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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Job Creation, Economic Development and Consumer Affairs (SC-JCEDCA)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (August/2012)

Senate

Record of Committee Proceedings

Committee on Job Creation, Economic Development and Consumer Affairs

Senate Bill 483

Relating to: an income and franchise tax credit for sales and use taxes paid on the purchase of Internet equipment used in the broadband market.

By Senators Kanavas, Jauch, Leibham, Harsdorf, Stepp, Schultz, Kedzie and Olsen; cosponsored by Representatives Montgomery, Davis, Gard, Lamb, Rhoades, Freese, Fields, Gunderson, Vos, Albers, Nischke and Musser.

December 22, 2005 Referred to Committee on Job Creation, Economic Development and Consumer Affairs.

January 12, 2006 **PUBLIC HEARING HELD**

Present: (3) Senators Kanavas, Zien and Lassa.

Absent: (2) Senators Reynolds and Decker.

Appearances For

- Drew Peterson — TDS Telecommunications Corp.
- Michael Falaschi, Racine — Wisconsin State Telecommunications Association

Appearances Against

- None.

Appearances for Information Only

- None.

Registrations For

- Chris LaRowe, Madison — Wisconsin State Telecommunications Association

Registrations Against

- None.

February 9, 2006 **EXECUTIVE SESSION HELD**

Present: (4) Senators Kanavas, Zien, Reynolds and Lassa.

Absent: (1) Senator Decker.

Moved by Senator Zien, seconded by Senator Lassa that **Senate Substitute Amendment 1** be recommended for adoption.

Ayes: (3) Senators Kanavas, Zien and Lassa.

Noes: (1) Senator Reynolds.

Absent: (1) Senator Decker.

ADOPTION OF SENATE SUBSTITUTE AMENDMENT 1 RECOMMENDED,
Ayes 3, Noes 1

Moved by Senator Zien, seconded by Senator Lassa that **Senate Bill 483** be recommended for passage.

Ayes: (3) Senators Kanavas, Zien and Lassa.

Noes: (1) Senator Reynolds.

Absent: (1) Senator Decker.

PASSAGE RECOMMENDED, Ayes 3, Noes 1

James Michel
Committee Clerk

SENATE BILL 483 (LRB -3688)

An Act to amend 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2) (a) 10. and 77.92 (4); and to create 71.07 (5e), 71.10 (4) (gy), 71.28 (5e), 71.30 (3) (es), 71.47 (5e) and 71.49 (1) (es) of the statutes; relating to: an income and franchise tax credit for sales and use taxes paid on the purchase of Internet equipment used in the broadband market. (FE)

2005

- 12-22. S. Introduced by Senators **Kanavas, Jauch, Leibham, Harsdorf, Stepp, Schultz, Kedzie and Olsen**; cosponsored by Representatives **Montgomery, Davis, Gard, Lamb, Rhoades, Freese, Fields, Gunderson, Vos, Albers, Nischke and Musser**.
- 12-22. S. Read first time and referred to committee on Job Creation, Economic Development and Consumer Affairs 510

