

2003 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB261)

Received: **11/07/2003**

Received By: **rmarchan**

Wanted: **Today**

Identical to LRB:

For: **Ted Kanavas (608) 266-9174**

By/Representing: **jeremy**

This file may be shown to any legislator: **NO**

Drafter: **rmarchan**

May Contact:

Addl. Drafters: **jkreye**

Subject: **Econ. Development - bus. dev.
Tax Credits - individual income**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Kanavas@legis.state.wi.us**

Carbon copy (CC:) to: **robert.marchant@legis.state.wi.us
joseph.kreye@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

SSA (angel investor credit) to SB-261 (new business venture tax credits)

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rmarchan 11/07/2003 jkreye 11/07/2003	jdyer 11/07/2003		_____			
/1	rmarchan	jdyer	chaugen	_____	mbarman	mbarman	

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/2	rmarchan 11/11/2003	csicilia 11/11/2003	jfrantze 11/10/2003	_____	lemery 11/10/2003	lemery 11/10/2003	
/3	rmarchan 11/12/2003	csicilia 11/12/2003	jfrantze 11/12/2003	_____	lemery 11/12/2003	lemery 11/12/2003	
/4			pgreensl 11/12/2003	_____	sbasford 11/12/2003	sbasford 11/12/2003	

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Jc 11/12 *Jc/Ks 11/12*

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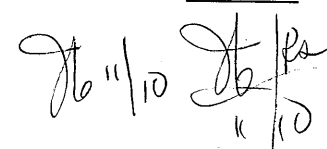
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	jkreya 11/07/2003	1/2 11/10 jld		_____			
/1			chaugen 11/07/2003	_____	mbarman 11/07/2003	mbarman 11/07/2003	



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/?	rmarchan	1/11/03 jld	ch 11-7	ch 11-7 pb			

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SB-721

SUB

TODAY

Annual cap. gains price

Cap @ \$30 million credits

40%

Limit to angel investors

Max inv. qualifying for credit = \$500,000

Q. b.

1/2 LT

51% eq. in LT

≤ 100 eqs

Net worth \$10.

Net inc. \$5

~~Not for sale, etc. (as in statute) (11)~~

In business < 7 years

Do manuf., ag., process/man. products, long R&D
anything else by rule

new prod. or process

Incl. activities per Commerce (except reg. rules for

2:00 Today

stays

SENATE SUBSTITUTE AMENDMENT X,

TO 2003 SENATE BILL 261

LPS -
check
auto refs

October 30, 2003 - Offered by JOINT COMMITTEE ON FINANCE.

re gen

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* 71.05 (6) (b) 9m., 71.07 (5d),
 3 71.10 (4) (gx), 71.28 (5d), 71.30 (3) (eop), 71.47 (5d), 71.49 (1) (eop) and 560.03
 4 (24) to (27) of the statutes; **relating to:** creating a qualified new business
 5 venture tax credit and ~~increasing the capital gains exclusion regarding~~
 6 ~~investments in certified venture capital funds and qualified new business~~
 7 ~~ventures, requiring a study of new Wisconsin businesses,~~ facilitating the
 8 development of certain investor networks, ✓ and granting rule-making
 9 authority.

Analysis by the Legislative Reference Bureau

This substitute amendment creates an income and franchise tax credit for investments in a new business venture that has its headquarters and the majority of its employees in this state. The substitute amendment requires a business desiring certification as a new business venture for purposes of this tax credit to apply to the Department of Commerce. To obtain certification, the business must be

a corporation or limited liability company, must not be engaged in the transportation or construction business, and must satisfy certain other criteria. The Department of Commerce may certify only the first 1,000 businesses that apply for any taxable year and must process applications in the order in which they are received. The amount of the tax credit is equal to 20 percent of the taxpayer's investment in a new business venture in the taxable year, except that if the taxpayer's investment exceeds \$100,000 in the taxable year the taxpayer may claim 20 percent of \$100,000 plus ten percent of the amount of the investment that exceeds \$100,000.

