



---

# HOWARD MARKLEIN

STATE SENATOR • 17<sup>TH</sup> SENATE DISTRICT

**September 28, 2023**

## **Senate Committee on Utilities and Technology Testimony on Senate Bill 325**

Good afternoon,

Thank you Chairman Bradley and committee members for hearing on Senate Bill (SB) 325, relating to the rural broadband expansion grant program.

Nearly every session, I have worked on legislation to improve Wisconsin's Rural Broadband Expansion Grant program. As a legislature, we have taken steps to dial-in the grant program so that it continues to reach truly unserved people with reliable, affordable, high-speed internet connection. Since 2014, we have had to make changes on a regular basis to focus our efforts as projects are completed, technology changes and external resources are added to the mix.

This bill further refines the Rural Broadband Expansion Grant Program to make sure it is focused on unserved communities as we also manage a deluge of Federal funding into the broadband expansion world. We also ask for your consideration of an amendment, initiated by several stakeholders in the wireless industry.

Highlights of this bill include:

- Eliminating the “underserved” category to focus on truly unserved communities. It redefines “unserved” to be areas without broadband delivered at speeds of 100 Mbps download and 20 Mbps upload or less. This better matches the expectations of consumers who are learning and working from home.
- Giving priority to expansion projects that have at least 25% matching funds. (Amendment changes this from 40%).
- Creating a challenge process to ensure that grant funding does not duplicate existing service or service that will be deployed within two years of the grant award.
- Creating opportunities for wireless and fixed wireless technology where the costs for fiber are exorbitant.
- Clarifying that the criteria and process for the Rural Broadband Expansion Grant program do not apply to the Broadband, Equity, Access and Deployment (BEAD) program, which is a Federal program for broadband expansion with its own set of rules, criteria and guidelines.

Many of these changes were included in legislation that passed both houses of the legislature during the last session, but was vetoed by Governor Evers. This bill includes changes that stakeholders discussed with the Governor to seek his support. The Governor asked us to include language related to affordability.

We continue to seek the changes in this legislation because we have reached most of the low hanging fruit for rural broadband expansion. The easy projects – those that are less expensive and less difficult to install -

have been completed. We are now at the point where we need to focus funding on locations that are difficult and expensive for each. This bill will be a positive step in that direction.

Thank you again for hearing SB 325 and your timely action on the bill.



---

# ROB SUMMERFIELD

STATE REPRESENTATIVE • 67<sup>th</sup> ASSEMBLY DISTRICT  
MAJORITY CAUCUS CHAIR

September 28, 2023

Senator Bradley, Chair  
Members of the Senate Committee on Utilities and Technology

## **Testimony on 2023 Senate Bill 325** *Relating to: the broadband expansion grant program*

Chairman Bradley and Committee Members:

Thank you for providing me with the opportunity to testify at today's public hearing on Senate Bill 325. I appreciate your time and consideration of this legislation.

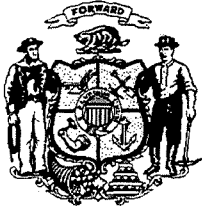
The Broadband Expansion Grant Program was created in 2013 to meet the demand for broadband services in Wisconsin and encourage expansion into Wisconsin's unserved and underserved areas. Over the last ten years, the Wisconsin Broadband Expansion Grant program, administered by the Public Service Commission (PSC), has successfully helped connect thousands of Wisconsinites with reliable broadband connection. Thanks to this grant program, many Wisconsinites, especially those in rural areas, have gained access to broadband connection that would have otherwise been cost-prohibitive and impossible.

Unfortunately, as our technological landscape has evolved, our Broadband Expansion Grant Program has not. Under the current system, an "unserved" area is defined as an area that lacks a provider who offers speeds at 20% of the federal standard. This standard is wholly inadequate if Wisconsin's economy is expected to remain competitive in the coming decades. Also under the current program, there is an "underserved" category that allows the state to subsidize internet expansion into areas that already have access to high-speed internet services. These inefficiencies are holding the program back from its maximum potential and hindering the state's progress on this issue.

This bill addresses these inefficiencies. It adds that, in order to be considered a "served" area, internet service must be provided at no less than actual download speeds of 100 megabits per second and upload speeds of 20 megabits per second, bringing our standards to the federal standard. SB 325 will also eliminate the "underserved" category.

