



## Legislative Fiscal Bureau

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April 24, 2017

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 123: Broadband Expansion Grant and TEACH Programs

Assembly Bill 123 (AB 123) was introduced on March 2, 2017, and referred to the Assembly Committee on Energy and Utilities. The Committee held a public hearing on the bill on March 21 and held an executive session on the bill on April 18. The Committee adopted Assembly Amendment 1 by a vote of 15 to 0 and recommended the bill, as amended, for passage by a vote of 15 to 0.

An identical bill, Senate Bill 49 (SB 49) has been introduced in the Senate. The Senate Committee on Revenue, Financial Institutions, and Rural Issues adopted Senate Amendment 1 to the bill and recommended the bill for passage, as amended, by a vote of 5 to 0. The bill was referred to the Joint Committee on Finance on March 21, and the Committee recommended the bill for passage, as amended, by a vote of 16 to 0 on March 27. The Senate adopted Senate Amendments 1 and 13 and voted to approve the bill, as amended, by a vote of 33 to 0 on April 4. SB 49 was immediately messaged to the Assembly.

In 2016, the Joint Legislative Council created the Study Committee on Rural Broadband. The Committee met three times between August and October and issued a report to the Joint Legislative Council, dated January 18, 2017. On February 8, 2017, the Joint Legislative Council introduced Senate Bill 26, relating to broadband expansion grants. The Governor's biennial budget bills, Assembly Bill 64 and Senate Bill 30 (AB 64/SB 30), also contain provisions related to broadband. Some provisions of AB 123 and SB 49 are similar to, or the same as, provisions in SB 26 and AB 64/SB 30.

### **BACKGROUND**

The Public Service Commission (PSC) administers the broadband expansion grant program, created by 2013 Wisconsin Act 20. For-profit and not-for-profit organizations, telecommunications utilities, and those organizations and utilities in partnership with municipalities and counties are

eligible to apply for grants. Grants are to be used for projects that increase broadband access and capacity in underserved areas of the state. Priority is given to projects that include matching funds, that involve public-private partnerships, that affect areas with no broadband service providers, that are scalable, that promote economic development, or that affect a large geographic area or a large number of underserved individuals or communities.

The PSC awarded seven grants in each of the program's first two years, totaling \$500,000 in 2013-14 and \$452,579 for 2014-15. In 2015 Wisconsin Act 55, the program's annual funding level was increased from \$500,000 to \$1.5 million. The PSC awarded 11 grants in 2015-16 and 17 grants in 2016-17, totaling the entire \$1.5 million authorized in each year. The grant program is currently funded by a transfer from the universal service fund (USF). Based on the program's current funding level, the transfer will fund the program through the 2017-19 biennium.

Since 1996, the PSC has administered the USF to ensure that all state residents receive essential telecommunications services. Over time, the definition of essential services has changed, and the Legislature has increased the number of programs financed through the fund. Currently, the USF supports 12 programs administered by the PSC, the Department of Public Instruction (DPI), the University of Wisconsin System (UW), and the Department of Administration (DOA). For 2016-17, USF appropriations total \$43.1 million. The programs and their 2016-17 funding include:

<u>Agency</u>	<u>Program</u>	<u>Funding</u>
PSC	Universal Telecommunications Service	\$5,940,000
	- Telecommunications Equipment Purchase	
	- Lifeline	
	- High Rate Assistance Credit	
	- Telemedicine Equipment Grant	
	- Nonprofit Access Grant	
	- Two-Line Voice Carryforward	
DPI	Digital Learning Collaborative	1,000,000
DPI	Periodical and Reference Informational Databases and Newslines for the Blind	2,902,200
DPI	Supplemental Aid to Public Library Systems	15,013,100
DPI	Library Service Contracts	1,167,200
UW	Telecommunications Services	1,054,800
DOA	Educational Telecommunications Access	<u>15,984,200</u>
Total		\$43,061,500

The Department of Administration (DOA) is responsible for administering the educational telecommunications access program, also known as Technology for Educational Achievement (TEACH), which serves eligible educational entities by: (a) providing access to the Internet and two-way interactive video services through rate discounts and subsidized installation of data lines and video links; (b) providing information technology (IT) infrastructure grants; and (c) providing grants for training teachers on the use of educational technology. The program is funded from five USF appropriations which are established according to the type of educational entity served:

school districts; private and technical colleges and libraries; private schools; state schools for the blind and visually impaired and deaf and hard of hearing; and juvenile correctional facilities.