This substitute amendment also requires the Department of Commerce, in cooperation with the Department of Financial Institutions and the University of Wisconsin System, to annually conduct and publish the results of a study of Wisconsin businesses to determine new business formation trends and identify obstacles faced by new Wisconsin businesses and areas where changes in governmental policy may satisfy the needs of new Wisconsin businesses. In addition, the substitute amendment requires the Department of Commerce, in cooperation with the Department of Financial Institutions and the University of Wisconsin System, to provide education and other support to facilitate the development of networks of investors that review new businesses or proposed new businesses for potential investment (commonly called "angel capital networks").

Under current law, there is an income tax exclusion for individuals and tax-option corporations for 60 percent of the net capital gains realized from the sale of assets held for at least one year.

Under this substitute amendment, for assets held more than one year, the income tax exclusion for capital gains is increased to 100 percent, to the extent that the gain is not already excluded from taxation, for gains realized on the sale of an investment in a certified venture capital fund or in a certified new business venture.

Under this substitute amendment, the Department of Commerce must promulgate rules establishing a procedure for certifying venture capital funds for purposes of the capital gains tax exemption described above. A venture capital fund may obtain a certification only if the venture capital fund is a private seed and venture capital partnership or entity fund, the venture capital fund has its principal place of business in Wisconsin, and the venture capital fund commits to maintain an average of 50 percent of its equity investments in businesses located in Wisconsin. The substitute amendment requires the Department of Commerce, upon request of any person, to issue a written notice indicating whether a venture capital fund is certified. Each such notice that indicates a venture capital fund is certified must include the following statement: "THE WISCONSIN DEPARTMENT OF COMMERCE HAS NOT RECOMMENDED OR APPROVED AN INVESTMENT IN THIS VENTURE CAPITAL FUND OR ASSESSED THE MERITS OR RISKS OF SUCH AN INVESTMENT. INVESTORS SHOULD RELY SOLELY ON THEIR OWN INVESTIGATION AND ANALYSIS AND SEEK INVESTMENT, FINANCIAL, LEGAL, AND TAX ADVICE BEFORE MAKING THEIR OWN DECISION REGARDING INVESTMENT IN THIS ENTERPRISE." The substitute amendment also requires the Department of Commerce, upon issuing

or discontinuing a certification, to notify DOR and give DOR a copy of the certification or discontinuance.

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

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

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

7 SECTION 2. 71.05 (6) (b) 9m. of the statutes is created to read:

8 71.05 (6) (b) 9m. On assets held more than one year, to the extent that the gains
9 are not excluded from taxation under subd. 9., 100 percent of the capital gain as
10 computed under the Internal Revenue Code if the gain is realized from the sale of an
11 asset that is an investment in a qualified new business venture that is certified under
12 s. 560.03 (26) or a venture capital fund that is certified under s. 560.03 (27). For
13 purposes of this subdivision, the capital gains and capital losses for all assets shall
14 be netted before application of the percentage.

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

16 71.07 (5d) QUALIFIED NEW BUSINESS VENTURE CREDIT. (a) In this subsection:

17 1. "Claimant" means ~~person~~ ^{an individual} who files a claim under this subsection.

18 2. "Qualified new business venture" means a business that is certified under
19 s. 560.03 (26).

20 (b) Subject to the limitations provided in this subsection and in s. 560.03 (26),
21 a claimant may claim as a credit against the tax imposed under s. 71.02 or 71.08, up

Definitions. I

Filing claims. I

INSERT 3-3

angel

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1 to the amount of those taxes, an amount equal to ~~20~~ ⁴⁰ percent of the claimant's ~~equity~~ ^{investment}
 2 investment made directly in a qualified new business venture in the taxable year
 3 ~~except that if the claimant's investment exceeds \$100,000 in the taxable year the~~
 4 ~~claimant may claim 20 percent of \$100,000 plus 10 percent of the amount of the~~
 5 ~~investment that exceeds \$100,000.~~ Administration. 1. (NO)

INSERT
4-5

6 (b) If an investment for which a claimant claims a credit under par. (b) is held
 7 by the claimant for less than one year, the claimant shall pay to the department, in
 8 the manner prescribed by the department, the amount of the credit that the claimant
 9 received related to the investment.

