

2005 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB892)

Received: 02/10/2006

Received By: jkreye

Wanted: As time permits

Identical to LRB:

For: Phil Montgomery (608) 266-5840

By/Representing: adam

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax, Business - credits

Extra Copies:

Submit via email: YES

Requester's email: Rep.Montgomery@legis.state.wi.us

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

Pre Topic:

No specific pre topic given

Topic:

Credits and exemptions for Internet equipment used in the broadband market

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 02/10/2006	wjackson 02/13/2006		_____			
/1	jkreye 02/17/2006	jdyer 02/17/2006	rschluet 02/13/2006	_____	sbasford 02/13/2006	sbasford 02/13/2006	
/2			rschluet 02/17/2006	_____	Inorthro 02/17/2006	Inorthro 02/17/2006	

FE Sent For:

<END>

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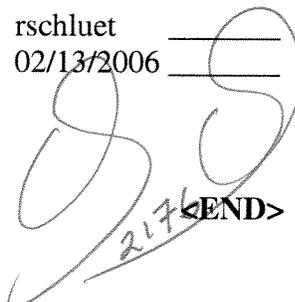
Instructions:

See Attached

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 02/10/2006	wjackson 02/13/2006		_____ _____			
/1			rschluet 02/13/2006	_____ _____	sbasford 02/13/2006	sbasford 02/13/2006	

FE Sent For:


2/17/06 <END>

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/?	jkreye	1 WLj 2/13					

FE Sent For:

<END>

adon

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

→ Rep Montgomery — ml to AB892 2-10-06
 the earmarked amount to spread across exemptions
 and credits

AB8922038/1

① exemption in year one
 \$ of the exemption
 5% - rate for paid

② tax credit for 2 years after the one amount

ASA to

50530//
in Ev. 2-10

2005 ASSEMBLY BILL 892

due Mon
2-13

December 22, 2005 - Introduced by Representatives MONTGOMERY, DAVIS, GARD, LAMB, FREESE, RHOADES, FIELDS, GUNDERSON, ALBERS, VOS, NISCHKE and MUSSER, cosponsored by Senators KANAVAS, JAUCH, LEIBHAM, HARS DORF, STEPP, SCHULTZ, KEDZIE and OLSEN. Referred to Committee on Energy and Utilities.

re yr

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)

2 (a) 10. and 77.92 (4); and **to create** 71.07 (5e), 71.10 (4) (gy), 71.28 (5e), 71.30

3 (3) (es), 71.47 (5e) and 71.49 (1) (es) of the statutes; **relating to:** an income and

4 franchise tax credit for ~~sales and use taxes paid on the purchase of~~ Internet

5 equipment used in the broadband market.

and a sales and use tax exemption

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit for Internet equipment used in the broadband market. The amount of the credit is equal to the the amount of sales and use taxes that the taxpayer paid in the taxable year on the purchase of Internet equipment used in the broadband market to provide Internet availability to areas of the state that are not served by a broadband service provider or are served by not more than one broadband service provider, as determined by the Department of Commerce (department). The total amount of the credits that may be claimed by all taxpayers is \$7,500,000. A taxpayer may only claim the credit if the taxpayer certifies to the department that the taxpayer will, within 24 months from the bill's effective date, make an investment that is reasonable calculated to increase Internet availability in this state and in an amount equal to at least 20 percent of the amount of the sales and use taxes that the taxpayer paid during the 12-month period beginning on the bill's effective date on the purchase of Internet equipment used in the broadband market.

ASSEMBLY BILL 892

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:

beginning in the first taxable year following the taxable year in which the claimant claims an exemption under s. 770.54(48)

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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:

71.07 (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, a claimant may claim as a credit against the taxes imposed under ss. 71.02 and 71.08, up to the amount of those taxes, ~~an amount that is equal to~~ the amount of the taxes imposed under subchs. III and V of ch. 77 that the claimant paid in the taxable year on the purchase of Internet equipment used in the broadband market to provide Internet availability to areas of the state that are not served by a broadband service provider or are served by not more than one broadband service provider, as determined by the department of commerce.

certified by the department of commerce
claimed as an exemption under s. 770.54(48)
in each taxable year for 2 years

