

## ASSEMBLY BILL 819

1           71.26 (2) (b) 13. For taxable years that begin after December 31, 1997, and  
2 before January 1, 1999, for a corporation, conduit or common law trust which  
3 qualifies as a regulated investment company, real estate mortgage investment  
4 conduit, real estate investment trust or financial asset securitization investment  
5 trust under the Internal Revenue Code as amended to December 31, 1997, excluding  
6 sections 103, 104, and 110 of P.L. 102-227, sections 13113, 13150 (d), 13171 (d),  
7 13174, and 13203 (d) of P.L. 103-66 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and  
8 1605 (d) of P.L. 104-188, and as amended by P.L. 105-178, P.L. 105-206, P.L.  
9 105-277, P.L. 106-36 and, P.L. 106-170, <sup>and</sup> P.L. 106-554, ~~P.L. 106-573, and P.L.~~  
10 ~~107-16, excluding section 431 of P.L. 107-16,~~ and as indirectly affected in the  
11 provisions applicable to this subchapter by P.L. 99-514, P.L. 100-203, P.L. 100-647,  
12 P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L. 101-508, P.L. 102-227,  
13 excluding sections 103, 104, and 110 of P.L. 102-227, P.L. 102-318, P.L. 102-486, P.L.  
14 103-66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L.  
15 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7, P.L. 104-188,  
16 excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, P.L.  
17 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-178, P.L. 105-206, P.L.  
18 105-277, P.L. 106-36 and, P.L. 106-170, <sup>and</sup> P.L. 106-554, ~~P.L. 106-573, and P.L.~~  
19 ~~107-16, excluding section 431 of P.L. 107-16,~~ "net income" means the federal  
20 regulated investment company taxable income, federal real estate mortgage  
21 investment conduit taxable income, federal real estate investment trust or financial  
22 asset securitization investment trust taxable income of the corporation, conduit or  
23 trust as determined under the Internal Revenue Code as amended to December 31,  
24 1997, excluding sections 103, 104, and 110 of P.L. 102-227, sections 13113, 13150 (d),  
25 13171 (d), 13174, and 13203 (d) of P.L. 103-66 and sections 1123 (b), 1202 (c), 1204

ASSEMBLY BILL 819

1 (f), 1311, and 1605 (d) of P.L. 104-188, and as amended by P.L. 105-178, P.L. 105-206,  
2 P.L. 105-277, P.L. 106-36 and, P.L. 106-170, <sup>and</sup> P.L. 106-554, ~~P.L. 106-573, and P.L.~~  
3 ~~107-16, excluding section 431 of P.L. 107-16,~~ and as indirectly affected in the  
4 provisions applicable to this subchapter by P.L. 99-514, P.L. 100-203, P.L. 100-647,  
5 P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L. 101-508, P.L. 102-227,  
6 excluding sections 103, 104, and 110 of P.L. 102-227, P.L. 102-318, P.L. 102-486, P.L.  
7 103-66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L.  
8 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7, P.L. 104-188,  
9 excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, P.L.  
10 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-178, P.L. 105-206, P.L.  
11 105-277, P.L. 106-36 and, P.L. 106-170, <sup>and</sup> P.L. 106-554, ~~P.L. 106-573, and P.L.~~  
12 ~~107-16, excluding section 431 of P.L. 107-16,~~ except that property that, under s.  
13 71.02 (1) (c) 8. to 11., 1985 stats., is required to be depreciated for taxable years 1983  
14 to 1986 under the Internal Revenue Code as amended to December 31, 1980, shall  
15 continue to be depreciated under the Internal Revenue Code as amended to  
16 December 31, 1980, and except that the appropriate amount shall be added or  
17 subtracted to reflect differences between the depreciation or adjusted basis for  
18 federal income tax purposes and the depreciation or adjusted basis under this  
19 chapter of any property disposed of during the taxable year. The Internal Revenue  
20 Code as amended to December 31, 1997, excluding sections 103, 104, and 110 of P.L.  
21 102-227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66,  
22 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and as  
23 amended by P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36 and, P.L. 106-170,  
24 P.L. 106-554, ~~P.L. 106-573, and P.L. 107-16, excluding section 431 of P.L. 107-16,~~  
25 and as indirectly affected in the provisions applicable to this subchapter by P.L.

and

## ASSEMBLY BILL 819

1 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L.  
2 101-239, P.L. 101-508, P.L. 102-227, excluding sections 103, 104, and 110 of P.L.  
3 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding sections 13113, 13150  
4 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L.  
5 103-465, P.L. 104-7, P.L. 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f),  
6 1311 and 1605 (d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L.  
7 105-34, P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36 and P.L. 106-170,

8 ~~P.L. 106-554, P.L. 106-573, and P.L. 107-16, excluding section 431 of P.L. 107-16,~~

9 applies for Wisconsin purposes at the same time as for federal purposes.

10 Amendments to the Internal Revenue Code enacted after December 31, 1997, do not

11 apply to this subdivision with respect to taxable years that begin after

12 December 31, 1997, and before January 1, 1999, except that changes to the Internal

13 Revenue Code made by P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36 and,

14 P.L. 106-170, ~~P.L. 106-554, P.L. 106-573, and P.L. 107-16, excluding section 431 of~~

15 ~~P.L. 107-16,~~ and changes that indirectly affect the provisions applicable to this

16 subchapter made by P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36 and and,

17 P.L. 106-170, ~~P.L. 106-554, P.L. 106-573, and P.L. 107-16, excluding section 431 of~~

18 ~~P.L. 107-16,~~ apply for Wisconsin purposes at the same time as for federal purposes.

19 SECTION 43. 71.26 (2) (b) 14. of the statutes is amended to read:

20 71.26 (2) (b) 14. For taxable years that begin after December 31, 1998, and

21 before January 1, 2000, for a corporation, conduit or common law trust which

22 qualifies as a regulated investment company, real estate mortgage investment

23 conduit, real estate investment trust or financial asset securitization investment

24 trust under the Internal Revenue Code as amended to December 31, 1998, excluding

25 sections 103, 104, and 110 of P.L. 102-227, sections 13113, 13150 (d), 13171 (d),

## ASSEMBLY BILL 819

1 13174, and 13203 (d) of P.L. 103-66 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and  
 2 1605 (d) of P.L. 104-188, and as amended by P.L. 106-36 and, P.L. 106-170, ~~P.L.~~  
 3 ~~106-230, P.L. 106-519, P.L. 106-554, P.L. 106-573, and P.L. 107-16, excluding~~  
 4 ~~section 431 of P.L. 107-16,~~ and as indirectly affected in the provisions applicable to  
 5 this subchapter by P.L. 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73, P.L.  
 6 101-140, P.L. 101-179, P.L. 101-239, P.L. 101-508, P.L. 102-227, excluding sections  
 7 103, 104, and 110 of P.L. 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding  
 8 sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, P.L.  
 9 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7, P.L. 104-188, excluding sections  
 10 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, P.L. 104-191, P.L.  
 11 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L.  
 12 106-36 and, P.L. 106-170, ~~P.L. 106-230, P.L. 106-519, P.L. 106-554, P.L. 106-573,~~  
 13 ~~and P.L. 107-16, excluding section 431 of P.L. 107-16,~~ "net income" means the federal  
 14 regulated investment company taxable income, federal real estate mortgage  
 15 investment conduit taxable income, federal real estate investment trust or financial  
 16 asset securitization investment trust taxable income of the corporation, conduit or  
 17 trust as determined under the Internal Revenue Code as amended to December 31,  
 18 1998, excluding sections 103, 104, and 110 of P.L. 102-227, sections 13113, 13150 (d),  
 19 13171 (d), 13174, and 13203 (d) of P.L. 103-66 and sections 1123 (b), 1202 (c), 1204  
 20 (f), 1311, and 1605 (d) of P.L. 104-188, and as amended by P.L. 106-36 and, P.L.  
 21 106-170, ~~P.L. 106-230, P.L. 106-519, P.L. 106-554, P.L. 106-573, and P.L. 107-16,~~  
 22 ~~excluding section 431 of P.L. 107-16,~~ and as indirectly affected in the provisions  
 23 applicable to this subchapter by P.L. 99-514, P.L. 100-203, P.L. 100-647, P.L.  
 24 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L. 101-508, P.L. 102-227,  
 25 excluding sections 103, 104, and 110 of P.L. 102-227, P.L. 102-318, P.L. 102-486, P.L.

## ASSEMBLY BILL 819

1 103-66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L.  
2 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7, P.L. 104-188,  
3 excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, P.L.  
4 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-178, P.L. 105-206, P.L.  
5 105-277, P.L. 106-36 and, P.L. 106-170, ~~P.L. 106-230, P.L. 106-519, P.L. 106-554,~~  
6 ~~P.L. 106-573, and P.L. 107-16, excluding section 431 of P.L. 107-16,~~ except that  
7 property that, under s. 71.02 (1) (c) 8. to 11., 1985 stats., is required to be depreciated  
8 for taxable years 1983 to 1986 under the Internal Revenue Code as amended to  
9 December 31, 1980, shall continue to be depreciated under the Internal Revenue  
10 Code as amended to December 31, 1980, and except that the appropriate amount  
11 shall be added or subtracted to reflect differences between the depreciation or  
12 adjusted basis for federal income tax purposes and the depreciation or adjusted basis  
13 under this chapter of any property disposed of during the taxable year. The Internal  
14 Revenue Code as amended to December 31, 1998, excluding sections 103, 104, and  
15 110 of P.L. 102-227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L.  
16 103-66, and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188,  
17 and as amended by P.L. 106-36 and, P.L. 106-170, ~~P.L. 106-230, P.L. 106-519, P.L.~~  
18 ~~106-554, P.L. 106-573, and P.L. 107-16, excluding section 431 of P.L. 107-16,~~ and  
19 as indirectly affected in the provisions applicable to this subchapter by P.L. 99-514,  
20 P.L. 100-203, P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239,  
21 P.L. 101-508, P.L. 102-227, excluding sections 103, 104, and 110 of P.L. 102-227, P.L.  
22 102-318, P.L. 102-486, P.L. 103-66, excluding sections 13113, 13150 (d), 13171 (d),  
23 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L.  
24 104-7, P.L. 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605  
25 (d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L.

