

North Dakota Angel Fund Investment Tax Credit Program: Comparison of Similar Programs in Selected Midwest States

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The attached chart provides a look at the main features of angel investment income tax credit programs in North Dakota and its neighboring Midwest states. Following is a summary of the main features and notable differences. Iowa, Minnesota, Montana, and Nebraska do not have an angel investment tax credit program.

Type of incentive

Similar to North Dakota, the incentive is in the form of a nonrefundable income tax credit. Kansas also allows the credit against the insurance premium tax.

Rate of credit

North Dakota's credit rate is 45%, as compared to 50% in Kansas and 25% in Wisconsin.

Qualified entity or business

Similar to North Dakota, to qualify for the tax credit, an investment must consist of a cash investment in an entity or business that is approved (or certified) by the state. In North Dakota and Wisconsin, certification is done by their respective departments of commerce. In Kansas, the certification is done by the Kansas Technology Enterprise Corporation, a state-owned corporation established to promote advanced technology economic development in Kansas.

State	Program Focus
North Dakota	Creation of angel fund to pool the funds of multiple angel investors
Kansas	Start-up or early-stage business engaged in development, implementation and commercialization of innovative technologies, products and services (<i>excludes businesses engaged in certain areas—for example, professional services, finance, real estate, among others</i>)
Wisconsin	Early-stage business with high growth potential that is engaged in conducting pre-commercialization activity for development of a proprietary product or service technology, especially one engaged in biotechnology, nanotechnology, health or information technology (<i>excludes businesses engaged in certain areas—for example, retail, real estate, professional services, transportation, financial services, among others</i>)

Unused credit carryover

All three states allow a carryover of an unused credit, which ranges from 4 years in North Dakota to an indefinite carryover time period in Kansas. Wisconsin allows a 15-year carryover.

Credit limit per taxpayer per year

The amount of credit allowed to an investor on all investments made in one year is limited to \$45,000 in North Dakota. In Kansas, the limit is \$50,000 in a single qualified business, up to \$250,000 for investments in all businesses in one year. There is no limit in Wisconsin; however, an investor may not invest more than \$500,000 in a single qualified business over the business's lifetime.

Program credit limits

The limit on the amount of total credits allowed for all years under the program varied from state to state.

State	Program Limit
North Dakota	No limit on program; however, a \$5 million limit applies to each angel fund over its lifetime
Kansas	\$6 million per calendar year through 2016, after which no credits are allowed
Wisconsin	\$5.5 million per calendar year for 2008-2010 and \$18.5 million per calendar year after 2010, with a limit of \$47.5 million for all years. Only the first \$4 million of investment in a single qualified business are eligible for the credit.

Transfer option

Kansas allows a credit to be transferred to another taxpayer by surrender of the credit certificate to the Kansas Technology Enterprise Corporation, along with required documentation identifying the parties. The Corporation, in turn, will issue a new certificate to the transferee. A credit may be transferred only one time.

Note: North Dakota does have a transferable credit. The research expense income tax credit is the only income tax credit that may be transferred, subject to documentation and reporting requirements. Prior to 2009, and subject to very limited conditions, North Dakota's wind energy income tax credit also was transferable for a very short time; the wind energy credit transfer feature was repealed in 2009.

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Program Description	North Dakota	Iowa	Kansas	Minnesota	Wisconsin	Montana / Nebraska
Name of credit	Angel Fund Investment Tax Credit	No angel fund investment tax credit program	Angel Investor Tax Credit	No angel fund investment tax credit program	Angel Investment Tax Credit	No angel fund investment tax credit program
Statute	N.D.C.C. § 57-38-01.26		Kan. Stat. Ann. §§ 74-8131 through 74-8137		Wis. Stat. §§ 71.07(5d) and 560.205	
Year created	2007		2004		2004	
Sunset date	None		Ineffective for investments made in tax years beginning on or after January 1, 2017.		None	
General description of tax credit	Nonrefundable income tax credit for an equity investment in a qualified angel fund.		Nonrefundable tax credit against income and insurance premium taxes for equity or debt investment in a qualified business.		Nonrefundable income tax credit for an equity investment in a qualified business.	
Qualified angel fund or qualified business criteria	<p>As certified by Dept. of Commerce, a qualified angel fund is one that:</p> <ul style="list-style-type: none"> Is a for-profit partnership, limited partnership, corporation, limited liability company, limited liability partnership, trust, or estate located in North Dakota; Is organized to invest in 3 or more early-stage and mid-stage private, nonpublicly-traded businesses with strong growth potential; Has 6 or more accredited investors (per SEC Reg. D, rule 501), of which no single one owns over 25% of the fund’s capitalized 		<p>As certified by the Kansas Technology Enterprise Corporation (KTEC), a qualified business is one that:</p> <ul style="list-style-type: none"> Has a reasonable chance of success and potential to create employment; Has a new proprietary technology, product or service; Is not engaged in professional services, banking or finance, real estate, insurance, construction, consulting, passive investing, or charitable or religious activities; Has owners who are committed to a financial and time commitment to 		<p>As certified by the Department of Commerce, a qualified business is one that:</p> <ul style="list-style-type: none"> Is headquartered in WI; Has over 50% percent of its employees in WI; Engages in either (1) innovation in manufacturing, biotechnology, nanotechnology, communications, agriculture, or clean energy creation or storage technology; or processing or assembling products; or services enabled by proprietary technology; or (2) pre-commercialization activity related to proprietary technology 	

