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DOA:.....Weidner, BAB - Angel investment tax credit changes
FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

in 2-10-09

Don't Gen

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. 20.143 (1) (gm) of the statutes is amended to read:

1 20.143 (1) (gm) *Wisconsin development fund, administration of grants and*
2 *loans.* All moneys received from origination fees under s. 560.68 (3), and from
3 transfer fees under s. 560.205 (3) (e), for administering the programs under subch.
4 V of ch. 560 and for the costs of underwriting grants and loans awarded under subch.
5 V of ch. 560.

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

7 71.07 (5b) (c) 1. Except as provided in s. 73.03 (63), the maximum amount of
8 the credits that may be claimed under this subsection and ss. 71.28 (5b) ~~and~~, 71.47
9 (5b), and 76.638 for all taxable years combined is \$52,500,000.

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

12 71.07 (5d) (b) *Filing claims.* (intro.) Subject to the limitations provided in this
13 subsection and in s. 560.205, a claimant may claim as a credit against the tax
14 imposed under s. 71.02 or 71.08, up to the amount of those taxes, the following:

15 1. For taxable years beginning before January 1, 2008, in each taxable year for
16 2 consecutive years, beginning with the taxable year as certified by the department
17 of commerce, an amount equal to 12.5 percent of the claimant's bona fide angel
18 investment made directly in a qualified new business venture.

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

20 71.07 (5d) (b) 2. For taxable years beginning after December 31, 2007, for the
21 taxable year certified by the department of commerce, an amount equal to 25 percent
22 of the claimant's bona fide angel investment made directly in a qualified new
23 business venture.

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

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

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

6 71.28 (5b) (c) 1. Except as provided in s. 73.03 (63), the maximum amount of
7 the credits that may be claimed under this subsection and ss. 71.07 (5b) and, 71.47
8 (5b), and 76.638 for all taxable years combined is \$52,500,000.

9 **SECTION 7.** 71.47 (5b) (c) 1. of the statutes is amended to read:

10 71.47 (5b) (c) 1. Except as provided in s. 73.03 (63), the maximum amount of
11 the credits that may be claimed under this subsection and ss. 71.07 (5b) and, 71.28
12 (5b), and 76.638 for all taxable years combined is \$52,500,000.

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

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

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

23 **76.638 Early stage seed investment credit. (1) DEFINITIONS.** In this
24 section, "fund manager" means an investment fund manager certified under s.
25 560.205 (2).

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

6 **(3) LIMITATIONS.** Except as provided in s. 73.03 (63), the maximum amount of
7 the credits that may be claimed under this section and ss. 71.07 (5b), 71.28 (5b), and
8 71.47 (5b) for all taxable years combined is \$52,500,000.

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

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

18 **SECTION 10.** 76.67 (2) of the statutes is amended to read:

19 **76.67 (2)** If any domestic insurer is licensed to transact insurance business in
20 another state, this state may not require similar insurers domiciled in that other
21 state to pay taxes greater in the aggregate than the aggregate amount of taxes that
22 a domestic insurer is required to pay to that other state for the same year less the
23 credits under ss. 76.635, 76.636, 76.638, and 76.655, except that the amount imposed
24 shall not be less than the total of the amounts due under ss. 76.65 (2) and 601.93 and,
25 if the insurer is subject to s. 76.60, 0.375% of its gross premiums, as calculated under

1 s. 76.62, less offsets allowed under s. 646.51 (7) or under ss. 76.635, 76.636, 76.638,
2 and 76.655 against that total, and except that the amount imposed shall not be less
3 than the amount due under s. 601.93.

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

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

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

14 **SECTION 12.** 560.205 (1) (f) of the statutes is repealed and recreated to read:

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

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

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

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

25 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 13.** 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 14.** 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 15.** 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 16.** 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 17.** 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 18.** 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. The rules shall also limit the
25 aggregate amount of the tax credits under ss. 71.07 (5b), 71.28 (5b), ~~and 71.47 (5b)~~,

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1 and 76.638 that may be claimed for investments paid to fund managers certified
2 under sub. (2) at \$3,500,000 per calendar year for calendar years beginning after
3 December 31, 2004, and before January 1, 2008, \$6,000,000 per calendar year for
4 calendar years beginning after December 31, 2007, and before January 1, 2011, and
5 \$18,500,000 per calendar year for calendar years beginning after December 31, 2010.

