

**2007 DRAFTING REQUEST**

**Bill**

Received: **01/25/2008**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Pat Kreitlow (608) 266-7511**

By/Representing: **matt**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Business - credits**  
**Tax, Other - sales**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Kreitlow@legis.wisconsin.gov**

Carbon copy (CC:) to: **joseph.kreye@legis.wisconsin.gov**

**Pre Topic:**

No specific pre topic given

**Topic:**

Innovate Wisconsin initiatives

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 01/28/2008	jdyer 01/28/2008		_____			State Tax
/P1	jkreye 02/05/2008	jdyer 02/05/2008	jfrantze 01/29/2008	_____	sbasford 01/29/2008		State Tax
/P2			nmatzke 02/05/2008	_____	cduerst 02/05/2008		State Tax
/1	jkreye	jdyer	nmatzke	_____	cduerst	cduerst	

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	02/12/2008	02/12/2008	02/12/2008 _____		02/12/2008	02/12/2008	

FE Sent For: "/1" @ intro. 2-15-08  
<END>

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*Please jacket  
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jw*

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			<i>nwn 2/12</i>	<i>nwn 2/12</i>			

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			<i>nwn 2/5</i>	<i>nwn/P 2/5</i>			

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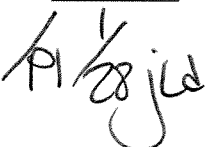
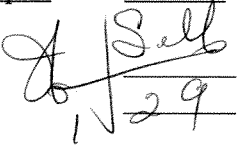
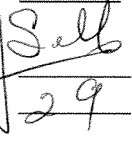
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/?	jkreye						

FE Sent For:

<END>



## Kreye, Joseph

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**From:** Pagel, Matt  
**Sent:** Thursday, January 24, 2008 3:35 PM  
**To:** Kreye, Joseph  
**Subject:** Here is the drafting info that we were provided

**Attachments:** Innovate WI FINAL\_7Jan08.doc



Innovate WI  
INAL\_7Jan08.doc (.

Let me know if we need to bring the Gov's people in on this because Pat is a little confused over the property tax exemption portion.

**Matthew Pagel**  
**Office of Senator Pat Kreitlow**  
**Wisconsin State Senate - 23rd District**  
*Room 10 South - State Capitol*  
*PO Box 7882*  
*Madison, WI 53703-7882*  
*Phone: 608-266-7511 or 888-437-9436*  
*Matt.Pagel@legis.wisconsin.gov*

Jan Kretlow

## INNOVATE WISCONSIN INITIATIVES

### Summary

Governor Doyle is undertaking a series of initiatives to increase research and development (R&D) in Wisconsin, by offering incentives to companies that significantly increase R & D activities.

### Context

In 2005, Wisconsin's industrial firms spent \$2.7 billion on research and development.<sup>1</sup> This was 1.23% of Wisconsin's gross domestic product. While Wisconsin ranked 19<sup>th</sup> nationally by this metric, it is below the national average of 1.65%. It is also below that of other Midwestern states and specifically less than half of Minnesota's effort.

### Description of the Initiatives

Governor Doyle's Innovate Wisconsin Initiatives will include an Innovation R&D tax credit that will be available to businesses that significantly increase their R&D, and will create a both a sales and property tax exemption for machines, equipment, and consumables used exclusively for R&D activity, which would be identical to what exists for machines and equipment used in manufacturing.

#### Innovation R&D Tax Credit

The Innovation R&D tax credit will provide businesses that increase R&D by more than 125% of their 3-year R& D average with a tax credit worth \$1 for each \$1 of investment above 125%. For example, if a Wisconsin business spends an average of \$3 million on R&D over a three year period, and then in the following year increases its expenditures to \$5 million, it would receive a credit worth \$1,250,000, equal to the value of the research above \$3.75 million.

Based on samples drawn from tax years 2001 and 2003, the fiscal effect is estimated to be between \$5 million and \$10 million per year.

#### Sales and Property Tax Exemption for Machines and Equipment

The sales and property tax exemption will apply to machines and equipment used in manufacturing or biotechnology R&D activities. Currently, there is a sales tax exemption for machines and equipment used in the manufacturing process. The incentive will extend that same tax treatment to R&D activities. These exemptions will benefit all Wisconsin companies and their research and product development endeavors.

Both changes result in a minimal fiscal effect to the state and local governments.

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<sup>1</sup> National Science Foundation, Division of Science Resource Statistics, Survey of Industrial Research and Development: 2005. Bureau of Economic Analysis.

**Kreye, Joseph**

---

**From:** Carlson, Nina - GOV [Nina.Carlson@Wisconsin.gov]  
**Sent:** Friday, January 25, 2008 10:40 AM  
**To:** Kreye, Joseph  
**Subject:** Innovate Wisconsin Details  
**Attachments:** Innovate Wisconsin Proposal Details.pdf

Joe,

Attached are more details on the R&D proposals. Let me know if you need anything else.

Thanks,  
Nina

Nina Carlson  
Office of Governor Jim Doyle  
115 East, State Capitol  
Madison, WI 53702  
[nina.carlson@wisconsin.gov](mailto:nina.carlson@wisconsin.gov)  
Phone: 608-266-3271

01/25/2008

## Innovate Wisconsin Proposal Details

Features of the Wisconsin "Super R&D" tax credit would include:

- Amount of the credit is dollar-for-dollar of the amount of expenditures in excess of the base amount.
- Defines "base amount" as 125% of the average qualified research expenses performed in Wisconsin over the past three years.
- Defines "qualified research expense" in the same manner as the regular Research Credit, which is based on the federal definition in section 41 of the Internal Revenue Code. In general, "qualified research expenses" include:
  - Wages for R&D employees;
  - Research supplies (but not capital assets); and
  - 65% of expenses paid to third parties for contract research (however, the company performing the contract research cannot claim "qualified research expenses").
- Credit is nonrefundable with a 5 year carryforward.
- Credit for each year is limited to no more than 50% of the taxpayer's Wisconsin tax liability for that year, after all other credits are taken into account.

NOTE: Companies performing R&D in Wisconsin for their own use would be eligible for the credit. Companies performing contract R&D services in Wisconsin for other companies would *not* be eligible for the credit. However, these companies would be indirectly affected because their clients could claim 65 percent of amounts paid for contract research in the credit.

This credit would be available equally to corporations, S corporations, partnerships, limited liability companies, and sole proprietorships.

Features of the R&D sales and equipment tax exemption would include:

- Sales of machinery and equipment, including attachments, parts and accessories, used exclusively and directly in qualified research, as defined under section 41(d)(1) of the Internal Revenue Code, to persons primarily engaged in manufacturing or biotechnology, and
- Sales of tangible personal property that is consumed or destroyed or loses its identity in qualified research, as defined under section 41(d)(1) of the Internal Revenue Code, to persons engaged primarily in manufacturing or biotechnology.

For purposes of these exemptions, use the definition of "manufacturing" in sec. 77.54(6m), Wis. Stats. and use the following definition of "biotechnology":

"Biotechnology" means the application of biotechnologies, such as recombinant DNA techniques, biochemistry, molecular and cellular biology, genetics, genetic engineering, biological cell fusion, and bioprocesses, using living organisms or parts of organisms to produce or modify products to improve plants or animals or improve animal health, develop microorganisms for specific uses, identify targets for small molecule pharmaceutical development, or transform biological systems into useful processes and products.

