20.255 (3) (r), 20.285 (1) (q), 20.505 (4) (s), 86.07 (2) (a), 118.40 (2r) (e) 2p. a., 196.218 (3) (a) 3. b., 196.218 (5) (a) 10., 196.504 (2) (a) and 196.504 (2) (c); to repeal and recreate 20.505 (4) (s) and 118.40 (2r) (e) 2p. a.; to create 16.994 (2) (b), 24.40 (3), 86.16 (6), 196.504 (1) (ab), 196.504 (1) (ad), 196.504 (1) (c) and 196.504 (2) (e) of the statutes; and to affect 2015 Wisconsin Act 55, section 800d and 2015 Wisconsin Act 55, section 9401 (1f); relating to: the information technology block grant program, the broadband expansion grant program, waiving certain fees and appraisals, and making appropriations.

Analysis by the Legislative Reference Bureau
This bill makes changes to the following: 1) a broadband grant program administered by the Public Service Commission; 2) the authority of the Department
of Natural Resources and the Department of Transportation regarding certain fees relating to the construction of broadband infrastructure; and 3) the Technology for Educational Achievement program, known as TEACH, which is administered by the Department of Administration.

**Broadband grants**

The bill makes changes to funding for grants made by the PSC for projects to construct broadband infrastructure in underserved areas. Under current law, $6,000,000 was transferred from the universal service fund (USF) for making the grants, but current law also limits the total grants made in a fiscal year to $1,500,000. The bill eliminates that limit. The bill also provides additional funding for the grants by doing the following: 1) transferring an additional $6,000,000 from the USF; 2) transferring $5,000,000 from moneys received under a federal program for assisting schools and libraries in obtaining telecommunications services and Internet access, which is commonly known as the federal e-rate program; and 3) at the end of each fiscal year, transferring the unencumbered balances from other USF-funded appropriations. Also, beginning in fiscal year 2017-18, the bill allows the PSC to fund its administration of the broadband grant program from contributions made by telecommunications providers to the USF.

The bill also makes changes to the priorities for the PSC to make the grants. One of the priorities under current law is for projects that affect areas with no broadband service providers. The bill repeals that priority and requires that the PSC give priority to projects in an “unserved area” designated by the PSC, which the bill defines as an area of this state that is not served by an Internet service provider offering Internet service that 1) is wired service or fixed wireless service; and 2) is provided at actual speeds of at least 20 percent of the upload and download speed for high-speed, switched, broadband telecommunications capability as designated by the Federal Communications Commission in its annual inquiries regarding advanced telecommunications capability. Another priority under current law is for projects that promote “economic development,” which is not defined. This bill defines “economic development” as development designed to promote job growth or retention, expand the property tax base, or improve the overall economic vitality of a town, village, city, county, or region. Also, the bill creates a new priority for projects that will not result in delaying the provision of broadband service to neighboring areas. In addition, the bill requires the PSC to consider the following in evaluating grant applications for proposed projects: 1) the degree to which the projects would duplicate existing broadband infrastructure; 2) impacts on the ability of individuals to access health care services from home and the cost of those services; and 3) impacts on the ability of students to access educational opportunities from home.

**DNR and DOT fees**

The bill prohibits DNR from requiring any appraisal or charging any fee prior to granting an easement for the construction of broadband infrastructure in underserved areas. In addition, the bill prohibits DOT from charging any fee for the initial issuance of any permit necessary to construct broadband infrastructure in underserved areas.
TEACH program

Under current law, the TEACH program offers telecommunications access to school districts, private schools, cooperative educational service agencies, technical college districts, independent charter school authorizers, juvenile correctional facilities, private and tribal colleges, and public library boards at discounted rates and by subsidizing the cost of installing data lines and video links. As part of the TEACH program, DOA awards information technology block grants to school districts to improve information technology infrastructure. Under current law, the information technology block grant program ends on July 1, 2017.

This bill delays the sunset of the information technology block grant program until July 1, 2019. The bill also changes the eligibility criteria for these grants from a school district that has 13 pupils per square mile to a school district that has 16 pupils per square mile and a membership of 2,500 or less. In addition, the bill authorizes DOA to award an additional round of information technology block grants before July 1, 2017. These grants are in addition to any grants a school district may have already received under the program during the 2015-17 biennium and therefore do not count towards the maximum amount a school district may receive in a biennium. The bill also consolidates the appropriations for TEACH contracts into a single appropriation. Finally, in fiscal year 2016-17, the bill transfers $7,500,000 of moneys received under the federal e-rate program to the consolidated appropriation for TEACH contracts.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1. **SECTION 1.** 16.994 (1) (intro.) and (a) of the statutes are amended to read:

   16.994 (1) COMPETITIVE GRANTS. (intro.) In fiscal years 2015-16 and 2016-17, 2017-18, and 2018-19, the department may annually award grants on a competitive basis to eligible school districts for the purpose of improving information technology infrastructure. In awarding grants under this section, the department shall give priority to applications for school districts in which the percentage of pupils who satisfy the income eligibility criteria under 42 USC 1758 (b) (1) for a free or reduced-price lunch is greater than in other applicant school districts. The
department shall require an applicant for a grant under this section to provide all of the following:

(a) A description of the specific information technology infrastructure, including any equipment, that the applicant intends to purchase with grant proceeds.

SECTION 2. 16.994 (2) of the statutes is renumbered 16.994 (2) (intro.) and amended to read:

16.994 (2) ELIGIBLE SCHOOL DISTRICTS. (intro.) A school district is eligible for a grant under this section if the all of the following apply:

(a) The school district’s membership in the previous school year divided by the school district’s area in square miles is 13.16 or less.

SECTION 3. 16.994 (2) (b) of the statutes is created to read:

16.994 (2) (b) The school district’s membership in the previous school year was 2,500 or less.

SECTION 4. 16.994 (3) (intro.) of the statutes is amended to read:

16.994 (3) MAXIMUM AWARDS. (intro.) The total amount the department may award to an eligible school district under sub. (1) during the 2015-17 fiscal biennium may not exceed the following:

SECTION 5. 20.155 (1) (q) of the statutes is amended to read:

20.155 (1) (q) Universal telecommunications service; broadband service. From the universal service fund, the amounts in the schedule for the promotion of broadband service and universal telecommunications service for the purposes specified in s. 196.218 (5) (a) 1., 4., 8. and, 9., and 10. Notwithstanding s. 20.001 (3) (a), the unencumbered balance on June 30 of each year shall be transferred to the appropriation account under sub. (3) (r).
SECTION 6. 20.155 (3) (r) of the statutes is amended to read:

20.155 (3) (r) Broadband expansion grants. From the universal service fund, as a continuing appropriation, the amounts in the schedule all moneys transferred from the appropriation accounts under sub. (1) (q) and ss. 20.255 (1) (q) and (3) (q), (qm), and (r), 20.285 (1) (q), and 20.505 (4) (s), under 2015 Wisconsin Act 55, section 9236 (1v), and under 2017 Wisconsin Act .... (this act), section 36 (1) and (2), for broadband expansion grants under s. 196.504. All moneys transferred under 2015 Wisconsin Act 55, section 9236 (1v) shall be credited to this appropriation account.

SECTION 7. 20.255 (1) (q) of the statutes is amended to read:

20.255 (1) (q) Digital learning collaborative. From the universal service fund, the amounts in the schedule for a digital learning collaborative for the statewide web academy and for the delivery of digital content and collaborative instruction under s. 115.28 (53) and (54). Notwithstanding s. 20.001 (3) (a), the unencumbered balance on June 30 of each year shall be transferred to the appropriation account under s. 20.155 (3) (r).

SECTION 8. 20.255 (3) (q) of the statutes is amended to read:

20.255 (3) (q) Periodical and reference information databases; Newsline for the Blind. From the universal service fund, the amounts in the schedule for the Newsline for the Blind, provided by the Regional Library for the Blind and Physically Handicapped, and to contract for periodical and reference information databases under s. 115.28 (26). Notwithstanding s. 20.001 (3) (a), the unencumbered balance on June 30 of each year shall be transferred to the appropriation account under s. 20.155 (3) (r).

SECTION 9. 20.255 (3) (qm) of the statutes is amended to read:
20.255 (3) (qm) *Aid to public library systems.* From the universal service fund, the amounts in the schedule for state aid to public library systems under s. 43.24. Notwithstanding s. 20.001 (3) (a), the unencumbered balance on June 30 of each year shall be transferred to the appropriation account under s. 20.155 (3) (r).

**SECTION 10.** 20.255 (3) (r) of the statutes is amended to read:

20.255 (3) (r) *Library service contracts.* From the universal service fund, the amounts in the schedule for library service contracts under s. 43.03 (6) and (7). Notwithstanding s. 20.001 (3) (a), the unencumbered balance on June 30 of each year shall be transferred to the appropriation account under s. 20.155 (3) (r).

**SECTION 11.** 20.285 (1) (q) of the statutes is amended to read:

20.285 (1) (q) *Telecommunications services.* From the universal service fund, the amounts in the schedule to provide telecommunications services as specified in s. 196.218 (5) (a) 6. Notwithstanding s. 20.001 (3) (a), the unencumbered balance on June 30 of each year shall be transferred to the appropriation account under s. 20.155 (3) (r).

