



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #545

### **Funding for Broadband Expansion Grants from the Universal Service Fund (Public Service Commission)**

[LFB 2015-17 Budget Summary: Page 374, #2]

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#### **CURRENT LAW**

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. Grant expenditures of up to \$500,000 annually are authorized from a continuing appropriation.

The PSC administers a variety of programs relating to the accessibility and affordability of telecommunications service. These programs are funded through 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 assessments are deposited in the universal service fund (USF), which is administered by a private firm under contract with the PSC. The fund supports 11 programs, with 2014-15 appropriations totaling \$42.8 million. The PSC administers six of the programs.

#### **GOVERNOR**

Modify the current law program revenue appropriation for making broadband expansion grants by renumbering the appropriation and changing it from a continuing appropriation to a biennial appropriation. In addition, authorize the use of segregated universal service fund revenues for making broadband expansion grants, and create a continuing SEG appropriation for making broadband expansion grants with universal service fund revenues. Set the amounts in the appropriation at \$6,000,000 in 2015-16 and \$0 beginning in 2016-17. Further, create a SEG

appropriation to receive universal service fund revenues and require the unencumbered balance on June 30 of each year to be transferred from each of the following appropriation accounts to this new appropriation: (a) universal telecommunications service (PSC); (b) periodical and reference information databases; Newline for the blind (DPI); (c) library service contracts (DPI); (e) telecommunications access (DOA); and (f) educational agencies telecommunications services (UW System - this transfer would occur only in 2015-16 since the appropriation would be eliminated in 2016-17 as part of the proposed UW System re-structuring under the bill). Although no estimate of revenues is included in the bill, administration officials indicate they expect approximately \$6.0 million would be transferred for PSC broadband grants in the initial year and lesser amounts thereafter.

## **DISCUSSION POINTS**

### **Are broadband expansion grants an appropriate use of universal service fund revenues?**

1. Universal service, defined as "the principle that all Americans should have access to communications services," has been an objective of communications policy in this country since the Communications Act of 1934 created the Federal Communications Commission (FCC). Initially, telecommunications services were provided in a near-monopoly environment, and universal service was promoted through federal and state regulation of price and service quality. After the breakup of AT&T in 1982, universal service was funded through access charges imposed by local exchange companies on long distance carriers in exchange for connection to local systems. That mechanism was made obsolete when the Telecommunications Act of 1996 increased competition in local telecommunication markets.

2. The Act officially created a national universal service fund (USF), adopted principles to guide USF policy, and led to the creation of the Universal Service Administrative Company (USAC) to administer the fund (the USF remains a FCC program). Since its creation, the fund has consisted of four programs that provide subsidies to telecommunication providers so that the cost of service can be reduced in designated areas. At roughly the same time, 1993 Wisconsin Act 493 created the Wisconsin USF.

3. As communications services have changed over time, the principle of universal service has been embodied in different ways, but broadband access has been promoted since the creation of the federal USF. The Rural Health Care program has provided subsidies for monthly telecommunications charges, installation charges, and long distance internet connection charges to public and non-profit health care providers in rural areas, and the Schools and Libraries Program has provided discounts of varying percentages for telecommunications services, internet access, and internet connection projects to schools and libraries based on their percentage of students eligible for the National School Lunch program. Other USF programs have included the High Cost program, providing subsidies to rural telecommunications providers with high service costs, and the Low Income program, underwriting service discounts to low income consumers.

4. In response to a Congressional directive, the FCC released a National Broadband Plan

in March, 2010, which was "designed to ensure that every American has access to broadband capability" and which included USF reforms. The FCC began implementing those reforms in 2011 through issuance of an order (rule) intended to "expand the public interest obligations for eligible telecommunications carriers to deploy infrastructure that can provide broadband service in addition to voice service." The order also created the Connect America Fund, which converted existing high-cost programs to programs that support multi-purpose communication networks, that is, both voice and broadband. A subsequent FCC order in 2012 modified the Rural Health Care program by creating the Healthcare Connect Fund, which supports broadband connectivity and broadband networks for health care providers, particularly in rural areas.