10 ~~(e) The carry-over provisions of s. 71.28 (4) (e) and (f), as they apply to the credit~~
 11 ~~under s. 71.28 (4), apply to the credit under this subsection.~~

12 ~~(d) 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 the amounts described under par. (b) that are attributable to~~
 15 ~~their business operations. A partnership, limited liability company, or tax-option~~
 16 ~~corporation shall compute the amount of credit that each of its partners, members,~~
 17 ~~or shareholders may claim and shall provide that information to each of them.~~
 18 ~~Partners, members of limited liability companies, and shareholders of tax-option~~
 19 ~~corporations may claim the credit in proportion to their ownership interest.~~

20 Section 71.28 (4) ~~by~~ ^{(e) to} (h), as it applies to the credit under s. 71.28 (4),
 21 applies to the credit under this subsection.

22 SECTION 4. 71.08 (1) (intro.) of the statutes is amended to read:

23 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
 24 couple filing jointly, trust or estate under s. 71.02, not considering the credits under
 25 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3s), (5d).

3. Sub Section 71.07 (9e) (d), to the extent that it applies to the credit
 under that subsection, applies to the credit under this subsection.

1 (6), ~~(6s)~~, and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) and
2 (3) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) and (3) and
3 subchs. VIII and IX and payments to other states under s. 71.07 (7), is less than the
4 tax under this section, there is imposed on that natural person, married couple filing
5 jointly, trust or estate, instead of the tax under s. 71.02, an alternative minimum tax
6 computed as follows:

7 SECTION 5. 71.10 (4) (gx) [✓] of the statutes is created to read:

8 71.10 (4) (gx) Qualified new business venture credit [✓] under s. 71.07 (5d).

9 ~~SECTION 6. 71.21 (4) of the statutes is amended to read:~~

10 ~~71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
11 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), and (3s), and (5d) and passed through to
12 partners shall be added to the partnership's income.~~

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

14 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
15 the gross income as computed under the Internal Revenue Code as modified under
16 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
17 computed under s. 71.28 (1), (3), (4), and (5) plus the amount of the credit computed
18 under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), and (3g), and (5d)
19 and not passed through by a partnership, limited liability company, or tax-option
20 corporation that has added that amount to the partnership's, limited liability
21 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus
22 the amount of losses from the sale or other disposition of assets the gain from which
23 would be wholly exempt income, as defined in sub. (3) (L), if the assets were sold or
24 otherwise disposed of at a gain and minus deductions, as computed under the
25 Internal Revenue Code as modified under sub. (3), plus or minus, as appropriate, an

1 amount equal to the difference between the federal basis and Wisconsin basis of any
2 asset sold, exchanged, abandoned, or otherwise disposed of in a taxable transaction
3 during the taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

4 **SECTION 8.** 71.28 (5d) of the statutes is created to read:

5 **71.28 (5d) QUALIFIED NEW BUSINESS VENTURE CREDIT.** (a) In this subsection:

- 6 1. "Claimant" means a person who files a claim under this subsection.
- 7 2. "Qualified new business venture" means a business that is certified under
8 s. 560.03 (26).

9 (b) Subject to the limitations provided in this subsection and in s. 560.03 (26),
10 a claimant may claim as a credit against the tax imposed under s. 71.23, up to the
11 amount of those taxes, an amount equal to 20 percent of the claimant's equity
12 investment made directly in a qualified new business venture in the taxable year,
13 except that if the claimant's investment exceeds \$100,000 in the taxable year the
14 claimant may claim 20 percent of \$100,000 plus 10 percent of the amount of the
15 investment that exceeds \$100,000.

16 (bm) If an investment for which a claimant claims a credit under par. (b) is held
17 by the claimant for less than one year, the claimant shall pay to the department, in
18 the manner prescribed by the department, the amount of the credit that the claimant
19 received related to the investment.

