

2003 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB507)

Received: 10/17/2003

Received By: jkreye

Wanted: Today

Identical to LRB:

For: Legislative Fiscal Bureau

By/Representing: Ron Shanovich

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters: rmarchan

Subject: Tax - sales
Tax - corp. inc. and fran.

Extra Copies:

Submit via email: YES

Requester's email: ron.shanovich@legis.state.wi.us

Carbon copy (CC:) to: joseph.kreye@legis.state.wi.us
robert.marchant@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Sales and use tax on fuel and electricity consumed in manufacturing

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 10/17/2003 | | rschlue 10/17/2003 | _____ | | | |
| /P1 | jkreye 10/20/2003 | csicilia 10/20/2003 | chaugen 10/17/2003 | _____ | mbarman 10/17/2003 | | |

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

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| /? | jkreye 10/17/2003 | 1 cjs 10/20 03 | rschlue 10/17/2003 | | | | |
| /P1 | | | chaugen 10/17/2003 | | mbarman 10/17/2003 | | |

Handwritten signatures and dates:
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p6

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Page 2

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| /? | jkreye | 11 kj 10/17 | ch 10-17 | ch 10-17 55 | | | |

FE Sent For:

<END>

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JKF

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2003 ASSEMBLY BILL 507

in 10-17-03
Today please

DN

Regen

1 AN ACT *to amend* 71.05 (6) (a) 15., 71.07 (3s) (c) 1., 71.08 (1) (intro.), 71.21 (4),
2 71.26 (2) (a), 71.28 (3) (c) 1., 71.34 (1) (g), 71.45 (2) (a) 10., 71.47 (3) (c) 1., 77.54
3 (2) and 77.92 (4); and *to create* 71.07 (3s) (c) 7., 71.07 (3t), 71.10 (4) (gbb), 71.28
4 (3) (c) 7., 71.28 (3t), 71.30 (3) (bb), 71.47 (3) (c) 7., 71.47 (3t), 71.49 (1) (bb), 77.54
5 (30) (a) 6. and 560.28 of the statutes; **relating to:** the income and franchise tax
6 credit for sales tax and use tax paid on fuel and electricity consumed in
7 manufacturing.

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

8 SECTION 1. 71.05 (6) (a) 15. of the statutes is amended to read:
9 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
10 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), ~~and (3s)~~, and (3t) and not passed
11 through by a partnership, limited liability company, or tax-option corporation that

1 has added that amount to the partnership's, company's, or tax-option corporation's
2 income under s. 71.21 (4) or 71.34 (1) (g).

3 **SECTION 2.** 71.07 (3s) (c) 1. of the statutes is amended to read:

4 71.07 (3s) (c) 1. The credit under par. (b), including any credits carried over,
5 may be offset only against the amount of the tax imposed upon or measured by the
6 business operations of the claimant in which the fuel and electricity are consumed.
7 If Except as provided in subd. 7., if the credit computed is not entirely offset against
8 taxes otherwise due, the unused balance shall be carried forward and credited
9 against taxes otherwise due for the following 15 taxable years to the extent not offset
10 by taxes otherwise due in all intervening years between the year in which the
11 expense was incurred and the year in which the carry-forward credit is claimed.

12 **SECTION 3.** 71.07 (3s) (c) 7. of the statutes is created to read:

13 71.07 (3s) (c) 7. No credit may be claimed under this subsection for taxable
14 years that begin after December 31, 2005. Credits that are claimed under this
15 subsection for taxable years that begin before January 1, 2006, may be carried
16 forward for the following 2 taxable years and in the same amount for both years, if
17 the taxpayer has \$25,000 or less in unused credits as of January 1, 2006. For taxable
18 years beginning after December 31, 2005, and before January 1, 2008, a taxpayer
19 who has more than \$25,000 in unused credits as of January 1, 2006, may deduct, in
20 equal amounts both years, the amount the taxpayer added back to income at the time
21 that the taxpayer first claimed the credit.

22 **SECTION 4.** 71.07 (3t) of the statutes is created to read:

23 71.07 (3t) **MANUFACTURING INVESTMENT CREDIT.** (a) *Definition.* In this
24 subsection, "claimant" means a person who files a claim under this subsection.