6 The rules shall also provide that, for calendar years beginning after December 31,
7 2007, no person may receive a credit under ss. 71.07 (5b) and (5d), 71.28 (5b), ~~or~~ 71.47
8 (5b), or 76.638 unless the person's investment is kept in a certified business, or with
9 a certified fund manager, for no less than 3 years.

10 **SECTION 19.** 560.205 (3) (e) of the statutes is created to read:

11 560.205 (3) (e) *Transfer.* A person who is eligible to claim a credit under s. 71.07
12 (5b), 71.28 (5b), 71.47 (5b), or 76.638 may sell or otherwise transfer the credit to
13 another person who is subject to the taxes imposed under s. 71.02, 71.23, or 71.47 or
14 subch. III of ch. 76, if the person receives prior authorization from the investment
15 fund manager and the manager then notifies the department of commerce and the
16 department of revenue of the transfer and submits with the notification a copy of the
17 transfer documents. No person may sell or otherwise transfer a credit as provided
18 in this paragraph more than once. The department may charge any person selling
19 or otherwise transferring a credit under this paragraph a fee equal to 1 percent of
20 the credit amount sold or transferred. The department shall deposit all fees collected
21 under this paragraph in the appropriation account under s. 20.143 (1) (gm).

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

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 3 department of revenue, shall promulgate rules to administer this section. The rules
 4 shall further define "bona fide angel investment" for purposes of s. 71.07 (5d) (a) 1.
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 6 be claimed for investments in businesses certified under sub. (1) at \$3,000,000 per
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 10 for calendar years beginning after December 31, 2010, plus, for taxable years
 11 beginning after December 31, 2008, an additional \$500,000 for tax credits that may
 12 be claimed for investments in nanotechnology businesses certified under sub. (1).

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13 The rules shall also limit the aggregate amount of the tax credits under ss. 71.07 (5b),
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 21 businesses certified under sub. (1). The rules shall also provide that, for calendar

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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.

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1 20.143 (1) (gm) *Wisconsin development fund, administration of grants and*
2 *loans.* All moneys received from origination fees under s. 560.68 (3), and from
3 transfer fees under s. 560.205 (3) (e), for administering the programs under subch.
4 V of ch. 560 and for the costs of underwriting grants and loans awarded under subch.
5 V of ch. 560.

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

7 71.07 (5b) (c) 1. Except as provided in s. 73.03 (63), the maximum amount of
8 the credits that may be claimed under this subsection and ss. 71.28 (5b) and, 71.47
9 (5b), and 76.638 for all taxable years combined is \$52,500,000.

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

12 71.07 (5d) (b) *Filing claims.* (intro.) Subject to the limitations provided in this
13 subsection and in s. 560.205, a claimant may claim as a credit against the tax
14 imposed under s. 71.02 or 71.08, up to the amount of those taxes, the following:

15 1. For taxable years beginning before January 1, 2008, in each taxable year for
16 2 consecutive years, beginning with the taxable year as certified by the department
17 of commerce, an amount equal to 12.5 percent of the claimant's bona fide angel
18 investment made directly in a qualified new business venture.

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

20 71.07 (5d) (b) 2. For taxable years beginning after December 31, 2007, for the
21 taxable year certified by the department of commerce, an amount equal to 25 percent
22 of the claimant's bona fide angel investment made directly in a qualified new
23 business venture.

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

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

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

6 71.28 **(5b)** (c) 1. Except as provided in s. 73.03 (63), the maximum amount of
7 the credits that may be claimed under this subsection and ss. 71.07 (5b) and, 71.47
8 (5b), and 76.638 for all taxable years combined is \$52,500,000.

