

1999 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB482)

Received: **03/23/2000**

Received By: **jkreye**

Wanted: **Soon**

Identical to LRB:

For: **Kevin Shibilski (608) 266-3123**

By/Representing: **kristi**

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

Drafter: **jkreye**

May Contact:

Alt. Drafters:

Subject: **Tax - corp. inc. and fran.**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Tax credit for expenses paid for undergraduate student

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 03/23/2000	jgeller 03/24/2000		_____			
/1			martykr 03/24/2000	_____	lrb_docadmin 03/24/2000	lrb_docadmin 03/24/2000	

FE Sent For:

<END>

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1?	jkreye	1/3/24 jlg	2/3/24 km	ch 3 2/24 km			

FE Sent For:

<END>



State of Wisconsin • DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933 • 608-266-6666 • FAX 608-266-5718 • <http://www.dor.state.wi.us>

Tommy G. Thompson
Governor

Cate Zeuske
Secretary of Revenue

March 23, 2000

TO: Members, Senate Education Committee
FROM: Cate Zeuske, Secretary *Cate Zeuske*
SUBJECT: SB 482 – Income and Franchise Tax Credit for Education Expenses

I would like to take this opportunity to make you aware of several technical and other concerns the Department of Revenue has with SB 482, which creates an income and franchise tax credit for education expenses.

First, the bill provides that the amount of the computed credit passed through a partnership, limited liability company or tax-option corporation must be added back to an individual partner, member or shareholder's income. Other pass-through tax credits are added back to the partnership, LLC or tax-option corporation's income, but not to the individual's income. To provide consistent treatment with other credits, the bill could be amended to require the add-back at the entity level.

at least

Regarding computation of the credit, it is not clear under the bill what credit would be available for a claimant who pays some portion of \$3,000 in education expenses for a qualified student. The bill states that the credit is an amount equal to \$1,000 for every \$3,000 of qualified expenses paid, however it is not clear what the amount of the credit would be if the claimant spends \$2,400 for education expenses.

Additionally, under the bill an officer, shareholder, director, partner, LLC member, sole proprietor, etc. could claim credits for the education expenses of his or her spouse, children or other related individuals regardless of whether the expenses are paid for an individual connected in some way with the business.

Finally, there are two statutory references that appear to be in error. These include:

- In sections 71.07(5d)(f), 71.28(5d)(f) and 71.47(5d)(f), the bill refers to the credit computed under (b)1. The bill should refer to the credit under (b).
- In Section 5, page 5, lines 12-14 should be omitted because they do not apply to corporations and insurance companies.

[Handwritten scribbles and signatures]

Kreye, Joseph

From: Winters, Kristi
Sent: Thursday, March 23, 2000 4:01 PM
To: Kreye, Joseph

Hi,

Just had the hearing and I'm probably about to make your life a living nightmare, not really, but the Senator would like a substitute amendment prepared in time for a paper ballot which is going to be circulated tomorrow. Now that your jaw is on the floor, let me give you the list of the things he wants in the sub:

1) Remember that original \$2,000 cap that was in the bill, well, now we want that, not the \$1,000 cap I talked to you about earlier today;

2) The statutory reference in "sections 71.07(5d)9F), 71.28(5d) (f) and 71.47(5d)(f) refers to the credit computed under section (b)1, should refer to the credit under (b). (According to the DOR memo that was distributed at the hearing. They also said that Section 5, p.5 lines 12-14 should be omitted "because they do not apply to corporations and insurance companies" again according to the memo;

3) We'd like to clarify a company must spend a minimum of \$3,000 to qualify for the \$1,000 tax credit, and a minimum of \$6,000 to qualify for the \$2,000;

4) We'd like to prevent any pass-through tax credits are to be added back to the partnership, LLC or tax-option corporation's income, but not to the individual's income.

5) Could we lift the nepotism prevention language from the Jensen bill? AB244 I believe it is.

6) Add technical colleges to the list of eligible institutions, students at the technical colleges will have to qualify for the WHEG grant.

