



## 2005 ASSEMBLY BILL 206

March 14, 2005 - Introduced by Representatives LAMB, DAVIS, GRONEMUS, NISCHKE, MONTGOMERY, LEMAHIEU, PETTIS, BIES, MUSSER, GUNDERSON, HINES, RHOADES, KLEEFISCH, VOS, VAN ROY, MCCORMICK, M. WILLIAMS, J. FITZGERALD, STRACHOTA, VRAKAS, OTT, KESTELL and OWENS, cosponsored by Senators HARSDORF, KANAVAS, ROESSLER, DARLING and STEPP. Referred to Joint Committee on Finance.

1     **AN ACT** *to amend* 71.21 (3), 71.26 (2) (a), 71.26 (3) (n), 71.365 (3) and 71.45 (2)  
2           (a) 10.; and *to create* 71.28 (4m), 71.30 (3) (cm), 71.47 (4m) and 71.49 (1) (cm)  
3           of the statutes; **relating to:** creating an income and franchise tax credit for  
4           research conducted in this state by a corporation.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a corporation may claim an income and franchise tax credit in an amount equal to 5 percent of its qualified research expenses, as defined by the Internal Revenue Code, for research conducted in this state. In addition, a corporation may claim an income and franchise tax credit equal to 5 percent of the amount that it paid in the taxable year to construct and equip new facilities or expand existing facilities used in this state for qualified research, as defined by the Internal Revenue Code.

Under this bill, a corporation may also claim an income and franchise tax credit equal to the amount of its qualified research expenses in the taxable year for research conducted in this state that exceeds the amount equal to the average amount of the corporation's qualified research expenses in the previous three taxable years multiplied by 1.5. If the credit claimed by a corporation exceeds the corporation's tax liability, the state will not issue a refund, but the corporation may carry forward any remaining credit to 15 subsequent taxable years.

**ASSEMBLY BILL 206**

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:*

1           **SECTION 1.** 71.21 (3) of the statutes is amended to read:

2           71.21 (3) The credits under s. 71.28 (4), (4m), and (5) may not be claimed by a  
3 partnership or by partners, including partners of a publicly traded partnership.

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

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

**ASSEMBLY BILL 206**

1 of in a taxable transaction during the taxable year, except as provided in par. (b) and  
2 s. 71.45 (2) and (5).

3 **SECTION 3.** 71.26 (3) (n) of the statutes is amended to read:

4 71.26 (3) (n) Sections 381, 382 and 383 (relating to carry-overs in certain  
5 corporate acquisitions) are modified so that they apply to losses under sub. (4) and  
6 credits under s. 71.28 (1di), (1dL), (1dm), (1dx), (3), (4), (4m), and (5) instead of to  
7 federal credits and federal net operating losses.

8 **SECTION 4.** 71.28 (4m) of the statutes is created to read:

9 71.28 (4m) SUPER RESEARCH CREDIT. (a) *Definition.* In this subsection,  
10 “qualified research expenses” means qualified research expenses as defined in  
11 section 41 of the Internal Revenue Code, not including section 41 (h) of the Internal  
12 Revenue Code, that are paid or incurred for research conducted in this state.

13 (b) *Credit.* Subject to the limitations provided under this subsection, a  
14 corporation may claim as a credit against the tax imposed under s. 71.23, up to the  
15 amount of those taxes, an amount equal to the amount of qualified research expenses  
16 paid or incurred by the corporation in the taxable year that exceeds the amount  
17 calculated as follows:

18 1. Determine the average amount of the qualified research expenses paid or  
19 incurred by the corporation in the 3 taxable years immediately preceding the taxable  
20 year for which a credit is claimed under this subsection.

21 2. Multiply the amount determined under subd. 1. by 1.5.

22 (c) *Limitations.* Subsection (4) (b) to (d) and (i), as it applies to the credit under  
23 sub. (4), applies to the credit under this subsection.

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

**ASSEMBLY BILL 206****SECTION 5**

1           **SECTION 5.** 71.30 (3) (cm) of the statutes is created to read:

2           71.30 **(3)** (cm) Super research credit under s. 71.28 (4m).

3           **SECTION 6.** 71.365 (3) of the statutes is amended to read:

4           71.365 **(3)** CREDITS NOT ALLOWED. The credits under s. 71.28 (4), (4m), and (5)  
5 may not be claimed by a tax-option corporation or shareholders of a tax-option  
6 corporation.

7           **SECTION 7.** 71.45 (2) (a) 10. of the statutes is amended to read:

8           71.45 **(2)** (a) 10. By adding to federal taxable income the amount of credit  
9 computed under s. 71.47 (1dd) to (1dx), (3n), and (5b) and not passed through by a  
10 partnership, limited liability company, or tax-option corporation that has added that  
11 amount to the partnership's, limited liability company's, or tax-option corporation's  
12 income under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit computed under  
13 s. 71.47 (1), (3), (3t), (4), (4m), and (5).

14           **SECTION 8.** 71.47 (4m) of the statutes is created to read:

15           71.47 **(4m)** SUPER RESEARCH CREDIT. (a) *Definition.* In this subsection,  
16 "qualified research expenses" means qualified research expenses as defined in  
17 section 41 of the Internal Revenue Code, not including section 41 (h) of the Internal  
18 Revenue Code, that are paid or incurred for research conducted in this state.

19           (b) *Credit.* Subject to the limitations provided under this subsection, a  
20 corporation may claim as a credit against the tax imposed under s. 71.43, up to the  
21 amount of those taxes, an amount equal to the amount of qualified research expenses  
22 paid or incurred by the corporation in the taxable year that exceeds the amount  
23 calculated as follows:

