

2007 DRAFTING REQUEST

Bill

Received: **01/24/2008**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Joel Kleefisch (608) 266-8551**

By/Representing: **daniel**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Business - credits**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Kleefisch@legis.wisconsin.gov**

Carbon copy (CC:) to: **joseph.kreye@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Innovation research and development

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	jkreye 01/25/2008	jdyer 01/28/2008	pgreensl 01/28/2008	_____	cduerst 01/28/2008		State Tax
/P2	jkreye 02/01/2008	jdyer 02/01/2008 jdyer 02/05/2008	nmatzke 02/04/2008	_____	lparisi 02/04/2008		State Tax
/1			pgreensl 02/05/2008	_____	sbasford 02/05/2008	sbasford 02/05/2008	State Tax

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For: *at ites*
2/6

<END>

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/P2	jkreye 02/01/2008	jdyer 02/01/2008	nmatzke 02/04/2008	<u> </u> <i>JK</i>	lparisi 02/04/2008		State Tax

FE Sent For:

1/24/08 JK
JK
JK
JK

<END>

PLEASE JACKET
SLASH 1

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/P1	jkreye 01/25/2008	jdyer 01/28/2008	pgreensl 01/28/2008	_____	cduerst 01/28/2008		State Tax

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Handwritten: 2/1 jld/P2

Handwritten: nwn 2/1

Handwritten: nwn/P3 2/14

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/P1	jkreye	P1 jld/28					

<END>

FE Sent For:

Bill Request Form

Legislative Reference Bureau
One East Main Street, Suite 200
Legal Section 266-3561

You may use this form or talk directly with the LRB attorney who will draft the bill.

Date 24-JAN-08

Legislator, agency, or other person requesting this draft REP. KLEEFISCH

Person submitting request (name and phone number) " "

Persons to contact for questions about this draft (names and phone numbers) _____

DANIEL LINDSIEDT, OFC. OF REP. KLEEFISCH, 6-8551

Describe the problem, including any helpful examples. How do you want to solve the problem?

- SEE ATTACHMENT

Please attach a copy of any correspondence or other material that may help us. If you know of any statute sections that might be affected, list them or provide a marked-up copy.

You may attach a marked-up copy of any LRB draft or provide its number (e.g., 2005 LRB-2345/1 or 2003 AB-67).

Requests are confidential unless stated otherwise. May we tell others that we are working on this for you? YES NO

If yes:

Anyone who asks? YES NO
Any legislator? YES NO

Only the following persons - RON HERMES, OFC OF GOV. DOYLE
OR - OFC OF SEN. KREITLOW

Do you consider this request urgent? YES NO If yes, please indicate why REQUESTED BY GOVERNOR OFFICE

Should we give this request priority over any pending request of this legislator, agency, or person?

YES NO

INNOVATE WISCONSIN INITIATIVES

Rep Kleefer

Summary

Governor Doyle is undertaking a series of initiatives to increase research and development (R&D) in Wisconsin, by offering incentives to companies that significantly increase R & D activities.

Context

In 2005, Wisconsin's industrial firms spent \$2.7 billion on research and development.¹ This was 1.23% of Wisconsin's gross domestic product. While Wisconsin ranked 19th nationally by this metric, it is below the national average of 1.65%. It is also below that of other Midwestern states and specifically less than half of Minnesota's effort.

Description of the Initiatives

Governor Doyle's Innovate Wisconsin Initiatives will include an Innovation R&D tax credit that will be available to businesses that significantly increase their R&D, and will create a both a sales and property tax exemption for machines, equipment, and consumables used exclusively for R&D activity, which would be identical to what exists for machines and equipment used in manufacturing.

Innovation R&D Tax Credit

The Innovation R&D tax credit will provide businesses that increase R&D by more than 125% of their 3-year R& D average with a tax credit worth \$1 for each \$1 of investment above 125%. For example, if a Wisconsin business spends an average of \$3 million on R&D over a three year period, and then in the following year increases its expenditures to \$5 million, it would receive a credit worth \$1,250,000, equal to the value of the research above \$3.75 million.

lead in assembly

wonder if it's effect?

Based on samples drawn from tax years 2001 and 2003, the fiscal effect is estimated to be between \$5 million and \$10 million per year.

Sales and Property Tax Exemption for Machines and Equipment

The sales and property tax exemption will apply to machines and equipment used in manufacturing or biotechnology R&D activities. Currently, there is a sales tax exemption for machines and equipment used in the manufacturing process. The incentive will extend that same tax treatment to R&D activities. These exemptions will benefit all Wisconsin companies and their research and product development endeavors.

