Testimony to the Joint Standing Committee on Taxation

in Support of

LD 1974, An Act to Reauthorize Maine's New Market Tax Credit Program

Submitted by
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1/9/24

Senator Grohoski, Representative Perry, and Members of the Taxation Committee:

My name is Amy Winston. I am the state policy director at Coastal Enterprises, Inc. (CEI) - and I live in Edgecomb. My colleague, Traci Vaine, is the CEO of CEI Capital Management LLC (CCML). Traci lives in Cape Elizabeth. Together we are testifying on behalf of Coastal Enterprises, Inc. (CEI), a nonprofit CDC (Community Development Corporation) and CDFI (Community Development Financial Institution) based in Brunswick. CEI's mission is to build a just, vibrant, and climate-resilient future for people and communities in Maine and rural regions. We do this by integrating finance, business expertise and policy solutions in ways that make the economy more equitable. Since CEI's founding in 1977, the CEI family of organizations has invested $1.53 billion in 3,222 businesses and projects that are changing Maine's employment landscape and creating positive changes in rural regions throughout the U.S.

CEI's New Markets Capital Investment subsidiary, CEI Capital Management LLC (CCML), is a state and federal New Markets Tax Credit allocatee with a 20-year track record supporting lower income individuals working at innovative businesses located in rural areas. CCML has received 13 federal awards totaling $1.15 billion, $33.16 million in Maine's New Markets Capital Investment ("NMCI") program tax credits and has leveraged an additional $1.57 billion in investments. In Maine, CCML has invested in manufacturing focused, people centered, i.e., "triple-bottom-line," businesses that have helped create and preserve 2,022 permanent direct and indirect full-time equivalent jobs; "hosted" an additional 313 jobs at tenant businesses and supported 460 temporary construction jobs. Distributed geographically in Maine across 14 communities and 10 counties, these projects are bringing meaningful investments and opportunities to rural communities, suburbs, and gateway cities, spurring development in surrounding areas.

CEI/CCML support *An Act to Reauthorize Maine's New Markets Tax Credit Program*.

As a CDFI and conduit of capital for small businesses that anchor rural communities, CEI is involved in business and sector-specific economic development. As a "CDE," or Community Development Entity, CCML's team has accrued relevant experience and a significant history working with both state and federal level New Markets allocations. The state New Markets Capital Investment ("NMCI") program mirrors and can be integrated with the federal New Markets Tax Credit program. Investors provide capital in the form of equity investments and loans with affordable rates and flexible provisions to diverse businesses in economically distressed communities. While CEI/CCML were not involved in developing this bill, we offer nonpartisan testimony and insights to suggest potential benefits if this program were to be reauthorized, as well as changes to improve the program design to reflect the economic development goals and expectations contained in current state policy.
The credit is cost-effective and has had a net positive fiscal impact here in Maine, benefiting the state's bottom line and creating jobs for residents in low-income communities by providing much needed capital to businesses. It is intended to attract investment, preserve jobs, benefit businesses in in

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distressed communities and promote economic development. Between 2013-2016, investments supported by these tax credits generated $1.64 billion in additional gross state product (roughly $189 million per year) and created 764 direct permanent jobs at qualifying low-income community businesses, and 1034 indirect permanent jobs in supply chains, and 781 temporary construction jobs (OPEGA Review, 2017). In addition to new spending, most of these investments, though not all (see below), enabled "new" and "major" spending on deals that benefited intended beneficiaries – i.e., the qualifying businesses in economically distressed communities – and that would not have happened "but for" the credit.

As OPEGA noted, CDEs benefit (from administrative fees), regardless of the degree to which QALICBs or the state benefits. This observation underscores the value of a mission driven approach. CEI/CCML vets prospective projects that have a social purpose, are aligned with CEI's mission; and based in real partnership with qualifying businesses and communities. While the federal program uses criteria to reward/incent impact investing, this has been less common at the state level. OPEGA noted that there is "one CDE with an operating model that is different…," that makes decisions according to internal investment criteria and "…that contributes the 15% of the QEI that it typically retains in fees and contributes it to a fund that is used to make further investments in other low-income community projects" (2017: 34-35).

CCML considers the level of a business's need in choosing projects and follows "best practice" by submitting a "but for" letter with its applications. This demonstrates up front that the need is critical and assures policymakers that there are no other financing options. OPEGA has recommended *incorporating a "but for" requirement into statute* to justify investment and specify expected economic development outcomes. OPEGA has shown that most[1] – but not all – of the QALICBs that received investments supported by tax credits were both "new" and "major" and would not have been able to access conventional financing at a reasonable cost. There were some businesses that received investments that did have reasonable cost options; they were just not as favorable as the lower-cost, more flexible capital made available to them by the tax credit.