ASSEMBLY BILL 819

1 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36 and, P.L. 106-170, ~~P.L. 106-230,~~  
2 ~~P.L. 106-519,~~ <sup>and</sup> P.L. 106-554, ~~P.L. 106-573,~~ and P.L. 107-16, excluding section 431 of  
3 ~~P.L. 107-16,~~ applies for Wisconsin purposes at the same time as for federal purposes.  
4 Amendments to the Internal Revenue Code enacted after December 31, 1998, do not  
5 apply to this subdivision with respect to taxable years that begin after  
6 December 31, 1998, and before January 1, 2000, except that changes to the Internal  
7 Revenue Code made by P.L. 106-36 and, P.L. 106-170, ~~P.L. 106-230, P.L. 106-519,~~  
8 <sup>and</sup> ~~P.L. 106-554, P.L. 106-573,~~ and P.L. 107-16, excluding section 431 of P.L. 107-16,  
9 and changes that indirectly affect the provisions applicable to this subchapter made  
10 by P.L. 106-36 and, P.L. 106-170, ~~P.L. 106-230, P.L. 106-519,~~ <sup>and</sup> P.L. 106-554, ~~P.L.~~  
11 ~~106-573,~~ and P.L. 107-16, excluding section 431 of P.L. 107-16, apply for Wisconsin  
12 purposes at the same time as for federal purposes.

SECTION 44. 71.26 (2) (b) 15. of the statutes is amended to read:

14 71.26 (2) (b) 15. For taxable years that begin after December 31, 1999, ~~and~~  
15 ~~before January 1, 2001,~~ for a corporation, conduit or common law trust which  
16 qualifies as a regulated investment company, real estate mortgage investment  
17 conduit, real estate investment trust or financial asset securitization investment  
18 trust under the Internal Revenue Code as amended to December 31, 1999, excluding  
19 sections 103, 104, and 110 of P.L. 102-227, sections 13113, 13150 (d), 13171 (d),  
20 13174, and 13203 (d) of P.L. 103-66 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and  
21 1605 (d) of P.L. 104-188, <sup>keep</sup> and as amended by ~~P.L. 106-200, P.L. 106-230, P.L.~~  
22 ~~106-519,~~ P.L. 106-554, ~~P.L. 106-573,~~ and P.L. 107-16, excluding section 431 of P.L.  
23 ~~107-16,~~ and as indirectly affected in the provisions applicable to this subchapter by  
24 P.L. 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179,  
25 P.L. 101-239, P.L. 101-508, P.L. 102-227, excluding sections 103, 104, and 110 of P.L.  
and any subsequent federal law related to Archer <sup>medical</sup> savings  
accounts under 26 USC 220

ASSEMBLY BILL 819

1 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding sections 13113, 13150  
2 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L.  
3 103-465, P.L. 104-7, P.L. 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f),  
4 1311, and 1605 (d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L.  
5 105-34, P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36 and, P.L. 106-170,

6 ~~P.L. 106-200, P.L. 106-230, P.L. 106-519, P.L. 106-554, P.L. 106-573, and P.L.~~

7 ~~107-16~~ excluding section 431 of P.L. 107-16, "net income" means the federal

8 regulated investment company taxable income, federal real estate mortgage  
9 investment conduit taxable income, federal real estate investment trust or financial  
10 asset securitization investment trust taxable income of the corporation, conduit or  
11 trust as determined under the Internal Revenue Code as amended to December 31,  
12 1999, excluding sections 103, 104, and 110 of P.L. 102-227, sections 13113, 13150 (d),  
13 13171 (d), 13174, and 13203 (d) of P.L. 103-66 and sections 1123 (b), 1202 (c), 1204

14 (f), 1311, and 1605 (d) of P.L. 104-188, and as amended by ~~P.L. 106-200, P.L. 106-230,~~

15 ~~P.L. 106-519, P.L. 106-554, P.L. 106-573, and P.L. 107-16, excluding section 431 of~~

16 ~~P.L. 107-16~~ and as indirectly affected in the provisions applicable to this subchapter

17 by P.L. 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179,  
18 P.L. 101-239, P.L. 101-508, P.L. 102-227, excluding sections 103, 104, and 110 of P.L.  
19 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding sections 13113, 13150  
20 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L.  
21 103-465, P.L. 104-7, P.L. 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f),  
22 1311, and 1605 (d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L.  
23 105-34, P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36 and, P.L. 106-170,

24 ~~P.L. 106-200, P.L. 106-230, P.L. 106-519, P.L. 106-554, P.L. 106-573, and P.L.~~

25 ~~107-16, excluding section 431 of P.L. 107-16,~~ except that property that, under s.

and any subsequent federal law related to Archer medical savings  
accounts under 26 USC 220

## ASSEMBLY BILL 819

1 71.02 (1) (c) 8. to 11., 1985 stats., is required to be depreciated for taxable years 1983  
 2 to 1986 under the Internal Revenue Code as amended to December 31, 1980, shall  
 3 continue to be depreciated under the Internal Revenue Code as amended to  
 4 December 31, 1980, and except that the appropriate amount shall be added or  
 5 subtracted to reflect differences between the depreciation or adjusted basis for  
 6 federal income tax purposes and the depreciation or adjusted basis under this  
 7 chapter of any property disposed of during the taxable year. The Internal Revenue  
 8 Code as amended to December 31, 1999, excluding sections 103, 104, and 110 of P.L.  
 9 102-227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66,  
 10 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and as

11 ~~amended by P.L. 106-200, P.L. 106-230, P.L. 106-519, P.L. 106-554, P.L. 106-573~~  
 12 ~~and P.L. 107-16~~ excluding section 431 of P.L. 107-16, and as indirectly affected in

13 the provisions applicable to this subchapter by P.L. 99-514, P.L. 100-203, P.L.  
 14 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L. 101-508, P.L.  
 15 102-227, excluding sections 103, 104, and 110 of P.L. 102-227, P.L. 102-318, P.L.  
 16 102-486, P.L. 103-66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and  
 17 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7, P.L.  
 18 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L.  
 19 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-178, P.L.  
 20 105-206, P.L. 105-277, P.L. 106-36 and, P.L. 106-170, ~~P.L. 106-200, P.L. 106-230,~~

21 ~~P.L. 106-519, P.L. 106-554, P.L. 106-573, and P.L. 107-16, excluding section 431 of~~  
 22 ~~P.L. 107-16~~, applies for Wisconsin purposes at the same time as for federal purposes.

23 Amendments to the Internal Revenue Code enacted after December 31, 1999, do not  
 24 apply to this subdivision with respect to taxable years that begin after  
 25 December 31, 1999 ~~and before January 1, 2001~~, except that changes to the Internal

and any subsequent federal law related to Archer medical savings accounts under 26 USC 220



ASSEMBLY BILL 819

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Revenue Code made by ~~P.L. 106-200, P.L. 106-230, P.L. 106-519, P.L. 106-554, P.L. 106-573,~~ and ~~P.L. 107-16,~~ excluding section 431 of ~~P.L. 107-16,~~ and changes that indirectly affect the provisions applicable to this subchapter made by ~~P.L. 106-200, P.L. 106-230, P.L. 106-519, P.L. 106-554, P.L. 106-573, and P.L. 107-16,~~ excluding section 431 of ~~P.L. 107-16,~~ apply for Wisconsin purposes at the same time as for federal purposes.

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~~SECTION 45. 71.26 (2) (b) 16. of the statutes is created to read:~~

~~71.26 (2) (b) 16. For taxable years that begin after December 31, 2000, and before January 1, 2002, for a corporation, conduit, or common law trust which qualifies as a regulated investment company, real estate mortgage investment conduit, real estate investment trust, or financial asset securitization investment trust under the Internal Revenue Code as amended to December 31, 2000, excluding sections 103, 104, and 110 of P.L. 102-227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and as amended by P.L. 107-16, excluding section 431 of P.L. 107-16, and P.L. 107-22, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L. 101-508, P.L. 102-227, excluding sections 103, 104, and 110 of P.L. 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7, P.L. 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36, P.L. 106-170, P.L. 106-200, P.L. 106-230, P.L. 106-519, P.L. 106-554, P.L. 106-573, P.L. 107-16, excluding section 431 of P.L. 107-16, and P.L.~~

and any subsequent federal law-related to Archer medical savings accounts under 26 USC 220

## ASSEMBLY BILL 819

1 107-22, "net income" means the federal regulated investment company taxable  
2 income, federal real estate mortgage investment conduit taxable income, federal real  
3 estate investment trust or financial asset securitization investment trust taxable  
4 income of the corporation, conduit, or trust as determined under the Internal  
5 Revenue Code as amended to December 31, 2000, excluding sections 103, 104, and  
6 110 of P.L. 102-227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L.  
7 103-66, and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188,  
8 and as amended by P.L. 107-16, excluding section 431 of P.L. 107-16, and P.L.  
9 107-22, and as indirectly affected in the provisions applicable to this subchapter by  
10 P.L. 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179,  
11 P.L. 101-239, P.L. 101-508, P.L. 102-227, excluding sections 103, 104, and 110 of P.L.  
12 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding sections 13113, 13150  
13 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L.  
14 103-465, P.L. 104-7, P.L. 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f),  
15 1311, and 1605 (d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L.  
16 105-34, P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36, P.L. 106-170, P.L.  
17 106-200, P.L. 106-230, P.L. 106-519, P.L. 106-554, P.L. 106-573, P.L. 107-16,  
18 excluding section 431 of P.L. 107-16, and P.L. 107-22, except that property that,  
19 under s. 71.02 (1) (c) 8. to 11., 1985 stats., is required to be depreciated for taxable  
20 years 1985 to 1986 under the Internal Revenue Code as amended to  
21 December 31, 1980, shall continue to be depreciated under the Internal Revenue  
22 Code as amended to December 31, 1980, and except that the appropriate amount  
23 shall be added or subtracted to reflect differences between the depreciation or  
24 adjusted basis for federal income tax purposes and the depreciation or adjusted basis  
25 under this chapter of any property disposed of during the taxable year. The Internal

## ASSEMBLY BILL 819

1 Revenue Code as amended to December 31, 2000, excluding sections 103, 104, and  
2 110 of P.L. 102-227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L.  
3 103-66, and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188,  
4 and as amended by P.L. 107-16, excluding section 431 of P.L. 107-16, and P.L.  
5 107-22, and as indirectly affected in the provisions applicable to this subchapter by  
6 P.L. 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179,  
7 P.L. 101-239, P.L. 101-508, P.L. 102-227, excluding sections 103, 104, and 110 of P.L.  
8 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding sections 13113, 13150  
9 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L.  
10 103-465, P.L. 104-7, P.L. 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f),  
11 1311, and 1605 (d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L.  
12 105-34, P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36, P.L. 106-170, P.L.  
13 106-200, P.L. 106-230, P.L. 106-519, P.L. 106-554, P.L. 106-573, P.L. 107-16,  
14 excluding section 431 of P.L. 107-16, and P.L. 107-22, applies for Wisconsin purposes  
15 at the same time as for federal purposes. Amendments to the Internal Revenue Code  
16 enacted after December 31, 2000, do not apply to this subdivision with respect to  
17 taxable years that begin after December 31, 2000, and before January 1, 2002,  
18 except that changes to the Internal Revenue Code made by P.L. 107-16, excluding  
19 section 431 of P.L. 107-16, and P.L. 107-22, and changes that indirectly affect the  
20 provisions applicable to this subchapter made by P.L. 107-16, excluding section 431  
21 of P.L. 107-16, and P.L. 107-22, apply for Wisconsin purposes at the same time as  
22 for federal purposes.

