



2011 SENATE BILL 94

May 13, 2011 – Introduced by Senators HOPPER, DARLING, LAZICH, OLSEN, LEIBHAM, SCHULTZ and WANGGAARD, cosponsored by Representatives TAUCHEN, KLENKE, KUGLITSCH, FIELDS, WILLIAMS, KESTELL, NYGREN, SPANBAUER, A. OTT, VAN ROY, LEMAHIEU, PETROWSKI, ENDSLEY and BIES. Referred to Committee on Economic Development and Veterans and Military Affairs.

1 **AN ACT to amend** 1.12 (1) (b), 13.172 (1), 13.48 (13) (a), 13.62 (2), 13.94 (1) (mm),
2 13.94 (4) (a) 1., 13.95 (intro.), 16.002 (2), 16.004 (4), 16.004 (5), 16.004 (12) (a),
3 16.045 (1) (a), 16.15 (1) (ab), 16.41 (4), 16.417 (1) (b), 16.52 (7), 16.528 (1) (a),
4 16.53 (2), 16.54 (9) (a) 1., 16.765 (1), 16.765 (2), 16.765 (5), 16.765 (6), 16.765 (7)
5 (intro.), 16.765 (7) (d), 16.765 (8), 16.85 (2), 16.865 (8), 71.05 (6) (a) 15., 71.21
6 (4), 71.26 (1) (be), 71.26 (2) (a) 4., 71.34 (1k) (g), 71.45 (2) (a) 10., 76.67 (2), 77.54
7 (9a) (a), 77.92 (4), 100.45 (1) (dm), 101.177 (1) (d), 230.03 (3), 281.75 (4) (b) 3.
8 and 285.59 (1) (b); **to repeal and recreate** 16.417 (1) (b); and **to create** 13.94
9 (1) (dx), 13.94 (1s) (c) 6., 19.42 (10) (t), 19.42 (13) (p), 20.195, 40.02 (54) (n), 70.11
10 (38v), 71.05 (6) (a) 25., 71.05 (6) (a) 26., 71.05 (6) (b) 48., 71.07 (8s), 71.10 (4) (ds),
11 71.26 (2) (a) 4c., 71.26 (2) (a) 4d., 71.26 (2) (a) 4e., 71.28 (8s), 71.30 (3) (dn), 71.45
12 (2) (a) 10c., 71.45 (2) (a) 10d., 71.45 (2) (a) 10e., 71.47 (8s), 71.49 (1) (dn), 73.033,
13 76.634 and chapter 239 of the statutes; **relating to:** creation of the Wisconsin
14 Venture Capital Authority, creation of the badger jobs fund and the jobs now

SENATE BILL 94

1 fund certification program, both of which are to be administered by the
2 Wisconsin Venture Capital Authority, making an appropriation, and providing
3 a penalty.

Analysis by the Legislative Reference Bureau**WISCONSIN VENTURE CAPITAL AUTHORITY**

This bill creates an authority to be known as the “Wisconsin Venture Capital Authority” (authority) to oversee programs related to venture capital investment in Wisconsin businesses.

COMPOSITION AND GENERAL OPERATION***Board of Directors***

Under the bill, the authority is governed by a seven-member board of directors (board) that consists of the chief executive officer of the Wisconsin Economic Development Corporation; four members from the private sector nominated by the governor and appointed with the advice and consent of the senate; one member appointed by the speaker of the assembly; and one member appointed by the senate majority leader. The members of the board appointed by the governor, the speaker of the assembly, and the senate majority leader serve staggered three-year terms and must have experience that qualifies them to serve on the board. The members of the board may not be compensated, but the members may be reimbursed for actual and necessary expenses, including travel expenses, incurred in the performance of their duties.

The bill gives the board the powers necessary or convenient to carry out its duties, as well as specific powers to conduct its corporate business. Under the bill, the authority is a participating employer in the Wisconsin Retirement System. The board may hire an executive director. The members of the board appointed by the speaker of the assembly and the senate majority leader, the executive director, if any, and the manager of the badger jobs fund administered by the authority are subject to state ethics laws.

Transitional Administration by the Department of Commerce and the Wisconsin Economic Development Corporation

Under the bill, the Department of Commerce administers the programs created under the authority until the board is in place and the authority has adequate personnel to carry out its duties or until the effective date of the 2011-13 biennial budget act, whichever is later. If as of the effective date of the 2011-13 biennial budget act the authority has not assumed administration of its programs, the authority’s programs are to be administered by the Wisconsin Economic Development Corporation until the authority is prepared to assume administration of those programs.

SENATE BILL 94***General Reporting Requirements***

Under the bill, the authority must submit an annual report to the legislature and to the governor that contains all of the following information:

1. An assessment of the success to date of each program administered by the authority.
2. An accounting of the financial status of each program administered by the authority, including the opinion of an independent certified public accountant.
3. Any recommendations the authority has for the improvement of each of its programs.

BADGER JOBS FUND

Also under the bill, there is created a fund to be known as the “badger jobs fund” for the placement of capital with investors who are certified by the authority and who in turn invest badger jobs fund capital in Wisconsin businesses that meet certain criteria. The authority must hire a qualified fund manager to manage the badger jobs fund’s investments. The badger jobs fund manager must establish and maintain an investment policy for the badger jobs fund that the authority reviews and approves on an annual basis. The authority may pay the fund manager a management fee of not more than 0.5 percent of the badger jobs fund’s total assets.

Investor Certification

Under the bill, any person may apply to be certified to receive badger jobs fund capital. The authority charges such applicants an application fee in an amount determined by the authority. In determining whether to certify an applicant, the authority considers the applicant’s venture capital experience or other experience that qualifies the applicant to receive badger jobs fund capital, the past performance of investments managed by the applicant, the applicant’s commitment to investing in businesses within Wisconsin, and whether the investor is located in Wisconsin or agrees to maintain an office in Wisconsin.

Investment of Badger Jobs Fund Capital

Under the bill, the authority may invest badger jobs fund capital only in certified investors. The authority may not commit more than 15 percent of the total capital that the authority is authorized to raise for the badger jobs fund to a single certified investor.

The bill provides that a certified investor must contract with the authority before receiving any capital from the badger jobs fund. Under the contract, the certified investor must agree to all of the following:

1. The certified investor must commit to maintaining a significant physical presence in Wisconsin, including an office that is staffed by at least one full-time employee.
2. The certified investor must invest at least 50 percent of the badger jobs fund capital it receives only in a business that is headquartered in Wisconsin; that employs at least 50 percent of its employees in Wisconsin; that agrees to use badger jobs fund capital only for certain approved purposes; and that is not primarily engaged in real estate development or sales, insurance, banking, lending, lobbying,

SENATE BILL 94

political consulting, professional services, or retail sales, other than direct sales of products the business itself manufactures.

3. The certified investor may not receive capital from the badger jobs fund that exceeds 25 percent of the total capital the investor raises from all sources, including the badger jobs fund.

4. When a certified investor invests badger jobs fund capital in a business, the certified investor must at least match the badger jobs fund's capital contribution to that investment with capital the certified investor has raised from other sources.

5. The certified investor may not apply the amount of capital it receives from the badger jobs fund toward certification for purposes of receiving early stage or angel investment tax credits from the Department of Commerce.

Issuance of Bonds

The bill authorizes the authority to issue up to \$200,000,000 in bonds or other obligations to raise capital for the badger jobs fund. The authority may contract with a bondholder to award franchise and income tax credits to a bondholder up to an amount equal to the amount the authority is unable to pay a bondholder on a bond. A bondholder may not claim those tax credits until January 1, 2016. Those tax credits may be carried forward until fully used and may be transferred or sold. The authority may not award tax credits to bondholders that total more than \$300,000,000.

While the bill specifies that the state is not liable for a debt of the authority, the bill also contains a moral obligation pledge in which the legislature expresses its expectation and aspiration that the legislature will make an appropriation to pay a bondholder the amount of principal and interest or other financing charges the authority fails to pay on a bond.

The chairperson of the authority's board must notify the Joint Committee on Finance (JCF) when the authority has reached the \$200,000,000 bond limit for the badger jobs fund and has satisfied 90 percent of its debt to bondholders. The chairperson must provide a second such notice when the authority has satisfied 100 percent of its total debt to bondholders under the badger jobs fund. If, within 14 working days after the date of the chairperson's second notice, the cochairpersons of JCF do not notify the authority that the committee has scheduled a meeting to review dissolution of the badger jobs fund, the authority must dissolve the badger jobs fund and liquidate all of the badger jobs fund's assets, paying the proceeds to the state for deposit in the general fund. If JCF does schedule a meeting to consider dissolution, the authority may dissolve the badger jobs fund only with the approval of JCF.

The authority may reinvest amounts that it receives as returns from its investments in certified investors only if the authority meets the conditions and gives the notices described above, and JCF does not approve dissolution of the badger jobs fund. Any reinvestment must meet the other requirements in the bill with respect to investments in certified investors.

Tax Revenue from Businesses that Receive Investments

The authority's administration of the badger jobs fund is supported in part by tax revenue raised from businesses that benefit from the badger jobs fund or from the certified jobs now fund program described below. Under the bill, the authority

SENATE BILL 94

and the Department of Revenue (DOR) are to coordinate with each other to determine the amount of withholding taxes that each business that receives investment capital under the badger jobs fund or the certified jobs now fund program paid for the year prior to the first year in which the business received any such investment. Then, each year for 15 years following that first year of investment or until the badger jobs fund is dissolved, whichever occurs first, DOR transfers to the authority an amount equal to 50 percent of the increase, if any, in withholding taxes paid by the business over the amount determined, as described above, for the year prior to that first year of investment.

Reporting Requirements

The bill provides that the authority must include in its annual report to the legislature and the governor all of the following information specifically relating to the badger jobs fund:

1. The current investment policy of the badger jobs fund.
2. The badger jobs fund's internal rate of return from its investments in certified investors.
3. An accounting of the withholding tax revenue received by the authority from businesses that received investment capital contributed by the badger jobs fund from a certified investor.
4. An accounting of any compensation, including a management fee, paid to the badger jobs fund manager during the preceding year.
5. An accounting of the value of tax credits awarded to bondholders during the preceding year, including a description of the circumstances leading to the award of the credits and the likelihood that the authority will award additional tax credits to bondholders in the future.
6. For each certified investor in whom the badger jobs fund invested capital during the preceding year, the name and address of the investor and the amount of each investment.
7. The internal rate of return realized by each certified investor.
8. An accounting of any fee a certified investor paid to itself or any principal or manager during the preceding year.
9. For each business in which a certified investor made an investment of capital from the badger jobs fund during the preceding year, the name and address of the business and a description of the nature of the business, the amount of each investment in the business, an identification of the certified investor who made the investment, and an accounting of the number of employees the business has hired since badger job funds capital was first invested in the business.

CERTIFIED JOBS NOW FUND PROGRAM

Under the bill, the authority also administers a "certified jobs now fund" program under which an insurance company or other person subject to Wisconsin premium tax liability invests capital with a certified jobs now fund that in turn invests that capital in certain kinds of Wisconsin businesses.

Jobs Now Fund Certification

Any person may apply to become a certified jobs now fund. The authority must certify an applicant if the applicant pays an application fee in an amount determined

SENATE BILL 94

by the authority and the authority determines that the applicant meets all of the following requirements:

1. The primary activity of the applicant is the investment of cash in certain kinds of businesses.
2. The applicant owns at least \$500,000 in unencumbered cash or cash equivalents.
3. The applicant has at least two principals or investment managers who have at least five years of experience in the venture capital or private equity industry.
4. The applicant's strategic investment plan will benefit Wisconsin's economy.

Participating Investors

The bill provides that any insurance company or other person subject to premium tax liability may apply to the authority to invest in a certified jobs now fund. The bill directs the authority to establish a single 15-day period in which such applications may be submitted. The authority must give reasonable notice to potential applicants in advance of that application period.

A person for whom the authority has approved an investment is called a "participating investor" under the bill. If the authority approves an investment, the participating investor may claim up to 80 percent of the amount of its investment as a credit against the participating investor's premium tax liability. The authority may not award more than \$200,000,000 in premium tax credits under the program. The authority may not award more than \$50,000,000 in premium tax credits to a participating investor at any one time. The authority must begin approving investments and awarding corresponding tax credits within 90 days after the bill becomes effective.

Additionally, under the bill, a participating investor may not claim a premium tax credit until after it has made an approved investment in a certified jobs now fund and may not claim a premium tax credit before January 1, 2014. A participating investor may not claim more than 25 percent of its approved premium tax credit in one year, but the premium tax credit may be carried forward until fully used. A participating investor may sell or otherwise transfer a premium tax credit awarded by the authority to another insurance company or other person subject to premium tax liability. A participating investor must report that sale or transfer to the authority and the commissioner of insurance.

