



Romaine Quinn

STATE REPRESENTATIVE • 75th ASSEMBLY DISTRICT

Chair VanderMeer and members of the Committee:

Thank you for allowing me to testify on Assembly Bill 344 (SB 321). Wisconsin has taken meaningful steps forward in our broadband grant program. A number of you have been advocating for expanding funding to that program for the last three sessions through the Rural Wisconsin Initiative. AB 344 will be a new tool for small internet providers to expand their services.

Wisconsin currently imposes a tax on telephone companies that, over time, has been expanded to apply to certain providers of internet as well. This tax adds to the economic challenge of expanding broadband coverage.

Because the telephone tax only applies to certain internet providers, many of the larger companies are already exempt from this tax. Lifting this burden on the smaller players will allow them to channel that money back into the infrastructure their communities need.

AB 344 provides an exemption to the telephone tax for providers that meet certain criteria: the infrastructure must serve a rural or underserved area and provide speeds of at least 25 megabits per second download and 3 mbps upload (the current definition of broadband). Under the bill, an “underserved area” is any area in the state served by fewer than two wired service providers, and a “rural area” is any area in the state that is located outside a federal metropolitan statistical area or is located in a city, village, or town with a population of not more than 14,000.

This exemption will apply to both infrastructure already in the ground, as well as future infrastructure. After receiving the Department of Revenue’s fiscal estimate, Senator Marklein and I introduced substitute amendment 1. The amendment provides that the exemption of existing infrastructure will not go into effect until January 1, 2025; the exemption for future infrastructure will go into effect on January 1, 2020. This will provide a slower glide path for the fiscal impact to the state, as well as give companies time to adjust their plans to factor in the tax exemption.

Assembly Bill 344 is the next step in Wisconsin’s efforts to expand broadband access to everyone in our state. It will encourage small internet providers to reinvest their own capital in expanding coverage to the hardest to reach rural areas in our state, and will put our smaller providers on a more even footing with the larger companies.



HOWARD MARKLEIN

STATE SENATOR • 17TH SENATE DISTRICT

September 5, 2019 Assembly Committee on Rural Development Testimony on Assembly Bill 344

Good morning! Thank you Chair VanderMeer and committee members for hearing Assembly Bill 344 (AB 344), which creates a telephone company tax exemption for property used to provide broadband service to a rural or underserved area.

Property taxes are generally assessed and collected at the local level. However, the telephone company property tax is a state levy on the real and tangible property used in providing telecommunication services. The tax is designed to approximate the local property tax. It is assessed by the Department of Revenue (DOR), and is taxed at the prior year's net property tax rate of the taxing jurisdiction in which the telephone property is located.

AB 344 provides an exemption from this tax for the infrastructure used to provide broadband service to a rural area, which is an area that is located outside a federal metropolitan area or is located in a municipality with a population under 14,000 residents. For the purposes of this legislation, an underserved area is defined as an area in the state in which Internet access service at the highest speed threshold described in the bill is not available from at least two wired providers.

Rep. Quinn and I reviewed the fiscal estimate prepared by the Department of Revenue which indicated that our bill would increase existing appropriations and increase costs for the department. However, the total fiscal impact was indeterminate.

We have drafted substitute amendment 1 to minimize the fiscal impact in the current biennium. Our goal is to encourage expansion of broadband service where it currently is unavailable. The amendment will delay the exemption for new broadband infrastructure until January 1, 2021, and the exemption for existing equipment will not take effect until January 1, 2025.

The delay will also afford eligible companies time to plan broadband projects in these underserved areas with this exemption in consideration. This targeted tax exemption will focus broadband expansion where it is needed most, and it has no fiscal impact on local governments, as the telephone company property tax is assessed and collected by the state.

When expanding broadband service into rural and underserved areas, the greatest cost is the initial investment in the infrastructure. AB 344 is one additional tool in the toolbox to help telephone companies provide access in less densely populated areas.

Thank you again for hearing AB 344, and your timely action on the bill.

