

2009 SENATE BILL 69

February 18, 2009 – Introduced by Senators HOPPER, ERPENBACH, DARLING, HARSDORF, KEDZIE, A. LASEE, LASSA, LAZICH, LEIBHAM, OLSEN, SCHULTZ and WIRCH, cosponsored by Representatives ROTH, YOUNG, KAUFERT, BALLWEG, BENEDICT, BIES, BROOKS, CULLEN, DAVIS, GUNDERSON, GUNDRUM, KERKMAN, LEMAHIEU, LOTHIAN, MURSAU, MURTHA, NASS, NYGREN, A. OTT, J. OTT, PETERSEN, RICHARDS, RIPP, SPANBAUER, STONE, STRACHOTA, SUDER, TAUCHEN, TOWNSEND, VAN ROY, VOS, A. WILLIAMS, ZIEGELBAUER, ZIPPERER and NERISON. Referred to Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue.

1 **AN ACT to create** 71.05 (6) (b) 47. and subchapter XVI of chapter 71 [precedes
2 71.98] of the statutes; **relating to:** adopting federal law as it relates to an
3 income tax deduction for certain educators and creating an individual income
4 tax deduction for educators who use their own funds to purchase classroom
5 educational supplies.

Analysis by the Legislative Reference Bureau

For taxable years beginning after December 31, 2008, this bill adopts, for state income and franchise tax purposes, a provision of the Internal Revenue Code (IRC) allowing an individual income tax deduction for certain expenses of elementary and secondary school teachers. This federal law does not apply to taxable years beginning after December 31, 2009.

For taxable years beginning after December 31, 2008, this bill creates an individual income tax deduction for an amount of up to \$250 that is paid by an eligible educator for educational materials or supplies for use in a public school, a private school, a tribal school, or a charter school. The bill defines “eligible educator” as an individual who is a teacher, instructor, counselor, principal, or aide in a school for at least 900 hours in the taxable year to which the claim relates. Under the bill, the deduction may not be claimed in any year for which an individual may claim the deduction to which the IRC update in this bill applies. In the past, the federal government has extended this federal deduction upon its expiration.

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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 and local* 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:

1 **SECTION 1.** 71.05 (6) (b) 47. of the statutes is created to read:

2 71.05 **(6)** (b) 47. Except as provided in subd. 47. f., for taxable years beginning
3 after December 31, 2008, an amount up to \$250 paid for educational supplies, in the
4 taxable year to which the claim relates, by a claimant who is an eligible educator at
5 a school. In this subdivision, the following terms have the following meanings and
6 the following conditions apply:

7 a. “Educational supplies” means books, supplies, other than nonathletic
8 supplies for courses of instruction in health or physical education, computer
9 equipment, including related software and services, and other equipment and
10 supplementary materials that are purchased and used by an eligible educator in the
11 classroom.

12 b. “Eligible educator” means an individual who is a teacher, instructor,
13 counselor, principal, or aide in a school for at least 900 hours in the taxable year to
14 which the claim relates.

15 c. “School” means a public school, as specified in s. 115.01 (1); a private school,
16 as specified in s. 115.001 (3r); a tribal school; or a charter school, as specified in s.
17 115.001 (1).

18 d. “Tribal school” means an institution with an educational program that has
19 as its primary purpose providing education in any grade or grades from kindergarten

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1 to 12 and that is controlled by the elected governing body of a federally recognized
2 American Indian tribe or band in Wisconsin or by a tribal educational authority
3 established under the laws of a federally recognized American Indian tribe or band
4 in Wisconsin.

5 e. For a claimant who is a nonresident or part-year resident of this state,
6 multiply the amount for which the claimant is eligible under subd. 47. (intro.) by a
7 fraction, the numerator of which is the individual's wages, salary, tips, unearned
8 income, and net earnings from a trade or business that are taxable by this state and
9 the denominator of which is the individual's total wages, salary, tips, unearned
10 income, and net earnings from a trade or business. In this subd. 47. e., for married
11 persons filing separately "wages, salary, tips, unearned income, and net earnings
12 from a trade or business" means the separate wages, salary, tips, unearned income,
13 and net earnings from a trade or business of each spouse, and for married persons
14 filing jointly "wages, salary, tips, unearned income, and net earnings from a trade or
15 business" means the total wages, salary, tips, unearned income, and net earnings
16 from a trade or business of both spouses.

17 f. This subdivision does not apply to any taxable year for which an individual
18 may claim a deduction under section 62 (a) (2) (D) of the Internal Revenue Code.

19 **SECTION 2.** Subchapter XVI of chapter 71 [precedes 71.98] of the statutes is
20 created to read:

CHAPTER 71**SUBCHAPTER XVI****INTERNAL REVENUE CODE UPDATE**

24 **71.98 Internal Revenue Code update.** The following federal laws, to the
25 extent that they apply to the Internal Revenue Code, apply to this chapter:

