

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0015/P1ins
CTS:.....

1 **Insert 13-3:**

2 **SECTION 1.** 560.207[#] of the statutes is created to read:

3 **560.207[✓] Nanotechnology tax credits.** (1) The[✓] department shall implement
4 a program for certifying businesses as eligible for tax credits under ss.[✓] 71.07 (5i),
5 71.28 (5i), and 71.47 (5i).[✓]

6 (2) If the department certifies a business as eligible under[✓] sub. (1), the
7 department shall determine the amount of expenditures by the business that meet
8 the requirements of[✓] ss. 71.07 (5i) (b) 1. to 3.,[✓] 71.28 (5i) (b) 1. to 3.,[✓] or 71.47 (5i) (b) 1.
9 to 3.[✓] and shall determine the amount of tax credits to be allocated to the business.
10 The total amount of tax credits allocated to all eligible businesses may not exceed
11 \$2,500,000[✓] per fiscal year.

12 (3) The department^{of commerce} shall notify the department of revenue[✓] of every business
13 certified under sub.[✓](1) and the amount of tax credits allocated to the business under
14 sub. (2).[✓]

Sec. #. Nonstatutory provisions.

*INS A
(to Ins 13-3)*

(end Insert 13-3)

INS A
to insert 13-3

SENATE BILL 483

1 2. The committee does not hold a meeting to review the proposal within 30 days
2 after the cochairpersons notify the department of commerce that a meeting has been
3 scheduled.

section 560.207 of the statutes, as created by this act

4 (1) (d) Notwithstanding section 227.24 of the statutes, the department of
5 commerce may promulgate emergency rules necessary to administer this subsection.

6 Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules
7 promulgated under this subsection remain in effect until the department of
8 commerce notifies the department of revenue of the department of commerce's
9 certifications and determinations, or the first day of the 13th month after the
10 effective date of this subsection, whichever is sooner. Notwithstanding section
11 227.24 (1) (a) and (3) of the statutes, the department of commerce is not required to
12 provide evidence that promulgating a rule under this subsection as an emergency
13 rule is necessary for the preservation of the public peace, health, safety, or welfare
14 and is not required to provide a finding of emergency for a rule promulgated under
15 this subsection.

effective date of permanent rules promulgated to administer section 560.207 of the statutes, as created by this act

SECTION 14. Initial applicability.

17 (1) This act first applies to taxable years beginning on January 1 of the year
18 in which this subsection takes effect, except that if this subsection takes effect after
19 July 31 this act first applies to taxable years beginning on January 1 of the year
20 following the year in which this subsection takes effect.

(END)

(end Insert A to Ins 13-3)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0015/P1dn

JK: :...
↓ CTS
JLd

Senator Kanavas:

* Please review this draft carefully to ensure that it is consistent with your intent. Please note that if you want to define the term "consortium," you must provide me with a definition. In other words, the only way for the legislature to define the term is by including the definition in the bill. Please contact me if you have any questions.

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

→ INSERT DN (from next page)

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

LRB-0015/P1dnCS
CTS:.....

Insert DN (to previous pages)



~~Senator Kanavas.~~

Note that I have included a nonstatutory provision authorizing Commerce to promulgate emergency rules to administer its certification and allocation responsibilities until permanent rules take effect or until approximately ^{one} year after the bill takes effect.

Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail: christopher.sundberg@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0015/P1dn
JK&CTS:jld:jf

September 28, 2006

Senator Kanavas:

Please review this draft carefully to ensure that it is consistent with your intent. Please note that, if you want to define the term "consortium," you must provide me with a definition. In other words, the only way for the legislature to define the term is by including the definition in the bill. Please contact me if you have any questions.

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

Note that I have included a nonstatutory provision authorizing Commerce to promulgate emergency rules to administer its certification and allocation responsibilities until permanent rules take effect or until approximately one year after the bill takes effect.

Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail: christopher.sundberg@legis.state.wi.us



TED KANAVAS
STATE SENATOR

<input type="checkbox"/> PER YOUR REQUEST
<input type="checkbox"/> FOR YOUR INFORMATION
<input checked="" type="checkbox"/> <u>DRAFTING CHANGES</u>

To: Joe Kraye:

Thank you for your
work on LAB 0015/PI.

Kindly send some
changes.

