

HOUSE BILL NO. HB0291

Small business investment credit.

Sponsored by: Representative(s) Pedersen, Anderson, R.,  
Berger, Buchanan, Gingery, Harshman,  
Illoway, Jorgensen, McOmie, Millin, Philp,  
Quarberg, Simpson, Stubson and Teeters and  
Senator(s) Bebout, Burns, Coe, Ross and  
Schiffer

A BILL

for

1 AN ACT relating to economic development; providing  
2 definitions; providing requirements for certification as a  
3 small business investment company; providing requirements  
4 for participating investors; providing a credit against  
5 certain taxes for certain investments; requiring reports;  
6 and providing for an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 9-12-1201 through 9-12-1212 are  
11 created to read:

12

13

ARTICLE 12

14

1                    WYOMING SMALL BUSINESS INVESTMENT CREDIT

2

3            **9-12-1201. Short title.**

4

5    This article shall be known and may be cited as the  
6    "Wyoming small business investment credit program".

7

8            **9-12-1202. Definitions.**

9

10           (a) As used in this article:

11

12                    (i) "Affiliate" means any person who, directly  
13    or indirectly, owns, controls, or holds power to vote  
14    fifteen percent (15%) or more of the outstanding voting  
15    securities or other voting ownership interest of a Wyoming  
16    small business investment company or insurance company and  
17    includes any person if fifteen percent (15%) or more of the  
18    outstanding voting securities or other voting ownership  
19    interest of that person are directly or indirectly owned,  
20    controlled or held with power to vote by a Wyoming small  
21    business investment company or insurance company.  
22    "Affiliate" does not include an investment by a  
23    participating investor in a Wyoming small business

1 investment company pursuant to an allocation of premium tax  
2 credits under this article;

3

4 (ii) "Allocation date" means the date credits  
5 under W.S. 9-12-1205 are allocated to participating  
6 investors in a Wyoming small business investment company;

7

8 (iii) "Designated capital" means an amount of  
9 money that:

10

11 (A) Is invested by a participating investor  
12 in a Wyoming small business investment company; and

13

14 (B) Fully funds the purchase price of a  
15 participating investor's qualified debt instrument issued  
16 by a Wyoming small business investment company.

17

18 (iv) "Participating investor" means any insurer  
19 with a tax liability under W.S. 26-4-103;

20

21 (v) "Qualified business" means a business which:

22

23 (A) Is independently owned and operated;

24

1                   (B) Is headquartered in Wyoming, its  
2 principal operations are located in Wyoming, at least sixty  
3 percent (60%) of the employees are employed in Wyoming or  
4 the business has committed in writing to move to Wyoming as  
5 a condition of the investment;

6

7                   (C) Intends to remain in Wyoming after  
8 receipt of the qualified investment;

9

10                  (D) Has one hundred (100) employees or  
11 less;

12

13                  (E) Is not a franchise of and has no  
14 financial relationship with a Wyoming small business  
15 investment company or any affiliate of a Wyoming small  
16 business investment company prior to a Wyoming small  
17 business investment company's first qualified investment in  
18 the business; and

19

20                  (F) Is not predominately engaged in:

21

22                  (I) Professional services provided by  
23 accountants, doctors or lawyers;

24

1 (II) Banking or lending;

2

3 (III) Insurance;

4

5 (IV) Direct gambling activities; or

6

7 (V) Making loans to or investments in  
8 a Wyoming small business investment company or an  
9 affiliate.

10

11 (vi) "Qualified debt instrument" means a debt  
12 instrument issued by a Wyoming small business investment  
13 company which:

14

15 (A) Is issued at par value or a premium;

16

17 (B) Has an original maturity date of at  
18 least four (4) years from the date of issuance and a  
19 repayment schedule which is not faster than a level  
20 principal amortization over four (4) years; and

21

22 (C) Satisfies the rating criteria to  
23 qualify as "NAIC 1" as determined by the securities

1 valuation office of the national association of insurance  
2 commissioners.

