

Oct. 5, 2006



**TED KANAVAS**  
STATE SENATOR

To: Joseph T. Kragy

From: Michael Richards, office  
of Senator Ted Kanavas

Re: Drafting Revisions for  
LPB 0013/P1

Call me if you have any  
questions.

Best,  
Michael Richards



TED KANAVAS  
STATE SENATOR

October 5, 2006

Revisions to LRB 0013/P1:

- \* pg. 2 - Line 20: instead of saying all of the following, revise that to say at least two from all sub-categories, except sub-category three, which should include at least 4 from this subcategory.
- \* from pg. 2 line 21 through pg. 3, line 14 create three sub-categories.

(a.) create sub-category # 1:

1. Low-emission building materials, carpets, and paints
2. Sustainable landscaping
3. An electronic waste recycling program, as defined by the Department

(b.) create sub-category # 2:

1. catalytic converters on back-up generators
2. usage of photovoltaics
3. usage of heat pumps
4. usage of evaporative cooling

(c.) create sub-category # 3 - [Again must include at least four from this sub-category.]

- Should state that equipment or equipment components that have a reduced amount, or none of the following -

STATE CAPITOL

P.O. BOX 7882 ♦ MADISON, WI 53707-7882  
(608) 266-9174 ♦ (800) 863-8883 ♦ FAX: (608) 264-6914



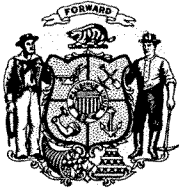
Cont.

1. Mercury
2. Cadmium
3. Lead
4. Chromium VI
5. Polybrominated biphenyls
6. Polybrominated diphenyl ether

These changes should be made to the entire document.

Any questions, please call.

Michael Paul  
266-9174



State of Wisconsin  
2007 - 2008 LEGISLATURE

OTHER

LRB-0013/PI

JKjldpg

stays  
& CTS

PD  
MmotK

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

m 10-5-06

D-2

Regen

1 AN ACT *to amend* 71.05 (6) (a) 15., 71.08 (1) (intro.), 71.21 (4), 71.26 (2) (a), 71.34  
 2 (1) (g), 71.45 (2) (a) 10. and 77.92 (4); and *to create* 71.07 (5i), 71.10 (4) (gab),  
 3 71.28 (5i), 71.30 (3) (dq), 71.47 (5i) and 71.49 (1) (dq) of the statutes; **relating**  
 4 **to:** creating an income and franchise tax credit for constructing and operating  
 5 a data center that is designed for maximum energy efficiency and minimum  
 6 environmental impact and providing an exemption from rule-making  
 7 procedures.

*Analysis by the Legislative Reference Bureau*

This bill creates an income and franchise tax credit in an amount equal to the amount a person paid in the taxable year for items that are either energy efficient or have a minimal environmental impact and that are used to construct or operate a "green data center." Under the bill, a green data center is a repository for the storage, management, and dissemination of data, if the mechanical, lighting, electrical, and computer systems of the real property in which the repository is located are designed for maximum energy efficiency and minimum environmental impact.

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:*

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

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

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

8           71.07 (5i) GREEN DATA CENTER CREDIT. (a) *Definitions.* In this subsection:

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

10          2. "Green data center" means a repository for the storage, management, and  
11          dissemination of data, if the mechanical, lighting, electrical, and computer systems  
12          of the real property in which the repository is located are designed for maximum  
13          energy efficiency and minimum environmental impact.

14          (b) *Filing claims.* Subject to the limitations provided in this subsection and  
15          2007 Wisconsin Act .... (this act), section 14, for taxable years beginning after June  
16          30, 2007, and before July 1, 2009, a claimant may claim as a credit against the taxes  
17          imposed under s. 71.02 or 71.08, up to the amount of the taxes, the amount that the  
18          claimant paid in the taxable year to construct and operate a green data center if the

19          ~~amounts are paid for either energy efficient items or items that have minimal~~  
20          ~~environmental impact, including all of the following:~~

21          ~~1. Low-emission building materials, carpets and paints.~~

*including*  
1. at least 2 of the following:

2. at least 2 of the following:

1 2. Sustainable landscaping.

