

**2003 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB507)**

Received: 10/29/2003

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:

Subject: 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:**

Manufacturing investment credit with carry forward in any subsequent taxable year

---

**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 10/29/2003	kfollett 10/30/2003					
/1	jkreye 11/03/2003	wjackson 11/03/2003	rschluet 10/30/2003		lemery 10/30/2003	lemery 10/30/2003	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2			rschluet	_____	Inorthro	Inorthro	
			11/03/2003	_____	11/03/2003	11/03/2003	

FE Sent For:

<END>

2003 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB507)

Received: 10/29/2003

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:

Subject: 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

*Send to  
Rep Kaufert's  
office - NOT  
LFB - per  
Joe Kreye*

Pre Topic:

No specific pre topic given

Topic:

Manufacturing investment credit with carry forward in any subsequent taxable year

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 10/29/2003	kfollett 10/30/2003		_____			
/1		12 wlj 11/3	rschluet 10/30/2003	_____	lemery 10/30/2003	lemery 10/30/2003	

*JF*

FE Sent For:

**<END>**

**2003 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB507)**

Received: 10/29/2003

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:

Subject: 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

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Manufacturing investment credit with carry forward in any subsequent taxable year

---

**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	11/18/03 10/30					

FE Sent For:

10303  
Jf  
END>

AB507 — s0224/1

"The amount of unused credits (under this subsection) in  
any taxable year <sup>subsequent</sup> may be carried forward to ~~the~~  
~~following~~ taxable years."

50.240 | 1

ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2003 ASSEMBLY BILL 507

October 16, 2003 - Offered by JOINT COMMITTEE ON FINANCE.

in 10-29-03

due  
Thurs  
10-30-03

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* 71.05 (6) (b) 3m., 71.07 (3s) (c) 7., 71.07 (3t),  
4 71.10 (4) (gbb), 71.28 (3) (c) 7., 71.28 (3t), 71.30 (3) (bb), 71.45 (2) (a) 10b., 71.47  
5 (3) (c) 7., 71.47 (3t), 71.49 (1) (bb), 77.54 (30) (a) 6. and 560.28 of the statutes;  
6 **relating to:** the income and franchise tax credit for sales tax and use tax paid  
7 on fuel and electricity consumed in manufacturing and granting rule-making  
8 authority.

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

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

10 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),  
11 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), ~~and (3s)~~, and (3t) and not passed

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

4 SECTION 2. 71.05 (6) (b) 3m. of the statutes is created to read:

5 71.05 (6) (b) 3m. As provided under s. 71.07 (3s) (c) 7., the amount of the credit  
6 under s. 71.07 (3s) that the taxpayer added back to income under s. 71.05 (6) (a) at  
7 the time that the taxpayer first claimed the credit.

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

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

17 SECTION 4. 71.07 (3s) (c) 7. of the statutes is created to read:

18 71.07 (3s) (c) 7. No credit may be claimed under this subsection for taxable  
19 years that begin after December 31, 2005. Credits that are claimed under this  
20 subsection for taxable years that begin before January 1, 2006, may be carried  
21 forward for the following 2 taxable years, and in each year for an amount equal to  
22 50 percent of the taxpayer's unused credits, if the taxpayer has \$25,000 or less in  
23 unused credits as of January 1, 2006. For taxable years beginning after December  
24 31, 2005, and before January 1, 2008, a taxpayer who has more than \$25,000 in  
25 unused credits as of January 1, 2006, may deduct an amount in each year that is



1 equal to 50 percent of the amount the taxpayer added back to income under s. 71.05  
2 (6) (a) at the time that the taxpayer first claimed the credit.

3 SECTION 5. 71.07 (3t) of the statutes is created to read:

4 71.07 (3t) MANUFACTURING INVESTMENT CREDIT. (a) *Definition*. In this  
5 subsection, "claimant" means a person who files a claim under this subsection.

6 (b) *Credit*. Subject to the limitations provided in this subsection and in s.  
7 560.28, for taxable years beginning after December 31, 2007, a claimant may claim  
8 as a credit, amortized over 15 taxable years starting with the taxable year beginning  
9 after December 31, 2007, against the tax imposed under s. 71.02 and 71.08, up to the  
10 amount of the tax, an amount equal to the claimant's unused credits under s. 71.07  
11 (3s).

