

2007 DRAFTING REQUEST

Bill

Received: **08/28/2006**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Ted Kanavas (608) 266-9174**

By/Representing: **mike**

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

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Business - credits**

Extra Copies:

Submit via email: **YES**

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

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

Pre Topic:

No specific pre topic given

Topic:

Investment credits; income computation

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>
/P1	jkreye 08/29/2006	kfollett 09/12/2006	rschluet 09/12/2006	_____	lparisi 09/12/2006		State
/P2	jkreye 09/13/2007 jkreye 10/05/2007	kfollett 09/14/2007 kfollett 10/05/2007	rschluet 09/17/2007	_____ _____ _____	sbasford 09/17/2007		State
/I			rschluet 10/05/2007	_____ _____	cduerst 10/05/2007	mbarman 11/08/2007	State

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For: "/1" @ intro. 11-19-2007 <END>

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	jkreye 10/05/2007	kfollett 10/05/2007		_____			
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/P2	jkreye 09/13/2007	kfollett 09/14/2007	rschluet 09/17/2007	_____	sbasford 09/17/2007		State

FE Sent For:

11/5/f
10/5

Handwritten signatures and initials, including 'KR' and 'OS'.

<END>

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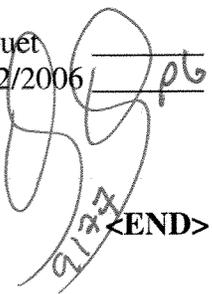
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/P1	jkreye 08/29/2006	kfollett 09/12/2006	rschluet 09/12/2006		lparisi 09/12/2006		State

FE Sent For:

1P2 kjf
9/14

9/27
<END>

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/P1	jkreye						
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1P/kf
9/12

JK
9/26

FE Sent For:

<END>



TED KANAVAS
STATE SENATOR

21 JUNE 2006

PER YOUR REQUEST

FOR YOUR INFORMATION

DRAFTING REQUEST

To Whom It May Concern:

This Summer Senator Kanavas has charged me with working on getting ready for next session's economic development plan.

One of those bills directly relate to cleaning-up 2003 Wisconsin Act 255. We would like to get this remedy drafted by you this summer in order to be prepared.

Also, if the drafter could notify me so I know who I will be working with that would be helpful.

Thanks so much for your help.

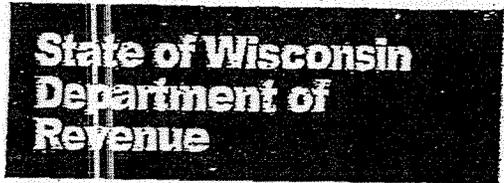
Best,

Michael Richards
Mike.Richards@Legis.state.wi.us

STATE CAPITOL

P.O. Box 7882 • Room 22 South • Madison, Wisconsin 53707-7882
(608) 266-9174 • (800) 863-8883 • Fax: (608) 264-6914

PO Box 8933
Madison, WI 53708-8933
Phone: 608-266-6466
Fax: 608-266-5718



Fax

To: <u>Senator Kanavas</u>	From: <u>Sec. Morgan's office</u>
Fax: <u>264-6914</u>	Date: <u>5/16/06</u> (<u>Michelle Massen</u>)
Phone:	Pages: <u>3</u>

Per our Conversation FYI Per Your Request

•COMMENTS:



Jim Doyle
Governor

State of Wisconsin • DEPARTMENT OF REVENUE

2135 RIMROCK ROAD • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933 • 608-261-4466 • FAX 608-266-5718 • <http://www.dor.state.wi.us>

Michael L. Morgan
Secretary of Revenue

May 16, 2006

Senator Ted Kanavas
33rd Senate District
P.O. Box 7882
Madison, WI 53707-7882

Dear Senator Kanavas:

Thank you for your letter dated April 10, 2006.

The information you received about the tax treatment of the credits created under Act 255 is correct. The credits are treated as taxable income in the year the credit is received, as specified by the language in the Act. This same treatment applies to research credits, development zones credits, technology zones credits, and other business tax credits. Also, under federal law, most state tax credits are taxable income reportable on the recipient's federal income tax return.

Act 255 specifically treats the newly created credits in the same manner as these existing credits. For example, Section 3 of the Act amended section 71.05(6)(a)15 to include these newly created credits to the list of other tax credits that are added back to an individual's adjusted gross income.

Federal law generally does not allow a taxpayer to receive what is considered a double tax benefit for the same expenditure. In most cases, federal law provides that if a federal tax credit is claimed, the expense deduction must be reduced by the amount of the credit. Rather than disallowing the expense deductions, Wisconsin law simply requires the credits to be added to income.

