

2009 DRAFTING REQUEST

Bill

Received: **12/29/2008**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-1103**

By/Representing: **Miner**

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

Drafter: **mshovers**

May Contact:

Addl. Drafters: **jkreye
btradewe**

Subject: **Tax, Individual - income credit
Tax, Business - crp inc, fran
Agriculture - other**

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Miner, BB0315 -

Topic:

Individual income and corporate income and franchise tax credit for landowners and beginning farmers

Instructions:

See attached. Create a tax credit for beginning farmers and for the farmers who lease land to beginning farmers. First applies to taxable years beginning on 1/1/11

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>
/?	mshovers 01/06/2009 jkreye 01/07/2009			_____			State
/P1	btradewe 01/13/2009	bkraft 01/14/2009	rschluet 01/14/2009	_____	cduerst 01/14/2009		State

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	mshovers 01/30/2009	bkraft 01/31/2009		_____			
/1			rschluet 01/31/2009	_____	sbasford 02/02/2009		State
/2	jkreye 02/02/2009	bkraft 02/02/2009	phenry 02/02/2009	_____	sbasford 02/02/2009		State
	jkreye 02/06/2009	bkraft 02/06/2009		_____			
/3			phenry 02/06/2009	_____	mbarman 02/06/2009		

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01/31/2009

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02/02/2009

12bjk 2/2

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Addl. Drafters: jkrewe
btradewe

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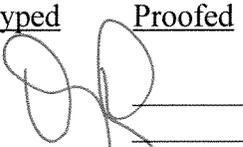
Topic:

Individual income, ^{e and} corporate income and franchise, ^e tax credit for landowners and beginning farmers

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/?	mshovers	/PI bjk 1/14					

FE Sent For:


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2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Next Generation Farmer Tax Credit
- Tracking Code: *BB0315*
- SBO team: Agriculture, Environment and Justice
- SBO analyst: Andrew Miner *AM 12/22/08*
 - Phone: 266-1103
 - Email: andrew.miner@wisconsin.gov
- Agency acronym: DATCP
- Agency number: 115
- Priority (Low, Medium, High): High

Intent: Establish a tax credit for beginning farmers and landowners who lease land to them as outlined under Parts 1 and 2 of the attached issue paper. However, the first year for both parts of the credit should be tax year 2011, so that a fiscal effect would first occur in fiscal year 2011-12.

Division: Agricultural Development
Date: September 26, 2008

Department of Agriculture, Trade and Consumer Protection
2009-11 Biennial Budget
Preliminary Request

Description of Request: Proposal for a Wisconsin Next Generation Farmer Tax Credit Program

This program would include two parts: a three year tax credit for established farmers who agree to enter into a long-term lease with a beginning farmer, and a one-time tax credit for the beginning farmers to help offset the cost of a farm management course.

Goals of Proposal:

- Provide incentives for beginning farmers to invest in educational programs that will increase the likelihood of their success and profitability.
- Improve financial position of beginning farmers.
- Provide incentives for established farmers to collaborate and assist beginning farmers.
- Provide another tool to help interested parties enter farming.

Part 1 - Tax credit for owner who leases to beginning farmer: The Wisconsin Next Generation Farmer Tax Credit Program would allow a credit against state income tax liability for an *owner* of agricultural assets who enters into a minimum of a three-year written agreement with a beginning farmer for lease of those assets. The credit would be equal to 15% of the annual cash lease for depreciable assets for each year of the first three years of the lease. If the owner's state income tax liability is less than the amount of the credit, the owner will receive a refundable tax credit – a check from the state-- for the difference. The first year of the program would be tax year 2010.

Part 2 – Tax Credit for beginning farmer: The program would also include a one-time \$500 maximum tax credit for the beginning farmer (the lessee in the agreement) to cover the cost of enrolling in a farm financial management educational program. Eligible programs could include offerings from the Wisconsin Technical College System, UW-Extension, the UW-Madison Farm and Industry Short Course, or other approved education providers.

