



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2790/1
JK:kjf:jm

2013 SENATE BILL 260

August 21, 2013 – Introduced by Senators LASSA, C. LARSON, SHILLING and ERPENBACH, cosponsored by Representatives WRIGHT, BARCA, BEWLEY, BERCEAU, MILROY, KAHL, KOLSTE, GOYKE, OHNSTAD, JORGENSEN, SARGENT, BERNARD SCHABER, RINGHAND, RICHARDS, WACHS and HULSEY. Referred to Committee on Economic Development and Local Government.

1 **AN ACT** *to renumber* 238.15 (1) (a) to (L), 238.15 (1) (m) 1. (intro.), a. and b. and
2 238.15 (1) (m) 2.; *to renumber and amend* 238.15 (1) (intro.), 238.15 (1) (m)
3 1. c., 238.15 (2) and 238.15 (3); *to amend* 71.07 (3q) (c), 71.07 (5b) (a) 2., 71.07
4 (5b) (b), 71.07 (5b) (d) 1., 71.07 (5b) (d) 3., 71.07 (5d) (a) 1. (intro.), 71.07 (5d) (a)
5 2m., 71.07 (5d) (a) 3., 71.07 (5d) (b) (intro.), 71.07 (5d) (b) 2., 71.07 (5d) (c) 2.,
6 71.07 (5d) (d) 1., 71.07 (5d) (d) 2., 71.10 (4) (gwb), 71.10 (4) (gx), 71.10 (4) (i),
7 71.28 (3q) (c) 3., 71.28 (5b) (a) 2., 71.28 (5b) (b), 71.28 (5b) (d) 1., 71.28 (5b) (d)
8 3., 71.30 (3) (eop), 71.30 (3) (f), 71.47 (3q) (c) 3., 71.47 (5b) (a) 2., 71.47 (5b) (b),
9 71.47 (5b) (d) 1., 71.47 (5b) (d) 3., 71.49 (1) (eop), 71.49 (1) (f), 73.03 (63), 76.638
10 (1), 76.638 (2), 238.16 (4) (c) and 238.303 (1) (a); and *to create* 20.835 (2) (ba),
11 71.07 (5b) (d) 1m., 71.07 (5b) (d) 4., 71.07 (5d) (b) 3., 71.07 (5d) (d) 2m., 71.07 (5d)
12 (d) 5., 71.28 (5b) (d) 1m., 71.28 (5b) (d) 4., 71.47 (5b) (d) 1m. and 71.47 (5b) (d)
13 4. of the statutes; **relating to:** allowing refunds for the early stage seed and

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1 angel investment tax credits and having the Department of Administration
2 administer the credits and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, a taxpayer may claim early stage seed and angel investment income and franchise tax credits for the taxpayer's investments in qualified new businesses. If the credit amounts exceed the taxpayer's tax liability, the taxpayer does not receive a refund, but, instead, may apply the amount of the unused credits to subsequent taxable years. Under this bill, if the credit amounts exceed the taxpayer's tax liability, the taxpayer receives a refund. The bill also transfers the administration of the early stage seed and angel investment credits from the Wisconsin Economic Development Corporation to the Department of Administration.

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.** 20.835 (2) (ba) of the statutes is created to read:

4 20.835 (2) (ba) *Early stage seed and angel investment credits.* A sum sufficient
5 to make the payments under ss. 71.07 (5b) (d) 4. and (5d) (d) 5., 71.28 (5b) (d) 4., and
6 71.47 (5b) (d) 4.

7 **SECTION 2.** 71.07 (3q) (c) of the statutes is amended to read:

8 71.07 (3q) (c) 3. The maximum amount of credits that may be awarded under
9 this subsection and ss. 71.28 (3q) and 71.47 (3q) for the period beginning on January
10 1, 2010, and ending on June 30, 2013, is \$14,500,000, not including the amount of
11 any credits reallocated under s. ~~238.15 (3) (d) or s. 560.205 (3) (d), 2009 stats. 16.296~~
12 (3) (d).

