

2007 DRAFTING REQUEST

Bill

Received: **01/08/2007**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB: **05 AB 954-ASA2**

For: **Terry Moulton (608) 266-9172**

By/Representing: **matt**

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

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Business - credits**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Moulton@legis.wisconsin.gov**

Carbon copy (CC:) to: **joseph.kreye@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Workplace wellness program tax credit

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 01/10/2007	jdyer 02/06/2007		_____			State
/1			jfrantze 02/06/2007	_____	sbasford 02/06/2007		State
/2	jkreye 02/28/2007	jdyer 02/28/2007	rschluet 02/28/2007	_____	sbasford 02/28/2007		State
	jkreye 03/01/2007	jdyer 03/01/2007		_____			

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

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pgreensl _____
03/01/2007 _____

mbarman
03/01/2007

mbarman
03/01/2007

FE Sent For: *at intro*
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<END>

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/1		13/3/jw	jfrantze 02/06/2007	_____	sbasford 02/06/2007		State
/2	jkreye 02/28/2007	jdyer 02/28/2007	rschluet 02/28/2007	3/1 _____	sbasford 02/28/2007		

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ps/nw

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/?	jkreye 01/10/2007	jdyer 02/06/2007		_____			State
/1		1/2 2/28 jld	jfrantze 02/06/2007	_____	sbasford 02/06/2007		

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Handwritten signatures and the text <END>

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/?	jkreye	1 2/5 jld	J 2/6	J/R 2/6			

FE Sent For:

<END>

Kreye, Joseph

From: Seaholm, Matthew
Sent: Monday, January 08, 2007 11:29 AM
To: Kreye, Joseph
Subject: Moulton - Redraft of AB954

Hi Joe,

We are looking to redraft 2005 Assembly Bill 954, relating to Workplace Wellness programs. The only change I would like to start with is to up the available credits to \$5,000,000 and still split that in half between small businesses and larger businesses.

Please let me know if you have any questions.

Thanks,

Matt

*Matt Seaholm
Office of Rep. Terry Moulton
Wisconsin's 68th Assembly District
(608) 266-9172*

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-1412/1

2005 - 2006 LEGISLATURE

LRBs0565/1
JK:fld:um:pg

↑
STAYS

ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 2005 ASSEMBLY BILL 954

2007 BILL^m 1-10-07
D-N

February 28, 2006 - Offered by Representative MOULTON.

- re gen

1 AN ACT *to amend* 71.05 (6) (a) 15., 71.08 (1) (intro.), 71.21 (4), 71.26 (2) (a), 71.34
 2 (1) (g), 71.45 (2) (a) 10. and 77.92 (4); and *to create* 71.07 (5e), 71.10 (4) (gxx),
 3 71.28 (5e), 71.30 (3) (epa), 71.47 (5e), 71.49 (1) (epa) and 560.204 of the statutes;
 4 **relating to:** an income and franchise tax credit for workplace wellness
 5 programs, granting rule-making authority, and requiring the exercise of
 6 rule-making authority. ✓

INSERT 1-6 ✓

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

7 **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:
 8 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
 9 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), and (5d), and (5e)
 10 and not passed through by a partnership, limited liability company, or tax-option
 11 corporation that has added that amount to the partnership's, company's, or
 12 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

INSERT 1-12 ✓

SECTION 2. 71.07 (~~5c~~) of the statutes is created to read:

71.07 (~~5c~~) WORKPLACE WELLNESS PROGRAM CREDIT. (a) *Definitions*. In this subsection:

- 1. "Claimant" means a person who files a claim under this subsection.
- 2. "Workplace wellness program" means a health or fitness program, as defined by rule under s. 560.204 (4), and includes the following programs or services:
 - a. Smoking cessation.
 - b. Weight management.
 - c. Stress management.
 - d. Health risk assessments.
 - e. Health screenings.
 - f. Nutrition education.
 - g. Health or fitness incentive programs.

(b) *Filing claims*. Subject to the limitations provided in this subsection and s. 560.204, a claimant may claim as a credit against the taxes imposed under s. 71.02 ~~of 71.02~~, up to the amount of those taxes, in each taxable year for 3 years, an amount that is equal to 30 percent of the amount that the claimant paid in the taxable year to provide a workplace wellness program to any of the claimant's employees who are employed in this state, not including any amount paid to acquire, construct, rehabilitate, remodel, or repair real property.

(c) *Limitations*. 1. The maximum amount of the credits that may be claimed under this subsection and ss. 71.28 and 71.47 in any taxable year is \$1,000,000 for all claimants who employ 50 or fewer employees in the taxable year and \$1,000,000 for all claimants who employ more than 50 employees in the taxable year.

\$2,500,000

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

9 (d) *Administration.* Section 71.28 (4) (e) to (h) ✓, as it applies to the credit under
10 s. 71.28 (4) ✓, applies to the credit under this subsection. ✓

11 ~~SECTION 3. 71.08 (1) (intro.) of the statutes, as affected by 2005 Wisconsin Act
12 25, is amended to read:~~

13 ~~71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
14 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under
15 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3n), (3s),
16 (3t), (5b), (5d), (5e), (6), (6e), and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds),
17 (1dx), (1fd), (2m), (3), (3n), and (3t) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds),
18 (1dx), (1fd), (2m), (3), (3n), and (3t) and subchs. VIII and IX and payments to other
19 states under s. 71.07 (7), is less than the tax under this section, there is imposed on
20 that natural person, married couple filing jointly, trust, or estate, instead of the tax
21 under s. 71.02, an alternative minimum tax computed as follows:~~

22 ~~SECTION 4. 71.10 (4) (gxx) ✓ of the statutes is created to read:~~

23 ~~71.10 (4) (gxx) Workplace wellness program credit under s. 71.07 (5e). ✓~~

24 ~~SECTION 5. 71.21 (4) of the statutes, as affected by 2005 Wisconsin Act 74, is
25 amended to read:~~

1 ~~71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),~~
2 ~~(2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), (5e), and (5g) and passed~~
3 ~~through to partners shall be added to the partnership's income.~~

4 SECTION 6. 71.26 (2) (a) of the statutes, as affected by 2005 Wisconsin Act 74,
5 is amended to read:

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

24 SECTION 7. 71.28 (5e) of the statutes is created to read:

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si ← (B)

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71.28 ~~(5c)~~ WORKPLACE WELLNESS PROGRAM CREDIT. (a) *Definitions*. In this subsection:

- 1. "Claimant" means a person who files a claim under this subsection.
- 2. "Workplace wellness program" means a health or fitness program, as defined by rule under s. 560.204 (4), and includes the following programs or services:
 - a. Smoking cessation.
 - b. Weight management.
 - c. Stress management.
 - d. Health risk assessments.
 - e. Health screenings.
 - f. Nutrition education.
 - g. Health or fitness incentive programs.