Best,

Mike Richards



TED KANAVAS
STATE SENATOR

Tuesday, October 17, 2006

REVISIONS OF LRB 0015/PI - NANOTECHNOLOGY TAX CREDIT

TC
w/ Mike
Public &
Private
both

A.) IN THE DRAFTER'S NOTE YOU ASK WHAT A "CONSORTIUM" IS FOR THE PURPOSE OF THIS DRAFT. THE DEFINITION WE PLAN TO USE MEANS:

"TWO MORE PUBLIC HIGH EDUCATION FACILITIES [TECHNICAL COLLEGES, UW-COLLEGES, OR UW-UNIVERSITY SCHOOLS] WORKING ON A RESEARCH PROJECT THAT IS SUBSTANTIALLY SIMILAR, OR WORKING ON VARIOUS COMPONENTS OF THE SAME QUALIFIED RESEARCH PROJECT."

~~B.) PG. 3, LINE 18 SHOULD SAY -~~

NO

~~"... qualified research and manufacturing"~~

C.) PG. 4, ADD BETWEEN LINES 6-7 a sub d. WHICH WOULD INCLUDE:

"d. LABORATORY MATERIALS USED IN ~~NANOTECHNOLOGY RESEARCH.~~" not necessary

~~D.) PG. 4, LINES 7-8 - I AM NOT SURE WHY THIS LIMITATION IS INCLUDED IN THE DRAFT. IF THERE IS NO RATIONALE FOR IT WE WOULD LIKE IT REMOVED FROM THE DRAFT.~~

E.) THE ABOVE CHANGES SHOULD BE CHANGED ALL THROUGH THE DRAFT.

SOON

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

xCTS

g
pp. 1, 3, 4, 7, 8, 10, 11

Regen

1 AN ACT *to amend* 71.05 (6) (a) 15., 71.08 (1) (intro.), 71.21 (4), 71.26 (2) (a), 71.34
 2 (1) (g), 71.45 (2) (a) 10. and 77.92 (4); and *to create* 71.07 (5i), 71.10 (4) (gab),
 3 71.28 (5i), 71.30 (3) (dq), 71.47 (5i), 71.49 (1) (dq) and 560.207 of the statutes;
 4 **relating to:** creating an income and franchise tax credit for expenses related
 5 to nanotechnology and providing an exemption from emergency rule-making
 6 procedures.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit for certain expenses related to nanotechnology. Under the bill, generally, a person may claim a credit that is equal to the amount of state sales and use taxes the person paid in the taxable year on the purchase of machines, equipment, and certain other tangible personal property that are used by a nanotechnology business in this state for research, development, and manufacturing. In addition, a person may claim as a credit the amount of any payments to a public or private institution of higher education, or to a consortium, for research, equipment, or the use of research facilities, or other qualified expenses as determined by the Department of Commerce (Commerce), that are directly related to nanotechnology. The bill defines "nanotechnology" as the science and technology that enables a person to understand, measure, manipulate, and manufacture materials at the atomic, molecular, and supermolecular levels. A "nanotechnology business" is a business that is primarily engaged in applying

of such institutions ✓

nanotechnologies to create new applications or processes, or modify existing applications or processes, in order to make useful processes and products related to health care, energy, food production, manufacturing, biotechnology, information technology, or the environment. A person who wishes to claim the credit must first apply to Commerce.

Under the bill, if a person claims a credit in an amount that exceeds the person's income and franchise tax liability, the person does not receive a tax refund for the excess amount, but, instead, may carry forward the amount of any unused credit to the ten subsequent taxable years. The maximum amount of the credits that taxpayers may claim in any state fiscal year is \$2,500,000, as allocated by Commerce.

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), (3w), (5b), (5d), and
4 (5e), (5f), and (5h), and (5i) and not passed through by a partnership, limited liability
5 company, or tax-option corporation that has added that amount to the partnership's,
6 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

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

8 71.07 (5i) NANOTECHNOLOGY CREDIT. (a) *Definitions.* In this subsection:

- 9 1. "Claimant" means a person who files a claim under this subsection.
10 2. "Manufacturing" has the meaning given in s. 77.54 (6m).
11 3. "Nanotechnology" means the science and technology that enables a person
12 to understand, measure, manipulate, and manufacture materials at the atomic,
13 molecular, and supermolecular levels.
14 4. "Nanotechnology business" means a business, as certified by the department
15 of commerce in the manner prescribed by the department of commerce, that is

1 primarily engaged in applying nanotechnologies to create new applications or
2 processes, or modify existing applications or processes, in order to make useful
3 processes and products related to health care, energy, food production,
4 manufacturing, biotechnology, information technology, or the environment.