Qualified Businesses

Once it receives investment capital from a participating investor, the bill authorizes a certified jobs now fund to invest that capital only in certain kinds of businesses, called "qualified businesses" under the bill. In particular, a qualified business is a business that meets all of the following conditions:

1. The business's headquarters are in Wisconsin.
2. The business is in need of venture capital and is unable to obtain conventional financing.
3. The business employs 100 or fewer employees, and at least 80 percent of those employees are employed in this state, or at least 80 percent of the business's payroll is paid to employees employed in this state.

SENATE BILL 94

4. The business is not primarily engaged in real estate development or sales, insurance, banking, lending, lobbying, political consulting, professional services, or retail sales, other than direct sales of products the business itself manufactures.

Also under the bill, in order to receive certified jobs fund investments, a qualified business must agree not to relocate its headquarters outside of Wisconsin and to maintain at least 75 percent of its employees in Wisconsin, or pay at least 75 percent of its payroll to employees in Wisconsin, as long as the certified jobs now fund continues to hold the investment.

Investments in Qualified Businesses

Under the bill, a certified jobs now fund is required to make investments in qualified businesses based on a specific investment schedule, and after seven years, a certified jobs now fund must have placed 100 percent of its capital received from a participating investor with qualified businesses, at least 50 percent of which must be invested in qualified businesses with gross revenue of \$2,000,000 or less in the fiscal year immediately preceding the date of investment. If a certified jobs now fund fails to satisfy the investment schedule, it may be required to refrain from paying any management or similar fee until required investments are made. Under the bill, a certified jobs now fund may not invest more than 15 percent of its total capital received from participating investors in any one qualified business.

Distributions from Qualified Investments; Profit Sharing Fee

Under the bill, a certified jobs now fund is also limited in the distributions from investments that it may make before it has invested all of its capital received from a participating investor in qualified businesses. However, a certified jobs now fund may make a distribution of any kind once it has invested 100 percent of its capital received from a participating investor in qualified businesses, at least 50 percent of which is invested in qualified businesses with gross revenue of \$2,000,000 or less in the fiscal year immediately preceding the date of investment. When such a distribution is made, the certified jobs now fund must pay to the authority a 20 percent profit sharing fee, which the authority then remits to the state for deposit in the general fund.

Annual Review by Authority

The bill provides that by January 31 of each year, a certified jobs now fund must submit a report to the authority that describes in detail the certified jobs now fund's investments in qualified businesses, including its progress with respect to the investment schedule required under the bill and any distributions the certified jobs now fund has made from those investments. The authority is required to complete an annual review of each certified jobs now fund to ensure that each certified jobs now fund is in full compliance with the bill. Additionally, within 90 days after the end of a certified jobs now fund's fiscal year, the certified jobs now fund must file with the authority a copy of its annual audited financial statement, including the opinion of an independent certified public accountant. The authority charges each jobs now fund an annual certification renewal fee of \$5,000.

SENATE BILL 94***Decertification; Penalties for Noncompliance***

The authority may decertify a certified jobs now fund that violates the requirements of the bill. In the event of decertification, a participating investor may be required to repay to the commissioner of insurance the amount of any credit against premium tax liability that the participating investor received based on its investment of capital in the decertified jobs now fund. The bill also authorizes the authority to fine a person who violates the bill's provisions up to \$25,000 depending on the circumstances of the violation.

Reporting Requirements

Finally, the bill requires that the authority include in its annual report to the legislature and the governor all of the following information specifically relating to the certified jobs now fund program:

1. The information that each certified jobs now fund is required to report to the authority on an annual basis, including the number of new employees hired by businesses in which each certified jobs now fund has invested.

2. An accounting of the withholding tax revenue received by the authority from qualified businesses that have received an investment of capital contributed by a participating investor from a certified jobs now fund.

3. An accounting of the value of the premium tax credits the authority awarded during the preceding year.

4. An accounting of each profit sharing fee received by the authority in the preceding year.

5. A list of any decertified jobs now funds from the preceding year and a description of the circumstances leading to each decertification.

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.** 1.12 (1) (b) of the statutes, as affected by 2011 Wisconsin Act 7, is
2 amended to read:

3 1.12 (1) (b) "State agency" means an office, department, agency, institution of
4 higher education, the legislature, a legislative service agency, the courts, a judicial
5 branch agency, an association, society, or other body in state government that is
6 created or authorized to be created by the constitution or by law, for which
7 appropriations are made by law, excluding the Health Insurance Risk-Sharing Plan

SENATE BILL 94

1 Authority, the Wisconsin Venture Capital Authority, and the Wisconsin Economic
2 Development Corporation.

3 **SECTION 2.** 13.172 (1) of the statutes, as affected by 2011 Wisconsin Act 10, is
4 amended to read:

5 13.172 (1) In this section, “agency” means an office, department, agency,
6 institution of higher education, association, society, or other body in state
7 government created or authorized to be created by the constitution or any law, that
8 is entitled to expend moneys appropriated by law, including the legislature and the
9 courts, and any authority created in subch. II of ch. 114 or subch. III of ch. 149 or in
10 ch. 231, 233, 234, 238, 239, or 279.

11 **SECTION 3.** 13.48 (13) (a) of the statutes, as affected by 2011 Wisconsin Act 10,
12 is amended to read:

13 13.48 (13) (a) Except as provided in par. (b) or (c), every building, structure or
14 facility that is constructed for the benefit of or use of the state, any state agency,
15 board, commission or department, the University of Wisconsin Hospitals and Clinics
16 Authority, the Fox River Navigational System Authority, the Wisconsin Venture
17 Capital Authority, the Wisconsin Economic Development Corporation, or any local
18 professional baseball park district created under subch. III of ch. 229 if the
19 construction is undertaken by the department of administration on behalf of the
20 district, shall be in compliance with all applicable state laws, rules, codes and
21 regulations but the construction is not subject to the ordinances or regulations of the
22 municipality in which the construction takes place except zoning, including without
23 limitation because of enumeration ordinances or regulations relating to materials
24 used, permits, supervision of construction or installation, payment of permit fees, or
25 other restrictions.

SENATE BILL 94**SECTION 4**

1 **SECTION 4.** 13.62 (2) of the statutes, as affected by 2011 Wisconsin Act 10, is
2 amended to read:

3 13.62 (2) "Agency" means any board, commission, department, office, society,
4 institution of higher education, council, or committee in the state government, or any
5 authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 232, 233,
6 234, 237, 238, 239, or 279, except that the term does not include a council or
7 committee of the legislature.

8 **SECTION 5.** 13.94 (1) (dx) of the statutes is created to read:

9 13.94 (1) (dx) Biennially, beginning in 2013, conduct a financial audit of the
10 Wisconsin Venture Capital Authority and a program evaluation audit of the
11 programs administered by the Wisconsin Venture Capital Authority under ch. 239.
12 The legislative audit bureau shall file a copy of each audit report under this
13 paragraph with the distributees specified in par. (b).

14 **SECTION 6.** 13.94 (1) (mm) of the statutes, as affected by 2011 Wisconsin Act 7,
15 is amended to read:

16 13.94 (1) (mm) No later than July 1, 2012, prepare a financial and performance
17 evaluation audit of the economic development programs administered by the
18 department of commerce, the University of Wisconsin System, the department of
19 agriculture, trade and consumer protection, the department of natural resources, the
20 Wisconsin Housing and Economic Development Authority, the Wisconsin Venture
21 Capital Authority, the Wisconsin Economic Development Corporation, the
22 department of tourism, the technical college system, and the department of
23 transportation. In this paragraph, economic development program has the meaning
24 given in s. 560.001 (1m). The legislative audit bureau shall file a copy of the report
25 of the audit under this paragraph with the distributees specified in par. (b).

SENATE BILL 94

1 **SECTION 7.** 13.94 (1s) (c) 6. of the statutes is created to read:

2 13.94 (1s) (c) 6. The Wisconsin Venture Capital Authority for the cost of the
3 audit required to be performed under sub. (1) (dx).

4 **SECTION 8.** 13.94 (4) (a) 1. of the statutes, as affected by 2011 Wisconsin Act 10,
5 is amended to read:

6 13.94 (4) (a) 1. Every state department, board, examining board, affiliated
7 credentialing board, commission, independent agency, council or office in the
8 executive branch of state government; all bodies created by the legislature in the
9 legislative or judicial branch of state government; any public body corporate and
10 politic created by the legislature including specifically the Fox River Navigational
11 System Authority, the Lower Fox River Remediation Authority, the Wisconsin
12 Aerospace Authority, the Wisconsin Venture Capital Authority, and the Wisconsin
13 Economic Development Corporation, a professional baseball park district, a local
14 professional football stadium district, a local cultural arts district, and a long-term
15 care district under s. 46.2895; every Wisconsin works agency under subch. III of ch.
16 49; every provider of medical assistance under subch. IV of ch. 49; technical college
17 district boards; every county department under s. 51.42 or 51.437; every nonprofit
18 corporation or cooperative or unincorporated cooperative association to which
19 moneys are specifically appropriated by state law; and every corporation, institution,
20 association or other organization which receives more than 50% of its annual budget
21 from appropriations made by state law, including subgrantee or subcontractor
22 recipients of such funds.

23 **SECTION 9.** 13.95 (intro.) of the statutes, as affected by 2011 Wisconsin Act 10,
24 is amended to read:

SENATE BILL 94**SECTION 9**

1 **13.95 Legislative fiscal bureau.** (intro.) There is created a bureau to be
2 known as the “Legislative Fiscal Bureau” headed by a director. The fiscal bureau
3 shall be strictly nonpartisan and shall at all times observe the confidential nature
4 of the research requests received by it; however, with the prior approval of the
5 requester in each instance, the bureau may duplicate the results of its research for
6 distribution. Subject to s. 230.35 (4) (a) and (f), the director or the director’s
7 designated employees shall at all times, with or without notice, have access to all
8 state agencies, the University of Wisconsin Hospitals and Clinics Authority, the
9 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
10 the Lower Fox River Remediation Authority, the Wisconsin Venture Capital
11 Authority, the Wisconsin Economic Development Corporation, and the Fox River
12 Navigational System Authority, and to any books, records, or other documents
13 maintained by such agencies or authorities and relating to their expenditures,
14 revenues, operations, and structure.

15 **SECTION 10.** 16.002 (2) of the statutes, as affected by 2011 Wisconsin Act 10,
16 is amended to read:

17 16.002 (2) “Departments” means constitutional offices, departments, and
18 independent agencies and includes all societies, associations, and other agencies of
19 state government for which appropriations are made by law, but not including
20 authorities created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 232,
21 233, 234, 235, 237, 238, 239, or 279.

22 **SECTION 11.** 16.004 (4) of the statutes, as affected by 2011 Wisconsin Act 10,
23 is amended to read:

24 16.004 (4) **FREEDOM OF ACCESS.** The secretary and such employees of the
25 department as the secretary designates may enter into the offices of state agencies

SENATE BILL 94

1 and authorities created under subch. II of ch. 114 and subch. III of ch. 149 and under
2 chs. 231, 233, 234, 237, 238, 239, and 279, and may examine their books and accounts
3 and any other matter that in the secretary's judgment should be examined and may
4 interrogate the agency's employees publicly or privately relative thereto.

5 **SECTION 12.** 16.004 (5) of the statutes, as affected by 2011 Wisconsin Act 10,
6 is amended to read:

7 16.004 (5) AGENCIES AND EMPLOYEES TO COOPERATE. All state agencies and
8 authorities created under subch. II of ch. 114 and subch. III of ch. 149 and under chs.
9 231, 233, 234, 237, 238, 239, and 279, and their officers and employees, shall
10 cooperate with the secretary and shall comply with every request of the secretary
11 relating to his or her functions.

12 **SECTION 13.** 16.004 (12) (a) of the statutes, as affected by 2011 Wisconsin Act
13 10, is amended to read:

14 16.004 (12) (a) In this subsection, "state agency" means an association,
15 authority, board, department, commission, independent agency, institution, office,
16 society, or other body in state government created or authorized to be created by the
17 constitution or any law, including the legislature, the office of the governor, and the
18 courts, but excluding the University of Wisconsin Hospitals and Clinics Authority,
19 the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan
20 Authority, the Lower Fox River Remediation Authority, the Wisconsin Economic
21 Development Corporation, the Wisconsin Venture Capital Authority, and the Fox
22 River Navigational System Authority.

23 **SECTION 14.** 16.045 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 10,
24 is amended to read:

SENATE BILL 94

1 16.045 (1) (a) “Agency” means an office, department, independent agency,
2 institution of higher education, association, society, or other body in state
3 government created or authorized to be created by the constitution or any law, that
4 is entitled to expend moneys appropriated by law, including the legislature and the
5 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
6 ch. 149 or in ch. 231, 232, 233, 234, 235, 237, 238, 239, or 279.