(b) *Filing claims*. Subject to the limitations provided in this subsection and s. 560.204, a claimant may claim as a credit against the taxes imposed under s. 71.23, up to the amount of those taxes, in each taxable year for 3 years, an amount that is equal to 30 percent of the amount ^{that} the claimant paid in the taxable year to provide a workplace wellness program to any of the claimant's employees who are employed in this state, not including any amount paid to acquire, construct, rehabilitate, remodel, or repair real property.

(c) *Limitations*. 1. The maximum amount of the credits that may be claimed under this subsection and ss. 71.07 ~~(5c)~~ ⁵ⁱ and 71.47 ~~(5c)~~ ⁵ⁱ in any taxable year is \$1,000,000 for all claimants who employ 50 or fewer employees in the taxable year and \$1,000,000 for all claimants who employ more than 50 employees in the taxable year.

\$2,500,000 ✓

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

9 (d) *Administration.* Subsection [✓](4) (e) to (h), as it applies to the credit under
 10 sub. (4), applies to the credit under this subsection.

11 **SECTION 8.** 71.30 (3) (epa)[✓] of the statutes is created to read:

12 71.30 (3) (epa)[✓] Workplace wellness program credit under s. 71.28 (5a)⁵ⁱ.

13 **SECTION 9.** 71.34 (1) (g) of the statutes, as affected by 2005 Wisconsin Act 74
 14 is amended to read:

15 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
 16 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
 17 (3n), (3t), (5b), (5e), and (5g) and passed through to shareholders.

18 **SECTION 10.** 71.45 (2) (a) 10. of the statutes, as affected by 2005 Wisconsin Act
 19 74, is amended to read:

20 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
 21 computed under s. 71.47 (1dd) to (1dx), (3n), (5b), (5e), and (5g) and not passed
 22 through by a partnership, limited liability company, or tax-option corporation that
 23 has added that amount to the partnership's, limited liability company's, or
 24 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and the amount of
 25 credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

→ INSERT ✓
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SECTION 11. 71.47 (5a) of the statutes is created to read:

2

71.47 (5a) WORKPLACE WELLNESS PROGRAM CREDIT. (a) *Definitions*. In this

3

subsection:

4

1. "Claimant" means a person who files a claim under this subsection.

5

2. "Workplace wellness program" means a health or fitness program, as defined

6

by rule under s. 560.204 (4), and includes the following programs or services:

7

a. Smoking cessation.

8

b. Weight management.

9

c. Stress management.

10

d. Health risk assessments.

11

e. Health screenings.

12

f. Nutrition education.

13

g. Health or fitness incentive programs.

14

(b) *Filing claims*. Subject to the limitations provided in this subsection and s.

15

560.204, a claimant may claim as a credit against the taxes imposed under s. 71.43,

16

up to the amount of those taxes, in each taxable year for 3 years, an amount that is

17

equal to 30 percent of the amount ^{that} the claimant paid in the taxable year to provide

18

a workplace wellness program to any of the claimant's employees who are employed

19

in this state, not including any amount paid to acquire, construct, rehabilitate,

20

remodel, or repair real property.

21

(c) *Limitations*. 1. The maximum amount of the credits that may be claimed

22

under this subsection and ss. 71.07 (5a) and 71.28 (5a) in any taxable year is

23

\$1,000,000 for all claimants who employ 50 or fewer employees in the taxable year

24

and \$1,000,000 for all claimants who employ more than 50 employees in the taxable

25

year.

Handwritten notes: A box around the first \$1,000,000 with a checkmark. A circle around the second \$1,000,000 with a checkmark. A larger circle below containing "\$2,500,000". A circled "5i" with lines pointing to the "5a" in the statute text.

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

9 (d) *Administration.* Section 71.28 (4) (e) to (h),[✓] as it applies to the credit under
10 s. 71.28 (4),[✓] applies to the credit under this subsection.

11 **SECTION 12.** 71.49 (1) (epa)^x of the statutes is created to read:

12 71.49 (1) (epa) Workplace wellness program credit under s. 71.47 (5a).[✓] 5i

13 **SECTION 13.** 77.92 (4) of the statutes, as affected by 2005 Wisconsin Act 74, is
14 amended to read:

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

1 excluding income, gain, loss, and deductions from farming. "Net business income,"
 2 with respect to a natural person, estate, or trust, means profit from a trade or
 3 business for federal income tax purposes and includes net income derived as an
 4 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

INSERT
9-4

5 SECTION 14. 560.204 of the statutes is created to read:

6 **560.204 Workplace wellness programs.** (1) The department shall
 7 implement a program to certify workplace wellness programs under ss. 71.07 (5),
 8 71.28 (5), and 71.47 (5).

9 (2) If the department certifies a workplace wellness program under sub. (1),
 10 the department shall determine the amount of workplace wellness program credits
 11 to allocate to the business providing the workplace wellness program. The total
 12 amount of workplace wellness program credits allocated to businesses in any year
 13 may not exceed ~~\$2,000,000~~ ^{\$5,000,000}. In any year, the department may not allocate more than
 14 ~~\$1,000,000~~ in credits to businesses with more than 50 employees, and may not
 15 allocate more than ~~\$1,000,000~~ ^{\$2,500,000} in credits to businesses with 50 or fewer employees.

16 (3) The department shall inform the department of revenue of every business
 17 whose workplace wellness program is certified under sub. (1) and the amount of
 18 credits allocated to the business.

19 (4) The department, in consultation with the department of revenue, shall
 20 promulgate rules to administer this section.

