

2005 DRAFTING REQUEST

Bill

Received: 01/18/2005

Received By: jkreye

Wanted: As time permits

Identical to LRB: 2004 SB 268

For: Alberta Darling (608) 266-5830

By/Representing: jess

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax, Business - crp inc, fran

Extra Copies:

Submit via email: YES

Requester's email: Sen.Darling@legis.state.wi.us

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

Pre Topic:

No specific pre topic given

Topic:

Education tax credit

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 01/18/2005	wjackson 01/18/2005 wjackson 01/29/2005		_____			State
/1			pgreensl 01/31/2005	_____	Inorthro 01/31/2005	mbarman 01/31/2005	State
/2	jkreye 03/08/2005	wjackson 03/08/2005	pgreensl 03/08/2005	_____	sbasford 03/08/2005	sbasford 03/08/2005	

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

mbarman
03/09/2005

FE Sent For: *at intro*
3/31

<END>

e-mail only
requested
by Jessica

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/?	jkreye 01/18/2005	wjackson 01/18/2005 wjackson 01/29/2005		<u> </u> <u>3/8</u> <u> </u> <u>ps/ks</u>			State
/1		1/2 WJ 3/8	pgreensl 01/31/2005	<u> </u> <u> </u>	Inorthro 01/31/2005	mbarman 01/31/2005	

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3/8
ps

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1/?	jkreye	1/11/29	1/31 PS	1/31 PS/KS			

FE Sent For:

<END>

Kreye, Joseph

From: Tormey, Jessica
Sent: Friday, January 14, 2005 2:28 PM
To: Kreye, Joseph

Joe,

Could you please redraft 2004 SB268 - the education tax credit for business?
Thanks,

Jess

Joe Darling

1748/1
in 7-18-05
500N

2003 SENATE BILL 268

LPS:
Please PWF

October 2, 2003 - Introduced by Senators DARLING, LEIBHAM, MOORE, SCHULTZ, REYNOLDS, M. MEYER, STEPP, BROWN, ROESSLER and KANAVAS, cosponsored by Representatives JENSEN, PETTIS, NISCHKE, SUDER, MUSSER, TOWNS, KRAWCZYK, MCCORMICK, VAN ROY, BIES, OLSEN, HAHN, OTT, J. WOOD, GRONEMUS, HINES, LADWIG, FREESE, OWENS, LEMAHIEU, ALBERS, VRAKAS and WARD. Referred to Committee on Homeland Security, Veterans and Military Affairs and Government Reform.

1 AN ACT ^{Regen} 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 (5r), 71.10 (4) (cd), 71.28 (5r), 71.30
3 (3) (dm), 71.47 (5r) and 71.49 (1) (dm) of the statutes; relating to: an education
4 tax credit for businesses.

Analysis by the Legislative Reference Bureau

This bill creates an income tax and franchise tax credit for businesses that pay tuition for an individual to attend a university, college, or technical college. Sole proprietorships, corporations, and insurers may claim the credit. Partnerships, limited liability companies, and tax-option corporations compute the credit but pass it on to the partners, members, and shareholders in proportion to their ownership interests. The credit is an amount equal to: 1) ~~Fifty~~ percent of the tuition paid by a business for an individual to attend school in a taxable year, if the individual is enrolled in a degree-granting program; and 2) ~~Seventy five~~ percent of the tuition paid by a business for an individual to attend school in a taxable year, if the individual is enrolled in a degree-granting program and if the individual's taxable income is not more than 185% of the federal poverty line. If the credit claimed by a business exceeds the business's tax liability, the state will not issue a refund check, but the business may carry forward any remaining credit to subsequent taxable years.

50

75

percent

SENATE BILL 268

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), and (3s), and (5r) and not passed
4 through by a partnership, limited liability company, or tax-option corporation that
5 has added that amount to the partnership's, company's, or tax-option corporation's
6 income under s. 71.21 (4) or 71.34 (1) (g).

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

8 71.07 **(5r)** EDUCATION CREDIT. (a) In this subsection:

9 1. "Claimant" means a sole proprietor, a partner, a member of a limited liability
10 company, or a shareholder of a tax-option corporation who files a claim under this
11 subsection.

12 2. "Degree-granting program" means an educational program for which an
13 associate, a bachelor's, or a graduate degree is awarded upon successful completion.

14 3. "Poverty line" has the meaning given under s. 49.001 (5).

15 4. "Qualified postsecondary institution" means all of the following:

16 a. A University of Wisconsin System institution, a technical college system
17 institution, or a regionally accredited 4-year nonprofit college or university having
18 its regional headquarters and principal place of business in this state.

19 b. A school approved under s. 45.54, if the school has a physical presence, and
20 the delivery of education occurs, in this state.



**SENATE SUBSTITUTE AMENDMENT 1,
TO 2003 SENATE BILL 268**

January 16, 2004 - Offered by COMMITTEE ON HOMELAND SECURITY, VETERANS AND
MILITARY AFFAIRS AND GOVERNMENT REFORM.

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 (5r), 71.10 (4) (cd), 71.28 (5r), 71.30
3 (3) (dm), 71.47 (5r) and 71.49 (1) (dm) of the statutes; **relating to:** an education
4 tax credit for businesses.

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

5 **SECTION 1.** 71.05 (6) (a) 15. of the statutes, as affected by 2003 Wisconsin Act
6 99, 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), (3s), ~~and (3t), and (5r)~~ and not passed
9 through by a partnership, limited liability company, or tax-option corporation that
10 has added that amount to the partnership's, company's, or tax-option corporation's
11 income under s. 71.21 (4) or 71.34 (1) (g).

