



# CLINT P. MOSES

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February 1<sup>st</sup>, 2024

Assembly Committee on Ways and Means  
Testimony on Assembly Bill 1033

Thank you Chairman Macco and members of the Assembly Committee on Ways and Means for considering Assembly Bill (AB) 1033.

I am excited to present this bill, AB 1033, which seeks to establish a Digital Interactive Media Credit to encourage growth of the interactive entertainment sector in Wisconsin. We all, and especially our younger family members, would colloquially refer to this as the video game sector. When we refer to video games in the present day, we are not just talking about video games on TV screens. This extends to cell phones, virtual reality goggles, and stadium-packing live events as well. This legislation would allow up to 30% of eligible expenditures to be fully refundable through a tax credit for a business in interactive entertainment, thus attracting and keeping talent in the biggest entertainment sector in the world here in Wisconsin.

Video games are currently the largest entertainment industry in the U.S. and in the world. They far outpace both the music and film industries to the point of overshadowing them combined. Over \$13 billion in federal, state, and local taxes are generated annually. The industry supports nearly half a million jobs in the US with family-sustaining incomes averaging over \$120,000 annually – over twice the national average. In the U.S. alone, the video game industry has more than tripled in size in the last decade, growing from \$15.2 billion in 2012 to \$56.6 billion in 2022. This bill will help Wisconsin and its people be competitive for a piece of that desirable pie.

Our universities already offer amazing programs in this industry. For example, UW-Stout's School of Art and Design is recognized as one of the best in the Midwest and has a motion-capture studio similar to those used by the world's top video game creators. With video gaming being such a desirable field for entrepreneurs and employees alike, especially among our state's youth, legislation like this ensures our future generations are in the running for these careers.

We have worked with the Department of Revenue (DOR) throughout the bill drafting process on this, and while they will be telling you today of some new concerns with the bill they brought forward this Monday, we are currently working with them on amendments. With widespread support from stakeholders across the employer and employee spectrums, I again thank the committee for holding this hearing on AB 1033 and urge timely action on this groundbreaking legislation.



## PATRICK TESTIN

### STATE SENATOR

DATE: February 1, 2024  
RE: **Testimony on Assembly Bill 1033**  
TO: The Assembly Committee on Ways and Means  
FROM: Senator Patrick Testin

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Thank you to Chairman Macco and Committee Members for hearing my testimony today.

The video game industry is the largest entertainment entity in the United States and the world, dwarfing the movie and television industries. The worldwide video game industry is expected to grow at an annual rate of 8.76% between 2024-2027. Wisconsin currently has a small base of video game studios including PUBG, Raven/Activision/Microsoft, Lost Boys, Roundhouse, Filament and others. The University of Wisconsin-Stout and UW-Whitewater have educational programs that directly lead to job opportunities in these video game studios. UW-Stout School of Art and Design is recognized as one of the best in the Midwest and has a motion-capture studio similar to those used in the actual video game studios. Titletown Tech is an investment company that is specifically focused on the video game industry and recently invested in Midwest Games, a regionally focused video game publisher.

Many employers in the video game industry have expressed an interest in leaving California, the current hub of the industry. These companies wish to expand their base and bring in additional studios. This is quite the opportunity for Wisconsin. Respawn Entertainment opened a new studio in Madison, Wisconsin in 2023. Currently, Vancouver and Quebec as well as Austin, Texas are the primary growth regions for the video game industry based on their tax incentive programs. This proposed legislation creates a tax incentive for the video game industry for jobs located in Wisconsin. The video game industry provides high paying jobs in Wisconsin in multiple computer related areas including programmers, graphic designers, musicians, actors, stunt personnel, and project managers.

The bill authorizes a person who owns a copyright in digital interactive media or entertainment, or their representative, to obtain a refundable income tax credit equal to 30 percent of the salary or wages paid for applicable services rendered in this state and 30 percent of other eligible expenditures made in this state directly related to qualified activities (such as software, facility leases, and equipment).

This industry has the potential to bring great economic growth to Wisconsin. I ask for your support and am happy to take any questions.



# State of Wisconsin • DEPARTMENT OF REVENUE

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*Tony Evers*  
Governor

*Peter W. Barca*  
Secretary of Revenue

**Information Only Testimony on Assembly Bill 1033**  
**February 1, 2024**  
**Peter Barca, Secretary of the Department of Revenue**

Good morning, Chairman Macco, ranking member Conley and members of the Assembly Ways and Means Committee. I would like to thank Representative Moses and Senator Testin for sponsoring this piece of legislation. I appreciate the opportunity to provide written testimony for information only on AB 1033, creating an interactive media tax credit.

The department appreciates the collaboration of the stakeholders in drafting this legislation and understands the value tax initiatives like AB 1033 can have. However, there are a number of unresolved concerns we have with the legislation as it currently stands. The major concerns are that 1) the definitions are still unclear, and 2) the DOR is not equipped to follow the process the bill creates for claiming the tax credit. The process the bill creates would differ from existing processes and would require a significant investment in resources to accomplish.

The current bill provides for unclear definitions. The department recommends tightening up the language to create more clarity in intent of the law. As the bill is currently drafted, it is not clear what types of products and platforms qualify for the credit as well as the "eligible expenditures" used to calculate the credit. Eligible expenditures could be interpreted as allowing activities to be performed outside Wisconsin as long as the expenditure was paid in Wisconsin.