5 5. "Qualified research" means qualified research as defined under section 41
6 (d) (1) of the Internal Revenue Code, except that research conducted by a public or
7 private institution of higher education, or a consortium is "qualified research" if the
8 research is intended to be useful in developing a new or improved product or service
9 and the research satisfies section 41 (d) (1) (B) (i) and (C) of the Internal Revenue
10 Code.

11 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
12 560.207, for taxable years beginning on or after July 1, 2008, a claimant may claim
13 as a credit against the taxes imposed under s. 71.02 or 71.08, up to the amount of the
14 taxes, any of the following amounts that the claimant paid in the taxable year:

15 1. The taxes imposed under subch. III of ch. 77 on the purchase of machines and
16 processing equipment, including accessories, attachments, and parts for the
17 machines or equipment, that are used exclusively and directly by the claimant in the
18 claimant's nanotechnology business for qualified research or manufacturing, if the
19 research or manufacturing occurs in this state.

20 2. Payments to a public or private institution of higher education, or to a
21 consortium, for research, equipment, or the use of research facilities, or other
22 qualified expenses as determined by the department of commerce, that are directly
23 related to nanotechnology.

1 3. The taxes imposed under subch. III of ch. 77 on the purchase of any of the
2 following that are used by the claimant's nanotechnology business for research and
3 development that occurs in this state:

4 a. Advanced computing devices, including computer hardware and software.

5 b. Data communications.

6 c. Information technology.

→ 7 d. Laboratory materials.

(c) Limitations. 1. A claimant may not claim an amount under both par. (b)

8 1. and 3. for the purchase of the same item.

9 2. The maximum amount of the credits that may be allocated to all claimants
10 under this subsection and ss. 71.28 (5i) and 71.47 (5i) in each fiscal year is
11 \$2,500,000, as determined by the department of commerce under s. 560.207.

12 3. No credit may be allowed under this subsection unless the claimant submits
13 with the claimant's return a copy of the claimant's certification for and allocation of
14 credits under s. 560.207.

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

23 (d) Administration. 1. Section 71.28 (4) (e), (g), and (h), as it applies to the
24 credit under s. 71.28 (4), applies to the credit under this subsection.

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

7 **SECTION 3.** 71.08 (1) (intro.) of the statutes is amended to read:

8 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
9 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under
10 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), ~~(3e), (3e)~~, (3m),
11 (3n), (3s), (3t), (3w), (5b), (5d), (5e), (5f), (5i), (6), (6e), and (9e), 71.28 (1dd), (1de), (1di),
12 (1dj), (1dL), (1ds), (1dx), (1fd), (2m), (3), (3n), (3t), and (3w), and 71.47 (1dd), (1de),
13 (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m), (3), (3n), (3t), and (3w), and subchs. VIII
14 and IX and payments to other states under s. 71.07 (7), is less than the tax under this
15 section, there is imposed on that natural person, married couple filing jointly, trust
16 or estate, instead of the tax under s. 71.02, an alternative minimum tax computed
17 as follows:

18 **SECTION 4.** 71.10 (4) (gab) of the statutes is created to read:

19 71.10 (4) (gab) Nanotechnology credit under s. 71.07 (5i).

20 **SECTION 5.** 71.21 (4) of the statutes is amended to read:

21 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
22 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), (5e), (5f), (5g), and (5h),
23 and (5i) and passed through to partners shall be added to the partnership's income.

24 **SECTION 6.** 71.26 (2) (a) of the statutes is amended to read:

1 71.26 (2) (a) *Corporations in general.* The “net income” of a corporation means
2 the gross income as computed under the Internal Revenue Code as modified under
3 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
4 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
5 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
6 under this paragraph at the time that the taxpayer first claimed the credit plus the
7 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
8 (1ds), (1dx), (3g), (3n), (3t), (3w), (5b), (5e), (5f), (5g), ~~and (5h)~~, and (5i) and not passed
9 through by a partnership, limited liability company, or tax-option corporation that
10 has added that amount to the partnership’s, limited liability company’s, or
11 tax-option corporation’s income under s. 71.21 (4) or 71.34 (1) (g) plus the amount
12 of losses from the sale or other disposition of assets the gain from which would be
13 wholly exempt income, as defined in sub. (3) (L), if the assets were sold or otherwise
14 disposed of at a gain and minus deductions, as computed under the Internal Revenue
15 Code as modified under sub. (3), plus or minus, as appropriate, an amount equal to
16 the difference between the federal basis and Wisconsin basis of any asset sold,
17 exchanged, abandoned, or otherwise disposed of in a taxable transaction during the
18 taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

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

20 71.28 (5i) NANOTECHNOLOGY CREDIT. (a) *Definitions.* In this subsection:

- 21 1. “Claimant” means a person who files a claim under this subsection.
- 22 2. “Manufacturing” has the meaning given in s. 77.54 (6m).
- 23 3. “Nanotechnology” means the science and technology that enables a person
24 to understand, measure, manipulate, and manufacture materials at the atomic,
25 molecular, and supermolecular levels.

