



## 2005 ASSEMBLY BILL 1177

April 11, 2006 - Introduced by Representatives McCORMICK, STRACHOTA, STASKUNAS, KRAWCZYK, NELSON, PETROWSKI and VAN ROY, cosponsored by Senator HANSEN. Referred to Committee on Ways and Means.

1     **AN ACT** *to amend* 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)  
2           (a) 10. and 77.92 (4); and *to create* 15.155 (6), 20.143 (1) (kn), 20.505 (8) (hm)  
3           6n., 25.17 (3) (h), 71.07 (2r), 71.07 (2s), 71.10 (4) (gwd), 71.10 (4) (gxx), 71.28 (2r),  
4           71.28 (2s), 71.30 (3) (eor), 71.30 (3) (eos), 71.47 (2r), 71.47 (2s), 71.49 (1) (eor),  
5           71.49 (1) (eos), 73.03 (35p), 560.20 and 560.203 of the statutes; **relating to:**  
6           creating a Wisconsin Economic Leadership Board and a Venture Capital  
7           Investment Program, creating income and franchise tax credits for venture  
8           capital investments, requiring the Investment Board to try to make certain  
9           investments in Wisconsin businesses, creating a tribal gaming compact  
10          investment rebate program, granting an exemption from emergency rule  
11          procedures, requiring the exercise of rule-making authority, and making an  
12          appropriation.

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### *Analysis by the Legislative Reference Bureau*

This bill creates a Venture Capital Investment Program and provides income and franchise tax credits for certain investments related to that program. Significant provisions of the bill include the following:

**ASSEMBLY BILL 1177*****Wisconsin Economic Leadership Board***

The bill creates the Wisconsin Economic Leadership Board, which consists of seven members as follows: the governor; two members appointed by the governor, one of whom represents the interests of Native Americans; the majority leader or minority leader of the senate (whichever is a member of a political party other than the party of which the governor is a member); an appointee of the speaker or minority leader of the assembly (whichever is a member of a political party other than the party of which the governor is a member); the executive director of the Investment Board; and the chairperson of the board of the capital investment corporation or partnership as described below. Under the bill, the board has two primary functions. First, the board selects a corporation or limited partnership organized under Wisconsin law to perform certain duties concerning the operation of the program. Second, the board certifies businesses as eligible to receive investments that qualify for the tax credits provided under the bill. In addition, the board promotes the purposes of the program, solicits institutional investors to invest with fund managers under the program, encourages fund managers to invest in businesses certified under the program, and solicits businesses to participate in the program. The board also must submit an annual report to the legislature concerning the operation of the program.

***Capital investment corporation or partnership***

As noted above, the bill requires the board to select a corporation or limited partnership to perform certain duties concerning the operation of the program. The bill terms this entity a “Capital Investment Corporation or Partnership” (CICP). The CICP must meet certain requirements specified under the bill. The CICP has three main functions: establishing mechanisms for investment; coordinating and facilitating investment; and gathering information to measure the effectiveness of the program.

Thus, the CICP establishes investment funds, including certain funds that invest in Native American businesses, that are managed by fund managers that the CICP selects. In addition, the CICP coordinates and facilitates private investment in the investment funds and investments by fund managers in businesses certified by the board. The CICP also seeks out and provides assistance to businesses that may qualify for certification by the board and works with certified businesses and fund managers to assist in expanding the businesses. Furthermore, the CICP coordinates and disseminates advertisements to promote the purposes of the program. Finally, the CICP monitors, analyzes, and reports to the board information requested by the board concerning the performance of fund managers and the economic impact, if any, the investments made by those fund managers have had on this state; establishes measurable standards for its fund managers and holds the fund managers accountable for meeting those standards; and oversees a group of economic advisors to measure the economic impact, if any, that the program has on this state. To this end, the CICP must utilize information technology to administer a management information system that tracks the business activities of the CICP and the investments made by fund managers.

**ASSEMBLY BILL 1177*****Certification for tax credits***

As noted above, the board must certify businesses for purposes of administering the tax credits under the program. Under the program, tax credits are available only for investments in these certified businesses. Four types of businesses may obtain a certification. First, the board may certify a business as eligible to receive early stage seed investments that qualify for tax credits. A business may obtain such a certification if all of the following apply: 1) The business is headquartered in this state and its principal business operations are located in this state; 2) the business is in need of seed capital and is unable to obtain conventional financing, as defined by the Department of Commerce by rule; 3) the business has no more than 100 employees, at least 75 percent of whom are employed in this state; 4) during its two most recent fiscal years, if any, the business had an average annual net income, after federal income taxes, of not more than \$2,000,000; 5) the business has a net worth of not more than \$5,000,000; 6) the business is not predominantly engaged in professional services provided by accountants, lawyers, or physicians; 7) the business is not engaged in the development of real estate for resale; and 8) the business is not engaged in commercial banking or lending. Requirement 4 does not apply to a Native American business.

Second, the board may certify a business as eligible to receive venture capital growth investments that qualify for tax credits. A business may obtain such a certification if all of the following apply: 1) The business is headquartered in this state and has significant business operations in this state ; 2) at least 51 percent of the business's employees are employed in this state or the business employs more than 500 employees in this state; 3) during its two most recent fiscal years, the business had an average annual net income, after federal income taxes and excluding any carry-over losses, of less than \$20,000,000; 4) the business has a net worth of less than \$75,000,000; 5) the business is not predominantly engaged in professional services provided by accountants, lawyers, or physicians; and 6) the business has been in existence for at least one year, but fewer than 10 years. Requirement 4 does not apply to a Native American business.

Third, the board may certify a business as eligible to receive what the bill terms "women-, minority-, and community-based investments" that qualify for tax credits. A business may obtain such a certification if at least one of the following applies: 1) The business is headquartered in this state, has significant business operations in this state, and is at least 51 percent owned, controlled, and actively managed by one or more women or minority group members, as defined by law; 2) the business is headquartered in this state, has significant business operations in this state, and facilitates access to savings and credit by low-income consumers; or 3) the investments are made as part of a community-based investment strategy implemented by the fund manager, and the business satisfies all of the requirements necessary to receive early stage seed investments that qualify for tax credits.