23 **SECTION 46.** 71.26 (2) (b) 17. of the statutes is created to read:

24 71.26 (2) (b) 17. For taxable years that begin after December 31, 2001, for a  
25 corporation, conduit, or common law trust which qualifies as a regulated investment

**ASSEMBLY BILL 819**

1 company, real estate mortgage investment conduit, real estate investment trust, or  
2 financial asset securitization investment trust under the Internal Revenue Code as  
3 amended to December 31, 2001, excluding sections 103, 104, and 110 of P.L. 102-227,  
4 sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, sections  
5 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and section 431 of P.L.  
6 107-16, and as indirectly affected in the provisions applicable to this subchapter by  
7 P.L. 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179,  
8 P.L. 101-239, P.L. 101-508, P.L. 102-227, excluding sections 103, 104, and 110 of P.L.  
9 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding sections 13113, 13150  
10 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L.  
11 103-465, P.L. 104-7, P.L. 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f),  
12 1311, and 1605 (d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L.  
13 105-34, P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36, P.L. 106-170, P.L.  
14 106-200, P.L. 106-230, P.L. 106-519, P.L. 106-554, P.L. 106-573, P.L. 107-15, P.L.  
15 107-16, excluding section 431 of P.L. 107-16, and P.L. 107-22, "net income" means  
16 the federal regulated investment company taxable income, federal real estate  
17 mortgage investment conduit taxable income, federal real estate investment trust  
18 or financial asset securitization investment trust taxable income of the corporation,  
19 conduit, or trust as determined under the Internal Revenue Code as amended to  
20 December 31, 2001, excluding sections 103, 104, and 110 of P.L. 102-227, sections  
21 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, sections 1123 (b),  
22 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and section 431 of P.L. 107-16,  
23 and as indirectly affected in the provisions applicable to this subchapter by P.L.  
24 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L.  
25 101-239, P.L. 101-508, P.L. 102-227, excluding sections 103, 104, and 110 of P.L.

## ASSEMBLY BILL 819

1 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding sections 13113, 13150  
2 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L.  
3 103-465, P.L. 104-7, P.L. 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f),  
4 1311, and 1605 (d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L.  
5 105-34, P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36, P.L. 106-170, P.L.  
6 106-200, P.L. 106-230, P.L. 106-519, P.L. 106-554, P.L. 106-573, P.L. 107-15, P.L.  
7 107-16, excluding section 431 of P.L. 107-16, and P.L. 107-22, except that property  
8 that, under s. 71.02 (1) (c) 8. to 11., 1985 stats., is required to be depreciated for  
9 taxable years 1983 to 1986 under the Internal Revenue Code as amended to  
10 December 31, 1980, shall continue to be depreciated under the Internal Revenue  
11 Code as amended to December 31, 1980, and except that the appropriate amount  
12 shall be added or subtracted to reflect differences between the depreciation or  
13 adjusted basis for federal income tax purposes and the depreciation or adjusted basis  
14 under this chapter of any property disposed of during the taxable year. The Internal  
15 Revenue Code as amended to December 31, 2001, excluding sections 103, 104, and  
16 110 of P.L. 102-227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L.  
17 103-66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and  
18 section 431 of P.L. 107-16, and as indirectly affected in the provisions applicable to  
19 this subchapter by P.L. 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73, P.L.  
20 101-140, P.L. 101-179, P.L. 101-239, P.L. 101-508, P.L. 102-227, excluding sections  
21 103, 104, and 110 of P.L. 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding  
22 sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, P.L.  
23 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7, P.L. 104-188, excluding sections  
24 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, P.L. 104-191, P.L.  
25 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L.

## ASSEMBLY BILL 819

1 106-36, P.L. 106-170, P.L. 106-200, P.L. 106-230, P.L. 106-519, P.L. 106-554, P.L.  
2 106-573, P.L. 107-15, P.L. 107-16, excluding section 431 of P.L. 107-16, and P.L.  
3 107-22, applies for Wisconsin purposes at the same time as for federal purposes.  
4 Amendments to the Internal Revenue Code enacted after December 31, 2001, do not  
5 apply to this subdivision with respect to taxable years that begin after  
6 December 31, 2001.

7 SECTION 47. 71.26 (3) (y) of the statutes is renumbered 71.26 (3) (y) 1. and  
8 amended to read:

9 71.26 (3) (y) 1. ~~A~~ For taxable years that begin after December 31, 2000, and  
10 before January 1, 2002, a corporation may compute amortization and depreciation  
11 under either the federal Internal Revenue Code as amended to December 31, 1999  
12 2000, or the federal Internal Revenue Code in effect for the taxable year for which  
13 the return is filed, except that property first placed in service by the taxpayer on or  
14 after January 1, 1983, but before January 1, 1987, that, under s. 71.04 (15) (b) and  
15 (br), 1985 stats., is required to be depreciated under the Internal Revenue Code as  
16 amended to December 31, 1980, and property first placed in service in taxable year  
17 1981 or thereafter but before January 1, 1987, that, under s. 71.04 (15) (bm), 1985  
18 stats., is required to be depreciated under the Internal Revenue Code as amended  
19 to December 31, 1980, shall continue to be depreciated under the Internal Revenue  
20 Code as amended to December 31, 1980.

21 SECTION 48. 71.26 (3) (y) 2. of the statutes is created to read:

22 71.26 (3) (y) 2. For taxable years that begin after December 31, 2001, a  
23 corporation may compute amortization and depreciation under either the federal  
24 Internal Revenue Code as amended to December 31, 2001, or the federal Internal  
25 Revenue Code in effect for the taxable year for which the return is filed, except that

1 property first placed in service by the taxpayer on or after January 1, 1983, but  
2 before January 1, 1987, that, under s. 71.04 (15) (b) and (br), 1985 stats., is required  
3 to be depreciated under the Internal Revenue Code as amended to  
4 December 31, 1980, and property first placed in service in taxable year 1981 or  
5 thereafter but before January 1, 1987, that, under s. 71.04 (15) (bm), 1985 stats., is  
6 required to be depreciated under the Internal Revenue Code as amended to  
7 December 31, 1980, shall continue to be depreciated under the Internal Revenue  
8 Code as amended to December 31, 1980.

9 **SECTION 49.** 71.34 (1g) (g) of the statutes is repealed.

10 ~~**SECTION 50.** 71.34 (1g) (h) of the statutes is repealed.~~

11 **SECTION 51.** 71.34 (1g) (i) of the statutes is amended to read:

12 71.34 (1g) (i) "Internal Revenue Code" for tax-option corporations, for taxable  
13 years that begin after December 31, 1993, and before January 1, 1995, means the  
14 federal Internal Revenue Code as amended to December 31, 1993, excluding  
15 sections 103, 104, and 110 of P.L. 102-227 and sections 13113, 13150 (d), 13171 (d),  
16 13174, 13203 (d), and 13215 of P.L. 103-66, and as amended by P.L. 103-296, P.L.  
17 103-337, P.L. 103-465, P.L. 104-7, excluding section 1 of P.L. 104-7, P.L. 104-188,  
18 excluding section 1311 of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-34, P.L.  
19 105-206 and, P.L. 105-277, and P.L. 106-554, and as indirectly affected in the  
20 provisions applicable to this subchapter by P.L. 99-514, P.L. 100-203, P.L. 100-647  
21 excluding sections 803 (d) (2) (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2)  
22 of P.L. 99-514 and section 1008 (g) (5) of P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L.  
23 101-179, P.L. 101-239, P.L. 101-508, P.L. 102-227, excluding sections 103, 104, and  
24 110 of P.L. 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding sections  
25 13113, 13150 (d), 13171 (d), 13174, 13203 (d), and 13215 of P.L. 103-66, P.L. 103-296,

**ASSEMBLY BILL 819**

1 P.L. 103-337, P.L. 103-465, P.L. 104-7, excluding section 1 of P.L. 104-7, P.L.  
2 104-188, excluding section 1311 of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L.  
3 105-34, P.L. 105-206 and, P.L. 105-277, and P.L. 106-554, except that section 1366  
4 (f) (relating to pass-through of items to shareholders) is modified by substituting the  
5 tax under s. 71.35 for the taxes under sections 1374 and 1375. The Internal Revenue  
6 Code applies for Wisconsin purposes at the same time as for federal purposes.  
7 Amendments to the federal Internal Revenue Code enacted after  
8 December 31, 1993, do not apply to this paragraph with respect to taxable years  
9 beginning after December 31, 1993, and before January 1, 1995, except that  
10 changes to the Internal Revenue Code made by P.L. 103-296, P.L. 103-337, P.L.  
11 103-465, P.L. 104-7, excluding section 1 of P.L. 104-7, P.L. 104-188, excluding  
12 section 1311 of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-34, P.L. 105-206  
13 and, P.L. 105-277, and P.L. 106-554, and changes that indirectly affect the  
14 provisions applicable to this subchapter made by P.L. 103-296, P.L. 103-337, P.L.  
15 103-465, P.L. 104-7, excluding section 1 of P.L. 104-7, P.L. 104-188, excluding  
16 section 1311 of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-34, P.L. 105-206  
17 and, P.L. 105-277, and P.L. 106-554, apply for Wisconsin purposes at the same time  
18 as for federal purposes.

