

2011 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB164)

Received: 09/16/2011

Received By: jkreye

Wanted: As time permits

Companion to LRB:

For: Terry Moulton (608) 266-7511

By/Representing: elise

May Contact:

Drafter: jkreye

Subject: Tax, Business - credits

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Sen.Moulton@legis.wisconsin.gov

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

Pre Topic:

No specific pre topic given

Topic:

Workplace wellness program tax credit

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 09/16/2011	wjackson 09/23/2011		_____			
/P1			rschluet 09/23/2011	_____	ggodwin 09/23/2011		
/1	jkreye 09/29/2011	kfollett 09/29/2011	rschluet 09/29/2011	_____	sbasford 09/29/2011	sbasford 09/29/2011	

FE Sent For:

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*Please
jacket
now!*

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/?	jkreye 09/16/2011	wjackson 09/23/2011					
/P1		<i>11 kif</i> 9/29	rschluet 09/23/2011		ggodwin 09/23/2011		

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<END>

52911

2011 DRAFTING REQUEST

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Drafter: **jkreye**

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/?	jkreye	/pl WLj 9/22					
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FE Sent For:

<END>

Kreye, Joseph

From: Nelson, Elise
Sent: Friday, September 16, 2011 3:32 PM
To: Kreye, Joseph
Subject: Amendment (s) to SB 164 or LRB 2220/3

Joe,

After the public hearing on SB 164 we'd like to make the changes below. If it is easier to make these changes in the form of a subamendment, please do so.

1. Change the amount of allowable credits in a fiscal year from \$5 to \$3 million.
2. Please narrow the scope of those who qualify for the credit to small business (using the statutory definition of having 50 employees or less)
3. We need to specify that the only programs to qualify for the credit must be NEW workplace wellness programs, not those already in existence.
4. Let's change the carryforward for the credit from 15 years to 5 years.
5. Please specify in the language that it is DHS who must certify a wellness program and that DOR will allocate the credit. Please indicate that DOR is the lead agency while promulgating the rule and must consult with DHS.

Thank you!

Elise Nelson
Office of Sen. Terry Moulton
23rd Senate District
608.266.7511



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2220/3

JK:wlj:rs

stays

SSA to

2011 SENATE BILL 164

5 0184/P1

in Fri 9-16

due 9-23

D-N

August 11, 2011 - Introduced by Senators MOULTON, LASSA, HOPPER, KAPANKE, LAZICH, LEIBHAM, SCHULTZ and ZIPPERER, cosponsored by Representatives MURTHA, NYGREN, BIES, BROOKS, DOYLE, HONADEL, JACQUE, JORGENSEN, KAUFERT, KESTELL, KUGLITSCH, T. LARSON, LEMAHIEU, LITJENS, NERISON, A. OTT, PETERSEN, PETROWSKI, PETRYK, PRIDEMORE, RIPP, SINICKI, SPANBAUER, STASKUNAS, STONE, STRACHOTA, THIESFELDT, TRANEL, VAN ROY and ZEPNICK. Referred to Committee on Public Health, Human Services, and Revenue.

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 (8s), 71.10 (4) (cf), 71.28 (8s), 71.30
3 (3) (cf), 71.47 (8s), 71.49 (1) (cf) and 73.15 of the statutes; **relating to:** an income
4 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 Revenue, 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, as affected by 2011 Wisconsin Act
7 32, is amended to read:

SENATE BILL 164

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), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
 3 (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), ~~and (8r),~~
 4 and (8s) and not passed through by a partnership, limited liability company, or
 5 tax-option corporation that has added that amount to the partnership's, company's,
 6 or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

7 **SECTION 2.** 71.07 (8s) of the statutes is created to read:

8 71.07 **(8s)** 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.

INSERT
2-15

16 ④ "Workplace wellness program" means a health or fitness program certified
 17 under s. 73.15 (3), and includes health risk assessments and one or more of the
 18 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.

SENATE BILL 164

1 h. Vaccinations.

2 i. Employee physical examinations.

at a small business located

3 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
4 73.15, a claimant may claim as a credit against the taxes imposed under s. 71.02, up
5 to the amount of those taxes, in each taxable year for 3 years, an amount that is equal
6 to 30 percent of the amount that the claimant paid in the taxable year to provide a
7 workplace wellness program to any of the claimant's employees who are employed
8 in this state, not including any amount paid to acquire, construct, rehabilitate,
9 remodel, or repair real property.

by all claimants

10 (c) *Limitations.* 1. Except as provided in s. 73.15 (2), the maximum amount
11 of the credits that may be claimed under this subsection and ss. 71.28 (8s) and 71.47
12 (8s) in any taxable year is \$2,500,000 for all claimants who employ 50 or fewer
13 employees in the taxable year and \$2,500,000 for all claimants who employ more
14 than 50 employees in the taxable year.

\$3,000,000

Insert 3-14

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

(g) and

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

Insert 3-24

25 SECTION 3. 71.10 (4) (cf) of the statutes is created to read:

SENATE BILL 164**SECTION 3**

1 71.10 (4) (cf) Workplace wellness program credit under s. 71.07 (8s).

2 **SECTION 4.** 71.21 (4) of the statutes, as affected by 2011 Wisconsin Act
3 (Assembly Bill 40), is 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), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s),
6 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), ~~and (8r)~~, and (8s) and
7 passed through to partners shall be added to the partnership's income.

8 **SECTION 5.** 71.26 (2) (a) 4. of the statutes, as affected by 2011 Wisconsin Act 32,
9 is amended to read:

10 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
11 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
12 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), (8r), (8s),
13 and (9s) and not passed through by a partnership, limited liability company, or
14 tax-option corporation that has added that amount to the partnership's, limited
15 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k)
16 (g).

17 **SECTION 6.** 71.28 (8s) of the statutes is created to read:

18 71.28 (8s) WORKPLACE WELLNESS PROGRAM CREDIT. (a) *Definitions.* In this
19 subsection:

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

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

SENATE BILL 164

Insert 5-1 ✓

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(3) "Workplace wellness program" means a health or fitness program certified under s. 73.15 (3), and includes health risk assessments and one or more 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.
- h. Vaccinations.
- i. Employee physical examinations.

at a small business located ✓

(b) *Filing claims.* Subject to the limitations provided in this subsection and s. 73.15, a claimant may claim as a credit against the taxes imposed under s. 71.23, up to the amount of those taxes, in each taxable year for 3 years, an amount that is equal to 30 percent of the amount that the claimant paid in the taxable year to provide a workplace wellness program to any of the claimant's employees who are employed in this state, not including any amount paid to acquire, construct, rehabilitate, remodel, or repair real property.

by all claimants ✓

(c) *Limitations.* 1. Except as provided in s. 73.15 (2), the maximum amount of the credits that may be claimed under this subsection and ss. 71.07 (8s) and 71.47 (8s) in any taxable year is \$2,500,000 for all claimants who employ 50 or fewer employees in the taxable year and \$2,500,000 for all claimants who employ more than 50 employees in the taxable year.

Annual

\$3,000,000 ✓

Insert 5-24 ✓

SENATE BILL 164

SECTION 6

1

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

10 (d) *Administration.* Subsection (4) (e) ^{(g) and} (h), as it applies to the credit under
 11 sub. (4), applies to the credit under this subsection.

12 SECTION 7. 71.30 (3) (cf) of the statutes is created to read:

13 71.30 (3) (cf) Workplace wellness program credit under s. 71.28 (8s).

14 SECTION 8. 71.34 (1k) (g) of the statutes, as affected by 2011 Wisconsin Act 32,
15 is amended to read:

16 71.34 (1k) (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), (1dy),
 18 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j),
 19 (5k), (5n), (5r), (5rm), and (8r), and (8s) and passed through to shareholders.