9 **SECTION 7.** 71.47 (5b) (c) 1. of the statutes is amended to read:

10 71.47 **(5b)** (c) 1. Except as provided in s. 73.03 (63), the maximum amount of
11 the credits that may be claimed under this subsection and ss. 71.07 (5b) and, 71.28
12 (5b), and 76.638 for all taxable years combined is \$52,500,000.

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

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

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

23 **76.638 Early stage seed investment credit. (1) DEFINITIONS.** In this
24 section, "fund manager" means an investment fund manager certified under s.
25 560.205 (2).

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

6 **(3) LIMITATIONS.** Except as provided in s. 73.03 (63), the maximum amount of
7 the credits that may be claimed under this section and ss. 71.07 (5b), 71.28 (5b), and
8 71.47 (5b) for all taxable years combined is \$52,500,000.

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

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

18 **SECTION 10.** 76.67 (2) of the statutes is amended to read:

19 **76.67 (2)** If any domestic insurer is licensed to transact insurance business in
20 another state, this state may not require similar insurers domiciled in that other
21 state to pay taxes greater in the aggregate than the aggregate amount of taxes that
22 a domestic insurer is required to pay to that other state for the same year less the
23 credits under ss. 76.635, 76.636, 76.638, and 76.655, except that the amount imposed
24 shall not be less than the total of the amounts due under ss. 76.65 (2) and 601.93 and,
25 if the insurer is subject to s. 76.60, 0.375% of its gross premiums, as calculated under

1 s. 76.62, less offsets allowed under s. 646.51 (7) or under ss. 76.635, 76.636, 76.638,
2 and 76.655 against that total, and except that the amount imposed shall not be less
3 than the amount due under s. 601.93.

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

5 560.205 (1) ANGEL INVESTMENT TAX CREDITS. (intro.) The department shall
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15 560.205 (1) (f) It has the potential for increasing jobs in this state, increasing
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18 following:

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20 agriculture, or clean energy creation or storage technology.

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

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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 13.** 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,
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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 14.** 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 15.** 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
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2 implement a program to certify investment fund managers for purposes of ss. 71.07
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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).

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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, for taxable years beginning
25 after December 31, 2008, an additional \$500,000 for tax credits that may be claimed

1 for investments in nanotechnology businesses certified under sub. (1). The rules
2 shall also limit the aggregate amount of the tax credits under ss. 71.07 (5b), 71.28
3 (5b), and 71.47 (5b), and 76.638 that may be claimed for investments paid to fund
4 managers certified under sub. (2) at \$3,500,000 per calendar year for calendar years
5 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, 2008,
9 an additional \$500,000 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 19.** 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 imposed under s. 71.02, 71.23, or 71.47 or
19 subch. III of ch. 76, if the person receives prior authorization from the investment
20 fund manager and the manager then notifies the department of commerce and the
21 department of revenue of the transfer and submits with the notification a copy of the
22 transfer documents. No person may sell or otherwise transfer a credit as provided
23 in this paragraph more than once. The department may charge any person selling
24 or otherwise transferring a credit under this paragraph a fee equal to 1 percent of

in a 12-month period

1 the credit amount sold or transferred. The department shall deposit all fees collected
2 under this paragraph in the 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)



RM not R

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

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

m 2-11-09

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. 20.143 (1) (gm) of the statutes is amended to read:

1 20.143 (1) (gm) *Wisconsin development fund, administration of grants and*
2 *loans.* All moneys received from origination fees under s. 560.68 (3), and from
3 transfer fees under s. 560.205 (3) (e), for administering the programs under subch.
4 V of ch. 560 and for the costs of underwriting grants and loans awarded under subch.
5 V of ch. 560.

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

7 71.07 (5b) (c) 1. Except as provided in s. 73.03 (63), the maximum amount of
8 the credits that may be claimed under this subsection and ss. 71.28 (5b) ~~and~~, 71.47
9 (5b), and 76.638 for all taxable years combined is \$52,500,000.

