



## 2005 SENATE BILL 449

November 22, 2005 – Introduced by Senators KANAVAS, PLALE, STEPP and ROESSLER, cosponsored by Representatives VOS, NISCHKE, OWENS, TOWNSEND, GUNDERSON, HAHN and MUSSER. Referred to Committee on Job Creation, Economic Development and Consumer Affairs.

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) (gwd), 71.28 (5e), 71.30  
3           (3) (eor), 71.47 (5e), 71.49 (1) (eor) and 560.206 of the statutes; **relating to:**  
4           creating an income and franchise tax credit for eligible innovation projects and  
5           project facilities.

---

### *Analysis by the Legislative Reference Bureau*

Under this bill, a person may claim an income and franchise tax credit that is equal to 20 percent of the costs that the person paid in the taxable year related to creating and operating a project facility or to creating and maintaining an eligible innovation project. The amount that a claimant may claim in any taxable year may not exceed \$250,000, and the total amount of all claims in each year may not exceed \$10,000,000. Under the bill, a project facility is any facility located in this state that is operated for the purpose of creating and maintaining an eligible innovation project, if the operation of the facility is likely to create new jobs, or preserve existing jobs, in this state, as determined by the Department of Commerce. The bill defines an eligible innovation project as any real property, tangible personal property, or intangible property related to a new product or process that is based on new technology or the creative application of existing technology.

**SENATE BILL 449**

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:*

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)** INNOVATION PROJECTS AND FACILITIES CREDIT. (a) *Definitions.* In this  
9           subsection:

10           1. "Allowable innovation costs" means the costs of acquiring, constructing,  
11           reconstructing, rehabilitating, renovating, enlarging, improving, or equipping a  
12           project facility or eligible innovation project and the costs of all of the following  
13           related to creating and operating a project facility or to creating and maintaining an  
14           eligible innovation project:

15           a. Designs, plans, specifications, surveys, studies, estimates, and any similar  
16           services or items that are necessary or incidental to determining the feasibility or  
17           practicality of a project facility or eligible innovation project.

18           b. Site clearance and preparation.

19           c. Architectural, engineering, or legal services.

20           d. Research and development.

21           e. Computer software or hardware.

**SENATE BILL 449**

- 1 f. Product testing and other quality control activities.
- 2 g. Perfecting and marketing products.
- 3 h. Creating and protecting intellectual property.
- 4 2. "Claimant" means a person who is certified to receive tax credits under s.
- 5 560.206 and who files a claim under this subsection.
- 6 3. "Eligible innovation project" means any real property, tangible personal
- 7 property, or intangible property related to a new product or process that is based on
- 8 new technology or the creative application of existing technology.
- 9 4. "Project facility" means any facility located in this state that is operated for
- 10 the purpose of creating and maintaining an eligible innovation project, if the
- 11 operation of the facility is likely to create new jobs, or preserve existing jobs, in this
- 12 state, as determined by the department of commerce.
- 13 (b) *Filing claims.* Subject to the limitations provided under this subsection and
- 14 s. 560.206, for taxable years beginning after December 31, 2006, a claimant may
- 15 claim as a credit against the tax imposed under s. 71.02, up to the amount of the tax,
- 16 an amount that is equal to 20 percent of the allowable innovation costs paid by the
- 17 claimant in the taxable year.
- 18 (c) *Limitations.* 1. The maximum amount of the credit that a claimant may
- 19 claim under this subsection in a taxable year is \$250,000.
- 20 2. The maximum amount of the credits that may be awarded under this
- 21 subsection and ss. 71.28 (5e) and 71.47 (5e) in each year is \$10,000,000.
- 22 3. Partnerships, limited liability companies, and tax-option corporations may
- 23 not claim the credit under this subsection, but the eligibility for, and the amount of,
- 24 the credit are based on their payment of amounts under par. (b). A partnership,
- 25 limited liability company, or tax-option corporation shall compute the amount of

**SENATE BILL 449**

1 credit that each of its partners, members, or shareholders may claim and shall  
2 provide that information to each of them. Partners, members of limited liability  
3 companies, and shareholders of tax-option corporations may claim the credit in  
4 proportion to their ownership interests.

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

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

8 71.10 (4) (gwd) Innovation projects and facilities credit under s. 71.07 (5e).

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

10 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),  
11 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), ~~and (5b), and (5e)~~ and passed  
12 through to partners shall be added to the partnership's income.

