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, LE MAHIEU and MOLEPSKE. Referred to Committee on Veterans and Military Affairs, Biotechnology and Financial Institutions.

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

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

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

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

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

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

SECTION 3. 73.03 (63) of the statutes, as created by 2007 Wisconsin Act 20, is amended to read:
73.03 (63) Notwithstanding the amount limitations specified under ss. 71.07 (5b) (c) 1. and (5d) (c) 1., 71.28 (5b) (c) 1., 71.47 (5b) (c) 1., 76.637 (3), and 560.205 (3) (d), in consultation with the department of commerce, to carry forward to subsequent taxable years unclaimed credit amounts of the early stage seed investment credits under ss. 71.07 (5b), 71.28 (5b), and 71.47 (5b), and 76.637 and the angel investment credit under s. 71.07 (5d). Annually, no later than July 1, the department of commerce shall submit to the department of revenue its recommendations for the carry forward of credit amounts as provided under this subsection.

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

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

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

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

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

(5) **Carry-forward.** If the credit under sub. (2) is not entirely offset against the fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67 otherwise due, the unused balance
may be carried forward and credited against those fees for the following 15 years to
the extent that it is not offset by those fees otherwise due in all the years between
the year in which the expense was made and the year in which the carry-forward
credit is claimed.

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

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

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

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

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

560.205 (2) Early Stage Seed Investment Tax Credits. The department shall
implement a program to certify investment fund managers for purposes of ss. 71.07
(5b), 71.28 (5b), and 71.47 (5b), and 76.637. An investment fund manager desiring
certification shall submit an application to the department. In determining whether
to certify an investment fund manager, the department shall consider the
investment fund manager’s experience in managing venture capital funds, the past
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).

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

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

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

5 560.205 (3) (d) Rules. The department of commerce, in consultation with the
department of revenue, shall promulgate rules to administer this section. The rules
shall further define “bona fide angel investment” for purposes of s. 71.07 (5d) (a) 1.
The rules shall limit the aggregate amount of tax credits under s. 71.07 (5d) that may
be claimed for investments in businesses certified under sub. (1) at $3,000,000 per
calendar year for calendar years beginning after December 31, 2004, and $5,500,000
per calendar year for calendar years beginning after December 31, 2007. The rules
shall also limit the aggregate amount of the tax credits under ss. 71.07 (5b), 71.28
(5b), and 71.47 (5b), and 76.637 that may be claimed for investments paid to fund
managers certified under sub. (2) at $3,500,000 per calendar year for calendar years
beginning after December 31, 2004, and $6,000,000 per calendar year for calendar
years beginning after December 31, 2007. The rules shall also provide that, for
calendar years beginning after December 31, 2007, no person may receive a credit
under ss. s. 71.07 (5b) and (5d), 71.28 (5b), or 71.47 (5b), or 76.637 unless the person’s
investment is kept in a certified business, or with a certified fund manager, for no less
than 3 years.
SECTION 10. 560.275 (2m) of the statutes is created to read:

560.275 (2m) ALLOCATION FROM WISCONSIN DEVELOPMENT FUND. Beginning on July 1, 2009, in each fiscal biennium, the department shall allocate $5,000,000 from the appropriation under s. 20.143 (1) (c) to grants and loans under this section.


(1) BUDGET INFORMATION; TECHNOLOGY COMMERCIALIZATION FUNDING. Notwithstanding section 16.42 (1) (e) of the statutes, in submitting information under section 16.42 of the statutes for purposes of the 2009−11 biennial budget bill, the department of commerce shall submit a dollar amount for the appropriation under section 20.143 (1) (c) of the statutes as though the amount appropriated to the department of commerce in fiscal year 2007−08 under section 20.143 (1) (c) of the statutes were $8,098,400 and in fiscal year 2008−09 under section 20.143 (1) (c) of the statutes were $8,598,000.

(END)