

2007 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-SB40)

Received: 06/28/2007

Received By: jkreye

Wanted: As time permits

Identical to LRB:

For: Legislative Fiscal Bureau

By/Representing: Shanovich (RR)

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax, Business - credits

Extra Copies:

Submit via email: YES

Requester's email:

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

Pre Topic:

LFB:.....Shanovich (RR) -

Topic:

Biodiesel fuel production 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 06/28/2007	lkunkel 06/29/2007		_____			
/1			rschluet 06/29/2007	_____	cduerst 06/29/2007		

FE Sent For:

<END>

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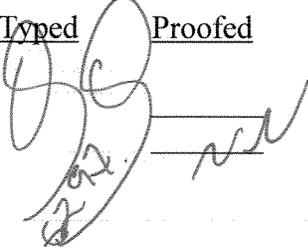
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Biodiesel fuel production credit ✓

Instructions:

See Attached

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/?	jkreye	1/mk 6/29					

FE Sent For:

<END>

*Joe, here's 2 more tax credits
Row*

14. WORLD DAIRY CENTER AUTHORITY REPEAL

Eliminate the statutory authorization for a World Dairy Center Authority.

OTHER

1. E85 AND BIODIESEL MOTOR VEHICLE FUEL TAX EXEMPTION

	Chg. to JFC
SEG	\$3,000,000

Exempt the ethanol portion of gasoline that contains 85% or more ethanol and the biomass portion of motor vehicle fuel (biodiesel) that contains 20% or more biomass product from the state's 30.9 cents per gallon motor vehicle fuel excise tax. Specify the exemption would first be effective with fuel sold on January 1, 2008, and sunset the exemption on June 30, 2010. This would reduce revenues from the motor vehicle fuel tax by an estimated \$1.0 million in 2007-08 and \$2.0 million in 2008-09.

Require that revenues from the petroleum inspection fund be transferred on a quarterly basis to the transportation fund based on the revenue reduction from this exemption in the previous quarter. Require the transfer to be made within 14 days following the end of each quarter. Specify that for the revenue reduction associated with the exemption incurred in the final quarter of each fiscal year, the transfer would be made after the conclusion of the fiscal year, but would be applied to the fiscal year in which the revenue reduction associated with the exemption was incurred. Create a SEG, sum sufficient miscellaneous appropriation from which the transfer from the petroleum inspection fund to the transportation fund would be made and estimate this appropriation at \$1.0 million in 2007-08 and \$2.0 million in 2008-09. Since the petroleum inspection fund transfer would offset the reduced motor vehicle fuel tax revenues, there would be no net effect on transportation fund revenues.

2. BIODIESEL FUEL PRODUCTION TAX CREDIT

	Chg. to JFC
GPR-REV	-\$2,600,000

Create a tax credit, for tax years beginning on or after January 1, 2008, and before January 1, 2011, under the state individual income and corporate income and franchise taxes, equal to 10 cents per gallon for biodiesel produced, up to a maximum of 10 million gallons per year for biodiesel producers located in Wisconsin that produce at least 2.5 million gallons of biodiesel fuel per year. This provision would reduce state income and franchise tax revenues by an estimated \$800,000 in 2007-08 and \$1,800,000 in 2008-09.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBb0893/?

JK:.....

lmk
sjd

LFB:.....Shanovich (RR) - Biodiesel fuel production credit ✓

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2007 SENATE BILL 40

in 6-28-07

1 At the locations indicated, amend the substitute amendment as follows: ✓

2 1. Page 865, line 21: after "(3g)," insert "(3h)". ✓

3 2. Page 876, line 18: after that line insert: Insert A ✓

4 3. Page 887, line 21: after that line insert: Insert B ✓

5 4. Page 888, line 20: after "(3g)," insert "(3h)". ✓

6 5. Page 923, line 11: after "(3g)," insert "(3h)". ✓

7 6. Page 964, line 9: after that line insert: Insert C

8 7. Page 974, line 10: after that line insert: Insert D

9 8. Page 975, line 3: after "(3g)," insert "(3h)". ✓

2007 BILL

1 AN ACT *to amend* 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)
2 (a) 10. and 77.92 (4); and *to create* 71.07 (5i), 71.10 (4) (cn), 71.28 (5i), 71.30 (3)
3 (cn), 71.47 (5i) and 71.49 (1) (cn) of the statutes; **relating to:** an income and
4 franchise tax credit for biodiesel fuel production.