Both changes result in a minimal fiscal effect to the state and local governments.

biotech only?

when take effect?

*JP 74
AB 696*

*from Gov's office
left my laptop
1-24-08*

¹ National Science Foundation, Division of Science Resource Statistics, Survey of Industrial Research and Development: 2005. Bureau of Economic Analysis.

Kreye, Joseph

From: Carlson, Nina - GOV [Nina.Carlson@Wisconsin.gov]
Sent: Friday, January 25, 2008 10:40 AM
To: Kreye, Joseph
Subject: Innovate Wisconsin Details
Attachments: Innovate Wisconsin Proposal Details.pdf

Joe,

Attached are more details on the R&D proposals. Let me know if you need anything else.

Thanks,
Nina

Nina Carlson
Office of Governor Jim Doyle
115 East, State Capitol
Madison, WI 53702
nina.carlson@wisconsin.gov
Phone: 608-266-3271

Innovate Wisconsin Proposal Details

Features of the Wisconsin "Super R&D" tax credit would include:

- Amount of the credit is dollar-for-dollar of the amount of expenditures in excess of the base amount.
- Defines "base amount" as 125% of the average qualified research expenses performed in Wisconsin over the past three years.
- Defines "qualified research expense" in the same manner as the regular Research Credit, which is based on the federal definition in section 41 of the Internal Revenue Code. In general, "qualified research expenses" include:
 - Wages for R&D employees;
 - Research supplies (but not capital assets); and
 - 65% of expenses paid to third parties for contract research (however, the company performing the contract research cannot claim "qualified research expenses").
- Credit is nonrefundable with a 5 year carryforward.
- Credit for each year is limited to no more than 50% of the taxpayer's Wisconsin tax liability for that year, after all other credits are taken into account.

NOTE: Companies performing R&D in Wisconsin for their own use would be eligible for the credit. Companies performing contract R&D services in Wisconsin for other companies would *not* be eligible for the credit. However, these companies would be indirectly affected because their clients could claim 65 percent of amounts paid for contract research in the credit.

This credit would be available equally to corporations, S corporations, partnerships, limited liability companies, and sole proprietorships.

Features of the R&D sales and equipment tax exemption would include:

- Sales of machinery and equipment, including attachments, parts and accessories, used exclusively and directly in qualified research, as defined under section 41(d)(1) of the Internal Revenue Code, to persons primarily engaged in manufacturing or biotechnology, and
- Sales of tangible personal property that is consumed or destroyed or loses its identity in qualified research, as defined under section 41(d)(1) of the Internal Revenue Code, to persons engaged primarily in manufacturing or biotechnology.

For purposes of these exemptions, use the definition of "manufacturing" in sec. 77.54(6m), Wis. Stats. and use the following definition of "biotechnology":

"Biotechnology" means the application of biotechnologies, such as recombinant DNA techniques, biochemistry, molecular and cellular biology, genetics, genetic engineering, biological cell fusion, and bioprocesses, using living organisms or parts of organisms to produce or modify products to improve plants or animals or improve animal health, develop microorganisms for specific uses, identify targets for small molecule pharmaceutical development, or transform biological systems into useful processes and products.

Provide that for purposes of these exemptions, "used exclusively" has the meaning provided in sec. 77.54(3)(b)3., Wis. Stats.

Provide that for purposes of these exemptions, "primarily" means more than 50 percent.

LPS-PWF
please

3925/PI

2005 - 2006 LEGISLATURE

LRB-07171
JKjldpg

2007 BILL

stays
in 1-25-08

2005 ASSEMBLY BILL 206

D-N

due Tues 1-29

and a sales and use tax exemption for tangible personal property used to conduct research

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.

- ne gen

- 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:** ~~amending~~ creating an income and franchise tax credit for
- 4 research conducted in this state by a corporation.

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 15. 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 subsequent taxable years.

1.25 ✓

five

INSERT A ✓

ASSEMBLY BILL 206

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. 71.21 (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

INSERT 3-2

for taxable years beginning on or after January 1, 2007

1

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

2

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 corporate acquisitions) are modified so that they apply to losses under sub. (4) and credits under s. 71.28 (1di), (1dL), (1dm), (1dx), (3), (4), (4m), and (5) instead of to federal credits and federal net operating losses.