7 **SECTION 15.** 16.15 (1) (ab) of the statutes, as affected by 2011 Wisconsin Act 10,
8 is amended to read:

9 16.15 (1) (ab) “Authority” has the meaning given under s. 16.70 (2), but
10 excludes the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox
11 River Remediation Authority, the Wisconsin Economic Development Corporation,
12 the Wisconsin Venture Capital Authority, and the Health Insurance Risk-Sharing
13 Plan Authority.

14 **SECTION 16.** 16.41 (4) of the statutes, as affected by 2011 Wisconsin Act 10, is
15 amended to read:

16 16.41 (4) In this section, “authority” means a body created under subch. II of
17 ch. 114 or subch. III of ch. 149 or under ch. 231, 233, 234, 237, 238, 239, or 279.

18 **SECTION 17.** 16.417 (1) (b) of the statutes, as affected by 2011 Wisconsin Acts
19 7 and 10, is repealed and recreated to read:

20 16.417 (1) (b) “Authority” means a body created under subch. II of ch. 114 or
21 ch. 231, 232, 233, 234, 235, 237, 239, or 279.

22 **SECTION 18.** 16.417 (1) (b) of the statutes, as affected by 2011 Wisconsin Act
23 (this act), is amended to read:

24 16.417 (1) (b) “Authority” means a body created under subch. II of ch. 114 or
25 ch. 231, 232, 233, 234, 235, 237, 238, 239, or 279.

SENATE BILL 94

1 **SECTION 19.** 16.52 (7) of the statutes, as affected by 2011 Wisconsin Act 10, is
2 amended to read:

3 **16.52 (7) PETTY CASH ACCOUNT.** With the approval of the secretary, each agency
4 that is authorized to maintain a contingent fund under s. 20.920 may establish a
5 petty cash account from its contingent fund. The procedure for operation and
6 maintenance of petty cash accounts and the character of expenditures therefrom
7 shall be prescribed by the secretary. In this subsection, “agency” means an office,
8 department, independent agency, institution of higher education, association,
9 society, or other body in state government created or authorized to be created by the
10 constitution or any law, that is entitled to expend moneys appropriated by law,
11 including the legislature and the courts, but not including an authority created in
12 subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 233, 234, 237, 238, 239, or
13 279.

14 **SECTION 20.** 16.528 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 10,
15 is amended to read:

16 **16.528 (1) (a)** “Agency” means an office, department, independent agency,
17 institution of higher education, association, society, or other body in state
18 government created or authorized to be created by the constitution or any law, that
19 is entitled to expend moneys appropriated by law, including the legislature and the
20 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
21 ch. 149 or in ch. 231, 233, 234, 237, 238, 239, or 279.

22 **SECTION 21.** 16.53 (2) of the statutes, as affected by 2011 Wisconsin Act 10, is
23 amended to read:

24 **16.53 (2) IMPROPER INVOICES.** If an agency receives an improperly completed
25 invoice, the agency shall notify the sender of the invoice within 10 working days after

SENATE BILL 94

1 it receives the invoice of the reason it is improperly completed. In this subsection,
2 “agency” means an office, department, independent agency, institution of higher
3 education, association, society, or other body in state government created or
4 authorized to be created by the constitution or any law, that is entitled to expend
5 moneys appropriated by law, including the legislature and the courts, but not
6 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
7 231, 233, 234, 237, 238, 239, or 279.

8 **SECTION 22.** 16.54 (9) (a) 1. of the statutes, as affected by 2011 Wisconsin Act
9 10, is amended to read:

10 16.54 (9) (a) 1. “Agency” means an office, department, independent agency,
11 institution of higher education, association, society or other body in state
12 government created or authorized to be created by the constitution or any law, which
13 is entitled to expend moneys appropriated by law, including the legislature and the
14 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
15 ch. 149 or in ch. 231, 233, 234, 237, 238, 239, or 279.

16 **SECTION 23.** 16.765 (1) of the statutes, as affected by 2011 Wisconsin Act 10,
17 is amended to read:

18 16.765 (1) Contracting agencies, the University of Wisconsin Hospitals and
19 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
20 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
21 Fox River Remediation Authority, the Wisconsin Venture Capital Authority, the
22 Wisconsin Economic Development Corporation, and the Bradley Center Sports and
23 Entertainment Corporation shall include in all contracts executed by them a
24 provision obligating the contractor not to discriminate against any employee or
25 applicant for employment because of age, race, religion, color, handicap, sex, physical

SENATE BILL 94

1 condition, developmental disability as defined in s. 51.01 (5), sexual orientation as
2 defined in s. 111.32 (13m), or national origin and, except with respect to sexual
3 orientation, obligating the contractor to take affirmative action to ensure equal
4 employment opportunities.

5 **SECTION 24.** 16.765 (2) of the statutes, as affected by 2011 Wisconsin Act 10,
6 is amended to read:

7 16.765 (2) Contracting agencies, the University of Wisconsin Hospitals and
8 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
9 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
10 Fox River Remediation Authority, the Wisconsin Venture Capital Authority, the
11 Wisconsin Economic Development Corporation, and the Bradley Center Sports and
12 Entertainment Corporation shall include the following provision in every contract
13 executed by them: "In connection with the performance of work under this contract,
14 the contractor agrees not to discriminate against any employee or applicant for
15 employment because of age, race, religion, color, handicap, sex, physical condition,
16 developmental disability as defined in s. 51.01 (5), sexual orientation or national
17 origin. This provision shall include, but not be limited to, the following: employment,
18 upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or
19 termination; rates of pay or other forms of compensation; and selection for training,
20 including apprenticeship. Except with respect to sexual orientation, the contractor
21 further agrees to take affirmative action to ensure equal employment opportunities.
22 The contractor agrees to post in conspicuous places, available for employees and
23 applicants for employment, notices to be provided by the contracting officer setting
24 forth the provisions of the nondiscrimination clause".

SENATE BILL 94

1 **SECTION 25.** 16.765 (5) of the statutes, as affected by 2011 Wisconsin Act 10,
2 is amended to read:

3 16.765 (5) The head of each contracting agency and the boards of directors of
4 the University of Wisconsin Hospitals and Clinics Authority, the Fox River
5 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
6 Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
7 Authority, the Wisconsin Venture Capital Authority, the Wisconsin Economic
8 Development Corporation, and the Bradley Center Sports and Entertainment
9 Corporation shall be primarily responsible for obtaining compliance by any
10 contractor with the nondiscrimination and affirmative action provisions prescribed
11 by this section, according to procedures recommended by the department. The
12 department shall make recommendations to the contracting agencies and the boards
13 of directors of the University of Wisconsin Hospitals and Clinics Authority, the Fox
14 River Navigational System Authority, the Wisconsin Aerospace Authority, the
15 Health Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
16 Authority, the Wisconsin Venture Capital Authority, the Wisconsin Economic
17 Development Corporation, and the Bradley Center Sports and Entertainment
18 Corporation for improving and making more effective the nondiscrimination and
19 affirmative action provisions of contracts. The department shall promulgate such
20 rules as may be necessary for the performance of its functions under this section.

21 **SECTION 26.** 16.765 (6) of the statutes, as affected by 2011 Wisconsin Act 10,
22 is amended to read:

23 16.765 (6) The department may receive complaints of alleged violations of the
24 nondiscrimination provisions of such contracts. The department shall investigate
25 and determine whether a violation of this section has occurred. The department may

SENATE BILL 94

1 delegate this authority to the contracting agency, the University of Wisconsin
2 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
3 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
4 the Lower Fox River Remediation Authority, the Wisconsin Venture Capital
5 Authority, the Wisconsin Economic Development Corporation, or the Bradley Center
6 Sports and Entertainment Corporation for processing in accordance with the
7 department's procedures.

8 **SECTION 27.** 16.765 (7) (intro.) of the statutes, as affected by 2011 Wisconsin
9 Act 10, is amended to read:

10 16.765 (7) (intro.) When a violation of this section has been determined by the
11 department, the contracting agency, the University of Wisconsin Hospitals and
12 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
13 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
14 Fox River Remediation Authority, the Wisconsin Venture Capital Authority, the
15 Wisconsin Economic Development Corporation, or the Bradley Center Sports and
16 Entertainment Corporation, the contracting agency, the University of Wisconsin
17 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
18 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
19 the Lower Fox River Remediation Authority, the Wisconsin Venture Capital
20 Authority, the Wisconsin Economic Development Corporation, or the Bradley Center
21 Sports and Entertainment Corporation shall:

22 **SECTION 28.** 16.765 (7) (d) of the statutes, as affected by 2011 Wisconsin Act 10,
23 is amended to read:

24 16.765 (7) (d) Direct the violating party to take immediate steps to prevent
25 further violations of this section and to report its corrective action to the contracting

SENATE BILL 94

1 agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River
2 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
3 Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
4 Authority, the Wisconsin Venture Capital Authority, the Wisconsin Economic
5 Development Corporation, or the Bradley Center Sports and Entertainment
6 Corporation.

7 **SECTION 29.** 16.765 (8) of the statutes, as affected by 2011 Wisconsin Act 10,
8 is amended to read:

9 16.765 (8) If further violations of this section are committed during the term
10 of the contract, the contracting agency, the Fox River Navigational System Authority,
11 the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan
12 Authority, the Lower Fox River Remediation Authority, the Wisconsin Venture
13 Capital Authority, the Wisconsin Economic Development Corporation, or the
14 Bradley Center Sports and Entertainment Corporation may permit the violating
15 party to complete the contract, after complying with this section, but thereafter the
16 contracting agency, the Fox River Navigational System Authority, the Wisconsin
17 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
18 Fox River Remediation Authority, the Wisconsin Venture Capital Authority, the
19 Wisconsin Economic Development Corporation, or the Bradley Center Sports and
20 Entertainment Corporation shall request the department to place the name of the
21 party on the ineligible list for state contracts, or the contracting agency, the Fox River
22 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
23 Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
24 Authority, the Wisconsin Venture Capital Authority, the Wisconsin Economic
25 Development Corporation, or the Bradley Center Sports and Entertainment

SENATE BILL 94

1 Corporation may terminate the contract without liability for the uncompleted
2 portion or any materials or services purchased or paid for by the contracting party
3 for use in completing the contract.

4 **SECTION 30.** 16.85 (2) of the statutes, as affected by 2011 Wisconsin Act 10, is
5 amended to read:

6 16.85 (2) To furnish engineering, architectural, project management, and other
7 building construction services whenever requisitions therefor are presented to the
8 department by any agency. The department may deposit moneys received from the
9 provision of these services in the account under s. 20.505 (1) (kc) or in the general
10 fund as general purpose revenue — earned. In this subsection, “agency” means an
11 office, department, independent agency, institution of higher education, association,
12 society, or other body in state government created or authorized to be created by the
13 constitution or any law, which is entitled to expend moneys appropriated by law,
14 including the legislature and the courts, but not including an authority created in
15 subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 233, 234, 237, 238, 239, or
16 279.

17 **SECTION 31.** 16.865 (8) of the statutes, as affected by 2011 Wisconsin Act 10,
18 is amended to read:

19 16.865 (8) Annually in each fiscal year, allocate as a charge to each agency a
20 proportionate share of the estimated costs attributable to programs administered by
21 the agency to be paid from the appropriation under s. 20.505 (2) (k). The department
22 may charge premiums to agencies to finance costs under this subsection and pay the
23 costs from the appropriation on an actual basis. The department shall deposit all
24 collections under this subsection in the appropriation account under s. 20.505 (2) (k).
25 Costs assessed under this subsection may include judgments, investigative and

SENATE BILL 94

1 adjustment fees, data processing and staff support costs, program administration
2 costs, litigation costs, and the cost of insurance contracts under sub. (5). In this
3 subsection, “agency” means an office, department, independent agency, institution
4 of higher education, association, society, or other body in state government created
5 or authorized to be created by the constitution or any law, that is entitled to expend
6 moneys appropriated by law, including the legislature and the courts, but not
7 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
8 231, 232, 233, 234, 235, 237, 238, 239, or 279.

9 **SECTION 32.** 19.42 (10) (t) of the statutes is created to read:

10 19.42 (10) (t) The executive director of the Wisconsin Venture Capital
11 Authority, the members of the authority’s board of directors who are appointed by the
12 speaker of the assembly and the majority leader of the senate, and the fund manager
13 of the badger jobs fund hired by the authority under s. 239.11 (4), including all
14 partners, members, officers, or other principals if the fund manager is an entity.

15 **SECTION 33.** 19.42 (13) (p) of the statutes is created to read:

16 19.42 (13) (p) The executive director of the Wisconsin Venture Capital
17 Authority, the members of the authority’s board of directors who are appointed by the
18 speaker of the assembly and the majority leader of the senate, and the fund manager
19 of the badger jobs fund hired by the authority under s. 239.11 (4), including all
20 partners, members, officers, or other principals if the fund manager is an entity.