OPEGA's analysis revealed that the outcome of *preserving jobs, was not directly supported* in the design of this program. Only the largest projects, seeking the maximum allocation of $40 million in investment, have any requirement related to job creation/retention (200+). These project applications are required by rule to include an independent impact study demonstrating job outcomes. Although OPEGA found that past investments successfully created (764 direct, 1034 indirect and 781 temporary) jobs, there is no formal mechanism for monitoring (compliance) or enforcement (penalties). Increasing the maximum allowable investment from $10 million per business to $40 million per project for value-adding manufacturers creating/retaining over 200 jobs has two effects: on the one hand, it reduces the potential number of businesses that can benefit from the credit and favors larger businesses receiving larger investments. On the other hand, this makes the deal more cost-effective by limiting the number entities involved.

As for *promoting economic development*, there are few restrictions on the use of funds. There is little in the design that directs what uses the invested funds may be put toward. OPEGA (p39-40): "Nothing in the design requires, prefers, or rewards the types of businesses, projects or uses of invested funds that would generate additional beneficial economic activity to the State of Maine. *There is no preference in the program for businesses that affect economic development more positively than others*" (emphasis

[1] 65%, or $126 million, of the $182.9 million invested in 10 businesses through this program between 2013-2016

added). For example, whether businesses use local labor and suppliers, export their products, generate new or retain direct employment. This finding validates the academic literature and again underscores the importance of having missioned criteria, including the use of an equity lens, to drive investment decisions.

Suggestions. If reauthorized, there will inevitably, understandably, and appropriately be scrutiny of the NMCI program. NMCI has made Maine more attractive to outside investors, and there has been only one known project failure: the Great Northern Paper bankruptcy in 2014. Should you move forward with this bill, CEI/CCML support OPEGA recommendations to improve program design, clarify its intent, objectives, and intended outcomes, and to increase the cost-effectiveness, of the NMCI program by defining "major" and "new" investment in terms of the impact and importance to the state and incorporating into statute the rule that FAME adopted in 2015 to encourage new investment in future projects and end the controversial practice of using the credit to make "one-day" loans that reimburse businesses for expenses incurred prior to the investment.

Strong guardrails on the use of these funds are needed – with clear specifications for preferred businesses/community benefits. The committee may want to update the program design. To foster more equitable access to the credit and to make investments more impactful, the committee may want to prioritize small and medium sized enterprises. They are the backbone of our economy, and key to building a traceable and environmentally friendly biobased supply chain. To reduce economic and social inequality, the committee may want to make changes that prioritize investment in businesses owned by members of disadvantaged populations, who have historically lacked access to capital. An additional metric may value local purchasing and labor.

QALICBs benefit from the operational expertise of their CDE lending partners. CDEs frequently provide board representation and operational support. We respectfully suggest that the committee consider adopting *internal investment criteria: a "Good Jobs" strategy* like CEI/CCML uses to optimize investments by providing operational advice derived from our expertise as a workforce intermediary. CEI/CCML apply a Good Jobs "scorecard" to ensure that quality jobs are created because of these investments. Good Jobs and livelihoods mark the economic health of a qualifying low-income community business.

We encourage aligning the bill with existing state policy: specifically, the 10-year economic strategy, forthcoming four-year climate action plan Maine Won't Wait (2.0), and MTI's targeted technology sectors (currently under review). These strategies play to Maine's economic strengths, its natural resource-based economic advantages, and its outdoor culture. They promote the growth of clean, renewable energy; sustainable aquaculture, fishing, farming, and value-added food processing/manufacturing; and continued growth of bio-based alternatives.

There is inherent risk in any business investment – and there is no guarantee that the allocation of these credits will generate lasting social and economic impact. At 39%, Maine has a relatively high credit compared with the 14 other state programs. And, Maine is the only state with a refundable, transferable credit.

The program design needs to be tightened to direct investment to more impactful projects and prevent inefficient investment. It does not specify the preferred use of funds and it is not tied to existing state policy -- i.e., the state's 10-year economic development strategy, 4-year climate plan, MTI's targeted technology sectors, or the GOPIF (Governor's Office on Policy, Innovation, and the Future) End Hunger by 2030 campaign. The state NMCI program has attracted new investment to Maine, demonstrated positive fiscal impact, created economic activity, and preserved jobs. With the right guardrails incorporated into statute, the NMCI program could support underserved businesses and communities, build housing, and expand access to affordable childcare, solving problems needing urgent intervention and investment that would not happen otherwise. Aligning investment needs/objectives with employment criteria and other characteristics to achieve the desired economic development results is not only the right thing to do, but necessary to grow a just and vibrant, climate resilient future.

Thank you for reading this testimony. We hope that you have found CEI/CCML's experience helpful. While we couldn't be in committee today, we would be happy to answer questions or provide relevant information for the work session.

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