

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1556/P2ins
MPG:.....

Section #. 20.005 (3) (schedule) of the statutes: at the appropriate place,
insert the following amounts for the purposes indicated.

1 INSERT 16-8

2 2011-12 2012-13[✓]

3 **20.195[✓] Wisconsin Venture Capital Authority**

4 (1) VENTURE CAPITAL INVESTMENT PROGRAMS

5 (a) Establishment and initial opera-

6 tion

GPR C

-0-

-0-

7 (g) Administration of the on Wiscon-

8 sin fund

PR C

-0-

-0-

9 END INSERT 16-8

10 INSERT 16-12

11 (a) *Establishment and initial operation.* As a continuing appropriation, the
12 amounts in the schedule for the establishment of the Wisconsin Venture Capital
13 Authority and for the initial costs of operating the Wisconsin Venture Capital
14 Authority.[✓]

***NOTE: Because the budget bill repeals and recreates the schedule under s.
20.005, this draft contains a delayed effective date (see the nonstatutory effective date
provision at the end of the draft). The bill would be effective on the day after publication[✓]
or the second day after publication of the 2011-13 biennial budget bill, whichever is later.
That delayed effective date avoids conflict between the repeal and recreation of the
schedule under s. 20.005 in the budget bill and this sum certain continuing appropriation
under s. 20.192(1) (a). Note that we have inserted "0" in the schedule for the sum certain
appropriation as a placeholder until you determine the appropriate dollar amounts.[✓]

15 END INSERT 16-12

16 INSERT 22-15

17 (4) A vacancy on the board shall be filled in the same manner as the original
18 appointment to the board for the remainder of the unexpired term, if any.[✓]

1 (5) A member of the board may not be compensated for the member's services
2 but shall be reimbursed for actual and necessary expenses, including travel
3 expenses, incurred in the performance of his or her duties. ✓
the member's

4 (6) No cause of action may arise against and no civil liability may be imposed
5 upon a member of the board for any act or omission in the performance of his or her
6 powers and duties under this subchapter, unless the person asserting liability proves
7 that the act or omission constitutes willful misconduct. ✓
the member's

8 END INSERT 22-15

9 INSERT 23-14

****NOTE: Both the Wisconsin Venture Capital Authority (authority) and the
Wisconsin Economic Development Corporation (WEDC) have the ability to enter into
contracts with each other or others. ✓ Also, the authority can contract with the fund
manager for management of the on Wisconsin fund. ✓ Therefore, a provision stating that
the authority may contract with the WEDC and the on Wisconsin fund manager, as
requested in the revised drafting instructions, is unnecessary, and we have not included
such a provision. Okay? ✓

10 END INSERT 23-14

11 INSERT 24-2

12 **239.05 Annual report.** Annually, the authority shall submit to the chief clerk
13 of each house of the legislature, for distribution to the legislature under s. 13.172 (2), ✓
14 a report on the programs administered by the authority that includes all of the
15 following: ✓

16 (1) **GENERAL REPORTING REQUIREMENTS.** For each program administered by the
17 authority, the report shall include all of the following:

- 18 (a) An assessment of the program's success to date. ✓
- 19 (b) An accounting of the financial status of the program, including the opinion
20 of an independent certified public accountant. ✓
- 21 (c) Any recommendations the authority has for improvement of the program. ✓

1 (2) ON WISCONSIN FUND. In addition to the information provided under sub. (1),
2 the authority's annual report shall include all of the following for the on Wisconsin
3 fund administered by the authority under subch. II: ✓

4 (a) The current investment policy of the on Wisconsin fund. ✓

5 (b) The on Wisconsin fund's internal rate of return on its investments in
6 certified investors. ✓ (c) > (b)

7 (c) An accounting of the revenue received by the authority under s. 73.033 (b). ✓

8 (d) An accounting of any compensation, including a management fee, paid to
9 the fund manager during the preceding year. ✓

10 (e) An accounting of the value of each tax credit awarded to a creditor of the on
11 Wisconsin fund under s. 239.14 ✓ during the preceding year, including a description
12 of the circumstances leading to the award of the credit and the likelihood that the
13 authority will award additional tax credits to that creditor or other on Wisconsin
14 fund creditors in the future. ✓

15 (f) For each certified investor in whom the on Wisconsin fund invested capital
16 under s. 239.12 (2) ✓ during the preceding year, the name and address of the investor
17 and the amount of each investment. ✓

18 (g) The internal rate of return realized by each certified investor. ✓

19 (h) An accounting of any fee each certified investor paid to itself or any principal
20 or manager of the certified investor during the preceding year. ✓

21 (i) For each business in which a certified investor made an investment of capital
22 from the on Wisconsin fund during the preceding year, the name and address of the
23 business and a description of the nature of the business, the amount of each
24 investment in the business, and an identification of the certified investor who made
25 the investment. ✓

1 (3) CERTIFIED RAPID GROWTH FUND PROGRAM. In addition to the information
2 provided under sub. (1),[✓] the authority's annual report shall include all of the
3 following for the certified rapid growth fund program under subch. III:[✓]

4 (a) The information required under s. 239.25 (2).[✓]

5 (b) An accounting of the value of each tax credit the authority awarded under
6 s. 239.22 (2)[✓] during the preceding year.[✓]

7 ~~(b)~~ An accounting of each profit sharing fee paid to the authority under s. 239.24
8 (2)[✓] during the preceding year.[✓]

9 ~~(d)~~ A list of certified rapid growth funds that the authority decertified under
10 s. 239.26 (2)[✓] during the preceding year and a description of the circumstances leading
11 to each decertification.[✓]

12 END INSERT 24-2

13 INSERT 25-2

14 (c) Recognizing its moral obligation to do so, the legislature hereby expresses
15 its expectation and aspiration that, if ever called upon to do so, it shall make an
16 appropriation to pay a fund creditor the amount the authority fails to pay or
17 otherwise satisfy under its debt service obligation to that creditor.[✓]

18 (d) Neither the members of the board nor any person executing the notes or
19 bonds is liable personally on the notes or bonds or subject to any personal liability
20 or accountability by reason of the issuance of the notes or bonds, unless the personal
21 liability or accountability is the result of willful misconduct.[✓]

22 END INSERT 25-2

23 INSERT 25-24

24 (a) The certified investor[✓] shall commit to maintaining a significant presence
25 in this state.[✓]

(c) An accounting of the revenue received by the
authority under s. 23.033 (2) (b).[✓]

1 (b) The certified investor shall invest the amount of capital the certified
2 investor receives from the fund in a business that meets all of the following
3 conditions at the time the certified investor first invests in the business under this
4 section: ✓

5 END INSERT 25-24

6 INSERT 26-9

****NOTE: Is the intent here to have the certified investor contribute capital equal
to 3 times the amount of on Wisconsin fund capital received in each investment; or is the
intent to require that a certified investor may not receive on Wisconsin fund capital in an
amount that would exceed 25 percent of the investor's total capital on hand from all
sources? ✓

7 (d) ✓ The certified investor may not apply the amount of capital it receives from
8 the fund toward certification under s. 560.205 (1) ✓ or (2) ✓.

9 (e) ✓ The certified investor may not invest capital received from the fund in a
10 business that is primarily engaged in real estate development or sales, insurance,
11 banking, lending, lobbying, political consulting, professional services, or retail sales,
12 other than direct sales of products the business itself manufactures. ✓

13 END INSERT 26-9

14 INSERT 27-2

15 (f) Any other factors the authority considers relevant that are consistent with
16 the authority's responsibility under this subchapter. ✓

17 END INSERT 27-2

18 INSERT 27-11

19 (b) ✓ A contract under (2) ← (c) sub. (1) par. (a) shall set forth the terms and conditions under
20 which the fund creditor may claim a tax credit under this section. ✓ A fund creditor
21 may not claim a tax credit that exceeds the amount the authority fails to pay under
22 the authority's debt service obligation to the fund creditor. ✓ The authority shall certify

1 to the department of revenue the amount of the tax credit a creditor of the fund may
2 claim under this section.✓

3 (c) ^{(3) ← (b)} The authority may not award a tax credit under this section before January
4 1, 2016. The authority may not award tax credits under this section that total more
5 than \$300,000,000.✓

6 END INSERT 27-11

7 INSERT 34-22

8 (c) "In addition to any other applicable law, the certified rapid growth fund is
9 subject to applicable provisions of subchapter III of chapter 239 of the Wisconsin
10 Statutes and any requirements of the Wisconsin Venture Capital Authority."✓

11 END INSERT 34-22

12 INSERT 39-1

13 (a) In this subsection, "net profits realized" ✓ means the amount of money
14 returned to a certified rapid growth fund on a qualified investment that exceeds the
15 amount of that qualified investment.✓

16 END INSERT 39-1

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1556/P1insJK
JK:nwn:jf

Insert 16 - 20 JK

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

2 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
3 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
4 (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), (5r), (5rm), and (8r), and (8s)
5 and not passed through by a partnership, limited liability company, or tax-option
6 corporation that has added that amount to the partnership's, company's, or
7 tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

NOTE: NOTE: Subd. 15. is shown as affected by 4 acts of the 2009 Wisconsin Legislature and as merged by the legislative reference bureau under s. 13.92 (2) (i). The cross-reference to s. 71.07 (3rn) was changed from s. 71.07 (3rm) by the legislative reference bureau under s. 13.92 (1) (bm) 2. to reflect the renumbering of s. 71.07 (3rm), as created by 2009 Wis. Act 295, under s. 13.92 (1) (bm) 2. NOTE:

History: 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237; 1999 a. 9, 32, 44, 54, 63, 169; 2001 a. 16, 104, 105, 109; 2003 a. 85, 99, 119, 135, 183, 255, 289, 321, 326; 2005 a. 22, 25, 216, 254, 335, 361, 479, 483; 2007 a. 20, 96, 226; 2009 a. 2, 28, 205, 265, 289, 276, 295, 332, 344; 2011 a. 3, 5; s. 13.92 (1) (bm) 2., (2) (i).

