

SENATE BILL 261 (LRB -3266)

An Act to amend 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2) (a) 10. and 77.92 (4); and to create 71.05 (24), 71.07 (5d), 71.10 (4) (gx), 71.28 (5d), 71.30 (3) (eop), 71.47 (5d), 71.49 (1) (eop) and 560.03 (24) to (27) of the statutes; relating to: creating a qualified new business venture tax credit and a capital gains tax exemption regarding investments in certified venture capital funds and qualified new business ventures, requiring a study of new Wisconsin businesses, facilitating the development of certain investor networks, and granting rule-making authority. (FE)

2003

09-24.	S.	Introduced by Senators Kanavas, Stepp, Leibham, Darling, Brown, Welch, Zien, Lassa and Roessler ; cosponsored by Representatives Nischke, McCormick, Ladwig, Musser, Montgomery, Towns, Owens, M. Lehman, Weber, Van Roy, Krawczyk, Olsen and Ott.	
09-24.	S.	Read first time and referred to joint committee on Finance	380
09-24.	S.	Report of joint survey committee on Tax Exemptions requested	380
09-25.	S.	Fiscal estimate received.	
09-25.	S.	Fiscal estimate received.	
09-25.	S.	Fiscal estimate received.	
10-01.	S.	Fiscal estimate received.	
10-28.	S.	Executive action taken.	
10-30.	S.	Report introduction and adoption of Senate Substitute Amendment 1 recommended by joint committee on Finance, Ayes 14, Noes 1 (LRB s0200)	453
10-30.	S.	Report passage as amended recommended by joint committee on Finance, Ayes 11, Noes 4	454
10-30.	S.	Available for scheduling.	
11-11.	S.	Report of joint survey committee on Tax Exemptions received	475
11-12.	S.	Placed on calendar 11-13-2003 by committee on Senate Organization.	
11-13.	S.	Read a second time	486
11-13.	S.	Senate substitute amendment 1 laid on table	486
11-13.	S.	Senate substitute amendment 2 offered by Senators Panzer, Erpenbach, Darling, Plale, Roessler, Moore, Lassa, Leibham and Kanavas (LRB s0260)	486
11-13.	S.	Senate amendment 1 to Senate substitute amendment 2 offered by Senator Kanavas (LRB a1801)	486
11-13.	S.	Senate amendment 1 to Senate substitute amendment 2 adopted	486
11-13.	S.	Senate amendment 2 to Senate substitute amendment 2 offered by Senators Plale and Kanavas (LRB a1822)	486
11-13.	S.	Senate amendment 2 to Senate substitute amendment 2 adopted	486
11-13.	S.	Senate amendment 3 to Senate substitute amendment 2 offered by Senator Kanavas (LRB f132)	486
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11-13.	S.	Senate substitute amendment 2 adopted	486
11-13.	S.	Ordered to a third reading	486
11-13.	S.	Rules suspended	486
11-13.	S.	Read a third time and passed , Ayes 24, Noes 8	486
11-13.	S.	Ordered immediately messaged	489

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03-04.	A.	Received from Senate	787
03-04.	A.	Read first time and referred to committee on Rules	788
03-04.	A.	LRB correction (Senate Amendment 1 to Senate Substitute Amendment 2)	800
03-05.	A.	Placed on calendar 3-9-2004 by committee on Rules.	
03-09.	A.	Made a special order of business at 11:00 A.M. on 3-10-2004 pursuant to Assembly Resolution 38	817
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03-10.	A.	Assembly substitute amendment 1 offered by Representative Gard (LRB s0467)	837
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03-10.	A.	Assembly amendment 1 to Assembly substitute amendment 1 offered by Representatives Gard and Nischke (LRB a2875)	823
03-11.	A.	Taken from the table	873
03-11.	A.	Representative Nischke added as a co-author of Assembly substitute amendment 1	873
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03-11.	A.	Ordered to a third reading	874
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03-11.	A.	Read a third time and concurred in as amended, Ayes 93, Noes 6	874
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03-11.	S.	Received from Assembly amended and concurred in as amended, Assembly amendment 1 to Assembly substitute amendment 1 and Assembly substitute amendment 1 adopted.	

