

1       **AN ACT** *to amend* 71.07 (5i) (b), 71.28 (5i) (b), 71.47 (5i) (b) and 560.204 (2) of the  
2           statutes; **relating to:** the electronic medical records tax credit.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**JOINT LEGISLATIVE COUNCIL PREFATORY NOTE:** This bill draft was prepared for the Joint Legislative Council’s Special Committee on Performance–Based Disease Management Programs for Large Populations.

A state tax credit for electronic medical records (EMRs) will go into effect in 2010. The tax credit available will be equal to 50% of the amount paid by a health care provider in a tax year for information technology hardware or software that is used to maintain medical records in an electronic form. The Department of Commerce (Commerce) must implement a program to certify health care providers as eligible for the credit. If Commerce certifies a health care provider, Commerce must determine the amount of credits to allocate to that provider. No more than \$10 million in credits may be allocated each year.

There are currently no standards in state law pertaining to the interoperability of health care information technology. The federal Center for Medicaid Services (CMS) requires all health care providers that participate in its demonstration projects to utilize electronic medical records systems that are certified by the Certification Commission for Healthcare Information Technology (CCHIT). CCHIT is an independent, nonprofit organization that has been awarded a contract by the U.S. Department of Health and Human Services (HHS) to develop, create prototypes for, and evaluate the certification criteria and inspection process for electronic health records.

This bill draft specifies that in allocating the EMR tax credits that will be available beginning in 2010, Commerce must give priority to claims for costs related to the establishment of new EMR systems and to upgrading EMR systems to enable them to meet CCHIT standards or standards established by another recognized certification system that is designed to facilitate exchange of information and improve the quality of health care. The draft specifies that when allocating credits the department shall further grant priority to claimants that provide health care to underserved or low–income populations and to claimants have the greatest need for

financial assistance. The draft also specifies that the credit may be claimed for amounts paid by a health care provider to a 3rd party to provide EMR services to the health care provider if it does not own its own EMR system.

1           **SECTION 1.** 71.07 (5i) (b) of the statutes is amended to read:

2           71.07 **(5i)** (b) *Filing claims.* Subject to the limitations provided in this subsection, for  
3 taxable years beginning after December 31, 2009, a claimant may claim as a credit against the  
4 taxes imposed under s. 71.02, up to the amount of those taxes, an amount equal to 50 percent  
5 of the amount the claimant paid in the taxable year for information technology hardware or  
6 software that is used to maintain medical records in electronic form or 50 percent of the  
7 amount paid to a third party electronic medical record application service provider to maintain  
8 and deliver electronic medical records of the claimant when the claimant does not own related  
9 hardware and software, if the claimant is a health care provider, as defined in s. 146.81 (1).

10           **SECTION 2.** 71.28 (5i) (b) of the statutes is amended to read:

11           71.28 **(5i)** (b) *Filing claims.* Subject to the limitations provided in this subsection, for  
12 taxable years beginning after December 31, 2009, a claimant may claim as a credit against the  
13 taxes imposed under s. 71.23, up to the amount of those taxes, an amount equal to 50 percent  
14 of the amount the claimant paid in the taxable year for information technology hardware or  
15 software that is used to maintain medical records in electronic form or 50 percent of the  
16 amount paid to a third party electronic medical record application service provider to maintain  
17 and deliver electronic medical records of the claimant when the claimant does not own related  
18 hardware and software, if the claimant is a health care provider, as defined in s. 146.81 (1).

19           **SECTION 3.** 71.47 (5i) (b) of the statutes is amended to read:

20           71.47 **(5i)** (b) *Filing claims.* Subject to the limitations provided in this subsection, for  
21 taxable years beginning after December 31, 2009, a claimant may claim as a credit against the

1 taxes imposed under s. 71.43, up to the amount of those taxes, an amount equal to 50 percent  
2 of the amount the claimant paid in the taxable year for information technology hardware or  
3 software that is used to maintain medical records in electronic form, or 50 percent of the  
4 amount paid to a third party to maintain electronic medical records of the claimant, if the  
5 claimant is a health care provider, as defined in s. 146.81 (1).

6 **SECTION 4.** 560.204 (2) of the statutes is amended to read:

7 560.204 (2) If the department certifies a health care provider under sub. (1), the  
8 department shall determine the amount of credits to allocate to the health care provider. In  
9 allocating credits, the department shall give priority to claims for costs related to the  
10 establishment of new electronic medical records systems and costs related to upgrading  
11 electronic medical records systems to enable them to become certified by the certification  
12 commission for healthcare information technology or by another recognized certification  
13 system that is designed to facilitate exchange of information and improve the quality of health  
14 care. When allocating credits, the department shall further grant priority to claimants that  
15 provide health care to underserved or low-income populations and to claimants that have the  
16 greatest need for financial assistance with the costs of implementing an electronic medical  
17 records system. The total amount of electronic medical records credits allocated to health care  
18 providers in any year may not exceed \$10,000,000.

19 (END)