Fourth, the board may certify a business as eligible to receive investments by certain individuals (called "angel investors") that qualify for tax credits if the business satisfies all of the requirements necessary to receive early stage seed investments that qualify for tax credits.

**ASSEMBLY BILL 1177*****Operation of the program***

Under the program, a private investor places money with a fund manager selected by the CICP. The fund manager invests the money by any legal manner. If the money is invested in a business that is certified as eligible to receive early stage seed investments, venture capital growth investments, or women-, minority-, and community-based investments, the investment qualifies for a tax credit. The tax credit may be claimed as described below by the private investor who provided the capital. In addition, under the program, certain individuals (angel investors) may invest directly in a business certified as eligible to receive angel investments and may claim a tax credit as described below.

***Amount of tax credits***

As noted above, the bill creates tax credits for certain investments. For taxable years beginning after December 31, 2005, a taxpayer may claim as a tax credit, in each taxable year for four years, 15 percent of the initial amount that the taxpayer invests as an angel investor in a business certified by the board to receive such investments. The maximum amount of the tax credits that may be awarded for angel investments for all taxable years combined is \$25,000,000.

For taxable years beginning after December 31, 2005, a taxpayer may claim as a tax credit, in each taxable year for six years, any of the following amounts invested in a business that is certified by the board to receive such investments: 1) 10 percent of the taxpayer's initial investment paid to a fund manager that the fund manager invests as an early stage seed investment; 2) 7 percent of the taxpayer's initial investment paid to a fund manager that the fund manager invests as a venture growth investment; and 3) 10 percent of the taxpayer's initial investment paid to a fund manager that the fund manager invests as a women-, minority-, and community-based investment. For early stage seed investments, the maximum amount of the tax credits that may be awarded for all taxable years combined is \$70,000,000; for venture growth investments, the maximum amount of the tax credits that may be awarded for all taxable years combined is \$42,000,000; and, for women-, minority-, and community-based investments, the maximum amount of the tax credits that may be awarded for all taxable years combined is \$10,000,000. In addition, the maximum amount invested by an individual that may be used as the basis for a tax credit is \$500,000 for each investment that is made directly or indirectly in a business that is certified to receive angel investments, early stage seed investments, or women-, minority-, and community-based investments.

The bill also creates an income and franchise tax credit that allows a Native American tribe that has entered into a gaming compact with this state to claim a tax credit equal to the amount of gaming compact fees the tribe pays to the state, not to exceed \$10,000,000 in any taxable year. To receive the credit the tribe must make an investment in a business certified by the board.

Finally, for taxable years beginning after December 31, 2005, a taxpayer who is a broker-dealer or a finder may claim a tax credit in an amount equal to 10 percent of the first \$500,000 raised in the taxable year in an offering of a business that is certified by the board to receive early stage seed investments. The maximum amount of such tax credits that may awarded for all taxable years combined is \$3,000,000.

**ASSEMBLY BILL 1177*****Tribal gaming compact investment rebates***

This bill also creates a tribal gaming compact investment rebate program. The program requires the Department of Commerce to make an annual rebate to an Indian tribe in an amount equal to 5 percent of the tribe's gaming revenue payments to the state. Under the bill, the tribe must agree to use the rebate to invest in a fund established by the CICP. The bill imposes an annual cap on the rebates of \$10,000,000 per tribe and \$100,000,000 for all tribes.

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

1           **SECTION 1.** 15.155 (6) of the statutes is created to read:

2           15.155 (6) WISCONSIN ECONOMIC LEADERSHIP BOARD. There is created a  
3 Wisconsin economic leadership board attached to the department of commerce under  
4 s. 15.03. The board shall consist of 7 members. One member shall be the governor.  
5 Two members, one of whom shall represent the interests of federally recognized  
6 American Indian tribes and bands in this state, shall be appointed for one-year  
7 terms by the governor. One member shall be the majority leader or minority leader  
8 of the senate, whichever is a member of a political party other than the party of which  
9 the governor is a member. Notwithstanding s. 15.07 (1) (b), one member shall be  
10 appointed for a one-year term by the speaker or minority leader of the assembly,  
11 whichever is a member of a political party other than the party of which the governor  
12 is a member. One member shall be the executive director of the investment board.  
13 One member shall be the chairperson of the board of the capital investment  
14 corporation or partnership described in s. 560.20 (1) (c).

15           **SECTION 2.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
16 the following amounts for the purposes indicated:

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**20.143 Commerce, department of**

(1) ECONOMIC AND COMMUNITY DEVELOPMENT

(kn) Tribal gaming compact invest-  
ment rebates

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**SECTION 3.** 20.143 (1) (kn) of the statutes is created to read:

20.143 (1) (kn) *Tribal gaming compact investment rebates*. The amounts in the schedule for tribal gaming compact investment rebates under s. 560.203. All moneys transferred from the appropriation account under s. 20.505 (8) (hm) 6n. shall be credited to this appropriation account. Notwithstanding s. 20.001 (3) (a), the unencumbered balance on June 30 of each year shall revert to the appropriation account under s. 20.505 (8) (hm).

**SECTION 4.** 20.505 (8) (hm) 6n. of the statutes is created to read:

20.505 (8) (hm) 6n. The amount transferred to s. 20.143 (1) (kn) shall be the sum of the amounts calculated by the department of commerce under s. 560.203 (2) (a).

**SECTION 5.** 25.17 (3) (h) of the statutes is created to read:

25.17 (3) (h) Make an effort to invest at least \$100,000,000 with fund managers, as defined in s. 560.20 (1) (e). In making any investment under this paragraph, the board is subject to the standard of responsibility under s. 25.15 (2).