Additionally, the bill creates significant administrative burden for the department. The approval process to claim the credits and timeline is not clear and does not follow the typical way tax credits of this nature are granted. Typically, WEDC is involved in approving refundable business credits. DOR is not equipped to review and certify credits in advance of claiming them on tax returns. We would have to create an entire process for this one tax credit. That is not efficient and would require the dept to expend resources where a system already exists with WEDC.

The bill requires a claimant to submit a credit application, but the applicant can't be approved until an audit is completed. However, DOR can't audit the credit until we receive the income tax filings, after completion of the tax year. It presents a kind of chicken/egg problem. It also creates inefficient Mandatory audits. No other tax credit administered by DOR requires a mandatory audit.

The bill also creates a process for DOR to certify third-party auditors to conduct audits of the eligible expenditures for the credit. Under current law, no process exists for DOR to certify third-party auditors. DOR would have to create the entire program (create rules to certify auditors, establish procedures to collect and pay fees, etc) – all for only one tax credit. This creates a cumbersome and inefficient process from the department with no staff to execute the process.

Currently, DOR does not track data to create the biennial report required in the bill. Such a report is not required for any other tax credit. The DOR, however, produces the "Tax Exemption devices" report, which includes all tax credits, but does not require the level of detail this requested report requires. The data being sought by this report is not easily attainable by the department.

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An item to consider is that the bill as currently drafted, creates a tax credit offering 30% of expenses. The next most generous refundable business tax credit granted by WI is the "Electronics and Information Technology Manufacturing Zone Credit," which is set at 17% for wages and 15% for capital investments. Other states that offer similar credits for film/interactive media companies set caps or limits in how much each company can attain as a tax credit or limit/cap how much tax credit will be offered in total by the state.

Thanks again for your consideration.

DATE: February 1, 2024

TO: Chair Macco, Vice-Chair Brooks, and Members of the Assembly Committee on Ways and Means

FROM: The Entertainment Software Association

RE: HB 1033 - Wisconsin Video Game Industry Incentive

The Entertainment Software Association (ESA), the trade association representing video game publishers and console makers, asks for the Committee's support of HB 1033 – the Wisconsin Video Game Industry Incentive. As the association that represents the innovators, creators, publishers, and business leaders that are transforming the global video game industry and providing thousands of high-paying jobs to Americans, ESA knows that the video game industry is a key economic sector that drives global competition, develops innovative technology, and has a footprint that creates jobs in nearly every state.

Video games are a growing form of entertainment globally, and through e-sports, the industry can also claim ownership of one of the fastest growing sports in the world. For example, in the U.S. alone, the video game industry has more than tripled in size over the last decade, growing from \$15.2 billion in 2012 to \$56.6 billion in 2022. Analysts estimate overall global video game industry revenue forecasts will exceed \$218.7 billion by the end of this year.

The benefits of this growing form of entertainment has significant downstream effects. Specifically, unlike other entertainment industries, the video game industry offers long-term, full time, and high paying employment for professionals who work across multiple projects throughout the year or on the same project over multiple years. Improvements in technology have allowed teams at multiple studios to work together across state and country lines to develop different aspects of a single game.

Therefore, as this industry grows, it is only natural that many jurisdictions will use tax incentives to attract video game companies to build and/or grow their business in their state. For example, to attract high paying tech sector jobs some Canadian provinces, and states like Georgia, New York and Texas, have introduced video game tax incentive programs. HB 1033, as written, would allow Wisconsin to not only effectively allow states to compete against each other, but also against jurisdictions around the world.

## Key Highlights of HB 1033

HB 1033 is a Digital Interactive Media Credit, designed to encourage growth of the interactive entertainment sector in Wisconsin. The credit is a 30% fully refundable tax credit on 30% of salary and wages paid to Wisconsin residents in a taxable year, or 30% of eligible expenditures paid in a taxable year.

Under the proposed law, a claimant would file an application with the Wisconsin Department of Revenue (WDOR). WDOR must then approve the application and the claimant must spend money in the State before a claimant can receive any credit. Eligible expenditures are in-state expenses tied to work that is directly related to the creation of digital interactive media or entertainment in state.

The process is simple:

- a. A videogame company applies on an annual basis with the WDOR, who reviews and approves their application;
- b. The company must have their expenditures audited by a Wisconsin accountant approved by the WDOR
- c. Upon approval by the auditor and WDOR, only then is the company entitled to claim their credit on their income tax return filed in Wisconsin.

To put it plainly, companies can only receive credit when they bring jobs to and spend money in Wisconsin – this is not a carte blanche for out-of-state companies with no strings attached or audit requirements.

In addition, in order to provide transparency to the legislature and Governor, the bill proposes that every two years, WDOR will submit a report to the Governor and standing committees of the legislature with jurisdiction over taxation that explains the benefits of this tax credit in Wisconsin. The report will include information on applications approved, credits claimed, people employed in WI in the industries eligible for credit, the economic impact of credits, and the community impact of industries eligible for credits. Not only will this report provide transparency to legislators and consumers, but it will also provide an opportunity to see the positive impact provided by this incentive on consumers and the Wisconsin video game industry.

We appreciate the Committee's consideration of this bill, and we ask for your support of this incentive. Wisconsin has an opportunity to become a global leader in this industry by

approving this credit which will bring economic growth, fostering high-tech skilled workforces with high-quality, high-paying jobs to Wisconsin. I am happy to answer any questions and we look forward to working with you throughout this process.

Sincerely,

Andrew O'Connor  
Director, State Government Affairs  
Entertainment Software Association