

**BILL HISTORY FOR ASSEMBLY BILL 507 (LRB -0855 )**

An Act to amend 77.54 (2); and to create 71.07 (3s) (c) 7., 71.28 (3) (c) 7., 71.47 (3) (c) 7. and 77.54 (30) (a) 6. of the statutes; relating to: the income and franchise tax credit for sales tax and use tax paid on fuel and electricity consumed in manufacturing. (FE)

2003

09-11. A.	Introduced by Representatives Wieckert, F. Lasee, Nischke, Jensen, Townsend, Musser, Weber, Ott, Gunderson, Van Roy, McCormick, Montgomery, Freese, Gard and Krawczyk; cosponsored by Senators Welch, Breske, Reynolds, S. Fitzgerald, Stepp, Roessler, Ellis and Hansen.	
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10-29. A.	Report passage as amended recommended by joint committee on Finance, Ayes 12, Noes 4	469
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11-12. S.	Public hearing held.	
11-12. S.	Executive action taken.	
11-12. S.	Report concurrence recommended by committee on Economic Development, Job Creation and Housing, Ayes 4, Noes 1	
11-12. S.	Available for scheduling.	
11-12. S.	Placed on calendar 11-13-2003 by committee on Senate Organization.	
11-13. S.	Read a second time.	
11-13. S.	Senate amendment 1 offered by Senator Carpenter (LRB a1768).	

- 11-13. S. Senate amendment 1 rejected, Ayes 18, Noes 14.
- 11-13. S. Ordered to a third reading.
- 11-13. S. Rules suspended.
- 11-13. S. Read a third time and concurred in, Ayes 26, Noes 6.
- 11-13. S. Ordered immediately messaged.
- 11-17. A. Received from Senate concurred in.

2003  
ENROLLED BILL

03en AB-507

ADOPTED DOCUMENTS:

Orig     Engr

A SubAmdt 2

03 502401

Amendments to above (if none, write "NONE"): AA 2

Corrections - show date (if none, write "NONE"): None

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11/17/03  
Date

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**ASSEMBLY SUBSTITUTE AMENDMENT 2,  
TO 2003 ASSEMBLY BILL 507**

November 4, 2003 – Offered by Representatives WIECKERT and KAUFERT.

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. For credits that are claimed but unused  
20 under this subsection for taxable years that begin before January 1, 2006, up to 50  
21 percent may be used in each of the following 2 taxable years if the taxpayer has  
22 \$25,000 or less in unused credits as of January 1, 2006. For taxable years beginning  
23 after December 31, 2005, and before January 1, 2008, a taxpayer who has more than  
24 \$25,000 in unused credits as of January 1, 2006, may deduct an amount in each year  
25 that is equal to 50 percent of the amount the taxpayer added back to income under

1 s. 71.05 (6) (a) at the time that the taxpayer first claimed the credit or, with regard  
2 to credits passed through from a partnership, limited liability company, or  
3 tax-option corporation, 50 percent of the amount that the entity added back to its  
4 income and was included in the partner's, member's, or shareholder's Wisconsin net  
5 income at the time that the credit was first claimed.

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

7 **71.07 (3t) MANUFACTURING INVESTMENT CREDIT.** (a) *Definition.* In this  
8 subsection, "claimant" means a person who files a claim under this subsection.

9 (b) *Credit.* Subject to the limitations provided in this subsection and in s.  
10 560.28, for taxable years beginning after December 31, 2007, a claimant may claim  
11 as a credit, amortized over 15 taxable years starting with the taxable year beginning  
12 after December 31, 2007, against the tax imposed under s. 71.02 and 71.08, up to the  
13 amount of the tax, an amount equal to the claimant's unused credits under s. 71.07  
14 (3s).

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, except that, with regard to credits  
18 claimed by partners of a partnership, members of a limited liability company, or  
19 shareholders of a tax-option corporation, the entity shall provide a copy of its  
20 certification under s. 560.28 to the partner, member, or shareholder to submit with  
21 his or her return.

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. 71.07 (3s). 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*. 1. Section 71.28 (4) (e), (g), and (h), as it applies to the  
6 credit under s. 71.28 (4), applies to the credit under this subsection.

7 2. The amount of any unused credit under this subsection in any taxable year  
8 may be carried forward to subsequent taxable years. *4-8 ✓ AA2*

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

10 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married  
11 couple filing jointly, trust or estate under s. 71.02, not considering the credits under  
12 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3s), (3t),  
13 (6), ~~(6s)~~, and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) and,  
14 (3), and (3t) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) and, (3),  
15 and (3t) and subchs. VIII and IX and payments to other states under s. 71.07 (7), is  
16 less than the tax under this section, there is imposed on that natural person, married  
17 couple filing jointly, trust or estate, instead of the tax under s. 71.02, an alternative  
18 minimum tax computed as follows:

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

20 71.10 (4) (gbb) Manufacturing investment credit under s. 71.07 (3t).