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

71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), ~~(2r), (2s)~~, (3g), (3n), (3s), (3t), (5b), and (5d) and not passed through by a partnership, limited liability company, or

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1 tax-option corporation that has added that amount to the partnership's, company's,  
2 or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

3 **SECTION 7.** 71.07 (2r) of the statutes is created to read:

4 71.07 (2r) VENTURE CAPITAL INVESTMENT CREDITS. (a) *Definitions.* In this  
5 subsection:

- 6 1. "Broker-dealer" has the meaning given in s. 551.02 (3).
- 7 2. "Claimant" means a person who files a claim under this subsection.
- 8 3. "Fund manager" has the meaning given in s. 560.20 (1) (e).

9 (b) *Filing claims.* For taxable years beginning on or after January 1, 2006, for  
10 amounts claimed under subd. 2., and beginning on or after January 1, 2007, for  
11 amounts claimed under subds. 1., 3., and 4., subject to the limitations provided under  
12 this subsection and ss. 73.03 (35p) and 560.20, a claimant may claim as a credit  
13 against the tax imposed under ss. 71.02 and 71.08, up to the amount of those taxes,  
14 any of the following amounts:

15 1. In each taxable year for 6 years, beginning with the taxable year in which  
16 the claimant's initial investment is made, 10 percent of the claimant's initial  
17 investment paid to a fund manager that the fund manager invests, as an early stage  
18 seed investment, in a business certified under s. 560.20 (2) (b).

19 2. In each taxable year for 4 years, beginning with the taxable year in which  
20 the claimant's initial investment is made, 15 percent of the claimant's initial  
21 investment that the claimant invests, as an angel investment, in a business certified  
22 under s. 560.20 (2) (e).

23 3. In each taxable year for 6 years, beginning with the taxable year in which  
24 the claimant's initial investment is made, 7 percent of the claimant's initial

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1 investment paid to a fund manager that the fund manager invests, as a venture  
2 growth investment, in a business certified under s. 560.20 (2) (c).

3 4. In each taxable year for 6 years, beginning with the taxable year in which  
4 the claimant's initial investment is made, 10 percent of the claimant's initial  
5 investment paid to a fund manager that the fund manager invests, as a women-,  
6 minority-, and community-based investment, in a business certified under s. 560.20  
7 (2) (d).

8 (bm) *Filing claims; broker-dealer and finder.* For taxable years beginning on  
9 or after January 1, 2006, subject to the limitations provided under this subsection  
10 and s. 560.20, a claimant who is a broker-dealer or a finder may claim as a credit  
11 against the tax imposed under ss. 71.02 and 71.08, up to the amount of those taxes,  
12 an amount equal to 10 percent of the first \$500,000 raised in the taxable year in an  
13 offering of a business certified under s. 560.20 (2) (b).

14 (c) *Limitations.* 1. a. The maximum amount of the credits that may be claimed  
15 under par. (b) 1. and ss. 71.28 (2r) (b) 1. and 71.47 (2r) (b) 1. for all taxable years  
16 combined is \$70,000,000.

17 b. The maximum amount of the credits that may be claimed under par. (b) 2.  
18 and ss. 71.28 (2r) (b) 2. and 71.47 (2r) (b) 2. for all taxable years combined is  
19 \$25,000,000.

20 c. The maximum amount of the credits that may be claimed under par. (b) 3.  
21 and ss. 71.28 (2r) (b) 3. and 71.47 (2r) (b) 3. for all taxable years combined is  
22 \$42,000,000.

23 d. The maximum amount of the credits that may be claimed under par. (b) 4.  
24 and ss. 71.28 (2r) (b) 4. and 71.47 (2r) (b) 4. for all taxable years combined is  
25 \$10,000,000.

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1 e. The maximum amount of the credits that may be claimed under par. (bm)  
2 and ss. 71.28 (2r) (bm) and 71.47 (2r) (bm) for all taxable years combined is  
3 \$3,000,000.

4 2. The maximum amount of an investment that a claimant who is an individual  
5 may make that may be used as the basis for a credit under this subsection is \$500,000  
6 for each investment made directly or indirectly in a business certified under s. 560.20  
7 (2) (b), (d), and (e).

8 3. Partnerships, limited liability companies, and tax-option corporations may  
9 not claim the credit under par. (b), but the eligibility for, and the amount of, the credit  
10 are based on their payment of amounts under par. (b). 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 interest or as specially allocated in their organizational documents.

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

18 2. A claimant may sell a credit under this subsection to another person who is  
19 subject to the taxes imposed under this subchapter, if the claimant notifies the  
20 department of the sale and includes with the notification a copy of the transfer  
21 documents.

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

23 71.07 (2s) TRIBAL GAMING COMPACT CREDIT. (a) *Definition.* In this subsection,  
24 “claimant” means a Native American tribe that is located in this state, has entered  
25 into a gaming compact with this state, and files a claim under this subsection.

**ASSEMBLY BILL 1177****SECTION 8**

1           (b) *Filing claims.* Subject to the limitations provided in this subsection, for  
2 taxable years beginning after December 31, 2005, a claimant may claim as a credit  
3 against the tax imposed under ss. 71.02 and 71.08, up to the amount of the taxes, an  
4 amount equal to the amount the claimant paid in the taxable year to the state  
5 pursuant to a gaming compact, not to exceed \$10,000,000 in any taxable year.

6           (c) *Limitations.* 1. No credit may be allowed under this subsection unless the  
7 claimant, in the taxable year, invests in a business this is certified to receive  
8 investments under s. 560.20 (2).

9           2. No credit may be allowed under this subsection unless the claimant submits  
10 with the claimant's return proof of the investment described under subd. 1.

11           3. The maximum amount of the credit that may be awarded under this  
12 subsection and ss. 71.28 (2s) and 71.47 (2s) for all claimants in each taxable year may  
13 not exceed \$100,000,000.

