

2009 DRAFTING REQUEST

Bill

Received: 02/19/2010

Received By: jkreyc

Wanted: As time permits

Companion to LRB:

For: Brett Davis (608) 266-1192

By/Representing: luke

May Contact:

Drafter: jkreyc

Subject: Tax, Business - credits
Tax, Individual - income credit

Addl. Drafters: mshovers

Extra Copies:

Submit via email: YES

Requester's email: Rep.Davis@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Education improvement and educational expenses credits

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>
/?	jkreyc 02/19/2010	jdycr 03/11/2010		_____			State
/1			rschluet 03/11/2010	_____	cdurst 03/11/2010	cdurst 03/18/2010	

FE Sent For: "/1" @ intro. 4/7/10

<END>

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Received: **02/19/2010**

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By/Representing: **luke**

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

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/?	jkreye	<i>13/1/10</i>	<i>[Signature]</i>	<i>[Signature]</i>			
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FE Sent For:

<END>

Kreye, Joseph

From: Bacher, Luke
Sent: Thursday, February 18, 2010 5:20 PM
To: Kreye, Joseph
Subject: 2007 LRB 2721/1

Joe -

I just left a message requesting a re-draft of LRB 2721 from last session.

I have one addition to that bill. Could you cap the total credits for businesses in the program at \$12 million per year?

Thanks!

Luke Bacher
Research Assistant
State Representative Brett Davis
Phone: (608)-266-1192
Fax: 608-282-3680
luke.bacher@legis.wi.gov
<http://www.brettdavis.us>

3/11 cmtk 4391/1
LRB-2721/1
JK/mk&wl/jf
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2009
2007 BILL

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in 2-19-10

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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), 71.07 (8m), 71.10 (4) (cs), 71.10
 3 (4) (ct), 71.28 (5i), 71.30 (3) (dq), 71.47 (5i) and 71.49 (1) (dq) of the statutes;
 4 **relating to:** creating an income and franchise tax credit for businesses that
 5 contribute to a scholarship-granting organization or to an educational
 6 improvement organization and a nonrefundable individual income tax credit
 7 for education expenses paid for dependents who attend elementary and
 8 secondary schools. ✓

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit for businesses that contribute to a scholarship-granting organization or to an educational improvement organization. The amount of the credit is equal to 75 percent of the contribution, but the amount of the credit may not exceed \$200,000 in any taxable year. Under the bill, a scholarship-granting organization is a nonprofit entity that contributes at least 80 percent of its annual receipts to scholarship programs for pupils in grades kindergarten to 12 at private or public schools in this state. Under the bill, an educational improvement organization is a nonprofit entity that contributes at least 80 percent of its annual receipts as grants to public schools for innovative educational programs. ✓

NO # The total amount of the credit that all businesses may claim in any taxable year is \$12,000,000.

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This bill also creates a nonrefundable individual income tax credit for amounts spent by a claimant, for the claimant's dependent child, on eligible education expenses at public schools, private schools, or charter schools for grades kindergarten to 12. Because the credit is nonrefundable, no refund is paid if the amount of the credit exceeds the taxpayer's tax liability.

Under the bill, education expenses include amounts that are spent for tuition, books, and other educational materials or supplies that are purchased by a claimant in the year to which the claim relates and that are related to the pupil's curricular activities and attendance at an eligible institution.

The maximum credit that may be claimed under the bill is \$2,500 per year if the claimant files as a single individual, head of household, or married person filing separately. The maximum credit that may be claimed under the bill is \$5,000 per year if the claimant is a married person filing a joint return. The amount of credit that may be claimed by a nonresident or part-year resident of this state is modified based on the ratio of the claimant's Wisconsin adjusted gross income (AGI) to his or her federal AGI.

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:~~

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

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

71.07 (5i) EDUCATIONAL IMPROVEMENT CREDIT. (a) Definitions. In this

subsection:

1. "Claimant" means a sole proprietor, a partner, a member of a limited liability company, or a shareholder of a tax-option corporation who files a claim under this subsection.

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1 2. "Contribution" means a donation of cash, personal property, or services.

2 3. "Dependent" means a dependent as defined in section 152 of the Internal
3 Revenue Code.

4 4. "Educational improvement organization" means an entity described in
5 section 501 (c) (3) of the Internal Revenue Code that is exempt from federal income
6 tax under section 501 (a) of the Internal Revenue Code and that spends at least 80
7 percent of its annual receipts as grants to public schools for innovative educational
8 programs.