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

22 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),  
23 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), and, (3s), and (3t) and passed through to  
24 partners shall be added to the partnership's income.

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

1           71.26 (2) (a) *Corporations in general.* The “net income” of a corporation means  
2 the gross income as computed under the Internal Revenue Code as modified under  
3 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit  
4 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)  
5 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income  
6 under this paragraph at the time that the taxpayer first claimed the credit plus the  
7 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),  
8 (1ds), (1dx), ~~and (3g), and (3t)~~ and not passed through by a partnership, limited  
9 liability company, or tax-option corporation that has added that amount to the  
10 partnership’s, limited liability company’s, or tax-option corporation’s income under  
11 s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or other disposition  
12 of assets the gain from which would be wholly exempt income, as defined in sub. (3)  
13 (L), if the assets were sold or otherwise disposed of at a gain and minus deductions,  
14 as computed under the Internal Revenue Code as modified under sub. (3), plus or  
15 minus, as appropriate, an amount equal to the difference between the federal basis  
16 and Wisconsin basis of any asset sold, exchanged, abandoned, or otherwise disposed  
17 of in a taxable transaction during the taxable year, except as provided in par. (b) and  
18 s. 71.45 (2) and (5).

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

20           71.28 (3) (c) 1. If Except as provided in subd. 7., if the credit computed under  
21 par. (b) is not entirely offset against Wisconsin income or franchise taxes otherwise  
22 due, the unused balance shall be carried forward and credited against Wisconsin  
23 income or franchise taxes otherwise due for the following 15 taxable years to the  
24 extent not offset by these taxes otherwise due in all intervening years between the



1 year in which the expense was incurred and the year in which the carry-forward  
2 credit is claimed.

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

4 71.28 (3) (c) 7. No credit may be claimed under this subsection for taxable years  
5 that begin after December 31, 2005. For credits that are claimed but unused under  
6 this subsection for taxable years that begin before January 1, 2006, up to 50 percent  
7 may be used in each of the following 2 taxable years if the taxpayer has \$25,000 or  
8 less in unused credits as of January 1, 2006. For taxable years beginning after  
9 December 31, 2005, and before January 1, 2008, a taxpayer who has more than  
10 \$25,000 in unused credits as of January 1, 2006, may deduct an amount in each year  
11 that is equal to 50 percent of the amount the taxpayer added back to income under  
12 s. 71.26 (2) (a) at the time that the taxpayer first claimed the credit or, with regard  
13 to credits passed through from a partnership, limited liability company, or  
14 tax-option corporation, 50 percent of the amount that the entity added back to its  
15 income and was included in the partner's, member's, or shareholder's Wisconsin net  
16 income at the time that the credit was first claimed.

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

18 71.28 (3t) MANUFACTURING INVESTMENT CREDIT. (a) *Definition.* In this  
19 subsection, "claimant" means a person who files a claim under this subsection.

20 (b) *Credit.* Subject to the limitations provided in this subsection and in s.  
21 560.28, for taxable years beginning after December 31, 2007, a claimant may claim  
22 as a credit, amortized over 15 taxable years starting with the taxable year beginning  
23 after December 31, 2007, against the tax imposed under s. 71.23, up to the amount  
24 of the tax, an amount equal to the claimant's unused credits under s. 71.28 (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, except that, with regard to credits  
4 claimed by partners of a partnership, members of a limited liability company, or  
5 shareholders of a tax-option corporation, the entity shall provide a copy of its  
6 certification under s. 560.28 to the partner, member, or shareholder to submit with  
7 his or her return.

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 the amount of their unused credits under s. 71.28 (3). A  
11 partnership, limited liability company, or tax-option corporation shall compute the  
12 amount of credit that each of its partners, members, or shareholders may claim and  
13 shall 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. Subsection (4) (e), (g), and (h), as it applies to the credit  
17 under sub. (4), applies to the credit under this subsection.

18 2. The amount of any unused credit under this subsection in any taxable year  
19 may be carried forward to subsequent taxable years. 7-19 ✓ AA2

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

21 71.30 (3) (bb) Manufacturing investment credit under s. 71.28 (3t).

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

23 71.34 (1) (g) An addition shall be made for credits computed by a tax-option  
24 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), and  
25 (3g), and (3t) and passed through to shareholders.

