

**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.

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:

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)