8

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

AND DEVELOPMENT

9

71.28 (4m) SUPER RESEARCH CREDIT. (a) Definition. In this subsection, "qualified research expenses" means qualified research expenses as defined in section 41 of the Internal Revenue Code, not including section 41 (h) of the Internal 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 corporation may claim as a credit against the tax imposed under s. 71.23, up to the amount of those taxes, an amount equal to the amount of qualified research expenses paid or incurred by the corporation in the taxable year that exceeds the amount calculated as follows:

18

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

21

2. Multiply the amount determined under subd. 1. by 115.

1.25

22

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

24

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

25

INSERT 3-25

and against no more than 50 percent of the claimant's tax liability,

ASSEMBLY BILL 206

SECTION 5

1 db SECTION 5. 71.30 (3) ~~(m)~~ of the statutes is created to read:

2 (db) 71.30 (3) ~~(m)~~ Super research credit under s. 71.28 (4m) and development

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).

INSERT 4-13

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 AND DEVELOPMENT 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:

for taxable years beginning on or after January 1, 2009,

and against no more than 50 percent of the claimant's tax liability

ASSEMBLY BILL 206

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

4 2. Multiply the amount determined under subd. 1. by ~~1.25~~ ^{1.25}.

5 (c) *Limitations.* Section ^{1.} 71.28 (4) (b) to (d) and (i), as it applies to the credit
6 under sub. (4), ^{1.} applies to the credit under this subsection.

7 (d) *Administration.* Section 71.28 (4) (e) ^{1.} ~~and~~ (h), as it applies to the credit under
8 sub. (4), applies to the credit under this subsection.

INSERT 5-8 ✓

9 SECTION 9. 71.49 (1) ^(db) ~~of~~ of the statutes is created to read:

10 (db) 71.49 (1) ^(db) ~~of~~ Super research ^{and development} credit under s. 71.47 (4m).

11 SECTION 10. Initial applicability.

12 (1) This act first applies to taxable years beginning on January 1 ~~of the year~~
13 in which this subsection takes effect, except that if this subsection takes effect after
14 July 31 this act first applies to taxable years beginning on January 1 of the year
15 following the year in which this subsection takes effect.

16 (END)

INSERT 5-15 ✓

Insert A


This bill also creates a sales and use tax exemption[✓] for machinery and other tangible personal property used for qualified research by persons engaged primarily in manufacturing or biotechnology in this state[✓].

Because this bill relates to an exemption from state[✓] or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

Insert 3 -2

1 **SECTION 1.** 71.26 (2) (a)[✓] of the statutes, as affected by[✓] 2007 Wisconsin Act 20,
2 is amended to read:

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



1 asset sold, exchanged, abandoned, or otherwise disposed of in a taxable transaction
2 during the taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

History: 1987 a. 312; 1987 a. 411 ss. 22, 124 to 129; 1989 a. 31, 336; 1991 a. 37, 39, 221, 269; 1993 a. 16, 112, 246, 263, 399, 437, 491; 1995 a. 27, 56, 351, 371, 380, 428; 1997 a. 27, 37, 184, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 106, 109; 2003 a. 33, 85, 99, 135, 255, 326; 2005 a. 25, 74, 335, 361, 362, 479, 483; 2007 a. 20; s. 13.93 (2) (c).

Insert 3 -25

3 2. If a credit computed under this subsection[✓] is not entirely offset against
4 Wisconsin income or franchise taxes otherwise due, the unused balance may be
5 carried forward and credited against Wisconsin income or franchise taxes otherwise
6 due for the following 5[✓] taxable years to the extent not offset by these taxes otherwise
7 due in all intervening years between the year in which the expense was incurred and
8 the year in which the carry-forward[✓] credit is claimed.

Insert 4 -13

9 **SECTION 2.** ^x 71.45 (2) (a) 10. of the statutes, as affected by 2007 Wisconsin Act
10 20, is amended to read:

11 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
12 computed under s. 71.47 (1dd) to (1dx), (3h), (3n), (3p), (3w), (5e), (5f), (5g), (5h), (5i),
13 (5j), and (5k) and not passed through by a partnership, limited liability company, or
14 tax-option corporation that has added that amount to the partnership's, limited
15 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1)
16 (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

History: 1987 a. 312; 1989 a. 31, 336, 359; 1991 a. 37, 39, 269; 1993 a. 16, 112, 263, 437; 1995 a. 27, 56, 371, 380; 1997 a. 27, 37, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 109; 2003 a. 37, 85, 99, 135, 255, 326; 2005 a. 74, 297, 335, 361, 479, 483; 2007 a. 20.