20 (c) The carry-over provisions of sub. (4) (e) and (f), as they apply to the credit
21 under sub. (4), apply to the credit under this subsection.

22 (d) Partnerships, limited liability companies, and tax-option corporations may
23 not claim the credit under this subsection, but the eligibility for, and the amount of,
24 the credit are based on the amounts described under par. (b) that are attributable to
25 their business operations. A partnership, limited liability company, or tax-option

1 corporation shall compute the amount of credit that each of its partners, members,
2 or shareholders may claim and shall provide that information to each of them.
3 Partners, members of limited liability companies, and shareholders of tax-option
4 corporations may claim the credit in proportion to their ownership interest.

5 (e) Subsection (4) (g) and (h), as it applies to the credit under sub. (4), applies
6 to the credit under this subsection.

7 **SECTION 9.** 71.30 (3) (eop) of the statutes is created to read:

8 71.30 (3) (eop) Qualified new business venture credit under s. 71.28 (5d).

9 **SECTION 10.** 71.34 (1) (g) of the statutes is amended to read:

10 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
11 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), and
12 (3g), and (5d) and passed through to shareholders.

13 **SECTION 11.** 71.45 (2) (a) 10 of the statutes is amended to read:

14 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
15 computed under s. 71.47 (1dd) to (1dx) and (5d) 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) and the amount of credit computed under
19 s. 71.47 (1), (3), (4) and (5).

20 **SECTION 12.** 71.47 (5d) of the statutes is created to read:

21 71.47 (5d) QUALIFIED NEW BUSINESS VENTURE CREDIT. (a) In this subsection:

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

23 2. "Qualified new business venture" means a business that is certified under
24 s. 560.03 (26).

1 (b) Subject to the limitations provided in this subsection and in s. 560.03 (26),
2 a claimant may claim as a credit against the tax imposed under s. 71.43, up to the
3 amount of those taxes, an amount equal to 20 percent of the claimant's direct
4 investment made directly in a qualified new business venture in the taxable year,
5 except that if the claimant's investment exceeds \$100,000 in the taxable year the
6 claimant may claim 20 percent of \$100,000 plus 10 percent of the amount of the
7 investment that exceeds \$100,000.

8 (bm) If an investment for which a claimant claims a credit under par. (b) is held
9 by the claimant for less than one year, the claimant shall pay to the department, in
10 the manner prescribed by the department, the amount of the credit that the claimant
11 received related to the investment.

12 (c) The carry-over provisions of s. 71.28 (4) (e) and (f), as they apply to the credit
13 under s. 71.28 (4), apply to the credit under this subsection.

14 (d) 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 the amounts described under par. (b) that are attributable to
17 their business operations. A partnership, limited liability company, or tax-option
18 corporation shall compute the amount of credit that each of its partners, members,
19 or shareholders may claim and shall provide that information to each of them.
20 Partners, members of limited liability companies, and shareholders of tax-option
21 corporations may claim the credit in proportion to their ownership interest.

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

24 **SECTION 13.** 71.49 (1) (eop) of the statutes is created to read:

25 71.49 (1) (eop) Qualified new business venture credit under s. 71.47 (5d).

1 **SECTION 14.** ~~77.92 (4)~~ of the statutes is amended to read:

2 ~~77.92 (4) "Net business income", with respect to a partnership, means taxable~~
3 ~~income as calculated under section 703 of the Internal Revenue Code; plus the items~~
4 ~~of income and gain under section 702 of the Internal Revenue Code, including taxable~~
5 ~~state and municipal bond interest and excluding nontaxable interest income or~~
6 ~~dividend income from federal government obligations; minus the items of loss and~~
7 ~~deduction under section 702 of the Internal Revenue Code, except items that are not~~
8 ~~deductible under s. 71.21; plus guaranteed payments to partners under section 707~~
9 ~~(c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),~~
10 ~~(2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), and (3g), and (3s), and (5d); and plus or~~
11 ~~minus, as appropriate, transitional adjustments, depreciation differences, and basis~~
12 ~~differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain,~~
13 ~~loss, and deductions from farming. "Net business income", with respect to a natural~~
14 ~~person, estate, or trust, means profit from a trade or business for federal income tax~~
15 ~~purposes and includes net income derived as an employee as defined in section 3121~~
16 ~~(d) (3) of the Internal Revenue Code.~~