14           4. Partnerships, limited liability companies, and tax-option corporations may  
15 not claim the credit under this subsection, but the eligibility for, and the amount of,  
16 the credit are based on their payment of amounts under par. (b). A partnership,  
17 limited liability company, or tax-option corporation shall compute the amount of  
18 credit that each of its partners, members, or shareholders may claim and shall  
19 provide that information to each of them. Partners, members of limited liability  
20 companies, and shareholders of tax-option corporations may claim the credit in  
21 proportion to their ownership interests.

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

24           **SECTION 9.** 71.10 (4) (gwd) of the statutes is created to read:

25           71.10 (4) (gwd) Venture capital investment credits under s. 71.07 (2r).

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1           **SECTION 10.** 71.10 (4) (gxx) of the statutes is created to read:

2           71.10 (4) (gxx) Tribal gaming compact credit under s. 71.07 (2s).

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

4           71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),  
5 (2dj), (2dL), (2dm), (2ds), (2dx), ~~(2r), (2s)~~, (3g), (3n), (3s), (3t), and (5b) and passed  
6 through to partners shall be added to the partnership's income.

7           **SECTION 12.** 71.26 (2) (a) of the statutes is amended to read:

8           71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means  
9 the gross income as computed under the Internal Revenue Code as modified under  
10 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit  
11 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)  
12 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income  
13 under this paragraph at the time that the taxpayer first claimed the credit plus the  
14 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),  
15 (1ds), (1dx), ~~(2r), (2s)~~, (3g), (3n), (3t), and (5b) and not passed through by a  
16 partnership, limited liability company, or tax-option corporation that has added that  
17 amount to the partnership's, limited liability company's, or tax-option corporation's  
18 income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or  
19 other disposition of assets the gain from which would be wholly exempt income, as  
20 defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and  
21 minus deductions, as computed under the Internal Revenue Code as modified under  
22 sub. (3), plus or minus, as appropriate, an amount equal to the difference between  
23 the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or  
24 otherwise disposed of in a taxable transaction during the taxable year, except as  
25 provided in par. (b) and s. 71.45 (2) and (5).

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1           **SECTION 13.** 71.28 (2r) of the statutes is created to read:

2           71.28 **(2r)** VENTURE CAPITAL INVESTMENT CREDITS. (a) *Definitions.* In this  
3 subsection:

4           1. "Broker-dealer" has the meaning given in s. 551.02 (3).

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

6           3. "Fund manager" has the meaning given in s. 560.20 (1) (e).

7           (b) *Filing claims.* For taxable years beginning on or after January 1, 2006, for  
8 amounts claimed under subd. 2., and beginning on or after January 1, 2007, for  
9 amounts claimed under subds. 1., 3., and 4., subject to the limitations provided under  
10 this subsection and ss. 73.03 (35p) and 560.20, a claimant may claim as a credit  
11 against the tax imposed under s. 71.23, up to the amount of those taxes, any of the  
12 following amounts:

13           1. In each taxable year for 6 years, beginning with the taxable year in which  
14 the claimant's initial investment is made, 10 percent of the claimant's initial  
15 investment paid to a fund manager that the fund manager invests, as an early stage  
16 seed investment, in a business certified under s. 560.20 (2) (b).

17           2. In each taxable year for 4 years, beginning with the taxable year in which  
18 the claimants initial investment is made, 15 percent of the claimant's initial  
19 investment that the claimant invests, as an angel investment, in a business certified  
20 under s. 560.20 (2) (e).

21           3. In each taxable year for 6 years, beginning with the taxable year in which  
22 the claimant's initial investment is made, 7 percent of the claimant's initial  
23 investment paid to a fund manager that the fund manager invests, as a venture  
24 growth investment, in a business certified under s. 560.20 (2) (c).

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1           4. In each taxable year for 6 years, beginning with the taxable year in which  
2 the claimant's initial investment is made, 10 percent of the claimant's initial  
3 investment paid to a fund manager that the fund manager invests, as a women-,  
4 minority-, and community-based investment, in a business certified under s. 560.20  
5 (2) (d).

6           (bm) *Filing claims; broker-dealer and finder.* For taxable years beginning on  
7 or after January 1, 2006, subject to the limitations provided under this subsection  
8 and s. 560.20, a claimant who is a broker-dealer or a finder may claim as a credit  
9 against the tax imposed under s. 71.23, up to the amount of those taxes, an amount  
10 equal to 10 percent of the first \$500,000 raised in the taxable year in an offering of  
11 a business certified under s. 560.20 (2) (b).

12           (c) *Limitations.* 1. a. The maximum amount of the credits that may be claimed  
13 under par. (b) 1. and ss. 71.07 (2r) (b) 1. and 71.47 (2r) (b) 1. for all taxable years  
14 combined is \$70,000,000.

15           b. The maximum amount of the credits that may be claimed under par. (b) 2.  
16 and ss. 71.07 (2r) (b) 2. and 71.47 (2r) (b) 2. for all taxable years combined is  
17 \$25,000,000.

18           c. The maximum amount of the credits that may be claimed under par. (b) 3.  
19 and ss. 71.07 (2r) (b) 3. and 71.47 (2r) (b) 3. for all taxable years combined is  
20 \$42,000,000.

21           d. The maximum amount of the credits that may be claimed under par. (b) 4.  
22 and ss. 71.07 (2r) (b) 4. and 71.47 (2r) (b) 4. for all taxable years combined is  
23 \$10,000,000.

24           e. The maximum amount of the credit that may be claimed under par. (bm) and  
25 ss. 71.07 (2r) (bm) and 71.47 (2r) (bm) for all taxable years combined is \$3,000,000.

