

**2009 DRAFTING REQUEST**

**Bill**

Received: **01/16/2009**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **John Murtha (608) 266-7683**

By/Representing: **scott**

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.Murtha@legis.wisconsin.gov**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Workplace wellness program tax credit

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**Instructions:**

See attached

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**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 01/20/2009	jdyer 01/24/2009		_____			State
/1			mduchek 01/26/2009	_____	mbarman 01/26/2009		State
/2	jkreye 01/28/2009	jdyer 01/29/2009	mduchek 01/29/2009	_____	lparisi 01/29/2009	cduerst 01/29/2009	

FE Sent For:

**cf  
intro**

**<END>**

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/1		1/29 jld	mduchek 01/26/2009	_____	mbarman 01/26/2009		

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1/29

ND MPH

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/?	jkreye	1/24 jld	MS	MS RS			
				1/26			

FE Sent For:

<END>

JK

**Basford, Sarah**

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**From:** Rausch, Scott  
**Sent:** Thursday, January 15, 2009 10:06 AM  
**To:** LRB.Legal  
**Subject:** Two Drafting Requests

1584

**Importance:** High

Good morning,

I have two drafting requests.

The first is in regards to 2007 Assembly Bill 235, also known as LRB 1412/3. Rep. Murtha would like to author this piece of legislation during this session. Please draft this bill as soon as possible.

The second is identical to the Assembly Republican Budget from last session, regarding capping the annual increase in university tuition and non allocable fees at 4% from 2009-10 through 2012-13. Please see language below. This piece of legislation should be drafted as soon as possible as well.

**CAP ANNUAL INCREASES IN TUITION AND NONALLOCABLE FEES AT 4% FROM 2009-10 THROUGH 2012-13**

Prohibit the UW System Board of Regents from increasing resident undergraduate tuition by more than 4% in any one academic year from 2009-10 to 2012-13. In addition, provide that the nonallocable portion of segregated fees charged at any campus may not increase by more than 4% unless the increase is authorized by a student referendum. Under this provision, a student referendum would only be valid if: (a) the ballot question specified the amount by which the proposed increase would exceed the 4% cap, the duration of the proposed increase, and the reason for an increase in excess of the 4% cap; and (b) more than 10% of the total undergraduate student body voted to approve the proposed increase.

Thank you for your assistance in this matter and I look forward to hearing from LRB in response to these requests.

Regards,

**Scott A. Rausch**  
Legislative Aide  
State Representative John Murtha  
(608) 266-7056  
scott.rausch@legis.wi.gov

2009 BILL

keep

1584/1

ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2007 ASSEMBLY BILL 235

EM 7-20-09  
SDON

June 18, 2007 - Offered by Representative MOULTON.

re you ✓

X

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) (cs), 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. ✓

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

INSERT A

INSERT 1-11

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

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

(5n)  
↑ number



WP  
(5n) P  
number

1

71.07 ~~(a)~~ WORKPLACE WELLNESS PROGRAM CREDIT. (a) *Definitions*. In this

2

subsection.

3

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

4

2. "Health risk assessment" means a computer-based health-promotion tool

5

consisting of a questionnaire; a biometric health screening to measure vital health

6

statistics, including blood pressure, cholesterol, glucose, weight, and height; a

7

formula for estimating health risks; an advice database; and a means to generate

8

reports.

9

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

10

by rule under s. 560.204 (4), that is provided with health risk assessments and may

11

include any of the following programs or services:

12

a. Smoking cessation.

13

b. Weight management.

14

c. Stress management.

15

d. Worker injury prevention programs.

16

e. Health screenings.

17

f. Nutrition education.

18

g. Health or fitness incentive programs.