**SECTION 12.** 20.505 (4) (s) of the statutes is amended to read:

20.505 (4) (s) *School districts; telecommunications.* Telecommunications access for educational agencies, infrastructure grants, and teacher training grants. Biennially, from the universal service fund, the amounts in the schedule to make payments to telecommunications providers under contracts under s. 16.971 (13), (14), and (15) to the extent that the amounts due are not paid from the appropriation under sub. (1) (is), to make payments to telecommunications providers under contracts under s. 16.971 (16) to the extent that the amounts due are not paid from the appropriation under sub. (1) (kL), to make grants to school district consortia under s. 16.997 (7), to make information technology infrastructure grants under s.
16.994 and 2017 Wisconsin Act .... (this act), section 35, and to make educational

technology teacher training grants under s. 16.996. Notwithstanding s. 20.001 (3)
(b), the unencumbered balance on June 30 of each year shall be transferred to the
appropriation account under s. 20.155 (3) (r).

SECTION 13. 20.505 (4) (s) of the statutes, as affected by 2017 Wisconsin Act ....
(this act), section 12, is amended to read:

20.505 (4) (s) Telecommunications access for educational agencies, infrastructure grants, and teacher training grants. Biennially, from the universal service fund, the amounts in the schedule to make payments to telecommunications providers under contracts under s. 16.971 (13), (14), and (15) to the extent that the amounts due are not paid from the appropriation under sub. (1) (is), to make payments to telecommunications providers under contracts under s. 16.971 (16) to the extent that the amounts due are not paid from the appropriation under sub. (1) (kL), to make grants to school district consortia under s. 16.997 (7), to make information technology infrastructure grants under s. 16.994 and 2017 Wisconsin Act .... (this act), section 35, and to make educational technology teacher training grants under s. 16.996. Notwithstanding s. 20.001 (3) (b), the unencumbered balance on June 30 of each year shall be transferred to the appropriation account under s. 20.155 (3) (r).

SECTION 14. 20.505 (4) (s) of the statutes, as affected by 2017 Wisconsin Act ....
(this act), section 13, is repealed and recreated to read:

20.505 (4) (s) Telecommunications access for educational agencies and teacher training grants. Biennially, from the universal service fund, the amounts in the schedule to make payments to telecommunications providers under contracts under s. 16.971 (13), (14), and (15) to the extent that the amounts due are not paid from the
appropriation under sub. (1) (is), to make payments to telecommunications providers
under contracts under s. 16.971 (16) to the extent that the amounts due are not paid
from the appropriation under sub. (1) (kL), to make grants to school district consortia
under s. 16.997 (7), and to make educational technology teacher training grants
under s. 16.996. Notwithstanding s. 20.001 (3) (b), the unencumbered balance on
June 30 of each year shall be transferred to the appropriation account under s. 20.155
(3) (r).

SECTION 15. 20.505 (4) (t) of the statutes is repealed.

SECTION 16. 20.505 (4) (tm) of the statutes is repealed.

SECTION 17. 20.505 (4) (tu) of the statutes is repealed.

SECTION 18. 20.505 (4) (tw) of the statutes is repealed.

SECTION 19. 24.40 (3) of the statutes is created to read:

24.40 (3) Notwithstanding s. 28.02 (5) or any contrary rule promulgated by the
department, if the department grants an easement under sub. (1) for the
construction of broadband infrastructure in underserved areas, as designated under
s. 196.504 (2) (d), the department may not require any appraisal or the payment of
any fee to secure the easement.

SECTION 20. 86.07 (2) (a) of the statutes is amended to read:

86.07 (2) (a) Subject to par. (b) and s. 86.16 (1m) (a) 2. and (c) and (6), no person
shall make any excavation or fill or install any culvert or make any other alteration
in any highway or in any manner disturb any highway or bridge without a permit
therefor from the highway authority maintaining the highway. Such permit shall
contain the statement and be subject to the condition that the work shall be
constructed subject to such rules and regulations as may be prescribed by said
authority and be performed and completed to its satisfaction, and in the case of
temporary alterations that the highway or bridge shall be restored to its former
condition, and that the permittee shall be liable to the town or county or state, as the
case may be, for all damages which occur during the progress of said work or as a
result thereof. Nothing herein shall abridge the right of the department, the county
board or its highway committee, or any other local authority to make such additional
rules, regulations and conditions not inconsistent herewith as may be deemed
necessary and proper for the preservation of highways, or for the safety of the public,
and to make the granting of any such permit conditional thereon. If any culvert is
installed or any excavation or fill or any other alteration is made in violation of the
provisions of this paragraph, the highway or bridge may be restored to its former
condition by the highway authority in charge of the maintenance thereof at the
expense of the violator; and any person who violates this paragraph shall be
punished by a fine of not less than $50 nor more than $500, or by imprisonment not
exceeding 6 months, or both.