Division role: The beginning farmer would be required to submit a written business plan and a signed lease agreement for either party to receive benefits under the program. The Division's Beginning and Transitioning Farmer Program could facilitate the process by helping the beginning farmer write a business plan and assist in the negotiation of a lease agreement.

Additional Revenue Needed – Proposal would result in a reduction in state tax revenues.

Statutory Language Needed - yes

Next Generation Farmer Tax Credit Program Description

Potential Use: Of the estimated 800+ new farmers that start in farming each year in Wisconsin it is projected that 400-500 would be able to meet the requirements of the Next Generation Farmer Tax Credit based on proposed eligibility criteria. (These criteria are similar to programs in Nebraska and Iowa - see the appendix for information on these two states' programs).

However this lessee arrangement would not be expected to be universally utilized; for the purposes of this proposal it is estimated that 300 beginning farmers would apply for the program in the first year, and 200 in each of the second and third years.

Requirements for the new beginning farmer:

- Written, multi-year lease agreement between the owner of the agricultural assets and the beginning farmer.
- A business plan that includes current and three years of projected balance sheets, cash flow statements, and income statements along with detailed notes on all significant accounting assumptions used in developing the projections for the beginning farmer.
- Certification that the beginning farmer has sufficient education, training and/or experience in the type of farming for which the tax credit will be provided.
- A copy of their IRS Schedule F for each year (or alternative documentation to be determined).

Estimated Lease Costs: A common scenario in Wisconsin is for a beginning farmer to rent a stanchion barn to milk 60 cows. A typical rent for such a facility is \$10/cow/month (\$600/month for 60 cows). With the addition of machinery and equipment, the lease costs are estimated at \$1,000 per month, or \$12,000 per year.

Other types of farming operations (livestock, cash-cropping, etc) would qualify for inclusion in the program but most would be less costly than a dairy lease arrangement.

Tax Credit Proposal:

- Offer the tax credit for three years on depreciable assets (animals, machinery, equipment, facilities).
- Estimate that the average annual credit per eligible farm operation would be approximately \$1,800 (based on an average lease of \$12,000 per year x 15%).
- Include a \$500 one-time tuition tax credit to enable the beginning farmer to enroll in a farm business management course.

**Next Generation Farmer Tax Credit
Calculations and Estimates**

Cost Estimate for 15% Tax Credit on <u>Depreciable Assets</u> plus <u>Tuition Credit</u>						
				2010	2011	2012
	Monthly Cost	Annual cost	15% credit	yr 1 tax credit	yr 2 tax credit	yr 3 tax credit
# of farmers				300	500 (300+200)	700 (300+200+200)
cost of 60 cow dairy facility/mo	\$1,000					
# of months	12					
Total Facility Lease Cost		\$12,000	\$1,800	\$540,000	900,000	1,260,000
Tuition Credit			\$500	(\$500x300) \$150,000	(\$500x200) \$100,000	(\$500x200) \$100,000
Total Tax Credits				\$690,000	\$1,000,000	\$1,360,000

Aggregate statewide costs: As seen in the table above, estimated costs would be \$690,000 in year 1, \$1.0 million in year 2 and \$1.36 million in year 3.

Appendix

Other states' experience – Iowa and Nebraska

Nebraska created a Beginning Farmer Tax Credit Program in 1999 and Iowa adopted a similar tax credit program. Those states require a written, multi-year lease agreement between the owner of the agricultural assets and the beginning farmer. They require the asset owner and the beginning farmer to submit an application that includes a statement of financial condition (a balance sheet) for the beginning farmer. Nebraska also requires the beginning farmer to provide a cash flow analysis, and requires copies of the farm's nutrient management and soil conservation plans. Both states require the beginning farmer to provide certification that they have sufficient education, training and/or experience in the type of farming for which the tax credit will be provided. In Iowa, the beginning farmer has to provide a copy of their IRS Schedule F each year. Iowa charges a \$200 application fee to help cover the cost of administering the program. The state refunds \$150 if the application is denied. Nebraska does not charge an application fee. Prior to 2007, Nebraska did not allow leases between closely related parties. Iowa does allow leases between closely related parties.