**ASSEMBLY BILL 1177****SECTION 13**

1           2. Partnerships, limited liability companies, and tax-option corporations may  
2 not claim the credit under par. (b), but the eligibility for, and the amount of, the credit  
3 are based on their payment of amounts under par. (b). A partnership, limited  
4 liability company, or tax-option corporation shall compute the amount of credit that  
5 each of its partners, members, or shareholders may claim and shall provide that  
6 information to each of them. Partners, members of limited liability companies, and  
7 shareholders of tax-option corporations may claim the credit in proportion to their  
8 ownership interest or as specially allocated in their organizational documents.

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

11           2. A claimant may sell a credit under this subsection to another person who is  
12 subject to the taxes imposed under this subchapter, if the claimant notifies the  
13 department of the sale and includes with the notification a copy of the transfer  
14 documents.

15           **SECTION 14.** 71.28 (2s) of the statutes is created to read:

16           71.28 (2s) TRIBAL GAMING COMPACT CREDIT. (a) *Definition.* In this subsection,  
17 “claimant” means a Native American tribe that is located in this state, has entered  
18 into a gaming compact with this state, and files a claim under this subsection.

19           (b) *Filing claims.* Subject to the limitations provided in this subsection, for  
20 taxable years beginning after December 31, 2005, a claimant may claim as a credit  
21 against the tax imposed under s. 71.23, up to the amount of the taxes, an amount  
22 equal to the amount the claimant paid in the taxable year to the state pursuant to  
23 a gaming compact, not to exceed \$10,000,000 in any taxable year.

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1           (c) *Limitations.* 1. No credit may be allowed under this subsection unless the  
2 claimant, in the taxable year, invests in a business this is certified to receive  
3 investments under s. 560.20 (2).

4           2. No credit may be allowed under this subsection unless the claimant submits  
5 with the claimant's return proof of the investment described under subd. 1.

6           3. The maximum amount of the credit that may be awarded under this  
7 subsection and ss. 71.07 (2s) and 71.47 (2s) for all claimants in each taxable year may  
8 not exceed \$100,000,000.

9           4. Partnerships, limited liability companies, and tax-option corporations may  
10 not claim the credit under this subsection, but the eligibility for, and the amount of,  
11 the credit are based on their payment of amounts under par. (b). A partnership,  
12 limited liability company, or tax-option corporation shall compute the amount of  
13 credit that each of its partners, members, or shareholders may claim and shall  
14 provide that information to each of them. Partners, members of limited liability  
15 companies, and shareholders of tax-option corporations may claim the credit in  
16 proportion to their ownership interests.

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

19           **SECTION 15.** 71.30 (3) (eor) of the statutes is created to read:

20           71.30 (3) (eor) Venture capital investment credits under s. 71.28 (2r).

21           **SECTION 16.** 71.30 (3) (eos) of the statutes is created to read:

22           71.30 (3) (eos) Tribal gaming compact credit under s. 71.28 (2s).

23           **SECTION 17.** 71.34 (1) (g) of the statutes is amended to read:

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1           71.34 (1) (g) An addition shall be made for credits computed by a tax-option  
2 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (2r),  
3 (2s), (3), (3g), (3n), (3t), and (5b) and passed through to shareholders.

4           **SECTION 18.** 71.45 (2) (a) 10. of the statutes is amended to read:

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

11           **SECTION 19.** 71.47 (2r) of the statutes is created to read:

12           71.47 (2r) VENTURE CAPITAL INVESTMENT CREDITS. (a) *Definitions.* In this  
13 subsection:

- 14           1. "Broker-dealer" has the meaning given in s. 551.02 (3).
- 15           2. "Claimant" means a person who files a claim under this subsection.
- 16           3. "Fund manager" has the meaning given in s. 560.20 (1) (e).

17           (b) *Filing claims.* For taxable years beginning on or after January 1, 2006, for  
18 amounts claimed under subd. 2., and beginning on or after January 1, 2007, for  
19 amounts claimed under subds. 1., 3., and 4., subject to the limitations provided under  
20 this subsection and ss. 73.03 (35p) and 560.20, a claimant may claim as a credit  
21 against the tax imposed under s. 71.43, up to the amount of those taxes, any of the  
22 following amounts:

- 23           1. In each taxable year for 6 years, beginning with the taxable year in which  
24 the claimant's initial investment is made, 10 percent of the claimant's initial

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1 investment paid to a fund manager that the fund manager invests, as an early stage  
2 seed investment, in a business certified under s. 560.20 (2) (b).

3 2. In each taxable year for 4 years, beginning with the taxable year in which  
4 the claimant's initial investment is made, 15 percent of the claimant's initial  
5 investment that the claimant invests, as an angel investment, in a business certified  
6 under s. 560.20 (2) (e).

7 3. In each taxable year for 6 years, beginning with the taxable year in which  
8 the claimant's initial investment is made, 7 percent of the claimant's initial  
9 investment paid to a fund manager that the fund manager invests, as a venture  
10 growth investment, in a business certified under s. 560.20 (2) (c).

11 4. In each taxable year for 6 years, beginning with the taxable year in which  
12 the claimant's initial investment is made, 10 percent of the claimant's initial  
13 investment paid to a fund manager that the fund manager invests, as a women-,  
14 minority-, and community-based investment, in a business certified under s. 560.20  
15 (2) (d).

16 (bm) *Filing claims; broker-dealer and finder.* For taxable years beginning on  
17 or after January 1, 2006, subject to the limitations provided under this subsection  
18 and s. 560.20, a claimant who is a broker-dealer or a finder may claim as a credit  
19 against the tax imposed under s. 71.43, up to the amount of those taxes, an amount  
20 equal to 10 percent of the first \$500,000 raised in the taxable year in an offering of  
21 a business certified under s. 560.20 (2) (b).

22 (c) *Limitations.* 1. a. The maximum amount of the credits that may be claimed  
23 under par. (b) 1. and ss. 71.07 (2r) (b) 1. and 71.28 (2r) (b) 1. for all taxable years  
24 combined is \$70,000,000.