SECTION 21. 86.16 (6) of the statutes is created to read:
86.16 (6) If the department consents under sub. (1) to the construction of
broadband infrastructure in underserved areas, as designated under s. 196.504 (2)
(d), the department may not charge any fee for the initial issuance of any permit
necessary to construct broadband infrastructure along, across, or within the limits
of a highway.

SECTION 22. 118.40 (2r) (e) 2p. a. of the statutes is amended to read:
118.40 (2r) (e) 2p. a. Add the amounts appropriated in the current fiscal year
under s. 20.255 (2), except s. 20.255 (2) (ac), (bb), (fm), (fr), (fu), (k), and (m); s. 20.285
(1) (r) and (rc); and s. 20.505 (4) (es); and the amount, as determined by the secretary
of administration, of the appropriation under s. 20.505 (4) (s) allocated for payments
to telecommunications providers under contracts with school districts and cooperative educational service agencies under s. 16.971 (13), for grants to school district consortia under s. 16.997 (7), and to make educational technology teacher training grants under s. 16.996.

SECTION 23. 118.40 (2r) (e) 2p. a. of the statutes, as affected by 2015 Wisconsin Act 55 and 2017 Wisconsin Act .... (this act), is repealed and recreated to read:

118.40 (2r) (e) 2p. a. Add the amounts appropriated in the current fiscal year under s. 20.255 (2), except s. 20.255 (2) (ac), (bb), (fm), (fr), (fu), (k), and (m); and s. 20.505 (4) (es); and the amount, as determined by the secretary of administration, of the appropriation under s. 20.505 (4) (s) allocated for payments to telecommunications providers under contracts with school districts and cooperative educational service agencies under s. 16.971 (13), for grants to school district consortia under s. 16.997 (7), and to make educational technology teacher training grants under s. 16.996.

SECTION 24. 196.218 (3) (a) 3. b. of the statutes is amended to read:

196.218 (3) (a) 3. b. The amounts appropriated under ss. 20.255 (1) (q) and (3) (q), (qm), and (r), 20.285 (1) (q), and 20.505 (4) (s), (t), (tm), (tu), and (tw).

SECTION 25. 196.218 (5) (a) 10. of the statutes is amended to read:

196.218 (5) (a) 10. To make broadband expansion grants and administer the program under s. 196.504.

SECTION 26. 196.504 (1) (a) of the statutes is renumbered 196.504 (1) (ac).

SECTION 27. 196.504 (1) (ab) of the statutes is created to read:

196.504 (1) (ab) “Economic development” has the meaning given in s. 196.796 (1) (c).

SECTION 28. 196.504 (1) (ad) of the statutes is created to read:
196.504 (1) (ad) “Fixed wireless service” has the meaning given in s. 77.51 (3rn), except that it does not include mobile wireless service, as defined in s. 77.51 (7k), or telecommunications services, as defined in s. 77.51 (21n), transmitted through the use of satellite.

**SECTION 29.** 196.504 (1) (c) of the statutes is created to read:

196.504 (1) (c) “Unserved area” means an area of this state that is not served by an Internet service provider offering Internet service that is all of the following:

1. Fixed wireless service or wired service.

2. Provided at actual speeds of at least 20 percent of the upload and download speeds for high-speed, switched, broadband telecommunications capability as designated by the federal communications commission in its inquiries regarding advanced telecommunications capability under 47 USC 1302 (b).

**SECTION 30.** 196.504 (2) (a) of the statutes is amended to read:

196.504 (2) (a) To make broadband expansion grants to eligible applicants for the purpose of constructing broadband infrastructure in underserved areas designated under par. (d). Grants awarded under this section shall be paid from the appropriation appropriations under s. 20.155 (1) (q) and (3) (r). In each fiscal year, the total amount of the grants may not exceed $1,500,000.

