

2007 DRAFTING REQUEST

Bill

Received: 01/31/2008

Received By: jkreye

Wanted: Soon

Identical to LRB:

For: Brett Davis (608) 266-1192

By/Representing: adam

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.Davis@legis.wisconsin.gov

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

Pre Topic:

No specific pre topic given

Topic:

Tax credit for cafeteria plans

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>
/?				_____			State
/1	jkreye 01/31/2008	bkraft 02/04/2008	nnatzke 02/04/2008	_____	sbasford 02/04/2008		State
/2	jkreye 02/11/2008	bkraft 02/11/2008	nnatzke 02/12/2008	_____	sbasford 02/12/2008	mbarman 02/26/2008	

FE Sent For: "12" @ intro. 2-27-08

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/?				_____			State
/1	jkreye 01/31/2008	bkraft 02/04/2008	nmatzke 02/04/2008	_____	sbasford 02/04/2008		

FE Sent For:

<END>

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No specific pre topic given

Topic:

Tax credit for cafeteria plans ✓

Instructions:

See Attached

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<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	/1 bjk 2/4	nwn 2/4	nwn/jf 2/4			

FE Sent For:

<END>

1-30-08

Rep Davis

Adm

→ Section 125 - cafeteria plans - tax incentive
employer providing these

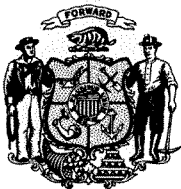
→ create tax credit for providing these

\$200 per employee ?

Ways to encourage / educate on such plans

— form? written materials? website?

with tax forms



Lbjk

2007 BILL

SA ✓
X-rxf ✓

in 1-31-08

due Fri 2-8 ←

gen. cat.

1 AN ACT ...; relating to: an income and franchise tax credit for providing health
2 care benefits under a cafeteria plan. ✓

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit for employers who create certain health care benefit plans (known as "cafeteria plans" under federal law) for their employees. The credit is \$200 and may be claimed for the taxable year in which the employer creates the cafeteria plan. The bill also requires the Department of Revenue to include with its income and franchise tax forms information about cafeteria plans.

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:

3 SECTION 1. 71.05 (6) (a) 15. of the statutes, as affected by 2007 Wisconsin Act
4 20, is amended to read:

5 ✓ 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
6 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3h), (3n), (3p), (3s), (3t), (3w), (5e),

BILL

SECTION 1

(5n) ✓

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

History: 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237; 1999 a. 9, 32, 44, 54, 65, 167; 2001 a. 16, 104, 105, 109; 2003 a. 85, 99, 119, 135, 183, 255, 289, 321, 326; 2005 a. 22, 25, 216, 254, 335, 361, 479, 483; 2007 a. 20; s. 13.93 (2) (c).

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

6 71.07 (5m) CAFETERIA PLAN CREDIT. (a) *Definitions.* In this subsection:

7 1. "Cafeteria plan" means a benefits plan described under section 125 of the
 8 Internal Revenue Code. ✓

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

10 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
 11 claimant may claim as a credit against the taxes imposed under s. 71.02, up to the
 12 amount of the taxes, \$200 for the taxable year in which the claimant establishes a
 13 cafeteria plan for the claimant's employees. ✓

14 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
 15 corporations may not claim the credit under this subsection, but the eligibility for,
 16 and the amount of, the credit are based on providing the cafeteria plan as described
 17 under par. (b). A partnership, limited liability company, or tax-option corporation
 18 shall compute the amount of credit that each of its partners, members, or
 19 shareholders may claim and shall provide that information to each of them.
 20 Partners, members of limited liability companies, and shareholders of tax-option
 21 corporations may claim the credit in proportion to their ownership interests.