21 **SECTION 15. Initial applicability.**

22 (1) This act first applies to taxable years beginning on January 1, 2008.

23 (END)

d-note
↓

2005 ASSEMBLY BILL 954

January 30, 2006 - Introduced by Representatives MOULTON, UNDERHEIM, VRUWINK, OTT, HINES, KRAWCZYK, LEMAHIEU, BIES, VOS, KREIBICH, HONADEL and PETROWSKI, cosponsored by Senators LEIBHAM and ROESSLER. Referred to Committee on Ways and Means.

1 AN ACT *to amend* 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)
 2 (a) 10, and 77.92 (4); and *to create* 71.07 (5e), 71.10 (4) (gxx), 71.28 (5e), 71.30
 3 (3) (epa), 71.47 (5e) and 71.49 (1) (epa) of the statutes; **relating to:** an income
 4 and franchise tax credit for workplace wellness programs and requiring the
 5 exercise of rule-making authority.

who are employed in this state

30 percent of

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit for workplace wellness programs. The amount of the credit is equal to the amount that an employer pays in the taxable year to provide a workplace wellness program to any of the employer's employees. A workplace wellness program is a health or fitness program, as defined by administrative rule by the Department of Revenue, and includes smoking cessation programs, weight management, stress management, health risk assessments, health screenings, nutrition education, and health or fitness incentive programs.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

INSERT
1-6

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

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1412/?ins
JK:.....

Insert 1 -12

1 SECTION 1. 71.05 (6) (a) 15. ^x of the statutes is amended to read:

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

NOTE: NOTE: Subd. 15. is shown as affected by 3 acts of the 2005 Wisconsin legislature and as merged by the revisor under s. 13.93 (2) (c). The bracketed "and" was inserted by 2005 Wis. Act 479, but rendered surplusage by 2005 Wis. Act 483. Corrective legislation is pending. NOTE:

History: 1987 a. 312, 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 260; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 483; 1997 a. 27, 35, 39, 237; 1999 a. 9, 32, 44, 54, 65, 167; 2001 a. 16, 104, 105, 109; 2003 a. 85, 99, 119, 135, 183, 255, 289, 321, 326; 2005 a. 22, 25, 216, 254, 335, 361, 479, 483; s. 13.93 (2) (c).

Insert 4 -23

7 SECTION 2. 71.21 (4) ^x of the statutes is amended to read:

8 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
9 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), (5e), (5f), (5g), ~~and~~ (5h),
10 [✓] and (5i) and passed through to partners shall be added to the partnership's income.

NOTE: NOTE: Subd. (4) is shown as affected by 4 acts of the 2005 Wisconsin legislature and as merged by the revisor under s. 13.93 (2) (c). NOTE:

History: 1987 a. 312, 411; 1989 a. 31; 1993 a. 112; 1995 a. 27, 404; 1997 a. 27; 2001 a. 16; 2003 a. 99, 135, 255, 326; 2005 a. 74, 361, 479, 483; s. 13.93 (2) (c).

11 SECTION 3. 71.26 (2) (a) [✓] of the statutes is amended to read:

12 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
13 the gross income as computed under the Internal Revenue Code as modified under
14 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
15 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
16 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
17 under this paragraph at the time that the taxpayer first claimed the credit plus the
18 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
19 (1ds), (1dx), (3g), (3n), (3t), (3w), (5b), (5e), (5f), (5g), ~~and~~ (5h), [✓] and (5i) and not passed
20 through by a partnership, limited liability company, or tax-option corporation that



1 has added that amount to the partnership's, limited liability company's, or
 2 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount
 3 of losses from the sale or other disposition of assets the gain from which would be
 4 wholly exempt income, as defined in sub. (3) (L), if the assets were sold or otherwise
 5 disposed of at a gain and minus deductions, as computed under the Internal Revenue
 6 Code as modified under sub. (3), plus or minus, as appropriate, an amount equal to
 7 the difference between the federal basis and Wisconsin basis of any asset sold,
 8 exchanged, abandoned, or otherwise disposed of in a taxable transaction during the
 9 taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

NOTE: NOTE: Par. (a) is shown as affected by 4 acts of the 2005 Wisconsin legislature and as merged by the reviser under s. 13.93 (2) (c). NOTE:
 History: 1987 a. 312; 1987 a. 411 ss. 22, 124 to 129; 1989 a. 31, 336; 1991 a. 37, 39, 221, 269; 1993 a. 16, 112, 246, 263, 399, 437, 491; 1995 a. 27, 56, 351, 371, 380, 428;
 1997 a. 27, 37, 184, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 106, 109; 2003 a. 33, 85, 99, 135, 255, 326; 2005 a. 25, 74, 335, 361, 362, 479,
 483; s. 13.93 (2) (c).

Insert 6 -25

10 **SECTION 4.** 71.34 (1) (g) [✓] of the statutes is amended to read:

11 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
 12 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
 13 (3n), (3t), (3w), (5b), (5e), (5f), (5g), and (5h), and (5i) [✓] and passed through to
 14 shareholders.

NOTE: NOTE: Par. (g) is shown as affected by 4 acts of the 2005 Wisconsin legislature and as merged by the reviser under s. 13.93 (2) (c). NOTE:
 History: 1987 a. 312; 1987 a. 411 ss. 18, 23, 146; 1989 a. 31, 336; 1991 a. 39, 269; 1993 a. 16, 437; 1995 a. 27, 380, 428; 1997 a. 27, 37, 237; 1999 a. 9, 194; 2001 a. 16,
 109; 2003 a. 33, 99, 135, 255, 326; 2005 a. 25, 49, 74, 361, 479, 483; s. 13.93 (2) (c).

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

16 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
 17 computed under s. 71.47 (1dd) to (1dx), (3n), (3w), (5b), (5e), (5f), (5g), and (5h), and
 18 (5i) and not passed through by a partnership, limited liability company, or tax-option
 19 corporation that has added that amount to the partnership's, limited liability
 20 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and
 21 the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and (5).