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

14 71.07 (5b) (a) 2. "Fund manager" means an investment fund manager certified
15 under s. ~~238.15 (2) or s. 560.205 (2), 2009 stats. 16.296 (2).~~

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1 **SECTION 4.** 71.07 (5b) (b) of the statutes is amended to read:

2 71.07 **(5b)** (b) *Filing claims.* 1. ~~For taxable years beginning after December~~
3 ~~31, 2004, subject~~ Subject to the limitations provided under this subsection and s.
4 ~~238.15 or s. 560.205, 2009 stats. 16.296,~~ and except as provided in subd. 2., a claimant
5 may claim as a credit against the tax imposed under ss. 71.02 and 71.08, up to the
6 amount of those taxes, 25 percent of the claimant's investment paid to a fund
7 manager that the fund manager invests in a business certified under s. ~~238.15 (1) or~~
8 ~~s. 560.205 (1), 2009 stats. 16.296 (1).~~

9 2. In the case of a partnership, limited liability company, or tax-option
10 corporation, the computation of the 25 percent limitation under subd. 1. shall be
11 determined at the entity level rather than the claimant level and may be allocated
12 among the claimants who make investments in the manner set forth in the entity's
13 organizational documents. The entity shall provide to the department of revenue
14 and to the department of ~~commerce or the Wisconsin Economic Development~~
15 ~~Corporation~~ administration the names and tax identification numbers of the
16 claimants, the amounts of the credits allocated to the claimants, and the
17 computation of the allocations.

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

19 71.07 **(5b)** (d) 1. ~~Section~~ For taxable years beginning before January 1, 2014,
20 s. 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit
21 under this subsection.

22 **SECTION 6.** 71.07 (5b) (d) 1m. of the statutes is created to read:

23 71.07 **(5b)** (d) 1m. For taxable years beginning after December 31, 2013, s.
24 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the
25 credit under this subsection.

SENATE BILL 260**SECTION 7**

1 **SECTION 7.** 71.07 (5b) (d) 3. of the statutes is amended to read:

2 71.07 **(5b)** (d) 3. Except as provided under s. ~~238.15 (3) (d) (intro.)~~ 16.296 (3)
3 (d) (intro.), for investments made after December 31, 2007, if an investment for which
4 a claimant claims a credit under par. (b) is held by the claimant for less than 3 years,
5 the claimant shall pay to the department, in the manner prescribed by the
6 department, the amount of the credit that the claimant received related to the
7 investment.

8 **SECTION 8.** 71.07 (5b) (d) 4. of the statutes is created to read:

9 71.07 **(5b)** (d) 4. For taxable years beginning after December 31, 2013, if the
10 allowable amount of the claim under par. (b) exceeds the tax otherwise due under s.
11 71.02 or 71.08, the amount of the claim not used to offset the tax due shall be certified
12 by the department of revenue to the department of administration for payment by
13 check, share draft, or other draft drawn from the appropriation account under s.
14 20.835 (2) (ba).

15 **SECTION 9.** 71.07 (5d) (a) 1. (intro.) of the statutes is amended to read:

16 71.07 **(5d)** (a) 1. (intro.) “Bona fide angel investment” means a purchase of an
17 equity interest, or any other expenditure, as determined by rule under s. ~~238.15 or~~
18 ~~s. 560.205, 2009 stats.~~ 16.296, that is made by any of the following:

19 **SECTION 10.** 71.07 (5d) (a) 2m. of the statutes is amended to read:

20 71.07 **(5d)** (a) 2m. “Person” means a partnership or limited liability company
21 that is a nonoperating entity, as determined by the department of ~~commerce or the~~
22 ~~Wisconsin Economic Development Corporation~~ administration, a natural person, or
23 fiduciary.