Provide that for purposes of these exemptions, "used exclusively" has the meaning provided in sec. 77.54(3)(b)3., Wis. Stats.

Provide that for purposes of these exemptions, "primarily" means more than 50 percent.

**Kreye, Joseph**

---

**From:** Carlson, Nina - GOV [Nina.Carlson@Wisconsin.gov]  
**Sent:** Friday, January 25, 2008 10:39 AM  
**To:** Kreye, Joseph  
**Subject:** fiscal estimate for R&D exemptions  
**Attachments:** 120507 proptaxexempt.xls

Joe,

Here is what we got from DOR as estimates for the property tax exemptions for R&D.

Thanks,

Nina

---

**From:** Vigue, Brian - GOV  
**Sent:** Tuesday, January 22, 2008 1:42 PM  
**To:** Carlson, Nina - GOV  
**Subject:** FW: Property tax exemption for equipment used for R&D in manufacturing and biotech

Brian Vigue

Office of Governor Jim Doyle

115 East, State Capitol

Madison, WI 53702

Phone: 608-266-1212

FAX: 608-261-6804

Mobile: 608-516-0808

---

**From:** Templeton, Carrie E - DOR  
**Sent:** Tuesday, January 22, 2008 1:32 PM  
**To:** Vigue, Brian - GOV; Gates-Hendrix, Sherrie L - DOR  
**Subject:** FW: Property tax exemption for equipment used for R&D in manufacturing and biotech

*Carrie Templeton*

*Wisconsin Department of Revenue*

*(608) 266-6466*

*[carrie.templeton@revenue.wi.gov](mailto:carrie.templeton@revenue.wi.gov)*

---

**From:** Ziegler, Paul D - DOR  
**Sent:** Thursday, December 06, 2007 2:27 PM  
**To:** Templeton, Carrie E - DOR

01/25/2008

**Cc:** Koskinen, John B - DOR; Kruger, Blair P - DOR; Walgren, Pamela J - DOR

**Subject:** Property tax exemption for equipment used for R&D in manufacturing and biotech

As noted below, a property tax exemption for equipment used in research and development in manufacturing or biotech would create an estimated \$3 million property tax shift to the owners of remaining taxable property.

Since the property tax assessment process does not collect information to construct this estimate, the fiscal estimate was based on the estimated current value of the flow of expenditures for this property over time.

Given the relatively small fiscal effect of proposal, our assumptions and estimates could be off two or four-fold without meaningfully changing the "big picture" result.

The estimate is 0.04% of overall net property taxes paid on the December 2006 tax bills.

In other contexts, the \$3 million estimate is equivalent to 1.5% of all taxable personal property and 1.3% of the manufacturing real property tax base.

These figures seem reasonable given that:

1. Taxable personal property still includes all property used for shipping, receiving, storing, and maintenance and also includes property requiring significant investments such as boilers and generators.
2. Taxable manufacturing real property includes all the land, buildings and improvements to property used in manufacturing.

Note that some of the property that would be impacted by this proposal is already exempt from property taxes due to the computer exemption. This overlap has been addressed in constructing the estimate.

In addition, under current law, two nonrefundable income tax credits are available to corporations for research and development activities in the state. The research expenditures credit is available for increasing qualified research expenses and the research facilities credit is available for constructing and equipping new facilities or expanding existing facilities. Both credits are for 5% of qualified expenditures in a taxable year.

---

**From:** Kruger, Blair P - DOR

**Sent:** Thursday, December 06, 2007 1:29 PM

**To:** Ziegler, Paul D - DOR; Walgren, Pamela J - DOR

**Cc:** Oakleaf, Michael P - DOR

**Subject:** Estimated fiscal effect of exempting R&D equipment and supplies from property tax

Based on research facilities credit claims on corporate income tax returns filed by manufacturing companies and estimated taxable purchases of equipment and supplies for biotechnology companies, the property tax shift that would result from exempting R&D equipment and supplies from property taxes is an estimated \$3 million per year. A \$3 million shift is 0.04% of total general property taxes payable in 2007.

Data on which to base an estimate are limited and certain assumptions were necessary to develop an estimates. Nonetheless, the estimate provides a reasonable indication of the magnitude of the property tax shift that would occur but the actual shift in practice would depend on the specific language of the exemption when enacted. The data sources and assumptions used to develop the estimate are described in the attached spreadsheet.

<<120507 proptaxexempt.xls>>

01/25/2008

3941/P1

stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 1-28-08  
due Tues 1-29  
O-N  
Regen

1 AN ACT *to amend* 71.21 (3), 71.26 (2) (a), 71.26 (3) (n), 71.365 (3) and 71.45 (2)  
2 (a) 10.; and *to create* 71.28 (4m), 71.30 (3) (db), 71.47 (4m), 71.49 (1) (db) and  
3 77.54 (50) of the statutes; **relating to:** an income and franchise tax credit for  
4 research conducted in this state by a corporation and a sales and use tax  
5 exemption for certain tangible personal property used to conduct research.

---

***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 that 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 bill, a corporation may also claim an income and franchise tax credit equal to the amount of its qualified research expenses in the taxable year for research conducted in this state that exceeds the amount equal to the average amount of the corporation's qualified research expenses in the previous three taxable years multiplied by 1.25. If the credit claimed by a corporation exceeds the corporation's tax liability, the state will not issue a refund, but the corporation may carry forward any remaining credit to five subsequent taxable years.

This bill also creates a sales and use tax exemption for machinery and other tangible personal property used for qualified research by persons engaged primarily in manufacturing or biotechnology in this state.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the 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:***

1           **SECTION 1.** 71.21 (3) of the statutes is amended to read:

2           71.21 (3) The credits under s. 71.28 (4), (4m), and (5) may not be claimed by a  
3 partnership or by partners, including partners of a publicly traded partnership.

4           **SECTION 2.** 71.26 (2) (a) of the statutes, as affected by 2007 Wisconsin Act 20,  
5 is amended to read:

6           71.26 (2) (a) *Corporations in general.* The “net income” of a corporation means  
7 the gross income as computed under the Internal Revenue Code as modified under  
8 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit  
9 computed under s. 71.28 (1), (3), (4), (4m), and (5) minus, as provided under s. 71.28  
10 (3) (c) 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income  
11 under this paragraph at the time that the taxpayer first claimed the credit plus the  
12 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),  
13 (1ds), (1dx), (3g), (3h), (3n), (3p), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), and (5k) and  
14 not passed through by a partnership, limited liability company, or tax-option  
15 corporation that has added that amount to the partnership’s, limited liability  
16 company’s, or tax-option corporation’s income under s. 71.21 (4) or 71.34 (1) (g) plus  
17 the amount of losses from the sale or other disposition of assets the gain from which  
18 would be wholly exempt income, as defined in sub. (3) (L), if the assets were sold or



1 otherwise disposed of at a gain and minus deductions, as computed under the  
2 Internal Revenue Code as modified under sub. (3), plus or minus, as appropriate, an  
3 amount equal to the difference between the federal basis and Wisconsin basis of any  
4 asset sold, exchanged, abandoned, or otherwise disposed of in a taxable transaction  
5 during the taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

6 **SECTION 3.** 71.26 (3) (n) of the statutes is amended to read:

7 71.26 **(3)** (n) Sections 381, 382 and 383 (relating to carry-overs in certain  
8 corporate acquisitions) are modified so that they apply to losses under sub. (4) and  
9 credits under s. 71.28 (1di), (1dL), (1dm), (1dx), (3), (4), (4m), and (5) instead of to  
10 federal credits and federal net operating losses.

11 **SECTION 4.** 71.28 (4m) of the statutes is created to read:

12 71.28 **(4m)** SUPER RESEARCH AND DEVELOPMENT CREDIT. (a) *Definition.* In this  
13 subsection, “qualified research expenses” means qualified research expenses as  
14 defined in section 41 of the Internal Revenue Code, not including section 41 (h) of the  
15 Internal Revenue Code, that are paid or incurred for research conducted in this state.

16 (b) *Credit.* Subject to the limitations provided under this subsection, for  
17 taxable years beginning on or after January 1, 2009, a corporation may claim as a  
18 credit against the tax imposed under s. 71.23, up to the amount of those taxes, and  
19 against no more than 50 percent of the claimant’s tax liability, an amount equal to the  
20 amount of qualified research expenses paid or incurred by the corporation in the  
21 taxable year that exceeds the amount calculated as follows:

22 1. Determine the average amount of the qualified research expenses paid or  
23 incurred by the corporation in the 3 taxable years immediately preceding the taxable  
24 year for which a credit is claimed under this subsection.

25 2. Multiply the amount determined under subd. 1. by 1.25.

1 (c) *Limitations.* Subsection (4) (b) to (d) and (i), as it applies to the credit under  
2 sub. (4), applies to the credit under this subsection.

3 (d) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit  
4 under sub. (4), applies to the credit under this subsection.

5 2. If a credit computed under this subsection is not entirely offset against  
6 Wisconsin income or franchise taxes otherwise due, the unused balance may be  
7 carried forward and credited against Wisconsin income or franchise taxes otherwise  
8 due for the following 5 taxable years to the extent not offset by these taxes otherwise  
9 due in all intervening years between the year in which the expense was incurred and  
10 the year in which the carry-forward credit is claimed.

11 **SECTION 5.** 71.30 (3) (db) of the statutes is created to read:

12 71.30 (3) (db) Super research and development credit under s. 71.28 (4m).

13 **SECTION 6.** 71.365 (3) of the statutes is amended to read:

14 71.365 (3) CREDITS NOT ALLOWED. The credits under s. 71.28 (4), ~~(4m)~~, and (5)  
15 may not be claimed by a tax-option corporation or shareholders of a tax-option  
16 corporation.

17 **SECTION 7.** 71.45 (2) (a) 10. of the statutes, as affected by 2007 Wisconsin Act  
18 20, is amended to read:

19 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit  
20 computed under s. 71.47 (1dd) to (1dx), (3h), (3n), (3p), (3w), (5e), (5f), (5g), (5h), (5i),  
21 (5j), and (5k) and not passed through by a partnership, limited liability company, or  
22 tax-option corporation that has added that amount to the partnership's, limited  
23 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1)  
24 (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), ~~(4m)~~, and (5).

25 **SECTION 8.** 71.47 (4m) of the statutes is created to read:

1           71.47 **(4m)** SUPER RESEARCH AND DEVELOPMENT CREDIT. (a) *Definition.* In this  
2 subsection, “qualified research expenses” means qualified research expenses as  
3 defined in section 41 of the Internal Revenue Code, not including section 41 (h) of the  
4 Internal Revenue Code, that are paid or incurred for research conducted in this state.

5           (b) *Credit.* Subject to the limitations provided under this subsection, for  
6 taxable years beginning on or after January 1, 2009, a corporation may claim as a  
7 credit against the tax imposed under s. 71.43, up to the amount of those taxes, and  
8 against no more than 50 percent of the claimant’s tax liability, an amount equal to  
9 the amount of qualified research expenses paid or incurred by the corporation in the  
10 taxable year that exceeds the amount calculated as follows:

11           1. Determine the average amount of the qualified research expenses paid or  
12 incurred by the corporation in the 3 taxable years immediately preceding the taxable  
13 year for which a credit is claimed under this subsection.

14           2. Multiply the amount determined under subd. 1. by 1.25.

15           (c) *Limitations.* Section 71.28 (4) (b) to (d) and (i), as it applies to the credit  
16 under sub. (4), applies to the credit under this subsection.

17           (d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the  
18 credit under sub. (4), applies to the credit under this subsection.

19           2. If a credit computed under this subsection is not entirely offset against  
20 Wisconsin income or franchise taxes otherwise due, the unused balance may be  
21 carried forward and credited against Wisconsin income or franchise taxes otherwise  
22 due for the following 5 taxable years to the extent not offset by these taxes otherwise  
23 due in all intervening years between the year in which the expense was incurred and  
24 the year in which the carry-forward credit is claimed.

25           **SECTION 9.** 71.49 (1) (db) of the statutes is created to read:

1           71.49 (1) (db) Super research and development credit under s. 71.47 (4m).

2           **SECTION 10.** 77.54 (50) of the statutes is created to read:

3           77.54 (50) (a) In this subsection:

4           1. “Biotechnology” means the application of biotechnologies; including  
5 recombinant deoxyribonucleic acid techniques, biochemistry, molecular and cellular  
6 biology, genetics, genetic engineering, biological cell fusion, and other bioprocesses;  
7 that use living organisms or parts of an organism to produce or modify products to  
8 improve plants or animals or improve animal health, develop microorganisms for  
9 specific uses, identify targets for small molecule pharmaceutical development, or  
10 transform biological systems into useful processes and products.

11           2. “Machinery” has the meaning given in s. 70.11 (27) (a) 2.

12           3. “Manufacturing” has the meaning given in sub. (6m).

13           4. “Primarily” means more than 50 percent.

14           5. “Qualified research” means qualified research as defined under section 41  
15 (d) (1) of the Internal Revenue Code.

16           6. “Used exclusively” has the meaning given in sub. (3) (b) 3.

17           (b) The gross receipts from the sale of and the storage, use, or other  
18 consumption of:

19           1. Machinery and equipment, including attachments, parts, and accessories,  
20 that are sold to persons who are engaged primarily in manufacturing or  
21 biotechnology in this state and are used exclusively and directly in qualified  
22 research.

23           2. Tangible personal property that is sold to persons who are engaged primarily  
24 in manufacturing or biotechnology in this state, if the tangible personal property is

1 consumed or destroyed or loses its identity while being used exclusively and directly  
2 in qualified research.

3 **SECTION 11. Effective dates.** This act takes effect on the day after publication,  
4 except as follows:

5 (1) The treatment of section 77.54 (50) of the statutes takes effect on July 1,  
6 2009.

7 (END)

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

3941/P1  
LRB-3925/P1dn

JK/jld/pg  
1

stays

January 28, 2008 } new date

Senator Kreitlow  
~~Representative Kleefisch:~~

Please review this draft carefully to ensure that it is consistent with your intent. This draft is based on instructions I received from Nina Carlson in the Governor's office. I did not include a provision to exempt certain items used in qualified research for manufacturing or biotechnology from the property tax, because it is not clear to me if that is consistent with your intent.

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

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

LRB-3941/P1dn  
JK:jld:jf

January 29, 2008

Senator Kreitlow:

Please review this draft carefully to ensure that it is consistent with your intent. This draft is based on instructions I received from Nina Carlson in the Governor's office. I did not include a provision to exempt certain items used in qualified research for manufacturing or biotechnology from the property tax, because it is not clear to me if that is consistent with your intent.

Joseph T. Kreye  
Legislative Attorney  
Phone: (608) 266-2263  
E-mail: [joseph.kreye@legis.wisconsin.gov](mailto:joseph.kreye@legis.wisconsin.gov)



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-3941/P1  
JK:jld:jf

*RM*

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

*in 2-5-08*

*Trolley*

*D-N*

*property and*

*LX*

*re you*

1 AN ACT *to amend* 71.21 (3), 71.26 (2) (a), 71.26 (3) (n), 71.365 (3) and 71.45 (2)  
2 (a) 10.; and *to create* 71.28 (4m), 71.30 (3) (db), 71.47 (4m), 71.49 (1) (db) and  
3 77.54 (50) of the statutes; **relating to:** an income and franchise tax credit for  
4 research conducted in this state by a corporation and a sales and use tax  
5 exemption for certain tangible personal property used to conduct research.

***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 that 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 bill, a corporation may also claim an income and franchise tax credit equal to the amount of its qualified research expenses in the taxable year for research conducted in this state that exceeds the amount equal to the average amount of the corporation's qualified research expenses in the previous three taxable years multiplied by 1.25. If the credit claimed by a corporation exceeds the corporation's tax liability, the state will not issue a refund, but the corporation may carry forward any remaining credit to five subsequent taxable years.



*a property tax exemption and* ✓

This bill also creates a sales and use tax exemption for machinery and other tangible personal property used for qualified research by persons engaged primarily in manufacturing or biotechnology in this state.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the 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:**

INJELT  
2-1

1

**SECTION 1.** 71.21 (3) of the statutes is amended to read:

2

71.21 (3) The credits under s. 71.28 (4), (4m), and (5) may not be claimed by a partnership or by partners, including partners of a publicly traded partnership.

3

4

**SECTION 2.** 71.26 (2) (a) of the statutes, as affected by 2007 Wisconsin Act 20, is amended to read:

5

6

71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means the gross income as computed under the Internal Revenue Code as modified under sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit computed under s. 71.28 (1), (3), (4), (4m), and (5) minus, as provided under s. 71.28 (3) (c) 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income under this paragraph at the time that the taxpayer first claimed the credit plus the amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3g), (3h), (3n), (3p), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), and (5k) and not passed through by a partnership, limited liability company, or tax-option corporation that has added that amount to the partnership's, limited liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or other disposition of assets the gain from which would be wholly exempt income, as defined in sub. (3) (L), if the assets were sold or

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1 otherwise disposed of at a gain and minus deductions, as computed under the  
2 Internal Revenue Code as modified under sub. (3), plus or minus, as appropriate, an  
3 amount equal to the difference between the federal basis and Wisconsin basis of any  
4 asset sold, exchanged, abandoned, or otherwise disposed of in a taxable transaction  
5 during the taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

6 **SECTION 3.** 71.26 (3) (n) of the statutes is amended to read:

7 71.26 (3) (n) Sections 381, 382 and 383 (relating to carry-overs in certain  
8 corporate acquisitions) are modified so that they apply to losses under sub. (4) and  
9 credits under s. 71.28 (1di), (1dL), (1dm), (1dx), (3), (4), (4m), and (5) instead of to  
10 federal credits and federal net operating losses.

11 **SECTION 4.** 71.28 (4m) of the statutes is created to read:

12 71.28 (4m) SUPER RESEARCH AND DEVELOPMENT CREDIT. (a) *Definition.* In this  
13 subsection, "qualified research expenses" means qualified research expenses as  
14 defined in section 41 of the Internal Revenue Code, not including section 41 (h) of the  
15 Internal Revenue Code, that are paid or incurred for research conducted in this state.

16 (b) *Credit.* Subject to the limitations provided under this subsection, for  
17 taxable years beginning on or after January 1, 2009, a corporation may claim as a  
18 credit against the tax imposed under s. 71.23, up to the amount of those taxes, and  
19 against no more than 50 percent of the claimant's tax liability, an amount equal to  
20 the amount of qualified research expenses paid or incurred by the corporation in the  
21 taxable year that exceeds the amount calculated as follows:

22 1. Determine the average amount of the qualified research expenses paid or  
23 incurred by the corporation in the 3 taxable years immediately preceding the taxable  
24 year for which a credit is claimed under this subsection.

25 2. Multiply the amount determined under subd. 1. by 1.25.

1 (c) *Limitations*. Subsection (4) (b) to (d) and (i), as it applies to the credit under  
2 sub. (4), applies to the credit under this subsection.

3 (d) *Administration*. 1. Subsection (4) (e), (g), and (h), as it applies to the credit  
4 under sub. (4), applies to the credit under this subsection.

5 2. If a credit computed under this subsection is not entirely offset against  
6 Wisconsin income or franchise taxes otherwise due, the unused balance may be  
7 carried forward and credited against Wisconsin income or franchise taxes otherwise  
8 due for the following 5 taxable years to the extent not offset by these taxes otherwise  
9 due in all intervening years between the year in which the expense was incurred and  
10 the year in which the carry-forward credit is claimed.

11 **SECTION 5.** 71.30 (3) (db) of the statutes is created to read:

12 71.30 (3) (db) Super research and development credit under s. 71.28 (4m).

13 **SECTION 6.** 71.365 (3) of the statutes is amended to read:

14 71.365 (3) CREDITS NOT ALLOWED. The credits under s. 71.28 (4), (4m), and (5)  
15 may not be claimed by a tax-option corporation or shareholders of a tax-option  
16 corporation.

17 **SECTION 7.** 71.45 (2) (a) 10. of the statutes, as affected by 2007 Wisconsin Act  
18 20, is amended to read:

19 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit  
20 computed under s. 71.47 (1dd) to (1dx), (3h), (3n), (3p), (3w), (5e), (5f), (5g), (5h), (5i),  
21 (5j), and (5k) and not passed through by a partnership, limited liability company, or  
22 tax-option corporation that has added that amount to the partnership's, limited  
23 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1)  
24 (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

25 **SECTION 8.** 71.47 (4m) of the statutes is created to read:

1           71.47 (4m) SUPER RESEARCH AND DEVELOPMENT CREDIT. (a) *Definition*. In this  
2 subsection, “qualified research expenses” means qualified research expenses as  
3 defined in section 41 of the Internal Revenue Code, not including section 41 (h) of the  
4 Internal Revenue Code, that are paid or incurred for research conducted in this state.

