

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

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) (ad) 3., 71.28 (4) (af), 71.28 (5) (ab), 71.28 (5)
4 (ad) 2., 71.28 (5) (ad) 3., 71.47 (4) (ab), 71.47 (4) (ad) 2., 71.47 (4) (ad) 3., 71.47
5 (4) (af), 71.47 (5) (ab), 71.47 (5) (ad) 2. and 71.47 (5) (ad) 3. of the statutes;
6 **relating to:** the income and franchise tax credit for research and research
7 facilities.

Analysis by the Legislative Reference Bureau

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

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

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

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

18 71.28 (4) (ab) *Definitions.* In this subsection:

19 1. "Frame" includes:

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

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

23 c. In the case of a generator, the control modules, fuel train, fuel scrubbing
24 process, fuel mixers, generator, heat exchangers, exhaust train, and similar
25 components.

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

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

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

10 71.28 (4) (ad) 2. For taxable years beginning after June 30, 2007, any
11 corporation may credit against taxes otherwise due under this chapter an amount
12 equal to 10 percent of the amount obtained by subtracting from the corporation’s
13 qualified research expenses, as defined in section 41 of the Internal Revenue Code,
14 except that “qualified research expenses” includes only expenses incurred by the
15 claimant for research related to designing internal combustion engines for vehicles,
16 including expenses related to designing vehicles that are powered by such engines
17 and improving production processes for such engines and vehicles, incurred for
18 research conducted in this state for the taxable year, except that a taxpayer may elect
19 the alternative computation under section 41 (c) (4) of the Internal Revenue Code
20 and that election applies until the department permits its revocation, except as
21 provided in par. (af), and except that “qualified research expenses” does not include
22 compensation used in computing the credit under subs. (1dj) and (1dx), the
23 corporation’s base amount, as defined in section 41 (c) of the Internal Revenue Code,
24 except that gross receipts used in calculating the base amount means gross receipts

1 from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2. and (d). Section
2 41 (h) of the Internal Revenue Code does not apply to the credit under this paragraph.

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

4 71.28 (4) (ad) 3. For taxable years beginning after June 30, 2007, any
5 corporation may credit against taxes otherwise due under this chapter an amount
6 equal to 10 percent of the amount obtained by subtracting from the corporation's
7 qualified research expenses, as defined in section 41 of the Internal Revenue Code,
8 except that "qualified research expenses" includes only expenses incurred by the
9 claimant for research related to the design and manufacturing of energy efficient
10 lighting systems, building automation and control systems, or automotive batteries
11 for use in hybrid–electric vehicles, that reduce the demand for natural gas or
12 electricity or improve the efficiency of its use, incurred for research conducted in this
13 state for the taxable year, except that a taxpayer may elect the alternative
14 computation under section 41 (c) (4) of the Internal Revenue Code and that election
15 applies until the department permits its revocation, except as provided in par. (af),
16 and except that "qualified research expenses" does not include compensation used
17 in computing the credit under subs. (1dj) and (1dx), the corporation's base amount,
18 as defined in section 41 (c) of the Internal Revenue Code, except that gross receipts
19 used in calculating the base amount means gross receipts from sales attributable to
20 Wisconsin under s. 71.25 (9) (b) 1. and 2. and (d). Section 41 (h) of the Internal
21 Revenue Code does not apply to the credit under this paragraph.

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

23 71.28 (4) (af) *Computation.* If in any taxable year a corporation claims a credit
24 under par. (ad) 1., 2., or 3., or any combination of those credits, the corporation may
25 use a different computation method to calculate each of the credits and may choose

1 to change the computation method once for each credit without the department's
2 approval.