Analysis by the Legislative Reference Bureau

Under this bill, a person who produces at least 1,000,000 gallons of biodiesel fuel in this state in a taxable year may claim an income and franchise tax credit in an amount equal to the number of gallons of biodiesel fuel produced by the person in this state in a taxable year multiplied by 10 cents. However, the maximum amount of the credit that a person may claim in a taxable year is \$1,000,000. If the amount of the credit exceeds the person's tax liability, the state will not issue a refund check, but the person may carry forward any remaining credit to subsequent taxable years.

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:

5 ~~SECTION 1. 71.05 (6) (a) 15. of the statutes is amended to read:~~

BILL

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), (3g), (3n), (3s), (3t), (3w), (5b), (5d), and
 3 (5e), (5f), and (5h), and (5i) and not passed through by a partnership, limited liability
 4 company, or tax-option corporation that has added that amount to the partnership's,
 5 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

INSERT
A

6 ^{al} SECTION 2. 71.07 (5i) of the statutes is created to read:

7 ^{1965h} ^{3h} 71.07 (5i) BIODESEL FUEL PRODUCTION CREDIT. (a) *Definitions.* In this
 8 subsection:

9 1. "Biodiesel fuel" has the meaning given in s. 168.14 (2m) (a).

10 2. "Claimant" means a person who is engaged in the business of producing
 11 biodiesel fuel in this state and who files a claim under this subsection.

12 (b) *Filing claims.* Subject to the limitations provided in this subsection, for a
 13 claimant who produces at least ~~1,000,000~~ ^{2,500,000} gallons of biodiesel fuel in this state in the
 14 taxable year, a claimant may claim as a credit against the tax imposed under s. 71.02,
 15 up to the amount of the tax, an amount that is equal to the number of gallons of
 16 biodiesel fuel produced by the claimant in this state in the taxable year multiplied
 17 by 10 cents.

18 (c) *Limitations.* 1. The maximum amount of the credit that a claimant may
 19 claim under this subsection in a taxable year is \$1,000,000.

20 2. Partnerships, limited liability companies, and tax-option corporations may
 21 not claim the credit under this subsection, but the eligibility for, and the amount of,
 22 the credit are based on their biodiesel fuel production, as described under par. (b).
 23 A partnership, limited liability company, or tax-option corporation shall compute
 24 the amount of credit that each of its partners, members, or shareholders may claim
 25 and shall provide that information to each of them. Partners, members of limited

for taxable years beginning after
 December 31, 2007, and before January 1, 2011;

BILL

1 liability companies, and shareholders of tax-option corporations may claim the
2 credit in proportion to their ownership interests.

3 (d) *Administration.* Section 71.28 (4) (e) to (h) as it applies to the credit under
4 s. 71.28 (4), applies to the credit under this subsection. ^{LO}

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

6 71.10 (4) (cn) Biodiesel fuel production credit under s. 71.07 (5i). ^{3h} ^{LO}

7 **SECTION 4.** 71.21 (4) of the statutes is amended to read:

8 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
9 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), (5e), (5f), (5g), and (5h),
10 and (5i) and passed through to partners shall be added to the partnership's income.

11 **SECTION 5.** 71.26 (2) (a) of the statutes is amended to read:

12 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
13 the gross income as computed under the Internal Revenue Code as modified under
14 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
15 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
16 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
17 under this paragraph at the time that the taxpayer first claimed the credit plus the
18 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
19 (1ds), (1dx), (3g), (3n), (3t), (3w), (5b), (5e), (5f), (5g), and (5h), and (5i) and not passed
20 through by a partnership, limited liability company, or tax-option corporation that
21 has added that amount to the partnership's, limited liability company's, or
22 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount
23 of losses from the sale or other disposition of assets the gain from which would be
24 wholly exempt income, as defined in sub. (3) (L), if the assets were sold or otherwise
25 disposed of at a gain and minus deductions, as computed under the Internal Revenue

Insert A

INJECT
B

BILL

1 Code as modified under sub. (3), plus or minus, as appropriate, an amount equal to
 2 the difference between the federal basis and Wisconsin basis of any asset sold,
 3 exchanged, abandoned, or otherwise disposed of in a taxable transaction during the
 4 taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

INSERT
C

5 SECTION 6. 71.28 (5i) of the statutes is created to read:

6 71.28 (5i) BIODIESEL FUEL PRODUCTION CREDIT. (a) *Definitions.* In this
 7 subsection:

8 1. "Biodiesel fuel" has the meaning given in s. 168.14 (2m) (a).

9 2. "Claimant" means a person who is engaged in the business of producing
 10 biodiesel fuel in this state and who files a claim under this subsection.

