

MAINE STATE LEGISLATURE

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DATE: 4/27/00 (Filing No. S-789)

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STATE OF MAINE
SENATE
119TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 905, L.D. 2357, Bill, "An Act to Amend the Maine Seed Capital Tax Credit Program"

Amend the amendment by striking out everything after the title and before the summary and inserting in its place the following:

'Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 10 MRSA §1100-T, sub-§2, ¶A, as enacted by PL 1987, c. 854, §§2 and 5, is amended to read:

A. A tax credit certificate may be issued in an amount not more than 30% of the amount of cash actually invested in a Maine business in any calendar year. For certificates issued prior to July 1, 2001 for investments made after July 1, 2000, the tax credit certificate may be issued in an amount not more than 40% of the amount of cash actually invested in a Maine business in any calendar year.

Sec. 2. 10 MRSA §1100-T, sub-§2-B is enacted to read:

2-B. Eligibility of private venture capital funds for tax credit certificate until July 1, 2001. Notwithstanding the provisions of subsection 2-A, the requirements for eligibility

SENATE AMENDMENT

for a tax credit certificate issued before July 1, 2001 for investment in a private venture capital fund made after the effective date of this subsection include the following.

A. A tax credit certificate may be issued to an individual or entity that invests in a private venture capital fund in an amount that:

(1) Is not more than 40% of the amount of cash actually invested in or unconditionally committed to a private venture capital fund in any calendar year by the individual or entity; and

(2) Does not exceed 40% of the amount of cash invested by the fund in eligible businesses, except that the authority may issue tax credit certificates in an amount not to exceed 20% of the amount of cash actually invested in or unconditionally committed to a private venture capital fund in any calendar year if the authority determines that the private venture capital fund is located in this State, is owned and controlled primarily by Maine residents and has designated investing in eligible Maine businesses as a major investment objective. The credit may be revoked to the extent that the private venture capital fund does not make investments eligible for the tax credit in an amount sufficient to qualify for the credits within 3 years after the date of the tax credit certificates. Notwithstanding any revocation pursuant to this subparagraph, each investor remains eligible for tax credit certificates for eligible investments as and when made by the private venture capital fund.

The aggregate amount of credits issued to investors in a fund may not exceed 40% of the amount of cash invested by the fund in eligible businesses.

B. As used in this subsection, unless the context otherwise indicates, an "eligible business" includes those businesses eligible for investment under subsection 2-A.

C. Aggregate investments eligible for tax credits may not be more than \$1,000,000 for any one business for any one private venture capital fund as of the date of issuance of a tax credit certificate.

D. The investment with respect to which any individual or entity is applying for a tax credit certificate may not be more than an aggregate of \$200,000 in any one eligible

2 business invested in by a private venture capital fund in
3 any 3 consecutive calendar years, except that this paragraph
4 does not limit other investment by any applicant for which
5 that applicant is not applying for a tax credit certificate
6 and except that, in the event the entity applying for a tax
7 credit certificate is a partnership, limited liability
8 company, S corporation, nontaxable trust or any other entity
9 that is treated as a flow-through entity for tax purposes
10 under the federal Internal Revenue Code, the aggregate limit
11 of \$200,000 applies to each individual partner, member,
12 stockholder, beneficiary or equity owner of the entity and
13 not to the entity itself.

14 E. Each business receiving an investment from a private
15 venture capital fund, which investment is used as the basis
16 for the issuance of a tax credit certificate, must have
17 annual gross sales of \$3,000,000 or less and the operation
18 of the business must be the full-time professional activity
19 of the principal owner, as determined by the authority. The
20 principal owner and principal owner's spouse are not
21 eligible for a credit for investment in that business or for
22 an investment by the private venture capital fund in that
23 business. A tax credit certificate may not be issued to a
24 parent, brother, sister or child of a principal owner of a
25 business if the parent, brother, sister or child has any
26 existing ownership interest in that business or for an
27 investment by the private venture capital fund in that
28 business.

30 F. Each investment received by a business from a private
31 venture capital fund, which investment is used as the basis
32 for the issuance of a tax credit certificate, must be
33 expended on plant maintenance and construction, equipment,
34 research and development or working capital for the business
35 or on such other business activity as may be approved by the
36 authority.

38 G. The authority shall establish limits on repayment of the
39 investment by an individual in, and the investments made by,
40 a private venture capital fund, which investment is used as
41 the basis for the issuance of a tax credit certificate. The
42 investments must be at risk in the private venture capital
43 fund and the business, respectively.

44 H. The investors in a private venture capital fund are not
45 entitled to the credit for collective ownership in excess of
46 50% of any business. An investor in a private venture
47 capital fund determined by the authority to be a principal
48 owner of a business and the principal owner's spouse are not
49 entitled to a credit with respect to investment in that
50 business.

business, nor are the principal owner's parents, siblings or children entitled to a credit if they have any existing ownership interest in the business.

This subsection is repealed on July 1, 2001.