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

4 71.28 (4) (am) 1. In addition to the credit under par. (a) ~~(ad)~~, any corporation
5 may credit against taxes otherwise due under this chapter an amount equal to 5%
6 5 percent of the amount obtained by subtracting from the corporation's qualified
7 research expenses, as defined in section 41 of the ~~internal-revenue code~~ Internal
8 Revenue Code, except that "qualified research expenses" include only expenses
9 incurred by the claimant in a development zone under subch. VI of ch. 560, 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 and except that "qualified research expenses" do not include
13 compensation used in computing the credit under sub. (1dj) nor research expenses
14 incurred before the claimant is certified for tax benefits under s. 560.765 (3), the
15 corporation's base amount, as defined in section 41 (c) of the ~~internal-revenue code~~
16 Internal Revenue Code, in a development zone, except that gross receipts used in
17 calculating the base amount means gross receipts from sales attributable to
18 Wisconsin under s. 71.25 (9) (b) 1. and 2. and (d) and research expenses used in
19 calculating the base amount include research expenses incurred before the claimant
20 is certified for tax benefits under s. 560.765 (3), in a development zone, if the claimant
21 submits with the claimant's return a copy of the claimant's certification for tax
22 benefits under s. 560.765 (3) and a statement from the department of commerce
23 verifying the claimant's qualified research expenses for research conducted
24 exclusively in a development zone. The rules under s. 73.03 (35) apply to the credit
25 under this subdivision. The rules under sub. (1di) (f) and (g) as they apply to the

1 credit under that subsection apply to claims under this subdivision. Section 41 (h)
2 of the ~~internal revenue code~~ Internal Revenue Code does not apply to the credit under
3 this subdivision.

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

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

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

15 71.28 (5) (ab) *Definitions.* In this subsection:

16 1. “Frame” includes:

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

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

20 c. In the case of a generator, the control modules, fuel train, fuel scrubbing
21 process, fuel mixers, generator, heat exchangers, exhaust train, and similar
22 components.

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

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

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

8 71.28 (5) (ad) 2. For taxable years beginning after June 30, 2007, any
9 corporation may credit against taxes otherwise due under this chapter an amount
10 equal to 10 percent of the amount paid or incurred by that corporation during the
11 taxable year to construct and equip new facilities or expand existing facilities used
12 in this state for qualified research, as defined in section 41 of the Internal Revenue
13 Code, except that “qualified research expenses” includes only expenses paid or
14 incurred by the claimant for research related to designing internal combustion
15 engines for vehicles, including expenses related to designing vehicles that are
16 powered by such engines and improving production processes for such engines and
17 vehicles. Eligible amounts include only amounts paid or incurred for tangible,
18 depreciable property but do not include amounts paid or incurred for replacement
19 property.

20 **SECTION 8e.** 71.28 (5) (ad) 3. of the statutes is created to read:

21 71.28 (5) (ad) 3. For taxable years beginning after June 30, 2007, 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 the design and manufacturing of
3 energy efficient lighting systems, building automation and control systems, or
4 automotive batteries for use in hybrid–electric vehicles, that reduce the demand for
5 natural gas or electricity or improve the efficiency of its use. Eligible amounts
6 include only amounts paid or incurred for tangible, depreciable property but do not
7 include amounts paid or incurred for replacement property.

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

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

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

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

19 71.47 **(4)** (ad) 2. For taxable years beginning after June 30, 2007, any
20 corporation may credit against taxes otherwise due under this chapter an amount
21 equal to 10 percent of the amount obtained by subtracting from the corporation’s
22 qualified research expenses, as defined in section 41 of the Internal Revenue Code,
23 except that “qualified research expenses” includes only expenses incurred by the
24 claimant for research related to designing internal combustion engines for vehicles,
25 including expenses related to designing vehicles that are powered by such engines

1 and improving production processes for such engines and vehicles, incurred for
2 research conducted in this state for the taxable year, except that a taxpayer 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 par. (af), and except that “qualified research expenses” does not include
6 compensation used in computing the credit under subs. (1dj) and (1dx), the
7 corporation’s base amount, as defined in section 41 (c) of the Internal Revenue Code,
8 except that gross receipts used in calculating the base amount means gross receipts
9 from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2. and (d). Section
10 41 (h) of the Internal Revenue Code does not apply to the credit under this paragraph.