21 **SECTION 34.** 20.195 of the statutes is created to read:

22 **20.195 Wisconsin Venture Capital Authority.** There is appropriated to the
23 Wisconsin Venture Capital Authority for the following program:

SENATE BILL 94

1 **(1) VENTURE CAPITAL INVESTMENT PROGRAMS.** (a) *Establishment and operation.*

2 As a continuing appropriation, the amounts in the schedule for the establishment
3 and operation of the Wisconsin Venture Capital Authority.

4 (g) *Administration of the badger jobs fund.* 1. All moneys received under s.
5 73.033 (1) (b) and (2) (b), for administration of the badger jobs fund under subch. II
6 of ch. 239 and the jobs now fund program under subch. III of ch. 239.

7 2. Notwithstanding s. 20.001 (3) (c), if, at the end of a fiscal year, the authority
8 has satisfied 100 percent of its debt with respect to the badger jobs fund, the
9 unencumbered balance in this appropriation shall lapse to the general fund.

10 3. No moneys may be received in this appropriation after the badger jobs fund
11 is dissolved under s. 239.11 (3) (a).

12 **SECTION 35.** 40.02 (54) (n) of the statutes is created to read:

13 40.02 **(54)** (n) The Wisconsin Venture Capital Authority.

14 **SECTION 36.** 70.11 (38v) of the statutes is created to read:

15 70.11 **(38v)** WISCONSIN VENTURE CAPITAL AUTHORITY. All property owned by the
16 Wisconsin Venture Capital Authority, provided that use of the property is primarily
17 related to the purposes of the Wisconsin Venture Capital Authority.

18 **SECTION 37.** 71.05 (6) (a) 15. of the statutes is amended to read:

19 71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
20 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
21 (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), (5r), (5rm), and (8r), and (8s)
22 and not passed through by a partnership, limited liability company, or tax-option
23 corporation that has added that amount to the partnership's, company's, or
24 tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

25 **SECTION 38.** 71.05 (6) (a) 25. of the statutes is created to read:

SENATE BILL 94

1 71.05 (6) (a) 25. The amount of the credits received under ss. 71.07 (8s) (e),
2 71.28 (8s) (e), and 71.47 (8s) (e).

3 **SECTION 39.** 71.05 (6) (a) 26. of the statutes is created to read:

4 71.05 (6) (a) 26. The amount received for the sale or transfer of credits received
5 under ss. 71.07 (8s) (e), 71.28 (8s) (e), and 71.47 (8s) (e), including the fair market
6 value of property received.

7 **SECTION 40.** 71.05 (6) (b) 48. of the statutes is created to read:

8 71.05 (6) (b) 48. The amount of the credits sold or transferred to another person
9 under s. 71.07 (8s) (e) in the taxable year that has been added to income under par.
10 (a) 15. in the taxable year or in a previous taxable year. A partner, member of a
11 limited liability company, or shareholder of a tax-option corporation who sells or
12 transfers a credit may subtract the amount of the credit sold or transferred to the
13 extent that it was included in the partner's, member's, or shareholder's distributive
14 share of income.

15 **SECTION 41.** 71.07 (8s) of the statutes is created to read:

16 71.07 (8s) BADGER JOBS FUND BONDS CREDIT. (a) *Definition.* In this subsection,
17 “claimant” means a person who files a claim under this subsection.

18 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
19 239.11, for taxable years beginning after December 31, 2016, a claimant who
20 purchases bonds issued under s. 239.11 (2) and who has been awarded a credit under
21 s. 239.14, may claim as a credit against the tax imposed under s. 71.02, up to the
22 amount of the tax, the amount determined under s. 239.14.

23 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
24 corporations may not claim the credit under this subsection, but the eligibility for,
25 and the amount of, the credit are based on their purchase of bonds issued under s.

SENATE BILL 94

1 239.11 (2) for which a credit has been awarded under s. 239.14. A partnership,
2 limited liability company, or tax-option corporation shall compute the amount of
3 credit that each of its partners, members, or shareholders may claim and shall
4 provide that information to each of them. Partners, members of limited liability
5 companies, and shareholders of tax-option corporations may claim the credit in
6 proportion to their ownership interests.

7 (d) *Carry-forward.* 1. If a credit computed under this subsection is not entirely
8 offset against Wisconsin income or franchise taxes otherwise due, the unused
9 balance may be carried forward and credited against Wisconsin income or franchise
10 taxes otherwise due for the following taxable years to the extent not offset by these
11 taxes otherwise due in all intervening years between the year in which the expense
12 was incurred and the year in which the carry-forward credit is claimed.

13 2. The amount of the carry-forward computed under subd. 1. shall be reduced
14 by the amount of any credit transferred under par. (e).

15 (e) *Sale of credit.* A person who is awarded a credit under s. 239.14, or to whom
16 a credit is transferred as provided under this paragraph, may sell or otherwise
17 transfer the credit to another person who is subject to the tax imposed under s. 71.02,
18 71.23, or 71.43 if the person notifies the department of revenue and the Wisconsin
19 Venture Capital Authority created under ch. 239 of the transfer and includes with
20 the notification a copy of the transfer documents. No credit may be sold or
21 transferred under this paragraph until 180 days after the date on which the person
22 becomes eligible to claim the credit.

23 (f) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit
24 under s. 71.28 (4), applies to the credit under this subsection.

25 2. The department shall promulgate rules to administer this subsection.

SENATE BILL 94

1 **SECTION 42.** 71.10 (4) (ds) of the statutes is created to read:

2 71.10 (4) (ds) Badger jobs fund bonds credit under s. 71.07 (8s).

3 **SECTION 43.** 71.21 (4) of the statutes is amended to read:

4 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
5 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s),
6 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), ~~and (8r), and (8s)~~ and passed
7 through to partners shall be added to the partnership's income.

8 **SECTION 44.** 71.26 (1) (be) of the statutes, as affected by 2011 Wisconsin Act 10,
9 is amended to read:

10 71.26 (1) (be) *Certain authorities.* Income of the University of Wisconsin
11 Hospitals and Clinics Authority, of the Health Insurance Risk-Sharing Plan
12 Authority, of the Fox River Navigational System Authority, of the Wisconsin
13 Economic Development Corporation, of the Wisconsin Venture Capital Authority,
14 and of the Wisconsin Aerospace Authority.

15 **SECTION 45.** 71.26 (2) (a) 4. of the statutes, as affected by 2011 Wisconsin Act
16 3, is amended to read:

17 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
18 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
19 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), (8r), (8s), and
20 (9s) and not passed through by a partnership, limited liability company, or
21 tax-option corporation that has added that amount to the partnership's, limited
22 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k)
23 (g).

24 **SECTION 46.** 71.26 (2) (a) 4c. of the statutes is created to read:

SENATE BILL 94

1 71.26 (2) (a) 4c. Plus the amount of credits received from another person under
2 ss. 71.07 (8s) (e), 71.28 (8s) (e), and 71.47 (8s) (e).

3 **SECTION 47.** 71.26 (2) (a) 4d. of the statutes is created to read:

4 71.26 (2) (a) 4d. Plus the amount received for the sale or transfer of credits
5 under ss. 71.07 (8s) (e), 71.28 (8s) (e), and 71.47 (8s) (e), including the fair market
6 value of property received.

7 **SECTION 48.** 71.26 (2) (a) 4e. of the statutes is created to read:

8 71.26 (2) (a) 4e. Minus the amount of credits sold or transferred under ss. 71.07
9 (8s) (e), 71.28 (8s) (e), and 71.47 (8s) (e).

10 **SECTION 49.** 71.28 (8s) of the statutes is created to read:

11 71.28 (8s) BADGER JOBS FUND BONDS CREDIT. (a) *Definition.* In this subsection,
12 “claimant” means a person who files a claim under this subsection.

13 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
14 239.11, for taxable years beginning after December 31, 2016, a claimant who
15 purchases bonds issued under s. 239.11 (2) and who has been awarded a credit under
16 s. 239.14, may claim as a credit against the tax imposed under s. 71.23, up to the
17 amount of the tax, the amount determined under s. 239.14.

18 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
19 corporations may not claim the credit under this subsection, but the eligibility for,
20 and the amount of, the credit are based on their purchase of bonds issued under s.
21 239.11 (2) for which a credit has been awarded under s. 239.14. A partnership,
22 limited liability company, or tax-option corporation shall compute the amount of
23 credit that each of its partners, members, or shareholders may claim and shall
24 provide that information to each of them. Partners, members of limited liability

SENATE BILL 94

1 companies, and shareholders of tax-option corporations may claim the credit in
2 proportion to their ownership interests.

3 (d) *Carry-forward.* 1. If a credit computed under this subsection is not entirely
4 offset against Wisconsin income or franchise taxes otherwise due, the unused
5 balance may be carried forward and credited against Wisconsin income or franchise
6 taxes otherwise due for the following taxable years to the extent not offset by these
7 taxes otherwise due in all intervening years between the year in which the expense
8 was incurred and the year in which the carry-forward credit is claimed.

9 2. The amount of the carry-forward computed under subd. 1. shall be reduced
10 by the amount of any credit transferred under par. (e).

11 (e) *Sale of credit.* A person who is awarded a credit under s. 239.14, or to whom
12 a credit is transferred as provided under this paragraph, may sell or otherwise
13 transfer the credit to another person who is subject to the tax imposed under s. 71.02,
14 71.23, or 71.43 if the person notifies the department of revenue and the Wisconsin
15 Venture Capital Authority created under ch. 239 of the transfer and includes with
16 the notification a copy of the transfer documents. No credit may be sold or
17 transferred under this paragraph until 180 days after the date on which the person
18 becomes eligible to claim the credit.

19 (f) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit
20 under sub. (4), applies to the credit under this subsection.

21 2. The department shall promulgate rules to administer this subsection.

22 **SECTION 50.** 71.30 (3) (dn) of the statutes is created to read:

23 71.30 (3) (dn) Badger jobs fund bonds credit under s. 71.28 (8s).

24 **SECTION 51.** 71.34 (1k) (g) of the statutes is amended to read:

SENATE BILL 94

1 71.34 **(1k)** (g) An addition shall be made for credits computed by a tax-option
2 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
3 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j),
4 (5k), (5r), (5rm), and (8r), and (8s) and passed through to shareholders.

5 **SECTION 52.** 71.45 (2) (a) 10. of the statutes, as affected by 2011 Wisconsin Act
6 3, is amended to read:

7 71.45 **(2)** (a) 10. By adding to federal taxable income the amount of credit
8 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn),
9 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), (8r), (8s), and (9s) and not passed
10 through by a partnership, limited liability company, or tax-option corporation that
11 has added that amount to the partnership's, limited liability company's, or
12 tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g) and the amount
13 of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

14 **SECTION 53.** 71.45 (2) (a) 10c. of the statutes is created to read:

15 71.45 **(2)** (a) 10c. By adding to federal taxable income the amount of credits
16 received from another person under ss. 71.07 (8s) (e), 71.28 (8s) (e), 71.47 (8s) (e).

17 **SECTION 54.** 71.45 (2) (a) 10d. of the statutes is created to read:

18 71.45 **(2)** (a) 10d. By adding to federal taxable income the amount received for
19 the sale or transfer of credits under ss. 71.07 (8s) (e), 71.28 (8s) (e), and 71.47 (8s) (e),
20 including the fair market value of property received.

21 **SECTION 55.** 71.45 (2) (a) 10e. of the statutes is created to read:

22 71.45 **(2)** (a) 10e. By subtracting from federal taxable income the amount of
23 credits sold or transferred under ss. 71.07 (8s) (e), 71.28 (8s) (e), and 71.47 (8s) (e).

24 **SECTION 56.** 71.47 (8s) of the statutes is created to read:

SENATE BILL 94

1 71.47 (8s) BADGER JOBS FUND BONDS CREDIT. (a) *Definition.* In this subsection,
2 “claimant” means a person who files a claim under this subsection.

3 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
4 239.11, for taxable years beginning after December 31, 2016, a claimant who
5 purchases bonds issued under s. 239.11 (2) and who has been awarded a credit under
6 s. 239.14, may claim as a credit against the tax imposed under s. 71.43, up to the
7 amount of the tax, the amount determined under s. 239.14.

8 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
9 corporations may not claim the credit under this subsection, but the eligibility for,
10 and the amount of, the credit are based on their purchase of bonds issued under s.
11 239.11 (2) for which a credit has been awarded under s. 239.14. A partnership,
12 limited liability company, or tax-option corporation shall compute the amount of
13 credit that each of its partners, members, or shareholders may claim and shall
14 provide that information to each of them. Partners, members of limited liability
15 companies, and shareholders of tax-option corporations may claim the credit in
16 proportion to their ownership interests.