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

12 71.07 (5d) (b) *Filing claims.* (intro.) Subject to the limitations provided in this
13 subsection and in s. 560.205, a claimant may claim as a credit against the tax
14 imposed under s. 71.02 or 71.08, up to the amount of those taxes, the following:

15 1. For taxable years beginning before January 1, 2008, in each taxable year for
16 2 consecutive years, beginning with the taxable year as certified by the department
17 of commerce, an amount equal to 12.5 percent of the claimant's bona fide angel
18 investment made directly in a qualified new business venture.

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

20 71.07 (5d) (b) 2. For taxable years beginning after December 31, 2007, for the
21 taxable year certified by the department of commerce, an amount equal to 25 percent
22 of the claimant's bona fide angel investment made directly in a qualified new
23 business venture.

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

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

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

6 71.28 **(5b)** (c) 1. Except as provided in s. 73.03 (63), the maximum amount of
7 the credits that may be claimed under this subsection and ss. 71.07 (5b) ~~and~~, 71.47
8 (5b), and 76.638 for all taxable years combined is \$52,500,000.

9 **SECTION 7.** 71.47 (5b) (c) 1. of the statutes is amended to read:

10 71.47 **(5b)** (c) 1. Except as provided in s. 73.03 (63), the maximum amount of
11 the credits that may be claimed under this subsection and ss. 71.07 (5b) ~~and~~, 71.28
12 (5b), and 76.638 for all taxable years combined is \$52,500,000.

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

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

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

23 **76.638 Early stage seed investment credit. (1) DEFINITIONS.** In this
24 section, "fund manager" means an investment fund manager certified under s.
25 560.205 (2).

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

6 **(3) LIMITATIONS.** Except as provided in s. 73.03 (63), the maximum amount of
7 the credits that may be claimed under this section and ss. 71.07 (5b), 71.28 (5b), and
8 71.47 (5b) for all taxable years combined is \$52,500,000.

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

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

18 **SECTION 10.** 76.67 (2) of the statutes is amended to read:

19 **76.67 (2)** If any domestic insurer is licensed to transact insurance business in
20 another state, this state may not require similar insurers domiciled in that other
21 state to pay taxes greater in the aggregate than the aggregate amount of taxes that
22 a domestic insurer is required to pay to that other state for the same year less the
23 credits under ss. 76.635, 76.636, 76.638, and 76.655, except that the amount imposed
24 shall not be less than the total of the amounts due under ss. 76.65 (2) and 601.93 and,
25 if the insurer is subject to s. 76.60, 0.375% of its gross premiums, as calculated under

1 s. 76.62, less offsets allowed under s. 646.51 (7) or under ss. 76.635, 76.636, 76.638,
2 and 76.655 against that total, and except that the amount imposed shall not be less
3 than the amount due under s. 601.93.

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

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

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

14 **SECTION 12.** 560.205 (1) (f) of the statutes is repealed and recreated to read:

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

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

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

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

25 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 13.** 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 14.** 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 15.** 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 16.** 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 17.** 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 18.** 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, for taxable years beginning
25 after December 31, 2008, an additional \$500,000 for tax credits that may be claimed

2010

\$250,000

1 for investments in nanotechnology businesses certified under sub. (1). The rules
2 shall also limit the aggregate amount of the tax credits under ss. 71.07 (5b), 71.28
3 (5b), and 71.47 (5b), and 76.638 that may be claimed for investments paid to fund
4 managers certified under sub. (2) at \$3,500,000 per calendar year for calendar years
5 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, 2008, ²⁰¹⁰
9 an additional \$500,000 ^{\$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 19.** 560.205 (3) (e) of the statutes is created to read:

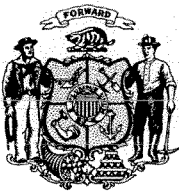
16 560.205 (3) (e) *Transfer.* A person who is eligible to claim a credit under s. 71.07
17 (5b), 71.28 (5b), 71.47 (5b), or 76.638 may sell or otherwise transfer the credit to
18 another person who is subject to the taxes imposed under s. 71.02, 71.23, or 71.47 or
19 subch. III of ch. 76, if the person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

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



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1949/P6

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RMintR

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

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

in 2-12-09

Don't Get

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. 20.143 (1) (gm) of the statutes is amended to read:

5b x (-2)
 Sec* rev; 71.07(5b)(c)2, ~~rev~~; 71.07(5b)(c).