8 SECTION 2. 71.07 (8s) of the statutes is created to read:

9 71.07 (8s) RAPID GROWTH FUND INVESTMENTS CREDIT. (a) *Definitions*. In this
10 subsection:

- 11 1. "Allocation date" has the meaning given in s. 239.20 (2).
- 12 2. "Certified rapid growth fund" has the meaning given in s. 239.20 (3).
- 13 3. "Claimant" means a person who files a claim under this subsection.
- 14 4. "Designated capital" has the meaning given in s. 239.20 (4).

15 (b) *Filing claims*. Subject to the limitations provided in this subsection and s.
16 239.22, for taxable years beginning after December 31, 2013, a claimant who makes
17 an investment of designated capital and who has been awarded a credit under s.
18 239.22 (2) (a), may claim as a credit against the tax imposed under s. 71.02, up to the
19 amount of the tax, the amount determined under s. 239.22 (2) (b).

20 (c) *Limitations*. Partnerships, limited liability companies, and tax-option
21 corporations may not claim the credit under this subsection, but the eligibility for,

1 and the amount of, the credit are based on their investment of designated capital for
2 which a credit has been awarded under s. 239.22 (2) (a).[✓] A partnership, limited
3 liability company, or tax-option corporation shall compute the amount of credit that
4 each of its partners, members, or shareholders may claim and shall provide that
5 information to each of them. Partners, members of limited liability companies, and
6 shareholders of tax-option corporations may claim the credit in proportion to their
7 ownership interests.[✓]

8 (d) *Carry-forward.* If a credit computed under this subsection is not entirely
9 offset against Wisconsin income or franchise taxes otherwise due, the unused
10 balance may be carried forward and credited against Wisconsin income or franchise
11 taxes otherwise due for the following taxable years to the extent not offset by these
12 taxes otherwise due in all intervening years between the year in which the expense
13 was incurred and the year in which the carry-forward credit is claimed.[✓]

14 (e) *Recapture.* If a certified rapid growth fund in which the claimant's
15 designated capital has been invested is decertified under s. 239.26 (2) (b)[✓] no later
16 than 4 years after the claimant's allocation date, and the rapid growth fund has not
17 made the investments required under s. 239.23 (4) (a)[✓] and (b),[✓] any claimant who has
18 received a credit under this subsection[✓] with respect to such decertified rapid growth
19 fund shall repay the credit amount to the department of revenue, for deposit into the
20 general fund, and may not claim any more credits under this subsection with respect
21 to the decertified rapid growth fund.[✓]

22 (f) *Sale of credit.* A person who is awarded a credit under s. 239.22 (2) (a),[✓] or
23 to whom a credit is sold or transferred as provided under this paragraph, may sell
24 or otherwise transfer the credit to another person who is subject to the tax imposed
25 under s. 71.02,[✓] 71.23,[✓] or 71.43[✓] if the person notifies the department of revenue and

1 the Wisconsin Venture Capital Authority created under ch. 239 of the sale or transfer
 2 and includes with the notification a copy of the sale or transfer documents. If a credit
 3 that has been sold or transferred under this paragraph is subject to recapture under
 4 par. (e), the person who claimed the credit is liable for the repayment provided under
 5 par. (e). No credit may be sold or transferred under this paragraph until 180 days
 6 after the date on which the person becomes eligible to claim the credit.

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

9 SECTION 3. 71.10 (4) (ds) of the statutes is created to read:

10 71.10 (4) (ds) Rapid growth fund investments credit under s. 71.07 (8s).

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

12 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
 13 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s),
 14 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), and (8r), and (8s) and passed
 15 through to partners shall be added to the partnership's income.

NOTE: NOTE: Sub. (4) is shown as affected by 4 acts of the 2009 Wisconsin Legislature and as merged by the legislative reference bureau under s. 13.92 (2) (i). The cross-reference to s. 71.07 (3rn) was changed from s. 71.07 (3rm) by the legislative reference bureau under s. 13.92 (1) (bm) 2. to reflect the renumbering of s. 71.07 (3rm), as created by 2009 Wis. Act 295, under s. 13.92 (1) (bm) 2. NOTE:

History: 1987 a. 312, 411; 1989 a. 31; 1993 a. 112; 1995 a. 27, 400; 1997 a. 27; 2001 a. 16; 2003 a. 99, 135, 255, 326; 2005 a. 74, 361, 479, 483; 2007 a. 20, 96; 2009 a. 2, 28, 265, 269, 295, 332; s. 13.92 (1) (bm) 2., (2) (i).

Insert 17 - 5 JK

16 SECTION 5. 71.26 (2) (a) 4. of the statutes, as affected by 2011 Wisconsin Act 3,
 17 is amended to read:

18 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
 19 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
 20 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), (8r), (8s), and
 21 (9s) and not passed through by a partnership, limited liability company, or
 22 tax-option corporation that has added that amount to the partnership's, limited

1 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k)
2 (g).[✓]

History: 1987 a. 312; 1987 a. 411 ss. 22, 124 to 129; 1989 a. 31, 336; 1991 a. 37, 39, 221, 269; 1993 a. 16, 112, 246, 263, 399, 437, 491; 1995 a. 27, 56, 351, 371, 380, 428; 1997 a. 27, 37, 184, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 106, 109; 2003 a. 33, 85, 99, 135, 255, 326; 2005 a. 25, 74, 335, 361, 362, 479, 483; 2007 a. 20, 96, 97, 151, 226; 2009 a. 2, 3, 16, 165, 180, 183, 205, 265, 269, 295, 332, 344; 2011 a. 3, 5, 7; s. 13.92 (2) (i).

3 **SECTION 6. 71.28 (8s) of the statutes is created to read:**

4 **71.28 (8s) RAPID GROWTH FUND INVESTMENTS CREDIT. (a) Definitions.** In this
5 subsection:

- 6 1. "Allocation date" has the meaning given in s. 239.20 (2).[✓]
- 7 2. "Certified rapid growth fund" has the meaning given in s. 239.20 (3).[✓]
- 8 3. "Claimant" means a person who files a claim under this subsection.[✓]
- 9 4. "Designated capital" has the meaning given in s. 239.20 (4).[✓]

10 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
11 239.22,[✓] for taxable years beginning after December 31, 2013, a claimant who makes
12 an investment of designated capital and who has been awarded a credit under s.
13 239.22 (2) (a), may claim as a credit against the tax imposed under s. 71.23, up to the
14 amount of the tax, the amount determined under s. 239.22 (2) (b).[✓]

15 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
16 corporations may not claim the credit under this subsection, but the eligibility for,
17 and the amount of, the credit are based on their investment of designated capital for
18 which a credit has been awarded under s. 239.22 (2) (a).[✓] A partnership, limited
19 liability company, or tax-option corporation shall compute the amount of credit that
20 each of its partners, members, or shareholders may claim and shall provide that
21 information to each of them. Partners, members of limited liability companies, and
22 shareholders of tax-option corporations may claim the credit in proportion to their
23 ownership interests.[✓]

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

7 (e) *Recapture*. If a certified rapid growth fund in which the claimant's
8 designated capital has been invested is decertified under s. 239.26 (2) (b) no later
9 than 4 years after the claimant's allocation date, and the rapid growth fund has not
10 made the investments required under s. 239.23 (4) (a) and (b), any claimant who has
11 received a credit under this subsection with respect to such decertified rapid growth
12 fund shall repay the credit amount to the department of revenue, for deposit into the
13 general fund, and may not claim any more credits under this subsection with respect
14 to the decertified rapid growth fund. ✓

15 (f) *Sale of credit*. A person who is awarded a credit under s. 239.22 (2) (a), ✓ or
16 to whom a credit is sold or transferred as provided under this paragraph, may sell
17 or otherwise transfer the credit to another person who is subject to the tax imposed
18 under s. 71.02, 71.23, or 71.43 ✓ if the person notifies the department of revenue and
19 the Wisconsin Venture Capital Authority created under ch. 239 of the sale or transfer
20 and includes with the notification a copy of the sale or transfer documents. ✓ If a credit
21 that has been sold or transferred under this paragraph is subject to recapture under
22 par. (e) ✓, the person who claimed the credit is liable for the repayment provided under
23 par. (e) ✓. No credit may be sold or transferred under this paragraph until 180 days
24 after the date on which the person becomes eligible to claim the credit. ✓

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

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

4 71.30 (3) (dn) Rapid growth fund investments credit under s. 71.28 (8s). ✓

5 **SECTION 8.** 71.34 (1k) (g) of the statutes is amended to read:

6 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
7 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
8 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j),
9 (5k), (5r), (5rm), and (8r), and (8s) and passed through to shareholders. ✓

NOTE: NOTE: Par. (g) is shown as affected by 4 acts of the 2009 Wisconsin Legislature and as merged by the legislative reference bureau under s. 13.92 (2) (i). The cross-reference to s. 71.28 (3rn) was changed from s. 71.28 (3rm) by the legislative reference bureau under s. 13.92 (1) (bm) 2. to reflect the renumbering of s. 71.28 (3rm), as created by 2009 Wis. Act 295, under s. 13.92 (1) (bm) 2. NOTE:

History: 1987 a. 312; 1987 a. 411 ss. 18, 23, 146; 1989 a. 31, 336; 1991 a. 39, 269; 1993 a. 16, 437; 1995 a. 27, 380, 428; 1997 a. 27, 37, 237; 1999 a. 9, 194; 2001 a. 16, 109; 2003 a. 33, 99, 135, 255, 326; 2005 a. 25, 49, 74, 361, 479, 483; 2007 a. 20, 96, 226; 2009 a. 2, 28, 161, 183, 265, 269, 295, 332; s. 13.92 (1) (bm) 2., (2) (i).