1 NOTE: NOTE: NOTE: Subl. 10. is shown as affected by 4 acts of the 2005 Wisconsin legislature and as merged by the revisor under s. 13.93 (2) (c).NOTE:
History: 1987 a. 312; 1989 a. 31, 336, 359; 1991 a. 37, 39, 269; 1993 a. 16, 112, 263, 437; 1995 a. 27, 56, 371, 380; 1997 a. 27, 37, 237; 1999 a. 9, 65; 1999 a. 150 s. 672;
1999 a. 167, 194; 2001 a. 16, 38, 109; 2003 a. 37, 85, 99, 135, 255, 326; 2005 a. 74, 297, 335, 361, 479, 483; s. 13.93 (2) (c).

Insert 9 -4

2 **SECTION 6.** 77.92 (4) of the statutes is 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), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), (3w), (5b), (5e), (5f),
12 (5g), and (5h), and (5i); and plus or minus, as appropriate, transitional adjustments,
13 depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and
14 (19); but excluding income, gain, loss, and deductions from farming. "Net business
15 income," with respect to a natural person, estate, or trust, means profit from a trade
16 or business for federal income tax purposes and includes net income derived as an
17 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

NOTE: NOTE: Sub. (4) is shown as affected by 4 acts of the 2005 Wisconsin legislature and as merged by the revisor under s. 13.93 (2) (c).NOTE:
History: 1989 a. 333; 1991 a. 39, 269; 1993 a. 16, 112, 490; 1995 a. 27, 209; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 99, 135, 255, 326; 2005 a. 74, 361, 479, 483; s. 13.93
(2) (c).

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1412/3dn

JK: a:...

date

JL

Representative Moulton:

This draft is based on Assembly Substitute Amendment 2 to 2005 Assembly Bill 954, except that the total amount of the credits available each year is \$5,000,000 rather than \$2,000,000. ✓

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1412/1dn
JK:jld:jf

February 6, 2007

Representative Moulton:

This draft is based on Assembly Substitute Amendment 2 to 2005 Assembly Bill 954, except that the total amount of the credits available each year is \$5,000,000 rather than \$2,000,000.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov

Kreye, Joseph

From: Seaholm, Matthew
Sent: Wednesday, February 28, 2007 9:21 AM
To: Kreye, Joseph
Subject: RE: LRB 1412 - Workplace Wellness

Hi Joe,

I have come up with some possible language for the definition of health risk assessment and biometric health screening.

A health risk assessment is defined as "a computer-based health-promotion tool, consisting of a questionnaire, biometric health screening, a formula for estimating health risks, an advice database, and a means to generate reports."

A biometric health screening measures vital health statistics, such as blood pressure, cholesterol, glucose, weight, and height.

So I am thinking under Section 2 of the bill, we would define that "Workplace wellness program" means a health or fitness program, as defined by rule under s. 560.204 (4), and includes a health risk assessment.

Then we would define health risk assessment as above.

Do you think this might work?

Thanks,
Matt

From: Seaholm, Matthew
Sent: Thursday, February 22, 2007 3:45 PM
To: Kreye, Joseph
Subject: RE: LRB 1412 - Workplace Wellness

Joe,

Thanks for getting back to me. I will work on a definition of "health risk assessment" and get that back to you.

On the second point, I guess our intent is to give Commerce a little bit of flexibility in how they define a program. I worry that if we require all of these things and a program doesn't have 1 of them, that would disqualify them. As currently drafted do you feel the department would have that latitude?

Also, on a related note...could you also add in on page 9 line 14 that the "department, in consultation with the department of revenue and the department of health and family services, shall promulgate..." I've spoken with them and we feel that revenue and commerce lack the expertise on wellness programs to define on their own and including DHFS in there will probably put some people at ease.

Matt

From: Kreye, Joseph
Sent: Thursday, February 22, 2007 3:08 PM
To: Seaholm, Matthew
Subject: RE: LRB 1412 - Workplace Wellness

Hi Matt,

With regard to health risk assessments, you might consider just defining "health risk assessment" without getting into the details of how such assessments would be performed. The methods for performing these assessments would then be left

to the taxpayer's discretion. That scenario is actually a variation of how the current version is drafted, except that "health risk assessment" is not defined. Alternatively, you could list several methods by which the assessment could be performed and then leave it up to the taxpayer ("Health risk assessment" means...and undertaken/measured/performed by any of the following methods:..).

With regard to the list of services and programs, the current draft does not require that the taxpayer offer all of the listed programs and services. Are you suggesting that, in the process of creating rules to define "workplace wellness program," that Commerce does not have to include any of those programs or services? In other words, if the draft indicates that a workplace wellness program *may* (could) include any of the listed services, then Commerce could decided to scrap any or all of them and designate different services. Under the current draft, Commerce has to include each one of the listed services as a workplace wellness program, but could add other services to that list. I guess I'm not sure what your intent is with regard to the 2nd item in your email.

Let me know how you want me to proceed or if you have any other questions or comments.

Joe

Joseph T. Kreye

Senior Legislative Attorney
Legislative Reference Bureau
(608) 266-2263

From: Seaholm, Matthew
Sent: Thursday, February 22, 2007 2:30 PM
To: Kreye, Joseph
Subject: LRB 1412 - Workplace Wellness

Hi Joe,

I am trying to clean up the workplace wellness bill (LRB 1412/1) a little. We have been speaking to people in the industry and we want to require that a workplace wellness program include a "health risk assessment" that contains biometric testing using a blood sample. This however has been our sticking point in trying to find the right words to use here. In the industry they refer to this as "biometrics," but I'm assuming we can't use that term in statutes since the definition by Webster's doesn't really fit our situation here. I also hesitate to require a blood sample because there are ways of obtaining some of the information without drawing blood (blood pressure, BMI, etc). Any suggestions of what we should do?

Also, on that list of programs and services on page 2 of the bill, I think we should say "could" include the following programs and services. In that list if you can add "Worker Injury prevention programs" that would be good as well.

Let me know if you have any questions.

