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OFFICE OF PROGRAM EVALUATION AND
GOVERNMENT ACCOUNTABILITY

DATE: January 24, 2020

TO: Government Oversight Committee

FROM: Danielle D. Fox, Director Dani

RE: GOC Approval of Maine Seed Capital Tax Credit Program Evaluation Parameters

Worksheet for Committee Discussion

Enclosed is a worksheet for Committee members to consider for the purpose of approving/determining evaluation parameters for OPEGA's full evaluation of the Maine Seed Capital Tax Credit Program. Pursuant to 3 MRSA §999 (1)(A), the GOC is required to consider OPEGA's proposal and approve the following for every tax expenditure evaluation:

- The purposes, intents, or goals of the program;
- The program's intended beneficiaries;
- The evaluation objectives; and
- Performance measures appropriate for analyzing the evaluation objectives.

The worksheet is similar to the one presented to the Committee at the January 10, 2020 meeting but now includes reference to comments received from stakeholders and OPEGA's comment regarding proposed changes. The worksheet also includes comments raised by Committee members suggesting items for OPEGA to consider when conducting the evaluation.

Committee Process for Approval

Since the parameters approved by the GOC govern OPEGA's work on the evaluation, it is important that intent of the Committee is stated clearly and supported by an affirmative vote.

If the Committee wishes to approve the parameters as proposed by OPEGA without change, this can be done with one motion/vote. If the Committee would like to make amendments to the proposed parameters, the motion(s) should reference the specific section (purpose, beneficiaries, evaluation objectives, performance measures) and the paragraph to be added, changed, deleted. Similarly, it would be helpful to OPEGA if the GOC votes on items which Committee members have requested or suggested OPEGA consider when conducting the evaluation. The worksheet before you include suggestions made by 2 members at the January 10, 2020 meeting.

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Maine Seed Capital Tax Credit Program – Proposed Evaluation Parameters Prepared by OPEGA for GOC meeting January 24, 2020	
OPEGA proposal (submitted pursuant to 3 MRSA §999(1)(A))	**Comment for GOC consideration/discussion**
Purpose Source: LD 1200, as amended by Committee Amendment A (Section 10) *In developing evaluation parameters to perform the review, the office shall consider:* *A. That the specific public policy objectives of the credit provided under this section are:*	
(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.	FAME testimony includes proposed changes to the specific public policy changes as expressed in LD 1200. (Also see Agnew Testimony) The proposed amendment would impact OPEGA's work as the purpose of the credit serves as the basis of the evaluation which informs how we apply each evaluation objective and performance measure. The GOC may want to consider whether some of those proposed changes broaden (see 1) and/or narrow (see 2) the public policy objective as stated in LD 1200. Additionally, the committee may want to consider whether the underlying ideas expressed in the proposed changes could be addressed in the performance measures section. (See FAME proposal 4) (The addition of the term "phases" proposed by FAME would not have an impact on OPEGA's work.)
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.	FAME testimony proposed an additional beneficiary of the program. The GOC may want to consider whether this addition (municipalities and taxpayers) might be addressed under performance measure (4). (Agnew testimony supports OPEGA recommendation w/FAME change)
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.	FAME testimony suggests a non-substantive change to (i)
Performance measures Source: LD 1200, as amended by Committee Amendment A (Section 10) *In developing evaluation parameters to perform the review, the office shall consider:* *B. Performance measures, including, but not limited to:*	
(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;	FAME testimony proposes changes to (1) and (5) – these changes would specify OPEGA look at direct and indirect jobs created. This is something OPEGA would consider under the performance measures as written. FAME testimony proposes the addition of a new performance measure – the program's net impact on revenue, inclusive of costs and economic benefits generated. The elements of this proposed performance measure are things that OPEGA would consider under performance measure (4) as written – with the possible exception of municipal property taxes.

(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.	FAME testimony proposes another performance measure – the amount of total investments made in eligible businesses leveraged by the tax credit eligible investment. (OPEGA takes this to mean public and private funding sources). This new measure meets the standard set in statute for being clear and relevant to the program and may be helpful in analyzing the evaluation objectives.

Committee member comments/suggested considerations from 1/10/20 meeting:
(Sen. Libby) Are businesses benefiting from the investment (eligible for credit under Seed), also benefiting from other State tax credits? If yes, what is the extent of the overlap? Is there potential/actual overlap between business beneficiaries and investors receiving the credit (whether by means of co-owners and/or pass throughs)? **(Sen. Keim)** If a business is using multiple state programs, what does that mean for the state's exposure to risk? What is the value that the State receives in exchange for the total it has invested?

§999. Full evaluation of tax expenditures

1. Evaluation process. Beginning January 1, 2016, the office shall evaluate each tax expenditure identified under section 998, subsection 1, paragraph A in accordance with the schedule established in section 998, subsection 2.

A. Prior to the beginning of each evaluation, the committee, after consideration of recommendations from the office, shall approve the following for each tax expenditure subject to full evaluation:

(1) The purposes, intent or goals of the tax expenditure, as informed by original legislative intent as well as subsequent legislative and policy developments and changes in the state economy and fiscal condition;

(2) The intended beneficiaries of the tax expenditure;

(3) The evaluation objectives, which may include an assessment of:

(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 goals; and

(4) The performance measures appropriate for analyzing the evaluation objectives. Performance measures must be clear and relevant to the specific tax expenditure and the approved evaluation objectives. [

B. Before final approval pursuant to paragraph A, the committee shall seek and consider input from the policy committee and stakeholders and may seek input from experts.

2. Action by office; report. The office shall submit a report on the results of each evaluation to the committee and the policy committee. The office shall seek stakeholder input as part of the report. For each tax expenditure evaluated, the report must include conclusions regarding the extent to which the tax expenditure is meeting its purposes, intent or goals and may include recommendations for continuation or repeal of the tax expenditure or modification of the tax expenditure to improve its performance.

3. Action by committee. The committee shall review the report submitted by the office under subsection 2, assess the report's objectivity and credibility and vote whether to endorse the report. The committee shall submit a record of the vote on any reports submitted by the office and any comments of or actions recommended by the committee to the policy committee for its review and consideration.

4. Action by policy committee. The policy committee shall review the results of the tax expenditure evaluations and of the committee's review based on materials submitted under subsections 2 and 3. The policy committee shall submit to the Legislature by the later of 90 days after receipt of materials submitted under subsections 2 and 3 and the adjournment sine die of the regular session during which the materials were received, if applicable, a report documenting its activities under this chapter and any recommendations resulting from its review of the materials submitted under subsections 2 and 3. The policy committee may submit a bill to the Legislature to implement the policy committee's recommendations.