One amendment to this bill has been introduced. Senate Amendment 1, to SB 325 includes provisions to remove prioritization for projects capable of 100/100 Mbps, create a priority scoring opportunity for projects that can provide fiber services to locations where the cost to deploy is below the BEAD Extremely High Cost Per Location Threshold, prioritize applications for projects to locations that do not have 25/3 Mbps service, and reduce the required 40% match for priority scoring to a 25% match for priority scoring.

These changes are necessary for the long-term viability of the program and internet access in Wisconsin as a whole. I ask that you join me in supporting this bill.



# Public Service Commission of Wisconsin

Rebecca Cameron Valcq, Chairperson  
Tyler Huebner, Commissioner  
Summer Strand, Commissioner

4822 Madison Yards Way  
P.O. Box 7854  
Madison, WI 53707-7854

---

## Testimony on Senate Bill 325 before the Senate Committee on Utilities and Technology

September 28, 2023

Matt Sweeney

Public and External Affairs Director

Public Service Commission of Wisconsin

Chairman Bradley and committee members, thank you for the opportunity to testify for information on SB325. My name is Matt Sweeney, I am the Public and External Affairs Director at the Public Service Commission (PSC or Commission). As you know, the PSC is Wisconsin's independent utility regulator. It is the PSC's mission to ensure the delivery of safe, reliable, affordable, and environmentally responsible utility services and equitable access to telecommunication and broadband services.

While Wisconsin's electric, water, and natural gas utilities are regulated, high-speed broadband internet is largely unregulated. In the context of this hearing, this means that broadband providers cannot be required to serve unserved areas, and where service is offered, the quality and standard of service is unregulated. If an area does not have access to broadband service, the residents and businesses must wait until a provider decides to expand there or the current provider decides to improve the internet service to provide broadband. Broadband providers are reluctant to expand into areas where there are too few customers or if the area is expensive and difficult to serve. The unfortunate result of these circumstances is that portions of our state and hundreds of thousands of our fellow Wisconsinites cannot access or rely on high-speed internet service, while many others have had access for decades.

In July 2013, the State Legislature created the Broadband Expansion Grant Program. The program was created to meet the demand for improved broadband and encourage broadband development in Wisconsin's unserved and underserved areas by providing grants to providers to help make up for the lack of return on their investment. Since the first grant round in 2014, the state grant program has awarded nearly \$214 million in grants including \$16.6 million awarded last spring.

The state grant program has been incredibly successful. The program funded 363 projects that will add or improve broadband access to hundreds of thousands of homes and businesses when construction is complete. It also funded the construction of over 200 miles of middle mile infrastructure providing the needed resources for future expansion into unserved areas of the state. The \$214 million in state investment has leveraged an additional \$352 million in private and local matching investment into our state's broadband infrastructure.

Much of the program's success can be attributed to how the State Legislature structured the program and placed it at the PSC. The PSC has the expertise to make decisions in the public interest by assessing complex information within established statutory guidelines for utility construction projects and changing utility rates, among other things. Allowing three independent

Commissioners to apply the statutory eligibility and merit criteria, along with their expertise and best judgement, ensures that the projects are in the public interest and are the best use of the limited funds. Not everyone is going to agree with the PSC's decisions, but Commissioners have significant expertise and experience in approaching hard decisions with a statewide lens along with the merit and value of each project. The ability to nimbly adapt as industry, coverage, and technology change has been the basis for the success of the grant program.

The grant program gives our state the ability to fund the most viable projects that also coincide with the highest need areas. If providers will not expand to an area because the return on investment is not there, if an area or project is not eligible to receive federal funding for expansion, or if barriers in state law are insurmountable for a community to provide broadband service to its own residents, our grant program can come in, fill that gap, and make sure that no one is left unserved.

The most recent estimates from the Wisconsin Broadband Office using the new National Broadband Map show about 464,000 locations that would be considered "unserved" under this bill. The Commission has been tremendously successful at awarding and administering funding to deploy broadband in high need areas of the state. We thank you again for the opportunity to provide this information.