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

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

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

25 SECTION 6. 71.08 (1) (intro.) of the statutes is amended to read:

2. The amount of any unused credit under this subsection in any taxable year may be carried forward to subsequent taxable years.

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

10           SECTION 7. 71.10 (4) (gbb) of the statutes is created to read:

11           71.10 (4) (gbb) Manufacturing investment credit under s. 71.07 (3t).

12           SECTION 8. 71.21 (4) of the statutes is amended to read:

13           71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),  
14 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), ~~and~~, (3s), ~~and (3t)~~ and passed through to  
15 partners shall be added to the partnership's income.

16           SECTION 9. 71.26 (2) (a) of the statutes is amended to read:

17           71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means  
18 the gross income as computed under the Internal Revenue Code as modified under  
19 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit  
20 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)  
21 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income  
22 under this paragraph at the time that the taxpayer first claimed the credit plus the  
23 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),  
24 (1ds), (1dx), ~~and (3g), and (3t)~~ and not passed through by a partnership, limited  
25 liability company, or tax-option corporation that has added that amount to the

1 partnership's, limited liability company's, or tax-option corporation's income under  
2 s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or other disposition  
3 of assets the gain from which would be wholly exempt income, as defined in sub. (3)  
4 (L), if the assets were sold or otherwise disposed of at a gain and minus deductions,  
5 as computed under the Internal Revenue Code as modified under sub. (3), plus or  
6 minus, as appropriate, an amount equal to the difference between the federal basis  
7 and Wisconsin basis of any asset sold, exchanged, abandoned, or otherwise disposed  
8 of in a taxable transaction during the taxable year, except as provided in par. (b) and  
9 s. 71.45 (2) and (5).

10 **SECTION 10.** 71.28 (3) (c) 1. of the statutes is amended to read:

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

18 **SECTION 11.** 71.28 (3) (c) 7. of the statutes is created to read:

19 71.28 (3) (c) 7. No credit may be claimed under this subsection for taxable years  
20 that begin after December 31, 2005. Credits that are claimed under this subsection  
21 for taxable years that begin before January 1, 2006, may be carried forward for the  
22 following 2 taxable years, and in each year for an amount equal to 50 percent of the  
23 taxpayer's unused credits, if the taxpayer has \$25,000 or less in unused credits as  
24 of January 1, 2006. For taxable years beginning after December 31, 2005, and before  
25 January 1, 2008, a taxpayer who has more than \$25,000 in unused credits as of

1 January 1, 2006, may deduct an amount in each year that is equal to 50 percent of  
2 the amount the taxpayer added back to income under s. 71.26 (2) (a) at the time that  
3 the taxpayer first claimed the credit.

4 SECTION 12. 71.28 (3t) of the statutes is created to read:

5 71.28 (3t) MANUFACTURING INVESTMENT CREDIT. (a) *Definition.* In this  
6 subsection, "claimant" means a person who files a claim under this subsection.

7 (b) *Credit.* Subject to the limitations provided in this subsection and in s.  
8 560.28, for taxable years beginning after December 31, 2007, a claimant may claim  
9 as a credit, amortized over 15 taxable years starting with the taxable year beginning  
10 after December 31, 2007, against the tax imposed under s. 71.23, up to the amount  
11 of the tax, an amount equal to the claimant's unused credits under s. 71.28 (3).

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

15 2. Partnerships, limited liability companies, and tax-option corporations may  
16 not claim the credit under this subsection, but the eligibility for, and the amount of,  
17 the credit are based on the amount of their unused credits under s. 71.28 (3). A  
18 partnership, limited liability company, or tax-option corporation shall compute the  
19 amount of credit that each of its partners, members, or shareholders may claim and  
20 shall provide that information to each of them. Partners, members of limited liability  
21 companies, and shareholders of tax-option corporations may claim the credit in  
22 proportion to their ownership interest.

