



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0252/P7
JK:kjf&nwn:md

Handwritten initials and signature

DOA:.....Weidner, BB0006 - Angel investment tax credit changes

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

in 2-11-09

1 ^{don't gen.} AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

Under current law, a person may claim as credit against the person's income or franchise tax liability, in each of two consecutive taxable years, 12.5 percent of the person's investment in a qualified new business venture, as determined by Commerce. The maximum amount of a person's investment that can be used as the basis for the credit is \$2,000,000 and a business may receive no more than \$1,000,000 in investments that qualify for the credit.

Under this bill, a person may claim an income and franchise tax credit equal to 25 percent of the person's investment in a qualified new business venture. The bill allows a person to use more than \$2,000,000 in investments as the basis for the credit and to transfer the amount of any unused credit to another taxpayer.

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:

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

1 71.07 (5b) (c) 1. Except as provided in s. 73.03 (63), the maximum amount of
2 the credits that may be claimed under this subsection and ss. 71.28 (5b) and, 71.47
3 (5b), and 76.638 for all taxable years combined is \$52,500,000.

4 **SECTION 2.** 71.07 (5d) (b) of the statutes is renumbered 71.07 (5d) (b) (intro.)
5 and amended to read:

6 71.07 (5d) (b) *Filing claims.* (intro.) Subject to the limitations provided in this
7 subsection and in s. 560.205, a claimant may claim as a credit against the tax
8 imposed under s. 71.02 or 71.08, up to the amount of those taxes, the following:

9 1. For taxable years beginning before January 1, 2008, in each taxable year for
10 2 consecutive years, beginning with the taxable year as certified by the department
11 of commerce, an amount equal to 12.5 percent of the claimant's bona fide angel
12 investment made directly in a qualified new business venture.

13 **SECTION 3.** 71.07 (5d) (b) 2. of the statutes is created to read:

14 71.07 (5d) (b) 2. For taxable years beginning after December 31, 2007, for the
15 taxable year certified by the department of commerce, an amount equal to 25 percent
16 of the claimant's bona fide angel investment made directly in a qualified new
17 business venture.

18 **SECTION 4.** 71.07 (5d) (c) 2. of the statutes is amended to read:

19 71.07 (5d) (c) 2. The For taxable years beginning before January 1, 2008, the
20 maximum amount of a claimant's investment that may be used as the basis for a
21 credit under this subsection is \$2,000,000 for each investment made directly in a
22 business certified under s. 560.205 (1).

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

1 71.28 **(5b)** (c) 1. Except as provided in s. 73.03 (63), the maximum amount of
2 the credits that may be claimed under this subsection and ss. 71.07 (5b) ~~and~~, 71.47
3 (5b), and 76.638 for all taxable years combined is \$52,500,000.

4 **SECTION 6.** 71.47 (5b) (c) 1. of the statutes is amended to read:

5 71.47 **(5b)** (c) 1. Except as provided in s. 73.03 (63), the maximum amount of
6 the credits that may be claimed under this subsection and ss. 71.07 (5b) ~~and~~, 71.28
7 (5b), and 76.638 for all taxable years combined is \$52,500,000.

8 **SECTION 7.** 73.03 (63) of the statutes is amended to read:

9 73.03 **(63)** Notwithstanding the amount limitations specified under ss. 71.07
10 (5b) (c) 1. and (5d) (c) 1., 71.28 (5b) (c) 1., 71.47 (5b) (c) 1., 76.638 (3), and 560.205 (3)
11 (d), in consultation with the department of commerce, to carry forward to subsequent
12 taxable years unclaimed credit amounts of the early stage seed investment credits
13 under ss. 71.07 (5b), 71.28 (5b), ~~and 71.47 (5b)~~, and 76.638 and the angel investment
14 credit under s. 71.07 (5d). Annually, no later than July 1, the department of
15 commerce shall submit to the department of revenue its recommendations for the
16 carry forward of credit amounts as provided under this subsection.

17 **SECTION 8.** 76.638 of the statutes is created to read:

18 **76.638 Early stage seed investment credit. (1) DEFINITIONS.** In this
19 section, "fund manager" means an investment fund manager certified under s.
20 560.205 (2).

21 **(2) FILING CLAIMS.** For taxable years beginning after December 31, 2008,
22 subject to the limitations provided under this subsection and s. 560.205, an insurer
23 may claim as a credit against the fees imposed under s. 76.60, 76.63, 76.65, 76.66,
24 or 76.67, 25 percent of the insurer's investment paid to a fund manager that the fund
25 manager invests in a business certified under s. 560.205 (1).

1 **(3) LIMITATIONS.** Except as provided in s. 73.03 (63), the maximum amount of
2 the credits that may be claimed under this section and ss. 71.07 (5b), 71.28 (5b), and
3 71.47 (5b) for all taxable years combined is \$52,500,000.

4 **(4) INVESTMENT BASIS.** The Wisconsin adjusted basis of any investment for
5 which a credit is claimed under sub. (2) shall be reduced by the amount of the credit
6 that is offset against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67.

7 **(5) CARRY-FORWARD.** If the credit under sub. (2) is not entirely offset against the
8 fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67 otherwise due, the unused balance
9 may be carried forward and credited against those fees for the following 15 years to
10 the extent that it is not offset by those fees otherwise due in all the years between
11 the year in which the expense was made and the year in which the carry-forward
12 credit is claimed.

13 **SECTION 9.** 560.205 (1) (intro.) of the statutes is amended to read:

14 **560.205 (1) ANGEL INVESTMENT TAX CREDITS.** (intro.) The department shall
15 implement a program to certify businesses for purposes of s. 71.07 (5d). A business
16 desiring certification shall submit an application to the department in each taxable
17 year for which the business desires certification. The business shall specify in its
18 application the investment amount it wishes to raise and the department may certify
19 the business and determine the amount that qualifies for purposes of s. 71.07 (5d).