Additionally, the federal e-rate appropriation under DOA, which receives federal aid as reimbursement for a percentage of eligible telecommunications expenses for schools and libraries, is used to: (a) make payments on behalf of TEACH customers to telecommunications providers that are not covered by USF moneys; (b) pay administrative expenses relating to receipt and disbursement of e-rate revenue; and (c) pay down remaining debt from expenses prior to 2003-04 to finance educational technology infrastructure.

Prior to 2015-16, the TEACH program consisted of telecommunications access through funding for data lines and video links. The following educational entities are eligible for subsidized Internet access, two-way interactive video services, and installation of data lines and video links: public school districts, private schools, cooperative educational service agencies, technical college districts, charter school sponsors, private and tribal colleges, public library boards, state schools for the blind and visually impaired and deaf and hard of hearing, and juvenile correctional facilities. By statute, an approved TEACH program applicant for telecommunications access must make payments to the state, which may not exceed \$100 per month for each data line or video link that relies on a transport medium operating at a speed of 1.544 megabits per second or less, and may not exceed \$250 per month for each data line or video link that operates at a higher speed. Since July, 2008, the connections provided at these rates have operated at higher speeds than is required. Currently, monthly payments of \$100 and \$250 cover up to 100 megabits and 1 gigabit per second, respectively. The difference between the cost to provide access and the monthly payment to the state is paid for by DOA from its USF appropriations for the TEACH program. When USF funding for an appropriation has been fully utilized, DOA makes payments for TEACH customers from its federal e-rate appropriation.

Under 2015 Wisconsin Act 55, the program was expanded to provide grants to rural schools for IT infrastructure during the 2015-17 biennium (with a sunset date of June 30, 2017), as well as ongoing grants to consortia of three or more rural school districts for training teachers on the use of educational technology. To qualify for either of the grant programs, membership in the previous school year divided by the school district's area in square miles must be 13 or less. In 2016-17, up to \$7.5 million may be provided for infrastructure grants and \$1.5 million is budgeted for teacher training grants.

Funding for the USF appropriations is derived from PSC assessments on companies providing retail intrastate voice telecommunications services. Providers pay assessments monthly based on an assessment rate that the PSC adjusts annually. The U.S. Federal Communications Commission (FCC) administers a federal USF, funded by assessments on telecommunications carriers that provide interstate telecommunications services. Currently, the FCC is encouraging investment in broadband infrastructure through two of its USF programs -- the Connect America Fund (CAF), generally for larger service providers, and the Alternative Connect America Cost Model (A-CAM), generally for smaller service providers. Another federal USF program, known as "e-rate" (described above), provides support for telecommunications services, including broadband, to schools and libraries.

## SUMMARY OF BILL

Assembly Bill 123 would change the funding and eligibility criteria for broadband expansion grants. In addition, the bill would modify DOA's TEACH program and the ability of the Departments of Natural Resources and Transportation to charge fees.

Broadband Expansion Grant Funding. In 2016-17, the bill would transfer \$6,000,000 SEG from the universal service fund and \$5,000,000 FED from DOA's federal e-rate appropriation to the PSC's broadband expansion grant program. The bill would provide ongoing funding for the broadband expansion grant program by requiring the transfer of the unencumbered balance from the various USF SEG appropriations (listed on page 2) to the PSC's grant program appropriation on June 30 of each year, and the bill would modify the PSC appropriation for broadband expansion grants to accept the transfers. The bill would also repeal the current law provisions limiting any year's expenditures to the amounts in the appropriation schedule and limiting the amount of grants in any fiscal year to \$1,500,000. Finally, the bill would authorize the PSC's USF appropriation for telecommunications service to be used to make broadband expansion grants and to perform duties related to the administration of the broadband expansion grant program. The current law provision authorizing contributions to the USF to be used to make broadband expansion grants would be similarly amended to also authorize contributions to be used by the PSC to administer the grant program. These provisions would take effect on the day after the bill's publication, except the change to the PSC's USF appropriation would take effect on the second day after publication of the 2017-19 biennial budget act, or on July 1, 2017, whichever is later.