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	assets; <ul style="list-style-type: none"> Has \$500,000 or more in commitments from its accredited investors, subject to call; Is managed by its accredited investors or a designated board that includes accredited investors; and, Does not invest in a business that is 50% or more owned by one of its accredited investors. 		the business; <ul style="list-style-type: none"> Issues qualified securities; Carries on its operations or production primarily in Kansas; Has operated less than 5 years if other than a bioscience business, or, if a bioscience business, has operated less than 10 years and has under \$5 million in annual revenue; and, Does not own publicly traded stock on or before a qualifying investment is made. 		that includes conducting research, developing a new product or process, or developing a service principally reliant on proprietary technology. <ul style="list-style-type: none"> Does not primarily engage in real estate development, insurance, banking, lending, lobbying, political consulting, professional services, wholesale or retail trade, leisure, hospitality, transportation, or construction except power plants that derive energy from a renewable resource; Has under 100 employees; Has not operated in WI for more than 10 consecutive years; Did not receive private equity cash investments over \$10,000,000 prior to certification; For tax years after 2007 and before 2011, has not received more than \$4 million in eligible investments; and, For tax years after 2010, has not received more than \$8 million in eligible investments. 	
Certificate-based program? Indicates if state issues credit in form of a redeemable certificate.	No		Yes		No; however, the investor must provide proof of investment to the	

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					Department of Commerce, which then issues to the investor a document verifying the credit amount.	
Eligible taxpayers	<ul style="list-style-type: none"> Individual Estate Trust C corporation <p>A taxpayer claiming the angel fund ITC is not eligible for a seed capital ITC received from an angel fund that invested in a qualified business.</p> <p>The credit determined at the angel fund level is passed through to the investor's in the angel fund.</p>		<ul style="list-style-type: none"> Individual who is an accredited investor for purposes of SEC Regulation D Partnership, S corporation, or LLC (treated like a partnership) that is owned by an individual who is an accredited investor <p>An individual is not eligible for the tax credit if the individual is an executive, officer, or employee of the qualified business, or is a vendor or independent contractor doing business with the qualified business.</p> <p>In the case of a passthrough entity, the credit is passed through to the owners based on their ownership interests, limited to individuals who are accredited investors.</p>		<ul style="list-style-type: none"> Individual who is an "accredited investor" Angel network—group of "accredited investor" individuals organized solely to invest in a single qualified business <p>An individual is an "accredited investor" if he or she:</p> <ul style="list-style-type: none"> Invests own monies in a qualified business; Does not own or control over 19% of qualified business; and, Meets any of the following at time of investment: <ul style="list-style-type: none"> Has a net worth over \$1 million; Had income over \$200,000 in each of the prior two years and expects to have the same income in the year of investment; Is a director, executive officer or general partner of either the qualified business or a general partner of the qualified business; or, Has knowledge and experience in financial matters and is capable of evaluating the risks of the investment. 	

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Amount of credit	45% of investment		50% of investment		25% of investment	
First tax year in which credit may be claimed	Tax year in which investment is made		Tax year in which investment is made		Tax year in which investment is made	
Maximum credit allowed to investor per year	\$45,000		\$50,000 for investment in a single qualified business, up to \$250,000 for investments in all qualified businesses.		None <i>Note: An investor may not invest more than \$500,000 in a single qualified business over its lifetime.</i>	
Carryback / carryover of unused credit	4-year carryover		Indefinite carryover period		15-year carryover	
Ceiling on total credits allowed under program	None		<ul style="list-style-type: none"> \$6 million per calendar year through 2016 Balance of unissued tax credits for a calendar year are carried over for issuance in future years (through 2016) 		<ul style="list-style-type: none"> Credits are limited to \$3 million per calendar year for 2005-2007; \$5.5 million per calendar year for 2008-2010; and, for tax years after 2010, \$18.5 million per calendar year, plus an additional \$250,000 of credits for investments in certified nanotechnology businesses. For all years, credits are limited to \$47.5 million Balance of unissued tax credits for a calendar year are carried for issuance in future years 	
Transfer option?	No		Yes, but only one time		No	
Transfer procedure	Not applicable		The credit certificate must be surrendered to KTEC along with documentation showing names, addresses,		Not applicable	

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			federal ID numbers of the investor and transferee. A new credit certificate will be issued to the transferee.			
Other significant provisions	A lifetime maximum of \$5 million in credits applies to each angel fund.		The reasonable costs of administration, the review of applications for certification as qualified businesses and the issuance of tax credit certificates are to be reimbursed through fees paid by the qualified businesses and the investors or the transferees of investors, according to a reasonable fee schedule adopted by KTEC.		Credits are limited to the first \$4 million of investments in a single qualified business over its lifetime.	