19 **SECTION 52.** 71.34 (1g) (j) of the statutes is amended to read:

20 71.34 (1g) (j) "Internal Revenue Code" for tax-option corporations, for taxable  
21 years that begin after December 31, 1994, and before January 1, 1996, means the  
22 federal Internal Revenue Code as amended to December 31, 1994, excluding  
23 sections 103, 104, and 110 of P.L. 102-227 and sections 13113, 13150 (d), 13171 (d),  
24 13174, and 13203 (d) of P.L. 103-66, and as amended by P.L. 104-7, P.L. 104-188,  
25 excluding sections 1202, 1204, 1311, and 1605 of P.L. 104-188, P.L. 104-191, P.L.



**ASSEMBLY BILL 819****SECTION 52**

1 104-193, P.L. 105-34, P.L. 105-206 and, P.L. 105-277, and P.L. 106-554, and as  
2 indirectly affected in the provisions applicable to this subchapter by P.L. 99-514, P.L.  
3 100-203, P.L. 100-647 excluding sections 803 (d) (2) (B), 805 (d) (2), 812 (c) (2), 821  
4 (b) (2), and 823 (c) (2) of P.L. 99-514 and section 1008 (g) (5) of P.L. 100-647, P.L.  
5 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L. 101-508, P.L. 102-227,  
6 excluding sections 103, 104, and 110 of P.L. 102-227, P.L. 102-318, P.L. 102-486, P.L.  
7 103-66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L.  
8 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7, P.L. 104-188,  
9 excluding sections 1202, 1204, 1311, and 1605 of P.L. 104-188, P.L. 104-191, P.L.  
10 104-193, P.L. 105-34, P.L. 105-206 and, P.L. 105-277, and P.L. 106-554, except that  
11 section 1366 (f) (relating to pass-through of items to shareholders) is modified by  
12 substituting the tax under s. 71.35 for the taxes under sections 1374 and 1375. The  
13 Internal Revenue Code applies for Wisconsin purposes at the same time as for federal  
14 purposes. Amendments to the federal Internal Revenue Code enacted after  
15 December 31, 1994, do not apply to this paragraph with respect to taxable years  
16 beginning after December 31, 1994, and before January 1, 1996, except changes to  
17 the Internal Revenue Code made by P.L. 104-7, P.L. 104-188, excluding sections  
18 1202, 1204, 1311, and 1605 of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-34,  
19 P.L. 105-206 and, P.L. 105-277, and P.L. 106-554, and changes that indirectly affect  
20 the provisions applicable to this subchapter made by P.L. 104-7, P.L. 104-188,  
21 excluding sections 1202, 1204, 1311 and 1605 of P.L. 104-188, P.L. 104-191, P.L.  
22 104-193, P.L. 105-34, P.L. 105-206 and, P.L. 105-277, and P.L. 106-554, apply for  
23 Wisconsin purposes at the same time as for federal purposes.

24 **SECTION 53.** 71.34 (1g) (k) of the statutes is amended to read:

## ASSEMBLY BILL 819

1           71.34 (1g) (k) “Internal Revenue Code” for tax-option corporations, for taxable  
2 years that begin after December 31, 1995, and before January 1, 1997, means the  
3 federal Internal Revenue Code as amended to December 31, 1995, excluding  
4 sections 103, 104, and 110 of P.L. 102-227 and sections 13113, 13150 (d), 13171 (d),  
5 13174, and 13203 (d) of P.L. 103-66, and as amended by P.L. 104-188, excluding  
6 sections 1123, 1202, 1204, 1311, and 1605 of P.L. 104-188, P.L. 104-191, P.L.  
7 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-206 and, P.L. 105-277, and P.L.  
8 106-554, and as indirectly affected in the provisions applicable to this subchapter  
9 by P.L. 99-514, P.L. 100-203, P.L. 100-647 excluding sections 803 (d) (2) (B), 805 (d)  
10 (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99-514 and section 1008 (g) (5) of P.L.  
11 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L. 101-508, P.L.  
12 102-227, excluding sections 103, 104, and 110 of P.L. 102-227, P.L. 102-318, P.L.  
13 102-486, P.L. 103-66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and  
14 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7, P.L.  
15 104-188, excluding sections 1123, 1202, 1204, 1311, and 1605 of P.L. 104-188, P.L.  
16 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-206 and, P.L. 105-277,  
17 and P.L. 106-554, except that section 1366 (f) (relating to pass-through of items to  
18 shareholders) is modified by substituting the tax under s. 71.35 for the taxes under  
19 sections 1374 and 1375. The Internal Revenue Code applies for Wisconsin purposes  
20 at the same time as for federal purposes. Amendments to the federal Internal  
21 Revenue Code enacted after December 31, 1995, do not apply to this paragraph with  
22 respect to taxable years beginning after December 31, 1995, and before  
23 January 1, 1997, except that changes to the Internal Revenue Code made by P.L.  
24 104-188, excluding sections 1123, 1202, 1204, 1311, and 1605 of P.L. 104-188, P.L.  
25 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-206 and, P.L. 105-277,

## ASSEMBLY BILL 819

1 and P.L. 106-554, and changes that indirectly affect the provisions applicable to this  
2 subchapter made by P.L. 104-188, excluding sections 1123, 1202, 1204, 1311, and  
3 1605 of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L.  
4 105-206 and, P.L. 105-277, and P.L. 106-554, apply for Wisconsin purposes at the  
5 same time as for federal purposes.

6 **SECTION 54.** 71.34 (1g) (L) of the statutes is amended to read:

7 71.34 (1g) (L) "Internal Revenue Code" for tax-option corporations, for taxable  
8 years that begin after December 31, 1996, and before January 1, 1998, means the  
9 federal Internal Revenue Code as amended to December 31, 1996, excluding  
10 sections 103, 104, and 110 of P.L. 102-227, sections 13113, 13150 (d), 13171 (d),  
11 13174, and 13203 (d) of P.L. 103-66 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and  
12 1605 (d) of P.L. 104-188, and as amended by P.L. 105-33, P.L. 105-34, P.L. 105-206,  
13 P.L. 105-277 <sup>and</sup> P.L. 106-36, ~~P.L. 106-554, and P.L. 107-16, excluding section 431~~  
14 ~~of P.L. 107-16,~~ and as indirectly affected in the provisions applicable to this  
15 subchapter by P.L. 99-514, P.L. 100-203, P.L. 100-647 excluding sections 803 (d) (2)  
16 (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99-514 and section 1008  
17 (g) (5) of P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L.  
18 101-508, P.L. 102-227, excluding sections 103, 104, and 110 of P.L. 102-227, P.L.  
19 102-318, P.L. 102-486, P.L. 103-66, excluding sections 13113, 13150 (d), 13171 (d),  
20 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L.  
21 104-7, P.L. 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605  
22 (d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L.  
23 105-206, P.L. 105-277 <sup>and</sup> P.L. 106-36, ~~P.L. 106-554, and P.L. 107-16, excluding~~  
24 ~~section 431 of P.L. 107-16,~~ except that section 1366 (f) (relating to pass-through of  
25 items to shareholders) is modified by substituting the tax under s. 71.35 for the taxes

## ASSEMBLY BILL 819

1 under sections 1374 and 1375. The Internal Revenue Code applies for Wisconsin  
 2 purposes at the same time as for federal purposes. Amendments to the federal  
 3 Internal Revenue Code enacted after December 31, 1996, do not apply to this  
 4 paragraph with respect to taxable years beginning after December 31, 1996, and  
 5 before January 1, 1998, except that changes to the Internal Revenue Code made by  
 6 P.L. 105-33, P.L. 105-34, P.L. 105-206, P.L. 105-277 and, P.L. 106-36, <sup>and</sup> P.L. 106-554,  
 7 ~~and P.L. 107-16, excluding section 431 of P.L. 107-16,~~ and changes that indirectly  
 8 affect the provisions applicable to this subchapter made by P.L. 105-33, P.L. 105-34,  
 9 P.L. 105-206, P.L. 105-277 and, P.L. 106-36, <sup>and</sup> P.L. 106-554, ~~and P.L. 107-16,~~  
 10 ~~excluding section 431 of P.L. 107-16,~~ apply for Wisconsin purposes at the same time  
 11 as for federal purposes.

12 SECTION 55. 71.34 (1g) (m) of the statutes is amended to read:

13 71.34 (1g) (m) "Internal Revenue Code" for tax-option corporations, for taxable  
 14 years that begin after December 31, 1997, and before January 1, 1999, means the  
 15 federal Internal Revenue Code as amended to December 31, 1997, excluding sections  
 16 103, 104, and 110 of P.L. 102-227, sections 13113, 13150 (d), 13171 (d), 13174, and  
 17 13203 (d) of P.L. 103-66 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d)  
 18 of P.L. 104-188, and as amended by P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L.  
 19 106-36 and, P.L. 106-170, <sup>and</sup> P.L. 106-554, ~~P.L. 106-573, and P.L. 107-16, excluding~~  
 20 ~~section 431 of P.L. 107-16,~~ and as indirectly affected in the provisions applicable to  
 21 this subchapter by P.L. 99-514, P.L. 100-203, P.L. 100-647 excluding sections 803  
 22 (d) (2) (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99-514 and section  
 23 1008 (g) (5) of P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239,  
 24 P.L. 101-508, P.L. 102-227, excluding sections 103, 104, and 110 of P.L. 102-227, P.L.  
 25 102-318, P.L. 102-486, P.L. 103-66, excluding sections 13113, 13150 (d), 13171 (d),

1 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L.  
2 104-7, P.L. 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605  
3 (d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L.  
4 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36 and, P.L. 106-170, ~~P.L. 106-554,~~<sup>and</sup>  
5 ~~P.L. 106-573, and P.L. 107-16, excluding section 431 of P.L. 107-16,~~ except that  
6 section 1366 (f) (relating to pass-through of items to shareholders) is modified by  
7 substituting the tax under s. 71.35 for the taxes under sections 1374 and 1375. The  
8 Internal Revenue Code applies for Wisconsin purposes at the same time as for federal  
9 purposes. Amendments to the federal Internal Revenue Code enacted after  
10 December 31, 1997, do not apply to this paragraph with respect to taxable years  
11 beginning after December 31, 1997, and before January 1, 1999, except that  
12 changes to the Internal Revenue Code made by P.L. 105-178, P.L. 105-206, P.L.  
13 105-277, P.L. 106-36 and, P.L. 106-170, ~~P.L. 106-554, P.L. 106-573, and P.L.~~<sup>and</sup>  
14 ~~107-16, excluding section 431 of P.L. 107-16,~~ and changes that indirectly affect the  
15 provisions applicable to this subchapter made by P.L. 105-178, P.L. 105-206, P.L.  
16 105-277, P.L. 106-36 and, P.L. 106-170, ~~P.L. 106-554, P.L. 106-573, and P.L.~~<sup>and</sup>  
17 ~~107-16, excluding section 431 of P.L. 107-16,~~ apply for Wisconsin purposes at the  
18 same time as for federal purposes.