3

4 (vii) "Qualified distribution" means any  
5 distribution or payment not made to a participating  
6 investor or affiliate of a participating investor by a  
7 Wyoming small business investment company in connection  
8 with:

9

10 (A) The costs and expenses of forming,  
11 syndicating and organizing the Wyoming small business  
12 investment company, including any fee paid for professional  
13 services, and the costs of financing and insuring the  
14 obligations of the Wyoming small business investment  
15 company;

16

17 (B) An annual management fee not to exceed  
18 three percent (3%) of designated capital on an annual basis  
19 to offset the costs and expenses of managing and operating  
20 a Wyoming small business investment company;

21

22 (C) Reasonable and necessary fees in  
23 accordance with industry custom for ongoing professional  
24 services, including, but not limited to, legal and

1 accounting services related to the operation of a Wyoming  
2 small business investment company;

3

4 (D) An increase or projected increase in  
5 federal or state taxes, including penalties and related  
6 interest, of the equity owners of a Wyoming small business  
7 investment company resulting from the earnings or other tax  
8 liability of a Wyoming small business investment company to  
9 the extent that the increase is related to the ownership,  
10 management or operation of a Wyoming small business  
11 investment company; and

12

13 (E) Payments of principal and interest to  
14 holders of qualified debt instruments issued by a Wyoming  
15 small business investment company.

16

17 (viii) "Qualified investment" means the  
18 investment of money by a Wyoming small business investment  
19 company in a qualified business for the purchase of any  
20 debt, debt participation, equity or hybrid security of any  
21 nature and description, including a debt instrument or  
22 security which has the characteristics of debt but provides  
23 for conversion into equity or equity participation  
24 instruments such as options or warrants;

1

2           (ix) "State premium tax liability" means a  
3 liability incurred by an insurer under W.S. 26-4-103, or in  
4 the case of a repeal or reduction of the liability imposed  
5 by W.S. 26-4-103, any other tax liability imposed upon a  
6 participating investor by the state;

7

8           (x) "Wyoming small business investment company"  
9 means a partnership, corporation, trust or limited  
10 liability company organized on a for-profit basis which is  
11 certified by the council pursuant to W.S. 9-12-1203.

12

13           **9-12-1203. Certification.**

14

15           (a) The council shall provide a form for applying for  
16 certification as a Wyoming small business investment  
17 company.

18

19           (b) An applicant to be certified as a Wyoming small  
20 business investment company shall:

21

22           (i) File an application with the council and pay  
23 a nonrefundable fee equal to the annual certification fee  
24 provided under W.S. 9-12-1208(b);



1

2 (ii) Submit as part of the application an  
3 audited balance sheet which contains an unqualified opinion  
4 of an independent certified public accountant issued not  
5 more than thirty-five (35) days before the application date  
6 and includes a statement that the applicant has an equity  
7 capitalization of five hundred thousand dollars  
8 (\$500,000.00) or more in the form of unencumbered cash,  
9 marketable securities or other liquid assets; and

10

11 (iii) Have at least two (2) principals or  
12 persons, employed or engaged to manage the funds who each  
13 have a minimum of five (5) years of money management  
14 experience in the venture capital or small business  
15 investment industry.

16

17 (c) The council may certify a partnership,  
18 corporation, trust or limited liability company which is  
19 organized on a for-profit basis and submits an application  
20 to be designated as a Wyoming small business investment  
21 company if:

22

23 (i) The applicant is located, headquartered and  
24 licensed or registered to conduct business in Wyoming;

1

2 (ii) The applicant has as its primary business  
3 the activity of investing cash in qualified businesses;

4

5 (iii) After a review of the organizational  
6 documents and the business history of each applicant the  
7 council determines that the officers and the board of  
8 directors, general partners, trustees, managers or members  
9 of the applicant are trustworthy and are acquainted with  
10 the requirements of this article; and

11

12 (iv) The applicant has complied with the  
13 requirements set forth in subsection (b) of this section  
14 for a Wyoming small business investment company and is  
15 otherwise qualified pursuant to the provisions of this  
16 article.

17

18 (d) Not more than forty-five (45) days after the  
19 receipt of an application under this section, the council  
20 shall issue a certification as a Wyoming small business  
21 investment company or refuse to issue the certification and  
22 provide to the applicant the grounds for the refusal and  
23 any information that may allow the applicant to obtain  
24 certification.

1

2 (e) The council shall begin accepting applications  
3 for certification as a Wyoming small business investment  
4 company not later than September 1, 2009.