Insert 5 -8

17 2. If a credit computed under this subsection[✓] is not entirely offset against
18 Wisconsin income or franchise taxes otherwise due, the unused balance may be
19 carried forward and credited against Wisconsin income or franchise taxes otherwise
20 due for the following 5[✓] taxable years to the extent not offset by these taxes otherwise



1 due in all intervening years between the year in which the expense was incurred and
2 the year in which the carry-forward credit is claimed.

Insert 5 -15

3 **SECTION 3.** 77.54 (50) of the statutes is created to read:

4 77.54 (50) (a) In this subsection:

5 1. "Biotechnology" means the application of biotechnologies; including
6 recombinant deoxyribonucleic acid techniques, biochemistry, molecular and cellular
7 biology, genetics, genetic engineering, biological cell fusion, and other bioprocesses;
8 that use living organisms or parts of an organism to produce or modify products to
9 improve plants or animals or improve animal health, develop microorganisms for
10 specific uses, identify targets for small molecule pharmaceutical development, or
11 transform biological systems into useful processes and products.

12 2. "Machinery" has the meaning given in s. 70.11 (27) (a) 2.

13 3. "Manufacturing" has the meaning given in sub. (6m).

14 4. "Primarily" means more than 50 percent.

15 5. "Qualified research" means qualified research as defined under section 41
16 (d) (1) of the Internal Revenue Code.

17 6. "Used exclusively" has the meaning given in sub. (3) (b) 3.

18 (b) The gross receipts from the sale of and the storage, use, or other
19 consumption of:

20 1. Machinery and equipment, including attachments, parts, and accessories,
21 that are sold to persons who are engaged primarily in manufacturing or
22 biotechnology in this state and are used exclusively and directly in qualified
23 research.



1 2. Tangible personal property that is sold to persons who are engaged primarily
2 in manufacturing or biotechnology[✓] in this state, if the tangible personal property is
3 consumed or destroyed or loses its identity while being used exclusively[✓] and directly
4 in qualified research.[✓]

5
6
7

Fix →
component

SECTION 4. Effective date.

5

This act takes effect on the day
after publication, except as follows:

→ (1) The treatment of section 77.54 (50)[✓] of the statutes takes effect on July 1,
2009.

(end ins)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3925/P1dn

date

...
vjkjd

Representative Kleefisch:

Please review this draft carefully to ensure that it is consistent with your intent. ✓ This draft is based on instructions I received from Nina Carlson in the Governor's office. * I did not include a provision to exempt certain items used in qualified research for manufacturing or biotechnology from the property tax, because it is not clear to me if that is consistent with your intent. ✓

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3925/P1dn
JK:jld:pg

January 28, 2008

Representative Kleefisch:

Please review this draft carefully to ensure that it is consistent with your intent. This draft is based on instructions I received from Nina Carlson in the Governor's office. I did not include a provision to exempt certain items used in qualified research for manufacturing or biotechnology from the property tax, because it is not clear to me if that is consistent with your intent.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov

Kreye, Joseph

From: Lindstedt, Daniel
Sent: Friday, February 01, 2008 11:15 AM
To: Kreye, Joseph
Cc: Pagel, Matt
Subject: FW: R& D bill draft

Joe:

Below is an e-mail from the Governor's office regarding the innovation tax credit legislation that Rep. Kleefisch and Sen. Kreitlow are working on.

I think there was some miscommunication and the changes requested in the e-mail below never made it to you, which is kind of important.

Please take a look at the e-mail and if you have not already received a request to make these changes to LRB-3925/P1, please do so. If you have received a request for these changes, if you could let me know when you think the redraft will be available.

Thanks.

- Dan

From: Ordaz, Bethany - GOV [mailto:Bethany.Ordaz@gov.state.wi.us]
Sent: Wednesday, January 30, 2008 12:13 PM
To: Lindstedt, Daniel; Pagel, Matt
Cc: Hermes, Ron - GOV; Carlson, Nina - GOV
Subject: R& D bill draft

Matt and Dan,

Just following up on conversation that Ron had with your offices about the bill draft on the R&D two quick changes 1) in addition to the sales and use tax exemption on machinery and other tangible personal property used in R&D there should be property tax exemption as well and 2) effective date for sales and use tax and property tax exemption should be January 1, 2009. If you have any questions let us know.

Thanks,

Bethany Ordaz
Legislative Liaison
Office of Governor Jim Doyle
115 East State Capitol
(608) 261-6788
bethany.ordaz@wisconsin.gov



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-3925/P1

JK:jld:pg

in 2-1-08

due Mon. 2-4

RKR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-N

machinery and ✓

re gr

✓ property and

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) (db), 71.47 (4m), 71.49 (1) (db) and

3 77.54 (50) of the statutes; relating to: an income and franchise tax credit for

4 research conducted in this state by a corporation and a sales and use tax

5 exemption for certain tangible personal property used to conduct research.