- 03-11. S. Rules suspended and taken up.
- 03-11. S. Assembly substitute amendment 1 **concurred in.**
- 03-16. S. Ordered immediately messaged.

**2003
ENROLLED BILL**

03en ~~A~~ B-261

ADOPTED DOCUMENTS:

Orig Engr

SubAmdt 1

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Amendments to above (if none, write "NONE"): AA1

Corrections - show date (if none, write "NONE"): None

Topic

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3/16/04

Date

[Signature]

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2003 SENATE BILL 261**

March 10, 2004 - Offered by Representative GARD.

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.08 (1) (intro.), 71.21 (4), 71.26 (2) (a), 71.34
2 (1) (g), 71.45 (2) (a) 10. and 77.92 (4); and **to create** 20.143 (1) (dk), 20.143 (1)
3 (ik), 71.07 (5b), 71.07 (5d), 71.10 (4) (gwb), 71.10 (4) (gx), 71.28 (5b), 71.30 (3)
4 (eop), 71.47 (5b), 71.49 (1) (eop), 560.03 (25), 560.03 (26), 560.205 and 560.275
5 of the statutes; **relating to:** creating a technology commercialization grant and
6 loan program, creating an angel investment tax credit and an early stage seed
7 investment tax credit, facilitating the development of certain investor
8 networks, and granting rule-making authority and making an appropriation.

1-9 *The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

~~SECTION 20.143~~ (1) (dk) of the statutes is created to read:

10 20.143 (1) (dk) *Technology commercialization grant and loan program;*
11 *assistance.* Biennially, the amounts in the schedule for grants and loans under s.
12 560.275 (2).

1 **SECTION 2.** 20.143 (1) (ik) of the statutes is created to read:

2 20.143 (1) (ik) *Technology commercialization grant and loan program;*
3 *repayments.* All moneys received in repayment of grants and loans made under s.
4 560.275 (2), to be used for grants and loans under s. 560.275 (2).

5 **SECTION 3.** 71.05 (6) (a) 15. of the statutes, as affected by 2003 Wisconsin Act
6 99, is amended to read:

7 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
8 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), ~~and (3t), (5b), and (5d)~~ and not
9 passed through by a partnership, limited liability company, or tax-option
10 corporation that has added that amount to the partnership's, company's, or
11 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

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

13 71.07 (5b) EARLY STAGE SEED INVESTMENT CREDIT. (a) *Definitions.* In this
14 subsection:

15 1. "Claimant" means a person who files a claim under this subsection.

16 2. "Fund manager" means an investment fund manager certified under s.
17 560.205 (2).

18 (b) *Filing claims.* For taxable years beginning after December 31, 2004, subject
19 to the limitations provided under this subsection and s. 560.205, a claimant may
20 claim as a credit against the tax imposed under ss. 71.02 and 71.08, up to the amount
21 of those taxes, 25 percent of the claimant's initial investment paid in the taxable year
22 to a fund manager that the fund manager invests in a business certified under s.
23 560.205 (1).

1 (c) *Limitations.* 1. The maximum amount of the credits that may be claimed
2 under this subsection and ss. 71.28 (5b) and 71.47 (5b) for all taxable years combined
3 is \$35,000,000.

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

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

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

16 **71.07 (5d) ANGEL INVESTMENT CREDIT.** (a) *Definitions.* In this subsection:

17 1. “Bona fide angel investment” means a purchase of an equity interest, or any
18 other expenditure, as determined by rule under s. 560.205, that is made by any of the
19 following:

20 a. An individual who reviews new businesses or proposed new businesses for
21 potential investment of the individual’s money.

22 b. A network of individuals who satisfy subd. 1.

23 2. “Claimant” means an individual who files a claim under this subsection.

24 3. “Qualified new business venture” means a business that is certified under
25 s. 560.205 (1).

1 (b) *Filing claims.* Subject to the limitations provided in this subsection and in
2 s. 560.205, a claimant may claim as a credit against the tax imposed under s. 71.02
3 or 71.08, up to the amount of those taxes, in each taxable year for 2 years, beginning
4 with the taxable year in which the claimant's initial investment is made, an amount
5 equal to 12.5 percent of the claimant's bona fide angel investment made directly in
6 a qualified new business venture in the taxable year.

