



State of Wisconsin  
2011 – 2012 LEGISLATURE

January 2011 Special Session



LRB-0833/1

JK:jld:jf

## SENATE BILL 3

January 5, 2011 – Introduced by COMMITTEE ON SENATE ORGANIZATION, by request of Governor Scott Walker, Senator Wanggaard, and Representative Knilans. Referred to Committee on Workforce Development, Small Business, and Tourism.

1     **AN ACT** *to amend* 71.05 (6) (a) 15., 71.08 (1) (intro.), 71.21 (4), 71.26 (2) (a) 4.,  
2             71.34 (1k) (g), 71.45 (2) (a) 10. and 77.92 (4); and *to create* 71.07 (9s), 71.10 (4)  
3             (hm), 71.28 (9s), 71.30 (3) (ex), 71.47 (9s) and 71.49 (1) (ex) of the statutes;  
4             **relating to:** an income and franchise tax credit for businesses that relocate to  
5             this state.

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### ***Analysis by the Legislative Reference Bureau***

This bill creates an income and franchise tax credit for a business for two consecutive taxable years beginning with the taxable year in which the business locates to this state from another state and begins operations in this state. The credit is equal to the amount of the taxpayer's income or franchise tax liability after applying all other credits, deductions, and exclusions. The taxpayer does not receive a refund of the credit amount, but, instead, may apply the credit amount to subsequent taxable years.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

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

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), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),  
3           (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), (5r), (5rm), ~~and (8r), and (9s)~~  
4           and not passed through by a partnership, limited liability company, or tax–option  
5           corporation that has added that amount to the partnership’s, company’s, or  
6           tax–option corporation’s income under s. 71.21 (4) or 71.34 (1k) (g).

7           **SECTION 2.** 71.07 (9s) of the statutes is created to read:

8           71.07 **(9s)** RELOCATED BUSINESS CREDIT. (a) *Definition.* In this subsection,  
9           “claimant” means a person who files a claim under this subsection.

10           (b) *Filing claims.* Subject to the limitations provided under this subsection, for  
11           taxable years beginning after December 31, 2010, for 2 consecutive taxable years  
12           beginning with the taxable year in which the claimant’s business locates to this state  
13           from another state and begins operations in this state, a claimant may claim as a  
14           credit against the taxes imposed under ss. 71.02 and 71.08, up to the amount of the  
15           taxes, the amount of the claimant’s tax liability under this subchapter after applying  
16           all other allowable credits, deductions, and exclusions.

17           (c) *Limitations.* 1. No person may claim a credit under this subsection if the  
18           person has done business in this state during any of the 10 taxable years preceding  
19           the taxable year in which the person would otherwise be eligible to claim a credit  
20           under par. (b).

21           2. Partnerships, limited liability companies, and tax–option corporations may  
22           not claim the credit under this subsection, but the eligibility for, and the amount of,  
23           the credit are based on their payment of amounts under par. (b). A partnership,  
24           limited liability company, or tax–option corporation shall compute the amount of  
25           credit that each of its partners, members, or shareholders may claim and shall

1 provide that information to each of them. Partners, members of limited liability  
2 companies, and shareholders of tax-option corporations may claim the credit in  
3 proportion to their ownership interests.

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

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

7 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married  
8 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under  
9 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2dy), (3m), (3n), (3p),  
10 (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (5b), (5d), (5e), (5f), (5h), (5i), (5j), (6), (6e), (8r),  
11 and (9e), and (9s), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3),  
12 (3n), (3t), and (3w), 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3),  
13 (3n), (3t), and (3w), 71.57 to 71.61, and 71.613 and subch. VIII and payments to other  
14 states under s. 71.07 (7), is less than the tax under this section, there is imposed on  
15 that natural person, married couple filing jointly, trust or estate, instead of the tax  
16 under s. 71.02, an alternative minimum tax computed as follows:

17 **SECTION 4.** 71.10 (4) (hm) of the statutes is created to read:

18 71.10 (4) (hm) Relocated business credit under s. 71.07 (9s).

19 **SECTION 5.** 71.21 (4) of the statutes is amended to read:

20 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),  
21 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s),  
22 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), ~~and (8r)~~, and (9s) and passed  
23 through to partners shall be added to the partnership's income.