, amortized over the following 15 taxable years,

1 (b) *Credit.* Subject to the limitations provided in this subsection and in s.
2 560.28, for taxable years beginning after December 31, 2007, a claimant may claim
3 as a credit against the tax imposed under s. 71.02 and 71.08, up to the amount of the
4 tax, an amount equal to the claimant's unused credits under s. 71.07 (3s).

5 (c) *Limitations.* 1. No credit may be claimed under this subsection unless the
6 claimant submits with the claimant's return a copy of the claimant's certification by
7 the department of commerce under s. 560.28. *the amount of their unused credits*
under s. 71.07 ✓

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

16 (d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the
17 credit under s. 71.28 (4), applies to the credit under this subsection.

18 ~~2. If a credit computed under this subsection is not entirely offset against~~
19 ~~Wisconsin income or franchise taxes otherwise due, the unused balance may be~~
20 ~~carried forward and credited against Wisconsin income or franchise taxes otherwise~~
21 ~~due for the following 15 taxable years to the extent not offset by these taxes otherwise~~
22 ~~due in all intervening years between the year in which the expense was incurred and~~
23 ~~the year in which the carry-forward credit is claimed, except that the amount of~~
24 ~~unused credits in any taxable year may be carried forward to the following taxable~~
25 ~~year.~~

1 **SECTION 5.** 71.08 (1) (intro.) of the statutes is amended to read:

2 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
3 couple filing jointly, trust or estate under s. 71.02, not considering the credits under
4 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3s), (3t),
5 (6), ~~(6s)~~, and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) ~~and~~,
6 (3), and (3t) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) ~~and~~, (3),
7 and (3t) and subchs. VIII and IX and payments to other states under s. 71.07 (7), is
8 less than the tax under this section, there is imposed on that natural person, married
9 couple filing jointly, trust or estate, instead of the tax under s. 71.02, an alternative
10 minimum tax computed as follows:

11 **SECTION 6.** 71.10 (4) (gbb) of the statutes is created to read:

12 71.10 (4) (gbb) Manufacturing investment credit under s. 71.07 (3t).

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

14 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
15 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), ~~and~~, (3s), and (3t) and passed through to
16 partners shall be added to the partnership's income.

17 **SECTION 8.** 71.26 (2) (a) of the statutes is amended to read:

18 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
19 the gross income as computed under the Internal Revenue Code as modified under
20 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
21 computed under s. 71.28 (1), (3), (4), and (5) plus the amount of the credit computed
22 under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), ~~and~~ (3g), and (3t)
23 and not passed through by a partnership, limited liability company, or tax-option
24 corporation that has added that amount to the partnership's, limited liability
25 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus

1 the amount of losses from the sale or other disposition of assets the gain from which
2 would be wholly exempt income, as defined in sub. (3) (L), if the assets were sold or
3 otherwise disposed of at a gain and minus deductions, as computed under the
4 Internal Revenue Code as modified under sub. (3), plus or minus, as appropriate, an
5 amount equal to the difference between the federal basis and Wisconsin basis of any
6 asset sold, exchanged, abandoned, or otherwise disposed of in a taxable transaction
7 during the taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

8 **SECTION 9.** 71.28 (3) (c) 1. of the statutes is amended to read:

9 71.28 (3) (c) 1. If Except as provided in subd. 7., if the credit computed under
10 par. (b) is not entirely offset against Wisconsin income or franchise taxes otherwise
11 due, the unused balance shall be carried forward and credited against Wisconsin
12 income or franchise taxes otherwise due for the following 15 taxable years to the
13 extent not offset by these taxes otherwise due in all intervening years between the
14 year in which the expense was incurred and the year in which the carry-forward
15 credit is claimed.

16 **SECTION 10.** 71.28 (3) (c) 7. of the statutes is created to read:

17 71.28 (3) (c) 7. No credit may be claimed under this subsection for taxable years
18 that begin after December 31, 2005. Credits that are claimed under this subsection
19 for taxable years that begin before January 1, 2006, may be carried forward for the
20 following 2 taxable years and in the same amount for both years, if the taxpayer has
21 \$25,000 or less in unused credits as of January 1, 2006. For taxable years beginning
22 after December 31, 2005, and before January 1, 2008, a taxpayer who has more than
23 \$25,000 in unused credits as of January 1, 2006, may deduct, in equal amounts both
24 years, the amount the taxpayer added back to income at the time that the taxpayer
25 first claimed the credit.