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

INSERT
1-5

1 71.07 (5r) EDUCATION CREDIT. (a) In this subsection:

2 1. "Claimant" means a sole proprietor, a partner, a member of a limited liability
3 company, or a shareholder of a tax-option corporation who files a claim under this
4 subsection.

5 2. "Degree-granting program" means an educational program for which an
6 associate, a bachelor's, or a graduate degree is awarded upon successful completion.

7 3. "Family member" has the meaning given in s. 157.061 (7). ✓

8 4. "Managing employee" means an individual who wholly or partially exercises
9 operational or managerial control over, or who directly or indirectly conducts, the
10 operation of the claimant's business.

11 5. "Poverty line" has the meaning given under s. 49.001 (5). ✓

12 6. "Qualified postsecondary institution" means all of the following:

13 a. A University of Wisconsin System institution, a technical college system
14 institution, or a regionally accredited 4-year nonprofit college or university having
15 its regional headquarters and principal place of business in this state.

16 b. A school approved under s. 45.54, ✓ if the school has a physical presence, and
17 the delivery of education occurs, in this state.

18 (b) Subject to the limitations provided in this subsection, ✓ a claimant may claim
19 as a credit against the tax imposed under ^s 71.02 ^{and 7608} an amount equal to the following:

20 1. Fifty percent of the tuition that the claimant paid or incurred during the
21 taxable year for an individual to participate in an education program of a qualified
22 postsecondary institution, if the individual was enrolled in a degree-granting
23 program.

24 2. ⁷⁵Seventy five percent of the tuition that the claimant paid or incurred during
25 the taxable year for an individual to participate in an education program of a

1 qualified postsecondary institution, if the individual was enrolled in a
2 degree-granting program and if the individual's taxable income in the year prior to
3 commencing participation in the education program in connection with which a
4 credit is claimed is not more than 185% of the poverty line. *percent*

5 (b) 1. No credit may be allowed under par. (b) unless the claimant obtains
6 written certification from a qualified postsecondary institution concerning the
7 amount of tuition that the claimant paid or incurred during the taxable year for an
8 individual to participate in an education program of the qualified postsecondary
9 institution and includes a copy of the certification with the claimant's return.

10 2. No credit may be allowed under par. (b) 2. unless the claimant obtains
11 written certification from a qualified postsecondary institution that the taxable
12 income of the individual for whom the claimant has paid or incurred tuition during
13 the taxable year for the individual to participate in an education program of the

14 qualified postsecondary institution is not more than 185% of the poverty line and
15 includes a copy of the certification with the claimant's return. For purposes of this
16 subdivision and par. (b) 2., if an individual for whom the claimant has paid or
17 incurred tuition is claimed as a dependent on another person's tax return, the
18 individual's taxable income shall be the taxable income of the person on whose return
19 the individual is claimed as a dependent.

20 3. No credit may be allowed under par. (b) unless the claimant certifies to the
21 department of revenue that the claimant will not be reimbursed for any amount of
22 tuition for which the claimant claims a credit under par. (b).

23 (d) A claimant may not claim the credit under par. (b) for any tuition amounts
24 that the claimant excluded under s. 71.05 (6) (b) 28. or under section 127 of the
25 Internal Revenue Code.

1 (1) (e) A claimant may not claim the credit under par. (b) for any tuition amounts
2 that the claimant paid or incurred for a family member of the claimant or for a family
3 member of a managing employee unless all of the following apply:

4 1. The family member was employed an average of at least 20 hours a week as
5 an employee of the claimant, or the claimant's business, during the one-year period
6 prior to commencing participation in the education program in connection with
7 which the claimant claims a credit under par. (b).

8 2. The family member is enrolled in a degree-granting program that is
9 substantially related to the claimant's business.

10 3. The family member is making satisfactory progress towards completing the
11 degree-granting program under subd. 2.

12 (d) The carry-over provisions of s. 71.28 (4) (e) and (f), as they apply to the credit
13 under s. 71.28 (4), apply to the credit under this subsection.

14 (e) 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 tuition under par. (b). A partnership, limited
17 liability company, or tax-option corporation shall compute the amount of credit that
18 each of its partners, members, or shareholders may claim and shall provide that
19 information to each of them. Partners, members of limited liability companies, and
20 shareholders of tax-option corporations may claim the credit in proportion to their
21 ownership interest.

22 (f) Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4),
23 applies to the credit under this subsection.

24 (g) The department of revenue shall biennially submit a report to the
25 legislature under s. 13.172 (2) that identifies each qualified postsecondary

1 institution for which it has received written certification from a claimant under par.
2 (b^c~~m~~). The report shall specify the total amount of the tuition for each such institution
3 that is claimed as a credit under this subsection in the previous biennium.

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

5 71.10 (4) (cd) The education credit under s. 71.07 (5r).

6 **SECTION 4.** 71.21 (4) of the statutes, as affected by 2003 Wisconsin Act 99, is
7 amended to read:

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

11 **SECTION 5.** 71.26 (2) (a) of the statutes, as affected by 2003 Wisconsin Act 99,
12 is amended to read:

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

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

6 SECTION 6. 71.28 (5r) of the statutes is created to read:

7 71.28 (5r) EDUCATION CREDIT. (a) In this subsection:

- 8 1. "Claimant" means a corporation that files a claim under this subsection.
- 9 2. "Degree-granting program" means an education program for which an
10 associate, a bachelor's, or a graduate degree is awarded upon successful completion.
- 11 3. "Family member" has the meaning given in s. 157.061 (7).
- 12 4. "Managing employee" means an individual who wholly or partially exercises
13 operational or managerial control over, or who directly or indirectly conducts, the
14 operation of the claimant's business.
- 15 5. "Poverty line" has the meaning given under s. 49.001 (5).
- 16 6. "Qualified postsecondary institution" means all of the following:

17 a. A University of Wisconsin System institution, a technical college system
18 institution, or a regionally accredited 4-year nonprofit college or university having
19 its regional headquarters and principal place of business in this state.