Participation in the Nebraska program has fallen short of initial expectations and the program has recently been revised with the goal of increasing participation. According to the most recent annual report from Nebraska, in the six years from July, 2001 through June, 2006, 58 cases were approved for the tax credit program. In the five tax years from 2001 to 2005, asset owners received a total of \$257,278 or an average of \$51,456 per year. This works out to an average of \$4,436 per case. One significant difference between the Nebraska and Iowa Beginning Farmer Tax Credit Programs and the program being proposed in Wisconsin is the allowance of land leases in those states. Including land leases would significantly increase the cost of the program.

In 1/13 (please give this some priority, even among RAB drafts) and Lbjk

DOA:.....Miner, BB0315 - Individual income, corporate income and franchise tax credit for landowners and beginning farmers

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

LPS - Please fix request sheet.

Note

SA ✓ X-ref V

do not gen.

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

This bill creates a refundable individual income tax credit for a beginning farmer who enters into at least a three year lease of an established farmer's agricultural assets, other than land, and uses the assets for farming, and a refundable individual and corporate income and franchise tax credit for the established farmer whose assets are leased. Because the credit is refundable, if the amount of credit due a claimant exceeds the claimant's tax liability, the excess amount of the credit is refunded to the claimant by check. The credit first applies to taxable years beginning on January 1, 2011.

> A beginning farmer may claim a credit of up to \$500 on a one-time basis for the cost to enroll in a course in farm financial management that is offered by an educational institution, such as the University of Wisconsin-Madison, the University of Wisconsin-Extension, or the Wisconsin technical college system. An established farmer may claim a credit of 15 percent of the amount of payments that the established farmer receives each year from the beginning farmer for the lease of the farm assets, except that the credit may only be claimed by the established farmer for the first three years of the lease.

To be a beginning farmer, an individual must have a net worth of less than \$200,000 and have farmed for fewer than ten years out of the preceding 15 years. To be an established farmer, person must have engaged in farming for at least 10 years. A beginning farmer and an established farmer must apply to DATCP and obtain a certificate of eligibility in order to receive the tax credit. A beginning farmer must submit a business plan as part of the application. DATCP may not issue a certificate of eligibility unless the application shows that the beginning farmer has the resources and education, training, or experience for the type of farming in which the beginning farmer uses the experienced farmer's assets.

ten

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 ^X
SECTION 1. 20.835 (2) (en) of the statutes is created to read:

2 20.835 (2) (en) *Beginning farmer and farm asset owner tax credit.* A sum
3 sufficient to pay the claims approved under ^(ss.) (s) 71.07 (8r), 71.28 (8r), and 71.47 (8r).

4 ^X
SECTION 2. 71.05 (6) (a) 15. of the statutes is amended to read:

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

History: 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; 2005 a. 22, 25, 216, 254, 335, 361, 479, 483; 2007 a. 20, 96, 226.

11 ^X
SECTION 3. 71.07 (8r) of the statutes is created to read:

12 71.07 (8r) BEGINNING FARMER AND FARM ASSET OWNER TAX CREDIT. (a) *Definitions.*

13 In this subsection:

14 1. "Agricultural assets" means machinery, equipment, facilities, or livestock
15 that is used in farming.

1 2. “Beginning farmer” means a person who meets the conditions specified in s.
2 s. 93.53 (2).

3 3. “Claimant” means a beginning farmer who files a claim under this subsection
4 or an established farmer who files a claim under this subsection.