**Assembly Committee on Rural Development
Public Hearing on Assembly Bill 344
Testimony of Bill Esbeck, WSTA Executive Director
September 5, 2019**

Thank you Chair VanderMeer and members of the committee for the opportunity to testify today in support of Assembly Bill 344.

I want to clarify that my testimony today is going to reflect the changes proposed in Assembly Substitute Amendment 1 to Assembly Bill 344.

My name is Bill Esbeck and I am the executive director of the Wisconsin State Telecommunications Association.

WSTA was founded in 1910 as the voice of Wisconsin's local telephone companies. Today, we represent 35 companies that own and operate 70 local broadband providers. Our member companies offer their broadband and broadband enabled services primarily in rural Wisconsin.

It is clear Wisconsin's public officials at all levels of government support the expansion of broadband, and specifically the expansion of broadband in Wisconsin's rural or underserved communities.

WSTA member companies are proud to be part of the solution in the expansion of broadband in rural Wisconsin.

- For example, WSTA members serve the majority of the fiber-fed Gigabit Business Parks identified on the Wisconsin Economic Development Corporation site selection map.
- We are coordinating with the Public Service Commission to promote the productive partnerships facilitated with Broadband Forward Community certification and the Telecommuter Forward! Community certification.
- Our members are also partnering with local stakeholders in their successful Broadband Expansion Grant Program applications.

Day after day, our members work to reach more customers with rural broadband. They are constantly aware of the fact that it is more difficult and expensive to reach Wisconsin's rural customers than it is to reach customers in urban or suburban Wisconsin.

WSTA strongly supports the proposed legislation...and recognizes the efforts of Senator Marklein and Representative Quinn to create targeted property tax exemptions that will produce the desired results.

Specifically, we support the exemption for telephone company property taxes when new investments provide a minimum of a 25Mbps/3Mbps in rural or underserved areas. This exemption will help make the business case work for otherwise marginal investments. This is particularly true in rural areas where there are miles per customer...as opposed to customers per mile. Simply put, this exemption will help connect more broadband customers in rural or underserved Wisconsin.

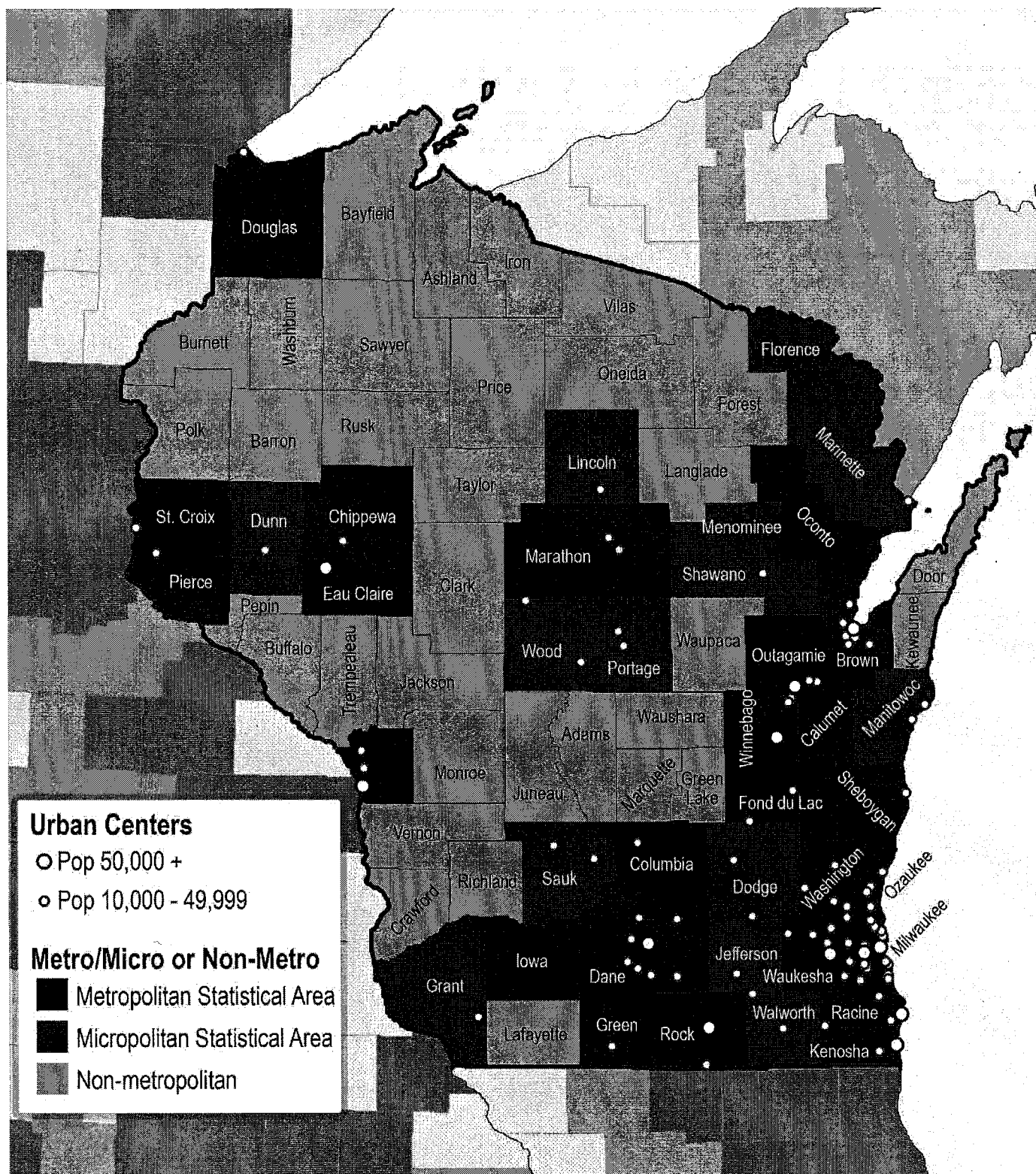
Furthermore, we support the exemption for existing rural broadband infrastructure, and the subsequent creation of working capital, beginning with the property tax assessments in January 2025.

