

**2011 Jr1 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB3)**

Received: **01/14/2011**

Received By: **jkreye**

Wanted: **As time permits**

Companion to LRB:

For: **Robin Vos (608) 266-9171**

By/Representing: **jenny**

May Contact:

Drafter: **jkreye**

Subject: **Tax, Business - credits**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Vos@legis.wisconsin.gov**

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

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Relocation tax deductions and credits

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**Instructions:**

See attached

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**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 01/14/2011	csicilia 01/17/2011		_____			
/1			jfrantze 01/17/2011	_____	sbasford 01/17/2011	sbasford 01/17/2011	

FE Sent For:

<END>

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/?	jkreye	1 gjs 1/17 10	Jo	1/17			

FE Sent For:

<END>

**Kreye, Joseph**

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**From:** Koskinen, John B - DOR [John.Koskinen@revenue.wi.gov]  
**Sent:** Friday, January 14, 2011 2:07 PM  
**To:** Kreye, Joseph  
**Subject:** RE: Draft review: LRB 11s0006/P1 Topic: Relocation credit; technical changes from DOR  
This looks very good. We have a few suggested revisions.

(1) In section 1, add a definition for relocating along these lines.

In this subsection, "locates to this state" means moving either 51% or more of the workforce payroll of the business or at least \$200,000 of wages paid to such workforce to Wisconsin during the first year to which the claim relates. "Wages" means wages as defined in section 3121 of the Internal Revenue Code.

(2) Similarly in sections 3 and 7, after "in this subsection"

**insert the following** - 1. "claimant" means a person who files a claim under this subsection. 2. "locates to this state" means moving either 51% or more of the workforce payroll of the business or at least \$200,000 of wages paid to such workforce to Wisconsin during the first year to which the claim relates. 3. "Wages" means wages as defined in section 3121 of the Internal Revenue Code.

(3) Delete Section 5.

(4) Amend sec. 71.26(2)(a)4. to reference the credit under (9s)

Thanks for your help.

*John K*

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**From:** Kreye, Joseph [mailto:Joseph.Kreye@legis.wisconsin.gov]  
**Sent:** Thursday, January 13, 2011 2:44 PM  
**To:** Koskinen, John B - DOR  
**Subject:** FW: Draft review: LRB 11s0006/P1 Topic: Relocation credit; technical changes from DOR

John,

Here's my preliminary draft for the relocation credit technical changes.

Joe

**Joseph Kreye**  
**Senior Legislative Attorney**  
Legislative Reference Bureau  
608 266-2263

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**From:** Parisi, Lori  
**Sent:** Thursday, January 13, 2011 2:43 PM  
**To:** Kreye, Joseph  
**Subject:** Draft review: LRB 11s0006/P1 Topic: Relocation credit; technical changes from DOR

1/14/2011

**Following is the PDF version of draft LRB 11s0006/P1.**

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State of Wisconsin  
 2011 - 2012 LEGISLATURE  
 January 2011 Special Session



LRBs0006/P1

JK:cjs:rs

stay

from

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

**SENATE SUBSTITUTE AMENDMENT,  
 TO SENATE BILL 3**

in 1-19-11

50011/1

Assembly

Monday AM

Regen Cat

1 AN ACT *to amend* 71.34 (1k) (g) and 71.45 (2) (a) 10.; and *to create* 71.05 (6) (b)  
 2 47., 71.26 (2) (a) 10., 71.28 (9s), 71.30 (3) (ex), 71.47 (9s) and 71.49 (1) (ex) of the  
 3 statutes; **relating to:** income and franchise tax deductions and credits for  
 4 businesses that relocate to this state and granting rule-making authority.

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

INSERT  
1-5

5 SECTION 1. 71.05 (6) (b) 47 of the statutes is created to read:  
 6 71.05 (6) (b) 47. <sup>am</sup> For taxable years beginning after December 31, 2010, for 2  
 7 consecutive taxable years beginning with the taxable year in which the claimant's  
 8 business locates to this state from another state and begins doing business in this  
 9 state, as defined in s. 71.22 (1r), and subject to the limitations provided under subd.  
 10 47. d. and e., the profit or loss from a trade or business as reported on federal income

1 tax return schedules C and F or their equivalents, plus ordinary gain or loss on the  
2 sale of business assets, as determined under s. 71.01 (6), but not less than zero,  
3 multiplied by the apportionment fraction determined in s. 71.04 (4) and subject to  
4 s. 71.04 (7).