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

25 SECTION 13. 71.30 (3) (bb) of the statutes is created to read:

2. the amount of any unused credit under this subsection in any taxable year may be carried forward to subsequent taxable years.

1           71.30 (3) (bb) Manufacturing investment credit under s. 71.28 (3t).

2           SECTION 14. 71.34 (1) (g) of the statutes is amended to read:

3           71.34 (1) (g) An addition shall be made for credits computed by a tax-option  
4 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), and  
5 (3g), and (3t) and passed through to shareholders.

6           SECTION 15. 71.45 (2) (a) 10. of the statutes is amended to read:

7           71.45 (2) (a) 10. By adding to federal taxable income the amount of credit  
8 computed under s. 71.47 (1dd) to (1dx) and not passed through by a partnership,  
9 limited liability company or tax-option corporation that has added that amount to  
10 the partnership's, limited liability company's or tax-option corporation's income  
11 under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit computed under s. 71.47  
12 (1), (3), (3t), (4) and (5).

13           SECTION 16. 71.45 (2) (a) 10b. of the statutes is created to read:

14           71.45 (2) (a) 10b. By subtracting from federal taxable income, as provided  
15 under s. 71.47 (3) (c) 7., the amount of the credit under s. 71.47 (3) that the taxpayer  
16 added to income under subd. 10. at the time that the taxpayer first claimed the credit.

17           SECTION 17. 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 18. 71.47 (3) (c) 7. of the statutes is created to read:

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 each year for an amount equal to 50 percent of the  
5 taxpayer's unused credits, if the taxpayer has \$25,000 or less in unused credits as  
6 of January 1, 2006. For taxable years beginning after December 31, 2005, and before  
7 January 1, 2008, a taxpayer who has more than \$25,000 in unused credits as of  
8 January 1, 2006, may deduct an amount in each year that is equal to 50 percent of  
9 the amount the taxpayer added back to income under s. 71.45 (2) (a) 10. at the time  
10 that the taxpayer first claimed the credit.

11           SECTION 19. 71.47 (3t) of the statutes is created to read:

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

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

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

22           2. Partnerships, limited liability companies, and tax-option corporations may  
23 not claim the credit under this subsection, but the eligibility for, and the amount of,  
24 the credit are based on the amount of their unused credits under s. 71.47 (3). A  
25 partnership, limited liability company, or tax-option corporation shall compute the

1 amount of credit that each of its partners, members, or shareholders may claim and  
2 shall provide that information to each of them. Partners, members of limited liability  
3 companies, and shareholders of tax-option corporations may claim the credit in  
4 proportion to their ownership interest.

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

7 SECTION 20. 71.49 (1) (bb) of the statutes is created to read:

8 71.49 (1) (bb) Manufacturing investment credit under s. 71.47 (3t).

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

10 77.54 (2) The gross receipts from sales of and the storage, use or other  
11 consumption of tangible personal property becoming an ingredient or component  
12 part of an article of tangible personal property or which is consumed or destroyed or  
13 loses its identity in the manufacture of tangible personal property in any form  
14 destined for sale, ~~but this exemption shall not include fuel or electricity~~ except as  
15 provided in sub. (30) (a) 6.

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

17 77.54 (30) (a) 6. Fuel and electricity sold for use in manufacturing tangible  
18 personal property in this state.

19 SECTION 23. 77.92 (4) of the statutes is amended to read:

20 77.92 (4) "Net business income", with respect to a partnership, means taxable  
21 income as calculated under section 703 of the Internal Revenue Code; plus the items  
22 of income and gain under section 702 of the Internal Revenue Code, including taxable  
23 state and municipal bond interest and excluding nontaxable interest income or  
24 dividend income from federal government obligations; minus the items of loss and  
25 deduction under section 702 of the Internal Revenue Code, except items that are not

2. The amount of any unused credit under this subsection in any taxable year may be carried forward to subsequent taxable years.

1 deductible under s. 71.21; plus guaranteed payments to partners under section 707  
2 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),  
3 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), ~~and (3g), and (3s), and (3t)~~; and plus or  
4 minus, as appropriate, transitional adjustments, depreciation differences, and basis  
5 differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain,  
6 loss, and deductions from farming. “Net business income”, with respect to a natural  
7 person, estate, or trust, means profit from a trade or business for federal income tax  
8 purposes and includes net income derived as an employee as defined in section 3121  
9 (d) (3) of the Internal Revenue Code.

