TAX EXPENDITURE REVIEW

FINAL REPORT

# New Markets Capital Investment Program –

## Current Portfolio of Projects Produced Positive Outcomes; Cost-Effectiveness Could be Improved

Report No. TE-NMTC-16

**Recommendations OPEGA offers as a result of this review:**

- Opportunities to improve program design and cost-effectiveness should be considered if Legislature authorizes additional allocations. (pg. 49)
- Legislature should consider incorporating recent FAME rule change into statute. (pg. 52)
- Guidance should be established for potential situations where annual aggregate claims exceed $20 million. (pg. 53)
- Data needed for efficient and effective program evaluation should be captured and maintained. (pg. 54)

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a report to the
Government Oversight Committee and Taxation Committee
from the
Office of Program Evaluation & Government Accountability
of the Maine State Legislature

## GOVERNMENT OVERSIGHT COMMITTEE OF THE 128TH LEGISLATURE



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## ABOUT OPEGA & THE GOVERNMENT OVERSIGHT COMMITTEE

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OPEGA is an independent staff unit overseen by the bipartisan joint legislative Government Oversight Committee (GOC). OPEGA's reviews are performed at the direction of the GOC. Independence, sufficient resources and the authorities granted to OPEGA and the GOC by the enacting statute are critical to OPEGA's ability to fully evaluate the efficiency and effectiveness of Maine government.

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# Acronyms Used in This Report

CBA – Community Benefits Agreement
CDE – Community Development Entity
DAFS – Department of Administrative and Financial Services
DECD – Department of Economic and Community Development
FAME – Finance Authority of Maine Legislature
GSP – Gross State Product
MRS – Maine Revenue Services
NMTC – New Markets Capital Investment Program
QALICB – Qualified Active Low-income Community Business
QEI – Qualified Equity Investment
QLICI – Qualified Low-Income Community Investment
RAR – Revenue Agent Report

# Terms Used in this Report

**Community Development Entities (CDEs)**. Domestic corporations or partnerships whose primary missions are to serve, or provide investment capital for, low-income communities or low-income persons. CDEs are intermediaries who receive the Maine NMTC credit allocations from FAME and put together the investment deals between the investors and the qualified active low-income community businesses. CDEs participating in Maine's NMTC Program must be active participants in good standing with the federal NMTC Program.

**Equity Investors.** Typically national financial firms that trade in tax credits and specifically seek out NMTC deals. They often have established working relationships, and may be affiliated, with one or more CDEs.

**Leverage Lenders.** Financial institutions or private parties that make loans to investment funds controlled by equity investors which, in turn, make equity investments in the CDEs.

**NMTC Deal.** The package of transactions and agreements CDEs put together to fund a Qualifying Low-income Community Investment into a Qualifying Active Low-income Community Business.

**Qualified Active Low-income Community Businesses (QALICBs)**. Businesses, located in qualified low-income communities, who receive the investments under the Maine NMTC Program.

**Qualified Equity Investment (QEI).** The funds a CDE gathers together to invest in a business. It is typically made up of two parts: an equity investment from an equity investor and a loan from a leverage lender. The 39% State tax credit is based on the amount of the QEI.

**Qualified Low-Income Community Investment (QLICI).** The investment a CDE makes in a QALICB, the funds for which come from the QEI.

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# Maine New Markets Capital Investment Program – Current Portfolio of Projects Produced Positive Outcomes; Cost-Effectiveness Could be Improved

## Introduction

FAME administers Maine's NMTC Program which was established in 2011 and is modeled after the federal NMTC Program. Maine's program provides a 39% tax credit over seven years for investors who make qualified investments in qualified low-income community businesses via qualified CDEs.

OPEGA's review focused on nine objectives detailed in Appendix D. OPEGA obtained the program data used in this review primarily from public FAME documents and CDEs and businesses participating in the program. No confidential taxpayer data was obtained for this review.

The Maine Legislature's Office of Program Evaluation and Government Accountability (OPEGA) has completed a review of the Maine New Markets Capital Investment Program. OPEGA performed this review as directed by the 127th Legislature's Government Oversight Committee (GOC) in compliance with 3 MRSA §§ 998-999.

Maine's New Markets Capital Investment Program (NMTC) is a State program modeled after the Federal New Markets Tax Credit Program. It was enacted in 2011 and is administered by the Finance Authority of Maine (FAME). The program provides a 39% tax credit over seven years for investors who make qualified investments in low-income community businesses via a qualified Community Development Entity (CDE). As of August 2016, 10 businesses have received investments.

The Maine NMTC Program became the focus of public concern in April 2015 when media reported that the State was committed to paying $16 million in tax credits for investments in Great Northern Paper, which shut down 14 months after the investments were made. News articles described how the transactions for that project, and other projects, involved immediately returning portions of the invested funds back to institutions that lent money in what is referred to as "one day loans". Essentially this means the State is paying tax credits on investments that the businesses did not get to keep and questions were raised about the legitimacy and motivations for those transactions.

The GOC approved the objectives for this evaluation in February 2016, along with the performance measures OPEGA would seek to use in addressing those objectives. At that time, the GOC also agreed on statements of the program purpose and intended beneficiaries as interpreted from review of statute. These approved evaluation parameters were the basis of OPEGA's review and are detailed in Appendix D. [1]

The complete scope and methods for the comprehensive work OPEGA performed to address these objectives are detailed in Appendix A. OPEGA obtained program data used in this review primarily from public FAME documents and the CDEs and businesses participating in the program. No confidential taxpayer data was obtained for this review. OPEGA contracted with Economic Development Research Group, Inc. for assistance with economic impact modeling and consultation on the broader economic impacts of the program. Reported results are based on program activity as of August 2016.

[1] The GOC approved the evaluation parameters in accordance with 3 MRSA § 999.1 with input from the Maine State Legislature's Committees on Taxation and Labor, Commerce, Research and Economic Development.

# Questions and Answers

**Readers unfamiliar with the Maine New Markets Capital Investment Program may find it helpful to review the background information on pages 13 – 26 before reading the Questions and Answers section.**

## 1. What is the fiscal impact of the tax expenditure, including past and estimated future impacts?

See pages 26 - 30 for more on this point

The direct cost of the Maine NMTC Program is the value of the tax credits provided by the State plus the administrative costs the State incurs to manage the program. For the 10 projects funded as of August 2016, OPEGA estimates total direct cost in the period 2013 – 2021 at about $76 million. This includes approximately $14 million incurred from 2012 through 2016 and another $62 million over the next five calendar years. The direct cost is expected to be much larger in the later years due to the timing of the investments made and the delayed schedule for claiming related credits. The value of the tax credits accounts for nearly all of the direct cost. Administrative costs are relatively low and represent less than 1% of the total direct cost.

Unlike all other states with an NMTC program, Maine's NMTC is a refundable credit. The equity investors receiving credits for projects in Maine have been national financial institutions which may have little, if any, Maine tax liability. When there is no Maine tax liability, the financial impact is a payout of State General Funds rather than forgone revenue the State might otherwise have collected.

OPEGA calculated the Net Impact on State Budget from using economic modeling to estimate the direct and indirect impacts to State revenues from Maine NMTC projects[2] as of August 2016. We estimate the Net State Budget Impact as being a $24.7 million increase in State revenues from 2012 through 2016, and an $8.9 million revenue loss in the following five years, for an overall positive fiscal impact of $15.8 million in the period 2013 - 2021. Assumptions and limitations relevant to the economic modeling and OPEGA's estimates of Net Impact on State Budget are discussed on page 10.

## 2. To what extent are those actually benefitting from the tax expenditures the intended beneficiaries?

See page 30 - 35 for more on this point

The primary intended beneficiaries for the program are qualified businesses in economically distressed areas of the State. OPEGA found that all businesses participating in the program as of August 2016 met the criteria for a qualified business and directly benefitted from investments induced by the tax credits. Ten businesses have received qualifying Maine NMTC investments, known as QLICIs[3], totaling approximately $182.9 million, with individual businesses receiving between $575,000 and $40 million. The NMTC investments also allowed four businesses to attract other investment that would likely not have been available otherwise. From information provided by the businesses, OPEGA estimates these additional investments totaled about $130 million, ranging from about $2 million to over $100 million for individual businesses.

[2] Net Impact on State Budget from investments is calculated as impact on State revenues from NMTC investments as of August 2016 **minus** direct cost of the program.

[3] QLICI stands for Qualified Low-income Community Investment.

Secondary intended beneficiaries of the program are economically distressed communities. OPEGA found that the benefits economically distressed communities are intended to receive are not clear in statute, and may not be realized, as there are no program elements to ensure communities receive benefits. Clearly there is some benefit just from having a viable business operating within a community, and several businesses also described specific community projects CDEs required them to undertake as part of the Maine NMTC investment. Beyond this, however, the degree to which the investment impacts the economically distressed community is dependent on how the invested funds are used. OPEGA noted that the uses of the NMTC investments are not restricted, limited or directed by statute and varied widely from project to project.

Though they are not intended beneficiaries, the Maine NMTC Program is designed in a way that requires the participation of investors and CDEs and allows them to derive financial benefits. A number of professional service providers, such as legal and accounting firms, are also typically involved and are compensated for their roles. OPEGA found that all of these participants are receiving some financial benefits that are not dependent on the degree of benefit the intended beneficiaries are getting, or how successful the businesses or projects become.

As of summer 2016, equity investors had received $75.8 million[4] in State tax credits payable over seven years. Typically, equity investors receive all of the State tax credits associated with the project even though they contribute only a portion of the total Qualified Equity Investment (QEI). Leveraged lenders, the other investing parties whose funds are part of the QEI, receive no share of the tax credits and profit instead by charging interest on the loans they make.

Based on what we were able to discern from documents submitted to FAME, OPEGA estimates that CDEs received at least $16 million in retained investments and fees. This represents about 8% of the total QEI in the 10 projects, and most of this amount was retained by one CDE whose operating model is different than the others. According to a representative for this CDE, the retained amounts are used for other low-income community investments.

### 3. To what extent is the design of the tax expenditure effective in accomplishing the tax expenditure's purposes, intent or goals and consistent with best practices?

See pages 35 - 40 for more on this point

The Maine NMTC Program statute and rules contain definitions and requirements that constitute the program design elements. Program design elements serve to focus the program and target its benefits. OPEGA found that the current program design elements directly support achievement of some, but not all, of the program's desired outcomes.

The program's design does not directly support achievement of two desired outcomes:

- preserving jobs; and
- promoting economic development.

While it may be assumed that investment in business will naturally result in job preservation and economic development, there is no guarantee. There is risk that a

[4] The tax credits are based on a total of $194.2 million in State NMTC Qualifying Equity Investments (QEI) provided by equity investors and leverage lenders.

business or project could fail despite all best efforts and intentions. Even a successful project could result in job losses. For example, making a manufacturing plant more automated could reduce the number of jobs needed, but strengthen the business in ways that provide other benefits to Maine's economy.

The program design does, however, strongly support the desired outcomes of:

- making the State more competitive in attracting investment capital; and
- encouraging investment.

While the design supports the outcome of encouraging investment generally, it is difficult to assess how well it supports the specific type of investment desired. One section of statute describes the desired investments as "major" while in another section it is described as "new", with neither term being defined.

4. To what extent is the tax expenditure achieving its purposes, intent or goals, taking into consideration the economic context, market conditions and indirect benefits?

See pages 35 – 40 for more on this point

Despite the noted weaknesses in the program design, OPEGA found the portfolio of 10 projects funded as of August 2016, taken in aggregate, has produced positive outcomes as evidenced by the following:

- All $250 million in authorized allocations were awarded and 78% was used in qualifying investments within the time period allowed under statute. The other $55.7 million lapsed back to FAME in 2016 and was promptly re-allocated.
- Five of the six CDEs awarded initial allocations under the program had not made investments in Maine before. An additional six CDEs, also new to Maine investments, have since been awarded a portion of the re-allocated amount.
- Ten qualified businesses in eight economically distressed communities have received $182.9 million in qualified investments (QLICIs). One of the businesses ceased operations in 2014 and subsequently filed for bankruptcy.
- Four of the 10 businesses were able to attract total additional investment of about $130 million to their projects that would likely not have occurred without the Maine NMTC investments.
- The 10 projects created or retained 764 direct permanent jobs still existing in 2016 that would likely not have occurred without the Maine NMTC investment. An additional 257 direct permanent jobs were retained for 14 months, but were lost when the business shut down. Economic modeling estimates the direct permanent jobs spurred the creation or retention of 1,034 indirect permanent jobs within the businesses' supply chains. The model also estimates 781 jobs were temporarily supported via the businesses' spending on certain activities attributable to the program, for example, jobs associated with construction and installation.

- Economic modeling of direct and indirect impacts associated with the 10 projects shows additional Gross State Product (GSP) generated from investments as averaging roughly 0.31%, or approximately $173 million, for each of the years 2013 – 2016. GSP was higher in the span of those years that saw substantial investment or employment activity. In each of the years 2014 – 2016, additional GSP averaged about $196 million or 0.35%. Under the assumptions used to model future impact, an additional $189.9 million in average annual GSP is estimated for each of the years from 2017 – 2021.

Since there are no established measures or targets for the desired outcomes, OPEGA is unable to say to what extent these results match expected results for the program. We note that these results, however, particularly with regard to jobs and impact to GSP, are specific to this portfolio of 10 projects. Future portfolios could have very different results, for positive or negative, depending on the types of businesses and uses of invested funds.

5. To what extent is it likely that the desired behavior might have occurred without the tax expenditure, taking into consideration similar tax expenditures offered by other states?

See pages 40 - 42 for more on this point

OPEGA found that Maine is one of 15 states with state level New Markets programs and is the only state in the northeast with such a program. We also learned through interviews with CDEs that State tax credits were what drove five of them with no prior presence in Maine to invest in the State, bringing their equity investors with them. Absent the tax credits, they would have been looking for investment opportunities that did offer credits in other states. Consequently, it appears the investment behavior would not have occurred without the Maine NMTC program, or another program, that offered tax credits in return for investment.

In terms of whether the funded projects would have gone forward without investments from the Maine NMTC Program, OPEGA notes there is no stipulation in statute that requires businesses to have a certain level of need to qualify for the program. We observed that the 10 businesses receiving NMTC investments as of August 2016 had varying degrees of financial need based on whether they had access to other reasonable financing options to make their projects viable. Some had no other financing options available while a few may have had access to other financing. In our assessment, the majority of projects would not have gone forward in their current form without the State NMTC program investment.

6. To what extent is the tax expenditure a cost-effective use of resources compared to other options for using the same resources or addressing the same purposes, intent or goals?

See pages 43 - 45 for more on this point

OPEGA analyzed cost-effectiveness for the Maine NMTC Program from the perspective of overall impact to Maine's GSP and three key factors that drove the impact. Our analysis included calculating several cost-effectiveness measures on a per dollar of tax credit basis using data for the current portfolio of 10 projects. The State has committed $75.8 million in tax credits to those projects. A portfolio that stems from additional allocation by the Legislature could look entirely different and thereby have different results.

**Gross State Product.** Economic impact modeling indicates Maine NMTC investments will generate roughly $1.64 billion in additional GSP over the period 2013 – 2021. This is the period covering deployment of the investments in the businesses through when the final tax credits on all projects will have been paid. Based on this, OPEGA calculates that $21.67 in GSP will be produced for every $1 of tax credits. Assumptions and limitations relevant to the modeling and the estimated impact on GSP are discussed on page 10.

**Dollars of business spending.** OPEGA estimates that $126[5] million of the $182.9 million in QLICIs invested in the 10 projects was actually available for businesses to spend on those projects. The remainder was used to pay closing costs, annual management fees and principal and interest on "one-day loans". The $126 million equates to an average of $1.66 dollars of business spending for every $1 of State tax credit. The Maine NMTC investments allowed some businesses to attract additional investments that OPEGA believes would likely not have otherwise been received and were also spent on projects. When we factor in these additional $130 million in investments, there was an average of $3.39 in spending for every $1 dollar of tax credit. We note, however, that business spending per tax credit was much lower for three of the four Maine NMTC deals that involved "one-day loans". In these cases, businesses had an average of less than $1 of Maine NMTC investment to spend for every $1 of State tax credit even when factoring in additional leveraged investment.

**Dollars of in-state spending.** Only dollars spent by the QALICB that are directed "within the State" generate positive economic impact for Maine. OPEGA gathered information about what businesses spent their investments on from FAME documents and from the businesses themselves. Based on this information, we estimate that $90.3 million, including leveraged investments, was spent on equipment, materials, goods and services procured from in-state contractors and vendors. This equates to $1.19 for each tax credit dollar.

