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STATE OF MAINE
ONE HUNDRED AND TWENTY-NINTH LEGISLATURE
COMMITTEE ON TAXATION

February 27, 2020

TO: Sen. Catherine Breen, Senate Chair
Rep. Drew Gattine, House Chair
Members, Joint Standing Committee on Appropriations and Financial Affairs

FROM: Sen. Benjamin ^{BC} Chipman, Senate Chair
Rep. Ryan Tipping, House Chair ^{RT}
Members, Joint Standing Committee on Taxation

The Joint Standing Committee on Taxation has reviewed the provisions in LR 2405, the supplemental budget bill, that you assigned to our policy area and that were covered at public hearing on February 18th. We held a work session on the provisions on February 25th and were able to ask questions of representatives of Maine Revenue Services. Eleven members of the Committee (Sen. Chipman, Reps. Tipping, Stanley, Terry, Cloutier, Denk, Matlack, Marean, Bickford, Kryzak and Arata)¹ have indicated their recommendations on the bill as indicated below.

Part A. DAFS, Bureau of Revenue Services. This initiative establishes 10 new positions in the income and estate tax division of MRS to improve customer service and allow more timely review of returns and issues. It is also estimated to generate additional revenues of \$1,250,000 in FY 21 and \$2,500,000 in FY 22 by increasing resources to address errors and fraud. Ten members support this initiative; one (Rep Arata) opposes the initiative at this time and suggests waiting until the MRS technology upgrade currently underway is fully implemented.

Part A. State Treasurer; Revenue Sharing. This initiative makes changes to allocations for the purpose of distributing funds for revenue sharing. Adjustments are made to the Disproportionate Tax Burden Fund (revenue sharing II) and the State-Municipal Revenue Sharing Account (revenue sharing I). Both adjustments are made primarily to incorporate changes in available funds as a result of changes in projected resources resulting from revisions made by the Revenue Forecasting Committee and the revenue impacts of the other tax related provisions covered by this memo. The change also corrects a clerical error made in last year's allocation of funds to the disproportionate share fund. This initiative is supported by all 11 members present.

Part X. Income Tax Conformity. Part X in the budget draft proposes to update the date for Maine's income tax conformity with the Internal Revenue Code. This is a

change that must be made annually. Part X is identical to **LD 2008, An Act To Update References Contained in the Maine Revised Statutes to the United States Internal Revenue Code of 1986** that was referred to our committee. The TAX Committee has heard, worked and voted unanimously OPA on LD 2010, and it should be reported to the House shortly. On the request of Maine Revenue Services we have reported the bill with an amendment to include essentially technical language to conform to a provision of federal law related to a special standard deduction provision covering certain disaster relief situations that is not covered by simply changing the date of conformity. This initiative, as amended in the same manner as the Committee amendment to LD 2010, is supported all eleven members present. Our analyst will provide the amendment language to your analyst.

Part LL, Seed Capital Tax Credit. This Part contains language that was reported out unanimously by the TAX Committee last year as **LD 1200, An Act To Amend the Maine Seed Capital Tax Credit Program.** That bill, as amended, was enacted in the House last year and currently resides on the Appropriations Table. The provisions in Part LL contain the provisions of LD 1200 with the amendments adopted last year with the dates extended by one year to reflect the passage of time. This Part is supported by all eleven members present.

We thank you for the opportunity to participate in review of these provisions and are available to respond to any questions that you may have.

ⁱ Sen. Sanborn and Sen. Pouliot were unable to be present.

Sec. A-1. Appropriations and allocations.

The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Revenue Services, Bureau of 0002

Initiative: Establishes one Tax Section Manager position, 3 Senior Tax Examiner positions, 2 Tax Examiner II positions and 4 Tax Examiner positions within the income and estate tax division in the Bureau of Revenue Services to improve customer service capabilities of the division. This request will generate \$1,250,000 in General Fund undedicated revenue in fiscal year 2020-21 and \$2,500,000 in General Fund undedicated revenue in fiscal year 2021-22.

Ref. #:

Committee Vote:

10-1
OTB

AFA Vote: _____

GENERAL FUND	2018-19	2019-20	2020-21
POSITIONS - LEGISLATIVE COUNT	0.000	0.000	10.000
Personal Services	\$0	\$0	\$865,219
All Other	\$0	\$0	\$58,580
GENERAL FUND TOTAL	\$0	\$0	\$923,799

Justification:

This Request establishes one Tax Section Manager position, 3 Senior Tax Examiner positions, two Tax Examiner II positions and 4 Tax Examiner positions within the Bureau of Revenue Services, Income and Estate Tax Division to improve customer service capabilities by allowing the division to more timely review and resolve tax return issues, respond to taxpayer requests for information and process refunds. This request will generate \$1,250,000 in General Fund undedicated revenue in fiscal year 2020-21 and \$2,500,000 in General Fund undedicated revenue in fiscal year 2021-22 by allowing the division to dedicate more resources to areas of tax administration that pose the greatest risk of error or fraud. Of those amounts, \$46,875 in fiscal year 2020-21 and \$125,000 in fiscal year 2021-22 is local government fund revenue.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

DEPARTMENT TOTALS	2018-19	2019-20	2020-21
GENERAL FUND	\$0	\$0	\$923,799
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$0	\$923,799

Sec. A-31. Appropriations and allocations.