5. Wisconsin's universal service fund supports 11 programs. In 2014-15, USF appropriations total \$42.8 million, and funding has remained relatively stable over the five preceding years, ranging from \$42.7 million to \$44.5 million. The Department of Administration's (DOA) Educational Telecommunications Access program and the Department of Public Instruction's (DPI) supplemental aid for public library systems comprise 74.8% of the appropriations. The PSC's appropriation represents 13.9% of the total and provides funding for six programs. The remaining three programs are administered by DPI and the University of Wisconsin System. Appendix 1 lists the 11 programs and includes a brief description of each program.

6. While the Wisconsin USF helps provide internet or broadband related services, it has not been used to date in the extension of broadband services to unserved or in underserved areas in a fashion similar to the federal USF. Instead, broadband extension assistance has been provided through the state's broadband expansion grant program, created through a program revenue transfer in 2013 Wisconsin Act 20. That program is funded from a one-time \$4.3 million transfer from the DOA appropriation for IT and communication services to nonstate entities (appropriated at a rate of \$500,000 per year). It could be argued that accessing state USF segregated revenues for broadband expansion would be similar to the FCC's modifications to the federal USF in its 2011 and 2012 orders.

7. In response to fiscal constraints, the state has supplanted GPR with SEG revenues, including USF revenues, on several occasions. General purpose revenues (GPR) were the sole funding source for aid to public library systems before 2003-04 and for library service contracts until 2009-10. A mix of GPR and USF revenues were used to fund aid to public library systems in 2003-04 through 2007-08, but USF revenues have been the sole funding source for aid to public library systems since 2008-09 and for library service contracts since 2009-10. The 2009-11 biennial budget (Act 28) required transfers of \$1.2 million in each year of the biennium from the USF to the state's general fund as part of the Act's lapse requirement.

8. An argument against expanding the use of USF revenues is that some USF programs may not fully embody the concept of universal service, and the use of USF contributions for those programs should be addressed before additional programs are added to the USF portfolio. If the Committee feels that broadband expansion grants are an inappropriate use of USF revenues at this time, the Committee could delete this proposal from the bill. This is presented as Alternative 5.

## What is the appropriate funding level for broadband expansion grants?

9. The following table displays the level of funding for broadband expansion grants in 2014-15 and in 2015-16 and 2016-17, as proposed in the bill. The amount that would be transferred in 2016-17 is unknown. For the five most recent fiscal years, the difference between USF appropriations and actual expenditures has ranged from \$0.3 million to \$3.0 million, averaging \$1.8 million. The 2013-14 difference was \$3,024,700, but that amount may be unlikely to recur if other USF changes proposed in AB 21/SB 21 are enacted. For example, the bill proposes to combine the five DOA appropriations for the TEACH program. For purposes of the table, a transfer of \$2.5 million is assumed, but the amount could be higher or lower.

**TABLE 1**

### **Broadband Expansion Grant Funding Base Year and Proposed**

<u>Appropriation</u>	<u>2014-15 (Base)</u>	<u>2015-16</u>	<u>2016-17</u>
PR Grants	\$500,000	\$500,000	\$500,000
SEG Grants	0	6,000,000	0
SEG Transfers	<u>0</u>	<u>0</u>	<u>2,500,000*</u>
Total	\$500,000	\$6,500,000	\$3,000,000

\* Estimated amount transferred from end-of-year balances in other appropriations.

10. The 2013-15 biennial budget act (2013 Wisconsin Act 20) created the broadband expansion grant program and authorizes grant expenditures of \$500,000 PR annually. Grants are to be used for projects that increase broadband access and capacity in underserved areas of the state. Broadband deployment in unserved and underserved areas is both a national and state policy that has evolved through the recognition that the cost of extending or improving service in remote areas is often so high that traditional business models cannot be employed. By underwriting a part of the cost and encouraging unique partnerships, the broadband expansion grant program removes barriers to service extension and improvement. Renumbering the appropriation corrects a technical error that occurred when the appropriation was created.

11. The broadband expansion grant appropriation is a continuing appropriation, so any unused spending carries over to future years. The bill would convert the appropriation to a biennial appropriation, which would allow the PSC to award grants in excess of \$500,000 in a year so long as the excess is offset in the other year of the biennium and total grant expenditures for the two years do not exceed \$1 million.

