



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2101/P4
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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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1 **AN ACT to repeal** 71.365 (3); **to renumber and amend** 71.28 (4) (i) and 71.47
2 (4) (i); **to amend** 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a) 4., 71.28 (4) (ad) 1., 71.28
3 (4) (ad) 2., 71.28 (4) (af), 71.28 (4m) (c), 71.28 (5) (ad) 1., 71.28 (5) (ad) 2., 71.34
4 (1k) (g), 71.45 (2) (a) 10., 71.47 (4) (ad) 1., 71.47 (4) (ad) 2., 71.47 (4) (af), 71.47
5 (4m) (c), 71.47 (5) (ad) 1., 71.47 (5) (ad) 2. and 77.92 (4); and **to create** 71.07 (5a),
6 71.10 (4) (ds), 71.28 (4) (ad) 2m., 71.28 (4) (i) 2., 71.28 (5) (ad) 2m., 71.28 (5) (c),
7 71.47 (4) (ad) 2m., 71.47 (4) (i) 2., 71.47 (5) (ad) 2m., 71.47 (5) (c), 77.51 (7h) (a)
8 4., 77.51 (7h) (a) 5. and 77.51 (7h) (a) 6. of the statutes; **relating to:** research
9 and research facilities tax credits related to internal combustion engines.

Analysis by the Legislative Reference Bureau

Under current law, a corporation may claim income and franchise tax credits based on its qualified research expenses. A corporation may claim 5 percent of its increase in qualified research expenses over a base year, except that a corporation may claim 10 percent of the increase in qualified research expenses over the base year for qualified research expenses related to designing internal combustion engines for vehicles or designing and manufacturing certain energy efficient equipment. A corporation may also claim 5 percent of the amount it paid in the

taxable year to construct and equip new facilities or expand existing facilities used in this state for qualified research, except that a corporation may claim 10 percent of such amounts if the research is related to designing internal combustion engines for vehicles or designing and manufacturing certain energy efficient equipment.

Under current law, partnerships, limited liability companies, tax-option corporations, partners of a partnership, members of a limited liability company, and shareholders of a tax-option corporation may not claim the credits.

Under this bill, a taxpayer may claim an income and franchise tax credit equal to 15 percent of the taxpayer's qualified research expenses paid in the taxable year that are directly or indirectly related to designing internal combustion engines for vehicles and an amount equal to 15 percent of the amount paid in the taxable year to construct and equip new facilities or expand existing facilities used in this state for qualified research directly or indirectly related to designing internal combustion engines for vehicles. Under the bill, partnerships, limited liability companies, and tax-option corporations may not claim the credit, but may compute the credit based on amounts paid by the entity and pass the credit on to the partners, members, or shareholders who may claim the credit.

Under current law, the sale of tangible personal property that is used by a manufacturer in manufacturing an item of tangible personal property that is destined for sale is exempt from the sales and use tax, if the tangible personal property becomes part of the item destined for sale or is consumed, destroyed, or loses its identity in manufacturing that item. Under current law, for sales and use tax purposes, "manufacturing" includes crushing, washing, grading, and blending minerals; ore dressing; and conveying work in progress directly from one manufacturing process to another in the same plant. Under this bill, for sales and use tax purposes, "manufacturing" also includes designing, developing, and manufacturing a custom-made item that is intended for functional use and not for informational use or testing. Under the bill, a contract to design, develop, and manufacture a custom-made item is a contract to sell tangible personal property. Under the bill, "manufacturing" also includes prototypes used in research and designing, testing, developing, and tooling, if any such process is used in research.

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 and local* 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, as affected by 2011 Wisconsin Act
2 32, 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), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
3 (3rm), (3rn), (3s), (3t), (3w), (5a), (5e), (5f), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), and
4 (8r) and not passed through by a partnership, limited liability company, or
5 tax-option corporation that has added that amount to the partnership's, company's,
6 or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

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

8 71.07 (5a) RESEARCH AND RESEARCH FACILITIES CREDIT. (a) *Definitions*. In this
9 subsection:

10 1. "Claimant" means any of the following who file a claim under this subsection:

- 11 a. A partner of a partnership.
12 b. A member of a limited liability company.
13 c. A member of a tax-option corporation.

14 2. "Frame" includes:

- 15 a. Every part of a motorcycle, except the tires.
16 b. In the case of a truck, the control system and the fuel and drive train,
17 excluding any comfort features located in the cab or the tires.

18 3. "Internal combustion engine" includes substitute products such as fuel cell,
19 electric, and hybrid drives.

20 4. "Vehicle" means any vehicle or frame, including parts, accessories, and
21 component technologies, in which or on which an engine is mounted for use in mobile
22 or stationary applications. "Vehicle" includes any truck, tractor, motorcycle,
23 snowmobile, all-terrain vehicle, boat, personal watercraft, generator, construction
24 equipment, lawn and garden maintenance equipment, automobile, van, sports
25 utility vehicle, motor home, bus, or aircraft.

1 (b) *Filing claims.* Subject to the limitations provided in this subsection, for
2 taxable years beginning after December 31, 2010, a claimant may claim as a credit
3 against the taxes imposed under s. 71.02 any of the following:

4 1. An amount equal to 15 percent of qualified research expenses, as defined in
5 section 41 of the Internal Revenue Code, that the claimant's partnership, limited
6 liability company, or tax-option corporation paid during the taxable year, except that
7 "qualified research expenses" includes only expenses paid by the entity for research
8 directly or indirectly related to designing internal combustion engines for vehicles,
9 including expenses related to designing vehicles that are powered by such engines
10 and improving production processes for such engines and vehicles, incurred for
11 research conducted in this state for the taxable year, except that the entity may elect
12 the alternative computation under section 41 (c) (4) of the Internal Revenue Code
13 and that election applies until the department permits its revocation, except as
14 provided in s. 71.28 (4) (af), and except that "qualified research expenses" does not
15 include compensation used in computing the credit under s. 71.28 (1dj) and (1dx).
16 Section 41 (h) of the Internal Revenue Code does not apply to the credit under this
17 subdivision.

18 2. An amount equal to 15 percent of the amount paid or incurred by the
19 claimant's partnership, limited liability company, or tax-option corporation during
20 the taxable year to construct and equip new facilities or expand existing facilities
21 used in this state for qualified research, as defined in section 41 of the Internal
22 Revenue Code, except that "qualified research expenses" includes only expenses paid
23 or incurred by the claimant for research directly or indirectly related to designing
24 internal combustion engines for vehicles, including expenses related to designing
25 vehicles that are powered by such engines and improving production processes for

1 such engines and vehicles. Eligible amounts include only amounts paid or incurred
2 for tangible, depreciable property but do not include amounts paid or incurred for
3 replacement property.

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

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

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

16 71.10 (4) (ds) Research and research facilities credit under s. 71.07 (5a).

17 **SECTION 4.** 71.21 (4) of the statutes, as affected by 2011 Wisconsin Act 32, is
18 amended to read:

19 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
20 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s),
21 (3t), (3w), (5a), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), and (8r) and passed
22 through to partners shall be added to the partnership's income.