9 5. "Eligible pupil" means any pupil to whom all of the following apply:

10 a. The pupil has not attained the age of 21 or been graduated from high school.

11 b. At the time the pupil first receives a scholarship from a scholarship-granting
12 organization, he or she is a member of a household whose total annual household
13 income during the year before the receipt of the scholarship does not exceed an
14 amount equal to \$40,000 plus \$10,000 for each dependent.

15 6. "Household" means an individual and his or her spouse and dependents who
16 all have the same principal abode for more than 6 months during the year to which
17 a claim under this subsection relates.

18 7. "Household income" means all income received by all members of a
19 household.

20 8. "Innovative educational program" means an advanced academic or similar
21 program that is not part of the regular academic program of a public school in this
22 state, but that enhances the curriculum or academic program of the public school.

23 9. "Private school" has the meaning given in s. 115.001 (3r).

24 10. "Scholarship-granting organization" means an entity described in section
25 501 (c) (3) of the Internal Revenue Code that is exempt from federal income tax under

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1 section 501 (a) of the Internal Revenue Code and that contributes at least 80 percent
2 of its annual receipts to scholarship programs.

3 (3) (4) (11) ¹² "Scholarship program" means a program to provide tuition for eligible
4 students to attend a qualified school in this state.

5 (12) (10) "Qualified school" means any public, private, or other school or program
6 that provides elementary or secondary education, including kindergarten.

7 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
8 claimant may claim as a credit against the tax imposed under s. 71.02 ~~of 71.08~~ up
9 to the amount of those taxes, an amount that is equal to 75 percent of any
10 contribution made by the claimant during the taxable year to an educational
11 improvement organization or to a scholarship-granting organization.

12 (c) *Limitations.* 1. The amount of a credit that a claimant may receive under
13 this subsection may not exceed \$200,000 in a taxable year.

14 (4) (3) The total amount of all credits awarded under this subsection and ss. 71.28
15 (5i) and 71.47 (5i) for contributions to scholarship-granting organizations shall not
16 exceed \$30,000,000 for all taxable years.

17 (4) (3) The total amount of all credits awarded under this subsection and ss. 71.28
18 (5i) and 71.47 (5i) for contributions to educational improvement organizations shall
19 not exceed \$20,000,000 for all taxable years.

20 (4) (4) (5) No claimant may claim a credit under this subsection unless the claimant
21 first files an application for the credit with the department, in the manner prescribed
22 by the department. The department shall allocate the credits claimed under this
23 subsection and ss. 71.28 (5i) and 71.47 (5i) in the order in which the applications for
24 such credits are received.

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1 For purposes of determining the amount of any credit claimed under this
 2 subsection, the value of a contribution is equal to the net cost of the claimant's
 3 donation of cash or personal property or to the proportionate share of any wage paid
 4 by the claimant that is directly related to donating a service. ✓

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

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

15 SECTION 3. 71.07 (8m) of the statutes is created to read: ✓

16 71.07 (8m) EDUCATION EXPENSES CREDIT. (a) Definitions. In this subsection: ✓

17 1. "Claimant" means an individual who claims a pupil as a dependent under
 18 section 151 (c) of the Internal Revenue Code, on his or her tax return. ✓

19 2. "Education supplies" means tuition, books, and other educational materials
 20 or supplies that are purchased by a claimant in the year to which the claim relates
 21 and that are related to the pupil's curricular activities and attendance at an eligible
 22 institution. ✓

23 3. "Eligible institution" means a private school, as defined in s. 115.001 (3r), or ✓
 24 a charter school, as defined in s. 115.001 (1), that meets all of the criteria under s.
 25 118.165 (1) or a public school. ✓

BILL

SECTION 3

1 4. "Pupil" means an individual who is enrolled in kindergarten or grades one
2 to 12 at an eligible institution and who is a dependent of the claimant under section
3 151 (c) of the Internal Revenue Code.

4 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
5 claimant may claim as a credit against the tax imposed under s. 71.02 ~~or 71.08~~, up
6 to the amount of those taxes, an amount equal to any amount paid for education
7 supplies in the year to which the claim relates.

8 (c) *Limitations.* 1. Subject to subd. 4., the maximum credit that may be claimed
9 under this subsection by a claimant who files as a single individual or head of
10 household is \$2,500 in each year to which the claim relates.