# **WISCONSIN CABLE COMMUNICATIONS ASSOCIATION**

22 East Mifflin Street, Suite 1010 - Madison, WI 53703 - 608/256-1683 - Fax 608/256-6222

Executive Director – Thomas E. Moore

---

## **Statement of Tom Moore**

**Executive Director, Wisconsin Cable Communications Association**

**Before**

**Senate Committee on Utilities and Technology**

**Speaking in Favor of Senate Bill 325**

**Related to the Broadband Expansion Grant Program**

Good morning, Chairman Bradley and Committee members. Thank you for the opportunity to testify in favor of Senate Bill 325 today, bi-partisan legislation to update the state Broadband Expansion Grant program.

I serve as the Executive Director of the Wisconsin Cable Communications Association. We are the state trade association for Wisconsin cable video broadband and voice providers. Our members provide these services to roughly 900 Wisconsin communities and include household names like Charter Communications and Comcast as well as smaller regional and community systems like MidCo Cable and Astrea. We have invested billions of dollars in Wisconsin to deploy advanced digital services to over 2 million locations in the state and we continue to invest hundreds of millions of dollars each year to extend, upgrade and service our digital networks.

While Wisconsin's urban areas enjoy near ubiquitous access to broadband service, an estimated 20% of our state rural areas lack access to broadband with speeds of at least 25/3 and roughly 59,000 locations lack even the most basic broadband, unable to receive the current

statutory minimum speed of 5 Mbps/600 Kbps. It is widely acknowledged that broadband exist today where there is a reasonable business case to be made for its deployment, and we all recognize the challenges of extending service to high cost, difficult to reach rural areas of the state. The Broadband Expansion Grant program is an important tool, along with private investment and federal support programs to provide connectivity to all Wisconsin homes and businesses.

Since its inception in 2013, the program has evolved both statutorily and as it is administered by the Public Service Commission. We believe Senate Bill 325 is another important step in program evolution. If adopted, Senate Bill 325's modifications, updates and clarifications will better focus the program on its intended mission: to bring true broadband service to Wisconsin locations which are not currently served. The bill would accomplish this primarily by increasing the minimum download and upload speeds which will be considered as broadband, by permitting state broadband grant dollars to only fund project to locations lacking access to broadband at those speeds and by limiting duplication of public broadband resources.

### **Focusing on the Unserved**

Recognizing the public benefits of ubiquitous broadband connectivity, the purpose of state and federal support for broadband is to supplement the capital investment needed for our nation's broadband providers to extend service to areas which are otherwise too expensive to reach under normal return on investment models. Given the limits of public resources, state expenditures on broadband expansion must be focused on reaching locations unserved by broadband. Public funding which is utilized to build a second broadband line to a served location could and should have been used to connect an address currently lacking any broadband

service. It reminds me of my mother's dinner time rule when she was feeding a house full of teenagers: "Everyone gets a chance to eat before anyone goes back for seconds".

What's more, government subsidized broadband expansion to locations already served by an existing provider creates an unfair marketplace advantage for the subsidized service and penalizes the existing provider who put their capital at risk to extend broadband in the first place. This principle is widely recognized by policymakers and underpins most state and active federal broadband expansion programs.

Senate Bill 325 recognized and codifies this important principle by eliminating the ability of grant awards to "underserved" locations. This important modification to current law will both focus the program where it is most needed – reaching the unserved – and reduce unfair state supported overbuilding of existing broadband providers.

### **Supporting True Broadband**

Under the current program, "unserved areas" are those location lacking access to service at speeds which are at least 20% of the FCC's 25/3 Mbps definition of broadband, which translates to 5 Mbps / 600 Kbps service. Additionally, the program allows grants to be made to serve areas which have access to broadband service. These are the "underserved areas" in the current statutes. At the time this policy was developed it made sense based on the broadband technology being deployed at the time and the locations which could be being upgraded from dial-up service to minimum broadband speeds.

Today however, 5/600 service is no longer recognized as true broadband service. Senate Bill 325 would establish 100 Mbps down / 20 Mbps up as the minimum recognized broadband speed, qualifying homes and businesses which only have access to slower speeds to receive



Broadband Expansion Grant support and upgrade to service more compatible with today's online necessities. Another important feature of this legislation is a provision which allows the Public Service Commission, after two years from enactment, to modify this speed threshold through the administrative rule process.

This legislation, as modified by proposes Senate Amendment 1, will also create a priority for deploying fiber optic connections, with the exception that this application scoring priority will not apply in geographic areas in which it is deemed too costly to deploy wired service. I will explain this provision when I get to Senate Amendment 1.