20 b. A school approved under s. 45.54, if the school has a physical presence, and
21 the delivery of education occurs, in this state.

22 (b) Subject to the limitations provided in this subsection, a claimant may claim
23 as a credit against the tax imposed under s. 71.23 an amount equal to the following:

- 24 1. Fifty percent of the tuition that the claimant paid or incurred during the
25 taxable year for an individual to participate in an education program of a qualified

1 postsecondary institution, if the individual was enrolled in a degree-granting
2 program.

3 2. Seventy ^{five} percent of the tuition that the claimant paid or incurred during
4 the taxable year for an individual to participate in an education program of a
5 qualified postsecondary institution, if the individual was enrolled in a
6 degree-granting program and if the individual's taxable income in the year prior to
7 commencing participation in the education program in connection with which a
8 credit is claimed is not more than 185% of the poverty line. *percent*

9 ^c~~(b)(1)~~ 1. No credit may be allowed under par. (b) unless the claimant obtains
10 written certification from a qualified postsecondary institution concerning the
11 amount of tuition that the claimant paid or incurred during the taxable year for an
12 individual to participate in an education program of the qualified postsecondary
13 institution and includes a copy of the certification with the claimant's return.

14 2. No credit may be allowed under par. (b) 2. unless the claimant obtains
15 written certification from a qualified postsecondary institution that the taxable
16 income of the individual for whom the claimant has paid or incurred tuition during
17 the taxable year for the individual to participate in an education program of the
18 qualified postsecondary institution is not more than 185% of the poverty line and
19 includes a copy of the certification with the claimant's return. For purposes of this
20 subdivision and par. (b) 2., if an individual for whom the claimant has paid or
21 incurred tuition is claimed as a dependent on another person's tax return, the
22 individual's taxable income shall be the taxable income of the person on whose return
23 the individual is claimed as a dependent.

1 3. No credit may be allowed under par. (b) unless the claimant certifies to the
2 department of revenue that the claimant will not be reimbursed for any amount of
3 tuition for which the claimant claims a credit under par. (b).

4 ^d
(d) A claimant may not claim the credit under par. (b) for any tuition amounts
5 that the claimant has excluded under section 127 of the Internal Revenue Code.

6 ^e
(e) A claimant may not claim the credit under par. (b) for any tuition amounts
7 that the claimant paid or incurred for a family member of a managing employee
8 unless all of the following apply:

9 1. The family member was employed an average of at least 20 hours a week as
10 an employee of the claimant, or the claimant's business, during the one-year period
11 prior to commencing participation in the education program in connection with
12 which the claimant claims a credit under par. (b).

13 2. The family member is enrolled in a degree-granting program that is
14 substantially related to the claimant's business.

15 3. The family member is making satisfactory progress towards completing the
16 degree-granting program under subd. 2.

17 ^f
(f) The carry-over provisions of sub. (4) (e) and (f), as they apply to the credit
18 under sub. (4), apply to the credit under this subsection.

19 ^g
(g) 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 tuition under par. (b). A partnership, limited
22 liability company, or tax-option corporation shall compute the amount of credit that
23 each of its partners, members, or shareholders may claim and shall provide that
24 information to each of them. Partners, members of limited liability companies, and

1 shareholders of tax-option corporations may claim the credit in proportion to their
2 ownership interest.

3 (f) Subsection (4) (g) and (h), as it applies to the credit under sub. (4), applies
4 to the credit under this subsection.

5 (g) The department of revenue shall biennially submit a report to the
6 legislature under s. 13.172 (2) that identifies each qualified postsecondary
7 institution for which it has received written certification from a claimant under par.

8 (b)(m). The report shall specify the total amount of the tuition for each such institution
9 that is claimed as a credit under this subsection in the previous biennium.

10 SECTION 7. 71.30 (3) (dm) of the statutes is created to read:

11 71.30 (3) (dm) The education credit under s. 71.28 (5r).

12 SECTION 8. 71.34 (1) (g) of the statutes, as affected by 2003 Wisconsin Act 99,
13 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 and (3t), and (5r) and passed through to shareholders.

17 SECTION 9. 71.45 (2) (a) 10. of the statutes, as affected by 2003 Wisconsin Act
18 99, 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) and (5r) and not passed through by a
21 partnership, limited liability company, or tax-option corporation that has added that
22 amount to the partnership's, limited liability company's, or tax-option corporation's
23 income under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit computed under
24 s. 71.47 (1), (3), (3t), (4), and (5).

25 SECTION 10. 71.47 (5r) of the statutes is created to read:

INSERT 9-24

1 71.47 (5r) EDUCATION CREDIT. (a) In this subsection:

2 1. "Claimant" means a corporation that files a claim under this subsection.

3 2. "Degree-granting program" means an educational program for which an
4 associate, a bachelor's, or a graduate degree is awarded upon successful completion.

5 3. "Family member" has the meaning given in s. 157.061 (7).

6 4. "Managing employee" means an individual who wholly or partially exercises
7 operational or managerial control over, or who directly or indirectly conducts, the
8 operation of the claimant's business.

9 5. "Poverty line" has the meaning given under s. 49.001 (5).

10 6. "Qualified postsecondary institution" means all of the following:

11 a. A University of Wisconsin System institution, a technical college system
12 institution, or a regionally accredited 4-year nonprofit college or university having
13 its regional headquarters and principal place of business in this state.

14 b. A school approved under s. 45.54, if the school has a physical presence, and
15 the delivery of education occurs, in this state.