23 **SECTION 5.** 71.26 (2) (a) 4. of the statutes, as affected by 2011 Wisconsin Act 32,
24 is amended to read:

1 71.28 (4) (ad) 2. For taxable years beginning after June 30, 2007, and before
2 January 1, 2011, any corporation may credit against taxes otherwise due under this
3 chapter an amount equal to 10 percent of the amount obtained by subtracting from
4 the corporation's qualified research expenses, as defined in section 41 of the Internal
5 Revenue Code, except that "qualified research expenses" includes only expenses
6 incurred by the claimant for research related to designing internal combustion
7 engines for vehicles, including expenses related to designing vehicles that are
8 powered by such engines and improving production processes for such engines and
9 vehicles, incurred for research conducted in this state for the taxable year, except
10 that a taxpayer may elect the alternative computation under section 41 (c) (4) of the
11 Internal Revenue Code and that election applies until the department permits its
12 revocation, except as provided in par. (af), and except that "qualified research
13 expenses" does not include compensation used in computing the credit under subs.
14 (1dj) and (1dx), the corporation's base amount, as defined in section 41 (c) of the
15 Internal Revenue Code, except that gross receipts used in calculating the base
16 amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9)
17 (b) 1. and 2., (df) 1. and 2., (dh) 1., 2., and 3., (dj), and (dk). Section 41 (h) of the
18 Internal Revenue Code does not apply to the credit under this paragraph.

19 **SECTION 8.** 71.28 (4) (ad) 2m. of the statutes is created to read:

20 71.28 (4) (ad) 2m. For taxable years beginning after December 31, 2010, any
21 corporation may claim as a credit against taxes otherwise due under s. 71.23 an
22 amount equal to 15 percent of the corporation's qualified research expenses, as
23 defined in section 41 of the Internal Revenue Code, that the corporation paid during
24 the taxable year, except that "qualified research expenses" includes only expenses
25 paid by the claimant for research directly or indirectly related to designing internal

1 combustion engines for vehicles, including expenses related to designing vehicles
2 that are powered by such engines and improving production processes for such
3 engines and vehicles, incurred for research conducted in this state for the taxable
4 year, except that a taxpayer may elect the alternative computation under section 41
5 (c) (4) of the Internal Revenue Code and that election applies until the department
6 permits its revocation, except as provided in par. (af), and except that "qualified
7 research expenses" does not include compensation used in computing the credit
8 under subs. (1dj) and (1dx). Section 41 (h) of the Internal Revenue Code does not
9 apply to the credit under this paragraph.

10 **SECTION 9.** 71.28 (4) (af) of the statutes is amended to read:

11 71.28 (4) (af) *Computation.* If in any taxable year a corporation claims a credit
12 under par. (ad) 1., 2., 2m., or 3., or any combination of those credits, the corporation
13 may use a different computation method to calculate each of the credits and may
14 choose to change the computation method once for each credit without the
15 department's approval.

16 **SECTION 10.** 71.28 (4) (i) of the statutes is renumbered 71.28 (4) (i) 1. and
17 amended to read:

18 71.28 (4) (i) *Nonclaimants Limitations.* 1. The credits under ~~this subsection~~
19 par. (ad) 1., 2., and 3. may not be claimed by a partnership, except a publicly traded
20 partnership treated as a corporation under s. 71.22 (1k), limited liability company,
21 except a limited liability company treated as a corporation under s. 71.22 (1k), or
22 tax-option corporation or by partners, including partners of a publicly traded
23 partnership, members of a limited liability company or shareholders of a tax-option
24 corporation.

25 **SECTION 11.** 71.28 (4) (i) 2. of the statutes is created to read:

1 71.28 (4) (i) 2. Partnerships, limited liability companies, and tax-option
2 corporations may not claim the credit under par. (ad) 2m., but the eligibility for, and
3 the amount of, the credit are based on their payment of amounts under par. (ad) 2m.
4 A partnership, limited liability company, or tax-option corporation shall compute
5 the amount of credit that each of its partners, members, or shareholders may claim
6 and shall provide that information to each of them. Partners, members of limited
7 liability companies, and shareholders of tax-option corporations may claim the
8 credit in proportion to their allocation of the deductions of the qualified research
9 expenses used to determine the credit.

10 **SECTION 12.** 71.28 (4m) (c) of the statutes is amended to read:

11 71.28 (4m) (c) *Limitations.* Subsection (4) (b) to (d) and (i) 1, as it applies to
12 the credit under sub. (4), applies to the credit under this subsection.

13 **SECTION 13.** 71.28 (5) (ad) 1. of the statutes is amended to read:

14 71.28 (5) (ad) 1. Except as provided in subds. 2., 2m., and 3., for taxable year
15 1986 and subsequent years, any corporation may credit against taxes otherwise due
16 under this chapter an amount equal to 5 percent of the amount paid or incurred by
17 that corporation during the taxable year to construct and equip new facilities or
18 expand existing facilities used in this state for qualified research, as defined in
19 section 41 of the Internal Revenue Code. Eligible amounts include only amounts
20 paid or incurred for tangible, depreciable property but do not include amounts paid
21 or incurred for replacement property.

22 **SECTION 14.** 71.28 (5) (ad) 2. of the statutes is amended to read:

23 71.28 (5) (ad) 2. For taxable years beginning after June 30, 2007, and before
24 January 1, 2011, any corporation may credit against taxes otherwise due under this
25 chapter an amount equal to 10 percent of the amount paid or incurred by that

1 corporation during the taxable year to construct and equip new facilities or expand
2 existing facilities used in this state for qualified research, as defined in section 41 of
3 the Internal Revenue Code, except that "qualified research expenses" includes only
4 expenses paid or incurred by the claimant for research related to designing internal
5 combustion engines for vehicles, including expenses related to designing vehicles
6 that are powered by such engines and improving production processes for such
7 engines and vehicles. Eligible amounts include only amounts paid or incurred for
8 tangible, depreciable property but do not include amounts paid or incurred for
9 replacement property.

10 **SECTION 15.** 71.28 (5) (ad) 2m. of the statutes is created to read: ✓

11 71.28 (5) (ad) 2m. For taxable years beginning after December 31, 2010, any
12 corporation may claim as a credit against taxes otherwise due under s. 71.23 an
13 amount equal to 15 percent of the amount paid or incurred by that corporation during
14 the taxable year to construct and equip new facilities or expand existing facilities
15 used in this state for qualified research, as defined in section 41 of the Internal
16 Revenue Code, except that "qualified research expenses" includes only expenses paid
17 or incurred by the claimant for research directly or indirectly related to designing
18 internal combustion engines for vehicles, including expenses related to designing
19 vehicles that are powered by such engines and improving production processes for
20 such engines and vehicles. Eligible amounts include only amounts paid or incurred
21 for tangible, depreciable property but do not include amounts paid or incurred for
22 replacement property. ✓

23 **SECTION 16.** 71.28 (5) (c) of the statutes is created to read:

24 71.28 (5) (c) *Limitations.* 1. The credits under par. (ad) 1., 2., and 3. may not
25 be claimed by a partnership, except a publicly traded partnership treated as a

1 corporation under s. 71.22 (1k), limited liability company, except a limited liability
2 company treated as a corporation under s. 71.22 (1k), or tax-option corporation or
3 by partners, including partners of a publicly traded partnership, members of a
4 limited liability company, or shareholders of a tax-option corporation.

5 2. Partnerships, limited liability companies, and tax-option corporations may
6 not claim the credit under par. (ad) 2m., but the eligibility for, and the amount of, the
7 credit are based on their payment of amounts under par. (ad) 2m. A partnership,
8 limited liability company, or tax-option corporation shall compute the amount of
9 credit that each of its partners, members, or shareholders may claim and shall
10 provide that information to each of them. Partners, members of limited liability
11 companies, and shareholders of tax-option corporations may claim the credit in
12 proportion to their allocation of the deductions of the qualified research expenses
13 used to determine the credit.