5

6 (f) The council may contract with an independent  
7 third party to review, investigate and certify that the  
8 applications under this section and requests under W.S.  
9 9-12-1207(j) and 9-12-1210(c) comply with the provisions of  
10 this article.

11

12 **9-12-1204. Requirements.**

13

14 (a) An insurance company or affiliate of an insurance  
15 company shall not, directly or indirectly:

16

17 (i) Own, whether through rights, options,  
18 convertible interest, or otherwise, fifteen percent (15%)  
19 or more of the voting securities or other voting ownership  
20 interest of a Wyoming small business investment company;

21

22 (ii) Manage a Wyoming small business investment  
23 company; or

24

1           (iii) Control the direction of investments for a  
2 Wyoming small business investment company.

3

4           (b) A Wyoming small business investment company may  
5 obtain one (1) or more guaranties, indemnities, bonds,  
6 insurance policies or other payment undertakings for the  
7 benefit of its participating investors from any entity,  
8 except that in no case shall more than one (1)  
9 participating investor of a Wyoming small business  
10 investment company, including any affiliates of the  
11 participating investor, be entitled to provide such  
12 guaranties, indemnities, bonds, insurance policies or other  
13 payment undertakings in favor of the participating  
14 investors of a Wyoming small business investment company  
15 and its affiliates.

16

17           (c) This section shall not be construed to preclude a  
18 participating investor, insurance company or other party  
19 from exercising its legal rights and remedies including,  
20 without limitation:

21

22           (i) Interim management of a Wyoming small  
23 business investment company in the event that a Wyoming  
24 small business investment company is in default of its

1 statutory obligations or its contractual obligations to  
2 such participating investor, insurance company or other  
3 party;

4

5 (ii) Monitoring a Wyoming small business  
6 investment company to ensure its compliance with this  
7 section; or

8

9 (iii) Disallowing any investments that have not  
10 been approved by the council pursuant to this article.

11

12 **9-12-1205. Wyoming small business investment credit.**

13

14 (a) A participating investor under this article shall  
15 earn a credit against any state premium tax liability as  
16 provided in this section up to one hundred percent (100%)  
17 of the participating investor's investment of designated  
18 capital in a Wyoming small business investment company.

19

20 (b) A participating investor may claim in the next  
21 year a credit under this section for tax years 2012, 2013,  
22 2014, 2015, 2016, 2017 and 2018 in an amount equal to  
23 fourteen and two thousand eight hundred fifty-seven ten-

1 thousandths percent (14.2857%) of the participating  
2 investor's investment of designated capital;

3

4 (c) The credit for any tax year shall not exceed the  
5 participating investor's state premium tax liability for  
6 that tax year. If the amount of the credit determined  
7 under this section for any tax year exceeds the liability  
8 for tax under this chapter, the credit may be carried  
9 forward to future tax years without limitation.

10

11 (d) A credit under this section may be used in  
12 connection with both final payments and prepayments of a  
13 participating investor's state premium tax liability.

14

15 (e) A participating investor claiming a credit under  
16 this section shall not be required to pay any additional  
17 tax or fee as a result of claiming a credit under this  
18 article.

19

20 (f) If the payment of state premium tax liability by  
21 a participating investor would result in a credit against  
22 or reduction in any other tax imposed by this state, the  
23 amount of such credit or reduction shall not be affected by  
24 the issuance of a credit under this section.

1

2 (g) Final decertification of a Wyoming small business  
3 investment company under W.S. 9-12-1210 may result in the  
4 disallowance and the recapture of a credit under this  
5 section. The amount to be disallowed and recaptured shall  
6 be assessed as follows:

7

8 (i) If decertification of a Wyoming small  
9 business investment company is within two (2) years of its  
10 allocation date and prior to meeting the requirements of  
11 W.S. 9-12-1210(c), all credits under this section are  
12 disallowed and any credits that were previously taken under  
13 this section shall be recaptured;

14

15 (ii) If decertification of a Wyoming small  
16 business investment company is more than two (2) years  
17 after its allocation date and prior to meeting the  
18 requirements of W.S. 9-12-1210(c), all credits under this  
19 section are disallowed and no credits that were previously  
20 taken under this section shall be recaptured;

21

22 (iii) If decertification of a Wyoming small  
23 business investment company occurs after the company has  
24 met the requirements of W.S. 9-12-1210(c), no credits under

1 this section are disallowed and no credits that were  
2 previously taken under this section shall be recaptured.