11 2. Subject to subd. 4., the maximum credit that may be claimed under this
12 subsection by claimants who are a married couple and file a joint return is a total of
13 \$5,000 in each year to which the claim relates.

14 3. Subject to subd. 4., the maximum credit that may be claimed by each spouse
15 of a married couple that files separately is 50 percent of the amount specified in subd.
16 2.

17 4. If a part-year resident or a nonresident of this state files a claim under this
18 subsection, the maximum credit amount in subd. 1., 2., or 3. shall be multiplied by
19 a fraction, the numerator of which is the individual's and his or her spouse's
20 Wisconsin adjusted gross income and the denominator of which is the individual's
21 and his or her spouse's federal adjusted gross income. In this subdivision, for
22 married persons filing separately "adjusted gross income" means the separate
23 adjusted gross income of each spouse, and for married persons filing jointly "adjusted
24 gross income" means the total adjusted gross income of both spouses.

BILL

1 5. No credit may be allowed under this subsection unless it is claimed within
2 the time period under s. 71.75 (2).

3 6. No credit may be allowed under this subsection for a taxable year covering
4 a period of less than 12 months, except for a taxable year closed by reason of the death
5 of the taxpayer.

6 (d) *Administration.* The department may enforce the credit under this
7 subsection and may take any action, conduct any proceeding, and proceed as it is
8 authorized in respect to taxes under this chapter. The income tax provisions in this
9 chapter relating to assessments, refunds, appeals, collection, interest, and penalties
10 apply to the credit under this subsection.

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

12 71.10 (4) (cs) Education expenses credit under s. 71.07 (8m).

13 **SECTION 5.** 71.10 (4) (ct) of the statutes is created to read:

14 71.10 (4) (ct) Educational improvement credit under s. 71.07 (5i).

15 **SECTION 6.** 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), (3n), (3s), (3t), (3w), (5b), (5e), (5f), (5g), and (5h),
18 and (5i) and passed through to partners shall be added to the partnership's income.

19 **SECTION 7.** 71.26 (2) (a) of the statutes is amended to read:

20 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
21 the gross income as computed under the Internal Revenue Code as modified under
22 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
23 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
24 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
25 under this paragraph at the time that the taxpayer first claimed the credit plus the

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

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13 SECTION 8. 71.28 (5i) of the statutes is created to read:

14 71.28 (5i) EDUCATIONAL IMPROVEMENT CREDIT. (a) Definitions. In this
 15 subsection:

- 16 1. "Claimant" means a person who files a claim under this subsection.
- 17 2. "Contribution" means a donation of cash, personal property, or services.
- 18 3. "Dependent" means a dependent as defined in section 152 of the Internal
 19 Revenue Code.
- 20 4. "Educational improvement organization" means an entity described in
 21 section 501 (c) (3) of the Internal Revenue Code that is exempt from federal income
 22 tax under section 501 (a) of the Internal Revenue Code and that spends at least 80
 23 percent of its annual receipts as grants to public schools for innovative educational
 24 programs.
- 25 5. "Eligible pupil" means any pupil to whom all of the following apply:

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1 a. The pupil has not attained the age of 21 or been graduated from high school.

2 b. At the time the pupil first receives a scholarship from a scholarship-granting
3 organization, he or she is a member of a household whose total annual household
4 income during the year before the receipt of the scholarship does not exceed an
5 amount equal to \$40,000 plus \$10,000 for each dependent.

6 6. "Household" means an individual and his or her spouse and dependents who
7 all have the same principal abode for more than 6 months during the year to which
8 a claim under this subsection relates.

9 7. "Household income" means all income received by all members of a
10 household.

11 8. "Innovative educational program" means an advanced academic or similar
12 program that is not part of the regular academic program of a public school in this
13 state, but that enhances the curriculum or academic program of the public school.

14 9. "Private school" has the meaning given in s. 115.001 (3r).

15 10. "Scholarship-granting organization" means an entity described in section
16 501 (c) (3) of the Internal Revenue Code that is exempt from federal income tax under
17 section 501 (a) of the Internal Revenue Code and that contributes at least 80 percent
18 of its annual receipts to scholarship programs.

19 11. "Scholarship program" means a program to provide tuition for eligible
20 students to attend a qualified school in this state.

21 12. "Qualified school" means any public, private, or other school or program
22 that provides elementary or secondary education, including kindergarten.