7 (c) *Limitations.* 1. The maximum amount of the credits that may be claimed
8 under this subsection for all taxable years combined is \$30,000,000.

9 2. The maximum amount of a claimant's investment that may be used as the
10 basis for a credit under this subsection is \$500,000 for each investment made directly
11 in a business certified under s. 560.205 (1).

12 3. For a claimant who is a nonresident or part-year resident of this state and
13 who is a single person or a married person filing a separate return, multiply the
14 credit for which the claimant is eligible under par. (b) by a fraction, the numerator
15 of which is the individual's Wisconsin adjusted gross income and the denominator of
16 which is the individual's federal adjusted gross income. If a claimant is married and
17 files a joint return, and if the claimant or the claimant's spouse, or both, are
18 nonresidents or part-year residents of this state, multiply the credit for which the
19 claimant is eligible under par. (b) by a fraction, the numerator of which is the couple's
20 joint Wisconsin adjusted gross income and the denominator of which is the couple's
21 joint federal adjusted gross income.

22 (d) *Administration.* 1. If an investment for which a claimant claims a credit
23 under par. (b) is held by the claimant for less than one year, the claimant shall pay
24 to the department, in the manner prescribed by the department, the amount of the
25 credit that the claimant received related to the investment.

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

3 3. Subsection (9e) (d), to the extent that it applies to the credit under that
4 subsection, applies to the credit under this subsection.

5 **SECTION 6.** 71.08 (1) (intro.) of the statutes, as affected by 2003 Wisconsin Act
6 99, is amended to read:

7 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
8 couple filing jointly, trust or estate under s. 71.02, not considering the credits under
9 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3s), (3t),
10 (5b), (5d), (6), and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m),
11 (3), and (3t) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m), (3), and
12 (3t) and subchs. VIII and IX and payments to other states under s. 71.07 (7), is less
13 than the tax under this section, there is imposed on that natural person, married
14 couple filing jointly, trust or estate, instead of the tax under s. 71.02, an alternative
15 minimum tax computed as follows:

16 **SECTION 7.** 71.10 (4) (gwb) of the statutes is created to read:

17 71.10 (4) (gwb) Early stage seed investment credit under s. 71.07 (5b).

18 **SECTION 8.** 71.10 (4) (gx) of the statutes is created to read:

19 71.10 (4) (gx) Angel investment credit under s. 71.07 (5d).

20 **SECTION 9.** 71.21 (4) of the statutes, as affected by 2003 Wisconsin Act 99, is
21 amended to read:

22 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
23 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3s), ~~and (3t)~~, and (5b) and passed through to
24 partners shall be added to the partnership's income.

1 **SECTION 10.** 71.26 (2) (a) of the statutes, as affected by 2003 Wisconsin Act 99,
2 is amended to read:

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

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

22 71.28 (5b) **EARLY STAGE SEED INVESTMENT CREDIT.** (a) *Definitions.* In this
23 subsection:

24 1. “Claimant” means a person who files a claim under this subsection.

1 2. “Fund manager” means an investment fund manager certified under s.
2 560.205 (2).

3 (b) *Filing claims.* For taxable years beginning after December 31, 2004, subject
4 to the limitations provided under this subsection and s. 560.205, a claimant may
5 claim as a credit against the tax imposed under s. 71.23, up to the amount of those
6 taxes, 25 percent of the claimant’s initial investment paid in the taxable year to a
7 fund manager that the fund manager invests in a business certified under s. 560.205
8 (1).

9 (c) *Limitations.* 1. The maximum amount of the credits that may be claimed
10 under this subsection and ss. 71.07 (5b) and 71.47 (5b) for all taxable years combined
11 is \$35,000,000.

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

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

23 **SECTION 12.** 71.30 (3) (eop) of the statutes is created to read:

24 71.30 (3) (eop) Early stage seed investment credit under s. 71.28 (5b).

1 **SECTION 13.** 71.34 (1) (g) of the statutes, as affected by 2003 Wisconsin Act 99,
2 is amended to read:

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

6 **SECTION 14.** 71.45 (2) (a) 10. of the statutes, as affected by 2003 Wisconsin Act
7 99, is amended to read:

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

14 **SECTION 15.** 71.47 (5b) of the statutes is created to read:

15 71.47 (5b) **EARLY STAGE SEED INVESTMENT CREDIT.** (a) *Definitions.* In this
16 subsection:

17 1. "Claimant" means a person who files a claim under this subsection.

18 2. "Fund manager" means an investment fund manager certified under s.
19 560.205 (2).

20 (b) *Filing claims.* For taxable years beginning after December 31, 2004, subject
21 to the limitations provided under this subsection and s. 560.205, a claimant may
22 claim as a credit against the tax imposed under s. 71.43, up to the amount of those
23 taxes, 25 percent of the claimant's initial investment paid in the taxable year to a
24 fund manager that the fund manager invests in a business certified under s. 560.205
25 (1).

1 (c) *Limitations.* 1. The maximum amount of the credits that may be claimed
2 under this subsection and ss. 71.07 (5b) and 71.28 (5b) for all taxable years combined
3 is \$35,000,000.

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

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

15 **SECTION 16.** 71.49 (1) (eop) of the statutes is created to read:

16 71.49 (1) (eop) Early stage seed investment credit under s. 71.47 (5b).

17 **SECTION 17.** 77.92 (4) of the statutes, as affected by 2003 Wisconsin Act 99, is
18 amended to read:

19 77.92 (4) “Net business income”, with respect to a partnership, means taxable
20 income as calculated under section 703 of the Internal Revenue Code; plus the items
21 of income and gain under section 702 of the Internal Revenue Code, including taxable
22 state and municipal bond interest and excluding nontaxable interest income or
23 dividend income from federal government obligations; minus the items of loss and
24 deduction under section 702 of the Internal Revenue Code, except items that are not
25 deductible under s. 71.21; plus guaranteed payments to partners under section 707

1 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
2 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), ~~and (3t)~~, and (5b); and plus or
3 minus, as appropriate, transitional adjustments, depreciation differences, and basis
4 differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain,
5 loss, and deductions from farming. “Net business income”, with respect to a natural
6 person, estate, or trust, means profit from a trade or business for federal income tax
7 purposes and includes net income derived as an employee as defined in section 3121
8 (d) (3) of the Internal Revenue Code.

9 **SECTION 18.** 560.03 (25) of the statutes is created to read:

10 560.03 (25) In cooperation with the department of financial institutions and
11 the board of regents of the University of Wisconsin System, provide education and
12 other support to facilitate the development networks of bona fide angel investors, as
13 defined in s. 71.07 (5d) (a) 1.

14 **SECTION 19.** 560.03 (26) of the statutes is created to read:

15 560.03 (26) In cooperation with the department of financial institutions and
16 the board of regents of the University of Wisconsin System, annually conduct and
17 publish the results of a study of Wisconsin businesses to determine new business
18 formation trends and identify obstacles faced by new Wisconsin businesses and areas
19 where changes in governmental policy may satisfy the needs of new Wisconsin
20 businesses. As part of the study, the department of commerce shall conduct a survey
21 of Wisconsin businesses.

22 **SECTION 20.** 560.205 of the statutes is created to read:

23 **560.205 Early stage business investment program.** (1) ANGEL
24 INVESTMENT TAX CREDITS. The department shall implement a program to certify
25 businesses for purposes of s. 71.07 (5d). A business desiring certification shall

1 submit an application to the department in each taxable year for which the business
2 desires certification. Unless otherwise provided under the rules of the department,
3 a business may be certified under this subsection, and may maintain such
4 certification, only if the business satisfies all of the following conditions:

5 (a) It has its headquarters in this state.

6 (b) At least 51 percent of the employees employed by the business are employed
7 in this state.

8 (f) It is engaged in, or has committed to engage in, manufacturing, agriculture,
9 or processing or assembling products and conducting research and development or
10 developing a new product or business process.

11 (g) It is not engaged in real estate development, insurance, banking, lending,
12 lobbying, political consulting, professional services provided by attorneys,
13 accountants, business consultants, physicians, or health care consultants, wholesale
14 or retail trade, leisure, hospitality, transportation, or construction.

15 (h) It has less than 100 employees.

16 (j) It has been in operation in this state for not more than 7 consecutive years.

17 (k) It has not received more than \$1,000,000 in investments that have qualified
18 for tax credits under s. 71.07 (5d).