10 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2011 Wisconsin Act

11 3, is amended to read:

12 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
13 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn),
14 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), (8r), (8s), and (9s) and not passed
15 through by a partnership, limited liability company, or tax-option corporation that
16 has added that amount to the partnership's, limited liability company's, or
17 tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g) and the amount
18 of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

History: 1987 a. 312; 1989 a. 31, 336, 359; 1991 a. 37, 39, 269; 1993 a. 16, 112, 263, 437; 1995 a. 27, 56, 371, 380; 1997 a. 27, 37, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 109; 2003 a. 37, 84, 99, 135, 255, 326; 2005 a. 74, 297, 335, 361, 479, 483; 2007 a. 20, 96, 226; 2009 a. 2, 28, 165, 205, 265, 269, 295, 332, 344; 2011 a. 3, 5.

19 **SECTION 10.** 71.47 (8s) of the statutes is created to read:

20 71.47 (8s) RAPID GROWTH FUND INVESTMENTS CREDIT. (a) *Definitions*. In this
21 subsection:

22 1. "Allocation date" has the meaning given in s. 239.20 (2). ✓

1 2. "Certified rapid growth fund" has the meaning given in s. 239.20 (3). ✓

2 3. "Claimant" means a person who files a claim under this subsection. ✓

3 4. "Designated capital" has the meaning given in s. 239.20 (4). ✓

4 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
5 239.22, for taxable years beginning after December 31, 2013, a claimant who makes
6 an investment of designated capital and who has been awarded a credit under s.
7 239.22 (2) (a), may claim as a credit against the tax imposed under s. 71.43, up to the
8 amount of the tax, the amount determined under s. 239.22 (2) (b). ✓

9 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
10 corporations may not claim the credit under this subsection, but the eligibility for,
11 and the amount of, the credit are based on their investment of designated capital for
12 which a credit has been awarded under s. 239.22 (2) (a). ✓ A partnership, limited
13 liability company, or tax-option corporation shall compute the amount of credit that
14 each of its partners, members, or shareholders may claim and shall provide that
15 information to each of them. Partners, members of limited liability companies, and
16 shareholders of tax-option corporations may claim the credit in proportion to their
17 ownership interests. ✓

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

24 (e) *Recapture.* If a certified rapid growth fund in which the claimant's
25 designated capital has been invested is decertified under s. 239.26 (2) (b) no later

1 than 4 years after the claimant's allocation date, and the rapid growth fund has not
 2 made the investments required under s. 239.23 (4) (a) and (b), any claimant who has
 3 received a credit under this subsection with respect to such decertified rapid growth
 4 fund shall repay the credit amount to the department of revenue, for deposit into the
 5 general fund, and may not claim any more credits under this subsection with respect
 6 to the decertified rapid growth fund. ✓

7 (f) *Sale of credit.* A person who is awarded a credit under s. 239.22 (2) (a), or
 8 to whom a credit is sold or transferred as provided under this paragraph, may sell
 9 or otherwise transfer the credit to another person who is subject to the tax imposed
 10 under s. 71.02, 71.23, or 71.43 ✓ if the person notifies the department of revenue and
 11 the Wisconsin Venture Capital Authority created under ch. 239 of the sale or transfer
 12 and includes with the notification a copy of the sale or transfer documents. If a credit
 13 that has been sold or transferred under this paragraph is subject to recapture under
 14 par. (e), the person who claimed the credit is liable for the repayment provided under
 15 par. (e). ✓ No credit may be sold or transferred under this paragraph until 180 days
 16 after the date on which the person becomes eligible to claim the credit. ✓

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

19 SECTION 11. ~~71.29 (1)~~ ^{71.29} (1) (dn) of the statutes is created to read: ~~71.30 (3)~~ 71.49 (1)

20 71.29 (1) (dn) Rapid growth fund investments credit under s. 71.47 (8s).

21 SECTION 12. ~~77.92~~ ^{71.49} (4) of the statutes is amended to read:

22 77.92 (4) "Net business income," with respect to a partnership, means taxable
 23 income as calculated under section 703 of the Internal Revenue Code; plus the items
 24 of income and gain under section 702 of the Internal Revenue Code, including taxable
 25 state and municipal bond interest and excluding nontaxable interest income or

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

NOTE: NOTE: Sub. (4) is shown as affected by 4 acts of the 2009 Wisconsin Legislature and as merged by the legislative reference bureau under s. 13.92 (2) (i). The cross-reference to s. 71.07 (3rn) was changed from s. 71.07 (3rm) by the legislative reference bureau under s. 13.92 (1) (bm) 2. to reflect the renumbering of s. 71.07 (3rm), as created by 2009 Wis. Act 295, under s. 13.92 (1) (bm) 2. NOTE:

History: 1989 a. 335; 1991 a. 39, 269; 1993 a. 16, 112, 490; 1995 a. 27, 209; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 99, 135, 255, 326; 2005 a. 74, 361, 479, 483; 2007 a. 20, 96; 2009 a. 2, 28, 265, 269, 295, 332; s. 13.92 (1) (bm) 2., (2) (i).

**2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1556/P2insnn
MPG&JK:nwn:jf

INS 43-25

1

2

SECTION 1. Effective dates. This act takes effect on the day after publication,

3

or on the 2nd day after publication of the 2011-13 biennial budget act, whichever is

4

later, except as follows:

Insert 17-20 JK

1 71.26 (1) (be) *Certain authorities.* Income of the University of Wisconsin
2 Hospitals and Clinics Authority, of the Health Insurance Risk-Sharing Plan
3 Authority, of the Fox River Navigational System Authority, of the Wisconsin
4 Economic Development Corporation, of the Wisconsin Venture Capital Authority,
5 and of the Wisconsin Aerospace Authority.

6 SECTION 38. 73.033 of the statutes is created to read:

7 **73.033 Rapid growth fund investments; withholding tax**
8 **determinations. (1)**

9 (The department of revenue, in consultation with the
10 Wisconsin Venture Capital Authority created under ch. 239, shall determine the
11 amount of the withholding taxes under subch. X of ch. 71 paid by each business that
12 receives an investment under s. 239.23 (2) for the first year in which each business
13 receives the investment. *the year prior to*

14 (2) For 15 years following the first year in which a business receives an
15 investment under s. 239.23 (2), the department shall credit to the appropriation
16 account under s. 20.195 (1) (g) an amount equal to 50 percent of the annual increase,
17 if any, in withholding taxes under subch. X of ch. 71 paid by all businesses that
18 receive investments under s. 239.23 (2) over the amount determined for all such
19 businesses under sub. (1). The department shall credit the amounts determined
20 under this subsection on a quarterly basis based on its estimate of the total annual
21 increase in the withholding taxes described in this subsection.

22 SECTION 39. 76.634 of the statutes is created to read.

23 **76.634 Credit for rapid growth fund investments. (1) DEFINITIONS.** In this
24 section:

25 (a) "Allocation date" has the meaning given in s. 239.20 (2).

(b) "Certified rapid growth fund" has the meaning given in s. 239.20 (3).

end of 17-20 JK

Kreye, Joseph

From: Quinn, Brian D - DOA [Brian.Quinn@wisconsin.gov]
Sent: Monday, April 11, 2011 10:11 AM
To: Gallagher, Michael; Kreye, Joseph
Cc: Hoechst, Jonathan S - DOA
Subject: Revisions to 1556/P2
Attachments: WVCA flow chart v. 2.0.doc

Mike and Joe,

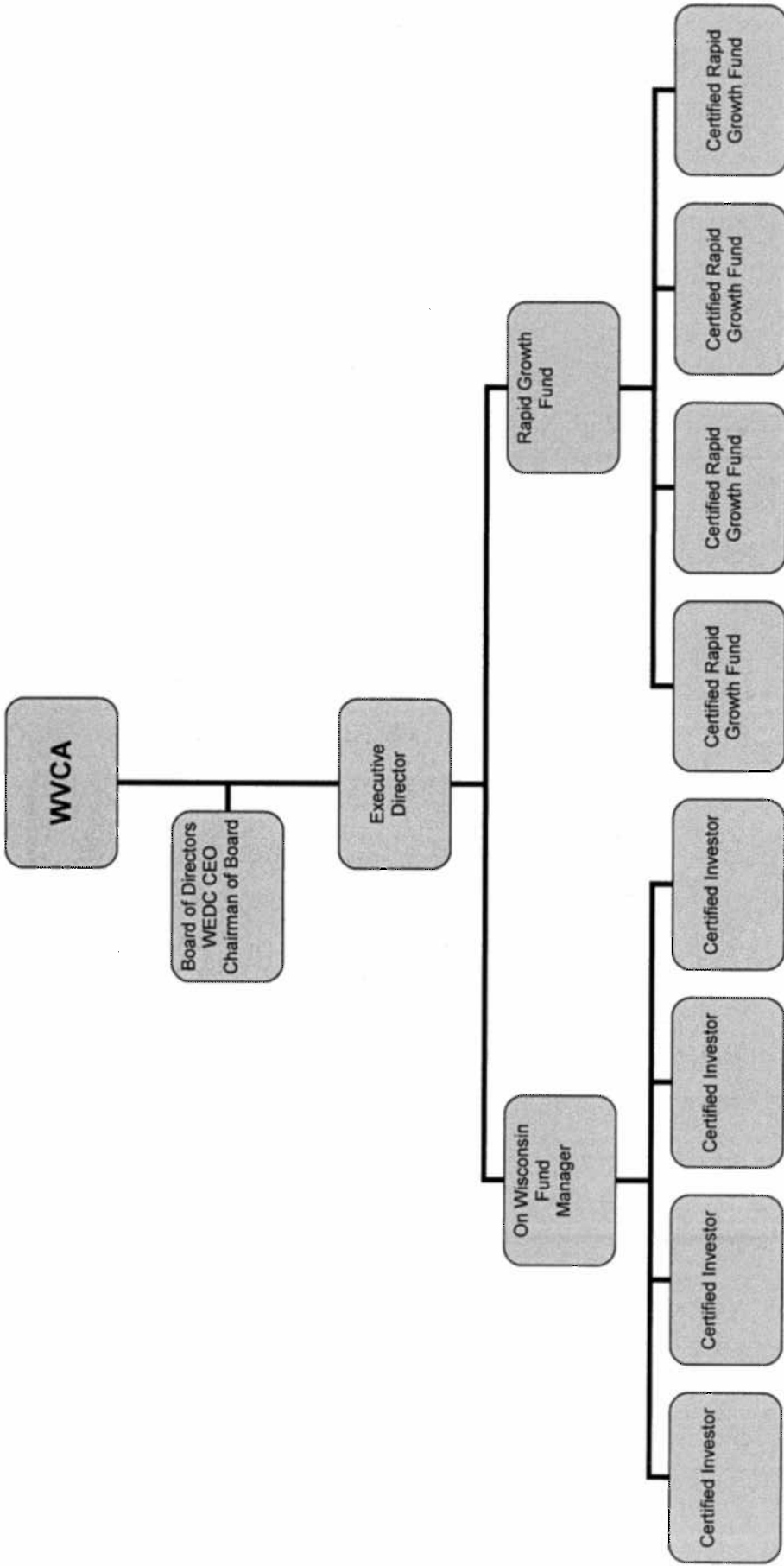
The tax credits enumerated in sections 39 through 49 in the draft should only apply to investors that purchase bonds issued under 239.11(2). These tax credits are not related to investment in the Rapid Growth Funds. Further, the reference on page 39, line 18 to 76.634 should be deleted as the credit for rapid growth fund investments is not related to investments in the On Wisconsin Fund's bonds.