12. The PSC awarded \$500,000 in grants to seven recipients for 2013-14 and \$452,600 in grants to seven recipients for 2014-15. However, the PSC received 24 applications requesting \$2.6 million in 2013-14 and 13 applications requesting \$1.9 million in 2014-15. Eligible projects were ranked by a review committee, and some eligible projects were rejected based on strength of

matching funds. Other projects were rejected for not satisfying eligibility criteria.

13. Because grant requests exceeded expenditure authority by sizable margins in the program's first two years, an argument can be made for additional expenditure authority. A higher expenditure level would also attract different types of projects. The current expenditure level of \$500,000 has the effect of discouraging projects that have a larger scale, which would extend service to greater numbers of households and businesses on a more efficient basis.

14. Act 20 funded the program by transferring \$4.3 million from the DOA appropriation for information technology and communications services to nonstate entities. Since 2013-15 expenditures total approximately \$1.0 million PR, \$3.3 million remains available for expenditure in 2015-17 and thereafter. Rather than increase the PR expenditure authority for the existing appropriation, the bill would create a new appropriation funded with revenues transferred from the USF. In 2015-16, \$6.0 million SEG from the USF balance would be available for expenditure as broadband expansion grants.

15. Based on the grant requests received in 2013-15, a more modest increase in expenditure authority may be in order. Further, an increase could be achieved by utilizing the existing PR appropriation, rather than by creating a new SEG appropriation. Based on Act 20's transfer of \$4.3 million to the PR appropriation and the grant expenditures reported above, slightly more than \$3.3 million remains available in the existing appropriation. That balance could be extinguished in 2015-17 if the expenditure authorization for the existing appropriation was increased by \$1,173,700 to total \$1,673,700 annually. A more modest increase would preserve a balance in the appropriation beyond the 2015-17 biennium. For example, if the appropriation was increased by \$336,800 to total \$836,800 annually, a balance in the appropriation would be preserved until the end of the 2017-19 biennium. These options are presented as Alternatives 2.a. and 2.b.

**If funding broadband expansion grants is an appropriate use of universal service fund revenues, is the fund's unencumbered balance the best funding mechanism?**

16. If grant funding increases are provided through the existing appropriation, as suggested above, there may not be a need to create an additional appropriation and to divert the unencumbered balance from the USF to funding for broadband expansion grants. The balance is estimated to be at least \$6.0 million at the end of the current biennium, and the bill proposes to transfer \$6.0 million to a newly created SEG appropriation to be used for broadband expansion grants in 2015-16.

17. The following table provides the revenue and expenditure history of the USF over the last five years and shows that the fund's end-of-year undesignated balance has ranged from \$1.8 million to \$5.6 million. After beginning this period with a deficit, the closing balance increased in three years and decreased in two years. Revenues exceeded expenditures in three of the five years, causing the balance to increase. However, in two of the years, the balance declined when expenditures exceeded revenues. Some balance is desirable to address timing imbalances between revenues and expenditures.

**TABLE 2**

**Summary of Revenues and Expenditures of the Universal Service Fund (millions)**

<u>Fiscal Year</u>	<u>Opening Balance</u>	<u>Revenues</u>	<u>Expenditures</u>	<u>Transfers</u>	<u>Closing Balance</u>
2009-10	-\$1.296	\$49.540	\$42.521	-\$1.237	\$4.486
2010-11	4.486	42.739	44.195	-1.237	1.793
2011-12	1.793	44.727	41.810	N.A.	4.710
2012-13	4.710	39.543	39.838	N.A.	4.415
2013-14	4.415	41.923	40.786	N.A.	5.552

Source: Exhibit A-3, Annual Fiscal Report: Budgetary Basis, Wisconsin Department of Administration.

18. Periodically, the Legislative Audit Bureau (LAB) performs an audit of the USF. The LAB anticipates releasing an audit of 2012-13 and 2013-14 in the Spring of 2015. The most recently completed audit (Report 13-6) was released in April, 2013, and examined operations in 2010-11 and 2011-12. That audit noted that the PSC sometimes failed to consider unspent revenues from one year when setting providers' contribution rates in the subsequent year, causing increases in the fund's balance. The audit report notes that the "PSC has indicated that it will evaluate the overall fund balance at the end of 2012-13 to determine if an additional offset to provider assessments is appropriate when setting the rates for 2013-14."