5 b. With respect to partners and members of limited liability companies, for  
6 taxable years beginning after December 31, 2010, for 2 consecutive taxable years  
7 beginning with the taxable year in which the partnership's or limited liability  
8 company's business locates to this state from another state and begins doing  
9 business in this state, as defined in s. 71.22 (1r), and subject to the limitations  
10 provided under subd. 47. d. and e., the partner's or member's distributive share of  
11 taxable income as calculated under section 703 of the Internal Revenue Code; plus  
12 the items of income and gain under section 702 of the Internal Revenue Code,  
13 including taxable state and municipal bond interest and excluding nontaxable  
14 interest income or dividend income from federal government obligations; minus the  
15 items of loss and deduction under section 702 of the Internal Revenue Code, except  
16 items that are not deductible under s. 71.21; plus guaranteed payments to partners  
17 under section 707 (c) of the Internal Revenue Code; plus the credits claimed under  
18 s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n),  
19 (3p), (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r),  
20 (5rm), and (8r); and plus or minus, as appropriate, transitional adjustments,  
21 depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and  
22 (19), multiplied by the apportionment fraction determined in s. 71.04 (4) and subject  
23 to s. 71.04 (7) or by separate accounting. No amounts subtracted under this subd.  
24 47. b. may be included in the modification under par. (b) 9. or 9m.

1 c. With respect to shareholders of a tax-option corporation, for taxable years  
2 beginning after December 31, 2010, for 2 consecutive taxable years beginning with  
3 the taxable year in which the tax-option corporation's business locates to this state  
4 from another state and begins doing business in this state, as defined in s. 71.22 (1r),  
5 and subject to the limitations provided under subd. 47. d. and e., the shareholder's  
6 distributive share of the entity's net income or loss as determined under this chapter,  
7 including interest income from federal, state, and municipal government  
8 obligations, multiplied by the apportionment fraction determined in s. 71.25 (6m)  
9 and subject to s. 71.25 (9) or by separate accounting. No amounts subtracted under  
10 this subdivision may be included in the modification under par. (b) 9. or 9m.

11 d. No modification may be made under this subdivision if the person,  
12 partnership, limited liability company, or tax-option corporation first has done  
13 business in this state during any of the 10 taxable years preceding the first taxable  
14 year in which the modification would otherwise be allowed.

15 e. The department shall promulgate rules to administer this subdivision.

16 **SECTION 2.** 71.26 (2) (a) 10. of the statutes is created to read:

17 71.26 (2) (a) 10. Minus the amount computed under 71.05 (6) (b) 47. b.

18 **SECTION 3.** 71.28 (9s) of the statutes is created to read:

19 71.28 (9s) RELOCATED BUSINESS CREDIT. (a) *Definition.* In this subsection, <sup>g</sup>Ⓞ

20 <sup>g</sup>Ⓞ 1. <sup>C</sup>claimant means a person who files a claim under this subsection.

21 (b) *Filing claims.* Subject to the limitations provided under this subsection, for  
22 taxable years beginning after December 31, 2010, for 2 consecutive taxable years  
23 beginning with the taxable year in which the claimant's business locates to this state  
24 from another state and begins doing business in this state, a claimant may claim as  
25 a credit against the taxes imposed under s. 71.23, up to the amount of the taxes, the

INSERT  
3-18

INSERT  
3-20

1 amount of the claimant's tax liability under this subchapter after applying all other  
2 allowable credits, deductions, and exclusions.

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

7 2. Partnerships, limited liability companies, and tax-option corporations may  
8 not claim the credit under this subsection.

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

11 2. The department shall promulgate rules to administer this subsection.

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

13 71.30 (3) (ex) Relocated business credit under s. 71.28 (9s).

14 SECTION 5. 71.34 (1k) (g) of the statutes is amended to read:

15 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option  
16 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),  
17 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j),  
18 (5k), (5r), (5rm), ~~and (8r), and (9s)~~ and passed through to shareholders.



