2005 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB483)

Received: **02/27/2006**

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB: **s0530/2**

For: **Ted Kanavas (608) 266-9174**

By/Representing:

This file may be shown to any legislator: **NO**

Drafter: **csundber**

May Contact:

Addl. Drafters:

Subject: **Tax, Business - credits**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Kanavas@legis.state.wi.us**

Carbon copy (CC:) to: **christopher.sundberg@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Credits and exemptions for Internet equipment used in the boardband market

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Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	csundber 02/27/2006	jdyer 02/27/2006		_____ _____			
/1			rschluet 02/27/2006	_____ _____	sbasford 02/27/2006	sbasford 02/27/2006	

FE Sent For:

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Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	csundber	/1 2/27 jld	2776				

FE Sent For:

<END>

Sundberg, Christopher

From: Sen.Kanavas
Sent: Monday, February 27, 2006 10:12 AM
To: Sundberg, Christopher
Subject: FW: Broadband

Attachments: 05s05302.pdf

Can we get this done for SB 483

From: Raschka, Adam
Sent: Friday, February 24, 2006 4:05 PM
To: Richards, Mike
Subject: RE: Broadband

05s05302.pdf (38 KB)

From: Richards, Mike
Sent: Friday, February 24, 2006 4:01 PM
To: Raschka, Adam
Subject: Broadband

Adam,

I need that amendment electronically asap. Thanks

Michael D. Richards

Michael D. Richards
Office of State Senator Ted Kanavas
State Capitol, Room 10 South
Madison, WI 53707-7882
608-266-9174

In: 2/27/06
Due: Tues. Am

2005 – 2006 LEGISLATURE

0588/1
LRBs~~0530/2~~
JK&CTS:lmk/wlj/jld:rs
stays

SENATE
ASSEMBLY SUBSTITUTE AMENDMENT ,

TO 2005 ASSEMBLY BILL 892
SENATE 483

D-N

Regen

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), 71.49 (1) (es), 77.51 (6m) and 77.54 (48) of the statutes; **relating to:** an income and franchise tax credit and a sales and use tax exemption for Internet equipment used in the broadband market.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 71.05 (6) (a) 15. of the statutes is amended to read:

71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), ~~and~~ (5d), and (5e) and not passed through by a partnership, limited liability company, or tax–option corporation that has added that amount to the partnership's, company's, or tax–option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

SECTION 2. 71.07 (5e) of the statutes is created to read:

1 71.07 **(5e)** INTERNET EQUIPMENT CREDIT. (a) *Definitions.* In this subsection:
2 1. "Claimant" means a person who files a claim under this subsection.
3 2. "Internet equipment used in the broadband market" means equipment that
4 is capable of transmitting data packets or Internet signals at speeds of at least 200
5 kilobits per second in either direction.
6 (b) *Filing claims.* Subject to the limitations provided in this subsection,
7 beginning in the first taxable year following the taxable year in which the claimant
8 claims an exemption under s. 77.54 (48), a claimant may claim as a credit against the
9 taxes imposed under ss. 71.02 and 71.08, up to the amount of those taxes, in each
10 taxable year for 2 years, the amount certified by the department of commerce that
11 the claimant claimed as an exemption under s. 77.54 (48).
12 (c) *Limitations.* 1. No credit may be allowed under this subsection unless the
13 claimant satisfies the requirements under s. 77.54 (48).
14 2. Partnerships, limited liability companies, and tax–option corporations may
15 not claim the credit under this subsection, but the eligibility for, and the amount of,
16 the credit are based on their payment of the amounts described under par. (b). A
17 partnership, limited liability company, or tax–option corporation shall compute the
18 amount of credit that each of its partners, members, or shareholders may claim and
19 shall provide that information to each of them. Partners, members of limited liability
20 companies, and shareholders of tax–option corporations may claim the credit in
21 proportion to their ownership interests.
22 3. The total amount of the credits and exemptions that may be claimed by all
23 claimants under this subsection and ss. 71.28 (5e), 71.47 (5e), and 77.54 (48) is
24 $7,500,000, as determined by the department of commerce.

(d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

SECTION 3. 71.10 (4) (gy) of the statutes is created to read:

71.10 **(4)** (gy) Internet equipment credit under s. 71.07 (5e).

SECTION 4. 71.21 (4) of the statutes, as affected by 2005 Wisconsin Act 74, is amended to read:

71.21 **(4)** Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), (5e), and (5g) and passed through to partners shall be added to the partnership's income.

