2005 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB483)

Received: **03/30/2006**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **faith russell**

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

Drafter: **jkreye**

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Addl. Drafters: **csundber**

Subject: **Tax, Business - credits**

Extra Copies:

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Pre Topic:

No specific pre topic given

Topic:

Internet equipment in broadband market

Instructions:

See Attached

Drafting History:

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/?	jkreye	/1 wlj 3/30	3/30 pb	3/30 pg			

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2005 – 2006 LEGISLATURE

LRBs0661/3
JK&CTS:all:rs
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Senate

~~ASSEMBLY~~ SUBSTITUTE AMENDMENT ,
TO 2005 ~~ASSEMBLY~~ BILL ~~892~~ 483 ✓

Senate

in 3-30-06
NOW

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); ***to repeal and recreate*** 71.08 (1) (intro.) and 71.08 (1)
3 (intro.); and ***to create*** 71.07 (5e), 71.10 (4) (gy), 71.28 (5e), 71.30 (3) (es), 71.47
4 (5e), 71.49 (1) (es), 77.51 (6m) and 77.54 (48) of the statutes; **relating to:** an
5 income and franchise tax credit and a sales and use tax exemption for Internet
6 equipment used in the broadband market.

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

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

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

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

2 71.07 **(5e)** INTERNET EQUIPMENT CREDIT. (a) *Definitions.* In this subsection:

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

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

7 (b) *Filing claims.* Subject to the limitations provided in this subsection and
8 subject to 2005 Wisconsin Act .... (this act), section 17, beginning in the first taxable
9 year following the taxable year in which the claimant claims an exemption under s.
10 77.54 (48), a claimant may claim as a credit against the taxes imposed under ss. 71.02
11 and 71.08, up to the amount of those taxes, in each taxable year for 2 years, the
12 amount certified by the department of commerce that the claimant claimed as an
13 exemption under s. 77.54 (48).

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

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

3. The total amount of the credits and exemptions that may be claimed by all claimants under this subsection and ss. 71.28 (5e), 71.47 (5e), and 77.54 (48) is $7,500,000, as determined by the department of commerce.

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

SECTION 3. 71.08 (1) (intro.) of the statutes, as affected by 2005 Wisconsin Acts 25 and 177, is repealed and recreated to read:

71.08 **(1)** IMPOSITION. (intro.) If the tax imposed on a natural person, married couple filing jointly, trust, or estate under s. 71.02, not considering the credits under ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3n), (3s), (3t), (5b), (5d), (5e), (6), (6e), and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m), (3), (3n), and (3t) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m), (3), (3n), and (3t) and subchs. VIII and IX and payments to other states under s. 71.07 (7), is less than the tax under this section, there is imposed on that natural person, married couple filing jointly, trust or estate, instead of the tax under s. 71.02, an alternative minimum tax computed as follows:

SECTION 4. 71.08 (1) (intro.) of the statutes, as affected by 2005 Wisconsin Acts 25, 177 and .... (Assembly Bill 208), is repealed and recreated to read:

71.08 **(1)** IMPOSITION. (intro.) If the tax imposed on a natural person, married couple filing jointly, trust, or estate under s. 71.02, not considering the credits under ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3c), (3e), (3m), (3n), (3s), (3t), (3w), (5b), (5d), (5e), (6), (6e), and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m), (3), (3n), (3t), and (3w), and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m), (3), (3n), (3t), and (3w), and subchs. VIII and IX and payments to other states under s. 71.07 (7), is less than the tax under this

section, there is imposed on that natural person, married couple filing jointly, trust or estate, instead of the tax under s. 71.02, an alternative minimum tax computed as follows:

SECTION 5. 71.10 (4) (gy) of the statutes is created to read:

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

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

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

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

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

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

6 **SECTION 8.** 71.28 (5e) of the statutes is created to read:

7 71.28 **(5e)** INTERNET EQUIPMENT CREDIT. (a) *Definitions.* In this subsection:

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

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

12 (b) *Filing claims.* Subject to the limitations provided in this subsection and
13 subject to 2005 Wisconsin Act .... (this act), section 17, beginning in the first taxable
14 year following the taxable year in which the claimant claims an exemption under s.
15 77.54 (48), a claimant may claim as a credit against the taxes imposed under s. 71.23,
16 up to the amount of those taxes, in each taxable year for 2 years, the amount certified
17 by the department of commerce that the claimant claimed as an exemption under s.
18 77.54 (48).

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

21 2. Partnerships, limited liability companies, and tax–option corporations may
22 not claim the credit under this subsection, but the eligibility for, and the amount of,
23 the credit are based on their use of sales and use tax exemptions certified by the
24 department of commerce as described under par. (b). A partnership, limited liability
25 company, or tax–option corporation shall compute the amount of credit that each of

its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax–option corporations may claim the credit in proportion to their ownership interests.