5 4. “Educational institution” means the Wisconsin technical college system, the
6 University of Wisconsin–Extension, the University of Wisconsin–Madison, or any
7 other institution that is approved by the department of agriculture, trade, and
8 consumer protection under s. 93.53 (6) (a).

9 5. “Established farmer” means a person who meets the conditions specified in
10 s. 93.53 (3).

11 6. “Farming” has the meaning given in section 464 (e) (1) of the Internal
12 Revenue Code.

13 7. “Financial management program” means a course in farm financial
14 management that is offered by an educational institution.

15 8. “Lease amount” is the amount of the cash payment paid by a beginning
16 farmer to an established farmer each year for leasing the established farmer’s
17 agricultural assets.

18 (b) *Filing claims.* 1. For taxable years beginning after December 31, 2010, and
19 subject to the limitations provided in this subsection, a beginning farmer may claim
20 as a credit against the tax imposed under s. 71.02 or 71.08, on a one-time basis, the
21 amount paid by the beginning farmer to enroll in a financial management program
22 in the year to which the claim relates. If the allowable amount of the claim exceeds
23 the income taxes otherwise due on the beginning farmer’s income, the amount of the
24 claim not used as an offset against those taxes shall be certified by the department

1 of revenue to the department of administration for payment to the claimant by check,
2 share draft, or other draft from the appropriation under s. 20.835 (2) (en).

3 2. For taxable years beginning after December 31, 2010, and subject to the
4 limitations provided in this subsection, an established farmer may claim as a credit
5 against the tax imposed under s. 71.02 or 71.08 15 percent of the lease amount
6 received by the established farmer in the year to which the claim relates. If the
7 allowable amount of the claim exceeds the income taxes otherwise due on the
8 established farmer's income, the amount of the claim not used as an offset against
9 those taxes shall be certified by the department of revenue to the department of
10 administration for payment to the claimant by check, share draft, or other draft from
11 the appropriation under s. 20.835 (2) (en).

12 (c) *Limitations.* 1. An established farmer may only claim the credit under this
13 subsection for the first ³three years of any lease of the established farmer's
14 agricultural assets to a beginning farmer.

15 2. No credit may be allowed under this subsection unless it is claimed within
16 the time period under s. 71.75 (2).

17 3. Along with a claimant's income tax return, a claimant shall submit to the
18 department certificate of eligibility provided under s. 93.53 (5) (b) or (c).

19 4. No credit may be claimed under this subsection by a part-year resident or
20 a nonresident of this state.

21 5. The right to file a claim under this subsection is personal to the claimant and
22 does not survive the claimant's death. When a claimant dies after having filed a
23 timely claim the amount thereof shall be disbursed under s. 71.75 (10). The right to
24 file a claim under this subsection may be exercised on behalf of a living claimant by
25 the claimant's legal guardian or attorney-in-fact.

1 6. The maximum credit that a beginning farmer may claim under this
2 subsection is \$500.

3 7. 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 the amounts received by the entities under par. (b) 2. A
6 partnership, limited liability company, or tax-option corporation shall compute the
7 amount of credit that each of its partners, members, or shareholders may claim and
8 shall provide that information to each of them. Partners, members of limited liability
9 companies, and shareholders of tax-option corporations may claim the credit in
10 proportion to their ownership interests.

11 (d) *Administration*. Subsection (9e) (d), to the extent that it applies to the credit
12 under that subsection, applies to the credit under this subsection.