1 4. "Nanotechnology business" means a business, as certified by the department
2 of commerce in the manner prescribed by the department of commerce, that is
3 primarily engaged in applying nanotechnologies to create new applications or
4 processes, or modify existing applications or processes, in order to make useful
5 processes and products related to health care, energy, food production,
6 manufacturing, biotechnology, information technology, or the environment.

7 5. "Qualified research" means qualified research as defined under section 41
8 (d) (1) of the Internal Revenue Code, except that research conducted by a public or
9 private institution of higher education or a consortium is "qualified research" if the
10 research is intended to be useful in developing a new or improved product or service
11 and the research satisfies section 41 (d) (1) (B) (i) and (C) of the Internal Revenue
12 Code.

13 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
14 560.207, for taxable years beginning on or after July 1, 2008, a claimant may claim
15 as a credit against the taxes imposed under s. 71.23, up to the amount of the taxes,
16 any of the following amounts that the claimant paid in the taxable year:

17 1. The taxes imposed under subch. III of ch. 77 on the purchase of machines and
18 processing equipment, including accessories, attachments, and parts for the
19 machines or equipment, that are used exclusively and directly by the claimant in the
20 claimant's nanotechnology business for qualified research or manufacturing, if the
21 research or manufacturing occurs in this state.

22 2. Payments to a public or private institution of higher education, or to a
23 consortium, for research, equipment, or the use of research facilities, or other
24 qualified expenses as determined by the department of commerce, that are directly
25 related to nanotechnology.

1 3. The taxes imposed under subch. III of ch. 77 on the purchase of any of the
2 following that are used by the claimant's nanotechnology business for research and
3 development that occurs in this state:

4 a. Advanced computing devices, including computer hardware and software.

5 b. Data communications.

6 c. Information technology.

7 *d. Laboratory materials.*

8 (c) *Limitations.* 1. A claimant may not claim an amount under both par. (b)
9 1. and 3. for the purchase of the same item.

10 2. The maximum amount of the credits that may be allocated to all claimants
11 under this subsection and ss. 71.07 (5i) and 71.47 (5i) in each fiscal year is
12 \$2,500,000, as determined by the department of commerce under s. 560.207.

13 3. No credit may be allowed under this subsection unless the claimant submits
14 with the claimant's return a copy of the claimant's certification for and allocation of
15 credits under s. 560.207.

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

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

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

7 **SECTION 8.** 71.30 (3) (dq) of the statutes is created to read:

8 71.30 (3) (dq) Nanotechnology credit under s. 71.28 (5i).

9 **SECTION 9.** 71.34 (1) (g) of the statutes is amended to read:

10 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
11 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
12 (3n), (3t), (3w), (5b), (5e), (5f), (5g), and (5h), and (5i) and passed through to
13 shareholders.

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

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

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

22 71.47 (5i) NANOTECHNOLOGY CREDIT. (a) *Definitions.* In this subsection:

23 1. "Claimant" means a person who files a claim under this subsection.

24 2. "Manufacturing" has the meaning given in s. 77.54 (6m).

INSERT ✓

1 3. “Nanotechnology” means the science and technology that enables a person
2 to understand, measure, manipulate, and manufacture materials at the atomic,
3 molecular, and supermolecular levels.

4 4. “Nanotechnology business” means a business, as certified by the department
5 of commerce in the manner prescribed by the department of commerce, that is
6 primarily engaged in applying nanotechnologies to create new applications or
7 processes, or modify existing applications or processes, in order to make useful
8 processes and products related to health care, energy, food production,
9 manufacturing, biotechnology, information technology, or the environment.

10 5. “Qualified research” means qualified research as defined under section 41
11 (d) (1) of the Internal Revenue Code, except that research conducted by a public or
12 private institution of higher education, or a consortium is “qualified research” if the
13 research is intended to be useful in developing a new or improved product or service
14 and the research satisfies section 41 (d) (1) (B) (i) and (C) of the Internal Revenue
15 Code.