19 (2) EARLY STAGE SEED INVESTMENT TAX CREDITS. The department shall implement
20 a program to certify investment fund managers for purposes of ss. 71.07 (5b), 71.28
21 (5b), and 71.47 (5b). An investment fund manager desiring certification shall submit
22 an application to the department. In determining whether to certify an investment
23 fund manager, the department shall consider the investment fund manager's
24 experience in managing venture capital funds, the past performance of investment
25 funds managed by the applicant, the expected level of investment in the investment

1 fund to be managed by the applicant, and any other relevant factors. The
2 department may certify only investment fund managers that commit to consider
3 placing investments in businesses certified under sub. (1).

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

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

11 (c) *Annual report.* Annually, no later than September 15, the department shall
12 submit a report to the chief clerk of each house of the legislature for distribution to
13 the legislature under s. 13.172 (2), listing all of the following information:

14 1. The total amount of tax credits claimed under ss. 71.07 (5b) and (5d), 71.28
15 (5b), and 71.47 (5b) per taxable year.

16 2. The name of each business in which investments qualifying for such tax
17 credits were made, the amount of such tax credits, and the amount of such
18 investments.

19 3. Any other information the department considers reasonable to include.

20 (d) *Rules.* The department of commerce, in consultation with the department
21 of revenue, shall promulgate rules to administer this section. The rules shall further
22 define "bona fide angel investment" for purposes of s. 71.07 (5d) (a) 1. The rules shall
23 limit the aggregate amount of tax credits under s. 71.07 (5d) that may be claimed for
24 investments in businesses certified under sub. (1) at \$3,000,000 per taxable year for
25 taxable years beginning after December 31, 2004, and before January 1, 2015. The

1 rules shall also limit the aggregate amount of the tax credits under ss. 71.07 (5b),
2 71.28 (5b), and 71.47 (5b) that may be claimed for investments paid to fund managers
3 certified under sub. (2) at \$3,500,000 per taxable year for taxable years beginning
4 after December 31, 2004, and before January 1, 2015. The rules may not permit the
5 department of commerce or the department of revenue to assign a dollar amount of
6 investments qualifying for tax credits that a particular business may subsequently
7 raise.

8 SECTION 21. 560.275 of the statutes is created to read:

9 **560.275 Technology commercialization grant and loan program. (1)**

10 DEFINITION. In this section, “Project costs” means the total cost of a project financed,
11 at least in part, by a grant or loan under sub. (2), calculated as provided by rule of
12 the department.

13 (2) AUTHORIZED GRANTS AND LOANS. (a) *Early stage planning grants and loans.*
14 The department may make a grant or loan from the appropriation under s. 20.143
15 (1) (dk) or (ik) for the purpose of funding professional services related to completing
16 an application to be submitted to the federal government for the purpose of obtaining
17 early stage research and development funding or for the purpose of funding
18 professional services that are required to accomplish specific tasks established as a
19 condition of receiving early stage financing from 3rd parties that is necessary for
20 business development.

21 (b) *Matching grants and loans.* 1. The department may make a grant or loan
22 from the appropriation under s. 20.143 (1) (dk) or (ik) for the purpose of funding
23 professional services related to developing a proposed technologically innovative
24 product, process, or service, if the applicant has received a grant from the federal
25 government for a substantially similar purpose.

1 2. The department may make a grant or loan from the appropriation under s.
2 20.143 (1) (dk) or (ik) for the purpose of funding professional services related to the
3 accelerated commercialization of a technologically innovative product, process, or
4 service, if the federal government has notified the applicant that the applicant will
5 receive a grant from the federal government for a substantially similar purpose.

6 (c) *Bridge grants and loans.* The department may make a grant or loan from
7 the appropriation under s. 20.143 (1) (dk) or (ik) to a person who has received early
8 stage financing from 3rd parties or a grant from the federal government to fund early
9 stage research and development and who has sought additional early stage financing
10 from 3rd parties or applied for an additional grant from the federal government to
11 fund early stage research and development. A grant or loan under this paragraph
12 shall be for the purpose of funding professional services necessary to maintain the
13 project research and management team and funding basic operations until the
14 applicant's additional 3rd party financing request or federal grant application is
15 approved or denied.