**Direct permanent jobs.** A customary measure of cost-effectiveness for business incentive programs is cost per direct permanent job. OPEGA estimates that, as of August 2016, Maine NMTC investments have been responsible for creating or retaining 764 jobs still existing in 2016. This calculates to a **total one-time cost** of $99,179 for each job still existing and expected to persist into the foreseeable future.

Overall OPEGA observes that, although Maine's NMTC Program has increased investments in Maine businesses and generated other positive outcomes, it may not be accomplishing those ends cost-effectively. There are no legislative or agency expectations set for cost-effectiveness of the program, so we are unable to assess the extent to which results on the cost-effectiveness measures meet expectations. Additionally, we are not aware of any similar cost-effectiveness measures currently existing for other State programs so we are unable to compare Maine's NMTC Program to them.

[5] OPEGA estimated the amount of QLICI available for business use based on FAME documents and information gathered from businesses. Recognizing that we may not be aware of other amounts that would affect this figure, we estimate the QLICI available for business use at roughly $121 million to $131 million. We have used the mid-point of this range, $126 million, as the basis for related measures throughout this report.

7. To what extent are there other state or federal tax expenditures, direct expenditures or other programs that have similar purposes, intent or goals as the Maine New Markets Capital Investment Program and to what degree are any similar initiatives coordinated, complementary or duplicative?

See pages 46 - 48 for more on this point

Maine's NMTC Program clearly has the same intent and goals as the federal NMTC program it is modeled after. The structural similarities between the two programs make the State program quite accessible for CDEs already involved in the federal program, and potentially make it more attractive for them to use their federal allocations on Maine projects as well. However, other than CDEs potentially using both programs to construct the same State NMTC deals, the State and federal programs never interact and are not coordinated from an administrative standpoint. Equity investors can get both federal and State tax credits for portions of the same invested dollars and OPEGA observed this occurring in seven of the ten Maine NMTC projects we reviewed.

OPEGA observes it is common for State programs focused on improving the economy to have the same broadly stated intents and purposes as the Maine NMTC, i.e. to encourage investment, preserve jobs and encourage economic development, particularly in economically distressed areas of the State. However, the Maine NMTC Program is not actively coordinated with any other State programs and, based on OPEGA's limited research, its unique approach is not duplicative of any other State programs.

Although the program is not designed to be specifically complementary to other State programs, we observed businesses participating in the Maine NMTC Program also benefitting from some other State programs – in some cases for the same projects. We also noted from FAME documents that one Maine NMTC deal also involved Historic Preservation Tax Credits and another involved funds from the Major Business Expansion Program and from pledges from the Business Equipment Tax Reimbursement and Employment Tax Increment Financing programs.

We were unable, however, to more broadly assess the degree to which businesses participating in the NMTC program are receiving benefits from other programs, and whether these benefits constitute a package necessary to make the project viable or result in a level of support that exceeds what is necessary to incent the desired behavior. This issue is not unique to the Maine NMTC Program as the State's current data collection and management practices for business incentive programs as a whole are not designed to allow such an assessment.

8. To what extent is the State's administration and implementation effective and efficient?

See pages 20 - 26 for more on this point

FAME's and MRS' administrative roles for the Maine NMTC Program are primarily focused on ensuring compliance with program requirements. OPEGA found the processes and procedures in both agencies to be effective for fulfilling their respective responsibilities, and to be relatively efficient based on the estimated administrative costs.

FAME and MRS estimate approximately $29,007 in total annual costs to administer the Maine NMTC Program, which each agency absorbs within existing resources. Several factors contribute to keeping the administrative costs low for the State including:

- the structural similarities between the State and federal programs;
- FAME's role, as statutorily designed, being primarily focused on ensuring compliance with program requirements;
- responsibility for demonstrating, or attesting to, compliance resting with the CDEs; and
- FAME's administrative costs primarily being covered by fees CDEs pay to apply for tax credit allocations ($1,000/application), submit proposed projects for FAME certification ($2,000/application), and file annual reports ($250/report annually).

According to CDEs OPEGA interviewed, the requirement for FAME to certify each project investment is an extra step that is not required in the federal program or other state programs. However, the CDEs indicated that, overall, the administrative requirement for Maine's program was comparable to other states and was not overly burdensome.

OPEGA offers the following recommendations as a result of this review. See pages 49 - 54 for further discussion.

- Opportunities to improve program design and cost-effectiveness should be considered if Legislature authorizes additional allocations.
- Legislature should consider incorporating recent FAME rule change into statute.
- Guidance should be established for potential situations where annual aggregate claims exceed $20 million.
- Data needed for efficient and effective program evaluation should be captured and maintained.

# Performance Measures Calculated by OPEGA

Table 1 includes the performance measures OPEGA calculated for the Maine NMTC Program that were approved by the GOC as part of the Evaluation Parameters for use in this evaluation. Table 2 provides additional measures OPEGA calculated as indicators of cost-effectiveness. All measures were calculated by OPEGA based on data collected from FAME program documents and through interviews with the management of CDEs and businesses on 10 projects that had received investments as of August 2016. The bases on which the measures were calculated are described in further sections of this report. We used economic impact modeling to produce measures F and L below.

| **Table 1. Maine NMTC Performance Measures** | | **For Years 2013 through 2021** |
|---|---|---|
| A | # Total businesses receiving qualified investments under the program | 10 businesses |
| B | # Economically distressed communities where businesses received qualified investment under the program | 8 towns in 7 counties |
| C | $ Value of tax credits to investors ($ value paid in past years and expected in coming years) | $75.8 million |
| D | $ Value of credits available compared to credits taken | OPEGA estimates all Maine NMTC credits are taken as soon as available |
| E | Total direct program cost (credits plus administrative costs) | Approx. $76 million (admin costs are less than 1%) |
| F | Net impact on State budget (using economic modeling, as possible and appropriate, to include capture of indirect benefits and costs) | $15.8 million net positive impact on General Fund revenues |
| G | Total qualified investment received by businesses | $182.9 million in QLICIs |
| H | $ Value of average qualified investment received per business (also min and max) | $18.3 million per business average, ranging from $575 thousand to $40 million |
| I | Average value of tax credits per investor (also min and max) | $25.3 million average, minimum is $8.1 million and maximum is $59.5 million |
| J | $ Value of tax credits received by equity investors per $ of qualified investment made by those investors | Insufficient data available to calculate this measure |
| K | Leveraging Ratio | This measure not meaningful for this program |
| L | Indicators of State economic growth associated with investments[6] (using economic modeling, as possible and appropriate, to include capture of indirect benefits and costs) | 0.3% average annual GSP impact, 2013-2016<br>764 direct permanent jobs created or retained and still existing as of 2016<br>1,034 indirect jobs created or retained in business supply chains as of 2016<br>781 jobs temporarily supported by spending through 2016 |
| M | Participation Rate (% of federally-eligible census tracts in Maine with businesses that received investments[7]) | 7.1% of census tracts that meet federal eligibility requirements |
| Note: Data above reflects only Maine NMTC-related investments made as of summer 2016. | | |

[6] OPEGA had intended to calculate economic growth indicators for the economically distressed areas where businesses receiving the investments were located. However, we found it difficult to calculate impact at the community level.

[7] OPEGA had intended to calculate this measure as the percent of economically distressed communities in the State that have benefitted from the program. OPEGA had insufficient time to perform the additional analysis necessary to calculate this measure at the community level.

| Table 2. Additional Measures of Cost-Effectiveness for Maine NMTC | | For Years 2013 through 2021 |
|---|---|---|
| N | Gross State Product Generated Per Dollar of Tax Credit | $21.67 GSP per $1 tax credit |
| O | Dollars of business spending per dollar of tax credit[8] | $3.39 per $1 tax credit |
| P | Dollars of business in-state spending per dollar of tax credit | $1.19 per $1 tax credit |
| Q | Cost per direct permanent and persisting job | $99,179 one-time cost |
| Note: Data above reflects only Maine NMTC-related investments made as of summer 2016. | | |

# Estimating State Impacts

## Estimating Direct Costs to the State

OPEGA estimated direct costs to the State as the value of the tax credits plus the administrative costs of the program. The value of tax credits expected to be claimed in any fiscal year were estimated based on the date of the QEI as taken from FAME documents. We also assumed that credits would be claimed as soon as they were available and would not be carried forward. FAME and MRS provided estimates of the annual administrative costs they each incur.