10 **SECTION 24.** 560.28<sup>✓</sup> of the statutes is created to read:

11 **560.28 Manufacturing investment credit. (1) DEFINITION.** In this section,  
12 “full-time job” means a regular, nonseasonal full-time position in which an  
13 individual, as a condition of employment, is required to work at least 35 hours in a  
14 week.

15 **(2) CERTIFICATION.** The department shall promulgate rules for the certification  
16 of businesses as eligible to claim tax credits under s. 71.07 (3t), 71.28 (3t), or 71.47  
17 (3t). The rules shall permit a business to obtain a certification only if the person  
18 satisfies one of the following conditions:

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

21 (b) The business’s average annual investment in this state since January 1,  
22 2003, is equal to no less than 2 percent of the total book value of the business’s  
23 depreciable assets in facilities that are based in this state.

24 (c) The business’s average annual investment in this state since January 1,  
25 2003, is no less than \$5,000,000.





## DOR PROPOSED TECHNICAL CHANGES FOR ASA 1 TO AB 507

The Department of Revenue has the following suggestions for changes to ASA 1 to AB 507.

1. The provisions that allow a deduction for the add-back amount do not apply to the owners of pass-through entities because the entity, not the individual owners, added the amount of the credit to its income. Thus, the owners who hold the unused credits cannot take a deduction for those amounts. Similarly, the business entity, not the individual owners, would maintain jobs or make investments to qualify for the new manufacturers investment credit. In addition, taxpayers with \$25,000 or less of unused credits who could not use the credit in the next two years would lose the credit.

The department recommends amending secs. 71.07 (3s)(c)7, 71.07 (3t)(c)1, 71.28(3)(c)7, 71.28 (3t)(c)1, 71.47 (3)(c)7 and 71.47 (3t)(c)1. The amendment allows the deduction for the owners of pass-through entities and clarifies that the pass-through entities, not their owners, are required to satisfy the requirements of the new credit. The amendment also allows taxpayers with \$25,000 or less of unused credits to carry forward credits not used in the next two years for the remainder of the original carryforward period. The following language uses sec. 71.28 (3)(c)7 and 71.28 (3t)(c) 1 as an example of the suggested changes.

### Section 71.28 (3)(c)7.

No credit may be claimed under this subsection for taxable years that begin after December 31, 2005. For credits - Credits that are claimed but unused under this subsection for taxable years that begin before January 1, 2006, up to 50 percent may be used carried forward for in each of the following 2 taxable years, and in each year for an amount equal to 50 percent of the taxpayers unused credits, if the taxpayer has \$25,000 or less in unused credits as of January 1, 2006. For taxable years beginning after December 31, 2005, and before January 1, 2008, a taxpayer who has more than \$25,000 in unused credits as of January 1, 2006, may deduct an amount in each year that is equal to 50 percent of the amount the taxpayer added back to income under 71.26 (2)(a) at the time that the taxpayer first claimed the credit, or in the case of credits passed through from a partnership, limited liability company or tax option corporation, 50 percent of the amount that the entity added back to its income and was included in the partner, member or shareholder's Wisconsin net income at the time that the credit was first claimed.

### Section 71.28 (3t)(c)1.

No credit may be claimed under this subsection unless the claimant submits with the claimant's return a copy of the claimant's certification by the department of commerce under s. 560.28. In the case of credits claimed by partners of a partnership, members of a limited liability company or shareholders of a tax option corporation, the entity must meet the requirements under s. 560.28 and provide a copy of its certification from the department of commerce for the partner, member or shareholder to submit with its return.