17 **SECTION 15.** ~~560.03 (24) to (27)~~ ^{(25) and (26)} of the statutes are created to read:

18 ~~560.03 (24) In cooperation with the department of financial institutions and~~
19 ~~the Board of Regents of the University of Wisconsin System, annually conduct and~~
20 ~~publish the results of a study of Wisconsin businesses to determine new business~~
21 ~~formation trends and identify obstacles faced by new Wisconsin businesses and areas~~
22 ~~where changes in governmental policy may satisfy the needs of new Wisconsin~~
23 ~~businesses. As part of the study, the department of commerce shall conduct a survey~~
24 ~~of Wisconsin businesses.~~

560.03

1

(25) In cooperation with the department of financial institutions and the Board of Regents of the University of Wisconsin System, provide education and other support to facilitate the development networks of investors ^{angel} that review new ~~businesses or proposed new businesses for potential investment~~ ^{as defined in s. 71.07(5d)(a)}

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(26) Certify businesses as qualified new business ventures for purposes of ~~§ 71.07(5d)(b), § 71.07(5d), § 71.07(5d), and § 71.07(5d)~~

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The department shall promulgate rules for the administration of this subsection. The rules shall require a business desiring certification to submit an application to the department in each taxable year for which the business desires certification. ~~The department shall process applications in the order in which they were received and shall certify only the first 1,000 eligible businesses that apply for certification for a taxable year.~~ The department shall maintain a list of businesses certified under this subsection and shall permit public access to the list through the department's Internet website. The department shall notify the department of revenue of every business certified under this subsection and the date on which any such business is decertified. A business may be certified under this subsection, and may maintain such certification, only if the business satisfies all of the following conditions:

Unless otherwise provided under the rules of the department of commerce

18

(a) It has its headquarters in this state.

19

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

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(c) Its average annual net income for each of the 2 taxable years immediately preceding the taxable year ^{to} which a credit is claimed ^{if any} does not exceed ~~\$20,000,000~~ ^{to} ~~\$20,000,000~~ ^{if certification applies} ~~\$20,000,000~~ ^{\$5,000,000}

22

23

(d) Its net worth in the taxable year ^{to} which a credit is claimed ^{if any} does not exceed ~~\$40,000,000~~ ^{to} ~~\$40,000,000~~ ^{if certification applies} ~~\$40,000,000~~ ^{\$10,000,000}

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DWS 11-1 ✓

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(e) It is not engaged predominantly in providing professional services by accountants, lawyers, or physicians.

(f) It is not engaged predominantly in wholesale or retail trade or in the leisure and hospitality industry.

(g) It is not engaged in banking or lending or in developing real estate for resale.

(h) It does not make loans to, or investments in, certified capital companies, as defined in s. 560.30 (2).

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

(j) It is a corporation or limited liability company.

(k) It is not engaged in the transportation or construction business.

(27) Certify venture capital funds as follows:

(a) The department shall promulgate rules establishing a procedure for the department to certify venture capital funds for purposes of the capital gains tax exemption under s. 71.05 (6) (b) 9m. The rules shall do all of the following:

1. Require a venture capital fund that desires to obtain a certification to file an application with the department.
2. Permit a venture capital fund to obtain a certification only if the venture capital fund is a private seed and venture capital partnership or entity fund, the venture capital fund has its principal place of business in Wisconsin, and the venture capital fund commits to maintain an average, calculated over a 4-year period, of 50 percent of its equity investments in businesses, as described under sub. (26), that are located in Wisconsin.
3. Require an applicant for certification or a certified venture capital fund to provide the department with any information the department determines is

1 necessary to ensure eligibility for certification and compliance with this subsection
2 and rules promulgated under this subsection.