19 **SECTION 56.** 71.34 (1g) (n) of the statutes is amended to read:

20 71.34 (1g) (n) "Internal Revenue Code" for tax-option corporations, for taxable  
21 years that begin after December 31, 1998, and before January 1, 2000, means the  
22 federal Internal Revenue Code as amended to December 31, 1998, excluding sections  
23 103, 104, and 110 of P.L. 102-227, sections 13113, 13150 (d), 13171 (d), 13174, and  
24 13203 (d) of P.L. 103-66 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d)  
25 of P.L. 104-188, and as amended by P.L. 106-36 and, P.L. 106-170, ~~P.L. 106-280, P.L.~~

ASSEMBLY BILL 819

1 ~~PL 106-514~~ <sup>and</sup> P.L. 106-554, ~~P.L. 106-573~~, and P.L. 107-16, excluding section 431 of P.L. ~~107-16~~,  
2 ~~107-16~~, and as indirectly affected in the provisions applicable to this subchapter by  
3 P.L. 99-514, P.L. 100-203, P.L. 100-647, excluding sections 803 (d) (2) (B), 805 (d) (2),  
4 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99-514 and section 1008 (g) (5) of P.L.  
5 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L. 101-508, P.L.  
6 102-227, excluding sections 103, 104, and 110 of P.L. 102-227, P.L. 102-318, P.L.  
7 102-486, P.L. 103-66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and  
8 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7, P.L.  
9 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L.  
10 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-178, P.L.  
11 105-206, P.L. 105-277, P.L. 106-36 and, P.L. 106-170, ~~P.L. 106-230~~, ~~P.L. 106-519~~,  
12 <sup>and</sup> P.L. 106-554, ~~P.L. 106-573~~, and P.L. 107-16, excluding section 431 of P.L. ~~107-16~~,  
13 except that section 1366 (f) (relating to pass-through of items to shareholders) is  
14 modified by substituting the tax under s. 71.35 for the taxes under sections 1374 and  
15 1375. The Internal Revenue Code applies for Wisconsin purposes at the same time  
16 as for federal purposes. Amendments to the federal Internal Revenue Code enacted  
17 after December 31, 1998, do not apply to this paragraph with respect to taxable years  
18 beginning after December 31, 1998, and before January 1, 2000, except that  
19 changes to the Internal Revenue Code made by P.L. 106-36 and, P.L. 106-170, ~~P.L.~~  
20 ~~106-230~~, P.L. 106-519, <sup>and</sup> P.L. 106-554, ~~P.L. 106-573~~, and P.L. 107-16, excluding  
21 section 431 of P.L. ~~107-16~~, and changes that indirectly affect the provisions  
22 applicable to this subchapter made by P.L. 106-36 and, P.L. 106-170, ~~P.L. 106-230~~,  
23 ~~P.L. 106-519~~, <sup>and</sup> P.L. 106-554, ~~P.L. 106-573~~, and P.L. 107-16, excluding section 431 of  
24 ~~P.L. 107-16~~, apply for Wisconsin purposes at the same time as for federal purposes.

SECTION 57. 71.34 (1g) (o) of the statutes is amended to read:

ASSEMBLY BILL 819

1 71.34 (1g) (o) "Internal Revenue Code" for tax-option corporations, for taxable  
 2 years that begin after December 31, 1999, ~~and before January 1, 2001~~ means the  
 3 federal Internal Revenue Code as amended to December 31, 1999, excluding sections  
 4 103, 104, and 110 of P.L. 102-227, sections 13113, 13150 (d), 13171 (d), 13174, and  
 5 13203 (d) of P.L. 103-66 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d)  
 6 of P.L. 104-188, and as amended by ~~P.L. 106-200, P.L. 106-230, P.L. 106-510, P.L.~~  
 7 ~~106-554, P.L. 106-578, and P.L. 107-16, excluding section 431 of P.L. 107-16,~~ and  
 8 as indirectly affected in the provisions applicable to this subchapter by P.L. 99-514,  
 9 P.L. 100-203, P.L. 100-647, excluding sections 803 (d) (2) (B), 805 (d) (2), 812 (c) (2),  
 10 821 (b) (2), and 823 (c) (2) of P.L. 99-514 and section 1008 (g) (5) of P.L. 100-647, P.L.  
 11 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L. 101-508, P.L. 102-227,  
 12 excluding sections 103, 104, and 110 of P.L. 102-227, P.L. 102-318, P.L. 102-486, P.L.  
 13 103-66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L.  
 14 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7, P.L. 104-188,  
 15 excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, P.L.  
 16 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-178, P.L. 105-206, P.L.  
 17 105-277, P.L. 106-36 and, P.L. 106-170, ~~P.L. 106-200, P.L. 106-230, P.L. 106-510,~~  
 18 ~~P.L. 106-554, P.L. 106-578, and P.L. 107-16, excluding section 431 of P.L. 107-16,~~  
 19 except that section 1366 (f) (relating to pass-through of items to shareholders) is  
 20 modified by substituting the tax under s. 71.35 for the taxes under sections 1374 and  
 21 1375. The Internal Revenue Code applies for Wisconsin purposes at the same time  
 22 as for federal purposes. Amendments to the federal Internal Revenue Code enacted  
 23 after December 31, 1999, do not apply to this paragraph with respect to taxable years  
 24 beginning after December 31, 1999, ~~and before January 1, 2001~~ except that changes  
 25 to the Internal Revenue Code made by ~~P.L. 106-200, P.L. 106-230, P.L. 106-510, P.L.~~

and any subsequent federal law related to Archer medical savings accounts under 26 USC 220

[use 27]

ASSEMBLY BILL 819

1 ~~106-554, P.L. 106-573, and P.L. 107-16, excluding section 431 of P.L. 107-16, and~~  
 2 changes that indirectly affect the provisions applicable to this subchapter made by  
 3 ~~P.L. 106-200, P.L. 106-230, P.L. 106-519, P.L. 106-554, P.L. 106-573, and P.L.~~  
 4 ~~107-16, excluding section 431 of P.L. 107-16,~~ apply for Wisconsin purposes at the  
 5 same time as for federal purposes.

6 ~~SECTION 58. 71.34 (1g) (p) of the statutes is created to read:~~

7 71.34 (1g) (p) "Internal Revenue Code" for tax-option corporations, for taxable  
 8 years that begin after December 31, 2000, and before January 1, 2002, means the  
 9 federal Internal Revenue Code as amended to December 31, 2000, excluding sections  
 10 103, 104, and 110 of P.L. 102-227, sections 13113, 13150 (d), 13171 (d), 13174, and  
 11 13203 (d) of P.L. 103-66, and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d)  
 12 of P.L. 104-188, and as amended by P.L. 107-16, excluding section 431 of P.L. 107-16,  
 13 and P.L. 107-22, and as indirectly affected in the provisions applicable to this  
 14 subchapter by P.L. 99-514, P.L. 100-208, P.L. 100-647, excluding sections 803 (d) (2)  
 15 (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99-514 and section 1008  
 16 (g) (5) of P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L.  
 17 101-508, P.L. 102-227, excluding sections 103, 104, and 110 of P.L. 102-227, P.L.  
 18 102-318, P.L. 102-486, P.L. 103-66, excluding sections 13113, 13150 (d), 13171 (d),  
 19 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L.  
 20 104-7, P.L. 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605  
 21 (d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L.  
 22 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36, P.L. 106-170, P.L. 106-200, P.L.  
 23 106-230, P.L. 106-519, P.L. 106-554, P.L. 106-573, P.L. 107-16, excluding section  
 24 431 of P.L. 107-16, and P.L. 107-22, except that section 1366 (f) (relating to  
 25 pass-through of items to shareholders) is modified by substituting the tax under s.

and any subsequent federal law related to Archer medical  
savings accounts under 26 USC 220

<use 2 x>



## ASSEMBLY BILL 819

1 71.35 for the taxes under sections 1374 and 1375. The Internal Revenue Code applies  
2 for Wisconsin purposes at the same time as for federal purposes. Amendments to the  
3 federal Internal Revenue Code enacted after December 31, 2000, do not apply to this  
4 paragraph with respect to taxable years beginning after December 31, 2000, and  
5 before January 1, 2002, except that changes to the Internal Revenue Code made by  
6 P.L. 107-16, excluding section 431 of P.L. 107-16, and P.L. 107-22, and changes that  
7 indirectly affect the provisions applicable to this subchapter made by P.L. 107-16,  
8 excluding section 431 of P.L. 107-16, and P.L. 107-22, apply for Wisconsin purposes  
9 at the same time as for federal purposes.

10 **SECTION 59.** 71.34 (1g) (q) of the statutes is created to read:

11 71.34 (1g) (q) "Internal Revenue Code" for tax-option corporations, for taxable  
12 years that begin after December 31, 2001, means the federal Internal Revenue Code  
13 as amended to December 31, 2001, excluding sections 103, 104, and 110 of P.L.  
14 102-227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66,  
15 sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and section  
16 431 of P.L. 107-16, and as indirectly affected in the provisions applicable to this  
17 subchapter by P.L. 99-514, P.L. 100-203, P.L. 100-647, excluding sections 803 (d) (2)  
18 (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99-514 and section 1008  
19 (g) (5) of P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L.  
20 101-508, P.L. 102-227, excluding sections 103, 104, and 110 of P.L. 102-227, P.L.  
21 102-318, P.L. 102-486, P.L. 103-66, excluding sections 13113, 13150 (d), 13171 (d),  
22 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L.  
23 104-7, P.L. 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605  
24 (d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L.  
25 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36, P.L. 106-170, P.L. 106-200, P.L.

