



## 2007 SENATE BILL 90

March 13, 2007 – Introduced by Senators HARSDORF, KREITLOW, OLSEN and SCHULTZ, cosponsored by Representatives HAHN, RHOADES, GRONEMUS, LOTHIAN, WOOD, CULLEN, MURSAU, MUSSER and GUNDERSON. Referred to Committee on Environment and Natural Resources.

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

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### ***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 or is a hybrid motor vehicle with a federal Environmental Protection Agency rating that is greater than 40 miles per gallon. The amount of the credit that a person may claim may not exceed an amount equal to \$1,000 in the taxable year for each motor vehicle purchased in that year or \$1,000 for all taxable years combined with respect to the lease of any single motor vehicle.

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:***

**SENATE BILL 90****SECTION 1**

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

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

7           **SECTION 2.** 71.07 (5k) of the statutes is created to read:

8           71.07 **(5k)** FLEXIBLE FUEL MOTOR VEHICLES CREDIT. (a) *Definition.* In this  
9 subsection, "claimant" means a person who files a claim under this subsection.

10           (b) *Filing claims.* Subject to the limitations provided under this subsection, a  
11 claimant may claim as a credit against the taxes imposed under ss. 71.02 and 71.08,  
12 up to the amount of the taxes, an amount that is equal to the amount of the taxes  
13 imposed under subch. III of ch. 77 that the claimant paid in the taxable year on the  
14 purchase or lease of any new motor vehicle, licensed for highway use, that is capable  
15 of using both gasoline and a mixture of gasoline and at least 85 percent ethanol as  
16 a fuel to propel the motor vehicle or that is a hybrid motor vehicle with a federal  
17 environmental protection agency rating that is greater than 40 miles per gallon.

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

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,

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1 the credit are based on their payment of amounts described under par. (b). 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 interests.

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

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

10 71.10 (4) (gn) Flexible fuel motor vehicles credit under s. 71.07 (5k).

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

12 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),  
13 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), (5e), (5f), (5g), ~~and~~ (5h),  
14 and (5k) and passed through to partners shall be added to the partnership's income.

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

16 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means  
17 the gross income as computed under the Internal Revenue Code as modified under  
18 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit  
19 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)  
20 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income  
21 under this paragraph at the time that the taxpayer first claimed the credit plus the  
22 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),  
23 (1ds), (1dx), (3g), (3n), (3t), (3w), (5b), (5e), (5f), (5g), ~~and~~ (5h), and (5k) and not passed  
24 through by a partnership, limited liability company, or tax-option corporation that  
25 has added that amount to the partnership's, limited liability company's, or

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1 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount  
2 of losses from the sale or other disposition of assets the gain from which would be  
3 wholly exempt income, as defined in sub. (3) (L), if the assets were sold or otherwise  
4 disposed of at a gain and minus deductions, as computed under the Internal Revenue  
5 Code as modified under sub. (3), plus or minus, as appropriate, an amount equal to  
6 the difference between the federal basis and Wisconsin basis of any asset sold,  
7 exchanged, abandoned, or otherwise disposed of in a taxable transaction during the  
8 taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

9 **SECTION 6.** 71.28 (5k) of the statutes is created to read:

10 71.28 (5k) FLEXIBLE FUEL MOTOR VEHICLES CREDIT. (a) *Definition.* In this  
11 subsection, "claimant" means a person who files a claim under this subsection.

12 (b) *Filing claims.* Subject to the limitations provided under this subsection, a  
13 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the  
14 amount of the taxes, an amount that is equal to the amount of the taxes imposed  
15 under subch. III of ch. 77 that the claimant paid in the taxable year on the purchase  
16 or lease of any new motor vehicle, licensed for highway use, that is capable of using  
17 both gasoline and a mixture of gasoline and at least 85 percent ethanol as a fuel to  
18 propel the motor vehicle or that is a hybrid motor vehicle with a federal  
19 environmental protection agency rating that is greater than 40 miles per gallon.

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

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

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

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

12           71.30 (3) (dq) Flexible fuel motor vehicles credit under s. 71.28 (5k).

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

14           71.34 (1) (g) An addition shall be made for credits computed by a tax-option  
15 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),  
16 (3n), (3t), (3w), (5b), (5e), (5f), (5g), ~~and (5h),~~ and (5k) and passed through to  
17 shareholders.

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

19           71.45 (2) (a) 10. By adding to federal taxable income the amount of credit  
20 computed under s. 71.47 (1dd) to (1dx), (3n), (3w), (5b), (5e), (5f), (5g), ~~and (5h),~~ and  
21 (5k) and not passed through by a partnership, limited liability company, or  
22 tax-option corporation that has added that amount to the partnership's, limited  
23 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1)  
24 (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

25           **SECTION 10.** 71.47 (5k) of the statutes is created to read:

**SENATE BILL 90****SECTION 10**

1           71.47 (5k) FLEXIBLE FUEL MOTOR VEHICLES CREDIT. (a) *Definition.* In this  
2 subsection, “claimant” means a person who files a claim under this subsection.

3           (b) *Filing claims.* Subject to the limitations provided under this subsection, a  
4 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the  
5 amount of the taxes, an amount that is equal to the amount of the taxes imposed  
6 under subch. III of ch. 77 that the claimant paid in the taxable year on the purchase  
7 or lease of any new motor vehicle, licensed for highway use, that is capable of using  
8 both gasoline and a mixture of gasoline and at least 85 percent ethanol as a fuel to  
9 propel the motor vehicle or that is a hybrid motor vehicle with a federal  
10 environmental protection agency rating that is greater than 40 miles per gallon.

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

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

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

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

4 71.49 (1) (dq) Flexible fuel motor vehicles credit under s. 71.47 (5k).

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

6 77.92 (4) "Net business income," with respect to a partnership, means taxable  
7 income as calculated under section 703 of the Internal Revenue Code; plus the items  
8 of income and gain under section 702 of the Internal Revenue Code, including taxable  
9 state and municipal bond interest and excluding nontaxable interest income or  
10 dividend income from federal government obligations; minus the items of loss and  
11 deduction under section 702 of the Internal Revenue Code, except items that are not  
12 deductible under s. 71.21; plus guaranteed payments to partners under section 707  
13 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),  
14 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), (3w), (5b), (5e), (5f),  
15 (5g), and (5h), and (5k); and plus or minus, as appropriate, transitional adjustments,  
16 depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and  
17 (19); but excluding income, gain, loss, and deductions from farming. "Net business  
18 income," with respect to a natural person, estate, or trust, means profit from a trade  
19 or business for federal income tax purposes and includes net income derived as an  
20 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

21 **SECTION 13. Initial applicability.**

22 (1) This act first applies to taxable years beginning on January 1 of the year  
23 in which this subsection takes effect, except that if this subsection takes effect after

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**SECTION 13**

1 July 31 this act first applies to taxable years beginning on January 1 of the year  
2 following the year in which this subsection takes effect.

3 (END)