20 Unless otherwise provided under the rules of the department, a business may be
21 certified under this subsection, and may maintain such certification, only if the
22 business satisfies all of the following conditions:

23 **SECTION 10.** 560.205 (1) (f) of the statutes is repealed and recreated to read:

24 **560.205 (1) (f)** It has the potential for increasing jobs in this state, increasing
25 capital investment in this state, or both, and any of the following apply:

1 1. It is engaged in, or has committed to engage in, innovation in any of the
2 following:

3 a. Manufacturing, biotechnology, nanotechnology, communications,
4 agriculture, or clean energy creation or storage technology.

5 b. Processing or assembling products, including medical devices,
6 pharmaceuticals, computer software, computer hardware, semiconductors, any
7 other innovative technology products, or other products that are produced using
8 manufacturing methods that are enabled by applying proprietary technology.

9 c. Services that are enabled by applying proprietary technology.

10 2. It is undertaking precommercialization activity related to proprietary
11 technology that includes conducting research, developing a new product or business
12 process, or developing a service that is principally reliant on applying proprietary
13 technology.

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

15 560.205 (1) (g) It is not primarily engaged in real estate development,
16 insurance, banking, lending, lobbying, political consulting, professional services
17 provided by attorneys, accountants, business consultants, physicians, or health care
18 consultants, wholesale or retail trade, leisure, hospitality, transportation, or
19 construction, except construction of power production plants that derive energy from
20 a renewable resource, as defined in s. 196.378 (1) (h).

21 **SECTION 12.** 560.205 (1) (k) of the statutes is amended to read:

22 560.205 (1) (k) ~~It~~ For taxable years beginning before January 1, 2008, it has
23 not received more than \$1,000,000 in investments that have qualified for tax credits
24 under s. 71.07 (5d).

25 **SECTION 13.** 560.205 (1) (kn) of the statutes is created to read:

1 560.205 (1) (kn) For taxable years beginning after December 31, 2007, and
2 before January 1, 2011, it has not received more than \$4,000,000 in investments that
3 have qualified for tax credits under ss. 71.07 (5b) and (5d), 71.28 (5b), 71.47 (5b), and
4 76.638.

5 **SECTION 14.** 560.205 (1) (L) of the statutes is created to read:

6 560.205 (1) (L) For taxable years beginning after December 31, 2010, it has not
7 received more than \$8,000,000 in investments that have qualified for tax credits
8 under ss. 71.07 (5b) and (5d), 71.28 (5b), 71.47 (5b), and 76.638.

9 **SECTION 15.** 560.205 (2) of the statutes is amended to read:

10 560.205 (2) EARLY STAGE SEED INVESTMENT TAX CREDITS. The department shall
11 implement a program to certify investment fund managers for purposes of ss. 71.07
12 (5b), 71.28 (5b), and 71.47 (5b), and 76.638. An investment fund manager desiring
13 certification shall submit an application to the department. The investment fund
14 manager shall specify in the application the investment amount that the manager
15 wishes to raise and the department may certify the manager and determine the
16 amount that qualifies for purposes of ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and 76.638.

17 In determining whether to certify an investment fund manager, the department
18 shall consider the investment fund manager's experience in managing venture
19 capital funds, the past performance of investment funds managed by the applicant,
20 the expected level of investment in the investment fund to be managed by the
21 applicant, and any other relevant factors. The department may certify only
22 investment fund managers that commit to consider placing investments in
23 businesses certified under sub. (1).

24 **SECTION 16.** 560.205 (3) (d) of the statutes is amended to read:

1 560.205 (3) (d) *Rules.* The department of commerce, in consultation with the
2 department of revenue, shall promulgate rules to administer this section. The rules
3 shall further define “bona fide angel investment” for purposes of s. 71.07 (5d) (a) 1.
4 The rules shall limit the aggregate amount of tax credits under s. 71.07 (5d) that may
5 be claimed for investments in businesses certified under sub. (1) at \$3,000,000 per
6 calendar year for calendar years beginning after December 31, 2004, and before
7 January 1, 2008, \$5,500,000 per calendar year for calendar years beginning after
8 December 31, 2007, and before January 1, 2011, and \$18,000,000 per calendar year

9 for calendar years beginning after December 31, 2010. The rules shall also limit the
10 aggregate amount of the tax credits under ss. 71.07 (5b), 71.28 (5b), and 71.47 (5b),
11 and 76.638 that may be claimed for investments paid to fund managers certified
12 under sub. (2) at \$3,500,000 per calendar year for calendar years beginning after
13 December 31, 2004, and before January 1, 2008, \$6,000,000 per calendar year for
14 calendar years beginning after December 31, 2007, and before January 1, 2011, and
15 \$18,500,000 per calendar year for calendar years beginning after December 31, 2010.

16 The rules shall also provide that, for calendar years beginning after December 31,
17 2007, no person may receive a credit under ss. 71.07 (5b) and (5d), 71.28 (5b), or 71.47
18 (5b), or 76.638 unless the person’s investment is kept in a certified business, or with
19 a certified fund manager, for no less than 3 years.

20 **SECTION 17.** 560.205 (3) (e) of the statutes is created to read:

21 560.205 (3) (e) *Transfer.* A person who is eligible to claim a credit under s. 71.07
22 (5b) 71.28 (5b), 71.47 (5b), or 76.638 may sell or otherwise transfer the credit to
23 another person who is subject to the taxes or fees imposed under s. 71.02, 71.23, or
24 71.47 or subch. III of ch. 76, if the person receives prior authorization from the
25 investment fund manager and the manager then notifies the department of

plus, for taxable years beginning after December 31, 2010, an
additional \$250,000 for tax credits that may be claimed for investments
in nanotechnology businesses certified under sub. (1)

1 commerce and the department of revenue of the transfer and submits with the
2 notification a copy of the transfer documents. No person may sell or otherwise
3 transfer a credit as provided in this paragraph more than once. The department may
4 charge any person selling or otherwise transferring a credit under this paragraph a
5 fee equal to 1 percent of the credit amount sold or transferred. The department shall
6 deposit all fees collected under this paragraph in the appropriation account under
7 s. 20.143 (1) (gm).