16 (d) *Venture capital grants and loans.* The department may make a grant or loan
17 from the appropriation under s. 20.143 (1) (dk) or (ik) for the purpose of enhancing
18 the applicant's ability to obtain early stage financing from 3rd parties.

19 (e) *Entrepreneurial and technology transfer center grants.* The department
20 may make a grant from the appropriation under s. 20.143 (1) (dk) or (ik) for the
21 purpose of supporting any entrepreneurial and technology transfer center that
22 satisfies all of the following criteria:

- 23 1. The center serves multiple regions of this state.
- 24 2. The center provides assistance, other than financial assistance, to
25 entrepreneurs to facilitate business development.

1 3. The center reviews and analyzes entrepreneurial business plans and offers
2 advice concerning the improvement of the plans.

3 4. The center provides advice to entrepreneurs concerning patent, trademark,
4 and copyright issues.

5 5. The center provides appropriate referral services to entrepreneurs.

6 **(3) GRANT AND LOAN AMOUNTS.** (a) *Early stage planning grants and loans.* In
7 determining the amount of a grant or loan under sub. (2) (a), the department shall
8 consider all of the following, in addition to any other information the department
9 considers relevant:

10 1. The amount of economic impact the applicant, if successful, will have in this
11 state.

12 2. The quality of any businesses assisting the applicant.

13 3. The level of need demonstrated by the applicant.

14 4. The applicant's record of obtaining early stage financing in the past.

15 (b) *Matching grants and loans.* In determining the amount of a grant or loan
16 under sub. (2) (b), the department shall consider all of the following criteria, in
17 addition to any other information the department considers relevant:

18 1. The viability of the applicant's business.

19 2. The likelihood that the applicant will successfully commercialize technology.

20 3. The applicant's management plan and management team.

21 4. The amount of economic impact the applicant, if successful, will have in this
22 state.

23 5. The applicant's record of obtaining early stage financing in the past.

24 **(4) LIMITATIONS ON GRANT AND LOAN AMOUNTS.** (a) *Early stage planning grants*
25 *and loans.* A grant or loan under sub. (2) (a) may not exceed \$15,000.

1 (b) *Matching grants and loans.* A grant or loan under sub. (2) (b) may not
2 exceed 20 percent of the project costs or \$250,000, whichever is less.

3 (c) *Bridge grants and loans.* A grant or loan under sub. (2) (c) may not exceed
4 75 percent of the project costs or \$100,000, whichever is less.

5 (d) *Venture capital grants and loans.* A grant or loan under sub. (2) (d) may not
6 exceed 50 percent of the project costs or \$250,000, whichever is less.

7 (e) *Entrepreneurial and technology transfer grants.* The total amount of grants
8 under sub. (2) (e) may not exceed \$500,000 in any fiscal year.

9 (f) No grants or loans may be awarded under this section before July 1, 2005.
10 The total amount of all grants and loans awarded under sub. (2) may not exceed
11 \$2,600,000 in each fiscal year, beginning with fiscal year 2005-06.

12 (5) ELIGIBILITY. The department may make a grant or loan under sub. (2) (a)
13 to (d) to an applicant only if all of the following apply:

14 (a) The applicant:

15 1. Is a small business, or individual entrepreneur who intends to form a small
16 business, that is completing a grant application to be submitted to the federal
17 government for the purpose of obtaining early stage research and development
18 funding, except that if the application is for a grant under sub. (2) (b), the
19 requirement that the applicant be completing a federal grant application does not
20 apply; or

21 2. Is an individual who is starting or developing a business which has
22 significant growth potential, as evidenced by the potential to attract and receive
23 early stage financing from 3rd parties, but who needs assistance with a specific facet
24 of starting or developing the business.

1 (b) If the applicant seeks a grant or loan under sub. (2) (a), the applicant has
2 sufficient funding from sources other than the state to finance at least 25% of the
3 project costs.

4 (c) The applicant has or will have a business location in this state.

5 (d) If the application relates to a product, the product will be manufactured
6 substantially in this state.

7 (e) If the application relates to a service, the principal place of business from
8 which the service will be sold will be located in this state.

9 (f) All grant moneys will be spent in this state.