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

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

SECTION 9. 71.30 (3) (es) of the statutes is created to read:

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

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

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

SECTION 11. 71.45 (2) (a) 10. of the statutes, as affected by 2005 Wisconsin Act 74, is amended to read:

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

SECTION 12. 71.47 (5e) of the statutes is created to read:

1 71.47 **(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 and
7 subject to 2005 Wisconsin Act .... (this act), section 17, beginning in the first taxable
8 year following the taxable year in which the claimant claims an exemption under s.
9 77.54 (48), a claimant may claim as a credit against the taxes imposed under s. 71.43,
10 up to the amount of those taxes, in each taxable year for 2 years, the amount certified
11 by the department of commerce that the claimant claimed as an exemption under s.
12 77.54 (48).
13 (c) *Limitations.* 1. No credit may be allowed under this subsection unless the
14 claimant satisfies the requirements under s. 77.54 (48).
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 use of sales and use tax exemptions certified by the
18 department of commerce as described under par. (b). A partnership, limited liability
19 company, or tax–option corporation shall compute the amount of credit that each of
20 its partners, members, or shareholders may claim and shall provide that information
21 to each of them. Partners, members of limited liability companies, and shareholders
22 of tax–option corporations may claim the credit in proportion to their ownership
23 interests.

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

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

SECTION 13. 71.49 (1) (es) of the statutes is created to read:

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

SECTION 14. 77.51 (6m) of the statutes is created to read:

77.51 **(6m)** For purposes of s. 77.54 (48), "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.

SECTION 15. 77.54 (48) of the statutes is created to read:

77.54 **(48)** (a) Subject to 2005 Wisconsin Act .... (this act), section 17, the gross receipts from the sale of and the storage, use, or other consumption of Internet equipment used in the broadband market, if the purchaser certifies to the department of commerce, in the manner prescribed by the department of commerce, that the purchaser will, within 24 months after the effective date of this paragraph .... [revisor inserts date], make an investment that is reasonably calculated to increase broadband Internet availability in this state.

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

1 **SECTION 16.** 77.92 (4) of the statutes, as affected by 2005 Wisconsin Act 74, is
2 amended to read:

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

18 **SECTION 17. Nonstatutory provisions.**

19 (1) INTERNET EQUIPMENT CREDIT AND EXEMPTION PROGRAM.

20 (a) Not later than 30 days after the effective date of this subsection, the
21 department of commerce shall implement a program for certifying businesses as
22 eligible for tax credits and exemptions under sections 71.07 (5e), 71.28 (5e), 71.47
23 (5e), and 77.54 (48) of the statutes.

24 (b) If the department of commerce certifies a business as eligible under
25 paragraph (a), the department shall determine the maximum amount of tax credits

1 and exemptions that the business may claim, subject to paragraph (c). The amount
2 of the tax credits allocated to each business for each year in which the business may
3 claim credits shall equal the amount of the exemptions allocated to the business. The
4 department of commerce may not allocate tax credits and exemptions to a business
5 unless the allocation of tax credits and exemptions to the business is likely to
6 increase the availability of broadband Internet service in areas of this state that are
7 not served by a broadband Internet service provider or are served by not more than
8 one broadband Internet service provider, as determined by the department. The
9 total amount of exemptions from the taxes imposed under subchapter III of chapter
10 77 of the statutes and tax credits allocated to all eligible businesses may not exceed
11 $7,500,000. The department of commerce shall complete the certifications and
12 determinations under this paragraph and paragraph (a) not later than the first day
13 of the 7th month after the effective date of this subsection.

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

1 review the proposal, the department of commerce may not notify the department of
2 revenue of the department of commerce's certifications and determinations unless
3 one of the following is true:

4 1. The committee approves the department of commerce's certifications and
5 determinations.

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

9 (d) Notwithstanding section 227.24 of the statutes, the department of
10 commerce may promulgate emergency rules necessary to administer this subsection.
11 Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules
12 promulgated under this subsection remain in effect until the department of
13 commerce notifies the department of revenue of the department of commerce's
14 certifications and determinations, or the first day of the 13th month after the
15 effective date of this subsection, whichever is sooner. Notwithstanding section
16 227.24 (1) (a) and (3) of the statutes, the department of commerce is not required to
17 provide evidence that promulgating a rule under this subsection as an emergency
18 rule is necessary for the preservation of the public peace, health, safety, or welfare
19 and is not required to provide a finding of emergency for a rule promulgated under
20 this subsection.

21 (2) RECONCILIATION PROVISION. If the amendment of section 71.08 (1) (intro.) of
22 the statutes by 2005 Assembly Bill 208 takes effect before the effective date of this
23 subsection, the repeal and recreation of section 71.08 (1) (intro.) of the statutes by
24 SECTION 3 of this act is void. If the amendment of section 71.08 (1) (intro.) of the
25 statutes by 2005 Assembly Bill 208 does not take effect before the effective date of

1 this subsection, or if 2005 Assembly Bill 208 is not enacted into law, the repeal and
2 recreation of section 71.08 (1) (intro.) of the statutes by SECTION 4 of this act is void.
3 **SECTION 18. Effective dates.** This act takes effect on December 1, 2006,
4 except as follows:
5 (1) The treatment of section 77.54 (48) of the statutes takes effect on July 1,
6 2007.
7 **(END)**