

# MAINE STATE LEGISLATURE

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1 read:

2 SUBCHAPTER IX

3 MAINE SEED CAPITAL TAX CREDIT PROGRAM

4 §1100-T. Tax credit certificates

5 1. Legislative findings; authorization. The  
6 Legislature finds that the growth of new small  
7 businesses in the State results in increased job  
8 opportunities for Maine residents, produces more  
9 spending in the State and increases municipal tax  
10 bases. Businesses which export their products or  
11 services out of the State bring capital into the State  
12 and help to develop export markets for Maine  
13 products. Small new businesses can provide  
14 significant economic benefits to the State provided  
15 that they can obtain sufficient seed equity financing  
16 to carry them from start-up through the initial  
17 development phases of a business. In order to  
18 encourage the increased availability of risk equity  
19 capital to these early-growth stage enterprises, the  
20 authority is authorized to issue certificates of  
21 eligibility for the seed capital investment tax credit  
22 permitted by Title 36, section 5216-B, subject to the  
23 requirements of this section. This program shall be  
24 known as the Maine Seed Capital Tax Credit Program.

25 2. Eligibility for tax credit certificate. The  
26 authority shall adopt rules in accordance with the  
27 Maine Administrative Procedure Act, Title 5, chapter  
28 375, to implement the program. Without limitation,  
29 the requirements for eligibility for a tax credit  
30 certificate includes the following.

31 A. A tax credit certificate may be issued in an  
32 amount not more than 30% of the amount of cash  
33 actually invested in a Maine business in any  
34 calendar year.

35 B. The Maine business must provide a product or  
36 service which is sold or rendered, or is projected  
37 to be sold or rendered, predominantly outside of  
38 the State, as determined by the authority.

1 Businesses which bring products into the State and  
2 then sell the same products outside the State are  
3 not eligible. Construction, transportation,  
4 financial services, insurance and real estate  
5 businesses are not eligible. Other service  
6 businesses are eligible provided that the  
7 customers are predominantly out of the State and  
8 the employment functions are carried out  
9 predominantly in the State.

10 C. Aggregate investment in the business for which  
11 a credit has been applied shall not be less than  
12 \$25,000 nor more than \$250,000 as of the date of  
13 issuance of the tax credit certificate.

14 D. The applicant for the tax credit certificate  
15 must be investing not less than \$10,000 nor more  
16 than an aggregate of \$50,000 in any one business.

17 E. The business receiving the investment must  
18 have annual revenues of \$200,000 or less and the  
19 operation of the business must be the full-time  
20 professional activity of the principal owner, as  
21 determined by the authority. The principal owner  
22 and the principal owner's spouse, parents,  
23 brothers, sisters and children may not be eligible  
24 for a credit for investment in that business.  
25 Businesses in which the principal owners are not  
26 one or more individuals shall not be eligible.

27 F. The investment must be expended on plant,  
28 equipment, research and development, or working  
29 capital for the business or such other business  
30 activity as may be approved by the authority.

31 G. The authority shall establish limits on  
32 repayment of the investment, requiring at a  
33 minimum that the investment remain in the business  
34 for at least 5 years with no current income to the  
35 investor during the 5-year period. The investment  
36 must be at risk in the business.

37 H. The investors qualifying for the credit must  
38 collectively own less than 1/2 of the business.

1           3. Priority.       The authority shall reserve  
2 \$500,000 in tax credit authorization for "natural  
3 resource enterprises," as defined in section 963-A,  
4 subsection 41, and shall reserve an additional  
5 \$500,000 in tax credit authorization for eligible  
6 investments in businesses located in job opportunity  
7 zones designated pursuant to Title 5, chapter 403, or  
8 in contiguous communities designated by the  
9 Commissioner of Economic and Community Development, as  
10 being entitled to zone benefits due to special  
11 circumstances.

12           4. Total of credits authorized. The authority is  
13 authorized to issue tax credit certificates in the  
14 aggregate credit amount of \$1,000,000 in the fiscal  
15 year ending June 30, 1989, \$500,000 in the fiscal year  
16 ending June 30, 1990 and \$500,000 in the fiscal year  
17 ending June 30, 1991, for a total aggregate of  
18 \$2,000,000 in tax credit certificates, provided that  
19 any authorized credit for which certificates have not  
20 been issued in the year authorized may be carried  
21 forward to subsequent years until an aggregate of  
22 \$2,000,000 in certificates has been issued.

23           5. Revocation of tax credit certificate. The  
24 authority may revoke a tax credit certificate if any  
25 representation to the authority in connection with the  
26 application for the certificate proves to have been  
27 false when made or if the applicant violates any  
28 conditions established by the authority and stated in  
29 the tax credit certificate. The revocation may be in  
30 full or in part as the authority may determine. The  
31 authority shall specify the amount of credit being  
32 revoked and shall send notice of the revocation to the  
33 investor and to the State Tax Assessor.

