



2001 BILL

in 1-24-02
by Fri. 1-25

D-N

RMR

individual income and

1 **AN ACT to amend** 71.01 (6) (o), 71.22 (4) (o), 71.22 (4m) (m), 71.26 (2) (b) 15., 71.34
2 (1g) (o) and 71.42 (2) (n) of the statutes; **relating to:** references to the Internal
3 Revenue Code for income and franchise tax purposes.

Analysis by the Legislative Reference Bureau

→ This bill adopts, for income tax and franchise tax purposes, the changes to the federal Internal Revenue Code made by the pension and individual retirement arrangement provisions of the federal Economic Growth and Tax Relief Reconciliation Act of 2001.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

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:

4 **SECTION 1.** 71.01 (6) (o) of the statutes is amended to read:
5 71.01 (6) (o) For taxable years that begin after December 31, 1999, for natural
6 persons and fiduciaries, except fiduciaries of nuclear decommissioning trust or

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excluding section 551 of P.L. 107-16

1 reserve funds, "Internal Revenue Code" means the federal Internal Revenue Code
 2 as amended to December 31, 1999, excluding sections 103, 104, and 110 of P.L.
 3 102-227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66
 4 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and as
 5 amended by sections 601, 602, 611 to 621, 631 to 637, 641 to 649, 651 to 659, 661 to
 6 666, 671, and 901 of P.L. 107-16 and as indirectly affected by P.L. 99-514, P.L.
 7 100-203, P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L.
 8 101-280, P.L. 101-508, P.L. 102-90, P.L. 102-227, excluding sections 103, 104, and
 9 110 of P.L. 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding sections
 10 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L.
 11 103-337, P.L. 103-465, P.L. 104-7, P.L. 104-117, P.L. 104-188, excluding sections
 12 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, P.L. 104-191, P.L.
 13 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L.
 14 106-36 and, P.L. 106-170, and sections 601, 602, 611 to 621, 631 to 637, 641 to 649,
 15 651 to 659, 661 to 666, 671, and 901 of P.L. 107-16. The Internal Revenue Code
 16 applies for Wisconsin purposes at the same time as for federal purposes.
 17 Amendments to the federal Internal Revenue Code enacted after December 31, 1999,
 18 do not apply to this paragraph with respect to taxable years beginning after
 19 December 31, 1999, except that changes to the Internal Revenue Code made by
 20 sections 601, 602, 611 to 621, 631 to 637, 641 to 649, 651 to 659, 661 to 666, 671, and
 21 901 of P.L. 107-16 and changes that indirectly affect the provisions applicable to this
 22 subchapter made by sections 601, 602, 611 to 621, 631 to 637, 641 to 649, 651 to 659,
 23 661 to 666, 671, and 901 of P.L. 107-16 apply for Wisconsin purposes at the same time
 24 as for federal purposes.

25 SECTION 2. 71.22 (4) (o) of the statutes is amended to read:

excluding section 551 of P.L. 107-16,

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1 71.22 (4) (o) Except as provided in sub. (4m) and ss. 71.26 (2) (b) and (3), 71.34
2 (1g) and 71.42 (2), "Internal Revenue Code", for taxable years that begin after
3 December 31, 1999, means the federal Internal Revenue Code as amended to
4 December 31, 1999, excluding sections 103, 104, and 110 of P.L. 102-227, sections
5 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66 and sections 1123
6 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and as amended by sections
7 601, 602, 611 to 621, 631 to 637, 641 to 649, 651 to 659, 661 to 666, 671, and 901 of
8 P.L. 107-16, and as indirectly affected in the provisions applicable to this subchapter
9 by P.L. 99-514, P.L. 100-203, P.L. 100-647 excluding sections 803 (d) (2) (B), 805 (d)
10 (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99-514 and section 1008 (g) (5) of P.L.
11 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L. 101-508, P.L.
12 102-227, excluding sections 103, 104, and 110 of P.L. 102-227, P.L. 102-318, P.L.
13 102-486, P.L. 103-66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and
14 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7, P.L.
15 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L.
16 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-178, P.L.
17 105-206, P.L. 105-277, P.L. 106-36 and, P.L. 106-170, and sections 601, 602, 611 to
18 621, 631 to 637, 641 to 649, 651 to 659, 661 to 666, 671, and 901 of P.L. 107-16. The
19 Internal Revenue Code applies for Wisconsin purposes at the same time as for federal
20 purposes. Amendments to the federal Internal Revenue Code enacted after
21 December 31, 1999, do not apply to this paragraph with respect to taxable years
22 beginning after December 31, 1999, except that changes to the Internal Revenue
23 Code made by sections 601, 602, 611 to 621, 631 to 637, 641 to 649, 651 to 659, 661
24 to 666, 671, and 901 of P.L. 107-16 and changes that indirectly affect the provisions
25 applicable to this subchapter made by sections 601, 602, 611 to 621, 631 to 637, 641

excluding section 551 of P.L. 107-16

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excluding section 551 of P.L. 107-16

1 to 649, 651 to 659, 661 to 666, 671, and 901 of P.L. 107-16 apply for Wisconsin
2 purposes at the same time as for federal purposes.