ASSEMBLY BILL 892

satisfies
satisfies the requirements under 507754(48)

1 (c) *Limitations.* 1. No credit may be allowed under this subsection unless the
 2 claimant certifies to the department of commerce, in the manner prescribed by the
 3 department, that the claimant will, within 24 months after the effective date of this
 4 subdivision [revisor inserts date], make an investment that is reasonably
 5 calculated to increase Internet availability in this state and in an amount equal to
 6 at least 20 percent of the amount the claimant paid in taxes imposed under subchs.
 7 III and V of ch. 77 on the purchase of Internet equipment used in the broadband
 8 market during the 12-month period beginning on the effective date of this
 9 subdivision [revisor inserts date]. The claimant shall, within 60 days after the end
 10 of the year in which the investment is made, file a report with the department of
 11 administration that provides a detailed description of the investment, including the
 12 amount invested. The department of administration shall provide copies of the
 13 report to the department of commerce, the department of revenue, and the public
 14 service commission.

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

23 3. The total amount of the credits that may be claimed by all claimants under
 24 this subsection and ss. 71.28 (5e) *and exemption* and 71.47 (5e) is \$7,500,000, as determined by the
 25 department of commerce. *and 77054(48)*

ASSEMBLY BILL 892**SECTION 2**

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

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

4 71.10 (4) (gy) Internet equipment credit under s. 71.07 (5e).[✓]

5 ~~**SECTION 4.** 71.21 (4) of the statutes is amended to read:~~

6 ~~71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
7 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), and (5b), and (5e) and passed
8 through to partners shall be added to the partnership's income.~~

9 ~~**SECTION 5.** 71.26 (2) (a) of the statutes is amended to read:~~

10 ~~71.26 (2) (a) *Corporations in general*. The “net income” of a corporation means
11 the gross income as computed under the Internal Revenue Code as modified under
12 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
13 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
14 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
15 under this paragraph at the time that the taxpayer first claimed the credit plus the
16 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
17 (1ds), (1dx), (3g), (3n), (3t), and (5b), and (5e) and not passed through by a
18 partnership, limited liability company, or tax-option corporation that has added that
19 amount to the partnership's, limited liability company's, or tax-option corporation's
20 income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or
21 other disposition of assets the gain from which would be wholly exempt income, as
22 defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and
23 minus deductions, as computed under the Internal Revenue Code as modified under
24 sub. (3), plus or minus, as appropriate, an amount equal to the difference between
25 the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or~~

ASSEMBLY BILL 892

SECTION 5

beginning in the first taxable year following the taxable year in which the claimant claims an exemption under § 77054(48);

INSERT
5-2

1 otherwise disposed of in a taxable transaction during the taxable year, except as
2 provided in par. (b) and s. 71.45 (2) and (5).

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

4 71.28 (5e) INTERNET EQUIPMENT CREDIT. (a) *Definitions.* In this subsection:

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

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

9 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
10 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the
11 amount of those taxes, *an amount that is equal to the amount of the taxes imposed*
12 *in each taxable year for 2 years* ~~under subchs. III and V of ch. 77 that the claimant paid in the taxable year on the~~
13 ~~purchase of Internet equipment used in the broadband market to provide Internet~~
14 ~~availability to areas of the state that are not served by a broadband service provider~~
15 ~~or are served by not more than one broadband service provider, as determined by the~~
16 ~~department of commerce.~~

17 (c) *Limitations.* 1. No credit may be allowed under this subsection unless the
18 claimant ~~certifies to the department of commerce, in the manner prescribed by the~~
19 ~~department, that the claimant will, within 24 months after the effective date of this~~
20 ~~subdivision [revisor inserts date], make an investment that is reasonably~~
21 ~~calculated to increase Internet availability in this state and in an amount equal to~~
22 ~~at least 20 percent of the amount the claimant paid in taxes imposed under subchs.~~
23 ~~III and V of ch. 77 on the purchase of Internet equipment used in the broadband~~
24 ~~market during the 12-month period beginning on the effective date of this~~
25 ~~subdivision [revisor inserts date]. The claimant shall, within 60 days after the end~~

claimed as an exemption under § 77054(48)

certified by the department of commerce

ASSEMBLY BILL 892

SECTION 6

1 of the year in which the investment is made, file a report with the department of
 2 administration that provides a detailed description of the investment, including the
 3 amount invested. The department of administration shall provide copies of the
 4 report to the department of commerce, the department of revenue, and the public
 5 service commission. *satisfies the requirements under 77054(48)*

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

14 3. The total amount of the credits that may be claimed by all claimants under
 15 this subsection and ss. 71.07 (5e) *and* 71.47 (5e) is \$7,500,000, as determined by the
 16 department of commerce. *and 77054(48)*

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

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

20 71.30 (3) (es) Internet equipment credit under s. 71.28 (5e).