17 (d) *Carry-forward.* 1. If a credit computed under this subsection is not entirely
18 offset against Wisconsin income or franchise taxes otherwise due, the unused
19 balance may be carried forward and credited against Wisconsin income or franchise
20 taxes otherwise due for the following taxable years to the extent not offset by these
21 taxes otherwise due in all intervening years between the year in which the expense
22 was incurred and the year in which the carry-forward credit is claimed.

23 2. The amount of the carry-forward computed under subd. 1. shall be reduced
24 by the amount of any credit transferred under par. (e).

SENATE BILL 94

1 (e) *Sale of credit.* A person who is awarded a credit under s. 239.14, or to whom
2 a credit is transferred as provided under this paragraph, may sell or otherwise
3 transfer the credit to another person who is subject to the tax imposed under s. 71.02,
4 71.23, or 71.43 if the person notifies the department of revenue and the Wisconsin
5 Venture Capital Authority created under ch. 239 of the transfer and includes with
6 the notification a copy of the transfer documents. No credit may be sold or
7 transferred under this paragraph until 180 days after the date on which the person
8 becomes eligible to claim the credit.

9 (f) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit
10 under s. 71.28 (4), applies to the credit under this subsection.

11 2. The department shall promulgate rules to administer this subsection.

12 **SECTION 57.** 71.49 (1) (dn) of the statutes is created to read:

13 71.49 (1) (dn) Badger jobs fund bonds credit under s. 71.47 (8s).

14 **SECTION 58.** 73.033 of the statutes is created to read:

15 **73.033 Jobs now fund and badger jobs fund investments; withholding**
16 **tax determinations.** (1) (a) The department of revenue, in consultation with the
17 Wisconsin Venture Capital Authority created under ch. 239, shall determine the
18 amount of the withholding taxes under subch. X of ch. 71 paid by each business that
19 receives an investment under s. 239.13 (2) for the year prior to the first year in which
20 each business receives the investment.

21 (b) Each year, for 15 years following the first year in which a business receives
22 an investment under s. 239.13 (2), the department shall credit to the appropriation
23 account under s. 20.195 (1) (g) an amount equal to 50 percent of the increase, if any,
24 in withholding taxes under subch. X of ch. 71 paid by all businesses that receive
25 investments under s. 239.13 (2) over the amount determined for all such businesses

SENATE BILL 94

1 under par. (a). The department shall credit the amounts determined under this
2 subsection on a quarterly basis based on its estimate of the total annual increase in
3 the withholding taxes described in this subsection.

4 (2) (a) The department of revenue, in consultation with the Wisconsin Venture
5 Capital Authority created under ch. 239, shall determine the amount of the
6 withholding taxes under subch. X of ch. 71 paid by each business that receives an
7 investment under s. 239.23 (2) for the year prior to the first year in which each
8 business receives the investment.

9 (b) Each year, for 15 years following the first year in which a business receives
10 an investment under s. 239.23 (2), the department shall credit to the appropriation
11 account under s. 20.195 (1) (g) an amount equal to 50 percent of the increase, if any,
12 in withholding taxes under subch. X of ch. 71 paid by all businesses that receive
13 investments under s. 239.23 (2) over the amount determined for all such businesses
14 under par. (a). The department shall credit the amounts determined under this
15 subsection on a quarterly basis based on its estimate of the total annual increase in
16 the withholding taxes described in this subsection.

17 **SECTION 59.** 76.634 of the statutes is created to read:

18 **76.634 Credit for jobs now fund investments.** (1) DEFINITIONS. In this
19 section:

20 (a) "Allocation date" has the meaning given in s. 239.20 (2).

21 (b) "Certified jobs now fund" has the meaning given in s. 239.20 (3).

22 (c) "Designated capital" has the meaning given in s. 239.20 (4).

23 (2) CREDIT. Subject to the limitations provided in this section and s. 239.22, for
24 taxable years beginning after December 31, 2013, an insurer who makes an
25 investment of designated capital and who has been awarded a credit under s. 239.22

SENATE BILL 94

1 (2) (a), may claim as a credit against the fees imposed under s. 76.60, 76.63, 76.65,
2 76.66, or 76.67, up to the amount of such fees, the amount determined under s. 239.22
3 (2) (b).

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

10 (4) RECAPTURE. If a certified jobs now fund in which the insurer's designated
11 capital has been invested is decertified under s. 239.26 (2) (b) and the jobs now fund
12 has not made the investments required under s. 239.23 (4) (a) and (b) within 4 years
13 after the allocation date for the insurer's investment, any insurer that has received
14 a credit under this section with the same allocation date with respect to such
15 decertified jobs now fund shall repay the credit amount to the commissioner of
16 insurance, for deposit into the general fund, and may not claim any more credits
17 under this section with respect to the decertified jobs now fund.

18 (5) SALE OF CREDIT. An insurer who is awarded a credit under s. 239.22 (2) (a),
19 or to whom a credit is sold or transferred as provided under this subsection, may sell
20 or otherwise transfer the credit to another insurer who is subject to the fees imposed
21 under s. 76.60, 76.63, 76.65, 76.66, or 76.67 if the insurer notifies the commissioner
22 of insurance and the Wisconsin Venture Capital Authority created under ch. 239 of
23 the sale or transfer and includes with the notification a copy of the sale or transfer
24 documents. If a credit that has been sold or transferred under this subsection is
25 subject to recapture under sub. (4), the person who claimed the credit is liable for the

SENATE BILL 94

1 repayment provided under sub. (4). No credit may be sold or transferred under this
2 subsection until 180 days after the date on which the person becomes eligible to claim
3 the credit.

4 **SECTION 60.** 76.67 (2) of the statutes is amended to read:

5 76.67 (2) If any domestic insurer is licensed to transact insurance business in
6 another state, this state may not require similar insurers domiciled in that other
7 state to pay taxes greater in the aggregate than the aggregate amount of taxes that
8 a domestic insurer is required to pay to that other state for the same year less the
9 credits under ss. 76.634, 76.635, 76.636, 76.637, 76.638, and 76.655, except that the
10 amount imposed shall not be less than the total of the amounts due under ss. 76.65
11 (2) and 601.93 and, if the insurer is subject to s. 76.60, 0.375% of its gross premiums,
12 as calculated under s. 76.62, less offsets allowed under s. 646.51 (7) or under ss.
13 76.634, 76.635, 76.636, 76.637, 76.638, and 76.655 against that total, and except that
14 the amount imposed shall not be less than the amount due under s. 601.93.

15 **SECTION 61.** 77.54 (9a) (a) of the statutes, as affected by 2011 Wisconsin Act 10,
16 is amended to read:

17 77.54 (9a) (a) This state or any agency thereof, the University of Wisconsin
18 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Health
19 Insurance Risk-Sharing Plan Authority, the Wisconsin Economic Development
20 Corporation, the Wisconsin Venture Capital Authority, and the Fox River
21 Navigational System Authority.

22 **SECTION 62.** 77.92 (4) of the statutes is amended to read:

23 77.92 (4) "Net business income," with respect to a partnership, means taxable
24 income as calculated under section 703 of the Internal Revenue Code; plus the items
25 of income and gain under section 702 of the Internal Revenue Code, including taxable

SENATE BILL 94

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

14 **SECTION 63.** 100.45 (1) (dm) of the statutes, as affected by 2011 Wisconsin Act
15 10, is amended to read:

16 100.45 (1) (dm) “State agency” means any office, department, agency,
17 institution of higher education, association, society, or other body in state
18 government created or authorized to be created by the constitution or any law which
19 is entitled to expend moneys appropriated by law, including the legislature and the
20 courts, the Wisconsin Housing and Economic Development Authority, the Bradley
21 Center Sports and Entertainment Corporation, the University of Wisconsin
22 Hospitals and Clinics Authority, the Wisconsin Health and Educational Facilities
23 Authority, the Wisconsin Aerospace Authority, the Wisconsin Economic
24 Development Corporation, the Wisconsin Venture Capital Authority, and the Fox
25 River Navigational System Authority.

SENATE BILL 94

1 **SECTION 64.** 101.177 (1) (d) of the statutes, as affected by 2011 Wisconsin Act
2 10, is amended to read:

3 101.177 (1) (d) “State agency” means any office, department, agency,
4 institution of higher education, association, society, or other body in state
5 government created or authorized to be created by the constitution or any law, that
6 is entitled to expend moneys appropriated by law, including the legislature and the
7 courts, the Wisconsin Housing and Economic Development Authority, the Bradley
8 Center Sports and Entertainment Corporation, the University of Wisconsin
9 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Wisconsin
10 Economic Development Corporation, the Wisconsin Venture Capital Authority, and
11 the Wisconsin Health and Educational Facilities Authority, but excluding the Health
12 Insurance Risk-Sharing Plan Authority and the Lower Fox River Remediation
13 Authority.

14 **SECTION 65.** 230.03 (3) of the statutes, as affected by 2011 Wisconsin Act 10,
15 is amended to read:

16 230.03 (3) “Agency” means any board, commission, committee, council, or
17 department in state government or a unit thereof created by the constitution or
18 statutes if such board, commission, committee, council, department, unit, or the
19 head thereof, is authorized to appoint subordinate staff by the constitution or
20 statute, except a legislative or judicial board, commission, committee, council,
21 department, or unit thereof or an authority created under subch. II of ch. 114 or
22 subch. III of ch. 149 or under ch. 231, 232, 233, 234, 235, 237, 238, 239, or 279.
23 “Agency” does not mean any local unit of government or body within one or more local
24 units of government that is created by law or by action of one or more local units of
25 government.

SENATE BILL 94

1 **SECTION 66.** Chapter 239 of the statutes is created to read:

2 **CHAPTER 239**

3 **WISCONSIN VENTURE CAPITAL**

4 **AUTHORITY**

5 **SUBCHAPTER I**

6 **GENERAL PROVISIONS**

7 **239.01 Definitions.** In this chapter, except as otherwise provided:

8 (1) “Authority” means the Wisconsin Venture Capital Authority.

9 (2) “Board” means the board of directors of the authority.

10 **239.02 Creation and organization of authority.** (1) There is created a

11 public body corporate and politic to be known as the “Wisconsin Venture Capital
12 Authority.” The members of the board shall consist of the following:

13 (a) The chief executive officer of the Wisconsin Economic Development
14 Corporation.

15 (b) Four persons from the private sector, at least 3 of whom shall have venture
16 capital, investment banking, or substantial entrepreneurial experience, nominated
17 by the governor and appointed with the advice and consent of the senate.

18 (c) One member appointed by the speaker of the assembly who shall have
19 venture capital, investment banking, or substantial entrepreneurial experience.

20 (d) One member appointed by the senate majority leader who shall have
21 venture capital, investment banking, or substantial entrepreneurial experience.

22 (2) The members of the board appointed by the governor, the speaker of the
23 assembly, and the senate majority leader shall serve 3-year terms.

24 (3) A majority of the members of the board constitutes a quorum for the purpose
25 of conducting its business and exercising its powers and for all other purposes,

SENATE BILL 94

1 notwithstanding the existence of any vacancies. Action may be taken by the board
2 upon a vote of a majority of the members present.

3 (4) A vacancy on the board shall be filled in the same manner as the original
4 appointment to the board for the remainder of the unexpired term, if any.

5 (5) A member of the board may not be compensated for the member's services
6 but shall be reimbursed for actual and necessary expenses, including travel
7 expenses, incurred in the performance of the member's duties.

8 (6) No cause of action may arise against and no civil liability may be imposed
9 upon a member of the board for any act or omission in the performance of the
10 member's powers and duties under this chapter, unless the person asserting liability
11 proves that the act or omission constitutes willful misconduct.

12 (7) Annually, the governor shall appoint one member as chairperson of the
13 board.

14 (8) The board may hire an executive director. The board may delegate to the
15 executive director or any other employee of the authority any powers or duties the
16 board considers proper. All powers and duties assigned to the authority under this
17 chapter shall be exercised or carried out by the board, unless the board delegates the
18 power or duty to an employee of the authority.

19 **239.03 Powers of authority.** The authority shall have all the powers
20 necessary or convenient to carry out the purposes and provisions of this chapter. In
21 addition to all other powers granted the authority under this chapter, the authority
22 may specifically:

23 (1) Adopt, amend, and repeal any bylaws, policies, and procedures for the
24 regulation of its affairs and the conduct of its business.

25 (2) Have a seal and alter the seal at pleasure.

SENATE BILL 94

1 **(3)** Maintain an office.

2 **(4)** Sue and be sued.

3 **(5)** Accept gifts, grants, loans, or other contributions from private or public
4 sources.

5 **(6)** Establish the annual budget of the authority and monitor its fiscal
6 management.

7 **(7)** Execute contracts and other instruments required for the operation of the
8 authority, including contracts with the Wisconsin Economic Development
9 Corporation.