3 (b) Upon request of any person, the department shall issue a written notice
4 indicating whether a venture capital fund is certified under this subsection for
5 purposes of the capital gains tax exemption under s. 71.05 (6) (b) 9m. Each notice
6 under this paragraph that indicates a venture capital fund is certified shall include
7 the following statement: "THE WISCONSIN DEPARTMENT OF COMMERCE HAS NOT
8 RECOMMENDED OR APPROVED AN INVESTMENT IN THIS VENTURE CAPITAL FUND OR ASSESSED
9 THE MERITS OR RISKS OF SUCH AN INVESTMENT. INVESTORS SHOULD RELY SOLELY ON THEIR
10 OWN INVESTIGATION AND ANALYSIS AND SEEK INVESTMENT, FINANCIAL, LEGAL, AND TAX
11 ADVICE BEFORE MAKING THEIR OWN DECISION REGARDING INVESTMENT IN THIS ENTERPRISE."

12 (c) Upon the issuance or discontinuance of a certification, the department of
13 commerce shall notify the department of revenue and provide the department of
14 revenue a copy of the certification or discontinuance.

15 **SECTION 16. Nonstatutory provisions.**

16 (1) RULES. The department of commerce shall submit in proposed form the rules
17 required under section 560.03 (26) ~~and 275~~ of the statutes, as created by this act, to
18 the legislative council staff under section 227.15 (1) of the statutes no later than the
19 first day of the 6th month beginning after the effective date of this subsection.

20 **SECTION 17. Initial applicability.**

21 (1) QUALIFIED NEW BUSINESS VENTURE CREDIT. The treatment of sections 71.05
22 (6) (a) 15., 71.07 (5d), 71.08 (1) (intro.), ^{and} 71.10 (4) (gx), ~~71.21 (4), 71.26 (2) (a), 71.28~~
23 ~~(5d), 71.30 (3) (eop), 71.34 (1) (g), 71.45 (2) (a) 10., 71.47 (5d), 71.49 (1) (eop), and 77.92~~
24 ~~of~~ of the statutes first applies to taxable years beginning on January 1, 2006.

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(2) INCREASED CAPITAL GAINS EXCLUSION. The treatment of section 71.05 (6) (b) 9m. of the statutes first applies to taxable years beginning on January 1, 2006.

SECTION 18. Effective dates. This act takes effect on July 1, 2004, except as

follows:

← a.f. ↓ ↓

(1) RULES. SECTION 16 (1) of this act takes effect on the day after publication. *AAA*

(END)

Insert 3 - 3

1 1. "Angel investment" means an investment made by any of the following:

2 a. An individual who reviews new businesses or proposed new businesses for
3 potential investment of the individual's money. ✓

4 b. A network of individuals who satisfy subd. 1. ✓

(end of insert 3-3)

Insert 4 - 5

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

7 2. The maximum amount of a claimant's investment that may be used as the
8 basis for a credit under this subsection is \$500,000 for each investment made directly
9 in a business certified under s. 560.03 (26). ✓

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

(end insert 4-5)

DWS 11-1

~~(e) It has been in existence for less than 7 years~~

e
It (e) It is engaged in, or has committed to engage in, manufacturing, processing or assembling products, conducting research and development, or developing a new product or business process, or any other activity specified by rule of the department.

It (f) It is not engaged in retail sales, real estate development, insurance, banking, lending, lobbying, political consulting, professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants, wholesale or retail trade, leisure, hospitality, transportation, or construction, except that the department may promulgate rules establishing a procedure for the department to grant an exception to this paragraph.