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

14 71.26 (2) (a) *Corporations in general.* The “net income” of a corporation means  
15 the gross income as computed under the Internal Revenue Code as modified under  
16 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit  
17 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)  
18 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income  
19 under this paragraph at the time that the taxpayer first claimed the credit plus the  
20 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),  
21 (1ds), (1dx), (3g), (3n), (3t), ~~and (5b), and (5e)~~ and not passed through by a  
22 partnership, limited liability company, or tax-option corporation that has added that  
23 amount to the partnership's, limited liability company's, or tax-option corporation's  
24 income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or  
25 other disposition of assets the gain from which would be wholly exempt income, as

**SENATE BILL 449**

1 defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and  
2 minus deductions, as computed under the Internal Revenue Code as modified under  
3 sub. (3), plus or minus, as appropriate, an amount equal to the difference between  
4 the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or  
5 otherwise disposed of in a taxable transaction during the taxable year, except as  
6 provided in par. (b) and s. 71.45 (2) and (5).

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

8 71.28 **(5e)** INNOVATION PROJECTS AND FACILITIES CREDIT. (a) *Definitions.* In this  
9 subsection:

10 1. "Allowable innovation costs" means the costs of acquiring, constructing,  
11 reconstructing, rehabilitating, renovating, enlarging, improving, or equipping a  
12 project facility or eligible innovation project and the costs of all of the following  
13 related to creating and operating a project facility or to creating and maintaining an  
14 eligible innovation project:

15 a. Designs, plans, specifications, surveys, studies, estimates, and any similar  
16 services or items that are necessary or incidental to determining the feasibility or  
17 practicality of a project facility or eligible innovation project.

18 b. Site clearance and preparation.

19 c. Architectural, engineering, or legal services.

20 d. Research and development.

21 e. Computer software or hardware.

22 f. Product testing and other quality control activities.

23 g. Perfecting and marketing products.

24 h. Creating and protecting intellectual property.

**SENATE BILL 449**

1           2. “Claimant” means a person who is certified to receive tax credits under s.  
2 560.206 and who files a claim under this subsection.

3           3. “Eligible innovation project” means any real property, tangible personal  
4 property, or intangible property related to a new product or process that is based on  
5 new technology or the creative application of existing technology.

6           4. “Project facility” means any facility located in this state that is operated for  
7 the purpose of creating and maintaining an eligible innovation project, if the  
8 operation of the facility is likely to create new jobs, or preserve existing jobs, in this  
9 state, as determined by the department of commerce.

10           (b) *Filing claims.* Subject to the limitations provided under this subsection and  
11 s. 560.206, for taxable years beginning after December 31, 2006, a claimant may  
12 claim as a credit against the tax imposed under s. 71.23, up to the amount of the tax,  
13 an amount that is equal to 20 percent of the allowable innovation costs paid by the  
14 claimant in the taxable year.

15           (c) *Limitations.* 1. The maximum amount of the credit that a claimant may  
16 claim under this subsection in a taxable year is \$250,000.

17           2. The maximum amount of the credits that may be awarded under this  
18 subsection and ss. 71.07 (5e) and 71.47 (5e) in each year is \$10,000,000.

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

**SENATE BILL 449**

1 companies, and shareholders of tax-option corporations may claim the credit in  
2 proportion to their ownership interests.

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

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

6 71.30 (3) (eor) Innovation projects and facilities credit under s. 71.28 (5e).

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

8 71.34 (1) (g) An addition shall be made for credits computed by a tax-option  
9 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),  
10 (3n), (3t), ~~and (5b)~~, and (5e) and passed through to shareholders.

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

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

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

19 71.47 (5e) INNOVATION PROJECTS AND FACILITIES CREDIT. (a) *Definitions.* In this  
20 subsection:

21 1. "Allowable innovation costs" means the costs of acquiring, constructing,  
22 reconstructing, rehabilitating, renovating, enlarging, improving, or equipping a  
23 project facility or eligible innovation project and the costs of all of the following  
24 related to creating and operating a project facility or to creating and maintaining an  
25 eligible innovation project:

**SENATE BILL 449**

1 a. Designs, plans, specifications, surveys, studies, estimates, and any similar  
2 services or items that are necessary or incidental to determining the feasibility or  
3 practicality of a project facility or eligible innovation project.

4 b. Site clearance and preparation.

5 c. Architectural, engineering, or legal services.

6 d. Research and development.

7 e. Computer software or hardware.

8 f. Product testing and other quality control activities.

9 g. Perfecting and marketing products.