11 (b) *Filing claims.* Subject to the limitations provided in this subsection, for a
 12 claimant who produces at least ~~1,000,000~~ 2,500,000 gallons of biodiesel fuel in this state in the
 13 taxable year, a claimant may claim as a credit against the tax imposed under s. 71.23,
 14 up to the amount of the tax, an amount that is equal to the number of gallons of
 15 biodiesel fuel produced by the claimant in this state in the taxable year multiplied
 16 by 10 cents.

17 (c) *Limitations.* 1. The maximum amount of the credit that a claimant may
 18 claim under this subsection in a taxable year is \$1,000,000.

19 2. Partnerships, limited liability companies, and tax-option corporations may
 20 not claim the credit under this subsection, but the eligibility for, and the amount of,
 21 the credit are based on their biodiesel fuel production, as described under par. (b).
 22 A partnership, limited liability company, or tax-option corporation shall compute
 23 the amount of credit that each of its partners, members, or shareholders may claim
 24 and shall provide that information to each of them. Partners, members of limited

for taxable years beginning after December 31, 2007, and
 before January 1, 2011,



BILL

INSERT C

1 liability companies, and shareholders of tax-option corporations may claim the
2 credit in proportion to their ownership interests.

3 (d) *Administration*. Subsection (4) (e) to (h) as it applies to the credit under sub.
4 (4), applies to the credit under this subsection.

INSERT D

5 ~~SECTION 7.~~ 71.30 (3) (cn) of the statutes is created to read:

6 71.30 (3) (cn) Biodiesel fuel production credit under s. 71.28 (5i). ^{3h} ₂₀₆₀₅₋₀ ₅₀

7 ~~SECTION 8.~~ 71.34 (1) (g) of the statutes is amended to read:

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

12 ~~SECTION 9.~~ 71.45 (2) (a) 10. of the statutes 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 (1dx), (3n), (3w), (5b), (5e), (5f), (5g), and (5h), and
15 (5i) and not passed through by a partnership, limited liability company, or tax-option
16 corporation that has added that amount to the partnership's, limited liability
17 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and
18 the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

INSERT E

19 ~~SECTION 10.~~ 71.47 (5i) of the statutes is created to read:

20 ~~71.47 (5i)~~ BIODESEL FUEL PRODUCTION CREDIT. (a) *Definitions*. In this
21 subsection: ^{2094h} _{3h}

22 1. "Biodiesel fuel" has the meaning given in s. 168.14 (2m) (a).

23 2. "Claimant" means a person who is engaged in the business of producing
24 biodiesel fuel in this state and who files a claim under this subsection.



BILL

for taxable years beginning after December 31, 2007, and before January 1, 2011;

Insert E

(b) *Filing claims.* Subject to the limitations provided in this subsection, for a claimant who produces at least ~~1,000,000~~ ^{2,500,000} gallons of biodiesel fuel in this state in the taxable year, a claimant may claim as a credit against the tax imposed under s. 71.43, up to the amount of the tax, an amount that is equal to the number of gallons of biodiesel fuel produced by the claimant in this state in the taxable year multiplied by 10 cents.

(c) *Limitations.* 1. The maximum amount of the credit that a claimant may claim under this subsection in a taxable year is \$1,000,000.

2. 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 biodiesel fuel production, as described 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.

(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) (cn) of the statutes is created to read:

71.49 (1) (cn) Biodiesel fuel production credit under s. 71.47 (5i).

SECTION 12. 77.92 (4) of the statutes is amended to read:

77.92 (4) "Net business income," with respect to a partnership, means taxable income as calculated under section 703 of the Internal Revenue Code; plus the items of income and gain under section 702 of the Internal Revenue Code, including taxable state and municipal bond interest and excluding nontaxable interest income or

INSERT F

BILL

1 dividend income from federal government obligations; minus the items of loss and
2 deduction under section 702 of the Internal Revenue Code, except items that are not
3 deductible under s. 71.21; plus guaranteed payments to partners under section 707
4 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
5 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), (3w), (5b), (5e), (5f),
6 (5g), and (5h), and (5i); and plus or minus, as appropriate, transitional adjustments,
7 depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and
8 (19); but excluding income, gain, loss, and deductions from farming. "Net business
9 income," with respect to a natural person, estate, or trust, means profit from a trade
10 or business for federal income tax purposes and includes net income derived as an
11 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

SECTION 13. Initial applicability.

12
13 (1) This act first applies to taxable years beginning on January 1 of the year
14 in which this subsection takes effect, except that if this subsection takes effect after
15 July 31 this act first applies to taxable years beginning on January 1 of the year
16 following the year in which this subsection takes effect.

