

**2003 DRAFTING REQUEST**

**Bill**

Received: **10/10/2003**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Spencer Black (608) 266-7521**

By/Representing: **bill**

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

Drafter: **jkreye**

May Contact:

Addl. Drafters: **mshovers**

Subject: **Tax - corp. inc. and fran.  
Tax - property  
Tax - miscellaneous  
Tax - sales  
Tax (indiv) - misc.  
Tax Credits (inc) - home/farm  
Tax Credits (prop) - lottery  
Tax Credits - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Black@legis.state.wi.us** ✓

Carbon copy (CC:) to: **joseph.kreye@legis.state.wi.us** ✓

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Create a homeowner's tax credit; increase property tax/rent credit; repeal school levy and lottery credit; computer property tax exemption; related parties; luxury boxes

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**Instructions:**

See Attached

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**Drafting History:**

Vers.    Drafted    Reviewed    Typed    Proofed    Submitted    Jacketed    Required

| <u>Vers.</u> | <u>Drafted</u>       | <u>Reviewed</u>        | <u>Typed</u>           | <u>Proofed</u> | <u>Submitted</u>           | <u>Jacketed</u>            | <u>Required</u> |
|--------------|----------------------|------------------------|------------------------|----------------|----------------------------|----------------------------|-----------------|
| /?           |                      |                        |                        |                |                            |                            |                 |
| /P1          | jkreye<br>10/22/2003 | wjackson<br>11/10/2003 | rschluet<br>11/10/2003 | _____          | sbasford<br>11/10/2003     |                            | S&L<br>Tax      |
|              | jkreye<br>11/10/2003 | wjackson<br>11/12/2003 |                        | _____          |                            |                            |                 |
|              | jkreye<br>11/12/2003 | wjackson<br>11/13/2003 |                        | _____          |                            |                            |                 |
| /1           |                      |                        | jfrantze<br>11/13/2003 | _____          | mbarman<br>11/13/2003      | mbarman<br>11/13/2003      | S&L<br>Tax      |
| /2           | jkreye<br>11/14/2003 | wjackson<br>11/14/2003 | jfrantze<br>11/14/2003 | _____          | lrb_docadmin<br>11/14/2003 | lrb_docadmin<br>11/14/2003 |                 |

FE Sent For:

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↳ At Intro.

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JB 11/14

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|              | jkreye<br>11/12/2003 | wjackson<br>11/13/2003 |                        | _____          |                        |                 |                 |

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| /1 |  | /2 wlj 11/14 | jfrantze<br>11/13/2003 | _____ | mbarman<br>11/13/2003 | mbarman<br>11/13/2003 |  |
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*[Handwritten Signature]*  
 11/14  
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|              | jkreye<br>11/12/2003 | wjackson<br>11/13/2003 |                        | _____          |                        |                 |                 |

/1  
jfrantze  
11/13/2003

mbarman  
11/13/2003

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e-mail  
only

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Instructions:

See Attached

Please jacket for Rep Black. jre

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Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

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|              | jkreye<br>11/10/2003 | 1 wj 11/13             |                        | _____          |                        |                 |                 |
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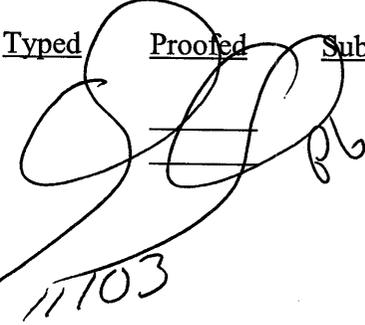
**Instructions:**

See Attached

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/?    jkreye    /pl WLj 4/10        11103

FE Sent For:

<END>

**Kreye, Joseph**

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URB 3470 - entered  
10-10-03

**From:** Graf, Bill  
**Sent:** Wednesday, October 08, 2003 9:59 AM  
**To:** Kreye, Joseph  
**Subject:** drafting request

Rep. Black would like the proposal outlined in the attached memo to be drafted as an Assembly bill. Please let me know if you have questions or need further information. Thank you.

**Bill Graf**  
Assistant to Representative Spencer Black

214 North, State Capitol  
P.O. Box 8952  
Madison, WI 53708  
(608) 266-7521



homeowners.pdf



# Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

October 6, 2003

TO: Representative Spencer Black  
Room 214 North, State Capitol

FROM: Fred Ammerman, Program Supervisor

SUBJECT: Proposal to Create a Homeowner's Property Tax Credit

At your request, this memorandum summarizes your proposal to create a homeowner's property tax credit and to increase the property tax/rent credit for renters. Funding for the proposal would be provided by eliminating the current school levy and lottery and gaming credits, limiting the property tax exemption for computers and related equipment to small businesses, implementing changes to the tax treatment of expenses incurred by businesses in connection with transactions with related parties, imposing the sales tax on leases of sky boxes and luxury boxes, and realizing savings in income tax credits that are based on property taxes. The following sections describe each of these changes.

### Homeowner's Tax Credit

Your proposal would create a new property tax credit, called the "homeowner's tax credit." The credit would first apply to December, 2004, levies and would be extended only on the property tax bills for property that is used as the owner's primary residence. The amount of the credit would equal the school taxes on the first \$60,000 of a home's value. For properties with a value of \$60,000 or more, it is estimated that the credit would average \$578. Properties with values below \$60,000 would receive proportionately lower credits. For 2004-05, it is estimated that the credit would cost \$758.2 million.

It is possible that the proposed credit could be challenged in court on the grounds that it violates the Wisconsin Constitution's uniform taxation provision. Since the credit would apply only to a portion of the value of most homes, a court could find that it constitutes a partial tax exemption. Past Supreme Court decisions have held that partial exemptions are not allowed under the uniform taxation provision. Although the current lottery and gaming credit uses a similar

*any application for a 2003, etc., is considered a "application for the homeowner credit under s 79" - as stated by the act, and any valid claim for a 2003 credit shall be considered a valid claim for a home. credit, etc. - \**

*\* also distributing the amounts from the repealed school levy credit to "homeowner" only violate uniformity? - probably not*

*\* add a moratorium - transitional provision - any property eligible to receive the lottery credit in 2003 is eligible to receive the homeowner tax credit without the property owner having to apply for the new credit.*

formula, the Constitution was amended in April, 1999, to specifically exempt the distribution of lottery, bingo, and pari-mutuel proceeds from the uniform taxation provision.

### **Increase the Property Tax/Rent Credit for Renters**

Under current law, taxpayers may claim a property tax/rent credit (PTRC) against their individual income tax liability equal to 12% of residential property taxes or rent constituting property taxes. The maximum amount of property taxes or rent constituting property taxes that may be claimed for the credit is \$2,500, and the maximum annual credit is \$300. The credit is nonrefundable. "Rent constituting property taxes" means 20% of actual rent if payment for heat is included in rent or 25% of actual rent if heat is not included in rent. Your proposal would increase the percentage used in determining the PTRC for renters from 12% to 16%, beginning in tax year 2004. The maximum credit for renters would increase from \$300 to \$400. The credit for homeowners would not be modified. The increased rent credit would reduce individual income tax revenues by an estimated \$25.8 million in 2004-05.

### **School Levy Credit**

The state statutes set the school levy tax credit distribution at \$469.3 million annually. Credits are allocated to individual municipalities based on the property taxes levied for school purposes over the three prior years in the municipality in proportion to those levies over the entire state. Municipalities extend the credits on property tax bills based on each property's proportionate share of the municipality's tax base. Your proposal would eliminate the school levy credit after the December, 2003, property tax levy and transfer the associated funding to the proposed homeowner's tax credit.

*2. — GPR sum sufficient  
\$469,305,000*

### **Lottery and Gaming Credit**

The lottery and gaming credit distributes the net proceeds from the lottery, bingo, and pari-mutuel, on-track betting. Funding for the credit is estimated at \$101.7 million in 2003-04 and \$100.8 million in 2004-05. Credits are extended only on the property tax bills for property that is used as the owner's primary residence. The amount of the credit equals the school taxes on the value of the credit base (this base is set each year at an amount that expends the available revenue and was \$7,800 for the December, 2002, tax bills). The average credit is estimated at \$75 in 2003-04 and \$74 in 2004-05. Your proposal would eliminate the lottery and gaming credit after the December, 2003, property tax levy and transfer the associated funding to the proposed homeowner's tax credit.

### **Property Tax Exemption for Computers**

A provision in 1997 Act 237 created a property tax exemption for computers, software and related equipment, beginning on January 1, 1999. Also, a state aid program was created to fully reimburse local governments for tax base lost due to the exemption. The value of computers covered by the exemption is estimated at \$3.1 billion, and an annual state aid payment of \$73.9

*\* may not be a reasonable classification under the uniformity clause  
- may also be a partial exemption*

million is projected. Your proposal would retain the exemption for businesses with gross receipts below \$5 million, but repeal the exemption for all other businesses effective with the December, 2004, property tax levy. A threshold of \$5 million in gross receipts would generate \$71.0 million in decreased state costs because only \$2.9 million would be needed for the state aid payment. The distinction between taxable and exempt property was estimated from state income tax data reported by businesses.

**Expenses Incurred in Connection with Transactions with Related Parties**

*2003  
103 401  
(2929/1)*

Under current law, state definitions of income and deductions for the individual and corporate income and franchise taxes are generally referenced to the federal Internal Revenue Code (IRC). The IRC provides that business expenses are deductible in computing the taxable income of all taxpayers. Ordinary and necessary expenses related to the operation of a trade or business can be deducted from income. A deduction is specifically allowed for interest on indebtedness incurred in conducting a trade or business.

You have proposed requiring taxpayers to add to income, for state income and franchise tax purposes, amounts currently deductible or excluded under the IRC for management and service fees, interest expenses and costs, intangible expenses and costs, and any other expenses and costs directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with, one or more related entities, as defined by the IRC (family members and related business entities). "Intangible expenses and costs" would include expenses, losses, and costs for, related to, or directly or indirectly in connection with the direct or indirect acquisition of, use of, maintenance or management of, ownership of, sale of, exchange of, or any other direct or indirect disposition of intangible property to the extent that such expenses, losses, and costs are allowed as deductions or costs to determine federal taxable income under the IRC. "Expenses, losses, and costs" would include losses related to or incurred directly or indirectly in connection with factoring transactions and discounting transactions; royalty, patent, technical, and copyright fees; licensing fees; and other similar expenses and costs.

Under the proposal, the inclusion of management and service fees, interest expenses and costs, intangible expenses and costs, and other expenses and costs from transactions with related parties would not be required if all of the following applied to the expenses or costs:

- a. The transaction to which the expenses or costs are related did not have tax avoidance as its principal purpose.
- b. The related entity to whom the taxpayer paid interest expenses or costs, intangible expenses, or management or service fees during the taxable year directly or indirectly paid, accrued, or incurred such amounts to a person who is not a related entity. "Interest" would be defined as interest on a debt for which the taxpayer is the guarantor, if the interest rate was the market rate at the time of the debt's origination, but excludes interest that was paid in connection with any debt incurred to acquire the taxpayer's assets or stock under the IRC.

c. The related entity was subject to a tax on its net income in Wisconsin, or any other state, U.S. possession, or foreign country; a measure of the tax paid included the interest income, intangible income, or management or service fees received from the taxpayer; and the tax rate applied to the interest income, intangible income, or management or service fees was not less than 3 percentage points below the state corporate income and franchise tax rate of 7.9%. The phrase "any state, U. S. possession, or foreign country" would not include any state, U.S. possession, or foreign country under the laws of which the taxpayer files, or could have elected to file with the related entity, or of which the related entity files, that would require a combined or consolidated income tax return or report, or any other similar income tax return or report, if the return or report eliminated the tax effects of transactions between the taxpayer and related entities.

In cases where the Department of Revenue (DOR) initially disallows the tax consequences of a transaction by asserting the sham transaction doctrine or a related doctrine, DOR would be authorized to allow the tax consequences, as asserted by the taxpayer, if: (a) the taxpayer demonstrates by clear and convincing evidence that the transaction had a valid, good faith business purpose, other than tax avoidance; (b) the business purpose is commensurate with the transaction's benefit; and (c) the transaction had economic substance apart from any tax benefit asserted by the taxpayer.

These provisions would first apply to tax years beginning on January 1 of the year in which the proposal takes effect, unless the proposal takes effect after July 31. In that case, the provisions would first apply to tax years beginning on January 1 of the following year.

These provisions are identical to those of 2003 Assembly Bill 461. In the fiscal note to AB 461, the Department of Revenue indicates that data are not available to estimate the specific effect of these provisions, but that the Department believes the fiscal effect would be substantial. For example, using certain assumptions, if various proportions of the current deductions for rent, interest and other deductions were disallowed, it is estimated that annual corporate income and franchise tax revenues would increase by between \$50 million and \$260 million.

### **Sales Tax on Leases of Sky Boxes and Luxury Boxes**

The 5% state sales tax is imposed on all sales, leases, and rentals of tangible personal property, unless specifically exempted, and on a number of services identified in the statutes. Currently, leases of sky boxes and luxury boxes are considered real property rentals, and are therefore not subject to the state sales tax.

Your proposal would impose the sales tax on leases of sky boxes and luxury boxes. Based on information provided from the Kohl Center, Camp Randall, Lambeau Field, Miller Park, and the Bradley Center, it is estimated that imposing the state sales tax on rentals of sky boxes and luxury boxes would result in an increase in state sales tax revenues of approximately \$750,000 per year.

2001  
AB 922  
(05241)

## Impact on Income Tax Credits

The property tax credit changes included in your proposal would have an impact on at least three other programs. Your proposal to create a homeowner's property tax credit would decrease the tax credits claimed under the property tax/rent credit (PTRC), homestead tax credit (HTC), and farmland preservation credit (FPC) programs. However, these decreases would be partially offset by increases in property taxes on rental property and agricultural property due to the proposed elimination of the school levy credit. The net savings would first be realized in 2004-05 when the homeowner's credit is initially extended. Annual savings of \$16.4 million are estimated. On an annualized basis, reductions are estimated at \$14.3 million for the PTRC, \$1.8 million for the HTC, and \$0.3 million for the FPC.

## Summary of Fiscal Effects

The following table summarizes the fiscal effects associated with each element of your proposal. As shown, your proposal would result in a net change to the general fund estimated at -\$75.7 million to \$134.3 million in 2004-05. In order for the proposal to be balanced, the revenue generated by the income tax change for transactions with related parties would have to be at least \$125.7 million.

### Estimated 2004-05 Fiscal Effect of Proposal (In Millions)

#### Expenditure Decreases/Revenue Increases

|                                   |                    |
|-----------------------------------|--------------------|
| Repeal School Levy Credit         | \$469.3            |
| Repeal Lottery and Gaming Credit  | 100.8              |
| Decrease Computer Aid             | 71.0               |
| Transactions With Related Parties | 50.0 to 260.0      |
| Impose Sales Tax on Luxury Boxes  | 0.8                |
| Reduce Cost of Income Tax Credits | <u>16.4</u>        |
| Total                             | \$708.3 to \$918.3 |

#### Expenditure Increase

|   |             |
|---|-------------|
| Create Homeowner's Tax Credit                 | \$758.2     |
| Increase Property Tax/Rent Credit for Renters | <u>25.8</u> |
| Total   | \$784.0     |

|                            |                    |
|----------------------------|--------------------|
| Net Change to General Fund | -\$75.7 to \$134.3 |
|----------------------------|--------------------|

I hope this information is helpful. Please contact me if you have further questions.

## 2001 ASSEMBLY BILL 922

March 14, 2002 – Introduced by Representative BLACK. Referred to Committee on Ways and Means.

1 AN ACT *to create* 77.52 (2) (a) 13. of the statutes; **relating to:** imposing the sales  
2 tax on the lease of luxury boxes, sky boxes, and club seats at sports facilities.

---

### *Analysis by the Legislative Reference Bureau*

Under this bill, the lease of luxury boxes, sky boxes, and club seats at a sports facility is subject to a sales tax at the rate of 5% of the gross receipts from the lease of such boxes and seats.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

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

3 SECTION 1. 77.52 (2) (a) 13. of the statutes is created to read:

4 77.52 (2) (a) 13. The lease of luxury boxes, sky boxes, and club seats at a sports  
5 facility, if the sale of admissions to sporting events at the facility is subject to the tax  
6 imposed under this section.

7 SECTION 2. **Effective date.**



### Fiscal Estimate - 2001 Session

Original       Updated       Corrected       Supplemental

|  |  |
|--|--|
| <b>LRB Number</b> 01-0582/1  | <b>Introduction Number</b> AB-922                          |
| <b>Subject</b><br>Sales tax on luxury boxes  |  |
| <b>Fiscal Effect</b>   |  |
| <b>State:</b>  |  |
| <input type="checkbox"/> No State Fiscal Effect<br><input type="checkbox"/> Indeterminate<br><input type="checkbox"/> Increase Existing Appropriations <input checked="" type="checkbox"/> Increase Existing Revenues<br><input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues<br><input type="checkbox"/> Create New Appropriations   |  |
| <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget<br><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No<br><input type="checkbox"/> Decrease Costs  |  |
| <b>Local:</b>  |  |
| <input type="checkbox"/> No Local Government Costs<br><input type="checkbox"/> Indeterminate<br>1. <input type="checkbox"/> Increase Costs      3. <input checked="" type="checkbox"/> Increase Revenue<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory<br>2. <input type="checkbox"/> Decrease Costs      4. <input type="checkbox"/> Decrease Revenue<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |  |
| <b>5. Types of Local Government Units Affected</b><br><input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities<br><input checked="" type="checkbox"/> Counties <input checked="" type="checkbox"/> Others <u>Baseball &amp; football districts</u><br><input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts   |  |
| <b>Fund Sources Affected</b>   |  |
| <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS 20.835(4)(g), (gb) and (ge)   |  |
| <b>Affected Ch. 20 Appropriations</b>  |  |
| <b>Agency/Prepared By</b><br>DOR/ Blair Kruger (608) 266-1310  | <b>Authorized Signature</b><br>Brian Pahnke (608) 266-2700 |
| <b>Date</b><br>4/19/02   |  |

**Fiscal Estimate Narratives**

**DOR 4/22/02**

|                           |                            |                        |
|---------------------------|----------------------------|------------------------|
| LRB Number 01-0582/1      | Introduction Number AB-922 | Estimate Type Original |
| <b>Subject</b>            |                            |                        |
| Sales tax on luxury boxes |                            |                        |

**Assumptions Used in Arriving at Fiscal Estimate**

The bill imposes sales taxes on leases of luxury boxes, sky boxes, and club seats at a sports facility if sales of admissions to sporting events at the facility are subject to sales taxes.

