

State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3439/P2
JK&TKK:kjf:jf

P3

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inserts

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

d-note

12/2/09

by 12/8/09

re gen

1 AN ACT *to amend* 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a) 4., 71.34 (1k) (g), 71.45
 2 (2) (a) 10. and 77.92 (4); and *to create* 71.07 (5n), 71.10 (4) (cs), 71.28 (5n), 71.30
 3 (3) (dn), 71.47 (5n), 71.49 (1) (dn) and 560.2065 of the statutes; **relating to:** an
 4 income and franchise tax credit for a qualified equity investment in a qualified
 5 community development entity) and authorizing the exercise of rule-making
 6 authority. ^{5 providing an exemption from emergency rule procedures,} ^{requiring}

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

7 **SECTION 1.** 71.05 (6) (a) 15. of the statutes, as affected by 2009 Wisconsin Acts
 8 2 and 28, is amended to read:
 9 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
 10 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s),

and 71.08 ✓

1 (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), (5n), and (8r) and not passed through by a
2 partnership, limited liability company, or tax-option corporation that has added that
3 amount to the partnership's, company's, or tax-option corporation's income under s.
4 71.21 (4) or 71.34 (1k) (g).

5 SECTION 2. 71.07 (5n) of the statutes is created to read:

6 71.07 (5n) SUPPLEMENT TO FEDERAL NEW MARKETS CREDIT. (a) *Definitions*. In this nwn
7 subsection, "claimant" means a person who files a claim under this subsection. nwn

8 (b) *Filing claims*. Subject to the limitations provided under this subsection and
9 s. 560.2065, a claimant may claim as a credit against the taxes imposed under (s.)

10 71.02 up to the amount of the taxes, the amount the claimant paid to a qualified
11 community development entity, as defined under 26 USC 45D (c), for a qualified
12 equity investment, as defined under 26 USC 45D (b), at its original issue, multiplied
13 by the following percentage:

14 1. For the taxable years that correspond to the first 3 credit allowance dates,
15 as defined under 26 USC 45D (a) (3), 5 percent.

16 2. For the taxable years that correspond to the 4 credit allowance dates, as
17 defined under 26 USC 45D (a) (3), following the credit allowance dates described in
18 subd. 1., 6 percent.

19 (c) *Limitations*. A partnership, limited liability company, or tax-option
20 corporation may not claim the credit under this subsection. The partners of a
21 partnership, members of a limited liability company, or shareholders in a tax-option
22 corporation may claim the credit under this subsection based on eligible costs
23 incurred by the partnership, company, or tax-option corporation. The partnership,
24 limited liability company, or tax-option corporation shall calculate the amount of the
25 credit which may be claimed by each partner, member, or shareholder and shall

nwn

nwn

SS. nwn

1 provide that information to the partner, member, or shareholder. For shareholders
 2 of a tax-option corporation, the credit may be allocated in proportion to the
 3 ownership interest of each shareholder. Credits computed by a partnership or
 4 limited liability company may be claimed in proportion to the ownership interests
 5 of the partners or members or allocated to partners or members as provided in a
 6 written agreement among the partners or members that is entered into no later than
 7 the last day of the taxable year of the partnership or limited liability company, for
 8 which the credit is claimed. Any partner or member who claims the credit as
 9 provided under this paragraph shall attach a copy of the agreement, if applicable, to
 10 the tax return on which the credit is claimed. A person claiming the credit as
 11 provided under this paragraph is solely responsible for any tax liability arising from
 12 a dispute with the department of revenue related to claiming the credit.

13 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
 14 s. 71.28 (4), applies to the credit under this subsection.

15 **SECTION 3.** 71.10 (4) (cs) of the statutes is created to read:

16 (fm) 71.10 (4) (cs) Supplement to federal new markets credit under s. 71.07 (5n).

17 **SECTION 4.** 71.21 (4) of the statutes, as affected by 2009 Wisconsin Acts 2 and
 18 28, is amended to read:

19 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
 20 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s), (3t), (3w),
 21 (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), and (8r) and passed through to partners shall
 22 be added to the partnership's income.

23 **SECTION 5.** 71.26 (2) (a) 4. of the statutes, as affected by 2009 Wisconsin Acts
 24 2 and 28, is amended to read:

71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), and (8r) and not passed through by a partnership, limited liability company, or tax-option corporation that has added that amount to the partnership's, limited liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

SECTION 6. 71.28 (5n) of the statutes is created to read:

71.28 (5n) SUPPLEMENT TO FEDERAL NEW MARKETS CREDIT. (a) *Definitions*. In this subsection, "claimant" means a person who files a claim under this subsection.

(b) *Filing claims*. Subject to the limitations provided under this subsection and s. 560.2065, a claimant may claim as a credit against the taxes imposed under s. 71.23, up to the amount of the taxes, the amount the claimant paid to a qualified community development entity, as defined under 26 USC 45D (c), for a qualified equity investment, as defined under 26 USC 45D (b), at its original issue, multiplied by the following percentage:

1. For the taxable years that correspond to the first 3 credit allowance dates, as defined under 26 USC 45D (a) (3), 5 percent.

2. For the taxable years that correspond to the 4 credit allowance dates, as defined under 26 USC 45D (a) (3), following the credit allowance dates described in subd. 1., 6 percent.

(c) *Limitations*. A partnership, limited liability company, or tax-option corporation may not claim the credit under this subsection. The partners of a partnership, members of a limited liability company, or shareholders in a tax-option corporation may claim the credit under this subsection based on eligible costs incurred by the partnership, company, or tax-option corporation. The partnership,

1 limited liability company, or tax-option corporation shall calculate the amount of the
 2 credit which may be claimed by each partner, member, or shareholder and shall
 3 provide that information to the partner, member, or shareholder. For shareholders
 4 of a tax-option corporation, the credit may be allocated in proportion to the
 5 ownership interest of each shareholder. Credits computed by a partnership or
 6 limited liability company may be claimed in proportion to the ownership interests
 7 of the partners or members or allocated to partners or members as provided in a
 8 written agreement among the partners or members that is entered into no later than
 9 the last day of the taxable year of the partnership or limited liability company, for
 10 which the credit is claimed. Any partner or member who claims the credit as
 11 provided under this paragraph shall attach a copy of the agreement, if applicable, to
 12 the tax return on which the credit is claimed. A person claiming the credit as
 13 provided under this paragraph is solely responsible for any tax liability arising from
 14 a dispute with the department of revenue related to claiming the credit.

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15 (d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under
 16 sub. (4), applies to the credit under this subsection.

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

18 71.30 (3) (dn) Supplement to federal new market credit under s. 71.28 (5n).

19 **SECTION 8.** 71.34 (1k) (g) of the statutes, as affected by 2009 Wisconsin Acts 2
 20 and 28, is amended to read:

21 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
 22 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
 23 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n),
 24 and (8r) and passed through to shareholders.

6

1 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2009 Wisconsin Acts
2 and 28, is amended to read:

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

10 **SECTION 10.** 71.47 (5n) of the statutes is created to read:

11 71.47 (5n) SUPPLEMENT TO FEDERAL NEW MARKETS CREDIT. (a) *Definitions*. In this
12 subsection, "claimant" means a person who files a claim under this subsection. nwn
nwn

13 (b) *Filing claims.* Subject to the limitations provided under this subsection and
14 s. 560.2065, a claimant may claim as a credit against the taxes imposed under s.
15 71.43, up to the amount of the taxes, the amount the claimant paid to a qualified
16 community development entity, as defined under 26 USC 45D (c), for a qualified
17 equity investment, as defined under 26 USC 45D (b), at its original issue, multiplied
18 by the following percentage:

19 1. For the taxable years that correspond to the first 3 credit allowance dates,
20 as defined under 26 USC 45D (a) (3), 5 percent.

21 2. For the taxable years that correspond to the 4 credit allowance dates, as
22 defined under 26 USC 45D (a) (3), following the credit allowance dates described in
23 subd. 1., 6 percent.

24 (c) *Limitations.* A partnership, limited liability company, or tax-option
25 corporation may not claim the credit under this subsection. The partners of a

1 partnership, members of a limited liability company, or shareholders in a tax-option
 2 corporation may claim the credit under this subsection based on eligible costs
 3 incurred by the partnership, company, or tax-option corporation. The partnership,
 4 limited liability company, or tax-option corporation shall calculate the amount of the
 5 credit which may be claimed by each partner, member, or shareholder and shall
 6 provide that information to the partner, member, or shareholder. For shareholders
 7 of a tax-option corporation, the credit may be allocated in proportion to the
 8 ownership interest of each shareholder. Credits computed by a partnership or
 9 limited liability company may be claimed in proportion to the ownership interests
 10 of the partners or members or allocated to partners or members as provided in a
 11 written agreement among the partners or members that is entered into no later than
 12 the last day of the taxable year of the partnership or limited liability company, for
 13 which the credit is claimed. Any partner or member who claims the credit as
 14 provided under this paragraph shall attach a copy of the agreement, if applicable, to
 15 the tax return on which the credit is claimed. A person claiming the credit as
 16 provided under this paragraph is solely responsible for any tax liability arising from
 17 a dispute with the department of revenue related to claiming the credit.