The following appropriations and allocations are made.

TREASURER OF STATE, OFFICE OF

Disproportionate Tax Burden Fund 0472

Initiative: Adjusts funding for municipal revenue sharing to bring allocations in line with projected available resources for fiscal years 2019-20 and 2020-21.

Ref. #: _____ Committee Vote: 11-0 AFA Vote: _____
OTR

OTHER SPECIAL REVENUE FUNDS	2018-19	2019-20	2020-21
All Other	\$0	\$4,239,330	\$5,437,854
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$4,239,330	\$5,437,854

Justification:

This initiative adjusts the allocation for the State-Municipal Revenue Sharing account based on the projected amount of revenue sharing funds available for fiscal years 2019-20 and 2020-21. This distribution of revenue sharing funds is required in accordance with Maine Revised Statutes, Title 30-A, section 5681.

State - Municipal Revenue Sharing 0020

Initiative: Adjusts funding for municipal revenue sharing to bring allocations in line with projected available resources for fiscal years 2019-20 and 2020-21.

Ref. #: _____ Committee Vote: 11-0 AFA Vote: _____
OTR

OTHER SPECIAL REVENUE FUNDS	2018-19	2019-20	2020-21
All Other	\$0	(\$170,944)	(\$6,280,752)
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$170,944)	(\$6,280,752)

Justification:

This initiative adjusts the allocation for the State-Municipal Revenue Sharing account based on the projected amount of revenue sharing funds available for fiscal years 2019-20 and 2020-21. This distribution of revenue sharing funds is required in accordance with Maine Revised Statutes, Title 30-A, section 5681.

TREASURER OF STATE, OFFICE OF

DEPARTMENT TOTALS	2018-19	2019-20	2020-21
OTHER SPECIAL REVENUE FUNDS	\$0	\$4,068,386	(\$842,898)
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$4,068,386	(\$842,898)

PART X

Sec. X-1. 36 MRSA §111, sub-§1-A, as amended by PL 2019, c. 233, §1, is further amended to read:

1-A. Code. "Code" means the United States Internal Revenue Code of 1986 and amendments to that Code as of December 31, ~~2018~~ 2019.

Sec. X-2. Application. This Act applies to tax years beginning on or after January 1, 2019 and to any prior tax years as specifically provided by the United States Internal Revenue Code of 1986 and amendments to that Code as of December 31, 2019.

PART X SUMMARY

This Part updates references to the United States Internal Revenue Code of 1986 contained in the Maine Revised Statutes, Title 36 to refer to the United States Internal Revenue Code of 1986, as amended through December 31, 2019, for tax years beginning on or after

PART LL

Sec. LL-1. 10 MRSA §1100-T, sub-§2, ¶A, as amended by PL 2013, c. 438, §3, is further amended to read:

A. For investments made in tax years beginning before January 1, 2012, a tax credit certificate may be issued in an amount not more than 40% of the amount of cash actually invested in an eligible Maine business in any calendar year or in an amount not more than 60% of the amount of cash actually invested in any one calendar year in an eligible Maine business located in a high-unemployment area, as determined by rule by the authority. For investments made in tax years beginning on or after January 1, 2012, a tax credit certificate may be issued to an investor other than a private venture capital fund in an amount not more than 60% of the amount of cash actually invested in an eligible Maine business in any calendar year. For investments made in tax years beginning on or after January 1, 2014, a tax credit certificate may be issued to an investor other than a private venture capital fund in an amount not more than 50% of the amount of cash actually invested in an eligible Maine business in any calendar year. For investments made after April 1, 2020, a tax credit certificate may be issued to an investor other than a private venture capital fund in an amount not more than 40% of the amount of cash actually invested in an eligible Maine business in any calendar year. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. LL-2. 10 MRSA §1100-T, sub-§2, ¶I, as enacted by PL 2001, c. 642, §7 and affected by §12, is amended to read:

I. The business receiving the investment may not be in violation of the requirements of subsection 67.

Sec. LL-3. 10 MRSA §1100-T, sub-§2, ¶C, as amended by PL 2003, c. 451, Pt. E, §2, is further amended to read:

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

Sec. LL-4. 10 MRSA §1100-T, sub-§2-A, ¶B, as amended by PL 2009, c. 470, §3, is further amended to read:

B. As used in this subsection, unless the context otherwise indicates, an "eligible business" means a business located in the State that:

- (1) Is a manufacturer;
- (2) Is engaged in the development or application of advanced technologies;

(3) Provides a product or service that is sold or rendered, or is projected to be sold or rendered, predominantly outside of the State;

(4) Brings capital into the State, as determined by the authority; or

(5) Is certified as a visual media production company under Title 5, section 13090-L.