Sales tax is currently imposed on the fair market value of amenities, such as admission tickets, parking and catering, that are included in the lease of a luxury box. Therefore, the fiscal effect of the bill is the sales tax on the lease payment less the taxable value of amenities.

The bill would primarily affect leases at 5 facilities: Miller Park, the Bradley Center, Lambeau Field, Camp Randall Stadium and the Kohl Center. The bill may have a minor fiscal effect due to leases at additional facilities, such as the Alliant Energy Center (Madison) and the Fox Cities Stadium (Appleton).

The attached table shows the number of luxury boxes and club seats at the 5 facilities as well as estimated luxury box revenues, costs of currently taxable amenities included with the luxury boxes, and the changes in taxable revenues and sales taxes under the bill. Estimated annual revenues and costs are based on discussions with staff of the respective facilities and published information. As shown in the table, taxable revenue is estimated to increase by about \$23.8 million and sales taxes are estimated to increase by about \$1.2 million annually.

Under the foregoing assumptions, local sales taxes are estimated to increase by a total of about \$124,000 annually under the bill. Dane County sales taxes are estimated to increase by about \$30,000; Milwaukee County sales taxes are estimated to increase by about \$28,000; Southeast Wisconsin Professional Baseball Park District taxes are estimated to increase by about \$5,000; and Local Professional Football Stadium District taxes are estimated to increase by about \$61,000.

**Long-Range Fiscal Implications**

**Attachment to Fiscal Estimate for AB 922:  
Estimated Revenues, Costs and Sales Taxes of Luxury Boxes and Club Seats**

| <u>Facility</u>            | <u>No. Boxes/<br/>Club Seats</u> | <u>Est'd<br/>Annual<br/>Revenue</u> | <u>Est'd Cost of<br/>Tickets &amp; Other<br/>Amenities</u> | <u>Change in<br/>Taxable<br/>Revenue</u> | <u>Change in<br/>Sales<br/>Taxes</u> |
|----------------------------|----------------------------------|-------------------------------------|--|--|--------------------------------------|
| <u>Miller Park:</u>        |                                  |                                     |  |  |                                      |
| Luxury Boxes               | 74                               | \$6,590,000                         | \$3,440,000  | \$3,150,000                              | \$158,000                            |
| Club Seats (1)             | 3,400                            |                                     |  | —  | —                                    |
| <u>Lambeau Field:</u>      |                                  |                                     |  |  |                                      |
| Luxury Boxes               | 166                              | 14,320,000                          | 2,060,000  | 12,260,000                               | 613,000                              |
| Club Seats (1)             | 6,260                            |                                     |  | —  | —                                    |
| <u>Bradley Center (2):</u> |                                  |                                     |  |  |                                      |
| Luxury Boxes               | 68                               | 4,360,000                           | 2,010,000  | 2,350,000                                | 118,000                              |
| <u>Camp Randall Field:</u> |                                  |                                     |  |  |                                      |
| Luxury Boxes               | 93                               | 4,560,000                           | 370,000  | 4,190,000                                | 210,000                              |
| Club Seats (3)             | 644                              | 1,090,000                           | 130,000  | 960,000                                  | 48,000                               |
| <u>Kohl Center (2):</u>    |                                  |                                     |  |  |                                      |
| Luxury Boxes               | 36                               | 1,260,000                           | 380,000  | <u>880,000</u>                           | <u>44,000</u>                        |
| TOTAL                      |                                  |                                     |  | \$23,790,000                             | \$1,190,000                          |

- (1) Club seats include only admission, which is taxable under current law.
- (2) Does not offer club seats.
- (3) Based on a \$1,500 contribution per seat.

## Fiscal Estimate Worksheet - 2001 Session

Detailed Estimate of Annual Fiscal Effect

Original     
  Updated     
  Corrected     
  Supplemental

|  |  |                 |
|--|--|-----------------|
| <b>LRB Number</b> 01-0582/1  | <b>Introduction Number</b> AB-922              |                 |
| <b>Subject</b>   |  |                 |
| Sales tax on luxury boxes  |  |                 |
| <b>I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):</b>                                |  |                 |
| <b>II. Annualized Costs:</b>   |  |                 |
|  | <b>Annualized Fiscal Impact on funds from:</b> |                 |
|  | Increased Costs                                | Decreased Costs |
| <b>A. State Costs by Category</b>  |  |                 |
| State Operations - Salaries and Fringes  | \$   |                 |
| (FTE Position Changes)   |  |                 |
| State Operations - Other Costs   |  |                 |
| Local Assistance   |  |                 |
| Aids to Individuals or Organizations   |  |                 |
| <b>TOTAL State Costs by Category</b>   | <b>\$</b>                                      | <b>\$</b>       |
| <b>B. State Costs by Source of Funds</b>   |  |                 |
| GPR  |  |                 |
| FED  |  |                 |
| PRO/PRS  |  |                 |
| SEG/SEG-S  |  |                 |
| <b>III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</b> |  |                 |
|  | Increased Rev                                  | Decreased Rev   |
| GPR Taxes  | \$1,190,000                                    | \$              |
| GPR Earned   |  |                 |
| FED  |  |                 |
| PRO/PRS  |  |                 |
| SEG/SEG-S  |  |                 |
| <b>TOTAL State Revenues</b>  | <b>\$1,190,000</b>                             | <b>\$</b>       |
| <b>NET ANNUALIZED FISCAL IMPACT</b>  |  |                 |
|  | <u>State</u>                                   | <u>Local</u>    |
| NET CHANGE IN COSTS  | \$   | \$              |
| NET CHANGE IN REVENUE  | \$1,190,000                                    | \$124,000       |
| <b>Agency/Prepared By</b>  | <b>Authorized Signature</b>                    | <b>Date</b>     |
| DOR/ Blair Kruger (608) 266-1310   | Brian Pahnke (608) 266-2700                    | 4/19/02         |



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-3470/P1  
JK&MES:l:....  
WLJ

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

m 10-22-03

D-N

property tax

GEN

1 AN ACT ...; relating to: creating a homeowner's property tax credit, eliminating  
 2 the school levy property tax credit and the lottery and gaming credit, including  
 3 payments to related entities to compute income tax and franchise tax liability,  
 4 increasing the amount of the school property tax credit, imposing the sales tax  
 5 on the lease of luxury boxes at sports facilities, and making an appropriation.

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be provided in a later version.

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

6 SECTION 1. 20.566 (2) (am) of the statutes is repealed.  
 7 SECTION 2. 20.566 (2) (r) of the statutes is amended to read:  
 8 20.566 (2) (r) ~~Lottery and gaming~~ Homeowner's tax credit administration.  
 9 From the lottery fund, the amounts in the schedule for the administration of the  
 10 ~~lottery and gaming~~ homeowner's tax credit.

History: 1971 c. 108 ss. 2, 3, 6; 1971 c. 125 ss. 164, 173, 174, 175, 176; 1971 c. 211, 215; 1973 c. 90; 1975 c. 39 ss. 201, 732 (1); 1977 c. 29, 31, 418; 1979 c. 34 ss. 610m to 617, 2102 (46) (c); 1979 c. 63 ss. 3, 6; 1979 c. 177, 221; 1981 c. 20; 1981 c. 86 ss. 7, 71; 1981 c. 328 s. 4; 1983 a. 27 ss. 469 to 477; 1983 a. 368; 1983 a. 410 s. 2202 (38);

1985 a. 29 ss. 536 to 537r, 3202 (39) (a), (46) (c), (i); 1985 a. 41, 120; 1987 a. 27 ss. 444 to 458, 3200 (47); 1987 a. 92; 1987 a. 312 s. 17; 1987 a. 399; 1989 a. 31, 335; 1991 a. 39, 259, 269; 1993 a. 16, 205, 263, 490; 1995 a. 27 ss. 546h to 546t, 1111mm to 1119r; 1995 a. 56, 227, 351; 1997 a. 27, 35, 41, 63, 148, 237, 252; 1999 a. 5, 9; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 16; 2001 a. 30 s. 108; 2001 a. 109; 2003 a. 33.

1 **SECTION 3.** 20.835 (3) (b) of the statutes is repealed.

2 **SECTION 4.** 20.835 (3) (bm) of the statutes is created to read:

3 20.835 (3) (bm) *Homeowner's tax credit; general fund.* A sum sufficient to make  
4 the payments under s. 79.10 (5) and (6m) (c), not to exceed \$469,305,000.

5 **SECTION 5.** 20.835 (3) (q) of the statutes is amended to read:

6 20.835 (3) (q) *Lottery and gaming Homeowner's tax credit.* From the lottery  
7 fund, a sum sufficient to make the payments under s. 79.10 (5) and (6m) (c), not  
8 including the amount paid under s. 20.835 (3) (bm).