## Modeling Direct and Indirect Impacts

OPEGA used economic impact modeling to derive two of the performance metrics. The Maine-specific IMPLAN model captured both direct and indirect economic impacts attributable to the Maine NMTC Program.

Two of the performance measures OPEGA calculated were derived using a Maine-specific IMPLAN model to capture both the direct and indirect economic impacts attributable to the Maine NMTC Program. Increased State tax revenues generated by the model were used in calculating the Net Impact on State Budget and additional Gross State Product was a result of the model.

<u>IMPLAN Model</u>

Input-output models such as IMPLAN rely on detailed information about the economy to estimate how much activity in one industry is supported by the activities of other industries. Known information about economic activity associated with the program, reported by recipient firms, such as jobs created or dollars spent on construction projects, is input to the model and from this IMPLAN summarizes estimated impacts in the following categories:

- Employment – representing a mix of full- and part-time jobs that varies by industry.
- Labor income – representing a combination of employee compensation i.e., wages and salaries and benefits provided to workers.
- Value added – more commonly known as gross domestic product or, in the case of this analysis, gross state product.

[8] Spending used in this measure is from Maine NMTC investment and leveraged investment that would likely not have occurred without Maine NMTC.

- Output – representing a firm's gross sales or receipts, and consists of value added and the value of intermediate inputs.
- Associated Tax Revenue – from payroll taxes; taxes on firm production, imports, sales, and profits; and personal income tax, property tax, and other taxes.

Model Inputs and Results

Input data for the model was obtained from documents CDEs have submitted to FAME, as well as from interviews with the businesses that have received Maine NMTC investments.

QALICB – Qualified Active Low-Income Community Business

Estimating the total economic impact of the Maine NMTC Program required determining program inputs for the Maine model to analyze. These inputs included "incremental permanent jobs" within the QALICB and "industry-specific sales" associated with in-state spending on a funded project. OPEGA collected the inputs using a combination of in-person interviews and administrative records, including certification applications and annual reports submitted by CDEs.

"Incremental jobs" are the in-state jobs created or retained at QALICBs because of the Maine NMTC Program. Annual job counts were collected for years 2013-2016 and then modeled cumulatively to reflect those positions that persisted through the analysis period. This means that if a company created 10 jobs in the first analysis year and five jobs in the second year, and did not eliminate any jobs in the intervening period, the direct employment impact is 10 jobs in the first year and 15 jobs in the second year.

Primary inputs were direct permanent jobs and investment amounts spent on in-state goods and services that OPEGA attributed directly to the Maine NMTC Program.

"Industry specific sales" include the amount of investments associated with the Maine NMTC Program that QALICBs spent in-state. Spending was modeled year-by-year instead of cumulatively because spending is generally a one-time event and does not repeat year after year.

While OPEGA was gathering the base employment and spending data needed as inputs for IMPLAN, we were also interviewing CDEs and QALICBs to better understand the degree to which the investments, jobs and spending may have been dependent on, or directly "attributable to" the Maine NMTC Program. Using this information, we adjusted the inputs for QALICB employment to remove any jobs we determined would likely have been created or retained even without the Maine NMTC Program. Likewise, we adjusted the inputs for QALICB spending to remove any spending that (a) would likely have occurred even without the Maine NMTC Program and (b) did not occur in the state of Maine. Spending amounts were also increased to reflect leveraged investments that were determined to be attributable to the program.

Other factors relevant to the model inputs, and the resulting outputs, are:

- Inputs were based on amounts actually invested in QALICBs as of August 2016. There was $55.7 million of Maine NMTC Program allocation that had not yet been invested in QALICBs by summer 2016. These investments could drive impacts up or down depending on the nature of the businesses and projects.

- For the purposes of this analysis, OPEGA assumed a steady state for the QALICBs moving forward from 2016. There was no sound way to predict whether the 10 businesses would fare better or worse in the future, or to what degree.
- QLICI funds used by QALICBs to pay off existing debt were not counted as in-state spending inputs for the economic impact modeling. Although paying off high-interest debt may free up additional operating capital and may improve business health, it is not considered a significant economic driver that has a multiplier effect in the business's supply chain, nor does it reflect an improvement to the physical plant of a business such as a plant renovation.
- All financial data input to the model were adjusted to 2015 dollars, thus outputs are also expressed in 2015 dollars.

The final model inputs used by OPEGA, and the results produced by the model, are summarized in Table 3. The inputs represent the most current data available for use in our analyses. It is important to note, however, that the investments made under Maine's NMTC Program are still young and some of the QALICBs may have employment changes stemming from the investments received. While OPEGA was collecting data during the summer of 2016, some of the businesses were just completing the projects funded by their NMTC investments. Consequently, we may not yet have seen how the completion of the project would affect the business, the surrounding community or the State economy.

**Table 3. Economic Impact Modeling for Maine NMTC Program Key Inputs and Outputs 2013 - 2021**

| | 2013 | 2014 | 2015 | 2016 and each year after |
|---|---|---|---|---|
| **INPUTS** | | | | |
| Business NMTC In-State Spending | $1,644,803 | $79,785,106 | $8,851,002 | $0 |
| # of Direct Permanent Jobs in Businesses | 277 | 562 | 726 | 764 |
| **OUTPUTS** | | | | |
| # Indirect Permanent Jobs in Supply Chains | 515 | 881 | 997 | 1,034 |
| # Jobs Temporarily Supported | 12 | 688 | 81 | |
| Increase in Maine State Tax Revenue* | $6,388,898 | $11,191,575 | $10,431,276 | $10,590,025 |
| Maine Gross State Product Generated | $103,952,644 | $210,823,468 | $188,243,087 | $189,884,216 |

*Does not include municipal or county level tax revenues.

# About the Maine New Markets Capital Investment Program

## Program Description

Maine's NMTC Program grants CDEs tax credit authority via an allocation process administered by FAME. The process essentially reserves credits for specific CDEs. Statute authorizes FAME to allocate up to $250 million in credit authority with no more than 25% allocated to any individual CDE.

Maine's New Markets Capital Investment Program (NMTC) is a State program enacted by the Maine State Legislature in 2011.[9] It is applicable to tax years beginning on or after January 1, 2012 and was modeled after the Federal New Markets Tax Credit Program. It provides a 39% credit over seven years for investors who make qualified equity investments (QEIs) in qualified active low-income community businesses (QALICBs) via qualified community development entities (CDEs). The credit is payable at a rate of 0% for the first two years, 7% in year three and 8% in each of the remaining years. It can be carried forward for up to 20 years and is also fully refundable, meaning the State must write a check for the amount of the credit due to investors with no Maine income tax liability.

Maine's NMTC Program grants CDEs tax credit authority via an allocation process administered by the Finance Authority of Maine (FAME). This process essentially reserves credits for specific CDEs if they are able to put together an investment deal that meets all of the Maine NMTC requirements within the required time. FAME was authorized by statute to allocate up to $250 million in aggregate qualified equity investments with no more than 25% allocated to any individual CDE. Each $1 of investment authority equates to $0.39 of tax credits, so in total FAME could allocate up to $97.5 million in total tax credits with no more than $24.38 million allocated to a single CDE. Statute appears to limit the amount of tax credits that can be taken or refunded in any one year to a maximum of $20 million. OPEGA observed that the carryover provisions of the credit, or delays in taxpayer filings, could result in more than $20 million being claimed in any one year and there are currently no provisions for how this situation would be handled if it arose. This issue is further discussed in Recommendation 3.

Maine's program intends to encourage investments that will primarily benefit businesses in economically distressed areas of the State, thereby promoting economic development in those areas.

## Program Purpose and Intended Beneficiaries

The intent of the Maine NMTC Program is to promote economic development in Maine by encouraging major investments in qualified businesses and developments located in economically distressed areas of the State; to preserve jobs and make the State more competitive in the attraction of investment capital. The more specific program goal is to encourage new investments in qualified businesses and developments located in economically distressed areas of the State.

Although the tax credits under the program are paid to NMTC investors, the qualified investments for which the credits are paid are primarily intended to benefit qualified businesses in economically distressed areas of the State. The economically distressed communities themselves are also intended to benefit.