14 **SECTION 17.** 71.34 (1k) (g) of the statutes, as affected by 2011 Wisconsin Act 32,
15 is amended to read:

16 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
17 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
18 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (4) (ad) 2m., (5) (ad) 2m.,
19 (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), and (8r) and passed through to
20 shareholders.

21 **SECTION 18.** 71.365 (3) of the statutes is repealed.

22 **SECTION 19.** 71.45 (2) (a) 10. of the statutes, as affected by 2011 Wisconsin Act
23 32, is amended to read:

24 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
25 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn),

1 (3w), (4) (ad) 2m., (5) (ad) 2m., (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), (8r),
2 and (9s) and not passed through by a partnership, limited liability company, or
3 tax-option corporation that has added that amount to the partnership's, limited
4 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k)
5 (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4) (ad) 2m., (4m),
6 and (5) (ad) 2m.

7 **SECTION 20.** 71.47 (4) (ad) 1. of the statutes[✓] is amended to read:

8 71.47 (4) (ad) 1. Except as provided in subs. 2., 2m., and 3., any corporation
9 may credit against taxes otherwise due under this chapter an amount equal to 5
10 percent of the amount obtained by subtracting from the corporation's qualified
11 research expenses, as defined in section 41 of the Internal Revenue Code, except that
12 "qualified research expenses" includes only expenses incurred by the claimant,
13 incurred for research conducted in this state for the taxable year, except that a
14 taxpayer may elect the alternative computation under section 41 (c) (4) of the
15 Internal Revenue Code and that election applies until the department permits its
16 revocation, except as provided in par. (af), and except that "qualified research
17 expenses" does not include compensation used in computing the credit under subs.
18 (1dj) and (1dx), the corporation's base amount, as defined in section 41 (c) of the
19 Internal Revenue Code, except that gross receipts used in calculating the base
20 amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9)
21 (b) 1. and 2., (df) 1. and 2., (dh) 1., 2., and 3., (dj), and (dk). Section 41 (h) of the
22 Internal Revenue Code does not apply to the credit under this paragraph.

23 **SECTION 21.** 71.47 (4) (ad) 2. of the statutes[✓] is amended to read:

24 71.47 (4) (ad) 2. For taxable years beginning after June 30, 2007, and before
25 January 1, 2011, any corporation may credit against taxes otherwise due under this

1 chapter an amount equal to 10 percent of the amount obtained by subtracting from
2 the corporation's qualified research expenses, as defined in section 41 of the Internal
3 Revenue Code, except that "qualified research expenses" includes only expenses
4 incurred by the claimant for research related to designing internal combustion
5 engines for vehicles, including expenses related to designing vehicles that are
6 powered by such engines and improving production processes for such engines and
7 vehicles, incurred for research conducted in this state for the taxable year, except
8 that a taxpayer may elect the alternative computation under section 41 (c) (4) of the
9 Internal Revenue Code and that election applies until the department permits its
10 revocation, except as provided in par. (af), and except that "qualified research
11 expenses" does not include compensation used in computing the credit under subs.
12 (1dj) and (1dx), the corporation's base amount, as defined in section 41 (c) of the
13 Internal Revenue Code, except that gross receipts used in calculating the base
14 amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9)
15 (b) 1. and 2., (df) 1. and 2., (dh) 1., 2., and 3., (dj), and (dk). Section 41 (h) of the
16 Internal Revenue Code does not apply to the credit under this paragraph.

17 **SECTION 22.** 71.47 (4) (ad) 2m. of the statutes is created to read:

18 71.47 (4) (ad) 2m. For taxable years beginning after December 31, 2010, any
19 corporation may claim as a credit against taxes otherwise due under s. 71.43 an
20 amount equal to 15 percent of the corporation's qualified research expenses, as
21 defined in section 41 of the Internal Revenue Code, that the corporation paid during
22 the taxable year, except that "qualified research expenses" includes only expenses
23 paid by the claimant for research directly or indirectly related to designing internal
24 combustion engines for vehicles, including expenses related to designing vehicles
25 that are powered by such engines and improving production processes for such

1 engines and vehicles, incurred for research conducted in this state for the taxable
2 year, except that a taxpayer may elect the alternative computation under section 41
3 (c) (4) of the Internal Revenue Code and that election applies until the department
4 permits its revocation, except as provided in par. (af), and except that "qualified
5 research expenses" does not include compensation used in computing the credit
6 under subs. (1dj) and (1dx). Section 41 (h) of the Internal Revenue Code does not
7 apply to the credit under this paragraph.

8 **SECTION 23.** 71.47 (4) (af) of the statutes is amended to read:

9 71.47 (4) (af) *Computation.* If in any taxable year a corporation claims a credit
10 under par. (ad) 1., 2., 2m., or 3., or any combination of those credits, the corporation
11 may use a different computation method to calculate each of the credits and may
12 choose to change the computation method once for each credit without the
13 department's approval.

14 **SECTION 24.** 71.47 (4) (i) of the statutes is renumbered 71.47 (4) (i) 1. and
15 amended to read:

16 71.47 (4) (i) *Nonclaimants Limitations.* 1. The credits under ~~this subsection~~
17 par. (ad) 1., 2., and 3. may not be claimed by a partnership, except a publicly traded
18 partnership treated as a corporation under s. 71.22 (1k), limited liability company,
19 except a limited liability company treated as a corporation under s. 71.22 (1k), or
20 tax-option corporation or by partners, including partners of a publicly traded
21 partnership, members of a limited liability company or shareholders of a tax-option
22 corporation.

23 **SECTION 25.** 71.47 (4) (i) 2. of the statutes is created to read:

24 71.47 (4) (i) 2. Partnerships, limited liability companies, and tax-option
25 corporations may not claim the credit under par. (ad) 2m., but the eligibility for, and

1 the amount of, the credit are based on their payment of amounts under par. (ad) 2m.
2 A partnership, limited liability company, or tax-option corporation shall compute
3 the amount of credit that each of its partners, members, or shareholders may claim
4 and shall provide that information to each of them. Partners, members of limited
5 liability companies, and shareholders of tax-option corporations may claim the
6 credit in proportion to their allocation of the deductions of the qualified research
7 expenses used to determine the credit. ✓

8 **SECTION 26.** 71.47 (4m) (c) of the statutes is amended to read:

9 71.47 (4m) (c) *Limitations.* Section 71.28 (4) (b) to (d) and (i) 1., as it applies
10 to the credit under s. 71.28 (4), applies to the credit under this subsection. ✓

11 **SECTION 27.** 71.47 (5) (ad) 1. of the statutes is amended to read:

12 71.47 (5) (ad) 1. Except as provided in subds. 2., 2m., and 3., for taxable year
13 1986 and subsequent years, any corporation may credit against taxes otherwise due
14 under this chapter an amount equal to 5 percent of the amount paid or incurred by
15 that corporation during the taxable year to construct and equip new facilities or
16 expand existing facilities used in this state for qualified research, as defined in
17 section 41 of the Internal Revenue Code. Eligible amounts include only amounts
18 paid or incurred for tangible, depreciable property but do not include amounts paid
19 or incurred for replacement property. ✓

20 **SECTION 28.** 71.47 (5) (ad) 2. of the statutes is amended to read:

21 71.47 (5) (ad) 2. For taxable years beginning after June 30, 2007, and before
22 January 1, 2011, any corporation may credit against taxes otherwise due under this
23 chapter an amount equal to 10 percent of the amount paid or incurred by that
24 corporation during the taxable year to construct and equip new facilities or expand
25 existing facilities used in this state for qualified research, as defined in section 41 of

1 the Internal Revenue Code, except that “qualified research expenses” includes only
2 expenses paid or incurred by the claimant for research related to designing internal
3 combustion engines for vehicles, including expenses related to designing vehicles
4 that are powered by such engines and improving production processes for such
5 engines and vehicles. Eligible amounts include only amounts paid or incurred for
6 tangible, depreciable property but do not include amounts paid or incurred for
7 replacement property.