2006

- 01-12. S. Public hearing held.
- 01-12. S. Senate substitute amendment 1 offered by Senator Kanavas (**LRB s0414**) 523
- 01-13. S. Fiscal estimate received.
- 01-13. S. Fiscal estimate received.
- 02-09. S. Executive action taken.
- 02-14. S. Report adoption of Senate Substitute Amendment 1 recommended by committee on Job Creation, Economic Development and Consumer Affairs, Ayes 3, Noes 1 595
- 02-14. S. Report passage recommended by committee on Job Creation, Economic Development and Consumer Affairs, Ayes 3, Noes 1 595
- 02-14. S. Available for scheduling.
- 02-27. S. Senate substitute amendment 2 offered by Senator Kanavas (**LRB s0588**) 636
- 03-27. S. Withdrawn from committee on Senate Organization and rereferred to joint committee on Finance, pursuant to Senate Rule 46 (2)(c) 756
- 03-30. S. Executive action taken.
- 03-31. S. Report introduction of Senate Substitute Amendment 3 recommended by joint committee on Finance, Ayes 16, Noes 0 (**LRB s0675**) 760
- 03-31. S. Report adoption of Senate Substitute Amendment 3 recommended by joint committee on Finance, Ayes 13, Noes 3 760
- 03-31. S. Report passage as amended recommended by joint committee on Finance, Ayes 13, Noes 3 760
- 03-31. S. Available for scheduling.
- 04-11. S. Senator Zien added as a coauthor 766
- 04-24. S. Placed on the April 2006 Extraordinary Session call by committee on Senate Organization 790
- 04-24. S. Placed on calendar 4-25-2006 by committee on Senate Organization.
- 04-25. S. Read a second time 790
- 04-25. S. Senate amendment 1 to Senate substitute amendment 3 offered by Senator Brown (**LRB a2962**) 790
- 04-25. S. Point of order that Senate amendment 1 to Senate substitute amendment 3 not germane taken under advisement 790
- 04-25. S. Point of order that Senate amendment 1 to Senate Substitute amendment 3 was not germane not well taken 791
- 04-25. S. Decision of the Chair stands as the judgement of the Senate, Ayes 22, Noes 11 791
- 04-25. S. Senate amendment 1 to Senate substitute amendment 3 laid on table, Ayes 19, Noes 14 791
- 04-25. S. Senate substitute amendment 3 **adopted** 791
- 04-25. S. Ordered to a third reading 791
- 04-25. S. Rules suspended 791
- 04-25. S. Read a third time and **passed**. Ayes 26, Noes 7 791
- 04-25. S. Ordered immediately messaged 792
- 04-25. A. Received from Senate 1045
- 04-25. A. Read first time and referred to calendar 1045
- 04-25. A. Read a second time 1047
- 04-25. A. Ordered to a third reading 1047
- 04-25. A. Rules suspended 1047
- 04-25. A. Read a third time and **concurred in**. Ayes 80, Noes 13 1047
- 04-25. A. Ordered immediately messaged 1048
- 04-26. S. Received from Assembly concurred in 807
- 05-04. S. Report correctly enrolled on 5-4-2006 836
- 05-23. S. Presented to the Governor on 5-23-2006 866
- 05-30. S. Report **approved** by the Governor on 5-30-2006. 2005 Wisconsin Act 479 875
- 06-02. S. Published 6-13-2006 877

Vote Record
Committee on Job Creation, Economic Development and Consumer Affairs

Date: 2/7/2006

Moved by: Zien

Seconded by: Lassa

AB _____ SB 483 Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____ Sub Amend 1
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:
 Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Ted Kanavas, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator David Zien	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Thomas Reynolds	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Julie Lassa	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Russell Decker	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Totals:	_____	_____	_____	_____

Motion Carried Motion Failed





State of Wisconsin • DEPARTMENT OF REVENUE

01-09-06

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

Jim Doyle
Governor

Michael L. Morgan
Secretary of Revenue

Senate Committee on Job Creation, Economic Development and Consumer Affairs, January 12, 2006

Senate Bill 483 - Credit for Sales Tax Paid on Internet Broadband Equipment (Senator Kanavas)

Description of Current Law and Proposed Change

The bill would create a nonrefundable income and franchise tax credit for the amount of state, county and stadium sales and use taxes paid on the purchase of internet equipment used to provide broadband availability to areas of the state that are not served by a broadband service provider or are served by not more than one service provider, as determined by the Department of Commerce. Unused credits would be carried forward for 15 years for use in offsetting future tax liability.

Commerce would certify each business as eligible for a certain amount of credits. Total credits could not exceed \$7.5 million. Claimants would have to certify to Commerce that:

- they would make an investment within 24 months of the effective date of the act that would be reasonably calculated to increase internet availability in the state, and
- the amount of investment would equal at least 20% of the amount the claimant paid in sales and use taxes and county and stadium taxes on the purchase of internet equipment during the 12 month period beginning on the effective date of the act.

Fairness/Tax Equity

- The bill would provide incentives to investments by certain companies that are not available to other companies. To the extent that these investments would occur without the tax credit, the bill would simply reward current ongoing investment behavior by some companies.
- Taxes paid by the telephone industry have decreased in recent years, from \$176 million in gross revenues taxes in FY97 to \$70 million in FY05 due to the switch to a property tax. As part of the switch from a gross revenues tax to a property tax, the industry agreed to repeal of the sales tax exemption on central office equipment – much of which would now be considered broadband equipment.