While no technology is truly "futureproof", highspeed fiber optic connections can deliver robust broadband speeds for many years in the future and should be the prioritized in future grant awards by the Broadband Expansion Grant program. Virtually all Wisconsin cable broadband providers are offering customers 1 gigabit download speeds today, with plans to offer service as fast as 10 gigabits in the near future. Increasing minimum broadband speed thresholds and prioritizing higher speed connections is a wise use of public funding and will result in networks which are capable of serving our state's connectivity needs well into the future.

### **Maximizing State Dollars by Limiting the Duplication of Public Broadband Support**

Current FCC survey data puts the number Wisconsin addresses unserved by at least 25/3 service at roughly 460,000 locations, virtually all of which are in rural areas. Estimates vary regarding the of the resources needed to connect these 460,000 addresses. At this point, I would simply cite a PSC estimate that subsidized share of this cost is perhaps \$1.8 billion.

As I mentioned in my opening, connecting all Wisconsin homes and businesses to broadband will take a combination of private, state, and federal investments. In addition to the

state resources, the federal government is awarding billions to ISPs to connect unserved homes and businesses across the U.S. In 2020, the FCC's \$20 billion Rural Digital Opportunity fund awarded some \$373 million to 14 Wisconsin providers to connect over 240,000 locations – virtually all of which were slated to receive gigabit speed services

Additionally, as I am sure you are aware, Wisconsin was allocated \$1.056 billion in broadband expansion funding under the Broadband, Equity, Access and Deployment (BEAD) program. Given this investment by the federal government, to be matched by with a far greater investment by the winning bidders, Wisconsin should use our public resources to bring broadband to areas which are not slated to be connected by either the Federal RDOF program or BEAD grant awards. Senate Bill 325 addresses this issue by creating a statutory process which it permits an entity to challenge a proposed project grant if it can demonstrate to the Commission that it either currently serves locations included in a grant application 100/20 service or will have that service available to that area in at least 24 months from the date of the proposed grant.

### **Addressing Affordability**

If adopted, Senate Bill 325 would for the first time address issues of affordable access within the Broadband Expansion Grant program. Applicants for expansion grants would be required to participate in the FCC's Affordable Connectivity Program (ACP) or any of its federal successor programs. This program provides a \$30/month broadband subsidy for qualifying low-income individuals. Additionally, the Commission when evaluating grant applications is required to consider whether the applicant offers a low-cost broadband service option in order to be eligible for BEAD program funding.

## **Senate Amendment 1**

As originally drafted, the bill would prioritize grant applications to build 100/100 Mbps symmetrical service, provision which follows closely recent federal funding allocations which also require at least 100/20 service with a preference for 100/100 symmetrical speeds. Following the committee hearing on the Assembly companion bill, stakeholders negotiated a provision to replace this priority with a provision cut and pasted from the BEAD program. Under this new provision, which is included in Senate Amendment 1, the grant program would prioritize projects designed to provide fiber service directly to the end user in geographic areas where the cost to deploy fiber is below the extremely high cost per location threshold (EHCPLT) established by the PSC the under the BEAD program.

Also, under Senate Amendment 1 language was added to prioritize projects in areas of the state that do not currently have 25/3 Mbps service. The value of this provision is that locations which do not have even 25/3 Mbps service will be prioritized in grant applications over those which are being upgraded from 25/3 to the higher speeds resulting from this legislation.

Another provision being modified by Senate Amendment 1 relates to the priority of matching funds for project applications. Under the original bill, applications which provide at least a 40% match to the grant funds would receive priority scoring. The amendment lowers this threshold to begin receiving a priority with 25% matching funds. This amended language is seeking to strike a balance between leveraging applicant's contribution to the projects and recognizing the high costs of bringing connectivity to more rural areas of the state.

## **Conclusion**

It now seems cliché to state the importance of ubiquitous broadband connectivity- it is now stating the obvious. Wisconsin's communication technology sector has invested tens of billions of dollars to make broadband available to 93% of state addresses – including 99% of urban locations - and this for a technology that is barely 20 years old! But to those who are not able to connect this has little meaning. Connecting every location in Wisconsin to broadband has become one of the top priorities of both lawmakers and broadband service providers. Those homes and businesses not connected represent a serious challenge, as they tend to be the high-cost, low density locations most difficult to reach. Wisconsin's broadband providers are ready to do our part to connect the unserved but we recognize the need for public investments to supplement the tremendous private capital still necessary to complete the task.