**History:** 1971 c. 125 ss. 192 to 195, 521; 1971 c. 215; 1973 c. 90, 158, 333; 1975 c. 39; 1975 c. 372 s. 41; 1975 c. 424; 1977 c. 29, 31, 313, 418, 447; 1979 c. 34 ss. 637m to 643m, 2102 (46) (d); 1979 c. 221; 1979 c. 329 s. 25 (1); 1979 c. 350 s. 27 (1); 1981 c. 1, 20, 93, 317; 1983 a. 2 ss. 1, 12; 1983 a. 27 ss. 489m, 490m, 2202 (45); 1985 a. 29, 41, 205; 1987 a. 27 ss. 473 to 474r, 476; 1987 a. 92; 1987 a. 312 s. 17; 1987 a. 323, 328, 399, 411, 422; 1989 a. 31 ss. 551 to 557m, 564m; 1989 a. 56 s. 259; 1989 a. 336; 1991 a. 37; 1991 a. 39 ss. 250m, 653m to 659m; 1991 a. 225, 269; 1993 a. 16, 263; 1995 a. 27, 56, 209, 417; 1997 a. 27, 237; 1999 a. 5, 9, 10; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 16, 105, 109; 2003 a. 31, 33.

9 **SECTION 6.** 20.835 (3) (s) of the statutes is amended to read:

10 20.835 (3) (s) *Lottery and gaming Homeowner's tax credit; late applications.*  
11 From the lottery fund, a sum sufficient to make payments for the ~~lottery and gaming~~  
12 homeowner's tax credit under s. 79.10 (10) (bm) and (bn).

**History:** 1971 c. 125 ss. 192 to 195, 521; 1971 c. 215; 1973 c. 90, 158, 333; 1975 c. 39; 1975 c. 372 s. 41; 1975 c. 424; 1977 c. 29, 31, 313, 418, 447; 1979 c. 34 ss. 637m to 643m, 2102 (46) (d); 1979 c. 221; 1979 c. 329 s. 25 (1); 1979 c. 350 s. 27 (1); 1981 c. 1, 20, 93, 317; 1983 a. 2 ss. 1, 12; 1983 a. 27 ss. 489m, 490m, 2202 (45); 1985 a. 29, 41, 205; 1987 a. 27 ss. 473 to 474r, 476; 1987 a. 92; 1987 a. 312 s. 17; 1987 a. 323, 328, 399, 411, 422; 1989 a. 31 ss. 551 to 557m, 564m; 1989 a. 56 s. 259; 1989 a. 336; 1991 a. 37; 1991 a. 39 ss. 250m, 653m to 659m; 1991 a. 225, 269; 1993 a. 16, 263; 1995 a. 27, 56, 209, 417; 1997 a. 27, 237; 1999 a. 5, 9, 10; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 16, 105, 109; 2003 a. 31, 33.

13 **SECTION 7.** 70.11 (39) of the statutes is amended to read:

14 70.11 (39) COMPUTERS. If the owner of the property fulfills the requirements  
15 under s. 70.35 and if the property owner is a business that has less than \$5,000,000  
16 in gross receipts, as determined by the department of revenue, in the year in which  
17 the owner claims an exemption under this subsection, mainframe computers,  
18 minicomputers, personal computers, networked personal computers, servers,  
19 terminals, monitors, disk drives, electronic peripheral equipment, tape drives,  
20 printers, basic operational programs, systems software, and prewritten software.  
21 The exemption under this subsection does not apply to custom software, fax

1 machines, copiers, equipment with embedded computerized components or  
2 telephone systems, including equipment that is used to provide telecommunications  
3 services, as defined in s. 76.80 (3). For the purposes of s. 79.095, the exemption under  
4 this subsection does not apply to property that is otherwise exempt under this  
5 chapter.

**History:** 1971 c. 152, 154, 312; 1973 c. 90; 1973 c. 333 s. 201m; 1973 c. 335 s. 13; 1975 c. 39; 1975 c. 94 s. 91 (10); 1975 c. 199; 1977 c. 29 ss. 745m, 1646 (3), 1647 (5), (7); 1977 c. 83 s. 26; 1977 c. 273, 282, 391, 418, 447; 1979 c. 34 s. 2102 (39) (g); 1979 c. 221, 225; 1979 c. 310 s. 12; 1981 c. 20; 1983 a. 27 ss. 1177, 1178, 1179f; 1983 a. 189 s. 329 (16); 1983 a. 201, 327; 1985 a. 26, 29, 316, 332; 1987 a. 10, 27, 395, 399; 1987 a. 403 s. 256; 1989 a. 25, 31, 307; 1991 a. 37, 39, 269; 1993 a. 263, 307, 399, 490; 1995 a. 27 ss. 3344 to 3348m, 9126 (19); 1995 a. 201, 227, 247, 366; 1997 a. 27, 35, 134, 147, 164, 184, 237; 1999 a. 9, 32, 63, 65; 1999 a. 150 ss. 624, 672; 1999 a. 167, 185; 2001 a. 16, 38, 59, 103.

6 **SECTION 8.** 71.07 (9) (b) 5. of the statutes is amended to read:

7 71.07 (9) (b) 5. For taxable years beginning after December 31, 1999, subject  
8 to the limitations under this subsection a claimant may claim as a credit against, but  
9 not to exceed the amount of, taxes under s. 71.02, ~~12%~~ 16 percent of the first \$2,500  
10 of property taxes or rent constituting property taxes, or ~~12%~~ 16 percent of the first  
11 \$1,250 of property taxes or rent constituting property taxes of a married person filing  
12 separately.

**History:** 1987 a. 312; 1987 a. 411 ss. 63, 79 to 82, 85, 86; 1987 a. 419, 422; 1989 a. 31, 44, 56, 100, 359; 1991 a. 39, 269, 292; 1993 a. 16, 112, 204, 471, 491; 1995 a. 27 ss. 3377m to 3393m, 9116 (5); 1995 a. 209, 227, 400, 453; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9, 10, 32; 1999 a. 150 s. 672; 1999 a. 198; 2001 a. 16, 109.

13 **SECTION 9.** 74.09 (3) (b) 3. of the statutes is amended to read:

14 74.09 (3) (b) 3. The tax levied on the property by the school district where the  
15 property is located ~~minus the credit under s. 79.10 (4) allocable to the property,~~ for  
16 the previous year and the current year, and the percentage change in that net tax  
17 between those years.

**History:** 1987 a. 378; 1989 a. 31; 1991 a. 39, 60; 1993 a. 399; 1995 a. 27, 44, 1997 a. 27; 2003 a. 33.

18 **SECTION 10.** 77.52 (2) (a) 13. of the statutes is created to read:

19 77.52 (2) (a) 13. The lease of luxury boxes, sky boxes, and club seats at a sports  
20 facility, if the sale of admissions to sporting events at the facility is subject to the tax  
21 imposed under this section.

22 **SECTION 11.** 79.10 (1) (b) of the statutes is repealed.

1 SECTION 12. 79.10 (1) (e) of the statutes is repealed.

2 SECTION 13. 79.10 (1m) (b) of the statutes is amended to read:

3 79.10 (1m) (b) Counties and municipalities shall submit to the department of  
4 revenue all data related to the ~~lottery and gaming~~ homeowner's tax credit and  
5 requested by the department of revenue.

History: 1971 c. 125 ss. 412, 521; Stats. 1971 s. 79.10; 1973 c. 90; 1975 c. 39, 199; 1977 c. 29, 418; 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1174 to 1182n, 2202 (45) (b); 1981 c. 93, 314, 317; 1983 a. 2 ss. 6 to 10, 12; 1983 a. 3, 27; 1983 a. 189 s. 329 (17m); 1983 a. 395; 1985 a. 4, 29, 39, 120; 1987 a. 27, 378; 1991 a. 39, 225, 269, 323; 1993 a. 16; 1995 a. 27; 1997 a. 27, 164; 1999 a. 5, 9, 83, 84, 185; 2001 a. 16; 2003 a. 33.

6 SECTION 14. 79.10 (2) of the statutes is amended to read:

7 79.10 (2) NOTICE TO MUNICIPALITIES. On or before December 1 of the year  
8 preceding the distribution under sub. (7m) (a), the department of revenue shall  
9 notify the clerk of each town, village and city of the estimated fair market value, as  
10 determined under sub. (11), to be used to calculate the ~~lottery and gaming~~  
11 homeowner's tax credit under sub. (5) ~~and of the amount to be distributed to it under~~  
12 ~~sub. (7m) (a) on the following 4th Monday in July. The anticipated receipt of such~~  
13 ~~distribution shall not be taken into consideration in determining the tax rate of the~~  
14 ~~municipality but shall be applied as tax credits.~~

History: 1971 c. 125 ss. 412, 521; Stats. 1971 s. 79.10; 1973 c. 90; 1975 c. 39, 199; 1977 c. 29, 418; 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1174 to 1182n, 2202 (45) (b); 1981 c. 93, 314, 317; 1983 a. 2 ss. 6 to 10, 12; 1983 a. 3, 27; 1983 a. 189 s. 329 (17m); 1983 a. 395; 1985 a. 4, 29, 39, 120; 1987 a. 27, 378; 1991 a. 39, 225, 269, 323; 1993 a. 16; 1995 a. 27; 1997 a. 27, 164; 1999 a. 5, 9, 83, 84, 185; 2001 a. 16; 2003 a. 33.