20 SECTION 9. 71.45 (2) (a) 10. of the statutes, as affected by 2011 Wisconsin Act
21 32, is amended to read:

22 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
 23 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn),
 24 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), (8r), (8s), and (9s) and not
 25 passed through by a partnership, limited liability company, or tax-option
 corporation that has added that amount to the partnership's, limited liability

Amend 6-10

SENATE BILL 164

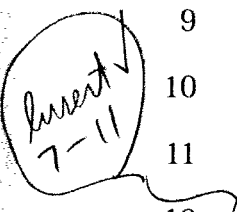
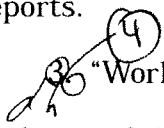
1 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g) and
2 the amount of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

3 **SECTION 10.** 71.47 (8s) of the statutes is created to read:

4 71.47 (8s) 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   "Workplace wellness program" means a health or fitness program certified
13 under s. 73.15 (3), and includes health risk assessments and one or more of the
14 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 h. Vaccinations.
- 23 i. Employee physical examinations.

24 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
25 73.15, a claimant may claim as a credit against the taxes imposed under s. 71.43, up

SENATE BILL 164

SECTION 10

at a small business located

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

by all claimants

(c) Limitations. 1. Except as provided in s. 73.15 (2), the maximum amount

of the credits that may be claimed under this subsection and ss. 71.07 (5i) and 71.28 (5i) in any taxable year is \$2,500,000 for all claimants who employ 50 or fewer employees in the taxable year and \$2,500,000 for all claimants who employ more than 50 employees in the taxable year.

\$3,000,000

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

(g), and

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

SECTION 11. 71.49 (1) (cf) of the statutes is created to read:

71.49 (1) (cf) Workplace wellness program credit under s. 71.47 (8s).

SECTION 12. 73.15 of the statutes is created to read:

73.15 Workplace wellness programs. (1) The department of revenue and the department of health services shall implement a program to certify workplace

the consultation with

Insert 8-10

Insert 8-20

SENATE BILL 164

1 wellness programs developed by a business or independent provider as described
2 under ss. 71.07 (8s), 71.28 (8s), and 71.47 (8s).

3 (2) If the department of health services certifies a workplace wellness program
4 under sub. (1), the department of revenue shall determine the amount of workplace
5 wellness program credits to allocate to the business providing the workplace
6 wellness program. The total amount of workplace wellness program credits
7 allocated to businesses in any ^{fiscal} year may not exceed \$5,000,000. In any year, the
8 department of revenue may not allocate more than \$2,500,000 in credits to
9 businesses with more than 50 employees, and may not allocate more than \$2,500,000
10 in credits to businesses with 50 or fewer employees, except that the department may
11 increase the allocation to businesses with 50 or fewer employees by the amount of
12 any credits the department is not able to allocate to businesses with 50 or more
13 employees.

14 (3) The department of revenue ^{and} the department of health services ^{in consultation with} shall
15 promulgate rules to administer this section.

16 **SECTION 13.** 77.92 (4) of the statutes, as affected by 2011 Wisconsin Act 32, is
17 amended to read:

18 77.92 (4) "Net business income," with respect to a partnership, means taxable
19 income as calculated under section 703 of the Internal Revenue Code; plus the items
20 of income and gain under section 702 of the Internal Revenue Code, including taxable
21 state and municipal bond interest and excluding nontaxable interest income or
22 dividend income from federal government obligations; minus the items of loss and
23 deduction under section 702 of the Internal Revenue Code, except items that are not
24 deductible under s. 71.21; plus guaranteed payments to partners under section 707
25 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),

SENATE BILL 164**SECTION 13**

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

SECTION 14. Initial applicability.

9
10 (1) This act first applies to taxable years ~~beginning~~^{starting} on January 1, 2012.

11 (END)

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0184/?ins
JK:.....

Insert 2 - 5

1 3. "Small business" means an independently owned and operated business
2 ^{that} ~~which~~ is not dominant in its field and ^{that} ~~which~~ has 50 or fewer employees.

Insert 3 - 14

3 2. No person may claim a credit under this subsection for a workplace wellness
4 program in existence before the effective date of this subdivision ... ^{LRB inserts}
5 date.]