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

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1 71.07 (5d) (a) 3. “Qualified new business venture” means a business that is
2 certified under s. ~~238.15 (1) or s. 560.205 (1), 2009 stats.~~ 16.296 (1).

3 **SECTION 12.** 71.07 (5d) (b) (intro.) of the statutes is amended to read:

4 71.07 (5d) (b) (intro.) *Filing claims.* Subject to the limitations provided in this
5 subsection and in s. ~~238.15 or s. 560.205, 2009 stats.~~ 16.296, a claimant may claim
6 as a credit against the tax imposed under s. 71.02 or 71.08, up to the amount of those
7 taxes, the following:

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

9 71.07 (5d) (b) 2. For taxable years beginning after December 31, 2007, and
10 before January 1, 2014, for the taxable year certified by the department of commerce
11 or the Wisconsin Economic Development Corporation, an amount equal to 25 percent
12 of the claimant’s bona fide angel investment made directly in a qualified new
13 business venture.

14 **SECTION 14.** 71.07 (5d) (b) 3. of the statutes is created to read:

15 71.07 (5d) (b) 3. For taxable years beginning after December 31, 2013, for the
16 taxable year certified by the department of administration, an amount equal to 25
17 percent of the claimant’s bona fide angel investment made directly in a qualified new
18 business venture.

19 **SECTION 15.** 71.07 (5d) (c) 2. of the statutes is amended to read:

20 71.07 (5d) (c) 2. For taxable years beginning before January 1, 2008, the
21 maximum amount of a claimant’s investment that may be used as the basis for a
22 credit under this subsection is \$2,000,000 for each investment made directly in a
23 business certified under s. ~~238.15 (1), 2011 stats.~~ or s. 560.205 (1), 2009 stats.

24 **SECTION 16.** 71.07 (5d) (d) 1. of the statutes is amended to read:

SENATE BILL 260**SECTION 16**

1 71.07 (5d) (d) 1. Except as provided under s. ~~238.15 (3) (d) (intro.)~~ 16.296 (3)
2 (d) (intro.), for investments made after December 31, 2007, if an investment for which
3 a claimant claims a credit under par. (b) is held by the claimant for less than 3 years,
4 the claimant shall pay to the department, in the manner prescribed by the
5 department, the amount of the credit that the claimant received related to the
6 investment.

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

8 71.07 (5d) (d) 2. ~~Section~~ For taxable years beginning before January 1, 2014,
9 s. 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit
10 under this subsection.

11 **SECTION 18.** 71.07 (5d) (d) 2m. of the statutes is created to read:

12 71.07 (5d) (d) 2m. For taxable years beginning after December 31, 2013, s.
13 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the
14 credit under this subsection.

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

16 71.07 (5d) (d) 5. For taxable years beginning after December 31, 2013, if the
17 allowable amount of the claim under par. (b) exceeds the tax otherwise due under s.
18 71.02 or 71.08, the amount of the claim not used to offset the tax due shall be certified
19 by the department of revenue to the department of administration for payment by
20 check, share draft, or other draft drawn from the appropriation account under s.
21 20.835 (2) (ba).

22 **SECTION 20.** 71.10 (4) (gwb) of the statutes is amended to read:

23 71.10 (4) (gwb) Early stage seed investment credit under s. 71.07 (5b), except
24 as provided under par. (i).

25 **SECTION 21.** 71.10 (4) (gx) of the statutes is amended to read:

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1 71.10 (4) (gx) Angel investment credit under s. 71.07 (5d), except as provided
2 under par. (i).