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 1.25. 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 five subsequent taxable years.

a property tax exemption and

This bill also creates a sales and use tax exemption for machinery and other tangible personal property used for qualified research by persons engaged primarily in manufacturing or biotechnology in this state.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

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:**

INSERT 2-1

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, as affected by 2007 Wisconsin Act 20,
5 is amended to read:

6 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
7 the gross income as computed under the Internal Revenue Code as modified under
8 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
9 computed under s. 71.28 (1), (3), (4), (4m), and (5) minus, as provided under s. 71.28
10 (3) (c) 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
11 under this paragraph at the time that the taxpayer first claimed the credit plus the
12 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
13 (1ds), (1dx), (3g), (3h), (3n), (3p), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), and (5k) and
14 not passed through by a partnership, limited liability company, or tax-option
15 corporation that has added that amount to the partnership's, limited liability
16 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus
17 the amount of losses from the sale or other disposition of assets the gain from which
18 would be wholly exempt income, as defined in sub. (3) (L), if the assets were sold or

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

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

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

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

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

16 (b) *Credit.* Subject to the limitations provided under this subsection, for
17 taxable years beginning on or after January 1, 2009, a corporation may claim as a
18 credit against the tax imposed under s. 71.23, up to the amount of those taxes, and
19 against no more than 50 percent of the claimant’s tax liability, an amount equal to the
20 amount of qualified research expenses paid or incurred by the corporation in the
21 taxable year that exceeds the amount calculated as follows:

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

25 2. Multiply the amount determined under subd. 1. by 1.25.

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

3 (d) *Administration*. 1. Subsection (4) (e), (g), and (h), as it applies to the credit
4 under sub. (4), applies to the credit under this subsection.

5 2. If a credit computed under this subsection is not entirely offset against
6 Wisconsin income or franchise taxes otherwise due, the unused balance may be
7 carried forward and credited against Wisconsin income or franchise taxes otherwise
8 due for the following 5 taxable years to the extent not offset by these taxes otherwise
9 due in all intervening years between the year in which the expense was incurred and
10 the year in which the carry-forward credit is claimed.

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

12 71.30 (3) (db) Super research and development credit under s. 71.28 (4m).

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

14 71.365 (3) CREDITS NOT ALLOWED. The credits under s. 71.28 (4), (4m), and (5)
15 may not be claimed by a tax-option corporation or shareholders of a tax-option
16 corporation.

17 **SECTION 7.** 71.45 (2) (a) 10. of the statutes, as affected by 2007 Wisconsin Act
18 20, 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), (3h), (3n), (3p), (3w), (5e), (5f), (5g), (5h), (5i),
21 (5j), and (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), (4m), and (5).

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

1 71.47 (4m) SUPER RESEARCH AND DEVELOPMENT CREDIT. (a) *Definition*. In this
2 subsection, “qualified research expenses” means qualified research expenses as
3 defined in section 41 of the Internal Revenue Code, not including section 41 (h) of the
4 Internal Revenue Code, that are paid or incurred for research conducted in this state.

5 (b) *Credit*. Subject to the limitations provided under this subsection, for
6 taxable years beginning on or after January 1, 2009, a corporation may claim as a
7 credit against the tax imposed under s. 71.43, up to the amount of those taxes, and
8 against no more than 50 percent of the claimant’s tax liability, an amount equal to
9 the amount of qualified research expenses paid or incurred by the corporation in the
10 taxable year that exceeds the amount calculated as follows:

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

14 2. Multiply the amount determined under subd. 1. by 1.25.

15 (c) *Limitations*. Section 71.28 (4) (b) to (d) and (i), as it applies to the credit
16 under sub. (4), applies to the credit under this subsection.

17 (d) *Administration*. 1. Section 71.28 (4) (e), (g), and (h), as it applies to the
18 credit under sub. (4), applies to the credit under this subsection.

19 2. If a credit computed under this subsection is not entirely offset against
20 Wisconsin income or franchise taxes otherwise due, the unused balance may be
21 carried forward and credited against Wisconsin income or franchise taxes otherwise
22 due for the following 5 taxable years to the extent not offset by these taxes otherwise
23 due in all intervening years between the year in which the expense was incurred and
24 the year in which the carry-forward credit is claimed.

25 **SECTION 9.** 71.49 (1) (db) of the statutes is created to read:

1 71.49 (1) (db) Super research and development credit under s. 71.47 (4m).