6-5719  
Matt



- rolled into  
sub



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRBs0240/1  
JK/RJM:wj/kf/cs:rs

PM not R

ASSEMBLY SUBSTITUTE AMENDMENT,  
TO 2003 ASSEMBLY BILL 507

in 11-3-03  
Today please

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* 71.05 (6) (b) 3m., 71.07 (3s) (c) 7., 71.07 (3t),  
4 71.10 (4) (gbb), 71.28 (3) (c) 7., 71.28 (3t), 71.30 (3) (bb), 71.45 (2) (a) 10b., 71.47  
5 (3) (c) 7., 71.47 (3t), 71.49 (1) (bb), 77.54 (30) (a) 6. and 560.28 of the statutes;  
6 **relating to:** the income and franchise tax credit for sales tax and use tax paid  
7 on fuel and electricity consumed in manufacturing and granting rule-making  
8 authority.

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

9 SECTION 1. 71.05 (6) (a) 15. of the statutes is amended to read:  
10 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),  
11 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), and (3s), and (3t) and not passed

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

4 SECTION 2. 71.05 (6) (b) 3m. of the statutes is created to read:

5 71.05 (6) (b) 3m. As provided under s. 71.07 (3s) (c) 7., the amount of the credit  
6 under s. 71.07 (3s) that the taxpayer added back to income under s. 71.05 (6) (a) at  
7 the time that the taxpayer first claimed the credit.

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

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

17 SECTION 4. 71.07 (3s) (c) 7. of the statutes is created to read:

18 71.07 (3s) (c) 7. No credit may be claimed under this subsection for taxable  
19 years that begin after December 31, 2005. ~~Credits~~ <sup>For credits</sup> that are claimed <sup>but unused</sup> under this  
20 subsection for taxable years that begin before January 1, 2006, <sup>up to 50 percent</sup> may be ~~carried~~  
21 <sup>used in each of</sup> ~~forward for~~ the following 2 taxable years, ~~and in each year for an amount equal to~~  
22 ~~50 percent of the taxpayer's unused credits,~~ if the taxpayer has \$25,000 or less in  
23 unused credits as of January 1, 2006. For taxable years beginning after December  
24 31, 2005, and before January 1, 2008, a taxpayer who has more than \$25,000 in  
25 unused credits as of January 1, 2006, may deduct an amount in each year that is

1 equal to 50 percent of the amount the taxpayer added back to income under s. 71.05

2 (6) (a) at the time that the taxpayer first claimed the credit

INSERT A

3 SECTION 5. 71.07 (3t) of the statutes is created to read:

4 71.07 (3t) MANUFACTURING INVESTMENT CREDIT. (a) *Definition.* In this  
5 subsection, “claimant” means a person who files a claim under this subsection.

6 (b) *Credit.* Subject to the limitations provided in this subsection and in s.  
7 560.28, for taxable years beginning after December 31, 2007, a claimant may claim  
8 as a credit, amortized over 15 taxable years starting with the taxable year beginning  
9 after December 31, 2007, against the tax imposed under s. 71.02 and 71.08, up to the  
10 amount of the tax, an amount equal to the claimant’s unused credits under s. 71.07  
11 (3s).

12 (c) *Limitations.* 1. No credit may be claimed under this subsection unless the  
13 claimant submits with the claimant’s return a copy of the claimant’s certification by  
14 the department of commerce under s. 560.28

INSERT B

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

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

1           2. The amount of any unused credit under this subsection in any taxable year  
2 may be carried forward to subsequent taxable years.

3           **SECTION 6.** 71.08 (1) (intro.) of the statutes is amended to read:

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

13           **SECTION 7.** 71.10 (4) (gbb) of the statutes is created to read:

14           71.10 (4) (gbb) Manufacturing investment credit under s. 71.07 (3t).

15           **SECTION 8.** 71.21 (4) of the statutes is amended to read:

16           71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),  
17 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), and, (3s), and (3t) and passed through to  
18 partners shall be added to the partnership's income.