34           Sec. 3. 36 MRSA §5216-A, as enacted by PL 1985,  
35 c. 714, §44, is repealed.

36           Sec. 4. 36 MRSA §5216-B is enacted to read:

37           §5216-B. Seed capital investment tax credit

38           1. Definitions. As used in this section, unless  
39 the context indicates otherwise, the following terms

1 have the following meanings.

2 A. "Certificate" means a tax credit certificate  
3 issued by the Finance Authority of Maine pursuant  
4 to Title 10, chapter 110, subchapter IX.

5 B. "Investment" means an investment for which a  
6 certificate has been received.

7 C. "Investor" means a taxpayer who has received a  
8 certificate.

9 2. Credit. An investor shall be entitled to a  
10 credit against the tax otherwise due under this Part  
11 equal to 30% of the amount of the investment. In the  
12 case of partnerships and nontaxable trusts, the  
13 individual partners or beneficiaries shall be treated  
14 as the investors under this section and shall be  
15 allowed a credit against the tax otherwise due from  
16 them under this Part in proportion to their respective  
17 interests in those partnerships or trusts. Except as  
18 limited or authorized by subsection 3 or 4, 50% of the  
19 credit shall be taken in the taxable year the  
20 investment is made and 50% in the next taxable year.

21 3. Limitation. The amount of the credit allowed  
22 under this section for any one taxable year shall not  
23 exceed 50% of the tax imposed by this Part on the  
24 investor for the taxable year before application of  
25 the credit.

26 4. Carry forward. Credits not taken because of  
27 the limitation in subsection 3 shall be taken in the  
28 next taxable year in which the credit may be taken,  
29 provided that the limitation of subsection 3 shall  
30 also apply to the carry-forward years.

31 5. Recapture. In the event that the Finance  
32 Authority of Maine revokes a certificate, there shall  
33 be added to the tax imposed on the investor under this  
34 Part for the taxable year in which the revocation  
35 occurs an amount equal to the excess of the amount of  
36 credit revoked over the amount of credit not yet taken.

37

STATEMENT OF FACT

1 The purpose of this bill is to increase the  
2 availability of seed capital for small,  
3 export-oriented Maine businesses by providing a credit  
4 against the state income tax to individual investors  
5 in an amount up to 30% of their investment in an  
6 eligible Maine business. The program would result in  
7 \$6,666,666 of investment in Maine businesses,  
8 producing jobs, property and income tax revenues,  
9 promoting market development for Maine products and  
10 other economic benefits. The program would be  
11 administered by the Finance Authority of Maine, which  
12 would issue tax credit certificates to investors after  
13 verifying the investments and the eligibility of the  
14 investors and the businesses.

15 In order for an investment to be eligible for the  
16 tax credit, the investment must be made in a business  
17 with annual revenues of \$200,000 or less. The Finance  
18 Authority of Maine is authorized to adopt rules  
19 further defining eligibility for the credit. The  
20 intent is to target the credit to promote investment  
21 in companies which have not reached the stage of  
22 generating substantial revenues but which have the  
23 potential of developing out-of-state markets for Maine  
24 products and services, as well as providing jobs in  
25 the State for Maine residents and other benefits to  
26 the economy of the State. Certain types of service  
27 businesses, deemed to have lesser benefits to the  
28 State or less of a need for assistance, have been  
29 excluded. In the event that the recipient of a tax  
30 credit certificate violates any conditions imposed by  
31 the authority, the tax credit would be subject to  
32 revocation and recapture.

33 The bill repeals the legislation authorizing the  
34 Maine Natural Resource Capital Company, which, if  
35 capitalized, would have resulted in a \$500,000  
36 aggregate tax credit to investors. The seed capital  
37 tax credit program would incorporate the \$500,000 in  
38 tax credits authorized for the Maine Natural Resource  
39 Capital Company with an additional \$1,500,000 in tax  
40 credit authority, to be used substantially over a  
41 3-year period. Of the total authorized tax credit of  
42 \$2,000,000, \$500,000 would be reserved for natural

1 resource enterprises and an additional \$500,000 would  
2 be reserved for enterprises located in job opportunity  
3 zones.

4 This bill reduces tax revenues to the State by  
5 allowing investors to take credits totaling an  
6 aggregate of \$2,000,000 against their state income  
7 tax. Because the \$500,000 previously authorized for  
8 the Maine Natural Resource Capital Company is  
9 repealed, the net increase in credits authorized over  
10 existing legislation is \$1,500,000. No more than  
11 \$1,000,000 in tax credits could be taken during fiscal  
12 year 1989, with an additional \$500,000 authorized for  
13 fiscal years 1990 and 1991. Actual revenue reduction  
14 in fiscal year 1989, excluding the previously  
15 authorized credit for the Maine Natural Resource  
16 Capital Company, will not exceed \$250,000, increasing  
17 to \$500,000 in fiscal years 1990 and 1991, and  
18 \$250,000 in 1992. The \$2,000,000 in authorized tax  
19 credits will result in equity investments in excess of  
20 \$6,600,000 in Maine businesses.

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