

MAINE STATE LEGISLATURE

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P.S.

L.D. 2357

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**STATE OF MAINE
SENATE
119TH LEGISLATURE
SECOND REGULAR SESSION**

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

Amend the bill by inserting after section 2 the following:

Sec. 3. 10 MRSA §1100-T, sub-§2-A, ¶¶A, C, D, E and H, as amended by PL 1997, c. 774, §1, are further amended to read:

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

(1) Is not more than 30% 50% 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 30% 50% 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 25% 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 has designated investing in eligible 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 under

COMMITTEE AMENDMENT

2 this subparagraph, each investor remains eligible for
3 tax credit certificates for eligible investments as and
4 when made by the private venture capital fund.

5 The aggregate amount of credits issued to investors in a
6 fund may not exceed 30% 50% of the amount of cash invested
7 by the fund in eligible businesses.

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

12 D. The investment with respect to which any individual or
13 entity is applying for a tax credit certificate may not be
14 more than an aggregate of ~~\$200,000~~ \$500,000 in any one
15 eligible business invested in by a private venture capital
16 fund in any 3 consecutive calendar years, except that this
17 paragraph does not limit other investment by any applicant
18 for which that applicant is not applying for a tax credit
19 certificate and except that, in the event the entity
20 applying for a tax credit certificate is a partnership,
21 limited liability company, S corporation, nontaxable trust
22 or any other entity that is treated as a flow-through entity
23 for tax purposes under the federal Internal Revenue Code,
24 the aggregate limit of \$500,000 applies to each individual
25 partner, member, stockholder, beneficiary or equity owner of
26 the entity and not to the entity itself.

27 E. Each business receiving an investment from a private
28 venture capital fund, which investment is used as the basis
29 for the issuance of a tax credit certificate, must have
30 annual gross sales of ~~\$2,000,000~~ \$3,000,000 or less and the
31 operation of the business must be the full-time professional
32 activity of the principal owner, as determined by the
33 authority. The principal owner and principal owner's spouse
34 are not eligible for a credit for investment in that
35 business or for an investment by the private venture capital
36 fund in that business. A tax credit certificate may not be
37 issued to a parent, brother, sister or child of a principal
38 owner of a business if the parent, brother, sister or child
39 has any existing ownership interest in that business or in
40 for an investment by the private venture capital fund in
41 that business.

42 H. ~~The investors qualifying for the credit must~~
43 ~~collectively own less than 1/2 of the private venture~~
44 ~~capital fund and less than 1/2 of any business in which an~~
45 ~~investment is made by the private venture capital fund,~~
46 ~~which investment is used as the basis for the issuance of a~~
47 ~~tax credit in a private venture capital fund are not~~
48 ~~entitled to the credit for collective ownership in excess of~~
49 ~~50% of any business. An investor in a private venture~~
50 capital fund are not
51 entitled to the credit for collective ownership in excess of
52 50% of any business. An investor in a private venture

2 capital fund determined by the authority to be a principal
3 owner of a business, and the principal owner's spouse, are
4 not entitled to a credit with respect to investment in that
5 business, nor are the principal owner's parents, siblings or
6 children entitled to a credit if they have any existing
7 ownership interest in the business.

8 **Sec. 4. 10 MRSA §1100-T, sub-§4**, as amended by PL 1997, c.
9 782, §4, is further amended to read:

10 **4. Total of credits authorized.** The authority may issue
11 tax credit certificates to investors eligible pursuant to
12 ~~subsection~~ subsections 2 and 2-A in an aggregate amount not to
13 exceed \$2,000,000 up to and including calendar year 1996,
14 \$3,000,000 up to and including calendar year 1997, and \$5,500,000
15 up to and including calendar year 1998, ~~and not to exceed~~
16 ~~\$7,000,000~~ \$8,000,000 up to and including calendar year 2000,
17 \$9,000,000 up to and including calendar year 2001, \$10,000,000 up
18 to and including calendar year 2002, \$11,000,000 up to and
19 including calendar year 2003 and \$12,000,000 thereafter. In
20 ~~addition, the authority may issue tax credit certificates to~~
21 ~~investors eligible pursuant to subsection 2-A in an aggregate~~
22 ~~amount not to exceed \$1,000,000.~~

23 **Sec. 5. 36 MRSA §5216-B, sub-§2**, as enacted by PL 1987, c.
24 854, §§4 and 5, is amended to read:

25 **2. Credit.** An investor ~~shall be~~ is entitled to a credit
26 against the tax otherwise due under this Part equal to 30% ~~of~~ the
27 amount of the investment tax credit certificate issued by the
28 Finance Authority of Maine in accordance with Title 10, section
29 1100-T and as limited by this section. In the case of
30 partnerships and, limited liability companies, S corporations,
31 nontaxable trusts, and any other entities that are treated as
32 flow-through entities for tax purposes under the Code, the
33 individual partners ~~or~~ members, stockholders, beneficiaries
34 shall or equity owners of such entities must be treated as the
35 investors under this section and ~~shall be~~ are allowed a credit
36 against the tax otherwise due from them under this Part in
37 proportion to their respective interests in those partnerships ~~or~~
38 limited liability companies, S corporations, trusts or other
39 flow-through entities. Except as limited or authorized by
40 subsection 3 or 4, 50% of the credit shall must be taken in the
41 taxable year the investment is made and 50% in the next taxable
42 year.

43 **Sec. 6. Application.** This Act applies to tax credit
44 certificates issued on or after the effective date of this Act.'

Further amend the bill by inserting at the end before the summary the following:

FISCAL NOTE

2000-01

REVENUES

General Fund	(\$240,142)
Other Funds	(12,905)

The expansion of the Maine Seed Capital Tax Credit Program will decrease individual income tax collections by \$253,047 in fiscal year 2000-01, \$404,134 in fiscal year 2001-02 and \$434,215 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 \$12,905, \$20,611 and \$22,145, respectively. The resulting net reductions of General Fund revenue will be \$240,142 in fiscal year 2000-01, \$383,523 in fiscal year 2001-02 and \$412,070 in fiscal year 2002-03.

The additional costs associated with administering the changes to the Maine Seed Capital Tax Credit Program can be absorbed by the Finance Authority of Maine utilizing existing budgeted resources.'

SUMMARY

This amendment makes changes to the Maine Seed Capital Tax Credit Program to encourage private venture capital funds to invest in eligible Maine businesses. Investors could receive a tax credit for investments in a Maine-focused venture capital fund, provided the fund invested in companies that meet the statutory criteria for eligibility for the credit.

The amendment permits the Finance Authority of Maine to issue tax credit certificates for up to 1/2 of an investment 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 current law limit of \$1,000,000 on aggregate tax credits that can be allocated to investments made by venture capital

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2 funds is repealed. Other provisions relating to investment by
3 funds are amended to conform to provisions pertaining to
4 investment by individuals. Investors in a fund collectively
5 would not be entitled to a credit for any portion of ownership of
6 a business in excess of 50%.

7 The amendment increases the overall amount of tax credit
8 authorized by \$1,000,000 in each year of 2001, 2002, 2003 and
9 2004, for a total authorized amount of \$12,000,000.

10 The amendment also adds a fiscal note to the bill.