Sec. 3. 10 MRSA §1100-T, sub-§4, as amended by PL 1997, c. 782, §4, is further amended to read:

4. Total of credits authorized. The authority may issue tax credit certificates to investors eligible pursuant to ~~subsection~~ subsections 2, 2-A and 2-B in an aggregate amount not to exceed \$2,000,000 up to and including calendar year 1996, \$3,000,000 up to and including calendar year 1997, and \$5,500,000 up to and including calendar year 1998, and ~~not--to--exceed \$7,000,000~~ \$8,000,000 thereafter. ~~In addition, the authority may issue tax credit certificates to investors eligible pursuant to subsection 2-A in an aggregate amount not to exceed \$1,000,000.~~

Sec. 4. 36 MRSA §5216-B, sub-§2, as enacted by PL 1987, c. 854, §§4 and 5, is amended to read:

2. Credit. An investor ~~shall be~~ is entitled to a credit against the tax otherwise due under this Part equal to ~~30% of~~ the amount of the investment tax credit certificate issued by the Finance Authority of Maine in accordance with Title 10, section 1100-T and as limited by this section. In the case of partnerships ~~and, limited liability companies, S corporations, nontaxable trusts, and any other entities that are treated as flow-through entities for tax purposes under the Code,~~ the individual partners ~~or, members, stockholders, beneficiaries shall or equity owners of such entities must~~ be treated as the investors under this section and ~~shall be~~ are allowed a credit against the tax otherwise due from them under this Part in proportion to their respective interests in those partnerships ~~or, limited liability companies, S corporations, trusts or other flow-through entities.~~ Except as limited or authorized by subsection 3 or 4, 50% of the credit ~~shall~~ must be taken in the taxable year the investment is made and 50% in the next taxable year.

Sec. 5. Application. This Act applies to tax credit certificates issued on or after the effective date of this Act for investments made on or after the effective date of this Act.

Sec. 6. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

2000-01

**ADMINISTRATIVE AND FINANCIAL
SERVICES, DEPARTMENT OF**

Reserve for Tax Credits

Unallocated \$150,000

Provides funds to be set aside in a reserve account within the Bureau of Revenue Services. The amounts may not lapse but must carry forward until June 30, 2003 when any remaining balance in the account must lapse to the General Fund. Prior to the close of each fiscal year, the State Tax Assessor in consultation with the Finance Authority of Maine shall determine the amount of the General Fund revenue lost as a result of this Act and notify the State Controller of the amount. The State Controller shall transfer that amount to the General Fund at the close of the fiscal year. The Finance Authority of Maine will provide a report to the joint standing committee of the Legislature having jurisdiction over business and economic development matters prior to September 1st of each year through 2003 that evaluates any increase in investment by individuals and private venture capital funds in eligible Maine businesses.'

FISCAL NOTE

This amendment reduces the General Fund cost of the bill by \$90,142 in fiscal year 2000-01, \$383,523 in fiscal year 2001-02 and \$412,070 in fiscal year 2002-03. As amended, this bill has a General Fund cost of \$150,000 in fiscal year 2000-01.

As amended, the changes to the Maine Seed Capital Tax Credit program will decrease individual income tax collections by \$50,479 in fiscal year 2000-01, \$56,047 in fiscal year 2001-02 and \$42,358 in fiscal year 2002-03. The reduction of these tax collections will decrease the amounts transferred to the Local Government Fund for state-municipal revenue sharing in those years by \$2,574, \$2,858 and \$2,160, respectively. The resulting net reductions of General Fund revenue will be \$47,905 in fiscal year 2000-01, \$53,189 in fiscal year 2001-02 and \$40,198 in fiscal year 2002-03. These reductions of General Fund revenue will be offset by transfers to the General Fund at the close of

the fiscal year resulting in no net effect on General Fund
resources. The transfers will be made each year from the reserve
account funded with a one-time General Fund appropriation of
\$150,000 in fiscal year 2000-01.

SUMMARY

This amendment expands the Maine Seed Capital Tax Credit
Program to encourage individuals and private venture capital
funds to invest in eligible Maine businesses for a limited
period. For investments made after the effective date of the
bill and prior to July 1, 2001, the amendment permits the Finance
Authority of Maine to issue tax credit certificates for up to
40%, instead of 30%, of an investment made in an eligible
business or made in or unconditionally committed to a private
venture capital fund provided the authority determines that the
fund has a focus on investing in Maine companies. The remainder
of the credit would be available to the investors once the
venture capital fund has made eligible investments. If the fund
fails to make sufficient eligible investments within 3 years, the
credit would be revoked.

The additional credit for investments is repealed on July 1,
2001.

The current law limit of \$1,000,000 on aggregate tax credits
that can be allocated to investments made by venture capital
funds is repealed. Investors in a fund collectively would not be
entitled to a credit for any portion of ownership of a business
in excess of 50%.

This amendment also provides an appropriation of \$150,000
for a reserve fund from which, annually, the State Controller
shall transfer to the General Fund the amount of General Fund
revenue lost as a result of this Act.

SPONSORED BY: Michael H. Michaud
(Senator MICHAUD)

COUNTY: Penobscot