AN ACT to amend 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)
(a) 10. and 77.92 (4); and to create 71.07 (5j), 71.10 (4) (cq), 71.28 (5j), 71.30 (3)
(dq), 71.47 (5j) and 71.49 (1) (dq) of the statutes; relating to: an income and
franchise tax credit for sales and use taxes paid on the purchase of electricity
used in agricultural biotechnology.

Analysis by the Legislative Reference Bureau
This bill creates an income and franchise tax credit for the amount of the sales
and use tax that a taxpayer pays in the taxable year on the purchase of electricity
used in agricultural biotechnology. If the amount of the credit exceeds the taxpayer’s
tax liability, the taxpayer does not receive a refund, but, instead, may claim the
amount of any unused credit in subsequent taxable years.
For further information see the state fiscal estimate, which will be printed as
an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do
enact as follows:

SECTION 1. 71.05 (6) (a) 15. of the statutes is amended to read:
1 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
2 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), (5d), and
3 (5e), (5f), and (5h), and (5j) and not passed through by a partnership, limited liability
4 company, or tax–option corporation that has added that amount to the partnership’s,
5 company’s, or tax–option corporation’s income under s. 71.21 (4) or 71.34 (1) (g).

SECTION 2. 71.07 (5j) of the statutes is created to read:

71.07 (5j) AGRICULTURAL BIOTECHNOLOGY CREDIT. (a) Definitions. In this
subsection:

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

2. “Claimant” means a person who files a claim under this subsection.

(b) Filing claims. Subject to the limitations provided in this subsection, a
claimant may claim as a credit against the taxes imposed under s. 71.02, up to the
amount of those taxes, an amount that is equal to the amount of the taxes imposed
under ss. 77.52 and 77.53 that the claimant paid in the taxable year on the purchase
of any of electricity consumed in product research or product development for
agricultural biotechnology in this state.

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

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

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

71.10 (4) (cq) Agricultural biotechnology credit under s. 71.07 (5j).

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

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

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

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

SECTION 6. 71.28 (5j) of the statutes is created to read:

71.28 (5j) AGRICULTURAL BIOTECHNOLOGY CREDIT. (a) Definitions. In this
subsection:

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

2. “Claimant” means a person who files a claim under this subsection.

(b) Filing claims. Subject to the limitations provided in this subsection, a
claimant may claim as a credit against the taxes imposed under s. 71.23, up to the
amount of those taxes, an amount that is equal to the amount of the taxes imposed
under ss. 77.52 and 77.53 that the claimant paid in the taxable year on the purchase
of any of electricity consumed in product research or product development for agricultural biotechnology in this state.

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

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

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

71.30 (3) (dq) Agricultural biotechnology credit under s. 71.28 (5j).

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

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

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

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

SECTION 10. 71.47 (5j) of the statutes is created to read:

71.47 (5j) AGRICULTURAL BIOTECHNOLOGY CREDIT. (a) Definitions. In this
subsection:

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

  2. “Claimant” means a person who files a claim under this subsection.

(b) Filing claims. Subject to the limitations provided in this subsection, a
claimant may claim as a credit against the taxes imposed under s. 71.43, up to the
amount of those taxes, an amount that is equal to the amount of the taxes imposed
under ss. 77.52 and 77.53 that the claimant paid in the taxable year on the purchase
of electricity consumed in product research or product development for agricultural
biotechnology in this state.

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

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

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

71.49 (1) (dq) Agricultural biotechnology credit under s. 71.47 (5j).

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

77.92 (4) “Net business income,” with respect to a partnership, means taxable
income as calculated under section 703 of the Internal Revenue Code; plus the items
of income and gain under section 702 of the Internal Revenue Code, including taxable
state and municipal bond interest and excluding nontaxable interest income or
dividend income from federal government obligations; minus the items of loss and
deduction under section 702 of the Internal Revenue Code, except items that are not
deductible under s. 71.21; plus guaranteed payments to partners under section 707
(c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
(2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), (3w), (5b), (5e), (5f),
(5g), and (5h), and (5j); and plus or minus, as appropriate, transitional adjustments,
depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and
(19); but excluding income, gain, loss, and deductions from farming. “Net business
income,” with respect to a natural person, estate, or trust, means profit from a trade
or business for federal income tax purposes and includes net income derived as an
employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

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

(END)