1 20.143 (1) (gm) *Wisconsin development fund, administration of grants and*
 2 *loans.* All moneys received from origination fees under s. 560.68 (3), and from
 3 transfer fees under s. 560.205 (3) (e), for administering the programs under subch.
 4 V of ch. 560 and for the costs of underwriting grants and loans awarded under subch.
 5 V of ch. 560.

6 **SECTION 2.** 71.07 (5b) (c) 1. of the statutes is amended to read: *repealed.*
 7 71.07 (5b) (c) 1. Except as provided in s. 73.03 (63), the maximum amount of
 8 the credits that may be claimed under this subsection and ss. 71.28 (5b) and, 71.47
 9 (5b), and 76.638 for all taxable years combined is \$52,500,000.

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

12 71.07 (5d) (b) *Filing claims.* (intro.) Subject to the limitations provided in this
 13 subsection and in s. 560.205, a claimant may claim as a credit against the tax
 14 imposed under s. 71.02 or 71.08, up to the amount of those taxes, the following:

15 1. For taxable years beginning before January 1, 2008, in each taxable year for
 16 2 consecutive years, beginning with the taxable year as certified by the department
 17 of commerce, an amount equal to 12.5 percent of the claimant's bona fide angel
 18 investment made directly in a qualified new business venture.

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

20 71.07 (5d) (b) 2. For taxable years beginning after December 31, 2007, for the
 21 taxable year certified by the department of commerce, an amount equal to 25 percent
 22 of the claimant's bona fide angel investment made directly in a qualified new
 23 business venture.

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

Sec. no., 71.28 (5b) (c) 2.; 71.28 (5b) (c).

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

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

6 71.28 (5b) (c) 1. Except as provided in s. 73.03 (63), the maximum amount of
7 the credits that may be claimed under this subsection and ss. 71.07 (5b) and, 71.47
8 (5b), and 76.638 for all taxable years combined is \$52,500,000.

9 **SECTION 7.** 71.47 (5b) (c) 1. of the statutes is amended to read: *repealed.*

10 71.47 (5b) (c) 1. Except as provided in s. 73.03 (63), the maximum amount of
11 the credits that may be claimed under this subsection and ss. 71.07 (5b) and, 71.28
12 (5b), and 76.638 for all taxable years combined is \$52,500,000.

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

14 73.03 (63) Notwithstanding the amount limitations specified under ss. 71.07

15 ~~(5b) (c) 1. and (5d) (c) 1., 71.28 (5b) (c) 1., 71.47 (5b) (c) 1., 76.638 (3), and 560.205 (3)~~

16 (d), in consultation with the department of commerce, to carry forward to subsequent
17 taxable years unclaimed credit amounts of the early stage seed investment credits
18 under ss. 71.07 (5b), 71.28 (5b), and 71.47 (5b), and 76.638 and the angel investment
19 credit under s. 71.07 (5d). Annually, no later than July 1, the department of
20 commerce shall submit to the department of revenue its recommendations for the
21 carry forward of credit amounts as provided under this subsection.

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

23 **76.638 Early stage seed investment credit. (1) DEFINITIONS.** In this
24 section, "fund manager" means an investment fund manager certified under s.
25 560.205 (2).

Sec. no., 71.47 (5b) (c) 2.; 71.47 (5b) (c).

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

6 (3) LIMITATIONS. Except as provided in s. 73.03 (63), the maximum amount of
7 the credits that may be claimed under this section and ss. 71.07 (5b), 71.28 (5b), and
8 71.47 (5b) for all taxable years combined is \$52,500,000.

