State of Wisconsin

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STEPHEN R. MILLER
CHIEF

January 12, 2012

MEMORANDUM

To: Senator Grothman

From: Marc E. Shovers, Managing Attorney, (608) 266-0129

Subject: Technical Memorandum to **2011 SB 364** (LRB-3488/1) **by DOR**

We received the attached technical memorandum relating to your bill. This copy is for your information and your file.

If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

January 9, 2012

TO: Marc Shovers
            Legislative Reference Bureau

FROM: John Koskinen
            Brad Caruth
            Department of Revenue

SUBJECT: Technical Memorandum on Senate Bill 364: Creating an Individual Income Tax
            Deduction for Certain Contributions to a Coverdell Education Savings Account

The Department has the following concerns related to the bill:

Federal law provides that Coverdell Education Savings Accounts (CESA) are not taxable, but
also provides a penalty for distributions that are not used for qualified education expenses. The
federal penalty (sec. 530(d)(4), IRC) is 10% of the amount of the distribution which is required to
be included in income. Is it the intent that Wisconsin will allow a deduction for contributions, but
no corresponding penalty when the distribution is not used for qualified education expenses?

Under the bill, a double benefit is possible if a subtraction is claimed for contributions to the
CESA and for tuition expenses under sec. 71.05(6)(b)28. If this is not the intent, a provision
could be included similar to that in sec. 71.05(6)(b)28.h., which prevents a double benefit for
contributions to a college savings account (EdVest) and the tuition deduction.

If you have any questions regarding this technical memorandum, please contact Brad Caruth at
(608) 261-8984 or bradley.caruth@revenue.wi.gov.

cc: Senator Grothman