5           (b) *Credit*. Subject to the limitations provided under this subsection, for  
6 taxable years beginning on or after January 1, 2009, a corporation may claim as a  
7 credit against the tax imposed under s. 71.43, up to the amount of those taxes, and  
8 against no more than 50 percent of the claimant’s tax liability, an amount equal to  
9 the amount of qualified research expenses paid or incurred by the corporation in the  
10 taxable year that exceeds the amount calculated as follows:

11           1. Determine the average amount of the qualified research expenses paid or  
12 incurred by the corporation in the 3 taxable years immediately preceding the taxable  
13 year for which a credit is claimed under this subsection.

14           2. Multiply the amount determined under subd. 1. by 1.25.

15           (c) *Limitations*. Section 71.28 (4) (b) to (d) and (i), as it applies to the credit  
16 under sub. (4), applies to the credit under this subsection.

17           (d) *Administration*. 1. Section 71.28 (4) (e), (g), and (h), as it applies to the  
18 credit under sub. (4), applies to the credit under this subsection.

19           2. If a credit computed under this subsection is not entirely offset against  
20 Wisconsin income or franchise taxes otherwise due, the unused balance may be  
21 carried forward and credited against Wisconsin income or franchise taxes otherwise  
22 due for the following 5 taxable years to the extent not offset by these taxes otherwise  
23 due in all intervening years between the year in which the expense was incurred and  
24 the year in which the carry-forward credit is claimed.

25           **SECTION 9.** 71.49 (1) (db) of the statutes is created to read:

1 71.49 (1) (db) Super research and development credit under s. 71.47 (4m).

2 **SECTION 10.** 77.54 (50) of the statutes is created to read:

3 77.54 (50) (a) In this subsection:

4 1. "Biotechnology" means the application of biotechnologies; including  
5 recombinant deoxyribonucleic acid techniques, biochemistry, molecular and cellular  
6 biology, genetics, genetic engineering, biological cell fusion, and other bioprocesses;  
7 that use living organisms or parts of an organism to produce or modify products to  
8 improve plants or animals or improve animal health, develop microorganisms for  
9 specific uses, identify targets for small molecule pharmaceutical development, or  
10 transform biological systems into useful processes and products.

11 2. "Machinery" has the meaning given in s. 70.11 (27) (a) 2.

12 3. "Manufacturing" has the meaning given in sub. (6m).

13 4. "Primarily" means more than 50 percent.

14 5. "Qualified research" means qualified research as defined under section 41  
15 (d) (1) of the Internal Revenue Code.

16 6. "Used exclusively" has the meaning given in sub. (3) (b) 3.

17 (b) The gross receipts from the sale of and the storage, use, or other  
18 consumption of:

19 1. Machinery and equipment, including attachments, parts, and accessories,  
20 that are sold to persons who are engaged primarily in manufacturing or  
21 biotechnology in this state and are used exclusively and directly in qualified  
22 research.

23 2. Tangible personal property that is sold to persons who are engaged primarily  
24 in manufacturing or biotechnology in this state, if the tangible personal property is

1 consumed or destroyed or loses its identity while being used exclusively and directly  
2 in qualified research.

3 **SECTION 11. Effective dates.** This act takes effect on the day after publication,  
4 except as follows:

5 (1) The treatment of section 77.54 (50) of the statutes takes effect on July 1,  
6 2009.

7 (END)

INSERT  
7-6 ✓

NOTE



INSERTS

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT *to amend* 71.21 (3), 71.26 (2) (a), 71.26 (3) (n), 71.365 (3) and 71.45 (2)  
2 (a) 10.; and *to create* 70.11 (27m), 70.111 (27), 71.28 (4m), 71.30 (3) (db), 71.47  
3 (4m), 71.49 (1) (db) and 77.54 (50) of the statutes; **relating to:** an income and  
4 franchise tax credit for research conducted in this state by a corporation and a  
5 property and sales and use tax exemption for certain machinery and tangible  
6 personal property used to conduct research.

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***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 that 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 bill, a corporation may also claim an income and franchise tax credit equal to the amount of its qualified research expenses in the taxable year for research conducted in this state that exceeds the amount equal to the average amount of the corporation's qualified research expenses in the previous three taxable years multiplied by 1.25. If the credit claimed by a corporation exceeds the corporation's tax liability, the state will not issue a refund, but the corporation may carry forward any remaining credit to five subsequent taxable years.

~~This bill also creates a property tax exemption and a sales and use tax exemption for machinery and other tangible personal property used for qualified research by persons engaged primarily in manufacturing or biotechnology in this state.~~

~~Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the 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:*

INDECT  
2-1

1           **SECTION 1.** 70.11 (27m) of the statutes is created to read:

2           **70.11 (27m) RESEARCH MACHINERY AND EQUIPMENT.** (a) In this subsection:

3           1. "Biotechnology" has the meaning given in s. 77.54 (50) (a) 1.

4           2. "Machinery" has the meaning given in sub. (27) (a) 2.

5           3. "Manufacturing" has the meaning given in sub. (27) (a) 3.

6           4. "Primarily" means more than 50 percent.

7           5. "Qualified research" means qualified research as defined under section 41

8           (d) (1) of the Internal Revenue Code.

9           6. "Used exclusively" has the meaning given in sub. (27) (a) 8.

10          (b) Machinery and equipment, including attachments, parts, and accessories,

11          used by persons who are engaged primarily in manufacturing or biotechnology in

12          this state and are used exclusively and directly in qualified research.

13          **SECTION 2.** 70.111 (27) of the statutes is created to read:

14          **70.111 (27) RESEARCH PROPERTY.** (a) In this subsection:

15          1. "Biotechnology" has the meaning given in s. 77.54 (50) (a) 1.

16          2. "Manufacturing" has the meaning given in s. 70.11 (27) (a) 3.

17          3. "Primarily" means more than 50 percent.





12-1

1 4. "Qualified research" means qualified research as defined under section 41  
2 (d) (1) of the Internal Revenue Code.

3 5. "Used exclusively" has the meaning given in s. 70.11 (27) (a) 8.

4 (b) Tangible personal property used by persons who are engaged primarily in  
5 manufacturing or biotechnology in this state, if the tangible personal property is  
6 consumed or destroyed or loses its identity while being used exclusively and directly  
7 in qualified research.

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8 **SECTION 3.** 71.21 (3) of the statutes is amended to read:

9 71.21 (3) The credits under s. 71.28 (4), ~~(4m)~~, and (5) may not be claimed by a  
10 partnership or by partners, including partners of a publicly traded partnership.

11 **SECTION 4.** 71.26 (2) (a) of the statutes, as affected by 2007 Wisconsin Act 20,  
12 is amended to read:

13 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means  
14 the gross income as computed under the Internal Revenue Code as modified under  
15 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit  
16 computed under s. 71.28 (1), (3), (4), ~~(4m)~~, and (5) minus, as provided under s. 71.28  
17 (3) (c) 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income  
18 under this paragraph at the time that the taxpayer first claimed the credit plus the  
19 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),  
20 (1ds), (1dx), (3g), (3h), (3n), (3p), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), and (5k) and  
21 not passed through by a partnership, limited liability company, or tax-option  
22 corporation that has added that amount to the partnership's, limited liability  
23 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus  
24 the amount of losses from the sale or other disposition of assets the gain from which  
25 would be wholly exempt income, as defined in sub. (3) (L), if the assets were sold or

1 otherwise disposed of at a gain and minus deductions, as computed under the  
2 Internal Revenue Code as modified under sub. (3), plus or minus, as appropriate, an  
3 amount equal to the difference between the federal basis and Wisconsin basis of any  
4 asset sold, exchanged, abandoned, or otherwise disposed of in a taxable transaction  
5 during the taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

6 **SECTION 5.** 71.26 (3) (n) of the statutes is amended to read:

7 71.26 (3) (n) Sections 381, 382 and 383 (relating to carry-overs in certain  
8 corporate acquisitions) are modified so that they apply to losses under sub. (4) and  
9 credits under s. 71.28 (1di), (1dL), (1dm), (1dx), (3), (4), (4m), and (5) instead of to  
10 federal credits and federal net operating losses.

