

**SENATE SUBSTITUTE AMENDMENT 1,
TO 2005 SENATE BILL 103**

April 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.

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.

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:

20 71.28 (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. “Vehicle” means any vehicle or frame in which or on which an engine is
9 mounted for use in mobile or stationary applications. “Vehicle” includes any truck,
10 tractor, motorcycle, snowmobile, all-terrain vehicle, boat, personal watercraft,
11 generator, automobile, van, sports utility vehicle, motor home, bus, or aircraft.

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

13 71.28 (4) (ad) 2. For taxable years beginning after December 31, 2006, any
14 corporation may credit against taxes otherwise due under this chapter an amount
15 equal to 10 percent of the amount obtained by subtracting from the corporation’s
16 qualified research expenses, as defined in section 41 of the Internal Revenue Code,
17 except that “qualified research expenses” includes only expenses incurred by the
18 claimant for research related to designing internal combustion engines for vehicles,
19 including expenses related to designing vehicles that are powered by such engines
20 and improving production processes for such engines and vehicles, incurred for
21 research conducted in this state for the taxable year, except that a taxpayer may elect
22 the alternative computation under section 41 (c) (4) of the Internal Revenue Code
23 and that election applies until the department permits its revocation, except as
24 provided in par. (af), and except that “qualified research expenses” does not include
25 compensation used in computing the credit under subs. (1dj) and (1dx), the

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

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

6 71.28 (4) (af) *Computation.* If in any taxable year a corporation claims a credit
7 under both par. (ad) 1. and 2., the corporation may use a different computation
8 method under par. (ad) 2. than it uses under par. (ad) 1. and may choose to change
9 the computation method once for each credit without the department's approval.

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

11 71.28 (4) (am) 1. In addition to the credit under par. (a) ~~(ad)~~, any corporation
12 may credit against taxes otherwise due under this chapter an amount equal to 5%
13 5 percent of the amount obtained by subtracting from the corporation's qualified
14 research expenses, as defined in section 41 of the ~~internal revenue code~~ Internal
15 Revenue Code, except that "qualified research expenses" include only expenses
16 incurred by the claimant in a development zone under subch. VI of ch. 560, except
17 that a taxpayer may elect the alternative computation under section 41 (c) (4) of the
18 Internal Revenue Code and that election applies until the department permits its
19 revocation and except that "qualified research expenses" do not include
20 compensation used in computing the credit under sub. (1dj) nor research expenses
21 incurred before the claimant is certified for tax benefits under s. 560.765 (3), the
22 corporation's base amount, as defined in section 41 (c) of the ~~internal revenue code~~
23 Internal Revenue Code, in a development zone, except that gross receipts used in
24 calculating the base amount means gross receipts from sales attributable to
25 Wisconsin under s. 71.25 (9) (b) 1. and 2. and (d) and research expenses used in

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

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

13 71.28 (5) (ad) *Credit.* 1. ~~For~~ Except as provided in subd. 2., for taxable year
14 1986 and subsequent years, any corporation may credit against taxes otherwise due
15 under this chapter an amount equal to ~~5%~~ 5 percent of the amount paid or incurred
16 by that corporation during the taxable year to construct and equip new facilities or
17 expand existing facilities used in this state for qualified research, as defined in
18 section 41 of the ~~internal revenue code~~ Internal Revenue Code. Eligible amounts
19 include only amounts paid or incurred for tangible, depreciable property but do not
20 include amounts paid or incurred for replacement property.

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

22 71.28 (5) (ab) *Definitions.* In this subsection:

23 1. "Frame" includes:

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

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

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

6 2. “Vehicle” means any vehicle or frame in which or on which an engine is
7 mounted for use in mobile or stationary applications. “Vehicle” includes any truck,
8 tractor, motorcycle, snowmobile, all-terrain vehicle, boat, personal watercraft,
9 generator, automobile, van, sports utility vehicle, motor home, bus, or aircraft.

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

11 71.28 (5) (ad) 2. For taxable years beginning after December 31, 2006, any
12 corporation may credit against taxes otherwise due under this chapter an amount
13 equal to 10 percent of the amount paid or incurred by that corporation during the
14 taxable year to construct and equip new facilities or expand existing facilities used
15 in this state for qualified research, as defined in section 41 of the Internal Revenue
16 Code, except that “qualified research expenses” includes only expenses paid or
17 incurred by the claimant for research related to designing internal combustion
18 engines for vehicles, including expenses related to designing vehicles that are
19 powered by such engines and improving production processes for such engines and
20 vehicles. Eligible amounts include only amounts paid or incurred for tangible,
21 depreciable property but do not include amounts paid or incurred for replacement
22 property.

