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2003 - 2004 LEGISLATURE

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EX
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SENATE SUBSTITUTE AMENDMENT,
TO 2003 SENATE BILL 261

SA ✓

and an early stage
investment tax credit

insert 1-2 ✓

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.

and making an appropriation ✓

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

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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) ^(5b) 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:

INSERT 1-10 ✓

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

3 1. "Bona fide angel investment" means a purchase of an equity interest, or any
4 other expenditure, as determined by rule by the department, that is made by any of
5 the following:

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

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

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

10 3. "Qualified new business venture" means a business that is certified under
11 s. ~~560.03(26)~~. *560.205*

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

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

19 2. The maximum amount of a claimant's investment that may be used as the
20 basis for a credit under this subsection is \$500,000 for each investment made directly
21 in a business certified under s. ~~560.03(26)~~. *560.205 (1)*

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

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

3 1. "Bona fide angel investment" means a purchase of an equity interest, or any
4 other expenditure, as determined by rule by the department, that is made by any of
5 the following:

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

8 b. A network of individuals who satisfy subd. 1. 560.205

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

10 3. "Qualified new business venture" means a business that is certified under
11 s. ~~560.03(26)~~. 560.205

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

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

19 2. The maximum amount of a claimant's investment that may be used as the
20 basis for a credit under this subsection is \$500,000 for each investment made directly
21 in a business certified under s. ~~560.03(26)~~. 560.205

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

1 which is the individual's federal adjusted gross income. If a claimant is married and
2 files a joint return, and if the claimant or the claimant's spouse, or both, are
3 nonresidents or part-year residents of this state, multiply the credit for which the
4 claimant is eligible under par. (b) by a fraction, the numerator of which is the couple's
5 joint Wisconsin adjusted gross income and the denominator of which is the couple's
6 joint federal adjusted gross income.

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

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

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

15 **SECTION 3.** 71.08 (1) (intro.) of the statutes is amended to read:

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

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

Ⓟ sec #, CR, 71.10(4)(gwb).

Ⓟ 71.10(4)[Ⓟ](gwb) = Early stage investment credit under s. 71.07(5b).

INSERT 4-1

is

1 71.10 (4) (gx) Qualified new business venture credit under s. 71.07 (5d).

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

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

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7 ~~(26) (a) Certify businesses as qualified new business ventures for purposes of
8 s. 71.07 (5d). The department shall promulgate rules for the administration of this
9 subsection. The rules shall require a business desiring certification to submit an
10 application to the department in each taxable year for which the business desires
11 certification. The department shall maintain a list of businesses certified under this
12 subsection and shall permit public access to the list through the department's
13 Internet website. The department shall notify the department of revenue of every
14 business certified under this subsection and the date on which any such business is
15 decertified. Annually, no later than September 15, the department of commerce shall
16 submit a report to the chief clerk of each house of the legislature for distribution to
17 the legislature under s. 13.172 (2), listing the total amount of tax credits claimed
18 under s. 71.07 (5d) per taxable year, the name of each business in which investments
19 qualifying for such tax credits were made, the amount of such tax credits, the amount
20 of such investments, and any other information the department considers
21 reasonable to include. Unless otherwise provided under the rules of the department
22 of commerce, a business may be certified under this subsection, and may maintain
23 such certification, only if the business satisfies all of the following conditions:~~

- 24 1. It has its headquarters in this state.

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- 2. At least 51 percent of the employees employed by the business are employed in this state.
- 3. Its average annual net income, if any, for each of the 2 taxable years immediately preceding the taxable year to which the certification applies does not exceed \$5,000,000.
- 4. It's net worth, in any, in the taxable year to which the certification applies does not exceed \$10,000,000.
- 5. It is engaged in, or has committed to engage in, manufacturing, agriculture, or processing or assembling products and conducting research and development or developing a new product or business process.
- 6. 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.
- 7. It has less than 100 employees.
- 8. It has been in operation in this state for not more than 7 consecutive years.
- 9. It has not received more than \$1,000,000 in investments that have qualified for tax credits under s. 71.07 (5d).

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The rules shall

(b) In consultation with the department of revenue, promulgate rules to limit the aggregate amount of tax credits under s. 71.07 (5d) 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 dollar amount of investments qualifying for the tax credits under s. 71.07 (5d) that a particular business may subsequently raise.

per taxable year

\$1,500,000 for taxable years beginning on January 1, 2006, and January 1, 2007, and \$3,000,000

sub. (1)

par (a)

through the taxable year beginning on January 1, 2016

for each succeeding taxable year

DRS 5-24

SECTION 6. Nonstatutory provisions.

