ROGER ROTH

STATE REPRESENTATIVE • 56TH ASSEMBLY DISTRICT

Testimony of Representative Roger Roth Before the Assembly Committee on Jobs, the Economy and Small Business

AB 205 – Energy Efficient Commercial Building Deduction

May 12, 2009

Thank you, Chairman Molepske, members, and guests. I appreciate the opportunity to discuss AB 205 with you and testify on its behalf.

As part of the budget bill passed last session, the state of Wisconsin federalized its tax code to grant a tax deduction for energy efficient property expenditures made to commercial buildings. The state tax code reflected federal law by allowing a tax deduction for 2006 and 2007.

Further changes in federal law have now extended this tax deduction in the federal code all the way through 2013.

Assembly Bill 205 would match this portion of Wisconsin's tax code to the federal code and extend the state tax deduction through 2013.

Energy efficient commercial building property that would qualify under federal code includes the following three criteria:

- The property must be installed on or in any building located in the United States within the scope of the industry standard defining a qualifying commercial building.
- It must be installed as part of (a) the interior lighting, (b) the heating, cooling, ventilation, and hot water systems, or (c) the building envelope.

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- The improvements must be certified by an inspector or third-party contractor as part of a plan to reduce the total annual energy and power costs with respect to the above-mentioned systems of the building.

At a time of rising energy costs, it only makes sense for Wisconsin businesses to pursue additional means to contain energy expenditures. Continuing to encourage energy efficiency in commercial buildings through this approach is one simple way to work toward that goal.

The Department of Revenue estimates that this proposal will reduce state revenue by just over $300,000 in each fiscal year, with a higher cost the first year allowing for amendments made to 2008 tax returns.

I thank you for your consideration of AB 205, and I will be glad to answer any questions you may have at this time.

State of Wisconsin • DEPARTMENT OF REVENUE

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Jim Doyle
Governor

Roger M. Ervin
Secretary of Revenue

Assembly Committee on Jobs, the Economy and Small Business Hearing, May 12, 2009

AB 205 – Increase Deductions for Energy Efficient Commercial Buildings (Rep. Roth)

Description of Current Law and Proposed Change

This bill adopts, for state income and franchise tax purposes, changes made to the Internal Revenue Code (IRC) by the federal Tax Relief and Health Care Act of 2006 (P.L.109-432) and the Emergency Economic Stabilization Act of 2008 (P.L. 110-343) related to a deduction for energy efficient commercial buildings. These two acts extended the eligibility for the deduction to property placed in service before January 1, 2014. The maximum federal deduction is $1.80 per square foot of a qualified commercial property. Qualified systems include interior lighting, heating, cooling, ventilation, and hot water systems.

Wisconsin adopted the deduction for tax years 2006 and 2007, but did not adopt the extensions of the deduction in P.L 109-432 or P.L. 110-343. The extensions are not adopted as part of the IRC updates in the biennial budget bill (2009 AB 75).

The Department of Revenue has submitted the following technical comments to the author

1. The provisions of this bill should be coordinated with the update of the IRC in AB 75 which is currently being considered by the Legislature. As currently drafted, the IRC updates in AB 75 would limit the sections of the statutes which are amended in this bill to only tax year 2007.

AB 75 does not adopt these energy provisions for 2008 and 2009. If the budget passes as introduced by the Governor, this would mean that the energy efficient commercial building provisions as drafted in this bill would apply only for tax year 2007. If the objective of AB 205 is to enact the energy provisions for tax years 2008 through 2013, an amendment would then be needed to specify the sections of statute that relate to those tax years which are created as part of the IRC updates in AB75 .

2. Because the relevant provisions of P.L 109-432 are affected by changes made in P.L. 110-343, the reference to the former act needs to include reference to the latter act. At the following places in the draft of AB 205, after the new inserted phrase also insert the phrase "and as amended by division B, section 303 of P.L. 110-343,".

- Page 2, line 14
- Page 4, line 11
- Page 6, line 10
- Page 8, line 8
- Page 9, line 23
- Page 11, line 16
- Page 13, line 12
- Page 15, line 12

3. P.L. 110-343 had several divisions with tax provisions. To adopt only the relevant divisions, at the following places in the draft of AB 205 the insert should read "division A, section 204 of P.L. 109-432, and division B, section 303 of P.L. 110-343,".