, amortized over the following 15 taxable years,

1 SECTION 11. 71.28 (3t) of the statutes is created to read:

2 71.28 (3t) MANUFACTURING INVESTMENT CREDIT. (a) *Definition.* In this
3 subsection, "claimant" means a person who files a claim under this subsection.

4 (b) *Credit.* Subject to the limitations provided in this subsection and in s.
5 560.28, for taxable years beginning after December 31, 2007, a claimant may claim
6 as a credit against the tax imposed under s. 71.23, up to the amount of the tax, an
7 amount equal to the claimant's unused credits under s. 71.28 (3).

8 (c) *Limitations.* 1. No credit may be claimed under this subsection unless the
9 claimant submits with the claimant's return a copy of the claimant's certification by
10 the department of commerce under s. 560.28.

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

19 (d) *Administration.* (1) Subsection (4) (e), (g), and (h), as it applies to the credit
20 under sub. (4), applies to the credit under this subsection.

21 ~~2. If a credit computed under this subsection is not entirely offset against~~
22 ~~Wisconsin income or franchise taxes otherwise due, the unused balance may be~~
23 ~~carried forward and credited against Wisconsin income or franchise taxes otherwise~~
24 ~~due for the following 15 taxable years to the extent not offset by these taxes otherwise~~
25 ~~due in all intervening years between the year in which the expense was incurred and~~

the amount of their unused credits
under s. 71.28(3)

1 the year in which the carry-forward credit is claimed, except that the amount of
2 unused credits in any taxable year may be carried forward to the following taxable
3 year.

4 SECTION 12. 71.30 (3) (bb) of the statutes is created to read:

5 71.30 (3) (bb) Manufacturing investment credit under s. 71.28 (3t).

6 SECTION 13. 71.34 (1) (g) of the statutes is amended to read:

7 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
8 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), and
9 (3g), and (3t) and passed through to shareholders.

10 SECTION 14. 71.45 (2) (a) 10. of the statutes is amended to read:

11 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
12 computed under s. 71.47 (1dd) to (1dx) and not passed through by a partnership,
13 limited liability company or tax-option corporation that has added that amount to
14 the partnership's, limited liability company's or tax-option corporation's income
15 under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit computed under s. 71.47
16 (1), (3), (3t), (4) and (5).

17 SECTION 15. 71.47 (3) (c) 1. of the statutes is amended to read:

18 71.47 (3) (c) 1. If Except as provided in subd. 7., if the credit computed under
19 par. (b) is not entirely offset against Wisconsin income or franchise taxes otherwise
20 due, the unused balance shall be carried forward and credited against Wisconsin
21 income or franchise taxes otherwise due for the following 15 taxable years to the
22 extent not offset by these taxes otherwise due in all intervening years between the
23 year in which the expense was incurred and the year in which the carry-forward
24 credit is claimed.

25 SECTION 16. 71.47 (3) (c) 7. of the statutes is created to read:

, amortized over ^{the following} 15 taxable years,

1 71.47 (3) (c) 7. No credit may be claimed under this subsection for taxable years
2 that begin after December 31, 2005. Credits that are claimed under this subsection
3 for taxable years that begin before January 1, 2005, may be carried forward for the
4 following 2 taxable years and in the same amount for both years, if the taxpayer has
5 \$25,000 or less in unused credits as of January 1, 2006. For taxable years beginning
6 after December 31, 2005, and before January 1, 2008, a taxpayer who has more than
7 \$25,000 in unused credits as of January 1, 2006, may deduct, in equal amounts both
8 years, the amount the taxpayer added back to income at the time that the taxpayer
9 first claimed the credit.

10 **SECTION 17.** 71.47 (3t) of the statutes is created to read:

11 71.47 (3t) MANUFACTURING INVESTMENT CREDIT. (a) *Definition.* In this
12 subsection, "claimant" means a person who files a claim under this subsection.

13 (b) *Credit.* Subject to the limitations provided in this subsection and in s.
14 560.28, for taxable years beginning after December 31, 2007, a claimant may claim
15 as a credit against the tax imposed under s. 71.43, up to the amount of the tax, an
16 amount equal to the claimant's unused credits under s. 71.47 (3).