Two other states we are familiar with have similar credits related to venture capital. California requires the claimant to reduce the basis of the asset by the amount of credit attributable to the asset. Massachusetts requires a basis reduction for credits that are based on the Internal Revenue Code.

As you know, Governor Doyle has made it a priority to encourage additional venture capital investment in the State. The venture capital credits created by Act 255 were an important component of his Grow Wisconsin Plan and he continues to look for other ways to encourage investment in emerging businesses. Just last week, the Secretary of the Department of Financial Institutions testified before Congress to encourage a similar credit at the federal level.

Senator Ted Kanavas
May 16, 2006
Page 2

To further encourage this type of investment, the Department of Revenue will be including in its 2007-09 budget recommendations to the governor that these credits not be included as income, but rather that the basis of the investment be adjusted. Due to the state's 60% capital gains exclusion, this will further encourage individuals to invest in this critical sector of our economy.

These credits are unique from the other credits in that they are investments made by outside individuals into companies as opposed to companies' investments into their own operations.

We look forward to your support of this initiative.

Sincerely,



Michael L. Morgan
Secretary of Revenue



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-N

in 8-29-06
SOON

Gen

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2

AN ACT ...; relating to: excluding early stage seed investment credits and angel investment credits from taxable income.

Analysis by the Legislative Reference Bureau

X

Under current law, generally, a taxpayer may claim a credit against the taxpayer's income and franchise tax liability, certain amounts invested in new businesses under the early stage seed investment tax credit or the angel investment tax credit. However, consistent with the administration of other tax credits, a taxpayer who claims an early stage seed investment or angel investment tax credit must include the amount of the credit in the calculation of the taxpayer's taxable income. Under this bill, for income and franchise tax purposes, a taxpayer does not include the amount of the early stage seed investment or angel investment tax credit in the calculation of the taxpayer's taxable income.

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:

3
4
5

SECTION 1. 71.05 (6) (a) 15. of the statutes is amended to read:

71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), (5d), [and]

1 (5e), (5f), and (5h) and not passed through by a partnership, limited liability
 2 company, or tax-option corporation that has added that amount to the partnership's,
 3 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

NOTE: NOTE: Subd. 15. is shown as affected by 3 acts of the 2005 Wisconsin legislature and as merged by the revisor under s. 13.93 (2) (c). The bracketed "and" was inserted by 2005 Wis. Act 479, but rendered surplusage by 2005 Wis. Act 483. Corrective legislation is pending. NOTE.

History: 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237; 1999 a. 9, 32, 44, 54, 65, 167; 2001 a. 16, 104, 105, 109; 2003 a. 85, 99, 119, 135, 183, 255, 289, 321, 326; 2005 a. 22, 25, 216, 254, 335, 361, 479, 483; s. 13.93 (2) (c).

4 **SECTION 2.** 71.21 (4) of the statutes is amended to read:

5 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
 6 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), ~~(5b)~~, (5e), (5f), (5g), and (5h)
 7 and passed through to partners shall be added to the partnership's income.

NOTE: NOTE: Sub. (4) is shown as affected by 4 acts of the 2005 Wisconsin legislature and as merged by the revisor under s. 13.93 (2) (c). NOTE.

History: 1987 a. 312, 411; 1989 a. 31; 1993 a. 112; 1995 a. 27, 400; 1997 a. 27; 2001 a. 16; 2003 a. 99, 135, 255, 326; 2005 a. 74, 361, 479, 483; s. 13.93 (2) (c).

8 **SECTION 3.** 71.26 (2) (a) of the statutes is amended to read:

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

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

~~NOTE: NOTE: Par. (a) is shown as affected by 4 acts of the 2005 Wisconsin legislature and as merged by the revisor under s. 13.93 (2) (c).NOTE:~~

~~History: 1987 a. 312; 1987 a. 411 ss. 22, 124 to 129; 1989 a. 31, 336; 1991 a. 37, 39, 221, 269; 1993 a. 16, 112, 246, 263, 399, 437, 491; 1995 a. 27, 56, 351, 371, 380, 428; 1997 a. 27, 37, 184, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 106, 109; 2003 a. 33, 85, 99, 135, 255, 326; 2005 a. 25, 74, 335, 361, 362, 479, 483; s. 13.93 (2) (c).~~

5 **SECTION 4.** 71.34 (1) (g) of the statutes is amended to read:

6 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
 7 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
 8 (3n), (3t), (3w), (5b), (5e), (5f), (5g), and (5h) and passed through to shareholders.

~~NOTE: NOTE: Par. (g) is shown as affected by 4 acts of the 2005 Wisconsin legislature and as merged by the revisor under s. 13.93 (2) (c).NOTE:~~

~~History: 1987 a. 312; 1987 a. 411 ss. 18, 23, 146; 1989 a. 31, 336; 1991 a. 39, 269; 1993 a. 16, 437; 1995 a. 27, 380, 428; 1997 a. 27, 37, 237; 1999 a. 9, 194; 2001 a. 16, 109; 2003 a. 33, 99, 135, 255, 326; 2005 a. 25, 49, 74, 361, 479, 483; s. 13.93 (2) (c).~~

9 **SECTION 5.** 71.45 (2) (a) 10. of the statutes is amended to read:

10 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
 11 computed under s. 71.47 (1dd) to (1dx), (3n), (3w), (5b), (5e), (5f), (5g), and (5h) and
 12 not passed through by a partnership, limited liability company, or tax-option
 13 corporation that has added that amount to the partnership's, limited liability
 14 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and
 15 the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

~~NOTE: NOTE: Subd. 10. is shown as affected by 4 acts of the 2005 Wisconsin legislature and as merged by the revisor under s. 13.93 (2) (c).NOTE:~~

~~History: 1987 a. 312; 1989 a. 31, 336, 359; 1991 a. 37, 39, 269; 1993 a. 16, 112, 263, 437; 1995 a. 27, 56, 371, 380; 1997 a. 27, 37, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 109; 2003 a. 37, 85, 99, 135, 255, 326; 2005 a. 74, 297, 335, 361, 479, 483; s. 13.93 (2) (c).~~

16 **SECTION 6.** 77.92 (4) of the statutes is amended to read:

17 77.92 (4) "Net business income," with respect to a partnership, means taxable
 18 income as calculated under section 703 of the Internal Revenue Code; plus the items
 19 of income and gain under section 702 of the Internal Revenue Code, including taxable
 20 state and municipal bond interest and excluding nontaxable interest income or
 21 dividend income from federal government obligations; minus the items of loss and

1 deduction under section 702 of the Internal Revenue Code, except items that are not
2 deductible under s. 71.21; plus guaranteed payments to partners under section 707
3 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
4 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), (3w), (5b), (5e), (5f),
5 (5g), and (5h); and plus or minus, as appropriate, transitional adjustments,
6 depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and
7 (19); but excluding income, gain, loss, and deductions from farming. "Net business
8 income," with respect to a natural person, estate, or trust, means profit from a trade
9 or business for federal income tax purposes and includes net income derived as an
10 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

~~NOTE: NOTE: Sub. (4) is shown as affected by 4 acts of the 2005 Wisconsin legislature and as merged by the revisor under s. 13.93 (2) (c). NOTE:~~

~~History: 1989 a. 335; 1991 a. 39, 269; 1993 a. 16, 112, 490; 1995 a. 27, 209; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 99, 135, 255, 326; 2005 a. 74, 361, 479, 483; s. 13.93 (2) (c).~~

11 **SECTION 7. Initial applicability.**

12 (1) This act first applies to taxable years beginning on January 1 of the year
13 in which this subsection takes effect, except that if this subsection takes effect after
14 July 31 this act first applies to taxable years beginning on January 1 of the year
15 following the year in which this subsection takes effect.

16 (END)

A-Note

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

LRB-0016/P1dn

JK: *kgf*

Date

Senator Kanavas:

not

X Please review this draft carefully to ensure that it is consistent with your intent. The letter from Secretary Morgan that you sent with the request indicated that DOR would also recommend to the governor that the basis of any investment made by a taxpayer should be adjusted to reflect the amount of the credit claimed. Please note that this draft does not include that recommendation because I am not sure what is the best way to accomplish DOR's intent without first receiving input from DOR. Please advise.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0016/P1dn
JK:kjf:rs

September 12, 2006

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Please review this draft carefully to ensure that it is consistent with your intent. The letter from Secretary Morgan that you sent with the request indicated that DOR would also recommend to the governor that the basis of any investment made by a taxpayer should be adjusted to reflect the amount of the credit claimed. Please note that this draft does not include that recommendation because I am not sure what is the best way to accomplish DOR's intent without first receiving input from DOR. Please advise.

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



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0016/PI

JK:kjf:rs

12
RKR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 9-13-07
D.N.
due thru 9-20

allocating early stage seed investment credits and angel investment credits

re-gen

1 AN ACT to amend 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)
2 (a) 10. and 77.92 (4) of the statutes; relating to: excluding early stage seed
3 investment credits, and angel investment credits from taxable income.

Analysis by the Legislative Reference Bureau

Under current law, generally, a taxpayer may claim a credit against the taxpayer's income and franchise tax liability on certain amounts invested in new businesses under the early stage seed investment tax credit or the angel investment tax credit. However, consistent with the administration of other tax credits, a taxpayer who claims an early stage seed investment or angel investment tax credit must include the amount of the credit in the calculation of the taxpayer's taxable income. Under this bill, for income and franchise tax purposes, a taxpayer does not include the amount of the early stage seed investment or angel investment tax credit in the calculation of the taxpayer's taxable income.

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. 71.05 (6) (a) 15. of the statutes is amended to read:

INSERT A

1 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
2 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), ~~(5b), (5d), and~~
3 (5e), (5f), and (5h) and not passed through by a partnership, limited liability
4 company, or tax-option corporation that has added that amount to the partnership's,
5 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

6 **SECTION 2.** 71.21 (4) of the statutes is amended to read:

7 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
8 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), ~~(5b),~~ (5e), (5f), (5g), and (5h)
9 and passed through to partners shall be added to the partnership's income.

10 **SECTION 3.** 71.26 (2) (a) of the statutes is amended to read:

11 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
12 the gross income as computed under the Internal Revenue Code as modified under
13 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
14 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
15 7.; the amount of the credit under s. 71.28 (3) that the taxpayer added to income
16 under this paragraph at the time that the taxpayer first claimed the credit plus the
17 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
18 (1ds), (1dx), (3g), (3n), (3t), (3w), ~~(5b),~~ (5e), (5f), (5g), and (5h) and not passed through
19 by a partnership, limited liability company, or tax-option corporation that has added
20 that amount to the partnership's, limited liability company's, or tax-option
21 corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from
22 the sale or other disposition of assets the gain from which would be wholly exempt
23 income, as defined in sub. (3) (L), if the assets were sold or otherwise disposed of at
24 a gain and minus deductions, as computed under the Internal Revenue Code as
25 modified under sub. (3), plus or minus, as appropriate, an amount equal to the

INSERT
2-5

1 difference between the federal basis and Wisconsin basis of any asset sold,
2 exchanged, abandoned, or otherwise disposed of in a taxable transaction during the
3 taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

4 **SECTION 4.** 71.34 (1) (g) of the statutes is amended to read:

5 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
6 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
7 (3n), (3t), (3w), (~~5b~~), (5e), (5f), (5g), and (5h) and passed through to shareholders.

8 **SECTION 5.** 71.45 (2) (a) 10. of the statutes is amended to read:

9 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
10 computed under s. 71.47 (1dd) to (1dx), (3n), (3w), (~~5b~~), (5e), (5f), (5g), and (5h) and
11 not passed through by a partnership, limited liability company, or tax-option
12 corporation that has added that amount to the partnership's, limited liability
13 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and
14 the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

15 **SECTION 6.** 77.92 (4) of the statutes is amended to read:

16 77.92 (4) "Net business income," with respect to a partnership, means taxable
17 income as calculated under section 703 of the Internal Revenue Code; plus the items
18 of income and gain under section 702 of the Internal Revenue Code, including taxable
19 state and municipal bond interest and excluding nontaxable interest income or
20 dividend income from federal government obligations; minus the items of loss and
21 deduction under section 702 of the Internal Revenue Code, except items that are not
22 deductible under s. 71.21; plus guaranteed payments to partners under section 707
23 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
24 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), (3w), (~~5b~~), (5e), (5f),
25 (5g), and (5h); and plus or minus, as appropriate, transitional adjustments,

INSERT
3-3

INSERT
3-14

1 depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and
 2 (19); but excluding income, gain, loss, and deductions from farming. "Net business
 3 income," with respect to a natural person, estate, or trust, means profit from a trade
 4 or business for federal income tax purposes and includes net income derived as an
 5 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

SECTION 7. Initial applicability.

6
 7 (1) This act first applies to taxable years beginning on January 1 ~~of the year~~
 8 ~~in which this subsection takes effect, except that if this subsection takes effect after~~
 9 ~~July 31 this act first applies to taxable years beginning on January 1 of the year~~
 10 ~~following the year in which this subsection takes effect.~~ 2008

(END)

D-Note

INSERT
4-5

Insert A

Under current law, the total amount of early stage seed investment credits that taxpayers may claim for all taxable years combined is \$35,000,000 and the total amount of angel investment credits that taxpayers may claim for all taxable years combined is \$30,000,000. Under this bill, the total amount of early stage seed investment credits and angel investment credits that taxpayers may claim for all taxable years combined is \$65,000,000.

Under current law, the Department of Commerce (Commerce) may certify businesses to receive angel investments if the businesses meet certain criteria, such as having less than 100 employees. Under the bill, for certification purposes, Commerce must give preference to businesses with less than 100 employees, but may certify businesses with 100 employees or more and allow tax credits in lesser amounts for investments in such businesses.

Insert 2 - 5

1 **SECTION 1.** 71.07 (5b) (c) 1. of the statutes is amended to read:

2 71.07 (5b) (c) 1. The maximum amount of the credits that may be claimed under
3 this subsection, sub. (5d), and ss. 71.28 (5b) and 71.47 (5b) for all taxable years
4 combined is ~~\$35,000,000~~ \$65,000,000.

History: 1987 a. 312; 1987 a. 411 ss. 63, 79 to 82, 85, 86; 1987 a. 419, 422; 1989 a. 31, 44, 56, 100, 359; 1991 a. 39, 269, 292; 1993 a. 16, 112, 204, 471, 491; 1995 a. 27 ss. 3377m to 3393m, 9116 (5); 1995 a. 209, 227, 400, 453; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9, 10, 32; 1999 a. 150 s. 672; 1999 a. 198; 2001 a. 16, 109; 2003 a. 72, 99, 135, 183, 255, 267, 326; 2005 a. 25, 49, 72, 74, 97, 177, 254, 361, 387, 479, 483, 487; 2007 a. 11.

5 **SECTION 2.** 71.07 (5d) (c) 1. of the statutes is amended to read:

6 71.07 (5d) (c) 1. The maximum amount of the credits that may be claimed under
7 this subsection, sub. (5b), and ss. 71.28 (5b) and 71.47 (5b) for all taxable years
8 combined is ~~\$30,000,000~~ \$65,000,000.

History: 1987 a. 312; 1987 a. 411 ss. 63, 79 to 82, 85, 86; 1987 a. 419, 422; 1989 a. 31, 44, 56, 100, 359; 1991 a. 39, 269, 292; 1993 a. 16, 112, 204, 471, 491; 1995 a. 27 ss. 3377m to 3393m, 9116 (5); 1995 a. 209, 227, 400, 453; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9, 10, 32; 1999 a. 150 s. 672; 1999 a. 198; 2001 a. 16, 109; 2003 a. 72, 99, 135, 183, 255, 267, 326; 2005 a. 25, 49, 72, 74, 97, 177, 254, 361, 387, 479, 483, 487; 2007 a. 11.

Insert 3 - 3

9 **SECTION 3.** 71.28 (5b) (c) 1. of the statutes is amended to read:

1 71.28 (5b) (c) 1. The maximum amount of the credits that may be claimed under
 2 this subsection and ss. 71.07 (5b) and (5d) and 71.47 (5b) for all taxable years
 3 combined is ~~\$35,000,000~~ \$65,000,000.

History: 1987 a. 312; 1987 a. 411 ss. 88, 130 to 139; 1987 a. 422; 1989 a. 31, 44, 56, 100, 336, 359; 1991 a. 39, 292; 1993 a. 16, 112, 232, 491; 1995 a. 2; 1995 a. 27 ss. 3399r to 3404c, 9116 (5); 1995 a. 209, 227; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9; 2001 a. 16; 2003 a. 72, 99, 135, 255, 267, 326; 2005 a. 25, 74, 97, 361, 387, 452, 479, 483, 487; s. 13.93 (2) (c).

Insert 3 - 14

4 **SECTION 4.** 71.47 (5b) (c) 1. of the statutes is amended to read:
 5 71.47 (5b) (c) 1. The maximum amount of the credits that may be claimed under
 6 this subsection and ss. 71.07 (5b) and (5d) and 71.28 (5b) for all taxable years
 7 combined is ~~\$35,000,000~~ \$65,000,000.

History: 1987 a. 312, 411, 422; 1989 a. 31, 44, 56, 100, 336, 359; 1991 a. 39, 292, 315; 1993 a. 16, 112; 1995 a. 27 ss. 3407m to 3412m, 9116 (5); 1995 a. 209, 227, 417; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9; 2001 a. 16; 2003 a. 72, 99, 135, 255, 267, 326; 2005 a. 25, 74, 97, 361, 387, 452, 479, 483, 487; s. 13.93 (2) (c).

Insert 4 - 5

8 **SECTION 5.** 560.205 (1) (h) of the statutes is amended to read:
 9 560.205 (1) (h) ~~It~~ Except as provided in rules promulgated under sub. (3) (d),
 10 it has less than 100 employees.

History: 2003 a. 255; 2005 a. 49, 97.