3

4 (h) A participating investor shall not transfer,  
5 agree to transfer, sell, or agree to sell a credit under  
6 this section until one hundred eighty (180) days or more  
7 from the date on which the participating investor invested  
8 designated capital. One hundred eighty (180) days or more  
9 from the date of investment, a participating investor, or  
10 subsequent transferee, may transfer credits based upon  
11 rules adopted by the council in consultation with the  
12 department of insurance to facilitate such transfers. Any  
13 transfer or sale of credits shall not affect the time  
14 schedule for claiming a credit. Any tax credit recaptured  
15 under this section shall remain the liability of the  
16 participating investor that actually applied the credit  
17 towards its tax liability.

18

19 **9-12-1206. Aggregate limitations on investment tax**  
20 **credits; allocation.**

21

22 (a) The aggregate amount of investment tax credits to  
23 be allocated to all participating investors of Wyoming  
24 small business investment companies under this article



1 shall not exceed twenty million dollars (\$20,000,000.00).  
2 No Wyoming small business investment company, on an  
3 aggregate basis with its affiliates, shall file credit  
4 allocation claims that exceed twenty million dollars  
5 (\$20,000,000.00).

6

7 (b) Tax credits shall be allocated to participating  
8 investors in the order that the credit allocation claims  
9 are filed with the council, provided that all credit  
10 allocation claims filed with the council on the same day  
11 shall be treated as having been filed contemporaneously.  
12 Any credit allocation claims filed with the council prior  
13 to the initial credit allocation claim filing date shall be  
14 deemed to have been filed on such initial credit allocation  
15 claim filing date. The council shall set the initial  
16 credit allocation claim filing date to be not less than  
17 ninety (90) days and not more than one hundred twenty (120)  
18 days after the council begins accepting applications for  
19 certification as a Wyoming small business investment  
20 company under W.S. 9-12-1203(f).

21

22 (c) If two (2) or more Wyoming small business  
23 investment companies file credit allocation claims with the  
24 council on behalf of their respective participating

1 investors on the same day and the aggregate amount of  
2 credit allocation claims exceeds the lesser of the  
3 aggregate limit of investment tax credits under this  
4 section or the amount of credits that remain unallocated on  
5 that day, the credits shall be allocated among the  
6 participating investors who filed on that day on a pro rata  
7 basis with respect to the amounts claimed. The pro rata  
8 allocation for any one (1) participating investor is the  
9 product obtained by multiplying a fraction, the numerator  
10 of which is the amount of the credit allocation claim filed  
11 on behalf of a participating investor and the denominator  
12 of which is the total of all credit allocation claims filed  
13 on behalf of all participating investors on that day, by  
14 the lesser of the aggregate limit of credits under this  
15 section or the amount of credits that remain unallocated on  
16 that day.

17

18 (d) Not more than ten (10) business days after the  
19 council receives a credit allocation claim filed by a  
20 Wyoming small business investment company on behalf of one  
21 (1) or more of its participating investors, the council  
22 shall notify the Wyoming small business investment company  
23 of the amount of credits allocated to each of the  
24 participating investors of that Wyoming small business

1 investment company. In the event a Wyoming small business  
2 investment company does not receive an investment of  
3 designated capital from each participating investor  
4 required to earn the amount of credits allocated to such  
5 participating investor within ten (10) business days of the  
6 Wyoming small business investment company's receipt of a  
7 notice of allocation, it shall notify the council on or  
8 before the next business day and the credits allocated to  
9 such participating investor of the Wyoming small business  
10 investment company shall be forfeited. The council shall  
11 reallocate credits forfeited under this subsection among  
12 the participating investors of the other Wyoming small  
13 business investment companies on a pro rata basis with  
14 respect to the credit allocation claims filed on behalf of  
15 the participating investors.

16

17 (e) The council may levy a fine of not more than  
18 fifty thousand dollars (\$50,000.00) for a participating  
19 investor which does not invest the full amount of  
20 designated capital required to fund the credits allocated  
21 to it by the council in accordance with the credit  
22 allocation claim filed on its behalf.

