Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

January 14, 2010

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Substitute Amendment 1 to Senate Bill 409: Programs Related to State Economic Development

Senate Bill 409 was introduced on November 20, 2009 and referred to the Senate Committee on Economic Development. Senate Substitute Amendment 1 to SB 409 was adopted and recommended for passage on December 17, 2009, by a vote of 7 to 0. The bill was referred to the Joint Committee on Finance on January 4, 2010. The following sections describe the provisions of SSA 1 to SB 409 and present information about its fiscal effect.

SUMMARY OF SUBSTITUTE AMENDMENT

Senate Substitute Amendment 1 to Senate Bill 409, would create or expand various grant and loan programs administered by the University of Wisconsin System, the Wisconsin Technical College System (WTCS), the Department of Children and Families, and the Department of Commerce to provide funding for activities related to economic development. The substitute amendment would also expand the angel investment and early stage seed investment tax credits, and create a post-secondary education tax credit.

University of Wisconsin System

WiSys Technology Foundation Grants. WiSys Technology Foundation, Inc., provides intellectual property management services to the UW comprehensive campuses, the UW Colleges, and UW-Extension. The Wisconsin Alumni Research Foundation (WARF), of which WiSys is a subsidiary, provides these services to UW-Madison and the UW-Milwaukee Research Foundation provides these services to UW-Milwaukee. WiSys has an annual operating budget of approximately $750,000 and is currently funded by the UW System and through contributions from UW-Madison and the UW comprehensive campuses.

The substitute amendment would require the Board of Regents to make grants of $250,000 each, up to a total of $2,000,000, to WiSys for the Wisconsin Small Company Advancement program. This program would provide intellectual property management services to the UW comprehensive campuses, the UW Colleges, and UW-Extension. To receive a grant from the Board, WiSys would have to show that it has secured matching funds, which may include in-kind contributions, from a non-state source in an amount equal to the grant after January 1, 2010. The substitute amendment specifies that up to $75,000 of the amount appropriated may be used for administrative costs related to the program and that these funds would be exempted from the matching requirement. Funding for the grants would be provided in a new GPR sum sufficient appropriation, capped at $2,000,000, under the UW System. The Board would be required to submit annual progress reports to the Joint Finance Committee and the Chief Clerk of each house of the Legislature for distribution to the appropriate subcommittees until the grant program is terminated.

According to WiSys staff, the Wisconsin Small Company Advancement program (WiSCAP) would partner with small companies, defined as those with 25 or fewer employees and gross annual sales of $3 million or less, in need of research and development services with UW System faculty and academic staff with expertise in a particular field. Partner companies would be required to contribute funds or in-kind-support for the project and the UW System, the UW campus, WiSys, and the inventor would share in the profits from the resulting product or technology through a royalty-bearing contract or license. WiSys estimates that WiSCAP would require an initial investment of $500,000 for the first two years and would be self-funded through royalties and licensing revenues after five years. It is estimated that grants totaling $1,000,000 would be made from this appropriation during the 2009-11 biennium. The remaining $1,000,000 could be used in future biennia.

Business Plan Competition Program. Annual funding of $125,000 GPR would be provided to the Board in a new annual appropriation under the UW System to support a business plan competition program existing on the effective date of the bill at institutions other than UW-Madison. This program would make entrepreneurial expertise available to students and would have ties to campus-based business plan contests and national organizations that foster student entrepreneurism. The Board could only use the funds provided if it received private matching funds for the same purpose.

The UW System Research to Jobs Task Force recommended the creation of a UW System-wide business plan competition in its final report which was presented to the UW Board of Regents in September, 2009. The Task Force estimated the cost of such a program at $125,000 annually including $25,000 for part-time staff support and $100,000 in annual prize money. The Task Force recommended that the competition be modeled after the Burrill Business Plan Competition which is organized by the UW-Madison School of Business which is restricted to students enrolled at that campus.

La Crosse Emerging Technology Center. The substitute amendment would provide

$400,000 GPR in 2009-10 to the Board for the development of an emerging technology center at UW-La Crosse. The funding would be provided in a new biennial GPR appropriation under the UW System. The Board could only use the funds provided if it received private matching funds, which may include in-kind contributions, for the same purpose. The appropriation and the related statutory language would be repealed on June 30, 2011.

In its September, 2009, report to the UW Board of Regents, the UW System Research to Jobs Task Force recommended the development of seven emerging technology centers (ETCs) to be located on individual UW comprehensive campuses. Each ETC would have a single technology area as its focus which would be chosen based on the research strengths of the campus and the need for the technology in Wisconsin industry. These ETCs would form partnerships with regional companies to undertake joint research and development with the goal of creating economic growth and high-paying jobs. The ETCs would also provide students with training and internship opportunities in high-tech fields to prepare them for jobs in those fields.

The Task Force recommended the creation of an ETC at UW-La Crosse focused on pharmaceuticals based on medicinal plants and fungi. In addition, the Task Force recommended the creation of ETCs focused on a variety of different technologies at the UW-Green Bay, UW-Oshkosh, UW-Parkside, UW-Stevens Point, UW-Stout, and UW-Whitewater campuses. There are ETCs currently operating on the UW-Platteville and UW-River Falls campuses.