15 SECTION 15. 79.10 (4) of the statutes is repealed.

16 SECTION 16. 79.10 (5) of the statutes is amended to read:

17 79.10 (5) ~~LOTTERY AND GAMING~~ HOMEOWNER'S TAX CREDIT. Each municipality  
18 shall receive, from the ~~appropriation~~ appropriations under s. 20.835 (3) (bm) and (q),  
19 an amount determined by multiplying the school tax rate by the estimated fair  
20 market value, ~~not exceeding the value as~~ as determined under sub. (11), but not to  
21 exceed \$60,000, of every principal dwelling that is located in the municipality and

1 for which a claim for the credit under sub. (9) (bm) is made by the owner of the  
2 principal dwelling.

History: 1971 c. 125 ss. 412, 521; Stats. 1971 s. 79.10; 1973 c. 90; 1975 c. 39, 199; 1977 c. 29, 418; 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1174 to 1182n, 2202 (45) (b); 1981 c. 93, 314, 317; 1983 a. 2 ss. 6 to 10, 12; 1983 a. 3, 27; 1983 a. 189 s. 329 (17m); 1983 a. 395; 1985 a. 4, 29, 39, 120; 1987 a. 27, 378; 1991 a. 39, 225, 269, 323; 1993 a. 16; 1995 a. 27; 1997 a. 27, 164; 1999 a. 5, 9, 83, 84, 185; 2001 a. 16; 2003 a. 33.

3 **SECTION 17.** 79.10 (6m) (a) of the statutes is amended to read:

4 79.10 (6m) (a) Except as provided in pars. (b) and (c), if the department of  
5 administration or the department of revenue determines by October 1 of the year of  
6 any distribution under ~~subs. (4) and sub. (5)~~ that there was an overpayment or  
7 underpayment made in that year's distribution by the department of administration  
8 to municipalities, as determined under ~~subs. (4) and sub. (5)~~, because of an error by  
9 the department of administration, the department of revenue or any municipality,  
10 the overpayment or underpayment shall be corrected as provided in this paragraph.  
11 Any overpayment shall be corrected by reducing the subsequent year's distribution,  
12 as determined under ~~subs. (4) and sub. (5)~~, by an amount equal to the amount of the  
13 overpayment. Any underpayment shall be corrected by increasing the subsequent  
14 year's distribution, as determined under ~~subs. (4) and sub. (5)~~, by an amount equal  
15 to the amount of the underpayment. Corrections shall be made in the distributions  
16 to all municipalities affected by the error. Corrections shall be without interest.

History: 1971 c. 125 ss. 412, 521; Stats. 1971 s. 79.10; 1973 c. 90; 1975 c. 39, 199; 1977 c. 29, 418; 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1174 to 1182n, 2202 (45) (b); 1981 c. 93, 314, 317; 1983 a. 2 ss. 6 to 10, 12; 1983 a. 3, 27; 1983 a. 189 s. 329 (17m); 1983 a. 395; 1985 a. 4, 29, 39, 120; 1987 a. 27, 378; 1991 a. 39, 225, 269, 323; 1993 a. 16; 1995 a. 27; 1997 a. 27, 164; 1999 a. 5, 9, 83, 84, 185; 2001 a. 16; 2003 a. 33.

17 **SECTION 18.** 79.10 (7m) (a) of the statutes is repealed.

18 **SECTION 19.** 79.10 (7m) (b) (title) of the statutes is amended to read:

19 79.10 (7m) (b) (title) ~~Lottery and gaming~~ Homeowner's tax credit.

History: 1971 c. 125 ss. 412, 521; Stats. 1971 s. 79.10; 1973 c. 90; 1975 c. 39, 199; 1977 c. 29, 418; 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1174 to 1182n, 2202 (45) (b); 1981 c. 93, 314, 317; 1983 a. 2 ss. 6 to 10, 12; 1983 a. 3, 27; 1983 a. 189 s. 329 (17m); 1983 a. 395; 1985 a. 4, 29, 39, 120; 1987 a. 27, 378; 1991 a. 39, 225, 269, 323; 1993 a. 16; 1995 a. 27; 1997 a. 27, 164; 1999 a. 5, 9, 83, 84, 185; 2001 a. 16; 2003 a. 33.

20 **SECTION 20.** 79.10 (7m) (b) 1. of the statutes is amended to read:

21 79.10 (7m) (b) 1. The amount determined under sub. (5) with respect to claims  
22 filed for which the town, village or city has furnished notice under sub. (1m) by March

1 1 shall be distributed from the ~~appropriation~~ appropriations under s. 20.835 (3) (bm) ✓  
2 and (q) by the department of administration on the 4th Monday in March.

History: 1971 c. 125 ss. 412, 521; Stats. 1971 s. 79.10; 1973 c. 90; 1975 c. 39, 199; 1977 c. 29, 418; 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1174 to 1182n, 2202 (45) (b); 1981 c. 93, 314, 317; 1983 a. 2 ss. 6 to 10, 12; 1983 a. 3, 27; 1983 a. 189 s. 329 (17m); 1983 a. 395; 1985 a. 4, 29, 39, 120; 1987 a. 27, 378; 1991 a. 39, 225, 269, 323; 1993 a. 16; 1995 a. 27; 1997 a. 27, 164; 1999 a. 5, 9, 83, 84, 185; 2001 a. 16; 2003 a. 33.

3 SECTION 21. 79.10 (9) (b) of the statutes is repealed.

4 SECTION 22. 79.10 (9) (bm) ✓ of the statutes is amended to read:

5 79.10 (9) (bm) ~~Lottery and gaming~~ Homeowner's tax credit. Except as provided  
6 in ss. 79.175 and 79.18, a ~~lottery and gaming~~ homeowner's tax credit shall be  
7 allocated to every principal dwelling for which a credit is claimed under sub. (10) in  
8 an amount determined by multiplying the estimated fair market value of the  
9 principal dwelling, ~~not exceeding the value as~~ determined under sub. (11), but not  
10 to exceed \$60,000, by the school tax rate.

History: 1971 c. 125 ss. 412, 521; Stats. 1971 s. 79.10; 1973 c. 90; 1975 c. 39, 199; 1977 c. 29, 418; 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1174 to 1182n, 2202 (45) (b); 1981 c. 93, 314, 317; 1983 a. 2 ss. 6 to 10, 12; 1983 a. 3, 27; 1983 a. 189 s. 329 (17m); 1983 a. 395; 1985 a. 4, 29, 39, 120; 1987 a. 27, 378; 1991 a. 39, 225, 269, 323; 1993 a. 16; 1995 a. 27; 1997 a. 27, 164; 1999 a. 5, 9, 83, 84, 185; 2001 a. 16; 2003 a. 33.

11 SECTION 23. 79.10 (9) (c) 1. of the statutes is renumbered 79.10 (9) (c) and  
12 amended to read:

13 79.10 (9) (c) The ~~lottery and gaming~~ homeowner's tax credit under par. (bm)  
14 shall reduce the property taxes otherwise payable on property that is eligible for that  
15 credit and if the property owner completes the information required under sub. (10)  
16 (a) or (b).

History: 1971 c. 125 ss. 412, 521; Stats. 1971 s. 79.10; 1973 c. 90; 1975 c. 39, 199; 1977 c. 29, 418; 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1174 to 1182n, 2202 (45) (b); 1981 c. 93, 314, 317; 1983 a. 2 ss. 6 to 10, 12; 1983 a. 3, 27; 1983 a. 189 s. 329 (17m); 1983 a. 395; 1985 a. 4, 29, 39, 120; 1987 a. 27, 378; 1991 a. 39, 225, 269, 323; 1993 a. 16; 1995 a. 27; 1997 a. 27, 164; 1999 a. 5, 9, 83, 84, 185; 2001 a. 16; 2003 a. 33.

17 SECTION 24. 79.10 (9) (c) 2. of the statutes is repealed.

18 SECTION 25. 79.10 (10) (a) ✓ of the statutes <sup>as affected by 2003 Wisconsin Act 33,</sup> is amended to read:

19 79.10 (10) (a) Beginning with property taxes levied in ~~1999~~ 2004, the owner of  
20 a principal dwelling may claim the credit under sub. (9) (bm) by applying for the  
21 credit on a form prescribed by the department of revenue. A claimant shall attest  
22 that, as of the certification date, the claimant is an owner of property and that such

# AM; 79.10 (10) (title) <sup>as affected by 2003 Wisconsin Act 33</sup>  
① 79.10 (10) (title) <sup>②</sup> claiming the lottery and gaming homeowner's tax credit ③

1 property is used by the owner in the manner specified under sub. (1) (dm). The  
 2 certification date is January 1 of the year in which the property taxes are levied. The  
 3 claimant shall file the application for the ~~lottery and gaming~~ homeowner's tax credit  
 4 with the treasurer of the county in which the property is located or, if the property  
 5 is located in a city that collects taxes under s. 74.87, with the treasurer of the city in  
 6 which the property is located. Subject to review by the department of revenue, a  
 7 treasurer who receives a completed application shall direct that the property  
 8 described in the application be identified on the next tax roll as property for which  
 9 the owner is entitled to receive a ~~lottery and gaming~~ homeowner's tax credit. A claim  
 10 that is made under this paragraph is valid for as long as the property is eligible for  
 11 the credit under sub. (9) (bm).