16 (b) Subject to the limitations provided in this subsection, a claimant may claim
17 as a credit against the tax imposed under s. 71.43[✓] an amount equal to the following:

18 1. Fifty percent of the tuition that the claimant paid or incurred during the
19 taxable year for an individual to participate in an education program of a qualified
20 postsecondary institution, if the individual was enrolled in a degree-granting
21 program.

22 2. Seventy^① five percent of the tuition that the claimant paid or incurred during
23 the taxable year for an individual to participate in an education program of a
24 qualified postsecondary institution, if the individual was enrolled in a
25 degree-granting program and if the individual's taxable income in the year prior to

1 commencing participation in the education program in connection with which a
2 credit is claimed is not more than 185% of the poverty line. percent

3 (b)(1) 1. No credit may be allowed under par. (b) unless the claimant obtains
4 written certification from a qualified postsecondary institution concerning the
5 amount of tuition that the claimant paid or incurred during the taxable year for an
6 individual to participate in an education program of the qualified postsecondary
7 institution and includes a copy of the certification with the claimant's return.

8 2. No credit may be allowed under par. (b) 2. unless the claimant obtains
9 written certification from a qualified postsecondary institution that the taxable
10 income of the individual for whom the claimant has paid or incurred tuition during
11 the taxable year for the individual to participate in an education program of the
12 qualified postsecondary institution is not more than 185% of the poverty line and
13 includes a copy of the certification with the claimant's return. For purposes of this
14 subdivision and par. (b) 2., if an individual for whom the claimant has paid or
15 incurred tuition is claimed as a dependent on another person's tax return, the
16 individual's taxable income shall be the taxable income of the person on whose return
17 the individual is claimed as a dependent.

18 3. No credit may be allowed under par. (b) unless the claimant certifies to the
19 department of revenue that the claimant will not be reimbursed for any amount of
20 tuition for which the claimant claims a credit under par. (b).

21 (d) A claimant may not claim the credit under par. (b) for any tuition amounts
22 that the claimant excluded under section 127 of the Internal Revenue Code.

23 (e) A claimant may not claim the credit under par. (b) for any tuition amounts
24 that the claimant paid or incurred for a family member of a managing employee
25 unless all of the following apply:

1 1. The family member was employed an average of at least 20 hours a week as
2 an employee of the claimant, or the claimant's business, during the one-year period
3 prior to commencing participation in the education program in connection with
4 which the claimant claims a credit under par. (b).

5 2. The family member is enrolled in a degree-granting program that is
6 substantially related to the claimant's business.

7 3. The family member is making satisfactory progress towards completing the
8 degree-granting program under subd. 2.

9 ^f(d) The carry-over provisions of s. 71.28 (4) (e) and (f), as they apply to the credit
10 under s. 71.28 (4), apply to the credit under this subsection.

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

19 ^h(f) Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4),
20 applies to the credit under this subsection.

21 ⁱ(g) The department of revenue shall biennially submit a report to the
22 legislature under s. 13.172 (2) that identifies each qualified postsecondary
23 institution for which it has received written certification from a claimant under par.

24 ^C(h) ^{AP}The report shall specify the total amount of the tuition for each such institution
25 that is claimed as a credit under this subsection in the previous biennium.

Insert 1-5

Section #. 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 (5r)} 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).

History: 5 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237; 1999 a. 9, 32, 44, 54, 65, 167; 2001 a. 16, 104, 105, 109; 2003 a. 85, 99, 119, 135, 183, 255, 289, 321, 326. 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237; 1999 a. 9, 32, 44, 54, 65, 167; 2001 a. 16, 104, 105, 109; 2003 a. 85, 99, 119, 135, 183, 255, 289, 321, 326.

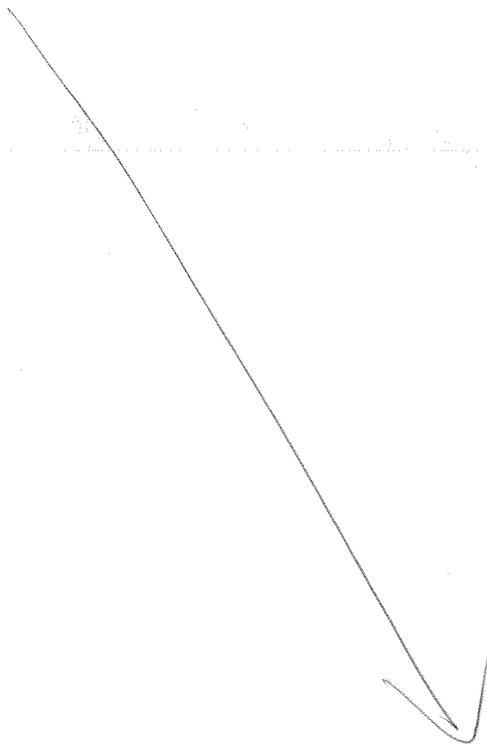
end of 1-5

Insert 6-5

Section #. 71.21 (4)[✓] of the statutes 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), ~~and~~ (5b) and passed through to partners shall be added to the partnership's income. and (5n)

1987 a. 312, 411; 1989 a. 31; 1993 a. 112; 1995 a. 27, 400; 1997 a. 27; 2001 a. 16; 2003 a. 99, 135, 255, 326. 1987 a. 312, 411; 1989 a. 31; 1993 a. 112; 1995 a. 27, 400; 1997 a. 27; 2001 a. 16; 2003 a. 99, 135, 255, 326.



insert 6-5

Section #. 71.26 (2) (a) of the statutes 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), ~~and (5b)~~ ^{and (5d)} 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 minus deductions, as computed under the Internal Revenue Code as modified under sub. (3), plus or minus, as appropriate, an amount equal to the difference between the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or otherwise disposed of in a taxable transaction during the taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

