WISCONSIN LEGISLATIVE COUNCIL
ACT MEMO

2003 Wisconsin Act 255 [2003 Senate Bill 261]	Venture Capital Tax Credits
2003 Acts: www.legis.state.wi.us/2003/data/acts/	**Act Memos:** www.legis.state.wi.us/lc/act_memo/act_memo.htm

2003 Wisconsin Act 255 contains the following major provisions:

Tax Credits

The following two types of investment credits are created in the Act: the early stage seed investment credit and the angel investment credit. The ***early stage seed investment credit*** is provided under the individual and corporate income and franchise taxes. The credit is equal to 25% of the claimant's initial investment paid in the taxable year to a fund manager that the manager invests in a business certified as an early stage seed investment by the Department of Commerce (DOC). The maximum amount of credits that may be claimed for all taxable years combined is $35 million. The credit would begin for taxable years beginning after January 1, 2005.

Partnerships, limited liability companies (LLC), and tax option corporations could not claim the credits, but eligibility for, and the amount of, the credit would be based on each entity's equity investment that is attributable to its business operations. A partnership, LLC, or tax option corporation would be required to compute the amount of the credit each of its partners, members, or shareholders could claim and provide that information to them. Partners, members of LLCs, and shareholders of tax option corporations would claim the credit in proportion to their ownership interest.

The second type of tax credit is the ***angel investment credit***. An angel investment is defined as a purchase of an equity interest or any other expenditure, as determined by rule by the DOC, that is made by any of the following:

1. An individual who reviews new businesses or proposed new businesses for potential investment of the individual's money.

2. A network of individuals who satisfy this provision.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents.

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The angel investment credit is a credit under the individual income tax. A claimant may claim a credit against the income tax up to the amount of those taxes, in each taxable year for two years, beginning with the taxable year in which the claimant's individual investment is made, an amount equal to 12.5% of the claimant's bona fide angel investment made directly in an angel investment in the taxable year. The maximum amount of the credits that may be claimed for angel investments for all taxable years combined is $30 million. The maximum amount of a claimant's investment that may be used as the basis for this credit is $500,000 for each investment made directly in a business certified as an angel investment by the DOC. For nonresidents, if an equity investment is held by the claimant for less than one year, the claimant would be required to pay to the Department of Revenue (DOR), in a manner determined by the DOR, the amount of the credit received by the claimant that was related to the investment.

DOC Certification

The DOC is required to certify businesses for both early stage seed business investment program and the angel investment program. To be certified as an angel investment, a business must submit an application to the department in each taxable year for which the business desires certification. The business would have to satisfy all of the following conditions in order to be certified:

1. The business has headquarters in this state.

2. At least 51% of the employees of the business are employed in Wisconsin.

3. It is engaged in, or has committed to engage in, manufacturing, agriculture, or processing or assembling products and conducting research and development or developing a new product or business process.

4. It is not engaged in real estate development, insurance, banking, lending, lobbying, political consulting, professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants, wholesale or retail trade, leisure, hospitality, transportation, or construction.

5. It has less than 100 employees.

6. It has been in operation in Wisconsin for not more than seven consecutive years.

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

The DOC would also be required to certify investment fund managers for early stage seed investment tax credits. An investment fund manager desiring certification must submit an application to the DOC. 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 performance of investment funds managed by the applicant, the expected level of investment in the investment fund to be managed by the applicant, and any other relevant factors. The department may certify only investment fund managers that commit to consider placing investments in businesses certified by the DOC's angel investments.

The DOC is required, in consultation with the DOR, to promulgate the following administrative rules to administer the tax credits:

1. To further define a "bona fide angel investment."
2. To limit the aggregate amount of angel investment tax credits that may be claimed for investments in businesses certified as angel investments at $3 million per taxable year for taxable years beginning after December 31, 2004.
3. To limit the aggregate amount of tax credits for early stage seed investment credits that may be claimed for investments paid to fund managers at $3.5 million per taxable year for taxable years beginning after December 31, 2004.
4. To establish a method for ensuring that the limit on tax credits specified for early stage seed investment credits is not exceeded.

Technology Commercialization Grant and Loan Program

The Act creates a technology commercialization grant and loan program in the DOC. Under this program, the types of authorized grants and loans are as follows:

1. Early stage planning grants and loans. These loans would fund professional services relating to completing an application to be submitted to the federal government for the purpose for obtaining early stage research and development funding or funding professional services to accomplish specific tasks as a condition of receiving early stage financing from third parties that is necessary for business development.
2. Matching grants and loans. This funding would be available for applicants that have received or been notified that they will receive a grant from the federal government for funding professional services related to developing a proposed technologically innovative product, process, or service.
3. Bridge grants and loans. This program would provide grants or loans to fund professional services necessary to maintain a project research and management team and fund basic operations until any pending third party financing request or federal grant application is approved or denied.
4. Venture capital grants and loans. The venture capital grants and loans would assist in enhancing the applicant's ability to obtain early stage financing from third parties.
5. Entrepreneurial and technology transfer center grants. These grants would support entrepreneurial and a technology transfer center that does all of the following:

    a. Serves multiple regions of the state.

    b. Provides assistance, other than financial assistance, to entrepreneurs to facilitate business development.

    c. Reviews and analyzes entrepreneurial business plans and offers advice concerning the improvement of the plans.

    d. Provides advice to entrepreneurs concerning patent, trademark, and copyright issues.

    e. Provides appropriate referral services to entrepreneurs.

Each of these grant and loan programs has dollar limits on the grant amounts, as well as criteria that the applicant must meet.

As part of the grant and loan program, the DOC would be required to develop a biennial plan for awarding grants and loans. The DOC would also be required to promulgate rules to administer the technology commercialization grant and loan program which establish application, reporting, auditing, and monitoring requirements.

The Act provides $2.6 million GPR for the grant and loan program in fiscal year 2004-05. The Act provides that no grants or loans may be awarded before July 1, 2005. The total amount of grants and loans may not exceed $2.6 million in each fiscal year, beginning with fiscal year 2005-06. The DOC appropriation is increased $100,000 for fiscal year 2005-06 and $200,000 for fiscal year 2006-07 to increase the authorized full-time equivalent positions for the DOC by 2.0 GPR positions to administer the grant and loan program and to prepare educational publications and instruction to promote the program.

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