8 **SECTION 9310. Initial applicability; Commerce.**

9 (1) **EARLY STAGE SEED INVESTMENT CREDIT.** The treatment of section 560.205 (1)
10 (f) and (g), (2), and (3) (e) of the statutes first applies to taxable years beginning on
11 January 1, 2009.

12 (END)



State of Wisconsin
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RMwTR

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Under this bill, a person may claim an income and franchise tax credit equal to 25 percent of the person's investment in a qualified new business venture. The bill allows a person to use more than \$2,000,000 in investments as the basis for the credit and to transfer the amount of any unused credit to another taxpayer.

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:

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

change component

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2

Sec #, m; 71.07 (5b) (c) 2. ~~is~~; 71.07 (5b) (c).

1 71.07 (5b) (c) 1. Except as provided in s. 73.03 (63), the maximum amount of
2 the credits that may be claimed under this subsection and ss. 71.28 (5b) and, 71.47
3 (5b), and 76.638 for all taxable years combined is \$52,500,000.

4 SECTION 2. 71.07 (5d) (b) of the statutes is renumbered 71.07 (5d) (b) (intro.)
5 and amended to read:

6 71.07 (5d) (b) *Filing claims.* (intro.) Subject to the limitations provided in this
7 subsection and in s. 560.205, a claimant may claim as a credit against the tax
8 imposed under s. 71.02 or 71.08, up to the amount of those taxes, the following:

9 1. For taxable years beginning before January 1, 2008, in each taxable year for
10 2 consecutive years, beginning with the taxable year as certified by the department
11 of commerce, an amount equal to 12.5 percent of the claimant's bona fide angel
12 investment made directly in a qualified new business venture.

13 SECTION 3. 71.07 (5d) (b) 2. of the statutes is created to read:

14 71.07 (5d) (b) 2. For taxable years beginning after December 31, 2007, for the
15 taxable year certified by the department of commerce, an amount equal to 25 percent
16 of the claimant's bona fide angel investment made directly in a qualified new
17 business venture.

18 SECTION 4. 71.07 (5d) (c) 2. of the statutes is amended to read:

19 71.07 (5d) (c) 2. The For taxable years beginning before January 1, 2008, the
20 maximum amount of a claimant's investment that may be used as the basis for a
21 credit under this subsection is \$2,000,000 for each investment made directly in a
22 business certified under s. 560.205 (1).

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

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component

- 3 -

Sec*. rev; 71.28(5b)(c) 2.; to 71.28(5b)(c).

Change component

1 71.28 (5b) (c) 1. Except as provided in s. 73.03 (63), the maximum amount of
2 the credits that may be claimed under this subsection and ss. 71.07 (5b) and, 71.47
3 (5b), and 76.638 for all taxable years combined is \$52,500,000.

4 SECTION 6. 71.47 (5b) (c) 1. of the statutes is amended to read: *repealed.*

5 71.47 (5b) (c) 1. Except as provided in s. 73.03 (63), the maximum amount of
6 the credits that may be claimed under this subsection and ss. 71.07 (5b) and, 71.28
7 (5b), and 76.638 for all taxable years combined is \$52,500,000.

8 SECTION 7. 73.03 (63) of the statutes is amended to read:

9 73.03 (63) Notwithstanding the amount limitations specified under ss. 71.07
10 ~~(5b) (c) 1. and (5d) (c) 1.,~~ plain 71.28 (5b) (c) 1., 71.47 (5b) (c) 1., 76.638 (3), and 560.205 (3)
11 (d), in consultation with the department of commerce, to carry forward to subsequent
12 taxable years unclaimed credit amounts of the early stage seed investment credits
13 under ss. 71.07 (5b), 71.28 (5b), and 71.47 (5b), and 76.638 and the angel investment
14 credit under s. 71.07 (5d). Annually, no later than July 1, the department of
15 commerce shall submit to the department of revenue its recommendations for the
16 carry forward of credit amounts as provided under this subsection.

17 SECTION 8. 76.638 of the statutes is created to read:

18 **76.638 Early stage seed investment credit.** (1) DEFINITIONS. In this
19 section, "fund manager" means an investment fund manager certified under s.
20 560.205 (2).

21 (2) FILING CLAIMS. For taxable years beginning after December 31, 2008,
22 subject to the limitations provided under this subsection and s. 560.205, an insurer
23 may claim as a credit against the fees imposed under s. 76.60, 76.63, 76.65, 76.66,
24 or 76.67, 25 percent of the insurer's investment paid to a fund manager that the fund
25 manager invests in a business certified under s. 560.205 (1).

Sec*. rev; 71.47(5b)(c) 2.; to 71.47(5b)(c).

(3) LIMITATIONS. Except as provided in s. 73.03 (63), the maximum amount of the credits that may be claimed under this section and ss. 71.07 (5b), 71.28 (5b), and 71.47 (5b) for all taxable years combined is \$52,500,000.

(4) INVESTMENT BASIS. The Wisconsin adjusted basis of any investment for which a credit is claimed under sub. (2) shall be reduced by the amount of the credit that is offset against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67.

(5) CARRY-FORWARD. If the credit under sub. (2) is not entirely offset against the fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67 otherwise due, the unused balance may be carried forward and credited against those fees for the following 15 years to the extent that it is not offset by those fees otherwise due in all the years between the year in which the expense was made and the year in which the carry-forward credit is claimed.

SECTION 9. 560.205 (1) (intro.) of the statutes is amended to read:

560.205 (1) ANGEL INVESTMENT TAX CREDITS. (intro.) The department shall implement a program to certify businesses for purposes of s. 71.07 (5d). A business desiring certification shall submit an application to the department in each taxable year for which the business desires certification. The business shall specify in its application the investment amount it wishes to raise and the department may certify the business and determine the amount that qualifies for purposes of s. 71.07 (5d).

Unless otherwise provided under the rules of the department, a business may be certified under this subsection, and may maintain such certification, only if the business satisfies all of the following conditions:

SECTION 10. 560.205 (1) (f) of the statutes is repealed and recreated to read:

560.205 (1) (f) It has the potential for increasing jobs in this state, increasing capital investment in this state, or both, and any of the following apply:

1 1. It is engaged in, or has committed to engage in, innovation in any of the
2 following:

3 a. Manufacturing, biotechnology, nanotechnology, communications,
4 agriculture, or clean energy creation or storage technology.

5 b. Processing or assembling products, including medical devices,
6 pharmaceuticals, computer software, computer hardware, semiconductors, any
7 other innovative technology products, or other products that are produced using
8 manufacturing methods that are enabled by applying proprietary technology.

9 c. Services that are enabled by applying proprietary technology.

10 2. It is undertaking precommercialization activity related to proprietary
11 technology that includes conducting research, developing a new product or business
12 process, or developing a service that is principally reliant on applying proprietary
13 technology.

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

15 560.205 (1) (g) It is not primarily engaged in real estate development,
16 insurance, banking, lending, lobbying, political consulting, professional services
17 provided by attorneys, accountants, business consultants, physicians, or health care
18 consultants, wholesale or retail trade, leisure, hospitality, transportation, or
19 construction, except construction of power production plants that derive energy from
20 a renewable resource, as defined in s. 196.378 (1) (h).

21 **SECTION 12.** 560.205 (1) (k) of the statutes is amended to read:

22 560.205 (1) (k) It For taxable years beginning before January 1, 2008, it has
23 not received more than \$1,000,000 in investments that have qualified for tax credits
24 under s. 71.07 (5d).

25 **SECTION 13.** 560.205 (1) (kn) of the statutes is created to read:

1 560.205 (1) (kn) For taxable years beginning after December 31, 2007, and
2 before January 1, 2011, it has not received more than \$4,000,000 in investments that
3 have qualified for tax credits under ss. 71.07 (5b) and (5d), 71.28 (5b), 71.47 (5b), and
4 76.638.

5 **SECTION 14.** 560.205 (1) (L) of the statutes is created to read:

6 560.205 (1) (L) For taxable years beginning after December 31, 2010, it has not
7 received more than \$8,000,000 in investments that have qualified for tax credits
8 under ss. 71.07 (5b) and (5d), 71.28 (5b), 71.47 (5b), and 76.638.

9 **SECTION 15.** 560.205 (2) of the statutes is amended to read:

10 560.205 (2) EARLY STAGE SEED INVESTMENT TAX CREDITS. The department shall
11 implement a program to certify investment fund managers for purposes of ss. 71.07
12 (5b), 71.28 (5b), and 71.47 (5b), and 76.638. An investment fund manager desiring
13 certification shall submit an application to the department. The investment fund
14 manager shall specify in the application the investment amount that the manager
15 wishes to raise and the department may certify the manager and determine the
16 amount that qualifies for purposes of ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and 76.638.

17 In determining whether to certify an investment fund manager, the department
18 shall consider the investment fund manager's experience in managing venture
19 capital funds, the past performance of investment funds managed by the applicant,
20 the expected level of investment in the investment fund to be managed by the
21 applicant, and any other relevant factors. The department may certify only
22 investment fund managers that commit to consider placing investments in
23 businesses certified under sub. (1).

24 **SECTION 16.** 560.205 (3) (d) of the statutes is amended to read:

1 560.205 (3) (d) *Rules*. The department of commerce, in consultation with the
2 department of revenue, shall promulgate rules to administer this section. The rules
3 shall further define “bona fide angel investment” for purposes of s. 71.07 (5d) (a) 1.
4 The rules shall limit the aggregate amount of tax credits under s. 71.07 (5d) that may
5 be claimed for investments in businesses certified under sub. (1) at \$3,000,000 per
6 calendar year for calendar years beginning after December 31, 2004, and before
7 January 1, 2008, \$5,500,000 per calendar year for calendar years beginning after
8 December 31, 2007, and before January 1, 2011, and \$18,000,000 per calendar year
9 for calendar years beginning after December 31, 2010, plus, for taxable years
10 beginning after December 31, 2010, an additional \$250,000 for tax credits that may
11 be claimed for investments in nanotechnology businesses certified under sub. (1).
12 The rules shall also limit the aggregate amount of the tax credits under ss. 71.07 (5b),
13 71.28 (5b), and 71.47 (5b), and 76.638 that may be claimed for investments paid to
14 fund managers certified under sub. (2) at \$3,500,000 per calendar year for calendar
15 years beginning after December 31, 2004, and before January 1, 2008, \$6,000,000 per
16 calendar year for calendar years beginning after December 31, 2007, and before
17 January 1, 2011, and \$18,500,000 per calendar year for calendar years beginning
18 after December 31, 2010, plus, for taxable years beginning after December 31, 2010,
19 an additional \$250,000 for tax credits that may be claimed for investments in
20 nanotechnology businesses certified under sub. (1). The rules shall also provide that,
21 for calendar years beginning after December 31, 2007, no person may receive a credit
22 under ss. 71.07 (5b) and (5d), 71.28 (5b), ~~or~~ 71.47 (5b), or 76.638 unless the person’s
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25 **SECTION 17.** 560.205 (3) (e) of the statutes is created to read:



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17 71.07 **(5d)** (c) 2. The For taxable years beginning before January 1, 2008, the
18 maximum amount of a claimant's investment that may be used as the basis for a
19 credit under this subsection is \$2,000,000 for each investment made directly in a
20 business certified under s. 560.205 (1).

