

**2015 DRAFTING REQUEST**

**Bill**

Received: **10/3/2014** Received By: **mgallagh**  
Wanted: **As time permits** Same as LRB:  
For: **Administration-Budget 6-1923** By/Representing: **Quinn**  
May Contact: Drafter: **mgallagh**  
Subject: **Econ. Development - bus. dev.** Addl. Drafters:  
**Econ. Development - misc.** Extra Copies:

Submit via email: **YES**  
Requester's email:  
Carbon copy (CC) to: **sbostatlanguage@webapps.wi.gov**  
**zachary.wyatt@legis.wisconsin.gov**  
**michael.gallagher@legis.wisconsin.gov**

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**Pre Topic:**

DOA:.....Quinn, BB0127 -

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**Topic:**

Qualified new business venture technical changes

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**Instructions:**

See attached

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**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>
/P1	mgallagh 1/28/2015	csicilia 1/29/2015	jfrantze 1/29/2015	_____	lparisi 10/16/2014		State
/P2				_____	sbasford 1/29/2015		State

FE Sent For:

<END>

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/P1	mgallagh 10/10/2014	wjackson 10/15/2014	jmurphy 10/16/2014	_____	lparisi 10/16/2014		State

FE Sent For:

P2 gjs 1/29  
15  
JG R2  
<END> 29

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**Pre Topic:**

DOA:.....Quinn, BB0127 -

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**Topic:**

Qualified ~~New Business~~ ~~Venture~~ ~~Technical~~ ~~Changes~~ ✓

---

**Instructions:**

See attached

---

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	mgallagh	/p1 wlj 10/14		<i>js</i> 10/16			

FE Sent For:

<END>

MPG

**Gallagher, Michael**

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**From:** Hanaman, Cathlene  
**Sent:** Friday, October 03, 2014 11:32 AM  
**To:** Gallagher, Michael; Wyatt, Zachary  
**Subject:** FW: Statutory Language Drafting Request - BB0127

**From:** brian.quinn@wisconsin.gov [mailto:brian.quinn@wisconsin.gov]  
**Sent:** Friday, October 03, 2014 11:26 AM  
**To:** Hanaman, Cathlene  
**Cc:** Ziegler, Paul - DOA; Quinn, Brian D - DOA; Connor, Christopher B - DOA  
**Subject:** Statutory Language Drafting Request - BB0127

Biennial Budget: 2015-17

DOA Tracking Code: BB0127

Topic: Qualified New Business Venture Technical Changes

SBO Team: TLGED

SBO Analyst: Quinn, Brian D - DOA  
Phone: (608) 266-1923  
E-mail: [brian.quinn@wisconsin.gov](mailto:brian.quinn@wisconsin.gov)

Agency Acronym: WEDC

Agency Number: 192

Priority: Medium

Intent:

Make two changes:

1. Amend s. 238.15(3)(d) to provide WEDC with the ability to further define the calculation and determination of the business's payroll, headquarters, and employment levels and under what circumstances WEDC may grant an exception when certifying, recertifying, or imposing a penalty on a business. Specify that any change in rules related to these factors would have to be approved by the board.

2. Modify 238.15(1)(m) to state "This section does not apply to businesses that, prior to April 20, 2012, had been certified by the corporation for purposes of s. 71.07(5d) and, in reliance on that certification, had executed a convertible note obliging a conversion to an eligible equity investment."

Attachments: False

Please send completed drafts to [SBOSatlanguage@webapps.wi.gov](mailto:SBOSatlanguage@webapps.wi.gov)



Wly

DOA:.....Quinn, BB0127 - Qualified ~~New~~ ~~Business~~ ~~Venture~~ ~~Technical~~  
Changes

**FOR 2015-2017 BUDGET — NOT READY FOR INTRODUCTION**

D-Rate

Do Not Gen

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*  
**COMMERCE AND ECONOMIC DEVELOPMENT** ✓  
**ECONOMIC DEVELOPMENT** ✓

Under current law, angel investors may receive tax credits for certain investments in businesses certified by WEDC. WEDC may certify a business for purposes of the angel investment tax credit only if the business satisfies specific statutory requirements, including the following:

- ✓ 1. The business is headquartered in Wisconsin. *fewer*
- ✓ 2. At least 51 percent of the business's employees are employed in Wisconsin.
- ✓ 3. The business has ~~less~~ than 100 employees when initially certified by WEDC.
- ✓ 4. The business agrees that it will not relocate outside of Wisconsin during the three years after it receives an eligible angel investment or it must pay a penalty equalling up to 100 percent of the tax credits claimed for that angel investment. Under current law, a business relocates outside of Wisconsin for purposes of the angel investment tax credit if it locates more than 51 percent of its employees, total payroll, or headquarters outside of Wisconsin.

This bill permits WEDC to waive one or more of the above requirements based on standards that must be approved by WEDC's board. The bill also provides that the requirements under item 4, above, do not apply to a business that WEDC

certified for purposes of the angel investment tax credit before April 20, 2012, and that executed a convertible note or bond in reliance on that certification.

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 (3q) (c) 3. of the statutes is amended to read:

2           71.07 (3q) (c) 3. The maximum amount of credits that may be awarded under  
3 this subsection and ss. 71.28 (3q) and 71.47 (3q) for the period beginning on January  
4 1, 2010, and ending on June 30, 2013, is \$14,500,000, not including the amount of  
5 any credits reallocated under s. 238.15 (3) ~~(d)~~ (dm) or s. 560.205 (3) (d), 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, 145; 2013 a. 166 s. 77; s. 35.17 correction in (3q) (b) (intro.), (5n) (a) (intro.).

6           **SECTION 2.** 71.07 (5d) (a) 1. (intro.) of the statutes is amended to read:

7           71.07 (5d) (a) 1. (intro.) “Bona fide angel investment” means a purchase of an  
8 equity interest, or any other expenditure, as determined by rule the Wisconsin  
9 Economic Development Corporation in its policies and procedures under s. 238.15 or  
10 s. 560.205, 2009 stats. (d) 1m., that is made by any of the following:

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, 145; 2013 a. 166 s. 77; s. 35.17 correction in (3q) (b) (intro.), (5n) (a) (intro.).

11           **SECTION 3.** 71.28 (3q) (c) 3. of the statutes is amended to read:

12           71.28 (3q) (c) 3. The maximum amount of credits that may be awarded under  
13 this subsection and ss. 71.07 (3q) and 71.47 (3q) for the period beginning on January  
14 1, 2010, and ending on June 30, 2013, is \$14,500,000, not including the amount of  
15 any credits reallocated under s. 238.15 (3) ~~(d)~~ (dm) or s. 560.205 (3) (d), 2009 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, 145, 165; 2013 a. 166 ss. 26, 77.

16           **SECTION 4.** 71.47 (3q) (c) 3. of the statutes is amended to read:

1           71.47 (3q) (c) 3. The maximum amount of credits that may be awarded under  
2 this subsection and ss. 71.07 (3q) and 71.28 (3q) for the period beginning on January  
3 1, 2010, and ending on June 30, 2013, is \$14,500,000, not including the amount of  
4 any credits reallocated under s. 238.15 (3) (d) (dm) or s. 560.205 (3) (d), 2009 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, 145.

5           **SECTION 5.** 238.15 (1) (intro.) of the statutes is amended to read:

6           238.15 (1) ANGEL INVESTMENT TAX CREDITS. (intro.) The corporation shall  
7 implement a program to certify businesses for purposes of s. 71.07 (5d). A business  
8 desiring certification shall submit an application to the corporation in each taxable  
9 year for which the business desires certification. The business shall specify in its  
10 application the investment amount it wishes to raise and the corporation may certify  
11 the business and determine the amount that qualifies for purposes of s. 71.07 (5d).  
12 The Except as provided in policies and procedures under sub. (3) (d) 5., the  
13 corporation may certify or recertify a business for purposes of s. 71.07 (5d) only if the  
14 business satisfies all of the following conditions:

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.