17 (END)



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBb0893/1
JK:lmk&jld:rs

LFB:.....Shanovich (RR) - Biodiesel fuel production credit

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2007 SENATE BILL 40

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 865, line 21: after “(3g),” insert “(3h)”.

3 **2.** Page 876, line 18: after that line insert:

4 **“SECTION 1965h.** 71.07 (3h) of the statutes is created to read:

5 71.07 **(3h)** BIODIESEL FUEL PRODUCTION CREDIT. (a) *Definitions.* In this
6 subsection:

7 1. “Biodiesel fuel” has the meaning given in s. 168.14 (2m) (a).

8 2. “Claimant” means a person who is engaged in the business of producing
9 biodiesel fuel in this state and who files a claim under this subsection.

1 (b) *Filing claims.* Subject to the limitations provided in this subsection, for
2 taxable years beginning after December 31, 2007, and before January 1, 2011, for a
3 claimant who produces at least 2,500,000 gallons of biodiesel fuel in this state in the
4 taxable year, a claimant may claim as a credit against the tax imposed under s. 71.02,
5 up to the amount of the tax, an amount that is equal to the number of gallons of
6 biodiesel fuel produced by the claimant in this state in the taxable year multiplied
7 by 10 cents.

8 (c) *Limitations.* 1. The maximum amount of the credit that a claimant may
9 claim under this subsection in a taxable year is \$1,000,000.

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

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

20 **3.** Page 887, line 21: after that line insert:

21 “**SECTION 1991h.** 71.10 (4) (cn) of the statutes is created to read:

22 71.10 (4) (cn) Biodiesel fuel production credit under s. 71.07 (3h).”.

23 **4.** Page 888, line 20: after “(3g),” insert “(3h).”.

24 **5.** Page 923, line 11: after “(3g),” insert “(3h).”.

1 **6.** Page 964, line 9: after that line insert:

2 “**SECTION 2038h.** 71.28 (3h) of the statutes is created to read:

3 71.28 **(3h)** BIODIESEL FUEL PRODUCTION CREDIT. (a) *Definitions.* In this
4 subsection:

5 1. “Biodiesel fuel” has the meaning given in s. 168.14 (2m) (a).

6 2. “Claimant” means a person who is engaged in the business of producing
7 biodiesel fuel in this state and who files a claim under this subsection.

8 (b) *Filing claims.* Subject to the limitations provided in this subsection, for
9 taxable years beginning after December 31, 2007, and before January 1, 2011, for a
10 claimant who produces at least 2,500,000 gallons of biodiesel fuel in this state in the
11 taxable year, a claimant may claim as a credit against the tax imposed under s. 71.23,
12 up to the amount of the tax, an amount that is equal to the number of gallons of
13 biodiesel fuel produced by the claimant in this state in the taxable year multiplied
14 by 10 cents.

15 (c) *Limitations.* 1. The maximum amount of the credit that a claimant may
16 claim under this subsection in a taxable year is \$1,000,000.

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

1 (d) *Administration*. Subsection (4) (e) to (h) as it applies to the credit under sub.
2 (4), applies to the credit under this subsection.”

3 **7.** Page 974, line 10: after that line insert:

4 “**SECTION 2060s.** 71.30 (3) (cn) of the statutes is created to read:

5 71.30 (3) (cn) Biodiesel fuel production credit under s. 71.28 (3h).”

6 **8.** Page 975, line 3: after “(3g),” insert “(3h).”

7 **9.** Page 1009, line 12: after “(1dx),” insert “(3h).”

8 **10.** Page 1011, line 7: after that line insert:

9 “**SECTION 2094h.** 71.47 (3h) of the statutes is created to read:

10 71.47 (3h) BIODIESEL FUEL PRODUCTION CREDIT. (a) *Definitions*. In this
11 subsection:

12 1. “Biodiesel fuel” has the meaning given in s. 168.14 (2m) (a).

13 2. “Claimant” means a person who is engaged in the business of producing
14 biodiesel fuel in this state and who files a claim under this subsection.

15 (b) *Filing claims*. Subject to the limitations provided in this subsection, for
16 taxable years beginning after December 31, 2007, and before January 1, 2011, for a
17 claimant who produces at least 2,500,000 gallons of biodiesel fuel in this state in the
18 taxable year, a claimant may claim as a credit against the tax imposed under s. 71.43,
19 up to the amount of the tax, an amount that is equal to the number of gallons of
20 biodiesel fuel produced by the claimant in this state in the taxable year multiplied
21 by 10 cents.

22 (c) *Limitations*. 1. The maximum amount of the credit that a claimant may
23 claim under this subsection in a taxable year is \$1,000,000.