3 **SECTION 3.** 71.22 (4m) (m) of the statutes is amended to read:

4 71.22 (4m) (m) For taxable years that begin after December 31, 1999, "Internal
5 Revenue Code", for corporations that are subject to a tax on unrelated business
6 income under s. 71.26 (1) (a), means the federal Internal Revenue Code as amended
7 to December 31, 1999, excluding sections 103, 104, and 110 of P.L. 102-227, sections
8 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, and sections 1123

9 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and as amended by sections
10 601, 602, 611 to 621, 631 to 637, 641 to 649, 651 to 659, 661 to 666, 671, and 901 of

11 P.L. 107-16 and as indirectly affected in the provisions applicable to this subchapter
12 by P.L. 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179,
13 P.L. 101-239, P.L. 101-508, P.L. 102-227, excluding sections 103, 104, and 110 of P.L.
14 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding sections 13113, 13150
15 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L.
16 103-465, P.L. 104-7, P.L. 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f),
17 1311, and 1605 (d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L.
18 105-34, P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36 and, P.L. 106-170,

19 and sections 601, 602, 611 to 621, 631 to 637, 641 to 649, 651 to 659, 661 to 666, 671,

20 and 901 of P.L. 107-16 The Internal Revenue Code applies for Wisconsin purposes
21 at the same time as for federal purposes. Amendments to the Internal Revenue Code
22 enacted after December 31, 1999, do not apply to this paragraph with respect to
23 taxable years beginning after December 31, 1999, except that changes to the

24 Internal Revenue Code made by sections 601, 602, 611 to 621, 631 to 637, 641 to 649,

25 651 to 659, 661 to 666, 671, and 901 of P.L. 107-16 and changes that indirectly affect

excluding section 551 of P.L. 107-16

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excluding section 551 of P.L. 107-16,

1 the provisions applicable to this subchapter made by sections 601, 602, 611 to 621,

2 631 to 637, 641 to 649, 651 to 659, 661 to 666, 671, and 901 of P.L. 107-16 apply for

3 Wisconsin purposes at the same time as for federal purposes.

4 **SECTION 4.** 71.26 (2) (b) 15. of the statutes is amended to read:

5 71.26 (2) (b) 15. For taxable years that begin after December 31, 1999, for a
6 corporation, conduit or common law trust which qualifies as a regulated investment
7 company, real estate mortgage investment conduit, real estate investment trust or
8 financial asset securitization investment trust under the Internal Revenue Code as
9 amended to December 31, 1999, excluding sections 103, 104, and 110 of P.L. 102-227,
10 sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66 and sections
11 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and as amended by

12 sections 601, 602, 611 to 621, 631 to 637, 641 to 649, 651 to 659, 661 to 666, 671, and

13 901 of P.L. 107-16 and as indirectly affected in the provisions applicable to this

14 subchapter by P.L. 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73, P.L. 101-140,
15 P.L. 101-179, P.L. 101-239, P.L. 101-508, P.L. 102-227, excluding sections 103, 104,
16 and 110 of P.L. 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding sections
17 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L.
18 103-337, P.L. 103-465, P.L. 104-7, P.L. 104-188, excluding sections 1123 (b), 1202
19 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L.
20 105-33, P.L. 105-34, P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36 and, P.L.
21 106-170, and sections 601, 602, 611 to 621, 631 to 637, 641 to 649, 651 to 659, 661

22 to 666, 671, and 901 of P.L. 107-16 "net income" means the federal regulated
23 investment company taxable income, federal real estate mortgage investment
24 conduit taxable income, federal real estate investment trust or financial asset
25 securitization investment trust taxable income of the corporation, conduit or trust

excluding section 551 of P.L. 107-16

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excluding section 551 of P.L. 107-16