## ASSEMBLY BILL 819

1 106-230, P.L. 106-519, P.L. 106-554, P.L. 106-573, P.L. 107-15, P.L. 107-16,  
2 excluding section 431 of P.L. 107-16, and P.L. 107-22, except that section 1366 (f)  
3 (relating to pass-through of items to shareholders) is modified by substituting the  
4 tax under s. 71.35 for the taxes under sections 1374 and 1375. The Internal Revenue  
5 Code applies for Wisconsin purposes at the same time as for federal purposes.  
6 Amendments to the federal Internal Revenue Code enacted after December 31, 2001,  
7 do not apply to this paragraph with respect to taxable years beginning after  
8 December 31, 2001.

9 SECTION 60. 71.365 (1m) of the statutes is renumbered 71.365 (1m) (a) and  
10 amended to read:

11 71.365 (1m) (a) ~~A~~ For taxable years that begin after December 31, 2000, and  
12 before January 1, 2002, a tax-option corporation may compute amortization and  
13 depreciation under either the federal Internal Revenue Code as amended to  
14 December 31, ~~1999~~ 2000, or the federal Internal Revenue Code in effect for the  
15 taxable year for which the return is filed, except that property first placed in service  
16 by the taxpayer on or after January 1, 1983, but before January 1, 1987, that, under  
17 s. 71.04 (15) (b) and (br), 1985 stats., is required to be depreciated under the Internal  
18 Revenue Code as amended to December 31, 1980, and property first placed in service  
19 in taxable year 1981 or thereafter but before January 1, 1987, that, under s. 71.04  
20 (15) (bm), 1985 stats., is required to be depreciated under the Internal Revenue Code  
21 as amended to December 31, 1980, shall continue to be depreciated under the  
22 Internal Revenue Code as amended to December 31, 1980. Any difference between  
23 the adjusted basis for federal income tax purposes and the adjusted basis under this  
24 chapter shall be taken into account in determining net income or loss in the year or  
25 years for which the gain or loss is reportable under this chapter. If that property was

## ASSEMBLY BILL 819

1 placed in service by the taxpayer during taxable year 1986 and thereafter but before  
2 the property is used in the production of income subject to taxation under this  
3 chapter, the property's adjusted basis and the depreciation or other deduction  
4 schedule are not required to be changed from the amount allowable on the owner's  
5 federal income tax returns for any year because the property is used in the  
6 production of income subject to taxation under this chapter. If that property was  
7 acquired in a transaction in taxable year 1986 or thereafter in which the adjusted  
8 basis of the property in the hands of the transferee is the same as the adjusted basis  
9 of the property in the hands of the transferor, the Wisconsin adjusted basis of that  
10 property on the date of transfer is the adjusted basis allowable under the Internal  
11 Revenue Code as defined for Wisconsin purposes for the property in the hands of the  
12 transferor.

13 **SECTION 61.** 71.365 (1m) (b) of the statutes is created to read:

14 71.365 (1m) (b) For taxable years that begin after December 31, 2001, a  
15 tax-option corporation may compute amortization and depreciation under either the  
16 federal Internal Revenue Code as amended to December 31, 2001, or the federal  
17 Internal Revenue Code in effect for the taxable year for which the return is filed,  
18 except that property first placed in service by the taxpayer on or after  
19 January 1, 1983, but before January 1, 1987, that, under s. 71.04 (15) (b) and (br),  
20 1985 stats., is required to be depreciated under the Internal Revenue Code as  
21 amended to December 31, 1980, and property first placed in service in taxable year  
22 1981 or thereafter but before January 1, 1987, that, under s. 71.04 (15) (bm), 1985  
23 stats., is required to be depreciated under the Internal Revenue Code as amended  
24 to December 31, 1980, shall continue to be depreciated under the Internal Revenue  
25 Code as amended to December 31, 1980. Any difference between the adjusted basis

## ASSEMBLY BILL 819

1 for federal income tax purposes and the adjusted basis under this chapter shall be  
2 taken into account in determining net income or loss in the year or years for which  
3 the gain or loss is reportable under this chapter. If that property was placed in  
4 service by the taxpayer during taxable year 1986 and thereafter but before the  
5 property is used in the production of income subject to taxation under this chapter,  
6 the property's adjusted basis and the depreciation or other deduction schedule are  
7 not required to be changed from the amount allowable on the owner's federal income  
8 tax returns for any year because the property is used in the production of income  
9 subject to taxation under this chapter. If that property was acquired in a transaction  
10 in taxable year 1986 or thereafter in which the adjusted basis of the property in the  
11 hands of the transferee is the same as the adjusted basis of the property in the hands  
12 of the transferor, the Wisconsin adjusted basis of that property on the date of transfer  
13 is the adjusted basis allowable under the Internal Revenue Code as defined for  
14 Wisconsin purposes for the property in the hands of the transferor.

15 **SECTION 62.** 71.42 (2) (f) of the statutes is repealed.

16 **SECTION 63.** 71.42 (2) (g) of the statutes is repealed.

17 **SECTION 64.** 71.42 (2) (h) of the statutes is amended to read:

18 71.42 (2) (h) For taxable years that begin after December 31, 1993, and before  
19 January 1, 1995, "Internal Revenue Code" means the federal Internal Revenue Code  
20 as amended to December 31, 1993 excluding sections 103, 104, and 110 of P.L.  
21 102-227 and sections 13113, 13150 (d), 13171 (d), 13174, 13203 (d), and 13215 of P.L.  
22 103-66, and as amended by P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7,  
23 excluding section 1 of P.L. 104-7, P.L. 104-188, excluding section 1311 of P.L.  
24 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-34, P.L. 105-206 and, P.L. 105-277,  
25 and P.L. 106-554, and as indirectly affected by P.L. 99-514, P.L. 100-203, P.L.

## ASSEMBLY BILL 819

1 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L. 101-508, P.L.  
2 102-227, excluding sections 103, 104, and 110 of P.L. 102-227, P.L. 102-318, P.L.  
3 102-486 and P.L. 103-66, excluding sections 13113, 13150 (d), 13171 (d), 13174,  
4 13203 (d), and 13215 of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L.  
5 104-7, excluding section 1 of P.L. 104-7, P.L. 104-188, excluding section 1311 of P.L.  
6 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-34, P.L. 105-206 and, P.L. 105-277,  
7 and P.L. 106-554, except that "Internal Revenue Code" does not include section 847  
8 of the federal Internal Revenue Code. The Internal Revenue Code applies for  
9 Wisconsin purposes at the same time as for federal purposes. Amendments to the  
10 federal Internal Revenue Code enacted after December 31, 1993, do not apply to this  
11 paragraph with respect to taxable years beginning after December 31, 1993, and  
12 before January 1, 1995, except that changes to the Internal Revenue Code made by  
13 P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7, excluding section 1 of P.L.  
14 104-7, P.L. 104-188, excluding section 1311 of P.L. 104-188, P.L. 104-191, P.L.  
15 104-193, P.L. 105-34, P.L. 105-206 and, P.L. 105-277, and P.L. 106-554, and  
16 changes that indirectly affect the provisions applicable to this subchapter made by  
17 P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7, excluding section 1 of P.L.  
18 104-7, P.L. 104-188, excluding section 1311 of P.L. 104-188, P.L. 104-191, P.L.  
19 104-193, P.L. 105-34, P.L. 105-206 and, P.L. 105-277, and P.L. 106-554, apply for  
20 Wisconsin purposes at the same time as for federal purposes.

21 **SECTION 65.** 71.42 (2) (i) of the statutes is amended to read:

22 71.42 (2) (i) For taxable years that begin after December 31, 1994, and before  
23 January 1, 1996, "Internal Revenue Code" means the federal Internal Revenue Code  
24 as amended to December 31, 1994, excluding sections 103, 104, and 110 of P.L.  
25 102-227 and sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L.

**ASSEMBLY BILL 819**

1 103-66, and as amended by P.L. 104-7, P.L. 104-188, excluding sections 1202, 1204,  
2 1311, and 1605 of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-34, P.L.  
3 105-206 and, P.L. 105-277, and P.L. 106-554, and as indirectly affected by P.L.  
4 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L.  
5 101-239, P.L. 101-508, P.L. 102-227, excluding sections 103, 104, and 110 of P.L.  
6 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding sections 13113, 13150  
7 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L.  
8 103-465, P.L. 104-7, P.L. 104-188, excluding sections 1202, 1204, 1311, and 1605 of  
9 P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-34, P.L. 105-206 and, P.L.  
10 105-277, and P.L. 106-554, except that "Internal Revenue Code" does not include  
11 section 847 of the federal Internal Revenue Code. The Internal Revenue Code  
12 applies for Wisconsin purposes at the same time as for federal purposes.  
13 Amendments to the federal Internal Revenue Code enacted after  
14 December 31, 1994, do not apply to this paragraph with respect to taxable years  
15 beginning after December 31, 1994, and before January 1, 1996, except that  
16 changes to the Internal Revenue Code made by P.L. 104-7, P.L. 104-188, excluding  
17 sections 1202, 1204, 1311, and 1605 of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L.  
18 105-34, P.L. 105-206 and, P.L. 105-277, and P.L. 106-554, and changes that  
19 indirectly affect the provisions applicable to this subchapter made by P.L. 104-7, P.L.  
20 104-188, excluding sections 1202, 1204, 1311, and 1605 of P.L. 104-188, P.L.  
21 104-191, P.L. 104-193, P.L. 105-34, P.L. 105-206 and, P.L. 105-277, and P.L.  
22 106-554, apply for Wisconsin purposes at the same time as for federal purposes.