The Task Force estimates operating costs for a single ETC to be $450,000 annually. The Task Force anticipates that each new ETC would require state support totaling $1.1 million during the first four years of operation and would become self-supporting in its fifth year.

Wisconsin Technical College System

Training Program Grants. Under this program, the WTCS Board is permitted to award grants to district boards for skills training or other education requested by businesses. Budgeted funding for the overall program was $3,000,000 GPR in 2008-09. Of that total, $2,000,000 was designated for general business training grants. Under 2009 Act 2, the budget adjustment bill, an additional $1,000,000 GPR was provided for general business training grants on a one-time basis. Also under Act 2, the Board was required to award at least $1,000,000 annually in general business grants for training in advanced manufacturing skills, with priority given to welding. For general business training, including funding provided under Act 2, grant awards totaled $2,674,100 in 2008-09 and served 14,600 workers.

A total of $1,000,000 was available in 2008-09 for grants to eligible small businesses. In order to be eligible for a small business training grant, employers had to meet a number of administrative requirements and have either no more than 100 employees or no more than $10,000,000 in gross annual income in its most recent fiscal year. Under the small business program, grant awards totaled $609,800 and 1,440 workers were served in 2008-09. Under 2009 Act 28, the extra requirements for small businesses were deleted and an employer is now required only to submit an affidavit stating that the business meets either the 100 employee or the $10,000,000 income limit, and the small business set-aside was reduced to $500,000 annually.

The substitute amendment would increase funding for training program grants by $1,000,000 GPR in 2010-11. After consideration of across-the-board reductions implemented under Act 28, $2,970,000 GPR annually is currently appropriated for the program in 2009-10 and 2010-11. As a result, total base level funding for training program grants would be $3,970,000 GPR beginning in 2010-11. Also, the substitute amendment would delete language relating to giving priority to welding training and, beginning in 2010-11, the advanced manufacturing skills training set-aside would be increased to $2,000,000 annually, from $1,000,000 under current law.

Department of Children and Families

Skills Enhancement Grants. The federal community services block grant (CSBG) program provides states and Indian tribes with funds to lessen poverty in communities. The funds are used to assist the needs of low-income individuals, including the homeless, migrants, and the elderly. Under state law, the Department of Children and Families (DCF) is required to distribute at least 90% of CSBG funds to community action agencies.

Based on federal law, community action programs assist poor persons to: (a) secure and retain employment; (b) improve their education; (c) make better use of available income; (d) obtain and maintain adequate housing and a suitable living environment; (e) secure needed transportation; (f) obtain emergency assistance; (g) participate in community affairs; and (h) use more effectively other available programs.

Under state law, in addition to creating a community action program to assist poor persons, community action agencies may: (a) create methods by which poor persons can work with private groups to solve common problems; (b) research the causes of and problems created by poverty in the community; (c) determine if programs to reduce poverty are working effectively; (d) initiate and sponsor projects to aid poor persons that provide otherwise unavailable services; (e) transmit information between public and private organizations and otherwise coordinate the provision of public and private social services programs to eliminate overlap and ensure effective delivery of the programs; (f) contract with other persons to perform the community action agency's functions; and (g) apply for funds from various sources to support a community action program.

As noted above, DCF distributes at least 90% of CSBG funds to community action agencies. DCF must contract with each agency and organization being funded, specifying the amount of money the organization will receive and the activities to be carried out by the organization, before January 1 of each year. According to the Administration of Children and Families in the federal Department of Health and Human Services, Wisconsin currently has 20 community action agencies statewide. Finally, DCF cannot allocate more than 5% of the funds for state administrative expenses.

In addition to the distribution of CSBG funds and contracting requirements, the substitute amendment would require DCF to distribute $250,000 GPR annually for grants to community action agencies for a skills enhancement program. The skills enhancement program would have to include access to transportation, child care, career counseling, job placement assistance, and financial support for education and training for eligible individuals. The substitute amendment would modify the duties of community action agencies to allow the provision of this skills enhancement program to individuals: (a) who work at least 20 hours per week; and (b) whose earned income is at or below 150% of the poverty line.

Department of Commerce

The Department of Commerce administers a number of separate economic development programs that provide financial assistance. Each program typically has statutory provisions and administrative rules that govern the types of projects for which program funds can be awarded. However, Commerce administers the separate programs as potential sources of financial assistance for six general categories of economic development projects: (a) entrepreneurial development; (b) capital financing; (c) technology development; (d) employee training; (e) trade shows; and (f) targeted businesses. The individual program used to provide funding for a specific project depends upon the type of project and availability of funds.

The specific financial assistance programs that are the primary sources of financial assistance grants and loans are: (a) the Wisconsin Development Fund; (b) the Rural Economic Development Program (RED); (c) the gaming economic diversification grant and loan program; (d) the Wisconsin Energy Independence Fund--renewable energy grants and loans; and (e) the Forward Innovation Fund, grants and loan program, created under Act 28 by consolidating the minority business development (MBD) and community-based economic development programs.