560.205 and 560.275

1 (1) RULES.

2 (a) The department of commerce shall submit in proposed form the rules
3 required under section ~~560.03 (26)~~³ (of the statutes, as created by this act, to the
4 legislative council staff under section 227.15 (1) of the statutes no later than the first
5 day of the 6th month beginning after the effective date of this paragraph.

6 (b) The department of revenue shall submit in proposed form the rules required
7 under section 71.07 (5d) (a) 1. of the statutes, as created by this act, to the legislative
8 council staff under section 227.15 (1) of the statutes no later than the first day of the
9 6th month beginning after the effective date of this paragraph.

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(gwb) and

10 **SECTION 7. Initial applicability.**

11 (1) ~~QUALIFIED NEW BUSINESS VENTURE CREDIT~~ The treatment of sections 71.05
12 (6) (a) 15., 71.07 (5d), 71.08 (1) (intro.), ~~and~~ 71.10 (4) (gx) of the statutes first applies
13 to taxable years beginning on January 1, ~~2004~~²⁰⁰⁵ (5b) and

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

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

17 (END)

71.21(4), 71.26(2)(a), 71.28(5b), 71.30(3)(eop),
71.34(1)(g), 71.45(2)(a) 10., 71.47(5b),
71.49(1)(eop), and 77.92(4)

2003 BILL

TWS 1-2

1 ~~AN ACT to create 20.143 (1) (dk), 20.143 (1) (ik) and 560.275 of the statutes;~~
2 ~~relating to: creating a technology commercialization grant and loan program,~~
3 ~~providing an exemption from emergency rule procedures, granting~~
4 ~~rule-making authority, and making an appropriation.~~

Analysis by the Legislative Reference Bureau

This bill creates a technology commercialization grant and loan program (program). Significant features of the program include:

Categories of grants and loans

Under the program, the Department of Commerce (department) may provide five types of grants or loans. First, the department may make an early stage planning grant or loan. An early stage planning grant or loan provides funding to assist an applicant in completing a grant application for early stage research and development funding from the federal government or provides funding for professional services that the applicant needs to obtain as a condition of receiving early stage financing from third parties.

Second, the department may provide a matching grant or loan. A matching grant or loan provides funding for professional services related to developing a proposed technologically innovative product, process, or service or provides funding for professional services related to the accelerated commercialization of a technologically innovative product. Depending upon the type of funding sought, an applicant is eligible for a matching grant or loan only if the applicant has received

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LEGISLATIVE REFERENCE BUREAU

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Means an investment
fund manager certified
under s. 560.205 (2)

1 SECTION 1. 71.07 (5b) of the statutes is created to read:
2 71.07 (5b) EARLY STAGE INVESTMENT CREDIT. (a) *Definitions*. In this subsection:

- 3 1. "Claimant" means a person who files a claim under this subsection.
- 4 2. "Fund manager" has the meaning given in s. ~~XXXXX~~

5 (b) *Filing claims*. For taxable years beginning after December 31, 2004, subject
6 to the limitations provided under this subsection and s. ~~XXXXX~~, a claimant may
7 claim as a credit against the tax imposed under ss. 71.02 and 71.08, up to the amount
8 of those taxes, in each taxable year for 10 years, beginning with the taxable year in
9 which the claimant's initial investment is made, 4 percent of the claimant's initial
10 investment paid to a fund manager that the fund manager invests, as an early stage
11 investment, in a business certified under s. ~~XXXXX~~ 560.205 (1) 560.205

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

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

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.

Insert 4 - 1

3 **SECTION 2.** 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), (3g), and (3s), and (5b) and passed through to
6 partners shall be added to the partnership's income.

