AN ACT to amend 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2) (a) 10. and 77.92 (4); and to create 71.07 (5j), 71.10 (4) (gn), 71.28 (5j), 71.30 (3) (dq), 71.47 (5j) and 71.49 (1) (dq) of the statutes; relating to: creating an income and franchise tax credit for motor vehicles that use gasoline and ethanol mixtures as fuel.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit that is equal to the amount of sales and use taxes a person paid in the taxable year on the purchase or lease of any new motor vehicle that is licensed for highway use and capable of using both gasoline and a mixture of gasoline and at least 85 percent ethanol as a fuel to propel the motor vehicle. The amount of the credit that a person may claim may not exceed an amount equal to $1,000 for each motor vehicle purchased in the taxable year or $1,000 for all taxable years combined with respect to the lease of any single motor vehicle. The credit may be claimed for taxable years beginning after December 31, 2007, and before January 1, 2013.

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

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:
SECTION 1. 71.05 (6) (a) 15. of the statutes is amended to read:

71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
(2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), (5d), and
(5e), (5f), and (5h), and (5j) and not passed through by a partnership, limited liability
company, or tax-option corporation that has added that amount to the partnership's,
company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

SECTION 2. 71.07 (5j) of the statutes is created to read:

71.07 (5j) FLEXIBLE FUEL MOTOR VEHICLES CREDIT. (a) Definitions. In this
subsection, “claimant” means a person who files a claim under this subsection.

(b) Filing claims. Subject to the limitations provided under this subsection, for
taxable years beginning after December 31, 2007, and before January 1, 2013, a
claimant may claim as a credit against the taxes imposed under s. 71.02, up to the
amount of the tax, an amount that is equal to the amount of the taxes imposed under
subch. III of ch. 77 that the claimant paid in the taxable year on the purchase or lease
of any new motor vehicle, licensed for highway use, that is capable of using both
gasoline and a mixture of gasoline and at least 85 percent ethanol as a fuel to propel
the motor vehicle.

(c) Limitations. 1. The maximum amount of the credit that a claimant may
claim under this subsection in a taxable year is an amount equal to $1,000,
multiplied by the number of motor vehicles described under par. (b) that the claimant
purchased or leased in the taxable year, except that the total amount that a claimant
may claim for all taxable years combined with respect to the lease of any single motor
vehicle may not exceed $1,000.

2. Partnerships, limited liability companies, and tax-option corporations may
not claim the credit under this subsection, but the eligibility for, and the amount of,
the credit are based on their payment of amounts described under par. (b). A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interests.

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

**SECTION 3.** 71.10 (4) (gn) of the statutes is created to read:

71.10 (4) (gn) Flexible fuel motor vehicles credit under s. 71.07 (5j).

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

71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), (5e), (5f), (5g), and (5h), and (5j) and passed through to partners shall be added to the partnership’s income.

**SECTION 5.** 71.26 (2) (a) of the statutes is amended to read:

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

SECTION 6. 71.28 (5j) of the statutes is created to read:

71.28 (5j) FLEXIBLE FUEL MOTOR VEHICLES CREDIT. (a) Definitions. In this
subsection, “claimant” means a person who files a claim under this subsection.
(b) Filing claims. Subject to the limitations provided under this subsection, for
taxable years beginning after December 31, 2007, and before January 1, 2013, a
claimant may claim as a credit against the taxes imposed under s. 71.23, up to the
amount of the taxes, an amount that is equal to the amount of the taxes imposed
under subch. III of ch. 77 that the claimant paid in the taxable year on the purchase
or lease of any new motor vehicle, licensed for highway use, that is capable of using
both gasoline and a mixture of gasoline and at least 85 percent ethanol as a fuel to
propel the motor vehicle.
(c) Limitations. 1. The maximum amount of the credit that a claimant may
claim under this subsection in a taxable year is an amount equal to $1,000,
multiplied by the number of motor vehicles described under par. (b) that the claimant
purchased or leased in the taxable year, except that the total amount that a claimant
may claim for all taxable years combined with respect to the lease of any single motor
vehicle may not exceed $1,000.
2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts described under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

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

SECTION 7. 71.30 (3) (dq) of the statutes is created to read:

71.30 (3) (dq) Flexible fuel motor vehicles credit under s. 71.28 (5j).

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

71.34 (1) (g) An addition shall be made for credits computed by a tax−option corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g), (3n), (3t), (3w), (5b), (5e), (5f), (5g), and (5h), and (5j) and passed through to shareholders.

SECTION 9. 71.45 (2) (a) 10. of the statutes is amended to read:

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

SECTION 10. 71.47 (5j) of the statutes is created to read:
71.47 (5j) Flexible fuel motor vehicles credit. (a) Definitions. In this subsection, “claimant” means a person who files a claim under this subsection.

(b) Filing claims. Subject to the limitations provided under this subsection, for taxable years beginning after December 31, 2007, and before January 1, 2013, a claimant may claim as a credit against the taxes imposed under s. 71.43, up to the amount of the taxes, an amount that is equal to the amount of the taxes imposed under subch. III of ch. 77 that the claimant paid in the taxable year on the purchase or lease of any new motor vehicle, licensed for highway use, that is capable of using both gasoline and a mixture of gasoline and at least 85 percent ethanol as a fuel to propel the motor vehicle.

(c) Limitations. 1. The maximum amount of the credit that a claimant may claim under this subsection in a taxable year is an amount equal to $1,000, multiplied by the number of motor vehicles described under par. (b) that the claimant purchased or leased in the taxable year, except that the total amount that a claimant may claim for all taxable years combined with respect to the lease of any single motor vehicle may not exceed $1,000.

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts described under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.
(d) Administration. Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

SECTION 11. 71.49 (1) (dq) of the statutes is created to read:

71.49 (1) (dq) Flexible fuel motor vehicles credit under s. 71.47 (5j).

SECTION 12. 77.92 (4) of the statutes is amended to read:

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

(END)