SECTION 4

1 as determined under the Internal Revenue Code as amended to December 31, 1999,
2 excluding sections 103, 104, and 110 of P.L. 102-227, sections 13113, 13150 (d), 13171
3 (d), 13174, and 13203 (d) of P.L. 103-66 and sections 1123 (b), 1202 (c), 1204 (f), 1311,
4 and 1605 (d) of P.L. 104-188, and as amended by sections 601, 602, 611 to 621, 631
5 to 637, 641 to 649, 651 to 659, 661 to 666, 671, and 901 of P.L. 107-16 and as
6 indirectly affected in the provisions applicable to this subchapter by P.L. 99-514, P.L.
7 100-203, P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L.
8 101-508, P.L. 102-227, excluding sections 103, 104, and 110 of P.L. 102-227, P.L.
9 102-318, P.L. 102-486, P.L. 103-66, excluding sections 13113, 13150 (d), 13171 (d),
10 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L.
11 104-7, P.L. 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605
12 (d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L.
13 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36 and, P.L. 106-170, and sections
14 601, 602, 611 to 621, 631 to 637, 641 to 649, 651 to 659, 661 to 666, 671, and 901 of
15 P.L. 107-16 except that property that, under s. 71.02 (1) (c) 8. to 11., 1985 stats., is
16 required to be depreciated for taxable years 1983 to 1986 under the Internal Revenue
17 Code as amended to December 31, 1980, shall continue to be depreciated under the
18 Internal Revenue Code as amended to December 31, 1980, and except that the
19 appropriate amount shall be added or subtracted to reflect differences between the
20 depreciation or adjusted basis for federal income tax purposes and the depreciation
21 or adjusted basis under this chapter of any property disposed of during the taxable
22 year. The Internal Revenue Code as amended to December 31, 1999, excluding
23 sections 103, 104, and 110 of P.L. 102-227, sections 13113, 13150 (d), 13171 (d),
24 13174, and 13203 (d) of P.L. 103-66, and sections 1123 (b), 1202 (c), 1204 (f), 1311,
25 and 1605 (d) of P.L. 104-188, and as amended by sections 601, 602, 611 to 621, 631

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(7)
excluding section 551 of P.L. 107-16

1 to 637, 641 to 649, 651 to 659, 661 to 666, 671, and 901 of P.L. 107-16 and as
 2 indirectly affected in the provisions applicable to this subchapter by P.L. 99-514, P.L.
 3 100-203, P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L.
 4 101-508, P.L. 102-227, excluding sections 103, 104, and 110 of P.L. 102-227, P.L.
 5 102-318, P.L. 102-486, P.L. 103-66, excluding sections 13113, 13150 (d), 13171 (d),
 6 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L.
 7 104-7, P.L. 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605
 8 (d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L.
 9 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36 and, P.L. 106-170, and sections
 10 601, 602, 611 to 621, 631 to 637, 641 to 649, 651 to 659, 661 to 666, 671, and 901 of
 11 P.L. 107-16 applies for Wisconsin purposes at the same time as for federal purposes.
 12 Amendments to the Internal Revenue Code enacted after December 31, 1999, do not
 13 apply to this subdivision with respect to taxable years that begin after
 14 December 31, 1999, except that changes to the Internal Revenue Code made by
 15 sections 601, 602, 611 to 621, 631 to 637, 641 to 649, 651 to 659, 661 to 666, 671, and
 16 901 of P.L. 107-16 and changes that indirectly affect the provisions applicable to this
 17 subchapter made by sections 601, 602, 611 to 621, 631 to 637, 641 to 649, 651 to 659,
 18 661 to 666, 671, and 901 of P.L. 107-16 apply for Wisconsin purposes at the same time
 19 as for federal purposes.

20 **SECTION 5.** 71.34 (1g) (o) of the statutes is amended to read:

21 71.34 (1g) (o) "Internal Revenue Code" for tax-option corporations, for taxable
 22 years that begin after December 31, 1999, means the federal Internal Revenue Code
 23 as amended to December 31, 1999, excluding sections 103, 104, and 110 of P.L.
 24 102-227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66
 25 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and as

excluding section 551 of P.L. 107-16

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excluding section 551 of P.L. 107-16

1 amended by sections 601, 602, 611 to 621, 631 to 637, 641 to 649, 651 to 659, 661 to
2 666, 671, and 901 of P.L. 107-16, and as indirectly affected in the provisions
3 applicable to this subchapter by P.L. 99-514, P.L. 100-203, P.L. 100-647, excluding
4 sections 803 (d) (2) (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99-514
5 and section 1008 (g) (5) of P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L.
6 101-239, P.L. 101-508, P.L. 102-227, excluding sections 103, 104, and 110 of P.L.
7 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding sections 13113, 13150
8 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L.
9 103-465, P.L. 104-7, P.L. 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f),
10 1311, and 1605 (d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L.
11 105-34, P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36 and, P.L. 106-170,
12 and sections 601, 602, 611 to 621, 631 to 637, 641 to 649, 651 to 659, 661 to 666, 671,
13 and 901 of P.L. 107-16, except that section 1366 (f) (relating to pass-through of items
14 to shareholders) is modified by substituting the tax under s. 71.35 for the taxes under
15 sections 1374 and 1375. The Internal Revenue Code applies for Wisconsin purposes
16 at the same time as for federal purposes. Amendments to the federal Internal
17 Revenue Code enacted after December 31, 1999, do not apply to this paragraph with
18 respect to taxable years beginning after December 31, 1999, except that changes to
19 the Internal Revenue Code made by sections 601, 602, 611 to 621, 631 to 637, 641 to
20 649, 651 to 659, 661 to 666, 671, and 901 of P.L. 107-16 and changes that indirectly
21 affect the provisions applicable to this subchapter made by sections 601, 602, 611 to
22 621, 631 to 637, 641 to 649, 651 to 659, 661 to 666, 671, and 901 of P.L. 107-16 apply
23 for Wisconsin purposes at the same time as for federal purposes.