24 **SECTION 6.** 71.26 (2) (a) 4. of the statutes is amended to read:

1           71.26 **(2)** (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),  
2 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),  
3 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), ~~and (8r)~~, and (9s)  
4 and not passed through by a partnership, limited liability company, or tax–option  
5 corporation that has added that amount to the partnership’s, limited liability  
6 company’s, or tax–option corporation’s income under s. 71.21 (4) or 71.34 (1k) (g).

7           **SECTION 7.** 71.28 (9s) of the statutes is created to read:

8           71.28 **(9s)** RELOCATED BUSINESS CREDIT. (a) *Definition.* In this subsection,  
9 “claimant” means a person who files a claim under this subsection.

10           (b) *Filing claims.* Subject to the limitations provided under this subsection, for  
11 taxable years beginning after December 31, 2010, for 2 consecutive taxable years  
12 beginning with the taxable year in which the claimant’s business locates to this state  
13 from another state and begins operations in this state, a claimant may claim as a  
14 credit against the taxes imposed under s. 71.23, up to the amount of the taxes, the  
15 amount of the claimant’s tax liability under this subchapter after applying all other  
16 allowable credits, deductions, and exclusions.

17           (c) *Limitations.* 1. No person may claim a credit under this subsection if the  
18 person has done business in this state during any of the 10 taxable years preceding  
19 the taxable year in which the person would otherwise be eligible to claim a credit  
20 under par. (b).

21           2. Partnerships, limited liability companies, and tax–option corporations may  
22 not claim the credit under this subsection, but the eligibility for, and the amount of,  
23 the credit are based on their payment of amounts under par. (b). A partnership,  
24 limited liability company, or tax–option corporation shall compute the amount of  
25 credit that each of its partners, members, or shareholders may claim and shall

1 provide that information to each of them. Partners, members of limited liability  
2 companies, and shareholders of tax-option corporations may claim the credit in  
3 proportion to their ownership interests.

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

6 **SECTION 8.** 71.30 (3) (ex) of the statutes is created to read:

7 71.30 (3) (ex) Relocated business credit under s. 71.28 (9s).

8 **SECTION 9.** 71.34 (1k) (g) of the statutes is amended to read:

9 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option  
10 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),  
11 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j),  
12 (5k), (5r), (5rm), ~~and (8r)~~, and (9s) and passed through to shareholders.

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

14 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit  
15 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn),  
16 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), ~~and (8r)~~, and (9s) and not passed  
17 through by a partnership, limited liability company, or tax-option corporation that  
18 has added that amount to the partnership's, limited liability company's, or  
19 tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g) and the amount  
20 of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

21 **SECTION 11.** 71.47 (9s) of the statutes is created to read:

22 71.47 (9s) RELOCATED BUSINESS CREDIT. (a) *Definition.* In this subsection,  
23 “claimant” means a person who files a claim under this subsection.

24 (b) *Filing claims.* Subject to the limitations provided under this subsection, for  
25 taxable years beginning after December 31, 2010, for 2 consecutive taxable years

1 beginning with the taxable year in which the claimant’s business locates to this state  
2 from another state and begins operations in this state, a claimant may claim as a  
3 credit against the taxes imposed under s. 71.43, up to the amount of the taxes, the  
4 amount of the claimant’s tax liability under this subchapter after applying all other  
5 allowable credits, deductions, and exclusions.

6 (c) *Limitations.* 1. No person may claim a credit under this subsection if the  
7 person has done business in this state during any of the 10 taxable years preceding  
8 the taxable year in which the person would otherwise be eligible to claim a credit  
9 under par. (b).

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 payment of amounts under par. (b). A partnership,  
13 limited liability company, or tax–option corporation shall compute the amount of  
14 credit that each of its partners, members, or shareholders may claim and shall  
15 provide that information to each of them. Partners, members of limited liability  
16 companies, and shareholders of tax–option corporations may claim the credit in  
17 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 **SECTION 12.** 71.49 (1) (ex) of the statutes is created to read:

21 71.49 (1) (ex) Relocated business credit under s. 71.47 (9s).

22 **SECTION 13.** 77.92 (4) of the statutes is amended to read:

23 77.92 (4) “Net business income,” with respect to a partnership, means taxable  
24 income as calculated under section 703 of the Internal Revenue Code; plus the items  
25 of income and gain under section 702 of the Internal Revenue Code, including taxable

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

14 **SECTION 14. Nonstatutory provisions.**

15 (1) REQUIRED GENERAL FUND BALANCE. Section 20.003 (4) of the statutes does not  
16 apply to the action of the legislature in enacting this act.

17 (END)