

2007 SENATE BILL 501

February 19, 2008 – Introduced by Senators SULLIVAN, KANAVAS, TAYLOR, KEDZIE, DARLING and ROESSLER, cosponsored by Representatives STRACHOTA, HINTZ, SHILLING, SINICKI, JESKEWITZ, HAHN, MUSSER, ALBERS, BIES, VOS, TOWNSEND, LEMAHIEU and MOLEPSKE. Referred to Committee on Veterans and Military Affairs, Biotechnology and Financial Institutions.

1 **AN ACT** *to renumber and amend* 71.07 (5d) (b); *to amend* 73.03 (63), 76.67 (2),
2 560.205 (1) (k), 560.205 (2), 560.205 (3) (c) 1. and 560.205 (3) (d); and *to create*
3 71.07 (5d) (b) 2., 76.637 and 560.275 (2m) of the statutes; **relating to:** the early
4 stage seed and angel investment tax credits, the submission of budget
5 information by the department of commerce, and allocating funding to the
6 technology commercialization grant and loan program.

Analysis by the Legislative Reference Bureau

Under current law, generally, a taxpayer may claim a credit against the taxpayer's income and franchise tax liability on certain amounts invested in new businesses under the early stage seed investment tax credit or the angel investment tax credit. This bill allows insurers to claim the early stage seed investment credits against the license fees imposed on insurance companies.

Under current law, the maximum amount of angel investments that a business may receive is \$1,000,000. This bill increases the maximum amount of angel investments that a business may receive to \$4,000,000.

Currently, the Department of Commerce (department) may generally award a technology commercialization grant or loan for the development or commercialization of a technologically innovative product, process, or service; to enhance a person's ability to obtain early stage capital from third parties; or to support certain entrepreneurial and technology transfer centers. Such grants and

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loans are funded by the Wisconsin Development Fund (fund), which also funds several other economic development programs.

This bill instructs the department to prepare its budget request for the fund for the 2009–11 fiscal biennium as though the fund were appropriated an additional \$2.5 million for the 2007–09 fiscal biennium. The bill also directs the department to allocate \$5,000,000 from the fund in each fiscal biennium to technology commercialization grants and loans.

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

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

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

3 71.07 **(5d)** (b) *Filing claims.* Subject to the limitations provided in this
4 subsection and in s. 560.205, a claimant may claim as a credit against the tax
5 imposed under s. 71.02 or 71.08, up to the amount of those taxes, the following:

6 1. For taxable years beginning before July 1, 2009, in each taxable year for 2
7 consecutive years, beginning with the taxable year as certified by the department of
8 commerce, an amount equal to 12.5 percent of the claimant's bona fide angel
9 investment made directly in a qualified new business venture.

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

11 71.07 **(5d)** (b) 2. For taxable years beginning after June 30, 2009, for the taxable
12 year certified by the department of commerce, an amount equal to 25 percent of the
13 claimant's bona fide angel investment made directly in a qualified new business
14 venture.

15 **SECTION 3.** 73.03 (63) of the statutes, as created by 2007 Wisconsin Act 20, is
16 amended to read:

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1 73.03 **(63)** Notwithstanding the amount limitations specified under ss. 71.07
2 (5b) (c) 1. and (5d) (c) 1., 71.28 (5b) (c) 1., 71.47 (5b) (c) 1., 76.637 (3), and 560.205 (3)
3 (d), in consultation with the department of commerce, to carry forward to subsequent
4 taxable years unclaimed credit amounts of the early stage seed investment credits
5 under ss. 71.07 (5b), 71.28 (5b), and 71.47 (5b), and 76.637 and the angel investment
6 credit under s. 71.07 (5d). Annually, no later than July 1, the department of
7 commerce shall submit to the department of revenue its recommendations for the
8 carry forward of credit amounts as provided under this subsection.

9 **SECTION 4.** 76.637 of the statutes is created to read:

10 **76.637 Early stage seed investment credit. (1) DEFINITIONS.** In this
11 section, “fund manager” means an investment fund manager certified under s.
12 560.205 (2).