Insert 3 - 24

6 2. If a credit computed under this subsection is not entirely offset against
7 Wisconsin income or franchise taxes otherwise due, the unused balance may be
8 carried forward and credited against Wisconsin income or franchise taxes otherwise
9 due for the following 5 taxable years to the extent not offset by these taxes otherwise
10 due in all intervening years between the year in which the expense was incurred and
11 the year in which the carry-forward credit is claimed.

Insert 5 - 1

12 3. "Small business" means an independently owned and operated business
13 ^{that} ~~which~~ is not dominant in its field and ^{that} ~~which~~ has 50 or fewer employees.

Insert 5 - 24

14 2. No person may claim a credit under this subsection for a workplace wellness
15 program in existence before the effective date of this subdivision ... ^{LRB inserts}
16 date.]

Insert 6 - 10

17 2. If a credit computed under this subsection is not entirely offset against
18 Wisconsin income or franchise taxes otherwise due, the unused balance may be

1 carried forward and credited against Wisconsin income or franchise taxes otherwise
2 due for the following 5 taxable years to the extent not offset by these taxes otherwise
3 due in all intervening years between the year in which the expense was incurred and
4 the year in which the carry-forward credit is claimed.

Insert 7 - 11

5 3. "Small business" means an independently owned and operated business
6 ~~which~~ ^{that} is not dominant in its field and ~~which~~ ^{that} has 50 or fewer employees.

Insert 8 - 10

7 2. No person may claim a credit under this subsection for a workplace wellness
8 program in existence before the effective date of this subdivision ... ⁹ ~~(LRB inserts~~
9 date ^{e]}

Insert 8 - 20

10 2. If a credit computed under this subsection is not entirely offset against
11 Wisconsin income or franchise taxes otherwise due, the unused balance may be
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13 due for the following 5 taxable years to the extent not offset by these taxes otherwise
14 due in all intervening years between the year in which the expense was incurred and
15 the year in which the carry-forward credit is claimed.

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

LRBs0184/7dn

JK:.....

Wlj

Date

Senator Moulton:

Please review this draft carefully to ensure that it is consistent with your intent.

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

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

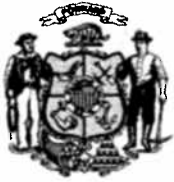
LRBs0184/P1dn
JK:wlj:rs

September 23, 2011

Senator Moulton:

Please review this draft carefully to ensure that it is consistent with your intent.

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



State of Wisconsin
2011 - 2012 LEGISLATURE



LRBs0184/P1
JK:wli:rs

Stays RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SENATE SUBSTITUTE AMENDMENT ,

TO 2011 SENATE BILL 164

in thru 9-29

Today

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 (8s), 71.10 (4) (cf), 71.28 (8s), 71.30
3 (3) (cf), 71.47 (8s), 71.49 (1) (cf) and 73.15 of the statutes; **relating to:** an income
4 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:

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7 32, is amended to read:

8 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
9 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
10 (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), and (8r),

1 and (8s) and not passed through by a partnership, limited liability company, or
2 tax-option corporation that has added that amount to the partnership's, company's,
3 or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

4 **SECTION 2.** 71.07 (8s) of the statutes is created to read:

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

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

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

13 3. "Small business" means an independently owned and operated business that
14 is not dominant in its field and that has 50 or fewer employees.

15 4. "Workplace wellness program" means a health or fitness program certified
16 under s. 73.15 (3), and includes health risk assessments and one or more of the
17 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.
- 25 h. Vaccinations.

1 i. Employee physical examinations.

2 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
3 73.15, a claimant may claim as a credit against the taxes imposed under s. 71.02, up
4 to the amount of those taxes, in each taxable year for 3 years, an amount that is equal
5 to 30 percent of the amount that the claimant paid in the taxable year to provide a
6 workplace wellness program to any of the claimant's employees who are employed
7 as a small business located in this state, not including any amount paid to acquire,
8 construct, rehabilitate, remodel, or repair real property.

9 (c) *Limitations.* 1. Except as provided in s. 73.15 (2), the maximum amount
10 of the credits that may be claimed by all claimants under this subsection and ss. 71.28
11 (8s) and 71.47 (8s) in any fiscal year is \$3,000,000.