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

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

18 **SECTION 10.** 76.67 (2) of the statutes is amended to read:

19 76.67 (2) If any domestic insurer is licensed to transact insurance business in
20 another state, this state may not require similar insurers domiciled in that other
21 state to pay taxes greater in the aggregate than the aggregate amount of taxes that
22 a domestic insurer is required to pay to that other state for the same year less the
23 credits under ss. 76.635, 76.636, 76.638, and 76.655, except that the amount imposed
24 shall not be less than the total of the amounts due under ss. 76.65 (2) and 601.93 and,
25 if the insurer is subject to s. 76.60, 0.375% of its gross premiums, as calculated under

1 s. 76.62, less offsets allowed under s. 646.51 (7) or under ss. 76.635, 76.636, 76.638,
2 and 76.655 against that total, and except that the amount imposed shall not be less
3 than the amount due under s. 601.93.

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

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

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

14 **SECTION 12.** 560.205 (1) (f) of the statutes is repealed and recreated to read:

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

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

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

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

25 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 13.** 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 14.** 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 15.** 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 16.** 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 17.** 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 18.** 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 19.** 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 imposed under s. 71.02, 71.23, or 71.47 or
19 subch. III of ch. 76, if the person receives prior authorization from the investment
20 fund manager and the manager then notifies the department of commerce and the
21 department of revenue of the transfer and submits with the notification a copy of the
22 transfer documents. No person may sell or otherwise transfer a credit as provided
23 in this paragraph more than once in a 12-month period. The department may charge
24 any person selling or otherwise transferring a credit under this paragraph a fee equal
25 to 1 percent of the credit amount sold or transferred. The department shall deposit

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



DOA:.....Weidner, BAB - 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.** 20.143 (1) (gm) of the statutes is amended to read:

1 20.143 (1) (gm) *Wisconsin development fund, administration of grants and*
2 *loans.* All moneys received from origination fees under s. 560.68 (3), and from
3 transfer fees under s. 560.205 (3) (e), for administering the programs under subch.
4 V of ch. 560 and for the costs of underwriting grants and loans awarded under subch.
5 V of ch. 560.

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

7 **SECTION 3.** 71.07 (5b) (c) 2. of the statutes is renumbered 71.07 (5b) (c).

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

10 71.07 (5d) (b) *Filing claims.* (intro.) Subject to the limitations provided in this
11 subsection and in s. 560.205, a claimant may claim as a credit against the tax
12 imposed under s. 71.02 or 71.08, up to the amount of those taxes, the following:

13 1. For taxable years beginning before January 1, 2008, in each taxable year for
14 2 consecutive years, beginning with the taxable year as certified by the department
15 of commerce, an amount equal to 12.5 percent of the claimant's bona fide angel
16 investment made directly in a qualified new business venture.

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

18 71.07 (5d) (b) 2. For taxable years beginning after December 31, 2007, for the
19 taxable year certified by the department of commerce, an amount equal to 25 percent
20 of the claimant's bona fide angel investment made directly in a qualified new
21 business venture.

22 **SECTION 6.** 71.07 (5d) (c) 2. of the statutes is amended to read:

23 71.07 (5d) (c) 2. The For taxable years beginning before January 1, 2008, the
24 maximum amount of a claimant's investment that may be used as the basis for a

1 credit under this subsection is \$2,000,000 for each investment made directly in a
2 business certified under s. 560.205 (1).

3 **SECTION 7.** 71.28 (5b) (c) 1. of the statutes is repealed.

4 **SECTION 8.** 71.28 (5b) (c) 2. of the statutes is renumbered 71.28 (5b) (c).

5 **SECTION 9.** 71.47 (5b) (c) 1. of the statutes is repealed.

6 **SECTION 10.** 71.47 (5b) (c) 2. of the statutes is renumbered 71.47 (5b) (c).