History: 437, 491; 1995 a. 27, 56, 351, 371, 380, 428; 1997 a. 27, 37, 184, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 106, 109; 2003 a. 33, 85, 99, 135, 255, 326. 1987 a. 312; 1987 a. 411 ss. 22, 124 to 129; 1989 a. 31, 336; 1991 a. 37, 39, 221, 269; 1993 a. 16, 112, 246, 263, 399, 437, 491; 1995 a. 27, 56, 351, 371, 380, 428; 1997 a. 27, 37, 184, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 106, 109; 2003 a. 33, 85, 99, 135, 255, 326.

end of 6-5

insert 9-24

Section #. 71.34 (1) (g) of the statutes 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), ~~and~~ (5b) and passed
through to shareholders. and (5r)

1987 a. 312; 1987 a. 411 ss. 18, 23, 146; 1989 a. 31, 336; 1991 a. 39, 269; 1993 a. 16, 437; 1995 a. 27, 380, 428; 1997 a. 27, 37, 237; 1999 a. 9, 194; 2001 a. 16, 109;
2003 a. 33, 99, 135, 255, 326. 1987 a. 312; 1987 a. 411 ss. 18, 23, 146; 1989 a. 31, 336; 1991 a. 39, 269; 1993 a. 16, 437; 1995
a. 27, 380, 428; 1997 a. 27, 37, 237; 1999 a. 9, 194; 2001 a. 16, 109; 2003 a. 33, 99, 135, 255, 326.

Insert 9-24

Section #. 71.45 (2) (a) 10. of the statutes 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), and (5b) 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).

1987 a. 312; 1989 a. 31, 336, 359; 1991 a. 37, 39, 269; 1993 a. 16, 112, 263, 437; 1995 a. 27, 56, 371, 380; 1997 a. 27, 37, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 109; 2003 a. 37, 85, 99, 135, 255, 326. 1987 a. 312; 1989 a. 31, 336, 359; 1991 a. 37, 39, 269; 1993 a. 16, 112, 263, 437; 1995 a. 27, 56, 371, 380; 1997 a. 27, 37, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 109; 2003 a. 37, 85, 99, 135, 255, 326.

end of 9-24

Section #. 77.92 (4) [✓] of the statutes is amended to read:

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

History: 1989 a. 335; 1991 a. 39, 269; 1993 a. 16, 112, 490; 1995 a. 27, 209; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 99, 135, 255, 326.

end of B-19

Barman, Mike

From: Petri, Tom
Sent: Monday, January 31, 2005 10:53 AM
To: LRB.Legal
Subject: Draft review: LRB 05-1748/1 Topic: Education tax credit

It has been requested by <Petri, Tom> that the following draft be jacketed for the SENATE:

Draft review: LRB 05-1748/1 Topic: Education tax credit

Alberta Darling

Wisconsin State Senator
Co-Chair, *Committee on Finance*

To: *Joe Kreye*

(F) 4-6948

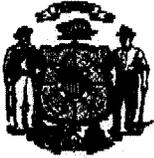
From: *Jessica
Torrey*

(F) 608-267-0588

Of pages (cover included): 2

Notes

Contact Information:
317-E Capitol
PO Box 7882
Madison, WI 53703-7882
1-800-863-1113



(F) 4-6945

STATE OF WISCONSIN
EDUCATIONAL APPROVAL BOARD

HIGHER EDUCATION TAX CREDIT
PROPOSED MODIFICATION

SUMMARY

The Educational Approval Board (EAB) is proposing that statutory language contained in legislation introduced during the past two legislative sessions which references schools approved by the EAB be modified prior to the bill's re-introduction in the 2005-07 legislative session.

BACKGROUND

During the 2003-05 legislation session, Senate Bill 268 was introduced that would create a tax credit for businesses that pay the tuition of individuals participating in a degree granting program. Under the bill, individuals would need to attend a qualified postsecondary institution, as defined by the bill. A senate substitute amendment (SSA 1) to SB 268 was adopted by the Committee on Homeland Security, Veterans and Military Affairs and Government Reform.

PROPOSAL

The EAB is suggesting that the definition of a "qualified postsecondary institution" as it relates to schools approved by the EAB be modified. Specifically, the proposed change would modify the definition as follows.

A school approved under s. 45.54, if the school ~~has a physical presence, and the~~ delivery of education occurs, in this state.

This language appears in three separate instances of the original bill and the substitute amendment – s.71.07 (5r) (a) 6.b., s.71.28 (5r) (a) 6.b., and s.71.47 (5r) (a) 6.b.

RATIONALE

This modification would make the tax credit available to businesses that pay the tuition for individuals who participate in degree-granting programs that are delivered via distance learning and the Internet.

Barman, Mike

From: Tormey, Jessica
Sent: Friday, March 04, 2005 12:22 PM
To: Barman, Mike
Subject: FW:

-----Original Message-----

From: Tormey, Jessica
Sent: Friday, March 04, 2005 10:03 AM
To: Kreye, Joseph
Subject:

Joe,

I left you a voicemail regarding a fax I sent you.

It is an amendment request for the education tax credit for business, a bill you've worked on numerous times! The amendment appears to be fairly simple and non controvercial. I faxed over the requested language.

I am hoping you could amend both our (LRB1748) an Representative Jensen's (LRB1855) version to reflect the new amendment. I was given permission for this change by Jensen's office, however, if you need varification, please speak with Steve Knudson in his office at 4-6970.

I sent over the Senate jacket today. It appears the Assembly bill was not jacketed.

Please call if you have questions.