History: 1971 c. 125 ss. 412, 521; Stats. 1971 s. 79.10; 1973 c. 90; 1975 c. 39, 199; 1977 c. 29, 418; 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1174 to 1182n, 2202 (45) (b); 1981  
 c. 93, 314, 317; 1983 a. 2 ss. 6 to 10, 12; 1983 a. 3, 27; 1983 a. 189 s. 329 (17m); 1983 a. 395; 1985 a. 4, 29, 39, 120; 1987 a. 27, 378; 1991 a. 39, 225, 269, 323; 1993 a. 16;  
 1995 a. 27; 1997 a. 27, 164; 1999 a. 5, 9, 83, 84, 185; 2001 a. 16; 2003 a. 33.

12 **SECTION 26.** 79.10 (10) (bm) 1. of the statutes <sup>as affected by 2003 Wisconsin Act 33,</sup> is amended to read:

13 79.10 (10) (bm) 1. A person who is eligible for a credit under sub. (9) (bm) but  
 14 whose property tax bill does not reflect the credit may claim the credit by applying  
 15 to the treasurer of the taxation district in which the property is located for the credit  
 16 under par. (a) by January 31 following the issuance of the person's property tax bill.  
 17 The treasurer shall compute the amount of the credit; subtract the amount of the  
 18 credit from the person's property tax bill; notify the person of the reduced amount of  
 19 the property taxes due; issue a refund to the person if the person has paid the  
 20 property taxes in full; and enter the person's property on the next tax roll as property  
 21 that qualifies for a ~~lottery and gaming~~ homeowner's tax credit. Claims made under

1 this subdivision are valid for as long as the property is eligible for the credit under  
2 sub. (9) (bm).

History: 1971 c. 125 ss. 412, 521; Stats. 1971 s. 79.10; 1973 c. 90; 1975 c. 39, 199; 1977 c. 29, 418; 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1174 to 1182n, 2202 (45) (b); 1981 c. 93, 314, 317; 1983 a. 2 ss. 6 to 10, 12; 1983 a. 3, 27; 1983 a. 189 s. 329 (17m); 1983 a. 395; 1985 a. 4, 29, 39, 120; 1987 a. 27, 378; 1991 a. 39, 225, 269, 323; 1993 a. 16; 1995 a. 27; 1997 a. 27, 164; 1999 a. 5, 9, 83, 84, 185; 2001 a. 16; 2003 a. 33.

3 **SECTION 27.** 79.10 (10) (bm) 2. of the statutes <sup>as affected by 2003 Wisconsin Act 33,</sup> is amended to read: =

4 79.10 (10) (bm) 2. A person who may apply for a credit under subd. 1. but who  
5 does not timely apply for the credit under subd. 1. may apply to the department of  
6 revenue no later than October 1 following the issuance of the person's property tax  
7 bill. Subject to review by the department, the department shall compute the amount  
8 of the credit; issue a check to the person in the amount of the credit; and notify the  
9 treasurer of the county in which the person's property is located or the treasurer of  
10 the taxation district in which the person's property is located, if the taxation district  
11 collects taxes under s. 74.87. The treasurer shall enter the person's property on the  
12 next tax roll as property that qualifies for a ~~lottery and gaming~~ homeowner's tax  
13 credit. Claims made under this subdivision are valid for as long as the property is  
14 eligible for the credit under sub. (9) (bm).

History: 1971 c. 125 ss. 412, 521; Stats. 1971 s. 79.10; 1973 c. 90; 1975 c. 39, 199; 1977 c. 29, 418; 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1174 to 1182n, 2202 (45) (b); 1981 c. 93, 314, 317; 1983 a. 2 ss. 6 to 10, 12; 1983 a. 3, 27; 1983 a. 189 s. 329 (17m); 1983 a. 395; 1985 a. 4, 29, 39, 120; 1987 a. 27, 378; 1991 a. 39, 225, 269, 323; 1993 a. 16; 1995 a. 27; 1997 a. 27, 164; 1999 a. 5, 9, 83, 84, 185; 2001 a. 16; 2003 a. 33.

15 **SECTION 28.** 79.10 (11) (b) of the statutes <sup>as affected by 2003 Wisconsin Act 33,</sup> is amended to read: =

16 79.10 (11) (b) Before October 16, the department of administration shall  
17 determine the total funds available for distribution under the ~~lottery and gaming~~  
18 homeowner's tax credit in the following year and shall inform the joint committee on  
19 finance of that total. Total funds available for distribution shall be \$469,305,000  
20 from s. 20.835 (3) (bm) plus all moneys projected to be transferred to the lottery fund  
21 under ss. 20.455 (2) (g) and 20.505 (8) (am), (g) and (jm) and all existing and projected  
22 lottery proceeds and interest for the fiscal year of the distribution, less the amount  
23 estimated to be expended under ss. 20.455 (2) (r), 20.566 (2) (r), and 20.835 (2) (q) and

# AM; 79.10 (11) (title)  
¶ 79.10 (11) (title) <sup>ⓑ</sup> ~~Lottery and gaming~~ Homeowner's tax credit estimated  
(N.A.) fair market value ⓐ

1 less the required reserve under s. 20.003 (5). The joint committee on finance may  
2 revise the total amount to be distributed if it does so at a meeting that takes place  
3 before November 1. If the joint committee on finance does not schedule a meeting  
4 to take place before November 1, the total determined by the department of  
5 administration shall be the total amount estimated to be distributed under the  
6 lottery and gaming homeowner's tax credit in the following year.

History: 1971 c. 125 ss. 412, 521; Stats. 1971 s. 79.10; 1973 c. 90; 1975 c. 39, 199; 1977 c. 29, 418; 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1174 to 1182n, 2202 (45) (b); 1981 c. 93, 314, 317; 1983 a. 2 ss. 6 to 10, 12; 1983 a. 3, 27; 1983 a. 189 s. 329 (17m); 1983 a. 395; 1985 a. 4, 29, 39, 120; 1987 a. 27, 378; 1991 a. 39, 225, 269, 323; 1993 a. 16; 1995 a. 27; 1997 a. 27, 164; 1999 a. 5, 9, 83, 84, 185; 2001 a. 16; 2003 a. 33.

7 **SECTION 29.** 79.10 (11) (c) of the statutes is amended to read:

8 79.10 (11) (c) Before November 1, the department of administration shall  
9 inform the department of revenue of the total amount available for distribution  
10 under the lottery and gaming homeowner's tax credit in the following year. Before  
11 December 1, the department of revenue shall calculate, to the nearest \$100, the  
12 estimated fair market value necessary to distribute the total amount available for  
13 distribution under the lottery and gaming homeowner's tax credit in the following  
14 year.

History: 1971 c. 125 ss. 412, 521; Stats. 1971 s. 79.10; 1973 c. 90; 1975 c. 39, 199; 1977 c. 29, 418; 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1174 to 1182n, 2202 (45) (b); 1981 c. 93, 314, 317; 1983 a. 2 ss. 6 to 10, 12; 1983 a. 3, 27; 1983 a. 189 s. 329 (17m); 1983 a. 395; 1985 a. 4, 29, 39, 120; 1987 a. 27, 378; 1991 a. 39, 225, 269, 323; 1993 a. 16; 1995 a. 27; 1997 a. 27, 164; 1999 a. 5, 9, 83, 84, 185; 2001 a. 16; 2003 a. 33.

15 **SECTION 30.** 79.11 (3) (b) of the statutes is amended to read:

16 79.11 (3) (b) Notwithstanding ss. 74.11 (2) (b) and 74.12 (2) (b), the lottery and  
17 gaming homeowner's tax credit shall be deducted in its entirety from the first  
18 installment. This paragraph does not apply to the payment of taxes in installments  
19 under s. 74.87.

History: 1971 c. 125 s. 411; Stats. 1971 s. 79.11; 1991 a. 39, 323; 1997 a. 27; 1999 a. 5.

20 **SECTION 31.** 79.14 of the statutes is repealed.

21 **SECTION 32. Nonstatutory provisions.**

22 (1) HOMEOWNER'S TAX CREDIT. An application for the lottery and gaming credit  
23 under section 79.10 (10) of the statutes, 2001 stats., shall be considered to be an

INSERT  
9-20

1 application for the homeowner's tax credit under section 79.10 (10) of the statutes,  
2 as affected by this act, and any valid claim for the lottery and gaming credit under  
3 section 79.10 (10) of the statutes, 2001 stats., shall be considered to be a valid claim  
4 for the homeowner's tax credit under section 79.10 (10) of the statutes, as affected  
5 by this act.

6 **SECTION 33. Initial applicability.**

7 (1) HOMEOWNER'S TAX CREDIT. The treatment of sections 20.566 (2) (am) and (r),  
8 20.835 (3) (b), (bm), (q), and (s), 74.09 (3) (b) 3., 79.10 (1) (b) and (e), (1m) (b), (2), (4),  
9 (5), (6m) (a), (7m) (a) and (b) (title) and 1., (9) (b), (bm), and (c), (10) (a), (bm) 1. and  
10 2., and (11) (b) and (c), 79.11 (3) (b), and 79.14 of the statutes first applies to property  
11 taxes levied in 2004. *and 565.02(7)*

12 (2) COMPUTERS. The treatment of sections 70.11 (39) of the statutes first applies  
13 to the property tax assessments as of January 1, 2004.