13 SECTION 4. 71.08 (1) (intro.) of the statutes is amended to read:

14 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
15 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under
16 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3n), (3p),
17 (3s), (3t), (3w), (5b), (5d), (5e), (5f), (6), (6e), (8r), and (9e), 71.28 (1dd), (1de), (1di),
18 (1dj), (1dL), (1ds), (1dx), (1fd), (2m), (3), (3n), (3t), and (3w), and 71.47 (1dd), (1de),
19 (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m), (3), (3n), (3t), and (3w), and subchs. VIII
20 and IX and payments to other states under s. 71.07 (7), is less than the tax under this
21 section, there is imposed on that natural person, married couple filing jointly, trust
22 or estate, instead of the tax under s. 71.02, an alternative minimum tax computed
23 as follows:

24 SECTION 5. 71.10 (4) (i) of the statutes is amended to read:

SECTION 5

1 71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland
2 preservation credit under subch. IX, homestead credit under subch. VIII, farmland
3 tax relief credit under s. 71.07 (3m), farmers' drought property tax credit under s.
4 71.07 (2fd), dairy manufacturing facility investment credit under s. 71.07 (3p), film
5 production services credit under s. 71.07 (5f) (b) 2., veterans and surviving spouses
6 property tax credit under s. 71.07 (6e), enterprise zone jobs credit under s. 71.07 (3w),
7 beginning farmer and farm asset owner tax credit under s. 71.07 (8r), earned income
8 tax credit under s. 71.07 (9e), estimated tax payments under s. 71.09, and taxes
9 withheld under subch. X.

10 **SECTION 6.** 71.21 (4) of the statutes is amended to read:

11 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
12 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3h), (3n), (3p), (3s), (3t), (3w), (5e), (5f), (5g),
13 (5h), (5i), (5j), ~~and (5k)~~, and (8r) and passed through to partners shall be added to the
14 partnership's income.

15 History: 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; 2005 a. 74, 361, 479, 483; 2007 a. 20, 96.

15 **SECTION 7.** 71.26 (2) (a) 4. of the statutes is amended to read:

16 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
17 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3g), (3h), (3n), (3p), (3t), (3w), (5e), (5f),
18 (5g), (5h), (5i), (5j), ~~and (5k)~~, and (8r) and not passed through by a partnership,
19 limited liability company, or tax-option corporation that has added that amount to
20 the partnership's, limited liability company's, or tax-option corporation's income
21 under s. 71.21 (4) or 71.34 (1k) (g).

22 History: 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; 2005 a. 25, 74, 335, 361, 362, 479,
483; 2007 a. 20, 96, 97, 151, 226.

22 **SECTION 8.** 71.28 (8r) of the statutes is created to read:

1 71.28 (8r) BEGINNING FARMER AND FARM ASSET OWNER TAX CREDIT. (a) *Definitions.*

2 In this subsection:

3 1. "Agricultural assets" means machinery, equipment, facilities, or livestock
4 that is used in farming.

5 2. "Beginning farmer" means a person who meets the conditions specified in s.
6 93.53 (2).

7 3. "Claimant" means an established farmer who files a claim under this
8 subsection.

9 4. "Established farmer" means a person who meets the conditions specified in
10 s. 93.53 (2).^{e3}

11 6.5 "Farming" has the meaning given in section 464 (e) (1) of the Internal
12 Revenue Code.^{e5}

13 7.6 "Lease amount" is the amount of the cash payment paid by a beginning
14 farmer to an established farmer each year for leasing the established farmer's
15 agricultural assets.^{e6}

16 (b) *Filing claims.* For taxable years beginning after December 31, 2010, and
17 subject to the limitations provided in this subsection, a claimant may claim as a
18 credit against the tax imposed under s. 71.23 an amount equal to 15 percent of the
19 lease amount received by the claimant in the taxable year. If the allowable amount
20 of the claim exceeds the taxes otherwise due on the claimant's income, the amount
21 of the claim not used as an offset against those taxes shall be certified by the
22 department of revenue to the department of administration for payment to the
23 claimant by check, share draft, or other draft from the appropriation under s. 20.835
24 (2) (en).

SECTION 8

1 (c) *Limitations.* 1. A claimant may only claim the credit under this subsection
2 for the first ~~three~~^{e3} years of any lease of the claimant's agricultural assets to a
3 beginning farmer.

4 2. Along with a claimant's income tax return, a claimant shall submit to the
5 department a certificate of eligibility provided under s. 93.53 (5) (c).