21 **SECTION 6.** 71.28 (5b) (c) 1. of the statutes is repealed.

22 **SECTION 7.** 71.28 (5b) (c) 2. of the statutes is renumbered 71.28 (5b) (c).

23 **SECTION 8.** 71.47 (5b) (c) 1. of the statutes is repealed.

24 **SECTION 9.** 71.47 (5b) (c) 2. of the statutes is renumbered 71.47 (5b) (c).

25 **SECTION 10.** 73.03 (63) of the statutes is amended to read:

1 73.03 **(63)** Notwithstanding the amount limitations specified under ss. 71.07
2 ~~(5b) (e) 1. and (5d) (c) 1., 71.28 (5b) (e) 1., 71.47 (5b) (e) 1., and 560.205 (3) (d), in~~
3 consultation with the department of commerce, to carry forward to subsequent
4 taxable years unclaimed credit amounts of the early stage seed investment credits
5 under ss. 71.07 (5b), 71.28 (5b), ~~and 71.47 (5b), and 76.638~~ and the angel investment
6 credit under s. 71.07 (5d). Annually, no later than July 1, the department of
7 commerce shall submit to the department of revenue its recommendations for the
8 carry forward of credit amounts as provided under this subsection.

9 **SECTION 11.** 76.638 of the statutes is created to read:

10 **76.638 Early stage seed investment credit.** (1) **DEFINITIONS.** In this
11 section, "fund manager" means an investment fund manager certified under s.
12 560.205 (2).

13 (2) **FILING CLAIMS.** For taxable years beginning after December 31, 2008,
14 subject to the limitations provided under this subsection and s. 560.205, an insurer
15 may claim as a credit against the fees imposed under s. 76.60, 76.63, 76.65, 76.66,
16 or 76.67, 25 percent of the insurer's investment paid to a fund manager that the fund
17 manager invests in a business certified under s. 560.205 (1).

18 (3) **INVESTMENT BASIS.** The Wisconsin adjusted basis of any investment for
19 which a credit is claimed under sub. (2) shall be reduced by the amount of the credit
20 that is offset against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67.

21 (4) **CARRY-FORWARD:** If the credit under sub. (2) is not entirely offset against the
22 fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67 otherwise due, the unused balance
23 may be carried forward and credited against those fees for the following 15 years to
24 the extent that it is not offset by those fees otherwise due in all the years between

1 the year in which the expense was made and the year in which the carry-forward
2 credit is claimed.

3 **SECTION 12.** 560.205 (1) (intro.) of the statutes is amended to read:

4 560.205 (1) ANGEL INVESTMENT TAX CREDITS. (intro.) The department shall
5 implement a program to certify businesses for purposes of s. 71.07 (5d). A business
6 desiring certification shall submit an application to the department in each taxable
7 year for which the business desires certification. The business shall specify in its
8 application the investment amount it wishes to raise and the department may certify
9 the business and determine the amount that qualifies for purposes of s. 71.07 (5d).

10 Unless otherwise provided under the rules of the department, a business may be
11 certified under this subsection, and may maintain such certification, only if the
12 business satisfies all of the following conditions:

13 **SECTION 13.** 560.205 (1) (f) of the statutes is repealed and recreated to read:

14 560.205 (1) (f) It has the potential for increasing jobs in this state, increasing
15 capital investment in this state, or both, and any of the following apply:

16 1. It is engaged in, or has committed to engage in, innovation in any of the
17 following:

18 a. Manufacturing, biotechnology, nanotechnology, communications,
19 agriculture, or clean energy creation or storage technology.

20 b. Processing or assembling products, including medical devices,
21 pharmaceuticals, computer software, computer hardware, semiconductors, any
22 other innovative technology products, or other products that are produced using
23 manufacturing methods that are enabled by applying proprietary technology.

24 c. Services that are enabled by applying proprietary technology.

1 2. It is undertaking precommercialization activity related to proprietary
2 technology that includes conducting research, developing a new product or business
3 process, or developing a service that is principally reliant on applying proprietary
4 technology.

5 **SECTION 14.** 560.205 (1) (g) of the statutes is amended to read:

6 560.205 (1) (g) It is not primarily engaged in real estate development,
7 insurance, banking, lending, lobbying, political consulting, professional services
8 provided by attorneys, accountants, business consultants, physicians, or health care
9 consultants, wholesale or retail trade, leisure, hospitality, transportation, or
10 construction, except construction of power production plants that derive energy from
11 a renewable resource, as defined in s. 196.378 (1) (h).

12 **SECTION 15.** 560.205 (1) (k) of the statutes is amended to read:

13 560.205 (1) (k) It For taxable years beginning before January 1, 2008, it has
14 not received more than \$1,000,000 in investments that have qualified for tax credits
15 under s. 71.07 (5d).

16 **SECTION 16.** 560.205 (1) (kn) of the statutes is created to read:

17 560.205 (1) (kn) For taxable years beginning after December 31, 2007, and
18 before January 1, 2011, it has not received more than \$4,000,000 in investments that
19 have qualified for tax credits under ss. 71.07 (5b) and (5d), 71.28 (5b), 71.47 (5b), and
20 76.638.

21 **SECTION 17.** 560.205 (1) (L) of the statutes is created to read:

22 560.205 (1) (L) For taxable years beginning after December 31, 2010, it has not
23 received more than \$8,000,000 in investments that have qualified for tax credits
24 under ss. 71.07 (5b) and (5d), 71.28 (5b), 71.47 (5b), and 76.638.

