AN ACT to amend 71.26 (3) (L); and to create 71.05 (1) (hp), 71.26 (3) (ag) 4.,

71.34 (1k) (ai), 71.45 (1) (dn) and 71.45 (2) (a) 24. of the statutes; relating to:

an income and franchise tax exemption for restaurant revitalization grants.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax exemption for income received in the form of a grant from the Restaurant Revitalization Fund established by the federal American Rescue Plan Act of 2021. Current law provides similar exemptions for income received in the form of allocations issued by the state with moneys received from the federal Coronavirus Relief Fund and used for a number of purposes, including broadband expansion, privately owned movie theater grants, music and performance venue grants, and lodging industry grants.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

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 (1) (hp) of the statutes is created to read:
71.05 (1) (hp) Grants from the federal restaurant revitalization fund. Income received in the form of a grant from the restaurant revitalization fund pursuant to the federal American Rescue Plan Act of 2021, P.L. 117-2. Amounts otherwise deductible under this chapter that are paid directly or indirectly with the grant money are deductible.

SECTION 2. 71.26 (3) (ag) 4. of the statutes is created to read:

71.26 (3) (ag) 4. Income received in the form of a grant from the restaurant revitalization fund pursuant to the federal American Rescue Plan Act of 2021, P.L. 117-2. Amounts otherwise deductible under this chapter that are paid directly or indirectly with the grant money are deductible.

SECTION 3. 71.26 (3) (L) of the statutes, as affected by 2021 Wisconsin Act 1, is amended to read:

71.26 (3) (L) Section 265 is excluded and replaced by the rule that any amount otherwise deductible under this chapter that is directly or indirectly related to income wholly exempt from taxes imposed by this chapter or to losses from the sale or other disposition of assets the gain from which would be exempt under this paragraph if the assets were sold or otherwise disposed of at a gain is not deductible. In this paragraph, “wholly exempt income”, for corporations subject to franchise or income taxes, includes amounts received from affiliated or subsidiary corporations for interest, dividends or capital gains that, because of the degree of common ownership, control or management between the payor and payee, are not subject to taxes under this chapter. In this paragraph, “wholly exempt income”, for corporations subject to income taxation under this chapter, also includes interest on obligations of the United States. In this paragraph, “wholly exempt income” does not include income excludable, not recognized, exempt or deductible under specific
provisions of this chapter. If any expense or amount otherwise deductible is
indirectly related both to wholly exempt income or loss and to other income or loss,
a reasonable proportion of the expense or amount shall be allocated to each type of
income or loss, in light of all the facts and circumstances. This paragraph does not
apply to the exclusion under par. (ag) 2. or 3., or 4.

SECTION 4. 71.34 (1k) (ai) of the statutes is created to read:

71.34 (1k) (ai) Section 61 of the Internal Revenue Code is modified so that
income received in the form of a grant from the restaurant revitalization fund,
pursuant to the federal American Rescue Plan Act of 2021, P.L. 117-2, is not taxable
income. Amounts otherwise deductible under this chapter that are paid directly or
indirectly with the grant money are deductible.

SECTION 5. 71.45 (1) (dn) of the statutes is created to read:

71.45 (1) (dn) Income received in the form of a grant from the restaurant
revitalization fund pursuant to the federal American Rescue Plan Act of 2021, P.L.
117-2. Amounts otherwise deductible under this chapter that are paid directly or
indirectly with the grant money are deductible.

SECTION 6. 71.45 (2) (a) 24. of the statutes is created to read:

71.45 (2) (a) 24. By subtracting from federal taxable income, to the extent
included in federal taxable income, income received in the form of a grant from the
restaurant revitalization fund pursuant to the federal American Rescue Plan Act of
2021, P.L. 117-2. Amounts otherwise deductible under this chapter that are paid
directly or indirectly with the grant money are deductible.

SECTION 7. Initial applicability.

(1) This act first applies to taxable years beginning after December 31, 2020.