8 **SECTION 29.** 71.47 (5) (ad) 2m. of the statutes is created to read: ✓

9 71.47 (5) (ad) 2m. For taxable years beginning after December 31, 2010, any
10 corporation may claim as a credit against taxes otherwise due under s. 71.43 an
11 amount equal to 15 percent of the amount paid or incurred by that corporation during
12 the taxable year to construct and equip new facilities or expand existing facilities
13 used in this state for qualified research, as defined in section 41 of the Internal
14 Revenue Code, except that “qualified research expenses” includes only expenses paid
15 or incurred by the claimant for research directly or indirectly related to designing
16 internal combustion engines for vehicles, including expenses related to designing
17 vehicles that are powered by such engines and improving production processes for
18 such engines and vehicles. Eligible amounts include only amounts paid or incurred
19 for tangible, depreciable property but do not include amounts paid or incurred for
20 replacement property.

21 **SECTION 30.** 71.47 (5) (c) of the statutes is created to read: ✓

22 71.47 (5) (c) *Limitations.* 1. The credits under par. (ad) 1., 2., and 3. may not
23 be claimed by a partnership, except a publicly traded partnership treated as a
24 corporation under s. 71.22 (1k), limited liability company, except a limited liability
25 company treated as a corporation under s. 71.22 (1k), or tax-option corporation or

1 by partners, including partners of a publicly traded partnership, members of a
2 limited liability company, or shareholders of a tax-option corporation.

3 2. Partnerships, limited liability companies, and tax-option corporations may
4 not claim the credit under par. (ad) 2m., but the eligibility for, and the amount of, the
5 credit are based on their payment of amounts under par. (ad) 2m. A partnership,
6 limited liability company, or tax-option corporation shall compute the amount of
7 credit that each of its partners, members, or shareholders may claim and shall
8 provide that information to each of them. Partners, members of limited liability
9 companies, and shareholders of tax-option corporations may claim the credit in
10 proportion to their allocation of the deductions of the qualified research expenses
11 used to determine the credit.

12 **SECTION 31.** 77.51 (7h) (a) 4. of the statutes is created to read:

13 77.51 (7h) (a) 4. Designing, developing, and manufacturing a custom-made
14 item that is intended for functional use and not for informational use or testing. For
15 purposes of this subdivision and the exemption under s. 77.54 (2), a contract to
16 design, develop, and manufacture a custom-made item is a contract to sell tangible
17 personal property.

18 **SECTION 32.** 77.51 (7h) (a) 5. of the statutes is created to read:

19 77.51 (7h) (a) 5. All of the following processes used in research:

20 a. Designing.

21 b. Testing.

22 c. Developing.

23 d. Tooling.

24 **SECTION 33.** 77.51 (7h) (a) 6. of the statutes is created to read:

25 77.51 (7h) (a) 6. Prototypes used in research.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2101/4
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1 AN ACT *to repeal* 71.365 (3); *to renumber and amend* 71.28 (4) (i) and 71.47
2 (4) (i); *to amend* 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a) 4., 71.28 (4) (ad) 1., 71.28
3 (4) (ad) 2., 71.28 (4) (af), 71.28 (4m) (c), 71.28 (5) (ad) 1., 71.28 (5) (ad) 2., 71.34
4 (1k) (g), 71.45 (2) (a) 10., 71.47 (4) (ad) 1., 71.47 (4) (ad) 2., 71.47 (4) (af), 71.47
5 (4m) (c), 71.47 (5) (ad) 1., 71.47 (5) (ad) 2. and 77.92 (4); and *to create* 71.07 (5a),
6 71.10 (4) (ds), 71.28 (4) (ad) 2m., 71.28 (4) (i) 2., 71.28 (5) (ad) 2m., 71.28 (5) (c),
7 71.47 (4) (ad) 2m., 71.47 (4) (i) 2., 71.47 (5) (ad) 2m. and 71.47 (5) (c) of the
8 statutes; **relating to:** research and research facilities tax credits related to
9 internal combustion engines.

Analysis by the Legislative Reference Bureau

Under current law, a corporation may claim income and franchise tax credits based on its qualified research expenses. A corporation may claim 5 percent of its increase in qualified research expenses over a base year, except that a corporation may claim 10 percent of the increase in qualified research expenses over the base year for qualified research expenses related to designing internal combustion engines for vehicles or designing and manufacturing certain energy efficient equipment. A corporation may also claim 5 percent of the amount it paid in the

BILL

taxable year to construct and equip new facilities or expand existing facilities used in this state for qualified research, except that a corporation may claim 10 percent of such amounts if the research is related to designing internal combustion engines for vehicles or designing and manufacturing certain energy efficient equipment.

Under current law, partnerships, limited liability companies, tax-option corporations, partners of a partnership, members of a limited liability company, and shareholders of a tax-option corporation may not claim the credits.

Under this bill, a taxpayer may claim an income and franchise tax credit equal to 15 percent of the taxpayer's qualified research expenses paid in the taxable year that are directly or indirectly related to designing internal combustion engines for vehicles and an amount equal to 15 percent of the amount paid in the taxable year to construct and equip new facilities or expand existing facilities used in this state for qualified research directly or indirectly related to designing internal combustion engines for vehicles. Under the bill, partnerships, limited liability companies, and tax-option corporations may not claim the credit, but may compute the credit based on amounts paid by the entity and pass the credit on to the partners, members, or shareholders who may claim the credit.

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 and local* 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, as affected by 2011 Wisconsin Act
2 32, is amended to read:

3 71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
4 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
5 (3rm), (3rn), (3s), (3t), (3w), (5a), (5e), (5f), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), and
6 (8r) and not passed through by a partnership, limited liability company, or
7 tax-option corporation that has added that amount to the partnership's, company's,
8 or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

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

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mechanical drive for a stationary engine,

1 71.07 (5a) RESEARCH AND RESEARCH FACILITIES CREDIT. (a) *Definitions.* In this
2 subsection:

3 1. "Claimant" means any of the following who file a claim under this subsection:

4 a. A partner of a partnership.

5 b. A member of a limited liability company.

6 c. A member of a tax-option corporation.

7 2. "Frame" includes:

8 a. Every part of a motorcycle, except the tires.

9 b. In the case of a truck, the control system and the fuel and drive train,
10 excluding any comfort features located in the cab or the tires.

11 3. "Vehicle" means any vehicle or frame, including parts, accessories, and
12 component technologies, in which or on which an engine is mounted for use in mobile
13 or stationary applications. "Vehicle" includes any truck, tractor, motorcycle,
14 snowmobile, all-terrain vehicle, boat, personal watercraft, generator, construction
15 equipment, lawn and garden maintenance equipment, automobile, van, sports
16 utility vehicle, motor home, bus, or aircraft.