12 2. No person may claim a credit under this subsection for a workplace wellness
13 program in existence before the effective date of this subdivision [LRB inserts
14 date].

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

23 (d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the
24 credit under s. 71.28 (4), applies to the credit under this subsection.

1 2. If a credit computed under this subsection is not entirely offset against
2 Wisconsin income or franchise taxes otherwise due, the unused balance may be
3 carried forward and credited against Wisconsin income or franchise taxes otherwise
4 due for the following 5 taxable years to the extent not offset by these taxes otherwise
5 due in all intervening years between the year in which the expense was incurred and
6 the year in which the carry-forward credit is claimed.

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

8 71.10 (4) (cf) Workplace wellness program credit under s. 71.07 (8s).

9 **SECTION 4.** 71.21 (4) of the statutes, as affected by 2011 Wisconsin Act ...
10 (Assembly Bill 40), is amended to read:

11 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
12 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s),
13 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), ~~and (8r), and (8s)~~ and
14 passed through to partners shall be added to the partnership's income.

15 **SECTION 5.** 71.26 (2) (a) 4. of the statutes, as affected by 2011 Wisconsin Act 32,
16 is amended to read:

17 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
18 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
19 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), (8r), ~~(8s)~~,
20 and (9s) and not passed through by a partnership, limited liability company, or
21 tax-option corporation that has added that amount to the partnership's, limited
22 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k)
23 (g).

24 **SECTION 6.** 71.28 (8s) of the statutes is created to read:

1 71.28 (8s) 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. "Small business" means an independently owned and operated business that
10 is not dominant in its field and that has 50 or fewer employees. ^a

11 4. "Workplace wellness program" means a health or fitness program certified
12 under s. 73.15 (3), and includes health risk assessments and one or more of the
13 following programs or services:

- 14 a. Smoking cessation.
- 15 b. Weight management.
- 16 c. Stress management.
- 17 d. Worker injury prevention programs.
- 18 e. Health screenings.
- 19 f. Nutrition education.
- 20 g. Health or fitness incentive programs.
- 21 h. Vaccinations.
- 22 i. Employee physical examinations.

23 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
24 73.15, a claimant may claim as a credit against the taxes imposed under s. 71.23, up
25 to the amount of those taxes, in each taxable year for 3 years, an amount that is equal

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

5 (c) *Limitations.* 1. Except as provided in s. 73.15 (2), the maximum amount
6 of the credits that may be claimed by all claimants under this subsection and ss. 71.07
7 (8s) and 71.47 (8s) in any fiscal year is \$3,000,000.

8 2. No person may claim a credit under this subsection for a workplace wellness
9 program in existence before the effective date of this subdivision [LRB inserts
10 date].

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

19 (d) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit
20 under sub. (4), applies to the credit under this subsection.

21 2. If a credit computed under this subsection is not entirely offset against
22 Wisconsin income or franchise taxes otherwise due, the unused balance may be
23 carried forward and credited against Wisconsin income or franchise taxes otherwise
24 due for the following 5 taxable years to the extent not offset by these taxes otherwise

1 due in all intervening years between the year in which the expense was incurred and
2 the year in which the carry-forward credit is claimed.

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

4 71.30 (3) (cf) Workplace wellness program credit under s. 71.28 (8s).

5 **SECTION 8.** 71.34 (1k) (g) of the statutes, as affected by 2011 Wisconsin Act 32,
6 is amended to read:

7 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
8 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
9 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j),
10 (5k), (5n), (5r), (5rm), ~~and (8r), and (8s)~~ and passed through to shareholders.

11 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2011 Wisconsin Act
12 32, 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 (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn),
15 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), (8r), ~~(8s)~~, and (9s) and not
16 passed through by a partnership, limited liability company, or tax-option
17 corporation that has added that amount to the partnership's, limited liability
18 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g) and
19 the amount of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

20 **SECTION 10.** 71.47 (8s) of the statutes is created to read:

21 71.47 (8s) WORKPLACE WELLNESS PROGRAM CREDIT. (a) *Definitions.* In this
22 subsection:

- 23 1. "Claimant" means a person who files a claim under this subsection.
24 2. "Health risk assessment" means a computer-based health-promotion tool
25 consisting of a questionnaire; a biometric health screening to measure vital health

1 statistics, including blood pressure, cholesterol, glucose, weight, and height; a
2 formula for estimating health risks; an advice database; and a means to generate
3 reports.

