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Legislative Document

No. 1200

S.P. 375

In Senate, March 12, 2019

An Act To Amend the Maine Seed Capital Tax Credit Program

(EMERGENCY)

Submitted by the Finance Authority of Maine pursuant to Joint Rule 204.
Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator POULIOT of Kennebec.
Cosponsored by Speaker GIDEON of Freeport and
Senators: President JACKSON of Aroostook, SANBORN, H. of Cumberland, Representatives:
BICKFORD of Auburn, STEWART of Presque Isle.

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** the Maine Seed Capital Tax Credit Program promotes the growth of new
4 and existing small businesses in the State, which results in increased job opportunities for
5 Maine residents, produces more spending in the State and increases municipal tax bases;
6 and

7 **Whereas,** the total amount of tax credits available to investors is limited on a
8 calendar year basis; and

9 **Whereas,** for calendar year 2019, the limit has already been reached; and

10 **Whereas,** without an immediate increase in the limit on available tax credits,
11 investment in Maine businesses could suffer; and

12 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
13 the meaning of the Constitution of Maine and require the following legislation as
14 immediately necessary for the preservation of the public peace, health and safety; now,
15 therefore,

16 **Be it enacted by the People of the State of Maine as follows:**

17 **Sec. 1. 10 MRSA §1100-T, sub-§2, ¶¶A and B,** as amended by PL 2013, c.
18 438, §3, are further amended to read:

19 A. For investments made in tax years beginning before January 1, 2012, a tax credit
20 certificate may be issued in an amount not more than 40% of the amount of cash
21 actually invested in an eligible Maine business in any calendar year or in an amount
22 not more than 60% of the amount of cash actually invested in any one calendar year
23 in an eligible Maine business located in a high-unemployment area, as determined by
24 rule by the authority. For investments made in tax years beginning on or after
25 January 1, 2012, a tax credit certificate may be issued to an investor other than a
26 private venture capital fund in an amount not more than 60% of the amount of cash
27 actually invested in an eligible Maine business in any calendar year. For investments
28 made in tax years beginning on or after January 1, 2014, a tax credit certificate may
29 be issued to an investor other than a private venture capital fund in an amount not
30 more than 50% of the amount of cash actually invested in an eligible Maine business
31 in any calendar year. For investments made after April 1, 2019, a tax credit
32 certificate may be issued to an investor other than a private venture capital fund in an
33 amount not more than 40% of the amount of cash actually invested in an eligible
34 Maine business in any calendar year. Rules adopted pursuant to this section are
35 routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

36 B. The Maine business must be determined by the authority to be a manufacturer or a
37 value-added natural resource enterprise; must provide a product or service that is sold
38 or rendered, or is projected to be sold or rendered, predominantly outside of the State,
39 while a majority of the employment associated with the creation and sale of the
40 product or the provision of services is within the State; must be engaged in the

1 development or application of advanced technologies; or must be certified as a visual
2 media production company under Title 5, section 13090-L. The business must certify
3 that the amount of the investment is necessary to allow the business to create or retain
4 jobs in the State.

5 **Sec. 2. 10 MRSA §1100-T, sub-§2, ¶C**, as amended by PL 2003, c. 451, Pt. E,
6 §2, is further amended to read:

7 C. Aggregate investment eligible for tax credits may not be more than ~~\$5,000,000~~
8 \$3,500,000 for any one business as of the date of issuance of a tax credit certificate
9 and not more than \$2,000,000 for any calendar year.

10 **Sec. 3. 10 MRSA §1100-T, sub-§2-C, ¶A**, as enacted by PL 2011, c. 454, §6, is
11 amended to read:

12 A. For investments made in tax years beginning on or after January 1, 2012, a tax
13 credit certificate may be issued to a private venture capital fund in an amount that is
14 not more than 50% of the amount of cash actually invested in an eligible business.
15 For investments made after April 1, 2019, a tax credit certificate may be issued to a
16 private venture capital fund in an amount that is not more than 40% of the amount of
17 cash actually invested in an eligible business. The tax credit certificate may be
18 revoked and the credit recaptured pursuant to Title 36, section 5216-B, subsection 5
19 to the extent that the authority determines that the eligible business for which the tax
20 credit certificate was issued moves substantially all of its operations and assets
21 outside of the State during the period ending 4 years after an investment, except in
22 the case of an arm's length, fair value acquisition approved by the authority. A
23 private venture capital fund that received the 20% credit certificate under subsection
24 2-A, paragraph A, subparagraph (2) for an investment is not eligible for a tax credit
25 certificate under this subsection for that investment.