2 SECTION 10. 77.54 (50) of the statutes is created to read:

3 77.54 (50) (a) In this subsection:

4 1. "Biotechnology" means the application of biotechnologies; including
5 recombinant deoxyribonucleic acid techniques, biochemistry, molecular and cellular
6 biology, genetics, genetic engineering, biological cell fusion, and other bioprocesses;
7 that use living organisms or parts of an organism to produce or modify products to
8 improve plants or animals or improve animal health, develop microorganisms for
9 specific uses, identify targets for small molecule pharmaceutical development, or
10 transform biological systems into useful processes and products.

11 2. "Machinery" has the meaning given in s. 70.11 (27) (a) 2.

12 3. "Manufacturing" has the meaning given in sub. (6m).

13 4. "Primarily" means more than 50 percent.

14 5. "Qualified research" means qualified research as defined under section 41
15 (d) (1) of the Internal Revenue Code.

16 6. "Used exclusively" has the meaning given in sub. (3) (b) 3.

17 (b) The gross receipts from the sale of and the storage, use, or other
18 consumption of:

19 1. Machinery and equipment, including attachments, parts, and accessories,
20 that are sold to persons who are engaged primarily in manufacturing or
21 biotechnology in this state and are used exclusively and directly in qualified
22 research.

23 2. Tangible personal property that is sold to persons who are engaged primarily
24 in manufacturing or biotechnology in this state, if the tangible personal property is

1 consumed or destroyed or loses its identity while being used exclusively and directly
2 in qualified research.

3 **SECTION 11. Effective dates.** This act takes effect on the day after publication,
4 except as follows:

5 (1) The treatment of section 77.54 (50) of the statutes takes effect on ~~July~~ 1,
6 2009.

7 (END)

January
January
=

d-note

✓
(IN) BUT
7-2

Insert 2 - 1

1 SECTION 1. 70.11 (27m) of the statutes is created to read:

2 70.11 (27m) RESEARCH MACHINERY AND EQUIPMENT. (a) In this subsection:

- 3 1. "Biotechnology" has the meaning given in s. 77.54 (50) (a) 1.
- 4 2. "Machinery" has the meaning given in sub. (27) (a) 2.
- 5 3. "Manufacturing" has the meaning given in sub. (27) (a) 3.
- 6 4. "Primarily" means more than 50 percent.
- 7 5. "Qualified research" means qualified research as defined under section 41
- 8 (d) (1) of the Internal Revenue Code.
- 9 6. "Used exclusively" has the meaning given in sub. (27) (a) 8.

10 (b) Machinery and equipment, including attachments, parts, and accessories,
11 used by persons who are engaged primarily in manufacturing or biotechnology in this
12 state and are used exclusively and directly in qualified research.

13 SECTION 2. 70.111 (27) of the statutes is created to read:

14 70.111 (27) RESEARCH PROPERTY. (a) In this subsection:

- 15 1. "Biotechnology" has the meaning given in s. 77.54 (50) (a) 1.
- 16 2. "Machinery" has the meaning given in s. 70.11 (27) (a) 2.
- 17 3. "Manufacturing" has the meaning given in s. 70.11 (27) (a) 3.
- 18 4. "Primarily" means more than 50 percent.
- 19 5. "Qualified research" means qualified research as defined under section 41
- 20 (d) (1) of the Internal Revenue Code.

21 6. "Used exclusively" has the meaning given in s. 70.11 (27) (a) 8.

22 (b) Tangible personal property used by persons who are engaged primarily in
23 manufacturing or biotechnology in this state, if the tangible personal property is



1 consumed or destroyed or loses its identity while being used exclusively and directly
2 in qualified research.✓

Insert 7 - 2

3 **SECTION 3. Initial applicability.**

4 (1) The treatment of sections 70.11 (27m)✓ and 70.111 (27)✓ of the statutes first
5 applies to the property tax assessments as of January 1, 2009.✓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3925/P2dn
JK:jld:pg

date

Representative Kleefisch: ✓

Please review this draft carefully to ensure that it is consistent with your intent. ✓ This draft incorporates the changes recommended in the e-mail from Bethany Ordaz to Dan Lindstedt, dated January 30, 2008. ✓

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

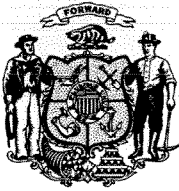
LRB-3925/P2dn
JK:jld:nwn

February 1, 2008

Representative Kleefisch:

Please review this draft carefully to ensure that it is consistent with your intent. This draft incorporates the changes recommended in the e-mail from Bethany Ordaz to Dan Lindstedt, dated January 30, 2008.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-3925/P2

JK:jld:nwn

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 2-5-08

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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* 70.11 (27m), 70.111 (27), 71.28 (4m), 71.30 (3) (db), 71.47
 3 (4m), 71.49 (1) (db) and 77.54 (50) of the statutes; **relating to:** an income and
 4 franchise tax credit for research conducted in this state by a corporation and a
 5 property and sales and use tax exemption[✓] for certain machinery and tangible
 6 personal property used to conduct research.