19. After the application of the "offset" in 2012-13, a modest reduction in the fund's balance occurred, but the application of an offset was not repeated for 2013-14 or 2014-15. Consequently, the fund balance has continued to increase. Commission staff indicates that the USF will likely continue to have a fund balance because the procedure for determining program budgets and setting contribution levels are not well coordinated with regard to when each process occurs and because the PSC is unable to "true-up" funds at the end of each year.

20. In addition to the proposed \$6.0 million transfer and appropriation in 2015-16, the bill would require future unencumbered fund balances to be transferred to the proposed broadband expansion grant appropriation on June 30 of each year. Any amounts transferred beginning June 30, 2016, would be available for broadband expansion grants in the following fiscal year. While the amount of the transfer in a given year is unknown, a transfer of perhaps \$2.5 million in 2016-17 might be expected as shown in Table 1.

21. The appropriation process is intended to create competition between expenditure needs for limited funding. Under this process, the Legislature, with the Governor's approval, determines which needs should be funded and the level of funding that is merited for each need. This process would be circumvented by the automatic dedication of surplus funds to a designated function. In addition, the proposed mechanism creates an incentive for the PSC to over assess providers for USF contributions. Alternative 5 would remove the \$6 million one-time USF transfer provisions from the bill.

22. If the Committee believes that broadband expansion grants should be funded with USF revenues, the Committee could modify the Governor's proposal to require providers to make contributions to the USF for the express purpose of funding broadband expansion grants. This would mirror the process used for other USF-supported appropriations. As drafted, the bill would only make broadband expansion grants a permitted use of USF revenues.

23. As part of the proposed creation of a UW System Authority, the bill would repeal the USF-funded appropriation for telecommunications services provided by DOA to UW System campuses, effective July 1, 2016. Currently, funding for that appropriation is set at \$1,054,800 annually. If there is a desire to provide an ongoing funding source for broadband expansion grants, funding of up to \$1,054,800 could be provided from the USF beginning in 2016-17 without causing a net increase in contributions. This is provided as Alternative 3. However, if the Committee intends to restore the UW's USF appropriation, the Committee may not want to create a new appropriation and an additional contribution requirement related to broadband grants.

24. If the Committee is concerned about the balance in the USF, the bill could be modified to require the PSC to submit a report to the Committee on causes of the unencumbered balance and the changes that could be made to the procedures for setting the budgets for the various USF programs and for establishing contribution rates for providers that would reduce the unencumbered balance in the future. The Committee could also require the report to include a recommendation on the level of fund balance that is appropriate to accommodate timing imbalances between revenues and expenditures. Taking that recommendation into consideration, the report could be required to include an explanation of how the unspent revenues in the fund's balance were incorporated into the contribution rates to be imposed on telecommunications providers in 2015-16. Because changes to budgeting and assessment procedures could require law changes, the report should be submitted by September 30, 2015, so legislation could be considered in the October, 2015, or Spring, 2016, legislative floor periods. This is presented as Alternative 4.a.

25. If additional oversight is desired, the Committee could subject the report to either a 14-day passive review procedure or a review by the Committee at its quarterly meeting under s. 13.10 of the statutes in the fall of 2015. Implementation of the contribution rates for 2015-16 could be made contingent on the Committee's approval of the report. This is presented as Alternatives 4.b. and c., respectively.

## **ALTERNATIVES**

1. Approve the Governor's proposal to modify the current law PR appropriation for making broadband expansion grants, authorize the use of segregated universal service fund revenues for making broadband expansion grants, create a procedure for transferring the unencumbered balance in the universal service fund at the end of each fiscal year to an appropriation for making broadband expansion grants, and authorize the expenditure of \$6,000,000 SEG in 2015-16 for broadband expansion grants from an appropriation created under the proposal that is funded with revenues from the universal service fund.

2. Approve the Governor's proposal to modify the current law PR appropriation for

making broadband expansion grants (from the balance of the 2013 DOA \$4.3 million transfer) by renumbering the appropriation and changing it from a continuing to a biennial appropriation. In addition, increase funding for the appropriation by:

- a. \$1,173,700 annually (from \$500,000 to \$1,673,700); or

<b>ALT 2a</b>	<b>Change to Bill</b>
PR	\$2,347,400

- b. \$336,800 annually (from \$500,000 to \$836,800).