3 **SECTION 22.** 71.10 (4) (i) of the statutes is amended to read:

4 71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland
5 preservation credit under ss. 71.57 to 71.61, farmland preservation credit, 2010 and
6 beyond under s. 71.613, homestead credit under subch. VIII, farmland tax relief
7 credit under s. 71.07 (3m), dairy manufacturing facility investment credit under s.
8 71.07 (3p), jobs tax credit under s. 71.07 (3q), meat processing facility investment
9 credit under s. 71.07 (3r), woody biomass harvesting and processing credit under s.
10 71.07 (3rm), food processing plant and food warehouse investment credit under s.
11 71.07 (3rn), early stage seed investment credit under s. 71.07 (5b) (d) 4., angel
12 investment credit under s. 71.07 (5d) (d) 5., film production services credit under s.
13 71.07 (5f), film production company investment credit under s. 71.07 (5h), veterans
14 and surviving spouses property tax credit under s. 71.07 (6e), enterprise zone jobs
15 credit under s. 71.07 (3w), beginning farmer and farm asset owner tax credit under
16 s. 71.07 (8r), earned income tax credit under s. 71.07 (9e), estimated tax payments
17 under s. 71.09, and taxes withheld under subch. X.

18 **SECTION 23.** 71.28 (3q) (c) 3. of the statutes is amended to read:

19 71.28 (3q) (c) 3. The maximum amount of credits that may be awarded under
20 this subsection and ss. 71.07 (3q) and 71.47 (3q) for the period beginning on January
21 1, 2010, and ending on June 30, 2013, is \$14,500,000, not including the amount of
22 any credits reallocated under s. ~~238.15 (3) (d) or s. 560.205 (3) (d), 2009 stats. 16.296~~
23 (3) (d).

24 **SECTION 24.** 71.28 (5b) (a) 2. of the statutes is amended to read:

SENATE BILL 260**SECTION 24**

1 71.28 (5b) (a) 2. “Fund manager” means an investment fund manager certified
2 under s. 238.15 (2) or s. 560.205 (2), 2009 stats. 16.296 (2).

3 **SECTION 25.** 71.28 (5b) (b) of the statutes is amended to read:

4 71.28 (5b) (b) *Filing claims.* 1. ~~For taxable years beginning after December~~
5 ~~31, 2004, subject~~ Subject to the limitations provided under this subsection and s.
6 ~~238.15 or s. 560.205, 2009 stats. 16.296~~, and except as provided in subd. 2., a claimant
7 may claim as a credit against the tax imposed under s. 71.23, up to the amount of
8 those taxes, 25 percent of the claimant’s investment paid to a fund manager that the
9 fund manager invests in a business certified under s. ~~238.15 (1) or s. 560.205 (1), 2009~~
10 ~~stats. 16.296 (1)~~.

11 2. In the case of a partnership, limited liability company, or tax-option
12 corporation, the computation of the 25 percent limitation under subd. 1. shall be
13 determined at the entity level rather than the claimant level and may be allocated
14 among the claimants who make investments in the manner set forth in the entity’s
15 organizational documents. The entity shall provide to the department of revenue
16 and to the department of ~~commerce or the Wisconsin Economic Development~~
17 ~~Corporation~~ administration the names and tax identification numbers of the
18 claimants, the amounts of the credits allocated to the claimants, and the
19 computation of the allocations.

20 **SECTION 26.** 71.28 (5b) (d) 1. of the statutes is amended to read:

21 71.28 (5b) (d) 1. ~~Subsection~~ For taxable years beginning before January 1,
22 2014, sub. (4) (e) to (h), as it applies to the credit under sub. (4), applies to the credit
23 under this subsection.

24 **SECTION 27.** 71.28 (5b) (d) 1m. of the statutes is created to read:

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1 71.28 (5b) (d) 1m. For taxable years beginning after December 31, 2013, sub.
2 (4) (e), (g), and (h), as it applies to the credit under sub. (4), applies to the credit under
3 this subsection.