SECTION 5. 71.26 (2) (a) of the statutes, as affected by 2005 Wisconsin Act 74, is amended to read:

71.26 **(2)** (a) *Corporations in general.* The "net income" of a corporation means the gross income as computed under the Internal Revenue Code as modified under sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c) 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income under this paragraph at the time that the taxpayer first claimed the credit plus the amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3g), (3n), (3t), (5b), (5e), and (5g) and not passed through by a partnership, limited liability company, or tax–option corporation that has added that amount to the partnership's, limited liability company's, or tax–option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or other disposition of assets the gain from which would be wholly exempt income, as defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and minus deductions, as computed under the Internal Revenue Code as modified under

1 sub. (3), plus or minus, as appropriate, an amount equal to the difference between
2 the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or
3 otherwise disposed of in a taxable transaction during the taxable year, except as
4 provided in par. (b) and s. 71.45 (2) and (5).

5 **SECTION 6.** 71.28 (5e) of the statutes is created to read:

6 71.28 **(5e)** INTERNET EQUIPMENT CREDIT. (a) *Definitions.* In this subsection:

7 1. "Claimant" means a person who files a claim under this subsection.

8 2. "Internet equipment used in the broadband market" means equipment that
9 is capable of transmitting data packets or Internet signals at speeds of at least 200
10 kilobits per second in either direction.

11 (b) *Filing claims.* Subject to the limitations provided in this subsection,
12 beginning in the first taxable year following the taxable year in which the claimant
13 claims an exemption under s. 77.54 (48), a claimant may claim as a credit against the
14 taxes imposed under s. 71.23, up to the amount of those taxes, in each taxable year
15 for 2 years, the amount certified by the department of commerce that the claimant
16 claimed as an exemption under s. 77.54 (48).

17 (c) *Limitations.* 1. No credit may be allowed under this subsection unless the
18 claimant satisfies the requirements under s. 77.54 (48).

19 2. Partnerships, limited liability companies, and tax–option corporations may
20 not claim the credit under this subsection, but the eligibility for, and the amount of,
21 the credit are based on their payment of the amounts described under par. (b). A
22 partnership, limited liability company, or tax–option corporation shall compute the
23 amount of credit that each of its partners, members, or shareholders may claim and
24 shall provide that information to each of them. Partners, members of limited liability

companies, and shareholders of tax–option corporations may claim the credit in proportion to their ownership interests.

3. The total amount of the credits and exemptions that may be claimed by all claimants under this subsection and ss. 71.07 (5e), 71.47 (5e), and 77.54 (48) is $7,500,000, as determined by the department of commerce.

(d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

SECTION 7. 71.30 (3) (es) of the statutes is created to read:

71.30 **(3)** (es) Internet equipment credit under s. 71.28 (5e).

SECTION 8. 71.34 (1) (g) of the statutes, as affected by 2005 Wisconsin Act 74, is amended to read:

71.34 **(1)** (g) An addition shall be made for credits computed by a tax–option corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g), (3n), (3t), (5b), (5e), and (5g) and passed through to shareholders.

SECTION 9. 71.45 (2) (a) 10. of the statutes, as affected by 2005 Wisconsin Act 74, is amended to read:

71.45 **(2)** (a) 10. By adding to federal taxable income the amount of credit computed under s. 71.47 (1dd) to (1dx), (3n), (5b), (5e), and (5g) and not passed through by a partnership, limited liability company, or tax–option corporation that has added that amount to the partnership's, limited liability company's, or tax–option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

SECTION 10. 71.47 (5e) of the statutes is created to read:

71.47 **(5e)** INTERNET EQUIPMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

2. "Internet equipment used in the broadband market" means equipment that is capable of transmitting data packets or Internet signals at speeds of at least 200 kilobits per second in either direction.

(b) *Filing claims.* Subject to the limitations provided in this subsection, beginning in the first taxable year following the taxable year in which the claimant claims an exemption under s. 77.54 (48), a claimant may claim as a credit against the taxes imposed under s. 71.43, up to the amount of those taxes, in each taxable year for 2 years, the amount certified by the department of commerce that the claimant claimed as an exemption under s. 77.54 (48).

(c) *Limitations.* 1. No credit may be allowed under this subsection unless the claimant satisfies the requirements under s. 77.54 (48).

2. Partnerships, limited liability companies, and tax–option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of the amounts described under par. (b). A partnership, limited liability company, or tax–option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax–option corporations may claim the credit in proportion to their ownership interests.

3. The total amount of the credits and exemptions that may be claimed by all claimants under this subsection and ss. 71.07 (5e), 71.28 (5e), and 77.54 (48) is $7,500,000, as determined by the department of commerce.

(d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

SECTION 11. 71.49 (1) (es) of the statutes is created to read:

1 71.49 **(1)** (es) Internet equipment credit under s. 71.47 (5e).

2 **SECTION 12.** 77.51 (6m) of the statutes is created to read:

3 77.51 **(6m)** For purposes of s. 77.54 (48), "Internet equipment used in the
4 broadband market" means equipment that is capable of transmitting data packets
5 or Internet signals at speeds of at least 200 kilobits per second in either direction.