19

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

20

560.204, a claimant may claim as a credit against the taxes imposed under s. 71.02,

21

up to the amount of those taxes, an amount that is equal to the following:

22

1. For a workplace wellness program that the claimant first provides after

23

December 31, 2007, 30 percent of the amount that the claimant paid in the taxable

24

year to provide the workplace wellness program to the claimant's employees who are

number  
560.208

2008

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

3 2. For a workplace wellness program that the claimant provided prior to  
4 ✓ January 1, ~~2008~~<sup>2009</sup>, to the claimant's employees who are employed in this state, ✓ 30  
5 percent of any increase in the claimant's expenditures related to expanding the  
6 workplace wellness program, 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. 71.28 ~~(5)~~<sup>(5n)</sup> and 71.47 ~~(5)~~<sup>(5n)</sup> 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. No claimant may claim the credit under this subsection ✓ for more than ✓ 3  
14 taxable years.

15 3. For purposes of par. (b) 2., ✓ the amount of a claimant's increased expenditures  
16 related to expanding a workplace wellness program is the amount the claimant paid  
17 to provide the workplace wellness program in the taxable year for which the claimant  
18 claims a credit under par. (b) 2., ✓ less the amount that the claimant paid to provide  
19 the workplace wellness program in the taxable year immediately preceding the  
20 taxable year for which the claimant first claimed a credit under par. (b) 2. ✓

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

1 provide that information to each of them. Partners, members of limited liability  
2 companies, and shareholders of tax-option corporations may claim the credit in  
3 proportion to their ownership interests. ✓

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

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

7 71.10 (4) (cs) Workplace wellness program credit under s. 71.07 (5n). ✓

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

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

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

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

INSERT  
5-5

1 disposed of at a gain and minus deductions, as computed under the Internal Revenue  
2 Code as modified under sub. (3), plus or minus, as appropriate, an amount equal to  
3 the difference between the federal basis and Wisconsin basis of any asset sold,  
4 exchanged, abandoned, or otherwise disposed of in a taxable transaction during the  
5 taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

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

7 71.28 ~~(5)~~ WORKPLACE WELLNESS PROGRAM CREDIT. (a) *Definitions*.<sup>(5)</sup> In this  
8 subsection: <sup>(5)</sup> number

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~~ <sup>560.208</sup> (4), that is provided with health risk assessments and may  
17 include any of the following programs or services:

- 18 a. Smoking cessation.
- 19 b. Weight management.
- 20 c. Stress management.
- 21 d. Worker injury prevention programs.
- 22 e. Health screenings.
- 23 f. Nutrition education.
- 24 g. Health or fitness incentive programs. ✓

560,208 ✓

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, an amount that is equal to the following:

4 1. For a workplace wellness program that the claimant first provides after  
5 December 31, 2007, 2008 30 percent ✓ of the amount that the claimant paid in the taxable  
6 year to provide the workplace wellness program to the claimant's employees who are  
7 employed in this state, not including any amount paid to acquire, construct,  
8 rehabilitate, remodel, or repair real property. ✓

9 2. For a workplace wellness program that the claimant provided prior to  
10 January 1, 2008, 2009 to the claimant's employees who are employed in this state, 30  
11 percent of any increase in the claimant's expenditures related to expanding the  
12 workplace wellness program, 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 (5n) and 71.47 (5n) 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. No claimant may claim the credit under this subsection ✓ for more than 3 ✓  
20 taxable years.

21 3. For purposes of par. (b) 2., the amount of a claimant's increased expenditures  
22 related to expanding a workplace wellness program is the amount the claimant paid  
23 to provide the workplace wellness program in the taxable year for which the claimant  
24 claims a credit under par. (b) 2., less the amount that the claimant paid to provide

1 the workplace wellness program in the taxable year immediately preceding the  
2 taxable year for which the claimant first claimed a credit under par. (b) 2. ✓

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

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

13 SECTION 7. 71.30 (3) <sup>(dn)</sup> ~~(epa)~~ of the statutes is created to read:\*

14 71.30 (3) <sup>(dn)</sup> ~~(epa)~~ Workplace wellness program credit under s. 71.28 <sup>(5n)</sup> ~~(5i)~~.