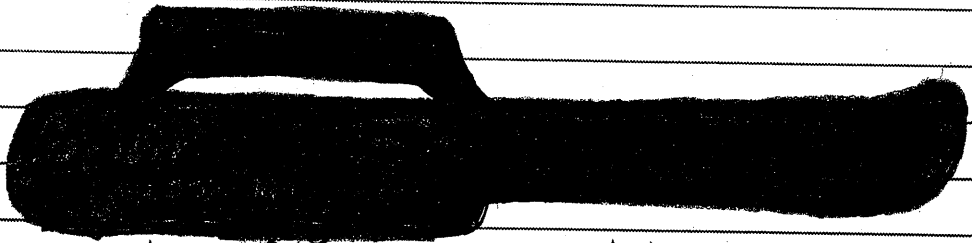
g
It (g) It has less than 100 employees, except that the department may promulgate rules establishing a procedure for the department to grant an exception to this paragraph.

~~It~~

Let me

SB 2001 026011

P2, def. of angel (line 3)

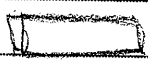


- bona fide investment, as determined by rule
dept. of commerce

- No more than [redacted] \$1,000,000 in investments
may qualify for credits per business.

✓ - Consume values for limiting tax credits @ \$5,000,000/yr.
Can't limit amt. of funds any particular bus. can raise

✓ P5 l 2 [redacted] to be eligible must
be either doing R+D OR develop new prod. or
process.





State of Wisconsin
2003 - 2004 LEGISLATURE

LRBs0260/4 2
JK/MES/RJM:jd:ch

TODAY by 4:30

Regen

SENATE SUBSTITUTE AMENDMENT,
TO 2003 SENATE BILL 261

Regen

1 AN ACT to amend 71.05 (6) (a) 15. and 71.08 (1) (intro.); and to create 71.07 (5d),
2 71.10 (4) (gx) and 560.03 (25) and (26) of the statutes; relating to: creating a
3 qualified new business venture tax credit, facilitating the development of
4 certain investor networks, and granting rule-making authority.

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

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

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

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

a purchase of an equity interest, or any other expenditure, as determined by rule by the department, that is

1 71.07 (5d) QUALIFIED NEW BUSINESS VENTURE CREDIT. (a) *Definitions.* In this

2 subsection: *bona fide*

3 1. "*Angel investment*" means ~~an investment~~ *investment* made by any of the following:

4 a. An individual who reviews new businesses or proposed new businesses for
5 potential investment of the individual's money.

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

7 2. "Claimant" means an individual who files a claim under this subsection.

8 3. "Qualified new business venture" means a business that is certified under
9 s. 560.03 (26).

10 (b) *Filing claims.* Subject to the limitations provided in this subsection and in
11 s. 560.03 (26), a claimant may claim as a credit against the tax imposed under s. 71.02
12 or 71.08, up to the amount of those taxes, an amount equal to 40 percent of the
13 claimant's *bona fide* ~~angel investment~~ *investment* made directly in a qualified new business venture in the
14 taxable year.

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

17 2. The maximum amount of a claimant's investment that may be used as the
18 basis for a credit under this subsection is \$500,000 for each investment made directly
19 in a business certified under s. 560.03 (26).

20 3. For a claimant who is a nonresident or part-year resident of this state and
21 who is a single person or a married person filing a separate return, multiply the
22 credit for which the claimant is eligible under par. (b) by a fraction, the numerator
23 of which is the individual's Wisconsin adjusted gross income and the denominator of
24 which is the individual's federal adjusted gross income. If a claimant is married and
25 files a joint return, and if the claimant or the claimant's spouse, or both, are

1 nonresidents or part-year residents of this state, multiply the credit for which the
2 claimant is eligible under par. (b) by a fraction, the numerator of which is the couple's
3 joint Wisconsin adjusted gross income and the denominator of which is the couple's
4 joint federal adjusted gross income.

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

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

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

13 **SECTION 3.** 71.08 (1) (intro.)[✓] of the statutes is amended to read:

14 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
15 couple filing jointly, trust or estate under s. 71.02, not considering the credits under
16 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3s), (5d),
17 (6), (~~6s~~), and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) and
18 (3) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) and (3) and
19 subchs. VIII and IX and payments to other states under s. 71.07 (7), is less than the
20 tax under this section, there is imposed on that natural person, married couple filing
21 jointly, trust or estate, instead of the tax under s. 71.02, an alternative minimum tax
22 computed as follows:

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

24 71.10 (4) (gx) Qualified new business venture credit under s. 71.07 (5d).