16 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
17 560.207, for taxable years beginning on or after July 1, 2008, a claimant may claim
18 as a credit against the taxes imposed under s. 71.43, up to the amount of the taxes,
19 any of the following amounts that the claimant paid in the taxable year:

20 1. The taxes imposed under subch. III of ch. 77 on the purchase of machines and
21 processing equipment, including accessories, attachments, and parts for the
22 machines or equipment, that are used exclusively and directly by the claimant in the
23 claimant’s nanotechnology business for qualified research or manufacturing, if the
24 research or manufacturing occurs in this state.

1 2. Payments to a public or private institution of higher education, or to a
2 consortium, for research, equipment, or the use of research facilities, or other
3 qualified expenses as determined by the department of commerce, that are directly
4 related to nanotechnology.

5 3. The taxes imposed under subch. III of ch. 77 on the purchase of any of the
6 following that are used by the claimant's nanotechnology business for research and
7 development that occurs in this state:

8 a. Advanced computing devices, including computer hardware and software.

9 b. Data communications.

10 c. Information technology.

11 ④ d. Laboratory materials.

(c) *Limitations.* 1. A claimant may not claim an amount under both par. (b)

12 1. and 3. for the purchase of the same item.

13 2. The maximum amount of the credits that may be allocated to all claimants
14 under this subsection and ss. 71.07 (5i) and 71.28 (5i) in each fiscal year is
15 \$2,500,000, as determined by the department of commerce under s. 560.207.

16 3. No credit may be allowed under this subsection unless the claimant submits
17 with the claimant's return a copy of the claimant's certification for and allocation of
18 credits under s. 560.207.

19 4. 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

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

3 (d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the
4 credit under s. 71.28 (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 10 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 12.** 71.49 (1) (dq) of the statutes is created to read:

12 71.49 (1) (dq) Nanotechnology credit under s. 71.47 (5i).

13 **SECTION 13.** 77.92 (4) of the statutes is amended to read:

14 77.92 (4) "Net business income," with respect to a partnership, means taxable
15 income as calculated under section 703 of the Internal Revenue Code; plus the items
16 of income and gain under section 702 of the Internal Revenue Code, including taxable
17 state and municipal bond interest and excluding nontaxable interest income or
18 dividend income from federal government obligations; minus the items of loss and
19 deduction under section 702 of the Internal Revenue Code, except items that are not
20 deductible under s. 71.21; plus guaranteed payments to partners under section 707
21 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
22 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), (3w), (5b), (5e), (5f),
23 (5g), and (5h), and (5i); and plus or minus, as appropriate, transitional adjustments,
24 depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and
25 (19); but excluding income, gain, loss, and deductions from farming. "Net business

1 income,” with respect to a natural person, estate, or trust, means profit from a trade
2 or business for federal income tax purposes and includes net income derived as an
3 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

4 **SECTION 14.** 560.207 of the statutes is created to read:

5 **560.207 Nanotechnology tax credits.** (1) The department shall implement
6 a program for certifying businesses as eligible for tax credits under ss. 71.07 (5i),
7 71.28 (5i), and 71.47 (5i).

8 (2) If the department certifies a business as eligible under sub. (1), the
9 department shall determine the amount of expenditures by the business that meet
10 the requirements of s. 71.07 (5i) (b) 1. to 3., 71.28 (5i) (b) 1. to 3., or 71.47 (5i) (b) 1.
11 to 3. and shall determine the amount of tax credits to be allocated to the business.
12 The total amount of tax credits allocated to all eligible businesses may not exceed
13 \$2,500,000 per fiscal year.

14 (3) The department of commerce shall notify the department of revenue of
15 every business certified under sub. (1) and the amount of tax credits allocated to the
16 business under sub. (2).

17 **SECTION 15. Nonstatutory provisions.**

18 (1) Notwithstanding section 227.24 of the statutes, the department of
19 commerce may promulgate emergency rules necessary to administer section 560.207
20 of the statutes, as created by this act. Notwithstanding section 227.24 (1) (c) and (2)
21 of the statutes, emergency rules promulgated under this subsection remain in effect
22 until the effective date of permanent rules promulgated to administer section
23 560.207 of the statutes, as created by this act, or the first day of the 13th month after
24 the effective date of this subsection, whichever is sooner. Notwithstanding section
25 227.24 (1) (a) and (3) of the statutes, the department of commerce is not required to

1 provide evidence that promulgating a rule under this subsection as an emergency
2 rule is necessary for the preservation of the public peace, health, safety, or welfare
3 and is not required to provide a finding of emergency for a rule promulgated under
4 this subsection.

5 (END)

INSERT

NO #

consisting consisting of 2 or more public

institutions of higher education

or private institutions of higher education

education, or a combination thereof,

NO #