18 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
 19 s. 71.28 (4), applies to the credit under this subsection.

20 SECTION 11. 71.49 (1) (dn) of the statutes is created to read:

21 71.49 (1) (dn) Supplement to federal new markets credit under s. 71.47 (5n).

22 SECTION 12. 77.92 (4) of the statutes, as affected by 2009 Wisconsin Acts 2 and
 23 28, is amended to read:

24 77.92 (4) "Net business income," with respect to a partnership, means taxable
 25 income as calculated under section 703 of the Internal Revenue Code; plus the items

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

15 **SECTION 13.** 560.2065 of the statutes is created to read:

16 **560.2065 Supplement to federal new markets credit. (1) DEFINITIONS.**

17 In this section:

18 (a) "Credit allowance date" means a credit allowance date as defined under 26
19 USC 45D (a) (3).

20 (b) "Qualified active low-income community business" means a qualified active
21 low-income community business as defined under 26 USC 45D (d) (2).

22 (c) "Qualified community development entity" means a qualified community
23 development entity as defined under 26 USC 45D (c).

24 (d) "Qualified equity investment" means a qualified equity investment as
25 defined under 26 USC 45D (b).

1 (e) "Qualified low-income community investment" means a qualified
2 low-income community investment as defined under 26 USC 45D (d) (1).

3 (2) CERTIFICATION. The department may certify a person to receive tax benefits
4 under this section in each taxable year in which a credit allowance date falls if all of
5 the following apply:

6 (a) The person applies to the department for certification under this section in
7 each year for which the tax benefit is to be claimed.

8 (b) The department determines that the person made a qualified equity
9 investment in a qualified community development entity

10 (c) The department determines that the person is the holder of a qualified
11 equity investment in the taxable year in which the tax benefits are to be claimed.

12 (3) LIMITS. The department may allocate up to \$15,000,000 in tax benefits
13 under this section in any calendar year. [...]

14 (4) DUTIES OF THE DEPARTMENT. (a) The department of commerce shall notify
15 the department of revenue of all of the following:

16 1. Every certification issued under sub. (2) and the date on which any such
17 certification is revoked.

18 2. The maximum amount of the tax credits under ss. 71.07 (5n), 71.28 (5n), and
19 71.47 (5n) ^{and 76.0639} that a person ^{certified under sub. (2)} may claim in the taxable year in which the person is certified ^{and a credit allowance date falls}
each

20 (c) (b) The department shall promulgate rules to administer this program,
21 including all of the following:

22 1. Information to be provided to the department by a qualified community
23 development entity in order for the department to determine all of the following:

24 (a) ^{no fr} Whether an equity investment ^{an applicant} issued by the ^{ea} qualified community
25 development entity is a qualified equity investment. ^{in which the applicant has made or seeks to make an investment is a qualified equity investment}

INSERT 9-20

INSERT 10-1

1 b. The amount of tax benefits a person certified under this section may claim
2 under par. (a) 2.

3 40e (2) Criteria for prioritizing applicants for certification under this section.

4 (d) (3) In consultation with the department of revenue, reviewing and applications provisions governing the department of commerce may promulgate rules
5 recapture of tax benefits awarded to a person certified under this section.

6 SECTION 14. Initial applicability.

7 (1) This act first applies to taxable years beginning on January 1, 2010.

8 (END)

INSERT 10-6

12 Note

Insert 3 - 12

1 2. The tax basis of a claimant's interest in a partnership, limited liability
2 company, or tax-option corporation shall be reduced, but not below zero, by the
3 amount of any credit claimed under this subsection. The credit claimed under this
4 subsection shall not be limited to the amount of the adjusted tax basis for the
5 claimant's interest in a partnership, limited liability company, or tax-option
6 corporation.

7 3. Any claimant who transfers an interest in a partnership, limited liability
8 company, or tax-option corporation after the first credit allowance date, as defined
9 under 26 USC 45D (b), but before the final credit allowance date for the credit
10 allowed under this subsection shall be entitled to claim the credit for the remaining
11 credit allowance dates by filing with the claimant's return a written agreement
12 between the claimant and the transferee of the interest that specifies that the
13 claimant, not the transferee, is the person entitled to claim the credit.

14 4. The limitation under section 469 (a) (1) (B) of the Internal Revenue Code does
15 not apply to the credit under ~~under~~ this subsection.

Insert 3 - 14

16 2. No credit may be allowed under this subsection unless the claimant includes
17 with the claimant's return a copy of the claimant's certification for tax benefits under
18 s. 560.2065 (2).

19 **SECTION 1.** 71.08 (1) (intro.) of the statutes, as affected by 2009 Wisconsin Act
20 ~~2009~~ 28, is amended to read:

21 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
22 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under

1 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2dy), (3m), (3n), (3p),
 2 (3q), (3r), (3s), (3t), (3w), (5b), (5d), (5e), (5f), (5h), (5i), (5j), (5n), (6), (6e), (8r), and (9e),
 3 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3), (3n), (3t), and (3w),
 4 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3), (3n), (3t), and (3w),
 5 71.57 to 71.61, and 71.613 and subch. VIII and payments to other states under s.
 6 71.07 (7), is less than the tax under this section, there is imposed on that natural
 7 person, married couple filing jointly, trust or estate, instead of the tax under s. 71.02,
 8 an alternative minimum tax computed as follows:

History: 1987 a. 312, 411; 1989 a. 31; 1991 a. 39; 1995 a. 27, 209; 1997 a. 27, 237; 1999 a. 9; 2001 a. 109; 2003 a. 99, 135, 255, 326; 2005 a. 25, 177, 361, 479, 483; 2007 a. 20, 97; 2009 a. 2, 28.

Insert 5 - 14

9 2. The tax basis of a claimant's interest in a partnership, limited liability
 10 company, or tax-option corporation shall be reduced, but not below zero, by the
 11 amount of any credit claimed under this subsection. The credit claimed under this
 12 subsection shall not be limited to the amount of the adjusted tax basis for the
 13 claimant's interest in a partnership, limited liability company, or tax-option
 14 corporation.

15 3. Any claimant who transfers an interest in a partnership, limited liability
 16 company, or tax-option corporation after the first credit allowance date, as defined
 17 under 26 USC 45D (b), but before the final credit allowance date for the credit
 18 allowed under this subsection shall be entitled to claim the credit for the remaining
 19 credit allowance dates by filing with the claimant's return a written agreement
 20 between the claimant and the transferee of the interest that specifies that the
 21 claimant, not the transferee, is the person entitled to claim the credit.

1 4. The limitation under section 469 (a) (1) (B) of the Internal Revenue Code does
2 not apply to the credit under under this subsection.

Insert 5 - 16

3 2. No credit may be allowed under this subsection unless the claimant includes
4 with the claimant's return a copy of the claimant's certification for tax benefits under
5 s. 560.2065 (2).

Insert 7 - 17

6 2. The tax basis of a claimant's interest in a partnership, limited liability
7 company, or tax-option corporation shall be reduced, but not below zero, by the
8 amount of any credit claimed under this subsection. The credit claimed under this
9 subsection shall not be limited to the amount of the adjusted tax basis for the
10 claimant's interest in a partnership, limited liability company, or tax-option
11 corporation.

12 3. Any claimant who transfers an interest in a partnership, limited liability
13 company, or tax-option corporation after the first credit allowance date, as defined
14 under 26 USC 45D (b), but before the final credit allowance date for the credit
15 allowed under this subsection shall be entitled to claim the credit for the remaining
16 credit allowance dates by filing with the claimant's return a written agreement
17 between the claimant and the transferee of the interest that specifies that the
18 claimant, not the transferee, is the person entitled to claim the credit.

Insert 7 - 19

1 2. No credit may be allowed under this subsection unless the claimant includes
2 with the claimant's return a copy of the claimant's certification for tax benefits under
3 s. 560.2065 (2).