10 **(8)** Employ any officers, agents, and employees that it may require and
11 determine their qualifications, duties, and compensation.

12 **(9)** Issue notes, bonds, and any other obligations.

13 **(10)** Make loans and provide grants.

14 **(11)** Incur debt.

15 **(12)** Procure liability insurance.

16 **239.04 Liability limited.** Neither the state nor any political subdivision of
17 the state, nor any officer, employee, or agent of the state or a political subdivision of
18 the state who is acting within the scope of employment or agency, is liable for any
19 debt, obligation, act, or omission of the authority.

20 **239.05 Annual report.** Annually, the authority shall submit to the chief clerk
21 of each house of the legislature, for distribution to the legislature under s. 13.172 (2),
22 and to the governor, a report on the programs administered by the authority that
23 includes all of the following:

24 **(1) GENERAL REPORTING REQUIREMENTS.** For each program administered by the
25 authority, the report shall include all of the following:

SENATE BILL 94

1 (a) An assessment of the program's success to date.

2 (b) An accounting of the financial status of the program, including the opinion
3 of an independent certified public accountant.

4 (c) Any recommendations the authority has for improvement of the program.

5 **(2) BADGER JOBS FUND.** In addition to the information provided under sub. (1),
6 the authority's annual report shall include all of the following for the badger jobs
7 fund administered by the authority under subch. II:

8 (a) The current investment policy of the badger jobs fund.

9 (b) The badger jobs fund's internal rate of return from its investments in
10 certified investors.

11 (c) An accounting of the revenue received by the authority under s. 73.033 (1)

12 (b).

13 (d) An accounting of any compensation, including a management fee, paid to
14 the fund manager during the preceding year.

15 (e) An accounting of the value of tax credits awarded to creditors of the badger
16 jobs fund under s. 239.14 during the preceding year, including a description of the
17 circumstances leading to the award of the credits and the likelihood that the
18 authority will award additional tax credits to fund creditors in the future.

19 (f) For each certified investor in whom the badger jobs fund invested capital
20 under s. 239.13 (2) during the preceding year, the name and address of the investor
21 and the amount of each investment.

22 (g) The internal rate of return realized by each certified investor.

23 (h) An accounting of any fee each certified investor paid to itself or any principal
24 or manager of the certified investor during the preceding year.

SENATE BILL 94

1 (i) For each business in which a certified investor held an investment of capital
2 from the badger jobs fund during the preceding year, the name and address of the
3 business and a description of the nature of the business; the amount of each
4 investment in the business; an identification of the certified investor who made the
5 investment; and a statement of the number of employees the business employed
6 when the certified investor first invested in the business and the number of
7 employees the business employed on December 31 of the preceding year.

8 **(3) CERTIFIED JOBS NOW FUND PROGRAM.** In addition to the information provided
9 under sub. (1), the authority's annual report shall include all of the following for the
10 certified jobs now fund program under subch. III:

11 (a) The information required under s. 239.25 (2).

12 (b) An accounting of the value of each tax credit the authority awarded under
13 s. 239.22 (2) during the preceding year.

14 (c) An accounting of the revenue received by the authority under s. 73.033 (2)

15 (b).

16 (d) An accounting of each profit sharing fee paid to the authority under s.
17 239.24 (2) during the preceding year.

18 (e) A list of certified jobs now funds that the authority decertified under s.
19 239.26 (2) during the preceding year and a description of the circumstances leading
20 to each decertification.

21 **SUBCHAPTER II**

22 **BADGER JOBS FUND**

23 **239.10 Definitions.** In this subchapter:

24 **(1)** "Certified investor" means a person certified under s. 239.12.

SENATE BILL 94

1 (2) “Fund creditor” means any holder of a note or bond of the authority under
2 this subchapter.

3 (3) “Debt service obligation” means the authority’s obligation, including any
4 payment schedule, to pay principal and interest or other financing costs to a creditor
5 on a note or bond the authority issues under this subchapter.

6 (4) “Fund” means the badger jobs fund.

7 **239.11 Creation of fund; management. (1) FUND PURPOSE.** There is created
8 a fund to be known as the “badger jobs fund” for the investment of capital in certified
9 investors. The legislature finds that the fund will provide capital for business growth
10 and job creation in this state that is currently not sufficiently available in private
11 financial markets and that the fund will result in increased tax revenues to the state
12 and serve a public purpose.

13 (2) **BONDING; DEBT SERVICE.** (a) The authority may issue, by resolution, up to
14 \$200,000,000 in negotiable bonds or notes of any kind to finance the fund.

15 (b) The state is not liable for a debt service obligation of the authority. The
16 authority’s debt is not a debt of the state, and the authority may not create a debt of
17 the state. Each note or bond of the authority shall contain on its face a statement
18 to that effect.

19 (c) Recognizing its moral obligation to do so, the legislature hereby expresses
20 its expectation and aspiration that, if ever called upon to do so, it shall make an
21 appropriation to pay a fund creditor the amount the authority fails to pay or
22 otherwise satisfy under its debt service obligation to that creditor.

23 (d) Neither the members of the board nor any person executing the notes or
24 bonds is liable personally on the notes or bonds or subject to any personal liability

SENATE BILL 94

1 or accountability by reason of the issuance of the notes or bonds, unless the personal
2 liability or accountability is the result of willful misconduct.

3 **(3) NOTICE REGARDING BOND LIMIT; DISSOLUTION OF THE FUND.** (a) The chairperson
4 of the board shall promptly notify the joint committee on finance in writing when the
5 authority has reached its bond limit under sub. (2) (a) and has satisfied 90 percent
6 of its total debt service obligation to fund creditors. Once the authority satisfies 100
7 percent of its total debt service obligation to fund creditors, the chairperson of the
8 board shall promptly provide a 2nd notice to the joint committee on finance stating
9 that the authority has satisfied 100 percent of its total debt service obligation to fund
10 creditors and that the authority intends to dissolve the fund. If, within 14 working
11 days after the date of that 2nd notice, the cochairpersons of the committee do not
12 notify the authority that the committee has scheduled a meeting to review
13 dissolution of the fund, the authority shall dissolve the fund and liquidate all of the
14 fund's assets and pay the proceeds of that liquidation to the secretary of
15 administration for deposit in the general fund. If, within 14 working days after the
16 date of that 2nd notice, the cochairpersons of the committee notify the authority that
17 the committee has scheduled a meeting to review dissolution of the fund, the
18 authority may dissolve the fund only upon approval of the committee.

19 (b) The authority may reinvest amounts that it receives as returns from its
20 investments in certified investors only if the authority has reached the bond limit
21 under sub. (2) (a), the authority has satisfied 100 percent of its total debt service
22 obligation to fund creditors, and the joint committee on finance schedules a meeting
23 to consider dissolution of the fund under par. (a) but does not approve dissolution of
24 the fund. Any reinvestment by the authority under this paragraph shall meet the

SENATE BILL 94

1 requirements under this subchapter with respect to the authority's investments in
2 certified investors.

3 (c) If the authority dissolves the fund under par. (a), the authority shall pay to
4 the secretary of administration for deposit in the general fund any additional
5 amounts the authority receives from certified investors after the fund is dissolved.

6 **(4) FUND MANAGER.** (a) The authority shall hire a fund manager who has
7 expertise in the venture capital or private equity asset class to manage the fund's
8 investment of capital in certified investors. In reviewing candidates for fund
9 manager, the authority shall consider a candidate's venture capital or private equity
10 asset class experience, investment philosophy, and the performance of any
11 investments in the venture capital asset class managed by the candidate, as well as
12 any other criteria the authority considers relevant. The fund manager may not be
13 a certified investor.

14 (b) The authority may pay the fund manager an annual management fee. That
15 management fee may not equal more than 0.5 percent of the fund's total assets
16 including amount of capital that the authority has raised, committed to, or invested
17 in, certified investors.

18 **239.12 Investor certification. (1) APPLICATION.** Any person may apply to the
19 authority on a form prescribed by the authority for certification under this section.
20 The application shall include the name, address, and tax identification number of the
21 person and any other information the authority requires.

22 **(2) CERTIFICATION.** The authority may certify an applicant who submits an
23 application under sub. (1) to receive fund capital for investment. In determining
24 whether to certify an applicant, the authority shall consider:

SENATE BILL 94

1 (a) The applicant's venture capital experience or other experience that qualifies
2 the applicant to receive fund capital.

3 (b) The past performance of investments managed by the applicant.

4 (c) The applicant's commitment to investing in businesses within this state.

5 (d) The applicant's commitment to making seed or early stage business
6 investments.

7 (e) Whether the applicant is located in this state or will locate and maintain an
8 office in this state as a condition of the applicant's certification under this section.

9 (f) Any other factors the authority considers relevant that are consistent with
10 the authorities responsibilities under this subchapter.

11 **(3) APPLICATION FEE.** An applicant for certification under sub. (1) shall pay to
12 the authority a fee in the amount determined by the authority.

13 **239.13 Investment of capital in certified investors; requirements. (1)**
14 INVESTMENT POLICY. The fund manager shall establish, and amend as appropriate,
15 a fund investment policy. The authority shall review and approve the investment
16 policy prior to the policy's implementation and shall review the policy and any
17 amendments at least annually thereafter.

18 **(2) FUND INVESTMENTS.** The authority may invest capital under this subchapter
19 only in certified investors. The authority may not commit more than 15 percent of
20 the total capital that the authority is authorized to raise under s. 239.11 (2) (a) to a
21 single certified investor.

22 **(3) CONTRACTS.** Before the authority invests any capital in a certified investor,
23 the authority shall contract with the certified investor, and in addition to any other
24 terms required or negotiated by the authority, that contract shall include the
25 following requirements:

SENATE BILL 94

1 (a) The certified investor shall commit to maintaining a significant physical
2 presence in this state, including locating an office in this state that is staffed with
3 at least one full-time employee of the certified investor.

4 (b) The certified investor shall invest at least 50 percent of the amount of capital
5 the certified investor receives from the fund in a business that meets all of the
6 following conditions at the time the certified investor first invests in the business
7 under this section:

8 1. Is headquartered in this state.

9 2. Employs at least 50 percent of its employees, including any subsidiary or
10 other affiliated entity, in this state.

11 3. Agrees to use fund capital only for research and development, the
12 introduction of a new product in the market, the business's entry into a new market,
13 or other activities that are expected to grow the business and create jobs in this state.

14 4. Is not primarily engaged in real estate development or sales, insurance,
15 banking, lending, lobbying, political consulting, professional services, or retail sales,
16 other than direct sales of products the business itself manufactures.

17 (c) The certified investor may not receive capital from the fund that exceeds 25
18 percent of the total capital the investor has raised from all sources.

19 (d) When a certified investor makes an investment of fund capital in a business,
20 the certified investor shall at least match the fund's capital contribution to that
21 investment with capital the certified investor has raised from other sources.

22 (e) The certified investor may not apply the amount of capital it receives from
23 the fund toward certification under s. 560.205 (1) or (2).

24 **(4) SUNSET.** The authority may not make a commitment to invest capital in a
25 certified investor under this subchapter after December 31, 2015.

SENATE BILL 94

1 **239.14 Tax credits to fund creditors.** (1) In lieu of payment of its debt
2 service obligation to a fund creditor, the authority may contract with a fund creditor
3 to award a tax credit under s. 71.07 (8s), 71.28 (8s), or 71.47 (8s) to the fund creditor
4 up to an amount equal to the amount the authority is unable to pay the creditor under
5 the authority's debt service obligation to the creditor in a taxable year.

6 (2) A contract under sub. (1) shall set forth the terms and conditions under
7 which the fund creditor may claim a tax credit under this section. A fund creditor
8 may not claim a tax credit that exceeds the amount the authority fails to pay under
9 the authority's debt service obligation to the fund creditor. The authority shall certify
10 to the department of revenue the amount of the tax credit a creditor of the fund may
11 claim under this section.

12 (3) The authority may not award a tax credit under this section that may be
13 claimed before January 1, 2016. The authority may not award tax credits under this
14 section that total more than \$300,000,000.

SUBCHAPTER III**CERTIFIED JOBS NOW FUNDS**

17 **239.20 Definitions.** In this subchapter:

18 (1) "Affiliate" means any of the following:

19 (a) A person who owns, controls, or holds power to vote 15 percent or more of
20 the outstanding voting securities or other voting interests of a certified jobs now fund
21 or an insurance company or other person subject to premium tax liability.

22 (b) A business, 15 percent of whose outstanding voting securities or other
23 voting ownership interests are owned, controlled, or held with power to vote by a
24 certified jobs now fund or an insurance company or other person subject to premium
25 tax liability.

SENATE BILL 94

1 (c) A person who controls, is controlled by, or is under common control with a
2 certified jobs now fund or an insurance company or other person subject to premium
3 tax liability.