2 3. Waste recycling.

3 4. Catalytic converters on back-up generators.

4 5. Alternative energy technologies, including photovoltaics, heat pumps, and  
5 evaporative cooling.

6 6. Hybrid or electric vehicles.

7 7. Equipment or equipment components that have a reduced minimum amount, or  
8 none, of the following: at least 4 of

- 9 a. Mercury.
- 10 b. Cadmium.
- 11 c. Lead.
- 12 d. Chromium VI.
- 13 e. Polybrominated biphenyls.
- 14 f. Polybrominated diphenyl ether.

15 (c) *Limitations.* 1. The maximum amount of all credits that may be claimed  
16 under this subsection and ss. 71.28 (5i) and 71.47 (5i) is \$2,000,000. No claimant may  
17 claim a credit under this subsection unless the claimant submits with the claimant's  
18 return a copy of the claimant's certification for credits under 2007 Wisconsin Act ....

19 (this act), section 14.

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

an electronic program, as defined by the department

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

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

5 **SECTION 3.** 71.08 (1) (intro.) of the statutes is amended to read:

6 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married  
7 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under  
8 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), ~~(3e)~~, ~~(3e)~~, (3m),  
9 (3n), (3s), (3t), (3w), (5b), (5d), (5e), (5f), (5i), (6), (6e), and (9e), 71.28 (1dd), (1de), (1di),  
10 (1dj), (1dL), (1ds), (1dx), (1fd), (2m), (3), (3n), (3t), and (3w), and 71.47 (1dd), (1de),  
11 (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m), (3), (3n), (3t), and (3w), and subchs. VIII  
12 and IX and payments to other states under s. 71.07 (7), is less than the tax under this  
13 section, there is imposed on that natural person, married couple filing jointly, trust  
14 or estate, instead of the tax under s. 71.02, an alternative minimum tax computed  
15 as follows:

16 **SECTION 4.** 71.10 (4) (gab) of the statutes is created to read:

17 71.10 (4) (gab) Green data center credit under s. 71.07 (5i).

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

19 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),  
20 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), (5e), (5f), (5g), and (5h),  
21 and (5i) and passed through to partners shall be added to the partnership's income.

22 **SECTION 6.** 71.26 (2) (a) of the statutes is amended to read:

23 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means  
24 the gross income as computed under the Internal Revenue Code as modified under  
25 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit

1 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)  
2 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income  
3 under this paragraph at the time that the taxpayer first claimed the credit plus the  
4 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),  
5 (1ds), (1dx), (3g), (3n), (3t), (3w), (5b), (5e), (5f), (5g), and (5h), and (5i)✓ and not passed  
6 through by a partnership, limited liability company, or tax-option corporation that  
7 has added that amount to the partnership's, limited liability company's, or  
8 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount  
9 of losses from the sale or other disposition of assets the gain from which would be  
10 wholly exempt income, as defined in sub. (3) (L), if the assets were sold or otherwise  
11 disposed of at a gain and minus deductions, as computed under the Internal Revenue  
12 Code as modified under sub. (3), plus or minus, as appropriate, an amount equal to  
13 the difference between the federal basis and Wisconsin basis of any asset sold,  
14 exchanged, abandoned, or otherwise disposed of in a taxable transaction during the  
15 taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

16 **SECTION 7.** 71.28 (5i) of the statutes is created to read:

17 71.28 (5i) GREEN DATA CENTER CREDIT. (a) *Definitions.* In this subsection:

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

19 2. "Green data center" means a repository for the storage, management, and  
20 dissemination of data, if the mechanical, lighting, electrical, and computer systems  
21 of the real property in which the repository is located are designed for maximum  
22 energy efficiency and minimum environmental impact.

23 (b) *Filing claims.* Subject to the limitations provided in this subsection and  
24 2007 Wisconsin Act .... (this act), section 14, for taxable years beginning after June  
25 30, 2007, and before July 1, 2009, a claimant may claim as a credit against the taxes



1. at least 2 of the following:

for the following items that are used

1 imposed under s. 71.23, up to the amount of the taxes, the amount that the claimant

2 paid in the taxable year to construct and operate a green data center if the amounts

3 are paid for either energy efficient items or items that have minimal environmental

4 impact, including all of the following:

5 ~~1~~ <sup>a</sup> 10 Low-emission building materials, <sup>including</sup> carpets and paints.