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

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

BILL

1 ✓ 71.10 (4) (cr) Cafeteria plan credit under s. 71.07 (5m) (5n) ✓
 2 SECTION 4. 71.21 (4) of the statutes, as affected by 2007 Wisconsin Act 20, is
 3 amended to read:

4 ✓ 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
 5 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3h), (3n), (3p), (3s), (3t), (3w), (5e), (5f), (5g),
 6 (5h), (5i), (5j), and (5k), and (5m) and passed through to partners shall be added to
 7 the partnership's income. (5n)

History: 1987 a. 312, 411; 1989 a. 31; 1993 a. 12; 1995 a. 27, 400; 1997 a. 27; 2001 a. 16; 2003 a. 99, 135, 255, 326; 2005 a. 74, 361, 479, 483; 2007 a. 20.

8 SECTION 5. 71.26 (2) (a) of the statutes, as affected by 2007 Wisconsin Act 20,
 9 is amended to read:

10 ✓ 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
 11 the gross income as computed under the Internal Revenue Code as modified under
 12 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
 13 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
 14 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
 15 under this paragraph at the time that the taxpayer first claimed the credit plus the
 16 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
 17 (1ds), (1dx), (3g), (3h), (3n), (3p), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), and (5k), and
 18 (5m) and not passed through by a partnership, limited liability company, or
 19 tax-option corporation that has added that amount to the partnership's, limited
 20 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1)
 21 (g) plus the amount of losses from the sale or other disposition of assets the gain from
 22 which would be wholly exempt income, as defined in sub. (3) (L), if the assets were
 23 sold or otherwise disposed of at a gain and minus deductions, as computed under the
 24 Internal Revenue Code as modified under sub. (3), plus or minus, as appropriate, an

(5n)

BILL

SECTION 5

1 amount equal to the difference between the federal basis and Wisconsin basis of any
2 asset sold, exchanged, abandoned, or otherwise disposed of in a taxable transaction
3 during the taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

History: 1987 a. 312; 1987 a. 411 ss. 22, 124 to 129; 1989 a. 31, 336; 1991 a. 37, 39, 221, 269; 1993 a. 16, 112, 246, 263, 399, 437, 491; 1995 a. 27, 56, 351, 371, 380, 428; 1997 a. 27, 37, 184, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 106, 109; 2003 a. 33, 85, 99, 135, 255, 326; 2005 a. 25, 74, 335, 361, 362, 479, 483; 2007 a. 20; s. 13.93 (2) (c).

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

5 71.28 (5m) CAFETERIA PLAN CREDIT. (a) *Definitions.* In this subsection:

6 1. "Cafeteria plan" means a benefits plan described under section 125 of the

7 Internal Revenue Code.

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

9 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
10 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the
11 amount of the taxes, \$200 for the taxable year in which the claimant establishes a
12 cafeteria plan for the claimant's employees.

13 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
14 corporations may not claim the credit under this subsection, but the eligibility for,
15 and the amount of, the credit are based on providing the cafeteria plan as described
16 under par. (b). A partnership, limited liability company, or tax-option corporation
17 shall compute the amount of credit that each of its partners, members, or
18 shareholders may claim and shall provide that information to each of them.
19 Partners, members of limited liability companies, and shareholders of tax-option
20 corporations may claim the credit in 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) (dr) of the statutes is created to read:

24 71.30 (3) (dr) Cafeteria plan credit under s. 71.28 (5m)

(5n)

BILL

1 **SECTION 8.** 71.34 (1) (g) of the statutes, as affected by 2007 Wisconsin Act 20,
2 is amended to read:

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

History: 1987 a. 312; 1987 a. 411 ss. 18, 23, 146; 1989 a. 31, 336; 1991 a. 39, 269; 1993 a. 16, 437; 1995 a. 27, 380, 428; 1997 a. 27, 37, 237; 1999 a. 9, 194; 2001 a. 16, 109; 2003 a. 33, 99, 135, 255, 326; 2005 a. 25, 49, 74, 361, 479, 483; 2007 a. 20.