25 **SECTION 18.** 560.205 (2) of the statutes is amended to read:

1 560.205 (2) EARLY STAGE SEED INVESTMENT TAX CREDITS. The department shall
2 implement a program to certify investment fund managers for purposes of ss. 71.07
3 (5b), 71.28 (5b), and 71.47 (5b), and 76.638. An investment fund manager desiring
4 certification shall submit an application to the department. The investment fund
5 manager shall specify in the application the investment amount that the manager
6 wishes to raise and the department may certify the manager and determine the
7 amount that qualifies for purposes of ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and 76.638.
8 In determining whether to certify an investment fund manager, the department
9 shall consider the investment fund manager's experience in managing venture
10 capital funds, the past performance of investment funds managed by the applicant,
11 the expected level of investment in the investment fund to be managed by the
12 applicant, and any other relevant factors. The department may certify only
13 investment fund managers that commit to consider placing investments in
14 businesses certified under sub. (1).

15 **SECTION 19.** 560.205 (3) (d) of the statutes is amended to read:

16 560.205 (3) (d) *Rules*. The department of commerce, in consultation with the
17 department of revenue, shall promulgate rules to administer this section. The rules
18 shall further define "bona fide angel investment" for purposes of s. 71.07 (5d) (a) 1.
19 The rules shall limit the aggregate amount of tax credits under s. 71.07 (5d) that may
20 be claimed for investments in businesses certified under sub. (1) at \$3,000,000 per
21 calendar year for calendar years beginning after December 31, 2004, and before
22 January 1, 2008, \$5,500,000 per calendar year for calendar years beginning after
23 December 31, 2007, and before January 1, 2011, and \$18,000,000 per calendar year
24 for calendar years beginning after December 31, 2010, plus, for taxable years
25 beginning after December 31, 2010, an additional \$250,000 for tax credits that may

1 be claimed for investments in nanotechnology businesses certified under sub. (1).
2 The rules shall also limit the aggregate amount of the tax credits under ss. 71.07 (5b),
3 71.28 (5b), ~~and 71.47 (5b), and 76.638~~ that may be claimed for investments paid to
4 fund managers certified under sub. (2) at \$3,500,000 per calendar year for calendar
5 years beginning after December 31, 2004, and before January 1, 2008, \$6,000,000 per
6 calendar year for calendar years beginning after December 31, 2007, and before
7 January 1, 2011, and \$18,500,000 per calendar year for calendar years beginning
8 after December 31, 2010, plus, for taxable years beginning after December 31, 2010,
9 an additional \$250,000 for tax credits that may be claimed for investments in
10 nanotechnology businesses certified under sub. (1). The rules shall also provide that,
11 for calendar years beginning after December 31, 2007, no person may receive a credit
12 under ss. 71.07 (5b) and (5d), 71.28 (5b), ~~or 71.47 (5b), or 76.638~~ unless the person's
13 investment is kept in a certified business, or with a certified fund manager, for no less
14 than 3 years.

15 **SECTION 20.** 560.205 (3) (e) of the statutes is created to read:

16 560.205 (3) (e) *Transfer.* A person who is eligible to claim a credit under s. 71.07
17 (5b) 71.28 (5b), 71.47 (5b), or 76.638 may sell or otherwise transfer the credit to
18 another person who is subject to the taxes or fees imposed under s. 71.02, 71.23, or
19 71.47 or subch. III of ch. 76, if the person receives prior authorization from the
20 investment fund manager and the manager then notifies the department of
21 commerce and the department of revenue of the transfer and submits with the
22 notification a copy of the transfer documents. No person may sell or otherwise
23 transfer a credit as provided in this paragraph more than once. The department may
24 charge any person selling or otherwise transferring a credit under this paragraph a
25 fee equal to 1 percent of the credit amount sold or transferred. The department shall

✓
in a 12-month period

1 deposit all fees collected under this paragraph in the appropriation account under
2 s. 20.143 (1) (gm).

3 **SECTION 9310. Initial applicability; Commerce.**

4 (1) EARLY STAGE SEED INVESTMENT CREDIT. The treatment of section 560.205 (1)
5 (f) and (g), (2), and (3) (e) of the statutes first applies to taxable years beginning on
6 January 1, 2009.

7 (END)

d-note
↓

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

0252/P10

D-N

560.205

This draft makes the correction to s. 560.205 (2)(e)

specified in the e-mail from Jane Pawasarat on

February 14, 2009 (C)

JL

Kreye, Joseph

From: Pawasarat, Jane - DOA [jane.pawasarat@wisconsin.gov]
Sent: Saturday, February 14, 2009 2:48 PM
To: Kreye, Joseph
Cc: Hanaman, Cathlene; Kraus, Jennifer - DOA; Weidner, Jenna M - DOA
Subject: requested change to budget draft
Follow Up Flag: Follow up
Flag Status: Red

Hi Joe – Would you please include on page 1366, line 4, Section 3074, line 4 of the budget draft the phrase "in a 12-month period."
Right after "more than once" and omit the period. i.e. "more than once in a 12-month period." The change made it into the budget adjustment bill but not the budget bill. Thanks much, Jane Pawasarat

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0252/P10dn
JK:jld:jf

February 16, 2009

This draft makes the correction to s. 560.205 (3) (e) specified in the e-mail from Jane Pawasarat on February 14, 2009.

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



DOA:.....Weidner, BB0006 - Angel investment tax credit changes

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

Under current law, a person may claim as credit against the person's income or franchise tax liability, in each of two consecutive taxable years, 12.5 percent of the person's investment in a qualified new business venture, as determined by Commerce. The maximum amount of a person's investment that can be used as the basis for the credit is \$2,000,000 and a business may receive no more than \$1,000,000 in investments that qualify for the credit.