Thanks,
Matt

Matt

Matt Seaholm
Office of Rep. Terry Moulton
Wisconsin's 68th Assembly District
(608) 266-9172



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1412/1
JK:jld:jf

RMR

2007 BILL

in 2-28-07

due filed 3-7

Regen

1 AN ACT to amend 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)
2 (a) 10. and 77.92 (4); and to create 71.07 (5i), 71.10 (4) (gxx), 71.28 (5i), 71.30
3 (3) (epa), 71.47 (5i), 71.49 (1) (epa) and 560.204 of the statutes; relating to: an
4 income and franchise tax credit for workplace wellness programs, granting
5 rule-making authority, and requiring the exercise of rule-making authority. ✓

Analysis by the Legislative Reference Bureau

Commerce

This bill creates an income and franchise tax credit for workplace wellness programs. The amount of the credit is equal to 30 percent of the amount that an employer pays in the taxable year to provide a workplace wellness program to any of the employer's employees who are employed in this state. A workplace wellness program is a health or fitness program, as defined by administrative rule by the Department of Revenue, and includes ~~smoking cessation programs, weight management, stress management, health risk assessments, health screenings, nutrition education, and health or fitness incentive programs.~~ ✓ ←

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:

BILL

SECTION 1

1 **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:

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

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

8 71.07 (5i) **WORKPLACE WELLNESS PROGRAM CREDIT.** (a) *Definitions.* In this
9 subsection:

10 1. "Claimant" means a person who files a claim under this subsection.

11 2. "Workplace wellness program" means a health or fitness program, as defined
12 by rule under s. 560.204 (4), and includes the following programs or services:

13 ~~a. Smoking cessation.~~

14 ~~b. Weight management.~~

15 ~~c. Stress management.~~

16 ~~d. Health risk assessments.~~

17 e. Health screenings.

18 f. Nutrition education.

19 g. Health or fitness incentive programs.

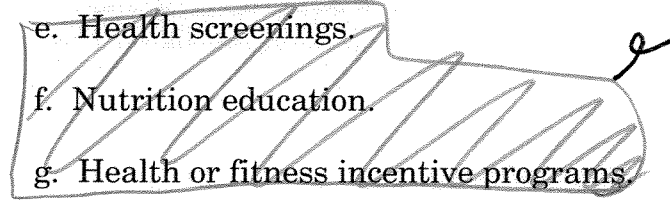
20 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
21 560.204, a claimant may claim as a credit against the taxes imposed under s. 71.02,
22 up to the amount of those taxes, in each taxable year for 3 years, an amount that is
23 equal to 30 percent of the amount that the claimant paid in the taxable year to
24 provide a workplace wellness program to any of the claimant's employees who are

✓
INSERT
A

3

NO

NO
H



BILL

1 employed in this state, not including any amount paid to acquire, construct,
2 rehabilitate, remodel, or repair real property.

3 (c) *Limitations.* 1. The maximum amount of the credits that may be claimed
4 under this subsection and ss. 71.28 (5i) and 71.47 (5i) in any taxable year is
5 \$2,500,000 for all claimants who employ 50 or fewer employees in the taxable year
6 and \$2,500,000 for all claimants who employ more than 50 employees in the taxable
7 year.

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

16 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
17 s. 71.28 (4), applies to the credit under this subsection.

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

19 71.10 (4) (gxx) Workplace wellness program credit under s. 71.07 (5i).

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

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

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

BILL

SECTION 5

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

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

20 71.28 (5i) **WORKPLACE WELLNESS PROGRAM CREDIT.** (a) *Definitions.* In this
 21 subsection:

22 1. “Claimant” means a person who files a claim under this subsection.

23 2. “Workplace wellness program” means a health or fitness program, as defined
 24 by rule under s. 560.204 (4), and includes ~~the following programs or services:~~

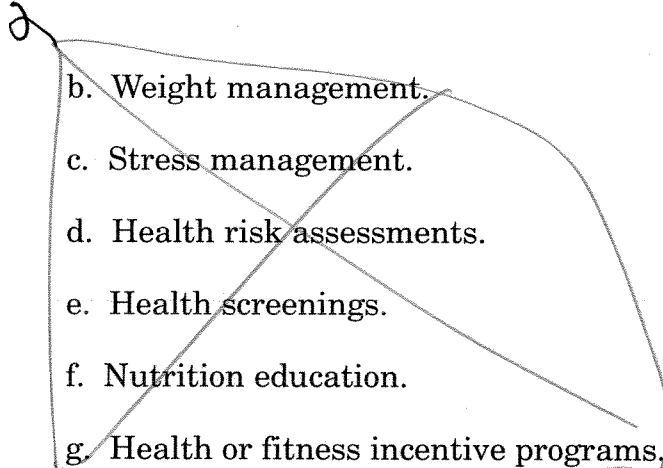
25 ~~a. Smoking cessation.~~

health risk assessments

INSERT
A ✓

BILL

d

- 
- b. Weight management.
 - c. Stress management.
 - d. Health risk assessments.
 - e. Health screenings.
 - f. Nutrition education.
 - g. Health or fitness incentive programs.

(b) *Filing claims.* Subject to the limitations provided in this subsection and s. 560.204, a claimant may claim as a credit against the taxes imposed under s. 71.23, up to the amount of those taxes, in each taxable year for 3 years, an amount that is equal to 30 percent of the amount that the claimant paid in the taxable year to provide a workplace wellness program to any of the claimant's employees who are employed in this state, not including any amount paid to acquire, construct, rehabilitate, remodel, or repair real property.

(c) *Limitations.* 1. The maximum amount of the credits that may be claimed under this subsection and ss. 71.07 (5i) and 71.47 (5i) in any taxable year is \$2,500,000 for all claimants who employ 50 or fewer employees in the taxable year and \$2,500,000 for all claimants who employ more than 50 employees in the taxable year.

2. Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability

BILL

SECTION 6

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

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

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

6 71.30 (3) (epa) Workplace wellness program credit under s. 71.28 (5i).

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

8 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
9 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
10 (3n), (3t), (3w), (5b), (5e), (5f), (5g), ~~and (5h),~~ and (5i) and passed through to
11 shareholders.