17 (b) *Filing claims.* Subject to the limitations provided in this subsection, for
18 taxable years beginning after December 31, 2010, a claimant may claim as a credit
19 against the taxes imposed under s. 71.02 any of the following:

20 1. An amount equal to 15 percent of qualified research expenses, as defined in
21 section 41 of the Internal Revenue Code, that the claimant's partnership, limited
22 liability company, or tax-option corporation paid during the taxable year, except that
23 "qualified research expenses" includes only expenses paid by the entity for research
24 directly or indirectly related to designing internal combustion engines for vehicles,
25 including expenses related to designing vehicles that are powered by such engines

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1 and improving production processes for such engines and vehicles, incurred for
2 research conducted in this state for the taxable year, except that the entity may elect
3 the alternative computation under section 41 (c) (4) of the Internal Revenue Code
4 and that election applies until the department permits its revocation, except as
5 provided in s. 71.28 (4) (af), and except that “qualified research expenses” does not
6 include compensation used in computing the credit under s. 71.28 (1dj) and (1dx).
7 Section 41 (h) of the Internal Revenue Code does not apply to the credit under this
8 subdivision.

9 2. An amount equal to 15 percent of the amount paid or incurred by the
10 claimant’s partnership, limited liability company, or tax-option corporation during
11 the taxable year to construct and equip new facilities or expand existing facilities
12 used in this state for qualified research, as defined in section 41 of the Internal
13 Revenue Code, except that “qualified research expenses” includes only expenses paid
14 or incurred by the claimant for research directly or indirectly related to designing
15 internal combustion engines for vehicles, including expenses related to designing
16 vehicles that are powered by such engines and improving production processes for
17 such engines and vehicles. Eligible amounts include only amounts paid or incurred
18 for tangible, depreciable property but do not include amounts paid or incurred for
19 replacement property.

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

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1 liability companies, and shareholders of tax-option corporations may claim the
2 credit in proportion to their allocation of the deductions of the qualified research
3 expenses used to determine the credit.

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

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

7 71.10 (4) (ds) Research and research facilities credit under s. 71.07 (5a).

8 **SECTION 4.** 71.21 (4) of the statutes, as affected by 2011 Wisconsin Act 32, is
9 amended to read:

10 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
11 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s),
12 (3t), (3w), (5a), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), and (8r) and passed
13 through to partners shall be added to the partnership's income.

14 **SECTION 5.** 71.26 (2) (a) 4. of the statutes, as affected by 2011 Wisconsin Act 32,
15 is amended to read:

16 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
17 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
18 (3rm), (3rn), (3t), (3w), (4) (ad) 2m., (5) (ad) 2m., (5e), (5f), (5g), (5h), (5i), (5j), (5k),
19 (5n), (5r), (5rm), (8r), and (9s) and not passed through by a partnership, limited
20 liability company, or tax-option corporation that has added that amount to the
21 partnership's, limited liability company's, or tax-option corporation's income under
22 s. 71.21 (4) or 71.34 (1k) (g).

23 **SECTION 6.** 71.28 (4) (ad) 1. of the statutes is amended to read:

24 71.28 (4) (ad) 1. Except as provided in subs. 2., 2m., and 3., any corporation
25 may credit against taxes otherwise due under this chapter an amount equal to 5

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1 percent of the amount obtained by subtracting from the corporation's qualified
2 research expenses, as defined in section 41 of the Internal Revenue Code, except that
3 "qualified research expenses" includes only expenses incurred by the claimant,
4 incurred for research conducted in this state for the taxable year, except that a
5 taxpayer may elect the alternative computation under section 41 (c) (4) of the
6 Internal Revenue Code and that election applies until the department permits its
7 revocation, except as provided in par. (af), and except that "qualified research
8 expenses" does not include compensation used in computing the credit under subs.
9 (1dj) and (1dx), the corporation's base amount, as defined in section 41 (c) of the
10 Internal Revenue Code, except that gross receipts used in calculating the base
11 amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9)
12 (b) 1. and 2., (df) 1. and 2., (dh) 1., 2., and 3., (dj), and (dk). Section 41 (h) of the
13 Internal Revenue Code does not apply to the credit under this paragraph.

14 **SECTION 7.** 71.28 (4) (ad) 2. of the statutes is amended to read:

15 71.28 (4) (ad) 2. For taxable years beginning after June 30, 2007, and before
16 January 1, 2012, any corporation may credit against taxes otherwise due under this
17 chapter an amount equal to 10 percent of the amount obtained by subtracting from
18 the corporation's qualified research expenses, as defined in section 41 of the Internal
19 Revenue Code, except that "qualified research expenses" includes only expenses
20 incurred by the claimant for research related to designing internal combustion
21 engines for vehicles, including expenses related to designing vehicles that are
22 powered by such engines and improving production processes for such engines and
23 vehicles, incurred for research conducted in this state for the taxable year, except
24 that a taxpayer may elect the alternative computation under section 41 (c) (4) of the
25 Internal Revenue Code and that election applies until the department permits its

1 revocation, except as provided in par. (af), and except that "qualified research
2 expenses" does not include compensation used in computing the credit under subs.
3 (1dj) and (1dx), the corporation's base amount, as defined in section 41 (c) of the
4 Internal Revenue Code, except that gross receipts used in calculating the base
5 amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9)
6 (b) 1. and 2., (df) 1. and 2., (dh) 1., 2., and 3., (dj), and (dk). Section 41 (h) of the
7 Internal Revenue Code does not apply to the credit under this paragraph.

8 **SECTION 8.** 71.28 (4) (ad) 2m. of the statutes is created to read:

9 71.28 (4) (ad) 2m. For taxable years beginning after December 31, 2010, any
10 corporation may claim as a credit against taxes otherwise due under s. 71.23 an
11 amount equal to 15 percent of the corporation's qualified research expenses, as
12 defined in section 41 of the Internal Revenue Code, that the corporation paid during
13 the taxable year, except that "qualified research expenses" includes only expenses
14 paid by the claimant for research directly or indirectly related to designing internal
15 combustion engines for vehicles, including expenses related to designing vehicles
16 that are powered by such engines and improving production processes for such
17 engines and vehicles, incurred for research conducted in this state for the taxable
18 year, except that a taxpayer may elect the alternative computation under section 41
19 (c) (4) of the Internal Revenue Code and that election applies until the department
20 permits its revocation, except as provided in par. (af), and except that "qualified
21 research expenses" does not include compensation used in computing the credit
22 under subs. (1dj) and (1dx). Section 41 (h) of the Internal Revenue Code does not
23 apply to the credit under this paragraph.

24 **SECTION 9.** 71.28 (4) (af) of the statutes is amended to read:

BILL**SECTION 9**

1 71.28 (4) (af) *Computation*. If in any taxable year a corporation claims a credit
2 under par. (ad) 1., 2., 2m., or 3., or any combination of those credits, the corporation
3 may use a different computation method to calculate each of the credits and may
4 choose to change the computation method once for each credit without the
5 department's approval.

6 **SECTION 10.** 71.28 (4) (i) of the statutes is renumbered 71.28 (4) (i) 1. and
7 amended to read:

8 71.28 (4) (i) *Nonclaimants Limitations*. 1. The credits under ~~this subsection~~
9 par. (ad) 1., 2., and 3. may not be claimed by a partnership, except a publicly traded
10 partnership treated as a corporation under s. 71.22 (1k), limited liability company,
11 except a limited liability company treated as a corporation under s. 71.22 (1k), or
12 tax-option corporation or by partners, including partners of a publicly traded
13 partnership, members of a limited liability company or shareholders of a tax-option
14 corporation.