The preceding provisions are similar to provisions in AB 64/SB 30, except those provisions would not take effect until July 1, 2017, or later. SB 26 would maintain the \$1.5 million annual funding level for broadband expansion grants. However, like AB 123, SB 26 would allow the PSC to fund broadband expansion grants from its USF appropriation.

Broadband Expansion Grant Eligibility Criteria. Current law directs the PSC to establish eligibility criteria for evaluating grant applications and awarding broadband expansion grants. Specifically, the criteria require priority to be given to projects that:

- include matching funds;
- involve public-private partnerships;
- affect areas with no broadband service providers;
- are scalable;
- promote economic development;
- affect a large geographic area or a large number of underserved individual communities.

The bill would make several modifications to these criteria, which would take effect on the day after the bill's publication. First, for purposes of the fifth criteria reported above, economic development would be defined to mean development designed to promote job growth or retention, expand the property tax base, or improve the overall economic vitality of a municipality or a region.

Second, the criteria pertaining to areas with no broadband service providers would be

deleted and, instead, priority would be given to unserved areas, defined as an area of the state not served by an Internet service provider offering Internet service meeting two specifications. The service must be either fixed wireless service or wired service and the service must be provided at speeds of at least 20% of the upload and download speeds for high-speed, switched, broadband telecommunications capability as designated by the FCC. Periodically, the FCC establishes benchmarks for downloading and uploading information based on certain types of activities. The bill would define fixed wireless service as a telecommunications service that provides radio communication between fixed points, except it does not include mobile wireless service or telecommunications services transmitted through the use of satellites. These definitions would be provided through cross-references to current law provisions under the state general sales tax.

Third, the bill would create an additional eligibility criteria by including projects that will not result in delaying the provision of broadband service to areas neighboring areas to be served by the proposed project.

Finally, the bill would require the PSC to consider the impacts of proposed projects on the ability of individuals to access health care services from home and the cost of those services, and the impacts of proposed projects on the ability of students to access educational opportunities from home, and the degree to which projects would duplicate existing broadband infrastructure. The bill would authorize the PSC to designate a time period within which the applicant or another person would be allowed to provide information pertaining to the duplication of infrastructure.

SB 26 would make the same changes to the eligibility criteria for broadband expansion grants. AB 64/SB 30 would not change the eligibility criteria.

Broadband Infrastructure on State-Owned Property. The bill would prohibit the Department of Natural Resources (DNR) from requiring any appraisal or fee to grant an easement for the construction of broadband infrastructure in underserved areas related to PSC broadband expansion grants. In addition, the Department of Transportation (DOT) would be prohibited from charging any fee for the initial issuance of any permit necessary to construct broadband infrastructure along, across, or within the limits of a highway, if the Department has consented to the construction of broadband infrastructure in underserved areas, related to PSC broadband expansion grants. These provisions would take effect on the day after the bill's publication.

These provisions are also included in AB 64/SB 30. SB 26 does not contain similar provisions.

Consolidation of TEACH Appropriations. The bill would combine the five TEACH program appropriations funded from the USF for various educational entities into a single USF appropriation that would provide telecommunications access for all the educational entities as well as fund IT infrastructure grants and teacher training grants for rural school districts. Currently, expenditure authority for the TEACH appropriations for private schools, state schools, and juvenile correctional facilities is not fully utilized. Because funding for these entities is provided to separate appropriations, unused expenditure authority cannot be transferred to another appropriation, such as the appropriation for school districts, without approval by the Joint Committee on Finance. The

consolidation of the appropriations would allow DOA to spend amounts greater or less than authorized under current law for each type of educational entity, which would only be subject to a combined limit for all eligible entities totaling \$15,984,200 annually (not including an increase in expenditure authority provided under the bill in 2016-17).