21 **SECTION 8.** 71.34 (1) (g) of the statutes is amended to read:

22 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
 23 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
 24 (3n), (3t), *and* (5b), *and* (5e) and passed through to shareholders.

25 **SECTION 9.** 71.45 (2) (a) 10. of the statutes is amended to read:

ASSEMBLY BILL 892

beginning in the first taxable year following the taxable year in which the claimant claims an exemption under s. 7705(48)

SECTION 9

INSERT
7-6

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

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

8 **71.47 (5e) INTERNET EQUIPMENT CREDIT.** (a) *Definitions.* In this subsection:

- 9 1. "Claimant" means a person who files a claim under this subsection.
- 10 2. "Internet equipment used in the broadband market" means equipment that
- 11 is capable of transmitting data packets or Internet signals at speeds of at least 200
- 12 kilobits per second in either direction.

13 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
14 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the
15 amount of those taxes, *in each taxable year for 2 years,* an amount that is equal to the amount of the taxes imposed
16 ~~under subchs. III and V of ch. 77~~ that the claimant paid in the taxable year on the

17 ~~purchase of Internet equipment used in the broadband market to provide Internet~~
18 ~~availability to areas of the state that are not served by a broadband service provider~~
19 ~~or are served by not more than one broadband service provider, as determined by the~~
20 ~~department of commerce.~~ *claimed as an exemption under s. 7705(48)*

21 (c) *Limitations.* 1. No credit may be allowed under this subsection unless the
22 claimant certifies to the department of commerce, in the manner prescribed by the
23 department, that the claimant will, within 24 months after the effective date of this
24 subdivision [revisor inserts date], make an investment that is reasonably
25 calculated to increase Internet availability in this state and in an amount equal to

certified by the department of commerce

ASSEMBLY BILL 892

SECTION 10

1 at least 20 percent of the amount the claimant paid in taxes imposed under subchs.
 2 III and V of ch. 77 on the purchase of Internet equipment used in the broadband
 3 market during the 12-month period beginning on the effective date of this
 4 subdivision [revisor inserts date]. The claimant shall, within 60 days after the end
 5 of the year in which the investment is made, file a report with the department of
 6 administration that provides a detailed description of the investment, including the
 7 amount invested. The department of administration shall provide copies of the
 8 report to the department of commerce, the department of revenue, and the public
 9 service commission. *satisfies the requirements under 77054(48)*

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

18 3. The total amount of the credits that may be claimed by all claimants under
 19 this subsection and ss. 71.07 (5e) *and* 71.28 (5e) *is* \$7,500,000, as determined by the
 20 department of commerce. *and 77054(48)*

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

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

24 71.49 (1) (es) Internet equipment credit under s. 71.47 (5e).

25 **SECTION 12.** 77.92 (4) of the statutes is amended to read:

INSERT 8-24

ASSEMBLY BILL 892

1 77.92 (4) "Net business income," with respect to a partnership, means taxable
 2 income as calculated under section 703 of the Internal Revenue Code; plus the items
 3 of income and gain under section 702 of the Internal Revenue Code, including taxable
 4 state and municipal bond interest and excluding nontaxable interest income or
 5 dividend income from federal government obligations; minus the items of loss and
 6 deduction under section 702 of the Internal Revenue Code, except items that are not
 7 deductible under s. 71.21; plus guaranteed payments to partners under section 707
 8 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
 9 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), ~~and (5b), and (5e)~~; and
 10 plus or minus, as appropriate, transitional adjustments, depreciation differences,
 11 and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding
 12 income, gain, loss, and deductions from farming. "Net business income," with respect
 13 to a natural person, estate, or trust, means profit from a trade or business for federal
 14 income tax purposes and includes net income derived as an employee as defined in
 15 section 3121 (d) (3) of the Internal Revenue Code.

