# WISCONSIN LEGISLATIVE COUNCIL
# AMENDMENT MEMO

| September 2011 Special Session Assembly Bill 21 | Assembly Amendment 1 |
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| ***Memo published*: October 27, 2011** | ***Contact*: Scott Grosz, Senior Staff Attorney (266-1307)** |

**September 2011 Special Session Assembly Bill 21** ("the bill") creates the Wisconsin Next Generation Reserve Board (board) as an independent agency in the executive branch. The board has nine voting members, eight of whom are appointed by the Governor for four-year terms, and three nonvoting members. The board's primary function is to make grants and loans to, and investments in, Wisconsin bioscience companies. The board is directed to hire an executive director with expertise in private equity investment. The board may contract with the State of Wisconsin Investment Board (SWIB) for advice and services related to the board's grants, loans, and investments. SWIB may make a loan to the board for its initial operations and administrative expenses.

The bill also creates a nonlapsible fund called the Wisconsin Next Generation Reserve Fund (fund). For short-term management, the fund is included in the State Investment Fund managed by SWIB. The fund consists primarily of moneys generated from tax revenue collected from a specific class of companies ("qualifying companies") which are identified in the bill by specified principal business activity codes under the North American Industry Classification System (NAICS).

From the fund, the board may make grants and loans to, and investments in, bioscience companies certified by the board. To be certified, a company must meet several conditions specified in the bill, as well as any further conditions established by the board.

The bill directs the Department of Revenue (DOR) to determine, in July 2012, the total amount of withholding taxes due and payable from qualifying companies for the period July 1, 2011-June 30, 2012. Then, in each fiscal year, starting on July 1, 2012, DOR must deposit in the fund an amount equal to 95% of the withholding taxes due and payable from qualifying companies that exceeds the total amount determined by DOR. DOR may not make any deposits into the fund on or after December 31, 2026. In addition, DOR may not deposit more than $50 million into the fund in any fiscal year and may not deposit more than $500 million in total into the fund.

One East Main Street, Suite 401 • P.O. Box 2536 • Madison, WI 53701-2536
(608) 266-1304 • Fax: (608) 266-3830 • Email: leg.council@legis.state.wi.us
http://www.legis.state.wi.us/lc

The bill specifies a number of conditions a company must meet in order to receive certification by the board, in addition to any further conditions established by the board. Before providing any moneys from the fund to a certified bioscience company, the board must enter into a contract with the company that includes various requirements, including that the company must match the amount of any grant, loan, or investment from the fund with moneys the company has raised from other sources.

The bill creates an appropriation (s. 20.195 (1) (q), Stats., general program operations and loans, grants, and investments), which provides, from the fund, a sum sufficient for loans and grants to and investments in certified bioscience companies and general program operations and administrative expenses. The bill sets the following percentage limits on the amounts that may be expended for general program operations and administrative expenses:

- In fiscal year 2012-13: 5% of the moneys in the fund.
- In fiscal year 2013-14: 5% of the moneys in the fund.
- In fiscal year 2014-15: 2% of the moneys in the fund.
- In fiscal year 2015-16 and in each fiscal year thereafter: 0.5 % of the moneys in the fund.

**Assembly Amendment 1** makes the following changes to the bill:

- Sets the percentage limits on general program operations and administrative expenses beginning with fiscal year 2013-14, rather than 2012-13, as follows:
  - In fiscal year 2013-14: 5% of the moneys in the fund.
  - In fiscal year 2014-15: 5% of the moneys in the fund.
  - In fiscal year 2015-16: 2% of the moneys in the fund.
  - In fiscal year 2016-17 and thereafter: 0.5% of the moneys in the fund.
- Creates a second appropriation (s. 20.195 (1) (r), Stats., additional operational or administrative expenses), which provides, from the fund, a sum sufficient equal to any amount authorized under s. 555.06, Stats., for general program operations and administrative expenses.
- Creates s. 555.06, Stats., which provides that if the board determines that the amounts provided for general program operations and administrative expenses for a fiscal year do not cover the board's actual general program operations and administrative expenses, the board may notify the Joint Committee on Finance (JCF) in writing that the board proposes to exceed that amount for those purposes. The notice must state the specific amount of additional moneys from the fund that the board proposes to use and the reasons supporting its determination that the expenditure of that additional amount is necessary for those purposes. Under passive review, the board may expend the additional moneys unless the JCF schedules a meeting within 14 working days to review the board's proposal.

- Requires DOR to make the determination in July 2012 of total withholding taxes due and payable from qualifying companies *for calendar year 2011*, rather than for the period July 1, 2011-June 30, 2012, and changes the date on which DOR must first deposit the 95% amount into the fund from July 1, 2012 to July 1, 2013. Going forward, DOR's determination on July 1 of each year of total withholding taxes due is to be based on *the previous calendar year*.

- Requires the board to submit an annual report to the Legislature that includes all of the following:

  - An accounting of the revenue received in the fund.

  - An accounting of all expenditure from the fund by the board for any purpose.

  - For each certified bioscience company that received a grant, loan, or investment from the board in the previous fiscal year, all of the following:

    - The name and address of the company.

    - A description of the nature of the business conducted by the company.

    - The amount of the grant, loan, or investment.

    - A description of the purposes for which the company used or is using the grant, loan, or investment.

  - An accounting of the internal rate of return realized by the board on its loans to and investments in certified bioscience companies.

***Legislative History***

September 2011 Special Session Assembly Bill 21 was introduced by the Committee on Assembly Organization, by request of Governor Scott Walker, Representatives Marklein, Molepske, Kooyenga, and Senator Wanggaard on October 18, 2011. On October 24, 2011, Representative Marklein offered Assembly Amendment 1. On October 24, 2011, the Assembly Committee on Financial Institutions recommended adoption of Assembly Amendment 1 by a vote of Ayes, 11; Noes, 0, and recommended passage of the bill, as amended, by a vote of Ayes, 9; Noes, 2.

SG:ksm