[9] Maine statutory sections establishing the New Markets Capital Investment Program and related tax credits are 10 MRSA § 1100-Z and 36 MRSA § 5219-HH respectively.

Five major changes to program statute and rules since the program began have potentially impacted program outcomes.

## History of Program Changes

Five major changes have been made to statute and rules since the program's enactment which are summarized in Table 4. The Legislature may want to reconsider the impact of these changes on potential program outcomes if additional allocations are authorized for this program. See Recommendation 1 for further discussion.

The first change to statute occurred in the summer of 2012. It increased the statutory investment limit of $10 million per business to $40 million for low-income community businesses that are manufacturing or value-added production enterprises projecting to create or retain more than 200 jobs. Since the program's total legislative allocation of $250 million did not change, increasing the per investment limit so substantially potentially reduced the number of businesses that could receive certified investments. It also potentially shifted the program toward benefitting larger businesses more likely to be undertaking the types of projects warranting larger investments.

**Table 4. Major Changes to Maine New Markets Program Since Inception**

| Date | Description of Program Change |
|---|---|
| August 2012 | Statutory change to increase per business investment limit from $10 million to $40 million for certain types of businesses. |
| May 2013 | Statutory change to apply investment limits on a "per project" rather than "per business" basis. |
| August 2013 | Rule change to remove requirement that "substantially all" invested funds be spent within the low-income community where the business is located. |
| October 2013 | Statutory change to expand definition of qualifying businesses to include those located in municipalities with unemployment rates greater than the State average. |
| September 2015 | Rule change to limit use of invested funds for certain purposes to 5% of the funds invested in the business. |

Source: OPEGA review of legislative and rule histories.

The second major change was part of emergency legislation enacted in May of 2013, when the investment limit was changed from "per business" to "per project". OPEGA's understanding is that this would allow more than $40 million dollars to be invested in a single low-income community business as long as no more than $40 million was invested in each of the business's qualifying projects. We note, however, that none of the businesses with certified Maine NMTC investments in Maine as of August 2016 have had more than one project funded via the program.

The third program change was an amendment to program rules rather than statute. FAME rules for the Maine NMTC Program originally included language specifying that "substantially all of [the investment] is expended by the qualified active low-income community business within a low-income community in the state." However, CDE lawyers argued that this rule was an over-reach of statute and FAME board members agreed. In August 2013, the Board adopted Amendment 2 to the Maine NMTC rules removing the requirement. Board members felt this better aligned the Maine NMTC rules with the federal program.

OPEGA notes that this rule change may have had a major effect on the program in that "substantially all" funds invested under the program are no longer required to actually be spent in the low-income community where the business is located. Low-income communities derive more economic benefits from money spent to hire community residents or expand or acquire assets in the community. This change allowed more of the invested funds to be spent outside of the low-income community potentially reducing benefits the low-income community would reap from the investment. We also note, however, that a requirement for "substantially all" to be invested in the community may have been too restrictive as most of the resources needed for a project may not exist within the community.

The fourth change to the program came via a statutory amendment enacted in the fall of 2013. The amendment expanded the definition of QALICB beyond the definition in federal code to include businesses located in Maine municipalities with unemployment rates higher than the State average. This change potentially increases the number of Maine communities that could benefit from investments in qualifying businesses and could be perceived as diluting the program's focus on the lowest income communities. Alternatively, it could be desirable to include Maine communities considered to be low-income, but which do not meet federal requirements. In reality, any projects using allocations from both the federal and State NMTC programs would need to comply with the federal code definition. We note that all of the projects currently certified in Maine have qualified under federal rules.

**From 36 MRSA § 5219-HH sub-§ 1**

G. "Qualified active low-income community business" has the same meaning as in the Code, Section 45D *and includes any entity making an investment under this section if, for the most recent calendar year ending prior to the date of the investment:*

*(1) At least 50% of the total gross income of the entity was derived from the active conduct of business activity of the entity within any municipality where the average annual unemployment rate for that year was higher than the state average unemployment rate;*

*(2) A substantial portion of the use of the tangible property of the entity was within any location of the State where the average annual unemployment rate for that year was higher than the state average unemployment rate; or*

*(3) A substantial portion of the services performed by the entity by its employees was performed in a municipality where the average annual unemployment rate for that year was higher than the state average unemployment rate.*

The final, and most recent, change to the program came in September 2015 via a change to FAME rules. The change specified that no more than 5% of the proceeds invested in the business (the QLICI) may be used to:

1. refinance costs, expenses or investments incurred or paid by the qualified active low-income community business or a related party prior to the date of the qualified low-income community investment;
2. make equity distributions from the qualified active low-income community business to its owners;
3. acquire an existing Maine business or enterprise; or
4. pay transaction fees.

The rule change was an attempt to disallow "one-day loan" transactions. Eliminating "one-day loans" could have the effect of increasing the amount of investment that remains in a QALICB, thereby increasing the return the State gets on its investment. This is discussed further on page 44. However, it may also limit options for structuring Maine NMTC deals in ways that provide sufficient rates of return for the investors and, therefore, increase the difficulty of attracting investments to certain projects.

The new rule is not retroactive but it will change the types of investments and projects allowed under the program moving forward. For example, six of the 10 current projects with certified investments would still qualify under the amended program rules, but two would not qualify at all. Large portions of the remaining two projects also would not qualify. OPEGA notes this most recent rule change has not been incorporated into statute, but it may be beneficial to do so. See Recommendation 2 for further discussion.

## How Investments Get to Maine Businesses

### Entities Involved in a Maine NMTC Deal

The program design requires the participation of a CDE, QALICB and equity investor in each NMTC deal. Deals are often structured in ways that also include a leverage lender.

The Maine NMTC Program uses refundable tax credits to attract new investment to Maine businesses. Though that sounds simple enough, the structure within which the program accomplishes this is rather more complex. The package of transactions and agreements put together to fund a NMTC investment to a qualifying business is referred to as a NMTC deal. NMTC deals typically involve a number of different entities including:

- **Community Development Entities (CDEs)**. Domestic corporations or partnerships whose primary missions are to serve, or provide investment capital for, low-income communities or low-income persons. CDEs are intermediaries who receive the Maine NMTC credit allocations from FAME and put together the investment deals between the investors and the qualified active low-income community businesses. CDEs participating in Maine's NMTC Program must be active participants in good standing with the federal NMTC Program.

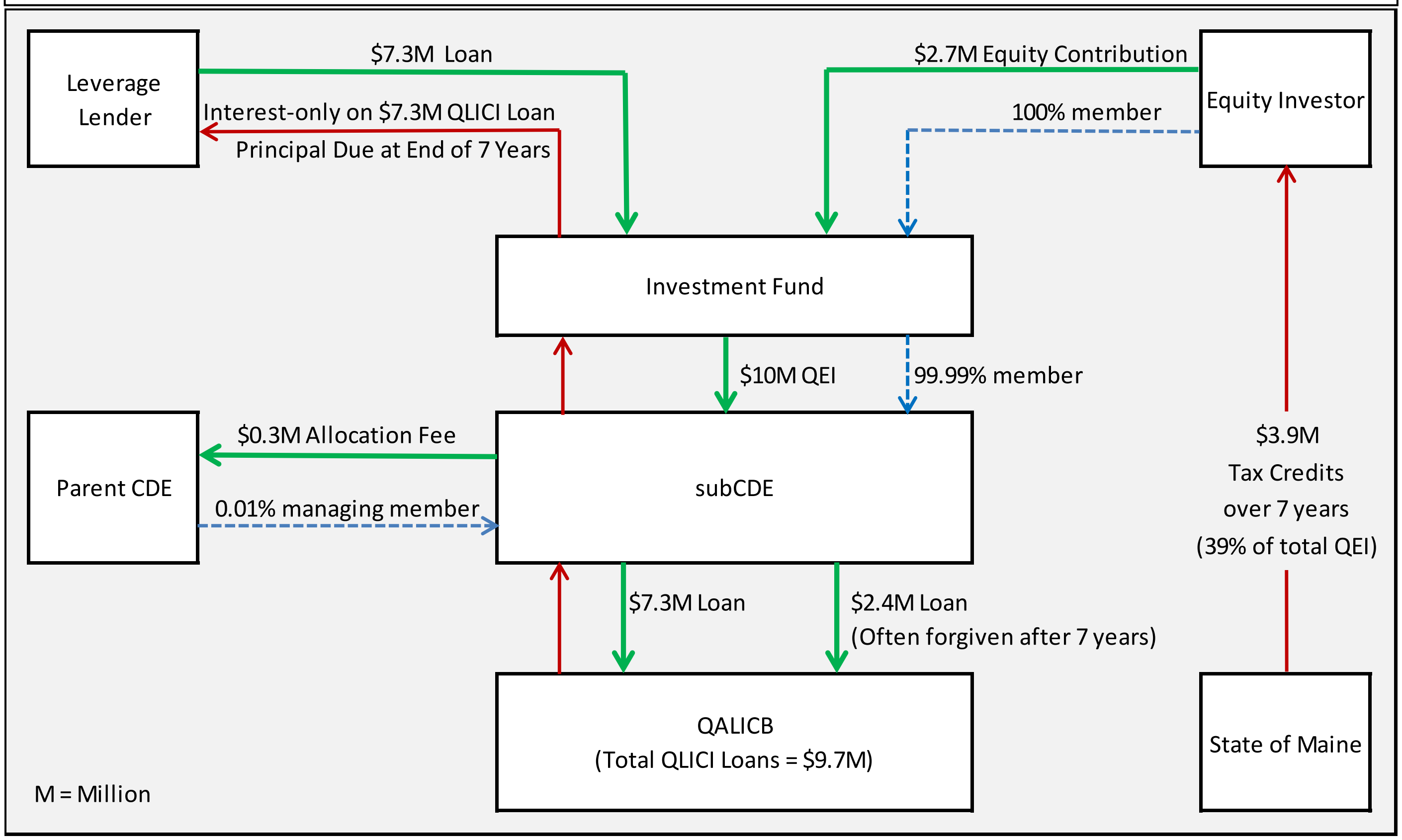
- **Qualified Active Low-income Community Businesses (QALICBs)**. Businesses, located in qualified low-income communities, who receive the investments under the Maine NMTC Program.

- **Equity Investors.** Typically national financial firms that trade in tax credits and specifically seek out NMTC deals. They often have established working relationships, and may be affiliated, with one or more CDEs.

- **Leverage Lenders.** Financial institutions or private parties that make loans to investment funds controlled by equity investors which, in turn, make equity investments in the CDEs. The private lenders may be unrelated to the QALICB but have often been the QALICB's affiliates, owners or related parties.

Program design requires participation of CDEs, QALICBs and equity investors but deals are often structured in ways that include a leverage lender as well. Figure 1 is a simplified example of how these entities typically come together in a deal.

Figure 1. Simplified Example of How a Maine NMTC Deal is Structured




## Obtaining a Qualified Equity Investment

> The funds the CDE gathers to invest in a business are known as the QEI. The QEI is typically made up of an investment from an equity investor and a loan from a leverage lender.

A QEI is essentially the funds the CDE gathers together to invest in a business. It is typically made up of two parts: an equity investment from an equity investor and a loan from a leverage lender. The QEI is the basis for calculating the 39% in State tax credits associated with a particular deal. Hence, a Maine NMTC deal with a $10 million QEI will trigger $3.9 million in state tax credits.

The equity investor receives the tax credits on the entire QEI and typically waives, or significantly reduces, the principal due back on the equity investment from the business after the required seven year investment period. For this investor, the transaction is somewhat like buying an annuity. The investor pays a lump sum up front to receive a fairly safe future cash flow in the form of tax credits. The amount the investor is willing to pay for each $1 of tax credit varies with the tax credit market.

The leverage lender's loan helps raise the total QEI thus increasing the amount of tax credits to the equity investor to a point that meets the equity investor's required rate of return. The leverage lender receives none of the tax credits, and instead typically gets "interest only" payments during the seven year loan term with a balloon principal repayment at the end of that term.

The equity investor receives the tax credits on the entire QEI. The leverage lender typically gets "interest only" payments during the seven year period with repayment of the principal at the end.

The CDEs OPEGA interviewed noted that finding leverage lenders can be a substantial challenge in Maine unless there is a viable lender that is related in some way to the QALICB. This is partly because few lending institutions in Maine have experience in NMTC deals and partly because NMTC deals can appear risky on the surface. For example, they may involve a loan to a business that is struggling with cash flow or would be considered a high risk borrower for other reasons.

**From 36 MRSA § 5219-HH sub-§ 1**

I. "Qualified equity investment" means any equity investment in, or long-term debt security issued by, a qualified community development entity that:

(1) Has at least 85% of its cash purchase price used by the issuer to make qualified low-income community investments in qualified active low-income community businesses located in the State by the 2nd anniversary of the initial credit allowance date;

(2) Is acquired after December 31, 2011 at its original issuance solely in exchange for cash; and

(3) Is designated by the issuer as a qualified equity investment and is certified by the authority pursuant to Title 10, section 1100-Z, subsection 3, paragraph G.

The lenders may also see the deals as risky since they have no direct link to, and no perfected security interest (or "sticks and bricks collateral") in, the businesses. Instead, they loan money to the investment funds put together by CDEs, the funds make investments in the CDEs, and the CDEs then typically loan the money to the QALICB. A leverage lender's only collateral is a pledge of debt notes associated with the CDE's loans to the business. Some CDEs also found that the leverage lenders they were accustomed to working with outside of Maine were not comfortable following the CDE into Maine NMTC deals because the Maine market was unfamiliar territory.

CDEs use various means to identify potential QALICBs to invest in. Most of the ten QALICBs with certified Maine NMTC deals were identified via networking of some sort.

### Selecting a Qualified Active Low-Income Community Business

The process outlined in State rule anticipates that a CDE will obtain a QEI before finding a QALICB in which to invest. In this case, the CDE may search for a QALICB well-matched to the invested funds. Alternatively, however, a CDE may identify a QALICB first and then put together a QEI that specifically suits that business, or the QEI may come together at the same time that a QALICB is being identified.

Regardless of when in the sequence of events it happens, a CDE can identify a QALICB in a variety of ways. They may learn about potential businesses to invest in:

- through local economic development entities;
- from contacts at the Department of Economic and Community Development (DECD);
- via networking with other CDEs or the accounting and legal firms that specialize in NMTC deals; or
- from being contacted directly by a business seeking investment.

Some CDEs also find potential QALICBs independently by using data analytics to assess all of the businesses in a state based on unique parameters that help them identify businesses that are attractive for investment. CDEs may also use brokers to identify potential QALICBs. While this has not been a common practice in Maine, CDEs reported to OPEGA that this is common for federal NMTC deals on a national level.

Five of the six CDEs that received Maine NMTC allocations in 2012 had not previously done any federal NMTC deals in Maine and were initially unfamiliar with the business community and what investment opportunities might exist here. These CDEs described identifying QALICBs that fit their investment goals as the most challenging part of the process for them. Most of the 10 QALICBs with certified Maine NMTC deals were identified by a CDE via networking of some sort. One business sought investment by contacting a CDE directly, and one was identified for a CDE by a broker.

### Structuring a Qualified Low-Income Community Investment

The investment the CDE makes in a business is known as a QLICI. The amount of the QLICI must be at least 85% of the QEI the CDE obtained.

CDEs use the QEI funds invested in them to make their investments in the qualified businesses they have selected. These investments in the businesses are known as QLICIs, or qualified low-income community investments. Under statute, QLICIs are limited to $10 million per project or $40 million for a project at a manufacturing or value-added production facility that expects to create or retain more than 200 jobs.

**From 36 MRSA § 5219-HH**

J. "Qualified low-income community investment" means any capital or equity investment in, or loan to, any qualified active low-income community business made after September 28, 2011. ……[W]ith respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments that may be made with the proceeds of qualified equity investments …… is $10,000,000 per project constructed, maintained or operated by the qualified active low-income community business whether made by one or several qualified community development entities. With respect to investments in a qualified active low-income community business that is a manufacturing or value-added production enterprise, the limit on the qualified low-income community investment is $40,000,000 per project constructed, maintained or operated by the qualified active low-income community business.

CDEs do not typically invest the entire amount of the QEIs they obtain in the QALICBs. The State NMTC statute, like its federal counterpart, requires that at least 85% of a QEI be invested in a business, which means that a CDE is allowed to retain up to 15% of the QEI.

OPEGA observed that all CDEs retain some QEI as allocation fees. The amount retained varies depending on the NMTC deal being put together but most CDEs retain considerably less than the allowed 15%.