7 History: 1987 a. 312, 411; 1989 a. 31; 1993 a. 112; 1995 a. 27, 400; 1997 a. 27; 2001 a. 16.

SECTION 3. 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) plus the amount of the credit computed
12 under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), and (3g), and (5b)
13 and not passed through by a partnership, limited liability company, or tax-option
14 corporation that has added that amount to the partnership's, limited liability
15 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus
16 the amount of losses from the sale or other disposition of assets the gain from which
17 would be wholly exempt income, as defined in sub. (3) (L), if the assets were sold or
18 otherwise disposed of at a gain and minus deductions, as computed under the
19 Internal Revenue Code as modified under sub. (3), plus or minus, as appropriate, an
20 amount equal to the difference between the federal basis and Wisconsin basis of any
21 asset sold, exchanged, abandoned, or otherwise disposed of in a taxable transaction
22 during the taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

History: 1987 a. 312; 1987 a. 411 ss. 22, 124 to 129; 1989 a. 31, 336; 1991 a. 37, 39, 221, 269; 1993 a. 16, 112, 246, 263, 399, 437, 491; 1995 a. 27, 56, 351, 371, 380, 428; 1997 a. 27, 37, 184, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 106, 109; 2003 a. 33.

Means an investment fund manager certified under s. 560.205(2)

1 SECTION 4. 71.28 (5b) of the statutes is created to read:

2 71.28 (5b) EARLY STAGE INVESTMENT CREDIT. (a) *Definitions.* In this subsection:

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

4 2. "Fund manager" has the meaning given in s. ~~XXXXX~~.

5 (b) *Filing claims.* For taxable years beginning after December 31, 2004, subject
6 to the limitations provided under this subsection and s. ~~XXXXX~~, a claimant may
7 claim as a credit against the tax imposed under s. 71.23, up to the amount of those
8 taxes, in each taxable year for 10 years, beginning with the taxable year in which the
9 claimant's initial investment is made, 4 percent of the claimant's initial investment
10 paid to a fund manager that the fund manager invests, as an early stage investment,
11 in a business certified under s. ~~XXXXX~~. (560.205(1))

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

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

24 (d) *Administration.* Subsection ~~71.28~~ (4) (e) to (h), as it applies to the credit
25 under sub. (4), applies to the credit under this subsection.



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SECTION 5. 71.30 (3) (eop) of the statutes is created to read:

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

SECTION 6. 71.34 (1) (g) of the statutes is amended to read:

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

History: 1987 a. 312; 1987 a. 411 ss. 18, 23, 146; 1989 a. 31, 336; 1991 a. 39, 269; 1993 a. 16, 437; 1995 a. 27, 380, 428; 1997 a. 27, 37, 237; 1999 a. 9, 194; 2001 a. 16, 109; 2003 a. 33.

SECTION 7. 71.45 (2) (a) 10. of the statutes is amended to read:

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

History: 1987 a. 312; 1989 a. 31, 336, 359; 1991 a. 37, 39, 269; 1993 a. 16, 112, 263, 437; 1995 a. 27, 56, 371, 380; 1997 a. 27, 37, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 109; 2003 a. 37.

SECTION 8. 71.47 (5b) of the statutes is created to read:

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

- 1. "Claimant" means a person who files a claim under this subsection.
- 2. "Fund manager" has the meaning given in s. ~~XXXXX~~.

means an investment fund manager certified under s. 560. 205(2)

(b) *Filing claims*. For taxable years beginning after December 31, 2004, subject

to the limitations provided under this subsection and s. ~~XXXXX~~, a claimant may claim as a credit against the tax imposed under s. 71.43, up to the amount of those taxes, in each taxable year for 10 years, beginning with the taxable year in which the claimant's initial investment is made, 4 percent of the claimant's initial investment

560, 205

1 paid to a fund manager that the fund manager invests, ~~as an early stage investor~~
 2 in a business certified under s. ~~XXXXX~~ 560.205(1) ✓

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

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

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

17 **SECTION 9.** 71.49 (1) (eop) of the statutes is created to read:

18 71.49 (1) (eop) Early stage investment credit under s. 71.47 (5b). ✓

19 **SECTION 10.** 77.92 (4) of the statutes is amended to read:

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

1 deductible under s. 71.21; plus guaranteed payments to partners under section 707
2 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
3 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), ~~and (3g), and (3s),~~ and (5b); and plus or
4 minus, as appropriate, transitional adjustments, depreciation differences, and basis
5 differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain,
6 loss, and deductions from farming. "Net business income", with respect to a natural
7 person, estate, or trust, means profit from a trade or business for federal income tax
8 purposes and includes net income derived as an employee as defined in section 3121
9 (d) (3) of the Internal Revenue Code.

History: 1989 a. 335; 1991 a. 39, 269; 1993 a. 16, 112, 490; 1995 a. 27, 209; 1997 a. 27; 1999 a. 9; 2001 a. 16.