These provisions are included in AB 64/SB 30, but not SB 26.

IT Infrastructure Grants. The bill would extend the IT infrastructure grant program sunset date from July 1, 2017, to July 1, 2019. Eligibility for the program would be modified such that the requirement that membership in the previous school year divided by the school district's area in square miles must be 16 or less (an increase from 13 or less). In addition, eligibility for IT infrastructure grants would be limited to school districts with a membership of 2,500 or less in the previous school year. Eligibility criteria for the teacher training grant program would remain at 13 pupils per square mile or less and would not be subject to a limit based on total membership. The bill would also provide that school districts could apply on a one-time basis for additional IT infrastructure grants in 2016-17 such that a school district could receive two grants of up to \$30,000 to \$60,000 each, depending on the district's membership. In total, the bill would provide that a school district could receive up to \$60,000 to \$120,000 for IT infrastructure in 2016-17.

These provisions are similar but not identical to provisions in AB 64/SB 30. Both bills extend the sunset of the IT infrastructure grant program from July 1, 2017, to July 1, 2019. Under AB 64/SB 30, eligibility for IT infrastructure grants is modified from 13 pupils per square mile to 26 pupils per square mile in 2017-18 and 13 pupils per square mile in 2018-19. Maximum grant amounts per school district in both years of the 2017-19 biennium would remain between \$30,000 to \$60,000 each, depending on the district's membership. No limit on total membership of a school district is included under AB 64/SB 30. In addition, AB 64/SB 30 would allow IT infrastructure grants to be used to purchase and install mobile hotspot equipment. Assembly Bill 123 does not include a mobile hotspot provision. SB 26 would not make changes to IT infrastructure grants.

Funding for TEACH Program. The bill would transfer \$7.5 million from DOA's federal e-rate appropriation to the USF and provide to the TEACH program a corresponding expenditure authority increase of \$7.5 million in 2016-17 on a one-time basis. Under the bill, the expenditure authority provided to the consolidated TEACH program appropriation could be used for the purposes authorized for the appropriation in statute. In addition, the bill would amend the TEACH appropriation language to specify that any unencumbered balance in the appropriation at the end of each fiscal year would be transferred to the PSC's appropriation for broadband expansion grants.

Under AB 64/SB 30, provisions transferring e-rate revenue to the broadband expansion grant program appropriation (\$5 million FED) and the USF (\$7.5 million FED) are similar to the provisions of AB 123, but would be provided in 2017-18 rather than 2016-17. Likewise, an expenditure authority increase of \$7.5 million SEG for the consolidated TEACH program appropriation would be provided in 2017-18 rather than 2016-17. A similar provision relating to transfers of unencumbered expenditure authority remaining in the TEACH program appropriation at the end of each fiscal year is included in AB 64/SB 30, but the provision specifies that the transfers be made only at the end of each odd-numbered fiscal year due to the appropriation being

biennial. SB 26 would not make any of the preceding changes.

## **SUMMARY OF AMENDMENTS**

Assembly Amendment 1 (AA1). Amendment 1 would make six changes to AB 123. First, under broadband expansion grant eligibility criteria, the amendment would change the bill's description of telecommunications capability relating to underserved areas from "high-speed, switched, broadband" to "advanced." The federal law referenced in this provision [47 USC 1302(b)] uses the term "advanced telecommunications capability." Second, the amendment would modify the current law provision that authorizes state agencies and other state entities owning real estate to grant easements for public utility service by specifying that the provision extends to telecommunications service, including fiber, and to utility services that are underground. Third, the amendment would modify the current law provision that authorizes certain entities transacting business in the state to construct and operate public utility property along state and local highways with the consent of the appropriate state or local officials to include lines, wires, or fiber for telecommunications service, including service under the limits of the highway. The service would include the transmission of voice, video, and data. Under the two preceding provisions, the amendment would define telecommunications service under a current law provision [s. 182.017(1g)(cq)]. Fourth, the amendment would change the frequency of the transfer of the unencumbered balance from DOA's TEACH appropriation from every year to every odd-numbered year. The consolidated appropriation is a biennial appropriation (as are the current law TEACH program appropriations), while the other appropriations making transfers are annual appropriations. Fifth, the amendment would remove the proposed 2,500 enrollment limitation for IT infrastructure grants to school districts. Sixth, the amendment would make the following changes to TEACH-related fiscal provisions under the bill: (a) delay the effective date of the unencumbered balance transfer for the consolidated TEACH program appropriation to July 1, 2018; (b) extend the period of time in which DOA could provide additional IT infrastructure grants from a deadline of July 1, 2017, to a deadline of October 15, 2017; and (c) increase the TEACH appropriation's expenditure authority in 2017-18 by the unencumbered balance of the appropriation at the end of 2016-17.