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

16 71.34 (1) (g) An addition shall be made for credits computed by a tax-option  
17 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),  
18 (3n), (3t), (3w), (5b), (5e), (5f), (5g), ~~and (5h), and (5i)~~ and passed through to  
19 shareholders.

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

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

number

company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

SECTION 10. 71.47<sup>(5n)</sup> of the statutes is created to read:

71.47<sup>(5n)</sup> WORKPLACE WELLNESS PROGRAM CREDIT. (a) <sup>(5n)</sup> Definitions. In this subsection:

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

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

3. "Workplace wellness program" means a health or fitness program, as defined by rule under s. 560.204<sup>560.208</sup> (4), and includes health risk assessments and may include any of the following programs or services:

- 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.

(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. 71.43, up to the amount of those taxes, an amount that is equal to the following:

560.208

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1 1. For a workplace wellness program that the claimant first provides after  
2 December 31, ~~2007~~<sup>2008</sup>, 30 percent of the amount that the claimant paid in the taxable  
3 year to provide the workplace wellness program to the claimant's employees who are  
4 employed in this state, not including any amount paid to acquire, construct,  
5 rehabilitate, remodel, or repair real property. ✓

6 2. For a workplace wellness program that the claimant provided prior to  
7 January 1, ~~2008~~<sup>2009</sup>, to the claimant's employees who are employed in this state, 30  
8 percent of any increase in the claimant's expenditures related to expanding the  
9 workplace wellness program, not including any amount paid to acquire, construct,  
10 rehabilitate, remodel, or repair real property. ✓

11 (c) *Limitations*. ✓ 1. The maximum amount of the credits that may be claimed  
12 under this subsection and ss. 71.07 ~~(5)~~<sup>(5n)</sup> and 71.28 ~~(5)~~ in any taxable year is  
13 \$2,500,000 ✓ for all claimants who employ 50 or fewer employees in the taxable year  
14 and \$2,500,000 ✓ for all claimants who employ more than 50 employees in the taxable  
15 year.

16 2. No claimant may claim the credit under this ✓ subsection for more than ✓  
17 taxable years.

18 3. For purposes of par. (b) 2. ✓, the amount of a claimant's increased expenditures  
19 related to expanding a workplace wellness program is the amount the claimant paid  
20 to provide the workplace wellness program in the taxable year for which the claimant  
21 claims a credit under par. (b) 2. ✓, less the amount that the claimant paid to provide  
22 the workplace wellness program in the taxable year immediately preceding the  
23 taxable year for which the claimant first claimed a credit under par. (b) 2. ✓

24 4. Partnerships, limited liability companies, and tax-option corporations may  
25 not claim the credit under this subsection, ✓ but the eligibility for, and the amount of,



1 the credit are based on their payment of amounts under par. (b).<sup>✓</sup> A partnership,  
2 limited liability company, or tax-option corporation<sup>✓</sup> shall compute the amount of  
3 credit that each of its partners, members, or shareholders may claim and shall  
4 provide that information to each of them.<sup>✓</sup> Partners, members of limited liability  
5 companies, and shareholders of tax-option corporations may claim the credit in  
6 proportion to their ownership interests.

7 (d) *Administration.*<sup>✓</sup> Section 71.28 (4) (e) to (h),<sup>✓</sup> as it applies to the credit under  
8 s. 71.28 (4),<sup>✓</sup> applies to the credit under this subsection.<sup>✓</sup>

9 **SECTION 11.**<sup>✓</sup> 71.49 (1) ~~(epa)~~<sup>(dn)</sup> of the statutes is created to read:

10 71.49 (1) ~~(epa)~~<sup>(dn)</sup> Workplace wellness program credit under s. 71.47 ~~(sn)~~<sup>(sn)</sup>.