4 **SECTION 28.** 71.28 (5b) (d) 3. of the statutes is amended to read:

5 71.28 (5b) (d) 3. Except as provided under s. ~~238.15 (3) (d) (intro.)~~ 16.296 (3)
6 (d) (intro.), for investments made after December 31, 2007, if an investment for which
7 a claimant claims a credit under par. (b) is held by the claimant for less than 3 years,
8 the claimant shall pay to the department, in the manner prescribed by the
9 department, the amount of the credit that the claimant received related to the
10 investment.

11 **SECTION 29.** 71.28 (5b) (d) 4. of the statutes is created to read:

12 71.28 (5b) (d) 4. For taxable years beginning after December 31, 2013, if the
13 allowable amount of the claim under par. (b) exceeds the tax otherwise due under s.
14 71.23, the amount of the claim not used to offset the tax due shall be certified by the
15 department of revenue to the department of administration for payment by check,
16 share draft, or other draft drawn from the appropriation account under s. 20.835 (2)
17 (ba).

18 **SECTION 30.** 71.30 (3) (eop) of the statutes is amended to read:

19 71.30 (3) (eop) Early stage seed investment credit under s. 71.28 (5b), except
20 as provided under par. (f).

21 **SECTION 31.** 71.30 (3) (f) of the statutes is amended to read:

22 71.30 (3) (f) The total of farmland preservation credit under subch. IX,
23 farmland tax relief credit under s. 71.28 (2m), dairy manufacturing facility
24 investment credit under s. 71.28 (3p), jobs credit under s. 71.28 (3q), meat processing
25 facility investment credit under s. 71.28 (3r), woody biomass harvesting and

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1 processing credit under s. 71.28 (3rm), food processing plant and food warehouse
2 investment credit under s. 71.28 (3rn), enterprise zone jobs credit under s. 71.28
3 (3w), early stage seed investment credit under s. 71.28 (5b) (d) 4., film production
4 services credit under s. 71.28 (5f), film production company investment credit under
5 s. 71.28 (5h), beginning farmer and farm asset owner tax credit under s. 71.28 (8r),
6 and estimated tax payments under s. 71.29.

7 **SECTION 32.** 71.47 (3q) (c) 3. of the statutes is amended to read:

8 71.47 (3q) (c) 3. The maximum amount of credits that may be awarded under
9 this subsection and ss. 71.07 (3q) and 71.28 (3q) for the period beginning on January
10 1, 2010, and ending on June 30, 2013, is \$14,500,000, not including the amount of
11 any credits reallocated under s. ~~238.15 (3) (d) or s. 560.205 (3) (d), 2009 stats. 16.296~~
12 (3) (d).

13 **SECTION 33.** 71.47 (5b) (a) 2. of the statutes is amended to read:

14 71.47 (5b) (a) 2. “Fund manager” means an investment fund manager certified
15 under s. ~~238.15 (2) or s. 560.205 (2), 2009 stats. 16.296 (2).~~

16 **SECTION 34.** 71.47 (5b) (b) of the statutes is amended to read:

17 71.47 (5b) (b) *Filing claims.* 1. ~~For taxable years beginning after December~~
18 ~~31, 2004, subject~~ Subject to the limitations provided under this subsection and s.
19 ~~238.15 or s. 560.205, 2009 stats. 16.296,~~ and except as provided in subd. 2., a claimant
20 may claim as a credit against the tax imposed under s. 71.43, up to the amount of
21 those taxes, 25 percent of the claimant’s investment paid to a fund manager that the
22 fund manager invests in a business certified under s. ~~238.15 (1) or s. 560.205 (1), 2009~~
23 ~~stats 16.296 (1).~~

24 2. In the case of a partnership, limited liability company, or tax-option
25 corporation, the computation of the 25 percent limitation under subd. 1. shall be

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1 determined at the entity level rather than the claimant level and may be allocated
2 among the claimants who make investments in the manner set forth in the entity's
3 organizational documents. The entity shall provide to the department of revenue
4 and to the department of ~~commerce or the Wisconsin Economic Development~~
5 ~~Corporation~~ administration the names and tax identification numbers of the
6 claimants, the amounts of the credits allocated to the claimants, and the
7 computation of the allocations.