SECTION 6. 71.42 (2) (n) of the statutes is amended to read:

excluding section 551 of P.L. 107-16,

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excluding section 551 of P.L. 107-16

1 71.42 (2) (n) For taxable years that begin after December 31, 1999, "Internal
2 Revenue Code" means the federal Internal Revenue Code as amended to
3 December 31, 1999, excluding sections 103, 104, and 110 of P.L. 102-227, sections
4 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66 and sections 1123
5 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and as amended by sections
6 601, 602, 611 to 621, 631 to 637, 641 to 649, 651 to 659, 661 to 666, 671, and 901 of
7 P.L. 107-16, and as indirectly affected by P.L. 99-514, P.L. 100-203, P.L. 100-647,
8 P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L. 101-508, P.L. 102-227,
9 excluding sections 103, 104, and 110 of P.L. 102-227, P.L. 102-318, P.L. 102-486, P.L.
10 103-66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L.
11 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7, P.L. 104-188,
12 excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, P.L.
13 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-178, P.L. 105-206, P.L.
14 105-277, P.L. 106-36 and, P.L. 106-170, and sections 601, 602, 611 to 621, 631 to 637,
15 641 to 649, 651 to 659, 661 to 666, 671, and 901 of P.L. 107-16, except that "Internal
16 Revenue Code" does not include section 847 of the federal Internal Revenue Code.
17 The Internal Revenue Code applies for Wisconsin purposes at the same time as for
18 federal purposes. Amendments to the federal Internal Revenue Code enacted after
19 December 31, 1999, do not apply to this paragraph with respect to taxable years
20 beginning after December 31, 1999, except that changes to the Internal Revenue
21 Code made by sections 601, 602, 611 to 621, 631 to 637, 641 to 649, 651 to 659, 661
22 to 666, 671, and 901 of P.L. 107-16 and changes that indirectly affect the provisions
23 applicable to this subchapter made by sections 601, 602, 611 to 621, 631 to 637, 641

excluding section 551 of P.L. 107-16,

BILL

① to 649, 651 to 659, 661 to 666, 671, and 901 of P.L. 107-16 apply for Wisconsin
2 purposes at the same time as for federal purposes.

3

(END)

, excluding section 551 of P.L. 107-16,

4707/3dn

JK: kmq

D-N

Representative Gard:

Please review this draft carefully to ensure that it is consistent with your intent. This draft excludes the corporate tax provision of the federal Economic Growth and Tax Relief Reconciliation Act of 2001 related to conservation easements. This draft is identical to Senator Burke's companion bill, LRB-4599/3.

JK

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

LRB-4707/3dn
JK:kmg:jf

January 24, 2002

Representative Gard:

Please review this draft carefully to ensure that it is consistent with your intent. This draft excludes the corporate tax provision of the federal Economic Growth and Tax Relief Reconciliation Act of 2001 related to conservation easements. This draft is identical to Senator Burke's companion bill, LRB-4599/3.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
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State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

January 24, 2002

MEMORANDUM

To: Representative Gard

From: Joseph T. Kreye, Legislative Attorney

Re: LRB-4707/3 Internal Revenue Code to include only the changes made by EGTRRA

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-2263 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.

Emery, Lynn

From: Emery, Lynn
Sent: Friday, January 25, 2002 3:18 PM
To: Harmelink, Diane
Subject: LRB-4707/3 (attached as requested)

Lynn Emery

Lynn Emery - Program Asst. (PH. 608-266-3561)
(E-Mail: lynn.emery@legis.state.wi.us) (FAX: 608-264-6948)

Legislative Reference Bureau - Legal Section - Front Office
100 N. Hamilton Street - 5th Floor
Madison, WI 53703

1/25/2002



RMR

2001 BILL

1-28
TODAY

D-N

Gen. Conf.

excluding the section related to a deduction for higher education expenses which is similar to a deduction allowed under current state law

1 AN ACT to amend 71.01 (6) (o), 71.22 (4) (o), 71.22 (4m) (m), 71.26 (2) (b) 15., 71.34
2 (1g) (o) and 71.42 (2) (n) of the statutes; relating to: references to the Internal
3 Revenue Code for income and franchise tax purposes.