Thank you,

Jessica

Joe: Jacket Returned
— They are looking of the bill... not a amendment.
— Make the same changes to the companion bill... LRB-1855.
9MB/2



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-1748/1
JK:wlj:pg

RMR

2005 BILL

in 3 2005
Today

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 (5r), 71.10 (4) (cd), 71.28 (5r), 71.30
3 (3) (dm), 71.47 (5r) and 71.49 (1) (dm) of the statutes; **relating to:** an education
4 tax credit for businesses.

Analysis by the Legislative Reference Bureau

This bill creates an income tax and franchise tax credit for businesses that pay tuition for an individual to attend a university, college, or technical college. Sole proprietorships, corporations, and insurers may claim the credit. Partnerships, limited liability companies, and tax-option corporations compute the credit but pass it on to the partners, members, and shareholders in proportion to their ownership interests. The credit is an amount equal to: 1) 50 percent of the tuition paid by a business for an individual to attend school in a taxable year, if the individual is enrolled in a degree-granting program; and 2) 75 percent of the tuition paid by a business for an individual to attend school in a taxable year, if the individual is enrolled in a degree-granting program and if the individual's taxable income is not more than 185 percent of the federal poverty line. If the credit claimed by a business exceeds the business's tax liability, the state will not issue a refund check, but the business may carry forward any remaining credit to subsequent taxable years.

BILL

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), (5b), and (5d), and (5r)
4 and not passed through by a partnership, limited liability company, or tax-option
5 corporation that has added that amount to the partnership's, company's, or
6 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

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

8 71.07 **(5r)** EDUCATION CREDIT. (a) In this subsection:

9 1. "Claimant" means a sole proprietor, a partner, a member of a limited liability
10 company, or a shareholder of a tax-option corporation who files a claim under this
11 subsection.

12 2. "Degree-granting program" means an educational program for which an
13 associate, a bachelor's, or a graduate degree is awarded upon successful completion.

14 3. "Family member" has the meaning given in s. 157.061 (7).

15 4. "Managing employee" means an individual who wholly or partially exercises
16 operational or managerial control over, or who directly or indirectly conducts, the
17 operation of the claimant's business.

18 5. "Poverty line" has the meaning given under s. 49.001 (5).

19 6. "Qualified postsecondary institution" means all of the following:

BILL

1 a. A University of Wisconsin System institution, a technical college system
2 institution, or a regionally accredited 4-year nonprofit college or university having
3 its regional headquarters and principal place of business in this state.

4 b. A school approved under s. 45.54, if ~~the school has a physical presence, and~~
5 the delivery of education occurs, in this state.

6 (b) Subject to the limitations provided in this subsection, a claimant may claim
7 as a credit against the tax imposed under ss. 71.02 and 71.08 an amount equal to the
8 following:

9 1. Fifty percent of the tuition that the claimant paid or incurred during the
10 taxable year for an individual to participate in an education program of a qualified
11 postsecondary institution, if the individual was enrolled in a degree-granting
12 program.

13 2. Seventy-five percent of the tuition that the claimant paid or incurred during
14 the taxable year for an individual to participate in an education program of a
15 qualified postsecondary institution, if the individual was enrolled in a
16 degree-granting program and if the individual's taxable income in the year prior to
17 commencing participation in the education program in connection with which a
18 credit is claimed is not more than 185 percent of the poverty line.

19 (c) 1. No credit may be allowed under par. (b) unless the claimant obtains
20 written certification from a qualified postsecondary institution concerning the
21 amount of tuition that the claimant paid or incurred during the taxable year for an
22 individual to participate in an education program of the qualified postsecondary
23 institution and includes a copy of the certification with the claimant's return.

24 2. No credit may be allowed under par. (b) 2. unless the claimant obtains
25 written certification from a qualified postsecondary institution that the taxable

BILL

1 income of the individual for whom the claimant has paid or incurred tuition during
2 the taxable year for the individual to participate in an education program of the
3 qualified postsecondary institution is not more than 185 percent of the poverty line
4 and includes a copy of the certification with the claimant's return. For purposes of
5 this subdivision and par. (b) 2., if an individual for whom the claimant has paid or
6 incurred tuition is claimed as a dependent on another person's tax return, the
7 individual's taxable income shall be the taxable income of the person on whose return
8 the individual is claimed as a dependent.

9 3. No credit may be allowed under par. (b) unless the claimant certifies to the
10 department of revenue that the claimant will not be reimbursed for any amount of
11 tuition for which the claimant claims a credit under par. (b).

12 (d) A claimant may not claim the credit under par. (b) for any tuition amounts
13 that the claimant excluded under s. 71.05 (6) (b) 28. or under section 127 of the
14 Internal Revenue Code.

15 (e) A claimant may not claim the credit under par. (b) for any tuition amounts
16 that the claimant paid or incurred for a family member of the claimant or for a family
17 member of a managing employee unless all of the following apply:

18 1. The family member was employed an average of at least 20 hours a week as
19 an employee of the claimant, or the claimant's business, during the one-year period
20 prior to commencing participation in the education program in connection with
21 which the claimant claims a credit under par. (b).

22 2. The family member is enrolled in a degree-granting program that is
23 substantially related to the claimant's business.

24 3. The family member is making satisfactory progress towards completing the
25 degree-granting program under subd. 2.

BILL

1 (f) The carry-over provisions of s. 71.28 (4) (e) and (f), as they apply to the credit
2 under s. 71.28 (4), apply to the credit under this subsection.

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

11 (h) Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4),
12 applies to the credit under this subsection.

13 (i) The department of revenue shall biennially submit a report to the legislature
14 under s. 13.172 (2) that identifies each qualified postsecondary institution for which
15 it has received written certification from a claimant under par. (c). The report shall
16 specify the total amount of the tuition for each such institution that is claimed as a
17 credit under this subsection in the previous biennium.

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

19 71.10 (4) (cd) The education credit under s. 71.07 (5r).