7 **SECTION 11.** 73.03 (63) of the statutes is amended to read:

8 73.03 (63) Notwithstanding the amount limitations specified under ss. 71.07
9 ~~(5b) (e) 1. and (5d) (c) 1., 71.28 (5b) (e) 1., 71.47 (5b) (e) 1.,~~ and 560.205 (3) (d), in
10 consultation with the department of commerce, to carry forward to subsequent
11 taxable years unclaimed credit amounts of the early stage seed investment credits
12 under ss. 71.07 (5b), 71.28 (5b), ~~and 71.47 (5b),~~ and 76.638 and the angel investment
13 credit under s. 71.07 (5d). Annually, no later than July 1, the department of
14 commerce shall submit to the department of revenue its recommendations for the
15 carry forward of credit amounts as provided under this subsection.

16 **SECTION 12.** 76.638 of the statutes is created to read:

17 **76.638 Early stage seed investment credit. (1) DEFINITIONS.** In this
18 section, "fund manager" means an investment fund manager certified under s.
19 560.205 (2).

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

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

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

10 **SECTION 13.** 76.67 (2) of the statutes is amended to read:

11 **76.67 (2)** If any domestic insurer is licensed to transact insurance business in
12 another state, this state may not require similar insurers domiciled in that other
13 state to pay taxes greater in the aggregate than the aggregate amount of taxes that
14 a domestic insurer is required to pay to that other state for the same year less the
15 credits under ss. 76.635, 76.636, 76.638, and 76.655, except that the amount imposed
16 shall not be less than the total of the amounts due under ss. 76.65 (2) and 601.93 and,
17 if the insurer is subject to s. 76.60, 0.375% of its gross premiums, as calculated under
18 s. 76.62, less offsets allowed under s. 646.51 (7) or under ss. 76.635, 76.636, 76.638,
19 and 76.655 against that total, and except that the amount imposed shall not be less
20 than the amount due under s. 601.93.

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

22 **560.205 (1) ANGEL INVESTMENT TAX CREDITS.** (intro.) The department shall
23 implement a program to certify businesses for purposes of s. 71.07 (5d). A business
24 desiring certification shall submit an application to the department in each taxable
25 year for which the business desires certification. The business shall specify in its

1 application the investment amount it wishes to raise and the department may certify
2 the business and determine the amount that qualifies for purposes of s. 71.07 (5d).

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

6 **SECTION 15.** 560.205 (1) (f) of the statutes is repealed and recreated to read:

7 560.205 (1) (f) It has the potential for increasing jobs in this state, increasing
8 capital investment in this state, or both, and any of the following apply:

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

11 a. Manufacturing, biotechnology, nanotechnology, communications,
12 agriculture, or clean energy creation or storage technology.

13 b. Processing or assembling products, including medical devices,
14 pharmaceuticals, computer software, computer hardware, semiconductors, any
15 other innovative technology products, or other products that are produced using
16 manufacturing methods that are enabled by applying proprietary technology.

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

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

22 **SECTION 16.** 560.205 (1) (g) of the statutes is amended to read:

23 560.205 (1) (g) It is not primarily engaged in real estate development,
24 insurance, banking, lending, lobbying, political consulting, professional services
25 provided by attorneys, accountants, business consultants, physicians, or health care

1 consultants, wholesale or retail trade, leisure, hospitality, transportation, or
2 construction, except construction of power production plants that derive energy from
3 a renewable resource, as defined in s. 196.378 (1) (h).

4 **SECTION 17.** 560.205 (1) (k) of the statutes is amended to read:

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

8 **SECTION 18.** 560.205 (1) (kn) of the statutes is created to read:

9 560.205 (1) (kn) For taxable years beginning after December 31, 2007, and
10 before January 1, 2011, it has not received more than \$4,000,000 in investments that
11 have qualified for tax credits under ss. 71.07 (5b) and (5d), 71.28 (5b), 71.47 (5b), and
12 76.638.

13 **SECTION 19.** 560.205 (1) (L) of the statutes is created to read:

14 560.205 (1) (L) For taxable years beginning after December 31, 2010, it has not
15 received more than \$8,000,000 in investments that have qualified for tax credits
16 under ss. 71.07 (5b) and (5d), 71.28 (5b), 71.47 (5b), and 76.638.