INSERT
9-15

SECTION 13. Nonstatutory provisions.

(CS)

AND EXEMPTION

(1) INTERNET EQUIPMENT CREDIT 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 under sections 71.07 (5e), 71.28 (5e), ~~and~~ 71.47 (5e) of the
 statutes.

and exemption

and
77059(48)

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

and exemption that

and exemption

and exemption

ASSEMBLY BILL 892**SECTION 13**

1 business is likely to increase the availability of Internet service in an area of this
2 state that lacks adequate service, as determined by the department. The total
3 amount of tax credits *and exemptions* allocated to all eligible businesses may not exceed \$7,500,000.

4 The department of commerce shall complete the certifications and determinations
5 under this paragraph and paragraph (a) not later than the first day of the 7th month
6 after the effective date of this subsection.

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

22 1. The committee approves the department of commerce's certifications and
23 determinations.

ASSEMBLY BILL 892

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

4 (d) Notwithstanding section 227.24 of the statutes, the department of
5 commerce may promulgate emergency rules necessary to administer this subsection.
6 Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules
7 promulgated under this subsection remain in effect until the department of
8 commerce notifies the department of revenue of the department of commerce's
9 certifications and determinations, or the first day of the 13th month after the
10 effective date of this subsection, whichever is sooner. Notwithstanding section
11 227.24 (1) (a) and (3) of the statutes, the department of commerce is not required to
12 provide evidence that promulgating a rule under this subsection as an emergency
13 rule is necessary for the preservation of the public peace, health, safety, or welfare
14 and is not required to provide a finding of emergency for a rule promulgated under
15 this subsection.

SECTION 14. Initial applicability.

16
17 (1) This act first applies to taxable years beginning on January 1 of the year
18 in which this subsection takes effect, except that if this subsection takes effect after
19 July 31 this act first applies to taxable years beginning on January 1 of the year
20 following the year in which this subsection takes effect.

(END)

21
SP (B) (C)
sec #

Effective date

(H) The treatment of section 70.54(47) of the statutes takes effect on the first day of the 2nd month beginning after publication

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0530/?ins
JK:.....

Insert 5 - 2

1 SECTION ~~1~~ 71.21 (4) of the statutes, as affected by 2005 Wisconsin Act 74, is
2 amended to read:

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

History: 2005 a. 74.

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

8 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
9 the gross income as computed under the Internal Revenue Code as modified under
10 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
11 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
12 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
13 under this paragraph at the time that the taxpayer first claimed the credit plus the
14 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
15 (1ds), (1dx), (3g), (3n), (3t), (5b), (5e), and (5g) and not passed through by a
16 partnership, limited liability company, or tax-option corporation that has added that
17 amount to the partnership's, limited liability company's, or tax-option corporation's
18 income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or
19 other disposition of assets the gain from which would be wholly exempt income, as
20 defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and
21 minus deductions, as computed under the Internal Revenue Code as modified under
22 sub. (3), plus or minus, as appropriate, an amount equal to the difference between
23 the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or

1 otherwise disposed of in a taxable transaction during the taxable year, except as
2 provided in par. (b) and s. 71.45 (2) and (5).

History: 2005 a. 74.

Insert 7 - 6

3 ~~SECTION 3.~~ 71.34 (1) (g) of the statutes, as affected by 2005 Wisconsin Act 74,
4 is amended to read:

5 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
6 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
7 (3n), (3t), (5b), (5e), and (5g) and passed through to shareholders.

History: 2005 a. 74.

8 ~~SECTION 4.~~ 71.45 (2) (a) 10. of the statutes, as affected by 2005 Wisconsin Act
9 74, is amended to read:

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

History: 2005 a. 74.

Insert 9 - 15

16 ~~SECTION 5.~~ 77.92 (4) of the statutes, as affected by 2005 Wisconsin Act 74, is
17 amended to read:

18 77.92 (4) "Net business income," with respect to a partnership, means taxable
19 income as calculated under section 703 of the Internal Revenue Code; plus the items
20 of income and gain under section 702 of the Internal Revenue Code, including taxable
21 state and municipal bond interest and excluding nontaxable interest income or

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

History: 2005 a. 74.