Analysis by the Legislative Reference Bureau

This bill adopts, for income tax and franchise tax purposes, the changes to the federal Internal Revenue Code made by the individual income and pension and individual retirement arrangement provisions of the federal Economic Growth and Tax Relief Reconciliation Act of 2001.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

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:

4 SECTION 1. 71.01 (6) (o) of the statutes is amended to read:
5 71.01 (6) (o) For taxable years that begin after December 31, 1999, for natural
6 persons and fiduciaries, except fiduciaries of nuclear decommissioning trust or

BILL

1 reserve funds, "Internal Revenue Code" means the federal Internal Revenue Code
 2 as amended to December 31, 1999, excluding sections 103, 104, and 110 of P.L.
 3 102-227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66
 4 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and as
 5 amended by P.L. 107-16, excluding sections ^{431 and} 551 of P.L. 107-16, and as indirectly
 6 affected by P.L. 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L.
 7 101-179, P.L. 101-239, P.L. 101-280, P.L. 101-508, P.L. 102-90, P.L. 102-227,
 8 excluding sections 103, 104, and 110 of P.L. 102-227, P.L. 102-318, P.L. 102-486, P.L.
 9 103-66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L.
 10 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7, P.L. 104-117, P.L.
 11 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L.
 12 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-178, P.L.
 13 105-206, P.L. 105-277, P.L. 106-36 and, P.L. 106-170, and P.L. 107-16, excluding
 14 sections ^{431 and} 551 of P.L. 107-16. The Internal Revenue Code applies for Wisconsin
 15 purposes at the same time as for federal purposes. Amendments to the federal
 16 Internal Revenue Code enacted after December 31, 1999, do not apply to this
 17 paragraph with respect to taxable years beginning after December 31, 1999, except
 18 that changes to the Internal Revenue Code made by P.L. 107-16, excluding section ^{431 and}
 19 551 of P.L. 107-16, and changes that indirectly affect the provisions applicable to this
 20 subchapter made by P.L. 107-16, excluding section [§] 551 of P.L. 107-16, apply for
 21 Wisconsin purposes at the same time as for federal purposes. 431 and

22 **SECTION 2.** 71.22 (4) (o) of the statutes is amended to read:

23 71.22 (4) (o) Except as provided in sub. (4m) and ss. 71.26 (2) (b) and (3), 71.34
 24 (1g) and 71.42 (2), "Internal Revenue Code", for taxable years that begin after
 25 December 31, 1999, means the federal Internal Revenue Code as amended to

BILL

1 December 31, 1999, excluding sections 103, 104, and 110 of P.L. 102-227, sections
 2 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66 and sections 1123
 3 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and as amended by P.L.
 4 107-16, excluding section ^S551 ^{431 and} of P.L. 107-16, and as indirectly affected in the
 5 provisions applicable to this subchapter by P.L. 99-514, P.L. 100-203, P.L. 100-647
 6 excluding sections 803 (d) (2) (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2)
 7 of P.L. 99-514 and section 1008 (g) (5) of P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L.
 8 101-179, P.L. 101-239, P.L. 101-508, P.L. 102-227, excluding sections 103, 104, and
 9 110 of P.L. 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding sections
 10 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L.
 11 103-337, P.L. 103-465, P.L. 104-7, P.L. 104-188, excluding sections 1123 (b), 1202
 12 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L.
 13 105-33, P.L. 105-34, P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36 and, P.L.
 14 106-170, and P.L. 107-16, excluding section ^S551 ^{431 and} of P.L. 107-16. The Internal
 15 Revenue Code applies for Wisconsin purposes at the same time as for federal
 16 purposes. Amendments to the federal Internal Revenue Code enacted after
 17 December 31, 1999, do not apply to this paragraph with respect to taxable years
 18 beginning after December 31, 1999, except that changes to the Internal Revenue
 19 Code made by P.L. 107-16, excluding section ^S551 ^{431 and} of P.L. 107-16, and changes that
 20 indirectly affect the provisions applicable to this subchapter made by P.L. 107-16,
 21 excluding section ^S551 ^{431 and} of P.L. 107-16, apply for Wisconsin purposes at the same time
 22 as for federal purposes.

23 **SECTION 3.** 71.22 (4m) (m) of the statutes is amended to read:

24 71.22 (4m) (m) For taxable years that begin after December 31, 1999, "Internal
 25 Revenue Code", for corporations that are subject to a tax on unrelated business