Impact on Economic Development

- Based on property tax returns filed by telecommunication companies, approximately \$26 million of sales tax was paid on central office equipment, which is generally broadband equipment, and antennas in 2003 and \$16 million in 2004. These figures do not include sales tax paid on equipment investments by cable television companies. Given the high

level of competition and investment already occurring in the industry, incentive offered by the \$7.5 million of credits may be unnecessary.

- Business investment decisions are based on a variety of factors, including the demand for the product or service. If there is currently a market for the broadband services, the credit may simply reward current investment behavior. If there is not a market for the broadband in some areas, there may be incentive for unnecessary investment.
- Although the language is unclear, the bill appears to attempt to require credit claimants to certify that they would make broadband investments in two years: the year of the credit and the following year. It appears that the amount of investment in the later year would equal 20% of the amount of sales and use taxes paid on broadband equipment during the first year, which amounts to about 1% of the first year investment. This is not a very significant requirement and is one that would likely be met by businesses in their normal course of operations. The bill would not provide a penalty if the promised investment amount were not met.

Administrative Impact/Fiscal Effect

- Telecommunications, cable television, satellite and wireless communications companies would be eligible for the credit. Based on telecommunications company property tax returns, telecommunications companies paid \$26 million in sales taxes in 2003 and \$16 million in 2004 on central office equipment, which is generally broadband equipment, and antennas. As a result, the \$7.5 million of credit would probably be used in the first year.
- Section 71.07 (5e)(b) allows the credit to be offset against the taxes imposed under sections 71.02 and 71.08. Since the credit offsets alternative minimum tax, section 71.08 (1)(intro.) should be amended to include a reference to section 71.07 (5e) in the list of credits not considered when determining alternative minimum tax.
- Sections 71.07 (5e)(c), 71.28 (5e)(c), and 71.47 (5e)(c) provide that no credit may be allowed unless the claimant certifies to Commerce that it will make an investment within 24 months of the effective date of the provision and in an amount at least 20% of the sales, use, county and district taxes paid within 12 months of the effective date. It is unclear what is meant by this provision. If it intended to impose a future purchase broadband equipment investment requirement, then the future requirement should be stated more clearly.

Prepared by: Pam Walgren (608) 266-7817
Blair Kruger (608) 266-1310

January 9, 2006

PW:BK:skr
L:\session 05-07\hearings\pw\sb483.doc



William Wiswell, President
Roger L. Hermsen, President Elect
William Esbeck, Executive Director



121 East Wilson
Street
Suite # 102
Madison, Wisconsin 53703
Phone: (608) 256-8866
www.wsta.info

January 12, 2006

Distributed at Senate Committee Hearing

Senator Ted Kanavas
Room 10 South
State Capitol
P.O. Box 7882
Madison 53707-7882

RE: WSTA ISP Division's Support of Senate Bill 483

Dear Chairman Kanavas:

I am Michael Falaschi, President of Wisconsin Internet, Inc., an Internet Service Provider (ISP) serving Racine, Kenosha, Milwaukee, Ozaukee, Dodge Walworth, Washington and Waukesha counties. I also serve as the chairperson of the WSTA ISP Council and, on behalf of the WSTA ISP Division, I want to voice our strong support for the goals of Senate Bill 483 ("SB 483").

As you are aware, the Wisconsin State Telecommunications Association ("WSTA") is a trade association representing 83 local telephone service providers, 10 wireless carriers, and 31 ISPs. WSTA is supporting this legislation because it will help member companies extend broadband facilities to high-cost areas of the state. To date, WSTA member companies have made significant investments into broadband equipment making service available to over 85% of customers in their respective service territories.

WSTA's ISP Division focuses on the 31 ISP members of the WSTA. Given their position in the broadband marketplace, these companies have a particularly poignant view of this legislation. WSTA ISP Division companies have already made strong commitments to bringing broadband access to Wisconsin customers and have spent millions of dollars in the last few years to make these services available in an ever expanding broadband footprint. WSTA ISP Division members believe that this legislation represents an important policy direction that will make the deployment of broadband services in the highest-cost areas of Wisconsin more viable in the near future.