11 **SECTION 6.** 71.28 (4m) of the statutes is created to read:

12 71.28 (4m) SUPER RESEARCH AND DEVELOPMENT CREDIT. (a) *Definition.* In this  
13 subsection, “qualified research expenses” means qualified research expenses as  
14 defined in section 41 of the Internal Revenue Code, not including section 41 (h) of the  
15 Internal Revenue Code, that are paid or incurred for research conducted in this state.

16 (b) *Credit.* Subject to the limitations provided under this subsection, for  
17 taxable years beginning on or after January 1, 2009, a corporation may claim as a  
18 credit against the tax imposed under s. 71.23, up to the amount of those taxes, and  
19 against no more than 50 percent of the claimant’s tax liability, an amount equal to  
20 the amount of qualified research expenses paid or incurred by the corporation in the  
21 taxable year that exceeds the amount calculated as follows:

22 1. Determine the average amount of the qualified research expenses paid or  
23 incurred by the corporation in the 3 taxable years immediately preceding the taxable  
24 year for which a credit is claimed under this subsection.

25 2. Multiply the amount determined under subd. 1. by 1.25.

1 (c) *Limitations.* Subsection (4) (b) to (d) and (i), as it applies to the credit under  
2 sub. (4), applies to the credit under this subsection.

3 (d) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit  
4 under sub. (4), applies to the credit under this subsection.

5 2. If a credit computed under this subsection is not entirely offset against  
6 Wisconsin income or franchise taxes otherwise due, the unused balance may be  
7 carried forward and credited against Wisconsin income or franchise taxes otherwise  
8 due for the following 5 taxable years to the extent not offset by these taxes otherwise  
9 due in all intervening years between the year in which the expense was incurred and  
10 the year in which the carry-forward credit is claimed.

11 **SECTION 7.** 71.30 (3) (db) of the statutes is created to read:

12 71.30 (3) (db) Super research and development credit under s. 71.28 (4m).

13 **SECTION 8.** 71.365 (3) of the statutes is amended to read:

14 71.365 (3) CREDITS NOT ALLOWED. The credits under s. 71.28 (4), (4m), and (5)  
15 may not be claimed by a tax-option corporation or shareholders of a tax-option  
16 corporation.

17 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2007 Wisconsin Act  
18 20, is amended to read:

19 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit  
20 computed under s. 71.47 (1dd) to (1dx), (3h), (3n), (3p), (3w), (5e), (5f), (5g), (5h), (5i),  
21 (5j), and (5k) and not passed through by a partnership, limited liability company, or  
22 tax-option corporation that has added that amount to the partnership's, limited  
23 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1)  
24 (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

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

1 ~~71.47 (4m) SUPER RESEARCH AND DEVELOPMENT CREDIT. (a) *Definition.* In this~~  
2 ~~subsection, “qualified research expenses” means qualified research expenses as~~  
3 ~~defined in section 41 of the Internal Revenue Code, not including section 41(h) of the~~  
4 ~~Internal Revenue Code, that are paid or incurred for research conducted in this state.~~

5 ~~(b) *Credit.* Subject to the limitations provided under this subsection, for~~  
6 ~~taxable years beginning on or after January 1, 2009, a corporation may claim as a~~  
7 ~~credit against the tax imposed under s. 71.43, up to the amount of those taxes, and~~  
8 ~~against no more than 50 percent of the claimant’s tax liability, an amount equal to~~  
9 ~~the amount of qualified research expenses paid or incurred by the corporation in the~~  
10 ~~taxable year that exceeds the amount calculated as follows:~~

11 ~~1. Determine the average amount of the qualified research expenses paid or~~  
12 ~~incurred by the corporation in the 3 taxable years immediately preceding the taxable~~  
13 ~~year for which a credit is claimed under this subsection.~~

14 ~~2. Multiply the amount determined under subd. 1. by 1.25.~~

15 ~~(c) *Limitations.* Section 71.28 (4) (b) to (d) and (i), as it applies to the credit~~  
16 ~~under sub. (4), applies to the credit under this subsection.~~

17 ~~(d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the~~  
18 ~~credit under sub. (4), applies to the credit under this subsection.~~

19 ~~2. If a credit computed under this subsection is not entirely offset against~~  
20 ~~Wisconsin income or franchise taxes otherwise due, the unused balance may be~~  
21 ~~carried forward and credited against Wisconsin income or franchise taxes otherwise~~  
22 ~~due for the following 5 taxable years to the extent not offset by these taxes otherwise~~  
23 ~~due in all intervening years between the year in which the expense was incurred and~~  
24 ~~the year in which the carry-forward credit is claimed.~~

25 ~~SECTION 11. 71.49 (1) (db) of the statutes is created to read:~~

1        ~~71.49 (1) (db) Super research and development credit under s. 71.47 (4m).~~

2        ~~**SECTION 12.** 77.54 (50) of the statutes is created to read:~~

3        ~~77.54 (50) (a) In this subsection:~~

4            1. “Biotechnology” means the application of biotechnologies; including  
5 recombinant deoxyribonucleic acid techniques, biochemistry, molecular and cellular  
6 biology, genetics, genetic engineering, biological cell fusion, and other bioprocesses;  
7 that use living organisms or parts of an organism to produce or modify products to  
8 improve plants or animals or improve animal health, develop microorganisms for  
9 specific uses, identify targets for small molecule pharmaceutical development, or  
10 transform biological systems into useful processes and products.

11            2. “Machinery” has the meaning given in s. 70.11 (27) (a) 2.

12            3. “Manufacturing” has the meaning given in sub. (6m).

13            4. “Primarily” means more than 50 percent.

14            5. “Qualified research” means qualified research as defined under section 41  
15 (d) (1) of the Internal Revenue Code.

16            6. “Used exclusively” has the meaning given in sub. (3) (b) 3.

17            (b) The gross receipts from the sale of and the storage, use, or other  
18 consumption of:

19            1. Machinery and equipment, including attachments, parts, and accessories,  
20 that are sold to persons who are engaged primarily in manufacturing or  
21 biotechnology in this state and are used exclusively and directly in qualified  
22 research.

23            2. Tangible personal property that is sold to persons who are engaged primarily  
24 in manufacturing or biotechnology in this state, if the tangible personal property is

1 consumed or destroyed or loses its identity while being used exclusively and directly  
2 in qualified research.

