

2013 DRAFTING REQUEST

Bill

Received: **1/31/2014** Received By: **jkreye**
 Wanted: **As time permits** Same as LRB:
 For: **Paul Farrow (608) 266-9174** By/Representing: **matt**
 May Contact: Drafter: **jkreye**
 Subject: **Econ. Development - tax incentives** Addl. Drafters: **mgallagh**
Tax, Business - credits

Extra Copies:

Submit via email: **YES**
 Requester's email: **Sen.Farrow@legis.wisconsin.gov**
 Carbon copy (CC) to: **joseph.kreye@legis.wisconsin.gov**
michael.gallagher@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Changes to angel and early stage seed investment 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>
/?	jkreye 2/3/2014			_____			
/P1	mgallagh 3/7/2014	csicilia 3/10/2014	jfrantze 2/14/2014	_____	lparisi 2/14/2014		State
/1			rschluet	_____	sbasford	lparisi	State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			3/10/2014	_____	3/10/2014	3/11/2014	

FE Sent For:

<END>

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INTRO


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Received: 1/31/2014 Received By: jkreye
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 For: Paul Farrow (608) 266-9174 By/Representing: matt
 May Contact: Drafter: jkreye
 Subject: Econ. Development - tax incentives Addl. Drafters: mgallagh
 Tax, Business - credits

Extra Copies:

Submit via email: YES
 Requester's email: Sen.Farrow@legis.wisconsin.gov
 Carbon copy (CC) to: joseph.kreye@legis.wisconsin.gov
 michael.gallagher@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

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Changes to angel and early stage seed investment credits

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See attached

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/P1	mgallagh 2/4/2014	csicilia 2/14/2014	jfrantze 2/14/2014	_____	lparisi 2/14/2014		State

FE Sent For:

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Pre Topic:

No specific pre topic given

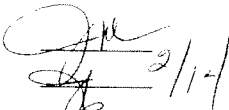
Topic:

Changes to angel and early stage seed investment credits

Instructions:

See attached

Drafting History:

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/?	jkreye	P1 cjs 2/12 14		 2/12			

FE Sent For:

<END>

Gallagher, Michael

From: Henkel, Matt
Sent: Friday, January 31, 2014 12:11 PM
To: Kreye, Joseph
Cc: Gallagher, Michael
Subject: RE: draft request

That works. Thanks for the clarification.

-Matt

Matthew Henkel
Office of Senator Paul Farrow
Room 323 South, State Capitol
(608) 266-9174

From: Kreye, Joseph
Sent: Friday, January 31, 2014 12:02 PM
To: Henkel, Matt
Cc: Gallagher, Michael
Subject: RE: draft request

Thanks Matt.

You can create the purchasing credit to apply to corporations (under subchapter IV of chapter 71) and to insurers (under subchapter VII of chapter 71). That would still preclude individuals from claiming that credit.

You would have to use the taxable year as a base for claiming the credit, but the taxpayer would be able to make purchases in multiple taxable years for which the taxpayer could claim the credit (assuming the seller retains its certification as a qualified new business venture).

Joe

Joseph T. Kreye
Senior Legislative Attorney
Legislative Reference Bureau
608 266 2263

From: Henkel, Matt
Sent: Friday, January 31, 2014 11:43 AM
To: Kreye, Joseph
Cc: Gallagher, Michael
Subject: RE: draft request

1. That's the intention but I can see one area where this may be problematic to preclude them. American Family Insurance invests in QNBV companies and I believe claims credits. There could exist a situation where a QNBV certified company creates a product/software/etc that a company such as American Family would like to purchase. In this case, we're looking at a purchase as a separate mechanism within program. Does this make

sense? We don't want to make a company with the scale to both be in investor to start-ups and to make purchases from eligible start-ups be in an either-or situation.

2. The intent is for the existing 25% credit (in regards to qualified investments) to also apply to purchases of up to \$500,000 (purchase price) from certified companies. Not a 100% reimbursement. In the first point of the document I sent we suggest a change to allow a 40% credit on the first \$1 million. This wouldn't apply for the qualified purchase idea – just investment.
3. Yes, it would apply to purchases of both a service and/or product. Finally, yes, the \$500,000 is a cumulative amount. Would it be problematic to leave the time frame open ended rather than the taxable year? If so, let's leave it the way you're thinking for right now – ie: made during the current taxable year.

-Matt

Matthew Henkel
Office of Senator Paul Farrow
Room 323 South, State Capitol
(608) 266-9174

From: Kreye, Joseph
Sent: Friday, January 31, 2014 11:14 AM
To: Henkel, Matt
Cc: Gallagher, Michael
Subject: RE: draft request

Matt,

I have a few questions with regard to providing tax credits for purchases from qualified new business ventures.

1. The instructions indicate that the credit could be claimed by corporations. Is it your intent to preclude partners of a partnership, members of a limited liability company, and shareholders of a tax-option corporation from claiming such credits? Under current law, all such individuals may claim credits for angel and early stage seed investments.
2. Would a taxpayer claim a percentage of the purchase price for purchases from qualified new business ventures or is it your intent to provide a 100 percent reimbursement in tax credits? The instructions seem to indicate that it would be the latter.
3. I assume that the \$500,000 is a cumulative amount based on all of the purchases made during the taxable year? Is that correct? I also assume that the credit would apply to purchases of a service as well as a product.

Joe

Joseph T. Kreye
Senior Legislative Attorney
Legislative Reference Bureau
608 266 2263

From: Henkel, Matt
Sent: Friday, January 31, 2014 10:03 AM
To: Gallagher, Michael
Cc: Kreye, Joseph
Subject: RE: draft request

Much appreciated, guys.

Matthew Henkel
Office of Senator Paul Farrow
Room 323 South, State Capitol
(608) 266-9174

From: Gallagher, Michael
Sent: Friday, January 31, 2014 10:03 AM
To: Henkel, Matt
Cc: Kreye, Joseph
Subject: RE: draft request

Got it. I am copying Joe Kreye because he will be drafting the tax portion. We'll get in touch with any questions.

Mike

Mike Gallagher
Attorney
Wisconsin Legislative Reference Bureau
(608) 267-7511

From: Henkel, Matt
Sent: Friday, January 31, 2014 9:59 AM
To: Gallagher, Michael
Subject: draft request

Mike, Senator Farrow has been working on some tweaks to the Act 255 program. Could you please put together a bill draft for him to review. I've attached the drafting instructions to this message. There is a possibility some or all of these ideas end up included in Representative Marklein's LRB 3850 but both of our offices would like to see them as a standalone and then work out which would best fit together.

Don't hesitate to call or email me with any questions if something isn't clear. I've tried to also included some notes of intent or background when relevant in the drafting instructions. Thank you.

-Matt

Matthew Henkel
Office of Senator Paul Farrow
Room 323 South, State Capitol
(608) 266-9174

Kreye, Joseph

From: Gallagher, Michael
Sent: Friday, January 31, 2014 10:04 AM
To: Kreye, Joseph
Subject: FW: draft request
Attachments: Act 255 drafting instructions.docx

Here's the attachment.

Mike Gallagher
Attorney
Wisconsin Legislative Reference Bureau
(608) 267-7511

From: Henkel, Matt
Sent: Friday, January 31, 2014 9:59 AM
To: Gallagher, Michael
Subject: draft request

Mike, Senator Farrow has been working on some tweaks to the Act 255 program. Could you please put together a bill draft for him to review. I've attached the drafting instructions to this message. There is a possibility some or all of these ideas end up included in Representative Marklein's LRB 3850 but both of our offices would like to see them as a standalone and then work out which would best fit together.

Don't hesitate to call or email me with any questions if something isn't clear. I've tried to also included some notes of intent or background when relevant in the drafting instructions. Thank you.