The attached flow chart provides a summary of the overall intent of the delineation of the two programs.

Let us know if you have any questions related to these changes.

Thanks much.

Brian Quinn
Executive Policy & Budget Analyst
Department of Administration
Division of Executive Budget and Finance
(608)-266-1923
brian.quinn@wisconsin.gov



TAX CREDITS (OWF)

- (1) Income & franchise tax credits
- (2) Transferable, not sellable

TAX CREDIT (RGF)

- (1) Premium tax credits
- (2) Transferable & sellable

WITHHOLDING TAX DETERMINATIONS (OWF and RGF)

- (1) 50 percent of incremental withholding taxes to 20.195(1)(g) for OWF admin (includes debt service)
- (2) 50 percent of increased tax revenue to general fund



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-1556/P2
MPG&JK:nwn:md

13
RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ejf

in mon 4-11

Today

Regen

1 **AN ACT to amend** 1.12 (1) (b), 13.172 (1), 13.48 (13) (a), 13.62 (2), 13.94 (1) (mm),
2 13.94 (4) (a) 1., 13.95 (intro.), 16.002 (2), 16.004 (4), 16.004 (5), 16.004 (12) (a),
3 16.045 (1) (a), 16.15 (1) (ab), 16.41 (4), 16.417 (1) (b), 16.52 (7), 16.528 (1) (a),
4 16.53 (2), 16.54 (9) (a) 1., 16.765 (1), 16.765 (2), 16.765 (5), 16.765 (6), 16.765 (7)
5 (intro.), 16.765 (7) (d), 16.765 (8), 16.85 (2), 16.865 (8), 71.05 (6) (a) 15., 71.21
6 (4), 71.26 (1) (be), 71.26 (2) (a) 4., 71.34 (1k) (g), 71.45 (2) (a) 10., 76.67 (2), 77.54
7 (9a) (a), 77.92 (4), 100.45 (1) (dm), 101.177 (1) (d), 230.03 (3), 281.75 (4) (b) 3.
8 and 285.59 (1) (b); **to repeal and recreate** 16.417 (1) (b); and **to create** 13.94
9 (1) (dx), 13.94 (1s) (c) 6., 19.42 (10) (t), 19.42 (13) (p), 20.195, 40.02 (54) (n), 70.11
10 (38v), 71.07 (8s), 71.10 (4) (ds), 71.28 (8s), 71.30 (3) (dn), 71.47 (8s), 71.49 (1)
11 (dn), 73.033, 76.634 and chapter 239 of the statutes; **relating to:** creation of the
12 Wisconsin Venture Capital Authority, creation of the on Wisconsin fund and the
13 rapid growth fund certification program, both of which are to be administered

1 by the Wisconsin Venture Capital Authority, making an appropriation, and
2 providing a penalty.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

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

3 **SECTION 1.** 1.12 (1) (b) of the statutes, as affected by 2011 Wisconsin Act 7, is
4 amended to read:

5 1.12 (1) (b) "State agency" means an office, department, agency, institution of
6 higher education, the legislature, a legislative service agency, the courts, a judicial
7 branch agency, an association, society, or other body in state government that is
8 created or authorized to be created by the constitution or by law, for which
9 appropriations are made by law, excluding the Health Insurance Risk-Sharing Plan
10 Authority, the Wisconsin Venture Capital Authority, and the Wisconsin Economic
11 Development Corporation.

12 **SECTION 2.** 13.172 (1) of the statutes, as affected by 2011 Wisconsin Act 10, is
13 amended to read:

14 13.172 (1) In this section, "agency" means an office, department, agency,
15 institution of higher education, association, society, or other body in state
16 government created or authorized to be created by the constitution or any law, that
17 is entitled to expend moneys appropriated by law, including the legislature and the

1 courts, and any authority created in subch. II of ch. 114 or subch. III of ch. 149 or in
2 ch. 231, 233, 234, 238, 239, or 279.

3 **SECTION 3.** 13.48 (13) (a) of the statutes, as affected by 2011 Wisconsin Act 10,
4 is amended to read:

5 13.48 (13) (a) Except as provided in par. (b) or (c), every building, structure or
6 facility that is constructed for the benefit of or use of the state, any state agency,
7 board, commission or department, the University of Wisconsin Hospitals and Clinics
8 Authority, the Fox River Navigational System Authority, the Wisconsin Venture
9 Capital Authority, the Wisconsin Economic Development Corporation, or any local
10 professional baseball park district created under subch. III of ch. 229 if the
11 construction is undertaken by the department of administration on behalf of the
12 district, shall be in compliance with all applicable state laws, rules, codes and
13 regulations but the construction is not subject to the ordinances or regulations of the
14 municipality in which the construction takes place except zoning, including without
15 limitation because of enumeration ordinances or regulations relating to materials
16 used, permits, supervision of construction or installation, payment of permit fees, or
17 other restrictions.

18 **SECTION 4.** 13.62 (2) of the statutes, as affected by 2011 Wisconsin Act 10, is
19 amended to read:

20 13.62 (2) "Agency" means any board, commission, department, office, society,
21 institution of higher education, council, or committee in the state government, or any
22 authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 232, 233,
23 234, 237, 238, 239, or 279, except that the term does not include a council or
24 committee of the legislature.

25 **SECTION 5.** 13.94 (1) (dx) of the statutes is created to read:

1 13.94 (1) (dx) Biennially, beginning in 2013, conduct a financial audit of the
2 Wisconsin Venture Capital Authority and a program evaluation audit of the
3 programs administered by the Wisconsin Venture Capital Authority under ch. 239.
4 The legislative audit bureau shall file a copy of each audit report under this
5 paragraph with the distributees specified in par. (b).

6 **SECTION 6.** 13.94 (1) (mm) of the statutes, as affected by 2011 Wisconsin Act 7,
7 is amended to read:

8 13.94 (1) (mm) No later than July 1, 2012, prepare a financial and performance
9 evaluation audit of the economic development programs administered by the
10 department of commerce, the University of Wisconsin System, the department of
11 agriculture, trade and consumer protection, the department of natural resources, the
12 Wisconsin Housing and Economic Development Authority, the Wisconsin Venture
13 Capital Authority, the Wisconsin Economic Development Corporation, the
14 department of tourism, the technical college system, and the department of
15 transportation. In this paragraph, economic development program has the meaning
16 given in s. 560.001 (1m). The legislative audit bureau shall file a copy of the report
17 of the audit under this paragraph with the distributees specified in par. (b).

18 **SECTION 7.** 13.94 (1s) (c) 6. of the statutes is created to read:

19 13.94 (1s) (c) 6. The Wisconsin Venture Capital Authority for the cost of the
20 audit required to be performed under sub. (1) (dx).

21 **SECTION 8.** 13.94 (4) (a) 1. of the statutes, as affected by 2011 Wisconsin Act 10,
22 is amended to read:

23 13.94 (4) (a) 1. Every state department, board, examining board, affiliated
24 credentialing board, commission, independent agency, council or office in the
25 executive branch of state government; all bodies created by the legislature in the

1 legislative or judicial branch of state government; any public body corporate and
2 politic created by the legislature including specifically the Fox River Navigational
3 System Authority, the Lower Fox River Remediation Authority, the Wisconsin
4 Aerospace Authority, the Wisconsin Venture Capital Authority, and the Wisconsin
5 Economic Development Corporation, a professional baseball park district, a local
6 professional football stadium district, a local cultural arts district, and a long-term
7 care district under s. 46.2895; every Wisconsin works agency under subch. III of ch.
8 49; every provider of medical assistance under subch. IV of ch. 49; technical college
9 district boards; every county department under s. 51.42 or 51.437; every nonprofit
10 corporation or cooperative or unincorporated cooperative association to which
11 moneys are specifically appropriated by state law; and every corporation, institution,
12 association or other organization which receives more than 50% of its annual budget
13 from appropriations made by state law, including subgrantee or subcontractor
14 recipients of such funds.

15 **SECTION 9.** 13.95 (intro.) of the statutes, as affected by 2011 Wisconsin Act 10,
16 is amended to read:

17 **13.95 Legislative fiscal bureau.** (intro.) There is created a bureau to be
18 known as the "Legislative Fiscal Bureau" headed by a director. The fiscal bureau
19 shall be strictly nonpartisan and shall at all times observe the confidential nature
20 of the research requests received by it; however, with the prior approval of the
21 requester in each instance, the bureau may duplicate the results of its research for
22 distribution. Subject to s. 230.35 (4) (a) and (f), the director or the director's
23 designated employees shall at all times, with or without notice, have access to all
24 state agencies, the University of Wisconsin Hospitals and Clinics Authority, the
25 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,

1 the Lower Fox River Remediation Authority, the Wisconsin Venture Capital
2 Authority, the Wisconsin Economic Development Corporation, and the Fox River
3 Navigational System Authority, and to any books, records, or other documents
4 maintained by such agencies or authorities and relating to their expenditures,
5 revenues, operations, and structure.

