



PATRICK TESTIN STATE SENATOR

DATE: January 31, 2024
RE: **Testimony on Senate Bill 970**
TO: The Senate Committee on Universities and Revenue
FROM: Senator Patrick Testin

Thank you to Chairman Hutton 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 and wish to expand their base and bring in additional studios.

This proposed legislation creates a tax incentive for the video game industry. The video game industry provides high paying jobs including programmers, as well as graphic designers, musicians, actors, stunt personnel, and project managers. A wide variety of jobs are involved with the design of video games and these video game studios would receive a tax incentive for the jobs located in Wisconsin.

SB 970 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 bill requires each claimant to file an application with DOR in order to obtain the credit, and DOR may not approve an application unless the department determines that the applicant's qualified activities will result in eligible expenditures in excess of \$25,000 for the taxable year, and this determination is verified by an audit, the cost of which must be reimbursed by the claimant.

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



CLINT P. MOSES

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February 1st, 2024

Senate Committee on Universities and Revenue
Testimony on Senate Bill 970

Thank you Chairman Hutton and members of the Senate Committee on Universities and Revenue for considering Senate Bill (SB) 970.

I am excited to present this bill, SB 970, 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 SB 970 and urge timely action on this groundbreaking legislation.



State of Wisconsin • DEPARTMENT OF REVENUE

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Tony Evers
Governor

Peter W. Barca
Secretary of Revenue

Information Only Testimony on Senate Bill 970 January 31, 2024 Peter Barca, Secretary of the Department of Revenue

Good morning, Chairman Hutton, ranking member Larson and members of the Senate Committee on Universities and Revenue. I would like to thank Senator Testin and Representative Moses for sponsoring this piece of legislation. The department understands value tax initiatives like SB 970 can have. I appreciate the opportunity to provide written testimony for information only on Senate Bill 970, creating an interactive media tax credit.

The department appreciates the collaboration of the stakeholders in drafting this legislation. 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. 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

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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.



Jan. 31, 2024

TO: Members of the Senate Committee on Universities and Revenue
FROM: Tom Still, president, Wisconsin Technology Council
RE: Senate Bill 970

For some people, video gaming or other forms of digital entertainment is little more than something for kids to do in their spare time. For others, it's an industry that creates lasting economic value and jobs.

At the Wisconsin Technology Council, we see the current reality of the latter view – and the potential for much more to come in Wisconsin's emerging tech-based economy.

Senate Bill 970 creates a refundable digital interactive media income and franchise tax credit. The credit is equal to the sum of 30 percent of the salary or wages paid by a claimant to employees residing in Wisconsin for producing digital interactive media or entertainment; and 30 percent of the eligible expenditures.

Under the bill, "digital interactive media or entertainment" is generally a product or platform intended for commercial use that uses text, sound, fixed images, animated images, video, or three-dimensional geometry.

The bill contains other definitions as to what digital interactive media or entertainment is – and isn't – and those parameters are welcomed by members of the industry in Wisconsin. They have been carefully reviewed by the Department of Revenue to ensure they are not too broad.

From our point of view at the Tech Council, one way to look at digital entertainment in Wisconsin is its potential to foster multi-disciplinary companies and jobs at the intersection of creative arts and technology.

All types of talents are needed for the production of digital entertainment, from music to software programming; from art to storyboard design; and from video-making to cybersecurity and data analysis.



Nationally, this industry is about twice as large as movies and television combined in terms of revenue. Unlike movies and television, which are centered in well-known places such as Southern California, digital entertainment is much more geographically dispersed. Other centers exist around the country ... and Wisconsin has a head start on being among them.

Digital entertainment's presence in Wisconsin is already 30 years old and building maturity through companies such as Raven, Human Head, Filament Games, Lost Boys, PerBlue, Midwest Games, and more. This is a chance to build on that foundation.

Digital entertainment credits can build more lasting value than movie credits, which can attract "shoots" or other on-location activity, but rarely result in a permanent studio or presence in Wisconsin. As a result, film tax credits don't add a lot to permanent jobs in Wisconsin. Digital entertainment credits can and will.

Video gaming is going through a transition that should make it easier to attract talent to existing companies in Wisconsin. There have been some merger-related layoffs in larger companies (Activision Blizzard, Riot) that will release talent. Some may choose to come here and perhaps even start their own companies.

Passage of Senate Bill 970 will create opportunities for talented people from many walks of life in Wisconsin, further enriching the state's reputation as a place where creativity and technology are welcomed. We urge the Senate Committee on Universities and Revenue to recommend its passage by the full Legislature.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Still", is written over a light blue horizontal line.

Tom Still, president
Wisconsin Technology Council
455 Science Drive, Suite 240
Madison, WI 53711
608-442-7557

DATE: January 31, 2024

TO: Chair Hutton, Vice-Chair James, and Members of the Senate Committee on Universities and Revenue

FROM: The Entertainment Software Association

RE: SB 970 - 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 SB 970 – 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. SB 970, 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 SB 970

SB 970 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