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

13 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
14 computed under s. 71.47 (1dd) to (1dx), (3n), (3w), (5b), (5e), (5f), (5g), ~~and (5h),~~ and
15 (5i) and not passed through by a partnership, limited liability company, or tax-option
16 corporation that has added that amount to the partnership's, limited liability
17 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and
18 the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

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

20 71.47 (5i) WORKPLACE WELLNESS PROGRAM CREDIT. (a) *Definitions.* In this
21 subsection:

22 1. "Claimant" means a person who files a claim under this subsection.

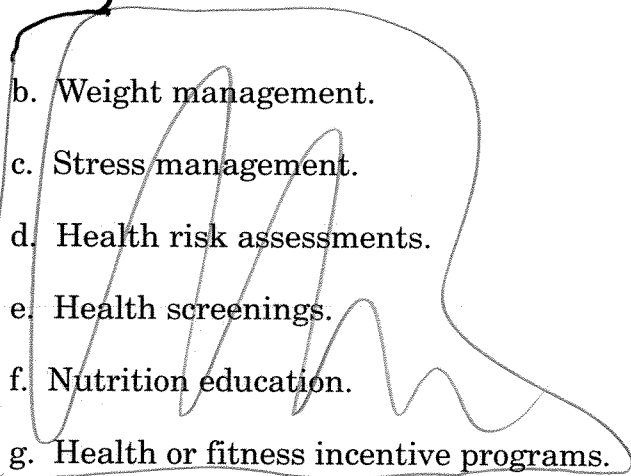
23 2. "Workplace wellness program" means a health or fitness program, as defined
24 by rule under s. 560.204 (4), and includes ~~the following programs or services:~~ ² ~~NO~~ ~~#~~

25 ~~#~~ a. Smoking cessation.

health risk assessments

INSET
A ✓

BILL 9

- 
- b. Weight management.
 - c. Stress management.
 - d. Health risk assessments.
 - e. Health screenings.
 - f. Nutrition education.
 - g. Health or fitness incentive programs.

7 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
8 560.204, a claimant may claim as a credit against the taxes imposed under s. 71.43,
9 up to the amount of those taxes, in each taxable year for 3 years, an amount that is
10 equal to 30 percent of the amount that the claimant paid in the taxable year to
11 provide a workplace wellness program to any of the claimant's employees who are
12 employed in this state, not including any amount paid to acquire, construct,
13 rehabilitate, remodel, or repair real property.

14 (c) *Limitations.* 1. The maximum amount of the credits that may be claimed
15 under this subsection and ss. 71.07 (5i) and 71.28 (5i) in any taxable year is
16 \$2,500,000 for all claimants who employ 50 or fewer employees in the taxable year
17 and \$2,500,000 for all claimants who employ more than 50 employees in the taxable
18 year.

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

BILL**SECTION 10**

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

3 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
4 s. 71.28 (4), applies to the credit under this subsection.

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

6 71.49 (1) (epa) Workplace wellness program credit under s. 71.47 (5i).

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

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

23 **SECTION 13.** 560.204 of the statutes is created to read:

BILL

1 **560.204 Workplace wellness programs.** (1) The department shall
2 implement a program to certify workplace wellness programs under ss. 71.07 (5i),
3 71.28 (5i), and 71.47 (5i).

4 (2) If the department certifies a workplace wellness program under sub. (1),
5 the department shall determine the amount of workplace wellness program credits
6 to allocate to the business providing the workplace wellness program. The total
7 amount of workplace wellness program credits allocated to businesses in any year
8 may not exceed \$5,000,000. In any year, the department may not allocate more than
9 \$2,500,000 in credits to businesses with more than 50 employees, and may not
10 allocate more than \$2,500,000 in credits to businesses with 50 or fewer employees.

11 (3) The department shall inform the department of revenue of every business
12 whose workplace wellness program is certified under sub. (1) and the amount of
13 credits allocated to the business.

14 (4) The department, in consultation with the department of revenue, shall
15 promulgate rules to administer this section.

SECTION 14. Initial applicability.

17 (1) This act first applies to taxable years beginning on January 1, 2008.

18 (END)

and the department of health and family services

**2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1412/2ins
JK:jld:jf

Insert A

1 2. "Health risk assessment" means a computer-based health-promotion tool
2 consisting of a questionnaire; a biometric health screening to measure vital health
3 statistics, including blood pressure, cholesterol, glucose, weight, and height; a
4 formula for estimating health risks; an advice database; and a means to generate
5 reports.

Kreye, Joseph

From: Seaholm, Matthew
Sent: Thursday, March 01, 2007 8:59 AM
To: Kreye, Joseph
Subject: RE: LRB 1412 - Workplace Wellness

Hey Joe,

The new definitions look good. I apologize that I wasn't clear on this, but could you put the list of programs back in there. I went back and look at one of your previous e-mails and you said that right now a taxpayer isn't required to have all of these services in their wellness program and that is how we want it. The only thing we want required is a health risk assessment but then if we can still list the other services. Below is the list I am thinking. The only change would be inserting "Worker Injury prevention programs" in the place of health risk assessments. Let me know if this makes sense and if it accomplishes our goal of suggesting these programs but explicitly requiring health risk assessments.

Thanks,
Matt

- a. Smoking cessation.
- b. Weight management.
- c. Stress management.
- d. Worker Injury prevention programs.
- e. Health screenings.
- f. Nutrition education.
- g. Health or fitness incentive programs.

From: Kreye, Joseph
Sent: Wednesday, February 28, 2007 9:35 AM
To: Seaholm, Matthew
Subject: RE: LRB 1412 - Workplace Wellness

Hi Matt,

Yes, I think that will work just fine. I can make the change and send you a new version if you like.

Joe

Joseph T. Kreye
Senior Legislative Attorney
Legislative Reference Bureau
(608) 266-2263

From: Seaholm, Matthew
Sent: Wednesday, February 28, 2007 9:21 AM
To: Kreye, Joseph
Subject: RE: LRB 1412 - Workplace Wellness

Hi Joe,

I have come up with some possible language for the definition of health risk assessment and biometric health screening.

A health risk assessment is defined as "a computer-based health-promotion tool, consisting of a questionnaire, biometric health screening, a formula for estimating health risks, an advice database, and a means to generate

reports."

A biometric health screening measures vital health statistics, such as blood pressure, cholesterol, glucose, weight, and height.