4 (d) A business in which a certified jobs now fund or an insurance company or
5 other person subject to premium tax liability is a partner, managing member, or
6 other principal.

7 (e) An officer, director, employee, or agent of a certified jobs now fund or an
8 insurance company or other person subject to premium tax liability, or an immediate
9 family member of the officer, director, employee, or agent.

10 **(2)** "Allocation date" means the date stated in the authority's notice under s.
11 239.22 (2) (b) that approves a specific amount of designated capital and awards a
12 corresponding premium tax credit to a participating investor.

13 **(3)** "Certified jobs now fund" or "fund" means an entity that is certified under
14 s. 239.21.

15 **(4)** "Designated capital" means an investment of cash by a participating
16 investor in a certified jobs now fund that is approved by the authority under s. 239.22
17 and that fully funds either the participating investor's equity interest in a certified
18 jobs now fund, a qualified debt instrument that a certified jobs now fund issues, or
19 both. In this subsection, "qualified debt instrument" means a bond, note, or other
20 obligation that a certified jobs now fund issues at par value or at a premium or
21 discount from par value that meets all of the following conditions:

22 (a) Has an original maturity date of at least 4 years from the date on which it
23 is issued.

24 (b) Has a repayment schedule that is no faster than a level principal
25 amortization over 4 years.

SENATE BILL 94

1 (c) Does not allow the prepayment of interest.

2 (d) Has payment and interest features that are not related to the fund's
3 profitability or the performance of the fund's investment portfolio.

4 (5) "Early stage business" means a qualified business that received, including
5 any affiliate, gross revenue of \$2,000,000 or less in the fiscal year immediately
6 preceding that date.

7 (6) "Participating investor" means an insurance company or other person
8 subject to premium tax liability who the authority approves to invest designated
9 capital in a certified jobs now fund under s. 239.22.

10 (7) "Premium tax credit" means a tax credit under s. 76.634.

11 (8) "Premium tax liability" means the fees imposed under s. 76.60, 76.63, 76.65,
12 76.66, or 76.67.

13 (9) "Qualified business" means a business that, as of the time a certified jobs
14 now fund or its affiliate first invests in the business under this subchapter, meets all
15 of the following conditions:

16 (a) Is headquartered in, and has its principal business operations located in,
17 this state.

18 (b) Is in need of venture capital and is unable to obtain conventional financing,
19 as determined by the authority.

20 (c) Employs 100 or fewer employees, and at least 80 percent of those employees
21 are employed in this state or at least 80 percent of its payroll is paid to employees
22 employed in this state.

23 (d) Is not primarily engaged in real estate development or sales, insurance,
24 banking, lending, lobbying, political consulting, professional services, or retail sales,
25 other than direct sales of products the business itself manufactures.

SENATE BILL 94

1 (10) "Qualified investment" means a certified jobs now fund's investment of
2 designated capital in a qualified business.

3 **239.21 Certification of jobs now funds. (1) APPLICATION.** Any person may
4 apply to the authority on a form prescribed by the authority for certification under
5 this section. The application shall include all of the following:

6 (a) The name, address, and tax identification number of the applicant.

7 (b) A description of the business activities conducted by the applicant and the
8 locations at which those activities are conducted.

9 (c) An audited balance sheet and the audit report, rendered within 35 days
10 prior to the date the applicant files its application with the authority, of an
11 independent auditor approved by the authority.

12 (d) The strategic investment plan of the applicant, and an analysis completed
13 by an economist or econometric analysis company approved by the authority that
14 shows the projected impact that investment plan is expected to have on the economy
15 of this state.

16 **(2) CERTIFICATION.** (a) The authority shall certify an applicant under sub. (1)
17 if the applicant pays the fee specified under sub. (3) and the authority determines
18 after conducting an investigation that all of the following conditions are met:

19 1. The primary activity of the applicant is the investment of cash in qualified
20 businesses.

21 2. The applicant owns at least \$500,000 in unencumbered cash or cash
22 equivalents.

23 3. At least 2 principals or persons employed to manage the applicant's
24 investments have at least 5 years of experience in the venture capital or private
25 equity industry in this state.

SENATE BILL 94

1 4. The strategic investment plan of the applicant will have a beneficial impact
2 on the economy of this state.

3 (b) Within 30 days after the date an applicant files an application under sub.
4 (1), the authority shall either issue a certification to the applicant or deny the
5 application and provide written notice to the applicant that states the grounds for
6 denial and includes the authority's suggestions, if any, to remove those grounds.

7 **(3) APPLICATION FEE.** An applicant for certification under sub. (1) shall pay to
8 the authority a fee in the amount determined by the authority.

9 **239.22 Participating investors; premium tax credits. (1) APPLICATION.**

10 (a) Any insurance company or other person subject to premium tax liability may
11 apply to the authority to make an investment of designated capital in a certified jobs
12 now fund and receive a premium tax credit for that investment. The person's
13 application shall include all of the following:

14 1. The person's name, address, and tax identification number.

15 2. The name and address of the certified jobs now fund in which the person
16 proposes to invest.

17 3. The amount of the proposed investment.

18 4. An undertaking by the person to make an investment of designated capital
19 in the amount approved by the authority within 5 business days after the allocation
20 date established by the authority under sub. (2) (b).

21 (b) The authority shall establish a single 15-day period in which applications
22 under par. (a) may be submitted to the authority. The authority shall provide a notice
23 regarding that application period and the investment program under this
24 subchapter that is reasonably calculated to reach all insurance companies or other
25 persons subject to premium tax liability within this state.

SENATE BILL 94**SECTION 66**

1 (c) The authority may establish additional rules consistent with this
2 subchapter regarding the requirements for an application under par. (a).

3 **(2) AWARD.** (a) The authority shall approve an investment of designated capital
4 in a certified jobs now fund and, subject to sub. (4) (b), award a premium tax credit
5 to a person who satisfies the application requirements under sub. (1) in an amount
6 equal to 80 percent of the person's proposed investment of designated capital.

7 (b) If the authority approves a person's proposed investment of designated
8 capital under par. (a), the authority shall notify the person and the certified jobs now
9 fund of that approval in writing, stating the amount of the investment approved by
10 the authority, the amount of the premium tax credit the person may claim, the
11 requirements, including those under sub. (3), for making that claim, and the
12 allocation date.

13 (c) The authority may not set an allocation date that is earlier than 30 days
14 after the date of the authority's notice of approval of an investment under par. (b).
15 The first allocation date set by the authority for any participating investor may not
16 be later than 120 days after the effective date of this paragraph [LRB inserts date].

17 **(3) CLAIM ELIGIBILITY AND REQUIREMENTS.** (a) A participating investor may claim
18 a premium tax credit in the amount the authority awards only after the participating
19 investor makes an investment of designated capital in the certified jobs now fund in
20 the amount approved by the authority under sub. (2).

21 (b) A participating investor may claim up to 25 percent of the premium tax
22 credit approved under sub. (2) in a taxable year, except that a participating investor
23 may not claim any premium tax credit under this subchapter for a taxable year
24 beginning before January 1, 2014, and a premium tax credit may not be applied to
25 quarterly tax payments due during the 2014 taxable year.

SENATE BILL 94

1 **(4) LIMITS ON PREMIUM TAX CREDITS.** (a) The authority may not award more than
2 \$200,000,000 in premium tax credits under this subchapter.

3 (b) If, as a result of the limitations under par. (a), the amount of available
4 premium tax credits is insufficient for approval of the full amount of all applications
5 for capital investments that are received by the authority within the 15-day period
6 established by the authority under sub. (1) (b), the authority shall prorate the
7 awardable amount among the applicants based on the amount the applicant has
8 committed to invest in the certified jobs now fund.

9 (c) The authority may not award more than \$50,000,000 in premium tax credits
10 to a single participating investor, including its successor and any affiliate, on a
11 particular allocation date.

12 **239.23 Operation of a certified jobs now fund. (1) REQUIRED DISCLOSURES**
13 **IN SECURITIES OFFERINGS.** Any offering material involving the sale of securities of a
14 certified jobs now fund shall include all of the following statements:

15 (a) “By authorizing the formation of a certified jobs now fund, the Wisconsin
16 Venture Capital Authority does not endorse the quality of management or explicitly
17 or implicitly guarantee or otherwise assure the economic performance of the fund
18 and is not liable for damages or losses to a participating investor in the fund. Use
19 of the word “certified” in an offering is not a recommendation, endorsement, or
20 guarantee of the investment by the Wisconsin Venture Capital Authority or the
21 state.”

22 (b) “Investments in a prospective certified jobs now fund prior to the time the
23 fund is certified are not eligible for a premium tax credit under section 76.634 of the
24 Wisconsin Statutes. Investments in a certified jobs now fund are not eligible for a
25 premium tax credit under section 76.634 of the Wisconsin Statutes unless the

SENATE BILL 94

1 proposed investment is approved by the Wisconsin Venture Capital Authority under
2 section 239.22 of the Wisconsin Statutes before the investment is made. In the event
3 that certain statutory provisions are violated, the state may require forfeiture of
4 unused premium tax credits and repayment of used premium tax credits.”

5 (c) “In addition to any other applicable law, the certified jobs now fund is subject
6 to applicable provisions of subchapter III of chapter 239 of the Wisconsin Statutes
7 and any requirements of the Wisconsin Venture Capital Authority.”

8 **(2) QUALIFIED INVESTMENTS.** A certified jobs now fund may invest designated
9 capital only in a qualified business. A qualified investment shall meet all of the
10 following requirements:

11 (a) The investment is a cash investment in a qualified business for the purchase
12 of debt, debt participation, equity, or hybrid security of any kind, including a debt
13 instrument or security that has the characteristics of debt that provides for
14 conversion into equity or an equity participation instrument such as an option or
15 warrant.

16 (b) If the investment is for the purchase of any debt or debt participation, no
17 more than 10 percent of that debt or debt participation may be used for the
18 refinancing of other debt or the buy-out of other shareholders or owners of the
19 qualified business.

20 (c) As a condition of the investment, the qualified business agrees not to
21 relocate its headquarters outside of this state as long as the certified jobs now fund
22 continues to hold the investment.

23 (d) As a condition of the investment, the qualified business agrees to maintain
24 at least 75 percent of its employees, or pay at least 75 percent of its payroll to
25 employees, including the employees or payroll of any subsidiary or other affiliated

SENATE BILL 94

1 entity, in this state as long as the certified jobs now fund continues to hold the
2 investment.

3 **(3) AUTHORITY DETERMINATIONS REGARDING QUALIFIED BUSINESSES.** A certified
4 jobs now fund may request a determination from the authority that a business in
5 which the fund proposes to invest is a qualified business or an early stage business.
6 The authority shall issue its determination in writing to the fund within a reasonable
7 time after the fund's request.

8 **(4) SCHEDULE OF INVESTMENTS.** A certified jobs now fund shall make qualified
9 investments according to the following schedule, except that a certified jobs now fund
10 may reinvest proceeds it receives from one qualified investment in another qualified
11 investment and apply the amount of that reinvestment toward the following
12 requirements for that other qualified investment:

13 (a) Within 2 years after an allocation date, at least 35 percent of the designated
14 capital approved by the authority on that date is placed in qualified investments, of
15 which at least 50 percent is invested in early stage businesses.

16 (b) Within 4 years after an allocation date, at least 50 percent of the designated
17 capital approved by the authority on that date is placed in qualified investments, of
18 which at least 50 percent is invested in early stage businesses.

19 (c) Notwithstanding s. 239.24 (1) (c) and (e), if, within 5 years after an allocation
20 date, the certified jobs now fund has not placed at least 80 percent of the designated
21 capital approved by the authority on that date in qualified investments, of which at
22 least 50 percent is invested in early stage businesses, the certified jobs now fund may
23 not pay any management or similar fee until it has made those investments.

24 (d) Notwithstanding s. 239.24 (1) (c) and (e), if, within 7 years after an
25 allocation date, the certified jobs now fund has not placed 100 percent of the

SENATE BILL 94**SECTION 66**

1 designated capital approved on that date in qualified investments, of which at least
2 50 percent is invested in early stage businesses, the certified jobs now fund may not
3 pay any management or similar fee until it has made those investments.

4 **(5) QUALIFIED BUSINESS RELOCATION OUT OF STATE.** If within 24 months after the
5 date a qualified investment is made, the qualified business relocates its principal
6 business operations to another state and the certified jobs now fund still holds a
7 qualified investment in the business, the amount of the fund's total designated
8 capital and qualified investments may be reduced by the amount of the qualified
9 investment in the relocated business for the purpose only of satisfying the
10 investment schedule under sub. (4). This subsection does not apply if the relocated
11 business returns its principal business operations to this state within 90 days after
12 its initial relocation.

13 **(6) OTHER LIMITATIONS ON INVESTMENTS.** (a) A certified jobs now fund may not
14 invest more than 15 percent of its total designated capital in any one qualified
15 business.