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

21 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
22 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), ~~and (5b)~~, and (5r) and passed
23 through to partners shall be added to the partnership's income.

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

BILL

1 71.26 (2) (a) *Corporations in general.* The “net income” of a corporation means
2 the gross income as computed under the Internal Revenue Code as modified under
3 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
4 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
5 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
6 under this paragraph at the time that the taxpayer first claimed the credit plus the
7 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
8 (1ds), (1dx), (3g), (3n), (3t), ~~and (5b),~~ and (5r) and not passed through by a
9 partnership, limited liability company, or tax-option corporation that has added that
10 amount to the partnership’s, limited liability company’s, or tax-option corporation’s
11 income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or
12 other disposition of assets the gain from which would be wholly exempt income, as
13 defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and
14 minus deductions, as computed under the Internal Revenue Code as modified under
15 sub. (3), plus or minus, as appropriate, an amount equal to the difference between
16 the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or
17 otherwise disposed of in a taxable transaction during the taxable year, except as
18 provided in par. (b) and s. 71.45 (2) and (5).

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

20 71.28 (5r) EDUCATION CREDIT. (a) In this subsection:

- 21 1. “Claimant” means a corporation that files a claim under this subsection.
- 22 2. “Degree-granting program” means an education program for which an
23 associate, a bachelor’s, or a graduate degree is awarded upon successful completion.
- 24 3. “Family member” has the meaning given in s. 157.061 (7).

BILL

1 4. “Managing employee” means an individual who wholly or partially exercises
2 operational or managerial control over, or who directly or indirectly conducts, the
3 operation of the claimant’s business.

4 5. “Poverty line” has the meaning given under s. 49.001 (5).

5 6. “Qualified postsecondary institution” means all of the following:

6 a. A University of Wisconsin System institution, a technical college system
7 institution, or a regionally accredited 4-year nonprofit college or university having
8 its regional headquarters and principal place of business in this state.

9 b. A school approved under s. 45.54, if ~~the school has a physical presence, and~~
10 the delivery of education occurs, in this state.

11 (b) Subject to the limitations provided in this subsection, a claimant may claim
12 as a credit against the tax imposed under s. 71.23 an amount equal to the following:

13 1. Fifty percent of the tuition that the claimant paid or incurred during the
14 taxable year for an individual to participate in an education program of a qualified
15 postsecondary institution, if the individual was enrolled in a degree-granting
16 program.

17 2. Seventy-five percent of the tuition that the claimant paid or incurred during
18 the taxable year for an individual to participate in an education program of a
19 qualified postsecondary institution, if the individual was enrolled in a
20 degree-granting program and if the individual’s taxable income in the year prior to
21 commencing participation in the education program in connection with which a
22 credit is claimed is not more than 185 percent of the poverty line.

23 (c) 1. No credit may be allowed under par. (b) unless the claimant obtains
24 written certification from a qualified postsecondary institution concerning the
25 amount of tuition that the claimant paid or incurred during the taxable year for an

BILL

1 individual to participate in an education program of the qualified postsecondary
2 institution and includes a copy of the certification with the claimant's return.

3 2. No credit may be allowed under par. (b) 2. unless the claimant obtains
4 written certification from a qualified postsecondary institution that the taxable
5 income of the individual for whom the claimant has paid or incurred tuition during
6 the taxable year for the individual to participate in an education program of the
7 qualified postsecondary institution is not more than 185 percent of the poverty line
8 and includes a copy of the certification with the claimant's return. For purposes of
9 this subdivision and par. (b) 2., if an individual for whom the claimant has paid or
10 incurred tuition is claimed as a dependent on another person's tax return, the
11 individual's taxable income shall be the taxable income of the person on whose return
12 the individual is claimed as a dependent.

13 3. No credit may be allowed under par. (b) unless the claimant certifies to the
14 department of revenue that the claimant will not be reimbursed for any amount of
15 tuition for which the claimant claims a credit under par. (b).

16 (d) A claimant may not claim the credit under par. (b) for any tuition amounts
17 that the claimant has excluded under section 127 of the Internal Revenue Code.

18 (e) A claimant may not claim the credit under par. (b) for any tuition amounts
19 that the claimant paid or incurred for a family member of a managing employee
20 unless all of the following apply:

21 1. The family member was employed an average of at least 20 hours a week as
22 an employee of the claimant, or the claimant's business, during the one-year period
23 prior to commencing participation in the education program in connection with
24 which the claimant claims a credit under par. (b).

BILL

1 2. The family member is enrolled in a degree-granting program that is
2 substantially related to the claimant's business.

3 3. The family member is making satisfactory progress towards completing the
4 degree-granting program under subd. 2.

5 (f) The carry-over provisions of sub. (4) (e) and (f), as they apply to the credit
6 under sub. (4), apply to the credit under this subsection.

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

15 (h) Subsection (4) (g) and (h), as it applies to the credit under sub. (4), applies
16 to the credit under this subsection.

17 (i) The department of revenue shall biennially submit a report to the legislature
18 under s. 13.172 (2) that identifies each qualified postsecondary institution for which
19 it has received written certification from a claimant under par. (c). The report shall
20 specify the total amount of the tuition for each such institution that is claimed as a
21 credit under this subsection in the previous biennium.

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

23 71.30 (3) (dm) The education credit under s. 71.28 (5r).