Insert 7 - 21

4 **SECTION 2.** 76.639 of the statutes is created to read:

5 **76.639 New markets credit. (1) FILING CLAIMS.** Subject to the limitations
6 provided under this section and s. 560.2065, an insurer may claim as a credit against
7 the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.27 the amount the insurer
8 paid to a qualified community development entity, as defined under 26 USC 45D (c),
9 for a qualified equity investment, as defined under 26 USC 45D (b), at its original
10 issue, multiplied by the following percentage:

11 1. For the taxable years that correspond to the first 3 credit allowance dates,
12 as defined under 26 USC 45D (a) (3), 5 percent.

13 2. For the taxable years that correspond to the 4 credit allowance dates, as
14 defined under 26 USC 45D (a) (3), following the credit allowance dates described in
15 subd. 1., 6 percent.

16 **(2) LIMITATIONS.** No credit may be allowed under this section unless the insurer
17 includes with the insurer's annual return under s. 76.64 a copy of the claimant's
18 certification for tax benefits under s. 560.2065 (2).

19 **(3) CARRY-FORWARD.** If the credit under sub. (2) is not entirely offset against the
20 fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67 otherwise due, the unused balance
21 may be carried forward and credited against those fees for the following 15 years to
22 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.

1 **INSERT 9-20**

2 (b) Annually, the department shall verify to the department of revenue that
3 each person certified under sub. (2) is the holder of a qualified equity investment in
4 the taxable year for which the person files a claim under ss. 71.07 (5n), 71.28 (5n),
5 71.47 (5n), or 76.639.

6 **INSERT 10-1**

7 2. Deadlines for the submission of an application for certification under this
8 section.

9 3. The time period for review of applications submitted under this section,
10 which time period may not exceed 45 days.

11 **INSERT 10-6**

12 **SECTION 1. Nonstatutory provisions.**

13 (1) (a) The department of commerce shall submit in proposed form the rules
14 required under section 560.2065 (4) (c) of the statutes, as created by this act, to the
15 legislative council staff under section 227.15 (1) of the statutes no later than the first
16 day of the 4th month beginning after the effective date of this paragraph.

17 (b) Using the procedure under section 227.24 of the statutes, the department
18 of commerce may promulgate rules required under section 560.2065 (4) (c) of the
19 statutes, as created by this act, for the period before the effective date of the rules
20 submitted under paragraph (a), but not to exceed the period authorized under section
21 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b),
22 and (3) of the statutes, the department is not required to provide evidence that
23 promulgating a rule under this paragraph as an emergency rule is necessary for the

- 1 preservation of the public peace, health, safety, or welfare and is not required to
- 2 provide a finding of emergency for a rule promulgated under this paragraph. ✓

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

LRB-3439/P3dn

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Date

Representative Barca:

This draft incorporates changes proposed by Wayman Lawrence in an e-mail to your office, with an attached memorandum, dated November 6, 2009. The requested changes, together with any deviations from the proposed language, are discussed below.

1. Certification process. At the request of Mr. Lawrence, I modified the certification process in proposed s. 560.2065 (2) to eliminate the language requiring a person to annually apply for certification with the Department of Commerce (Commerce).

Mr. Lawrence also suggested on page 3 of his memorandum that the language in proposed s. 560.2065 (2) be modified to grant to the Commerce the authority to:

“issue certifications to *qualified community development entities* specifying the amount of qualified equity investments... that are eligible for... tax credit under this section and [proposed] sections 71.07 (5n), 71.28 (5n) and 71.47 (5n).” (emphasis supplied by drafter)

This proposed language would require Commerce to certify the entities in which a person who seeks to receive tax credits may invest. It is not clear from the drafting instructions why Commerce should be involved in certifying a qualified community development entity. Whether an entity in which a person seeks to make a “qualified equity investment” is a “qualified community development entity” is strictly a function of how those terms are defined by federal law and, by incorporation by reference, in proposed s. 560.2005 (1) (d) and (c), respectively.

The certification process established in this bill requires Commerce to determine whether a person has made a qualified equity investment and whether that person is then eligible to receive tax credits under Chapters 71 and 76. Commerce makes similar determinations in other tax credit programs established under Chapter 560. (See, for example, ss. 560.2055 (2), 560.701, and 560.797 (4), stats.). In the absence of a certification process for the person seeking to claim a tax credit from the Department of Revenue, neither Commerce nor the Department of Revenue would have a way to determine whether in fact the person has made a qualified equity investment such that the person may legitimately claim the tax credit.

The bill, as drafted, does require Commerce to determine whether the person has made a “qualified equity investment” in a “qualified community development entity.” The bill

also requires Commerce to determine the amount of tax credits a person who has made a "qualified equity investment" may claim in each taxable year in which a credit allowance date occurs, and to annually report that amount to the Department of Revenue. Finally, Commerce must annually determine whether the person claiming the tax credit is a holder of a "qualified equity investment" in the tax year in which the person is claiming the tax credit.

Please confirm that this certification structure accomplishes your intent.

2. Limit on Tax Benefits. Mr. Lawrence requested that I eliminate the annual \$15,000,000 limit on tax credits available under proposed s. 560.2056 (3).

credits

Note that, at this point, there is a placeholder for a limit, but no limit on the absolute value of tax credits available to all persons certified by Commerce under the bill. Nor is there a limit on the amount of tax benefits that any one person may claim under the program. Although it is not essential that you impose such limits, whether limits are established and the value of any such limits will need to be resolved before we can prepare an introducible draft.

3. Modify the duties of the department in proposed s. 560.2065 (4).

a. *Administrative rule-making.*

Among other instructions, Mr. Lawrence requested that Commerce promulgate rules to administer the new markets tax credit program no later than 60 days after the effective date of the bill. This is an extremely expedited time period; generally, the rule-making process, including drafting of the rule, review by Legislative Council staff, public hearing on the proposed rule, any revisions to the rule, and approval by the legislature, takes at least 8 months.

eight first fourth

This bill does expedite the rule-making process by requiring the department to submit proposed rules to the Legislative Council staff by the 1st day of the 4th month after the effective date of the bill, and to promulgate emergency rules to go into effect before the rules required under the bill have been completed. Okay?

b. *Revocation of certification.*

Because Commerce is not required in this draft to certify the "qualified community development entity" and, by extension, the "qualified equity investments" made in that entity, I did not include in this draft the language on Page 4 of Mr. Lawrence's memorandum governing the conditions under which Commerce would revoke "a certification with respect to a qualified equity investment" (proposed s. 560.2065 (4) (b) 5. a. and b.).

Please contact me with any questions or if you wish to make any changes to the draft. I look forward to working with you on the next draft.

Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-9867
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3439/P3dn
TKK:kjf:rs

December 3, 2009

Representative Barca:

This draft incorporates changes proposed by Wayman Lawrence in an e-mail to your office, with an attached memorandum, dated November 6, 2009. The requested changes, together with any deviations from the proposed language, are discussed below.

1. Certification process. At the request of Mr. Lawrence, I modified the certification process in proposed s. 560.2065 (2) to eliminate the language requiring a person to annually apply for certification with the Department of Commerce (Commerce).

Mr. Lawrence also suggested on page 3 of his memorandum that the language in proposed s. 560.2065 (2) be modified to grant to Commerce the authority to:

“issue certifications to *qualified community development entities* specifying the amount of qualified equity investments...that are eligible for...tax credit under this section and [proposed] sections 71.07 (5n), 71.28 (5n) and 71.47 (5n).”
(emphasis supplied by drafter)

This proposed language would require Commerce to certify the entities in which a person who seeks to receive tax credits may invest. It is not clear from the drafting instructions why Commerce should be involved in certifying a qualified community development entity. Whether an entity in which a person seeks to make a “qualified equity investment” in a “qualified community development entity” is strictly a function of how those terms are defined by federal law and, by incorporation by reference, in proposed s. 560.2005 (1) (d) and (c), respectively.

The certification process established in this bill requires Commerce to determine whether a person has made a qualified equity investment and whether that person is then eligible to receive tax credits under Chapters 71 and 76. Commerce makes similar determinations in other tax credit programs established under Chapter 560. (See, for example, ss. 560.2055 (2), 560.701, and 560.797 (4), stats.). In the absence of a certification process for the person seeking to claim a tax credit from the Department of Revenue, neither Commerce nor the Department of Revenue would have a way to determine whether in fact the person has made a qualified equity investment such that the person may legitimately claim the tax credit.

The bill, as drafted, does require Commerce to determine whether the person has made a “qualified equity investment” in a “qualified community development entity.” The

bill also requires Commerce to determine the amount of tax credits a person who has made a “qualified equity investment” may claim in each taxable year in which a credit allowance date occurs, and to annually report that amount to the Department of Revenue. Finally, Commerce must annually determine whether the person claiming the tax credit is a holder of a “qualified equity investment” in the tax year in which the person is claiming the tax credit.