BILL

1 income under s. 71.26 (1) (a), means the federal Internal Revenue Code as amended
 2 to December 31, 1999, excluding sections 103, 104, and 110 of P.L. 102-227, sections
 3 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, and sections 1123
 4 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and as amended by P.L.
 5 107-16, excluding section 551 of P.L. 107-16, and as indirectly affected in the
 6 provisions applicable to this subchapter by P.L. 99-514, P.L. 100-203, P.L. 100-647,
 7 P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L. 101-508, P.L. 102-227,
 8 excluding sections 103, 104, and 110 of P.L. 102-227, P.L. 102-318, P.L. 102-486, P.L.
 9 103-66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L.
 10 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7, P.L. 104-188,
 11 excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, P.L.
 12 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-178, P.L. 105-206, P.L.
 13 105-277, P.L. 106-36 and, P.L. 106-170, and P.L. 107-16, excluding section 551 of
 14 P.L. 107-16. The Internal Revenue Code applies for Wisconsin purposes at the same
 15 time as for federal purposes. Amendments to the Internal Revenue Code enacted
 16 after December 31, 1999, do not apply to this paragraph with respect to taxable years
 17 beginning after December 31, 1999, except that changes to the Internal Revenue
 18 Code made by P.L. 107-16, excluding section 551 of P.L. 107-16, and changes that
 19 indirectly affect the provisions applicable to this subchapter made by P.L. 107-16,
 20 excluding section 551 of P.L. 107-16, apply for Wisconsin purposes at the same time
 21 as for federal purposes.

22 SECTION 4. 71.26 (2) (b) 15. of the statutes is amended to read:

23 71.26 (2) (b) 15. For taxable years that begin after December 31, 1999, for a
 24 corporation, conduit or common law trust which qualifies as a regulated investment
 25 company, real estate mortgage investment conduit, real estate investment trust or

BILL

1 financial asset securitization investment trust under the Internal Revenue Code as
 2 amended to December 31, 1999, excluding sections 103, 104, and 110 of P.L. 102-227,
 3 sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66 and sections
 4 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and as amended by P.L.
 5 107-16, excluding section 551 of P.L. 107-16, and as indirectly affected in the
 6 provisions applicable to this subchapter by P.L. 99-514, P.L. 100-203, P.L. 100-647,
 7 P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L. 101-508, P.L. 102-227,
 8 excluding sections 103, 104, and 110 of P.L. 102-227, P.L. 102-318, P.L. 102-486, P.L.
 9 103-66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L.
 10 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7, P.L. 104-188,
 11 excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, P.L.
 12 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-178, P.L. 105-206, P.L.
 13 105-277, P.L. 106-36 and P.L. 106-170, and P.L. 107-16, excluding section 551 of
 14 P.L. 107-16, "net income" means the federal regulated investment company taxable
 15 income, federal real estate mortgage investment conduit taxable income, federal real
 16 estate investment trust or financial asset securitization investment trust taxable
 17 income of the corporation, conduit or trust as determined under the Internal
 18 Revenue Code as amended to December 31, 1999, excluding sections 103, 104, and
 19 110 of P.L. 102-227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L.
 20 103-66 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188,
 21 and as amended by P.L. 107-16, excluding section 551 of P.L. 107-16, and as
 22 indirectly affected in the provisions applicable to this subchapter by P.L. 99-514, P.L.
 23 100-203, P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L.
 24 101-508, P.L. 102-227, excluding sections 103, 104, and 110 of P.L. 102-227, P.L.
 25 102-318, P.L. 102-486, P.L. 103-66, excluding sections 13113, 13150 (d), 13171 (d),

BILL

1 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L.
2 104-7, P.L. 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605
3 (d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L.
4 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36 and, P.L. 106-170, and P.L.
5 107-16, excluding section 551 of P.L. 107-16, except that property that, under s.
6 71.02 (1) (c) 8. to 11., 1985 stats., is required to be depreciated for taxable years 1983
7 to 1986 under the Internal Revenue Code as amended to December 31, 1980, shall
8 continue to be depreciated under the Internal Revenue Code as amended to
9 December 31, 1980, and except that the appropriate amount shall be added or
10 subtracted to reflect differences between the depreciation or adjusted basis for
11 federal income tax purposes and the depreciation or adjusted basis under this
12 chapter of any property disposed of during the taxable year. The Internal Revenue
13 Code as amended to December 31, 1999, excluding sections 103, 104, and 110 of P.L.
14 102-227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66,
15 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and as
16 amended by P.L. 107-16, excluding section 551 of P.L. 107-16, and as indirectly
17 affected in the provisions applicable to this subchapter by P.L. 99-514, P.L. 100-203,
18 P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L. 101-508,
19 P.L. 102-227, excluding sections 103, 104, and 110 of P.L. 102-227, P.L. 102-318, P.L.
20 102-486, P.L. 103-66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and
21 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7, P.L.
22 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L.
23 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-178, P.L.
24 105-206, P.L. 105-277, P.L. 106-36 and, P.L. 106-170, and P.L. 107-16, excluding
25 section 551 of P.L. 107-16, applies for Wisconsin purposes at the same time as for

BILL

1 federal purposes. Amendments to the Internal Revenue Code enacted after
 2 December 31, 1999, do not apply to this subdivision with respect to taxable years that
 3 begin after December 31, 1999, except that changes to the Internal Revenue Code
 4 made by P.L. 107-16, excluding section ^S551 of P.L. 107-16, and changes that
 5 indirectly affect the provisions applicable to this subchapter made by P.L. 107-16,
 6 excluding section ^S551 of P.L. 107-16, apply for Wisconsin purposes at the same time
 7 as for federal purposes. 431 and