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 1.25. 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 five subsequent taxable years.

This bill also creates a property tax exemption and a sales and use tax exemption for machinery and other tangible personal property used for qualified research by persons engaged primarily in manufacturing or biotechnology in this state.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

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.** 70.11 (27m) of the statutes is created to read:

2 70.11 **(27m)** RESEARCH MACHINERY AND EQUIPMENT. (a) In this subsection:

3 1. "Biotechnology" has the meaning given in s. 77.54 (50) (a) 1.

4 2. "Machinery" has the meaning given in sub. (27) (a) 2.

5 3. "Manufacturing" has the meaning given in sub. (27) (a) 3.

6 4. "Primarily" means more than 50 percent.

7 5. "Qualified research" means qualified research as defined under section 41
8 (d) (1) of the Internal Revenue Code.

9 6. "Used exclusively" has the meaning given in sub. (27) (a) 8.

10 (b) Machinery and equipment, including attachments, parts, and accessories,
11 used by persons who are engaged primarily in manufacturing or biotechnology in
12 this state and are used exclusively and directly in qualified research.

13 **SECTION 2.** 70.111 (27) of the statutes is created to read:

14 70.111 **(27)** RESEARCH PROPERTY. (a) In this subsection:

15 1. "Biotechnology" has the meaning given in s. 77.54 (50) (a) 1.

16 2. "Manufacturing" has the meaning given in s. 70.11 (27) (a) 3.

17 3. "Primarily" means more than 50 percent.

1 4. "Qualified research" means qualified research as defined under section 41
2 (d) (1) of the Internal Revenue Code.

3 5. "Used exclusively" has the meaning given in s. 70.11 (27) (a) 8.

4 (b) Tangible personal property used by persons who are engaged primarily in
5 manufacturing or biotechnology in this state, if the tangible personal property is
6 consumed or destroyed or loses its identity while being used exclusively and directly
7 in qualified research.

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

9 71.21 (3) The credits under s. 71.28 (4), (4m), and (5) may not be claimed by a
10 partnership or by partners, including partners of a publicly traded partnership.

11 **SECTION 4.** 71.26 (2) (a) of the statutes, as affected by 2007 Wisconsin Act 20,
12 is amended to read:

13 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
14 the gross income as computed under the Internal Revenue Code as modified under
15 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
16 computed under s. 71.28 (1), (3), (4), (4m), and (5) minus, as provided under s. 71.28
17 (3) (c) 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
18 under this paragraph at the time that the taxpayer first claimed the credit plus the
19 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
20 (1ds), (1dx), (3g), (3h), (3n), (3p), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), and (5k) and
21 not passed through by a partnership, limited liability company, or tax-option
22 corporation that has added that amount to the partnership's, limited liability
23 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus
24 the amount of losses from the sale or other disposition of assets the gain from which
25 would be wholly exempt income, as defined in sub. (3) (L), if the assets were sold or

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

6 **SECTION 5.** 71.26 (3) (n) of the statutes is amended to read:

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

11 **SECTION 6.** 71.28 (4m) of the statutes is created to read:

12 71.28 (4m) SUPER RESEARCH AND DEVELOPMENT CREDIT. (a) *Definition.* In this
13 subsection, "qualified research expenses" means qualified research expenses as
14 defined in section 41 of the Internal Revenue Code, not including section 41 (h) of the
15 Internal Revenue Code, that are paid or incurred for research conducted in this state.

16 (b) *Credit.* Subject to the limitations provided under this subsection, for
17 taxable years beginning on or after January 1, 2009, a corporation may claim as a
18 credit against the tax imposed under s. 71.23, up to the amount of those taxes, and
19 against no more than 50 percent of the claimant's tax liability, an amount equal to
20 the amount of qualified research expenses paid or incurred by the corporation in the
21 taxable year that exceeds the amount calculated as follows:

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

25 2. Multiply the amount determined under subd. 1. by 1.25.

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

3 (d) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit
4 under sub. (4), applies to the credit under this subsection.