13 **(2) FILING CLAIMS.** For taxable years beginning after June 30, 2009, subject to
14 the limitations provided under this subsection and s. 560.205, an insurer may claim
15 as a credit against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67, 25
16 percent of the insurer’s investment paid to a fund manager that the fund manager
17 invests in a business certified under s. 560.205 (1).

18 **(3) LIMITATIONS.** Except as provided in s. 73.03 (63), the maximum amount of
19 the credits that may be claimed under this section and ss. 71.07 (5b), 71.28 (5b), and
20 71.47 (5b) for all taxable years combined is \$52,500,000.

21 **(4) INVESTMENT BASIS.** The Wisconsin adjusted basis of any investment for
22 which a credit is claimed under sub. (2) shall be reduced by the amount of the credit
23 that is offset against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67.

24 **(5) CARRY-FORWARD.** If the credit under sub. (2) is not entirely offset against the
25 fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67 otherwise due, the unused balance

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1 may be carried forward and credited against those fees for the following 15 years to
2 the extent that it is not offset by those fees otherwise due in all the years between
3 the year in which the expense was made and the year in which the carry-forward
4 credit is claimed.

5 **SECTION 5.** 76.67 (2) of the statutes is amended to read:

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

16 **SECTION 6.** 560.205 (1) (k) of the statutes is amended to read:

17 560.205 (1) (k) It has not received more than \$1,000,000 \$4,000,000 in
18 investments that have qualified for tax credits under s. 71.07 (5d).

19 **SECTION 7.** 560.205 (2) of the statutes is amended to read:

20 560.205 (2) EARLY STAGE SEED INVESTMENT TAX CREDITS. The department shall
21 implement a program to certify investment fund managers for purposes of ss. 71.07
22 (5b), 71.28 (5b), and 71.47 (5b), and 76.637. An investment fund manager desiring
23 certification shall submit an application to the department. In determining whether
24 to certify an investment fund manager, the department shall consider the
25 investment fund manager's experience in managing venture capital funds, the past

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1 performance of investment funds managed by the applicant, the expected level of
2 investment in the investment fund to be managed by the applicant, and any other
3 relevant factors. The department may certify only investment fund managers that
4 commit to consider placing investments in businesses certified under sub. (1).

5 **SECTION 8.** 560.205 (3) (c) 1. of the statutes is amended to read:

6 560.205 (3) (c) 1. The total amount of tax credits claimed under ss. 71.07 (5b)
7 and (5d), 71.28 (5b), ~~and 71.47 (5b), and 76.637~~ per taxable year.

8 **SECTION 9.** 560.205 (3) (d) of the statutes, as affected by 2007 Wisconsin Act 20,
9 is amended to read:

10 560.205 (3) (d) *Rules.* The department of commerce, in consultation with the
11 department of revenue, shall promulgate rules to administer this section. The rules
12 shall further define “bona fide angel investment” for purposes of s. 71.07 (5d) (a) 1.
13 The rules shall limit the aggregate amount of tax credits under s. 71.07 (5d) that may
14 be claimed for investments in businesses certified under sub. (1) at \$3,000,000 per
15 calendar year for calendar years beginning after December 31, 2004, and \$5,500,000
16 per calendar year for calendar years beginning after December 31, 2007. The rules
17 shall also limit the aggregate amount of the tax credits under ss. 71.07 (5b), 71.28
18 (5b), ~~and 71.47 (5b), and 76.637~~ that may be claimed for investments paid to fund
19 managers certified under sub. (2) at \$3,500,000 per calendar year for calendar years
20 beginning after December 31, 2004, and \$6,000,000 per calendar year for calendar
21 years beginning after December 31, 2007. The rules shall also provide that, for
22 calendar years beginning after December 31, 2007, no person may receive a credit
23 under ~~ss. s.~~ 71.07 (5b) and (5d), 71.28 (5b), ~~or 71.47 (5b), or 76.637~~ unless the person’s
24 investment is kept in a certified business, or with a certified fund manager, for no less
25 than 3 years.

