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STEPHEN R. MILLER
CHIEF

March 28, 2007

MEMORANDUM

To: Senator Kanavas

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

Subject: Technical Memorandum to **2007 SB 74** (LRB-0080/1) **by DOR**

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

March 2, 2007

TO: Joseph Kreye
Legislative Reference Bureau

FROM: Rebecca Boldt
Department of Revenue

SUBJECT: Technical Memorandum on SB 74 – Innovation Projects and Facilities Credit

Section 71.07(5j)(b) of the bill allows the credit to be offset against the taxes imposed under s. 71.02. However, the order of computation (sec. 71.10(4)(gwd)) places the credit after the alternative minimum tax. If it is the intent that the credit offset alternative minimum tax, sec. 71.08(1)(intro.) should be amended to include sec. 71.07(5j) in the list of credits not considered when determining alternative minimum tax. Section 71.07(5j)(b) should also include a reference to the taxes imposed under sec. 71.08.

Sections 71.07(5j)(b)2, 71.28(5j)(b)2, and 71.47(5j)(b)2 of the bill do not specify the percent of costs eligible for the credit as is done for subd. (b)1 and 3. The analysis states that 75% of the costs are eligible, but in the bill language it appears to be 100%. Unless it is the author's intent that 100% of the costs are eligible for the credit, the language should be amended to specify that 75% of the costs qualify.

Section 560.207(2)(c) of the bill requires the Department of Commerce to report to the legislature the name of the business, the amount of tax credits claimed, and the amount of innovation costs each year. This requirement violates the confidentiality provisions of sec. 71.78, Stats., because the amount of tax credits claimed is confidential tax return information. As an alternative, the bill could require that, in order to qualify for the tax credit, the business must provide to the Department of Commerce the amount of tax credits that it claimed.

This bill allows a tax credit for certain expenses that may also qualify for the research credits. As a result, taxpayers could have more than 100% of their costs paid by Wisconsin taxpayers. It is suggested that language be added to secs. 71.28(4) and (5) and 71.47(4) and (5) to provide that if the taxpayer receives the innovation projects and facilities credit, the taxpayer is not eligible for the research credits.

The bill language also provides that the credit is available for taxable years beginning after December 31, 2006. This would be a problem only if this bill were enacted late in the year after

2007 forms had been finalized for printing. If the bill is enacted after July 31, 2007, the credit should first apply to taxable years beginning on January 1, 2008.

If you have any questions regarding this technical memorandum, please contact Michael Oakleaf at 261-5173, or via email at Michael.oakleaf@dor.state.wi.us.

cc: Sen. Kanavas