Under this bill, a person may claim an income and franchise tax credit equal to 25 percent of the person's investment in a qualified new business venture. The bill allows a person to use more than \$2,000,000 in investments as the basis for the credit and to transfer the amount of any unused credit to another taxpayer.

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:

2 **SECTION 1.** 71.07 (5b) (c) 1. of the statutes is repealed.

1 **SECTION 2.** 71.07 (5b) (c) 2. of the statutes is renumbered 71.07 (5b) (c).

2 **SECTION 3.** 71.07 (5d) (b) of the statutes is renumbered 71.07 (5d) (b) (intro.)
3 and amended to read:

4 71.07 (5d) (b) *Filing claims.* (intro.) Subject to the limitations provided in this
5 subsection and in s. 560.205, a claimant may claim as a credit against the tax
6 imposed under s. 71.02 or 71.08, up to the amount of those taxes, the following:

7 1. For taxable years beginning before January 1, 2008, in each taxable year for
8 2 consecutive years, beginning with the taxable year as certified by the department
9 of commerce, an amount equal to 12.5 percent of the claimant's bona fide angel
10 investment made directly in a qualified new business venture.

11 **SECTION 4.** 71.07 (5d) (b) 2. of the statutes is created to read:

12 71.07 (5d) (b) 2. For taxable years beginning after December 31, 2007, for the
13 taxable year certified by the department of commerce, an amount equal to 25 percent
14 of the claimant's bona fide angel investment made directly in a qualified new
15 business venture.

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

17 71.07 (5d) (c) 2. The For taxable years beginning before January 1, 2008, the
18 maximum amount of a claimant's investment that may be used as the basis for a
19 credit under this subsection is \$2,000,000 for each investment made directly in a
20 business certified under s. 560.205 (1).

21 **SECTION 6.** 71.28 (5b) (c) 1. of the statutes is repealed.

22 **SECTION 7.** 71.28 (5b) (c) 2. of the statutes is renumbered 71.28 (5b) (c).

23 **SECTION 8.** 71.47 (5b) (c) 1. of the statutes is repealed.

24 **SECTION 9.** 71.47 (5b) (c) 2. of the statutes is renumbered 71.47 (5b) (c).

25 **SECTION 10.** 73.03 (63) of the statutes is amended to read:

1 73.03 **(63)** Notwithstanding the amount limitations specified under ss. 71.07
2 ~~(5b) (e) 1. and (5d) (c) 1., 71.28 (5b) (e) 1., 71.47 (5b) (e) 1., and 560.205 (3) (d), in~~
3 consultation with the department of commerce, to carry forward to subsequent
4 taxable years unclaimed credit amounts of the early stage seed investment credits
5 under ss. 71.07 (5b), 71.28 (5b), ~~and 71.47 (5b), and 76.638~~ and the angel investment
6 credit under s. 71.07 (5d). Annually, no later than July 1, the department of
7 commerce shall submit to the department of revenue its recommendations for the
8 carry forward of credit amounts as provided under this subsection.

9 **SECTION 11.** 76.638 of the statutes is created to read:

10 **76.638 Early stage seed investment credit. (1) DEFINITIONS.** In this
11 section, "fund manager" means an investment fund manager certified under s.
12 560.205 (2).

13 **(2) FILING CLAIMS.** For taxable years beginning after December 31, 2008,
14 subject to the limitations provided under this subsection and s. 560.205, an insurer
15 may claim as a credit against the fees imposed under s. 76.60, 76.63, 76.65, 76.66,
16 or 76.67, 25 percent of the insurer's investment paid to a fund manager that the fund
17 manager invests in a business certified under s. 560.205 (1).

18 **(3) INVESTMENT BASIS.** The Wisconsin adjusted basis of any investment for
19 which a credit is claimed under sub. (2) shall be reduced by the amount of the credit
20 that is offset against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67.

21 **(4) CARRY-FORWARD.** If the credit under sub. (2) is not entirely offset against the
22 fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67 otherwise due, the unused balance
23 may be carried forward and credited against those fees for the following 15 years to
24 the extent that it is not offset by those fees otherwise due in all the years between

1 the year in which the expense was made and the year in which the carry-forward
2 credit is claimed.

3 **SECTION 12.** 560.205 (1) (intro.) of the statutes is amended to read:

4 560.205 (1) ANGEL INVESTMENT TAX CREDITS. (intro.) The department shall
5 implement a program to certify businesses for purposes of s. 71.07 (5d). A business
6 desiring certification shall submit an application to the department in each taxable
7 year for which the business desires certification. The business shall specify in its
8 application the investment amount it wishes to raise and the department may certify
9 the business and determine the amount that qualifies for purposes of s. 71.07 (5d).

10 Unless otherwise provided under the rules of the department, a business may be
11 certified under this subsection, and may maintain such certification, only if the
12 business satisfies all of the following conditions:

13 **SECTION 13.** 560.205 (1) (f) of the statutes is repealed and recreated to read:

14 560.205 (1) (f) It has the potential for increasing jobs in this state, increasing
15 capital investment in this state, or both, and any of the following apply:

16 1. It is engaged in, or has committed to engage in, innovation in any of the
17 following:

18 a. Manufacturing, biotechnology, nanotechnology, communications,
19 agriculture, or clean energy creation or storage technology.

20 b. Processing or assembling products, including medical devices,
21 pharmaceuticals, computer software, computer hardware, semiconductors, any
22 other innovative technology products, or other products that are produced using
23 manufacturing methods that are enabled by applying proprietary technology.

24 c. Services that are enabled by applying proprietary technology.

1 2. It is undertaking precommercialization activity related to proprietary
2 technology that includes conducting research, developing a new product or business
3 process, or developing a service that is principally reliant on applying proprietary
4 technology.