11 **SECTION 11e.** 71.47 (4) (ad) 3. of the statutes is created to read:

12 71.47 (4) (ad) 3. For taxable years beginning after June 30, 2007, any
13 corporation may credit against taxes otherwise due under this chapter an amount
14 equal to 10 percent of the amount obtained by subtracting from the corporation’s
15 qualified research expenses, as defined in section 41 of the Internal Revenue Code,
16 except that “qualified research expenses” includes only expenses incurred by the
17 claimant for research related to the design and manufacturing of energy efficient
18 lighting systems, building automation and control systems, or automotive batteries
19 for use in hybrid–electric vehicles, that reduce the demand for natural gas or
20 electricity or improve the efficiency of its use, incurred for research conducted in this
21 state for the taxable year, 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, except as provided in par. (af),
24 and except that “qualified research expenses” does not include compensation used
25 in computing the credit under subs. (1dj) and (1dx), the corporation’s base amount,

1 as defined in section 41 (c) of the Internal Revenue Code, except that gross receipts
2 used in calculating the base amount means gross receipts from sales attributable to
3 Wisconsin under s. 71.25 (9) (b) 1. and 2. and (d). Section 41 (h) of the Internal
4 Revenue Code does not apply to the credit under this paragraph.

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

6 71.47 (4) (af) *Computation.* If in any taxable year a corporation claims a credit
7 under par. (ad) 1., 2., or 3., or any combination of those credits, the corporation may
8 use a different computation method to calculate each of the credits and may choose
9 to change the computation method once for each credit without the department's
10 approval.

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

12 71.47 (4) (am) *Development zone additional research credit.* In addition to the
13 credit under par. (a) (~~ad~~), any corporation may credit against taxes otherwise due
14 under this chapter an amount equal to 5% 5 percent of the amount obtained by
15 subtracting from the corporation's qualified research expenses, as defined in section
16 41 of the ~~internal revenue code~~ Internal Revenue Code, except that "qualified
17 research expenses" include only expenses incurred by the claimant in a development
18 zone under subch. VI of ch. 560, except that a taxpayer may elect the alternative
19 computation under section 41 (c) (4) of the Internal Revenue Code and that election
20 applies until the department permits its revocation and except that "qualified
21 research expenses" do not include compensation used in computing the credit under
22 sub. (1dj) nor research expenses incurred before the claimant is certified for tax
23 benefits under s. 560.765 (3), the corporation's base amount, as defined in section 41
24 (c) of the ~~internal revenue code~~ Internal Revenue Code, in a development zone,
25 except that gross receipts used in calculating the base amount means gross receipts

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

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

17 71.47 (5) (ad) *Credit*. 1. ~~For~~ Except as provided in subs. 2. and 3., for taxable
18 year 1986 and subsequent years, any corporation may credit against taxes otherwise
19 due under this chapter an amount equal to 5% 5 percent of the amount paid or
20 incurred by that corporation during the taxable year to construct and equip new
21 facilities or expand existing facilities used in this state for qualified research, as
22 defined in section 41 of the ~~internal revenue code~~ Internal Revenue Code. Eligible
23 amounts include only amounts paid or incurred for tangible, depreciable property
24 but do not include amounts paid or incurred for replacement property.

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

1 71.47 (5) (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 16.** 71.47 (5) (ad) 2. of the statutes is created to read:

18 71.47 (5) (ad) 2. For taxable years beginning after June 30, 2007, any
19 corporation may credit against taxes otherwise due under this chapter an amount
20 equal to 10 percent of the amount paid or incurred by that corporation during the
21 taxable year to construct and equip new facilities or expand existing facilities used
22 in this state for qualified research, as defined in section 41 of the Internal Revenue
23 Code, except that “qualified research expenses” includes only expenses paid or
24 incurred by the claimant for research related to designing internal combustion
25 engines for vehicles, including expenses related to designing vehicles that are

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

5 **SECTION 16e.** 71.47 (5) (ad) 3. of the statutes is created to read:

6 71.47 (5) (ad) 3. For taxable years beginning after June 30, 2007, any
7 corporation may credit against taxes otherwise due under this chapter an amount
8 equal to 10 percent of the amount paid or incurred by that corporation during the
9 taxable year to construct and equip new facilities or expand existing facilities used
10 in this state for qualified research, as defined in section 41 of the Internal Revenue
11 Code, except that “qualified research expenses” includes only expenses paid or
12 incurred by the claimant for research related to the design and manufacturing of
13 energy efficient lighting systems, building automation and control systems, or
14 automotive batteries for use in hybrid–electric vehicles, that reduce the demand for
15 natural gas or electricity or improve the efficiency of its use. Eligible amounts
16 include only amounts paid or incurred for tangible, depreciable property but do not
17 include amounts paid or incurred for replacement property.

18 (END)