The QLICI can be any form of loan and/or equity investment in the QALICB. Most CDEs involved in the Maine NMTC Program structure the total QLICI investment as two low-interest loans with interest-only payments due during the seven year investment period. The combined interest from both of the loans accrues back to the leverage lender through the CDE. One of these loans typically requires a balloon payment of the principal at the end of seven years, which will also accrue back to the leverage lender. The other loan may be forgiven through a "put/call" option.

The "put" option allows the CDE to "put" the note (or loan), at the end of its term, for a small amount. A common "put" amount is $1,000 but this varies based on the CDE and the nuances of the investment deal. A "put" essentially allows the CDE to forgive the loan and, through the small payment, the QALICB avoids having to pay gift tax on the forgiven amount. The "call" option protects the QALICB by allowing it to buy out the loan, or "call" it, at fair market value if the CDE does not offer a put at the end of the seven year term.

OPEGA noted that the businesses usually do not have the entire QLICI available to spend on their projects as a result of various transactions occurring at the closing of the deal or post-investment fees that must be paid. There is additional discussion of what the 10 QALICBs had available to spend on page 44.

# Lifecycle of a New Markets Deal

### CDE Applies for a Maine NMTC Tax Credit Allocation

Six CDEs applied to FAME for tax credit authority when allocations first became available in January 2012. FAME allocated the maximum $250 million that was authorized for the program evenly among the six CDEs.

In January of 2012, FAME advertised on its website that the first Maine New Markets allocation was available. On January 3, 2012, the first day that applications were accepted, six CDEs applied for their maximum allocation of $62.5 million each, for a total of $375 million in requested allocations. Program statute limits the maximum aggregate allocation for the program to $250 million and requires FAME to award the allocations on a first-come, first-served basis to qualified CDEs. Consequently, FAME immediately stopped accepting applications and divided the $250 million evenly among the six applicants.

To be eligible for an allocation, a CDE must be in good standing with the federal NMTC program.

To apply for allocation, a CDE submits a completed application form and a non-refundable $1,000 application fee. The CDE provides identifying information along with several documents evidencing the CDE is an active participant in good standing with the federal NMTC program. The CDE must also describe the proposed use of the tax credit authority it is requesting and the transaction fees it intends to charge. Lastly, the application form requires a CDE to respond to five questions required by statute. If a CDE answers four of the five questions in the affirmative, FAME is required by statute to consider it a qualified CDE for the purposes of Maine's program.

FAME has 60 days to review applications and respond to the applicant CDEs with either award letters defining the amount of the allocation being awarded or denial letters. For the January 2012 applications, FAME staff completed their review shortly after applications were received and notified awardees on February 22, 2012. Statute allows CDEs 15 days after receipt of a denial letter to resubmit their application if desired. The resubmission process has never been used because the only denials have been because there were no funds left to allocate.

### CDE Obtains and Certifies a Qualified Investment

CDEs have two years to obtain a QEI and another two years after that to identify a project to invest in and get the QLICI certified.

After being approved for an allocation, a CDE has two years to obtain a QEI and must provide proof of the QEI to FAME within 10 days after it has been received. In Maine's program, the QEI is certified for tax credits in conjunction with FAME's certification of the QLICI, which is the investment actually made into a business. The CDE is allowed another two years after providing proof of a QEI to identify a project to invest in and get a QLICI certified. This additional two years on top of the two years allowed for obtaining a QEI gives the CDE a maximum of four total years from the date they receive their allocation to complete their Maine NMTC deal (often referred to as the 2+2 model). If the CDE has not obtained a QEI within two years of receiving its allocation, or has not used a QEI for a certified QLICI within four years, then its allocation lapses back to FAME and may be reallocated to a fresh round of applicants.

Allocations lapse back to FAME if a CDE fails to obtain QEI or get a QLICI certified within the established time frames.

In February 2016, $55.7 million of the initial $250 million in allocations lapsed back to FAME. This amount was reallocated in May 2016 via a second allocation application process and was divided evenly among 12 CDEs that applied on the first day. OPEGA observes that allocating such a small amount to each CDE could result in scenarios that reduce the economic impact the State achieves from the associated tax credits. See Recommendation 1 for further discussion.

According to FAME, most QEIs are obtained very close to the time when the actual investment in the business is made and these QEIs are reported to FAME along with the documentation for certifying the QLICI. The CDE may, however, notify FAME of its QEI by letter if the end of the two year limit for obtaining a QEI is nearing but the CDE has not yet identified a QALICB, or finished putting the QLICI deal together.

The investment deals CDEs put together for the QLICI often have a complex structure with transactions flowing through new entities created just to facilitate the deal.

Once a CDE has identified a potential QALICB, it must prepare for submitting a certification application to FAME. This includes working out the design of the NMTC deal associated with the qualifying investment (QLICI) that will be made in the business. The CDE, the QALICB, the equity investor, the leverage lender and the lawyers for all entities are typically involved in structuring the deal, which often includes planning for the creation of a variety of new legal entities through which transactions will flow. QALICBs reported to OPEGA that this part of the process can be complex, time consuming and costly for them. One QALICB described participating in conference calls with 17 people on the line and signing 150 documents. FAME requests a financial diagram of the deal as part of the certification application because the text descriptions required are often not enough to convey a complete understanding of the complicated transactions.

CDEs apply to FAME for certification of their QLICI deals. In certifying the QLICIs, FAME also certifies the QEI as eligible for tax credits.

To apply for certification of a QLICI and the associated QEI, a CDE submits a completed certification application and a non-refundable $2,500 application fee. FAME rules require the CDE to provide:

- information on the QALICB, the proposed business uses of the investment and the low-income community or communities in which the proceeds will be expended;
- information on the identities of the QEI investors and specified details of the investments; and
- a description of the fees to be charged as part of the investment transaction.

The CDE must also present a signed certification that the application has been executed by an executive officer of the CDE and, declaring under the penalty of perjury, that:

- the applicant's federal allocation agreement remains in effect and has not been revoked or canceled by the federal program administrator;
- the cash purchase price for the investment (the QEI) has been received; and
- the statements in the original allocation application, as well as in the certification application, including all accompanying documents and statements, are and remain true, correct and complete as of the date of the certification application.

If the CDE is proposing a QLICI exceeding $10 million for a project expected to create or retain more than 200 jobs, then the certification application must also be accompanied by an independent study documenting the expected benefits of the investment.

FAME staff reviews the application materials to ensure that program requirements are met and drafts a recommendation for the FAME Board. Staff also prepares a resolution for the Board's consideration certifying the deal, and related QEI, as eligible for tax credits.

**The FAME Board's resolution** certifies an investment as eligible for tax credits and includes conditions that must be met prior to the release of any tax credits:

1. the deal must close as described in the application;
2. all required agreements are signed;
3. the CDE supplies proof that the QLICI was actually invested in the QALICB; and
4. there is a tax opinion provided stating that the deal qualifies under federal law.

The FAME Board reviews each of the certification applications at one of their public meetings. During the meeting, the CDE presents their project and the Board reviews the FAME staff's recommendation. After any discussion, the Board votes on the resolution if they are ready to approve the NMTC deal, or they may put off a vote if they are not yet ready to vote in the affirmative. Deals that do not receive the Board's immediate approval may be revised and resubmitted for further consideration at a future Board meeting. As of August 2016, the FAME Board has never denied an NMTC deal.

Some of the CDEs OPEGA interviewed expressed concern that FAME can deny a NMTC certification based on judgment about the deal's value to the State, as this poses a substantial risk for CDEs that have spent significant time and energy lining up the details of the deal. However, statute seems to indicate that FAME must certify a QLICI as long as the following statutory requirements are met:

- the CDE remains in good standing with the federal program;
- the definitions of QEI, QALICB, QLICI in 36 MRSA § 5219-HH are met; and
- the QLICI is at least 85% of the QEI and is made within two years of obtaining the QEI.

### FAME Reviews Deal Closing and Issues Tax Credit Certificate

After FAME Board certifies an investment, FAME staff monitor the deal's closing.

Following the FAME Board's certification, a number of steps occur to finalize the deal. FAME and the CDE enter into a written agreement that is a concise restatement of the CDE's statutory obligations and the CDE initiates the legal transfer of whatever funds, secure notes, and deeds are applicable in the deal. FAME staff ensures that:

- all agreements are signed;
- financial transactions occur as dictated in the transaction plan proposed in the certification application; and
- tax opinions are provided documenting that the business conforms to the definition of a QALICB and that the funds are legally considered an equity investment or long term security.