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

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

16 **SECTION 9.** 71.30 (3) (f) of the statutes is amended to read:

17 71.30 (3) (f) The total of farmers' drought property tax credit under s. 71.28
18 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under
19 s. 71.28 (2m), dairy manufacturing facility investment credit under s. 71.28 (3p),
20 enterprise zone jobs credit under s. 71.28 (3w), film production services credit under
21 s. 71.28 (5f) (b) 2., beginning farmer and farm asset owner tax credit under s. 71.28
22 (8r), and estimated tax payments under s. 71.29.

History: 1987 a. 312; 1987 a. 411 ss. 144, 145, ~~187~~ to 185; 1989 a. 31, 56; 1991 a. 39; 1995 a. 27, 209; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33, 99, 135, 255; 2005 a. 25, 74, 361, 479, 483; 2007 a. 20, 226.

23 **SECTION 10.** 71.34 (1k) (g) of the statutes is amended to read:

1 71.34 (1k) (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 (3h), (3n), (3p), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), ~~and (5k)~~, and (8r) and passed
4 through to shareholders.

History: 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; 2005 a. 25, 49, 74, 361, 479, 483; 2007 a. 20, 96, 226.

5 **SECTION 11. 71.45 (2) (a) 10.** of the statutes is amended to read:

6 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
7 computed under s. 71.47 (1dd) to (1dx), (3h), (3n), (3p), (3w), (5e), (5f), (5g), (5h), (5i),
8 (5j), ~~and (5k)~~, and (8r) and not passed through by a partnership, limited liability
9 company, or tax-option corporation that has added that amount to the partnership's,
10 limited liability company's, or tax-option corporation's income under s. 71.21 (4) or
11 71.34 (1k) (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and

12 (5).

LPS-Please add an

action
phrase.

History: 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; 2005 a. 74, 297, 335, 361, 479, 483; 2007 a. 20, 96, 226.

13 **71.47 (8r) BEGINNING FARMER AND FARM ASSET OWNER TAX CREDIT. (a) Definitions.**

14 In this subsection:

15 1. "Agricultural assets" means machinery, equipment, facilities, or livestock
16 that is used in farming.

17 2. "Beginning farmer" means a person who meets the conditions specified in s.
18 93.53 (2).

19 3. "Claimant" means an established farmer who files a claim under this
20 subsection.

21 4. "Established farmer" means a person who meets the conditions specified in
22 s. 93.53 (3).

X
Section # CR 71.47 (8r)

1 ^{e5} 6. "Farming" has the meaning given in section 464 (e) (1) of the Internal
2 Revenue Code.

3 ^{e6} 7. "Lease amount" is the amount of the cash payment paid by a beginning
4 farmer to an established farmer each year for leasing the established farmer's
5 agricultural assets.

6 (b) *Filing claims.* For taxable years beginning after December 31, 2010, and
7 subject to the limitations provided in this subsection, a claimant may claim as a
8 credit against the tax imposed under s. 71.43 an amount equal to 15 percent of the
9 lease amount received by the claimant in the taxable year. If the allowable amount
10 of the claim exceeds the taxes otherwise due on the claimant's income, the amount
11 of the claim not used as an offset against those taxes shall be certified by the
12 department of revenue to the department of administration for payment to the
13 claimant by check, share draft, or other draft from the appropriation under s. 20.835
14 (2) (en).

15 (c) *Limitations.* 1. A claimant may only claim the credit under this subsection
16 for the first ^{e3} ~~three~~ years of any lease of the claimant's agricultural assets to a
17 beginning farmer.

18 2. Along with a claimant's income tax return, a claimant shall submit to the
19 department a certificate of eligibility provided under s. 93.53 (5) (c).