15 **SECTION 11.** 71.28 (4) (i) 2. of the statutes is created to read:

16 71.28 (4) (i) 2. Partnerships, limited liability companies, and tax-option
17 corporations may not claim the credit under par. (ad) 2m., but the eligibility for, and
18 the amount of, the credit are based on their payment of amounts under par. (ad) 2m.
19 A partnership, limited liability company, or tax-option corporation shall compute
20 the amount of credit that each of its partners, members, or shareholders may claim
21 and shall provide that information to each of them. Partners, members of limited
22 liability companies, and shareholders of tax-option corporations may claim the
23 credit in proportion to their allocation of the deductions of the qualified research
24 expenses used to determine the credit.

25 **SECTION 12.** 71.28 (4m) (c) of the statutes is amended to read:

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1 71.28 (4m) (c) *Limitations*. Subsection (4) (b) to (d) and (i) 1., as it applies to
2 the credit under sub. (4), applies to the credit under this subsection.

3 **SECTION 13.** 71.28 (5) (ad) 1. of the statutes is amended to read:

4 71.28 (5) (ad) 1. Except as provided in subs. 2., 2m., and 3., for taxable year
5 1986 and subsequent years, any corporation may credit against taxes otherwise due
6 under this chapter an amount equal to 5 percent of the amount paid or incurred by
7 that corporation during the taxable year to construct and equip new facilities or
8 expand existing facilities used in this state for qualified research, as defined in
9 section 41 of the Internal Revenue Code. Eligible amounts include only amounts
10 paid or incurred for tangible, depreciable property but do not include amounts paid
11 or incurred for replacement property.

12 **SECTION 14.** 71.28 (5) (ad) 2. of the statutes is amended to read:

13 71.28 (5) (ad) 2. For taxable years beginning after June 30, 2007, and before
14 January 1, 2011, ²⁰¹² any corporation may credit against taxes otherwise due under this
15 chapter an amount equal to 10 percent of the amount paid or incurred by that
16 corporation during the taxable year to construct and equip new facilities or expand
17 existing facilities used in this state for qualified research, as defined in section 41 of
18 the Internal Revenue Code, except that "qualified research expenses" includes only
19 expenses paid or incurred by the claimant for research related to designing internal
20 combustion engines for vehicles, including expenses related to designing vehicles
21 that are powered by such engines and improving production processes for such
22 engines and vehicles. Eligible amounts include only amounts paid or incurred for
23 tangible, depreciable property but do not include amounts paid or incurred for
24 replacement property.

25 **SECTION 15.** 71.28 (5) (ad) 2m. of the statutes is created to read:

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1 71.28 (5) (ad) 2m. For taxable years beginning after December 31, 2010, any
2 corporation may claim as a credit against taxes otherwise due under s. 71.23 an
3 amount equal to 15 percent of the amount paid or incurred by that corporation during
4 the taxable year to construct and equip new facilities or expand existing facilities
5 used in this state for qualified research, as defined in section 41 of the Internal
6 Revenue Code, except that "qualified research expenses" includes only expenses paid
7 or incurred by the claimant for research directly or indirectly related to designing
8 internal combustion engines for vehicles, including expenses related to designing
9 vehicles that are powered by such engines and improving production processes for
10 such engines and vehicles. Eligible amounts include only amounts paid or incurred
11 for tangible, depreciable property but do not include amounts paid or incurred for
12 replacement property.

13 **SECTION 16.** 71.28 (5) (c) of the statutes is created to read:

14 71.28 (5) (c) *Limitations.* 1. The credits under par. (ad) 1., 2., and 3. may not
15 be claimed by a partnership, except a publicly traded partnership treated as a
16 corporation under s. 71.22 (1k), limited liability company, except a limited liability
17 company treated as a corporation under s. 71.22 (1k), or tax-option corporation or
18 by partners, including partners of a publicly traded partnership, members of a
19 limited liability company, or shareholders of a tax-option corporation.

20 2. Partnerships, limited liability companies, and tax-option corporations may
21 not claim the credit under par. (ad) 2m., but the eligibility for, and the amount of, the
22 credit are based on their payment of amounts under par. (ad) 2m. A partnership,
23 limited liability company, or tax-option corporation shall compute the amount of
24 credit that each of its partners, members, or shareholders may claim and shall
25 provide that information to each of them. Partners, members of limited liability

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1 companies, and shareholders of tax-option corporations may claim the credit in
2 proportion to their allocation of the deductions of the qualified research expenses
3 used to determine the credit.

4 **SECTION 17.** 71.34 (1k) (g) of the statutes, as affected by 2011 Wisconsin Act 32,
5 is amended to read:

6 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
7 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
8 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (4) (ad) 2m., (5) (ad) 2m.,
9 (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), and (8r) and passed through to
10 shareholders.

11 **SECTION 18.** 71.365 (3) of the statutes is repealed.

12 **SECTION 19.** 71.45 (2) (a) 10. of the statutes, as affected by 2011 Wisconsin Act
13 32, is amended to read:

14 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
15 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn),
16 (3w), (4) (ad) 2m., (5) (ad) 2m., (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), (8r),
17 and (9s) and not passed through by a partnership, limited liability company, or
18 tax-option corporation that has added that amount to the partnership's, limited
19 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k)
20 (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4) (ad) 2m., (4m),
21 and (5) (ad) 2m.

22 **SECTION 20.** 71.47 (4) (ad) 1. of the statutes is amended to read:

23 71.47 (4) (ad) 1. Except as provided in subs. 2., 2m., and 3., any corporation
24 may credit against taxes otherwise due under this chapter an amount equal to 5
25 percent of the amount obtained by subtracting from the corporation's qualified

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1 research expenses, as defined in section 41 of the Internal Revenue Code, except that
2 “qualified research expenses” includes only expenses incurred by the claimant,
3 incurred for research conducted in this state for the taxable year, except that a
4 taxpayer may elect the alternative computation under section 41 (c) (4) of the
5 Internal Revenue Code and that election applies until the department permits its
6 revocation, except as provided in par. (af), and except that “qualified research
7 expenses” does not include compensation used in computing the credit under subs.
8 (1dj) and (1dx), the corporation’s base amount, as defined in section 41 (c) of the
9 Internal Revenue Code, except that gross receipts used in calculating the base
10 amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9)
11 (b) 1. and 2., (df) 1. and 2., (dh) 1., 2., and 3., (dj), and (dk). Section 41 (h) of the
12 Internal Revenue Code does not apply to the credit under this paragraph.

13 SECTION 21. 71.47 (4) (ad) 2. of the statutes is amended to read:

14 71.47 (4) (ad) 2. For taxable years beginning after June 30, 2007, and before
15 January 1, 2011, ²⁰¹² any corporation may credit against taxes otherwise due under this
16 chapter an amount equal to 10 percent of the amount obtained by subtracting from
17 the corporation’s qualified research expenses, as defined in section 41 of the Internal
18 Revenue Code, except that “qualified research expenses” includes only expenses
19 incurred by the claimant for research related to designing internal combustion
20 engines for vehicles, including expenses related to designing vehicles that are
21 powered by such engines and improving production processes for such engines and
22 vehicles, incurred for research conducted in this state for the taxable year, except
23 that a taxpayer may elect the alternative computation under section 41 (c) (4) of the
24 Internal Revenue Code and that election applies until the department permits its
25 revocation, except as provided in par. (af), and except that “qualified research

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1 expenses" does not include compensation used in computing the credit under subs.
2 (1dj) and (1dx), the corporation's base amount, as defined in section 41 (c) of the
3 Internal Revenue Code, except that gross receipts used in calculating the base
4 amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9)
5 (b) 1. and 2., (df) 1. and 2., (dh) 1., 2., and 3., (dj), and (dk). Section 41 (h) of the
6 Internal Revenue Code does not apply to the credit under this paragraph.