19           **SECTION 9.** 71.26 (2) (a) of the statutes is amended to read:

20           71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means  
21 the gross income as computed under the Internal Revenue Code as modified under  
22 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit  
23 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)  
24 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income  
25 under this paragraph at the time that the taxpayer first claimed the credit plus the

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

13 **SECTION 10.** 71.28 (3) (c) 1. of the statutes is amended to read:

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

21 **SECTION 11.** 71.28 (3) (c) 7. of the statutes is created to read:

22 71.28 (3) (c) 7. No credit may be claimed under this subsection for taxable years  
 23 that begin after December 31, 2005. ~~Credits~~ <sup>For credits that</sup> ~~that~~ <sup>but unused</sup> that are claimed under this subsection  
 24 for taxable years that begin before January 1, 2006, <sup>up to 50 percent</sup> may be ~~carried forward for~~ <sup>used</sup> the  
 25 following 2 taxable years, and in each year for an amount equal to 50 percent of the

*used in each of*

1 ~~taxpayer's unused credits~~<sup>g</sup>, if the taxpayer has \$25,000 or less in unused credits as  
2 of January 1, 2006. For taxable years beginning after December 31, 2005, and before  
3 January 1, 2008, a taxpayer who has more than \$25,000 in unused credits as of  
4 January 1, 2006, may deduct an amount in each year that is equal to 50 percent of  
5 the amount the taxpayer added back to income under s. 71.26 (2) (a) at the time that  
6 the taxpayer first claimed the credit. <sup>h</sup> ~~6~~ *INSERT A*

7 SECTION 12. 71.28 (3t) of the statutes is created to read:

8 71.28 (3t) MANUFACTURING INVESTMENT CREDIT. (a) *Definition*. In this  
9 subsection, "claimant" means a person who files a claim under this subsection.

10 (b) *Credit*. Subject to the limitations provided in this subsection and in s.  
11 560.28, for taxable years beginning after December 31, 2007, a claimant may claim  
12 as a credit, amortized over 15 taxable years starting with the taxable year beginning  
13 after December 31, 2007, against the tax imposed under s. 71.23, up to the amount  
14 of the tax, an amount equal to the claimant's unused credits under s. 71.28 (3).

15 (c) *Limitations*. 1. No credit may be claimed under this subsection unless the  
16 claimant submits with the claimant's return a copy of the claimant's certification by  
17 the department of commerce under s. 560.28. <sup>i</sup> ~~6~~ *INSERT B*

18 2. Partnerships, limited liability companies, and tax-option corporations may  
19 not claim the credit under this subsection, but the eligibility for, and the amount of,  
20 the credit are based on the amount of their unused credits under s. 71.28 (3). A  
21 partnership, limited liability company, or tax-option corporation shall compute the  
22 amount of credit that each of its partners, members, or shareholders may claim and  
23 shall provide that information to each of them. Partners, members of limited liability  
24 companies, and shareholders of tax-option corporations may claim the credit in  
25 proportion to their ownership interest.



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

3 2. The amount of any unused credit under this subsection in any taxable year  
4 may be carried forward to subsequent taxable years.

5 **SECTION 13.** 71.30 (3) (bb) of the statutes is created to read:

6 71.30 (3) (bb) Manufacturing investment credit under s. 71.28 (3t).

7 **SECTION 14.** 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), and  
10 (3g), and (3t) and passed through to shareholders.

11 **SECTION 15.** 71.45 (2) (a) 10. of the statutes is amended to read:

12 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit  
13 computed under s. 71.47 (1dd) to (1dx) and not passed through by a partnership,  
14 limited liability company or tax-option corporation that has added that amount to  
15 the partnership's, limited liability company's or tax-option corporation's income  
16 under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit computed under s. 71.47  
17 (1), (3), (3t), (4) and (5).

18 **SECTION 16.** 71.45 (2) (a) 10b. of the statutes is created to read:

19 71.45 (2) (a) 10b. By subtracting from federal taxable income, as provided  
20 under s. 71.47 (3) (c) 7., the amount of the credit under s. 71.47 (3) that the taxpayer  
21 added to income under subd. 10. at the time that the taxpayer first claimed the credit.

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

23 71.47 (3) (c) 1. If Except as provided in subd. 7., if the credit computed under  
24 par. (b) is not entirely offset against Wisconsin income or franchise taxes otherwise  
25 due, the unused balance shall be carried forward and credited against Wisconsin

1 income or franchise taxes otherwise due for the following 15 taxable years to the  
2 extent not offset by these taxes otherwise due in all intervening years between the  
3 year in which the expense was incurred and the year in which the carry-forward  
4 credit is claimed.