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

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

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

9           71.45 (2) (a) 10b. By subtracting from federal taxable income, as provided  
10           under s. 71.47 (3) (c) 7., the amount of the credit under s. 71.47 (3) that the taxpayer  
11           added to income under subd. 10. at the time that the taxpayer first claimed the credit.

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

13           71.47 (3) (c) 1. If Except as provided in subd. 7., if the credit computed under  
14           par. (b) is not entirely offset against Wisconsin income or franchise taxes otherwise  
15           due, the unused balance shall be carried forward and credited against Wisconsin  
16           income or franchise taxes otherwise due for the following 15 taxable years to the  
17           extent not offset by these taxes otherwise due in all intervening years between the  
18           year in which the expense was incurred and the year in which the carry–forward  
19           credit is claimed.

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

21           71.47 (3) (c) 7. No credit may be claimed under this subsection for taxable years  
22           that begin after December 31, 2005. For credits that are claimed but unused under  
23           this subsection for taxable years that begin before January 1, 2005, up to 50 percent  
24           may be used in each of the following 2 taxable years if the taxpayer has \$25,000 or  
25           less in unused credits as of January 1, 2006. For taxable years beginning after

1 December 31, 2005, and before January 1, 2008, a taxpayer who has more than  
2 \$25,000 in unused credits as of January 1, 2006, may deduct an amount in each year  
3 that is equal to 50 percent of the amount the taxpayer added back to income under  
4 s. 71.45 (2) (a) 10. at the time that the taxpayer first claimed the credit or, with regard  
5 to credits passed through from a partnership, limited liability company, or  
6 tax-option corporation, 50 percent of the amount that the entity added back to its  
7 income and was included in the partner's, member's, or shareholder's Wisconsin net  
8 income at the time that the credit was first claimed.

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

10 71.47 (3t) MANUFACTURING INVESTMENT CREDIT. (a) *Definition.* In this  
11 subsection, "claimant" means a person who files a claim under this subsection.

12 (b) *Credit.* Subject to the limitations provided in this subsection and in s.  
13 560.28, for taxable years beginning after December 31, 2007, a claimant may claim  
14 as a credit, amortized over 15 taxable years starting with the taxable year beginning  
15 after December 31, 2007, against the tax imposed under s. 71.43, up to the amount  
16 of the tax, an 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, except that, with regard to credits  
20 claimed by partners of a partnership, members of a limited liability company, or  
21 shareholders of a tax-option corporation, the entity shall provide a copy of its  
22 certification under s. 560.28 to the partner, member, or shareholder to submit with  
23 his or her return.

24 2. Partnerships, limited liability companies, and tax-option corporations may  
25 not claim the credit under this subsection, but the eligibility for, and the amount of,

1 the credit are based on the amount of their unused credits under s. 71.47 (3). A  
2 partnership, limited liability company, or tax-option corporation shall compute the  
3 amount of credit that each of its partners, members, or shareholders may claim and  
4 shall provide that information to each of them. Partners, members of limited liability  
5 companies, and shareholders of tax-option corporations may claim the credit in  
6 proportion to their ownership interest.

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

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

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

12 71.49 (1) (bb) Manufacturing investment credit under s. 71.47 (3t).

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

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

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

21 77.54 (30) (a) 6. Fuel and electricity ~~used~~ <sup>consumed</sup> in manufacturing tangible  
22 personal property in this state.

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

24 77.92 (4) "Net business income", with respect to a partnership, means taxable  
25 income as calculated under section 703 of the Internal Revenue Code; plus the items

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

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

15 **560.28 Manufacturing investment credit. (1) DEFINITION.** In this section,  
16 “full-time job” means a regular, nonseasonal full-time position in which an  
17 individual, as a condition of employment, is required to work at least 35 hours in a  
18 week.

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

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



**ASSEMBLY AMENDMENT 2,  
TO ASSEMBLY SUBSTITUTE AMENDMENT 2,  
TO 2003 ASSEMBLY BILL 507**

November 4, 2003 – Offered by Representatives WIECKERT and KAUFERT.

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

- 2 ✓ 1. Page 4, line 8: after “years” insert “, up to 15 taxable years”. *4-8*
- 3 ✓ 2. Page 7, line 19: after “years” insert “, up to 15 taxable years”. *7-19*
- 4 ✓ 3. Page 10, line 10: after “years” insert “, up to 15 taxable years”. *10-10*
- 5 ✓ 4. Page 10, line 21: delete “sold for use” and substitute “consumed”.

6

(END)