20 3. 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 the amounts received by the entities under par. (b). A
23 partnership, limited liability company, or tax-option corporation shall compute the
24 amount of credit that each of its partners, members, or shareholders may claim and
25 shall provide that information to each of them. Partners, members of limited liability

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

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

5 **SECTION 12.** 71.49 (1) (f) of the statutes is amended to read:

6 71.49 (1) (f) The total of farmers' drought property tax credit under s. 71.47
7 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under
8 s. 71.47 (2m), dairy manufacturing facility investment credit under s. 71.47 (3p),
9 enterprise zone jobs credit under s. 71.47 (3w), film production services credit under
10 s. 71.47 (5f) (b) 2., beginning farmer and farm asset owner tax credit under s. 71.47
11 (8r), and estimated tax payments under s. 71.48.

12 History: 1987 a. 312, 411; 1989 a. 31, 56; 1991 a. 39; 1995 a. 27, 209; 1997 a. 27; 2001 a. 16; 2003 a. 99, 135, 255; 2005 a. 74, 361, 479, 483; 2007 a. 20.

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

14 77.92 (4) "Net business income," with respect to a partnership, means taxable
15 income as calculated under section 703 of the Internal Revenue Code; plus the items
16 of income and gain under section 702 of the Internal Revenue Code, including taxable
17 state and municipal bond interest and excluding nontaxable interest income or
18 dividend income from federal government obligations; minus the items of loss and
19 deduction under section 702 of the Internal Revenue Code, except items that are not
20 deductible under s. 71.21; plus guaranteed payments to partners under section 707
21 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
22 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3h), (3s), (3n), (3p), (3t), (3w), (5e),
23 (5f), (5g), (5h), (5i), (5j), ~~and (5k)~~, and (8r); and plus or minus, as appropriate,
24 transitional adjustments, depreciation differences, and basis differences under s.
71.05 (13), (15), (16), (17), and (19); but excluding income, gain, loss, and deductions

1 from farming. "Net business income," with respect to a natural person, estate, or
2 trust, means profit from a trade or business for federal income tax purposes and
3 includes net income derived as an employee as defined in section 3121 (d) (3) of the
4 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; 2005 a. 74, 361, 479, 483; 2007 a. 20, 96.

5 **SECTION 14.** 93.53 of the statutes is created to read:

6 **93.53 Beginning farmer and farm asset owner tax credit eligibility. (1)**

7 DEFINITIONS. In this section:

8 (a) "Agricultural asset" means machinery, equipment, facilities, or livestock
9 that is used in farming.

10 (b) "Beginning farmer" means an individual who meets the conditions specified
11 in sub. (2).

12 (c) "Educational institution" means the Wisconsin technical college system, the
13 University of Wisconsin-Extension, the University of Wisconsin-Madison, or any
14 other institution that is approved by the department under sub. (6) (a).

15 (d) "Established farmer" means a person who meets the conditions specified in
16 sub. (3).

17 (e) "Farming" has the meaning given in section 464 (e) (1) of the Internal
18 Revenue Code.

19 (f) "Financial management program" means a course in farm financial
20 management that is offered by an educational institution.

21 (2) BEGINNING FARMER. An individual is a beginning farmer for the purposes of
22 s. 71.07 (8r), 71.28 (8r), or 71.47 (8r) if, at the time that the individual submits an
23 application under sub. (3), all of the following apply:

24 (a) The individual has a net worth of less than \$200,000.

1 (b) The individual has farmed for fewer than 10 years out of the preceding 15
2 years.

3 (c) The individual has entered into a lease for a term of at least 3 years with
4 an established farmer for the use of the established farmer's agricultural assets by
5 the beginning farmer.

6 (d) The individual uses the leased agricultural assets for farming.

7 (3) ESTABLISHED FARMER. A person is an established farmer for the purposes of
8 s. 71.07 (8r), 71.28 (8r), or 71.47 (8r) if, at the time that the person submits an
9 application under sub. (3), all of the following apply:

10 (a) The person has engaged in farming for a total of at least 10 years.