10 (6) GRANT AND LOAN DISTRIBUTION PLAN. No later than December 1 of each
11 even-numbered year, the department shall develop a biennial plan for awarding
12 grants and loans under sub. (2) and shall submit the plan to the governor and to the
13 chief clerk of each house of the legislature, for distribution to the appropriate
14 standing committees under s. 13.172 (3).

15 (7) ADMINISTRATION. (a) *In-kind grants of services.* The department may
16 contract with, and pay the proceeds of any grant under sub. (2) (a) to (d) directly to,
17 any person who provides services which the grant is intended to fund.

18 (b) *Rules.* The department shall promulgate rules to administer this section.
19 The rules shall establish application, reporting, auditing, and monitoring
20 requirements.

21 **SECTION 22. Nonstatutory provisions.**

22 (1) RULES.

23 (a) The department of commerce shall submit in proposed form the rules
24 required under sections 560.205 and 560.275 of the statutes, as created by this act,

1 to the legislative council staff under section 227.15 (1) of the statutes no later than
2 the first day of the 6th month beginning after the effective date of this paragraph.

3 (b) The department of revenue shall submit in proposed form the rules required
4 under section 71.07 (5d) (a) 1. of the statutes, as created by this act, to the legislative
5 council staff under section 227.15 (1) of the statutes no later than the first day of the
6 6th month beginning after the effective date of this paragraph.

7 **SECTION 23. Appropriation changes.**

8 (1) AUTHORIZED POSITIONS AND PROMOTIONAL ACTIVITIES. In the schedule under
9 section 20.005 (3) of the statutes for the appropriation to the department of commerce
10 under section 20.143 (1) (a) of the statutes, as affected by the acts of 2005, the dollar
11 amount is increased by \$100,000 for fiscal year 2005–06 and the dollar amount is
12 increased by \$200,000 for fiscal year 2006–07 to increase the authorized FTE
13 positions for the department by 2.0 GPR positions for the administration of section
14 560.275 of the statutes, as created by this act, and to provide funding for educational
15 publications and instruction provided by the department to promote the technology
16 commercialization grant and loan program.

17 **SECTION 24. Initial applicability.**

18 (1) The treatment of sections 71.05 (6) (a) 15., 71.07 (5b) and (5d), 71.08 (1)
19 (intro.), 71.10 (4) (gwb) and (gx), 71.21 (4), 71.26 (2) (a), 71.28 (5b), 71.30 (3) (eop),
20 71.34 (1) (g), 71.45 (2) (a) 10., 71.47 (5b), 71.49 (1) (eop), and 77.92 (4) of the statutes
21 first applies to taxable years beginning on January 1, 2005.

22 **SECTION 25. Effective dates.** This act takes effect on July 1, 2004, except as
23 follows:

24 (1) RULES. SECTION 22 (1) of this act takes effect on the day after publication.

18-16 ✓

**ASSEMBLY AMENDMENT 1,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2003 SENATE BILL 261**

March 10, 2004 - Offered by Representatives GARD and NISCHKE.

1 At the locations indicated, amend the substitute amendment as follows:

2 ✓ 1. Page 1, line 9: before that line insert:

3 "SECTION 1b. 20.005 (3) (schedule) of the statutes: at the appropriate place,
4 insert the following amounts for the purposes indicated:

5 2003-04 2004-05

6 **20.143 Commerce, department of**

7 (1) ECONOMIC AND COMMUNITY DEVELOPMENT

8 (dk) Technology commercialization

9 grant and loan program; assis-

10 tance

GPR B

-0- ✓ \$2,600,000

1-9

11 " .

1 ✓ **2.** Page 1, line 9: delete "SECTION 1" and substitute "SECTION 1m".

2 ✓ **3.** Page 16, line 9: delete lines 9 to 11.

3 ✓ **4.** Page 18, line 16: after that line insert:

4 ~~(2m)~~ TECHNOLOGY COMMERCIALIZATION GRANT AND LOAN PROGRAM.

5 Notwithstanding section 20.001 (3) (c) of the statutes, on June 30, 2005, there is

6 lapsed to the general fund \$2,600,000 from the appropriation account of the

7 department of commerce under section 20.143 (1) (dk) of the statutes, as affected by

8 the acts of 2003".

9

(END)

18-16