11 **SECTION 6.** 560.205 (3) (d) of the statutes is amended to read:
 12 560.205 (3) (d) *Rules.* The department of commerce, in consultation with the
 13 department of revenue, shall promulgate rules to administer this section. The rules
 14 shall further define "bona fide angel investment" for purposes of s. 71.07 (5d) (a) 1.
 15 The rules shall provide that, for purposes of certifying businesses under sub. (1), the
 16 department shall give preference to businesses with less than 100 employees, but
 17 may certify businesses with 100 employees or more and allow tax credits in lesser
 18 amounts, based on a sliding scale, for investments in such businesses. The rules
 19 shall limit the aggregate amount of tax credits under s. 71.07 (5d) that may be
 20 claimed for investments in businesses certified under sub. (1) at \$3,000,000 per

1 calendar year for calendar years beginning after December 31, 2004, and before
2 January 1, 2008. The rules shall also limit the aggregate amount of the tax credits
3 under ss. 71.07 (5b), 71.28 (5b), and 71.47 (5b) that may be claimed for investments
4 paid to fund managers certified under sub. (2) at \$3,500,000 per calendar year for
5 calendar years beginning after December 31, 2004, and before January 1, 2008. The
6 rules shall also limit the aggregate amount of the tax credits under ss. 71.07 (5b) and
7 (5d), 71.28 (5b), and 71.47 (5b) that may be claimed for investments under subs. (1)
8 and (2) at \$6,500,000 per calendar year for calendar years beginning after December
9 31, 2007.

History: 2003 a. 255; 2005 a. 49, 97.

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

LRB-0016/P2dn

JK:kjf:js

Date

Senator Kanavas:

Please review this draft carefully to ensure that it is consistent with your intent. You may want to share the draft with Commerce to ensure that the language gives them the flexibility they need to accomplish 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-0016/P2dn
JK:kjf:rs

September 17, 2007

Senator Kanavas:

Please review this draft carefully to ensure that it is consistent with your intent. You may want to share the draft with Commerce to ensure that the language gives them the flexibility they need to accomplish your intent.

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

Kreye, Joseph

From: Nelson, W. Scott - Legislature
Sent: Friday, October 05, 2007 2:36 PM
To: Kreye, Joseph
Subject: RE: Angel Investment Trailer Bill

Sounds good. I am not too picky about drafting stuff like this since it is all just agency nonsense. As long as you feel it fits the statute and is specific enough to be vague, I am good with it. :) Of course, being a staffer, I reserve the right to irrationally change things on the back end.

Thanks, hope you have a good weekend.

W. Scott Nelson

Office of State Senator Ted Kanavas
106 South - State Capitol
Madison, Wisconsin 53707
608-266-9174

From: Kreye, Joseph
Sent: Friday, October 05, 2007 2:05 PM
To: Nelson, W. Scott - Legislature
Subject: RE: Angel Investment Trailer Bill

Thanks. I remember this now. Commerce seems to be taking a narrower approach than that necessitated by the language under s. 560.205 (1) (f): "It is engaged in, or has committed to engage in, manufacturing, agriculture, or processing or assembling products and conducting research and development or developing a new product or business process."

I suggest adding this sentence to par. (f): "The fact that a business is testing or producing a product at the time that the business seeks certification under this subsection shall not preclude the business from being certified under this subsection."

Or something like that.

Joe

Joseph T. Kreye
Senior Legislative Attorney
Legislative Reference Bureau
(608) 266-2263

10/05/2007

From: Nelson, W. Scott - Legislature
Sent: Friday, October 05, 2007 1:42 PM
To: Kreye, Joseph
Subject: RE: Angel Investment Trailer Bill

The company in her district was disqualified by Commerce because they were already beta testing their product in nursing homes. Commerce said they were already in production, which made them not "early stage" enough. Obviously, that is a bad interpretation of the qualifications, but if we could throw something in there to clarify, it would make things easier for passage of the bill.

W. Scott Nelson

Office of State Senator Ted Kanavas
106 South - State Capitol
Madison, Wisconsin 53707
608-266-9174

From: Kreye, Joseph
Sent: Friday, October 05, 2007 12:25 PM
To: Nelson, W. Scott - Legislature
Subject: RE: Angel Investment Trailer Bill

I'm sorry, please remind me: what were Rep. Strachota's concerns?

Joe

Joseph T. Kreye
Senior Legislative Attorney
Legislative Reference Bureau
(608) 266-2263

From: Nelson, W. Scott - Legislature
Sent: Friday, October 05, 2007 10:16 AM
To: Kreye, Joseph
Subject: Angel Investment Trailer Bill

I was wondering if you had any ideas on the angel investment bill to address Representative Strachota's concerns. That bill needs to go out for co-sponsorship soon.