11 (b) The person owns agricultural assets.

12 (c) The person has entered into a lease for a term of at least 3 years with a
13 beginning farmer for the use of the person's agricultural assets by the beginning
14 farmer.

15 (4) APPLICATIONS. (a) In order for an experienced farmer to claim the farm asset
16 owner tax credit under s. 71.07 (8r) (b) 2., 71.28 (8r), or 71.47 (8r), the experienced
17 farmer and the beginning farmer who is leasing agricultural assets from the
18 experienced farmer shall each submit an application to the department.

19 (b) An established farmer shall include in the application under this subsection
20 the established farmer's name and address, information showing that the
21 established farmer satisfies the conditions in specified in sub. (3), a description of the
22 leased agricultural assets and their location, a copy of the lease, and any other
23 information required by the department.

24 (c) A beginning farmer shall include all of the following in an application under
25 this subsection:

- 1 1. The beginning farmer's name and address.
- 2 2. Information showing that the beginning farmer satisfies the conditions in
- 3 sub. (2).
- 4 3. A business plan that includes a current balance sheet and projected balance
- 5 sheets for ³three years, cash flow statements, and income statements along with a
- 6 detailed description of all significant accounting assumptions used in developing the
- 7 financial projections.
- 8 4. A description of the beginning farmer's education, training, and experience
- 9 in the type of farming in which the beginning farmer uses the leased agricultural
- 10 assets.
- 11 5. A copy of the beginning farmer's completed federal profit or loss from farming
- 12 form, schedule F, or other documentation approved by the department under sub. (6).
- 13 6. Any other information required by the department.

(d) If a beginning farmer wishes to claim the beginning farmer educational credit under s. 71.07 (8r) (b) 1., the beginning farmer shall also include in the application under this subsection a description of the financial management program ^{completed}attended by the beginning farmer and a statement of the amount that the beginning farmer paid the educational institution to enroll in the financial management educational program.

(5) EVALUATION AND CERTIFICATION. (a) The department shall review applications submitted under sub. (4) (a).

(b) The department shall provide an established farmer with a certificate of eligibility for the farm asset owner tax credit under s. 71.07 (8r) (b) 2., 71.28 (8r), or 71.47 (8r) if all of the following apply:

- 1. The established farmer's application complies with sub. (4) (b).

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1280/P1dn
MES&RCT&JK.....
te e Lbjk

Andrew:

1. The instructions did not provide a definition for "farming" related to the tax credits. Under current law, for income and franchise tax purposes related to depreciation, "farming" has the meaning given under section 464 (e) (1) of the Internal Revenue Code. The credits created in this draft also use that definition. Please note that section 464 (e) (1) of the Internal Revenue Code defines farming as "the cultivation of land or the raising or harvesting of any agricultural or horticultural commodity including the raising, shearing, feeding, caring for, training, and management of animals." Trees, however, are not considered agricultural or horticultural commodities under that definition unless the trees bear fruit or nuts. Please let me know if that definition is consistent with your intent.
2. The instructions indicate that a similar program in Nebraska does not allow leases between "closely related parties" but that a similar program in Iowa does. This draft does not prohibit "closely related parties" from claiming the tax credit. Is that consistent with your intent?

Joseph T. Kreye
Senior Legislative Attorney
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1. The instructions did not specify conditions for being considered a beginning farmer or an established farmer. I borrowed conditions from Nebraska's program, based on a description of the program on the Nebraska Department of Agriculture Internet site. I did not include all of the requirements under Nebraska's program, for example, a requirement that the beginning farmer provide the majority of the day-to-day physical labor and management of the farming operation.
2. The instructions also did not explain how the tax credit program would be administered. For this aspect of the draft, I also borrowed from my understanding of the Nebraska program.

The draft should be reviewed carefully.

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1280/P1dn
RCT&JK:bjk:rs

January 14, 2009

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