12

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2005 ASSEMBLY BILL 892**

January 17, 2006 – Offered by COMMITTEE ON ENERGY AND UTILITIES.

SECRET
8-24

1 AN ACT *to create* 77.51 (6m) and 77.54 (48) of the statutes; **relating to:** a sales
2 and use tax exemption for Internet equipment that is used in the broadband
3 market.

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

4 SECTION ~~1~~ 77.51 (6m) of the statutes is created to read:

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

8 SECTION ~~2~~ 77.54 (48) of the statutes is created to read:

9 77.54 (48) (a) The gross receipts from the sale of and the storage, use, or other
10 consumption of Internet equipment used in the broadband market, if the purchaser
11 certifies to the department of commerce, in the manner prescribed by the

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8-29

1 department, that the purchaser will, within 24 months after the effective date of this
2 paragraph [revisor inserts date], make an investment that is reasonably
3 calculated to increase broadband Internet availability in this state and in an amount
4 equal to at least 20 percent of the amount the purchaser would have paid in taxes
5 imposed under this subchapter for Internet equipment used in the broadband
6 market during the 12-month period beginning on the effective date of this paragraph
7 [revisor inserts date].

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

end of 8-29

SECTION 3. Nonstatutory provisions.

(1) INTERNET EQUIPMENT EXEMPTION PROGRAM.

AND TAX CREDIT

(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 the sales and use tax exemptions under section 77.54 (48) (a) 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 the
exemption that the business may claim, subject to paragraph (c). The department
of commerce may not allocate tax exemptions to a business unless the allocation of
the exemptions to the business is likely to increase the availability of broadband
Internet service areas of this state that are not served by a broadband Internet

1 service provider or are served by not more than one broadband Internet service
2 provider, as determined by the department. The total amount of tax exemptions
3 under section 77.54 (48) (a) of the statutes allocated to all eligible businesses may not
4 exceed \$7,500,000. The department of commerce shall complete the certifications
5 and determinations under this paragraph and paragraph (a) not later than the first
6 day of the 7th month after the effective date of this subsection.

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

22 1. The committee approves the department of commerce's certifications and
23 determinations.

Kreye, Joseph

From: Raschka, Adam
Sent: Thursday, February 16, 2006 2:02 PM
To: Kreye, Joseph
Subject: RE: LRBs0530/1

Thanks Joe. I'll send them over first thing in the morning. The Sgt.'s office has closed for the day.

From: Kreye, Joseph
Sent: Thursday, February 16, 2006 2:01 PM
To: Raschka, Adam
Subject: RE: LRBs0530/1

Adam,

The carry forward provisions are in the sub by way of cross-references to s. 71.28 (4) (f). See, for example, page 3, lines 1 and 2 of LRBs0530/1.

I'll make the other changes. Please send the stripes back for the sub and I'll redraft it.

Joe

Joseph T. Kreye
Senior Legislative Attorney
Legislative Reference Bureau
(608) 266-2263

From: Raschka, Adam
Sent: Thursday, February 16, 2006 1:56 PM
To: Kreye, Joseph
Subject: LRBs0530/1

Joe,

When the bill was originally drafted as a credit, before it was an exemption and now a hybrid of a credit and exemption, I believe there was a "carry forward" provision which would allow the claimant to file for the income tax credits into the future. Can we please have this reinserted into LRBs0530/1?

Two minor changes for the sake of consistency with the sub already adopted:

Page 9, line 2, before "Internet service" insert "broadband". This is in the language adopted by the committee in s0430/1 found on page 2, line 24.

Also on page 9, lines 2 and 3, strike "in an area of this state that lacks adequate service" and insert "areas of this state that are not served by a broadband Internet service provider or are served by not more than one broadband Internet service provider" This change is also to stay true to the amendment adopted by the committee, page 2, line 25 to page 3, line 3.

Please give me a call if you have any questions.