6 **SECTION 13.** 77.54 (48) of the statutes is created to read:

7 77.54 **(48)** (a) The gross receipts from the sale of and the storage, use, or other
8 consumption of Internet equipment used in the broadband market, if the purchaser
9 certifies to the department of commerce, in the manner prescribed by the
10 department, that the purchaser will, within 24 months after the effective date of this
11 paragraph .... [revisor inserts date], make an investment that is reasonably
12 calculated to increase broadband Internet availability in this state and in an amount
13 equal to at least 20 percent of the amount the purchaser would have paid in taxes
14 imposed under this subchapter for Internet equipment used in the broadband
15 market during the 12–month period beginning on the effective date of this paragraph
16 .... [revisor inserts date].

17 (b) Every person who is required to make the investment under par. (a) shall,
18 within 60 days after the end of the year in which the investment is made, file a report
19 with the department of commerce that provides a detailed description of the
20 investment, including the amount invested. The department of commerce shall
21 provide copies of the report to the department of administration, the department of
22 revenue, and the public service commission.

23 **SECTION 14.** 77.92 (4) of the statutes, as affected by 2005 Wisconsin Act 74, is
24 amended to read:

77.92 **(4)** "Net business income," with respect to a partnership, means taxable income as calculated under section 703 of the Internal Revenue Code; plus the items of income and gain under section 702 of the Internal Revenue Code, including taxable state and municipal bond interest and excluding nontaxable interest income or dividend income from federal government obligations; minus the items of loss and deduction under section 702 of the Internal Revenue Code, except items that are not deductible under s. 71.21; plus guaranteed payments to partners under section 707 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), (5b), (5e), and (5g); and plus or minus, as appropriate, transitional adjustments, depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain, loss, and deductions from farming. "Net business income," with respect to a natural person, estate, or trust, means profit from a trade or business for federal income tax purposes and includes net income derived as an employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

SECTION 15. Nonstatutory provisions.

(1) INTERNET EQUIPMENT CREDIT AND EXEMPTION PROGRAM.

(a) Not later than 30 days after the effective date of this subsection, the department of commerce shall implement a program for certifying businesses as eligible for tax credits and exemptions under sections 71.07 (5e), 71.28 (5e), 71.47 (5e), and 77.54 (48) of the statutes.

(b) If the department of commerce certifies a business as eligible under paragraph (a), the department shall determine the maximum amount of tax credits and exemptions that the business may claim, subject to paragraph (c). The department of commerce may not allocate tax credits and exemptions to a business

1 unless the allocation of tax credits and exemptions to the business is likely to
2 increase the availability of broadband Internet service in areas of this state that are
3 not served by a broadband Internet service provider or are served by not more than
4 one broadband Internet service provider, as determined by the department. The
5 total amount of tax credits and exemptions allocated to all eligible businesses may
6 not exceed $7,500,000. The department of commerce shall complete the
7 certifications and determinations under this paragraph and paragraph (a) not later
8 than the first day of the 7th month after the effective date of this subsection.

9 (c) Not later than 10 days after the department of commerce completes the
10 certifications and determinations under paragraphs (a) and (b), the department of
11 commerce shall submit to the joint committee on finance a report identifying the
12 businesses certified under this subsection and the maximum amount of tax credits
13 and exemptions each business may claim. If the cochairpersons of the committee do
14 not notify the department of commerce within 14 working days after the department
15 of commerce submits the report that the committee has scheduled a meeting to
16 review the department of commerce's certifications and determinations, the
17 department of commerce shall notify the department of revenue of the department
18 of commerce's certifications and determination. If, within 14 working days after the
19 department of commerce submits the report, the cochairpersons of the committee
20 notify the department of commerce that the committee has scheduled a meeting to
21 review the proposal, the department of commerce may not notify the department of
22 revenue of the department of commerce's certifications and determinations unless
23 one of the following is true:

24 1. The committee approves the department of commerce's certifications and
25 determinations.

2. The committee does not hold a meeting to review the proposal within 30 days after the cochairpersons notify the department of commerce that a meeting has been scheduled.

(d) Notwithstanding section 227.24 of the statutes, the department of commerce may promulgate emergency rules necessary to administer this subsection. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this subsection remain in effect until the department of commerce notifies the department of revenue of the department of commerce's certifications and determinations, or the first day of the 13th month after the effective date of this subsection, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of commerce is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

SECTION 16. Effective date.

(1) The treatment of section 77.54 (48) of the statutes takes effect on the first day of the 2nd month beginning after publication.

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0530/2dn
CTS:...:...
jld

Senator Kanavas:

This draft is identical to LRBs0530/2.

Christopher T. Sundberg
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Phone: (608) 266–9739
E–mail: christopher.sundberg@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
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LRBs0588/1dn
CTS:jld:rs

February 27, 2006

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