15           **SECTION 6.** 238.15 (1) (m) 1. (intro.) of the statutes is amended to read:

16           238.15 (1) (m) 1. (intro.) It agrees that it will not relocate outside of this state  
17 during the 3 years after it receives an investment for which a person may claim a tax  
18 credit under s. 71.07 (5d) and agrees to pay the corporation a penalty, in an amount  
19 determined under subd. 2., if the business relocates outside of this state during that  
20 3-year period. For the purposes of this paragraph, except as provided in policies and  
21 procedures under sub. (3) (d) 5., a business relocates outside of this state when the  
22 business locates more than 51 percent of any of the following outside of this state:

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.

23           **SECTION 7.** 238.15 (1) (m) 3. of the statutes is created to read:

1           238.15 (1) (m) 3. Subd. <sup>Subdivision</sup> 1. does not apply to a business that the corporation  
2 certified for purposes of s. 71.07 (5d) before April 20, 2012<sup>^</sup> and that, in reliance on  
3 that certification, executed a note or bond that is convertible to an equity interest.

4           **SECTION 8.** 238.15 (3) (d) (intro.) of the statutes is amended to read:

5           238.15 (3) (d) Rules Policies and procedures. (intro.) The corporation, in  
6 consultation with the department of revenue, shall adopt rules policies and  
7 procedures to administer this section. The rules policies and procedures shall  
8 further do all of the following:

9           1m. Further define "bona fide angel investment" for purposes of s. 71.07 (5d)

10          (a) 1. The rules shall limit

11           2m. Limit the aggregate amount of tax credits under s. 71.07 (5d) that may be  
12 claimed for investments in businesses certified under sub. (1) at ~~\$3,000,000 per~~  
13 ~~calendar year for calendar years beginning after December 31, 2004, and before~~  
14 ~~January 1, 2008, \$5,500,000 per calendar year for calendar years beginning after~~  
15 ~~December 31, 2007, and before January 1, 2010, \$6,500,000 for calendar year 2010,~~  
16 ~~and \$20,000,000 per calendar year for calendar years beginning after December 31,~~  
17 ~~2010, plus, for taxable years beginning after December 31, 2010, an additional~~  
18 ~~\$250,000 for tax credits that may be claimed for investments in nanotechnology~~  
19 ~~businesses certified under sub. (1). The rules shall also limit~~

20           3. Limit the aggregate amount of the tax credits under ss. 71.07 (5b), 71.28 (5b),  
21 71.47 (5b), and 76.638 that may be claimed for investments paid to fund managers  
22 certified under sub. (2) at ~~\$3,500,000 per calendar year for calendar years beginning~~  
23 ~~after December 31, 2004, and before January 1, 2008, \$6,000,000 per calendar year~~  
24 ~~for calendar years beginning after December 31, 2007, and before January 1, 2010,~~  
25 ~~\$8,000,000 for calendar year 2010, and \$20,500,000 per calendar year for calendar~~



1 years beginning after December 31, 2010, plus, for taxable years beginning after  
 2 December 31, 2010, an additional \$250,000 for tax credits that may be claimed for  
 3 investments in nanotechnology businesses certified under sub. (1). ~~The rules shall~~  
 4 also provide

5 4. Provide that, for calendar years beginning after December 31, 2007, a person  
 6 who receives a credit under ss. 71.07 (5b) and (5d), 71.28 (5b), 71.47 (5b), or 76.638  
 7 must keep the investment in a certified business, or with a certified fund manager,  
 8 for no less than 3 years, unless the person's investment becomes worthless, as  
 9 determined by the corporation, during the 3-year period or the person has kept the  
 10 investment for no less than 12 months and a bona fide liquidity event, as determined  
 11 by the corporation, occurs during the 3-year period. ~~The rules shall permit the~~  
 12 ~~corporation to reallocate credits under this section that are unused in any calendar~~  
 13 ~~year to a person eligible for tax benefits, as defined under s. 238.16 (1) (d), if all of~~  
 14 the following apply:

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.