Thanks,

W. Scott Nelson

Office of State Senator Ted Kanavas

10/05/2007

106 South - State Capitol
Madison, Wisconsin 53707
608-266-9174



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0016/P2

JK:kjf:rs

RM:WTR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

in FRI 10-5-07
due Mon. 10-8

re gen

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.07 (5b) (c) 1., 71.07 (5d) (c) 1., 71.21 (4),
2 71.26 (2) (a), 71.28 (5b) (c) 1., 71.34 (1) (g), 71.45 (2) (a) 10., 71.47 (5b) (c) 1., 77.92
3 (4), 560.205 (1) (h) and 560.205 (3) (d) of the statutes; **relating to:** allocating
4 early stage seed and angel investment credits and excluding early stage seed
5 and angel investment credits from taxable income.

Analysis by the Legislative Reference Bureau

Under current law, generally, a taxpayer may claim a credit against the taxpayer's income and franchise tax liability on certain amounts invested in new businesses under the early stage seed investment tax credit or the angel investment tax credit. However, consistent with the administration of other tax credits, a taxpayer who claims an early stage seed investment or angel investment tax credit must include the amount of the credit in the calculation of the taxpayer's taxable income. Under this bill, for income and franchise tax purposes, a taxpayer does not include the amount of the early stage seed investment or angel investment tax credit in the calculation of the taxpayer's taxable income.

Under current law, the total amount of early stage seed investment credits that taxpayers may claim for all taxable years combined is \$35,000,000 and the total amount of angel investment credits that taxpayers may claim for all taxable years combined is \$30,000,000. Under this bill, the total amount of early stage seed investment credits and angel investment credits that taxpayers may claim for all taxable years combined is \$65,000,000.

In addition, the bill allows Commerce to certify a business that is testing or producing a product at the time that business seeks certification.

Under current law, the Department of Commerce (Commerce) may certify businesses to receive angel investments if the businesses meet certain criteria, such as having less than 100 employees. Under the bill, for certification purposes, Commerce must give preference to businesses with less than 100 employees, but may certify businesses with 100 employees or more and allow tax credits in lesser amounts for investments in such businesses.

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.** 71.05 (6) (a) 15. of the statutes is amended to read:

2 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
3 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), ~~(5b), (5d), [and]~~
4 (5e), (5f), and (5h) and not passed through by a partnership, limited liability
5 company, or tax-option corporation that has added that amount to the partnership's,
6 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

7 **SECTION 2.** 71.07 (5b) (c) 1. of the statutes is amended to read:

8 71.07 (5b) (c) 1. The maximum amount of the credits that may be claimed under
9 this subsection, sub. (5d), and ss. 71.28 (5b) and 71.47 (5b) for all taxable years
10 combined is ~~\$35,000,000~~ \$65,000,000.

11 **SECTION 3.** 71.07 (5d) (c) 1. of the statutes is amended to read:

12 71.07 (5d) (c) 1. The maximum amount of the credits that may be claimed under
13 this subsection, sub. (5b), and ss. 71.28 (5b) and 71.47 (5b) for all taxable years
14 combined is ~~\$30,000,000~~ \$65,000,000.

15 **SECTION 4.** 71.21 (4) of the statutes is amended to read:

16 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
17 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), ~~(5b)~~, (5e), (5f), (5g), and (5h)
18 and passed through to partners shall be added to the partnership's income.

1 **SECTION 5.** 71.26 (2) (a) of the statutes is amended to read:

2 71.26 (2) (a) *Corporations in general.* The “net income” of a corporation means
3 the gross income as computed under the Internal Revenue Code as modified under
4 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
5 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
6 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
7 under this paragraph at the time that the taxpayer first claimed the credit plus the
8 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
9 (1ds), (1dx), (3g), (3n), (3t), (3w), ~~(5b)~~, (5e), (5f), (5g), and (5h) and not passed through
10 by a partnership, limited liability company, or tax-option corporation that has added
11 that amount to the partnership’s, limited liability company’s, or tax-option
12 corporation’s income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from
13 the sale or other disposition of assets the gain from which would be wholly exempt
14 income, as defined in sub. (3) (L), if the assets were sold or otherwise disposed of at
15 a gain and minus deductions, as computed under the Internal Revenue Code as
16 modified under sub. (3), plus or minus, as appropriate, an amount equal to the
17 difference between the federal basis and Wisconsin basis of any asset sold,
18 exchanged, abandoned, or otherwise disposed of in a taxable transaction during the
19 taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

20 **SECTION 6.** 71.28 (5b) (c) 1. of the statutes is amended to read:

21 71.28 (5b) (c) 1. The maximum amount of the credits that may be claimed under
22 this subsection and ss. 71.07 (5b) and (5d) and 71.47 (5b) for all taxable years
23 combined is ~~\$35,000,000~~ \$65,000,000.