The best predictor of future behavior is past behavior. Companies that have already invested in 25/3 broadband service in rural Wisconsin will continue to reinvest the working capital created with this exemption.

The targeted exemptions in this bill are also a step toward a level playing field between cable companies and telephone companies. Cable companies already enjoy a property tax exemption on the infrastructure they use to offer their voice, video and broadband triple play. A traditional telephone company offering the same voice, video and broadband triple play is currently paying the telephone company property tax on that infrastructure. This legislation helps level that competitive playing field.

Thank you for your time and attention this morning. I appreciate your interest in rural broadband and ask for your vote in support of AB 344 in committee action and on the floor of the Assembly.

I would be happy to answer any questions.



Metropolitan and Micropolitan Statistical Areas, U.S. Office of Management and Budget, 2013.



MEMORANDUM

TO: Wisconsin State Telecommunications Association

FROM: Axley Brynelson, LLP

DATE: September 3, 2019

RE: 2019 Senate Bill 321 and the Uniformity Clause

Question Presented

Does the property tax exemption proposed in 2019 Senate Bill 321 with respect to “qualified broadband service property,” violate the Wisconsin uniformity clause?

Short Answer

No. Although Article VIII, Section 1 of the Wisconsin Constitution (commonly referred to as the “uniformity clause”) requires the uniform taxation of property, the Wisconsin legislature retains the ability to select some property for taxation and to totally (but not partially) exempt other property from taxation. 2019 Senate Bill 321 proposes to totally exempt “qualified broadband service property,” from taxation and, therefore, does not violate the uniformity clause.

Applicable Law

Article VIII, Section 1 of the Wisconsin Constitution provides as follows:

Rule of taxation uniform; income, privilege and occupation taxes. [*As amended Nov. 1908, April 1927, April 1941, April 1961 and April 1974*] The rule of taxation shall be uniform but the legislature may empower cities, villages or towns to collect and return taxes on real estate located therein by optional methods. Taxes shall be levied upon such property with such classifications as to forests and minerals including or separate or severed from the land, as the legislature shall prescribe. Taxation of agricultural land and undeveloped land, both as defined by law, need not be uniform with the taxation of each other nor with the taxation of other real property. Taxation of merchants' stock-in-trade, manufacturers' materials and finished products, and livestock need not be uniform with the taxation of real property and other personal property, but the taxation of all such merchants' stock-in-trade, manufacturers' materials and finished products and livestock shall be uniform, except that the legislature may provide that the value thereof shall be determined on an average basis. Taxes may also be imposed on incomes, privileges and occupations, which taxes may be graduated and progressive, and reasonable exemptions may be provided.