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

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

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

18 71.47 (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. “Vehicle” means any vehicle or frame in which or on which an engine is
2 mounted for use in mobile or stationary applications. “Vehicle” includes any truck,
3 tractor, motorcycle, snowmobile, all-terrain vehicle, boat, personal watercraft,
4 generator, automobile, van, sports utility vehicle, motor home, bus, or aircraft.

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

6 71.47 (4) (ad) 2. For taxable years beginning after December 31, 2006, any
7 corporation may credit against taxes otherwise due under this chapter an amount
8 equal to 10 percent of the amount obtained by subtracting from the corporation’s
9 qualified research expenses, as defined in section 41 of the Internal Revenue Code,
10 except that “qualified research expenses” includes only expenses incurred by the
11 claimant for research related to designing internal combustion engines for vehicles,
12 including expenses related to designing vehicles that are powered by such engines
13 and improving production processes for such engines and vehicles, incurred for
14 research conducted in this state for the taxable year, except that a taxpayer may elect
15 the alternative computation under section 41 (c) (4) of the Internal Revenue Code
16 and that election applies until the department permits its revocation, except as
17 provided in par. (af), and except that “qualified research expenses” does not include
18 compensation used in computing the credit under subs. (1dj) and (1dx), the
19 corporation’s base amount, as defined in section 41 (c) of the Internal Revenue Code,
20 except that gross receipts used in calculating the base amount means gross receipts
21 from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2. and (d). Section
22 41 (h) of the Internal Revenue Code does not apply to the credit under this paragraph.

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

24 71.47 (4) (af) *Computation.* If in any taxable year a corporation claims a credit
25 under both par. (ad) 1. and 2., the corporation may use a different computation

1 method under par. (ad) 2. than it uses under par. (ad) 1. and may choose to change
2 the computation method once for each credit without the department's approval.

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

4 71.47 (4) (am) *Development zone additional research credit.* In addition to the
5 credit under par. (a) (ad), any corporation may credit against taxes otherwise due
6 under this chapter an amount equal to 5% 5 percent of the amount obtained by
7 subtracting from the corporation's qualified research expenses, as defined in section
8 41 of the ~~internal revenue code~~ Internal Revenue Code, except that "qualified
9 research expenses" include only expenses incurred by the claimant in a development
10 zone under subch. VI of ch. 560, except that a taxpayer may elect the alternative
11 computation under section 41 (c) (4) of the Internal Revenue Code and that election
12 applies until the department permits its revocation and except that "qualified
13 research expenses" do not include compensation used in computing the credit under
14 sub. (1dj) nor research expenses incurred before the claimant is certified for tax
15 benefits under s. 560.765 (3), the corporation's base amount, as defined in section 41
16 (c) of the ~~internal revenue code~~ Internal Revenue Code, in a development zone,
17 except that gross receipts used in calculating the base amount means gross receipts
18 from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2. and (d) and
19 research expenses used in calculating the base amount include research expenses
20 incurred before the claimant is certified for tax benefits under s. 560.765 (3), in a
21 development zone, if the claimant submits with the claimant's return a copy of the
22 claimant's certification for tax benefits under s. 560.765 (3) and a statement from the
23 department of commerce verifying the claimant's qualified research expenses for
24 research conducted exclusively in a development zone. The rules under s. 73.03 (35)
25 apply to the credit under this paragraph. The rules under sub. (1di) (f) and (g) as they

1 apply to the credit under that subsection apply to claims under this paragraph.
2 Section 41 (h) of the ~~internal revenue code~~ Internal Revenue Code does not apply to
3 the credit under this paragraph. No credit may be claimed under this paragraph for
4 taxable years that begin on January 1, 1998, or thereafter. Credits under this
5 paragraph for taxable years that begin before January 1, 1998, may be carried
6 forward to taxable years that begin on January 1, 1998, or thereafter.

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

9 71.47 (5) (ad) *Credit*. 1. ~~For~~ Except as provided in subd. 2., for taxable year 1986
10 and subsequent years, any corporation may credit against taxes otherwise due under
11 this chapter an amount equal to 5% 5 percent of the amount paid or incurred by that
12 corporation during the taxable year to construct and equip new facilities or expand
13 existing facilities used in this state for qualified research, as defined in section 41 of
14 the ~~internal revenue code~~ Internal Revenue Code. Eligible amounts include only
15 amounts paid or incurred for tangible, depreciable property but do not include
16 amounts paid or incurred for replacement property.

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

18 71.47 (5) (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.