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

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

or business for federal income tax purposes and includes net income derived as an employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

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

**560.204 Workplace wellness programs.** (1) The department shall

implement a program to certify workplace wellness programs under ss. 71.07 (5), 71.28 (5), and 71.47 (5).

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

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

(4) The department, in consultation with the department of revenue and the department of health and family services, shall promulgate rules to administer this section.

**SECTION 14. Initial applicability.**

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

(END)

INSERT 11-2

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1584/1

# 2007 ASSEMBLY BILL 235

April 10, 2007 - Introduced by Representatives MOULTON, KRAMER, SHERIDAN, VAN ROY, VUKMIR, NYGREN, VRUWINK, ALBERS, MUSSER, WOOD, PETERSEN, DAVIS, M. WILLIAMS, A. OTT, PETROWSKI, LEMAHIEU, GUNDERSON, MONTGOMERY, KESTELL, MOLEPSKE, TOWNSEND, HINES and KLEEFISCH, cosponsored by Senators LASSA, ROESSLER, PLALE, DARLING, SCHULTZ and LEIBHAM. Referred to Committee on Small Business.

*neg*

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*

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, that is provided with 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:*

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

INSERT  
A

2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1584/?ins  
JK:.....

Insert 1 - 11

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

**History:** 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237; 1999 a. 9, 32, 44, 54, 65, 167; 2001 a. 16, 104, 105, 109; 2003 a. 85, 99, 119, 135, 183, 255, 289, 321, 326; 2005 a. 22, 25, 216, 254, 335, 361, 479, 483; 2007 a. 20, 96, 226.

Insert 5 - 5

8           **SECTION 2.** 71.21 (4) of the statutes is amended to read:

9           71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),  
10           (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3h), (3n), (3p), (3s), (3t), (3w), (5e), (5f), (5g),  
11           (5h), (5i), (5j), and (5k), and (5n) and passed through to partners shall be added to  
12           the partnership's income.

**History:** 1987 a. 312, 411; 1989 a. 31; 1993 a. 112; 1995 a. 27, 400; 1997 a. 27; 2001 a. 16; 2003 a. 99, 135, 255, 326; 2005 a. 74, 361, 479, 483; 2007 a. 20, 96.

13           **SECTION 3.** 71.26 (2) (a) 4. of the statutes is amended to read:

14           71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),  
15           (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3g), (3h), (3n), (3p), (3t), (3w), (5e), (5f),  
16           (5g), (5h), (5i), (5j), and (5k), and (5n) and not passed through by a partnership,  
17           limited liability company, or tax-option corporation that has added that amount to  
18           the partnership's, limited liability company's, or tax-option corporation's income  
19           under s. 71.21 (4) or 71.34 (1k) (g).

**History:** 1987 a. 312; 1987 a. 411 ss. 22, 124 to 129; 1989 a. 31, 336; 1991 a. 37, 39, 221, 269; 1993 a. 16, 112, 246, 263, 399, 437, 491; 1995 a. 27, 56, 351, 371, 380, 428; 1997 a. 27, 37, 184, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 106, 109; 2003 a. 33, 85, 99, 135, 255, 326; 2005 a. 25, 74, 335, 361, 362, 479, 483; 2007 a. 20, 96, 97, 151, 226.

Insert 8 - 2



1           **SECTION 4.** 71.34 (1k) (g) <sup>X</sup> of the statutes is amended to read:

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

History: 1987 a. 312; 1987 a. 411 ss. 18, 23, 146; 1989 a. 31, 336; 1991 a. 39, 269; 1993 a. 16, 437; 1995 a. 27, 380, 428; 1997 a. 27, 37, 237; 1999 a. 9, 194; 2001 a. 16, 109; 2003 a. 33, 99, 135, 255, 326; 2005 a. 25, 49, 74, 361, 479, 483; 2007 a. 20, 96, 226.