23

1           (f) No participating investor, individually or on an  
2 aggregate basis with its affiliates, shall file an  
3 allocation claim for more than twenty-five percent (25%) of  
4 the maximum amount of investment tax credits authorized  
5 under this article regardless of whether such claim is made  
6 in connection with one (1) or more Wyoming small business  
7 investment companies.

8

9           **9-12-1207. Requirements for continuance of**  
10 **certification.**

11

12           (a) To maintain certification under this article, a  
13 Wyoming small business investment company shall make  
14 qualified investments as follows:

15

16           (i) Within two (2) years after the allocation  
17 date, a Wyoming small business investment company shall  
18 invest an amount equal to at least twenty-five percent  
19 (25%) of its designated capital in qualified investments;  
20 and

21

22           (ii) Within four (4) years after the allocation  
23 date, a Wyoming small business investment company must

1 invest an amount equal to at least fifty percent (50%) of  
2 its designated capital in qualified investments.

3

4 (b) Before making a proposed qualified investment in  
5 a specific business, a Wyoming small business investment  
6 company shall request from the council a written  
7 determination that the proposed investment is a qualified  
8 investment in a qualified business. The council shall  
9 notify a Wyoming small business investment company within  
10 ten (10) business days from the receipt of a request of its  
11 determination and an explanation thereof. If the council  
12 does not notify the Wyoming small business investment  
13 company of its determination within ten (10) business days,  
14 the proposed investment is deemed to be a qualified  
15 investment in a qualified business. If the council  
16 determines that the proposed investment does not meet the  
17 definition of a qualified investment or qualified business,  
18 the council may accept the proposed investment as a  
19 qualified investment and the business as a qualified  
20 business if the council determines that the proposed  
21 investment will further the economic development of the  
22 state.

23

1           (c) Any designated capital not invested in qualified  
2 investments by a Wyoming small business investment company  
3 shall be held or invested in such manner as the Wyoming  
4 small business investment company, in its discretion, deems  
5 appropriate.

6

7           (d) Designated capital and proceeds of designated  
8 capital returned to a Wyoming small business investment  
9 company after being originally invested in qualified  
10 investments may be invested again in qualified investments  
11 and such investment shall be considered under the  
12 requirements of subsections (a), (e) and (f) of this  
13 section for the purposes of making investments of  
14 designated capital in qualified investments.

15

16           (e) If, within six (6) years after its allocation  
17 date, a Wyoming small business investment company has not  
18 invested at least seventy percent (70%) of its designated  
19 capital in qualified investments, neither the Wyoming small  
20 business investment company nor its affiliates shall be  
21 permitted to receive management fees.

22

23           (f) If, within eight (8) years after its allocation  
24 date, a Wyoming small business investment company has not

1 invested one hundred percent (100%) of its designated  
2 capital in qualified investments, neither the Wyoming small  
3 business investment company nor its affiliates shall be  
4 permitted to receive management fees.

5

6 (g) A Wyoming small business investment company shall  
7 not invest more than twenty percent (20%) of its designated  
8 capital in any one (1) qualified business without the  
9 specific approval of the council.

10

11 (h) For purposes of calculating the investment  
12 percentages in this subdivision, the cumulative amount of  
13 all qualified investments made by a Wyoming small business  
14 investment company from the allocation date shall be  
15 considered.

16

17 (j) A Wyoming small business investment company may,  
18 at any time but not more than once every two (2) years,  
19 request that the council determine if the Wyoming small  
20 business investment company is in compliance with the  
21 requirements of this section. Upon a request under this  
22 subsection, the council shall, not later than sixty (60)  
23 days after receipt of a request under this subsection,  
24 certify that the Wyoming small business investment company

1 has satisfied the requirements of this section as of the  
2 date of the request or provide notice of noncompliance and  
3 an explanation of the deficiencies. If the council does  
4 not provide such notification within the sixty (60) day  
5 period, the Wyoming small business investment company shall  
6 be deemed to have met the applicable requirements of this  
7 section as of the date of the request.

8

9 **9-12-1208. Wyoming small business investment company**  
10 **reporting requirements.**

11

12 (a) Each Wyoming small business investment company  
13 shall report the following to the council:

14

15 (i) As soon as practicable after the receipt of  
16 designated capital:

17

18 (A) The name of each participating investor  
19 from which the designated capital was received, including  
20 such participating investor's national association of  
21 insurance commissioners identification number;

22

23 (B) The amount of each participating  
24 investor's investment of designated capital; and



1

2

3

(C) The date on which the designated capital was received.