25 **SECTION 5.** 560.03 (25) and (26) of the statutes are created to read:

1 560.03 (25) In cooperation with the department of financial institutions and
2 the board of regents of the University of Wisconsin System, provide education and
3 other support to facilitate the development networks of ^{bona fide} angel investors, as defined
4 in s. 71.07 (5d) (a) 1. (a) ✓

5 (26) ✓ Certify businesses as qualified new business ventures for purposes of s.
6 71.07 (5d). The department shall promulgate rules for the administration of this
7 subsection. The rules shall require a business desiring certification to submit an
8 application to the department in each taxable year for which the business desires
9 certification. The department shall maintain a list of businesses certified under this
10 subsection ✓ and shall permit public access to the list through the department's
11 Internet website. The department shall notify the department of revenue of every
12 business certified under this ~~subsection~~ ✓ and the date on which any such business is
13 decertified. Unless otherwise provided ^{plain} under the rules of the department of
14 commerce, a business may be certified under this subsection, and may maintain such
15 certification, only if the business satisfies all of the following conditions:

16 1. ✓ (a) It has its headquarters in this state.

17 2. ✓ (b) At least 51 percent of the employees employed by the business are employed
18 in this state.

19 3. ✓ (c) Its average annual net income, if any, for each of the 2 taxable years
20 immediately preceding the taxable year to which the certification applies does not
21 exceed \$5,000,000.

22 4. ✓ (d) Its net worth, in any, in the taxable year to which the certification applies
23 does not exceed \$10,000,000.

DWS
4-13

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

5.

(e) It is engaged in, or has committed to engage in, manufacturing, agriculture, processing or assembling products, ^{and} conducting research and development, or developing a new product or business process.

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

(g) It has less than 100 employees.

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

SECTION 6. Nonstatutory provisions.

(1) RULES. ^(6a) The department of commerce shall submit in proposed form the rules required under section 560.03 (26) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 6th month beginning after the effective date of this subsection ^{paragraph}.

INSECT 5-14

SECTION 7. Initial applicability.

(1) QUALIFIED NEW BUSINESS VENTURE CREDIT. The treatment of sections 71.05 (6) (a) 15., 71.07 (5d), 71.08 (1) (intro.), and 71.10 (4) (gx) of the statutes first applies to taxable years beginning on January 1, 2006.

SECTION 8. Effective dates. This act takes effect on July 1, 2004, except as follows:

(1) RULES. SECTION 6 (1) of this act takes effect on the day after publication.

(END)

under s. 71.07 (5d)

TEXT
TEXT

(b) In consultation with the department of revenue, promulgate rules to limit the aggregate amount of tax credits that may be claimed for investments in businesses certified under par. (a) at \$5,000,000 per taxable year. The rules may not permit the department of commerce or the department of revenue to assign a particular dollar amount of investments qualifying for the tax credits under s. 71.07 (5d) that a particular business may subsequently raise.

4-13

of commerce
the department shall

Annually, no later than September 15, submit a report to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2), including the number of proposed actions for which the agency conducted an assessment of whether an impact statement was required under par. (c) and the number of impact statements prepared under par. (c).

listing the total amount of tax credits claimed under s. 71.07(5d) ^{5d}
per taxable year, the name of each business in which ^{investments} investments
qualifying for such tax credits were made, ^{amount} the amount of such
tax credits, ^{of} the amount of such investments, and ^{any} any other information
^{department} the department considers reasonable to include

(end ins)

5-14

letter

non-stet
part

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

2011/11/15

#35 rather credits begin in 1-1-05

40% over 10 yr period

Commerce ~~act~~ ^{act} Fund uses based on experience in VC,
expense margin VC funds, past fund performance,
expected ~~level~~ level of investment in fund, as other
reg's imposed by rule of commerce. AD

~~Commerce act~~

Fund mgr wants to invest in qualified businesses (as
currently set out in sub).