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

7           71.45 (2) (a) 10. By adding to federal taxable income the amount of credit  
8 computed under s. 71.47 (1dd) to (1dx), (3h), (3n), (3p), (3w), (5e), (5f), (5g), (5h), (5i),  
9 (5j), and (5k), and (5n) <sup>✓</sup> and not passed through by a partnership, limited liability  
10 company, or tax-option corporation that has added that amount to the partnership's,  
11 limited liability company's, or tax-option corporation's income under s. 71.21 (4) or  
12 71.34 (1k) (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and  
13 (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, 371, 380; 1997 a. 27, 37, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 109; 2003 a. 37, 85, 99, 135, 255, 326; 2005 a. 74, 297, 335, 361, 479, 483; 2007 a. 20, 96, 226.

**Insert 11 - 2**

14           **SECTION 6.** 77.92 (4) <sup>X</sup> of the statutes is 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),



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

**History:** 1989 a. 335; 1991 a. 39, 269; 1993 a. 16, 112, 490; 1995 a. 27, 209; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 99, 135, 255, 326; 2005 a. 74, 361, 479, 483; 2007 a. 20, 96.

(end ins 11-2)

**Kreye, Joseph**

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**From:** Rausch, Scott  
**Sent:** Wednesday, January 28, 2009 10:09 AM  
**To:** Kreye, Joseph  
**Subject:** Submitted: LRB 09-1584/1 Topic: Workplace wellness program tax credit?body=

Hi Joe,

I need the same revisions made to LRB 1584/1 as was done to the Senate Bill. Please make the corrections and return to my office.

Thank you.

Regards,

**Scott A. Rausch**  
Legislative Aide  
State Representative John Murtha  
(608) 266-7056  
scott.rausch@legis.wi.gov



RMR

2009 BILL

in Wed 1-28-09

Due Fri. 1-30

4

Regen

1 AN ACT to amend 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a) 4., 71.34 (1k) (g), 71.45  
2 (2) (a) 10. and 77.92 (4); and to create 71.07 (5n), 71.10 (4) (cs), 71.28 (5n), 71.30  
3 (3) (dn), 71.47 (5n), 71.49 (1) (dn) and 560.208 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*

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, that is provided with 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), (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 (1k) (g).

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

8           71.07 (5n) **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. "Health risk assessment" means a computer-based health-promotion tool  
12           consisting of a questionnaire; a biometric health screening to measure vital health  
13           statistics, including blood pressure, cholesterol, glucose, weight, and height; a  
14           formula for estimating health risks; an advice database; and a means to generate  
15           reports.

16           3. "Workplace wellness program" means a health or fitness program, as defined  
17           by rule under s. 560.208 (4), that is provided with health risk assessments and may  
18           include any of the following programs or services:

19           a. Smoking cessation.

20           b. Weight management.

21           c. Stress management.

22           d. Worker injury prevention programs.

23           e. Health screenings.

24           f. Nutrition education.

25           g. Health or fitness incentive programs.

**BILL**

1 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.  
2 560.208, a claimant may claim as a credit against the taxes imposed under s. 71.02,  
3 up to the amount of those taxes, an amount that is equal to the following:

4 1. For a workplace wellness program that the claimant first provides after  
5 December 31, 2008, <sup>2009</sup> 30 percent of the amount that the claimant paid in the taxable  
6 year to provide the workplace wellness program to the claimant's employees who are  
7 employed in this state, not including any amount paid to acquire, construct,  
8 rehabilitate, remodel, or repair real property.

9 2. For a workplace wellness program that the claimant provided prior to  
10 January 1, <sup>2010</sup> 2009, to the claimant's employees who are employed in this state, 30  
11 percent of any increase in the claimant's expenditures related to expanding the  
12 workplace wellness program, 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. 71.28 (5n) and 71.47 (5n) 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. No claimant may claim the credit under this subsection for more than 3  
20 taxable years.