14 **SECTION 34. Effective date.**

15 (1) LUXURY BOXES. The treatment of sections 77.52 (2) (a) 13. of the statutes  
16 takes effect on the first day of the 2nd month beginning after publication.

17 (END)

*(3) SCHOOL PROPERTY TAX CREDIT (CS) INCOME The treatment of section 71.07(9)(b) 5. of the statutes  
first applies to taxable years beginning on January 1, 2004*

*(4) RELATED ENTITIES (CS) The treatment of sections 71.01(5p) and (9b), 71.05  
(6)(a) 21., 71.22(3m) and (9b), 71.26(2)(a) (intro.) and 6., 71.34(1)(j), 71.42(1p)  
and (4m), 71.45(2)(a) 16., 71.738(3m), and 71.80(23) of the statutes first applies to  
taxable years beginning on January 1, 2004*

NONSTATS.  
No 8

INSERT 9-20

Section #. 565.02 (7) of the statutes is amended to read:

homeowner's

565.02 (7) Not later than March 1 of each year, the department shall submit to the joint committee on finance a report that includes an estimate for that fiscal year and for the subsequent fiscal year of the gross revenues from the sale of lottery tickets and lottery shares, the total amount paid as prizes and the prize payout ratio for each type of lottery game offered, and an evaluation of the effect of prize payout ratios of lottery games on lottery sales, lottery operating costs and on maximizing the revenue available for the lottery and gaming property tax credit. If, within 14 working days after the date on which the committee receives the report, the cochairpersons of the committee notify the department that the committee has scheduled a meeting for the purpose of reviewing the department's proposed prize payouts, the department may proceed with its plans for the prize payouts for the subsequent fiscal year only upon approval of the plans by the committee. If the cochairpersons of the committee do not notify the department within 14 working days after the date on which the committee receives the report that the committee has scheduled a meeting for the purpose of reviewing the department's proposed prize payouts, the department's plans for the prize payouts for the subsequent fiscal year are considered approved by the committee.

History: 1987 a. 119, 399; 1989 a. 31; 1991 a. 39, 269, 323; 1993 a. 16; 1995 a. 27; 1997 a. 27; 1999 a. 5, 9.

end of 9-20

## 2003 ASSEMBLY BILL 461

August 7, 2003 – Introduced by Representatives BLACK, BERCEAU, POCAN, MILLER, HEBL and PLOUFF, cosponsored by Senators CARPENTER, RISSER and CHVALA. Referred to Committee on Ways and Means.

1 AN ACT *to renumber and amend* 71.26 (2) (a); and *to create* 71.01 (5p), 71.01  
2 (9b), 71.05 (6) (a) 21., 71.22 (3m), 71.22 (9b), 71.26 (2) (a) 6., 71.34 (1) (j), 71.42  
3 (1p), 71.42 (4m), 71.45 (2) (a) 16., 71.738 (3m) and 71.80 (23) of the statutes;  
4 **relating to:** adding payments to related entities to federal taxable income for  
5 state income tax and franchise tax purposes.

---

### *Analysis by the Legislative Reference Bureau*

For purposes of calculating a taxpayer's state income tax or franchise tax liability, this bill requires a taxpayer to add the following amounts to the taxpayer's federal taxable income: any amount that the taxpayer deducted or excluded under the Internal Revenue Code for management and service fees, interest expenses and costs, intangible expenses and costs, and any other expenses and costs directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with, one or more related entities.

This bill also authorizes the Department of Revenue (DOR) to allow the tax consequences of a transaction, as asserted by a taxpayer, even if DOR initially disallows the consequences by asserting the sham transaction doctrine or a related doctrine, if a taxpayer meets certain conditions. The conditions include the taxpayer's ability to demonstrate that the transaction had a valid, good faith business purpose other than tax avoidance, that the business purpose is commensurate with the transaction's tax benefit, and that the transaction had economic substance apart from the taxpayer's asserted tax benefit.

**ASSEMBLY BILL 461**

Also under the bill, a taxpayer is not required to add to the taxpayer's federal taxable income certain expenses or costs as specified in the bill if a number of conditions apply. The conditions include the following:

1. The transaction to which the expenses and costs apply did not have as its principal purpose tax avoidance.
2. The related entity to whom the taxpayer paid the expenses or costs paid, accrued, or incurred such amounts to a person who is not a related entity.
3. The related entity was subject to tax on its net income, and a measure of the tax included the expenses or costs received from the taxpayer.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

**SECTION 4.** 71.01 (5p) of the statutes is created to read:

71.01 (5p) "Intangible expenses and costs" includes expenses, losses, and costs for, related to, or directly or indirectly in connection with the direct or indirect acquisition of, use of, maintenance or management of, ownership of, sale of, exchange of, or any other direct or indirect disposition of intangible property to the extent that such expenses, losses, and costs are allowed as deductions or costs to determine federal taxable income under the Internal Revenue Code. For purposes of this subsection, "expenses, losses, and costs" include losses related to or incurred directly or indirectly in connection with factoring transactions and discounting transactions; royalty, patent, technical, and copyright fees; licensing fees; and other similar expenses and costs.

**SECTION 9.** 71.01 (9b) of the statutes is created to read:

71.01 (9b) "Related entity" means any person related to a taxpayer as provided under section 267, 318, or 1563 of the Internal Revenue Code during all or a portion of the taxpayer's taxable year.

**SECTION 11.** 71.05 (6) (a) 21. of the statutes is created to read:

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3-5

ASSEMBLY BILL 461

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3-5

1           71.05 (6) (a) 21. Any amount deducted or excluded under the Internal Revenue  
 2           Code for management and service fees, interest expenses and costs, intangible  
 3           expenses and costs, and any other expenses and costs directly or indirectly paid,  
 4           accrued, or incurred to, or in connection directly or indirectly with one or more direct  
 5           or indirect transactions with, one or more related entities.

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3-12

6           SECTION ~~71.22~~ 71.22 (3m) of the statutes is created to read:

7           71.22 (3m) "Intangible expenses and costs" includes expenses, losses, and costs  
 8           for, related to, or directly or indirectly in connection with the direct or indirect  
 9           acquisition of, use of, maintenance or management of, ownership of, sale of, exchange  
 10          of, or any other direct or indirect disposition of intangible property to the extent that  
 11          such expenses, losses, and costs are allowed as deductions or costs to determine  
 12          federal taxable income under the Internal Revenue Code. For purposes of this  
 13          subsection, "expenses, losses, and costs" include losses related to or incurred directly  
 14          or indirectly in connection with factoring transactions and discounting transactions;  
 15          royalty, patent, technical, and copyright fees; licensing fees; and other similar  
 16          expenses and costs.

17          SECTION ~~71.22~~ 71.22 (9b) of the statutes is created to read:

18          71.22 (9b) "Related entity" means any person related to a taxpayer as provided  
 19          under section 267, 318, or 1563 of the Internal Revenue Code during all or a portion  
 20          of the taxpayer's taxable year.

21          SECTION ~~71.26~~ 71.26 (2) (a) of the statutes is renumbered 71.26 (2) (a) (intro.) and  
 22          amended to read:

23          71.26 (2) (a) *Corporations in general.* (intro.) The "net income" of a corporation  
 24          means the gross income as computed under the Internal Revenue Code as modified  
 25          under sub. (3) minus and modified as follows:



ASSEMBLY BILL 461

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3-12

- 1           1. Minus the amount of recapture under s. 71.28 (1di) ~~plus.~~
- 2           2. Plus the amount of credit computed under s. 71.28 (1), (3), (4), and (5) ~~plus.~~
- 3           3. Plus the amount of the credit computed under s. 71.28 (1dd), (1de), (1di),
- 4           (1dj), (1dL), (1dm), (1ds), (1dx), and (3g) and not passed through by a partnership,
- 5           limited liability company, or tax-option corporation that has added that amount to
- 6           the partnership's, limited liability company's, or tax-option corporation's income
- 7           under s. 71.21 (4) or 71.34 (1) (g) ~~plus.~~

8           4. Plus the amount of losses from the sale or other disposition of assets the gain

9           from which would be wholly exempt income, as defined in sub. (3) (L), if the assets

10          were sold or otherwise disposed of at a gain and minus deductions, as computed

11          under the Internal Revenue Code as modified under sub. (3), ~~plus.~~

12          5. Plus or minus, as appropriate, an amount equal to the difference between

13          the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or

14          otherwise disposed of in a taxable transaction during the taxable year, except as

15          provided in par. (b) and s. 71.45 (2) and (5).

16          SECTION ~~4~~<sup>#</sup>. 71.26 (2) (a) ~~6~~<sup>✓</sup>. of the statutes is created to read:

17          71.26 (2) (a) 6. Plus any amount deducted or excluded under the Internal

18          Revenue Code for management and service fees, interest expenses and costs,

19          intangible expenses and costs, and any other expenses and costs directly or indirectly

20          paid, accrued, or incurred to, or in connection directly or indirectly with one or more

21          direct or indirect transactions with, one or more related entities.