Assembly Amendment 2 (AA 2). The amendment would authorize the PSC to make broadband expansion grants for geographic information system mapping and surveying related to existing infrastructure and demand for broadband access. The grants could be made to for-profit and not-for-profit organizations, telecommunications utilities, or political subdivisions (towns, villages, cities, or counties). Grants would be limited to no more than \$10,000 and would be extended only to applicants intending to subsequently apply for a grant to construct broadband infrastructure. In addition, applicants would be required to provide matching funds or in-kind contributions equal to at least one-third of the cost of the mapping and surveying. Grants for mapping and surveying could not exceed 10% of the total amount of broadband expansion grants in any fiscal year, and grant recipients would be required to submit the mapping and surveying results to the PSC. (AA 2 was not adopted by the Assembly Committee on a vote of 5 to 10.)

## **FISCAL EFFECT**

The bill would make an additional \$11 million available for broadband expansion grants in 2016-17. The PSC has already approved grants totaling \$1.5 million, the amount currently authorized. However, because the appropriation is a continuing appropriation, any unspent amounts from the current fiscal year could be used to fund grants in the 2017-19 biennium. Further, any unencumbered balances in the various USF appropriations as of June 30 of each year would be transferred to the broadband expansion grant appropriation and be available for expenditure in the subsequent fiscal year. If the bill is enacted prior to the end of this fiscal year, the first transfer would occur in 2017-18 and be available for expenditure in 2017-18, except a separate effective date for the PSC's USF appropriation would delay the transfer from that appropriation until 2018-19. Under a similar provision in AB 64/SB 30, the administration estimates that transfers from the various USF appropriations to the broadband expansion grant appropriation could total \$1.5 million to \$2 million in 2018-19.

The bill would prohibit the DNR and DOT from charging fees for easements or for construction of broadband infrastructure on certain DNR and DOT property. These provisions would therefore reduce fee revenue received by these agencies. DNR reports that revenues from easements to telecommunications providers has totaled \$131,088 over the last ten years, an average of \$13,100 per year. However, not all of these easements may have been for broadband infrastructure. DOT has not submitted a fiscal estimate on the bill.

On the effective date of the bill, the following transfers would be made from the unencumbered balance of DOA's federal e-rate appropriation: (a) \$7.5 million to be deposited to the USF; and (b) \$5 million to the PSC's broadband expansion grant program appropriation. The Department estimates that the revenue balance in the e-rate appropriation would be sufficient to provide the transfers under the bill. Expenditure authority for the consolidated TEACH appropriation would be increased by \$7.5 million SEG in 2016-17 for the purposes authorized for the appropriation in statute. As noted previously, AA 1 to AB 123 would specify that the unencumbered balance transfer provision for the consolidated TEACH program appropriation would be effective July 1, 2018, and that the appropriation's expenditure authority in 2017-18 would be increased by the amount of the unencumbered balance of the appropriation at the end of the current fiscal year, June 30, 2017.

The Department of Administration indicates in its fiscal estimate that an additional \$76,600 FED and 1.0 FED project position annually would be needed to administer changes to the IT infrastructure grant program, which would be funded from the agency's federal e-rate appropriation. The Department may request that the Governor create a federal position under s. 16.54(8) of the statutes.

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