23 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
24 claimant may claim as a credit against the tax imposed under s. 71.23, up to the
25 amount of those taxes, an amount that is equal to 75 percent of any contribution

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1 made by the claimant during the taxable year to an educational improvement
2 organization or to a scholarship-granting organization.

3 (c) *Limitations.* 1. The amount of a credit that a claimant may receive under
4 this subsection may not exceed \$200,000 in a taxable year.

5 The total amount of all credits awarded under this subsection and ss. 71.07
6 (5i) and 71.47 (5i) for contributions to scholarship-granting organizations shall not
7 exceed \$30,000,000 for all taxable years.

8 The total amount of all credits awarded under this subsection and ss. 71.07
9 (5i) and 71.47 (5i) for contributions to educational improvement organizations shall
10 not exceed \$20,000,000 for all taxable years.

11 No claimant may claim a credit under this subsection unless the claimant
12 first files an application for the credit with the department, in the manner prescribed
13 by the department. The department shall allocate the credits claimed under this
14 subsection and ss. 71.07 (5i) and 71.47 (5i) in the order in which the applications for
15 such credits are received.

16 For purposes of determining the amount of any credit claimed under this
17 subsection, the value of a contribution is equal to the net cost of the claimant's
18 donation of cash or personal property or to the proportionate share of any wage paid
19 by the claimant that is directly related to donating a service.

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

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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 9.** 71.30 (3) (dq) of the statutes is created to read:

6 71.30 (3) (dq) Educational improvement credit under s. 71.28

7 **SECTION 10.** 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 11.** 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 12.** 71.47 (5i) of the statutes is created to read:

20 71.47 (5i) EDUCATIONAL IMPROVEMENT CREDIT. (a) *Definitions*. In this

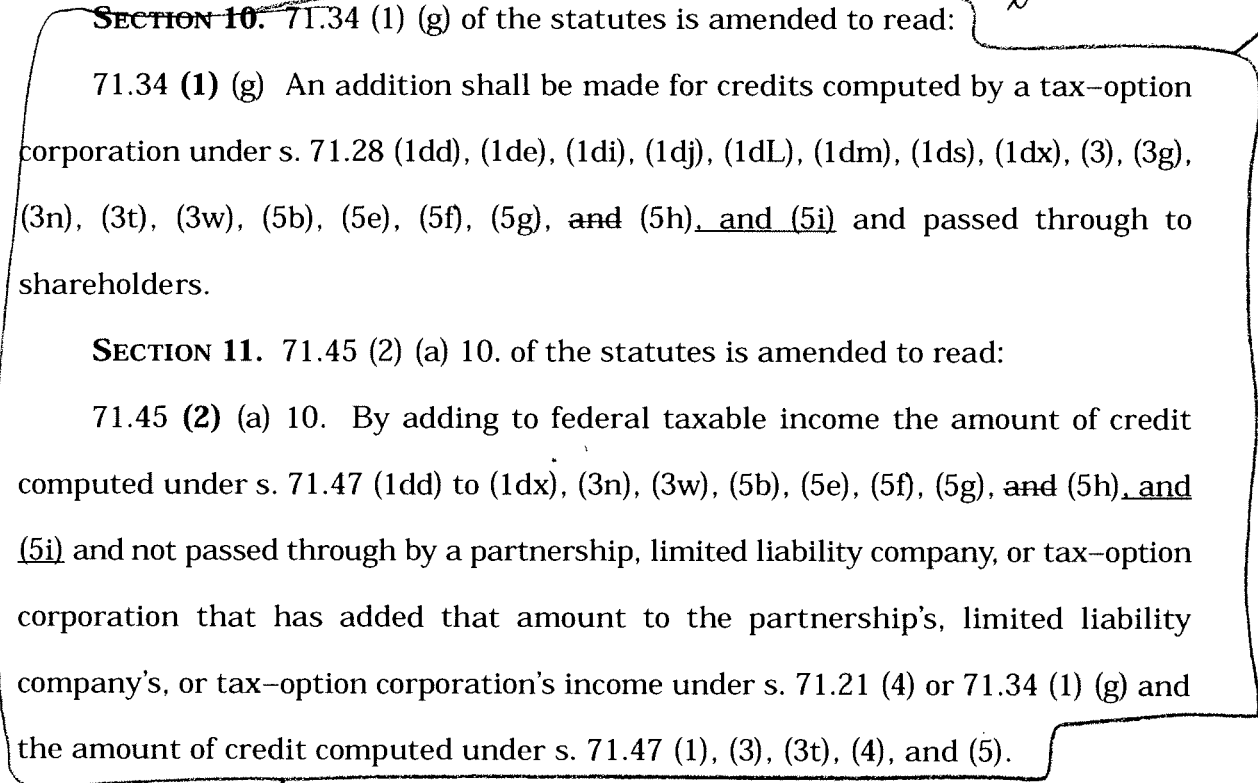
21 subsection:

- 22 1. "Claimant" means a person who files a claim under this subsection.
- 23 2. "Contribution" means a donation of cash, personal property, or services.
- 24 3. "Dependent" means a dependent as defined in section 152 of the Internal
25 Revenue Code.

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1 4. "Educational improvement organization" means an entity described in
 2 section 501 (c) (3) of the Internal Revenue Code that is exempt from federal income
 3 tax under section 501 (a) of the Internal Revenue Code and that spends at least 80
 4 percent of its annual receipts as grants to public schools for innovative educational
 5 programs.

6 5. "Eligible pupil" means any pupil to whom all of the following apply:

7 a. The pupil has not attained the age of 21 or been graduated from high school.

8 b. At the time the pupil first receives a scholarship from a scholarship-granting
 9 organization, he or she is a member of a household whose total annual household
 10 income during the year before the receipt of the scholarship does not exceed an
 11 amount equal to \$40,000 plus \$10,000 for each dependent.

12 6. "Household" means an individual and his or her spouse and dependents who
 13 all have the same principal abode for more than 6 months during the year to which
 14 a claim under this subsection relates.

15 7. "Household income" means all income received by all members of a
 16 household.

17 8. "Innovative educational program" means an advanced academic or similar
 18 program that is not part of the regular academic program of a public school in this
 19 state, but that enhances the curriculum or academic program of the public school.

20 9. "Private school" has the meaning given in s. 115.001 (3r).

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21 10. "Scholarship-granting organization" means an entity described in section
 22 501 (c) (3) of the Internal Revenue Code that is exempt from federal income tax under
 23 section 501 (a) of the Internal Revenue Code and that contributes at least 80 percent
 24 of its annual receipts to scholarship programs.

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1 ~~4~~ ¹² 1. "Scholarship program" means a program to provide tuition for eligible
2 students to attend a qualified school in this state.

3 ~~4~~ ¹² 2. "Qualified school" means any public, private, or other school or program
4 that provides elementary or secondary education, including kindergarten.

5 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
6 claimant may claim as a credit against the tax imposed under s. 71.43, up to the
7 amount of those taxes, an amount that is equal to 75 percent of any contribution
8 made by the claimant during the taxable year to an educational improvement
9 organization or to a scholarship-granting organization.

10 (c) *Limitations.* 1. The amount of a credit that a claimant may receive under
11 this subsection may not exceed \$200,000 in a taxable year.

12 ~~4~~ ³ 2. The total amount of all credits awarded under this subsection and ss. 71.07
13 (5i) and 71.28 (5i) for contributions to scholarship-granting organizations shall not
14 exceed \$30,000,000 for all taxable years.

15 ~~4~~ ⁴ 3. The total amount of all credits awarded under this subsection and ss. 71.07
16 (5i) and 71.28 (5i) for contributions to educational improvement organizations shall
17 not exceed \$20,000,000 for all taxable years.

18 ~~4~~ ⁵ 4. No claimant may claim a credit under this subsection unless the claimant
19 first files an application for the credit with the department, in the manner prescribed
20 by the department. The department shall allocate the credits claimed under this
21 subsection and ss. 71.07 (5i) and 71.28 (5i) in the order in which the applications for
22 such credits are received.

23 ~~4~~ ⁶ 5. For purposes of determining the amount of any credit claimed under this
24 subsection, the value of a contribution is equal to the net cost of the claimant's

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1 donation of cash or personal property or to the proportionate share of any wage paid
2 by the claimant that is directly related to donating a service.

3 ⁽⁷⁾ 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 13.** 71.49 (1) (dq) of the statutes is created to read:

14 71.49 (1) (dq) Educational improvement credit under s. 71.47 (5i)

15 **SECTION 14.** 77.92 (4) of the statutes is amended to read:

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

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1 depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and
2 (19); but excluding income, gain, loss, and deductions from farming. "Net business
3 income," with respect to a natural person, estate, or trust, means profit from a trade
4 or business for federal income tax purposes and includes net income derived as an
5 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

INSERT
15-5

6 **SECTION 15. Initial applicability.**

7 (1) This act first applies to taxable years beginning on January 1 of the year
8 in which this subsection takes effect, except that if this subsection takes effect after
9 July 31 this act first applies to taxable years beginning on January 1 of the year
10 following the year in which this subsection takes effect.