17 (c) *Limitations.* 1. No credit may be claimed under this subsection unless the
18 claimant submits with the claimant's return a copy of the claimant's certification by
19 the department of commerce under s. 560.28.

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 payment of amounts under par. (b).~~ A partnership,
23 limited liability company, or tax-option corporation shall compute the amount of
24 credit that each of its partners, members, or shareholders may claim and shall
25 provide that information to each of them. Partners, members of limited liability

the amount of their unused credits under s. 71.47(3)

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

3 (d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the
4 credit under s. 71.28 (4), applies to the credit under this subsection.

5 ~~2. If a credit computed under this subsection is not entirely offset against
6 Wisconsin income or franchise taxes otherwise due, the unused balance may be
7 carried forward and credited against Wisconsin income or franchise taxes otherwise
8 due for the following 15 taxable years to the extent not offset by these taxes otherwise
9 due in all intervening years between the year in which the expense was incurred and
10 the year in which the carry-forward credit is claimed, except that the amount of
11 unused credits in any taxable year may be carried forward to the following taxable
12 year.~~

13 SECTION 18. 71.49 (1) (bb) of the statutes is created to read:

14 71.49 (1) (bb) Manufacturing investment credit under s. 71.47 (3t).

15 SECTION 19. 77.54 (2) of the statutes is amended to read:

16 77.54 (2) The gross receipts from sales of and the storage, use or other
17 consumption of tangible personal property becoming an ingredient or component
18 part of an article of tangible personal property or which is consumed or destroyed or
19 loses its identity in the manufacture of tangible personal property in any form
20 destined for sale, ~~but this exemption shall not include fuel or electricity~~ except as
21 provided in sub. (30) (a) 6.

22 SECTION 20. 77.54 (30) (a) 6. of the statutes is created to read:

23 77.54 (30) (a) 6. Fuel and electricity sold for use in manufacturing tangible
24 personal property in this state.

25 SECTION 21. 77.92 (4) of the statutes is amended to read:

1 77.92 (4) “Net business income”, with respect to a partnership, means taxable
2 income as calculated under section 703 of the Internal Revenue Code; plus the items
3 of income and gain under section 702 of the Internal Revenue Code, including taxable
4 state and municipal bond interest and excluding nontaxable interest income or
5 dividend income from federal government obligations; minus the items of loss and
6 deduction under section 702 of the Internal Revenue Code, except items that are not
7 deductible under s. 71.21; plus guaranteed payments to partners under section 707
8 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
9 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), and (3g), and (3s), and (3t); and plus or
10 minus, as appropriate, transitional adjustments, depreciation differences, and basis
11 differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain,
12 loss, and deductions from farming. “Net business income”, with respect to a natural
13 person, estate, or trust, means profit from a trade or business for federal income tax
14 purposes and includes net income derived as an employee as defined in section 3121
15 (d) (3) of the Internal Revenue Code.

16 **SECTION 22.** 560.28 of the statutes is created to read:

17 560.28 **Manufacturing investment credit.** (1) **DEFINITION.** In this section,
18 “full-time job” means a regular, nonseasonal full-time position in which an
19 individual, as a condition of employment, is required to work at least 35 hours in a
20 week.

21 (2) **CERTIFICATION.** The department shall promulgate rules for the certification
22 of businesses as eligible to claim tax credits under s. 71.07 (3t), 71.28 (3t), or 71.47
23 (3t). The rules shall permit a business to obtain a certification only if the person
24 satisfies one of the following conditions:

1 (a) The business has retained from the effective date of this paragraph
2 [revisor inserts date], 100 percent of the business's full-time jobs in this state.

3 (b) The business's average annual investment in this state since January 1,
4 ²⁰⁰³~~2006~~, is equal to no less than 2 percent of the total book value of the business's
5 depreciable assets in facilities that are based in this state.

6 (c) The business's average annual investment in this state since January 1,
7 ²⁰⁰³~~2006~~, is no less than \$5,000,000.

8 (d) Any other criteria that is specific to an industry, as determined by the
9 department of commerce, in consultation with the department of revenue.

10 **SECTION 23. Initial applicability.**

11 (1) The treatment of section 77.54 (30) (a) 6. of the statutes first applies to fuel
12 and electricity sold on January 1, 2006.