5 2. If a credit computed under this subsection is not entirely offset against
6 Wisconsin income or franchise taxes otherwise due, the unused balance may be
7 carried forward and credited against Wisconsin income or franchise taxes otherwise
8 due for the following 5 taxable years to the extent not offset by these taxes otherwise
9 due in all intervening years between the year in which the expense was incurred and
10 the year in which the carry-forward credit is claimed.

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

12 71.30 (3) (db) Super research and development credit under s. 71.28 (4m).

13 **SECTION 8.** 71.365 (3) of the statutes is amended to read:

14 71.365 (3) CREDITS NOT ALLOWED. The credits under s. 71.28 (4), (4m), and (5)
15 may not be claimed by a tax-option corporation or shareholders of a tax-option
16 corporation.

17 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2007 Wisconsin Act
18 20, 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), (3h), (3n), (3p), (3w), (5e), (5f), (5g), (5h), (5i),
21 (5j), and (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), (4m), and (5).

25 **SECTION 10.** 71.47 (4m) of the statutes is created to read:

1 71.47 (4m) SUPER RESEARCH AND DEVELOPMENT CREDIT. (a) *Definition*. In this
2 subsection, "qualified research expenses" means qualified research expenses as
3 defined in section 41 of the Internal Revenue Code, not including section 41 (h) of the
4 Internal Revenue Code, that are paid or incurred for research conducted in this state.

5 (b) *Credit*. Subject to the limitations provided under this subsection, for
6 taxable years beginning on or after January 1, ~~2009~~²⁰¹⁰, a corporation may claim as a
7 credit against the tax imposed under s. 71.43, up to the amount of those taxes, and
8 against no more than 50 percent of the claimant's tax liability, an amount equal to
9 the amount of qualified research expenses paid or incurred by the corporation in the
10 taxable year that exceeds the amount calculated as follows:

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

14 2. Multiply the amount determined under subd. 1. by 1.25.

15 (c) *Limitations*. Section 71.28 (4) (b) to (d) and (i), as it applies to the credit
16 under sub. (4), applies to the credit under this subsection.

17 (d) *Administration*. 1. Section 71.28 (4) (e), (g), and (h), as it applies to the
18 credit under sub. (4), applies to the credit under this subsection.

19 2. If a credit computed under this subsection is not entirely offset against
20 Wisconsin income or franchise taxes otherwise due, the unused balance may be
21 carried forward and credited against Wisconsin income or franchise taxes otherwise
22 due for the following 5 taxable years to the extent not offset by these taxes otherwise
23 due in all intervening years between the year in which the expense was incurred and
24 the year in which the carry-forward credit is claimed.

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

1 71.49 (1) (db) Super research and development credit under s. 71.47 (4m).

2 **SECTION 12.** 77.54 (50) of the statutes is created to read:

3 77.54 (50) (a) In this subsection:

4 1. "Biotechnology" means the application of biotechnologies; including
5 recombinant deoxyribonucleic acid techniques, biochemistry, molecular and cellular
6 biology, genetics, genetic engineering, biological cell fusion, and other bioprocesses;
7 that use living organisms or parts of an organism to produce or modify products to
8 improve plants or animals or improve animal health, develop microorganisms for
9 specific uses, identify targets for small molecule pharmaceutical development, or
10 transform biological systems into useful processes and products.

11 2. "Machinery" has the meaning given in s. 70.11 (27) (a) 2.

12 3. "Manufacturing" has the meaning given in sub. (6m).

13 4. "Primarily" means more than 50 percent.

14 5. "Qualified research" means qualified research as defined under section 41
15 (d) (1) of the Internal Revenue Code.

16 6. "Used exclusively" has the meaning given in sub. (3) (b) 3.

17 (b) The gross receipts from the sale of and the storage, use, or other
18 consumption of:

19 1. Machinery and equipment, including attachments, parts, and accessories,
20 that are sold to persons who are engaged primarily in manufacturing or
21 biotechnology in this state and are used exclusively and directly in qualified
22 research.

23 2. Tangible personal property that is sold to persons who are engaged primarily
24 in manufacturing or biotechnology in this state, if the tangible personal property is

1 consumed or destroyed or loses its identity while being used exclusively and directly
2 in qualified research.

3 **SECTION 13. Initial applicability.**

4 (1) The treatment of sections 70.11 (27m) and 70.111 (27) of the statutes first
5 applies to the property tax assessments as of January 1, 2009.

6 **SECTION 14. Effective dates.** This act takes effect on the day after publication,
7 except as follows:

8 (1) The treatment of section 77.54 (50) of the statutes takes effect on January
9 1, 2009.

10 (END)