16 (b) A certified jobs now fund may invest any designated capital not invested in
17 qualified investments only in the following:

- 18 1. Cash deposited in a federally insured financial institution.
- 19 2. Certificates of deposit in a federally insured financial institution.
- 20 3. Investment securities that are obligations of the United States or its
21 agencies, or obligations that the United States fully guarantees as to principal and
22 interest.
- 23 4. Debt instruments rated at least "A" or its equivalent by a nationally
24 recognized credit rating organization, or issued or guaranteed by a business whose
25 unsecured debt is rated at least "A" or its equivalent by a nationally recognized credit

SENATE BILL 94

1 rating organization if that debt is not subordinated to other unsecured debt of the
2 issuer or the guarantor.

3 5. Obligations of the state or any political subdivision of the state.

4 6. Any other investments of a similar credit quality and risk as those in subds.
5 1. to 5. that are approved in advance in writing by the authority.

6 **(7) RESTRICTIONS ON MANAGEMENT.** No certified jobs now fund or its affiliate may
7 be managed or controlled by, or have a partner, member, or other principal that is,
8 an insurance company or other person subject to premium tax liability or an affiliate
9 of that person or insurance company.

10 **239.24 Distributions; profit sharing fee. (1) PERMISSIBLE DISTRIBUTIONS.**

11 A certified jobs now fund may make only the following distributions:

12 (a) A distribution for the repayment of a capital contribution to an equity
13 investor in the fund who was not a participating investor when that capital
14 contribution was made.

15 (b) A distribution for the cost of forming, syndicating, managing, or operating
16 the certified jobs now fund, including a reasonable and necessary fee paid for
17 professional services.

18 (c) A distribution that is an annual management fee in an amount that does
19 not exceed 2 percent of the fund's total designated capital.

20 (d) A distribution to cover a projected increase in state or federal taxes,
21 including penalties and interest, for the certified jobs now fund's equity owners if
22 that increase is related to the fund's ownership, management, or operation.

23 (e) A distribution for the repayment of principal or interest owed to a debt
24 holder of the fund, including a participating investor who is a debt holder.

SENATE BILL 94

1 (f) A distribution of any kind from the investment of designated capital
2 approved by the authority on an allocation date after the fund has placed in qualified
3 investments an amount equal to 100 percent of that designated capital approved on
4 that allocation date, at least 50 percent of which is invested in early stage businesses.

5 **(2) PROFIT SHARING FEE.** (a) In this subsection, “net profits realized” means the
6 total amount of money returned to a certified jobs now fund on all qualified
7 investments that exceeds the total amount of those qualified investments.

8 (b) When a certified jobs now fund makes a distribution under sub. (1) (f), the
9 fund shall pay to the authority a fee equal to 20 percent of the net profits realized on
10 all qualified investments from which the distribution is made. The authority shall
11 pay that fee to the secretary of administration for deposit in the general fund.

12 **239.25 Certified jobs now fund reporting requirements.** (1) REPORT
13 UPON RECEIPT OF DESIGNATED CAPITAL. As soon as practicable after it receives
14 designated capital, a certified jobs now fund shall submit a report to the authority
15 that includes:

16 (a) The name of the participating investor from whom the designated capital
17 was received.

18 (b) The amount of designated capital.

19 (c) The date on which the fund received the designated capital.

20 **(2) ANNUAL REPORT.** By January 31 of each year, a certified jobs now fund shall
21 submit a report to the authority that includes:

22 (a) For each qualified investment made during the preceding year, the amount
23 of designated capital invested, the allocation date of the designated capital, the date
24 of the qualified investment, and the name and address of the business in which the
25 qualified investment was made.

SENATE BILL 94

1 (b) For each qualified business in which the fund held an investment during
2 the preceding year, a description of the business, including the number of employees
3 the business employed when the first qualified investment in the business was made
4 by the fund and the number of employees the business employed on December 31 of
5 the preceding year.

6 (c) A statement whether the certified jobs now fund has invested more than 15
7 percent of its total designated capital in any one business.

8 (d) A detailed accounting of the certified jobs now fund's investment progress
9 according to the schedule of investments required under s. 239.23 (4).

10 (e) An accounting of all distributions the certified jobs now fund made during
11 the year.

12 (f) Any other information the authority requires.

13 **(3) FINANCIAL STATEMENT.** Within 90 days after the end of a certified jobs now
14 fund's fiscal year, the fund shall file with the authority a copy of its annual audited
15 financial statement, including the opinion of an independent certified public
16 accountant.

17 **(4) RENEWAL FEE.** By January 31 of each year, a certified jobs now fund shall
18 pay to the authority a certification renewal fee of \$5,000, unless January 31 falls
19 within 6 months after the date on which the certified jobs now fund was first certified
20 under s. 239.21.

21 **239.26 Compliance reviews; decertification. (1) ANNUAL COMPLIANCE**
22 **REVIEW.** The authority shall review annually each certified jobs now fund to ensure
23 that the fund continues to satisfy the requirements of this subchapter, to ensure that
24 the fund has not made any investment in violation of this subchapter, and to

SENATE BILL 94

1 determine the status of the fund's qualified investments with respect to the schedule
2 of investments required under s. 239.23 (4).

3 **(2) DECERTIFICATION.** (a) If the authority determines that a certified jobs now
4 fund is not in compliance with any provision of this subchapter, or any requirement
5 of the authority, the authority shall notify the officers of the fund in writing that the
6 fund may be subject to decertification or a monetary penalty, or both, if the fund is
7 not brought into compliance within 120 days after the fund's receipt of the notice.

8 (b) The authority may decertify a certified jobs now fund if, after opportunity
9 for hearing, the authority determines that the fund is in violation of this subchapter
10 and that the fund's violation has not been corrected to the authority's satisfaction
11 within the period under par. (a). The authority shall notify any appropriate state
12 agency of the decertification.

13 **(3) EFFECT OF DECERTIFICATION.** Decertification of a certified jobs now fund has
14 the effects specified under s. 76.634 (4) with respect to a participating investor. A
15 certified jobs now fund may agree to indemnify, or purchase insurance for the benefit
16 of, a participating investor for the participating investor's losses under s. 76.634 (4)
17 due to the fund's decertification.

18 **(4) NOTICE OF RECAPTURE.** The authority shall give written notice to each
19 qualified investor whose premium tax credit becomes subject to recapture or
20 forfeiture under s. 76.634 (4), or when a premium tax credit is no longer subject to
21 recapture.

22 **(5) PENALTIES.** The authority may fine a person who violates this subchapter
23 in an amount determined by the authority not to exceed \$25,000. In determining the
24 amount of a fine under this subsection, the authority shall consider:

SENATE BILL 94

1 (a) The seriousness of the violation, including the nature, circumstances,
2 extent, and gravity of the violation.

3 (b) The economic harm caused by the violation.

4 (c) The person's history of previous violations.

5 (d) The amount necessary to deter future violations.

6 (e) The person's efforts to mitigate or correct the violation.

7 **SECTION 67.** 281.75 (4) (b) 3. of the statutes, as affected by 2011 Wisconsin Act
8 10, is amended to read:

9 281.75 (4) (b) 3. An authority created under subch. II of ch. 114 or ch. 231, 233,
10 234, 237, ~~or 238~~, or 239.

11 **SECTION 68.** 285.59 (1) (b) of the statutes, as affected by 2011 Wisconsin Act 10,
12 is amended to read:

13 285.59 (1) (b) "State agency" means any office, department, agency, institution
14 of higher education, association, society, or other body in state government created
15 or authorized to be created by the constitution or any law which is entitled to expend
16 moneys appropriated by law, including the legislature and the courts, the Wisconsin
17 Housing and Economic Development Authority, the Bradley Center Sports and
18 Entertainment Corporation, the University of Wisconsin Hospitals and Clinics
19 Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace
20 Authority, the Wisconsin Economic Development Corporation, the Wisconsin
21 Venture Capital Authority, and the Wisconsin Health and Educational Facilities
22 Authority.

23 **SECTION 69. Nonstatutory provisions.**

24 (1) DEFINITIONS. In this section:

SENATE BILL 94

1 (a) "Authority" means the Wisconsin Venture Capital Authority, as created by
2 this act.

3 (b) "Corporation" means the Wisconsin Economic Development Corporation.

4 (2) INITIAL APPOINTMENTS.

5 (a) Notwithstanding the requirement of advice and consent of the senate under
6 section 239.02 (1) (b) of the statutes, as created by this act, the initial members of the
7 board of directors of the authority nominated by the governor under that section may
8 be provisionally appointed by the governor, subject to later senate confirmation. Any
9 provisional appointment shall be in full force until withdrawn by the governor or
10 acted upon by the senate, and if confirmed by the senate shall continue for the
11 remainder of the unexpired term of the member and until a successor is chosen and
12 qualifies. A provisional appointee may exercise all the powers and duties of board
13 membership to which the person is appointed during the time in which the appointee
14 qualifies.

15 (b) A provisional appointment made under paragraph (a) that is withdrawn by
16 the governor shall, upon withdrawal, lapse and create a vacancy for provisional
17 appointment of another initial member of the board of directors or chairperson of the
18 board of the authority. Any provisional appointment made under paragraph (a) that
19 is rejected by the senate shall upon rejection lapse and create a vacancy for
20 nomination and appointment of another initial board member or chairperson of the
21 board under paragraph (a).

22 (c) Notwithstanding the lengths of terms specified in section 239.02 (2) of the
23 statutes, as created by this act, the initial members of the board of directors of the
24 authority shall be appointed for the following terms:

SENATE BILL 94

1 1. One member appointed by the governor under section 239.02 (1) (b) of the
2 statutes, as created by this act, for a term expiring on June 30, 2014.

3 2. One member appointed by the governor under section 239.02 (1) (b) of the
4 statutes, as created by this act, for a term expiring on June 30, 2015.

5 3. One member appointed by the governor under section 239.02 (1) (b) of the
6 statutes, as created by this act, and the member appointed by the speaker of the
7 assembly, for terms expiring on June 30, 2016.

8 4. One member appointed by the governor under section 239.02 (1) (b) of the
9 statutes, as created by this act, and the member appointed by the majority leader of
10 the senate, for terms expiring on July 1, 2017.

11 (3) TEMPORARY ADMINISTRATION BY THE DEPARTMENT OF COMMERCE. The
12 department of commerce, in coordination with the authority and the secretary of the
13 department of administration, shall administer chapter 239 of the statutes, as
14 created by this act, until the initial appointments by the governor, including any
15 provisional appointments under subsection (2) (a), the speaker of the assembly, and
16 the senate majority leader have been made to the authority and the authority has
17 adequate personnel to carry out its powers and duties, or until the effective date of
18 the 2011-13 biennial budget act, whichever is later. During that period, the
19 department of commerce may collect fees under sections 239.12 (3) and 239.21 (3),
20 as created by this act, and may use those fees as appropriate only for administration
21 of subchapters II and III of chapter 239 of the statutes, as created by this act. The
22 department shall credit any fees collected under this subsection to the appropriation
23 account under section 20.143 (1) (a) of the statutes. When the department of
24 commerce ceases to administer the authority's programs under this subsection, the
25 department shall transfer to the authority, or to the Corporation for administration

SENATE BILL 94

1 of the authority's programs under subsection (4) if the authority is not prepared to
2 assume administration of its programs on or before the effective date of the 2011-13
3 biennial budget act, any unused portion of the fees the department collected under
4 this subsection.

5 (4) TEMPORARY ADMINISTRATION BY THE WISCONSIN ECONOMIC DEVELOPMENT
6 CORPORATION. If the authority is not prepared to assume administration of its
7 programs on or before the effective date of the 2011-13 biennial budget act, then,
8 commencing on that date, the corporation, in coordination with the authority and the
9 secretary of the department of administration, shall administer chapter 239 of the
10 statutes, as created by this act, until the initial appointments by the governor,
11 including any provisional appointments under subsection (2) (a), the speaker of the
12 assembly, and the senate majority leader have been made to the authority and the
13 authority has adequate personnel to carry out its powers and duties. During that
14 interim period, the corporation may collect fees under sections 239.12 (3) and 239.21
15 (3) of the statutes, as created by this act, and may use those fees as appropriate only
16 for administration of subchapters II and III of chapter 239 of the statutes, as created
17 by this act. When the corporation ceases to administer the authority's programs
18 under this subsection, the corporation shall transfer to the authority any unused
19 portion of fees the department of commerce transferred to the corporation under
20 subsection (3) or that the corporation collected under this subsection.

21 **SECTION 70. Effective dates.** This act takes effect on the day after publication,
22 except as follows:

23 (1) The treatment of section 16.417 (1) (b) (by SECTION 18) of the statutes takes
24 effect on January 1, 2012.