17 **SECTION 20.** 560.205 (2) of the statutes is amended to read:

18 560.205 (2) **EARLY STAGE SEED INVESTMENT TAX CREDITS.** The department shall
19 implement a program to certify investment fund managers for purposes of ss. 71.07
20 (5b), 71.28 (5b), ~~and 71.47 (5b),~~ and 76.638. An investment fund manager desiring
21 certification shall submit an application to the department. The investment fund
22 manager shall specify in the application the investment amount that the manager
23 wishes to raise and the department may certify the manager and determine the
24 amount that qualifies for purposes of ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and 76.638.
25 In determining whether to certify an investment fund manager, the department

1 shall consider the investment fund manager's experience in managing venture
2 capital funds, the past performance of investment funds managed by the applicant,
3 the expected level of investment in the investment fund to be managed by the
4 applicant, and any other relevant factors. The department may certify only
5 investment fund managers that commit to consider placing investments in
6 businesses certified under sub. (1).

7 **SECTION 21.** 560.205 (3) (d) of the statutes is amended to read:

8 560.205 (3) (d) *Rules.* The department of commerce, in consultation with the
9 department of revenue, shall promulgate rules to administer this section. The rules
10 shall further define "bona fide angel investment" for purposes of s. 71.07 (5d) (a) 1.
11 The rules shall limit the aggregate amount of tax credits under s. 71.07 (5d) that may
12 be claimed for investments in businesses certified under sub. (1) at \$3,000,000 per
13 calendar year for calendar years beginning after December 31, 2004, and before
14 January 1, 2008, \$5,500,000 per calendar year for calendar years beginning after
15 December 31, 2007, and before January 1, 2011, and \$18,000,000 per calendar year
16 for calendar years beginning after December 31, 2010, plus, for taxable years
17 beginning after December 31, 2010, an additional \$250,000 for tax credits that may
18 be claimed for investments in nanotechnology businesses certified under sub. (1).
19 The rules shall also limit the aggregate amount of the tax credits under ss. 71.07 (5b),
20 71.28 (5b), and 71.47 (5b), and 76.638 that may be claimed for investments paid to
21 fund managers certified under sub. (2) at \$3,500,000 per calendar year for calendar
22 years beginning after December 31, 2004, and before January 1, 2008, \$6,000,000 per
23 calendar year for calendar years beginning after December 31, 2007, and before
24 January 1, 2011, and \$18,500,000 per calendar year for calendar years beginning
25 after December 31, 2010, plus, for taxable years beginning after December 31, 2010,

1 an additional \$250,000 for tax credits that may be claimed for investments in
2 nanotechnology businesses certified under sub. (1). The rules shall also provide that,
3 for calendar years beginning after December 31, 2007, no person may receive a credit
4 under ss. 71.07 (5b) and (5d), 71.28 (5b), ~~or 71.47 (5b)~~, or 76.638 unless the person's
5 investment is kept in a certified business, or with a certified fund manager, for no less
6 than 3 years.

7 **SECTION 22.** 560.205 (3) (e) of the statutes is created to read:

8 560.205 (3) (e) *Transfer.* A person who is eligible to claim a credit under s. 71.07
9 (5b), 71.28 (5b), 71.47 (5b), or 76.638 may sell or otherwise transfer the credit to
10 another person who is subject to the taxes imposed under s. 71.02, 71.23, or 71.47 or
11 subch. III of ch. 76, if the person receives prior authorization from the investment
12 fund manager and the manager then notifies the department of commerce and the
13 department of revenue of the transfer and submits with the notification a copy of the
14 transfer documents. No person may sell or otherwise transfer a credit as provided
15 in this paragraph more than once in a 12-month period. The department may charge
16 any person selling or otherwise transferring a credit under this paragraph a fee equal
17 to 1 percent of the credit amount sold or transferred. The department shall deposit
18 all fees collected under this paragraph in the appropriation account under s. 20.143
19 (1) (gm).

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

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

24 (END)