13

(END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

October 15, 2003

5 0224/P/dn
LRBs0220/Idn

JK:wlj:jf

↓
& kjf

Please review this draft carefully to ensure that it is consistent with your intent.

The amendment does not define "investment" and, therefore, the term is open to interpretation. If by "investment" you mean the purchase of real and tangible personal property, then the draft should specify that.

Please contact me if you have any questions.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0224/P1dn
JK:wlj&kjf:ch

October 17, 2003

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Please contact me if you have any questions.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBs0224/F1
JK&RJM:wj&kf:ch

*Monday
in 10-20-03 - Today AM*

*ecs
RM not R*

**ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2003 ASSEMBLY BILL 507**

*¶ sec #, w; 71.05 (6) (b) 3m. ✓
¶ 71.05 (6) (b) 3m. As provided under s. 71.07 (3s) (c) 7, the amount of the credit under s. 71.07 (3s) that the taxpayer added back to income under s. 71.05 (6) (a) at the time that the taxpayer first claimed the credit. ✓*

→ INSERT on page 2 where shown

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.07 (3s) (c) 1., 71.08 (1) (intro.), 71.21 (4),
2 71.26 (2) (a), 71.28 (3) (c) 1., 71.34 (1) (g), 71.45 (2) (a) 10., 71.47 (3) (c) 1., 77.54
3 (2) and 77.92 (4); and **to create** 71.07 (3s) (c) 7., 71.07 (3t), 71.10 (4) (gbb), 71.28
4 (3) (c) 7., 71.28 (3t), 71.30 (3) (bb), 71.47 (3) (c) 7., 71.47 (3t), 71.49 (1) (bb), 77.54
5 (30) (a) 6. and 560.28 of the statutes; **relating to:** the income and franchise tax
6 credit for sales tax and use tax paid on fuel and electricity consumed in
7 manufacturing *and granting rule-making authority ✓*

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

AAA
8

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

9 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
10 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), and (3s), and (3t) and not passed
11 through by a partnership, limited liability company, or tax-option corporation that

Insert material from p. 1 here

1 has added that amount to the partnership's, company's, or tax-option corporation's
2 income under s. 71.21 (4) or 71.34 (1) (g).

3 SECTION 2. 71.07 (3s) (c) 1. of the statutes is amended to read:

4 71.07 (3s) (c) 1. The credit under par. (b), including any credits carried over,
5 may be offset only against the amount of the tax imposed upon or measured by the
6 business operations of the claimant in which the fuel and electricity are consumed.
7 If Except as provided in subd. 7., if the credit computed is not entirely offset against
8 taxes otherwise due, the unused balance shall be carried forward and credited
9 against taxes otherwise due for the following 15 taxable years to the extent not offset
10 by taxes otherwise due in all intervening years between the year in which the
11 expense was incurred and the year in which the carry-forward credit is claimed.

12 SECTION 3. 71.07 (3s) (c) 7. of the statutes is created to read:

13 71.07 (3s) (c) 7. No credit may be claimed under this subsection for taxable
14 years that begin after December 31, 2005. Credits that are claimed under this
15 subsection for taxable years that begin before January 1, 2006, may be carried
16 forward for the following 2 taxable years, and in ~~the same amount for both years~~ if
17 the taxpayer has \$25,000 or less in unused credits as of January 1, 2006. For taxable
18 years beginning after December 31, 2005, and before January 1, 2008, a taxpayer
19 who has more than \$25,000 in unused credits as of January 1, 2006, may deduct ~~in~~
20 ~~equal amounts both years,~~ the amount the taxpayer added back to income at the time
21 that the taxpayer first claimed the credit. *under s. 71.05(6)(a)*

each year for an amount equal to 50 percent of the taxpayer's unused credits

same stays

22 SECTION 4. 71.07 (3t) of the statutes is created to read:

23 71.07 (3t) MANUFACTURING INVESTMENT CREDIT. (a) Definition. In this
24 subsection, "claimant" means a person who files a claim under this subsection.

an amount in each year that is equal to 50 percent of

*starting with the taxable year beginning
after December 31, 2007*

1 (b) *Credit.* Subject to the limitations provided in this subsection and in s.
2 560.28, for taxable years beginning after December 31, 2007, a claimant may claim
3 as a credit, amortized over ~~the following~~ 15 taxable years, against the tax imposed
4 under s. 71.02 and 71.08, up to the amount of the tax, an amount equal to the
5 claimant's unused credits under s. 71.07 (3s).