6 **SECTION 10.** 16.002 (2) of the statutes, as affected by 2011 Wisconsin Act 10,
7 is amended to read:

8 16.002 (2) "Departments" means constitutional offices, departments, and
9 independent agencies and includes all societies, associations, and other agencies of
10 state government for which appropriations are made by law, but not including
11 authorities created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 232,
12 233, 234, 235, 237, 238, 239, or 279.

13 **SECTION 11.** 16.004 (4) of the statutes, as affected by 2011 Wisconsin Act 10,
14 is amended to read:

15 16.004 (4) FREEDOM OF ACCESS. The secretary and such employees of the
16 department as the secretary designates may enter into the offices of state agencies
17 and authorities created under subch. II of ch. 114 and subch. III of ch. 149 and under
18 chs. 231, 233, 234, 237, 238, 239, and 279, and may examine their books and accounts
19 and any other matter that in the secretary's judgment should be examined and may
20 interrogate the agency's employees publicly or privately relative thereto.

21 **SECTION 12.** 16.004 (5) of the statutes, as affected by 2011 Wisconsin Act 10,
22 is amended to read:

23 16.004 (5) AGENCIES AND EMPLOYEES TO COOPERATE. All state agencies and
24 authorities created under subch. II of ch. 114 and subch. III of ch. 149 and under chs.
25 231, 233, 234, 237, 238, 239, and 279, and their officers and employees, shall

1 cooperate with the secretary and shall comply with every request of the secretary
2 relating to his or her functions.

3 **SECTION 13.** 16.004 (12) (a) of the statutes, as affected by 2011 Wisconsin Act
4 10, is amended to read:

5 16.004 (12) (a) In this subsection, "state agency" means an association,
6 authority, board, department, commission, independent agency, institution, office,
7 society, or other body in state government created or authorized to be created by the
8 constitution or any law, including the legislature, the office of the governor, and the
9 courts, but excluding the University of Wisconsin Hospitals and Clinics Authority,
10 the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan
11 Authority, the Lower Fox River Remediation Authority, the Wisconsin Economic
12 Development Corporation, the Wisconsin Venture Capital Authority, and the Fox
13 River Navigational System Authority.

14 **SECTION 14.** 16.045 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 10,
15 is amended to read:

16 16.045 (1) (a) "Agency" means an office, department, independent agency,
17 institution of higher education, association, society, or other body in state
18 government created or authorized to be created by the constitution or any law, that
19 is entitled to expend moneys appropriated by law, including the legislature and the
20 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
21 ch. 149 or in ch. 231, 232, 233, 234, 235, 237, 238, 239, or 279.

22 **SECTION 15.** 16.15 (1) (ab) of the statutes, as affected by 2011 Wisconsin Act 10,
23 is amended to read:

24 16.15 (1) (ab) "Authority" has the meaning given under s. 16.70 (2), but
25 excludes the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox

1 River Remediation Authority, the Wisconsin Economic Development Corporation,
2 the Wisconsin Venture Capital Authority, and the Health Insurance Risk-Sharing
3 Plan Authority.

4 **SECTION 16.** 16.41 (4) of the statutes, as affected by 2011 Wisconsin Act 10, is
5 amended to read:

6 16.41 (4) In this section, "authority" means a body created under subch. II of
7 ch. 114 or subch. III of ch. 149 or under ch. 231, 233, 234, 237, 238, 239, or 279.

8 **SECTION 17.** 16.417 (1) (b) of the statutes, as affected by 2011 Wisconsin Acts
9 7 and 10, is repealed and recreated to read:

10 16.417 (1) (b) "Authority" means a body created under subch. II of ch. 114 or
11 ch. 231, 232, 233, 234, 235, 237, 239, or 279.

12 **SECTION 18.** 16.417 (1) (b) of the statutes, as affected by 2011 Wisconsin Act
13 (this act), is amended to read:

14 16.417 (1) (b) "Authority" means a body created under subch. II of ch. 114 or
15 ch. 231, 232, 233, 234, 235, 237, 238, 239, or 279.

16 **SECTION 19.** 16.52 (7) of the statutes, as affected by 2011 Wisconsin Act 10, is
17 amended to read:

18 16.52 (7) PETTY CASH ACCOUNT. With the approval of the secretary, each agency
19 that is authorized to maintain a contingent fund under s. 20.920 may establish a
20 petty cash account from its contingent fund. The procedure for operation and
21 maintenance of petty cash accounts and the character of expenditures therefrom
22 shall be prescribed by the secretary. In this subsection, "agency" means an office,
23 department, independent agency, institution of higher education, association,
24 society, or other body in state government created or authorized to be created by the
25 constitution or any law, that is entitled to expend moneys appropriated by law,

1 including the legislature and the courts, but not including an authority created in
2 subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 233, 234, 237, 238, 239, or
3 279.

4 **SECTION 20.** 16.528 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 10,
5 is amended to read:

6 16.528 (1) (a) "Agency" means an office, department, independent agency,
7 institution of higher education, association, society, or other body in state
8 government created or authorized to be created by the constitution or any law, that
9 is entitled to expend moneys appropriated by law, including the legislature and the
10 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
11 ch. 149 or in ch. 231, 233, 234, 237, 238, 239, or 279.

12 **SECTION 21.** 16.53 (2) of the statutes, as affected by 2011 Wisconsin Act 10, is
13 amended to read:

14 16.53 (2) IMPROPER INVOICES. If an agency receives an improperly completed
15 invoice, the agency shall notify the sender of the invoice within 10 working days after
16 it receives the invoice of the reason it is improperly completed. In this subsection,
17 "agency" means an office, department, independent agency, institution of higher
18 education, association, society, or other body in state government created or
19 authorized to be created by the constitution or any law, that is entitled to expend
20 moneys appropriated by law, including the legislature and the courts, but not
21 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
22 231, 233, 234, 237, 238, 239, or 279.

23 **SECTION 22.** 16.54 (9) (a) 1. of the statutes, as affected by 2011 Wisconsin Act
24 10, is amended to read:

1 16.54 (9) (a) 1. “Agency” means an office, department, independent agency,
2 institution of higher education, association, society or other body in state
3 government created or authorized to be created by the constitution or any law, which
4 is entitled to expend moneys appropriated by law, including the legislature and the
5 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
6 ch. 149 or in ch. 231, 233, 234, 237, 238, 239, or 279.

7 **SECTION 23.** 16.765 (1) of the statutes, as affected by 2011 Wisconsin Act 10,
8 is amended to read:

9 16.765 (1) Contracting agencies, the University of Wisconsin Hospitals and
10 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
11 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
12 Fox River Remediation Authority, the Wisconsin Venture Capital Authority, the
13 Wisconsin Economic Development Corporation, and the Bradley Center Sports and
14 Entertainment Corporation shall include in all contracts executed by them a
15 provision obligating the contractor not to discriminate against any employee or
16 applicant for employment because of age, race, religion, color, handicap, sex, physical
17 condition, developmental disability as defined in s. 51.01 (5), sexual orientation as
18 defined in s. 111.32 (13m), or national origin and, except with respect to sexual
19 orientation, obligating the contractor to take affirmative action to ensure equal
20 employment opportunities.

21 **SECTION 24.** 16.765 (2) of the statutes, as affected by 2011 Wisconsin Act 10,
22 is amended to read:

23 16.765 (2) Contracting agencies, the University of Wisconsin Hospitals and
24 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
25 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower

1 Fox River Remediation Authority, the Wisconsin Venture Capital Authority, the
2 Wisconsin Economic Development Corporation, and the Bradley Center Sports and
3 Entertainment Corporation shall include the following provision in every contract
4 executed by them: "In connection with the performance of work under this contract,
5 the contractor agrees not to discriminate against any employee or applicant for
6 employment because of age, race, religion, color, handicap, sex, physical condition,
7 developmental disability as defined in s. 51.01 (5), sexual orientation or national
8 origin. This provision shall include, but not be limited to, the following: employment,
9 upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or
10 termination; rates of pay or other forms of compensation; and selection for training,
11 including apprenticeship. Except with respect to sexual orientation, the contractor
12 further agrees to take affirmative action to ensure equal employment opportunities.
13 The contractor agrees to post in conspicuous places, available for employees and
14 applicants for employment, notices to be provided by the contracting officer setting
15 forth the provisions of the nondiscrimination clause".

16 **SECTION 25.** 16.765 (5) of the statutes, as affected by 2011 Wisconsin Act 10,
17 is amended to read:

18 16.765 (5) The head of each contracting agency and the boards of directors of
19 the University of Wisconsin Hospitals and Clinics Authority, the Fox River
20 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
21 Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
22 Authority, the Wisconsin Venture Capital Authority, the Wisconsin Economic
23 Development Corporation, and the Bradley Center Sports and Entertainment
24 Corporation shall be primarily responsible for obtaining compliance by any
25 contractor with the nondiscrimination and affirmative action provisions prescribed

1 by this section, according to procedures recommended by the department. The
2 department shall make recommendations to the contracting agencies and the boards
3 of directors of the University of Wisconsin Hospitals and Clinics Authority, the Fox
4 River Navigational System Authority, the Wisconsin Aerospace Authority, the
5 Health Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
6 Authority, the Wisconsin Venture Capital Authority, the Wisconsin Economic
7 Development Corporation, and the Bradley Center Sports and Entertainment
8 Corporation for improving and making more effective the nondiscrimination and
9 affirmative action provisions of contracts. The department shall promulgate such
10 rules as may be necessary for the performance of its functions under this section.

11 **SECTION 26.** 16.765 (6) of the statutes, as affected by 2011 Wisconsin Act 10,
12 is amended to read:

13 16.765 (6) The department may receive complaints of alleged violations of the
14 nondiscrimination provisions of such contracts. The department shall investigate
15 and determine whether a violation of this section has occurred. The department may
16 delegate this authority to the contracting agency, the University of Wisconsin
17 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
18 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
19 the Lower Fox River Remediation Authority, the Wisconsin Venture Capital
20 Authority, the Wisconsin Economic Development Corporation, or the Bradley Center
21 Sports and Entertainment Corporation for processing in accordance with the
22 department's procedures.

