



**SENATE SUBSTITUTE AMENDMENT 2,  
TO 2005 SENATE BILL 103**

May 13, 2005 - Offered by Senator KANAVAS.

1     **AN ACT** *to renumber and amend* 71.28 (4) (a), 71.28 (5) (a), 71.47 (4) (a) and  
2           71.47 (5) (a); *to amend* 71.28 (4) (am) 1. and 71.47 (4) (am); and *to create* 71.28  
3           (4) (ab), 71.28 (4) (ad) 2., 71.28 (4) (af), 71.28 (5) (ab), 71.28 (5) (ad) 2., 71.47 (4)  
4           (ab), 71.47 (4) (ad) 2., 71.47 (4) (af), 71.47 (5) (ab) and 71.47 (5) (ad) 2. of the  
5           statutes; **relating to:** the income and franchise tax credit for research and  
6           research facilities.

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***Analysis by the Legislative Reference Bureau***

Under current law, a corporation may claim an income and franchise tax credit in an amount equal to 5 percent of its qualified research expenses, as defined by the Internal Revenue Code for research conducted in this state. In addition, a corporation may claim an income and franchise tax credit equal to 5 percent of the amount it paid in the taxable year to construct and equip new facilities or expand existing facilities used in this state for qualified research, as defined by the Internal Revenue Code. Under this substitute amendment, a corporation may claim an income and franchise tax credit in an amount equal to 10 percent of its qualified research expenses related to engine and vehicle design for research conducted in this state and 10 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 related to designing internal combustion engines, including expenses related to designing vehicles that are powered by such engines.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 71.28 (4) (a) of the statutes is renumbered 71.28 (4) (ad) 1. and  
2 amended to read:

3           71.28 (4) (ad) *Credit.* 1. ~~Any~~ Except as provided in subd. 2., any corporation  
4 may credit against taxes otherwise due under this chapter an amount equal to ~~5%~~  
5 5 percent of the amount obtained by subtracting from the corporation's qualified  
6 research expenses, as defined in section 41 of the ~~internal revenue code~~ Internal  
7 Revenue Code, except that "qualified research expenses" includes only expenses  
8 incurred by the claimant, incurred for research conducted in this state for the taxable  
9 year, except that a taxpayer may elect the alternative computation under section 41  
10 (c) (4) of the Internal Revenue Code and that election applies until the department  
11 permits its revocation, except as provided in par. (af), and except that "qualified  
12 research expenses" does not include compensation used in computing the credit  
13 under subs. (1dj) and (1dx), the corporation's base amount, as defined in section 41  
14 (c) of the ~~internal revenue code~~ Internal Revenue Code, except that gross receipts  
15 used in calculating the base amount means gross receipts from sales attributable to  
16 Wisconsin under s. 71.25 (9) (b) 1. and 2. and (d). Section 41 (h) of the ~~internal~~  
17 ~~revenue code~~ Internal Revenue Code does not apply to the credit under this  
18 paragraph.

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

1           71.28 (4) (ab) *Definitions*. In this subsection:

2           1. “Frame” includes:

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

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

6           c. In the case of a generator, the control modules, fuel train, fuel scrubbing  
7 process, fuel mixers, generator, heat exchangers, exhaust train, and similar  
8 components.

9           2. “Internal combustion engine” includes substitute products such as fuel cell,  
10 electric, and hybrid drives.

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           **SECTION 3.** 71.28 (4) (ad) 2. of the statutes is created to read:

18           71.28 (4) (ad) 2. For taxable years beginning after December 31, 2006, any  
19 corporation may credit against taxes otherwise due under this chapter an amount  
20 equal to 10 percent of the amount obtained by subtracting from the corporation’s  
21 qualified research expenses, as defined in section 41 of the Internal Revenue Code,  
22 except that “qualified research expenses” includes only expenses incurred by the  
23 claimant for research related to designing internal combustion engines for vehicles,  
24 including expenses related to designing vehicles that are powered by such engines  
25 and improving production processes for such engines and vehicles, incurred for

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

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

11 71.28 (4) (af) *Computation.* If in any taxable year a corporation claims a credit  
12 under both par. (ad) 1. and 2., the corporation may use a different computation  
13 method under par. (ad) 2. than it uses under par. (ad) 1. and may choose to change  
14 the computation method once for each credit without the department’s approval.