8 **SECTION 35.** 71.47 (5b) (d) 1. of the statutes is amended to read:

9 71.47 (5b) (d) 1. ~~Section~~ For taxable years beginning before January 1, 2014,
10 s. 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit
11 under this subsection.

12 **SECTION 36.** 71.47 (5b) (d) 1m. of the statutes is created to read:

13 71.47 (5b) (d) 1m. For taxable years beginning after December 31, 2013, s.
14 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the
15 credit under this subsection.

16 **SECTION 37.** 71.47 (5b) (d) 3. of the statutes is amended to read:

17 71.47 (5b) (d) 3. Except as provided under s. ~~238.15 (3) (d) (intro.)~~ 16.296 (3)
18 (d) (intro.), for investments made after December 31, 2007, if an investment for which
19 a claimant claims a credit under par. (b) is held by the claimant for less than 3 years,
20 the claimant shall pay to the department, in the manner prescribed by the
21 department, the amount of the credit that the claimant received related to the
22 investment.

23 **SECTION 38.** 71.47 (5b) (d) 4. of the statutes is created to read:

24 71.47 (5b) (d) 4. For taxable years beginning after December 31, 2013, if the
25 allowable amount of the claim under par. (b) exceeds the tax otherwise due under s.

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1 71.43, the amount of the claim not used to offset the tax due shall be certified by the
2 department of revenue to the department of administration for payment by check,
3 share draft, or other draft drawn from the appropriation account under s. 20.835 (2)
4 (ba).

5 **SECTION 39.** 71.49 (1) (eop) of the statutes is amended to read:

6 71.49 (1) (eop) Early stage seed investment credit under s. 71.47 (5b), except
7 as provided under par. (f).

8 **SECTION 40.** 71.49 (1) (f) of the statutes is amended to read:

9 71.49 (1) (f) The total of farmland preservation credit under subch. IX,
10 farmland tax relief credit under s. 71.47 (2m), dairy manufacturing facility
11 investment credit under s. 71.47 (3p), jobs credit under s. 71.47 (3q), meat processing
12 facility investment credit under s. 71.47 (3r), woody biomass harvesting and
13 processing credit under s. 71.47 (3rm), food processing plant and food warehouse
14 investment credit under s. 71.47 (3rn), enterprise zone jobs credit under s. 71.47
15 (3w), early stage seed investment credit under s. 71.47 (5b) (d) 4., film production
16 services credit under s. 71.47 (5f), film production company investment credit under
17 s. 71.47 (5h), beginning farmer and farm asset owner tax credit under s. 71.47 (8r),
18 and estimated tax payments under s. 71.48.

19 **SECTION 41.** 73.03 (63) of the statutes, as affected by 2013 Wisconsin Act 20,
20 is amended to read:

21 73.03 (**63**) Notwithstanding the amount limitations specified under s. ~~560.205~~
22 ~~(3) (d), 2009 stats., or s. 238.15 (3) (d) 16.296 (3) (d),~~ in consultation with the
23 ~~Wisconsin Economic Development Corporation~~ department of administration, to
24 carry forward to subsequent taxable years unclaimed credit amounts of the early
25 stage seed investment credits under ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and 76.638

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1 and the angel investment credit under s. 71.07 (5d). Annually, no later than July 1,
2 the ~~Wisconsin Economic Development Corporation~~ department of administration
3 shall submit to the department of revenue its recommendations for the carry forward
4 of credit amounts as provided under this subsection.