Please confirm that this certification structure accomplishes your intent.

2. Limit on Tax Benefits. Mr. Lawrence requested that I eliminate the annual \$15,000,000 limit on tax credits available under proposed s. 560.2056 (3).

Note that, at this point, there is a placeholder for a limit, but no limit on the absolute value of tax credits available to all persons certified by Commerce under the bill. Nor is there a limit on the amount of tax credits that any one person may claim under the program. Although it is not essential that you impose such limits, whether limits are established and the value of any such limits will need to be resolved before we can prepare an introducible draft.

3. Modify the duties of the department in proposed s. 560.2065 (4).

a. Administrative rule-making.

Among other instructions, Mr. Lawrence requested that Commerce promulgate rules to administer the new markets tax credit program no later than 60 days after the effective date of the bill. This is an extremely expedited time period; generally, the rule-making process, including drafting of the rule, review by Legislative Council staff, public hearing on the proposed rule, any revisions to the rule, and approval by the legislature, takes at least eight months.

This bill does expedite the rule-making process by requiring the department to submit proposed rules to the Legislative Council staff by the first day of the fourth month after the effective date of the bill, and to promulgate emergency rules to go into effect before the rules required under the bill have been completed. Okay?

b. Revocation of certification.

Because Commerce is not required in this draft to certify the “qualified community development entity” and, by extension, the “qualified equity investments” made in that entity, I did not include in this draft the language on page 4 of Mr. Lawrence’s memorandum governing the conditions under which Commerce would revoke “a certification with respect to a qualified equity investment” (proposed s. 560.2065 (4) (b) 5. a. and b.).

Please contact me with any questions or if you wish to make any changes to the draft. I look forward to working with you on the next draft.

Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-9867
E-mail: tracy.kuczenski@legis.wisconsin.gov

Kuczenski, Tracy

From: Matthias, Mary
Sent: Wednesday, December 16, 2009 3:02 PM
To: Friedl, Cathy
Cc: Kuczenski, Tracy
Subject: New Markets tax Credit draft

Cathy-

Based on our discussion today, I think the following drafting instructions would achieve what you're looking for. I spoke to the drafter, Tracy Kuczenski, about these changes to expedite this process since you mentioned you are interested in having a draft ready in early January. She is going to start working on a revised draft based on these instructions.

I looked at some other tax credit programs and based on how those work, plus the fact the Commerce will have to make decisions as to allocating a limited amount of credits, I do think Commerce needs to be involved. Therefore I don't think it's necessary to contact DOR on this point, contrary to what I said this morning.

These changes will make the program easier for the taxpayer to use and Commerce to administer AND will clarify that only investments in Wisconsin-based CDE's are eligible for the tax credit.

Changes to LRB-3439/P3:

Specify that a person is eligible for the state tax credit for an investment only if: (1) they are eligible for the federal New Markets tax credit for that investment AND (2) the investment is made in a CDE located in Wisconsin. In order to achieve this, require a claimant to provide documentation or proof that they are eligible for the federal credit for an investment made to a Wisconsin-based CDE. I suppose this could be a copy of the form that must be filed with the IRS to claim the federal credit (IRS Form 8874-A) http://www.irs.gov/pub/irs-access/f8874a_accessible.pdf. This form must specify the CDE in which the investment for which a tax credit is claimed was made. If Commerce required submission of a copy of this form, they would only need to check if the CDE listed on the form is a Wisconsin-based CDE.

The timelines in the draft for issuing tax credits for an investment will correspond to the federal credit timeline since only new investments would be eligible. Under the federal program and the draft, the eligible investment is made in year one, and tax credits based on that investment are provided that year and for the next 6 years, as long as the investment isn't withdrawn. Since the last 6 years that the credit is provided are based in the investment made in the first year, it seems that Commerce shouldn't have to require a full application from the claimant in each of the last 6 years, since the basic eligibility of the investment is verified in the first year. In the last 6 years, Commerce would only need to verify that the investment hasn't been withdrawn. DOR would continue to provide the credit for the last 6 years based on the original certification provided by Commerce. Commerce would verify continuing eligibility every year and only notify DOR if a certification is revoked. The claimant would not have to apply for certification each year. Perhaps this could be stated in the draft.

(FYI- Commerce does not need to certify CDEs –that is done by the federal government. You also indicated that you want all CDE's in Wisconsin to be included.)

I would advise sharing the revised draft with Commerce and Revenue as soon as it is available.

Thanks.

Mary

Mary Matthias
Senior Staff Attorney
Wisconsin Legislative Council Staff
Ph.(608)266-0932;Fax (608)266-3830



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3439/P3
JK&TKK:kjf:rs
TWLj insert RMNR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in now 12-21
due used 12-30
Today

1 AN ACT *to amend* 71.08 (1) (intro.); and *to create* 71.07 (5n), 71.10 (4) (fm), 71.28
2 (5n), 71.30 (3) (dn), 71.47 (5n), 71.49 (1) (dn), 76.639 and 560.2065 of the
3 statutes; **relating to:** an income and franchise tax credit for a qualified equity
4 investment in a qualified community development entity, providing an
5 exemption from emergency rule procedures, and requiring the exercise of
6 rule-making authority.

↓
INSERT ANALYSIS

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

7 SECTION 1. 71.07 (5n) of the statutes is created to read:
8 71.07 (5n) SUPPLEMENT TO FEDERAL NEW MARKETS CREDIT. (a) *Definition.* In this
9 subsection, "claimant" means a person who files a claim under this subsection.
10 (b) *Filing claims.* Subject to the limitations provided under this subsection and
11 s. 560.2065, a claimant may claim as a credit against the taxes imposed under ss.

1 71.02 and 71.08, up to the amount of the taxes, the amount the claimant paid to a
2 qualified community development entity, as defined under 26 USC 45D (c), for a
3 qualified equity investment, as defined under 26 USC 45D (b), at its original issue,
4 multiplied by the following percentage:

5 1. For the taxable years that correspond to the first 3 credit allowance dates,
6 as defined under 26 USC 45D (a) (3), 5 percent.

7 2. For the taxable years that correspond to the 4 credit allowance dates, as
8 defined under 26 USC 45D (a) (3), following the credit allowance dates described in
9 subd. 1., 6 percent.

10 (c) *Limitations.* 1. A partnership, limited liability company, or tax-option
11 corporation may not claim the credit under this subsection. The partners of a
12 partnership, members of a limited liability company, or shareholders in a tax-option
13 corporation may claim the credit under this subsection based on eligible costs
14 incurred by the partnership, company, or tax-option corporation. The partnership,
15 limited liability company, or tax-option corporation shall calculate the amount of the
16 credit which may be claimed by each partner, member, or shareholder and shall
17 provide that information to the partner, member, or shareholder. For shareholders
18 of a tax-option corporation, the credit may be allocated in proportion to the
19 ownership interest of each shareholder. Credits computed by a partnership or
20 limited liability company may be claimed in proportion to the ownership interests
21 of the partners or members or allocated to partners or members as provided in a
22 written agreement among the partners or members that is entered into no later than
23 the last day of the taxable year of the partnership or limited liability company, for
24 which the credit is claimed. Any partner or member who claims the credit as
25 provided under this paragraph shall attach a copy of the agreement, if applicable, to

1 the tax return on which the credit is claimed. A person claiming the credit as
2 provided under this paragraph is solely responsible for any tax liability arising from
3 a dispute with the department of revenue related to claiming the credit.

4 2. The tax basis of a claimant's interest in a partnership, limited liability
5 company, or tax-option corporation shall be reduced, but not below zero, by the
6 amount of any credit claimed under this subsection. The credit claimed under this
7 subsection shall not be limited to the amount of the adjusted tax basis for the
8 claimant's interest in a partnership, limited liability company, or tax-option
9 corporation.

10 3. Any claimant who transfers an interest in a partnership, limited liability
11 company, or tax-option corporation after the first credit allowance date, as defined
12 under 26 USC 45D (b), but before the final credit allowance date for the credit
13 allowed under this subsection shall be entitled to claim the credit for the remaining
14 credit allowance dates by filing with the claimant's return a written agreement
15 between the claimant and the transferee of the interest that specifies that the
16 claimant, not the transferee, is the person entitled to claim the credit.

17 4. The limitation under section 469 (a) (1) (B) of the Internal Revenue Code does
18 not apply to the credit under this subsection.

19 (d) *Administration.* 1. Section 71.28 (4) (e) to (h), as it applies to the credit
20 under s. 71.28 (4), applies to the credit under this subsection.

21 2. No credit may be allowed under this subsection unless the claimant includes
22 with the claimant's return a copy of the claimant's certification for tax benefits under
23 s. 560.2065 (2).

24 **SECTION 2.** 71.08 (1) (intro.) of the statutes, as affected by 2009 Wisconsin Act
25 28, is amended to read:

SECTION 2

1 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
2 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under
3 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2dy), (3m), (3n), (3p),
4 (3q), (3r), (3s), (3t), (3w), (5b), (5d), (5e), (5f), (5h), (5i), (5j), (5n), (6), (6e), (8r), and (9e),
5 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3), (3n), (3t), and (3w),
6 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3), (3n), (3t), and (3w),
7 71.57 to 71.61, and 71.613 and subch. VIII and payments to other states under s.
8 71.07 (7), is less than the tax under this section, there is imposed on that natural
9 person, married couple filing jointly, trust or estate, instead of the tax under s. 71.02,
10 an alternative minimum tax computed as follows:

11 **SECTION 3.** 71.10 (4) (fm) of the statutes is created to read:

12 71.10 (4) (fm) Supplement to federal new markets credit under s. 71.07 (5n).

13 **SECTION 4.** 71.28 (5n) of the statutes is created to read:

14 71.28 (5n) SUPPLEMENT TO FEDERAL NEW MARKETS CREDIT. (a) *Definition.* In this
15 subsection, "claimant" means a person who files a claim under this subsection.

16 (b) *Filing claims.* Subject to the limitations provided under this subsection and
17 s. 560.2065, a claimant may claim as a credit against the taxes imposed under s.
18 71.23, up to the amount of the taxes, the amount the claimant paid to a qualified
19 community development entity, as defined under 26 USC 45D (c), for a qualified
20 equity investment, as defined under 26 USC 45D (b), at its original issue, multiplied
21 by the following percentage:

22 1. For the taxable years that correspond to the first 3 credit allowance dates,
23 as defined under 26 USC 45D (a) (3), 5 percent.

1 2. For the taxable years that correspond to the 4 credit allowance dates, as
2 defined under 26 USC 45D (a) (3), following the credit allowance dates described in
3 subd. 1., 6 percent.

4 (c) *Limitations.* 1. A partnership, limited liability company, or tax-option
5 corporation may not claim the credit under this subsection. The partners of a
6 partnership, members of a limited liability company, or shareholders in a tax-option
7 corporation may claim the credit under this subsection based on eligible costs
8 incurred by the partnership, company, or tax-option corporation. The partnership,
9 limited liability company, or tax-option corporation shall calculate the amount of the
10 credit which may be claimed by each partner, member, or shareholder and shall
11 provide that information to the partner, member, or shareholder. For shareholders
12 of a tax-option corporation, the credit may be allocated in proportion to the
13 ownership interest of each shareholder. Credits computed by a partnership or
14 limited liability company may be claimed in proportion to the ownership interests
15 of the partners or members or allocated to partners or members as provided in a
16 written agreement among the partners or members that is entered into no later than
17 the last day of the taxable year of the partnership or limited liability company, for
18 which the credit is claimed. Any partner or member who claims the credit as
19 provided under this paragraph shall attach a copy of the agreement, if applicable, to
20 the tax return on which the credit is claimed. A person claiming the credit as
21 provided under this paragraph is solely responsible for any tax liability arising from
22 a dispute with the department of revenue related to claiming the credit.

23 2. The tax basis of a claimant's interest in a partnership, limited liability
24 company, or tax-option corporation shall be reduced, but not below zero, by the
25 amount of any credit claimed under this subsection. The credit claimed under this

1 subsection shall not be limited to the amount of the adjusted tax basis for the
2 claimant's interest in a partnership, limited liability company, or tax-option
3 corporation.

4 3. Any claimant who transfers an interest in a partnership, limited liability
5 company, or tax-option corporation after the first credit allowance date, as defined
6 under 26 USC 45D (b), but before the final credit allowance date for the credit
7 allowed under this subsection shall be entitled to claim the credit for the remaining
8 credit allowance dates by filing with the claimant's return a written agreement
9 between the claimant and the transferee of the interest that specifies that the
10 claimant, not the transferee, is the person entitled to claim the credit.

11 4. The limitation under section 469 (a) (1) (B) of the Internal Revenue Code does
12 not apply to the credit under this subsection.

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

15 2. No credit may be allowed under this subsection unless the claimant includes
16 with the claimant's return a copy of the claimant's certification for tax benefits under
17 s. 560.2065 (2).

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

19 71.30 (3) (dn) Supplement to federal new market^s credit under s. 71.28 (5n).

20 **SECTION 6.** 71.47 (5n) of the statutes is created to read:

21 71.47 (5n) SUPPLEMENT TO FEDERAL NEW MARKETS CREDIT. (a) *Definition.* In this
22 subsection, "claimant" means a person who files a claim under this subsection.

23 (b) *Filing claims.* Subject to the limitations provided under this subsection and
24 s. 560.2065, a claimant may claim as a credit against the taxes imposed under s.
25 71.43, up to the amount of the taxes, the amount the claimant paid to a qualified

1 community development entity, as defined under 26 USC 45D (c), for a qualified
2 equity investment, as defined under 26 USC 45D (b), at its original issue, multiplied
3 by the following percentage:

4 1. For the taxable years that correspond to the first 3 credit allowance dates,
5 as defined under 26 USC 45D (a) (3), 5 percent.

6 2. For the taxable years that correspond to the 4 credit allowance dates, as
7 defined under 26 USC 45D (a) (3), following the credit allowance dates described in
8 subd. 1., 6 percent.

9 (c) *Limitations.* 1. A partnership, limited liability company, or tax-option
10 corporation may not claim the credit under this subsection. The partners of a
11 partnership, members of a limited liability company, or shareholders in a tax-option
12 corporation may claim the credit under this subsection based on eligible costs
13 incurred by the partnership, company, or tax-option corporation. The partnership,
14 limited liability company, or tax-option corporation shall calculate the amount of the
15 credit which may be claimed by each partner, member, or shareholder and shall
16 provide that information to the partner, member, or shareholder. For shareholders
17 of a tax-option corporation, the credit may be allocated in proportion to the
18 ownership interest of each shareholder. Credits computed by a partnership or
19 limited liability company may be claimed in proportion to the ownership interests
20 of the partners or members or allocated to partners or members as provided in a
21 written agreement among the partners or members that is entered into no later than
22 the last day of the taxable year of the partnership or limited liability company, for
23 which the credit is claimed. Any partner or member who claims the credit as
24 provided under this paragraph shall attach a copy of the agreement, if applicable, to
25 the tax return on which the credit is claimed. A person claiming the credit as

1 provided under this paragraph is solely responsible for any tax liability arising from
2 a dispute with the department of revenue related to claiming the credit.

3 2. The tax basis of a claimant's interest in a partnership, limited liability
4 company, or tax-option corporation shall be reduced, but not below zero, by the
5 amount of any credit claimed under this subsection. The credit claimed under this
6 subsection shall not be limited to the amount of the adjusted tax basis for the
7 claimant's interest in a partnership, limited liability company, or tax-option
8 corporation.

9 3. Any claimant who transfers an interest in a partnership, limited liability
10 company, or tax-option corporation after the first credit allowance date, as defined
11 under 26 USC 45D (b), but before the final credit allowance date for the credit
12 allowed under this subsection shall be entitled to claim the credit for the remaining
13 credit allowance dates by filing with the claimant's return a written agreement
14 between the claimant and the transferee of the interest that specifies that the
15 claimant, not the transferee, is the person entitled to claim the credit.

16 (d) *Administration.* 1. Section 71.28 (4) (e) to (h), as it applies to the credit
17 under s. 71.28 (4), applies to the credit under this subsection.

18 2. No credit may be allowed under this subsection unless the claimant includes
19 with the claimant's return a copy of the claimant's certification for tax benefits under
20 s. 560.2065 (2).

21 **SECTION 7.** 71.49 (1) (dn) of the statutes is created to read:

22 71.49 (1) (dn) Supplement to federal new markets credit under s. 71.47 (5n).

23 **SECTION 8.** 76.639 of the statutes is created to read:

24 **76.639 New markets credit. (1) FILING CLAIMS.** Subject to the limitations
25 provided under this section and s. 560.2065, an insurer may claim as a credit against

1 the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.27 the amount the insurer
2 paid to a qualified community development entity, as defined under 26 USC 45D (c),
3 for a qualified equity investment, as defined under 26 USC 45D (b), at its original
4 issue, multiplied by the following percentage:

5 1. For the taxable years that correspond to the first 3 credit allowance dates,
6 as defined under 26 USC 45D (a) (3), 5 percent.

7 2. For the taxable years that correspond to the 4 credit allowance dates, as
8 defined under 26 USC 45D (a) (3), following the credit allowance dates described in
9 subd. 1., 6 percent.

10 (2) LIMITATIONS. No credit may be allowed under this section unless the insurer
11 includes with the insurer's annual return under s. 76.64 a copy of the claimant's
12 certification for tax benefits under s. 560.2065 (2).

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

19 SECTION 9. 560.2065 of the statutes is created to read:

20 **560.2065 Supplement to federal new markets credit. (1) DEFINITIONS.**

21 In this section:

22 (a) "Credit allowance date" means a credit allowance date as defined under 26
23 USC 45D (a) (3).

24 (b) "Qualified active low-income community business" means a qualified active
25 low-income community business as defined under 26 USC 45D (d) (2).

LPS: Please
Check spacing.

1 **INSERT ANALYSIS**

Under federal law, the New Markets Tax Credit Program permits federal taxpayers to receive a credit against federal income taxes for making investments in qualified community development entities. Federal law defines a ~~qualified~~ QCDE ~~community development entity (QCDE)~~ as an entity with the primary mission of serving or providing investment capital for low-income communities or low-income persons that has been certified by the Secretary of the Internal Revenue Service.

This bill authorizes the Department of Commerce (Commerce) to certify an individual who applies to Commerce, has made an investment in a QCDE, and is eligible to receive the federal New Markets Tax Credit to receive a credit against state income and franchise taxes and against license fees paid by insurers. Prior to certification, Commerce must verify that the person has made an investment in a QCDE with the primary mission of serving or providing investment capital for low-income communities or low-income persons in this state. Commerce must annually verify that the person continues to hold the investment in any year the person seeks to claim the credit.

The credit may be claimed for seven consecutive taxable years beginning with the taxable year in which the taxpayer makes an investment in a QCDE. The amount of the credit that a taxpayer may claim is equal to the amount of the taxpayer's investment multiplied by the following percentages:

1. For the first three taxable years, ~~five~~ percent. 5
2. For the next four taxable years, ~~six~~ percent. 6

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

2 **INSERT 10-10**

3 (a) The person applies to the department for certification under this section and
4 includes with the application documentation from the federal internal revenue
5 service indicating that all of the following apply:

6 1. The person made a qualified equity investment[√] in a qualified community
7 development entity described in subd. 2.[√]

8 2. The qualified community development entity's primary mission is serving,
9 or providing investment capital for, low-income communities or low-income persons
10 in this state.

1 3. The person is eligible to receive new market ^s tax credits under 26 USC 45D
2 for the qualified equity investment described in subd. 1. ✓

3 (b) The department verifies the information submitted under par. (a). ✓

4 **(3) ELIGIBILITY; LIMITS.** (a) A person certified under sub. (2) is eligible to receive
5 tax credits under ss. 71.07 (5n), 71.28 (5n), 71.47 (5n), and 76.639 in each taxable
6 year in which a credit allowance date falls if the person continues to hold the
7 qualified equity investment described in sub. (2) (a) 1. in the taxable year in which
8 the credit is claimed.

9 (b) The department may allocate up to [...] in tax benefits under this section.

****NOTE: This draft retains a "placeholder" for a limit, but no limit on the absolute value of tax credits available to all persons certified by Commerce under the bill. Nor is there a limit on the amount of tax credits that any one person may claim under the program. Although it is not essential that you impose such limits, whether limits are established and the value of any such limits will need to be resolved before we can prepare an introducible draft.

SECTION 9

1 (b) (c) "Qualified community development entity" means a qualified community
2 development entity as defined under 26 USC 45D (c).

3 (c) (d) "Qualified equity investment" means a qualified equity investment as
4 defined under 26 USC 45D (b).

5 (e) "Qualified low-income community investment" means a qualified
6 low-income community investment as defined under 26 USC 45D (d) (1).

7 (2) CERTIFICATION. The department may certify a person to receive tax benefits
8 under this section in each taxable year in which a credit allowance date falls if all of
9 the following apply:

10 (a) The person applies to the department for certification under this section.

11 (b) The department determines that the person made a qualified equity
12 investment in a qualified community development entity.

13 (3) LIMITS. The department may allocate up to [...] in tax benefits under this
14 section.

15 (4) DUTIES OF THE DEPARTMENT. (a) The department of commerce shall notify
16 the department of revenue of all of the following:

17 1. Every certification issued under sub. (2) and the date on which any such
18 certification is revoked.

19 2. The maximum amount of the tax credits under ss. 71.07 (5n), 71.28 (5n),
20 71.47 (5n), and 76.639 that a person certified under sub. (2) may claim in each taxable
21 year in which the person is certified and a credit allowance date falls.

22 (b) Annually, the department shall verify to the department of revenue that
23 each person certified under sub. (2) is the holder of a qualified equity investment in
24 the taxable year for which the person files a claim under §s. 71.07 (5n), 71.28 (5n),
25 71.47 (5n), or 76.639.

EXHIBIT 16-10

1 (c) The department shall promulgate rules to administer this program,
2 including all of the following:

3 1. Information to be provided to the department by an applicant in order for the
4 department to determine whether an equity investment in which the applicant has
5 made or seeks to make an investment is a qualified equity investment issued by a
6 qualified community development entity.

7 1. ² Deadlines for the submission of an application for certification under this
8 section.

9 2. ³ The ² ~~time~~ period for review of applications submitted under this section,
10 which ² ~~time~~ period may not exceed 45 days.

11 3. ⁴ Criteria for reviewing and prioritizing applications for certification under
12 this section.

13 (d) In consultation with the department of revenue, the department of
14 commerce may promulgate rules governing the recapture of tax benefits awarded to
15 a person certified under this section.

16 SECTION 10. Nonstatutory provisions.

17 (1) (a) The department of commerce shall submit in proposed form the rules
18 required under section 560.2065 (4) (c) ¹ of the statutes, as created by this act, to the
19 legislative council staff under section 227.15 (1) of the statutes no later than the first
20 day of the 4th month beginning after the effective date of this paragraph.

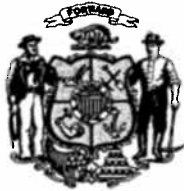
21 (b) Using the procedure under section 227.24 of the statutes, the department
22 of commerce may promulgate rules required under section 560.2065 (4) (c) of the
23 statutes, as created by this act, for the period before the effective date of the rules
24 submitted under paragraph (a), but not to exceed the period authorized under section
25 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b),

1 and (3) of the statutes, the department is not required to provide evidence that
2 promulgating a rule under this paragraph as an emergency rule is necessary for the
3 preservation of the public peace, health, safety, or welfare and is not required to
4 provide a finding of emergency for a rule promulgated under this paragraph.

5 **SECTION 11. Initial applicability.**

6 (1) This act first applies to taxable years beginning on January 1, 2010.

7 (END)



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3439/P4

JK&TKK:kjf&wlj:md

stays

RMN12

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

12/30/09 Now
change on p. 11

per
for act

1 **AN ACT to amend** 71.08 (1) (intro.); and **to create** 71.07 (5n), 71.10 (4) (fm), 71.28
2 (5n), 71.30 (3) (dn), 71.47 (5n), 71.49 (1) (dn), 76.639 and 560.2065 of the
3 statutes; **relating to:** an income and franchise tax credit for a qualified equity
4 investment in a qualified community development entity, providing an
5 exemption from emergency rule procedures, and requiring the exercise of
6 rule-making authority.

Analysis by the Legislative Reference Bureau

Under federal law, the New Markets Tax Credit Program permits federal taxpayers to receive a credit against federal income taxes for making investments in qualified community development entities (QCDE). Federal law defines a QCDE as an entity with the primary mission of serving or providing investment capital for low-income communities or low-income persons that has been certified by the secretary of the Internal Revenue Service.

This bill authorizes the Department of Commerce (Commerce) to certify an individual who applies to Commerce, has made an investment in a QCDE, and is eligible to receive the federal New Markets Tax Credit to receive a credit against state income and franchise taxes and against license fees paid by insurers. Prior to certification, Commerce must verify that the person has made an investment in a QCDE with the primary mission of serving or providing investment capital for low-income communities or low-income persons in this state. Commerce must

annually verify that the person continues to hold the investment in any year the person seeks to claim the credit.

The credit may be claimed for seven consecutive taxable years beginning with the taxable year in which the taxpayer makes an investment in a QCDE. The amount of the credit that a taxpayer may claim is equal to the amount of the taxpayer's investment multiplied by the following percentages:

1. For the first three taxable years, 5 percent.
2. For the next four taxable years, 6 percent.

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.** 71.07 (5n) of the statutes is created to read:

2 **71.07 (5n) SUPPLEMENT TO FEDERAL NEW MARKETS CREDIT.** (a) *Definition.* In this
3 subsection, "claimant" means a person who files a claim under this subsection.

4 (b) *Filing claims.* Subject to the limitations provided under this subsection and
5 s. 560.2065, a claimant may claim as a credit against the taxes imposed under ss.
6 71.02 and 71.08, up to the amount of the taxes, the amount the claimant paid to a
7 qualified community development entity, as defined under 26 USC 45D (c), for a
8 qualified equity investment, as defined under 26 USC 45D (b), at its original issue,
9 multiplied by the following percentage:

10 1. For the taxable years that correspond to the first 3 credit allowance dates,
11 as defined under 26 USC 45D (a) (3), 5 percent.

12 2. For the taxable years that correspond to the 4 credit allowance dates, as
13 defined under 26 USC 45D (a) (3), following the credit allowance dates described in
14 subd. 1., 6 percent.

15 (c) *Limitations.* 1. A partnership, limited liability company, or tax-option
16 corporation may not claim the credit under this subsection. The partners of a
17 partnership, members of a limited liability company, or shareholders in a tax-option

1 corporation may claim the credit under this subsection based on eligible costs
2 incurred by the partnership, company, or tax-option corporation. The partnership,
3 limited liability company, or tax-option corporation shall calculate the amount of the
4 credit which may be claimed by each partner, member, or shareholder and shall
5 provide that information to the partner, member, or shareholder. For shareholders
6 of a tax-option corporation, the credit may be allocated in proportion to the
7 ownership interest of each shareholder. Credits computed by a partnership or
8 limited liability company may be claimed in proportion to the ownership interests
9 of the partners or members or allocated to partners or members as provided in a
10 written agreement among the partners or members that is entered into no later than
11 the last day of the taxable year of the partnership or limited liability company, for
12 which the credit is claimed. Any partner or member who claims the credit as
13 provided under this paragraph shall attach a copy of the agreement, if applicable, to
14 the tax return on which the credit is claimed. A person claiming the credit as
15 provided under this paragraph is solely responsible for any tax liability arising from
16 a dispute with the department of revenue related to claiming the credit.

17 2. The tax basis of a claimant's interest in a partnership, limited liability
18 company, or tax-option corporation shall be reduced, but not below zero, by the
19 amount of any credit claimed under this subsection. The credit claimed under this
20 subsection shall not be limited to the amount of the adjusted tax basis for the
21 claimant's interest in a partnership, limited liability company, or tax-option
22 corporation.

23 3. Any claimant who transfers an interest in a partnership, limited liability
24 company, or tax-option corporation after the first credit allowance date, as defined
25 under 26 USC 45D (b), but before the final credit allowance date for the credit

1 allowed under this subsection shall be entitled to claim the credit for the remaining
2 credit allowance dates by filing with the claimant's return a written agreement
3 between the claimant and the transferee of the interest that specifies that the
4 claimant, not the transferee, is the person entitled to claim the credit.

5 4. The limitation under section 469 (a) (1) (B) of the Internal Revenue Code does
6 not apply to the credit under this subsection.

7 (d) *Administration.* 1. Section 71.28 (4) (e) to (h), as it applies to the credit
8 under s. 71.28 (4), applies to the credit under this subsection.

9 2. No credit may be allowed under this subsection unless the claimant includes
10 with the claimant's return a copy of the claimant's certification for tax benefits under
11 s. 560.2065 (2).

12 **SECTION 2.** 71.08 (1) (intro.) of the statutes, as affected by 2009 Wisconsin Act
13 28, is amended to read:

14 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
15 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under
16 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2dy), (3m), (3n), (3p),
17 (3q), (3r), (3s), (3t), (3w), (5b), (5d), (5e), (5f), (5h), (5i), (5j), (5n), (6), (6e), (8r), and (9e),
18 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3), (3n), (3t), and (3w),
19 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3), (3n), (3t), and (3w),
20 71.57 to 71.61, and 71.613 and subch. VIII and payments to other states under s.
21 71.07 (7), is less than the tax under this section, there is imposed on that natural
22 person, married couple filing jointly, trust or estate, instead of the tax under s. 71.02,
23 an alternative minimum tax computed as follows:

24 **SECTION 3.** 71.10 (4) (fm) of the statutes is created to read:

25 71.10 (4) (fm) Supplement to federal new markets credit under s. 71.07 (5n).

1 **SECTION 4.** 71.28 (5n) of the statutes is created to read:

2 **71.28 (5n) SUPPLEMENT TO FEDERAL NEW MARKETS CREDIT.** (a) *Definition.* In this
3 subsection, "claimant" means a person who files a claim under this subsection.

4 (b) *Filing claims.* Subject to the limitations provided under this subsection and
5 s. 560.2065, a claimant may claim as a credit against the taxes imposed under s.
6 71.23, up to the amount of the taxes, the amount the claimant paid to a qualified
7 community development entity, as defined under 26 USC 45D (c), for a qualified
8 equity investment, as defined under 26 USC 45D (b), at its original issue, multiplied
9 by the following percentage:

10 1. For the taxable years that correspond to the first 3 credit allowance dates,
11 as defined under 26 USC 45D (a) (3), 5 percent.

12 2. For the taxable years that correspond to the 4 credit allowance dates, as
13 defined under 26 USC 45D (a) (3), following the credit allowance dates described in
14 subd. 1., 6 percent.

15 (c) *Limitations.* 1. A partnership, limited liability company, or tax-option
16 corporation may not claim the credit under this subsection. The partners of a
17 partnership, members of a limited liability company, or shareholders in a tax-option
18 corporation may claim the credit under this subsection based on eligible costs
19 incurred by the partnership, company, or tax-option corporation. The partnership,
20 limited liability company, or tax-option corporation shall calculate the amount of the
21 credit which may be claimed by each partner, member, or shareholder and shall
22 provide that information to the partner, member, or shareholder. For shareholders
23 of a tax-option corporation, the credit may be allocated in proportion to the
24 ownership interest of each shareholder. Credits computed by a partnership or
25 limited liability company may be claimed in proportion to the ownership interests

1 of the partners or members or allocated to partners or members as provided in a
2 written agreement among the partners or members that is entered into no later than
3 the last day of the taxable year of the partnership or limited liability company, for
4 which the credit is claimed. Any partner or member who claims the credit as
5 provided under this paragraph shall attach a copy of the agreement, if applicable, to
6 the tax return on which the credit is claimed. A person claiming the credit as
7 provided under this paragraph is solely responsible for any tax liability arising from
8 a dispute with the department of revenue related to claiming the credit.

9 2. The tax basis of a claimant's interest in a partnership, limited liability
10 company, or tax-option corporation shall be reduced, but not below zero, by the
11 amount of any credit claimed under this subsection. The credit claimed under this
12 subsection shall not be limited to the amount of the adjusted tax basis for the
13 claimant's interest in a partnership, limited liability company, or tax-option
14 corporation.

15 3. Any claimant who transfers an interest in a partnership, limited liability
16 company, or tax-option corporation after the first credit allowance date, as defined
17 under 26 USC 45D (b), but before the final credit allowance date for the credit
18 allowed under this subsection shall be entitled to claim the credit for the remaining
19 credit allowance dates by filing with the claimant's return a written agreement
20 between the claimant and the transferee of the interest that specifies that the
21 claimant, not the transferee, is the person entitled to claim the credit.

22 4. The limitation under section 469 (a) (1) (B) of the Internal Revenue Code does
23 not apply to the credit under this subsection.

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

1 2. No credit may be allowed under this subsection unless the claimant includes
2 with the claimant's return a copy of the claimant's certification for tax benefits under
3 s. 560.2065 (2).

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

5 71.30 (3) (dn) Supplement to federal new markets credit under s. 71.28 (5n).

6 **SECTION 6.** 71.47 (5n) of the statutes is created to read:

7 71.47 (5n) SUPPLEMENT TO FEDERAL NEW MARKETS CREDIT. (a) *Definition.* In this
8 subsection, "claimant" means a person who files a claim under this subsection.