So I am thinking under Section 2 of the bill, we would define that "Workplace wellness program" means a health or fitness program, as defined by rule under s. 560.204 (4), and includes a health risk assessment.

Then we would define health risk assessment as above.

Do you think this might work?

Thanks,
Matt

From: Seaholm, Matthew
Sent: Thursday, February 22, 2007 3:45 PM
To: Kreye, Joseph
Subject: RE: LRB 1412 - Workplace Wellness

Joe,

Thanks for getting back to me. I will work on a definition of "health risk assessment" and get that back to you.

On the second point, I guess our intent is to give Commerce a little bit of flexibility in how they define a program. I worry that if we require all of these things and a program doesn't have 1 of them, that would disqualify them. As currently drafted do you feel the department would have that latitude?

Also, on a related note... could you also add in on page 9 line 14 that the "department, in consultation with the department of revenue and the department of health and family services, shall promulgate..." I've spoken with them and we feel that revenue and commerce lack the expertise on wellness programs to define on their own and including DHFS in there will probably put some people at ease.

Matt

From: Kreye, Joseph
Sent: Thursday, February 22, 2007 3:08 PM
To: Seaholm, Matthew
Subject: RE: LRB 1412 - Workplace Wellness

Hi Matt,

With regard to health risk assessments, you might consider just defining "health risk assessment" without getting into the details of how such assessments would be performed. The methods for performing these assessments would then be left to the taxpayer's discretion. That scenario is actually a variation of how the current version is drafted, except that "health risk assessment" is not defined. Alternatively, you could list several methods by which the assessment could be performed and then leave it up to the taxpayer ("Health risk assessment" means...and undertaken/measured/performed by any of the following methods:..).

With regard to the list of services and programs, the current draft does not require that the taxpayer offer all of the listed programs and services. Are you suggesting that, in the process of creating rules to define "workplace wellness program," that Commerce does not have to include any of those programs or services? In other words, if the draft indicates that a workplace wellness program *may* (could) include any of the listed services, then Commerce could decided to scrap any or all of them and designate different services. Under the current draft, Commerce has to include each one of the listed services as a workplace wellness program, but could add other services to that list. I guess I'm not sure what your intent is with regard to the 2nd item in your email.

Let me know how you want me to proceed or if you have any other questions or comments.

Joe

Joseph T. Kreye
Senior Legislative Attorney
Legislative Reference Bureau
(608) 266-2263

From: Seaholm, Matthew
Sent: Thursday, February 22, 2007 2:30 PM
To: Kreye, Joseph
Subject: LRB 1412 - Workplace Wellness

Hi Joe,

I am trying to clean up the workplace wellness bill (LRB 1412/1) a little. We have been speaking to people in the industry and we want to require that a workplace wellness program include a "health risk assessment" that contains biometric testing using a blood sample. This however has been our sticking point in trying to find the right words to use here. In the industry they refer to this as "biometrics," but I'm assuming we can't use that term in statutes since the definition by Webster's doesn't really fit our situation here. I also hesitate to require a blood sample because there are ways of obtaining some of the information without drawing blood (blood pressure, BMI, etc). Any suggestions of what we should do?

Also, on that list of programs and services on page 2 of the bill, I think we should say "could" include the following programs and services. In that list if you can add "Worker Injury prevention programs" that would be good as well.

Let me know if you have any questions.

Thanks,
Matt

Matt

*Matt Seaholm
Office of Rep. Terry Moulton
Wisconsin's 68th Assembly District
(608) 266-9172*



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2007 BILL

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done
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Regen

1 AN ACT *to amend* 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)
2 (a) 10. and 77.92 (4); and *to create* 71.07 (5i), 71.10 (4) (gxx), 71.28 (5i), 71.30
3 (3) (epa), 71.47 (5i), 71.49 (1) (epa) and 560.204 of the statutes; **relating to:** an
4 income and franchise tax credit for workplace wellness programs, granting
5 rule-making authority, and requiring the exercise of rule-making authority.

Analysis by the Legislative Reference Bureau

that is provided with ✓

This bill creates an income and franchise tax credit for workplace wellness programs. The amount of the credit is equal to 30 percent of the amount that an employer pays in the taxable year to provide a workplace wellness program to any of the employer's employees who are employed in this state. A workplace wellness program is a health or fitness program, as defined by administrative rule by the Department of Commerce, ~~and includes~~ health risk assessments.

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:

6 SECTION 1. 71.05 (6) (a) 15. of the statutes is amended to read:

BILL

SECTION 1

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

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

7 71.07 (5i) **WORKPLACE WELLNESS PROGRAM CREDIT.** (a) *Definitions.* In this
 8 subsection:

9 1. "Claimant" means a person who files a claim under this subsection.

10 2. "Health risk assessment" means a computer-based health-promotion tool
 11 consisting of a questionnaire; a biometric health screening to measure vital health
 12 statistics, including blood pressure, cholesterol, glucose, weight, and height; a
 13 formula for estimating health risks; an advice database; and a means to generate
 14 reports.

15 3. "Workplace wellness program" means a health or fitness program, as defined
 16 by rule under s. 560.204 (4), ~~and includes~~ health risk assessments.

17 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
 18 560.204, a claimant may claim as a credit against the taxes imposed under s. 71.02,
 19 up to the amount of those taxes, in each taxable year for 3 years, an amount that is
 20 equal to 30 percent of the amount that the claimant paid in the taxable year to
 21 provide a workplace wellness program to any of the claimant's employees who are
 22 employed in this state, not including any amount paid to acquire, construct,
 23 rehabilitate, remodel, or repair real property.

24 (c) *Limitations.* 1. The maximum amount of the credits that may be claimed
 25 under this subsection and ss. 71.28 (5i) and 71.47 (5i) in any taxable year is

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1 \$2,500,000 for all claimants who employ 50 or fewer employees in the taxable year
2 and \$2,500,000 for all claimants who employ more than 50 employees in the taxable
3 year.

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

12 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
13 s. 71.28 (4), applies to the credit under this subsection.

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

15 71.10 (4) (gxx) Workplace wellness program credit under s. 71.07 (5i).

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

17 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
18 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), (5e), (5f), (5g), and (5h),
19 and (5i) and passed through to partners shall be added to the partnership's income.