Feel free to call me, let me know if there's anything I can do.

Kristi

UK.....
jg

~~PRELIMINARY DRAFT NOT READY FOR INTRODUCTION~~
SENATE SUBSTITUTE AMENDMENT ,
TO 1999 SENATE BILL 482

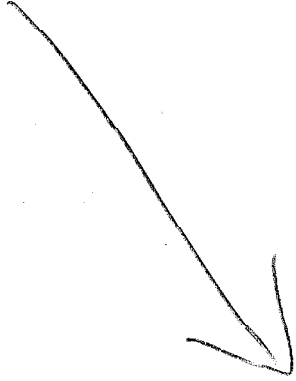
in 3-23-2000
FRI. NOON

1 AN ACT ...; relating to: ???

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

2

(END)



1999 SENATE BILL 482

March 16, 2000 - Introduced by Senators SHIBILSKI, MOORE and DARLING, cosponsored by Representative OLSEN. Referred to Committee on Economic Development, Housing and Government Operations.

re gen

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.26 (2) (a), 71.45 (2) (a) 10. and 77.92 (4);
2 **and to create** 71.07 (5d), 71.10 (4) (cp), 71.28 (5d), 71.30 (3) (dm), 71.47 (5d) and
3 71.49 (1) (dm) of the statutes; **relating to:** an income tax and franchise tax
4 credit for expenses paid on behalf of an undergraduate student.

Analysis by the Legislative Reference Bureau

This bill creates an income tax and franchise tax credit for a business that pays a student's school related expenses, including room and board, books and tuition, if the student is either a full-time undergraduate student enrolled in the University of Wisconsin System and is eligible for a Wisconsin higher education grant or is a full-time undergraduate student enrolled in a private college or university in this state and is eligible for a talent incentive grant for needy students. The amount of the credit is \$1,000 for every \$3,000 of the student's expenses that the business pays in the taxable year. The business may claim credits for expenses that are paid for no more than ten semesters that the student is enrolled as an undergraduate.

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. If the credit exceeds the business's tax liability, the state will not issue a refund check, but the credit may be carried forward to later taxable years.

SENATE BILL 482

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), (2dr), (2ds), (2dx) ~~and~~, (3s) ~~and~~ (5d) and not passed through by a
4 partnership, limited liability company or tax-option corporation that has added that
5 amount to the partnership's, company's or tax-option corporation's income under s.
6 71.21 (4) or 71.34 (1) (g).

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

8 71.07 (5d) STUDENT SPONSORSHIP 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.

INDEX
2-11

12 ⁵ ~~A.~~ "Qualified expenses" means expenses related to attending school including
13 room and board, books and tuition.

14 ⁶ "Qualified student" means any of the following:

15 a. A student who is a full-time undergraduate student enrolled in the
16 University of Wisconsin System and who is eligible for a Wisconsin higher education
17 grant under s. 39.435 for at least 2 semesters that the student is enrolled.

18 b. A student who is a full-time undergraduate student enrolled in a regionally
19 accredited 4-year private college or university in this state and who is eligible for a
20 ~~talent incentive~~ grant under s. 39.435 (2) for at least 2 semesters that the student
21 is enrolled.

or technical college system institution

Wisconsin tuition

SENATE BILL 482

INSERT
3-4

1 (b) Subject to the limitations provided in this subsection, a claimant may claim
2 as a credit against the tax imposed under s. 71.02 an amount equal to \$1,000 for every
3 \$3,000 of qualified expenses that the claimant pays on behalf of a qualified student
4 in a taxable year.

5 (c) A claimant may claim credits under par. (b) for qualified expenses that are
6 paid for no more than 10 semesters that the qualified student is enrolled as an
7 undergraduate.

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

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

13 (f) Partnerships, limited liability companies and tax-option corporations may
14 not claim the credit under this subsection, but the eligibility for, and the amount of,
15 the credit are based on their payment of qualified expenses under par. (b) 1. A
16 partnership, limited liability company or tax-option corporation shall compute the
17 amount of credit that each of its partners, members or shareholders may claim and
18 shall provide that information to each of them. Partners, members of limited liability
19 companies and shareholders of tax-option corporations may claim the credit in
20 proportion to their ownership interest.