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1           b. The maximum amount of the credits that may be claimed under par. (b) 2.  
2 and ss. 71.07 (2r) (b) 2. and 71.28 (2r) (b) 2. for all taxable years combined is  
3 \$25,000,000.

4           c. The maximum amount of the credits that may be claimed under par. (b) 3.  
5 and ss. 71.07 (2r) (b) 3. and 71.28 (2r) (b) 3. for all taxable years combined is  
6 \$42,000,000.

7           d. The maximum amount of the credits that may be claimed under par. (b) 4.  
8 and ss. 71.07 (2r) (b) 4. and 71.28 (2r) (b) 4. for all taxable years combined is  
9 \$10,000,000.

10          e. The maximum amount of the credit that may be claimed under par. (bm) and  
11 ss. 71.07 (2r) (bm) and 71.28 (2r) (bm) for all taxable years combined is \$3,000,000.

12          2. Partnerships, limited liability companies, and tax-option corporations may  
13 not claim the credit under par. (b), but the eligibility for, and the amount of, the credit  
14 are based on their payment of amounts under par. (b). A partnership, limited  
15 liability company, or tax-option corporation shall compute the amount of credit that  
16 each of its partners, members, or shareholders may claim and shall provide that  
17 information to each of them. Partners, members of limited liability companies, and  
18 shareholders of tax-option corporations may claim the credit in proportion to their  
19 ownership interest or as specially allocated in their organizational documents.

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

22          2. A claimant may sell a credit under this subsection to another person who is  
23 subject to the taxes imposed under this subchapter, if the claimant notifies the  
24 department of the sale and includes with the notification a copy of the transfer  
25 documents.

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1           **SECTION 20.** 71.47 (2s) of the statutes is created to read:

2           71.47 (2s) TRIBAL GAMING COMPACT CREDIT. (a) *Definition.* In this subsection,  
3           “claimant” means a Native American tribe that is located in this state, has entered  
4           into a gaming compact with this state, and files a claim under this subsection.

5           (b) *Filing claims.* Subject to the limitations provided in this subsection, for  
6           taxable years beginning after December 31, 2005, a claimant may claim as a credit  
7           against the tax imposed under s. 71.43, up to the amount of the taxes, an amount  
8           equal to the amount the claimant paid in the taxable year to the state pursuant to  
9           a gaming compact, not to exceed \$10,000,000 in any taxable year.

10          (c) *Limitations.* 1. No credit may be allowed under this subsection unless the  
11          claimant, in the taxable year, invests in a business this is certified to receive  
12          investments under s. 560.20 (2).

13          2. No credit may be allowed under this subsection unless the claimant submits  
14          with the claimant’s return proof of the investment described under subd. 1.

15          3. The maximum amount of the credit that may be awarded under this  
16          subsection and ss. 71.07 (2s) and 71.28 (2s) for all claimants in each taxable year may  
17          not exceed \$100,000,000.

18          4. Partnerships, limited liability companies, and tax-option corporations may  
19          not claim the credit under this subsection, but the eligibility for, and the amount of,  
20          the credit are based on their payment of amounts under par. (b). A partnership,  
21          limited liability company, or tax-option corporation shall compute the amount of  
22          credit that each of its partners, members, or shareholders may claim and shall  
23          provide that information to each of them. Partners, members of limited liability  
24          companies, and shareholders of tax-option corporations may claim the credit in  
25          proportion to their ownership interests.

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

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

4 71.49 (1) (eor) Venture capital investment credits under s. 71.47 (2r).

5 **SECTION 22.** 71.49 (1) (eos) of the statutes is created to read:

6 71.49 (1) (eos) Tribal gaming compact credit under s. 71.47 (2s).

7 **SECTION 23.** 73.03 (35p) of the statutes is created to read:

8 73.03 (35p) To deny a portion of any credit claimed under s. 71.07 (2r) (b) or  
9 (2s) (b), 71.28 (2r) (b) or (2s) (b), or 71.47 (2r) (b) or (2s) (b), if granting the full amount  
10 claimed would violate a limitation specified under s. 71.07 (2r) (c) 1. or (2s) (b) or (c)  
11 3., 71.28 (2r) (c) 1. or (2s) (b) or (c) 3., or 71.47 (2r) (c) 1. or (2s) (b) or (c) 3.

12 **SECTION 24.** 77.92 (4) of the statutes is amended to read:

13 77.92 (4) “Net business income,” with respect to a partnership, means taxable  
14 income as calculated under section 703 of the Internal Revenue Code; plus the items  
15 of income and gain under section 702 of the Internal Revenue Code, including taxable  
16 state and municipal bond interest and excluding nontaxable interest income or  
17 dividend income from federal government obligations; minus the items of loss and  
18 deduction under section 702 of the Internal Revenue Code, except items that are not  
19 deductible under s. 71.21; plus guaranteed payments to partners under section 707  
20 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),  
21 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), ~~(2r), (2s)~~, (3g), (3s), (3n), (3t), and (5b);  
22 and plus or minus, as appropriate, transitional adjustments, depreciation  
23 differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but  
24 excluding income, gain, loss, and deductions from farming. “Net business income,”  
25 with respect to a natural person, estate, or trust, means profit from a trade or

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1 business for federal income tax purposes and includes net income derived as an  
2 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

3 **SECTION 25.** 560.20 of the statutes is created to read:

4 **560.20 Venture capital investment program. (1) DEFINITIONS.** In this  
5 section:

6 (a) "Angel investor" means any of the following:

7 1. An individual who reviews new businesses or proposed new businesses for  
8 potential investment of the individual's money.

9 2. A network of individuals who satisfy subd. 1.

10 (b) "Board" means the Wisconsin economic leadership board.

11 (c) "Capital investment corporation or partnership" means the corporation or  
12 partnership selected under sub. (1m).

13 (e) "Fund manager" means a person who is selected by and under contract with  
14 the capital investment corporation or partnership to manage investment funds  
15 established by the capital investment corporation or partnership.