8 **SECTION 5.** 71.34 (1g) (o) of the statutes is amended to read:

9 71.34 (1g) (o) "Internal Revenue Code" for tax-option corporations, for taxable
 10 years that begin after December 31, 1999, means the federal Internal Revenue Code
 11 as amended to December 31, 1999, excluding sections 103, 104, and 110 of P.L.
 12 102-227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66
 13 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and as
 14 amended by P.L. 107-16, excluding section ^S551 of P.L. 107-16, and as indirectly
 15 affected in the provisions applicable to this subchapter by P.L. 99-514, P.L. 100-203,
 16 P.L. 100-647, excluding sections 803 (d) (2) (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and
 17 823 (c) (2) of P.L. 99-514 and section 1008 (g) (5) of P.L. 100-647, P.L. 101-73, P.L.
 18 101-140, P.L. 101-179, P.L. 101-239, P.L. 101-508, P.L. 102-227, excluding sections
 19 103, 104, and 110 of P.L. 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding
 20 sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, P.L.
 21 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7, P.L. 104-188, excluding sections
 22 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, P.L. 104-191, P.L.
 23 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L.
 24 106-36 and, P.L. 106-170, and P.L. 107-16, excluding section ^S551 of P.L. 107-16,
 25 except that section 1366 (f) (relating to pass-through of items to shareholders) is

431 and

BILL

1 modified by substituting the tax under s. 71.35 for the taxes under sections 1374 and
 2 1375. The Internal Revenue Code applies for Wisconsin purposes at the same time
 3 as for federal purposes. Amendments to the federal Internal Revenue Code enacted
 4 after December 31, 1999, do not apply to this paragraph with respect to taxable years
 5 beginning after December 31, 1999, except that changes to the Internal Revenue
 6 Code made by P.L. 107-16, excluding section 551 of P.L. 107-16, and changes that
 7 indirectly affect the provisions applicable to this subchapter made by P.L. 107-16,
 8 excluding section 551 of P.L. 107-16, apply for Wisconsin purposes at the same time
 9 as for federal purposes.

10 **SECTION 6.** 71.42 (2) (n) of the statutes is amended to read:

11 71.42 (2) (n) For taxable years that begin after December 31, 1999, "Internal
 12 Revenue Code" means the federal Internal Revenue Code as amended to
 13 December 31, 1999, excluding sections 103, 104, and 110 of P.L. 102-227, sections
 14 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66 and sections 1123
 15 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104-188, and as amended by P.L.
 16 107-16, excluding section 551 of P.L. 107-16, and as indirectly affected by P.L.
 17 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L.
 18 101-239, P.L. 101-508, P.L. 102-227, excluding sections 103, 104, and 110 of P.L.
 19 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding sections 13113, 13150
 20 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L.
 21 103-465, P.L. 104-7, P.L. 104-188, excluding sections 1123 (b), 1202 (c), 1204 (f),
 22 1311, and 1605 (d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L.
 23 105-34, P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36 and, P.L. 106-170,
 24 and P.L. 107-16, excluding section 551 of P.L. 107-16, except that "Internal Revenue
 25 Code" does not include section 847 of the federal Internal Revenue Code. The

BILL

1 Internal Revenue Code applies for Wisconsin purposes at the same time as for federal
 2 purposes. Amendments to the federal Internal Revenue Code enacted after
 3 December 31, 1999, do not apply to this paragraph with respect to taxable years
 4 beginning after December 31, 1999, except that changes to the Internal Revenue
 5 Code made by P.L. 107-16, excluding section ^{SY}551 of P.L. 107-16, and changes that
 6 indirectly affect the provisions applicable to this subchapter made by P.L. 107-16,
 7 excluding section ^{SK}551 of P.L. 107-16, apply for Wisconsin purposes at the same time
 8 as for federal purposes. 431 and

(END)

4707/4dv
JK:kmj:

D-N

Representative Gard:

This draft excludes the section of Public Law
107-16 related to deductions for higher education
expenses.

JK

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

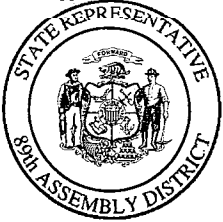
LRB-4707/4dn
JK.kmg:jf

January 28, 2002

Representative Gard:

This draft excludes the section of Public Law 107-16 related to deductions for higher education expenses.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us



John Gard

Assembly Chairman, Joint Committee on Finance

JK
2

TO: Joe Kreye
FROM: Diane Harmelink/Rep. Gard's Office
DATE: January 28, 2002

We need one change in 4707/3.....we do not need to adopt the deduction for higher education expenses enacted in EGTRRA because Wisconsin already has that. Feel free to call Tom Ourada at DOR to verify the exclusion needed. He indicated it is Section 431 of Public Law 10716.