6 (c) *Limitations.* 1. No credit may be claimed under this subsection unless the
7 claimant submits with the claimant's return a copy of the claimant's certification by
8 the department of commerce under s. 560.28.

9 2. Partnerships, limited liability companies, and tax-option corporations may
10 not claim the credit under this subsection, but the eligibility for, and the amount of,
11 the credit are based on the amount of their unused credits under s. 71.07 (3s). A
12 partnership, limited liability company, or tax-option corporation shall compute the
13 amount of credit that each of its partners, members, or shareholders may claim and
14 shall provide that information to each of them. Partners, members of limited liability
15 companies, and shareholders of tax-option corporations may claim the credit in
16 proportion to their ownership interest.

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

19 **SECTION 5.** 71.08 (1) (intro.) of the statutes is amended to read:

20 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
21 couple filing jointly, trust or estate under s. 71.02, not considering the credits under
22 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3s), (3t),
23 (6), (6s), and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) and,
24 (3), and (3t) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) and, (3),
25 and (3t) and subchs. VIII and IX and payments to other states under s. 71.07 (7), is

1 less than the tax under this section, there is imposed on that natural person, married
2 couple filing jointly, trust or estate, instead of the tax under s. 71.02, an alternative
3 minimum tax computed as follows:

4 SECTION 6. 71.10 (4) (gbb) of the statutes is created to read:

5 71.10 (4) (gbb) Manufacturing investment credit under s. 71.07 (3t).

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

7 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
8 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), and, (3s), and (3t) and passed through to
9 partners shall be added to the partnership's income.

10 SECTION 8. 71.26 (2) (a) of the statutes is amended to read:

11 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
12 the gross income as computed under the Internal Revenue Code as modified under
13 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
14 computed under s. 71.28 (1), (3), (4), and (5) plus the amount of the credit computed

15 under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), and (3g), and (3t)
16 and not passed through by a partnership, limited liability company, or tax-option
17 corporation that has added that amount to the partnership's, limited liability
18 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus
19 the amount of losses from the sale or other disposition of assets the gain from which
20 would be wholly exempt income, as defined in sub. (3) (L), if the assets were sold or
21 otherwise disposed of at a gain and minus deductions, as computed under the
22 Internal Revenue Code as modified under sub. (3), plus or minus, as appropriate, an
23 amount equal to the difference between the federal basis and Wisconsin basis of any
24 asset sold, exchanged, abandoned, or otherwise disposed of in a taxable transaction
25 during the taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

minus, as provided under s. 71.28(3)(c) 7., the amount of the credit under
s. 71.28(3) that the taxpayer added to income under this paragraph at the time
that the taxpayer first claimed the credit ✓

1 SECTION 9. 71.28 (3) (c) 1. of the statutes is amended to read:

2 71.28 (3) (c) 1. If Except as provided in subd. 7., if the credit computed under
3 par. (b) is not entirely offset against Wisconsin income or franchise taxes otherwise
4 due, the unused balance shall be carried forward and credited against Wisconsin
5 income or franchise taxes otherwise due for the following 15 taxable years to the
6 extent not offset by these taxes otherwise due in all intervening years between the
7 year in which the expense was incurred and the year in which the carry-forward
8 credit is claimed.

9 SECTION 10. 71.28 (3) (c) 7. of the statutes is created to read:

10 71.28 (3) (c) 7. No credit may be claimed under this subsection for taxable years
11 that begin after December 31, 2005. Credits that are claimed under this subsection
12 for taxable years that begin before January 1, 2006, may be carried forward for the
13 following 2 taxable years, and in ~~the same amount for both years~~ ^{if the taxpayer has}
14 \$25,000 or less in unused credits as of January 1, 2006. For taxable years beginning
15 after December 31, 2005, and before January 1, 2008, a taxpayer who has more than
16 \$25,000 in unused credits as of January 1, 2006, may deduct ~~in equal amounts both~~
17 ~~years~~ ^{the amount} the taxpayer added back to income ^{at the time that the taxpayer}
18 first claimed the credit. ^{under s. 71.26(2)(a)}

each year for an amount equal to 50 percent of the taxpayer's unused credits

starting with the taxable year beginning after December 31, 2007

19 SECTION 11. 71.28 (3t) of the statutes is created to read:

20 71.28 (3t) MANUFACTURING INVESTMENT CREDIT. (a) *Definition.* In this
21 subsection, "claimant" means a person who files a claim under this subsection.