23 **SECTION 66.** 71.42 (2) (j) of the statutes is amended to read:

24 71.42 (2) (j) For taxable years that begin after December 31, 1995, and before  
25 January 1, 1997, "Internal Revenue Code" means the federal Internal Revenue Code

**ASSEMBLY BILL 819****SECTION 66**

1 as amended to December 31, 1995, excluding sections 103, 104, and 110 of P.L.  
2 102-227 and sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L.  
3 103-66, and as amended by P.L. 104-188, excluding sections 1123, 1202, 1204, 1311,  
4 and 1605 of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L.  
5 105-206 and, P.L. 105-277, and P.L. 106-554, and as indirectly affected by P.L.  
6 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L.  
7 101-239, P.L. 101-508, P.L. 102-227, excluding sections 103, 104, and 110 of P.L.  
8 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding sections 13113, 13150  
9 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L.  
10 103-465, P.L. 104-7, P.L. 104-188, excluding sections 1123, 1202, 1204, 1311, and  
11 1605 of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L.  
12 105-206 and, P.L. 105-277, and P.L. 106-554, except that "Internal Revenue Code"  
13 does not include section 847 of the federal Internal Revenue Code. The Internal  
14 Revenue Code applies for Wisconsin purposes at the same time as for federal  
15 purposes. Amendments to the federal Internal Revenue Code enacted after  
16 December 31, 1995, do not apply to this paragraph with respect to taxable years  
17 beginning after December 31, 1995, and before January 1, 1997, except that  
18 changes to the Internal Revenue Code made by P.L. 104-188, excluding sections  
19 1123, 1202, 1204, 1311, and 1605 of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L.  
20 105-33, P.L. 105-34, P.L. 105-206 and, P.L. 105-277, and P.L. 106-554, and changes  
21 that indirectly affect the provisions applicable to this subchapter made by P.L.  
22 104-188, excluding sections 1123, 1202, 1204, 1311, and 1605 of P.L. 104-188, P.L.  
23 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-206 and, P.L. 105-277,  
24 and P.L. 106-554, apply for Wisconsin purposes at the same time as for federal  
25 purposes.

1 SECTION 67. 71.42 (2) (k) of the statutes is amended to read:

2 71.42 (2) (k) For taxable years that begin after December 31, 1996, and before  
3 January 1, 1998, "Internal Revenue Code" means the federal Internal Revenue Code  
4 as amended to December 31, 1996, excluding sections 103, 104, and 110 of P.L.  
5 102-227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66  
6 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and as  
7 amended by P.L. 105-33, P.L. 105-34, P.L. 105-206, P.L. 105-277 and, P.L. 106-36,

8 ~~P.L. 106-554, and P.L. 107-16, excluding section 481 of P.L. 107-16,~~ and as indirectly  
9 affected by P.L. 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L.  
10 101-179, P.L. 101-239, P.L. 101-508, P.L. 102-227, excluding sections 103, 104, and  
11 110 of P.L. 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding sections  
12 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L.  
13 103-337, P.L. 103-465, P.L. 104-7, P.L. 104-188, excluding sections 1123 (b), 1202  
14 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L.

15 105-33, P.L. 105-34, P.L. 105-206, P.L. 105-277 and, P.L. 106-36, ~~P.L. 106-554, and~~  
16 ~~P.L. 107-16, excluding section 431 of P.L. 107-16,~~ except that "Internal Revenue  
17 Code" does not include section 847 of the federal Internal Revenue Code. The  
18 Internal Revenue Code applies for Wisconsin purposes at the same time as for federal  
19 purposes. Amendments to the federal Internal Revenue Code enacted after  
20 December 31, 1996, do not apply to this paragraph with respect to taxable years  
21 beginning after December 31, 1996, and before January 1, 1998, except that

22 changes to the Internal Revenue Code made by P.L. 105-33, P.L. 105-34, P.L.  
23 105-206, P.L. 105-277 and, P.L. 106-36, ~~P.L. 106-554, and P.L. 107-16, excluding~~

24 ~~section 431 of P.L. 107-16,~~ and changes that indirectly affect the provisions  
25 applicable to this subchapter made by P.L. 105-33, P.L. 105-34, P.L. 105-206, P.L.



## ASSEMBLY BILL 819

1 105-277 and, P.L. 106-36, <sup>and</sup> ~~P.L. 106-554, and P.L. 107-16, excluding section 431 of~~  
 2 ~~P.L. 107-16,~~ apply for Wisconsin purposes at the same time as for federal purposes.

3 SECTION 68. 71.42 (2) (L) of the statutes is amended to read:

4 71.42 (2) (L) For taxable years that begin after December 31, 1997, and before  
 5 January 1, 1999, "Internal Revenue Code" means the federal Internal Revenue Code  
 6 as amended to December 31, 1997, excluding sections 103, 104, and 110 of P.L.  
 7 102-227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66  
 8 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and as  
 9 amended by P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36 and, P.L. 106-170,  
 10 <sup>and</sup> ~~P.L. 106-554, P.L. 106-573, and P.L. 107-16, excluding section 431 of P.L. 107-16,~~  
 11 and as indirectly affected by P.L. 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73,  
 12 P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L. 101-508, P.L. 102-227, excluding  
 13 sections 103, 104, and 110 of P.L. 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66,  
 14 excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66,  
 15 P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7, P.L. 104-188, excluding  
 16 sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, P.L. 104-191,  
 17 P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-178, P.L. 105-206, P.L. 105-277,  
 18 P.L. 106-36 and, P.L. 106-170, <sup>and</sup> ~~P.L. 106-554, P.L. 106-573, and P.L. 107-16,~~  
 19 ~~excluding section 431 of P.L. 107-16,~~ except that "Internal Revenue Code" does not  
 20 include section 847 of the federal Internal Revenue Code. The Internal Revenue  
 21 Code applies for Wisconsin purposes at the same time as for federal purposes.  
 22 Amendments to the federal Internal Revenue Code enacted after December 31, 1997,  
 23 do not apply to this paragraph with respect to taxable years beginning after  
 24 December 31, 1997, and before January 1, 1999, except that changes to the Internal  
 25 Revenue Code made by P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36 and,

ASSEMBLY BILL 819

1 P.L. 106-170, <sup>and</sup> P.L. 106-554, ~~P.L. 106-573, and P.L. 107-16, excluding section 431 of~~  
 2 ~~P.L. 107-16,~~ and changes that indirectly affect the provisions applicable to this  
 3 subchapter made by P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36 and, P.L.  
 4 106-170, <sup>and</sup> ~~P.L. 106-554, P.L. 106-573, and P.L. 107-16, excluding section 431 of P.L.~~  
 5 ~~107-16,~~ apply for Wisconsin purposes at the same time as for federal purposes.

SECTION 69. 71.42 (2) (m) of the statutes is amended to read:

7 71.42 (2) (m) For taxable years that begin after December 31, 1998, and before  
 8 January 1, 2000, "Internal Revenue Code" means the federal Internal Revenue Code  
 9 as amended to December 31, 1998, excluding sections 103, 104, and 110 of P.L.  
 10 102-227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66  
 11 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and as  
 12 amended by P.L. 106-36 and, P.L. 106-170, ~~P.L. 106-230, P.L. 106-519, P.L. 106-554,~~  
 13 ~~P.L. 106-573, and P.L. 107-16, excluding section 431 of P.L. 107-16,~~ <sup>and</sup> and as indirectly  
 14 affected by P.L. 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L.  
 15 101-179, P.L. 101-239, P.L. 101-508, P.L. 102-227, excluding sections 103, 104, and  
 16 110 of P.L. 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding sections  
 17 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L.  
 18 103-337, P.L. 103-465, P.L. 104-7, P.L. 104-188, excluding sections 1123 (b), 1202  
 19 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L.  
 20 105-33, P.L. 105-34, P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36 and, P.L.  
 21 106-170, ~~P.L. 106-230, P.L. 106-519,~~ <sup>and</sup> P.L. 106-554, ~~P.L. 106-573, and P.L. 107-16,~~  
 22 ~~excluding section 431 of P.L. 107-16,~~ except that "Internal Revenue Code" does not  
 23 include section 847 of the federal Internal Revenue Code. The Internal Revenue  
 24 Code applies for Wisconsin purposes at the same time as for federal purposes.  
 25 Amendments to the federal Internal Revenue Code enacted after December 31, 1998,

ASSEMBLY BILL 819

1 do not apply to this paragraph with respect to taxable years beginning after  
 2 December 31, 1998, and before January 1, 2000, except that changes to the Internal  
 3 Revenue Code made by P.L. 106-36 and, P.L. 106-170, ~~P.L. 106-230, P.L. 106-519,~~  
 4 ~~P.L. 106-554, P.L. 106-573, and P.L. 107-16, excluding section 431 of P.L. 107-16,~~  
 5 and changes that indirectly affect the provisions applicable to this subchapter made  
 6 by P.L. 106-36 and, P.L. 106-170, ~~P.L. 106-230, P.L. 106-519,~~ ~~P.L. 106-554,~~ ~~P.L.~~  
 7 ~~106-573, and P.L. 107-16, excluding section 431 of P.L. 107-16,~~ apply for Wisconsin  
 8 purposes at the same time as for federal purposes.

9 SECTION 70. 71.42 (2) (n) of the statutes is amended to read:

10 71.42 (2) (n) For taxable years that begin after December 31, 1999, ~~and before~~  
 11 ~~January 1, 2001,~~ "Internal Revenue Code" means the federal Internal Revenue Code  
 12 as amended to December 31, 1999, excluding sections 103, 104, and 110 of P.L.  
 13 102-227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66  
 14 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and as  
 15 amended by ~~P.L. 106-200, P.L. 106-230, P.L. 106-519, P.L. 106-554, P.L. 106-573,~~  
 16 ~~and P.L. 107-16, excluding section 431 of P.L. 107-16,~~ and as indirectly affected by  
 17 P.L. 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179,  
 18 P.L. 101-239, P.L. 101-508, P.L. 102-227, excluding sections 103, 104, and 110 of P.L.  
 19 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding sections 13113, 13150  
 20 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L.  
 21 103-465, P.L. 104-7, P.L. 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f),  
 22 1311, and 1605 (d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L.  
 23 105-34, P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36 and, P.L. 106-170,  
 24 ~~P.L. 106-200, P.L. 106-230, P.L. 106-519, P.L. 106-554, P.L. 106-573, and P.L.~~  
 25 ~~107-16, excluding section 431 of P.L. 107-16,~~ except that "Internal Revenue Code"

and any subsequent federal law related to Archer  
 medical savings accounts under 26 USC 220

(use 2 x)

1 does not include section 847 of the federal Internal Revenue Code. The Internal  
2 Revenue Code applies for Wisconsin purposes at the same time as for federal  
3 purposes. Amendments to the federal Internal Revenue Code enacted after  
4 December 31, 1999, do not apply to this paragraph with respect to taxable years  
5 beginning after December 31, 1999, ~~and before January 1, 2001,~~ except that changes  
6 to the Internal Revenue Code made by ~~P.L. 106-200, P.L. 106-230, P.L. 106-519, P.L.~~  
7 ~~106-554, P.L. 106-573, and P.L. 107-16, excluding section 431 of P.L. 107-16,~~ and  
8 changes that indirectly affect the provisions applicable to this subchapter made by  
9 ~~P.L. 106-200, P.L. 106-230, P.L. 106-519, P.L. 106-554, P.L. 106-573, and P.L.~~  
10 ~~107-16, excluding section 431 of P.L. 107-16,~~ apply for Wisconsin purposes at the  
11 same time as for federal purposes.