15 **SECTION 5.** 71.28 (4) (am) 1. of the statutes is amended to read:

16 71.28 (4) (am) 1. In addition to the credit under par. ~~(a)~~ (ad), any corporation  
17 may credit against taxes otherwise due under this chapter an amount equal to ~~5%~~  
18 5 percent of the amount obtained by subtracting from the corporation’s qualified  
19 research expenses, as defined in section 41 of the ~~internal revenue code~~ Internal  
20 Revenue Code, except that “qualified research expenses” include only expenses  
21 incurred by the claimant in a development zone under subch. VI of ch. 560, except  
22 that a taxpayer may elect the alternative computation under section 41 (c) (4) of the  
23 Internal Revenue Code and that election applies until the department permits its  
24 revocation and except that “qualified research expenses” do not include  
25 compensation used in computing the credit under sub. (1dj) nor research expenses

1 incurred before the claimant is certified for tax benefits under s. 560.765 (3), the  
2 corporation's base amount, as defined in section 41 (c) of the ~~internal revenue code~~  
3 Internal Revenue Code, in a development zone, except that gross receipts used in  
4 calculating the base amount means gross receipts from sales attributable to  
5 Wisconsin under s. 71.25 (9) (b) 1. and 2. and (d) and research expenses used in  
6 calculating the base amount include research expenses incurred before the claimant  
7 is certified for tax benefits under s. 560.765 (3), in a development zone, if the claimant  
8 submits with the claimant's return a copy of the claimant's certification for tax  
9 benefits under s. 560.765 (3) and a statement from the department of commerce  
10 verifying the claimant's qualified research expenses for research conducted  
11 exclusively in a development zone. The rules under s. 73.03 (35) apply to the credit  
12 under this subdivision. The rules under sub. (1d) (f) and (g) as they apply to the  
13 credit under that subsection apply to claims under this subdivision. Section 41 (h)  
14 of the ~~internal revenue code~~ Internal Revenue Code does not apply to the credit under  
15 this subdivision.

16 **SECTION 6.** 71.28 (5) (a) of the statutes is renumbered 71.28 (5) (ad) 1. and  
17 amended to read:

18 71.28 (5) (ad) *Credit*. 1. For Except as provided in subd. 2., for taxable year  
19 1986 and subsequent years, any corporation may credit against taxes otherwise due  
20 under this chapter an amount equal to ~~5%~~ 5 percent of the amount paid or incurred  
21 by that corporation during the taxable year to construct and equip new facilities or  
22 expand existing facilities used in this state for qualified research, as defined in  
23 section 41 of the ~~internal revenue code~~ Internal Revenue Code. Eligible amounts  
24 include only amounts paid or incurred for tangible, depreciable property but do not  
25 include amounts paid or incurred for replacement property.

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

2           71.28 (5) (ab) *Definitions.* In this subsection:

3           1. “Frame” includes:

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

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

7           c. In the case of a generator, the control modules, fuel train, fuel scrubbing  
8           process, fuel mixers, generator, heat exchangers, exhaust train, and similar  
9           components.

10          2. “Internal combustion engine” includes substitute products such as fuel cell,  
11          electric, and hybrid drives.

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

18          **SECTION 8.** 71.28 (5) (ad) 2. of the statutes is created to read:

19          71.28 (5) (ad) 2. For taxable years beginning after December 31, 2006, any  
20          corporation may credit against taxes otherwise due under this chapter an amount  
21          equal to 10 percent of the amount paid or incurred by that corporation during the  
22          taxable year to construct and equip new facilities or expand existing facilities used  
23          in this state for qualified research, as defined in section 41 of the Internal Revenue  
24          Code, except that “qualified research expenses” includes only expenses paid or  
25          incurred by the claimant for research related to designing internal combustion

1 engines for vehicles, including expenses related to designing vehicles that are  
2 powered by such engines and improving production processes for such engines and  
3 vehicles. Eligible amounts include only amounts paid or incurred for tangible,  
4 depreciable property but do not include amounts paid or incurred for replacement  
5 property.

6 **SECTION 9.** 71.47 (4) (a) of the statutes is renumbered 71.47 (4) (ad) 1. and  
7 amended to read:

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

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

25 71.47 (4) (ab) *Definitions.* In this subsection:

1           1. “Frame” includes:

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

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

5           c. In the case of a generator, the control modules, fuel train, fuel scrubbing  
6 process, fuel mixers, generator, heat exchangers, exhaust train, and similar  
7 components.

8           2. “Internal combustion engine” includes substitute products such as fuel cell,  
9 electric, and hybrid drives.

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

16          **SECTION 11.** 71.47 (4) (ad) 2. of the statutes is created to read:

17          71.47 (4) (ad) 2. For taxable years beginning after December 31, 2006, any  
18 corporation may credit against taxes otherwise due under this chapter an amount  
19 equal to 10 percent of the amount obtained by subtracting from the corporation’s  
20 qualified research expenses, as defined in section 41 of the Internal Revenue Code,  
21 except that “qualified research expenses” includes only expenses incurred by the  
22 claimant for research related to designing internal combustion engines for vehicles,  
23 including expenses related to designing vehicles that are powered by such engines  
24 and improving production processes for such engines and vehicles, incurred for  
25 research conducted in this state for the taxable year, except that a taxpayer may elect

1 the alternative computation under section 41 (c) (4) of the Internal Revenue Code  
2 and that election applies until the department permits its revocation, except as  
3 provided in par. (af), and except that “qualified research expenses” does not include  
4 compensation used in computing the credit under subs. (1dj) and (1dx), the  
5 corporation’s base amount, as defined in section 41 (c) of the Internal Revenue Code,  
6 except that gross receipts used in calculating the base amount means gross receipts  
7 from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2. and (d). Section  
8 41 (h) of the Internal Revenue Code does not apply to the credit under this paragraph.