7 **SECTION 22.** 71.47 (4) (ad) 2m. of the statutes is created to read:

8 71.47 (4) (ad) 2m. For taxable years beginning after December 31, ~~2010~~²⁰¹¹ any
9 corporation may claim as a credit against taxes otherwise due under s. 71.43 an
10 amount equal to 15 percent of the corporation's qualified research expenses, as
11 defined in section 41 of the Internal Revenue Code, that the corporation paid during
12 the taxable year, except that "qualified research expenses" includes only expenses
13 paid by the claimant for research directly or indirectly related to designing internal
14 combustion engines for vehicles, including expenses related to designing vehicles
15 that are powered by such engines and improving production processes for such
16 engines and vehicles, incurred for research conducted in this state for the taxable
17 year, except that a taxpayer may elect the alternative computation under section 41
18 (c) (4) of the Internal Revenue Code and that election applies until the department
19 permits its revocation, except as provided in par. (af), and except that "qualified
20 research expenses" does not include compensation used in computing the credit
21 under subs. (1dj) and (1dx). Section 41 (h) of the Internal Revenue Code does not
22 apply to the credit under this paragraph.

23 **SECTION 23.** 71.47 (4) (af) of the statutes is amended to read:

24 71.47 (4) (af) *Computation.* If in any taxable year a corporation claims a credit
25 under par. (ad) 1., 2., 2m., or 3., or any combination of those credits, the corporation

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1 may use a different computation method to calculate each of the credits and may
2 choose to change the computation method once for each credit without the
3 department's approval.

4 **SECTION 24.** 71.47 (4) (i) of the statutes is renumbered 71.47 (4) (i) 1. and
5 amended to read:

6 71.47 (4) (i) *Nonclaimants Limitations.* 1. The credits under ~~this subsection~~
7 par. (ad) 1., 2., and 3. may not be claimed by a partnership, except a publicly traded
8 partnership treated as a corporation under s. 71.22 (1k), limited liability company,
9 except a limited liability company treated as a corporation under s. 71.22 (1k), or
10 tax-option corporation or by partners, including partners of a publicly traded
11 partnership, members of a limited liability company or shareholders of a tax-option
12 corporation.

13 **SECTION 25.** 71.47 (4) (i) 2. of the statutes is created to read:

14 71.47 (4) (i) 2. Partnerships, limited liability companies, and tax-option
15 corporations may not claim the credit under par. (ad) 2m., but the eligibility for, and
16 the amount of, the credit are based on their payment of amounts under par. (ad) 2m.
17 A partnership, limited liability company, or tax-option corporation shall compute
18 the amount of credit that each of its partners, members, or shareholders may claim
19 and shall provide that information to each of them. Partners, members of limited
20 liability companies, and shareholders of tax-option corporations may claim the
21 credit in proportion to their allocation of the deductions of the qualified research
22 expenses used to determine the credit.

23 **SECTION 26.** 71.47 (4m) (c) of the statutes is amended to read:

24 71.47 (4m) (c) *Limitations.* Section 71.28 (4) (b) to (d) and (i) 1., as it applies
25 to the credit under s. 71.28 (4), applies to the credit under this subsection.

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1 **SECTION 27.** 71.47 (5) (ad) 1. of the statutes is amended to read:

2 71.47 (5) (ad) 1. Except as provided in subds. 2., 2m., and 3., for taxable year
3 1986 and subsequent years, any corporation may credit against taxes otherwise due
4 under this chapter an amount equal to 5 percent of the amount paid or incurred by
5 that corporation during the taxable year to construct and equip new facilities or
6 expand existing facilities used in this state for qualified research, as defined in
7 section 41 of the Internal Revenue Code. Eligible amounts include only amounts
8 paid or incurred for tangible, depreciable property but do not include amounts paid
9 or incurred for replacement property.

10 **SECTION 28.** 71.47 (5) (ad) 2. of the statutes is amended to read:

11 71.47 (5) (ad) 2. For taxable years beginning after June 30, 2007, and before
12 January 1, ~~2011~~ ²⁰¹², any corporation may credit against taxes otherwise due under this
13 chapter an amount equal to 10 percent of the amount paid or incurred by that
14 corporation during the taxable year to construct and equip new facilities or expand
15 existing facilities used in this state for qualified research, as defined in section 41 of
16 the Internal Revenue Code, except that "qualified research expenses" includes only
17 expenses paid or incurred by the claimant for research related to designing internal
18 combustion engines for vehicles, including expenses related to designing vehicles
19 that are powered by such engines and improving production processes for such
20 engines and vehicles. Eligible amounts include only amounts paid or incurred for
21 tangible, depreciable property but do not include amounts paid or incurred for
22 replacement property.

23 **SECTION 29.** 71.47 (5) (ad) 2m. of the statutes is created to read:

24 71.47 (5) (ad) 2m. For taxable years beginning after December 31, ~~2010~~ ²⁰¹¹, any
25 corporation may claim as a credit against taxes otherwise due under s. 71.43 an

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1 amount equal to 15 percent of the amount paid or incurred by that corporation during
2 the taxable year to construct and equip new facilities or expand existing facilities
3 used in this state for qualified research, as defined in section 41 of the Internal
4 Revenue Code, except that "qualified research expenses" includes only expenses paid
5 or incurred by the claimant for research directly or indirectly related to designing
6 internal combustion engines for vehicles, including expenses related to designing
7 vehicles that are powered by such engines and improving production processes for
8 such engines and vehicles. Eligible amounts include only amounts paid or incurred
9 for tangible, depreciable property but do not include amounts paid or incurred for
10 replacement property.

11 **SECTION 30.** 71.47 (5) (c) of the statutes is created to read:

12 71.47 (5) (c) *Limitations.* 1. The credits under par. (ad) 1., 2., and 3. may not
13 be claimed by a partnership, except a publicly traded partnership treated as a
14 corporation under s. 71.22 (1k), limited liability company, except a limited liability
15 company treated as a corporation under s. 71.22 (1k), or tax-option corporation or
16 by partners, including partners of a publicly traded partnership, members of a
17 limited liability company, or shareholders of a tax-option corporation.

18 2. Partnerships, limited liability companies, and tax-option corporations may
19 not claim the credit under par. (ad) 2m., but the eligibility for, and the amount of, the
20 credit are based on their payment of amounts under par. (ad) 2m. A partnership,
21 limited liability company, or tax-option corporation shall compute the amount of
22 credit that each of its partners, members, or shareholders may claim and shall
23 provide that information to each of them. Partners, members of limited liability
24 companies, and shareholders of tax-option corporations may claim the credit in

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1 proportion to their allocation of the deductions of the qualified research expenses
2 used to determine the credit.