Each of these grant and loan programs are funded both through a GPR, PR, or SEG primary funding appropriation and a program revenue (PR) repayments appropriation. The program revenue repayments appropriations were established to operate similar to a revolving loan fund. Amounts received from loan repayments are credited to the repayments appropriations and these monies can be used to fund other grants and loans. Because the repayments appropriations are continuing appropriations, un-appropriated and unexpended amounts remain in the appropriations and can be used for additional grants and loans. The expenditure authority for each repayments appropriation is an estimate of expenditures, but does not control the amount that actually may be expended.

Act 28 provides the following funding and expenditure authority for these programs: (a) WDF--$6,492,900 GPR, and $3,801,500 PR, annually; (b) Forward Innovation Fund--$884,600 GPR; (c) Gaming economic diversification grants and loans--$1,079,400 tribal gaming revenue PR, and $328,500 PR repayments, annually; and (d) RED--$569,300 GPR annually, and $163,900 PR in 2009-10 and $113,900 PR repayments in 2010-11. In addition, the MBD repayments appropriation is provided expenditure authority of $567,200 PR annually. As noted the MBD was consolidated into the Forward Innovation Fund. Base level funding for renewable energy grants and loans was $15.0 million. However, under Act 28, total funding for the program was deleted in 2009-10 and lapsed to the general fund in 2010-11.

Wisconsin Development Fund. WDF grants and loans can be awarded using general program criteria and procedures established under 2007 Wisconsin Act 20 (the 2007-09 biennial budget), and through specific statutory criteria that govern Wisconsin trade project amounts and technology commercialization grants and loans. The Department is also authorized to make renewable energy grants and loans from the WDF repayments appropriation.

Commerce is authorized to make grants or loans to eligible recipients for the following eligible activities: (a) capital financing; (b) worker training: (c); entrepreneurial development; (d) assistance to a technology-based business or to businesses at a foreign trade show or event; (e) promoting urban or regional economic development; (f) establishing revolving loan funds; (g) working capital; and (h) promoting employee ownership by conducting or implementing feasibility studies to investigate the reorganization or new incorporation of existing businesses as employee-owned businesses. Specific statutory provisions and administrative rules authorize the Department to reimburse eligible small- and medium sized businesses for eligible expenses associated with participation in foreign trade shows or matchmaker trade delegation events.

Statutory provisions and administrative rules also authorize Commerce to make the following grants and loans associated with technology research and development, and commercialization: (a) technology assistance grants to entrepreneurs, start-up and early stage businesses to fund R&D or professional services in obtaining early stage funding; (b) matching grants and loans to individuals, entrepreneurs and small businesses for professional services related to developing or the accelerated commercialization of a technologically innovative product, process, or service; (c) bridge grants and loans to provide financial assistance to individuals, entrepreneurs, and small businesses experiencing financial hardship to cover expenses between early-stage and later stage financing; (d) venture capital grants and loans to provide financial assistance to individuals, entrepreneurs and small businesses for early stage financing; and (e) entrepreneurial and technology transfer center grants typically to the UW-Extension to fund early planning and entrepreneurial training program grants and related administrative expenses. Early planning grants fund a portion of the cost of professional services for developing a business plan, while the entrepreneurial training grants fund a portion of the cost of participating in the Entrepreneurial Training Program offered through the Wisconsin Small Business Development Center (SBDC) to assist participants in developing a business plan.

The substitute amendment would increase funding for the WDF by $500,000 GPR annually.

Targeted Microloan Pilot Program. Under the substitute amendment, Commerce would be required to create a pilot program for awarding microloans, up to a maximum amount of $25,000, from the Wisconsin development fund GPR appropriation at nominal interest rates for the creation of new businesses. The Department would have to designate one urban and one rural area of the state that were affected by high unemployment. Only residents of those areas would be eligible for microloans. The Department would be required to select a Wisconsin nonprofit finance corporation to administer the program through a competitive process. Commerce would also be required to partner with federal, state, regional, and local economic development entities to provide business training for applicants and borrowers under the microloan program. The microloan pilot program would be sunset on July 31, 2013. Funding of $500,000 GPR beginning in 2010-11 would be provided to the WDF for the microloan program. Commerce would be authorized to promulgate emergency administrative rules, without the finding of an emergency, to establish and administer the microloan program for the period before the effective date of any permanent administrative rules for the microloan program.

Manufacturing Facility Conversion Grants. The substitute amendment would create a manufacturing facility conversion grant program beginning in fiscal year 2010-11. Commerce would be required to make grants from the Wisconsin development fund GPR appropriation to provide incentives to companies for converting existing manufacturing facilities to produce renewable energy or manufacturing equipment used in the production of renewable energy. The maximum total amount of manufacturing facility conversion grants that could be awarded would be $2,000,000. Funding for the WDF would be increased by $2,000,000 GPR beginning in 2010-11 for manufacturing facility conversion grants and for other eligible WDF grants and loans. Commerce would be authorized to promulgate emergency rules, without the finding of an emergency, to implement the grant program.

Technology Transfer Grant and Loan Program. The substitute amendment would create a technology transfer grant and loan program administered by the Department of Commerce. Commerce would be authorized to award a grant or loan to a research institution, up to a maximum of $100,000 for each institution, to provide money for research and development activities related to the creation or retention of jobs by a business, or to improving the competitive position of a business by improving the innovativeness of the business. To receive a grant or loan, the research institution would have to apply on a form prepared by the Department, and all of the following would have to be satisfied: (a) Commerce determined that the research and development activities were likely to result in an economic benefit to one or more specific businesses; (b) the Department determined that the research and development activities would be conducted substantially in Wisconsin; (c) Commerce considered the availability of matching finds from the research institution, the business, and other sources; and (d) the Department entered into a written agreement with the research institution that specified the conditions for use of the grant or loan proceeds, including reporting and auditing requirements. "Research institution" would mean any of the following, if located in the state: (a) an accredited college or university; (b) an accredited school of medicine, dentistry, veterinary medicine, medicine and public health, or health professionals; (c) an accredited center for health sciences; or (d) a hospital in which research is conducted.

Technology transfer grants and loans would be funded from the primary funding source (GPR or tribal gaming PR) and the repayments appropriations of the WDF, Forward Innovation Fund, and the gaming economic diversification grant and loan programs. Through October, 2009, the unencumbered balance in each of the repayment appropriations was: (a) WDF--$1.1 million; and (b) gaming economic diversification grants and loans--$576,000. As noted, the Forward

Innovation Fund was created under Act 28, no balance is reported in the repayments appropriation. In addition, $8.6 million in repayments revenue was encumbered for various projects. However, some projects may not go forward, or may draw a reduced amount. Any such funds would then become available for future projects.

Rural Outsourcing Grants. As passed by the Legislature, Act 28 included a provision that would have provided $250,000 PR in 2009-10, and required Commerce to provide this amount for grants to eligible businesses for outsourcing work to rural areas of the state. This program is also referred to as "farm shoring," whereby work is outsourced to domestic rural locations, rather than shipping jobs overseas. Recipients would have been required to provide an equal amount of matching funds. The source of funding was the WDF, RED, MBD, and gaming economic diversification program revenue repayments appropriations. The Governor item-vetoed this provision. In his veto message, the Governor indicated that the provision would have limited the Department's flexibility in meeting statewide economic development goals, and that he was requesting the Secretary of Commerce to continue to work with rural leaders on economic development issues.

The substitute amendment would authorize Commerce to award grants during the 2009-11 fiscal biennium to businesses for outsourcing work to rural municipalities. The maximum total amount of rural outsourcing grants that could be awarded would be $500,000. Grantees would be required to provide equal matching funds from sources other than the state. In determining whether a grantee had obtained sufficient funding from sources other than the state, the Department would be required to credit the grantee's capital expenditures, family supporting wages, rent or other facility costs, electricity costs, equipment leases, and software expenditures. "Rural municipality" would be defined under the RED definition to mean: (a) a city, town, or village that is located in a county with a population density of less than 150 persons per square mile; or (b) a city, town, or village with a population of 6,000 or less. Commerce would be authorized to promulgate emergency rules, without the finding of an emergency.

The authorized funding sources for rural outsourcing grants would include WDF, RED, MBD, and gaming economic diversification repayments appropriations. Increased expenditure authority of $250,000 PR would be authorized in each year of the biennium under the MBD program revenue repayments appropriation (though the actual expenditures could be made from any of the four identified repayment appropriations). Through October, 2009, the unencumbered balance in the MBD repayments appropriation was $563,000, and $1.2 million for the RED.

Grant to Pleasant Prairie Technology Incubator Center. Under a provision in Act 28, Commerce is required, in the 2011-13 biennium, and no later than July 31, 2011, to make a grant of $70,000 from the WDF to the Pleasant Prairie Technology Incubator Center (Kenosha County), if the Center obtains equal matching funds of $70,000. The Center is required to enter into an agreement with the Department that specifies conditions for use of proceeds of the grant, including reporting and auditing requirements, and to submit to the Department, within six months after spending the full amount of the grant, a report detailing how the grant proceeds were used.

The substitute amendment would require Commerce to award the grant to Pleasant Prairie Technology Incubator Center no later than 30 days after the general effective date of the act.

High-Technology Business Development Corporation Grant Program. This program was created by 1999 Wisconsin Act 106, to provide state funding for the entity that would be developed under the provisions of the Act. The Act required Commerce to organize and assist in maintaining a high-technology business development corporation as a non-stock, nonprofit corporation for the exclusive purpose of promoting and supporting the creation, development, and retention of science-based and technology-based businesses in Wisconsin. In 2001, the Wisconsin Technology Council was formed.

The Wisconsin Technology Council has three main functions:

a. Policy Guidance. The Council is a science and technology advisor to the Governor and Legislature and provides policy guidance to them and state agencies and other related institutions through Council activities, reports, and white papers.

b. Networking. The Council serves an in-state networking role through the Wisconsin Innovation Network (WIN), a community-based economic development corporation that fosters innovation and entrepreneurship. Local chapters offer connections with entrepreneurs and a variety of industries and professionals in high-technology, law, banking, government, public relations, and manufacturing.

c. Economic Development Catalyst. The Technology Council serves as an economic development catalyst through a number of programs including: (1) WIN; (2) the Wisconsin Entrepreneur's Conference, which provides assistance to entrepreneurs at all stages of business development; (3) the Wisconsin Early Stage Symposium for technology companies seeking capital; (4) the Governor's Business Plan Contest competition that provides business plan advice and cash and in-kind prizes; and (5) the Wisconsin Security Research Consortium comprised of public and private research organizations acting to develop expertise and link state organizations with federal homeland security projects. The Council also operates the Wisconsin Angel Network (WAN) to build angel investor network capacity in Wisconsin in order to increase the number and amount of early stage investments in Wisconsin businesses. WAN membership is generally limited to investment funds and angel investors, and the network operates a deal flow pipeline Internet site with projects submitted by entrepreneurs for investment consideration.

Commerce is authorized to make grants to the high-technology business development corporation if all of the following apply: (a) the corporation submits an expenditure plan to the Department detailing the proposed use of the grant proceeds and the Secretary of Commerce approves the plan; (b) the corporation enters into a written agreement with the Department that specifies the conditions for the use of grant proceeds, including reporting and auditing requirements; (c) the corporation provides matching funds equal to 50% of the grant proceeds; (d) the corporation provides Commerce with any information requested concerning private funding the corporation has received or will receive for the purposes detailed in the expenditure plan; and (e) the corporation agrees in writing to submit to the Department, within six months after spending the full amount of the grant, a report detailing how the grant proceeds were used.

The Wisconsin Technology Council is staffed by six positions, including the president, and is funded by annual high-technology business development corporation grants from Commerce, and by matching contributions from the private sector. In 2008-09, the Council's budget was approximately $1.0 million. Under 2009 Act 28, $337,400 GPR is appropriated annually for high-technology business development corporation grants. In addition, Act 28 requires the Department to make annual grants of $60,000 to WAN from the Wisconsin Venture Fund. Historically, the Technology Council has been awarded other separate Commerce grants for specific purposes.

The substitute amendment would increase the appropriation for the high-technology business development corporation grant program by $100,000 GPR in 2010-11. Beginning in fiscal year 2010-11, Commerce would be required to award an annual grant of $100,000 from the appropriation to the Wisconsin Technology Council, and enter into an agreement with the Technology Council requiring that the grant proceeds be used for employing a grant writer to assist businesses to apply for federal Small Business Innovation Research (SBIR) grants. Commerce would be required to submit an annual report to the chief clerk of each house of the legislature detailing the number of grant applications assisted by the grant writer, the number of applications assisted by the grant writer that won grants, the total amount of grants, and the number of jobs created as a result of the grant writer's activities.

SBIR is a federal program administered by the Small Business Administration that awards up to $2.0 billion in grants to eligible businesses in a competitive process, to assist companies in developing next-generation technologies, products and services. Act 28 included a provision that requires Commerce to provide $250,000 annually for SBIR assistance grants, including: (a) $100,000 for businesses in the pre-SBIR stage of development; (b) $100,000 for grants for the commercialization stage of development, which is not federally funded; and (c) $50,000 for SBIR preparation costs. The sources of funding for the grants include the WDF, RED, MBD, and gaming economic diversification programs program revenue repayments appropriations.

The substitute amendment would also provide $100,000 GPR in 2010-11 in the high-technology business development corporation grants appropriation, and Commerce would be required to make a grant of $100,000 in 2010-11 to the Technology Council to procure an economic modeling database for the use of regional economic development entities.

The substitute amendment would also modify a statutory provision that limits annual high-technology business development corporation grants to $250,000, to increase the annual limit to $750,000. However, as described above, the grant appropriation would be increased by $200,000 GPR in 2010-11 (to a total of $534,700).

Regulatory Ombudsman Center Position. As passed by the Legislature, the 2009-11 budget would have provided $75,000 GPR in 2009-10 and 2010-11 with 1.0 GPR position to establish a regulatory ombudsman office in Commerce, and to administer SBIR assistance grants. Also, under 2009 Act 28 statutory references to the business development assistance center were repealed, and replaced by provisions establishing the regulatory ombudsman center. Through an item-veto, the Governor wrote down appropriated funding by $75,000 annually for the regulatory ombudsman position in the Department's economic and community development general operations appropriation. In his veto message, the Governor requested that the Secretary of Administration not allot the funding, and not authorize the additional 1.0 GPR position.

The substitute amendment would provide $75,000 GPR and 1.0 GPR position beginning in 2010-11, under the Department's economic and community development general operations appropriation for the regulatory ombudsman center.

While the bill would provide 1.0 ombudsman, in its fiscal note, the Department of Commerce indicates the new responsibilities requested of Commerce and program modifications, including developing rules and policies for programs and administering the applications would require an additional $73,400 GPR and 1.0 GPR position, annually. The substitute amendment would not provide this additional funding and position authority.

General Fund Taxes

Early Stage Business Investment Tax Credits. The early stage business investment program includes the angel investment tax credit, which can be claimed under the state individual income tax, and the early stage seed investment tax credit, which can be claimed under the state individual income and corporate income and franchise taxes and the insurance premiums tax. Prior to 2009 Wisconsin Act 2, the angel investment tax credit equaled 12.5% of the claimant's bona fide angel investment made directly in a qualified new business venture (QNBV) in a tax year. The maximum aggregate amount of angel investment tax credits that could be claimed for a tax year was $5.5 million, and the maximum total amount of tax credits that could be claimed for all tax years was $47.5 million. The maximum investment by an angel investor in a QNBV that would qualify for tax credits was $2.0 million.

The early stage seed investment tax credit is equal to 25% of the claimant's investment paid in the tax year to a certified fund manager that the fund manager invests in a QNBV certified by Commerce. Prior to Act 2, the maximum aggregate amount of early stage seed investment tax credits that could be claimed for a tax year was $6.0 million, and the maximum total amount of tax credits that could be claimed for all tax years was $52.5 million. The maximum amount a QNBV would receive that would qualify for tax credits was $1.0 million.

Act 2 made the following changes to the angel investment and early stage seed investment tax credits:

a. The angel investment tax credit equals 25% of the claimant's bona fide angel investment made directly in a qualified new business venture for the tax year (rather than a 12.5%

credit over two years). The $2.0 million maximum limit on the amount of a claimant's investment made directly in a QNBV that may be used as the basis for an angel investment tax credit was eliminated.

b. The early stage seed investment tax credit is provided under the state insurance premiums tax, for tax years beginning on or after January 1, 2009. Prior to that date, the credit was only available under the individual income tax and corporate income and franchise tax.

c. The criteria used to determine a QNBV are modified to include businesses engaged in: (1) manufacturing, biotechnology, nanotechnology, communications, agriculture, or clean energy creation or storage technology; (2) processing or assembling products, including medical devices, pharmaceuticals, computer software, computer hardware, semiconductors, any other innovative technology products, or other products that are produced using manufacturing methods that are enabled by applying proprietary technology; (3) services that are enabled by applying proprietary technology; or (4) 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.

d. The maximum limit on the amount of investments that qualify for angel investment or early stage seed investment tax credits that a QNBV can receive was increased from $1.0 million to $4.0 million for tax years beginning after December 31, 2007, and before January 1, 2011, and to $8.0 million for tax years beginning after December 31, 2010.

e. The maximum amount of angel investment tax credits that can be claimed in a tax year was increased from $5.5 million to $18.0 million, plus an additional $250,000 for tax credits claimed for investments in nanotechnology businesses, for tax years beginning after December 31, 2010. The maximum amount of early stage seed investment tax credits that can be claimed in a tax year was increased from $6.0 million to $18.5 million, plus an additional $250,000 for investments in nanotechnology businesses, for tax years beginning after December 31, 2010.

f. The limit of $52.5 million on the total amount of early stage seed investment tax credits that may be claimed for all taxable years combined was eliminated.

g. Persons eligible to claim early stage seed investment tax credits can sell or transfer the credits to another person subject to the state individual income, corporate income and franchise, or insurance premiums taxes, beginning with tax years starting on January 1, 2009.

Under the provisions of SSA 1 to SB 409, the maximum amount of angel investment tax credits that could be claimed in a tax year would be increased from $5.5 million to $6.5 million for calendar year 2010, and to $20.0 million (rather than $18.0 million), plus an additional $250,000 for tax credits claimed for investments in nanotechnology businesses, for tax years beginning after December 31, 2010. In addition, a claimant could claim an angel investment credit for an investment in a business that was located out of the state, if the investment was made no more than

60 days before that business relocated to Wisconsin, and the business was certified as a QNBV within 180 days after the relocation to Wisconsin. The maximum amount of early stage seed investment tax credits that could be claimed in a tax year would be increased from $6.0 million to $8.0 million for calendar year 2010, and to $20.5 million (rather than $18.5 million), plus an additional $250,000 for investments in nanotechnology businesses, for tax years beginning after December 31, 2010.

The substitute amendment would authorize Commerce to promulgate rules to reallocate angel investment and early state seed investment tax credits that are unused in any calendar year to persons eligible for the jobs tax credit created under Act 28 or enterprise zone tax credits, subject to 14 day passive review by the Joint Committee on Finance.

In determining the fiscal effect of increasing the annual limits for the angel and early stage seed investment tax credits that are included in the substitute amendment, two factors should be considered. First, the amount of angel and early stage seed investment tax credits that have been verified have been less than the total amount authorized for a given year. Commerce must certify businesses as QNBVs and fund managers, and verify credits that are claimed on tax returns. The table below compares the amount of credits for which verification was requested to the amount authorized for each year the credits have been available. The table shows that the amount of credits requested has been less than the authorized annual amounts. However, a number of changes enacted in Act 2, such as increasing the limits on qualified investments that a QNBV can receive and allowing early stage seed investment tax credits to be transferred, are designed, in part, to increase the amount of qualified investments for which tax credits may be claimed.

Early Stage Business Investment Annual Credits

	CY 2005	CY 2006	CY 2007	CY 2008	CY 2009
Angel Investment Tax Credit					
Annual Credit Limit	$3,000,000	$3,000,000	$3,000,000	$5,500,000	$5,500,000
Credits Requested	2,989,800	2,705,800	2,050,500	2,191,900	2,985,400
Percent of Available Credits	99.7%	90.2%	68.4%	39.9%	54.3%
Early Stage Seed Investment Tax Credit					
Annual Credit Limit	3,500,000	3,500,000	3,500,000	6,000,000	6,000,000
Credits Requested	125,300	1,423,400	2,600,200	4,284,500	1,187,500
Percent of Available Credits	3.6%	40.7%	74.3%	71.4%	19.8%
Total Early Stage Business Investment Tax Credits					
Annual Credit Limit	6,500,000	6,500,000	6,500,000	11,500,000	11,500,000
Credits Requested	3,115,100	4,129,200	4,650,700	6,476,400	4,172,900
Percent of Available Credits	47.9%	63.5%	71.5%	56.3%	36.3%

The second factor is the $47.5 million overall limit on total angel investment tax credit claims. Increasing the annual limits on angel investment tax credit claims may change the timing of credit claims, but the total fiscal effect for the angel investment tax credit program would remain at $47.5 million.

As noted, since 2005, the number of angel and early stage seed investment tax credits verified by Commerce has been substantially less than the annual statutory maximum amount authorized. Consequently, it is estimated that the increase in those limits that would be authorized under the substitute amendment for 2010 and 2011, would have a minimal fiscal effect in each year of the biennium. In addition, the provision that would allow angel investment tax credits for investments in businesses that relocate to Wisconsin would have a minimal fiscal effect.

Authorizing Commerce to reallocate unused angel and early state seed investment credits to persons eligible for the jobs tax credit or enterprise zone tax credits would have no fiscal effect for fiscal years 2010-11 through 2012-13. Current law limits the number of enterprise zones that can be created to 10, but the amount of credits that can be claimed are not limited. Current law also limits the total amount of jobs tax credits that can be claimed for the period beginning on January 1, 2010, and ending on June 20, 2013, to $14.5 million. This limit would not be changed by the substitute amendment. However, jobs tax credit claims could increase up to $4 million, beginning in fiscal year 2013-14, due to the reallocation of unused angel and early state seed investment credits. Current law limits annual total jobs credit claims to $5 million.

Post-secondary Education Tax Credit. Under current law, an employer may deduct educational expenses as business expenses if the education: (a) maintains or improves the skills required by the individual employee's employment, trade, or business; or (b) meets the express requirements of the employer, or the requirements of applicable law or regulations imposed as a condition to the employee's retention of salary, status, or employment. Educational expenses include amounts spent for tuition, books, laboratory fees, and similar items. Educational expenses also include the cost of correspondence courses, tutoring and formal training, and research and typing expenses.

Employer payments to a qualified educational assistance program are also deductible expenses. An education assistance program must be a separate written plan of an employer for the exclusive benefit of its employees. The program is qualified if it meets the following tests: (a) it benefits employees who qualify under a classification established by the employer that does not favor highly-compensated employees; (b) the program does not provide more than 5% of its benefits for shareholders or owners who own more than 5% of the stock, capital, or interest in the business; (c) the program does not provide employees with the choice between educational assistance and other remuneration includible in gross income; and (d) the employer gives reasonable notice to employees of the availability and terms of the program. For 2010, a highly-compensated employee is an employee who meets either of the following criteria; (a) the employee was a 5% owner of the business at any time during the current or preceding year; or (b) the employee received more than $110,000 in compensation during the preceding year, and, if elected by the employer, was in the top 20% of employees based on compensation. An employer can exclude from wages up to $5,250 of educational assistance provided to an employee each year under an educational assistance plan.

The substitute amendment would create a post-secondary education tax credit under the state individual income and corporate income and franchise taxes equal to the following:

a. 25% of the tuition that the claimant paid or incurred for an individual to participate in an education program of a qualified post-secondary institution, if the individual was enrolled in a course of instruction and eligible for a grant from the federal Pell Grant program.

b. 30% of the tuition that the claimant paid or incurred for an individual to participate in an education program of a qualified post-secondary institution, if the individual was enrolled in a course of instruction that relates to a projected worker shortage in the state, as determined by the local workforce development boards established under federal law, and if the individual was eligible for a grant from the federal Pell Grant program.

The credit would have to be claimed for the tax year in which the individual graduated from a course of instruction for the total amount tax credits for all tax years in which the claimant paid or incurred eligible tuition for the individual. Unused credits could be carried forward up to 15 years to offset future tax liabilities. A credit could not be claimed for the tuition of a nonresident. To receive a tax credit, the claimant would be required to certify to the Department of Revenue that the claimant would not be reimbursed for any amount of tuition for which a credit was claimed, and the claimant could not claim a credit for any tuition amounts that were excluded under state or federal qualified tuition or educational assistance programs.

A claimant could not claim a tax credit for any tuition amounts that the claimant paid or incurred for a family member, or for a family member of a managing employee unless all of following criteria were met: (a) the family member was employed an average of at least 20 hours per week as an employee of the claimant, or the claimant's business, during the one-year period prior to commencing participation in the education program for which the tax credit was claimed; and (b) the family member was enrolled in a course of instruction that was substantially related to the claimant's business.

Partnerships, limited liability companies (LLCs), and tax-option corporations (S corporations) could not claim the credit, but eligibility for, and the amount of, credit would be based on the entity's payment of tuition. A partnership, LLC, or tax-option corporation would be required to compute the amount of credit that each of its partners, members, or shareholders, could claim, and provide that information to them. Partners, LLC members, and shareholders of tax-option corporations could claim the credit in proportion to their ownership interest of the entity. Current law income and franchise tax provisions governing change of ownership, DOR administration, and timely claims would apply to the post-secondary education tax credit.

If the bill took effect before July 31, the post-secondary education tax credit would take effect for tax years beginning on or after January 1 of that year. If the bill took effect after July 31, the credit would be effective for tax years beginning on or after January 1 of the following tax year.

"Course of instruction" would be defined as a series of classroom or correspondence courses having a unified purpose which lead to a diploma or degree, or to an occupational or vocational objective. "Family member" would mean a spouse or an individual related by blood, marriage, or adoption within the third degree of kinship. "Managing employee" would mean an individual who wholly or partially exercises operational or managerial control over, or who directly or indirectly conducts, the operation of the claimant's business. "Paid or incurred" would include any amount paid by the claimant to reimburse an individual for the amount the individual paid or incurred.

A "qualified post-secondary institution" would mean: (a) a University of Wisconsin System institution, a technical college system institution, or a regionally accredited four-year, nonprofit college or university having its regional headquarters and principal place of business in Wisconsin; and (b) a school approved by the Educational Approval Board, if the delivery of education occurred in Wisconsin.

The federal Pell Grant program provides need-based grants through participating institutions to low-income students who have not received their first bachelor's degree, or who are enrolled in certain post baccalaureate programs that lead to teacher certification or licensure. Grant amounts are dependent on: (a) the student's expected family contribution [EFC]; (b) the cost of attendance [as determined by the institution]; (c) the student's enrollment status [full-time or part-time]; and (d) whether the student attends for a full academic year or less.

Financial need is determined by the U.S. Department of Education, using a standard formula, established by Congress to evaluate reported financial information, and to determine the family EFC. The fundamental elements in the standard formula are: (a) the student's income [and assets if the student is independent]; (b) the parent's income and assets [if the student is dependent]; (c) the family's household size, and (d) the number of family members [excluding parents] attending post-secondary institutions. The EFC is the sum of: (a) a percentage of net income [remaining after subtracting allowances for basic living expenses and taxes]; and (b) a percentage of net assets [assets remaining after subtracting an asset protection allowance]. Different assessment rates and allowances are used for dependent students, independent students without dependents, and independent students with dependents. Data compiled by the U.S. Department of Education included in the program award year 2007-08 year-end report, and related to the distribution of federal Pell Grant recipients by EFC and family income indicates that almost 76% of recipients with dependents other than a spouse had a family income of $30,000 or less. All recipients without dependents other than a spouse had family incomes of less than $30,000.

The Department of Revenue has developed an estimate of the post-secondary education tax credit included in the substitute amendment using information from the University of Wisconsin System, the Wisconsin Technical College System, and the U.S. Office of Management and Budget for federal fiscal year 2009. Based on this information, and assuming that the tax credit would be effective for tax years beginning on or after January 1, 2010, the credit would reduce state individual income and corporate income and franchise taxes by an estimated $500,000 in 2009-10, and $2,000,000 in 2010-11, and annually thereafter.

FISCAL EFFECT

In addition to the fiscal information provided under each foregoing agency or topic area, the attachment provides a summary of the 2009-11 appropriation increases and estimated revenue decreases under the provisions of the substitute amendment.

Prepared by: Ron Shanovich, Emily Pope, Layla Merrifield, and Kim Swissdorf
Attachment

ATTACHMENT

Appropriation Increases and Tax Law Changes Included in SSA 1 to SB 409

Appropriation Increases	2009-10	2010-11	Fund Source
University of Wisconsin System			
WiSys Technology Foundation grants*	$0	$1,000,000	
Business plan competition	125,000	125,000	
Emerging Technology Center	400,000	0	
Subtotal	$525,000	$1,125,000	GPR
Department of Children and Families			
Skills Enhancement Grants	250,000	250,000	GPR
Wisconsin Technical College System			
Training Program grants	0	1,000,000	GPR
Department of Commerce			
WDF--Increased funding	500,000	500,000	
--Targeted Microloans	0	500,000	
--Manufacturing Facility Conversion Grants	0	2,000,000	
High-Technology Business Development Corp			
--SBIR grant writing	0	100,000	
--Economic modeling database	0	100,000	
Regulatory Ombudsman**	0	75,000	
Subtotal	$500,000	$3,275,000	GPR
MBD--Rural Outsourcing Grants	250,000	250,000	PR
Total Appropriation Increases***	$1,275,000	$5,650,000	GPR
	250,000	250,000	PR
Revenue Decreases			
Angel & Early Stage Seed Investment Tax Credits	Minimal	Minimal	GPR-REV
Postsecondary Education Tax Credit	-$500,000	-$2,000,000	GPR-REV
Total Revenue Decreases	-$500,000	-$2,000,000	GPR-REV

*Estimate. This would leave $1,000,000 in the appropriation that could be expended in future biennia.

**1.0 GPR position is also provided.

***Does not include the technology transfer grant and loan program that would be funded, in part, from the WDF, Forward Innovation Fund, and gaming economic diversification grant and loan program revenue repayments appropriations. While the bill contains no specific appropriation increases to fund the program, as continuing appropriations any revenues available in the repayments appropriations could be used for this program.