Wisconsin's Broadband Expansion Grant program has proven to be a critical tool to connect thousands of unserved locations to broadband service. But as we progress to serve more and more of the hardest and costliest to reach locations, it is time for the program to evolve to be more focused to reaching the unserved and reaching them with a true broadband product capable of the necessities of today's online environment. Senate Bill 325 will serve to more readily connect all who want to be connected and will do so with a greater cost and time efficiency over the current program.



September 28, 2023

Senator Julian Bradley  
Chair  
Senate Committee on Utilities and  
Technology

Senator Van Wanggaard  
Vice Chair  
Senate Committee on Utilities and  
Technology

Dear Chair Bradley, Vice Chair Wanggaard, and Members of the Committee:

We are increasingly close to bridging the digital divide and bringing life changing broadband access to everyone in Wisconsin. But our hardest work is yet to come as we tackle the hardest-to-reach locations that remain unserved. Achieving universal connectivity, now more than ever, will require an “all of the above” solution that matches the right broadband technology with the project. Fortunately, there is more than one technology that can meet consumer needs and expectations for their broadband service, with fixed wireless service providing its own benefits of cost and invaluable time to delivery.

Accordingly, on behalf of the undersigned organizations representing stakeholders from across the communications ecosystem, we urge you to reject recent calls to exclude qualified broadband solutions from state funding; particularly wireless-based solutions. Specifically, we oppose SB 325, which would effectively limit future state broadband funding to fiber-only projects. While fiber will be a critical component of every state broadband program, it is not the only technology capable of bridging the digital divide and comes with its own set of tradeoffs. We encourage states to adopt flexible rules that will allow the greatest number of applicants to apply for these funds to increase competition and give states the maximum number of tools at their disposal.

The wireless industry is deeply committed to bringing connectivity to all Americans, on the move, and increasingly, at home. However, proposals to fund a single technology to achieve universal service will add unnecessary delays and increased costs to meet this goal. Rather, we encourage states to allow all technologies to compete for these funds to minimize government outlay and increase speed to deployment. Congress recognized this critical need for a blend of technology in the Infrastructure Investment and Jobs Act (“IIJA”) by setting flexible requirements for eligible projects.<sup>1</sup> Likewise, we urge Wisconsin to adopt flexible rules that

---

<sup>1</sup> See Infrastructure Investment and Jobs Act, Pub. Law No. 117-58, div. F (2021) [“IIJA”] (providing that eligible projects as those capable of delivering broadband at 100Mbps download and 20Mbps upload).

allow for broad competition and select winners based on their ability to deliver the service consumers need as quickly and effectively as possible.

The cost per location served increases dramatically in more remote areas—the areas least likely to be served.<sup>2</sup> Requiring a single technology to serve these locations, particularly one with the highest cost per location passed of commercially available solutions, will reduce the reach and effectiveness of state programs. States must be aware of these tradeoffs as they craft rules to bring connectivity to all their citizens.

The benefit for preserving broadband technological flexibility is that it provides other options, including the increasingly popular Fixed Wireless Access (“FWA”) home broadband option. Currently, FWA is the fastest growing broadband technology in the U.S. market, accounting for 90% of new broadband growth.<sup>3</sup> Improvements to the technology in recent years have enabled providers to deliver competitive speeds and reliable service to homes across the country in ways that were previously not possible. With consumers already demonstrating they value this choice in the marketplace, Wisconsin should consider applications for FWA in the BEAD program. FWA also has several inherent benefits in deployment compared to other technologies. First, it is one of the fastest broadband solutions to deploy. Service can be brought online in a matter of weeks, delivering high-speed broadband over a wide area. This speed and efficiency also contributes to a lower overall cost to deployment. While states need not make final decisions on which technology to deploy where, states can enable this critical technology by taking steps at the outset to preserve the flexibility of its program.

Our organizations share the state’s goal of bringing high-speed, reliable broadband service to every American. However, realizing this goal will require a flexible, all-of-the-above approach to ensure that connectivity can be delivered quickly, efficiently, and broadly. Accordingly, we urge you to reject calls to only fund a single broadband technology and instead craft flexible rules that allow a variety of solutions to compete and afford the most options to communities on the wrong side of the digital divide.