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

21 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
22 the gross income as computed under the Internal Revenue Code as modified under
23 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
24 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
25 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income

BILL

SECTION 5

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

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

15 71.28 (5i) WORKPLACE WELLNESS PROGRAM CREDIT. (a) *Definitions.* In this
 16 subsection:

17 1. "Claimant" means a person who files a claim under this subsection.

18 2. "Health risk assessment" means a computer-based health-promotion tool
 19 consisting of a questionnaire; a biometric health screening to measure vital health
 20 statistics, including blood pressure, cholesterol, glucose, weight, and height; a
 21 formula for estimating health risks; an advice database; and a means to generate
 22 reports.

23 3. "Workplace wellness program" means a health or fitness program, as defined
 24 by rule under s. 560.204 (4), ~~and includes health risk assessments.~~

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1 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
2 560.204, a claimant may claim as a credit against the taxes imposed under s. 71.23,
3 up to the amount of those taxes, in each taxable year for 3 years, an amount that is
4 equal to 30 percent of the amount that the claimant paid in the taxable year to
5 provide a workplace wellness program to any of the claimant's employees who are
6 employed in this state, not including any amount paid to acquire, construct,
7 rehabilitate, remodel, or repair real property.

8 (c) *Limitations.* 1. The maximum amount of the credits that may be claimed
9 under this subsection and ss. 71.07 (5i) and 71.47 (5i) in any taxable year is
10 \$2,500,000 for all claimants who employ 50 or fewer employees in the taxable year
11 and \$2,500,000 for all claimants who employ more than 50 employees in the taxable
12 year.

13 2. 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 amounts under par. (b). A partnership,
16 limited liability company, or tax-option corporation shall compute the amount of
17 credit that each of its partners, members, or shareholders may claim and shall
18 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 interests.

21 (d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under
22 sub. (4), applies to the credit under this subsection.

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

24 71.30 (3) (epa) Workplace wellness program credit under s. 71.28 (5i).

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

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SECTION 8

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

5 **SECTION 9.** 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), (3n), (3w), (5b), (5e), (5f), (5g), ~~and (5h), and~~
8 (5i) and not passed through by a partnership, limited liability company, or tax-option
9 corporation that has added that amount to the partnership's, limited liability
10 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and
11 the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

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

13 71.47 (5i) **WORKPLACE WELLNESS PROGRAM CREDIT.** (a) *Definitions.* In this
14 subsection:

15 1. "Claimant" means a person who files a claim under this subsection.

16 2. "Health risk assessment" means a computer-based health-promotion tool
17 consisting of a questionnaire; a biometric health screening to measure vital health
18 statistics, including blood pressure, cholesterol, glucose, weight, and height; a
19 formula for estimating health risks; an advice database; and a means to generate
20 reports.

21 3. "Workplace wellness program" means a health or fitness program, as defined
22 by rule under s. 560.204 (4), ~~and includes~~ health risk assessments.

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23 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
24 560.204, a claimant may claim as a credit against the taxes imposed under s. 71.43,
25 up to the amount of those taxes, in each taxable year for 3 years, an amount that is

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1 equal to 30 percent of the amount that the claimant paid in the taxable year to
2 provide a workplace wellness program to any of the claimant's employees who are
3 employed in this state, not including any amount paid to acquire, construct,
4 rehabilitate, remodel, or repair real property.

5 (c) *Limitations.* 1. The maximum amount of the credits that may be claimed
6 under this subsection and ss. 71.07 (5i) and 71.28 (5i) in any taxable year is
7 \$2,500,000 for all claimants who employ 50 or fewer employees in the taxable year
8 and \$2,500,000 for all claimants who employ more than 50 employees in the taxable
9 year.

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

18 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
19 s. 71.28 (4), applies to the credit under this subsection.

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

21 71.49 (1) (epa) Workplace wellness program credit under s. 71.47 (5i).

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

23 77.92 (4) "Net business income," with respect to a partnership, means taxable
24 income as calculated under section 703 of the Internal Revenue Code; plus the items
25 of income and gain under section 702 of the Internal Revenue Code, including taxable

BILL**SECTION 12**

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

13 **SECTION 13.** 560.204 of the statutes is created to read:

14 **560.204 Workplace wellness programs.** (1) The department shall
15 implement a program to certify workplace wellness programs under ss. 71.07 (5i),
16 71.28 (5i), and 71.47 (5i).

17 (2) If the department certifies a workplace wellness program under sub. (1),
18 the department shall determine the amount of workplace wellness program credits
19 to allocate to the business providing the workplace wellness program. The total
20 amount of workplace wellness program credits allocated to businesses in any year
21 may not exceed \$5,000,000. In any year, the department may not allocate more than
22 \$2,500,000 in credits to businesses with more than 50 employees, and may not
23 allocate more than \$2,500,000 in credits to businesses with 50 or fewer employees.

BILL

SECTION 1

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1 **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:

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

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

8 71.07 (5i) **WORKPLACE WELLNESS PROGRAM CREDIT.** (a) *Definitions.* In this
9 subsection:

10 1. "Claimant" means a person who files a claim under this subsection.

11 2. "Workplace wellness program" means a health or fitness program, as defined
12 by rule under s. 560.204 (4), and includes the following programs or services:

13 a. Smoking cessation.

14 b. Weight management.

15 c. Stress management.

16 d. Health risk assessments.

worker injury prevention programs

17 e. Health screenings.

18 f. Nutrition education.

19 g. Health or fitness incentive programs.

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20 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
21 560.204, a claimant may claim as a credit against the taxes imposed under s. 71.02,
22 up to the amount of those taxes, in each taxable year for 3 years, an amount that is
23 equal to 30 percent of the amount that the claimant paid in the taxable year to
24 provide a workplace wellness program to any of the claimant's employees who are

INSERT A

Barman, Mike

From: Seaholm, Matthew
Sent: Thursday, March 01, 2007 2:53 PM
To: LRB.Legal
Subject: Draft Review: LRB 07-1412/3 Topic: Workplace wellness program tax credit

Please Jacket LRB 07-1412/3 for the ASSEMBLY.