Jacket for 4704/3 is attached.

Got your e-mail - thanks!

INTERNAL REVENUE CODE UPDATE – LAWS ENACTED THROUGH DECEMBER 31, 2001

Wisconsin's individual income and corporate income and franchise tax bases closely conform to the bases for the federal individual and corporate income taxes through references in Chapter 71 of the Wisconsin Statutes to the federal Internal Revenue Code. To maintain conformity, these references must be updated each year.

During 2001, one federal law was enacted affecting income tax law: the Economic Growth and Tax Relief Reconciliation Act of 2001. In addition, three federal laws were enacted during 2000, but have not been adopted for Wisconsin tax purposes. These are the Federal Sales Corporation Repeal and Extraterritorial Income Exclusion Act (FSCRA), the Community Renewal Tax Relief Act (CRTRA), which was incorporated into the Consolidated Appropriations Act, and the Installment Tax Correction Act (ITCA).

The federal laws enacted in 2000 were included in enrolled Senate Bill 55, the state budget bill, but vetoed by the governor because the bill inadvertently adopted three provisions that the legislature had intended to exclude because of their fiscal impact. These were deductions for environmental remediation expenses and corporate donations of computers, and the treatment of foreign sales corporations. Subsequent legislation, Senate Bill 246 and Assembly Bill 506, to adopt the FSCRA, CRTRA and ITCA was introduced in both houses of the legislature, but not enacted.

This paper describes the changes in these four federal laws that have substantive impacts on state tax policy. Adoption of all provisions of these federal laws for state tax purposes, with one exception, is recommended. That recommendation includes adoption of the three provisions that the legislature intended not to adopt in enrolled SB 55. The exception, the provision not being recommended for adoption, is the deduction for higher education expenses, enacted in EGTRRA. Wisconsin already provides a deduction targeted to tuition at the state's institutions of higher education.

The fiscal effect of the changes recommended for adoption, summarized by item in the following table, is estimated to be -\$8.55 million in FY02 and -\$24.45 million in FY03.

MEMORANDUM

December 3, 2001

TO: Joe Kreye
Legislative Reference Bureau

FROM: Brian Pahnke
Department of Revenue

SUBJECT: Technical Memorandum on Senate Bill 407, Relating to the Internal Revenue Code Update

- Not Dist.
- Is Being Re-Done By
DOR (Wrong bill #)



The bill provides an exception for Section 551 of Public Law 107-16, the Economic Growth and Tax Relief Reconciliation Act. In its initial analysis of this legislation, the Department of Revenue incorrectly identified this provision as a corporate income tax exclusion.

However, it is an estate tax exclusion, and the Wisconsin estate tax is governed by Chapter 72, and not by Chapter 71, Wis. Stats. This includes provisions of 2001 Wisconsin Act 16 that tie the Wisconsin estate tax to the Internal Revenue Code (IRC) in effect as of December 31, 2000, for deaths after September 30, 2002, and before January 1, 2008. For other deaths, Wisconsin law is based on the IRC in effect at the time of death.

The sponsor may wish to eliminate the exception provided in the bill in order to prevent confusion about the treatment of natural resource easements under the Wisconsin estate tax.

If you have questions regarding this technical memorandum, please contact Dennis Collier at 266-5773.

BP:DC



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
REFERENCE SECTION: (608) 266-0341
FAX: (608) 266-5648

STEPHEN R. MILLER
CHIEF

February 5, 2002

MEMORANDUM

To: Representative Krawczyk

From: Joseph T. Kreye, Legislative Attorney, (608) 266-2263

Subject: Technical Memorandum to **2001 AB-768** (LRB-4707/4)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

February 4, 2002

TO: Joe Kreye
Legislative Reference Bureau

FROM: Brian Pahnke
Department of Revenue

SUBJECT: Technical Memorandum on Assembly Bill 768, Relating to the Internal Revenue Code Update

The bill provides an exception for Section 551 of Public Law 107-16, the Economic Growth and Tax Relief Reconciliation Act. In its initial analysis of this legislation, the Department of Revenue incorrectly identified this provision as a corporate income tax exclusion.

However, it is an estate tax exclusion, and the Wisconsin estate tax is governed by Chapter 72, and not by Chapter 71, Wis. Stats. This includes provisions of 2001 Wisconsin Act 16 that tie the Wisconsin estate tax to the Internal Revenue Code (IRC) in effect as of December 31, 2000, for deaths after September 30, 2002, and before January 1, 2008. For other deaths, Wisconsin law is based on the IRC in effect at the time of death.

The sponsor may wish to eliminate the exception provided in the bill in order to prevent confusion about the treatment of natural resource easements under the Wisconsin estate tax.

If you have questions regarding this technical memorandum, please contact Dennis Collier at 266-5773.

BP:DC