5 SECTION 18. 71.47 (3) (c) 7. of the statutes is created to read:

6 71.47 (3) (c) 7. No credit may be claimed under this subsection for taxable years  
7 that begin after December 31, 2005. ~~Credits~~ <sup>For credits but unused</sup> that are claimed under this subsection  
8 for taxable years that begin before January 1, 2005, may be ~~carried forward for~~ <sup>up to 50 percent</sup> the  
9 following 2 taxable years, and in each year for an amount equal to 50 percent of the <sup>used in each</sup>  
10 taxpayer's unused credits, if the taxpayer has \$25,000 or less in unused credits as  
11 of January 1, 2006. For taxable years beginning after December 31, 2005, and before  
12 January 1, 2008, a taxpayer who has more than \$25,000 in unused credits as of  
13 January 1, 2006, may deduct an amount in each year that is equal to 50 percent of  
14 the amount the taxpayer added back to income under s. 71.45 (2) (a) 10. at the time  
15 that the taxpayer first claimed the credit. <sup>INSERT A</sup>

16 SECTION 19. 71.47 (3t) of the statutes is created to read:

17 71.47 (3t) MANUFACTURING INVESTMENT CREDIT. (a) *Definition.* In this  
18 subsection, "claimant" means a person who files a claim under this subsection.

19 (b) *Credit.* Subject to the limitations provided in this subsection and in s.  
20 560.28, for taxable years beginning after December 31, 2007, a claimant may claim  
21 as a credit, amortized over 15 taxable years starting with the taxable year beginning  
22 after December 31, 2007, against the tax imposed under s. 71.43, up to the amount  
23 of the tax, an amount equal to the claimant's unused credits under s. 71.47 (3).

1 (c) *Limitations.* 1. No credit may be claimed under this subsection unless the  
2 claimant submits with the claimant's return a copy of the claimant's certification by  
3 the department of commerce under s. 560.28<sup>0</sup> **INSERT B** ✓

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

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

14 2. The amount of any unused credit under this subsection in any taxable year  
15 may be carried forward to subsequent taxable years.

16 **SECTION 20.** 71.49 (1) (bb) of the statutes is created to read:

17 71.49 (1) (bb) Manufacturing investment credit under s. 71.47 (3t).

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

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

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

1           77.54 (30) (a) 6. Fuel and electricity sold for use in manufacturing tangible  
2 personal property in this state.

3           **SECTION 23.** 77.92 (4) of the statutes is amended to read:

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

19           **SECTION 24.** 560.28 of the statutes is created to read:

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

24           **(2) CERTIFICATION.** The department shall promulgate rules for the certification  
25 of businesses as eligible to claim tax credits under s. 71.07 (3t), 71.28 (3t), or 71.47

1 (3t). The rules shall permit a business to obtain a certification only if the person  
2 satisfies one of the following conditions:

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

5 (b) The business's average annual investment in this state since January 1,  
6 2003, is equal to no less than 2 percent of the total book value of the business's  
7 depreciable assets in facilities that are based in this state.

8 (c) The business's average annual investment in this state since January 1,  
9 2003, is no less than \$5,000,000.

10 (d) Any other criteria that is specific to an industry, as promulgated by rule by  
11 the department of commerce, in consultation with the department of revenue.

12 **SECTION 25. Initial applicability.**

13 (1) The treatment of section 77.54 (2) and (30) (a) 6. of the statutes first applies  
14 to fuel and electricity sold on January 1, 2006.

15 (END)

Insert A

No. 11

or, with regards to credits passed through from a partnership, limited liability company, or tax-option corporation, 50 percent of the amount that the entity added back to its income and was included in the partner's, member's, or shareholder's Wisconsin net income at the time that the credit was first claimed

Insert B

No. 11

; except that, with regards to credits claimed by partner of a partnership, member of a limited liability company, or shareholder of a tax-option corporation, the entity shall

provide a copy of its certification under s. 56.028 to the partner, member, or shareholder to submit with his or her return