16 (f) "Native American business" means a business that is owned or operated by  
17 a member of a federally recognized American Indian tribe or band in this state or that  
18 is located within the boundaries of a federally recognized American Indian  
19 reservation in this state.

20 **(1m) SELECTION OF CAPITAL INVESTMENT CORPORATION OR PARTNERSHIP.** No later  
21 than the first day of the 2nd month beginning after the effective date of this  
22 subsection .... [revisor inserts date], the board shall select a corporation organized  
23 under ch. 180 or a partnership organized under ch. 179 to perform the duties of a  
24 capital investment corporation or partnership as specified under this section. The

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1 board shall select a corporation or partnership that satisfies, or, if applicable, makes  
2 a commitment to satisfy, all of the following:

3 (a) The corporation or partnership establishes investment funds that are  
4 managed by fund managers, whose fees do not exceed an amount equal to 2.5 percent  
5 of the total assets in the applicable fund, annually. The funds shall include at least  
6 one fund that makes early stage seed investments in Native American businesses  
7 that are certified by the board under sub. (2) (b) and at least one fund that makes  
8 venture growth investments in Native American businesses that are certified by the  
9 board under sub. (2) (c).

10 (b) The purposes of the corporation or partnership include coordinating and  
11 facilitating investments in investment funds described in par. (a) and investments  
12 by fund managers in businesses as described in sub. (2) (b) to (d).

13 (c) The corporation or partnership is required, under its articles of  
14 incorporation, to monitor, analyze, and report to the board information requested by  
15 the board concerning the performance of fund managers and the economic impact,  
16 if any, the investments made by those fund managers have had on this state.

17 (d) The corporation or partnership, either directly or through a subsidiary,  
18 seeks out and provides assistance to businesses described in sub. (2) (b).

19 (e) The corporation or partnership works with businesses certified under sub.  
20 (2) and fund managers to assist in expanding the businesses.

21 (f) The corporation or partnership establishes measurable standards for its  
22 fund managers and holds the fund managers accountable for meeting those  
23 standards.

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1           (g) The corporation or partnership coordinates and oversees a group of  
2 economic advisors to measure the economic impact, if any, that investments made  
3 by fund managers have had on this state.

4           (h) The corporation or partnership coordinates and disseminates an economic  
5 media message to promote the purposes of this paragraph under this section, as  
6 determined by the board.

7           (i) The corporation or partnership utilizes information technology to  
8 administer a management information system that tracks the business activities of  
9 the corporation or partnership and the investments made by fund managers.

10          (j) No owner of the corporation or partnership has made a certified capital  
11 investment, as defined under s. 560.30 (4), is a manager of a certified capital  
12 company, as defined in s. 560.30 (2), or is a fund manager of the corporation or  
13 partnership.

14          (k) The corporation or partnership does not assess a fee against any investment  
15 fund described in par. (a).

16          (L) The corporation or partnership and applicable fund manager do not receive  
17 any of the profits and gains on assets in any investment fund described in par. (a),  
18 unless the total amount distributed to all investors in the fund is at least equal to the  
19 total amount invested, plus 80 percent of the profits and gains.

20          **(2) CERTIFICATION FOR TAX CREDITS.** (a) *Generally.* The board, in consultation  
21 with the capital investment corporation or partnership, shall promulgate rules  
22 establishing a procedure for the board to certify businesses as eligible to receive from  
23 fund managers investments that qualify an investor for tax credits under s. 71.07  
24 (2r) or (2s), 71.28 (2r) or (2s), or 71.47 (2r) or (2s). The rules shall require a business  
25 that desires to obtain a certification to file an application with the board. The rules

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1 shall require an applicant for certification to provide the board with any information  
2 the board determines is necessary to ensure eligibility for certification and  
3 compliance with this section and rules promulgated under this section. The board  
4 shall consult with the capital investment corporation or partnership in determining  
5 whether to certify any applicant.

6 (b) *Early stage seed investments.* The board may certify a business, including  
7 a Native American business, as eligible to receive from fund managers investments  
8 that qualify the investors for tax credits under s. 71.07 (2r) (b) 1. or (2s), 71.28 (2r)  
9 (b) 1. or (2s), or 71.47 (2r) (b) 1. or (2s) only if the business satisfies all of the following:

10 1. The business is headquartered in this state and its principal business  
11 operations are located in this state.

12 2. The business is in need of seed capital and is unable to obtain conventional  
13 financing, as defined by the department by rule.

14 3. The business has no more than 100 employees, at least 75 percent of whom  
15 are employed in this state.

16 4. During its 2 most recent fiscal years, if any, the business had an average  
17 annual net income, after federal income taxes, of not more than \$2,000,000, as  
18 determined in accordance with generally accepted accounting principles.

19 5. The business has a net worth of not more than \$5,000,000, except that this  
20 subdivision does not apply if the business is a Native American business.

21 6. The business is not predominantly engaged in professional services provided  
22 by accountants, lawyers, or physicians.

23 7. The business is not engaged in the development of real estate for resale.

24 8. The business is not engaged in commercial banking or lending.

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1           (c) *Venture growth investments.* The board may certify a business, including  
2 a Native American business, as eligible to receive from fund managers investments  
3 that qualify the investors for tax credits under s. 71.07 (2r) (b) 3. or (2s), 71.28 (2r)  
4 (b) 3. or (2s), or 71.47 (2r) (b) 3. or (2s) only if the business satisfies all of the following:

5           1. The business is headquartered in this state and has significant business  
6 operations in this state.

7           2. At least 51 percent of the business's employees are employed in this state or  
8 the business employs more than 500 employees in this state.

9           3. During its 2 most recent fiscal years, the business had an average annual  
10 net income, after federal income taxes and excluding any carry-over losses, of less  
11 than \$20,000,000, as determined in accordance with generally accepted accounting  
12 principles.