9 (b) *Filing claims.* Subject to the limitations provided under this subsection and
10 s. 560.2065, a claimant may claim as a credit against the taxes imposed under s.
11 71.43, up to the amount of the taxes, the amount the claimant paid to a qualified
12 community development entity, as defined under 26 USC 45D (c), for a qualified
13 equity investment, as defined under 26 USC 45D (b), at its original issue, multiplied
14 by the following percentage:

15 1. For the taxable years that correspond to the first 3 credit allowance dates,
16 as defined under 26 USC 45D (a) (3), 5 percent.

17 2. For the taxable years that correspond to the 4 credit allowance dates, as
18 defined under 26 USC 45D (a) (3), following the credit allowance dates described in
19 subd. 1., 6 percent.

20 (c) *Limitations.* 1. A partnership, limited liability company, or tax-option
21 corporation may not claim the credit under this subsection. The partners of a
22 partnership, members of a limited liability company, or shareholders in a tax-option
23 corporation may claim the credit under this subsection based on eligible costs
24 incurred by the partnership, company, or tax-option corporation. The partnership,
25 limited liability company, or tax-option corporation shall calculate the amount of the

1 credit which may be claimed by each partner, member, or shareholder and shall
2 provide that information to the partner, member, or shareholder. For shareholders
3 of a tax-option corporation, the credit may be allocated in proportion to the
4 ownership interest of each shareholder. Credits computed by a partnership or
5 limited liability company may be claimed in proportion to the ownership interests
6 of the partners or members or allocated to partners or members as provided in a
7 written agreement among the partners or members that is entered into no later than
8 the last day of the taxable year of the partnership or limited liability company, for
9 which the credit is claimed. Any partner or member who claims the credit as
10 provided under this paragraph shall attach a copy of the agreement, if applicable, to
11 the tax return on which the credit is claimed. A person claiming the credit as
12 provided under this paragraph is solely responsible for any tax liability arising from
13 a dispute with the department of revenue related to claiming the credit.

14 2. The tax basis of a claimant's interest in a partnership, limited liability
15 company, or tax-option corporation shall be reduced, but not below zero, by the
16 amount of any credit claimed under this subsection. The credit claimed under this
17 subsection shall not be limited to the amount of the adjusted tax basis for the
18 claimant's interest in a partnership, limited liability company, or tax-option
19 corporation.

20 3. Any claimant who transfers an interest in a partnership, limited liability
21 company, or tax-option corporation after the first credit allowance date, as defined
22 under 26 USC 45D (b), but before the final credit allowance date for the credit
23 allowed under this subsection shall be entitled to claim the credit for the remaining
24 credit allowance dates by filing with the claimant's return a written agreement

1 between the claimant and the transferee of the interest that specifies that the
2 claimant, not the transferee, is the person entitled to claim the credit.

3 (d) *Administration.* 1. Section 71.28 (4) (e) to (h), as it applies to the credit
4 under s. 71.28 (4), applies to the credit under this subsection.

5 2. No credit may be allowed under this subsection unless the claimant includes
6 with the claimant's return a copy of the claimant's certification for tax benefits under
7 s. 560.2065 (2).

8 **SECTION 7.** 71.49 (1) (dn) of the statutes is created to read:

9 71.49 (1) (dn) Supplement to federal new markets credit under s. 71.47 (5n).

10 **SECTION 8.** 76.639 of the statutes is created to read:

11 **76.639 New markets credit. (1) FILING CLAIMS.** Subject to the limitations
12 provided under this section and s. 560.2065, an insurer may claim as a credit against
13 the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.27 the amount the insurer
14 paid to a qualified community development entity, as defined under 26 USC 45D (c),
15 for a qualified equity investment, as defined under 26 USC 45D (b), at its original
16 issue, multiplied by the following percentage:

17 1. For the taxable years that correspond to the first 3 credit allowance dates,
18 as defined under 26 USC 45D (a) (3), 5 percent.

19 2. For the taxable years that correspond to the 4 credit allowance dates, as
20 defined under 26 USC 45D (a) (3), following the credit allowance dates described in
21 subd. 1., 6 percent.

22 **(2) LIMITATIONS.** No credit may be allowed under this section unless the insurer
23 includes with the insurer's annual return under s. 76.64 a copy of the claimant's
24 certification for tax benefits under s. 560.2065 (2).

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

7 **SECTION 9.** 560.2065 of the statutes is created to read:

8 **560.2065 Supplement to federal new markets credit. (1) DEFINITIONS.**

9 In this section:

10 (a) "Credit allowance date" means a credit allowance date as defined under 26
11 USC 45D (a) (3).

12 (b) "Qualified community development entity" means a qualified community
13 development entity as defined under 26 USC 45D (c).

14 (c) "Qualified equity investment" means a qualified equity investment as
15 defined under 26 USC 45D (b).

16 **(2) CERTIFICATION.** The department may certify a person to receive tax benefits
17 under this section if all of the following apply:

18 (a) The person applies to the department for certification under this section and
19 includes with the application documentation from the federal internal revenue
20 service indicating that all of the following apply:

21 1. The person made a qualified equity investment in a qualified community
22 development entity described in subd. 2.

23 2. The qualified community development entity's primary mission is serving,
24 or providing investment capital for, low-income communities or low-income persons
25 in this state.

1 3. The person is eligible to receive new markets tax credits under 26 USC 45D
2 for the qualified equity investment described in subd. 1.

3 (b) The department verifies the information submitted under par. (a).

4 **(3) ELIGIBILITY LIMITS.** (a) A person certified under sub. (2) is eligible to receive
5 tax credits under ss. 71.07 (5n), 71.28 (5n), 71.47 (5n), and 76.639 in each taxable
6 year in which a credit allowance date falls if the person continues to hold the
7 qualified equity investment described in sub. (2) (a) 1. in the taxable year in which
8 the credit is claimed.

9 (b) The department may allocate up to [...] in tax benefits under this section.

****NOTE: This draft retains a "placeholder" for a limit, but no limit on the absolute value of tax credits available to all persons certified by Commerce under the bill. Nor is there a limit on the amount of tax credits that any one person may claim under the program. Although it is not essential that you impose such limits, whether limits are established and the value of any such limits will need to be resolved before we can prepare an introducible draft.

10 **(4) DUTIES OF THE DEPARTMENT.** (a) The department of commerce shall notify
11 the department of revenue of all of the following:

12 1. Every certification issued under sub. (2) and the date on which any such
13 certification is revoked.

14 2. The maximum amount of the tax credits under ss. 71.07 (5n), 71.28 (5n),
15 71.47 (5n), and 76.639 that a person certified under sub. (2) may claim in each taxable
16 year in which a credit allowance date falls.

17 (b) Annually, the department shall verify to the department of revenue that
18 each person certified under sub. (2) is the holder of a qualified equity investment in
19 the taxable year for which the person files a claim under s. 71.07 (5n), 71.28 (5n),
20 71.47 (5n), or 76.639.

21 (c) The department shall promulgate rules to administer this program,
22 including all of the following:

1 1. Deadlines for the submission of an application for certification under this
2 section.

3 2. The period for review of applications submitted under this section, which
4 period may not exceed 45 days.

5 3. Criteria for reviewing and prioritizing applications for certification under
6 this section.

7 (d) In consultation with the department of revenue, the department of
8 commerce may promulgate rules governing the recapture of tax benefits awarded to
9 a person certified under this section.

10 **SECTION 10. Nonstatutory provisions.**

11 (1) (a) The department of commerce shall submit in proposed form the rules
12 required under section 560.2065 (4) (c) of the statutes, as created by this act, to the
13 legislative council staff under section 227.15 (1) of the statutes no later than the first
14 day of the 4th month beginning after the effective date of this paragraph.

15 (b) Using the procedure under section 227.24 of the statutes, the department
16 of commerce may promulgate rules required under section 560.2065 (4) (c) of the
17 statutes, as created by this act, for the period before the effective date of the rules
18 submitted under paragraph (a), but not to exceed the period authorized under section
19 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b),
20 and (3) of the statutes, the department is not required to provide evidence that
21 promulgating a rule under this paragraph as an emergency rule is necessary for the
22 preservation of the public peace, health, safety, or welfare and is not required to
23 provide a finding of emergency for a rule promulgated under this paragraph.

24 **SECTION 11. Initial applicability.**

Duerst, Christina

From: Egerer, Matt
Sent: Wednesday, December 30, 2009 11:42 AM
To: LRB.Legal
Subject: Barca 3439/P4 Jacket

Importance: High

Hello,

Our office would like to request that LRB 3439/P4 be made into a actual bill draft and also we would like to request that it be jacketed immediately.

Also, if we could get this in the afternoon we would appreciate it. I apologize for the rush, I was under the impression that my co-worker had taken care of this.

Matt Egerer
Office of Representative Peter Barca
608.266.5504