Analysis

Article VIII, Section 1 of the Wisconsin Constitution requires the uniform taxation of property. Although the taxation of property must be uniform, the Wisconsin legislature retains the ability to select some

property for taxation and to totally (but not partially) exempt other property from taxation. *Gottlieb v. City of Milwaukee*, 33 Wis.2d 408, 420 (1967).

The Wisconsin Statutes contain numerous examples of total property tax exemptions which do not violate the uniformity clause. Such total property tax exemptions seek to exempt from taxation property that has certain characteristics based on ownership and/or usage. A few examples include:

- Property of any fire company used exclusively for its purposes (*see* §70.11(6), Wis. Stats.)
- Lands not exceeding 40 acres and the buildings thereon owned by the Wisconsin Lions Foundation and used as camps for children with visual impairments, so long as the property is used for such purposes and not for pecuniary profit of any individual (*see* §70.11(10m), Wis. Stats.)
- Manure storage facilities used by farmers (*see* §70.11(15), Wis. Stats.)
- Secondary containment structures used to prevent leakage of liquid fertilizer or pesticides (*see* §70.11(15m), Wis. Stats.)
- Treatment plant and pollution abatement equipment (*see* §70.11(21), Wis. Stats.)
- Manufacturing machinery and specific processing equipment (*see* §70.11(27), Wis. Stats.)
- Property owned by an air carrier company that operates a hub facility (*see* §70.11(42), Wis. Stats.)

Real and tangible personal property used in providing telecommunications services is not subject to Wisconsin's general property tax contained in Chapter 70 of the Wisconsin Statutes. However, telephone companies are subject to a similar tax on the real and tangible personal property used in providing telecommunications services under Subchapter IV of Chapter 76, Wis. Stats. (*see* §76.81, Wis. Stats.). Telephone companies self-report this tax pursuant to §76.83, Wis. Stats.

Proposed 2019 Senate Bill 321 establishes a "total" exemption from the telephone company tax under §76.81, Wis. Stats., for "qualified broadband service property," which is tangible personal property that is used to provide Internet access service and meets certain other characteristics. A self-reporting mechanism with respect to determining what property qualifies for this exemption is consistent with the method of taxation under Chapter 76. Because 2019 Senate Bill 321 establishes a "total" tax exemption for "qualified broadband service property" it is consistent with the Wisconsin Constitution, and does not violate the uniformity clause.

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Testimony on AB344 for the Assembly Committee on
Rural Development

Good Morning and thank you Representative VanderMeer and Members of the Committee.

My name is Jean Pauk and I am the State Government Affairs Manager for TDS Telecom. I am responsible for handling regulatory, legislative and industry issues for TDS' companies in Wisconsin.

TDS is headquartered in Madison and is the 7th largest local exchange company in the United States, with 1,400 employees in Wisconsin. Nationally, TDS provides services to 1.2M connections.

In Wisconsin, TDS operates 21 incumbent telephone companies as well as a competitive company, providing services to over 270,000 residential and business connections. We provide a wide range of products and services, including high-speed internet, phone and TV. Our operations cover over 5,000 square miles and Wisconsin is our largest state. Our service areas are primarily in rural and suburban areas including the following areas in the Committee members' districts

- Vesper, Junction City, Pittsville, and Necedah in Representative VanderMeer's 70th Assembly District,
- Neillsville in Representative Kulp's 69th Assembly District,
- Alma in the Representative Pronschinke's 92nd Assembly District,
- Sauk City, Prairie du Sac and Merrimac in Representative Considine's 81st Assembly District,
- Dane in Representative Plumer's 42nd Assembly District,
- Monroe and Blanchardville in Representative Novak's 51st Assembly District,
- And Oregon, Albany and Juda in Representative Kurtz's 43rd Assembly District.