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FROM THE
LEGISLATIVE REFERENCE BUREAU

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SECTION 1. 560.205 of the statutes is created to read:

560.205 Early stage business investment program. (1) ANGEL INVESTMENT TAX CREDITS. *****INSERT A*****

(2) EARLY STAGE SEED INVESTMENT TAX CREDITS. The department shall implement a program to certify investment fund managers as ~~qualified early stage seed fund managers~~ for purposes of ss. 71.07 (5b), 71.28 (5b), and 71.47 (5b). An investment fund manager desiring certification shall submit an application to the department. In determining whether to certify an investment fund manager, the department shall consider the investment fund manager's experience in managing venture capital funds, the past performance of investment funds managed by the applicant, the expected level of investment in the investment fund to be managed by the applicant, and any other relevant factors. The department may certify only investment fund managers that commit to ~~place~~ ^{consider placing} investments in businesses certified under sub. (1).

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

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

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

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

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

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

(d) *Rules.* The department shall promulgate rules to administer this section.

of commerce, in consultation with
the department of revenue,

INSERT A

1 71.10 (4) (gx) Qualified new business venture credit under s. 71.07 (5d)

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

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

no 9
the department
shall implement a
program to 7

~~71.07 (5d)~~ Certify businesses ~~as qualified new business ventures~~ for purposes of

8 ~~s. 71.07 (5d)~~ ~~The department shall promulgate rules for the administration of this~~

9 ~~subsection. The rules shall require~~ a business desiring certification ^{shall} to submit an

10 application to the department in each taxable year for which the business desires

11 certification. ~~The department shall maintain a list of businesses certified under this~~

12 ~~subsection and shall permit public access to the list through the department's~~

13 ~~Internet website. The department shall notify the department of revenue of every~~

14 ~~business certified under this subsection and the date on which any such business is~~

15 ~~decertified. Annually, no later than September 15, the department of commerce shall~~

16 ~~submit a report to the chief clerk of each house of the legislature for distribution to~~

17 ~~the legislature under s. 13.172 (2), listing the total amount of tax credits claimed~~

18 ~~under s. 71.07 (5d) per taxable year, the name of each business in which investments~~

19 ~~qualifying for such tax credits were made, the amount of such tax credits, the amount~~

20 ~~of such investments, and any other information the department considers~~

21 ~~reasonable to include.~~ Unless otherwise provided under the rules of the department

22 ~~of commerce~~ a business may be certified under this subsection, and may maintain

23 such certification, only if the business satisfies all of the following conditions:

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

55. 71.07(5b) and (5d),
71.28 (5b), and 71.47 (5b)

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INSERT A

1 71.10 (4) (gx) Qualified new business venture credit under s. 71.07 (5d).

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

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

no 9
The department
shall implement a
program to 7

7 ~~to 7~~ Certify businesses ~~as qualified new business ventures~~ for purposes of
8 s. 71.07 (5d). ~~The department shall promulgate rules for the administration of this~~

9 ~~subsection. The rules shall require~~ a business desiring certification ^{shall} submit an
10 application to the department in each taxable year for which the business desires

11 certification. ~~The department shall maintain a list of businesses certified under this~~

12 ~~subsection and shall permit public access to the list through the department's~~

13 ~~Internet website. The department shall notify the department of revenue of every~~

14 ~~business certified under this subsection and the date on which any such business is~~

15 ~~decertified. Annually, no later than September 15, the department of commerce shall~~

16 ~~submit a report to the chief clerk of each house of the legislature for distribution to~~

17 ~~the legislature under s. 13.172 (2), listing the total amount of tax credits claimed~~

18 ~~under s. 71.07 (5d) per taxable year, the name of each business in which investments~~

19 ~~qualifying for such tax credits were made, the amount of such tax credits, the amount~~

20 ~~of such investments, and any other information the department considers~~

21 ~~reasonable to include.~~ Unless otherwise provided under the rules of the department

22 ~~of commerce,~~ a business may be certified under this subsection, and may maintain

23 such certification, only if the business satisfies all of the following conditions:

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

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

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

6 (d) Its net worth, ^{if} in any, in the taxable year to which the certification applies
7 does not exceed \$10,000,000.

8 (e) 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 (f) 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 (g) It has less than 100 employees.