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

20 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit  
21 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn),  
22 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), ~~and (8r), and (9s)~~ and not passed  
23 through by a partnership, limited liability company, or tax-option corporation that  
24 has added that amount to the partnership's, limited liability company's, or



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

3 **SECTION 7.** 71.47 (9s) of the statutes is created to read:

4 71.47 (9s) RELOCATED BUSINESS CREDIT. (a) *Definition.* In this subsection, <sup>9</sup>   
5 <sup>1</sup>  "claimant" means a person who files a claim under this subsection.

6 (b) *Filing claims.* Subject to the limitations provided under this subsection, for  
7 taxable years beginning after December 31, 2010, for 2 consecutive taxable years  
8 beginning with the taxable year in which the claimant's business locates to this state  
9 from another state and begins doing business in this state, a claimant may claim as  
10 a credit against the taxes imposed under s. 71.43, up to the amount of the taxes, the  
11 amount of the claimant's tax liability under this subchapter after applying all other  
12 allowable credits, deductions, and exclusions.

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

17 2. Partnerships, limited liability companies, and tax-option corporations may  
18 not claim the credit under this subsection.

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

21 2. The department shall promulgate rules to administer this subsection.

22 **SECTION 8.** 71.49 (1) (ex) of the statutes is created to read:

23 71.49 (1) (ex) Relocated business credit under s. 71.47 (9s).

24 **SECTION 9. Nonstatutory provisions.**

INSERT  
5-5



2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBs0011/?ins  
JK:.....

Insert 1 - 5

1 71.05 (6) (b) 47. a. In this subdivision, "locates to this state" means moving  
2 either 51 percent or more of the workforce payroll of the business or at least \$200,000  
3 of wages, as defined in section 3121 of the Internal Revenue Code, paid to such  
4 workforce to Wisconsin during the first year to which a deduction relates under this  
5 subdivision.

taxable

modification

Insert 3 - 15

6 SECTION 1. 71.26 (2) (a) 4. of the statutes is amended to read:

7 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),  
8 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),  
9 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), and (8r), and (9s)  
10 and not passed through by a partnership, limited liability company, or tax-option  
11 corporation that has added that amount to the partnership's, limited liability  
12 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

NOTE: NOTE: Subd. 4. is shown as affected by 4 acts of the 2009 Wisconsin Legislature and as merged by the legislative reference bureau under s. 13.92 (2) (i). The cross-reference to s. 71.28 (3rn) was changed from s. 71.28 (3rm) by the legislative reference bureau under s. 13.92 (1) (bm) 2. to reflect the renumbering of s. 71.28 (3rn), as created by 2009 Wis. Act 295, under s. 13.92 (1) (bm) 2. NOTE:

History: 1987 a. 312; 1987 a. 411 ss. 22, 124 to 129; 1989 a. 31, 336; 1991 a. 37, 39, 221, 269; 1993 a. 16, 112, 246, 263, 399, 437, 491; 1995 a. 27, 56, 351, 371, 380, 428; 1997 a. 27, 37, 184, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 106, 109; 2003 a. 33, 85, 99, 135, 255, 326; 2005 a. 25, 74, 335, 361, 362, 479, 483; 2007 a. 20, 96, 97, 151, 226; 2009 a. 2, 28, 161, 165, 180, 183, 205, 265, 269, 295, 332, 344; s. 13.92 (1) (bm) 2., (2) (i).

Insert 3 - 20

13 2. "Locates to this state" means moving either 51 percent or more of the  
14 workforce payroll of the business or at least \$200,000 of wages, as defined in section  
15 3121 of the Internal Revenue Code, paid to such workforce to Wisconsin during the  
16 first year to which a deduction relates under this subdivision.

taxable

credit

Insert 5 - 5

subsection

17 2. "Locates to this state" means moving either 51 percent or more of the  
18 workforce payroll of the business or at least \$200,000 of wages, as defined in section

1 3121 of the Internal Revenue Code, paid to such workforce to Wisconsin during the  
2 first year to which a deduction relates under this subdivision.

taxable

credit

subsection