- Page 3, line 12
- Page 5, line 11
- Page 7, line 8
- Page 9, line 6
- Page 10, line 21
- Page 12, line 15
- Page 14, line 12
- Page 16, line 10

Also, insert "division B," before the words "section 303" on each line at the following places in the draft of AB 205:

- Page 3, lines 17 and 18
- Page 5, lines 15 and 17
- Page 7, lines 13-14
- Page 12, lines 19-20
- Page 14, lines 19-20
- Page 16, lines 16-17

Contact: Sherrie Gates-Hendrix, (608) 267-1262

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Support AB 205, Adopting changes to the Internal Revenue Code for state income tax purposes related to deductions for energy efficient commercial buildings

Before the Assembly Committee on Jobs, the Economy and Small Business

Caryl Terrell, Chair, Legislative Committee, Sierra Club – John Muir Chapter
May 12, 2009

Thank you for the opportunity to present comments today on behalf of the 15,000 members of the Sierra Club-John Muir Chapter in Wisconsin. The Sierra Club urges you to vote for AB 205 that adopts federal tax policy for Wisconsin income tax purposes regarding energy efficient commercial buildings.

All buildings, residential and commercial, and the appliances within them are the largest sources (roughly one-third) of U.S. Greenhouse Gas (GHG) emissions, including emissions from generating the electricity used in buildings. Reducing the threat of global warming to our environment and economy is the number one priority issue of the John Muir Chapter.

AB 205 will give owners of commercial buildings an incentive to make energy efficiency improvements which will save them or their tenants money on their long-term operating costs. Providing the building owner with the tax credit is an important way to encourage that these energy saving improvements are made no matter who benefits. Often electric and water utilities (heating, cooling, lighting and water use) are paid by the lessee of the building who has no incentive (or legal ability) to make energy efficiency improvements on someone else's property.

The bill will true-up the Wisconsin tax code to the federal statutes authorizing this tax incentive, the federal Tax Relief and Health Care Act of 2006 and the emergency Economic Stabilization Act of 2008. The amount of tax deductions[1] is based on at least a 50% energy and power cost savings of applicable ASHRAE standards. The actual building is not measured; savings requirements are relative to a reference building that meets minimum requirements.

Most of the anticipated improvements generate net savings and can be implemented using existing technology. This will have a positive impact on improving commercial building energy efficiency as well as providing green jobs and a stimulus to the economy.

Thank you for supporting AB 205. We also look forward to working with you to adopt building code and appliance standard improvements that are recommendations in the Final Report of the Governor's Global Warming Task Force.

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[1] A tax deduction of up to $1.80 per square foot is available to owners or designers of new or existing commercial buildings that save at least 50% of the heating and cooling energy of a building that meets ASHRAE Standard 90.1-2001. Partial deductions of up to $.60 per square foot can be taken for measures affecting any on of the three building systems: the building envelope, lighting, or heating and cooling systems. These tax deductions are available for systems 'placed in service' from January 1, 2006 through December 31, 2013. Source: US EPA-US DOE, Energy Star "Federal Tax Credits for Energy Efficiency, www.energystar.gov/taxcredits

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To: Assembly Committee on Energy and Utilities

From: Andrew Burch, Manager Product Management
Alliant Energy

Re: **State income tax deduction for Energy Efficiency Commercial Buildings (AB 205)**

Date: May 12, 2009

Good morning, Chairman Molepske and Members of the Committee. I am Andrew Burch, and I am here representing Alliant Energy in support of Assembly Bill 205 adopting changes to the Internal Revenue Code for state income tax purposes related to deductions for energy efficient commercial buildings. I want to thank the Chair for his leadership on this important issue and for allowing me the opportunity to address the committee today. I also want to thank the co-authors of this bill, Senator Plale and Representative Roth, for bringing this bill forward.

For over 25 years Alliant Energy has worked with our customers to implement energy efficiency improvements to their businesses. Through utility run programs and collaboration with Wisconsin's Focus on Energy programs we have helped customers control their energy costs and be more competitive.

In the current environment of economic uncertainty, many customers are hesitant to allocate budget dollars toward any projects, let alone energy-saving projects. However, there is precisely no better time for customers to manage or to reduce operating costs through energy efficiency. The key to Wisconsin's ability to quickly bounce back when the current recession ends is to ensure business are able to take energy efficiency steps now that will allow them to improve their competitive position in advance of the recovery.

AB 205 is important to build on Wisconsin's already strong commitment to energy efficiency as we consider expanding our State energy savings goals from the Governor's Global Warming Task Force. To encourage customers to implement energy-saving projects that can result in sustainable energy dollar savings for their business.

Thus, Alliant Energy urges committee members to support AB 205.