3 **SECTION 13. Initial applicability.**

4 (1) The treatment of sections 70.11 (27m) and 70.111 (27) of the statutes first  
5 applies to the property tax assessments as of January 1, 2009.

6 **SECTION 14. Effective dates.** This act takes effect on the day after publication,  
7 except as follows:

8 (1) The treatment of section 77.54 (50)<sup>✓</sup> of the statutes takes effect on January  
9 1, 2009.

10 ~~END~~

INSERT

7-6

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

LRB-3925/P2dn  
JKfldmwn

3941/P2 du  
1  
stays

February 1, 2008

5

~~Representative Kleefisch:~~

S  
= Senator Kreitlow

Please review this draft carefully to ensure that it is consistent with your intent. This draft incorporates the changes recommended in the e-mail from Bethany Ordaz to Dan Lindstedt, dated January 30, 2008.

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

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

LRB-3941/P2dn  
JK:jld:nwn

February 5, 2008

Senator Kreitlow:

Please review this draft carefully to ensure that it is consistent with your intent. This draft incorporates the changes recommended in the e-mail from Bethany Ordaz to Dan Lindstedt, dated January 30, 2008.

Joseph T. Kreye  
Legislative Attorney  
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State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-3941/P2  
JK:jld:nwn

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 2-12-08

Troley

Regen

1 AN ACT *to amend* 71.21 (3), 71.26 (2) (a), 71.26 (3) (n), 71.365 (3) and 71.45 (2)  
 2 (a) 10.; and *to create* 70.11 (27m), 70.111 (27), 71.28 (4m), 71.30 (3) (db), 71.47  
 3 (4m), 71.49 (1) (db) and 77.54 (50) of the statutes; **relating to:** an income and  
 4 franchise tax credit for research conducted in this state by a corporation and a  
 5 property and sales and use tax exemption for certain tangible personal property  
 6 used to conduct research.

***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 that 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 bill, a corporation may also claim an income and franchise tax credit equal to the amount of its qualified research expenses in the taxable year for research conducted in this state that exceeds the amount equal to the average amount of the corporation's qualified research expenses in the previous three taxable years multiplied by 1.25. If the credit claimed by a corporation exceeds the corporation's tax liability, the state will not issue a refund, but the corporation may carry forward any remaining credit to five subsequent taxable years.

This bill also creates a property tax exemption and a sales and use tax exemption for machinery and other tangible personal property used for qualified research by persons engaged primarily in manufacturing or biotechnology in this state.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 70.11 (27m) of the statutes is created to read:

2           70.11 (**27m**) RESEARCH MACHINERY AND EQUIPMENT. (a) In this subsection:

3           1. "Biotechnology" has the meaning given in s. 77.54 (50) (a) 1.

4           2. "Machinery" has the meaning given in sub. (27) (a) 2.

5           3. "Manufacturing" has the meaning given in sub. (27) (a) 3.

6           4. "Primarily" means more than 50 percent.

7           5. "Qualified research" means qualified research as defined under section 41  
8 (d) (1) of the Internal Revenue Code.

9           6. "Used exclusively" has the meaning given in sub. (27) (a) 8.

10          (b) Machinery and equipment, including attachments, parts, and accessories,  
11 used by persons who are engaged primarily in manufacturing or biotechnology in  
12 this state and are used exclusively and directly in qualified research.

13          **SECTION 2.** 70.111 (27) of the statutes is created to read:

14          70.111 (**27**) RESEARCH PROPERTY. (a) In this subsection:

15          1. "Biotechnology" has the meaning given in s. 77.54 (50) (a) 1.

16          2. "Manufacturing" has the meaning given in s. 70.11 (27) (a) 3.

17          3. "Primarily" means more than 50 percent.

1           4. "Qualified research" means qualified research as defined under section 41  
2 (d) (1) of the Internal Revenue Code.

3           5. "Used exclusively" has the meaning given in s. 70.11 (27) (a) 8.

4           (b) Tangible personal property used by persons who are engaged primarily in  
5 manufacturing or biotechnology in this state, if the tangible personal property is  
6 consumed or destroyed or loses its identity while being used exclusively and directly  
7 in qualified research.

8           **SECTION 3.** 71.21 (3) of the statutes is amended to read:

9           71.21 (3) The credits under s. 71.28 (4), (4m), and (5) may not be claimed by a  
10 partnership or by partners, including partners of a publicly traded partnership.

11           **SECTION 4.** 71.26 (2) (a) of the statutes, as affected by 2007 Wisconsin Act 20,  
12 is amended to read:

13           71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means  
14 the gross income as computed under the Internal Revenue Code as modified under  
15 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit  
16 computed under s. 71.28 (1), (3), (4), (4m), and (5) minus, as provided under s. 71.28  
17 (3) (c) 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income  
18 under this paragraph at the time that the taxpayer first claimed the credit plus the  
19 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),  
20 (1ds), (1dx), (3g), (3h), (3n), (3p), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), and (5k) and  
21 not passed through by a partnership, limited liability company, or tax-option  
22 corporation that has added that amount to the partnership's, limited liability  
23 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus  
24 the amount of losses from the sale or other disposition of assets the gain from which  
25 would be wholly exempt income, as defined in sub. (3) (L), if the assets were sold or

1 otherwise disposed of at a gain and minus deductions, as computed under the  
2 Internal Revenue Code as modified under sub. (3), plus or minus, as appropriate, an  
3 amount equal to the difference between the federal basis and Wisconsin basis of any  
4 asset sold, exchanged, abandoned, or otherwise disposed of in a taxable transaction  
5 during the taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

6 **SECTION 5.** 71.26 (3) (n) of the statutes is amended to read:

7 71.26 (3) (n) Sections 381, 382 and 383 (relating to carry-overs in certain  
8 corporate acquisitions) are modified so that they apply to losses under sub. (4) and  
9 credits under s. 71.28 (1di), (1dL), (1dm), (1dx), (3), (4), (4m), and (5) instead of to  
10 federal credits and federal net operating losses.

11 **SECTION 6.** 71.28 (4m) of the statutes is created to read:

12 71.28 (4m) SUPER RESEARCH AND DEVELOPMENT CREDIT. (a) *Definition.* In this  
13 subsection, "qualified research expenses" means qualified research expenses as  
14 defined in section 41 of the Internal Revenue Code, not including section 41 (h) of the  
15 Internal Revenue Code, that are paid or incurred for research conducted in this state.

16 (b) *Credit.* Subject to the limitations provided under this subsection, for  
17 taxable years beginning on or after January 1, 2009, a corporation may claim as a  
18 credit against the tax imposed under s. 71.23, up to the amount of those taxes, and  
19 against no more than 50 percent of the claimant's tax liability, an amount equal to  
20 the amount of qualified research expenses paid or incurred by the corporation in the  
21 taxable year that exceeds the amount calculated as follows:

22 1. Determine the average amount of the qualified research expenses paid or  
23 incurred by the corporation in the 3 taxable years immediately preceding the taxable  
24 year for which a credit is claimed under this subsection.

25 2. Multiply the amount determined under subd. 1. by 1.25.

1           (c) *Limitations*. Subsection (4) (b) to (d) and (i), as it applies to the credit under  
2 sub. (4), applies to the credit under this subsection.