9 **SECTION 12.** 71.47 (4) (af) of the statutes is created to read:

10 71.47 (4) (af) *Computation.* If in any taxable year a corporation claims a credit  
11 under both par. (ad) 1. and 2., the corporation may use a different computation  
12 method under par. (ad) 2. than it uses under par. (ad) 1. and may choose to change  
13 the computation method once for each credit without the department’s approval.

14 **SECTION 13.** 71.47 (4) (am) of the statutes is amended to read:

15 71.47 (4) (am) *Development zone additional research credit.* In addition to the  
16 credit under par. ~~(a)~~ (ad), any corporation may credit against taxes otherwise due  
17 under this chapter an amount equal to ~~5%~~ 5 percent of the amount obtained by  
18 subtracting from the corporation’s qualified research expenses, as defined in section  
19 41 of the ~~internal revenue code~~ Internal Revenue Code, except that “qualified  
20 research expenses” include only expenses incurred by the claimant in a development  
21 zone under subch. VI of ch. 560, except that a taxpayer may elect the alternative  
22 computation under section 41 (c) (4) of the Internal Revenue Code and that election  
23 applies until the department permits its revocation and except that “qualified  
24 research expenses” do not include compensation used in computing the credit under  
25 sub. (1dj) nor research expenses incurred before the claimant is certified for tax

1 benefits under s. 560.765 (3), the corporation's base amount, as defined in section 41  
2 (c) of the ~~internal revenue code~~ Internal Revenue Code, in a development zone,  
3 except that gross receipts used in calculating the base amount means gross receipts  
4 from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2. and (d) and  
5 research expenses used in calculating the base amount include research expenses  
6 incurred before the claimant is certified for tax benefits under s. 560.765 (3), in a  
7 development zone, if the claimant submits with the claimant's return a copy of the  
8 claimant's certification for tax benefits under s. 560.765 (3) and a statement from the  
9 department of commerce verifying the claimant's qualified research expenses for  
10 research conducted exclusively in a development zone. The rules under s. 73.03 (35)  
11 apply to the credit under this paragraph. The rules under sub. (1di) (f) and (g) as they  
12 apply to the credit under that subsection apply to claims under this paragraph.  
13 Section 41 (h) of the ~~internal revenue code~~ Internal Revenue Code does not apply to  
14 the credit under this paragraph. No credit may be claimed under this paragraph for  
15 taxable years that begin on January 1, 1998, or thereafter. Credits under this  
16 paragraph for taxable years that begin before January 1, 1998, may be carried  
17 forward to taxable years that begin on January 1, 1998, or thereafter.

18 **SECTION 14.** 71.47 (5) (a) of the statutes is renumbered 71.47 (5) (ad) 1. and  
19 amended to read:

20 71.47 (5) (ad) *Credit*. 1. ~~For~~ Except as provided in subd. 2., for taxable year 1986  
21 and subsequent years, any corporation may credit against taxes otherwise due under  
22 this chapter an amount equal to ~~5%~~ 5 percent of the amount paid or incurred by that  
23 corporation during the taxable year to construct and equip new facilities or expand  
24 existing facilities used in this state for qualified research, as defined in section 41 of  
25 the ~~internal revenue code~~ Internal Revenue Code. Eligible amounts include only

1 amounts paid or incurred for tangible, depreciable property but do not include  
2 amounts paid or incurred for replacement property.

3 **SECTION 15.** 71.47 (5) (ab) of the statutes is created to read:

4 71.47 (5) (ab) *Definitions.* In this subsection:

5 1. “Frame” includes:

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

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

9 c. In the case of a generator, the control modules, fuel train, fuel scrubbing  
10 process, fuel mixers, generator, heat exchangers, exhaust train, and similar  
11 components.

12 2. “Internal combustion engine” includes substitute products such as fuel cell,  
13 electric, and hybrid drives.

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

20 **SECTION 16.** 71.47 (5) (ad) 2. of the statutes is created to read:

21 71.47 (5) (ad) 2. For taxable years beginning after December 31, 2006, any  
22 corporation may credit against taxes otherwise due under this chapter an amount  
23 equal to 10 percent of the amount paid or incurred by that corporation during the  
24 taxable year to construct and equip new facilities or expand existing facilities used  
25 in this state for qualified research, as defined in section 41 of the Internal Revenue

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

8 (END)