10 h. Creating and protecting intellectual property.

11 2. “Claimant” means a person who is certified to receive tax credits under s.  
12 560.206 and who files a claim under this subsection.

13 3. “Eligible innovation project” means any real property, tangible personal  
14 property, or intangible property related to a new product or process that is based on  
15 new technology or the creative application of existing technology.

16 4. “Project facility” means any facility located in this state that is operated for  
17 the purpose of creating and maintaining an eligible innovation project, if the  
18 operation of the facility is likely to create new jobs, or preserve existing jobs, in this  
19 state, as determined by the department of commerce.

20 (b) *Filing claims.* Subject to the limitations provided under this subsection and  
21 s. 560.206, for taxable years beginning after December 31, 2006, a claimant may  
22 claim as a credit against the tax imposed under s. 71.43, up to the amount of the tax,  
23 an amount that is equal to 20 percent of the allowable innovation costs paid by the  
24 claimant in the taxable year.

**SENATE BILL 449**

1           (c) *Limitations.* 1. The maximum amount of the credit that a claimant may  
2 claim under this subsection in a taxable year is \$250,000.

3           2. The maximum amount of the credits that may be awarded under this  
4 subsection and ss. 71.07 (5e) and 71.28 (5e) in each year is \$10,000,000.

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

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

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

16           71.49 (1) (eor) Innovation projects and facilities credit under s. 71.47 (5e).

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

18           77.92 (4) "Net business income," with respect to a partnership, means taxable  
19 income as calculated under section 703 of the Internal Revenue Code; plus the items  
20 of income and gain under section 702 of the Internal Revenue Code, including taxable  
21 state and municipal bond interest and excluding nontaxable interest income or  
22 dividend income from federal government obligations; minus the items of loss and  
23 deduction under section 702 of the Internal Revenue Code, except items that are not  
24 deductible under s. 71.21; plus guaranteed payments to partners under section 707  
25 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),

**SENATE BILL 449**

1 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), ~~and (5b), and (5e)~~; and  
2 plus or minus, as appropriate, transitional adjustments, depreciation differences,  
3 and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding  
4 income, gain, loss, and deductions from farming. “Net business income,” with respect  
5 to a natural person, estate, or trust, means profit from a trade or business for federal  
6 income tax purposes and includes net income derived as an employee as defined in  
7 section 3121 (d) (3) of the Internal Revenue Code.

8 **SECTION 13.** 560.206 of the statutes is created to read:

9 **560.206 Innovation projects and facilities program.** (1) INNOVATION  
10 PROJECTS AND FACILITIES TAX CREDITS. The department shall implement a program to  
11 certify businesses for purposes of ss. 71.07 (5e), 71.28 (5e), and 71.47 (5e). A business  
12 desiring certification shall submit an application to the department in each taxable  
13 year for which the business desires certification. Unless otherwise provided under  
14 the rules of the department, a business may be certified under this subsection, and  
15 may maintain such certification, only if the business satisfies all of the following  
16 conditions:

17 (a) It conducts business in this state.

18 (b) At least 51 percent of the employees employed by the business are employed  
19 in this state.

20 (c) It is engaged in, or has committed to engage in, manufacturing, agriculture,  
21 or processing or assembling products and conducting research and development or  
22 developing a new product or business process.

23 (d) It is not engaged in real estate development, insurance, banking, lending,  
24 lobbying, political consulting, professional services provided by attorneys,

**SENATE BILL 449**

1 accountants, business consultants, physicians, or health care consultants, wholesale  
2 or retail trade, leisure, hospitality, transportation, or construction.

3 (2) ADMINISTRATION. (a) The department shall maintain a list of businesses  
4 certified under sub. (1) and shall permit public access to the lists through the  
5 department's Internet Web site.

6 (b) The department of commerce shall notify the department of revenue of  
7 every certification issued under sub. (1) and the date on which any such certification  
8 is revoked or expires.

9 (c) Annually, no later than September 15, the department shall submit a report  
10 to the chief clerk of each house of the legislature for distribution to the legislature  
11 under s. 13.172 (2), listing all of the following information:

12 1. The total amount of tax credits claimed under ss. 71.07 (5e), 71.28 (5e), and  
13 71.47 (5e) per taxable year.

14 2. The name of each business claiming tax credits under ss. 71.07 (5e), 71.28  
15 (5e), and 71.47 (5e), the amount of the tax credits, and the amount of the innovation  
16 costs.

17 3. Any other information the department considers reasonable to include.

18

(END)