4 3. "Small business" means an independently owned and operated business that
5 is not dominant in its field and that has 50 or fewer employees.

6 4. "Workplace wellness program" means a health or fitness program certified
7 under s. 73.15 (3), and includes health risk assessments and one or more of the
8 following programs or services:

- 9 a. Smoking cessation.
- 10 b. Weight management.
- 11 c. Stress management.
- 12 d. Worker injury prevention programs.
- 13 e. Health screenings.
- 14 f. Nutrition education.
- 15 g. Health or fitness incentive programs.
- 16 h. Vaccinations.
- 17 i. Employee physical examinations.

18 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
19 73.15, a claimant may claim as a credit against the taxes imposed under s. 71.43, up
20 to the amount of those taxes, in each taxable year for 3 years, an amount that is equal
21 to 30 percent of the amount that the claimant paid in the taxable year to provide a
22 workplace wellness program to any of the claimant's employees who are employed
23 at a small business located in this state, not including any amount paid to acquire,
24 construct, rehabilitate, remodel, or repair real property.

1 (c) *Limitations.* 1. Except as provided in s. 73.15 (2), the maximum amount
2 of the credits that may be claimed by all claimants under this subsection and ss. 71.07
3 (5i) and 71.28 (5i) in any fiscal year is \$3,000,000.

4 2. No person may claim a credit under this subsection for a workplace wellness
5 program in existence before the effective date of this subdivision [LRB inserts
6 date].

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

15 (d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the
16 credit under s. 71.28 (4), applies to the credit under this subsection.

17 2. If a credit computed under this subsection is not entirely offset against
18 Wisconsin income or franchise taxes otherwise due, the unused balance may be
19 carried forward and credited against Wisconsin income or franchise taxes otherwise
20 due for the following 5 taxable years to the extent not offset by these taxes otherwise
21 due in all intervening years between the year in which the expense was incurred and
22 the year in which the carry-forward credit is claimed.

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

24 71.49 (1) (cf) Workplace wellness program credit under s. 71.47 (8s).

25 **SECTION 12.** 73.15 of the statutes is created to read:

1 **73.15 Workplace wellness programs.** (1) In consultation with the
2 department of revenue, the department of health services shall certify workplace
3 wellness programs developed by a business or independent provider as described
4 under ss. 71.07 (8s), 71.28 (8s), and 71.47 (8s).

5 (2) If the department of health services certifies a workplace wellness program
6 under sub. (1), the department of revenue shall determine the amount of workplace
7 wellness program credits to allocate to the business providing the workplace
8 wellness program. The total amount of workplace wellness program credits
9 allocated to businesses in any fiscal year may not exceed \$3,000,000.

10 (3) The department of revenue, in consultation with the department of health
11 services, shall promulgate rules to administer this section.

12 **SECTION 13.** 77.92 (4) of the statutes, as affected by 2011 Wisconsin Act 32, is
13 amended to read:

14 77.92 (4) "Net business income," with respect to a partnership, means taxable
15 income as calculated under section 703 of the Internal Revenue Code; plus the items
16 of income and gain under section 702 of the Internal Revenue Code, including taxable
17 state and municipal bond interest and excluding nontaxable interest income or
18 dividend income from federal government obligations; minus the items of loss and
19 deduction under section 702 of the Internal Revenue Code, except items that are not
20 deductible under s. 71.21; plus guaranteed payments to partners under section 707
21 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
22 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
23 (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), and
24 (8r), and (8s); and plus or minus, as appropriate, transitional adjustments,
25 depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and

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

5 **SECTION 14. Initial applicability.**

6 (1) This act first applies to taxable years beginning on January 1, 2012.

7 (END)