21 3. For purposes of par. (b) 2., the amount of a claimant's increased expenditures  
22 related to expanding a workplace wellness program is the amount the claimant paid  
23 to provide the workplace wellness program in the taxable year for which the claimant  
24 claims a credit under par. (b) 2., less the amount that the claimant paid to provide

**BILL****SECTION 2**

1 the workplace wellness program in the taxable year immediately preceding the  
2 taxable year for which the claimant first claimed a credit under par. (b) 2.

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

11 (d) *Administration.* 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 3.** 71.10 (4) (cs) of the statutes is created to read:

14 71.10 (4) (cs) Workplace wellness program credit under s. 71.07 (5n).

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

16 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),  
17 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3h), (3n), (3p), (3s), (3t), (3w), (5e), (5f), (5g),  
18 (5h), (5i), (5j), ~~and (5k)~~, and (5n) and passed through to partners shall be added to  
19 the partnership's income.

20 **SECTION 5.** 71.26 (2) (a) 4. of the statutes is amended to read:

21 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),  
22 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3g), (3h), (3n), (3p), (3t), (3w), (5e), (5f),  
23 (5g), (5h), (5i), (5j), ~~and (5k)~~, and (5n) and not passed through by a partnership,  
24 limited liability company, or tax-option corporation that has added that amount to

**BILL**

1 the partnership's, limited liability company's, or tax-option corporation's income  
2 under s. 71.21 (4) or 71.34 (1k) (g).

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

4 **71.28 (5n) WORKPLACE WELLNESS PROGRAM CREDIT.** (a) *Definitions.* In this  
5 subsection:

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

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

12 3. "Workplace wellness program" means a health or fitness program, as defined  
13 by rule under s. 560.208 (4), that is provided with health risk assessments and may  
14 include any of the following programs or services:

15 a. Smoking cessation.

16 b. Weight management.

17 c. Stress management.

18 d. Worker injury prevention programs.

19 e. Health screenings.

20 f. Nutrition education.

21 g. Health or fitness incentive programs.

22 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.  
23 560.208, a claimant may claim as a credit against the taxes imposed under s. 71.23,  
24 up to the amount of those taxes, an amount that is equal to the following:

**BILL**

2009 ✓

1 1. For a workplace wellness program that the claimant first provides after  
2 December 31, 2008, 30 percent of the amount that the claimant paid in the taxable  
3 year to provide the workplace wellness program to the claimant's employees who are  
4 employed in this state, not including any amount paid to acquire, construct,  
5 rehabilitate, remodel, or repair real property.

6 2. For a workplace wellness program that the claimant provided prior to  
7 January 1, 2009, to the claimant's employees who are employed in this state, 30  
8 percent of any increase in the claimant's expenditures related to expanding the  
9 workplace wellness program, not including any amount paid to acquire, construct,  
10 rehabilitate, remodel, or repair real property.

11 (c) *Limitations.* 1. The maximum amount of the credits that may be claimed  
12 under this subsection and ss. 71.07 (5n) and 71.47 (5n) in any taxable year is  
13 \$2,500,000 for all claimants who employ 50 or fewer employees in the taxable year  
14 and \$2,500,000 for all claimants who employ more than 50 employees in the taxable  
15 year.

16 2. No claimant may claim the credit under this subsection for more than 3  
17 taxable years.

18 3. For purposes of par. (b) 2., the amount of a claimant's increased expenditures  
19 related to expanding a workplace wellness program is the amount the claimant paid  
20 to provide the workplace wellness program in the taxable year for which the claimant  
21 claims a credit under par. (b) 2., less the amount that the claimant paid to provide  
22 the workplace wellness program in the taxable year immediately preceding the  
23 taxable year for which the claimant first claimed a credit under par. (b) 2.