3           (d) *Administration*. 1. Subsection (4) (e), (g), and (h), as it applies to the credit  
4 under sub. (4), applies to the credit under this subsection.

5           2. If a credit computed under this subsection is not entirely offset against  
6 Wisconsin income or franchise taxes otherwise due, the unused balance may be  
7 carried forward and credited against Wisconsin income or franchise taxes otherwise  
8 due for the following 5 taxable years to the extent not offset by these taxes otherwise  
9 due in all intervening years between the year in which the expense was incurred and  
10 the year in which the carry-forward credit is claimed.

11           **SECTION 7.** 71.30 (3) (db) of the statutes is created to read:

12           71.30 (3) (db) Super research and development credit under s. 71.28 (4m).

13           **SECTION 8.** 71.365 (3) of the statutes is amended to read:

14           71.365 (3) CREDITS NOT ALLOWED. The credits under s. 71.28 (4), (4m), and (5)  
15 may not be claimed by a tax-option corporation or shareholders of a tax-option  
16 corporation.

17           **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2007 Wisconsin Act  
18 20, is amended to read:

19           71.45 (2) (a) 10. By adding to federal taxable income the amount of credit  
20 computed under s. 71.47 (1dd) to (1dx), (3h), (3n), (3p), (3w), (5e), (5f), (5g), (5h), (5i),  
21 (5j), and (5k) and not passed through by a partnership, limited liability company, or  
22 tax-option corporation that has added that amount to the partnership's, limited  
23 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1)  
24 (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

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

1           71.47 (4m) SUPER RESEARCH AND DEVELOPMENT CREDIT. (a) *Definition.* In this  
2 subsection, “qualified research expenses” means qualified research expenses as  
3 defined in section 41 of the Internal Revenue Code, not including section 41 (h) of the  
4 Internal Revenue Code, that are paid or incurred for research conducted in this state.

5           (b) *Credit.* Subject to the limitations provided under this subsection, for  
6 taxable years beginning on or after January 1, 2009, a corporation may claim as a  
7 credit against the tax imposed under s. 71.43, up to the amount of those taxes, and  
8 against no more than 50 percent of the claimant’s tax liability, an amount equal to  
9 the amount of qualified research expenses paid or incurred by the corporation in the  
10 taxable year that exceeds the amount calculated as follows:

11           1. Determine the average amount of the qualified research expenses paid or  
12 incurred by the corporation in the 3 taxable years immediately preceding the taxable  
13 year for which a credit is claimed under this subsection.

14           2. Multiply the amount determined under subd. 1. by 1.25.

15           (c) *Limitations.* Section 71.28 (4) (b) to (d) and (i), as it applies to the credit  
16 under sub. (4), applies to the credit under this subsection.

17           (d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the  
18 credit under sub. (4), applies to the credit under this subsection.

19           2. If a credit computed under this subsection is not entirely offset against  
20 Wisconsin income or franchise taxes otherwise due, the unused balance may be  
21 carried forward and credited against Wisconsin income or franchise taxes otherwise  
22 due for the following 5 taxable years to the extent not offset by these taxes otherwise  
23 due in all intervening years between the year in which the expense was incurred and  
24 the year in which the carry-forward credit is claimed.

25           **SECTION 11.** 71.49 (1) (db) of the statutes is created to read:

1           71.49 (1) (db) Super research and development credit under s. 71.47 (4m).

2           **SECTION 12.** 77.54 (50) of the statutes is created to read:

3           77.54 (50) (a) In this subsection:

4           1. “Biotechnology” means the application of biotechnologies; including  
5 recombinant deoxyribonucleic acid techniques, biochemistry, molecular and cellular  
6 biology, genetics, genetic engineering, biological cell fusion, and other bioprocesses;  
7 that use living organisms or parts of an organism to produce or modify products to  
8 improve plants or animals or improve animal health, develop microorganisms for  
9 specific uses, identify targets for small molecule pharmaceutical development, or  
10 transform biological systems into useful processes and products.

11           2. “Machinery” has the meaning given in s. 70.11 (27) (a) 2.

12           3. “Manufacturing” has the meaning given in sub. (6m).

13           4. “Primarily” means more than 50 percent.

14           5. “Qualified research” means qualified research as defined under section 41  
15 (d) (1) of the Internal Revenue Code.

16           6. “Used exclusively” has the meaning given in sub. (3) (b) 3.

17           (b) The gross receipts from the sale of and the storage, use, or other  
18 consumption of:

19           1. Machinery and equipment, including attachments, parts, and accessories,  
20 that are sold to persons who are engaged primarily in manufacturing or  
21 biotechnology in this state and are used exclusively and directly in qualified  
22 research.

23           2. Tangible personal property that is sold to persons who are engaged primarily  
24 in manufacturing or biotechnology in this state, if the tangible personal property is

1 consumed or destroyed or loses its identity while being used exclusively and directly  
2 in qualified research.

3 **SECTION 13. Initial applicability.**

4 (1) The treatment of sections 70.11 (27m) and 70.111 (27) of the statutes first  
5 applies to the property tax assessments as of January 1, 2009.

6 **SECTION 14. Effective dates.** This act takes effect on the day after publication,  
7 except as follows:

8 (1) The treatment of section 77.54 (50) of the statutes takes effect on January  
9 1, 2009.

10 (END)



**Kreye, Joseph**

---

**From:** Duerst, Christina  
**Sent:** Tuesday, February 12, 2008 9:20 AM  
**To:** Kreye, Joseph  
**Subject:** FW: Draft review: LRB 07-3941/P2 Topic: Innovate Wisconsin initiatives  
**Importance:** High

Joe,  
I told Charlie I would let you know about this.  
Thanks,  
Christina

---

**From:** Saxler, Charles  
**Sent:** Tuesday, February 12, 2008 9:14 AM  
**To:** Duerst, Christina  
**Subject:** RE: Draft review: LRB 07-3941/P2 Topic: Innovate Wisconsin initiatives

Yes that is the correct draft, can we get it ready to jacket?

Thanks,

Charlie

**Charles Saxler**  
**Office of Senator Pat Kreitlow**  
**Wisconsin State Senate - 23rd District**

*Room 10 South - State Capitol*  
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*charles.saxler@legis.wisconsin.gov*

---

**From:** Duerst, Christina  
**Sent:** Tuesday, February 05, 2008 11:37 AM  
**To:** Sen.Kreitlow  
**Subject:** Draft review: LRB 07-3941/P2 Topic: Innovate Wisconsin initiatives

**Following is the PDF version of draft LRB 07-3941/P2 and drafter's note.**

## Duerst, Christina

---

**From:** Saxler, Charles  
**Sent:** Tuesday, February 12, 2008 9:14 AM  
**To:** Duerst, Christina  
**Subject:** RE: Draft review: LRB 07-3941/P2 Topic: Innovate Wisconsin initiatives

Yes that is the correct draft, can we get it ready to jacket?

Thanks,

Charlie

**Charles Saxler**  
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*charles.saxler@legis.wisconsin.gov*

---

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**Subject:** Draft review: LRB 07-3941/P2 Topic: Innovate Wisconsin initiatives

**Following is the PDF version of draft LRB 07-3941/P2 and drafter's note.**