7 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2007 Wisconsin Act
8 20, is amended to read:

9 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
10 computed under s. 71.47 (1dd) to (1dx), (3h), (3n), (3p), (3w), (5e), (5f), (5g), (5h), (5i),
11 (5j), and (5k), and (5m) and not passed through by a partnership, limited liability
12 company, or tax-option corporation that has added that amount to the partnership's,
13 limited liability company's, or tax-option corporation's income under s. 71.21 (4) or
14 71.34 (1) (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and
15 (5).

History: 1987 a. 312; 1989 a. 31, 336, 359; 1991 a. 37, 39, 269; 1993 a. 16, 112, 263, 437; 1995 a. 27, 56, 37, 380; 1997 a. 27, 37, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 109; 2003 a. 37, 85, 99, 135, 255, 326; 2005 a. 74, 297, 335, 361, 479, 483; 2007 a. 20.

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

17 71.47 (5m) CAFETERIA PLAN CREDIT. (a) *Definitions.* In this subsection:

18 1. "Cafeteria plan" means a benefits plan described under section 125 of the
19 Internal Revenue Code.

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

21 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
22 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the

BILL

1 amount of the taxes, \$200 for the taxable year in which the claimant establishes a
 2 cafeteria plan for the claimant's employees. ✓

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

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

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

14 ✓ 71.49 (1) (dr) Cafeteria plan credit under s. 71.47 (5m) (5n) ✓

15 **SECTION 12.** 73.03 (64) of the statutes is created to read:

16 ✓ 73.03 (64) To include information regarding the creation of cafeteria plans
 17 under 26 USC 125, and the tax benefits related to such plans, with income and
 18 franchise tax forms published by the department. ✓

19 **SECTION 13.** 77.92 (4) of the statutes, as affected by 2007 Wisconsin Act 20, is
 20 amended to read:

21 ✓ 77.92 (4) "Net business income," with respect to a partnership, means taxable
 22 income as calculated under section 703 of the Internal Revenue Code; plus the items
 23 of income and gain under section 702 of the Internal Revenue Code, including taxable
 24 state and municipal bond interest and excluding nontaxable interest income or
 25 dividend income from federal government obligations; minus the items of loss and

BILL

(5n)

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

History: 1989 a. 335; 1991 a. 39, 269; 1993 a. 16, 112, 490; 1995 a. 27, 209; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 99, 135, 255, 326; 2005 a. 74, 361, 479, 483; 2007 a. 20.

SECTION 14. Initial applicability.

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

(END) ✓



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-3991/1

JK:bjk:awn

L. Stacy

RWR

2007 BILL

Insert

SAV
X-ref V

in 2-11-08

due → FRI 2-15-08
→ DN

re you ←

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 (5n), 71.10 (4) (cr), 71.28 (5n), 71.30
3 (3) (dr), 71.47 (5n), 71.49 (1) (dr) and 73.03 (64) of the statutes; relating to: an
4 income and franchise tax credit for providing health care benefits under a
5 cafeteria plan.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit for employers who create certain health care benefit plans (known as "cafeteria plans" under federal law) for their employees. The credit is \$200 and may be claimed for the taxable year in which the employer creates the cafeteria plan. The bill also requires the Department of Revenue to include with its income and franchise tax forms information about cafeteria plans. ✓

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, as affected by 2007 Wisconsin Act
7 20, is amended to read:

NO P
In addition, the Department of Financial Institutions (DFI) must provide information regarding cafeteria plans to each entity that submits articles of incorporation with DFI. ✓

BILL

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), (3h), (3n), (3p), (3s), (3t), (3w), (5e),
3 (5f), (5h), (5i), (5j), ~~and (5k)~~, and (5n) and not passed through by a partnership,
4 limited liability company, or tax-option corporation that has added that amount to
5 the partnership's, company's, or tax-option corporation's income under s. 71.21 (4)
6 or 71.34 (1) (g). ✓

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

8 71.07 (5n) CAFETERIA PLAN CREDIT. (a) *Definitions.* In this subsection:

9 1. "Cafeteria plan" means a benefits plan described under section 125 of the
10 Internal Revenue Code.