4

5

(ii) On or before January 31 of each year:

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23

(A) The amount of the Wyoming small business investment company's remaining uninvested designated capital at the end of the immediately preceding tax year;

(B) Whether the Wyoming small business investment company has invested more than twenty percent (20%) of its total designated capital in any one (1) business;

(C) All qualified investments that the Wyoming small business investment company has made in the previous taxable year, including the number of employees of each qualified business in which it has made investments at the time of such investment and as of December 1 of the preceding tax year; and

1                   (D) For any qualified business where the  
2 Wyoming small business investment company no longer has an  
3 investment, the Wyoming small business investment company  
4 must provide employment figures for that company as of the  
5 last day before the investment was terminated.

6

7                   (iii) Any information that the council may  
8 require by rule and regulation:

9

10                   (A) Which will help the council ascertain  
11 the impact of the Wyoming small business investment company  
12 program directly and indirectly on the economy of the state  
13 of Wyoming including, without limitation, the number of  
14 jobs created by qualified businesses that have received  
15 qualified investments; or

16

17                   (B) Information on the operations of the  
18 Wyoming small business investment company that the council  
19 requires to determine compliance with the requirements of  
20 this article.

21

22                   (iv) Within ninety (90) days of the close of its  
23 fiscal year, annual audited financial statements of the  
24 Wyoming small business investment company which shall

1 include the opinion of an independent certified public  
2 accountant.

3

4 (b) The business council shall set annual  
5 certification fees through rule and regulation in the  
6 manner provided in W.S. 33-1-201(a). A Wyoming small  
7 business investment company shall submit to the council the  
8 annual, nonrefundable certification fee on or before April  
9 1 of each year. The annual certification fee shall not be  
10 required for the year if the payment date under this  
11 subsection is within six (6) months of the date a Wyoming  
12 small business investment company is first certified by the  
13 council under W.S. 9-12-1203.

14

15 **9-12-1209. Distributions.**

16

17 (a) A Wyoming small business investment company may  
18 make a qualified distribution at any time. In order for a  
19 Wyoming small business investment company to make a  
20 distribution other than a qualified distribution to its  
21 equity holders, the cumulative amount of all qualified  
22 investments of the Wyoming small business investment  
23 company shall equal or exceed one hundred percent (100%) of  
24 its designated capital.

1

2 (b) A Wyoming small business investment company shall  
3 contribute to the state of Wyoming general fund an amount  
4 equal to ten percent (10%) of all distributions to the  
5 equity holders of the Wyoming small business investment  
6 company, other than qualified distributions and  
7 distributions of paid-in capital contributed to a Wyoming  
8 small business investment company by the equity holders. A  
9 Wyoming small business investment company shall make all  
10 contributions or investments required under this subsection  
11 concurrently with distributions to its equity owners.  
12 Nothing in this subsection shall be construed to effect  
13 qualified distributions.

14

15 (c) If, more than ten (10) years after the allocation  
16 date, a Wyoming small business investment company has  
17 failed to cumulatively invest an amount equal to at least  
18 one hundred percent (100%) of its designated capital in  
19 qualified investments, the percentage of distributions that  
20 a Wyoming small business investment company is required to  
21 invest or contribute to the state of Wyoming general fund  
22 under subsection (b) of this section shall be twenty-five  
23 percent (25%).

24

1           **9-12-1210. Decertification; certification of**  
2 **compliance.**

3

4           (a) The council shall conduct an annual review of  
5 each Wyoming small business investment company to determine  
6 if each Wyoming small business investment company is  
7 abiding by the requirements of this article and to ensure  
8 that no investment has been made in violation of this  
9 article. The cost of the annual review and other  
10 determinations under this article including certifications  
11 requested under W.S. 9-12-1207(j) and subsection (c) of  
12 this section shall be paid by each Wyoming small business  
13 investment company according to a fee schedule adopted by  
14 the council sufficient to cover actual direct and indirect  
15 costs of the review or certification.