5 **SECTION 42.** 76.638 (1) of the statutes is amended to read:

6 76.638 (1) DEFINITIONS. In this section, “fund manager” means an investment
7 fund manager certified under s. ~~238.15 (2) or s. 560.205 (2), 2009 stats. 16.296 (2).~~

8 **SECTION 43.** 76.638 (2) of the statutes is amended to read:

9 76.638 (2) FILING CLAIMS. ~~For taxable years beginning after December 31, 2008,~~
10 ~~subject~~ Subject to the limitations provided under this subsection and s. ~~238.15 or s.~~
11 ~~560.205, 2009 stats. 16.296,~~ an insurer may claim as a credit against the fees imposed
12 under s. 76.60, 76.63, 76.65, 76.66, or 76.67, 25 percent of the insurer’s investment
13 paid to a fund manager that the fund manager invests in a business certified under
14 s. ~~238.15 or s. 560.205 (1), 2009 stats. 16.296 (1).~~

15 **SECTION 44.** 238.15 (1) (intro.) of the statutes is renumbered 16.296 (1) (intro.)
16 and amended to read:

17 16.296 (1) ANGEL INVESTMENT TAX CREDITS. (intro.) ~~The corporation~~ department
18 shall implement a program to certify businesses for purposes of s. 71.07 (5d). A
19 business desiring certification shall submit an application to the ~~corporation~~
20 department in each taxable year for which the business desires certification. The
21 business shall specify in its application the investment amount it wishes to raise and
22 the ~~corporation~~ department may certify the business and determine the amount that
23 qualifies for purposes of s. 71.07 (5d). The ~~corporation~~ department may certify or
24 recertify a business for purposes of s. 71.07 (5d) only if the business satisfies all of
25 the following conditions:

SENATE BILL 260**SECTION 45**

1 **SECTION 45.** 238.15 (1) (a) to (L) of the statutes are renumbered 16.296 (1) (a)
2 to (L).

3 **SECTION 46.** 238.15 (1) (m) 1. (intro.), a. and b. of the statutes are renumbered
4 16.296 (1) (m) 1. (intro.), a. and b.

5 **SECTION 47.** 238.15 (1) (m) 1. c. of the statutes is renumbered 16.296 (1) (m) 1.
6 c. and amended to read:

7 16.296 (1) (m) 1. c. The activities of the business's headquarters, as determined
8 by the ~~corporation~~ department.

9 **SECTION 48.** 238.15 (1) (m) 2. of the statutes is renumbered 16.296 (1) (m) 2.

10 **SECTION 49.** 238.15 (2) of the statutes is renumbered 16.296 (2) and amended
11 to read:

12 16.296 (2) EARLY STAGE SEED INVESTMENT TAX CREDITS. The ~~corporation~~
13 department shall implement a program to certify investment fund managers for
14 purposes of ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and 76.638. An investment fund
15 manager desiring certification shall submit an application to the ~~corporation~~
16 department. The investment fund manager shall specify in the application the
17 investment amount that the manager wishes to raise and the ~~corporation~~
18 department may certify the manager and determine the amount that qualifies for
19 purposes of ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and 76.638. In determining whether
20 to certify an investment fund manager, the ~~corporation~~ department shall consider
21 the investment fund manager's experience in managing venture capital funds, the
22 past performance of investment funds managed by the applicant, the expected level
23 of investment in the investment fund to be managed by the applicant, and any other
24 relevant factors. The ~~corporation~~ department may certify only investment fund

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1 managers that commit to consider placing investments in businesses certified under
2 sub. (1).

3 **SECTION 50.** 238.15 (3) of the statutes is renumbered 16.296 (3) and amended
4 to read:

5 16.296 (3) ADMINISTRATION. (a) *List of certified businesses and investment fund*
6 *managers.* The ~~corporation~~ department shall maintain a list of businesses certified
7 under sub. (1) and investment fund managers certified under sub. (2) and shall
8 permit public access to the lists through the corporation's Internet Web site.

9 (b) *Notification of department of revenue.* The ~~corporation~~ department shall
10 notify the department of revenue of every certification issued under subs. (1) and (2)
11 and the date on which any such certification is revoked or expires.