23 **SECTION 27.** 16.765 (7) (intro.) of the statutes, as affected by 2011 Wisconsin
24 Act 10, is amended to read:

1 16.765 (7) (intro.) When a violation of this section has been determined by the
2 department, the contracting agency, the University of Wisconsin Hospitals and
3 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
4 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
5 Fox River Remediation Authority, the Wisconsin Venture Capital Authority, the
6 Wisconsin Economic Development Corporation, or the Bradley Center Sports and
7 Entertainment Corporation, the contracting agency, the University of Wisconsin
8 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
9 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
10 the Lower Fox River Remediation Authority, the Wisconsin Venture Capital
11 Authority, the Wisconsin Economic Development Corporation, or the Bradley Center
12 Sports and Entertainment Corporation shall:

13 **SECTION 28.** 16.765 (7) (d) of the statutes, as affected by 2011 Wisconsin Act 10,
14 is amended to read:

15 16.765 (7) (d) Direct the violating party to take immediate steps to prevent
16 further violations of this section and to report its corrective action to the contracting
17 agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River
18 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
19 Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
20 Authority, the Wisconsin Venture Capital Authority, the Wisconsin Economic
21 Development Corporation, or the Bradley Center Sports and Entertainment
22 Corporation.

23 **SECTION 29.** 16.765 (8) of the statutes, as affected by 2011 Wisconsin Act 10,
24 is amended to read:

1 16.765 (8) If further violations of this section are committed during the term
2 of the contract, the contracting agency, the Fox River Navigational System Authority,
3 the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan
4 Authority, the Lower Fox River Remediation Authority, the Wisconsin Venture
5 Capital Authority, the Wisconsin Economic Development Corporation, or the
6 Bradley Center Sports and Entertainment Corporation may permit the violating
7 party to complete the contract, after complying with this section, but thereafter the
8 contracting agency, the Fox River Navigational System Authority, the Wisconsin
9 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
10 Fox River Remediation Authority, the Wisconsin Venture Capital Authority, the
11 Wisconsin Economic Development Corporation, or the Bradley Center Sports and
12 Entertainment Corporation shall request the department to place the name of the
13 party on the ineligible list for state contracts, or the contracting agency, the Fox River
14 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
15 Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
16 Authority, the Wisconsin Venture Capital Authority, the Wisconsin Economic
17 Development Corporation, or the Bradley Center Sports and Entertainment
18 Corporation may terminate the contract without liability for the uncompleted
19 portion or any materials or services purchased or paid for by the contracting party
20 for use in completing the contract.

21 **SECTION 30.** 16.85 (2) of the statutes, as affected by 2011 Wisconsin Act 10, is
22 amended to read:

23 16.85 (2) To furnish engineering, architectural, project management, and other
24 building construction services whenever requisitions therefor are presented to the
25 department by any agency. The department may deposit moneys received from the

1 provision of these services in the account under s. 20.505 (1) (kc) or in the general
2 fund as general purpose revenue — earned. In this subsection, “agency” means an
3 office, department, independent agency, institution of higher education, association,
4 society, or other body in state government created or authorized to be created by the
5 constitution or any law, which is entitled to expend moneys appropriated by law,
6 including the legislature and the courts, but not including an authority created in
7 subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 233, 234, 237, 238, 239, or
8 279.

9 **SECTION 31.** 16.865 (8) of the statutes, as affected by 2011 Wisconsin Act 10,
10 is amended to read:

11 16.865 (8) Annually in each fiscal year, allocate as a charge to each agency a
12 proportionate share of the estimated costs attributable to programs administered by
13 the agency to be paid from the appropriation under s. 20.505 (2) (k). The department
14 may charge premiums to agencies to finance costs under this subsection and pay the
15 costs from the appropriation on an actual basis. The department shall deposit all
16 collections under this subsection in the appropriation account under s. 20.505 (2) (k).
17 Costs assessed under this subsection may include judgments, investigative and
18 adjustment fees, data processing and staff support costs, program administration
19 costs, litigation costs, and the cost of insurance contracts under sub. (5). In this
20 subsection, “agency” means an office, department, independent agency, institution
21 of higher education, association, society, or other body in state government created
22 or authorized to be created by the constitution or any law, that is entitled to expend
23 moneys appropriated by law, including the legislature and the courts, but not
24 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
25 231, 232, 233, 234, 235, 237, 238, 239, or 279.

1 **SECTION 32.** 19.42 (10) (t) of the statutes is created to read:

2 19.42 (10) (t) The executive director of the Wisconsin Venture Capital
3 Authority and the members of the authority's board of directors who are appointed
4 by the speaker of the assembly and the majority leader of the senate.

5 **SECTION 33.** 19.42 (13) (p) of the statutes is created to read:

6 19.42 (13) (p) The executive director of the Wisconsin Venture Capital
7 Authority and the members of the authority's board of directors who are appointed
8 by the speaker of the assembly and the majority leader of the senate.

9 **SECTION 34.** 20.005 (3) (schedule) of the statutes: at the appropriate place,
10 insert the following amounts for the purposes indicated:

			2011-12	2012-13
11				
12	20.195 Wisconsin Venture Capital Authority			
13	(1) VENTURE CAPITAL INVESTMENT PROGRAMS			
14	(a) Establishment and initial opera-			
15	tion	GPR C	-0-	-0-
16	(g) Administration of the on Wiscon-			
17	sin fund	PR C	-0-	-0-

18 **SECTION 35.** 20.195 of the statutes is created to read:

19 **20.195 Wisconsin Venture Capital Authority.** There is appropriated to the
20 Wisconsin Venture Capital Authority for the following program:

21 (1) VENTURE CAPITAL INVESTMENT PROGRAMS. (a) *Establishment and initial*
22 *operation.* As a continuing appropriation, the amounts in the schedule for the
23 establishment of the Wisconsin Venture Capital Authority and for the initial costs
24 of operating the Wisconsin Venture Capital Authority.

****NOTE: Because the budget bill repeals and recreates the schedule under s. 20.005, this draft contains a delayed effective date (see the nonstatutory effective date provision at the end of the draft). The bill would be effective on the day after publication or the second day after publication of the 2011-13 biennial budget bill, whichever is later. That delayed effective date avoids conflict between the repeal and recreation of the schedule under s. 20.005 in the budget bill and this sum certain continuing appropriation under s. 20.195 (1) (a). Note that we have inserted "0" in the schedule for the sum certain appropriation as a placeholder until you determine the appropriate dollar amounts.

1 (g) Administration of the on Wisconsin fund. All moneys received under s.
2 73.033 (2), for administration of the on Wisconsin fund under subch. II of ch. 239.

3 SECTION 36. 40.02 (54) (n) of the statutes is created to read:

4 40.02 (54) (n) The Wisconsin Venture Capital Authority.

5 SECTION 37. 70.11 (38v) of the statutes is created to read:

6 70.11 (38v) WISCONSIN VENTURE CAPITAL AUTHORITY. All property owned by the
7 Wisconsin Venture Capital Authority, provided that use of the property is primarily
8 related to the purposes of the Wisconsin Venture Capital Authority.

9 SECTION 38. 71.05 (6) (a) 15. of the statutes is amended to read:

10 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
11 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
12 (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), (5r), (5rm), and (8r), and (8s)
13 and not passed through by a partnership, limited liability company, or tax-option
14 corporation that has added that amount to the partnership's, company's, or
15 tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

16 SECTION 39. 71.07 (8s) of the statutes is created to read:

17 71.07 (8s) RAPID GROWTH FUND INVESTMENTS CREDIT (a) Definitions. In this
18 subsection, ON WISCONSIN BONDS CS

- 19 1. "Allocation date" has the meaning given in s. 239.20 (2).
20 2. "Certified rapid growth fund" has the meaning given in s. 239.20 (3).
21 3. "Claimant" means a person who files a claim under this subsection.

purchase bonds issued under s. 239.11(2)

1 4. "Designated capital" has the meaning given in s. 239.20 (4).

2 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
3 239.22, for taxable years beginning after December 31, 2013, a claimant who makes
4 an investment of designated capital and who has been awarded a credit under s.
5 239.22 (2) (a), may claim as a credit against the tax imposed under s. 71.02, up to the
6 amount of the tax, the amount determined under s. 239.22 (2) (b).

7 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
8 corporations may not claim the credit under this subsection, but the eligibility for,
9 and the amount of, the credit are based on their investment of designated capital for
10 which a credit has been awarded under s. 239.22 (2) (a). A partnership, limited
11 liability company, or tax-option corporation shall compute the amount of credit that
12 each of its partners, members, or shareholders may claim and shall provide that
13 information to each of them. Partners, members of limited liability companies, and
14 shareholders of tax-option corporations may claim the credit in proportion to their
15 ownership interests.

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

22 (e) *Recapture.* If a certified rapid growth fund in which the claimant's
23 designated capital has been invested is decertified under s. 239.26 (2) (b) no later
24 than 4 years after the claimant's allocation date, and the rapid growth fund has not
25 made the investments required under s. 239.23 (4) (a) and (b), any claimant who has

1 received a credit under this subsection with respect to such decertified rapid growth
2 fund shall repay the credit amount to the department of revenue, for deposit into the
3 general fund, and may not claim any more credits under this subsection with respect
4 to the decertified rapid growth fund.

5 (f) *Sale of credit.* A person who is awarded a credit under s. 239.22 (2) (a), or
6 to whom a credit is sold or transferred as provided under this paragraph, may sell
7 or otherwise transfer the credit to another person who is subject to the tax imposed
8 under s. 71.02, 71.23, or 71.43 if the person notifies the department of revenue and
9 the Wisconsin Venture Capital Authority created under ch. 239 of the sale or transfer
10 and includes with the notification a copy of the sale or transfer documents. If a credit

11 that has been sold or transferred under this paragraph is subject to recapture under
12 par. (e), the person who claimed the credit is liable for the repayment provided under
13 par. (e). No credit may be sold or transferred under this paragraph until 180 days
14 after the date on which the person becomes eligible to claim the credit.