DIRECTORS:
DENNIS BACHMAN, New Auburn
CHRISTY BERGER, Durand
JAMES COSTELLO, Camp Douglas
LORENZO CRUZ, Madison

DAN FABRY, DePere
MICHAEL FALASCHI, Racine
PAUL FUGLIE, Sun Prairie
ROGER HERMSEN, Abrams
MARK LEMMERT, Appleton

AL MAHNKE, Wittenberg
MICHAEL PANDOW, Madison
JERRY SCHNEIDER, Rhineland
SID SHERSTAD, Siren
SEAN SIMPSON, Markato

SCOTT VANDERSANDEN, Madison
MICHAEL WALSH, Heger City
FRED WEIER, Strum
DOUGLAS WENZLAFF, Wisconsin Rapids
WILLIAM WISWELL, Elkhorn

Additionally, this legislation will clearly establish the state's commitment to ensuring that broadband providers have the necessary tools to bring ubiquitous broadband access to Wisconsin residents.

Last week, the State Assembly Committee on Energy and Utilities, the Committee took testimony on a substitute amendment to Assembly Bill 892, the companion bill to this legislation. The substitute amendment changes the legislation to provide a tax exemption rather than a tax credit for the sales and use tax amounts paid for the purchase of broadband equipment used in un-served or under-served areas. It is our understanding that a similar substitute amendment is pending with respect to SB 483.

The WSTA ISP Division generally believes that an exemption is preferable to a credit. First, it is more beneficial for many of these smaller companies to have an exemption from sales taxes rather than waiting for these benefits of the legislation by claiming a credit on their income taxes. Additionally, given the fact that many WSTA ISP member companies are relatively young companies, a tax credit may not be beneficial to some companies since they may not have any tax liability in the coming years (i.e., they may experience losses that reduce tax liability to zero).

However, a major benefit to the tax credit provided in SB 483 is that it allowed for some level of retroactivity. As drafted, SB 483 would cover any investments made in 2006, even if those investments were made prior to the enactment of the bill.¹ The tax exemption proposal in the substitute amendment does not include this retroactive effect. This omission is discouraging because it will not recognize the continual expenditures that ISPs are making throughout the year. The WSTA ISP Division believes that this omission could be corrected by providing companies the opportunity to receive a sales tax refund limited to the sales and use taxes paid in 2006 for broadband equipment deployed in un- and under-served areas.

Removing the limited retroactivity in the original bill may actually discourage the desired outcome of the legislation. If companies will not have the opportunity to recover sales and use taxes paid during the early parts of 2006, they may choose to refrain from additional investments until the legislature has taken final action on the bill- a decision that becomes particularly concerning if the bill fails to become law. If companies could recover the sales and use taxes on all investments made in 2006, there would be no reason to wait for final legislative action. We encourage the authors and the committee to reinsert a mechanism that will allow ISPs to recover the sales and use taxes paid for investments made throughout the year, not just those investments made after this bill is signed into law.

¹ If the bill were not passed until July of 2006, the law would not take effect until January of 2007.



Another point that is not specifically addressed in the legislation is the inclusion of wireless technologies within the scope of the bill. Both SB 483 and the substitute amendment define "broadband equipment" as "equipment that is capable of transmitting data packets or Internet signals at speeds of at least 200 kilobits per second in either direction." WSTA ISP Division members are currently providing wireless services that meet this definition and believe that, given this, wireless technologies are currently included in the scope of the bill. We will follow any rulemaking proceedings at the Department of Commerce, the agency responsible for determining many of the specifics of this legislation, to ensure that the legislative intent of including wireless technology is carried out.

The WSTA ISP Division would like to thank the authors and co-sponsors of this important legislation. While we believe that the forthcoming substitute amendment should include a method for limited retroactivity of the tax exemption (as SB 483 does), we also feel that this legislation will move the state forward by encouraging even greater expansion of the state's broadband facilities.

Sincerely,

A handwritten signature in black ink that reads "Michael Falaschi". The signature is written in a cursive, flowing style.

Michael Falaschi
President Wisconsin Internet, Inc.
Chair of the WSTA ISP Council

cc: Senator Dave Zien
Senator Tom Reynolds
Senator Julie Lassa
Senator Russ Decker