Proposed Parameters for OPEGA's Full Evaluation of the
Maine Seed Capital Tax Credit Program
Presented to the Government Oversight Committee on January 10, 2020

Enacted	Statute(s)	Type	Category	Est. Revenue Loss
1987	36 MRSA §5216-B 10 MRSA §1100-T	Income Tax Credit	Business Incentive Financial Investment	FY20 $4,250,000 FY21 $4,500,000

Source for Estimated Revenue Loss: Maine State Tax Expenditure Report 2020 – 2021.

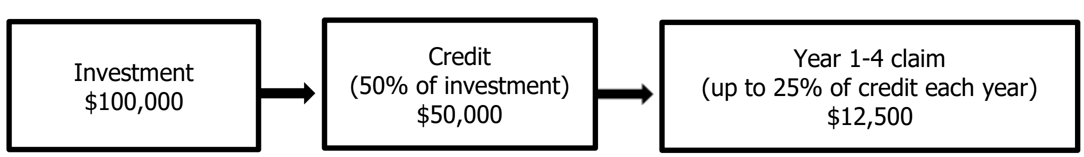
Program Description

The program description is derived from a combination of statute, FAME rules and OPEGA's understanding of the program.

The Maine Seed Capital Tax Credit Program ('Seed credit') provides an income tax credit to investors who provide investment to an eligible business in Maine. Up to 50% of the amount invested may be provided as a credit.[1] Eligible investors can be taxpayers or private venture capital funds. Investors cannot own more than 50% of the business. Principal owners of the business, their spouse, or specified family members with an existing ownership interest in the business are not eligible for the Seed credit. "Principal owners" means a person who controls the business, whether through ownership or direct involvement in the day-to-day management of the business.

Eligible investors may apply to the Finance Authority of Maine (FAME) for a tax credit certificate for a defined investment. Starting with the year of investment, the investor may claim up to 25% of the credit over each of the first four years. For private venture capital fund investors, the tax credit is received in the form of a refund. For other investors, it is received as a credit against the income tax due in a year. This credit cannot exceed 50% of income tax due in a year - if this limitation prevents the credit from being taken over four years, the credit may be carried forward for up to 15 years.

Figure 1 - example



Investors are not limited in the total amount of tax credit certificates they may be granted; however, a qualified investment in a single business is limited to $500,000 per investor over a consecutive three-

[1] Historically, the credit has varied - it has been 50% since January, 2014.

year period. For a private venture capital fund, the investment limit is $500,000 times the number of investors in the fund, not to exceed $4,000,000 per business in a consecutive three-year period. The program applies a $5,000,000 lifetime limit on Seed credit eligible investment in any one business.

An eligible business must:

- be located in Maine;
- have annual gross sales of $5,000,000 or less;
- be the full-time professional activity of at least one of the principal owners;
- be a manufacturer, value-added natural resource enterprise, provide a product or service that is (or projected to be) sold or rendered outside of the State, be engaged in development or application of advanced technologies, or is certified as a visual media production company; and
- certify that the amount of the investment is necessary to allow the business to create or retain jobs in the State.

Seed investments must be used on plant, equipment, research and development, or working capital for the business. The investment must be at risk for five years, meaning that the investment must remain in the business and may be lost if the business is unsuccessful. Tax credit certificates can be revoked in certain circumstances, including if application information provided to FAME is false, if the applicant violates any conditions for the credit, or (in the case of private venture capital funds only) if the eligible business moves its operations and assets outside of the State within four years after an investment.

Both FAME and Maine Revenue Services (MRS) have roles in administering this program. FAME determines eligibility for the program and MRS processes claims for the credit via income tax filings. Since 2016, pursuant to statute there has been an annual cap on the total available tax credit certificates of $5,000,000 each calendar year.[2]

Evaluation Parameters Subject to Committee Approval

In developing the proposed purpose, beneficiaries and performance measures of the program, OPEGA looked to LD 1200 ('An Act to Amend the Maine Seed Capital Tax Credit Program'), as amended by Committee Amendment A. This was introduced in the First Regular Session of the 129th Legislature and in June 2019, this bill (as amended) was carried over on the Special Appropriations Table.[3] In the absence of the bill, OPEGA would have gleaned the purpose and beneficiaries from the legislative findings sections of statute. However, given the bill's existence and progress, OPEGA considered it the most current and clear statement of legislative intent. OPEGA puts this forth as a starting point in worksheet form for the GOC to consider.

[2] Through 2013, the program had a cumulative cap that was periodically increased in statute. Annual caps started in 2014, with the $5,000,000 annual cap being in place from 2016.

[3] LD 1200 was reported out unanimously as "Ought To Pass as Amended" by the Taxation Committee, passed to be enacted by a 2/3 majority in the House (as an emergency measure), and placed on the Special Appropriations Table pending passage to be enacted by the Senate.

Maine Seed Capital Tax Credit Program – Proposed Evaluation Parameters	
OPEGA recommendation	**GOC discussion/decision**
Purpose Source: LD 1200, as amended by Committee Amendment A (Section 10)	
(1) To increase job opportunities for residents of the State in businesses that export products or services from the State; (2) To increase private investment in small new and existing businesses, especially those that experience significant difficulty in the absence of investment incentives in obtaining equity financing to carry the businesses from start-up through initial development; and (3) To increase municipal tax bases.	
Beneficiaries Source: Derived from the purpose	
(1) Small new and existing businesses, especially those that experience significant difficulty in the absence of investment incentives in obtaining equity financing to carry the businesses from start-up through initial development; and (2) Jobseekers in the State.	
Evaluation objectives Source: 3 MRSA §999(1)(A)(3) Each objective will be addressed to the degree possible based on its relevance, the level of resources required and the availability of necessary data.	
(a) The fiscal impact of the tax expenditure, including past and estimated future impacts; (b) The extent to which the design of the tax expenditure is effective in accomplishing the tax expenditure's purposes, intent or goals and consistent with best practices; (c) The extent to which the tax expenditure is achieving its purposes, intent or goals, taking into consideration the economic context, market conditions and indirect benefits;	

(d) The extent to which those actually benefiting from the tax expenditure are the intended beneficiaries; (e) The extent to which it is likely that the desired behavior might have occurred without the tax expenditure, taking into consideration similar tax expenditures offered by other states; (f) The extent to which the State's administration of the tax expenditure, including enforcement efforts, is efficient and effective; (g) The extent to which there are other state or federal tax expenditures, direct expenditures or other programs that have similar purposes, intent or goals as the tax expenditure, and the extent to which such similar initiatives are coordinated, complementary or duplicative; (h) The extent to which the tax expenditure is a cost-effective use of resources compared to other options for using the same resources or addressing the same purposes, intent or goals; and (i) Any opportunities to improve the effectiveness of the tax expenditure in meeting its purposes, intent or goal.	
Performance measures Source: LD 1200, as amended by Committee Amendment A (Section 10)	
(1) The number and geographic distribution of full-time employees added or retained during a period being reviewed who would not have been added or retained in the absence of the credit; (2) The amount of qualified investment in eligible businesses during the period being reviewed; (3) The change in the number of businesses created or retained in the State as a result of the credit; (4) Measures of fiscal impact and overall economic impact to the State; and (5) The amount of the tax revenue loss for each year being reviewed divided by the number of jobs created or retained.	