15 (g) *Administration.* Section 71.28 (4) (e), (g), and (h), as it applies to the credit
16 under s. 71.28 (4), applies to the credit under this subsection.

17 SECTION 40. 71.10 (4) (ds) of the statutes is created to read:

18 71.10 (4) (ds) Rapid growth fund investments credit under s. 71.07 (8s).

19 SECTION 41. 71.21 (4) of the statutes is amended to read:

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

24 SECTION 42. 71.26 (1) (be) of the statutes, as affected by 2011 Wisconsin Act 10,
25 is amended to read:

1 71.26 (1) (be) *Certain authorities.* Income of the University of Wisconsin
2 Hospitals and Clinics Authority, of the Health Insurance Risk-Sharing Plan
3 Authority, of the Fox River Navigational System Authority, of the Wisconsin
4 Economic Development Corporation, of the Wisconsin Venture Capital Authority,
5 and of the Wisconsin Aerospace Authority.

6 **SECTION 43.** 71.26 (2) (a) 4. of the statutes, as affected by 2011 Wisconsin Act
7 3, is amended to read:

8 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
9 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
10 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), (8r), (8s), and
11 (9s) and not passed through by a partnership, limited liability company, or
12 tax-option corporation that has added that amount to the partnership's, limited
13 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k)
14 (g).

15 **SECTION 44.** 71.28 (8s) of the statutes is created to read:

16 71.28 (8s) RAPID GROWTH FUND INVESTMENTS CREDIT. (a) *Definition*. In this
17 subsection, ON WISCONSIN BONDS (CS)

- 18 1. "Allocation date" has the meaning given in s. 239.20 (2).
- 19 2. "Certified rapid growth fund" has the meaning given in s. 239.20 (3).
- 20 3. "Claimant" means a person who files a claim under this subsection.
- 21 4. "Designated capital" has the meaning given in s. 239.20 (4).

22 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
23 ~~239.22~~ ^{239.11} for taxable years beginning after December 31, ~~2013~~ ²⁰¹⁶, a claimant who ~~makes~~
24 an investment of designated capital and who has been awarded a credit under s.

purchases
purchaser bonds issued
under s. 239.11(2)

239.14

purchase of bonds issued under s. 239.11(2)

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239.22 (2) (a) may claim as a credit against the tax imposed under s. 71.23, up to the amount of the tax, the amount determined under s. 239.22 (2) (b) 239.14

(c) *Limitations.* Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their investment of designated capital for which a credit has been awarded under s. 239.22 (2) (a). A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interests.

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

(e) *Recapture.* If a certified rapid growth fund in which the claimant's designated capital has been invested is decertified under s. 239.26 (2) (b) no later than 4 years after the claimant's allocation date, and the rapid growth fund has not made the investments required under s. 239.23 (4) (a) and (b), any claimant who has received a credit under this subsection with respect to such decertified rapid growth fund shall repay the credit amount to the department of revenue, for deposit into the general fund, and may not claim any more credits under this subsection with respect to the decertified rapid growth fund.

239.14

(2)

1 (f) *Sale of credit.* A person who is awarded a credit under s. 239.22 (2) (a) or
 2 to whom a credit is sold or transferred as provided under this paragraph, may sell
 3 or otherwise transfer the credit to another person, but not sell,
 4 under s. 71.02, 71.23, or 71.43 if the person notifies the department of revenue and
 5 the Wisconsin Venture Capital Authority created under ch. 239 of the sale or transfer
 6 and includes with the notification a copy of the sale or transfer documents. If a credit
 7 that has been sold or transferred under this paragraph is subject to recapture under
 8 par. (e), the person who claimed the credit is liable for the repayment provided under
 9 par. (e). No credit may be sold or transferred under this paragraph until 180 days
 10 after the date on which the person becomes eligible to claim the credit.

11 f (g) *Administration.* Subsection (4) (e), (g), and (h), as it applies to the credit
 12 under sub. (4), applies to the credit under this subsection.

13 SECTION 45. 71.30 (3) (dn) of the statutes is created to read:

14 71.30 (3) (dn) Rapid growth fund investments credit under s. 71.28 (8s).

15 SECTION 46. 71.34 (1k) (g) of the statutes is amended to read:

16 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
 17 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
 18 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j),
 19 (5k), (5r), (5rm), and (8r), and (8s) and passed through to shareholders.

20 SECTION 47. 71.45 (2) (a) 10. of the statutes, as affected by 2011 Wisconsin Act
 21 3, is amended to read:

22 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
 23 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn),
 24 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), (8r), (8s), and (9s) and not passed
 25 through by a partnership, limited liability company, or tax-option corporation that

1 has added that amount to the partnership's, limited liability company's, or
2 tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g) and the amount
3 of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

4 SECTION 48. 71.47 (8s) of the statutes is created to read:

5 71.47 (8s) RAPID GROWTH FUND INVESTMENTS CREDIT. (a) *Definitions*. In this
6 subsection, ON WISCONSIN BONDS (5)

- 7 1. "Allocation date" has the meaning given in s. 239.20 (2).
- 8 2. "Certified rapid growth fund" has the meaning given in s. 239.20 (3).
- 9 3. "Claimant" means a person who files a claim under this subsection.
- 10 4. "Designated capital" has the meaning given in s. 239.20 (4).

239.11

11 (b) *Filing claims*. Subject to the limitations provided in this subsection and s.
12 ~~239.22~~ for taxable years beginning after December 31, ~~2013~~ ²⁰¹⁶, a claimant who makes
13 an investment of designated capital and who has been awarded a credit under s.
14 ~~239.22 (2) (a)~~ may claim as a credit against the tax imposed under s. 71.43, up to the
15 amount of the tax, the amount determined under s. ~~239.22 (2) (b)~~ ^{239.14} ~~239.14~~

16 (c) *Limitations*. Partnerships, limited liability companies, and tax-option
17 corporations may not claim the credit under this subsection, but the eligibility for,
18 and the amount of, the credit are based on their investment of designated capital for
19 which a credit has been awarded under s. ~~239.22 (2) (a)~~ ^{239.14}. A partnership, limited
20 liability company, or tax-option corporation shall compute the amount of credit that
21 each of its partners, members, or shareholders may claim and shall provide that
22 information to each of them. Partners, members of limited liability companies, and
23 shareholders of tax-option corporations may claim the credit in proportion to their
24 ownership interests.

purchase of bonds issued under s. 239.11(2)

purchases purchaser bonds issued under s. 239.11(2)

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

7 (e) *Recapture.* If a certified rapid growth fund in which the claimant's
8 designated capital has been invested is decertified under s. 239.26 (2) (b) no later
9 than 4 years after the claimant's allocation date, and the rapid growth fund has not
10 made the investments required under s. 239.23 (4) (a) and (b), any claimant who has
11 received a credit under this subsection with respect to such decertified rapid growth
12 fund shall repay the credit amount to the department of revenue, for deposit into the
13 general fund, and may not claim any more credits under this subsection with respect
14 to the decertified rapid growth fund.

15 (f) *Sale of credit.* A person who is awarded a credit under s. 239.22 (2) (a) or
16 to whom a credit is sold or transferred as provided under this paragraph, may sell
17 or otherwise transfer the credit to another person who is subject to the tax imposed
18 under s. 71.02, 71.23, or 71.43 if the person notifies the department of revenue and
19 the Wisconsin Venture Capital Authority created under ch. 239 of the sale or transfer
20 and includes with the notification a copy of the sale or transfer documents. If a credit
21 that has been sold or transferred under this paragraph is subject to recapture under
22 par. (e), the person who claimed the credit is liable for the repayment provided under
23 par. (e). No credit may be sold or transferred under this paragraph until 180 days
24 after the date on which the person becomes eligible to claim the credit.

1

ef
(g) *Administration*. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

3

SECTION 49. 71.49 (1) (dn) of the statutes is created to read:

4

71.49 (1) (dn) Rapid growth fund investments credit under s. 71.47 (8s).

5

SECTION 50. 73.033 of the statutes is created to read: On Wisconsin bonds

6

73.033 Rapid growth and on Wisconsin fund investments; withholding

7

tax determinations. (1) (a) The department of revenue, in consultation with the

8

Wisconsin Venture Capital Authority created under ch. 239, shall determine the

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amount of the withholding taxes under subch. X of ch. 71 paid by each business that

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receives an investment under s. 239.12 (2) for the year prior to the first year in which

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each business receives the investment.

12

(b) Each year, for 15 years following the first year in which a business receives

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an investment under s. 239.12 (2), the department shall credit to the appropriation

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account under s. 20.195 (1) (g) an amount equal to 50 percent of the increase, if any,

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in withholding taxes under subch. X of ch. 71 paid by all businesses that receive

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investments under s. 239.12 (2) over the amount determined for all such businesses

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under sub. (1). The department shall credit the amounts determined under this

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subsection on a quarterly basis based on its estimate of the total annual increase in

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the withholding taxes described in this subsection.

20

(2) (a) The department of revenue, in consultation with the Wisconsin Venture

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Capital Authority created under ch. 239, shall determine the amount of the

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withholding taxes under subch. X of ch. 71 paid by each business that receives an

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investment under s. 239.23 (2) for the year prior to the first year in which each

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business receives the investment.

1 (b) Each year, for 15 years following the first year in which a business receives
2 an investment under s. 239.23 (2), the department shall credit to the appropriation
3 account under s. 20.195 (1) (g) an amount equal to 50 percent of the increase, if any,
4 in withholding taxes under subch. X of ch. 71 paid by all businesses that receive
5 investments under s. 239.23 (2) over the amount determined for all such businesses
6 under sub. (1). The department shall credit the amounts determined under this
7 subsection on a quarterly basis based on its estimate of the total annual increase in
8 the withholding taxes described in this subsection.

