STATE OF WISCONSIN

REPORT OF THE JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS

2003 ASSEMBLY BILL 507

[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.]

General Nature of Proposal

Current law authorizes manufacturers to claim an income or franchise tax credit for the amount of sales and use tax paid on fuel and electricity consumed in manufacturing tangible personal property in Wisconsin. Generally, "manufacturing" means the production by machinery of a new article with a different form, use, and name from existing materials by a process popularly regarded as manufacturing.

The credit, under current law, may not be claimed for fuel and electricity that are not directly related to a manufacturing process. Energy use must be allocated between manufacturing and nonmanufacturing uses for purposes of claiming the credit.

The credit under current law is not refundable, but may be carried forward for use in future years for up to 15 years.

Under Assembly Bill 507, a manufacturer may not claim the credit for taxable years beginning after December 31, 2004. Instead, beginning January 1, 2005, the bill creates a sales and use tax exemption for fuel and electricity sold for use in manufacturing tangible personal property. Unused credits claimed for taxable years beginning before January 1, 2005 may continue to be carried forward.

Legality Involved

There are no questions of legality involved.

Fiscal Effect Upon the State and Its Subdivisions

The Department of Revenue has explained the fiscal effects of the bill as follows:

> Under current law, an income and franchise tax credit is available for sales and use tax paid on purchases of fuel and electricity used in manufacturing tangible personal property. The credit is nonrefundable, but may be carried forward for 15 years for use in offsetting tax liability in those years.
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> The draft would repeal the credit for sales and use tax paid on fuel and electricity used in manufacturing and replace it with a sales tax exemption for those purchases. Under the draft, no credit could be claimed for sales and use tax paid for taxable years that begin after December 31, 2003.

Unused credit carryforward would be available to offset tax liability in future tax years. Fuel and electricity used in manufacturing would be exempt beginning on January 1, 2004.

This estimate assumes that the sales tax exemption would be for the same purchases as are eligible for the income and franchise tax credit. Based on Department data, this provision would reduce tax revenues by $9 million annually, absent consideration of the unused credit that is carried forward to offset tax liability in future years. Income and franchise tax revenues would increase by an estimated $22 million and sales tax revenues would decrease by an estimated $31 million annually.

Approximately $155 million of unused credit from prior years would continue to be used to offset future tax liability for an estimated seven years at the current rate of usage (up to $22 million per year).

Local sales taxes would decline as a result of the exemption for fuel and electricity used in manufacturing. Assuming county, ballpark and stadium taxes are 7.27% of state sales taxes, the percentage they were estimated to be in FY02, the local revenue loss would be $2.25 million ($31 million x 7.27%).

Public Policy Involved

The tax exemption provision of the bill is good public policy if it is amended by the provisions of Assembly Substitute Amendment 1.