Sincerely,

The Wireless Infrastructure Association

Competitive Carriers Association (CCA)

CTIA

---

<sup>2</sup> See ACA Connects-Cartesian, *BEAD Program: A Framework to Allocate Funding for Broadband Availability - Version 2.0* at 13, <https://acaconnects.org/bead-program-framework/> (Feb. 2, 2023); See also *Improving the Nation’s Digital Infrastructure*, Fed. Comm’n. Comm’n. (Jan. 17, 2017), <https://docs.fcc.gov/public/attachments/DOC-343135A1.pdf>.

<sup>3</sup> Press Release, *About 3,500,000 Added Broadband From top Providers in 2022*, Leichtman Research Group (Mar. 2, 2023), <https://www.leichtmanresearch.com/about-3500000-added-broadband-from-top-providers-in-2022/> (“Fixed wireless services accounted for 90% of the net broadband additions in 2022, compared to 20% of the net adds in 2021.”).

NATE- The Communications Infrastructure Contractors Association

The Rural Wireless Association (RWA)

WISPA – Broadband Without Boundaries

Cc:

Senator Quinn

Senator Smith

Senator Pfaff



**Bill Esbeck, Executive Director  
Wisconsin State Telecommunications Association  
Testimony in Support of Senate Bill 325  
Senate Committee on Utilities and Technology  
September 28, 2023**

Chair Bradley and members of the committee, thank you for the opportunity to provide testimony in support of Senate Bill 325.

I want to thank and recognize Senator Marklein and Representative Summerfield for their support of broadband expansion and their willingness to author this legislation. I also want to thank committee members Senators Wanggaard and Pfaff for their support as cosponsors of SB 325.

In my testimony, I will share some brief background on WSTA, our members, and Wisconsin's efforts to expand broadband service to unserved and underserved locations.

WSTA was incorporated in 1910, and we currently represent 36 telecommunications companies operating 70 broadband service providers.

Many of our members offer fiber-fed symmetrical gigabit broadband options (1 Gbps equals 1000 Mbps) in addition to traditional voice service and digital video products.

WSTA members are successful partners with the state in rural broadband expansion. Since FY2014, our members account for more than half of the grants and almost two-thirds of the funds from state and federally supported grant cycles. WSTA members are matching grant awards with their private sector capital and completing projects on time.

Wisconsin's Broadband Expansion Grant Program was created more than a decade ago, and there were statutory updates to the program enacted in 2017. This legislation is another effort to update the statutes governing the grant program.



This testimony will focus on Senate Bill 325 as amended by Senate Amendment 1 to SB 325.

In combination, SB 325 and Senate Amendment 1 will create a delicate balance across a coalition of stakeholders. The WSTA Board of Directors supports the legislation and the adoption of Senate Amendment 1.

Several items in SB 325 as introduced and Senate Amendment 1 create more consistency between Wisconsin's Broadband Expansion Grant Program (BEGP) and the federal Broadband, Equity, Access, and Deployment (BEAD) Program, including:

- In the bill as introduced, the elimination of "underserved" areas as grant eligible and the redefinition of "unserved" areas using the 100Mbps/20Mbps threshold. Identifying areas without existing 100Mbps/20Mbps broadband service as eligible for grant funding is consistent with the federal BEAD program.
- In Senate Amendment 1, the creation of a priority scoring opportunity for fiber below the BEAD Extremely High Cost Per Location Threshold (EHCPLT). The inclusion of a fiber preference below the BEAD program's EHCPLT is another step toward consistency between the state and federal programs.
- In Senate Amendment 1, the creation of a priority scoring opportunity for locations without existing 25Mbps/3Mbps service. This is another example of consistency between the BEAD program and Wisconsin's BEGP. The BEAD program prioritizes funding for locations without 25Mbps/3Mbps service.
- In Senate Amendment 1, the creation of a priority scoring opportunity for matching funds of at least 25%. This is similar, but not identical, to the approach used in the BEAD program.

Thank you for taking time to review this testimony. I respectfully ask that you support SB 325 as amended by Senate Amendment 1.

*Please contact Bill Esbeck at [bill.esbeck@wsta.info](mailto:bill.esbeck@wsta.info) with any questions.*