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

12 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
13 claimant may claim as a credit against the taxes imposed under s. 71.02, up to the
14 amount of the taxes, \$200 for the taxable year in which the claimant establishes a
15 cafeteria plan for the claimant's employees.

16 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
17 corporations may not claim the credit under this subsection, but the eligibility for,
18 and the amount of, the credit are based on providing the cafeteria plan as described
19 under par. (b). A partnership, limited liability company, or tax-option corporation
20 shall compute the amount of credit that each of its partners, members, or
21 shareholders may claim and shall provide that information to each of them.
22 Partners, members of limited liability companies, and shareholders of tax-option
23 corporations may claim the credit in proportion to their ownership interests.

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

BILL

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

2 71.10 (4) (cr) Cafeteria plan credit under s. 71.07 (5n). ✓

3 **SECTION 4.** 71.21 (4) of the statutes, as affected by 2007 Wisconsin Act 20, is
4 amended to read:

5 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
6 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3h), (3n), (3p), (3s), (3t), (3w), (5e), (5f), (5g),
7 (5h), (5i), (5j), ~~and (5k)~~, and (5n) and passed through to partners shall be added to
8 the partnership's income. ✓

9 **SECTION 5.** 71.26 (2) (a) of the statutes, as affected by 2007 Wisconsin Act 20,
10 is amended to read:

11 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
12 the gross income as computed under the Internal Revenue Code as modified under
13 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
14 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
15 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
16 under this paragraph at the time that the taxpayer first claimed the credit plus the
17 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
18 (1ds), (1dx), (3g), (3h), (3n), (3p), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), ~~and (5k)~~, and
19 (5n) and not passed through by a partnership, limited liability company, or
20 tax-option corporation that has added that amount to the partnership's, limited
21 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1)
22 (g) plus the amount of losses from the sale or other disposition of assets the gain from
23 which would be wholly exempt income, as defined in sub. (3) (L), if the assets were
24 sold or otherwise disposed of at a gain and minus deductions, as computed under the
25 Internal Revenue Code as modified under sub. (3), plus or minus, as appropriate, an

BILL

1 amount equal to the difference between the federal basis and Wisconsin basis of any
2 asset sold, exchanged, abandoned, or otherwise disposed of in a taxable transaction
3 during the taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

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

5 71.28 (5n) CAFETERIA PLAN CREDIT. (a) *Definitions.* In this subsection:

6 1. "Cafeteria plan" means a benefits plan described under section 125 of the
7 Internal Revenue Code.

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

9 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
10 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the
11 amount of the taxes, \$200 for the taxable year in which the claimant establishes a
12 cafeteria plan for the claimant's employees.

13 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
14 corporations may not claim the credit under this subsection, but the eligibility for,
15 and the amount of, the credit are based on providing the cafeteria plan as described
16 under par. (b). A partnership, limited liability company, or tax-option corporation
17 shall compute the amount of credit that each of its partners, members, or
18 shareholders may claim and shall provide that information to each of them.
19 Partners, members of limited liability companies, and shareholders of tax-option
20 corporations may claim the credit in 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) (dr) of the statutes is created to read:

24 71.30 (3) (dr) Cafeteria plan credit under s. 71.28 (5n).

BILL

1 **SECTION 8.** 71.34 (1) (g) of the statutes, as affected by 2007 Wisconsin Act 20,
2 is amended to read:

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

7 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2007 Wisconsin Act
8 20, is amended to read:

9 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
10 computed under s. 71.47 (1dd) to (1dx), (3h), (3n), (3p), (3w), (5e), (5f), (5g), (5h), (5i),
11 (5j), ~~and (5k), and (5n)~~ and not passed through by a partnership, limited liability
12 company, or tax-option corporation that has added that amount to the partnership's,
13 limited liability company's, or tax-option corporation's income under s. 71.21 (4) or
14 71.34 (1) (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and
15 (5).

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

17 71.47 (5n) CAFETERIA PLAN CREDIT. (a) *Definitions.* In this subsection:

18 1. "Cafeteria plan" means a benefits plan described under section 125 of the
19 Internal Revenue Code.