5 **SECTION 14.** 560.205 (1) (g) of the statutes is amended to read:

6 560.205 (1) (g) It is not primarily engaged in real estate development,
7 insurance, banking, lending, lobbying, political consulting, professional services
8 provided by attorneys, accountants, business consultants, physicians, or health care
9 consultants, wholesale or retail trade, leisure, hospitality, transportation, or
10 construction, except construction of power production plants that derive energy from
11 a renewable resource, as defined in s. 196.378 (1) (h).

12 **SECTION 15.** 560.205 (1) (k) of the statutes is amended to read:

13 560.205 (1) (k) It For taxable years beginning before January 1, 2008, it has
14 not received more than \$1,000,000 in investments that have qualified for tax credits
15 under s. 71.07 (5d).

16 **SECTION 16.** 560.205 (1) (kn) of the statutes is created to read:

17 560.205 (1) (kn) For taxable years beginning after December 31, 2007, and
18 before January 1, 2011, it has not received more than \$4,000,000 in investments that
19 have qualified for tax credits under ss. 71.07 (5b) and (5d), 71.28 (5b), 71.47 (5b), and
20 76.638.

21 **SECTION 17.** 560.205 (1) (L) of the statutes is created to read:

22 560.205 (1) (L) For taxable years beginning after December 31, 2010, it has not
23 received more than \$8,000,000 in investments that have qualified for tax credits
24 under ss. 71.07 (5b) and (5d), 71.28 (5b), 71.47 (5b), and 76.638.

25 **SECTION 18.** 560.205 (2) of the statutes is amended to read:

1 560.205 (2) EARLY STAGE SEED INVESTMENT TAX CREDITS. The department shall
2 implement a program to certify investment fund managers for purposes of ss. 71.07
3 (5b), 71.28 (5b), and 71.47 (5b), and 76.638. An investment fund manager desiring
4 certification shall submit an application to the department. The investment fund
5 manager shall specify in the application the investment amount that the manager
6 wishes to raise and the department may certify the manager and determine the
7 amount that qualifies for purposes of ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and 76.638.
8 In determining whether to certify an investment fund manager, the department
9 shall consider the investment fund manager's experience in managing venture
10 capital funds, the past performance of investment funds managed by the applicant,
11 the expected level of investment in the investment fund to be managed by the
12 applicant, and any other relevant factors. The department may certify only
13 investment fund managers that commit to consider placing investments in
14 businesses certified under sub. (1).

15 **SECTION 19.** 560.205 (3) (d) of the statutes is amended to read:

16 560.205 (3) (d) *Rules*. The department of commerce, in consultation with the
17 department of revenue, shall promulgate rules to administer this section. The rules
18 shall further define "bona fide angel investment" for purposes of s. 71.07 (5d) (a) 1.
19 The rules shall limit the aggregate amount of tax credits under s. 71.07 (5d) that may
20 be claimed for investments in businesses certified under sub. (1) at \$3,000,000 per
21 calendar year for calendar years beginning after December 31, 2004, and before
22 January 1, 2008, \$5,500,000 per calendar year for calendar years beginning after
23 December 31, 2007, and before January 1, 2011, and \$18,000,000 per calendar year
24 for calendar years beginning after December 31, 2010, plus, for taxable years
25 beginning after December 31, 2010, an additional \$250,000 for tax credits that may

1 be claimed for investments in nanotechnology businesses certified under sub. (1).
2 The rules shall also limit the aggregate amount of the tax credits under ss. 71.07 (5b),
3 71.28 (5b), ~~and 71.47 (5b), and 76.638~~ that may be claimed for investments paid to
4 fund managers certified under sub. (2) at \$3,500,000 per calendar year for calendar
5 years beginning after December 31, 2004, and before January 1, 2008, \$6,000,000 per
6 calendar year for calendar years beginning after December 31, 2007, and before
7 January 1, 2011, and \$18,500,000 per calendar year for calendar years beginning
8 after December 31, 2010, plus, for taxable years beginning after December 31, 2010,
9 an additional \$250,000 for tax credits that may be claimed for investments in
10 nanotechnology businesses certified under sub. (1). The rules shall also provide that,
11 for calendar years beginning after December 31, 2007, no person may receive a credit
12 under ss. 71.07 (5b) and (5d), 71.28 (5b), ~~or 71.47 (5b), or 76.638~~ unless the person's
13 investment is kept in a certified business, or with a certified fund manager, for no less
14 than 3 years.

15 **SECTION 20.** 560.205 (3) (e) of the statutes is created to read:

16 560.205 (3) (e) *Transfer.* A person who is eligible to claim a credit under s. 71.07
17 (5b) 71.28 (5b), 71.47 (5b), or 76.638 may sell or otherwise transfer the credit to
18 another person who is subject to the taxes or fees imposed under s. 71.02, 71.23, or
19 71.47 or subch. III of ch. 76, if the person receives prior authorization from the
20 investment fund manager and the manager then notifies the department of
21 commerce and the department of revenue of the transfer and submits with the
22 notification a copy of the transfer documents. No person may sell or otherwise
23 transfer a credit as provided in this paragraph more than once in a 12-month period.
24 The department may charge any person selling or otherwise transferring a credit
25 under this paragraph a fee equal to 1 percent of the credit amount sold or transferred.

1 The department shall deposit all fees collected under this paragraph in the
2 appropriation account under s. 20.143 (1) (gm).

3 **SECTION 9310. Initial applicability; Commerce.**

4 (1) EARLY STAGE SEED INVESTMENT CREDIT. The treatment of section 560.205 (1)
5 (f) and (g), (2), and (3) (e) of the statutes first applies to taxable years beginning on
6 January 1, 2009.

7 (END)