9 **SECTION 51.** 76.634 of the statutes is created to read:

10 **76.634 Credit for rapid growth fund investments. (1) DEFINITIONS.** In this
11 section:

12 (a) "Allocation date" has the meaning given in s. 239.20 (2).

13 (b) "Certified rapid growth fund" has the meaning given in s. 239.20 (3).

14 (c) "Designated capital" has the meaning given in s. 239.20 (4).

15 **(2) CREDIT.** Subject to the limitations provided in this section and s. 239.22, for
16 taxable years beginning after December 31, 2013, an insurer who makes an
17 investment of designated capital and who has been awarded a credit under s. 239.22
18 (2) (a), may claim as a credit against the fees imposed under s. 76.60, 76.63, 76.65,
19 76.66, or 76.67, up to the amount of such fees, the amount determined under s. 239.22
20 (2) (b).

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

1 year in which the initial credit is claimed and the year in which the carry-forward
2 credit is claimed.

3 (4) RECAPTURE. If a certified rapid growth fund in which the insurer's
4 designated capital has been invested is decertified under s. 239.26 (2) (b) no later
5 than 4 years after the insurer's allocation date, and the rapid growth fund has not
6 made the investments required under s. 239.23 (4) (a) and (b), any insurer that has
7 received a credit under this section with respect to such decertified rapid growth fund
8 shall repay the credit amount to the commissioner of insurance, for deposit into the
9 general fund, and may not claim any more credits under this section with respect to
10 the decertified rapid growth fund.

11 (5) SALE OF CREDIT. An insurer who is awarded a credit under s. 239.22 (2) (a),
12 or to whom a credit is sold or transferred as provided under this subsection, may sell
13 or otherwise transfer the credit to another insurer who is subject the fees imposed
14 under s. 76.60, 76.63, 76.65, 76.66, or 76.67 if the insurer notifies the commissioner
15 of insurance and the Wisconsin Venture Capital Authority created under ch. 239 of
16 the sale or transfer and includes with the notification a copy of the sale or transfer
17 documents. If a credit that has been sold or transferred under this subsection is
18 subject to recapture under sub. (4), the person who claimed the credit is liable for the
19 repayment provided under sub. (4). No credit may be sold or transferred under this
20 subsection until 180 days after the date on which the person becomes eligible to claim
21 the credit.

22 SECTION 52. 76.67 (2) of the statutes is amended to read:

23 76.67 (2) If any domestic insurer is licensed to transact insurance business in
24 another state, this state may not require similar insurers domiciled in that other
25 state to pay taxes greater in the aggregate than the aggregate amount of taxes that

1 a domestic insurer is required to pay to that other state for the same year less the
2 credits under ss. 76.634, 76.635, 76.636, 76.637, 76.638, and 76.655, except that the
3 amount imposed shall not be less than the total of the amounts due under ss. 76.65
4 (2) and 601.93 and, if the insurer is subject to s. 76.60, 0.375% of its gross premiums,
5 as calculated under s. 76.62, less offsets allowed under s. 646.51 (7) or under ss.
6 76.634, 76.635, 76.636, 76.637, 76.638, and 76.655 against that total, and except that
7 the amount imposed shall not be less than the amount due under s. 601.93.

8 **SECTION 53.** 77.54 (9a) (a) of the statutes, as affected by 2011 Wisconsin Act 10,
9 is amended to read:

10 77.54 (9a) (a) This state or any agency thereof, the University of Wisconsin
11 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Health
12 Insurance Risk-Sharing Plan Authority, the Wisconsin Economic Development
13 Corporation, the Wisconsin Venture Capital Authority, and the Fox River
14 Navigational System Authority.

15 **SECTION 54.** 77.92 (4) of the statutes is amended to read:

16 77.92 (4) "Net business income," with respect to a partnership, means taxable
17 income as calculated under section 703 of the Internal Revenue Code; plus the items
18 of income and gain under section 702 of the Internal Revenue Code, including taxable
19 state and municipal bond interest and excluding nontaxable interest income or
20 dividend income from federal government obligations; minus the items of loss and
21 deduction under section 702 of the Internal Revenue Code, except items that are not
22 deductible under s. 71.21; plus guaranteed payments to partners under section 707
23 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
24 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
25 (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), and (8r),

1 and (8s); and plus or minus, as appropriate, transitional adjustments, depreciation
2 differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but
3 excluding income, gain, loss, and deductions from farming. "Net business income,"
4 with respect to a natural person, estate, or trust, means profit from a trade or
5 business for federal income tax purposes and includes net income derived as an
6 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

7 **SECTION 55.** 100.45 (1) (dm) of the statutes, as affected by 2011 Wisconsin Act
8 10, is amended to read:

9 100.45 (1) (dm) "State agency" means any office, department, agency,
10 institution of higher education, association, society, or other body in state
11 government created or authorized to be created by the constitution or any law which
12 is entitled to expend moneys appropriated by law, including the legislature and the
13 courts, the Wisconsin Housing and Economic Development Authority, the Bradley
14 Center Sports and Entertainment Corporation, the University of Wisconsin
15 Hospitals and Clinics Authority, the Wisconsin Health and Educational Facilities
16 Authority, the Wisconsin Aerospace Authority, the Wisconsin Economic
17 Development Corporation, the Wisconsin Venture Capital Authority, and the Fox
18 River Navigational System Authority.

19 **SECTION 56.** 101.177 (1) (d) of the statutes, as affected by 2011 Wisconsin Act
20 10, is amended to read:

21 101.177 (1) (d) "State agency" means any office, department, agency,
22 institution of higher education, association, society, or other body in state
23 government created or authorized to be created by the constitution or any law, that
24 is entitled to expend moneys appropriated by law, including the legislature and the
25 courts, the Wisconsin Housing and Economic Development Authority, the Bradley

1 Center Sports and Entertainment Corporation, the University of Wisconsin
2 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Wisconsin
3 Economic Development Corporation, the Wisconsin Venture Capital Authority, and
4 the Wisconsin Health and Educational Facilities Authority, but excluding the Health
5 Insurance Risk-Sharing Plan Authority and the Lower Fox River Remediation
6 Authority.

7 **SECTION 57.** 230.03 (3) of the statutes, as affected by 2011 Wisconsin Act 10,
8 is amended to read:

9 230.03 (3) "Agency" means any board, commission, committee, council, or
10 department in state government or a unit thereof created by the constitution or
11 statutes if such board, commission, committee, council, department, unit, or the
12 head thereof, is authorized to appoint subordinate staff by the constitution or
13 statute, except a legislative or judicial board, commission, committee, council,
14 department, or unit thereof or an authority created under subch. II of ch. 114 or
15 subch. III of ch. 149 or under ch. 231, 232, 233, 234, 235, 237, 238, 239, or 279.
16 "Agency" does not mean any local unit of government or body within one or more local
17 units of government that is created by law or by action of one or more local units of
18 government.

19 **SECTION 58.** Chapter 239 of the statutes is created to read:

20 **CHAPTER 239**

21 **WISCONSIN VENTURE CAPITAL**

22 **AUTHORITY**

23 **SUBCHAPTER I**

24 **GENERAL PROVISIONS**

25 **239.01 Definitions.** In this chapter, except as otherwise provided:

1 (1) "Authority" means the Wisconsin Venture Capital Authority.

2 (2) "Board" means the board of directors of the authority.

3 **239.02 Creation and organization of authority.** (1) There is created a
4 public body corporate and politic to be known as the "Wisconsin Venture Capital
5 Authority." The members of the board shall consist of the following:

6 (a) The chief executive officer of the Wisconsin Economic Development
7 Corporation.

8 (b) The executive director of the Wisconsin Housing and Economic
9 Development Authority.

10 (c) Three persons from the private sector, at least 2 of whom shall have venture
11 capital, investment banking, or substantial entrepreneurial experience, nominated
12 by the governor and appointed with the advice and consent of the senate.

13 (d) One member appointed by the speaker of the assembly who shall have
14 venture capital, investment banking, or substantial entrepreneurial experience.

15 (e) One member appointed by the senate majority leader who shall have
16 venture capital, investment banking, or substantial entrepreneurial experience.

17 (2) The members of the board appointed by the governor, the speaker of the
18 assembly, and the senate majority leader shall serve staggered 3-year terms.

19 (3) A majority of the members of the board constitutes a quorum for the purpose
20 of conducting its business and exercising its powers and for all other purposes,
21 notwithstanding the existence of any vacancies. Action may be taken by the board
22 upon a vote of a majority of the members present.

23 (4) A vacancy on the board shall be filled in the same manner as the original
24 appointment to the board for the remainder of the unexpired term, if any.

1 (5) A member of the board may not be compensated for the member's services
2 but shall be reimbursed for actual and necessary expenses, including travel
3 expenses, incurred in the performance of the member's duties.

4 (6) No cause of action may arise against and no civil liability may be imposed
5 upon a member of the board for any act or omission in the performance of the
6 member's powers and duties under this chapter, unless the person asserting liability
7 proves that the act or omission constitutes willful misconduct.

8 (7) The chief executive officer of the Wisconsin Economic Development
9 Corporation shall be chairperson of the board.

10 (8) The board may hire an executive director. The board may delegate to the
11 executive director or any other employee of the authority any powers or duties the
12 board considers proper. All powers and duties assigned to the authority under this
13 chapter shall be exercised or carried out by the board, unless the board delegates the
14 power or duty to an employee of the authority.

15 **239.03 Powers of authority.** The authority shall have all the powers
16 necessary or convenient to carry out the purposes and provisions of this chapter. In
17 addition to all other powers granted the authority under this chapter, the authority
18 may specifically:

19 (1) Adopt, amend, and repeal any bylaws, policies, and procedures for the
20 regulation of its affairs and the conduct of its business.

21 (2) Have a seal and alter the seal at pleasure.

22 (3) Maintain an office.

23 (4) Sue and be sued.

24 (5) Accept gifts, grants, loans, or other contributions from private or public
25 sources.