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

23 SECTION 3. 71.10 (4) (cp) of the statutes is created to read:

24 71.10 (4) (cp) The student sponsorship credit under s. 71.07 (5d).

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

INSERT 3-10

SENATE BILL 482

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

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

17 **71.28 (5d) STUDENT SPONSORSHIP CREDIT.** (a) In this subsection:

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

19 2. "Qualified expenses" means expenses related to attending school including
 20 room and board, books and tuition.

21 3. "Qualified student" means any of the following:

22 a. A student who is a full-time undergraduate student enrolled in the
 23 University of Wisconsin System and who is eligible for a Wisconsin higher education
 24 grant under s. 39.435 for at least 2 semesters that the student is enrolled.

*or technical college system
institution*

18
19
20
21
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INSER 5 ✓
4-18

SENATE BILL 482

1 b. A student who is a full-time undergraduate student enrolled in a regionally
 2 accredited 4-year private college or university in this state and who is eligible for a
 3 ~~talent incentive grant~~ ^{Wisconsin tuition} under s. 39.435 (2) for at least 2 semesters that the student
 4 is enrolled.

5 (b) Subject to the limitations provided in this subsection, a claimant may claim
 6 as a credit against the tax imposed under s. 71.23 an amount equal to \$1,000 for every
 7 \$3,000 of qualified expenses that the claimant pays on behalf of a qualified student
 8 in a taxable year.

9 (c) A claimant may claim credits under par. (b) for qualified expenses that are
 10 paid for no more than 10 semesters that the qualified student is enrolled as an
 11 undergraduate.

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

17 (f) Partnerships, limited liability companies and tax-option corporations may
 18 not claim the credit under this subsection, but the eligibility for, and the amount of
 19 the credit are based on their payment of qualified expenses under par. (b) ¹. A
 20 partnership, limited liability company or tax-option corporation shall compute the
 21 amount of credit that each of its partners, members or shareholders may claim and
 22 shall provide that information to each of them. Partners, members of limited liability
 23 companies and shareholders of tax-option corporations may claim the credit in
 24 proportion to their ownership interest.

INSERT
5-8

INSERT 5-15

SENATE BILL 482

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

3 SECTION 6. 71.30 (3) (dm) of the statutes is created to read:

4 71.30 (3) (dm) The student sponsorship credit under s. 71.28 (5d).

5 SECTION 7. 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) and (5d) and not passed through by a
8 partnership, limited liability company or tax-option corporation that has added that
9 amount to the partnership's, limited liability company's or tax-option corporation's
10 income under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit computed under
11 s. 71.47 (1), (3), (4) and (5).

12 SECTION 8. 71.47 (5d) of the statutes is created to read:

13 71.47 (5d) STUDENT SPONSORSHIP CREDIT. (a) In this subsection:

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

15 2. "Qualified expenses" means expenses related to attending school including
16 room and board, books and tuition.

17 3. "Qualified student" means any of the following:

18 a. A student who is a full-time undergraduate student enrolled in the
19 University of Wisconsin System and who is eligible for a Wisconsin higher education
20 grant under s. 39.435 for at least 2 semesters that the student is enrolled.

21 b. A student who is a full-time undergraduate student enrolled in a regionally
22 accredited 4-year private college or university in this state and who is eligible for a
23 talent incentive grant under s. 39.435 (2) for at least 2 semesters that the student
24 is enrolled.

or technical college system institution

Wisconsin tuition

INSERT ✓
6-14

SENATE BILL 482

INSERT
7-10

1 (b) Subject to the limitations provided in this subsection, a claimant may claim
2 as a credit against the tax imposed under s. 71.43 an amount equal to \$1,000 for every
3 \$3,000 of qualified expenses that the claimant pays on behalf of a qualified student
4 in a taxable year.