15 **SECTION 9.** 238.15 (3) (d) 1. of the statutes is renumbered 238.15 (3) (dg) 1. <sup>dm</sup>

16 **SECTION 10.** 238.15 (3) (d) 2. of the statutes is renumbered 238.15 (3) (dg) 2. <sup>dm</sup>

17 **SECTION 11.** 238.15 (3) (d) 2. a. of the statutes is renumbered 238.15 (3) (dg) 2. <sup>dm</sup>

18 a.

19 **SECTION 12.** 238.15 (3) (d) 2. b. of the statutes is renumbered 238.15 (3) (dg) 2. <sup>dm</sup>

20 b.

21 **SECTION 13.** 238.15 (3) (d) 5. of the statutes is created to read:

22 238.15 (3) (d) 5. Permit the corporation to waive one or more of the  
 23 requirements under sub. (1) (a), (b), (h), and (m) 1. based on standards the  
 24 corporation establishes in the policies and procedures. The corporation may not

1 waive a requirement under sub. (1) (a), (b), (h), or (m) 1. unless the board approves  
 2 the standards in the policies and procedures and the waiver complies with those  
 3 standards.

4 SECTION 14. 238.15 (3) (dm) (intro.) of the statutes is created to read:

5 238.15 (3) (dm) *Reallocation of tax credits.* <sup>(intro.)</sup> The policies and procedures under  
 6 par. (d) shall permit the corporation to reallocate credits under this section that are  
 7 unused in any calendar year to a person eligible for tax benefits, as defined under s.  
 8 238.16 (1) (d), if all of the following apply:

9 SECTION 15. 238.16 (4) (c) of the statutes is amended to read:

10 238.16 (4) (c) Subject to a reallocation by the corporation pursuant to rules  
 11 policies and procedures adopted under s. 238.15 (3) (d) (dm), the corporation may  
 12 allocate up to \$5,000,000 in tax benefits under this section in any calendar year,  
 13 except that beginning on July 1, 2011, the corporation may allocate up to \$10,000,000  
 14 in tax benefits under this section in any calendar year.

History: 2009 a. 28, 265; 2011 a. 32 ss. 2864, 3357 to 3366; Stats. 2011 s. 238.16; 2011 a. 88; 2013 a. 20, 145.

15 SECTION 16. 238.303 (1) (a) of the statutes is amended to read:

16 238.303 (1) (a) Except as provided in pars. (am) and (b), and subject to a  
 17 reallocation by the corporation pursuant to rules policies and procedures adopted  
 18 under s. 238.15 (3) (d) (dm), the total tax benefits available to be allocated by the  
 19 corporation under ss. 238.301 to 238.306 may not exceed the sum of the tax benefits  
 20 remaining to be allocated under s. 560.71 to 560.785, 2009 stats., s. 560.797, 2009  
 21 stats., s. 560.798, 2009 stats., s. 560.7995, 2009 stats., and s. 560.96, 2009 stats., on  
 22 March 6, 2009, plus \$100,000,000.

NOTE: NOTE: Section 238.303 (1) (title) was renumbered from s. 560.703 (1) (title) by the legislative reference bureau under s. 13.92 (1) (bm) 2. NOTE:

History: 2009 a. 2, 265; 2011 a. 4; 2011 a. 32 ss. 3412 to 3415; Stats. 2011 s. 238.303; 2013 a. 20; s. 13.92 (1) (bm) 2.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0365/P1dn  
MPG:.....

WJ

Date

Brian Quinn:

Please review this draft carefully to ensure that it is consistent with the intent.

In addition to the statutory changes requested for this draft, I have included the following technical changes:

1. I changed the references to "rules" under s. 238.15 (3) to "policies and procedures." The references to "rules" in ch. 238 were inadvertently carried over in 2011 Act 32 when many economic development programs from the former Department of Commerce were transferred to WEDC. WEDC is not a state agency and does not promulgate rules. The references to "rules" in ch. 238 could create confusion concerning what WEDC is required to do under the law and the legal status of its so-called "rules." I also eliminated references to "rules" in a number of other statutes that cross-reference "rules" under s. 238.15 (3).

2. I subdivided s. 238.15 (3) (d) into smaller statutory units to make it less unwieldy, and I eliminated outdated material.

Please let me know if you do not want the draft to include any of those changes.

Also, you may want to discuss with the folks at WEDC the possibility of drafting a budget request to fix all of the references to "rules" in ch. 238 and put that confusion to rest once and for all.

As always, please do not hesitate to contact me with any questions.

Thank you.

Michael Gallagher  
Legislative Attorney  
(608) 267-7511  
michael.gallagher@legis.wisconsin.gov



State of Wisconsin  
2015 - 2016 LEGISLATURE



LRB-0365/P12

MPG:wlj:jm

stay

DOA:.....Quinn, BB0127 – Qualified new business venture technical changes  
**FOR 2015-2017 BUDGET – NOT READY FOR INTRODUCTION**

9  
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do NOT gen

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*  
**COMMERCE AND ECONOMIC DEVELOPMENT**

**ECONOMIC DEVELOPMENT**

Under current law, angel investors may receive tax credits for certain investments in businesses certified by WEDC. WEDC may certify a business for purposes of the angel investment tax credit only if the business satisfies specific statutory requirements, including the following:

1. The business is headquartered in Wisconsin.
2. At least 51 percent of the business's employees are employed in Wisconsin.
3. The business has fewer than 100 employees when initially certified by WEDC.
4. The business agrees that it will not relocate outside of Wisconsin during the three years after it receives an eligible angel investment or it must pay a penalty equalling up to 100 percent of the tax credits claimed for that angel investment. Under current law, a business relocates outside of Wisconsin for purposes of the angel investment tax credit if it locates more than 51 percent of its employees, total payroll, or headquarters outside of Wisconsin.

This bill permits WEDC to waive one or more of the above requirements based on standards that must be approved by WEDC's board. The bill also provides that the requirements under item 4, above, do not apply to a business that WEDC certified for purposes of the angel investment tax credit before April 20, 2012, and that executed a convertible note or bond in reliance on that certification.

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 (3q) (c) 3. of the statutes is amended to read:

2       71.07 (3q) (c) 3. The maximum amount of credits that may be awarded under  
3       this subsection and ss. 71.28 (3q) and 71.47 (3q) for the period beginning on January  
4       1, 2010, and ending on June 30, 2013, is \$14,500,000, not including the amount of  
5       any credits reallocated under s. 238.15 (3) (d) (dm) or s. 560.205 (3) (d), 2009 stats.

6       **SECTION 2.** 71.07 (5d) (a) 1. (intro.) of the statutes is amended to read:

7       71.07 (5d) (a) 1. (intro.) “Bona fide angel investment” means a purchase of an  
8       equity interest, or any other expenditure, as determined by rule the Wisconsin  
9       Economic Development Corporation in its policies and procedures under s. 238.15 or  
10      s. 560.205, 2009 stats. (3) (d) 1m., that is made by any of the following:

11      **SECTION 3.** 71.28 (3q) (c) 3. of the statutes is amended to read:

12      71.28 (3q) (c) 3. The maximum amount of credits that may be awarded under  
13      this subsection and ss. 71.07 (3q) and 71.47 (3q) for the period beginning on January  
14      1, 2010, and ending on June 30, 2013, is \$14,500,000, not including the amount of  
15      any credits reallocated under s. 238.15 (3) (d) (dm) or s. 560.205 (3) (d), 2009 stats.

16      **SECTION 4.** 71.47 (3q) (c) 3. of the statutes is amended to read:

17      71.47 (3q) (c) 3. The maximum amount of credits that may be awarded under  
18      this subsection and ss. 71.07 (3q) and 71.28 (3q) for the period beginning on January  
19      1, 2010, and ending on June 30, 2013, is \$14,500,000, not including the amount of  
20      any credits reallocated under s. 238.15 (3) (d) (dm) or s. 560.205 (3) (d), 2009 stats.

21      **SECTION 5.** 238.15 (1) (intro.) of the statutes is amended to read:

1           238.15 (1) ANGEL INVESTMENT TAX CREDITS. (intro.) The corporation shall  
 2 implement a program to certify businesses for purposes of s. 71.07 (5d). A business  
 3 desiring certification shall submit an application to the corporation in each taxable  
 4 year for which the business desires certification. The business shall specify in its  
 5 application the investment amount it wishes to raise and the corporation may certify  
 6 the business and determine the amount that qualifies for purposes of s. 71.07 (5d).  
 7 The Except as provided in policies and procedures under sub. (3) (d) 5, the <sup>(dm)</sup>  
 8 corporation may certify or recertify a business for purposes of s. 71.07 (5d) only if the  
 9 business satisfies all of the following conditions:

Insert 3-9

10           **SECTION 6.** 238.15 (1) (m) 1. (intro.) of the statutes is amended to read:

11           238.15 (1) (m) 1. (intro.) It agrees that it will not relocate outside of this state  
 12 during the 3 years after it receives an investment for which a person may claim a tax  
 13 credit under s. 71.07 (5d) and agrees to pay the corporation a penalty, in an amount  
 14 determined under subd. 2., if the business relocates outside of this state during that  
 15 3-year period. For the purposes of this paragraph, except as provided in policies and  
 16 procedures under sub. (3) (d) 5, a business relocates outside of this state when the <sup>(dm)</sup>  
 17 business locates more than 51 percent of any of the following outside of this state:

Insert 3-17

18           **SECTION 7.** 238.15 (1) (m) 3. of the statutes is created to read:

19           238.15 (1) (m) 3. Subdivision 1. does not apply to a business that the  
 20 corporation certified for purposes of s. 71.07 (5d) before April 20, 2012, and that, in  
 21 reliance on that certification, executed a note or bond that is convertible to an equity  
 22 interest.

23           **SECTION 8.** 238.15 (3) (d) (intro.) of the statutes is amended to read:

24           238.15 (3) (d) Rules Policies and procedures. (intro.) The corporation, in  
 25 consultation with the department of revenue, shall adopt rules policies and

1 procedures to administer this section. The ~~rules policies and procedures~~ shall  
2 ~~further do all of the following:~~

3 1m. Further define "bona fide angel investment" for purposes of s. 71.07 (5d)

4 (a) 1. ~~The rules shall limit~~

5 2m. Limit the aggregate amount of tax credits under s. 71.07 (5d) that may be  
6 claimed for investments in businesses certified under sub. (1) at ~~\$3,000,000 per~~  
7 ~~calendar year for calendar years beginning after December 31, 2004, and before~~  
8 ~~January 1, 2008, \$5,500,000 per calendar year for calendar years beginning after~~  
9 ~~December 31, 2007, and before January 1, 2010, \$6,500,000 for calendar year 2010,~~  
10 ~~and \$20,000,000 per calendar year for calendar years beginning after December 31,~~  
11 ~~2010, plus, for taxable years beginning after December 31, 2010, an additional~~  
12 ~~\$250,000 for tax credits that may be claimed for investments in nanotechnology~~  
13 ~~businesses certified under sub. (1). The rules shall also limit~~

14 3. Limit the aggregate amount of the tax credits under ss. 71.07 (5b), 71.28 (5b),  
15 71.47 (5b), and 76.638 that may be claimed for investments paid to fund managers  
16 certified under sub. (2) at ~~\$3,500,000 per calendar year for calendar years beginning~~  
17 ~~after December 31, 2004, and before January 1, 2008, \$6,000,000 per calendar year~~  
18 ~~for calendar years beginning after December 31, 2007, and before January 1, 2010,~~  
19 ~~\$8,000,000 for calendar year 2010, and \$20,500,000~~ <sup>\$30,000,000</sup> ~~per calendar year for calendar~~  
20 ~~years beginning after December 31, 2010, plus, for taxable years beginning after~~  
21 ~~December 31, 2010, an additional \$250,000 for tax credits that may be claimed for~~  
22 ~~investments in nanotechnology businesses certified under sub. (1). The rules shall~~  
23 ~~also provide~~

24 4. Provide that, for calendar years beginning after December 31, 2007, a person  
25 who receives a credit under ss. 71.07 (5b) and (5d), 71.28 (5b), 71.47 (5b), or 76.638

1 must keep the investment in a certified business, or with a certified fund manager,  
2 for no less than 3 years, unless the person's investment becomes worthless, as  
3 determined by the corporation, during the 3-year period or the person has kept the  
4 investment for no less than 12 months and a bona fide liquidity event, as determined  
5 by the corporation, occurs during the 3-year period. ~~The rules shall permit the~~  
6 ~~corporation to reallocate credits under this section that are unused in any calendar~~  
7 ~~year to a person eligible for tax benefits, as defined under s. 238.16 (1) (d), if all of~~  
8 ~~the following apply:~~

9 SECTION 9. 238.15 (3) (d) 1. of the statutes is renumbered 238.15 (3) (dm) 1.

10 SECTION 10. 238.15 (3) (d) 2. of the statutes is renumbered 238.15 (3) (dm) 2.

11 SECTION 11. 238.15 (3) (d) ~~3~~ <sup>dm</sup> of the statutes is created to read:

12 238.15 (3) (d) ~~5~~ <sup>dm</sup> Permit the corporation to waive one or more of the  
13 requirements under sub. (1) (a), (b), (h), and (m) 1. based on standards the  
14 corporation establishes in the policies and procedures. The corporation may not  
15 waive a requirement under sub. (1) (a), (b), (h), or (m) 1. unless the board approves  
16 the standards in the policies and procedures and the waiver complies with those  
17 standards.

18 SECTION 12. 238.15 (3) (dm) (intro.) of the statutes is created to read:

19 238.15 (3) (dm) *Reallocation of tax credits.* (intro.) The policies and procedures  
20 under par. (d) shall permit the corporation to reallocate credits under this section  
21 that are unused in any calendar year to a person eligible for tax benefits, as defined  
22 under s. 238.16 (1) (d), if all of the following apply:

23 SECTION 13. 238.16 (4) (c) of the statutes is amended to read:

24 238.16 (4) (c) Subject to a reallocation by the corporation pursuant to rules  
25 policies and procedures adopted under s. 238.15 (3) (d) (dm), the corporation may

The corporation's policies and procedures under this  
subsection shall



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~~allocate up to \$5,000,000 in tax benefits under this section in any calendar year,  
except that beginning on July 1, 2011, the corporation may allocate up to \$10,000,000  
in tax benefits under this section in any calendar year.~~

**SECTION 14.** 238.303 (1) (a) of the statutes is amended to read:

238.303 (1) (a) Except as provided in pars. (am) and (b), and subject to a  
reallocation by the corporation pursuant to rules policies and procedures adopted  
under s. 238.15 (3) (d) (dm), the total tax benefits available to be allocated by the  
corporation under ss. 238.301 to 238.306 may not exceed the sum of the tax benefits  
remaining to be allocated under s. 560.71 to 560.785, 2009 stats., s. 560.797, 2009  
stats., s. 560.798, 2009 stats., s. 560.7995, 2009 stats., and s. 560.96, 2009 stats., on  
March 6, 2009, plus \$100,000,000.

12

(END)

**2015-2016 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0365/P2ins  
MPG:wlj:jm

**Insert 3 - 9**

\*\*\*\*NOTE: This is reconciled s. 238.15 (1) (intro.). This SECTION has been affected by drafts with the following LRB numbers:-0365/P1 and -0996/P2.

**Insert 3 - 17**

\*\*\*\*NOTE: This is reconciled s. 238.15 (1) (m) 1. (intro.). This SECTION has been affected by drafts with the following LRB numbers:-0365/P1 and -0996/P2.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0365/P2dn  
MPG:wlj:jm

*gjs*

*- late -*

*and LRB-1215/P2*

This draft reconciles LRB-0365/P1 and LRB-0996/P2. All of these drafts should continue to appear in the compiled bill.

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**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0365/P2dn  
MPG:cjs:jf

January 29, 2015

This draft reconciles LRB-0365/P1, LRB-0996/P2 and LRB-1215/P2. All of these drafts should continue to appear in the compiled bill.

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State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-0365/P2  
MPG:wlj:jf

DOA:.....Quinn, BB0127 – Qualified new business venture technical changes  
**FOR 2015-2017 BUDGET — NOT READY FOR INTRODUCTION**

1 **AN ACT ...; relating to:** the budget.

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*Analysis by the Legislative Reference Bureau*  
**COMMERCE AND ECONOMIC DEVELOPMENT**  
**ECONOMIC DEVELOPMENT**

Under current law, angel investors may receive tax credits for certain investments in businesses certified by WEDC. WEDC may certify a business for purposes of the angel investment tax credit only if the business satisfies specific statutory requirements, including the following:

1. The business is headquartered in Wisconsin.
2. At least 51 percent of the business's employees are employed in Wisconsin.
3. The business has fewer than 100 employees when initially certified by WEDC.
4. The business agrees that it will not relocate outside of Wisconsin during the three years after it receives an eligible angel investment or it must pay a penalty equalling up to 100 percent of the tax credits claimed for that angel investment. Under current law, a business relocates outside of Wisconsin for purposes of the angel investment tax credit if it locates more than 51 percent of its employees, total payroll, or headquarters outside of Wisconsin.

This bill permits WEDC to waive one or more of the above requirements based on standards that must be approved by WEDC's board. The bill also provides that the requirements under item 4, above, do not apply to a business that WEDC certified for purposes of the angel investment tax credit before April 20, 2012, and that executed a convertible note or bond in reliance on that certification.

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

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

1           **SECTION 1.** 238.15 (1) (intro.) of the statutes is amended to read:

2           238.15 (1) ANGEL INVESTMENT TAX CREDITS. (intro.) The corporation shall  
3           implement a program to certify businesses for purposes of s. 71.07 (5d). A business  
4           desiring certification shall submit an application to the corporation in each taxable  
5           year for which the business desires certification. The business shall specify in its  
6           application the investment amount it wishes to raise and the corporation may certify  
7           the business and determine the amount that qualifies for purposes of s. 71.07 (5d).  
8           The Except as provided in policies and procedures under sub. (3) (dm), the  
9           corporation may certify or recertify a business for purposes of s. 71.07 (5d) only if the  
10          business satisfies all of the following conditions:

          \*\*\*\*NOTE: This is reconciled s. 238.15 (1) (intro.). This SECTION has been affected  
by drafts with the following LRB numbers:–0365/P1 and –0996/P2.

11          **SECTION 2.** 238.15 (1) (m) 1. (intro.) of the statutes is amended to read:

12          238.15 (1) (m) 1. (intro.) It agrees that it will not relocate outside of this state  
13          during the 3 years after it receives an investment for which a person may claim a tax  
14          credit under s. 71.07 (5d) and agrees to pay the corporation a penalty, in an amount  
15          determined under subd. 2., if the business relocates outside of this state during that  
16          3–year period. For the purposes of this paragraph, except as provided in policies and  
17          procedures under sub. (3) (dm), a business relocates outside of this state when the  
18          business locates more than 51 percent of any of the following outside of this state:

          \*\*\*\*NOTE: This is reconciled s. 238.15 (1) (m) 1. (intro.). This SECTION has been  
affected by drafts with the following LRB numbers:–0365/P1 and –0996/P2.

19          **SECTION 3.** 238.15 (1) (m) 3. of the statutes is created to read:

1           238.15 (1) (m) 3. Subdivision 1. does not apply to a business that the  
2 corporation certified for purposes of s. 71.07 (5d) before April 20, 2012, and that, in  
3 reliance on that certification, executed a note or bond that is convertible to an equity  
4 interest.

5           **SECTION 4.** 238.15 (3) (dm) of the statutes is created to read:

6           238.15 (3) (dm) The corporation's policies and procedures under this subsection  
7 shall permit the corporation to waive one or more of the requirements under sub. (1)  
8 (a), (b), (h), and (m) 1. based on standards the corporation establishes in the policies  
9 and procedures. The corporation may not waive a requirement under sub. (1) (a), (b),  
10 (h), or (m) 1. unless the board approves the standards in the policies and procedures  
11 and the waiver complies with those standards.

12   **(END)**