13           4. The business has a net worth of less than \$75,000,000, except that this  
14 subdivision does not apply if the business is a Native American business.

15           5. The business is not predominantly engaged in professional services provided  
16 by accountants, lawyers, or physicians.

17           6. The business has been in existence for at least one year, but less than 10  
18 years.

19           (d) *Women-, minority-, and community-based investments.* The board may  
20 certify a business as eligible to receive from fund managers investments that qualify  
21 the investors for tax credits under s. 71.07 (2r) (b) 4. or (2s), 71.28 (2r) (b) 4. or (2s),  
22 or 71.47 (2r) (b) 4. or (2s) only if any of the following apply:

23           1. The business is headquartered in this state, has significant business  
24 operations in this state, and is at least 51 percent owned, controlled, and actively

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1 managed by one or more women or minority group members, as defined in s. 560.036  
2 (1) (f).

3 2. The business is headquartered in this state, has significant business  
4 operations in this state, and facilitates access to savings and credit by low-income  
5 consumers.

6 3. The investments are made as part of a community-based investment  
7 strategy implemented by the fund manager and the business satisfies all of the  
8 requirements under par. (b) 1. to 8.

9 (e) *Angel investments.* The board may certify a business as eligible to receive  
10 from angel investors investments that qualify the investors for tax credits under s.  
11 71.07 (2r) (b) 2. or (2s), 71.28 (2r) (b) 2. or (2s), or 71.47 (2r) (b) 2. or (2s) only if the  
12 business satisfies par (b) 1. to 8.

13 **(3) NOTICE.** (a) *Certification.* Upon approval of an application under sub. (2)  
14 (b) to (e), the board shall issue a written notice of certification to the applicable  
15 business and shall provide a copy of the notice to the capital investment corporation  
16 or partnership, the investment board, and the department of revenue, except that  
17 the board need not provide a copy of any notice of certification under sub. (2) (e) to  
18 the capital investment corporation or partnership or the investment board. Each  
19 notice shall include the following statement: "THE WISCONSIN ECONOMIC LEADERSHIP  
20 BOARD HAS NOT RECOMMENDED OR APPROVED AN INVESTMENT IN THIS ENTITY OR ASSESSED  
21 THE MERITS OR RISKS OF SUCH AN INVESTMENT. INVESTORS SHOULD RELY SOLELY ON THEIR  
22 OWN INVESTIGATION AND ANALYSIS AND SEEK INVESTMENT, FINANCIAL, LEGAL, AND TAX  
23 ADVICE BEFORE MAKING THEIR OWN DECISIONS REGARDING INVESTMENT IN THIS ENTITY."  
24 The board shall provide any person with a copy of the notice upon request.

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1           (b) *Decertification.* 1. Upon the discontinuance of a certification under sub. (2),  
2           the board shall issue a written notice of decertification to the applicable business and  
3           shall provide a copy of the notice to the capital investment corporation or  
4           partnership, the investment board, and the department of revenue, except that the  
5           board need not provide a copy of any notice of decertification of a business certified  
6           under sub. (2) (e) to the capital investment corporation or partnership or the  
7           investment board.

8           2. Discontinuance of a certification under sub. (2) does not affect any current  
9           offering of ownership interests in the decertified business.

10          **(4) OTHER BOARD ACTIVITIES.** (a) *Promotional activities and legislation.* The  
11          board, in consultation with the capital investment corporation or partnership, shall  
12          actively promote the purposes of this program under this section but shall not  
13          recommend that any person make a particular investment. The board shall solicit  
14          institutional investors to invest with fund managers, shall encourage fund managers  
15          to invest in businesses described in sub. (2) (b) to (d), and shall solicit businesses  
16          described in sub. (2) (b) to (d) that may benefit from investments made by fund  
17          managers. The board shall recommend to the legislature any statutory changes that  
18          the board considers necessary or proper to carry out the purposes of the program  
19          under this section.

20          (b) *Report.* Annually, no later than September 15, the board shall submit a  
21          report to the chief clerk of each house of the legislature for distribution to the  
22          legislature under s. 13.172 (2), describing the performance of investments made by  
23          fund managers, the total amount of tax credits claimed under ss. 71.07 (2r) or (2s),  
24          71.28 (2r) or (2s), and 71.47 (2r) or (2s) with regard to those investments, and the  
25          economic impact, if any, the investments have had on this state. The department of

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1 revenue shall provide the board with any information the board requests for  
2 preparation of the report under this paragraph.

3 **SECTION 26.** 560.203 of the statutes is created to read:

4 **560.203 Tribal gaming compact investment rebate. (1) DEFINITIONS.** In  
5 this section:

6 (a) “Indian gaming receipts” has the meaning given in s. 569.01 (1m).

7 (b) “Indian tribe” has the meaning given in s. 569.01 (3).

8 **(2) REBATES TO INDIAN TRIBES.** (a) Annually, not later than September 1, the  
9 department shall calculate the amount of the rebate to be made to each eligible  
10 Indian tribe from which the state has received gaming receipts. The amount of a  
11 rebate to an eligible Indian tribe shall be equal to 5 percent of the sum of Indian  
12 gaming receipts received by the state in the immediately preceding fiscal year from  
13 the eligible Indian tribe, except as follows:

14 1. A rebate to an eligible Indian tribe under this section may not exceed  
15 \$10,000,000.

16 2. The total amount of all rebates under this section may not exceed  
17 \$100,000,000 per year.

18 (b) Annually, the department shall make a rebate to an eligible Indian tribe  
19 from the appropriation under s. 20.143 (1) (kn) in the amount calculated by the  
20 department under par. (a).

21 **(3) ELIGIBILITY.** An Indian tribe is eligible to receive a rebate under this section  
22 if the Indian tribe has entered into an agreement with the department to invest a  
23 rebate under this section in an investment fund established under s. 560.20.

24 **SECTION 27. Nonstatutory provisions.**

25 (1) RULES.