5 (c) A claimant may claim credits under par. (b) for qualified expenses that are
6 paid for no more than 10 semesters that the qualified student is enrolled as an
7 undergraduate.

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

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

13 (f) Partnerships, limited liability companies and tax-option corporations may
14 not claim the credit under this subsection, but the eligibility for, and the amount of,
15 the credit are based on their payment of qualified expenses under par. (b) 1. A
16 partnership, limited liability company or tax-option corporation shall compute the
17 amount of credit that each of its partners, members or shareholders may claim and
18 shall provide that information to each of them. Partners, members of limited liability
19 companies and shareholders of tax-option corporations may claim the credit in
20 proportion to their ownership interest.

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

23 SECTION 9. 71.49 (1) (dm) of the statutes is created to read:

24 71.49 (1) (dm) The student sponsorship credit under s. 71.47 (5d).

INSERT ✓
7-10

SENATE BILL 482

SECTION 10

1 **SECTION 10.** 77.92 (4) of the statutes, as affected by ~~1999 Wisconsin Act 9~~, is
2 amended to read:

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

18 **SECTION 11. Initial applicability.**

19 (1) This act first applies to taxable years beginning on January 1, 2000.

20

(END)

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0481/ins

.....
Vlz

Insert 2 - 11

1 2. "Degree-granting program" means an educational program for which an
2 associate or a bachelor's degree is awarded upon completion.

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

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

Insert 3 - 4

7 (b) Subject to the limitations provided in this subsection, a claimant may claim
8 as a credit against the tax imposed under s. 71.02 an amount equal to \$1,000 for each
9 student on whose behalf the claimant pays at least \$3,000 of qualified expenses in
10 the taxable year or \$2,000 for each student on whose behalf the claimant pays at least
11 \$6,000 of qualified expenses in the taxable year.

Insert 3 - 10

12 (dm) A claimant may not claim the credit under par. (b) for any expenses that
13 the claimant paid for a family member of the claimant or of a managing employe
14 unless all of the following apply:

15 1. The family member was employed an average of at least 20 hours a week as
16 an employe of the claimant, or the claimant's business, during the one-year period
17 prior to enrolling as an undergraduate student.

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

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

Insert 4 - 18

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

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

6 4. "Managing employe" 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. ✓

Insert 5 - 8

9 (b) Subject to the limitations provided in this subsection, a claimant may claim
10 as a credit against the tax imposed under s. 71.23 ✓ an amount equal to \$1,000 for each
11 student on whose behalf the claimant pays at least \$3,000 of qualified expenses in
12 the taxable year or \$2,000 ✓ for each student on whose behalf the claimant pays at least
13 \$6,000 ✓ of qualified expenses in the taxable year.

Insert 5 - 15

14 (d) A claimant may not claim the credit under par. (b) ✓ for any expenses that the
15 claimant paid for a family member of a managing employe unless all of the following
16 apply:

17 1. The family member was employed an average of at least 20 ✓ hours a week as
18 an employe of the claimant, or the claimant's business, during the one-year period
19 prior to enrolling as an undergraduate student.

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

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

Insert 6 - 14

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

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

6 4. "Managing employe" 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.

Insert 5 - 8

9 (b) Subject to the limitations provided in this subsection, a claimant may claim
10 as a credit against the tax imposed under s. 71.43 ✓ an amount equal to \$1,000 for each
11 student on whose behalf the claimant pays at least \$3,000 of qualified expenses in
12 the taxable year or \$2,000 ✓ for each student on whose behalf the claimant pays at
13 least \$6,000 ✓ of qualified expenses in the taxable year.

Insert 7 - 10

14 (d) A claimant may not claim the credit under par. (b) ✓ for any expenses that the
15 claimant paid for a family member of a managing employe unless all of the following
16 apply:

17 1. The family member was employed an average of at least 20 hours a week as
18 an employe of the claimant, or the claimant's business, during the one-year period
19 prior to enrolling as an undergraduate student.

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

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