11 (END)

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4391/?ins
JK:.....

Insert 2 - 6

1 **SECTION 1.** 71.05 (6) (a) 15. of the statutes, as affected by 2009 Wisconsin Act
2 28, is amended to read:
3 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
4 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s),
5 (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), (5l), and (8r) and not passed through by a
6 partnership, limited liability company, or tax-option corporation that has added that
7 amount to the partnership's, company's, or tax-option corporation's income under s.
8 71.21 (4) 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; 2009 a. 2, 28.

Insert 4 - 13

9 2. The maximum amount of the credits that all claimants may receive under
10 this subsection and ss. 71.28 (5n) and 71.47 (5n) in a taxable year is \$12,000,000.

Insert 8 - 12

11 **SECTION 2.** 71.21 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is
12 amended to read:
13 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
14 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s), (3t), (3w),
15 (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5l), and (8r) and passed through to partners shall
16 be added to 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; 2009 a. 2, 28.

17 **SECTION 3.** 71.26 (2) (a) 4. of the statutes, as affected by 2009 Wisconsin Act 28,
18 is amended to read:

19 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
20 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3t),

1 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), ~~(5m)~~ⁿ, and (8r) and not passed through by a
 2 partnership, limited liability company, or tax-option corporation that has added that
 3 amount to the partnership's, limited liability company's, or tax-option corporation's
 4 income 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; 2009 a. 2, 28.

Insert 10 - 4

5 2. The maximum amount of the credits that all claimants may receive under
 6 this subsection and ss. 71.07 (5n) and 71.47 (5n) in a taxable year is \$12,000,000.

Insert 11 - 18

7 **SECTION 4.** 71.34 (1k) (g) of the statutes, as affected by 2009 Wisconsin Act 28,
 8 is amended to read:

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

History: 1987 a. 312; 1987 a. 411 ss. 18, 23, 146; 1989 a. 31, 336; 1991 a. 37, 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; 2009 a. 2, 28.

13 **SECTION 5.** 71.45 (2) (a) 10. of the statutes, as affected by 2009 Wisconsin Act
 14 28, is amended to read:

15 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
 16 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3w), (5e), (5f),
 17 (5g), (5h), (5i), (5j), (5k), ~~(5m)~~ⁿ, and (8r) and not passed through by a partnership,
 18 limited liability company, or tax-option corporation that has added that amount to
 19 the partnership's, limited liability company's, or tax-option corporation's income



1 under s. 71.21 (4) or 71.34 (1k) (g) and the amount of credit computed under s. 71.47
2 (1), (3), (3t), (4), (4m), and (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; 2009 a. 2, 28.

Insert 13 - 11

3 2. The maximum amount of the credits that all claimants may receive under
4 this subsection and ss. 71.07 (5n) and 71.28 (5n) in a taxable year is \$12,000,000.

Insert 15 - 5

5 **SECTION 6.** 77.92 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is
6 amended to read:

7 77.92 (4) "Net business income," with respect to a partnership, means taxable
8 income as calculated under section 703 of the Internal Revenue Code; plus the items
9 of income and gain under section 702 of the Internal Revenue Code, including taxable
10 state and municipal bond interest and excluding nontaxable interest income or
11 dividend income from federal government obligations; minus the items of loss and
12 deduction under section 702 of the Internal Revenue Code, except items that are not
13 deductible under s. 71.21; plus guaranteed payments to partners under section 707
14 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
15 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s),
16 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5l), and (8r); and plus or minus, as
17 appropriate, transitional adjustments, depreciation differences, and basis
18 differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain,
19 loss, and deductions from farming. "Net business income," with respect to a natural
20 person, estate, or trust, means profit from a trade or business for federal income tax



- 1 purposes and includes net income derived as an employee as defined in section 3121
- 2 (d) (3) of the 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; 2009 a. 2, 28.

(end ins 15-5)

Duerst, Christina

From: Bacher, Luke
Sent: Thursday, March 18, 2010 11:01 AM
To: LRB.Legal
Subject: Draft Review: LRB 09-4391/1 Topic: Education improvement and educational expenses credits

Please Jacket LRB 09-4391/1 for the ASSEMBLY.