<b>ALT 2b</b>	<b>Change to Bill</b>
PR	\$673,600

3. Modify the Governor's proposal to fund broadband expansion grants from the unencumbered balance in the segregated universal service fund by deleting provisions that would transfer the unencumbered balance from the fund in 2015-16 and from certain appropriation balances in future years. Instead, provide ongoing funding for grants by requiring the PSC to set provider contribution rates at a level sufficient to generate funding for the broadband expansion grant appropriation. Delete the proposed universal service fund funding for the broadband expansion grant appropriation (\$6,000,000 in 2015-16 and \$0 in 2016-17), and, instead, set the funding level for the appropriation at \$1,054,800 beginning in 2016-17 (the amount currently allocated for UW telecommunication services).

<b>ALT 3</b>	<b>Change to Bill</b>
SEG	- \$4,945,200

4. Require the PSC to submit a report to the Joint Committee on Finance on causes of the unencumbered balance in the universal service fund and the changes that could be made to the procedures for setting the budgets for the various universal service fund programs and for establishing contribution rates for providers that would reduce the unencumbered balance in the future. Require the report to include a recommendation on the level of fund balance that is appropriate to accommodate timing imbalances between revenues and expenditures. Require the report to include an explanation of how unspent revenues in the fund's balance, in excess of any revenues needed to accommodate timing imbalances between revenues and expenditures, was incorporated into the contribution rates to be imposed on telecommunications providers in 2015-16.

- a. Require the report to be submitted to the Committee by September 30, 2015.

- b. Require the report to be submitted under a 14-day passive review procedure. Prohibit the PSC from imposing any revisions to contribution rates in 2015-16 unless the report



is approved by the Committee.

c. Require the report to be submitted to the Committee for its third quarterly meeting in 2015 (September) under s. 13.10 of the statutes. Prohibit the PSC from imposing any revisions to contribution rates in 2015-16 unless the report is approved by the Committee.

5. Except for the renumbering of the existing PR appropriation and converting it from a continuing to a biennial appropriation, delete the provision.

<b>ALT 5</b>	<b>Change to Bill</b>
SEG	- \$6,000,000

Prepared by: Rick Olin  
Attachment



## APPENDIX 1

### Universal Service Fund Programs Under Current Law

<u>Agency</u>	<u>Program Name (2014-15 Budget)</u>	<u>Description</u>
PSC	Telecommunications Equipment Purchase (\$1,800,000)	Provides vouchers to disabled persons to be used to purchase special telecommunications equipment
PSC	Lifeline (\$1,465,000)	Pays a portion of the monthly basic telephone service charges for low-income individuals
PSC	High Rate Assistance Credit (\$100,000)	Reimburses telecommunications providers for credits they extend to residential customers when the total rate for residential service exceeds a specified percentage of the median household income for a county in their service area
PSC	Telemedicine Assistance Grants (\$500,000)	Provides grants to nonprofit medical clinics and public health agencies to purchase telecommunications equipment that promotes technologically advanced medical services, enhances access to medical care in rural or underserved areas, or enhances access to medical care to underserved populations or persons with disabilities
PSC	Nonprofit Access Grants (\$500,000)	Provides grants to nonprofit groups to partially fund programs or projects that facilitate affordable access to telecommunications services
PSC	Two-Line Voice Carryover (\$25,000)	Provides a second telephone line to certain hearing-impaired customers
DPI	BadgerLink (\$2,596,500)	Pays for contracts with vendors who provide statewide access to reference databases of magazines and newspapers and to fund a contract with the National Federation of the Blind to provide telephone access to audio versions of newspapers for sight-impaired individuals
DPI	Aid to Public Library Systems (\$15,013,100)	Provides payments to each public library system for operation and maintenance of the system
DPI	Library Service Contracts (\$1,167,200)	Funds contracts for specialized library materials and information
DOA	Educational Telecommunications Access -- TEACH (\$16,984,200)	Subsidizes the cost of equipment, installation, and a portion of the monthly service fees for access to the BadgerNet Converged Network for public, private, and charter schools; technical colleges; public libraries; Cooperative Educational Service Agencies; and other educational institutions
UW System	BadgerNet Access (\$1,054,800)	Helps fund access to the BadgerNet Converged Network for certain UW campuses