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

21 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
22 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the
23 amount of the taxes, \$200 for the taxable year in which the claimant establishes a
24 cafeteria plan for the claimant's employees.

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1 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
 2 corporations may not claim the credit under this subsection, but the eligibility for,
 3 and the amount of, the credit are based on providing the cafeteria plan as described
 4 under par. (b). A partnership, limited liability company, or tax-option corporation
 5 shall compute the amount of credit that each of its partners, members, or
 6 shareholders may claim and shall provide that information to each of them.
 7 Partners, members of limited liability companies, and shareholders of tax-option
 8 corporations may claim the credit in 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 11.** 71.49 (1) (dr) of the statutes is created to read:

12 71.49 (1) (dr) Cafeteria plan credit under s. 71.47 (5n).

13 **SECTION 12.** 73.03 (64) of the statutes is created to read:

14 73.03 (64) To include information regarding the creation of cafeteria plans
 15 under 26 USC 125, and the tax benefits related to such plans, with income and
 16 franchise tax forms published by the department.

17 **SECTION 13.** 77.92 (4) of the statutes, as affected by 2007 Wisconsin Act 20, is
 18 amended to read:

19 77.92 (4) "Net business income," with respect to a partnership, means taxable
 20 income as calculated under section 703 of the Internal Revenue Code; plus the items
 21 of income and gain under section 702 of the Internal Revenue Code, including taxable
 22 state and municipal bond interest and excluding nontaxable interest income or
 23 dividend income from federal government obligations; minus the items of loss and
 24 deduction under section 702 of the Internal Revenue Code, except items that are not
 25 deductible under s. 71.21; plus guaranteed payments to partners under section 707

under 26 USC 125 and s. 71.07(5n), 71.28(5n) and 71.47(5n)

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1 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
 2 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3h), (3s), (3n), (3p), (3t), (3w), (5e),
 3 (5f), (5g), (5h), (5i), (5j), ~~and~~ (5k), and (5n); and plus or minus, as appropriate,
 4 transitional adjustments, depreciation differences, and basis differences under s.
 5 71.05 (13), (15), (16), (17), and (19); but excluding income, gain, loss, and deductions
 6 from farming. "Net business income," with respect to a natural person, estate, or
 7 trust, means profit from a trade or business for federal income tax purposes and
 8 includes net income derived as an employee as defined in section 3121 (d) (3) of the
 9 Internal Revenue Code.

SECTION ~~14~~. Initial applicability.

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

(END)

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D-note

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1 SECTION ~~1.~~ 180.0121 (3) of the statutes is created to read:

2 ✓180.0121 (3) The department shall provide written information regarding the
3 creation of cafeteria plans under 26 USC 125, and the tax benefits related to such
4 plans under 26 USC 125 and ss. 71.07 (5n), 71.28 (5n), and 71.47 (5n), to each entity
5 that submits articles of incorporation to the department for filing.

D note

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

LRB-3991/2dn

JK:bjk:awn

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Date

Representative Davis: ✓

Please review this draft carefully to ensure that it is consistent with your intent. ✓ Under current law, generally, businesses are required to submit articles of incorporation to the Department of Financial Institutions for filing. ✓ Therefore, the bill requires DFI, as well as DOR, to provide information regarding cafeteria plans. ✓

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3991/2dn
JK:bjk:nwn

February 11, 2008

Representative Davis:

Please review this draft carefully to ensure that it is consistent with your intent. Under current law, generally, businesses are required to submit articles of incorporation to the Department of Financial Institutions for filing. Therefore, the bill requires DFI, as well as DOR, to provide information regarding cafeteria plans.

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Barman, Mike

From: Foltz, Adam
Sent: Tuesday, February 26, 2008 1:59 PM
To: LRB.Legal
Subject: Draft Review: LRB 07-3991/2 Topic: Tax credit for cafeteria plans

Please Jacket LRB 07-3991/2 for the ASSEMBLY.