24 4. Partnerships, limited liability companies, and tax-option corporations may  
25 not claim the credit under this subsection, but the eligibility for, and the amount of,

**BILL**

1 the credit are based on their payment of amounts under par. (b). A partnership,  
2 limited liability company, or tax-option corporation shall compute the amount of  
3 credit that each of its partners, members, or shareholders may claim and shall  
4 provide that information to each of them. Partners, members of limited liability  
5 companies, and shareholders of tax-option corporations may claim the credit in  
6 proportion to their ownership interests.

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

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

10 71.30 (3) (dn) Workplace wellness program credit under s. 71.28 (5n).

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

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

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

17 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit  
18 computed under s. 71.47 (1dd) to (1dx), (3h), (3n), (3p), (3w), (5e), (5f), (5g), (5h), (5i),  
19 (5j), and (5k), and (5n) and not passed through by a partnership, limited liability  
20 company, or tax-option corporation that has added that amount to the partnership's,  
21 limited liability company's, or tax-option corporation's income under s. 71.21 (4) or  
22 71.34 (1k) (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and  
23 (5).

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

**BILL**

**SECTION 10**

1           71.47 (5n) WORKPLACE WELLNESS PROGRAM CREDIT. (a) *Definitions.* In this  
2 subsection:

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

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

9           3. "Workplace wellness program" means a health or fitness program, as defined  
10 by rule under s. 560.208 (4), and includes health risk assessments and may include  
11 any of the following programs or services:

- 12           a. Smoking cessation.
- 13           b. Weight management.
- 14           c. Stress management.
- 15           d. Worker injury prevention programs.
- 16           e. Health screenings.
- 17           f. Nutrition education.
- 18           g. Health or fitness incentive programs.

19           (b) *Filing claims.* Subject to the limitations provided in this subsection and s.  
20 560.208, a claimant may claim as a credit against the taxes imposed under s. 71.43,  
21 up to the amount of those taxes, an amount that is equal to the following:

22           1. For a workplace wellness program that the claimant first provides after  
23 December 31, 2008, 30 percent of the amount that the claimant paid in the taxable  
24 year to provide the workplace wellness program to the claimant's employees who are

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## BILL

2010 ✓

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

3 2. For a workplace wellness program that the claimant provided prior to  
4 January 1, 2009, to the claimant's employees who are employed in this state, 30  
5 percent of any increase in the claimant's expenditures related to expanding the  
6 workplace wellness program, 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 (5n) and 71.28 (5n) 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. No claimant may claim the credit under this subsection for more than 3  
14 taxable years.

15 3. For purposes of par. (b) 2., the amount of a claimant's increased expenditures  
16 related to expanding a workplace wellness program is the amount the claimant paid  
17 to provide the workplace wellness program in the taxable year for which the claimant  
18 claims a credit under par. (b) 2., less the amount that the claimant paid to provide  
19 the workplace wellness program in the taxable year immediately preceding the  
20 taxable year for which the claimant first claimed a credit under par. (b) 2.

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



**BILL****SECTION 10**

1 provide that information to each of them. Partners, members of limited liability  
2 companies, and shareholders of tax-option corporations may claim the credit in  
3 proportion to their ownership interests.

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

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

7 71.49 (1) (dn) Workplace wellness program credit under s. 71.47 (5n).

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

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

25 **SECTION 13.** 560.208 of the statutes is created to read:

**BILL**

1           **560.208 Workplace wellness programs.** (1) The department shall  
2 implement a program to certify workplace wellness programs under ss. 71.07 (5n),  
3 71.28 (5n), and 71.47 (5n).

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 and the  
15 department of health services, shall promulgate rules to administer this section.

**SECTION 14. Initial applicability.**

16  
17 (1) This act first applies to taxable years beginning on January 1, 2009.

18 (END)

2009  
2010 ✓

**Duerst, Christina**

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**From:** Rep.Murtha  
**Sent:** Thursday, January 29, 2009 11:01 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-1584/2 Topic: Workplace wellness program tax credit

Please Jacket LRB 09-1584/2 for the ASSEMBLY.