12 ~~SECTION 71. 71.42 (2) (c) of the statutes is created to read:~~  
13 71.42 (2) (c) For taxable years that begin after December 31, 2000, and before  
14 January 1, 2002, "Internal Revenue Code" means the federal Internal Revenue Code  
15 as amended to December 31, 2000, excluding sections 103, 104, and 110 of P.L.  
16 102-227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66,  
17 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and as  
18 amended by P.L. 107-16, excluding section 431 of P.L. 107-16, and P.L. 107-22, and  
19 as indirectly affected by P.L. 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73, P.L.  
20 101-140, P.L. 101-179, P.L. 101-239, P.L. 101-508, P.L. 102-227, excluding sections  
21 103, 104, and 110 of P.L. 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding  
22 sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, P.L.  
23 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7, P.L. 104-188, excluding sections  
24 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, P.L. 104-191, P.L.  
25 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L.

INS  
Act  
453  
B

and any subsequent federal law related to Archer  
medical savings accounts under 26 USC 220

Use  
27

END of  
INSERT  
I RS

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

LRB-4956/rdn  
PJK:j:.....

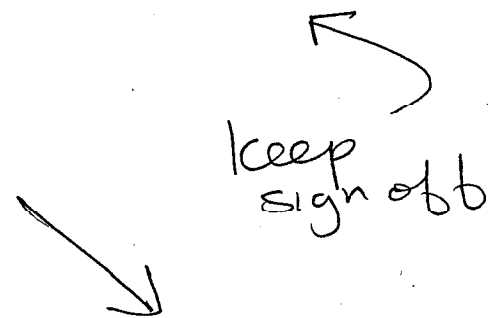
CX

D-note # 1

1. You may wish to provide operating costs appropriations for the small employer reinsurance program and the small employer catastrophic care program. You would have to let me know the amount to include in the appropriations, though. Without any specific appropriations, the administrative costs of the program under s. 635.25 would most likely be paid from s. 20.145 (1) (g). The administrative costs of the program under s. 635.30 might be paid from s. 20.145 (1) (g), or from the segregated fund without a specific appropriation, because of the language in s. 635.30 (2) (b) 4. that allows the board to establish procedures for paying all other operating costs of the program, which could include payment from the segregated fund.
2. Since both of the new boards are created in ch. 15 and attached to OCI, none of the proposed language regarding quorums, compensation for services, election of a chairperson, liability for performance of duties, etc., is needed.
3. Although the two new small employer programs are intended to sunset in five years, I have not included any repeals in this draft. It is conceivable that the programs will be extended, and the text includes dates where appropriate. Some dates must, of course, be determined by rule. In addition, some time after the end of each five-year period will be needed to wrap up operations. Since it would be too difficult to include an accurate date for repeals at this time, any necessary repeals can be accomplished later, as appropriate.

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keep sign off



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

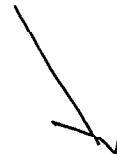
LRB-4956/p1dnrc  
RAC:.....

D-note #  
2

Please note that the health care coverage plans offered to state employees by the group insurance board already have many of the the key features of defined contribution plans. Also, because the state is obligated to pay up to 105% of the cost of the least costly qualifying plan offered to state employees in their county of employment, the requirement may result in increased costs for state employees for other health care coverage plans. The reason is that the least qualifying plan may well turn out to be the new defined contribution plan. Finally, because the new defined contribution plan may reduce the level of benefits, I notwithstanding the requirement under s. 40.03 (6) (c) that the benefits may not be reduced. ✓

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sign off



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

LRB-4956/?dnMES  
PJK,RAC,DAK,MES:.....

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D-note # 3

~~Representative Jensen~~

Part of this bill incorporates into the definition of "Internal Revenue Code" the changes made by the federal government in P.L. 106-554. The bill also changes the definition of the IRC to include any future changes made by the federal government to "Archer MSAs" under section 220 of title 26 of the United States Code.

As I've discussed with Brian Dake of your office and Sara Buschman of Representative Urban's office, the incorporation of unspecified future changes to federal law into the Wisconsin statutes could be challenged as an unconstitutional delegation of legislative authority. Article IV, section 1 of the Wisconsin Constitution states that "The legislative power shall be vested in a senate and assembly." If this bill becomes law, it could be argued that by automatically adopting any future change made by the federal government to Archer MSAs, the legislature is unconstitutionally delegating its legislative power to make laws by allowing an external source, the federal government, to dictate substantive changes to the statutes.

The Wisconsin Supreme Court has made a distinction between the delegation of a fact-finding power, which seems to be OK, and a law-making power, which may not be OK, although Wisconsin courts seem to be increasingly willing to uphold statutes that adopt external material, particularly federal law. See generally, *State v. Wakeen*, 263 Wis. 401 (1953), *Williams v. Hoffmann*, 66 Wis. 2d 145, 155-56 (1974), *Krueger v. Department of Revenue*, 124 Wis. 2d 453 (1985) and, especially, *Cleaver v. Department of Revenue*, 158 Wis. 2d 734, 742 (1990).

*Krueger* seems to indicate that state adoption of future federal changes in the definition of "adjusted gross income" is OK, but that holding seems to have been limited by *Cleaver* at 739 and 740. The Court also stated in *Cleaver* that "The legislature quite obviously desires the opportunity to review any changes enacted by Congress before such changes become part of Wisconsin tax law." *Cleaver* at 742.

Although the likelihood, and outcome, of a constitutional challenge to this bill, should it become law, is impossible to predict, I thought that you should be aware of the possibility. Please let me know if you have any questions about this issue. ✓

Also, if created section 71.05 (6) (b) 34. ever applies, the dates that relate to indexing the deduction amounts for inflation should probably be advanced. ✓

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(end D-note)



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

LRB-4956/1dn  
PJK/RAC/MES:cx:kjf

February 26, 2002

1. You may wish to provide operating costs appropriations for the small employer reinsurance program and the small employer catastrophic care program. You would have to let me know the amount to include in the appropriations, though. Without any specific appropriations, the administrative costs of the program under s. 635.25 would most likely be paid from s. 20.145 (1) (g). The administrative costs of the program under s. 635.30 might be paid from s. 20.145 (1) (g), or from the segregated fund without a specific appropriation, because of the language in s. 635.30 (2) (b) 4. that allows the board to establish procedures for paying all other operating costs of the program, which could include payment from the segregated fund.

2. Since both of the new boards are created in ch. 15 and attached to OCI, none of the proposed language regarding quorums, compensation for services, election of a chairperson, liability for performance of duties, etc., is needed.

3. Although the two new small employer programs are intended to sunset in five years, I have not included any repeals in this draft. It is conceivable that the programs will be extended, and the text includes dates where appropriate. Some dates must, of course, be determined by rule. In addition, some time after the end of each five-year period will be needed to wrap up operations. Since it would be too difficult to include an accurate date for repeals at this time, any necessary repeals can be accomplished later, as appropriate.

Pamela J. Kahler  
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Phone: (608) 266-2682  
E-mail: pam.kahler@legis.state.wi.us

Please note that the health care coverage plans offered to state employees by the group insurance board already have many of the the key features of defined contribution plans. Also, because the state is obligated to pay up to 105% of the cost of the least costly qualifying plan offered to state employees in their county of employment, the requirement may result in increased costs for state employees for other health care coverage plans. The reason is that the least costly qualifying plan may well turn out

to be the new defined contribution plan. Finally, because the new defined contribution plan may reduce the level of benefits, I notwithstanding the requirement under s. 40.03 (6) (c) that the benefits may not be reduced.

Rick A. Champagne  
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Part of this bill incorporates into the definition of "Internal Revenue Code" the changes made by the federal government in P.L. 106-554. The bill also changes the definition of the IRC to include any future changes made by the federal government to "Archer MSAs" under section 220 of title 26 of the United States Code.

As I've discussed with Brian Dake of your office and Sara Buschman of Representative Urban's office, the incorporation of unspecified future changes to federal law into the Wisconsin statutes could be challenged as an unconstitutional delegation of legislative authority. Article IV, section 1 of the Wisconsin Constitution states that "The legislative power shall be vested in a senate and assembly." If this bill becomes law, it could be argued that by automatically adopting any future change made by the federal government to Archer MSAs, the legislature is unconstitutionally delegating its legislative power to make laws by allowing an external source, the federal government, to dictate substantive changes to the statutes.

The Wisconsin Supreme Court has made a distinction between the delegation of a fact-finding power, which seems to be OK, and a law-making power, which may not be OK, although Wisconsin courts seem to be increasingly willing to uphold statutes that adopt external material, particularly federal law. See, generally, *State v. Wakeen*, 263 Wis. 401 (1953), *Williams v. Hoffmann*, 66 Wis. 2d 145, 155-56 (1974), *Krueger v. Department of Revenue*, 124 Wis. 2d 453 (1985) and, especially, *Cleaver v. Department of Revenue*, 158 Wis. 2d 734, 742 (1990).

*Krueger* seems to indicate that state adoption of future federal changes in the definition of "adjusted gross income" is OK, but that holding seems to have been limited by *Cleaver* at 739 and 740. The Court also stated in *Cleaver* that "The legislature quite obviously desires the opportunity to review any changes enacted by Congress before such changes become part of Wisconsin tax law." *Cleaver* at 742.

Although the likelihood, and outcome, of a constitutional challenge to this bill, should it become law, is impossible to predict, I thought that you should be aware of the possibility. Please let me know if you have any questions about this issue.

Also, if created section 71.05 (6) (b) 34. ever applies, the dates that relate to indexing the deduction amounts for inflation should probably be advanced.

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remove from bill per committee members

① rate band change

② all ~~RSA~~ MSA (med savings account) provisions

③ Point of service / pref provide plan provisions