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

A. For investments made in tax years beginning on or after January 1, 2012, a tax credit certificate may be issued to a private venture capital fund in an amount that is not more than 50% of the amount of cash actually invested in an eligible business. For investments made after April 1, 2020, a tax credit certificate may be issued to a private venture capital fund in an amount that is not more than 40% of the amount of cash actually invested in an eligible business. The tax credit certificate may be revoked and the credit recaptured pursuant to Title 36, section 5216-B, subsection 5 to the extent that the authority determines that the eligible business for which the tax credit certificate was issued moves substantially all of its operations and assets outside of the State during the period ending 4 years after an investment, except in the case of an arm's length, fair value acquisition approved by the authority. A private venture capital fund that received the 20% credit certificate under subsection 2-A, paragraph A, subparagraph (2) for an investment is not eligible for a tax credit certificate under this subsection for that investment.

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

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

(1) Is a manufacturer or a value-added natural resource enterprise;

(2) Is engaged in the development or application of advanced technologies;

(3) Provides a product or service that is sold or rendered, or is projected to be sold or rendered, predominantly outside of the State; or

(5) Is certified as a visual media production company under Title 5, section 13090-L.

Sec. LL-7. 10 MRSA §1100-T, sub-§2-C, ¶C, as enacted by PL 2011, c. 454, §6, is amended to read:

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

Sec. LL-8. 10 MRSA §1100-T, sub-§2-C, ¶D, as amended by PL 2013, c. 438, §4, is further amended to read:

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

Sec. LL-9. 10 MRSA §1100-T, sub-§4, as amended by PL 2013, c. 438, §5, is further amended to read:

4. Total of credits authorized. The authority may issue tax credit certificates to investors eligible pursuant to subsections 2, 2-A and 2-C 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, \$5,500,000 up to and including calendar year 1998, \$8,000,000 up to and including calendar year 2001, \$11,000,000 up to and including calendar year 2002, \$14,000,000 up to and including calendar year 2003, \$17,000,000 up to and including calendar year 2004, \$20,000,000 up to and including calendar year 2005, \$23,000,000 up to and including calendar year 2006, \$26,000,000 up to and including calendar year 2007 and \$30,000,000 up to and including calendar year 2013, in addition to which, the authority may issue tax credit certificates to investors eligible pursuant to subsections 2, 2-A and 2-C in an annual amount not to exceed \$675,000 for investments made between January 1, 2014 and December 31, 2014, \$4,000,000 for investments made in calendar year 2015 and, \$5,000,000 for investments made in calendar years 2016 to 2019, \$15,000,000 for investments made in calendar years 2020 to 2026 and \$5,000,000 each year for investments made in calendar years beginning with 2016~~2027~~. The authority may provide that investors eligible for a tax credit under this section in a year when there is insufficient credit available are entitled to take the credit when it becomes available subject to limitations established by the authority by rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. LL-10. 10 MRSA §1100-T, sub-§6, as amended by PL 2011, c. 454, §8, is repealed.

Sec. LL-11. 10 MRSA §1100-T, sub-§7 is enacted to read:

7. Reports. The following reports are required regarding activities under this section.

A. A business eligible to have investors receive a tax credit under this section shall report to the authority, in a manner to be determined by the authority, the following information regarding its activities in the State over the calendar year in which the investment occurred and for each additional year for which a credit is claimed:

(1) The total amount of private investment received by the eligible business from each investor eligible to receive a tax credit;

(2) The total number of persons employed by the eligible business as of December 31st;

(3) The total number and geographic location of jobs created and retained by the eligible business stated separately for all jobs in the State and for those jobs that would not have been created or retained in the absence of the credit;

(4) Total annual payroll of the eligible business stated separately for all employees in the State and for those employees who would not have been employed in the absence of the credit; and

(5) Total sales revenue of the eligible business stated separately within and outside the State.

B. An investor eligible for a tax credit under this section shall notify the authority when a business that received an investment from that investor eligible for a credit under this section ceases operations and the likely reasons for the cessation of business.

C. The authority shall report annually to the joint standing committee of the Legislature having jurisdiction over taxation matters and to the Office of Program Evaluation and Government Accountability on all activity under this section during the prior calendar year. The authority shall identify in its report businesses receiving investments eligible for a credit under this section and the authority's determination as to whether the investments would have been made in the absence of the credit.

Sec. LL-12. 36 MRS §5216-B, sub-§6 is enacted to read:

6. Evaluation; specific public policy objective; performance measures. The credit provided under this section is subject to ongoing legislative review in accordance with Title 3, chapter 37. The Office of Program Evaluation and Government Accountability shall submit an evaluation of the credit provided under this section to the joint legislative committee established to oversee program evaluation and government accountability matters and the joint standing committee of the Legislature having jurisdiction over taxation matters. 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; and

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;

(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.

**PART LL
SUMMARY**

This Part amends the Maine Seed Capital Tax Credit Program by:

1. Reducing from 50% to 40% the maximum credit available to individual investors and private venture capital funds for investments made after April 1, 2020;

2. Reducing from \$5,000,000 to \$3,500,000 the total aggregate investment eligible for tax credits for any one business;

3. Limiting to \$2,000,000 the total aggregate investment eligible for any one business in any calendar year; and