22 (b) *Credit.* Subject to the limitations provided in this subsection and in s.
23 560.28, for taxable years beginning after December 31, 2007, a claimant may claim
24 as a credit, amortized over ~~the following~~ 15 taxable years, against the tax imposed

an amount in each year that is equal to 50 percent of

1 under s. 71.23, up to the amount of the tax, an amount equal to the claimant's unused
2 credits under s. 71.28 (3).

3 (c) *Limitations.* 1. No credit may be claimed under this subsection unless the
4 claimant submits with the claimant's return a copy of the claimant's certification by
5 the department of commerce under s. 560.28.

6 2. Partnerships, limited liability companies, and tax-option corporations may
7 not claim the credit under this subsection, but the eligibility for, and the amount of,
8 the credit are based on the amount of their unused credits under s. 71.28 (3). A
9 partnership, limited liability company, or tax-option corporation shall compute the
10 amount of credit that each of its partners, members, or shareholders may claim and
11 shall provide that information to each of them. Partners, members of limited liability
12 companies, and shareholders of tax-option corporations may claim the credit in
13 proportion to their ownership interest.

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

16 **SECTION 12.** 71.30 (3) (bb) of the statutes is created to read:

17 71.30 (3) (bb) Manufacturing investment credit under s. 71.28 (3t).

18 **SECTION 13.** 71.34 (1) (g) of the statutes is amended to read:

19 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
20 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), and
21 (3g), and (3t) and passed through to shareholders.

22 **SECTION 14.** 71.45 (2) (a) 10. of the statutes is amended to read:

23 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
24 computed under s. 71.47 (1dd) to (1dx) and not passed through by a partnership,
25 limited liability company or tax-option corporation that has added that amount to

INSERT 7-3

1 the partnership's, limited liability company's or tax-option corporation's income
2 under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit computed under s. 71.47
(3) (1), (3), (3t), (4) and (5).

SECTION 15. 71.47 (3) (c) 1. of the statutes is amended to read:

5 71.47 (3) (c) 1. If Except as provided in subd. 7., if the credit computed under
6 par. (b) is not entirely offset against Wisconsin income or franchise taxes otherwise
7 due, the unused balance shall be carried forward and credited against Wisconsin
8 income or franchise taxes otherwise due for the following 15 taxable years to the
9 extent not offset by these taxes otherwise due in all intervening years between the
10 year in which the expense was incurred and the year in which the carry-forward
11 credit is claimed.

SECTION 16. 71.47 (3) (c) 7. of the statutes is created to read:

13 71.47 (3) (c) 7. No credit may be claimed under this subsection for taxable years
14 that begin after December 31, 2005. Credits that are claimed under this subsection
15 for taxable years that begin before January 1, 2005, may be carried forward for the
16 following 2 taxable years, and in ~~the same amount for both years~~ ^{if the taxpayer has}
17 \$25,000 or less in unused credits as of January 1, 2006. For taxable years beginning
18 after December 31, 2005, and before January 1, 2008, a taxpayer who has more than
19 \$25,000 in unused credits as of January 1, 2006, may deduct ~~in equal amounts both~~
20 ~~years~~ the amount the taxpayer added back to income ^{at the time that the taxpayer}
21 first claimed the credit. _{under s. 71.45(2)(a) 10.} ✓

each year for an amount equal to 50 percent of the taxpayer's unused credits

SECTION 17. 71.47 (3t) of the statutes is created to read:

23 71.47 (3t) MANUFACTURING INVESTMENT CREDIT. (a) Definition. In this
24 subsection, "claimant" means a person who files a claim under this subsection.

an amount in each year that is equal to 50 percent of

starting with the taxable year beginning after December 31, 2007

1 (b) *Credit.* Subject to the limitations provided in this subsection and in s.
2 560.28, for taxable years beginning after December 31, 2007, a claimant may claim
3 as a credit, amortized over ~~the following~~ 15 taxable years, against the tax imposed
4 under s. 71.43, up to the amount of the tax, an amount equal to the claimant's unused
5 credits under s. 71.47 (3).