16

17           (b) Any material violation of this article, including  
18 any material misrepresentation made to the council in  
19 connection with the application process, is a basis for  
20 decertification of a Wyoming small business investment  
21 company and the disallowance of credits under W.S.  
22 9-12-1205, provided that in all instances the council shall  
23 provide notice to the Wyoming small business investment of  
24 the grounds of a proposed decertification and the

1 opportunity to cure any violation of this article before  
2 the decertification becomes effective.

3

4 (c) A Wyoming small business investment company may  
5 request that the council certify that the company has  
6 invested an amount cumulatively equal to one hundred  
7 percent (100%) of its designated capital in qualified  
8 investments as provided in W.S. 9-12-1207 and has complied  
9 with all other requirements provided under this article.  
10 Upon a request under this subsection, the council shall  
11 notify a Wyoming small business investment company not  
12 later than sixty (60) days after receipt of a request under  
13 this subsection:

14

15 (i) That it has achieved certification under  
16 this subsection; or

17

18 (ii) That it has not met the requirements of  
19 this article, provide a reason for the determination that  
20 the company has been determined not to have met the  
21 requirements of this article and decertify the company if  
22 applicable under subsection (b) of this section.

23

1           (d) If the council certifies a Wyoming small business  
2 investment company under subsection (c) of this section,  
3 the company shall no longer be subject to regulation by the  
4 council and shall not be subject to the reporting  
5 requirements under W.S. 9-12-1208. If the council does not  
6 provide notification within the sixty (60) day period as  
7 required in subsection (c) of this section, the Wyoming  
8 small business investment company shall be deemed to be  
9 certified as provided in subsection (c) of this section.

10  
11           (e) The council shall provide written notice of any  
12 decertification proceedings under this section to the  
13 insurance commissioner and to the address of each  
14 participating investor whose tax credit may be subject to  
15 recapture or forfeiture, using the address shown on the  
16 last filing submitted to the council.

17  
18           **9-12-1211. Registration requirements.**

19  
20 Each investment by a participating investor for which a tax  
21 credit is awarded under this article shall be registered or  
22 specifically exempt from registration in accordance with  
23 applicable state or federal law.

24

1           **9-12-1212. Reports to the governor and legislature.**

2

3           (a) The council shall make an annual report to the  
4 governor, the joint appropriations interim committee and  
5 the joint minerals, business and economic development  
6 interim committee for review and comment. The report shall  
7 include:

8

9           (i) The number of Wyoming small business  
10 investment companies holding designated capital;

11

12           (ii) The amount of designated capital invested  
13 in each Wyoming small business investment company;

14

15           (iii) The cumulative amount that each Wyoming  
16 small business investment company has invested;

17

18           (iv) The cumulative amount of follow-on capital  
19 that the investments of each Wyoming small business  
20 investment company have created in terms of capital  
21 invested in qualified businesses at the same time or  
22 subsequent to investments made by a Wyoming small business  
23 investment company in such businesses by sources other than  
24 Wyoming small business investment companies;



1

2 (v) The total amount of investment tax credits  
3 applied under this article for each year;

4

5 (vi) The performance of each Wyoming small  
6 business investment company with regard to the requirements  
7 for continued certification;

8

9 (vii) The classification of the companies in  
10 which each Wyoming small business investment company has  
11 invested according to industrial sector and size of  
12 company;

13

14 (viii) The gross number of jobs created by  
15 investments made by each Wyoming small business investment  
16 company and the number of jobs retained;

17

18 (ix) The location of the companies in which each  
19 Wyoming small business investment company has invested;

20

21 (x) Those Wyoming small business investment  
22 companies that have been decertified, including the reasons  
23 for decertification; and

24

1           (xi) Other related information as necessary to  
2 evaluate the effect of this article on economic  
3 development.

4

5           **Section 2.** W.S. 9-12-102(a)(viii) is amended to read:

6

7           **9-12-102. Definitions.**

8

9           (a) As used in this act, the following terms have the  
10 following meanings, except where the context clearly  
11 indicates otherwise:

12

13           (viii) "This act" means W.S. 9-12-101 through  
14 9-12-905 and 9-12-1201 through 9-12-1212.

15

16           **Section 3.** This act is effective immediately upon  
17 completion of all acts necessary for a bill to become law  
18 as provided by Article 4, Section 8 of the Wyoming  
19 Constitution.

20

21

(END)