3 **SECTION 31.** 77.92 (4) of the statutes, as affected by 2011 Wisconsin Act 32, is
4 amended to read:

5 77.92 (4) "Net business income," with respect to a partnership, means taxable
6 income as calculated under section 703 of the Internal Revenue Code; plus the items
7 of income and gain under section 702 of the Internal Revenue Code, including taxable
8 state and municipal bond interest and excluding nontaxable interest income or
9 dividend income from federal government obligations; minus the items of loss and
10 deduction under section 702 of the Internal Revenue Code, except items that are not
11 deductible under s. 71.21; plus guaranteed payments to partners under section 707
12 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
13 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
14 (3rm), (3rn), (3s), (3t), (3w), (5a), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5r), (5rm),
15 and (8r); and plus or minus, as appropriate, transitional adjustments, depreciation
16 differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but
17 excluding income, gain, loss, and deductions from farming. "Net business income,"
18 with respect to a natural person, estate, or trust, means profit from a trade or
19 business for federal income tax purposes and includes net income derived as an
20 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

21 (END)

sec #. Effective date.
(*) this act takes effect on January 1, 2012. ✓

D-Note

**2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2101/2ins
JK:kjfrs

Insert 3 - 10

1 c. In the case of a generator, the control modules, fuel train, fuel scrubbing
2 process, fuel mixers, generator, heat exchangers, exhaust train, and similar
3 components.

Insert 9 - 2

4 SECTION 1. 71.28 (5) (ab) 2. of the statutes is repealed.

5 SECTION 2. 71.28 (5) (ab) 3. of the statutes is amended to read:

6 71.28 (5) (ab) 3. "Vehicle" means any vehicle or frame, including parts,
7 accessories, and component technologies, in which or on which an engine is mounted
8 for use in mobile or stationary applications. "Vehicle" includes any truck, tractor,
9 motorcycle, snowmobile, all-terrain vehicle, boat, personal watercraft, generator,
10 construction equipment, mechanical drive for a stationary engine, lawn and garden
11 maintenance equipment, automobile, van, sports utility vehicle, motor home, bus, or
12 aircraft.

History: 1987 a. 312; 1987 a. 411 ss. 88, 130 to 139; 1987 a. 422; 1989 a. 31, 44, 56, 100, 336, 359; 1991 a. 39, 292; 1993 a. 16, 112, 232, 491; 1995 a. 2; 1995 a. 27 ss. 3399r to 3404c, 9116 (5); 1995 a. 209, 227; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9; 2001 a. 16; 2003 a. 72, 99, 135, 255, 267, 326; 2005 a. 25, 74, 97, 361, 387, 452, 479, 483, 487; 2007 a. 20, 96, 97, 100; 2009 a. 2, 11, 28, 180, 185, 265, 267, 269, 276, 294, 295, 332, 401; 2011 a. 3, 15, 32, 67; s. 13.92 (1) (bm) 2; s. 35.17 correction in (1dm) (a) 1.

Insert 14 - 25

13 SECTION 3. 71.47 (5) (ab) 2. of the statutes is repealed.

14 SECTION 4. 71.47 (5) (ab) 3. of the statutes is amended to read:

15 71.47 (5) (ab) 3. "Vehicle" means any vehicle or frame, including parts,
16 accessories, and component technologies, in which or on which an engine is mounted
17 for use in mobile or stationary applications. "Vehicle" includes any truck, tractor,
18 motorcycle, snowmobile, all-terrain vehicle, boat, personal watercraft, generator,
19 construction equipment, mechanical drive for a stationary engine, lawn and garden

- 1 maintenance equipment, automobile, van, sports utility vehicle, motor home, bus, or
- 2 aircraft.

History: 1987 a. 312, 411, 422; 1989 a. 31, 44, 56, 100, 336, 359; 1991 a. 39, 292, 315; 1993 a. 16, 112; 1995 a. 27 ss. 3407m to 3412m, 9116 (5); 1995 a. 209, 227, 417; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9; 2001 a. 16; 2003 a. 72, 99, 135, 255, 267, 326; 2005 a. 25, 74, 97, 361, 387, 452, 479, 483, 487; 2007 a. 20, 96, 97, 100; 2009 a. 2, 11, 28, 180, 185, 265, 267, 269, 276, 294, 295, 332, 401; 2011 a. 3, 15, 32, 67; s. 13.92 (1) (bm) 2.

Insert
5-22

sec# ^{sp} 71.28(4)(ab) 2.

1-2

x

Section #. 71.28 (4) (ab) 3. of the statutes is amended to read:

71.28 (4) (ab) 3. "Vehicle" means any vehicle or frame, including parts, accessories, and component technologies, in which or on which an engine is mounted for use in mobile or stationary applications. "Vehicle" includes any truck, tractor, motorcycle, snowmobile, all-terrain vehicle, boat, personal watercraft, generator, construction equipment, lawn and garden maintenance equipment, automobile, van, sports utility vehicle, motor home, bus, or aircraft.

History: 1987 a. 312; 1987 a. 411 ss. 88, 130 to 139; 1987 a. 422; 1989 a. 31, 44, 56, 100, 336, 359; 1991 a. 39, 292; 1993 a. 16, 112, 232, 491; 1995 a. 2; 1995 a. 27 ss. 3399r to 3404c, 9116 (5); 1995 a. 209, 227; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9; 2001 a. 16; 2003 a. 72, 99, 135, 255, 267, 326; 2005 a. 25, 74, 97, 361, 387, 452, 479, 483, 487; 2007 a. 20, 96, 97, 100; 2009 a. 2, 11, 28, 180, 185, 265, 267, 269, 276, 294, 295, 332, 401; 2011 a. 3, 15, 32, 67; s. 13.92 (1) (bm) 2; s. 35.17 correction in (1dm) (a) 1.

mechanical drive for a stationary engine

(end of 5-22)

Insert
11-21

sec #. ^{rp} 71.47(4)(ab) ⁴ 2.

Section #. 71.47 (4) (ab) 3. of the statutes is amended to read:

71.47 (4) (ab) 3. "Vehicle" means any vehicle or frame, including parts, accessories, and component technologies, in which or on which an engine is mounted for use in mobile or stationary applications. "Vehicle" includes any truck, tractor, motorcycle, snowmobile, all-terrain vehicle, boat, personal watercraft, generator, construction equipment, lawn and garden maintenance equipment, automobile, van, sports utility vehicle, motor home, bus, or aircraft.

History: 1987 a. 312, 411, 422; 1989 a. 31, 44, 56, 100, 336, 359; 1991 a. 39, 292, 315; 1993 a. 16, 112; 1995 a. 27 ss. 3407m to 3412m, 9116 (5); 1995 a. 209, 227, 417; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9; 2001 a. 16; 2003 a. 72, 99, 135, 255, 267, 326; 2005 a. 25, 74, 97, 361, 387, 452, 479, 483, 487; 2007 a. 20, 96, 97, 100; 2009 a. 2, 11, 28, 180, 185, 265, 267, 269, 276, 294, 295, 332, 401; 2011 a. 3, 15, 32, 67; s. 13.92 (1) (bm) 2.

mechanical drive for a stationary engine,

<end of 11-21>

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

LRB-2101/2dn

JK:kjf:rs

Date

Representative Endsley:

This draft modifies the definition of "vehicle" for purposes of claiming the research and research facilities tax credits. I also made changes to ensure that the definitions related to claiming those credits are the same for all taxpayers. Finally, I advanced the years in the draft to reflect the passage of time.

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

LRB-2101/2dn

JK:kj:rs

February 7, 2012

Representative Endsley:

This draft modifies the definition of "vehicle" for purposes of claiming the research and research facilities tax credits. I also made changes to ensure that the definitions related to claiming those credits are the same for all taxpayers. Finally, I advanced the years in the draft to reflect the passage of time.

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Parisi, Lori

From: Clark, Lauren
Sent: Tuesday, February 28, 2012 3:29 PM
To: LRB.Legal
Subject: Draft Review: LRB 11-2101/2 Topic: Expand research and research facilities credits for engine design

Please Jacket LRB 11-2101/2 for the ASSEMBLY.