-Matt

Matthew Henkel
Office of Senator Paul Farrow
Room 323 South, State Capitol
(608) 266-9174

1. Increase the QNBV tax credit to 40% on the first \$1 million invested

- a. Amend WI Statute 71.07(5d)(b) by adding “3” as follows
 - i. For taxable years beginning after December 31, 2014, for the taxable year certified by the department of commerce or the Wisconsin Economic Development Corporation, an amount equal to:
 1. 40 percent of the claimant’s bona fide angel investment, made directly in a qualified new business venture up to the first \$1,000,000 invested, cumulatively, in that qualified new business venture, and
 2. 25 percent of the claimant’s bona fide angel investment, made directly in a qualified new business venture following the first \$1,000,000 invested, cumulatively, in that qualified new business venture.
- b. Amend WI Statutes 71.07(5b)(b)1.-2.; 71.28(5b)(b)1.-2.; and 71.47(5b)(b)1.-2. as follows:
 - i. For taxable years beginning after December 31, 2013, subject to the limitations provided under this subsection and s. 238.15 or s. 560.205, 2009 stats., and except as provided in subd. 2., a claimant may claim as a credit against the tax imposed under s. 71.23, up to the amount of those taxes, 40 percent of the claimant’s investment paid to a fund manager that the fund manager invests in a business certified under s. 238.15 (1) or s. 560.205 (1), 2009 stats. up to the first \$1,000,000 invested, cumulatively in that business, and 25 percent of the claimant’s investment paid to a fund manager that the fund manager invests in a business certified under s. 238.15 (1) for s. 560.205 (1), 2009 stats. following the first \$1,000,000 invested in that business.
 - ii. In the case of a partnership, limited liability company, or tax-option corporation, the computation of the 40 percent and 25 percent limitations under subd. 1 shall be determined at the entity level rather than the claimant level and may be allocated among the claimants who make investments in the manner set forth in the entity’s organizational documents. The entity shall provide to the department of revenue and to the department of commerce or the Wisconsin Economic Development Corporation the names and tax identification numbers of the claimants, the amounts of the credits allocated to the claimants, and the computation of the allocations.

2. Make corporations eligible for QNBV tax credits for purchases from QNBV certified startups for purchases up to \$500,000.

- a. For startup companies, initial customers are just as important, if not more so, than investors.
- b. Create a new provision in the QNBV statute making corporations eligible for tax credits for purchases from QNBV certified startup companies.
- c. Require that corporations apply to be eligible for the QNBV tax credit with proof of purchase from the QNBV certified startup.

3. **Add “transferability” to Angel Investment Tax Credits (which already exists for Early Stage Seed Investment Tax Credits)**

Amend WI Statute 238.15(3)(e) as follows:

(e) *Transfer*. A person who is eligible to claim a credit under s. 71.07(5b), 71.07(5d), 71.28(5b), 71.47(5b) or 76.638 may sell or otherwise transfer the credit to another person who is subject to the taxes or fees imposed under s. 71.02, 71.08, 71.23, 71.47, or subchapter III of ch. 76, if the person notifies the corporation and the department of revenue of the transfer and submits with the notification a copy of the transfer documents. No person may sell or otherwise transfer a credit as provided in this paragraph more than once in a 12 month period. The corporation may charge any person selling or otherwise transferring a credit under this paragraph a fee equal to 1 percent of the credit amount sold or transferred.

- a. The intent is to expand transferability, not allow refundability.
- b. Currently, qualified venture funds are afforded greater flexibility than individuals eligible for Angel Investment Tax Credits. Current law penalizes individuals (angels) residing outside Wisconsin for importing capital into the state.

4. **Broaden criteria for fund manager certification (QVF)**

Amend WI Statute 238.15(2) by modifying the following sentence to read:

- a. ...In determining whether to certify an investment fund manager, the corporation shall consider the investment fund manager’s experience in managing venture capital funds, the past performance of investment funds managed by the applicant, and any other relevant factors. The expected level of investment in the investment fund to be managed by the applicant shall not be considered...
- b. Note: Every year there are millions in authorized yet unused tax credits. In 2013 there were \$20,500,000 in new, initial tax credits available, in addition to \$27,923,703 in available, rollover tax credits from previous years for a grand total of \$48,423,703 in available, authorized tax credits. So far, 2011 saw the highest number of credits verified in a single year - \$4,621,736. Remaining credits go unused. Removing “Expected level of investment in the investment fund to be managed” encourages venture funds of all sizes and incentivizes them to equally invest in Wisconsin QNBV’s. Recently, a fund, Milwaukee Summer 2013, LLC applied for fund manager certification and was denied, primarily because of the size of the fund.

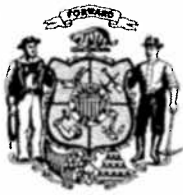
5. **Remove “Proprietary” from QNBV qualifications**

Amend WI Statute 238.15

- a. Broaden the eligibility criteria for the “Early stage business investment program: (including the Angel Investment Tax Credits and Early Stage Seed Investment Tax Credits) by eliminating the need for “proprietary technology”
 - i. Remove “that are enabled by applying proprietary technology” from 238.15(1)(f)1.b.
 - ii. Remove “proprietary” from 238.15(1)(f)2.
 - iii. Remove both instances of “proprietary” from 238.15(1)(f)2.
- b. Limit the excluded industries from the eligibility criteria by eliminating certain excluded classes from 238.15(1)(g) – **delete all the excluded businesses except for lobbying and**

political consulting.

(g) is not primarily engaged in ~~real estate development, insurance, banking, lending, lobbying (or) 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 construction of power production plants that derive energy from a renewable resource, as defined in s. 196.378(1)(h).~~



In: 2/4 ~~seen~~ TODAY

State of Wisconsin
2013 - 2014 LEGISLATURE

Thurs



LRB-4167/P1
JK&MPG:.....

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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SAV

1 AN ACT ...; relating to: increasing the claim amounts and altering various
2 eligibility criteria under the angel and early stage seed investment credits,
3 authorizing the transfer of angel investment tax credits, and creating an
4 income and franchise tax credit for purchases made from qualified new
5 business ventures. a

Analysis by the Legislative Reference Bureau

This bill makes a number of changes to the early stage seed investment tax credit and the angel investment tax credit program, including the following:

1. Under current law, a taxpayer may claim an early stage seed investment tax credit equal to 25 percent of the taxpayer's investment paid to a fund manager that the fund manager invests in a qualified new business venture, as certified by the Wisconsin Economic Development Corporation (WEDC). Also, under current law, a taxpayer may claim an angel investment tax credit equal to 25 percent of the taxpayer's bona fide angel investment in a qualified new business venture. Under the bill, with regard to the first \$1,000,000 invested by the taxpayer, a taxpayer may claim an early stage seed investment credit or an angel investment credit equal to 40 percent of the taxpayer's investment and, with regard to any amount invested after that first \$1,000,000, the taxpayer may claim a credit equal to 25 percent of the taxpayer's investment.
2. Under current law, WEDC may certify a business as a qualified new business venture if, among other eligibility criteria, the business is not primarily 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, with one exception, construction. Under the bill a business is eligible for certification as a qualified new business venture if, in addition to the other eligibility criteria established under current law, the business is not primarily engaged in lobbying and political consulting. ^{or}

3. Under current law, a person awarded an early stage seed investment tax credit may sell or otherwise transfer the credit to another Wisconsin taxpayer, but a person awarded the angel investment tax credit may not transfer that credit to another person. Under the bill, a person awarded the angel investment tax credit may sell or otherwise transfer the credit to another Wisconsin taxpayer.

4. Under current law, in determining whether to certify an investment fund manager for purposes of the early stage seed investment tax credit, WEDC is required to consider, among other factors, the expected level of investment in the investment fund to be managed by the investment fund manager. The bill prohibits WEDC from considering that factor.

The bill also creates an income and franchise tax credit equal to 25 percent of the sales price of goods and services that the taxpayer purchases from a qualified new business venture, as certified by WEDC. The maximum amount that a taxpayer may claim as a credit for such purchases in a taxable year is \$125,000. Only corporations and insurers may claim the credit. If the amount of the credit exceeds the taxpayer's tax liability, the taxpayer does not receive a refund, but, instead, may claim the amount of any unused credit in subsequent taxable years.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 71.07 (5b) (b) 1. of the statutes is renumbered 71.07 (5b) (b) 1. a. and
2 amended to read:

3 71.07 **(5b)** (b) 1. a. For taxable years beginning after December 31, 2004, and
4 before January 1, 2014, subject to the limitations provided under this subsection and
5 s. 238.15 or s. 560.205, 2009 stats., and except as provided in subd. 2., a claimant may
6 claim as a credit against the tax imposed under ss. 71.02 and 71.08, up to the amount
7 of those taxes, 25 percent of the claimant's investment paid to a fund manager that

1 the fund manager invests in a business certified under s. 238.15 (1) or s. 560.205 (1),
2 2009 stats.

History: 1987 a. 312; 1987 a. 411 ss. 63, 79 to 82, 85, 86; 1987 a. 419, 422; 1989 a. 31, 44, 56, 100, 359; 1991 a. 39, 269, 292; 1993 a. 16, 112, 204, 471, 491; 1995 a. 27 ss. 3377m to 3393m, 9116 (5); 1995 a. 209, 227, 400, 453; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9, 10, 32; 1999 a. 150 s. 672; 1999 a. 198; 2001 a. 16, 109; 2003 a. 72, 99, 135, 183, 255, 267, 326; 2005 a. 25, 49, 72, 74, 97, 177, 254, 361, 387, 479, 483, 487; 2007 a. 11, 20, 96, 97, 100; 2009 a. 2, 11, 28, 180, 185, 265, 267, 269, 276, 294, 295, 332, 401; 2011 a. 15, 32, 67, 212, 213, 232, 237; 2011 a. 260 s. 80; 2013 a. 20, 54, 62, 116; s. 35.17 correction in (2dr) (a), (5n) (a) (intro.).

3 **SECTION 2.** 71.07 (5b) (b) 1. b. of the statutes is created to read:

4 71.07 (5b) (b) 1. b. For taxable years beginning after December 31, 2013,
5 subject to the limitations provided under this subsection and s. 238.15, and except
6 as provided in subd. 2., a claimant may claim as a credit against the tax imposed
7 under ss. 71.02 and 71.08, up to the amount of those taxes, with regard to the first
8 \$1,000,000 invested by the claimant, 40 percent of the claimant's investment paid to
9 a fund manager that the fund manager invests in a business certified under s. 238.15
10 (1) and, with regard to any amount invested by the claimant after that first
11 \$1,000,000, 25 percent of the claimant's investment paid to a fund manager that the
12 fund manager invests in a business certified under s. 238.15 (1).

in excess of

10

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

14 71.07 (5b) (b) 2. In the case of a partnership, limited liability company, or
15 tax-option corporation, the computation of the 25 and 40 percent limitation
16 limitations under subd. 1. shall be determined at the entity level rather than the
17 claimant level and may be allocated among the claimants who make investments in
18 the manner set forth in the entity's organizational documents. The entity shall
19 provide to the department of revenue and to the department of commerce or the
20 Wisconsin Economic Development Corporation the names and tax identification
21 numbers of the claimants, the amounts of the credits allocated to the claimants, and
22 the computation of the allocations.

History: 1987 a. 312; 1987 a. 411 ss. 63, 79 to 82, 85, 86; 1987 a. 419, 422; 1989 a. 31, 44, 56, 100, 359; 1991 a. 39, 269, 292; 1993 a. 16, 112, 204, 471, 491; 1995 a. 27 ss. 3377m to 3393m, 9116 (5); 1995 a. 209, 227, 400, 453; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9, 10, 32; 1999 a. 150 s. 672; 1999 a. 198; 2001 a. 16, 109; 2003 a. 72, 99, 135, 183, 255, 267, 326; 2005 a. 25, 49, 72, 74, 97, 177, 254, 361, 387, 479, 483, 487; 2007 a. 11, 20, 96, 97, 100; 2009 a. 2, 11, 28, 180, 185, 265, 267, 269, 276, 294, 295, 332, 401; 2011 a. 15, 32, 67, 212, 213, 232, 237; 2011 a. 260 s. 80; 2013 a. 20, 54, 62, 116; s. 35.17 correction in (2dr) (a), (5n) (a) (intro.).

1 **SECTION 4.** 71.07 (5d) (b) 2. of the statutes is amended to read:

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

History: 1987 a. 312; 1987 a. 411 ss. 63, 79 to 82, 85, 86; 1987 a. 419, 422; 1989 a. 31, 44, 56, 100, 359; 1991 a. 39, 269, 292; 1993 a. 16, 112, 204, 471, 491; 1995 a. 27
ss. 337m to 3393m, 9116 (5); 1995 a. 209, 227, 400, 453; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9, 10, 32; 1999 a. 150 s. 672; 1999 a. 198; 2001 a. 16, 109; 2003 a. 72, 99, 135,
183, 255, 267, 326; 2005 a. 25, 49, 72, 74, 97, 177, 254, 361, 387, 479, 483, 487; 2007 a. 11, 20, 96, 97, 100; 2009 a. 2, 11, 28, 180, 185, 265, 267, 269, 276, 294, 295, 332, 401;
2011 a. 15, 32, 67, 212, 213, 232, 237; 2011 a. 260 s. 80; 2013 a. 20, 54, 62, 116; s. 35.17 correction in (2dr) (a), (5n) (a) (intro.).

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

8 71.07 **(5d)** (b) 3. For taxable years beginning after December 31, 2013, for the
9 taxable year certified by the Wisconsin Economic Development Corporation, with
10 regard to the first \$1,000,000 invested by the claimant, an amount equal to 40
11 percent of the claimant's bona fide angel investment made directly in a qualified new
12 business venture and, with regard to any amount invested by the claimant ~~after~~ ^{in excess of} that
13 first \$1,000,000, an amount equal to 25 percent of the claimant's bona fide angel
14 investment made directly in a qualified new business venture.

15 **SECTION 6.** 71.28 (5b) (b) 1. of the statutes is renumbered 71.28 (5b) (b) 1. a. and
16 amended to read:

17 71.28 **(5b)** (b) 1. a. For taxable years beginning after December 31, 2004, and
18 before January 1, 2014, subject to the limitations provided under this subsection and
19 s. 238.15 or s. 560.205, 2009 stats., and except as provided in subd. 2., a claimant may
20 claim as a credit against the tax imposed under s. 71.23, up to the amount of those
21 taxes, 25 percent of the claimant's investment paid to a fund manager that the fund

1 manager invests in a business certified under s. 238.15 (1) or s. 560.205 (1), 2009
2 stats.

History: 1987 a. 312; 1987 a. 411 ss. 88, 130 to 139; 1987 a. 422; 1989 a. 31, 44, 56, 100, 336, 359; 1991 a. 39, 292; 1993 a. 16, 112, 232, 491; 1995 a. 2; 1995 a. 27 ss. 3399r to 3404c, 9116 (5); 1995 a. 209, 227; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9; 2001 a. 16; 2003 a. 72, 99, 135, 255, 267, 326; 2005 a. 25, 74, 97, 361, 387, 452, 479, 483, 487; 2007 a. 20, 96, 97, 100; 2009 a. 2, 11, 28, 180, 185, 265, 267, 269, 276, 294, 295, 332, 401; 2011 a. 3, 15, 32, 67, 212, 213, 232, 237; 2011 a. 260 s. 80; 2013 a. 20, 54, 62, 116; s. 35.17 correction in (1dm) (a) 1.

3 **SECTION 7.** 71.28 (5b) (b) 1. b. of the statutes is created to read:

4 71.28 (5b) (b) 1. b. For taxable years beginning after December 31, 2013,
5 subject to the limitations provided under this subsection and s. 238.15, and except
6 as provided in subd. 2., a claimant may claim as a credit against the tax imposed
7 under s. 71.23, up to the amount of those taxes, with regard to the first \$1,000,000
8 invested by the claimant, 40 percent of the claimant's investment paid to a fund
9 manager that the fund manager invests in a business certified under s. 238.15 (1)
10 and, with regard to any amount invested by the claimant ^{e in excess of} (after) that first \$1,000,000,
11 25 percent of the claimant's investment paid to a fund manager that the fund
12 manager invests in a business certified under s. 238.15 (1).

13 **SECTION 8.** 71.28 (5b) (b) 2. of the statutes is amended to read:

14 71.28 (5b) (b) 2. In the case of a partnership, limited liability company, or
15 tax-option corporation, the computation of the 25 and 40 percent limitation
16 limitations under subd. 1. shall be determined at the entity level rather than the
17 claimant level and may be allocated among the claimants who make investments in
18 the manner set forth in the entity's organizational documents. The entity shall
19 provide to the department of revenue and to the department of commerce or the
20 Wisconsin Economic Development Corporation the names and tax identification
21 numbers of the claimants, the amounts of the credits allocated to the claimants, and
22 the computation of the allocations.

History: 1987 a. 312; 1987 a. 411 ss. 88, 130 to 139; 1987 a. 422; 1989 a. 31, 44, 56, 100, 336, 359; 1991 a. 39, 292; 1993 a. 16, 112, 232, 491; 1995 a. 2; 1995 a. 27 ss. 3399r to 3404c, 9116 (5); 1995 a. 209, 227; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9; 2001 a. 16; 2003 a. 72, 99, 135, 255, 267, 326; 2005 a. 25, 74, 97, 361, 387, 452, 479, 483, 487; 2007 a. 20, 96, 97, 100; 2009 a. 2, 11, 28, 180, 185, 265, 267, 269, 276, 294, 295, 332, 401; 2011 a. 3, 15, 32, 67, 212, 213, 232, 237; 2011 a. 260 s. 80; 2013 a. 20, 54, 62, 116; s. 35.17 correction in (1dm) (a) 1.

^

SECTION 9. 71.28 (5bm) of the statutes is created to read:

71.28 (5bm) QUALIFIED PURCHASES CREDIT. (a) *Definitions.* In this subsection:

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

2. "Qualified new business venture" means a business that is certified under s. 238.15 (1).

3. "Sales price" has the meaning given in s. 77.51 (15b).

4. "Tangible personal property" has the meaning given in s. 77.51 (20).

(b) *Filing claims.* For taxable years beginning after December 31, 2013, and subject to the limitations provided in this subsection and s. 238.15, a claimant may claim as a credit against the tax imposed under s. 71.23, up to the amount of those taxes, an amount, as certified under s. 238.15, equal to 25 percent of the sales price of the tangible personal property, goods under s. 77.52 (1)(d), or services that the claimant purchased from a qualified new business venture in the taxable year.

(c) *Limitations.* 1. The maximum amount that a claimant may claim under this subsection for a taxable year is \$125,000.

2. No credit may be allowed under this subsection unless the claimant includes with the claimant's return a copy of the claimant's certification under s. 238.15.

3. The credits under this subsection may not be claimed by a partnership, except a publicly traded partnership treated as a corporation under s. 71.22 (1k), limited liability company, except a limited liability company treated as a corporation under s. 71.22 (1k), or tax-option corporation or by partners, including partners of a publicly traded partnership, members of a limited liability company or shareholders of a tax-option corporation.

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

λ

1 SECTION 10. 71.30 (3) (bp) of the statutes is created to read:

2 71.30 (3) (bp) Qualified purchases credit under s. 71.28 (5bm).

3 SECTION 11. 71.47 (5b) (b) 1. of the statutes is renumbered 71.47 (5b) (b) 1. a.

4 and amended to read:

5 71.47 (5b) (b) 1. a. For taxable years beginning after December 31, 2004, and
6 before January 1, 2014, subject to the limitations provided under this subsection and
7 s. 238.15 or s. 560.205, 2009 stats., and except as provided in subd. 2., a claimant may
8 claim as a credit against the tax imposed under s. 71.43, up to the amount of those
9 taxes, 25 percent of the claimant's investment paid to a fund manager that the fund
10 manager invests in a business certified under s. 238.15 (1) or s. 560.205 (1), 2009
11 stats.

History: 1987 a. 312, 411, 422; 1989 a. 31, 44, 56, 100, 336, 359; 1991 a. 39, 292, 315; 1993 a. 16, 112; 1995 a. 27 ss. 3407m to 3412m, 9116 (5); 1995 a. 209, 227, 417; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9; 2001 a. 16; 2003 a. 72, 99, 135, 255, 267, 326; 2005 a. 25, 74, 97, 361, 387, 452, 479, 483, 487; 2007 a. 20, 96, 97, 100; 2009 a. 2, 11, 28, 180, 185, 265, 267, 269, 276, 294, 295, 332, 401; 2011 a. 3, 15, 32, 67, 212, 213, 232, 237; 2011 a. 260 ss. 80, 81; 2013 a. 20, 62, 116.

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

13 71.47 (5b) (b) 1. b. For taxable years beginning after December 31, 2013,
14 subject to the limitations provided under this subsection and s. 238.15, and except
15 as provided in subd. 2., a claimant may claim as a credit against the tax imposed
16 under s. 71.43, up to the amount of those taxes, with regard to the first \$1,000,000
17 invested by the claimant, 40 percent of the claimant's investment paid to a fund
18 manager that the fund manager invests in a business certified under s. 238.15 (1)
19 and, with regard to any amount invested by the claimant after that first \$1,000,000,
20 25 percent of the claimant's investment paid to a fund manager that the fund
21 manager invests in a business certified under s. 238.15 (1).

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

23 71.47 (5b) (b) 2. In the case of a partnership, limited liability company, or
24 tax-option corporation, the computation of the 25 and 40 percent limitation

in excess of

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

History: 1987 a. 312, 411, 422; 1989 a. 31, 44, 56, 100, 336, 359; 1991 a. 39, 292, 315; 1993 a. 16, 112; 1995 a. 27 ss. 3407m to 3412m, 9116 (5); 1995 a. 209, 227, 417; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9; 2001 a. 16; 2003 a. 72, 99, 135, 255, 267, 326; 2005 a. 25, 74, 97, 361, 387, 452, 479, 483, 487; 2007 a. 20, 96, 97, 100; 2009 a. 2, 11, 28, 180, 185, 265, 267, 269, 276, 294, 295, 332, 401; 2011 a. 3, 15, 32, 67, 212, 213, 232, 237; 2011 a. 260 ss. 80, 81; 2013 a. 20, 62, 116.

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

9 **71.47 (5bm) QUALIFIED PURCHASES CREDIT.** (a) *Definitions.* In this subsection:

- 10 1. "Claimant" means a person who files a claim under this subsection.
- 11 2. "Qualified new business venture" means a business that is certified under
- 12 s. 238.15 (1).
- 13 3. "Sales price" has the meaning given in s. 77.51 (15b).
- 14 4. "Tangible personal property" has the meaning given in s. 77.51 (20).

15 (b) *Filing claims.* For taxable years beginning after December 31, 2013, and

16 subject to the limitations provided in this subsection ~~and s. 238.15~~ a claimant may
17 claim as a credit against the tax imposed under s. 71.43, up to the amount of those
18 taxes, an amount, as certified under s. 238.15 (X) equal to 25 percent of the sales
19 price of the tangible personal property, goods under s. 77.52 (1)(d), ~~or~~ ^{and} services that
20 the claimant purchased from a qualified new business venture in the taxable year.
5 *keep comma* *paren*

21 (c) *Limitations.* 1. The maximum amount that a claimant may claim under this
22 subsection for a taxable year is \$125,000.

23 2. No credit may be allowed under this subsection unless the claimant includes
24 with the claimant's return a copy of the claimant's certification under s. 238.15 (X)

5

1 3. The credits under this subsection may not be claimed by a partnership,
2 except a publicly traded partnership treated as a corporation under s. 71.22 (1k),
3 limited liability company, except a limited liability company treated as a corporation
4 under s. 71.22 (1k), or tax-option corporation or by partners, including partners of
5 a publicly traded partnership, members of a limited liability company or
6 shareholders of a tax-option corporation.

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

9 **SECTION 15.** 71.49 (1) (bp) of the statutes is created to read: ✓

10 71.49 (1) (bp) Qualified purchases credit under s. 71.47 (5bm).

11 **SECTION 16.** 76.638 (2) of the statutes is renumbered 76.638 (2) (a) and
12 amended to read:

13 76.638 (2) (a) FILING CLAIMS. For taxable years beginning after December 31,
14 2008, and before January 1, 2014, subject to the limitations provided under this
15 subsection and s. 238.15 or s. 560.205, 2009 stats., an insurer may claim as a credit
16 against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67, 25 percent of
17 the insurer's investment paid to a fund manager that the fund manager invests in
18 a business certified under s. 238.15 or s. 560.205 (1), 2009 stats.

19 *History:* 2009 a. 2; 2011 a. 32.

19 **SECTION 17.** 76.638 (2) (b) of the statutes is created to read:

20 76.638 (2) (b) For taxable years beginning after December 31, 2013, subject to
21 the limitations provided under this subsection and s. 238.15, an insurer may claim
22 as a credit against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67, with
23 regard to the first \$1,000,000 invested by the insurer, 40 percent of the insurer's
24 investment paid to a fund manager that the fund manager invests in a business

in excess of

1 certified under s. 238.15 and, with regard to any amount invested by the insurer after
2 that first \$1,000,000, 25 percent of the insurer's investment paid to a fund manager
3 that the fund manager invests in a business certified under s. 238.15.

Parent 10-3

4 **SECTION 18.** 238.15 (1) (f) 1. b. of the statutes is amended to read:

5 238.15 (1) (f) 1. b. Processing or assembling products, including medical
6 devices, pharmaceuticals, computer software, computer hardware, semiconductors,
7 any other innovative technology products, or other products that are produced using
8 manufacturing methods ~~that are enabled by applying proprietary technology.~~

****NOTE: Should the "or other products that are produced using manufacturing methods" be removed as well and the provision end with "and any other innovative technology products.?"

9 *X* **History:** 2003 a. 255; 2005 a. 49, 97; 2007 a. 20, 125; 2009 a. 2, 265, 276; 2011 a. 32 s. 3356; Stats. 2011 s. 238.15; 2011 a. 213.

SECTION 19. 238.15 (1) (f) 1. c. of the statutes is repealed.

10 **SECTION 20.** 238.15 (1) (f) 2. of the statutes is amended to read:

11 238.15 (1) (f) 2. It is undertaking pre-commercialization activity related to
12 ~~proprietary~~ technology that includes conducting research, developing a new product
13 or business process, or developing a service that is principally reliant on applying
14 ~~proprietary~~ technology.

15 *X* **History:** 2003 a. 255; 2005 a. 49, 97; 2007 a. 20, 125; 2009 a. 2, 265, 276; 2011 a. 32 s. 3356; Stats. 2011 s. 238.15; 2011 a. 213.

SECTION 21. 238.15 (1) (g) of the statutes is amended to read:

16 238.15 (1) (g) It is not primarily engaged in ~~real estate development, insurance,~~
17 ~~banking, lending, lobbying, or~~ political consulting, ~~professional services provided by~~
18 ~~attorneys, accountants, business consultants, physicians, or health care~~
19 ~~consultants, wholesale or retail trade, leisure, hospitality, transportation, or~~
20 ~~construction, except construction of power production plants that derive energy from~~
21 ~~a renewable resource, as defined in s. 196.378 (1) (h).~~

22 **History:** 2003 a. 255; 2005 a. 49, 97; 2007 a. 20, 125; 2009 a. 2, 265, 276; 2011 a. 32 s. 3356; Stats. 2011 s. 238.15; 2011 a. 213.

SECTION 22. 238.15 (2) of the statutes is amended to read:

1 238.15 (2) EARLY STAGE SEED INVESTMENT TAX CREDITS. The corporation shall
 2 implement a program to certify investment fund managers for purposes of ss. 71.07
 3 (5b), 71.28 (5b), 71.47 (5b), and 76.638. An investment fund manager desiring
 4 certification shall submit an application to the corporation. The investment fund
 5 manager shall specify in the application the investment amount that the manager
 6 wishes to raise and the corporation may certify the manager and determine the
 7 amount that qualifies for purposes of ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and 76.638.
 8 In determining whether to certify an investment fund manager, the corporation shall
 9 consider the investment fund manager's experience in managing venture capital
 10 funds, the past performance of investment funds managed by the applicant, the
 11 expected level of investment in the investment fund to be managed by the applicant,
 12 and any other relevant factors. The corporation may not consider the expected level
 13 of investment in the investment fund to be managed. The corporation may certify
 14 only investment fund managers that commit to consider placing investments in
 15 businesses certified under sub. (1).

History: 2003 a. 255; 2005 a. 49, 97; 2007 a. 20, 125; 2009 a. 2, 265, 276; 2011 a. 32 s. 3356; Stats. 2011 s. 238.15; 2011 a. 213.

16 **SECTION 23.** 238.15 (3) (e) of the statutes is amended to read:

17 238.15 (3) (e) *Transfer.* A person who is eligible to claim a credit under s. 71.07
 18 (5b) or (5d), 71.28 (5b), 71.47 (5b), or 76.638 may sell or otherwise transfer the credit
 19 to another person who is subject to the taxes or fees imposed under s. 71.02, 71.08,
 20 71.23, 71.47, or subch. III of ch. 76, if the person receives prior authorization from
 21 the investment fund manager and the manager then notifies the corporation and the
 22 department of revenue of the transfer and submits with the notification a copy of the
 23 transfer documents. No person may sell or otherwise transfer a credit as provided
 24 in this paragraph more than once in a 12-month period. The corporation may charge

A person who is eligible to claim a credit under s. 71.07 (5d) may sell or otherwise transfer the credit to another person who is subject to the taxes or fees imposed under s. 71.02 or 71.08 if the person notifies the corporation and the department

of revenue of the transfer and submits with the notification a copy of the transfer documents

1 any person selling or otherwise transferring a credit under this paragraph a fee equal
2 to 1 percent of the credit amount sold or transferred.

3 ~~History: 2003 a. 255; 2005 a. 49; 97; 2007 a. 20, 125; 2009 a. 2, 265, 276; 2011 a. 32 s. 3356; Stats. 2011 s. 298.15; 2011 a. 213.~~

(END)

Insert 12-2 B ✓

Insert 12-2 A ✓

Insert 10 - 3

SECTION 1. 76.639 of the statutes is created to read:

76.639 Qualified purchases credit. (1) DEFINITIONS. In this section:

(a) "Qualified new business venture" means a business that is certified under s. 238.15 (1).

(b) "Sales price" has the meaning given in s. 77.51 (15b).

(c) "Tangible personal property" has the meaning given in s. 77.51 (20).

(2) FILING CLAIMS. For taxable years beginning after December 31, 2013, and subject to the limitations provided in this section and s. 238.15, an insurer may claim as a credit against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67, an amount, as certified under s. 238.15, equal to 25 percent of the sales price of the tangible personal property, goods under s. 77.52 (1)(d), or services that the insurer purchased from a qualified new business venture in the taxable year.

(3) LIMITATIONS. 1. The maximum amount that an insurer may claim under this section for a taxable year is \$125,000.

2. No credit may be allowed under this section unless the insurer includes with the insurer's return a copy of the insurer's certification under s. 238.15.

(4) CARRY-FORWARD. If the credit under sub. (2) is not entirely offset against the fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67 otherwise due, the unused balance may be carried forward and credited against those fees for the following 15 years to the extent that it is not offset by those fees otherwise due in all the years between the year in which the expense was made and the year in which the carry-forward credit is claimed.

1 **SECTION 2. Initial applicability.** ✓ ✓
2 ✓ (1) The treatment of sections 71.07 (5b) (b) 1. b. and (5d) (b) 3., 71.28 (5b) (b)
3 1. b., 71.47 (5b) (b) 1. b., and 76.638 (2) (b) of the statutes first applies to investments
4 made in taxable years beginning on January 1, 2014.

end of 12-2 B

✓

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4167/P1insMG
MPG:.....

1 INSERT 12-2 A ✓

2 SECTION 1. 238.155 of the statutes is created to read:

3 **238.155 Qualified purchases tax credit.** (1) DEFINITION. In this section,
4 “qualified purchase” means the purchase from a qualified new business venture, as
5 defined in s. 238.15 (1), of tangible personal property, as defined in s. 77.51 (15b),
6 goods under s. 77.52 (1) (d), or services. 20 ✓

7 (2) CERTIFICATION PROGRAM. (a) The corporation shall develop and implement
8 an economic development program to certify qualified purchases for purposes of the
9 tax credits under ss. 71.28 (5bm), 71.47 (5bm), and 76.639. A person desiring
10 certification under this section shall submit an application to the corporation in each
11 taxable year for which the person desires certification. ✓

12 (b) Subject to the limitations under s. 71.28 (5bm), 71.47 (5bm), and 76.639, the
13 corporation shall certify ~~the amount of qualified purchases of~~ ^{for} each person submitting
14 an application under par. (a) ~~that may be claimed as a tax credit under s. 71.28 (5bm),~~
15 71.47 (5bm), or 76.639, if the person submits evidence satisfactory to the corporation
16 demonstrating the person’s qualified purchases and that the person is otherwise
17 eligible to claim the tax credit. The corporation shall provide the person with a copy
18 of the certification. ✓

19 END INSERT 12-2 A ✓

Gallagher, Michael

From: Henkel, Matt
Sent: Thursday, March 06, 2014 1:34 PM
To: Gallagher, Michael
Subject: LRB-4167 Act 255 changes
Attachments: 13-4167_P1.pdf

Mike, sorry for the delay. Here's the answer to your question and one other small request.

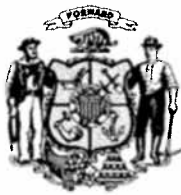
On page 10 – leave as is. It is drafted correctly. ✓

Page 11, Line 1: Let's not completely repeal that section relating to service. 238.15 (1)(f) 1. a. and c. both are about products, but QNBV needs to capture services businesses too. 238.15(1)(f)1.c. should be amended to: "Innovative services enabled by technology." (or something similar to that – just trying to get some language to capture the intent) ✓

Thanks and it looks great. Let me know if there are any questions.

-Matt

Matthew Henkel
Office of Senator Paul Farrow
Room 323 South, State Capitol
(608) 266-9174



Traks
stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA

Gen Cat

1

1 AN ACT ~~to repeal~~ 238.15 (1) (f) 1. c.; **to renumber and amend** 71.07 (5b) (b) 1.,
2 71.28 (5b) (b) 1., 71.47 (5b) (b) 1. and 76.638 (2); **to amend** 71.07 (5b) (b) 2., 71.07
3 (5d) (b) 2., 71.28 (5b) (b) 2., 71.47 (5b) (b) 2., 238.15 (1) (f) 1. b., 238.15 (1) (f) 2.,
4 238.15 (1) (g), 238.15 (2) and 238.15 (3) (e); and **to create** 71.07 (5b) (b) 1. b.,
5 71.07 (5d) (b) 3., 71.28 (5b) (b) 1. b., 71.28 (5bm), 71.30 (3) (bp), 71.47 (5b) (b) 1.
6 b., 71.47 (5bm), 71.49 (1) (bp), 76.638 (2) (b), 76.639 and 238.155 of the statutes;
7 **relating to:** increasing the claim amounts and altering various eligibility
8 criteria under the angel and early stage seed investment credits, authorizing
9 the transfer of angel investment tax credits, and creating a tax credit for
10 purchases made from qualified new business ventures.

Analysis by the Legislative Reference Bureau

This bill makes a number of changes to the early stage seed investment tax credit and the angel investment tax credit program, including the following:

1. Under current law, a taxpayer may claim an early stage seed investment tax credit equal to 25 percent of the taxpayer's investment paid to a fund manager that the fund manager invests in a qualified new business venture, as certified by the Wisconsin Economic Development Corporation (WEDC). Also, under current law, a

taxpayer may claim an angel investment tax credit equal to 25 percent of the taxpayer's bona fide angel investment in a qualified new business venture. Under the bill, with regard to the first \$1,000,000 invested by the taxpayer, a taxpayer may claim an early stage seed investment credit or an angel investment credit equal to 40 percent of the taxpayer's investment and, with regard to any amount invested after that first \$1,000,000, the taxpayer may claim a credit equal to 25 percent of the taxpayer's investment.

2. Under current law, WEDC may certify a business as a qualified new business venture if, among other eligibility criteria, the business is not primarily 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, with one exception, construction. Under the bill a business is eligible for certification as a qualified new business venture if, in addition to the other eligibility criteria established under current law, the business is not primarily engaged in lobbying or political consulting.

3. Under current law, a person awarded an early stage seed investment tax credit may sell or otherwise transfer the credit to another Wisconsin taxpayer, but a person awarded the angel investment tax credit may not transfer that credit to another person. Under the bill, a person awarded the angel investment tax credit may sell or otherwise transfer the credit to another Wisconsin taxpayer.

4. Under current law, in determining whether to certify an investment fund manager for purposes of the early stage seed investment tax credit, WEDC is required to consider, among other factors, the expected level of investment in the investment fund to be managed by the investment fund manager. The bill prohibits WEDC from considering that factor.

The bill also creates a tax credit equal to 25 percent of the sales price of goods and services that the taxpayer purchases from a qualified new business venture, as certified by WEDC. The maximum amount that a taxpayer may claim as a credit for such purchases in a taxable year is \$125,000. Only corporations and insurers may claim the credit. If the amount of the credit exceeds the taxpayer's tax liability, the taxpayer does not receive a refund, but, instead, may claim the amount of any unused credit in subsequent taxable years.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 71.07 (5b) (b) 1. of the statutes is renumbered 71.07 (5b) (b) 1. a. and
2 amended to read:

1 71.07 (5b) (b) 1. a. For taxable years beginning after December 31, 2004, and
2 before January 1, 2014, subject to the limitations provided under this subsection and
3 s. 238.15 or s. 560.205, 2009 stats., and except as provided in subd. 2., a claimant may
4 claim as a credit against the tax imposed under ss. 71.02 and 71.08, up to the amount
5 of those taxes, 25 percent of the claimant's investment paid to a fund manager that
6 the fund manager invests in a business certified under s. 238.15 (1) or s. 560.205 (1),
7 2009 stats.

8 **SECTION 2.** 71.07 (5b) (b) 1. b. of the statutes is created to read:

9 71.07 (5b) (b) 1. b. For taxable years beginning after December 31, 2013,
10 subject to the limitations provided under this subsection and s. 238.15, and except
11 as provided in subd. 2., a claimant may claim as a credit against the tax imposed
12 under ss. 71.02 and 71.08, up to the amount of those taxes, with regard to the first
13 \$1,000,000 invested by the claimant, 40 percent of the claimant's investment paid to
14 a fund manager that the fund manager invests in a business certified under s. 238.15
15 (1) and, with regard to any amount invested by the claimant in excess of that first
16 \$1,000,000, 25 percent of the claimant's investment paid to a fund manager that the
17 fund manager invests in a business certified under s. 238.15 (1).

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

19 71.07 (5b) (b) 2. In the case of a partnership, limited liability company, or
20 tax-option corporation, the computation of the 25 and 40 percent limitation
21 limitations under subd. 1. shall be determined at the entity level rather than the
22 claimant level and may be allocated among the claimants who make investments in
23 the manner set forth in the entity's organizational documents. The entity shall
24 provide to the department of revenue and to the department of commerce or the
25 Wisconsin Economic Development Corporation the names and tax identification

1 numbers of the claimants, the amounts of the credits allocated to the claimants, and
2 the computation of the allocations.

3 **SECTION 4.** 71.07 (5d) (b) 2. of the statutes is amended to read:

4 71.07 (5d) (b) 2. For taxable years beginning after December 31, 2007, and
5 before January 1, 2014, for the taxable year certified by the department of commerce
6 or the Wisconsin Economic Development Corporation, an amount equal to 25 percent
7 of the claimant's bona fide angel investment made directly in a qualified new
8 business venture.

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

10 71.07 (5d) (b) 3. For taxable years beginning after December 31, 2013, for the
11 taxable year certified by the Wisconsin Economic Development Corporation, with
12 regard to the first \$1,000,000 invested by the claimant, an amount equal to 40
13 percent of the claimant's bona fide angel investment made directly in a qualified new
14 business venture and, with regard to any amount invested by the claimant in excess
15 of that first \$1,000,000, an amount equal to 25 percent of the claimant's bona fide
16 angel investment made directly in a qualified new business venture.

17 **SECTION 6.** 71.28 (5b) (b) 1. of the statutes is renumbered 71.28 (5b) (b) 1. a. and
18 amended to read:

19 71.28 (5b) (b) 1. a. For taxable years beginning after December 31, 2004, and
20 before January 1, 2014, subject to the limitations provided under this subsection and
21 s. 238.15 or s. 560.205, 2009 stats., and except as provided in subd. 2., a claimant may
22 claim as a credit against the tax imposed under s. 71.23, up to the amount of those
23 taxes, 25 percent of the claimant's investment paid to a fund manager that the fund
24 manager invests in a business certified under s. 238.15 (1) or s. 560.205 (1), 2009
25 stats.

1 **SECTION 7.** 71.28 (5b) (b) 1. b. of the statutes is created to read:

2 71.28 **(5b)** (b) 1. b. For taxable years beginning after December 31, 2013,
3 subject to the limitations provided under this subsection and s. 238.15, and except
4 as provided in subd. 2., a claimant may claim as a credit against the tax imposed
5 under s. 71.23, up to the amount of those taxes, with regard to the first \$1,000,000
6 invested by the claimant, 40 percent of the claimant's investment paid to a fund
7 manager that the fund manager invests in a business certified under s. 238.15 (1)
8 and, with regard to any amount invested by the claimant in excess of that first
9 \$1,000,000, 25 percent of the claimant's investment paid to a fund manager that the
10 fund manager invests in a business certified under s. 238.15 (1).

11 **SECTION 8.** 71.28 (5b) (b) 2. of the statutes is amended to read:

12 71.28 **(5b)** (b) 2. In the case of a partnership, limited liability company, or
13 tax-option corporation, the computation of the 25 and 40 percent limitation
14 limitations under subd. 1. shall be determined at the entity level rather than the
15 claimant level and may be allocated among the claimants who make investments in
16 the manner set forth in the entity's organizational documents. The entity shall
17 provide to the department of revenue and to the department of commerce or the
18 Wisconsin Economic Development Corporation the names and tax identification
19 numbers of the claimants, the amounts of the credits allocated to the claimants, and
20 the computation of the allocations.

21 **SECTION 9.** 71.28 (5bm) of the statutes is created to read:

22 71.28 **(5bm)** QUALIFIED PURCHASES CREDIT. (a) *Definitions.* In this subsection:

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

24 2. "Qualified new business venture" means a business that is certified under
25 s. 238.15 (1).

SECTION 9

1 3. “Sales price” has the meaning given in s. 77.51 (15b).

2 4. “Tangible personal property” has the meaning given in s. 77.51 (20).

3 (b) *Filing claims.* For taxable years beginning after December 31, 2013, and
4 subject to the limitations provided in this subsection, a claimant may claim as a
5 credit against the tax imposed under s. 71.23, up to the amount of those taxes, an
6 amount, as certified under s. 238.155, equal to 25 percent of the sales price of the
7 tangible personal property, goods under s. 77.52 (1) (d), and services that the
8 claimant purchased from a qualified new business venture in the taxable year.

9 (c) *Limitations.* 1. The maximum amount that a claimant may claim under this
10 subsection for a taxable year is \$125,000.

11 2. No credit may be allowed under this subsection unless the claimant includes
12 with the claimant’s return a copy of the claimant’s certification under s. 238.155.

13 3. The credits under this subsection may not be claimed by a partnership,
14 except a publicly traded partnership treated as a corporation under s. 71.22 (1k),
15 limited liability company, except a limited liability company treated as a corporation
16 under s. 71.22 (1k), or tax-option corporation or by partners, including partners of
17 a publicly traded partnership, members of a limited liability company or
18 shareholders of a tax-option corporation.

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

21 **SECTION 10.** 71.30 (3) (bp) of the statutes is created to read:

22 71.30 (3) (bp) Qualified purchases credit under s. 71.28 (5bm).

23 **SECTION 11.** 71.47 (5b) (b) 1. of the statutes is renumbered 71.47 (5b) (b) 1. a.

24 and amended to read:

1 71.47 (5b) (b) 1. a. For taxable years beginning after December 31, 2004, and
2 before January 1, 2014, subject to the limitations provided under this subsection and
3 s. 238.15 or s. 560.205, 2009 stats., and except as provided in subd. 2., a claimant may
4 claim as a credit against the tax imposed under s. 71.43, up to the amount of those
5 taxes, 25 percent of the claimant's investment paid to a fund manager that the fund
6 manager invests in a business certified under s. 238.15 (1) or s. 560.205 (1), 2009
7 stats.

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

9 71.47 (5b) (b) 1. b. For taxable years beginning after December 31, 2013,
10 subject to the limitations provided under this subsection and s. 238.15, and except
11 as provided in subd. 2., a claimant may claim as a credit against the tax imposed
12 under s. 71.43, up to the amount of those taxes, with regard to the first \$1,000,000
13 invested by the claimant, 40 percent of the claimant's investment paid to a fund
14 manager that the fund manager invests in a business certified under s. 238.15 (1)
15 and, with regard to any amount invested by the claimant in excess of that first
16 \$1,000,000, 25 percent of the claimant's investment paid to a fund manager that the
17 fund manager invests in a business certified under s. 238.15 (1).

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

19 71.47 (5b) (b) 2. In the case of a partnership, limited liability company, or
20 tax-option corporation, the computation of the 25 and 40 percent ~~limitation~~
21 limitations under subd. 1. shall be determined at the entity level rather than the
22 claimant level and may be allocated among the claimants who make investments in
23 the manner set forth in the entity's organizational documents. The entity shall
24 provide to the department of revenue and to the department of commerce or the
25 Wisconsin Economic Development Corporation the names and tax identification

1 numbers of the claimants, the amounts of the credits allocated to the claimants, and
2 the computation of the allocations.

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

4 71.47 (5bm) QUALIFIED PURCHASES CREDIT. (a) *Definitions.* In this subsection:

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

6 2. “Qualified new business venture” means a business that is certified under
7 s. 238.15 (1).

8 3. “Sales price” has the meaning given in s. 77.51 (15b).

9 4. “Tangible personal property” has the meaning given in s. 77.51 (20).

10 (b) *Filing claims.* For taxable years beginning after December 31, 2013, and
11 subject to the limitations provided in this subsection, a claimant may claim as a
12 credit against the tax imposed under s. 71.43, up to the amount of those taxes, an
13 amount, as certified under s. 238.155, equal to 25 percent of the sales price of the
14 tangible personal property, goods under s. 77.52 (1) (d), and services that the
15 claimant purchased from a qualified new business venture in the taxable year.

16 (c) *Limitations.* 1. The maximum amount that a claimant may claim under this
17 subsection for a taxable year is \$125,000.

18 2. No credit may be allowed under this subsection unless the claimant includes
19 with the claimant’s return a copy of the claimant’s certification under s. 238.155.

20 3. The credits under this subsection may not be claimed by a partnership,
21 except a publicly traded partnership treated as a corporation under s. 71.22 (1k),
22 limited liability company, except a limited liability company treated as a corporation
23 under s. 71.22 (1k), or tax-option corporation or by partners, including partners of
24 a publicly traded partnership, members of a limited liability company or
25 shareholders of a tax-option corporation.

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

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

4 71.49 (1) (bp) Qualified purchases credit under s. 71.47 (5bm).

5 **SECTION 16.** 76.638 (2) of the statutes is renumbered 76.638 (2) (a) and
6 amended to read:

7 76.638 (2) (a) **FILING CLAIMS.** For taxable years beginning after December 31,
8 2008, and before January 1, 2014, subject to the limitations provided under this
9 subsection and s. 238.15 or s. 560.205, 2009 stats., an insurer may claim as a credit
10 against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67, 25 percent of
11 the insurer's investment paid to a fund manager that the fund manager invests in
12 a business certified under s. 238.15 or s. 560.205 (1), 2009 stats.

13 **SECTION 17.** 76.638 (2) (b) of the statutes is created to read:

14 76.638 (2) (b) For taxable years beginning after December 31, 2013, subject to
15 the limitations provided under this subsection and s. 238.15, an insurer may claim
16 as a credit against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67, with
17 regard to the first \$1,000,000 invested by the insurer, 40 percent of the insurer's
18 investment paid to a fund manager that the fund manager invests in a business
19 certified under s. 238.15 and, with regard to any amount invested by the insurer in
20 excess of that first \$1,000,000, 25 percent of the insurer's investment paid to a fund
21 manager that the fund manager invests in a business certified under s. 238.15.

22 **SECTION 18.** 76.639 of the statutes is created to read:

23 **76.639 Qualified purchases credit. (1) DEFINITIONS.** In this section:

24 (a) "Qualified new business venture" means a business that is certified under
25 s. 238.15 (1).

1 (b) "Sales price" has the meaning given in s. 77.51 (15b).

2 (c) "Tangible personal property" has the meaning given in s. 77.51 (20).

3 (2) FILING CLAIMS. For taxable years beginning after December 31, 2013, and
4 subject to the limitations provided in this section, an insurer may claim as a credit
5 against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67, an amount, as
6 certified under s. 238.155, equal to 25 percent of the sales price of the tangible
7 personal property, goods under s. 77.52 (1) (d), and services that the insurer
8 purchased from a qualified new business venture in the taxable year.

9 (3) LIMITATIONS. 1. The maximum amount that an insurer may claim under
10 this section for a taxable year is \$125,000.

11 2. No credit may be allowed under this section unless the insurer includes with
12 the insurer's return a copy of the insurer's certification under s. 238.155.

13 (4) CARRY-FORWARD. If the credit under sub. (2) is not entirely offset against the
14 fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67 otherwise due, the unused balance
15 may be carried forward and credited against those fees for the following 15 years to
16 the extent that it is not offset by those fees otherwise due in all the years between
17 the year in which the expense was made and the year in which the carry-forward
18 credit is claimed.

19 SECTION 19. 238.15 (1) (f) 1. b. of the statutes is amended to read:

20 238.15 (1) (f) 1. b. Processing or assembling products, including medical
21 devices, pharmaceuticals, computer software, computer hardware, semiconductors,
22 any other innovative technology products, or other products that are produced using
23 manufacturing methods that are enabled by applying proprietary technology.

****NOTE: Should the "or other products that are produced using manufacturing methods" be removed as well and the provision end with "and any other innovative technology products"?

fix component

amended to read:

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SECTION 20. 238.15 (1) (f) 1. c. of the statutes is repealed.

SECTION 21. 238.15 (1) (f) 2. of the statutes is amended to read:

238.15 (1) (f) 2. It is undertaking pre-commercialization activity related to proprietary technology that includes conducting research, developing a new product or business process, or developing a service that is principally reliant on applying proprietary technology.

SECTION 22. 238.15 (1) (g) of the statutes is amended to read:

238.15 (1) (g) It is not primarily engaged in real estate development, insurance, banking, lending, lobbying, or 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 construction of power production plants that derive energy from a renewable resource, as defined in s. 196.378 (1) (h).

SECTION 23. 238.15 (2) of the statutes is amended to read:

238.15 (2) EARLY STAGE SEED INVESTMENT TAX CREDITS. The corporation shall implement a program to certify investment fund managers for purposes of ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and 76.638. An investment fund manager desiring certification shall submit an application to the corporation. The investment fund manager shall specify in the application the investment amount that the manager wishes to raise and the corporation may certify the manager and determine the amount that qualifies for purposes of ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and 76.638. In determining whether to certify an investment fund manager, the corporation 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,

238.15 (1) (f) 1. c. ~~services~~ Innovative services that are enabled by applying ~~proprietary~~ technology.

1 and any other relevant factors. The corporation may not consider the expected level
2 of investment in the investment fund to be managed. The corporation may certify
3 only investment fund managers that commit to consider placing investments in
4 businesses certified under sub. (1).

5 **SECTION 24.** 238.15 (3) (e) of the statutes is amended to read:

6 238.15 (3) (e) *Transfer.* A person who is eligible to claim a credit under s. 71.07
7 (5b), 71.28 (5b), 71.47 (5b), or 76.638 may sell or otherwise transfer the credit to
8 another person who is subject to the taxes or fees imposed under s. 71.02, 71.23,
9 71.47, or subch. III of ch. 76, if the person receives prior authorization from the
10 investment fund manager and the manager then notifies the corporation and the
11 department of revenue of the transfer and submits with the notification a copy of the
12 transfer documents. A person who is eligible to claim a credit under s. 71.07 (5d) may
13 sell or otherwise transfer the credit to another person who is subject to the taxes or
14 fees imposed under s. 71.02 or 71.08 if the person notifies the corporation and the
15 department of revenue of the transfer and submits with the notification a copy of the
16 transfer documents. No person may sell or otherwise transfer a credit as provided
17 in this paragraph more than once in a 12-month period. The corporation may charge
18 any person selling or otherwise transferring a credit under this paragraph a fee equal
19 to 1 percent of the credit amount sold or transferred.

20 **SECTION 25.** 238.155 of the statutes is created to read:

21 **238.155 Qualified purchases tax credit. (1) DEFINITION.** In this section,
22 “qualified purchase” means the purchase from a qualified new business venture, as
23 defined in s. 238.15 (1), of tangible personal property, as defined in s. 77.51 (20), goods
24 under s. 77.52 (1) (d), or services.

Parisi, Lori

From: Henkel, Matt
Sent: Tuesday, March 11, 2014 9:32 AM
To: LRB.Legal
Subject: Draft Review: LRB -4167/1 Topic: Changes to angel and early stage seed investment credits

Please Jacket LRB -4167/1 for the SENATE.