**SECTION 31.** 196.504 (2) (c) of the statutes is amended to read:

196.504 (2) (c) To establish criteria for evaluating applications and awarding grants under this section. The criteria shall prohibit grants that have the effect of subsidizing the expenses of a provider of telecommunications service, as defined in s. 182.017 (1g) (cq), or the monthly bills of customers of those providers. The criteria shall give priority to projects that include matching funds, that involve public-private partnerships, that affect areas with no broadband service providers
unserved areas, that are scalable, that promote economic development, that will not result in delaying the provision of broadband service to areas neighboring areas to be served by the proposed project, or that affect a large geographic area or a large number of underserved individuals or communities. When evaluating grant applications under this section, the commission shall consider the degree to which the proposed projects would duplicate existing broadband infrastructure, information about the presence of which is provided to the commission by the applicant or another person within a time period designated by the commission; the impacts of the proposed projects on the ability of individuals to access health care services from home and the cost of those services; and the impacts of the proposed projects on the ability of students to access educational opportunities from home.

SECTION 32. 196.504 (2) (e) of the statutes is created to read:

196.504 (2) (e) To designate areas of the state as unserved areas.

SECTION 33. 2015 Wisconsin Act 55, section 800d is repealed.

SECTION 34. 2015 Wisconsin Act 55, section 9401 (1f) is amended to read:

[2015 Wisconsin Act 55] Section 9401 (1f) INFORMATION TECHNOLOGY BLOCK GRANTS; SUNSET. The treatment of sections 20.505 (4) (s) (by SECTION 800d) and section 196.218 (5) (a) 12. (by SECTION 3532d) of the statutes and the repeal of section 16.994 of the statutes take effect on July 1, 2017 2019.

SECTION 35. Nonstatutory provisions.

(1) ADDITIONAL ONE-TIME INFORMATION TECHNOLOGY INFRASTRUCTURE BLOCK GRANTS.

(a) Before July 1, 2017, from the appropriation under section 20.505 (4) (s) of the statutes, the department of administration may award grants on a competitive basis to eligible school districts for the purpose of improving information technology
infrastructure. In awarding grants under this subsection, the department of administration shall give priority to applications for school districts in which the percentage of pupils who satisfy the income eligibility criteria under 42 USC 1758 (b) (1) for a free or reduced-price lunch is greater than in other applicant school districts. The department of administration shall require an applicant for a grant under this subsection to provide all of the following:

1. A description of the specific information technology infrastructure, including any equipment, that the applicant intends to purchase with grant proceeds.

2. The applicant’s plan to purchase, install, and use the information technology infrastructure described in subdivision 1.

3. A description of the applicant’s readiness to use information technology infrastructure purchased with grant proceeds.

(b) A school district is eligible for a grant under this subsection if all of the following apply:

1. The school district’s membership in the previous school year divided by the school district’s area in square miles is 16 or less.

2. The school district’s membership in the previous school year was 2,500 or less.

(c) The total amount the department of administration may award to an eligible school district under this subsection may not exceed the following:

1. If the membership of the eligible school district is fewer than 750 pupils, $30,000.

2. If the membership of the eligible school district is 750 pupils to 1,500 pupils, $40 multiplied by the school district’s membership.
3. If the membership of the eligible school district is more than 1,500 pupils, $60,000.

(d) The department of administration may not count a grant awarded under this subsection towards the maximum amount a school district may receive under section 16.994 (3) of the statutes.

SECTION 36. Fiscal changes.

(1) There is transferred from the universal service fund to the appropriation account under section 20.155 (3) (r) of the statutes $6,000,000 in the 2016-17 fiscal year.

(2) There is transferred from the appropriation account under section 20.505 (4) (mp) of the statutes to the appropriation account under section 20.155 (3) (r) of the statutes $5,000,000 in the 2016-17 fiscal year.

(3) There is transferred from the appropriation account under section 20.505 (4) (mp) of the statutes to the universal service fund $7,500,000 in fiscal year 2016-17.

(4) In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of administration under section 20.505 (4) (s) of the statutes, the dollar amount for fiscal year 2016-17 is increased by $7,500,000 for the purpose for which the appropriation is made.

SECTION 37. Initial applicability.

(1) Fee waivers. The treatment of sections 24.40 (3) and 86.16 (6) of the statutes first applies to easements granted or construction permits issued on the effective date of this subsection.

SECTION 38. Effective dates. This act takes effect on the day after publication,
(1) The treatment of section 20.155 (1) (q) of the statutes takes effect on July 1, 2017, or on the 2nd day after publication of the 2017 biennial budget act, whichever is later.

(2) The treatment of section 20.505 (4) (s) (by SECTION 13) of the statutes takes effect on July 1, 2017.

(3) The repeal and recreation of section 20.505 (4) (s) of the statutes takes effect on July 1, 2019.

(4) The repeal and recreation of section 118.40 (2r) (e) 2p. a. of the statutes takes effect on July 1, 2017.

(END)