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

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

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

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

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

12 71.47 (5r) EDUCATION CREDIT. (a) In this subsection:

- 13 1. "Claimant" means a corporation that files a claim under this subsection.
- 14 2. "Degree-granting program" means an educational program for which an
15 associate, a bachelor's, or a graduate degree is awarded upon successful completion.
- 16 3. "Family member" has the meaning given in s. 157.061 (7).
- 17 4. "Managing employee" means an individual who wholly or partially exercises
18 operational or managerial control over, or who directly or indirectly conducts, the
19 operation of the claimant's business.
- 20 5. "Poverty line" has the meaning given under s. 49.001 (5).
- 21 6. "Qualified postsecondary institution" means all of the following:
 - 22 a. A University of Wisconsin System institution, a technical college system
23 institution, or a regionally accredited 4-year nonprofit college or university having
24 its regional headquarters and principal place of business in this state.

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1 b. A school approved under s. 45.54, if ~~the school has a physical presence, and~~
2 the delivery of education occurs, in this state.

3 (b) Subject to the limitations provided in this subsection, a claimant may claim
4 as a credit against the tax imposed under s. 71.43 an amount equal to the following:

5 1. Fifty percent of the tuition that the claimant paid or incurred during the
6 taxable year for an individual to participate in an education program of a qualified
7 postsecondary institution, if the individual was enrolled in a degree-granting
8 program.

9 2. Seventy-five percent of the tuition that the claimant paid or incurred during
10 the taxable year for an individual to participate in an education program of a
11 qualified postsecondary institution, if the individual was enrolled in a
12 degree-granting program and if the individual's taxable income in the year prior to
13 commencing participation in the education program in connection with which a
14 credit is claimed is not more than 185 percent of the poverty line.

15 (c) 1. No credit may be allowed under par. (b) unless the claimant obtains
16 written certification from a qualified postsecondary institution concerning the
17 amount of tuition that the claimant paid or incurred during the taxable year for an
18 individual to participate in an education program of the qualified postsecondary
19 institution and includes a copy of the certification with the claimant's return.

20 2. No credit may be allowed under par. (b) 2. unless the claimant obtains
21 written certification from a qualified postsecondary institution that the taxable
22 income of the individual for whom the claimant has paid or incurred tuition during
23 the taxable year for the individual to participate in an education program of the
24 qualified postsecondary institution is not more than 185 percent of the poverty line
25 and includes a copy of the certification with the claimant's return. For purposes of

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1 this subdivision and par. (b) 2., if an individual for whom the claimant has paid or
2 incurred tuition is claimed as a dependent on another person's tax return, the
3 individual's taxable income shall be the taxable income of the person on whose return
4 the individual is claimed as a dependent.

5 3. No credit maybe allowed under par. (b) unless the claimant certifies to the
6 department of revenue that the claimant will not be reimbursed for any amount of
7 tuition for which the claimant claims a credit under par. (b).

8 (d) A claimant may not claim the credit under par. (b) for any tuition amounts
9 that the claimant excluded under section 127 of the Internal Revenue Code.

10 (e) A claimant may not claim the credit under par. (b) for any tuition amounts
11 that the claimant paid or incurred for a family member of a managing employee
12 unless all of the following apply:

13 1. The family member was employed an average of at least 20 hours a week as
14 an employee of the claimant, or the claimant's business, during the one-year period
15 prior to commencing participation in the education program in connection with
16 which the claimant claims a credit under par. (b).

17 2. The family member is enrolled in a degree-granting program that is
18 substantially related to the claimant's business.

19 3. The family member is making satisfactory progress towards completing the
20 degree-granting program under subd. 2.

21 (f) The carry-over provisions of s. 71.28 (4) (e) and (f), as they apply to the credit
22 under s. 71.28 (4), apply to the credit under this subsection.

23 (g) Partnerships, limited liability companies, and tax-option corporations may
24 not claim the credit under this subsection, but the eligibility for, and the amount of,
25 the credit are based on their payment of tuition under par. (b). A partnership, limited

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1 liability company, or tax-option corporation shall compute the amount of credit that
2 each of its partners, members, or shareholders may claim and shall provide that
3 information to each of them. Partners, members of limited liability companies, and
4 shareholders of tax-option corporations may claim the credit in proportion to their
5 ownership interest.

6 (h) Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4),
7 applies to the credit under this subsection.

8 (i) The department of revenue shall biennially submit a report to the legislature
9 under s. 13.172 (2) that identifies each qualified postsecondary institution for which
10 it has received written certification from a claimant under par. (c). The report shall
11 specify the total amount of the tuition for each such institution that is claimed as a
12 credit under this subsection in the previous biennium.

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

14 71.49 (1) (dm) The education credit under s. 71.47 (5r).

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

16 77.92 (4) “Net business income,” with respect to a partnership, means taxable
17 income as calculated under section 703 of the Internal Revenue Code; plus the items
18 of income and gain under section 702 of the Internal Revenue Code, including taxable
19 state and municipal bond interest and excluding nontaxable interest income or
20 dividend income from federal government obligations; minus the items of loss and
21 deduction under section 702 of the Internal Revenue Code, except items that are not
22 deductible under s. 71.21; plus guaranteed payments to partners under section 707
23 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
24 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), ~~and (5b)~~, and (5r); and
25 plus or minus, as appropriate, transitional adjustments, depreciation differences,

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1 and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding
2 income, gain, loss, and deductions from farming. "Net business income," with respect
3 to a natural person, estate, or trust, means profit from a trade or business for federal
4 income tax purposes and includes net income derived as an employee as defined in
5 section 3121 (d) (3) of the Internal Revenue Code.

6 **SECTION 13. Initial applicability.**

7 (1) EDUCATION CREDIT. This act first applies to taxable years beginning on
8 January 1, 2006.

9 (END)

Emery, Lynn

From: Emery, Lynn
Sent: Thursday, March 17, 2005 11:20 AM
To: Sen.Darling
Subject: LRB 05-1748/2 (attached as requested)



05-1748/2

Lynn Emery
Program Assistant
Legislative Reference Bureau
608-266-3561
lynn.emery@legis.state.wi.us