Thanks,

Adam

Adam Raschka

Office of Representative Phil Montgomery
Chair - Assembly Energy & Utilities Committee
608-266-5840



State of Wisconsin
2005 - 2006 LEGISLATURE

LRBs0530/1
JK&CTS:lmk/wlj/jld:rs

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RM not R

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2005 ASSEMBLY BILL 892

in 2-17-06
due Mon 2-20

Regen

1 AN ACT *to amend* 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)
2 (a) 10. and 77.92 (4); and *to create* 71.07 (5e), 71.10 (4) (gy), 71.28 (5e), 71.30
3 (3) (es), 71.47 (5e), 71.49 (1) (es), 77.51 (6m) and 77.54 (48) of the statutes;
4 **relating to:** an income and franchise tax credit and a sales and use tax
5 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:

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

7 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
8 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), and (5d), and (5e)
9 and not passed through by a partnership, limited liability company, or tax-option
10 corporation that has added that amount to the partnership's, company's, or
11 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

12 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.

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

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

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

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

7 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
8 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), (5e), and (5g) and passed
9 through to partners shall be added to the partnership's income.

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

12 71.26 (2) (a) *Corporations in general*. The “net income” of a corporation means
13 the gross income as computed under the Internal Revenue Code as modified under
14 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
15 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
16 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
17 under this paragraph at the time that the taxpayer first claimed the credit plus the
18 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
19 (1ds), (1dx), (3g), (3n), (3t), (5b), (5e), and (5g) and not passed through by a
20 partnership, limited liability company, or tax-option corporation that has added that
21 amount to the partnership's, limited liability company's, or tax-option corporation's
22 income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or
23 other disposition of assets the gain from which would be wholly exempt income, as
24 defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and
25 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

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

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

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

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

9 71.30 (3) (es) Internet equipment credit under s. 71.28 (5e).

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

12 71.34 (1) (g) An addition shall be made for credits computed by a tax–option
13 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
14 (3n), (3t), (5b), (5e), and (5g) and passed through to shareholders.

15 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2005 Wisconsin Act
16 74, is amended to read:

17 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
18 computed under s. 71.47 (1dd) to (1dx), (3n), (5b), (5e), and (5g) and not passed
19 through by a partnership, limited liability company, or tax–option corporation that
20 has added that amount to the partnership’s, limited liability company’s, or
21 tax–option corporation’s income under s. 71.21 (4) or 71.34 (1) (g) and the amount of
22 credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

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

24 71.47 (5e) INTERNET EQUIPMENT CREDIT. (a) *Definitions.* In this subsection:

25 1. “Claimant” means a person who files a claim under this subsection.

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

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

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

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

20 3. The total amount of the credits and exemptions that may be claimed by all
21 claimants under this subsection and ss. 71.07 (5e), 71.28 (5e), and 77.54 (48) is
22 \$7,500,000, as determined by the department of commerce.

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

25 **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:

1 77.92 (4) “Net business income,” with respect to a partnership, means taxable
2 income as calculated under section 703 of the Internal Revenue Code; plus the items
3 of income and gain under section 702 of the Internal Revenue Code, including taxable
4 state and municipal bond interest and excluding nontaxable interest income or
5 dividend income from federal government obligations; minus the items of loss and
6 deduction under section 702 of the Internal Revenue Code, except items that are not
7 deductible under s. 71.21; plus guaranteed payments to partners under section 707
8 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
9 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), (5b), (5e), and (5g);
10 and plus or minus, as appropriate, transitional adjustments, depreciation
11 differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but
12 excluding income, gain, loss, and deductions from farming. “Net business income,”
13 with respect to a natural person, estate, or trust, means profit from a trade or
14 business for federal income tax purposes and includes net income derived as an
15 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

16 **SECTION 15. Nonstatutory provisions.**

17 (1) INTERNET EQUIPMENT CREDIT AND EXEMPTION PROGRAM.

18 (a) Not later than 30 days after the effective date of this subsection, the
19 department of commerce shall implement a program for certifying businesses as
20 eligible for tax credits and exemptions under sections 71.07 (5e), 71.28 (5e), 71.47
21 (5e), and 77.54 (48) of the statutes.

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

broadband

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

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

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

*areas of this state that are not served by a broadband Internet service
 provider or are served by not more than one broadband Internet service
 provider*

NO
4