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

17 (j) 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) (h) ~~LIMITATION OF ANGEL INVESTOR TAX CREDITS.~~ In consultation with the department of revenue, promulgate rules to limit
20 the aggregate amount of tax credits under s. 71.07 (5d) that may be claimed for
21 investments in businesses certified under ^{Sub. (1)} ~~part (a)~~ at \$5,000,000 per taxable year
22 The rules may not permit the department of commerce or the department of revenue
23 to assign a dollar amount of investments qualifying for the tax credits under s. 71.07
24 (5d) that a particular business may subsequently raise.

25 SECTION 6. Nonstatutory provisions.

(Credits)

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2003-04

2004-05

20.143 Commerce, department of

(1) ECONOMIC AND COMMUNITY DEVELOPMENT

(dk) Technology commercialization grant and loan program; assistance.

GPR

B

~~1,300,000~~

\$4,500,000

~~5,000,000~~

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

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

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

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

Adms

MS 5-24

SECTION 4. 560.275 of the statutes is created to read:

560.275 Technology commercialization grant and loan program. (1)

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

(2) AUTHORIZED GRANTS AND LOANS. (a) Early stage planning grants and loans.

The department may make a grant or loan from the appropriation under s. 20.143 (1) (dk) or (ik) for the purpose of funding professional services related to completing an application to be submitted to the federal government for the purpose of obtaining early stage research and development funding or for the purpose of funding

BILL

1 professional services that are required to accomplish specific tasks established as a
2 condition of receiving early stage financing from 3rd parties that is necessary for
3 business development.

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

9 2. The department may make a grant or loan from the appropriation under s.
10 20.143 (1) (dk) or (ik) for the purpose of funding professional services related to the
11 accelerated commercialization of a technologically innovative product, process, or
12 service, if the federal government has notified the applicant that the applicant will
13 receive a grant from the federal government for a substantially similar purpose.

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

BILL

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

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

- 8 1. The center serves multiple regions of this state.
- 9 2. The center provides assistance, other than financial assistance, to
10 entrepreneurs to facilitate business development.
- 11 3. The center reviews and analyzes entrepreneurial business plans and offers
12 advice concerning the improvement of the plans.
- 13 4. The center provides advice to entrepreneurs concerning patent, trademark,
14 and copyright issues.
- 15 5. The center provides appropriate referral services to entrepreneurs.

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

- 20 1. The amount of economic impact the applicant, if successful, will have in this
21 state.
- 22 2. The quality of any businesses assisting the applicant.
- 23 3. The level of need demonstrated by the applicant.
- 24 4. The applicant's record of obtaining early stage financing in the past.

BILL

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

- 4 1. The viability of the applicant's business.
- 5 2. The likelihood that the applicant will successfully commercialize technology.
- 6 3. The applicant's management plan and management team.
- 7 4. The amount of economic impact the applicant, if successful, will have in this
8 state.
- 9 5. The applicant's record of obtaining early stage financing in the past.

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

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

14 (c) *Bridge grants and loans*. A grant or loan under sub. (2) (c) may not exceed
15 75 percent of the project costs or \$100,000, whichever is less.

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

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

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

- 22 (a) The applicant:
 - 23 1. Is a small business, or individual entrepreneur who intends to form a small
24 business, that is completing a grant application to be submitted to the federal
25 government for the purpose of obtaining early stage research and development

BILL

1 funding, except that if the application is for a grant under sub. (2) (b), the
2 requirement that the applicant be completing a federal grant application does not
3 apply; or

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

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

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

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

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

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

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

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

BILL

1 (b) *Rules*. The department shall promulgate rules to administer this section.
2 The rules shall establish application, reporting, auditing, and monitoring
3 requirements. *Leads to*

SECTION 5. Nonstatutory provisions.

(1) RULES.

6 (a) *Emergency rules*. Using the procedure under section 227.24 of the statutes,
7 the department of commerce may promulgate rules required under section 560.275
8 of the statutes, as created by this act, for the period before the effective date of the
9 rules submitted under paragraph (b), but not to exceed the period authorized under
10 section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a),
11 (2) (b), and (3) of the statutes, the department is not required to provide evidence that
12 promulgating a rule under this paragraph as an emergency rule is necessary for the
13 preservation of the public peace, health, safety, or welfare and is not required to
14 provide a finding of emergency for a rule promulgated under this paragraph.

15 (b) *Permanent rules*. The department of commerce shall submit in proposed
16 form the rules required under section 560.275 of the statutes, as created by this act,
17 to the legislative council staff under section 227.15 (1) of the statutes no later than
18 the first day of the 4th month beginning after the effective date of this paragraph.

SECTION 6. Appropriation changes.

19
20 (1) AUTHORIZED POSITIONS AND PROMOTIONAL ACTIVITIES. In the schedule under
21 section 20.005 (3) of the statutes for the appropriation to the department of commerce
22 under section 20.143 (1) (a) of the statutes, as affected by the acts of 2003, the dollar
23 amount is increased by \$100,000 for fiscal year 2003-04 and the dollar amount is
24 increased by \$200,000 for fiscal year 2004-05 to increase the authorized FTE
25 positions for the department by 2.0 GPR positions for the administration of section

6-9

BILL

1 560.275 of the statutes, as created by this act, and to provide funding for educational
2 publications and instruction provided by the department to promote the technology
3 commercialization grant and loan program. *and inc*

4

~~(END)~~

to 2004.

now

Stays *[Signature]*

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

Repeal cat

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), 560.205 and 560.275 of the
5 statutes; **relating to:** creating a technology commercialization grant and loan
6 program, creating a qualified new business venture tax credit and an early
7 stage investment tax credit, facilitating the development of certain investor
8 networks, and granting rule-making authority and making an appropriation.

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

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

	2003-04	2004-05
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20.143 Commerce, department of

(1) ECONOMIC AND COMMUNITY DEVELOPMENT

(dk) Technology commercialization

grant and loan program; assis-

tance.

GPR B

\$4,500,000

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

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

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

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

SECTION 4. 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), (2ts), (2dx), (3g), ~~and (3s), (5b), and (5d)~~ and not passed through by a partnership, limited liability company, or tax-option corporation that has added that amount to the partnership's, company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

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

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

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 ss. 71.02 and 71.08, up to the amount
6 of those taxes, in each taxable year for 10 years, beginning with the taxable year in
7 which the claimant’s initial investment is made, 4 percent of the claimant’s initial
8 investment paid to a fund manager that the fund manager invests in a business
9 certified under s. 560.205 (1).

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

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

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 6.** 71.07 (5d) of the statutes is created to read:

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

3 1. “Bona fide angel investment” means a purchase of an equity interest, or any
4 other expenditure, as determined by rule by the department, that is made by any of
5 the following:

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

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

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

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

12 (b) *Filing claims*. Subject to the limitations provided in this subsection and in
13 s. 560.205, a claimant may claim as a credit against the tax imposed under s. 71.02
14 or 71.08, up to the amount of those taxes, an amount equal to 40 percent of the
15 claimant's bona fide angel investment made directly in a qualified new business
16 venture in the taxable year.

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

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

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

1 which is the individual's federal adjusted gross income. If a claimant is married and
2 files a joint return, and if the claimant or the claimant's spouse, or both, are
3 nonresidents or part-year residents of this state, multiply the credit for which the
4 claimant is eligible under par. (b) by a fraction, the numerator of which is the couple's
5 joint Wisconsin adjusted gross income and the denominator of which is the couple's
6 joint federal adjusted gross income.

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

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

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

15 **SECTION 7.** 71.08 (1) (intro.) of the statutes is amended to read:

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

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

1 71.10 (4) (gwb) Early stage investment credit under s. 71.07 (5b).

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

3 71.10 (4) (gx) Qualified new business venture credit under s. 71.07 (5d).

4 **SECTION 10.** 71.21 (4) of the statutes is amended to read:

5 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
6 (2dj), (2dL), (2dm), (2ts), (2dx), (3g), ~~and (3s)~~, and (5b) and passed through to partners
7 shall be added to the partnership's income.

8 **SECTION 11.** 71.26 (2) (a) of the statutes is amended to read:

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

24 **SECTION 12.** 71.28 (5b) of the statutes is created to read:

25 71.28 (5b) EARLY STAGE INVESTMENT CREDIT. (a) *Definitions.* In this subsection:

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

2 2. “Fund manager” means an investment fund manager certified under s.
3 560.205 (2).

4 (b) *Filing claims.* For taxable years beginning after December 31, 2004, subject
5 to the limitations provided under this subsection and s. 560.205, a claimant may
6 claim as a credit against the tax imposed under s. 71.23, up to the amount of those
7 taxes, in each taxable year for 10 years, beginning with the taxable year in which the
8 claimant’s initial investment is made, 4 percent of the claimant’s initial investment
9 paid to a fund manager that the fund manager invests in a business certified under
10 s. 560.205 (1).

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

14 2. 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 interest or as specially allocated in their
22 organizational documents.

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

25 **SECTION 13.** 71.30 (3) (eop) of the statutes is created to read:

1 71.30 (3) (eop) Early stage investment credit under s. 71.28 (5b).

2 **SECTION 14.** 71.34 (1) (g) of the statutes 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), (1ts), (1dx), (3), and
5 (3g), and (5b) and passed through to shareholders.

6 **SECTION 15.** 71.45 (2) (a) 10. of the statutes is amended to read:

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

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

14 71.47 (5b) EARLY STAGE INVESTMENT CREDIT. (a) *Definitions.* In this 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 s. 71.43, up to the amount of those
21 taxes, in each taxable year for 10 years, beginning with the taxable year in which the
22 claimant’s initial investment is made, 4 percent of the claimant’s initial investment
23 paid to a fund manager that the fund manager invests in a business certified under
24 s. 560.205 (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 17.** 71.49 (1) (eop) of the statutes is created to read:

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

17 **SECTION 18.** 77.92 (4) of the statutes is amended to read:

18 77.92 (4) "Net business income", with respect to a partnership, means taxable
19 income as calculated under section 703 of the Internal Revenue Code; plus the items
20 of income and gain under section 702 of the Internal Revenue Code, including taxable
21 state and municipal bond interest and excluding nontaxable interest income or
22 dividend income from federal government obligations; minus the items of loss and
23 deduction under section 702 of the Internal Revenue Code, except items that are not
24 deductible under s. 71.21; plus guaranteed payments to partners under section 707
25 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),

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

8 **SECTION 19.** 560.03 (25) of the statutes is created to read:

9 560.03 (25) In cooperation with the department of financial institutions and
10 the board of regents of the University of Wisconsin System, provide education and
11 other support to facilitate the development networks of bona fide angel investors, as
12 defined in s. 71.07 (5d) (a) 1.

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

14 **560.205 Early stage business investment program.** (1) ANGEL
15 INVESTMENT TAX CREDITS. The department shall implement a program to certify
16 businesses for purposes of ~~ss. 71.07 (5b) and (5d), 71.28 (5b), and 71.47 (3b)~~ ^{s.} A
17 business desiring certification shall submit an application to the department in each
18 taxable year for which the business desires certification. Unless otherwise provided
19 under the rules of the department, a business may be certified under this subsection,
20 and may maintain such certification, only if the business satisfies all of the following
21 conditions:

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

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

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

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

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

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

13 (g) It has less than 100 employees.

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

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

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

1 department may certify only investment fund managers that commit to consider
2 placing investments in businesses certified under sub. (1).

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

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

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

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

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

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

19 (d) *Rules.* The department of commerce, in consultation with the department
20 of revenue, shall promulgate rules to administer this section. The rules shall limit
21 the aggregate amount of tax credits under s. 71.07 (5d) that may be claimed for
22 investments in businesses certified under sub. (1) at \$1,500,000 per taxable year for
23 taxable years beginning on January 1, 2006, and January 1, 2007, and \$3,000,000
24 per taxable year for each succeeding taxable year through the taxable year beginning
25 on January 1, 2016. The rules may not permit the department of commerce or the

1 department of revenue to assign a dollar amount of investments qualifying for the
2 tax credits under s. 71.07 (5d) that a particular business may subsequently raise.

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

4 **560.275 Technology commercialization grant and loan program. (1)**

5 DEFINITION. In this section, "Project costs" means the total cost of a project financed,
6 at least in part, by a grant or loan under sub. (2), calculated as provided by rule of
7 the department.

8 (2) AUTHORIZED GRANTS AND LOANS. (a) *Early stage planning grants and loans.*

9 The department may make a grant or loan from the appropriation under s. 20.143
10 (1) (dk) or (ik) for the purpose of funding professional services related to completing
11 an application to be submitted to the federal government for the purpose of obtaining
12 early stage research and development funding or for the purpose of funding
13 professional services that are required to accomplish specific tasks established as a
14 condition of receiving early stage financing from 3rd parties that is necessary for
15 business development.

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

21 2. The department may make a grant or loan from the appropriation under s.
22 20.143 (1) (dk) or (ik) for the purpose of funding professional services related to the
23 accelerated commercialization of a technologically innovative product, process, or
24 service, if the federal government has notified the applicant that the applicant will
25 receive a grant from the federal government for a substantially similar purpose.

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

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

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

- 18 1. The center serves multiple regions of this state.
- 19 2. The center provides assistance, other than financial assistance, to
20 entrepreneurs to facilitate business development.
- 21 3. The center reviews and analyzes entrepreneurial business plans and offers
22 advice concerning the improvement of the plans.
- 23 4. The center provides advice to entrepreneurs concerning patent, trademark,
24 and copyright issues.
- 25 5. The center provides appropriate referral services to entrepreneurs.

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

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

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

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

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

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

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

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

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

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

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

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

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

23 **(c) Bridge grants and loans.** A grant or loan under sub. (2) (c) may not exceed
24 75 percent of the project costs or \$100,000, whichever is less.

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

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

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

7 (a) The applicant:

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

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

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

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

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

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

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

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

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

10 (b) *Rules.* The department shall promulgate rules to administer this section.
11 The rules shall establish application, reporting, auditing, and monitoring
12 requirements.

13 **SECTION 22. Nonstatutory provisions.**

14 (1) RULES.

15 (a) The department of commerce shall submit in proposed form the rules
16 required under sections 560.205 and 560.275 of the statutes, as created by this act,
17 to the legislative council staff under section 227.15 (1) of the statutes no later than
18 the first day of the 6th month beginning after the effective date of this paragraph.

19 (b) The department of revenue shall submit in proposed form the rules required
20 under section 71.07 (5d) (a) 1. of the statutes, as created by this act, to the legislative
21 council staff under section 227.15 (1) of the statutes no later than the first day of the
22 6th month beginning after the effective date of this paragraph.

23 **SECTION 23. Appropriation changes.**

24 (1) AUTHORIZED POSITIONS AND PROMOTIONAL ACTIVITIES. In the schedule under
25 section 20.005 (3) of the statutes for the appropriation to the department of commerce

1 under section 20.143 (1) (a) of the statutes, as affected by the acts of 2003, the dollar
2 amount is increased by \$100,000 for fiscal year 2003–04 and the dollar amount is
3 increased by \$200,000 for fiscal year 2004–05 to increase the authorized FTE
4 positions for the department by 2.0 GPR positions for the administration of section
5 560.275 of the statutes, as created by this act, and to provide funding for educational
6 publications and instruction provided by the department to promote the technology
7 commercialization grant and loan program.

8 **SECTION 24. Initial applicability.**

9 (1) The treatment of sections 71.05 (6) (a) 15., 71.07 (5b) and (5d), 71.08 (1)
10 (intro.), 71.10 (4) (gwb) and (gx), 71.21 (4), 71.26 (2) (a), 71.28 (5b), 71.30 (3) (eop),
11 71.34 (1) (g), 71.45 (2) (a) 10., 71.47 (5b), 71.49 (1) (eop), and 77.92 (4) of the statutes
12 first applies to taxable years beginning on January 1, 2005.

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

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

16 (END)

LRBs 0260/4

JK/MES/RJM:

CCC to SSA 2 to SB 261

~~November, 2003~~

~~In engrossing, the following corrections were made:~~

#. Page 2, line 6: delete the period.

#. Page 2, line 6: delete "\$4,500,000"
and substitute "4,500,000".

cjs

2003–04 2004–05

20.143 Commerce, department of**(1) ECONOMIC AND COMMUNITY DEVELOPMENT****(dk) Technology commercialization**

grant and loan program; assis-

tance.

GPR B

\$4,500,000

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

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

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

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

SECTION 4. 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), (2ts), (2dx), (3g), ~~and (3s), (5b), and (5d)~~ and not passed through by a partnership, limited liability company, or tax-option corporation that has added that amount to the partnership's, company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

SECTION 5. 71.07 (5b) of the statutes is created to read:**71.07 (5b) EARLY STAGE INVESTMENT CREDIT.** (a) *Definitions.* In this subsection:

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



State of Wisconsin
2003-2004 LEGISLATURE

CORRECTIONS IN:

**SENATE SUBSTITUTE AMENDMENT 2,
TO 2003 SENATE BILL 261**

Prepared by the Legislative Reference Bureau
(November 21, 2003)

1. Page 2, line 6: delete the period.
2. Page 2, line 6: delete "\$4,500,000" and substitute "4,500,000".