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

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1 years beginning after December 31, 2004, and before January 1, 2008, \$6,000,000 per
2 calendar year for calendar years beginning after December 31, 2007, and before
3 January 1, 2010, \$8,000,000 for calendar year 2010, and \$20,500,000 per calendar
4 year for calendar years beginning after December 31, 2010, plus, for taxable years
5 beginning after December 31, 2010, an additional \$250,000 for tax credits that may
6 be claimed for investments in nanotechnology businesses certified under sub. (1).
7 The rules shall also provide that, for calendar years beginning after December 31,
8 2007, a person who receives a credit under ss. 71.07 (5b) and (5d), 71.28 (5b), 71.47
9 (5b), or 76.638 must keep the investment in a certified business, or with a certified
10 fund manager, for no less than 3 years, unless the person's investment becomes
11 worthless, as determined by the ~~corporation~~ department, during the 3-year period
12 or the person has kept the investment for no less than 12 months and a bona fide
13 liquidity event, as determined by the ~~corporation~~ department, occurs during the
14 3-year period. The rules shall permit the ~~corporation~~ department to reallocate
15 credits under this section that are unused in any calendar year to a person eligible
16 for tax benefits, as defined under s. 238.16 (1) (d), if all of the following apply:

17 1. The ~~corporation~~ department notifies the joint committee on finance in
18 writing of its proposed reallocation.

19 2. One of the following is true:

20 a. The cochairpersons of the joint committee on finance fail to notify the
21 ~~corporation~~ department, within 14 working days after the date of the ~~corporation's~~
22 department's notification under subd. 1., that the committee has scheduled a
23 meeting for the purpose of reviewing the proposed reallocation.

24 b. The cochairpersons of the joint committee on finance notify the ~~corporation~~
25 department that the committee has approved the proposed reallocation.

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1 (e) *Transfer.* A person who is eligible to claim a credit under s. 71.07 (5b), 71.28
2 (5b), 71.47 (5b), or 76.638 may sell or otherwise transfer the credit to another person
3 who is subject to the taxes or fees imposed under s. 71.02, 71.23, 71.47, or subch. III
4 of ch. 76, if the person receives prior authorization from the investment fund
5 manager and the manager then notifies the ~~corporation~~ department of
6 administration and the department of revenue of the transfer and submits with the
7 notification a copy of the transfer documents. No person may sell or otherwise
8 transfer a credit as provided in this paragraph more than once in a 12-month period.
9 The ~~corporation~~ department of administration may charge any person selling or
10 otherwise transferring a credit under this paragraph a fee equal to 1 percent of the
11 credit amount sold or transferred.

12 **SECTION 51.** 238.16 (4) (c) of the statutes is amended to read:

13 238.16 (4) (c) Subject to a reallocation by the ~~corporation~~ department of
14 administration pursuant to rules adopted under s. ~~238.15 (3) (d)~~ 16.296 (3) (d), the
15 corporation may allocate up to \$5,000,000 in tax benefits under this section in any
16 calendar year, except that beginning on July 1, 2011, the corporation may allocate
17 up to \$10,000,000 in tax benefits under this section in any calendar year.

18 **SECTION 52.** 238.303 (1) (a) of the statutes is amended to read:

19 238.303 (1) (a) Except as provided in pars. (am) and (b), and subject to a
20 reallocation by the ~~corporation~~ department of administration pursuant to rules
21 adopted under s. ~~238.15 (3) (d)~~ 16.296 (3) (d), the total tax benefits available to be
22 allocated by the corporation under ss. 238.301 to 238.306 may not exceed the sum of
23 the tax benefits remaining to be allocated under s. 560.71 to 560.785, 2009 stats., s.
24 560.797, 2009 stats., s. 560.798, 2009 stats., s. 560.7995, 2009 stats., and s. 560.96,
25 2009 stats., on March 6, 2009, plus \$25,000,000.