Like most of you, TDS spends most of its time and energy in rural Wisconsin.

Currently, there are over 194,000 broadband-capable locations in our network in Wisconsin, and 70% of these locations have speeds of 25 Mbps or higher available.

Over the last several years, TDS has been expanding its fiber broadband networks in several different ways. We are expanding in areas where we have never served before, that is areas outside our incumbent service areas, by building fiber networks to offer 1 Gig Fiber to the

Home services in communities such as Sun Prairie, McFarland, Oregon, Monona, Cottage Grove and DeForest. We are also expanding 1 Gig/Fiber to the Home services in Central Wisconsin in Stevens Point, Wausau and some of the surrounding communities.

In addition to expanding to new areas, TDS has been pushing fiber deeper into its existing network footprint in its incumbent serving areas. In the next 12 months the company expects to upgrade more than 13,000 addresses with fiber to the home technology across Verona, Cross Plains, and Waunakee.

Finally, TDS is continuing to upgrade its more rural service areas to provide higher speed broadband with funding from the FCC's Alternative Connect America Model (ACAM) and State Broadband Grant projects. For example, in the towns of Berry and Vermont near Black Earth, TDS upgraded internet speeds in 2017 and 2018 to nearly 500 households, with the majority receiving speeds of 25Mbps or higher by deploying fiber to the node, and implementing vectoring technology to provide faster speeds over the copper loop to the customer premises. We are currently completing State Broadband Grant projects for 1,600 customer locations in New Glarus and Monticello in Green County and Beetown in rural Grant County. These

projects will enable speeds of 25 Mbps or higher to the majority of the locations by the end of 2019.

I appreciate the opportunity to testify today in support of Assembly Bill 344. AB344 will provide another tool for our company to continue its efforts to expand our fiber footprint to provide high speed broadband services in rural and underserved areas of the state. As noted previously, we have been expanding our fiber broadband footprint in Wisconsin through the use of federal funding, state broadband grants, and TDS capital. Working capital generated by the property exemption will be another source of funding for our ongoing network upgrades.

As a company that provides broadband services across 30 states, difficult decisions have to be made on how to most effectively spend limited capital on broadband. The passage of AB344 will create working capital for fiber investments made after December 31, 2019 which will make Wisconsin even more attractive for additional capital investments as TDS determines how to prioritize its fiber broadband projects. If our capital dollars go further in Wisconsin because we no longer pay property taxes on our fiber investment, that will help us choose to invest more here.

TDS is committed to delivering the fastest, most reliable internet service possible. For many years now, TDS has been investing millions of dollars in building and maintaining our network to provide faster broadband speeds for our customers. In 2017 and 2018 alone, TDS invested over \$90M in Wisconsin. We expect to invest another \$135M in 2019 and 2020. The vast majority of these investments are in rural and underserved areas. Any savings due to the property tax exemption could be used immediately to make additional fiber investments in Wisconsin to provide faster broadband speeds to additional locations more quickly. Essentially, the exemption will allow TDS to stretch its scarce capital investment dollars further as we work to continuously expand the reach of our high speed broadband fiber network. Finally, these additional funds provided by the property tax exemption can provide the tipping point for a project to move forward. Without the additional capital projects may be postponed.

Broadband fiber networks are capital intensive and expensive to deploy, especially in rural, sparsely-populated areas. And these sparsely populated areas are the last to be upgraded at the highest costs, making the working capital available from the property tax exemption on past fiber investments timely. Without this additional working capital to supplement other federal and state support, the

business cases for some of these remaining areas may not support fiber upgrades.

In closing, I urge the Committee to take action to approve AB344. The property tax exemption on fiber and equipment will enable broadband services to be deployed in rural and underserved areas in the state more quickly than they otherwise would be by providing another source of capital for companies to reinvest in their networks.

Thank you for the opportunity to testify today.

I would be happy to answer any questions the Committee may have.

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