6 (c) *Limitations.* 1. No credit may be claimed under this subsection unless the
7 claimant submits with the claimant's return a copy of the claimant's certification by
8 the department of commerce under s. 560.28.

9 2. Partnerships, limited liability companies, and tax-option corporations may
10 not claim the credit under this subsection, but the eligibility for, and the amount of,
11 the credit are based on the amount of their unused credits under s. 71.47 (3). A
12 partnership, limited liability company, or tax-option corporation shall compute the
13 amount of credit that each of its partners, members, or shareholders may claim and
14 shall provide that information to each of them. Partners, members of limited liability
15 companies, and shareholders of tax-option corporations may claim the credit in
16 proportion to their ownership interest.

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

19 **SECTION 18.** 71.49 (1) (bb) of the statutes is created to read:

20 71.49 (1) (bb) Manufacturing investment credit under s. 71.47 (3t).

21 **SECTION 19.** 77.54 (2) of the statutes is amended to read:

22 77.54 (2) The gross receipts from sales of and the storage, use or other
23 consumption of tangible personal property becoming an ingredient or component
24 part of an article of tangible personal property or which is consumed or destroyed or
25 loses its identity in the manufacture of tangible personal property in any form

1 destined for sale, ~~but this exemption shall not include fuel or electricity~~ except as
2 provided in sub. (30) (a) 6.

3 **SECTION 20.** 77.54 (30) (a) 6. of the statutes is created to read:

4 77.54 (30) (a) 6. Fuel and electricity sold for use in manufacturing tangible
5 personal property in this state.

6 **SECTION 21.** 77.92 (4) of the statutes is amended to read:

7 77.92 (4) “Net business income”, with respect to a partnership, means taxable
8 income as calculated under section 703 of the Internal Revenue Code; plus the items
9 of income and gain under section 702 of the Internal Revenue Code, including taxable
10 state and municipal bond interest and excluding nontaxable interest income or
11 dividend income from federal government obligations; minus the items of loss and
12 deduction under section 702 of the Internal Revenue Code, except items that are not
13 deductible under s. 71.21; plus guaranteed payments to partners under section 707
14 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
15 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), ~~and (3g), and (3s), and (3t)~~; and plus or
16 minus, as appropriate, transitional adjustments, depreciation differences, and basis
17 differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain,
18 loss, and deductions from farming. “Net business income”, with respect to a natural
19 person, estate, or trust, means profit from a trade or business for federal income tax
20 purposes and includes net income derived as an employee as defined in section 3121
21 (d) (3) of the Internal Revenue Code.

22 **SECTION 22.** 560.28 of the statutes is created to read:

23 560.28 **Manufacturing investment credit.** (1) **DEFINITION.** In this section,
24 “full-time job” means a regular, nonseasonal full-time position in which an

1 individual, as a condition of employment, is required to work at least 35 hours in a
2 week.

3 (2) CERTIFICATION. The department shall promulgate rules for the certification
4 of businesses as eligible to claim tax credits under s. 71.07 (3t), 71.28 (3t), or 71.47
5 (3t). The rules shall permit a business to obtain a certification only if the person
6 satisfies one of the following conditions:

7 (a) The business has retained from the effective date of this paragraph
8 [revisor inserts date], 100 percent of the business's full-time jobs in this state.

9 (b) The business's average annual investment in this state since January 1,
10 2003, is equal to no less than 2 percent of the total book value of the business's
11 depreciable assets in facilities that are based in this state.

12 (c) The business's average annual investment in this state since January 1,
13 2003, is no less than \$5,000,000.

14 (d) Any other criteria that is specific to an industry, as ~~determined~~ *promulgated by rule* by the
15 department of commerce, in consultation with the department of revenue.

16 **SECTION 23. Initial applicability.** *(2) and*

17 (1) The treatment of section 77.54 *(30)* (a) 6. of the statutes first applies to fuel
18 and electricity sold on January 1, 2006.

19 (END)



Insert 7-3

¶ Sec. 71.45(2)(a) 10b.

¶ 71.45(2)(a) 10b. ^③ By subtracting from federal taxable income, as provided under s. 71.47(3)(c) 7., the amount of the credit under s. 71.47(3) that the taxpayer added to income under subd. 10. at the time that the taxpayer first claimed the credit.

end of insert 7-3