



## 2005 ASSEMBLY BILL 606

August 16, 2005 - Introduced by Representatives WIECKERT, DAVIS, MUSSER, HAHN, TOWNSEND, PETROWSKI, TOWNS, NASS, MURSAU, OTT, ALBERS, HINES, VAN ROY and GRONEMUS, cosponsored by Senators LEIBHAM and ROESSLER. Referred to Committee on Agriculture.

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 (5e), 71.10 (4) (cq), 71.28 (5e), 71.30  
3           (3) (dq), 71.47 (5e) and 71.49 (1) (dq) of the statutes; **relating to:** an income and  
4           franchise tax credit for sales and use taxes paid on the purchase of electricity  
5           used in agricultural biotechnology and on the purchase of products used on  
6           livestock.

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### ***Analysis by the Legislative Reference Bureau***

This bill creates an income and franchise tax credit for the amount of the sales and use tax that a taxpayer pays in the taxable year on the purchase of electricity used in agricultural biotechnology and on the purchase of products used on livestock. If the amount of the credit exceeds the taxpayer's tax liability, the taxpayer does not receive a refund, but, instead, may claim the amount of any unused credit in subsequent taxable years.

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:***

**ASSEMBLY BILL 606****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), (5b), ~~and (5d)~~, and (5e)  
4           and not passed through by a partnership, limited liability company, or tax-option  
5           corporation that has added that amount to the partnership's, company's, or  
6           tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

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

8           71.07 **(5e)** AGRICULTURAL BIOTECHNOLOGY AND LIVESTOCK PRODUCTS CREDIT. (a)  
9           *Definitions.* In this subsection:

10           1. "Agricultural biotechnology" means the application of technologies,  
11           including recombinant deoxyribonucleic acid techniques, biochemistry, molecular  
12           and cellular biology, genetics, genetic engineering, biological cell fusion techniques,  
13           and new bioprocesses, that use living organisms or parts of organisms to produce or  
14           modify products, improve plants or animals used in agriculture, develop  
15           microorganisms for specific agricultural uses, identify targets for small molecule  
16           pharmaceutical development for agricultural use, or transform biological systems  
17           into useful agricultural processes and products.

18           2. "Claimant" means a person who files a claim under this subsection.

19           (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
20           claimant may claim as a credit against the taxes imposed under ss. 71.02 and 71.08,  
21           up to the amount of those taxes, an amount that is equal to the amount of the taxes  
22           imposed under ss. 71.52 and 71.53 that the claimant paid in the taxable year on the  
23           purchase of any of the following:

24           1. Electricity consumed in product research or product development for  
25           agricultural biotechnology in this state.

**ASSEMBLY BILL 606**

1           2. Vitamins, feed supplements, or hormones, if such products are used on farm  
2 livestock.

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

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

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

14           71.10 (4) (cq) Agricultural biotechnology and livestock products credit under  
15 s. 71.07 (5e).

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

17           71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),  
18 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), and (5b), and (5e) and passed  
19 through to partners shall be added to the partnership's income.

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

21           71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means  
22 the gross income as computed under the Internal Revenue Code as modified under  
23 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit  
24 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)  
25 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income

**ASSEMBLY BILL 606****SECTION 5**

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

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

15 71.28 (5e) AGRICULTURAL BIOTECHNOLOGY AND LIVESTOCK PRODUCTS CREDIT. (a)

16 *Definitions.* In this subsection:

17 1. "Agricultural biotechnology" means the application of technologies,  
18 including recombinant deoxyribonucleic acid techniques, biochemistry, molecular  
19 and cellular biology, genetics, genetic engineering, biological cell fusion techniques,  
20 and new bioprocesses, that use living organisms or parts of organisms to produce or  
21 modify products, improve plants or animals used in agriculture, develop  
22 microorganisms for specific agricultural uses, identify targets for small molecule  
23 pharmaceutical development for agricultural use, or transform biological systems  
24 into useful agricultural processes and products.

25 2. "Claimant" means a person who files a claim under this subsection.

**ASSEMBLY BILL 606**

1           (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
2 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the  
3 amount of those taxes, an amount that is equal to the amount of the taxes imposed  
4 under ss. 71.52 and 71.53 that the claimant paid in the taxable year on the purchase  
5 of any of the following:

6           1. Electricity consumed in product research or product development for  
7 agricultural biotechnology in this state.

8           2. Vitamins, feed supplements, or hormones, if such products are used on farm  
9 livestock.

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

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

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

21          71.30 (3) (dq) Agricultural biotechnology and livestock products credit under  
22 s. 71.28 (5e).

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

**ASSEMBLY BILL 606****SECTION 8**

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

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

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

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

12           71.47 (5e) AGRICULTURAL BIOTECHNOLOGY AND LIVESTOCK PRODUCTS CREDIT. (a)

13           *Definitions.* In this subsection:

14           1. "Agricultural biotechnology" means the application of technologies,  
15 including recombinant deoxyribonucleic acid techniques, biochemistry, molecular  
16 and cellular biology, genetics, genetic engineering, biological cell fusion techniques,  
17 and new bioprocesses, that use living organisms or parts of organisms to produce or  
18 modify products, improve plants or animals used in agriculture, develop  
19 microorganisms for specific agricultural uses, identify targets for small molecule  
20 pharmaceutical development for agricultural use, or transform biological systems  
21 into useful agricultural processes and products.

22           2. "Claimant" means a person who files a claim under this subsection.

23           (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
24 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the  
25 amount of those taxes, an amount that is equal to the amount of the taxes imposed

**ASSEMBLY BILL 606**

1 under ss. 71.52 and 71.53 that the claimant paid in the taxable year on the purchase  
2 of any of the following:

3 1. Electricity consumed in product research or product development for  
4 agricultural biotechnology in this state.

5 2. Vitamins, feed supplements, or hormones, if such products are used on farm  
6 livestock.

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

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

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

18 71.49 (1) (dq) Agricultural biotechnology and livestock products credit under  
19 s. 71.47 (5e).

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

21 77.92 (4) "Net business income," with respect to a partnership, means taxable  
22 income as calculated under section 703 of the Internal Revenue Code; plus the items  
23 of income and gain under section 702 of the Internal Revenue Code, including taxable  
24 state and municipal bond interest and excluding nontaxable interest income or  
25 dividend income from federal government obligations; minus the items of loss and

**ASSEMBLY BILL 606****SECTION 12**

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

**SECTION 13. Initial applicability.**

(1) This act first applies to taxable years beginning on January 1, 2006.

(END)