6 ~~2~~ <sup>b</sup> 20 Sustainable landscaping.

7 ~~3~~ <sup>c</sup> 30 Waste recycling <sup>an electronic program, as defined by the department</sup>

8 ~~4~~ <sup>d</sup> 40 Catalytic converters on back-up generators.

9 ~~5~~ <sup>e</sup> 50 Alternative energy technologies, including photovoltaics, heat pumps, and

10 ~~6~~ <sup>f</sup> 60 evaporative cooling.

11 ~~7~~ 70 Hybrid or electric vehicles.

12 ~~8~~ <sup>3</sup> 80 Equipment or equipment components that have a <sup>reduced</sup> minimum amount, or  
13 none, of the following: <sup>at least 4 of</sup>

- 14 a. Mercury.
- 15 b. Cadmium.
- 16 c. Lead.
- 17 d. Chromium VI.
- 18 e. Polybrominated biphenyls.
- 19 f. Polybrominated diphenyl ether.

20 (c) *Limitations.* 1. The maximum amount of all credits that may be claimed  
 21 under this subsection and ss. 71.07 (5i) and 71.47 (5i) is \$2,000,000. No claimant may  
 22 claim a credit under this subsection unless the claimant submits with the claimant's  
 23 return a copy of the claimant's certification for credits under 2007 Wisconsin Act ....  
 24 (this act), section 14.

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

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

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

12           71.30 (3) (dq) Green data center credit under s. 71.28 (5i).

13           **SECTION 9.** 71.34 (1) (g) of the statutes is amended to read:

14           71.34 (1) (g) An addition shall be made for credits computed by a tax-option  
15 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),  
16 (3n), (3t), (3w), (5b), (5e), (5f), (5g), ~~and (5h)~~, and (5i) and passed through to  
17 shareholders.

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

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

25           **SECTION 11.** 71.47 (5i) of the statutes is created to read:

1. at least 2 of the following:

71.47 (5i) GREEN DATA CENTER CREDIT. (a) Definitions. In this subsection:

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

2. "Green data center" means a repository for the storage, management, and dissemination of data, if the mechanical, lighting, electrical, and computer systems of the real property in which the repository is located are designed for maximum energy efficiency and minimum environmental impact.

(b) Filing claims. Subject to the limitations provided in this subsection and 2007 Wisconsin Act .... (this act), section 14, for taxable years beginning after June 30, 2007, and before July 1, 2009, a claimant may claim as a credit against the taxes imposed under s. 71.43, up to the amount of the taxes, the amount that the claimant paid in the taxable year for the following items that are used to construct and operate a green data center, if the amounts

are paid for either energy efficient items or items that have minimal environmental impact, including all of the following:

1. Low-emission building materials, including carpets and paints.

2. Sustainable landscaping.

3. Waste recycling.

4. Catalytic converters on back-up generators.

5. Alternative energy technologies, including photovoltaics, heat pumps, and

evaporative cooling.

6. Hybrid or electric vehicles.

7. Equipment or equipment components that have a minimum amount, or none, of the following: at least 4 of

a. Mercury.

b. Cadmium.

c. Lead.

2. at least 2 of the following:

1 d. Chromium VI.

2 e. Polybrominated biphenyls.

3 f. Polybrominated diphenyl ether.

4 (c) *Limitations.* 1. The maximum amount of all credits that may be claimed  
5 under this subsection and ss. 71.07 (5i) and 71.28 (5i) is \$2,000,000. No claimant may  
6 claim a credit under this subsection unless the claimant submits with the claimant's  
7 return a copy of the claimant's certification for credits under 2007 Wisconsin Act ...  
8 (this act), section 14.✓

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

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

19 **SECTION 12.** 71.49 (1) (dq) of the statutes is created to read:

20 71.49 (1) (dq) Green data center credit under s. 71.47 (5i).

21 **SECTION 13.** 77.92 (4) of the statutes is amended to read:

22 77.92 (4) "Net business income," with respect to a partnership, means taxable  
23 income as calculated under section 703 of the Internal Revenue Code; plus the items  
24 of income and gain under section 702 of the Internal Revenue Code, including taxable  
25 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), (3w), (5b), (5e), (5f),  
6 (5g), and (5h), and (5i); and plus or minus, as appropriate, transitional adjustments,  
7 depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and  
8 (19); but excluding income, gain, loss, and deductions from farming. "Net business  
9 income," with respect to a natural person, estate, or trust, means profit from a trade  
10 or 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.

#### 12 SECTION 14. Nonstatutory provisions.

##### 13 (1) GREEN DATA CENTER CREDIT PROGRAM.

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

18 (b) If the department of commerce certifies a business as eligible under  
19 paragraph (a), the department shall determine the maximum amount of tax credits  
20 the business may claim. The total amount of tax credits allocated to all eligible  
21 businesses may not exceed \$2,000,000.

22 (c) Notwithstanding section 227.24 of the statutes, the department of  
23 commerce may promulgate emergency rules necessary to administer this subsection.  
24 Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules  
25 promulgated under this subsection remain in effect until the effective date of

1 permanent rules promulgated under this subsection, or the first day of the 13th  
2 month after the effective date of this subsection, whichever is sooner.  
3 Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of  
4 commerce is not required to provide evidence that promulgating a rule under this  
5 subsection as an emergency rule is necessary for the preservation of the public peace,  
6 health, safety, or welfare and is not required to provide a finding of emergency for a  
7 rule promulgated under this subsection.

8 (d) This subsection does not apply after June 30, 2008.

9 (END)

d-note  
↓

0013/P2 du  
 UK: jld  
 J

Senator Kanawas:

Please review this draft carefully to ensure that it is consistent with your intent. The draft provides a credit <sup>in part,</sup> for amounts the claimant paid for equipment or equipment components that have a "reduced" amount of certain contaminants. However, the draft does not specify the standard from which to measure the "reduced" amount. In other words, do you mean that the equipment or components would have contaminant amounts that are less <sup>than</sup> the maximum/allowed under EPA guidelines, for instance? Please advise.

JK



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

LRB-0013/P2dn  
JK:jld:sh

October 16, 2006

Senator Kanavas:

Please review this draft carefully to ensure that it is consistent with your intent. The draft provides a credit, in part, for amounts the claimant paid for equipment or equipment components that have a "reduced" amount of certain contaminants. However, the draft does not specify the standard from which to measure the "reduced" amount. In other words, do you mean that the equipment or components would have contaminant amounts that are less than the maximum amounts allowed under EPA guidelines, for instance? Please advise.

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





**TED KANAVAS**  
STATE SENATOR

WEDNESDAY, OCTOBER 18, 2006

TO: JOSEPH KRAYE, LEGISLATIVE REFERENCE BUREAU  
FROM: MICHAEL RICHARDS, AIDE TO SENATOR TED KANAVAS  
RE: MODIFICATIONS OF LRB 0013/P2

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IN YOUR DRAFTMAN'S NOTE, YOU ASK WHETHER OR NOT "REMOVED" MEANS LOWER THAN EPA GUIDELINES AS AN EXAMPLE. FOR THE PURPOSES OF THIS DRAFT WE WOULD SAY AT LEAST 25% LESS THAN AROUND UNIFORM LAW.

ALSO ON PAGE 3 (AND THROUGHOUT THE DRAFT) LINE 2 - AFTER THIS LINE SAY - DATA CENTER LOCATED IN THIS STATE MUST HAVE A MINIMUM OF 5 CARS THAT ARE HYBRID OR ELECTRIC VEHICLES, IN THEIR RESPECTIVE FIRM.

Thanks. Please call if you have questions.

Best,

would be under "at least 2 of the following"

do you mean that you want to be i. d. "d. Hybrid or electric vehicles, if at least 5 and vehicle are used in the operation of the green data center"

Yoke to Mike on 11-9-06 - leave out i think for now.

Man change the word "or" on page 2, line 19 to "or"