24 **SECTION 7.** 71.34 (1) (g) of the statutes is amended to read:

1 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
2 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
3 (3n), (3t), (3w), ~~(5b)~~, (5e), (5f), (5g), and (5h) and passed through to shareholders.

4 **SECTION 8.** 71.45 (2) (a) 10. of the statutes is amended to read:

5 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
6 computed under s. 71.47 (1dd) to (1dx), (3n), (3w), ~~(5b)~~, (5e), (5f), (5g), and (5h) and
7 not passed through by a partnership, limited liability company, or tax-option
8 corporation that has added that amount to the partnership's, limited liability
9 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and
10 the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

11 **SECTION 9.** 71.47 (5b) (c) 1. of the statutes is amended to read:

12 71.47 (5b) (c) 1. The maximum amount of the credits that may be claimed under
13 this subsection and ss. 71.07 (5b) and (5d) and 71.28 (5b) for all taxable years
14 combined is ~~\$35,000,000~~ \$65,000,000.

15 **SECTION 10.** 77.92 (4) of the statutes is amended to read:

16 77.92 (4) "Net business income," with respect to a partnership, means taxable
17 income as calculated under section 703 of the Internal Revenue Code; plus the items
18 of income and gain under section 702 of the Internal Revenue Code, including taxable
19 state and municipal bond interest and excluding nontaxable interest income or
20 dividend income from federal government obligations; minus the items of loss and
21 deduction under section 702 of the Internal Revenue Code, except items that are not
22 deductible under s. 71.21; plus guaranteed payments to partners under section 707
23 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
24 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), (3w), ~~(5b)~~, (5e), (5f),
25 (5g), and (5h); and plus or minus, as appropriate, transitional adjustments,

1 depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and
2 (19); but excluding income, gain, loss, and deductions from farming. "Net business
3 income," with respect to a natural person, estate, or trust, means profit from a trade
4 or business for federal income tax purposes and includes net income derived as an
5 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

6 **SECTION 11.** 560.205 (1) (h) of the statutes is amended to read:

7 560.205 (1) (h) ~~It~~ Except as provided in rules promulgated under sub. (3) (d),
8 it has less than 100 employees.

9 **SECTION 12.** 560.205 (3) (d) of the statutes is amended to read:

10 560.205 (3) (d) *Rules.* The department of commerce, in consultation with the
11 department of revenue, shall promulgate rules to administer this section. The rules
12 shall further define "bona fide angel investment" for purposes of s. 71.07 (5d) (a) 1.
13 The rules shall provide that, for purposes of certifying businesses under sub. (1), the
14 department shall give preference to businesses with less than 100 employees, but
15 may certify businesses with 100 employees or more and allow tax credits in lesser
16 amounts, based on a sliding scale, for investments in such businesses. The rules
17 shall limit the aggregate amount of tax credits under s. 71.07 (5d) that may be
18 claimed for investments in businesses certified under sub. (1) at \$3,000,000 per
19 calendar year for calendar years beginning after December 31, 2004, and before
20 January 1, 2008. The rules shall also limit the aggregate amount of the tax credits
21 under ss. 71.07 (5b), 71.28 (5b), and 71.47 (5b) that may be claimed for investments
22 paid to fund managers certified under sub. (2) at \$3,500,000 per calendar year for
23 calendar years beginning after December 31, 2004, and before January 1, 2008. The
24 rules shall also limit the aggregate amount of the tax credits under ss. 71.07 (5b) and
25 (5d), 71.28 (5b), and 71.47 (5b) that may be claimed for investments under subs. (1)

INSERT
5-8

1 and (2) at \$6,500,000 per calendar year for calendar years beginning after December
2 31, 2007.

3 **SECTION 13. Initial applicability.**

4 (1) This act first applies to taxable years beginning on January 1, 2008.

5 (END)

Insert 5-8

Section #. 560.205 (1) (f) of the statutes is amended to read:

560.205 (1) (f) It is engaged in, or has committed to engage in, manufacturing, agriculture, or processing or assembling products and conducting research and development or developing a new product or business process.

History: 2003 a. 255; 2005 a. 49, 97.

The fact that a business ^{is} testing or producing a product at the time that the business seeks certification under this subsection shall not preclude the business from being certified under this subsection.

Barman, Mike

From: Nelson, W. Scott - Legislature

Sent: Thursday, November 08, 2007 10:09 AM

To: LRB.Legal

Subject: Draft Review: LRB 07-0016/1 Topic: Investment credits; income computation

Please Jacket LRB 07-0016/1 for the SENATE.

11/08/2007