22          SECTION ~~4~~<sup>#</sup>. 71.34 (1) (j) ~~6~~<sup>✓</sup> of the statutes is created to read:

23          71.34 (1) (j) An addition shall be made for any amount deducted or excluded

24          under the Internal Revenue Code for management and service fees, interest

25          expenses and costs, intangible expenses and costs, and any other expenses and costs

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3-12

ASSEMBLY BILL 461

1 directly or indirectly paid, accrued, or incurred to, or in connection directly or  
2 indirectly with one or more direct or indirect transactions with, one or more related  
3 entities.

4 SECTION ~~9~~<sup>#</sup>. 71.42 (1p) of the statutes is created to read:

5 71.42 (1p) "Intangible expenses and costs" includes expenses, losses, and costs  
6 for, related to, or directly or indirectly in connection with the direct or indirect  
7 acquisition of, use of, maintenance or management of, ownership of, sale of, exchange  
8 of, or any other direct or indirect disposition of intangible property to the extent that  
9 such expenses, losses, and costs are allowed as deductions or costs to determine  
10 federal taxable income under the Internal Revenue Code. For purposes of this  
11 subsection, "expenses, losses, and costs" include losses related to or incurred directly  
12 or indirectly in connection with factoring transactions and discounting transactions;  
13 royalty, patent, technical, and copyright fees; licensing fees; and other similar  
14 expenses and costs.

15 SECTION ~~10~~<sup>#</sup>. 71.42 (4m) of the statutes is created to read:

16 71.42 (4m) "Related entity" means any person related to a taxpayer as provided  
17 under section 267, 318, or 1563 of the Internal Revenue Code during all or a portion  
18 of the taxpayer's taxable year.

19 SECTION ~~11~~<sup>#</sup>. 71.45 (2) (a) 16<sup>✓</sup> of the statutes is created to read:

20 71.45 (2) (a) 16. By adding to federal taxable income any amount deducted or  
21 excluded under the Internal Revenue Code for management and service fees,  
22 interest expenses and costs, intangible expenses and costs, and any other expenses  
23 and costs directly or indirectly paid, accrued, or incurred to, or in connection directly  
24 or indirectly with one or more direct or indirect transactions with, one or more  
25 related entities.

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ASSEMBLY BILL 461

1 SECTION ~~14~~<sup>#</sup> 71.738 (3m) of the statutes is created to read:

2 71.738 (3m) "Related entity" means any person related to a taxpayer as  
3 provided under section 267, 318, or 1563 of the Internal Revenue Code during all or  
4 a portion of the taxpayer's taxable year.

5 SECTION ~~15~~<sup>#</sup> 71.80 (23) of the statutes is created to read:

6 71.80 (23) TRANSACTIONS. (a) Subject to par. (b), if the department asserts the  
7 sham transaction doctrine, or any other related tax doctrine, to disallow the tax  
8 consequences, as asserted by the taxpayer, of a transaction, the department may  
9 allow the tax consequences, as asserted by the taxpayer, of the transaction, if the  
10 taxpayer demonstrates by clear and convincing evidence that the transaction had a  
11 valid, good faith, business purpose other than tax avoidance and had economic  
12 substance apart from any tax benefit asserted by the taxpayer.

13 (b) For all instances in which the department disallows the tax consequences,  
14 as asserted by the taxpayer, of a transaction, the department may allow the tax  
15 consequences, as asserted by the taxpayer, of the transaction, if the taxpayer  
16 demonstrates by clear and convincing evidence that the transaction's nontaxable  
17 business purpose, as asserted by the taxpayer, is commensurate with the  
18 transaction's tax benefit, as asserted by the taxpayer.

19 (c) The adjustments under ss. 71.05 (6) (a) 21<sup>✓</sup>, 71.26 (2) (a) 6<sup>✓</sup>, 71.34 (1) (j)<sup>✓</sup>, and  
20 71.45 (2) (a) 16<sup>✓</sup> shall not apply to any expenses or costs if all of the following apply  
21 to the expenses or costs:

22 1. The transaction to which the expenses or costs are related did not have tax  
23 avoidance as its principal purpose.

24 2. The related entity to whom the taxpayer paid interest expenses or costs,  
25 intangible expenses, or management or service fees during the taxable year directly

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3-12

1 or indirectly paid, accrued, or incurred such amounts to a person who is not a related  
2 entity. For purposes of this subdivision, "interest" means interest on a debt for which  
3 the taxpayer is the guarantor, if the interest rate is the market rate in effect at the  
4 time of the debt's origination, but excludes interest that is paid in connection with  
5 any debt that is incurred to acquire the taxpayer's assets or stock under section 368  
6 of the Internal Revenue Code.

7 3. The related entity was subject to tax on its net income in this state, or any  
8 state, U.S. possession, or foreign country; a measure of the tax paid included the  
9 interest income, intangible income, or management or service fees received from the  
10 taxpayer; and the tax rate applied to the interest income, intangible income, or  
11 management or service fees was not less than 3 percentage points below the tax rate  
12 that would have applied under s. 71.27. For purposes of this subdivision, "any state,  
13 U.S. possession, or foreign country" does not include any state, U.S. possession, or  
14 foreign country under the laws of which the taxpayer files or could have elected to  
15 file with the related entity, or the related entity files or could have elected to file with  
16 another entity, a combined income tax report or return, a consolidated income tax  
17 report or return, or any other report or return that is due because of the imposition  
18 of a tax that is measured on or by income, if the report of return results in eliminating  
19 the tax effects of transactions directly or indirectly between either the taxpayer and  
20 the related entity or between the related entity and another entity.

END OF  
INSERT  
3-12

21 ~~Section 14. Initial applicability.~~

22 (1) This act first applies to taxable years beginning on January 1 of the year  
23 in which this subsection takes effect, except that if this subsection takes effect after

**ASSEMBLY BILL 461**

**SECTION 14**

1 July 31 this act first applies to taxable years beginning on January 1 of the year  
2 following the year in which this subsection takes effect.

3 (END)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3470/P1dn

JK ~~4/17/10~~.....

Wlj

Representative Black:

Please review this draft carefully to ensure that it is consistent with your intent.

Also, please be aware that the homeowner's property tax credit, as created in the bill, and the computer property tax exemption as amended in the bill, could be challenged as a violation of the uniformity clause of article VIII, section 1, of the Wisconsin Constitution. The uniformity clause requires that the taxation of real property be uniform.

The Wisconsin supreme court has held that reducing the taxes on some property but not exempting the property is a partial exemption that violates the uniformity clause. See *State ex rel. La Follette v. Torphy*, 85 Wis. 2d 94, 105-108 (1978) and *Gottlieb v. Milwaukee*, 33 Wis. 2d 408, 427-428 (1859). A court could find that the homeowner's property tax credit created in the bill creates a partial exemption because it disproportionately reduces the tax liability of homeowners. In other words, because the credit is based on the first \$60,000 of property value, a homeowner whose property is valued at \$60,000, for example, will receive a credit that represents a greater percentage of his or her total tax liability than a homeowner whose property value exceeds \$60,000. See also, 52 Opinion of the Attorney General 143 (1963) which opines that exempting the first \$3,750 of the assessed value of homesteads creates a partial exemption.

With regards to the computer property tax exemption, a court could find that applying the exemption only to computers owned by certain businesses, based on gross receipts, creates an unreasonable classification for property tax purposes and, therefore, violates the uniformity clause. *see Gottlieb*

Although I am not certain how a court would rule on a constitutional challenge to the bill, should it become law, you should be aware of possible challenges to the bill. Please contact me if you have any questions.

Joseph T. Kreye  
Legislative Attorney  
Phone: (608) 266-2263  
E-mail: joseph.kreye@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3470/P1dn  
JK:wlj:rs

November 10, 2003

Representative Black:

Please review this draft carefully to ensure that it is consistent with your intent.

Also, please be aware that the homeowner's property tax credit, as created in the bill, and the computer property tax exemption as amended in the bill, could be challenged as a violation of the uniformity clause of article VIII, section 1, of the Wisconsin Constitution. The uniformity clause requires that the taxation of real property be uniform.

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With regards to the computer property tax exemption, a court could find that applying the exemption only to computers owned by certain businesses, based on gross receipts, creates an unreasonable classification for property tax purposes and, therefore, violates the uniformity clause. See *Gottlieb*.

Although I am not certain how a court would rule on a constitutional challenge to the bill, should it become law, you should be aware of possible challenges to the bill. Please contact me if you have any questions.

Joseph T. Kreye  
Legislative Attorney  
Phone: (608) 266-2263  
E-mail: joseph.kreye@legis.state.wi.us

**Kreye, Joseph**

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**From:** Graf, Bill  
**Sent:** Wednesday, November 12, 2003 1:02 PM  
**To:** Kreye, Joseph  
**Subject:** draft LRB-3470/P1

Joe, the is fine as is. You can do the final draft and have it jacketed.

I don't know if it makes any difference, but the relating clause appears to have the statute number for the computer exemption but doesn't mention it in the text.

**Bill Graf**  
Assistant to Representative Spencer Black

214 North, State Capitol  
P.O. Box 8952  
Madison, WI 53708  
(608) 266-7521

2001 AB 922 (0582)

2003 AB 961 (2929)