26 **Sec. 4. 10 MRSA §1100-T, sub-§2-C, ¶B**, as amended by PL 2013, c. 438, §4,
27 is further amended to read:

28 B. As used in this subsection, unless the context otherwise indicates, "eligible
29 business" means a business located in the State that has certified that the amount of
30 the investment is necessary to allow the business to create or retain jobs in the State
31 and that, as determined by the authority:

- 32 (1) Is a manufacturer or a value-added natural resource enterprise;
- 33 (2) Is engaged in the development or application of advanced technologies;
- 34 (3) Provides a service that is sold or rendered, or is projected to be sold or
35 rendered, predominantly outside of the State, while a majority of the employment
36 associated with the creation and sale of the product or the provision of services is
37 within the State; or
- 38 (5) Is certified as a visual media production company under Title 5, section
39 13090-L.

40 **Sec. 5. 10 MRSA §1100-T, sub-§2-C, ¶C**, as enacted by PL 2011, c. 454, §6, is
41 amended to read:

1 C. Aggregate investment eligible for tax credit certificates, including investments
2 under this subsection and under subsection 2, may not be more than \$5,000,000
3 \$3,500,000 for any one eligible business in total and not more than \$2,000,000 per
4 calendar year.

5 **Sec. 6. 10 MRSA §1100-T, sub-§2-C, ¶D**, as amended by PL 2013, c. 438, §4,
6 is further amended to read:

7 D. The investment with respect to which any private venture capital fund is applying
8 for a tax credit certificate may not be more than the lesser of an amount equal to
9 \$500,000 times the number of investors in the private venture capital fund and an
10 aggregate of ~~\$4,000,000~~ \$3,500,000 in any one eligible business invested in by a
11 private venture capital fund ~~in any 3 consecutive calendar years~~, except that this
12 paragraph does not limit other investment by an applicant for which that applicant is
13 not applying for a tax credit certificate. A private venture capital fund must certify to
14 the authority that it will be in compliance with these limitations. The tax credit
15 certificate issued to a private venture capital fund may be revoked and any credit
16 taken recaptured pursuant to Title 36, section 5216-B, subsection 5 if the fund is not
17 in compliance with this paragraph.

18 **Sec. 7. 10 MRSA §1100-T, sub-§4**, as amended by PL 2013, c. 438, §5, is
19 further amended to read:

20 **4. Total of credits authorized.** The authority may issue tax credit certificates to
21 investors eligible pursuant to subsections 2, 2-A and 2-C in an aggregate amount not to
22 exceed \$2,000,000 up to and including calendar year 1996, \$3,000,000 up to and
23 including calendar year 1997, \$5,500,000 up to and including calendar year 1998,
24 \$8,000,000 up to and including calendar year 2001, \$11,000,000 up to and including
25 calendar year 2002, \$14,000,000 up to and including calendar year 2003, \$17,000,000 up
26 to and including calendar year 2004, \$20,000,000 up to and including calendar year 2005,
27 \$23,000,000 up to and including calendar year 2006, \$26,000,000 up to and including
28 calendar year 2007 and \$30,000,000 up to and including calendar year 2013, in addition
29 to which, the authority may issue tax credit certificates to investors eligible pursuant to
30 subsections 2, 2-A and 2-C in an annual amount not to exceed \$675,000 for investments
31 made between January 1, 2014 and December 31, 2014, \$4,000,000 for investments made
32 in calendar year 2015 ~~and~~, \$5,000,000 for investments made in calendar years 2016 to
33 2018 and \$15,000,000 each year for investments made in calendar years beginning with
34 ~~2016~~ 2019. The authority may provide that investors eligible for a tax credit under this
35 section in a year when there is insufficient credit available are entitled to take the credit
36 when it becomes available subject to limitations established by the authority by rule.
37 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
38 chapter 375, subchapter 2-A.

39 **Emergency clause.** In view of the emergency cited in the preamble, this
40 legislation takes effect when approved.

41 **SUMMARY**

42 This bill amends the Maine Seed Capital Tax Credit Program by:

- 1 1. Reducing from 50% to 40% the maximum credit available to individual investors
2 and private venture capital funds for investments made after April 1, 2019;
- 3 2. Requiring that eligible exporting businesses retain in Maine a majority of their
4 employees;
- 5 3. Reducing from \$5,000,000 to \$3,500,000 the total aggregate investment eligible
6 for tax credits for any one business;
- 7 4. Limiting to \$2,000,000 the total aggregate investment eligible for any one
8 business in any calendar year; and
- 9 5. Increasing from \$5,000,000 to \$15,000,000 the overall annual limit on total
10 authorized credits.