**Via a written agreement with FAME, the CDE agrees to:**

- use at least 85% of the QEI as a QLICI within two years;
- keep that 85% minimum in the QLICI through the seven year compliance period;
- notify FAME of any federal recapture efforts within 30 days; and
- notify FAME within 30 days of any principal prepayment by the QALICB.

The agreement allows recapture of the tax credits for violation of rule or statute. It also allows FAME to share any information obtained from applications and annual reports with MRS and the Commissioner of the Department of Administrative and Financial Services (DAFS) if any event or circumstances occur that may warrant recapture.

FAME finalizes the tax certificate and sends it to MRS after ensuring all aspects of the deal are in compliance with statute, rules and the certification application.

After a final review of all aspects of the deal to ensure compliance with statute, rules and certification application documents, FAME finalizes the official tax certificate. A copy of the certificate is sent to MRS and the DAFS Commissioner notifying those agencies that a specific claimant is entitled to the Maine New Markets Tax Credit. The certificate includes the name and tax ID of the claimant, as well as the total amount of credit authorized, and the name and address of the CDE and QALICB associated with the credits. The amount and dates of the QEI(s) associated with the credits are also included so that MRS has the information needed to calculate the credit available for a given tax year.

Since Maine NMTC tax credits are completely transferrable, CDEs must notify FAME if the name of the corporation or individual eligible to claim the State credits changes. FAME must then notify MRS and the Commissioner of DAFS of the change to ensure that MRS has the updated information regarding who can claim the tax credits.

FAME's last step is to add the details of the deal to the tracking spreadsheet FAME keeps to monitor how much of each CDE's allocation has been used to date. The spreadsheet also is an easily accessible record of the fact that the "substantially all" criterion has been met.

### CDE Monitors the QALICB and Project

The CDE formally monitors the QALICB and its project throughout the seven year period. QALICBs are required to submit regular reports and the CDEs conduct site visits.

Once the deal closes, the CDE begins formal monitoring of the QALICB and its project. CDEs describe their monitoring efforts as critical to ensuring the investment continues to comply with Maine NMTC Program requirements. The monitoring is also critical for maintaining the confidence of the large institutional investors the CDEs work with.

For construction projects, the CDEs also review construction draws and often hire a construction monitor.

This formal monitoring takes different forms depending on the CDE and the nature of the investment. One CDE currently operating in Maine has a very hands-on approach and frequently has board observers, or actual representation on a QALICB's board of directors, in addition to regular quarterly monitoring. The more typical approach to monitoring involves a detailed accounting plan that allows the CDE to track each NMTC dollar to ensure it goes where it is supposed to. CDEs typically receive monthly or quarterly reporting via forms they provide to the QALICB. They also typically require annual and quarterly financial statements, and reports on progress in meeting any goals specified in Community Benefits Agreements (CBAs). Site visits are conducted as needed. CDEs invested in major construction projects also often hire construction monitors to track the project's progress. They watch construction draws closely and may require sign-off by the CDE and/or construction monitor for some, or all, construction draws.

### MRS Processes Claimed Tax Credits

MRS begins its portion of the program's administration when the equity investor starts claiming the tax credits via a NMTC worksheet filed with the tax return. The worksheet requires all the figures needed to calculate the tax credit for the given year, including any carry forwards from prior years or amounts being carried forward to subsequent years.

Investors claim their tax credits by filing NMTC worksheets with their Maine tax returns. MRS reviews the claim for taxpayer eligibility and accuracy of the credit amount being claimed.

An MRS analyst performs an initial manual review of the claim to ensure that the claimant is eligible for the tax credit according to records received from FAME and that the credit amount has been correctly calculated. The analyst records the approved amounts to be paid and carried forward on a spreadsheet that MRS maintains for each tax credit certificate. If the claimant is a pass-through entity, MRS also verifies that the allocation of the credit matches the claimant's percentage of ownership. Once the claim is approved it is processed and paid like any other credit or refund.

FAME is required to notify MRS of any recapture conditions reported by a CDE. According to FAME, as of summer 2016, no CDEs have reported potential recapture conditions on any of the Maine NMTC investments. MRS may also identify recapture conditions while conducting an MRS audit, or may learn about a federal recapture event via Revenue Agent Reports (RARs) from the IRS.

**Recapture events or conditions include:**

1. the CDE is subject to recapture of federal credits involved in the same transaction that was associated with Maine credits;
2. less than 85% of the QEI is invested in a QALICB; or
3. the investment is repaid or redeemed by the QALICB prior to the end of the compliance period and was not reinvested by the CDE within 12 months.

Statute allows the CDE 90 days to resolve any deficiencies identified before MRS will issue a final order of recapture. MRS notifies the claimant of the State recapture and of the right to appeal. Unless the recapture is successfully appealed, MRS proceeds to collect the amount that must be returned to the State.

### CDE and QALICB Wind-Down the Deal After Seven Years

At the end of the seven year period, the Maine NMTC deal "winds down". None of the current deals will "wind-down" until 2019.

The NMTC QLICI investments are expected to remain in the QALICB for the seven year investment period after which the deals go through what is known as a "wind-down." This is the time when any loans made to the QALICB will mature and any principal amounts will be repaid or refinanced unless they are forgiven. As described previously in this report, it is anticipated that put/call options will be exercised on any QLICI loans associated with the equity investors' QEIs such that the QALICBs will not need to repay those particular loans. There is not yet any actual experience with this phase of the investment cycle as none of the current Maine NMTC investments will wind down until 2019.

There has been recent experience, however, with a QALICB repaying the principal amount of the QLICI before the seven year minimum investment period was up due to the sale of the business to a new owner. If repayment does occur, the CDE has 12 months to reinvest the funds and to verify to FAME that the funds have been redeployed.

### FAME Monitors CDE's Continued Compliance with Program Requirements

CDEs submit annual reports to FAME throughout the seven year period. FAME uses these to monitor CDE compliance with program requirements and progress made on the business projects.

Throughout the seven year period, FAME monitors compliance with program requirements and progress on Maine NMTC investments through reporting by the CDE. Each CDE submits an annual report, along with a $250 annual reporting fee, to FAME as required by 10 MRSA § 1100-Z.5. Annual reports are due on or before April 30 of each calendar year with information reported as of the end of the prior calendar year. The reports are shared with MRS and with the Commissioner of DAFS.

Statute does not specify what the CDE must report, but FAME's interpretation is that the reports are intended to provide updates about the CDE's efforts to obtain its QEI and of the effects of the QLICI on the QALICB and the associated low-income community. To this end, FAME has established rules specifying what should be included in the annual reports.

FAME rules require that the CDE must affirm it is still in good standing with the federal NMTC program, must report on its remaining, unused allocation, and must notify FAME of any projects expected to be submitted soon for certification. For each project already certified, the CDE must submit evidence that 85% of the QEI remains in business and must provide a summary of:

- the amounts invested to date;
- the qualified active low-income community businesses in which investments were made;
- the business' use or uses of the investment proceeds;
- the low-income community or communities in which the proceeds were expended; and
- the estimated number of jobs created or retained by business on account of the investment.

The CDE must also state if, and to what extent, any federal tax credits are subject to recapture and whether, and to what extent, any principal on its Maine NMTC investments has been repaid.

FAME indicated that it plans to stop collecting annual reports from CDEs after their deals have wound-down and there are no current plans to check on the status of QALICBs after that point to assess the degree to which they benefitted from the seven year investment. OPEGA observes that further data on the QALICBs may be useful for evaluating full impacts of the program. See Recommendation 4 for further discussion of capturing needed data for evaluation.

## Assessing State Fiscal Impact

### Past Estimates of Impact Reported by MRS

Lost revenue estimates for the Maine NMTC Program published in MRS' Tax Expenditure report for FY 2016 – 2017 were somewhat understated.

Since the Maine NMTC Program's inception, MRS has been reporting estimated lost revenue for the program in its biennial "Maine State Tax Expenditures Report". MRS' Tax Expenditure Report for fiscal years 2014 -2015[10] included projected lost revenue estimates taken from the fiscal note on the bill creating the program. The original fiscal note was based on a rational estimate for the amounts of Qualified Equity Investment that would be made by year though the amounts overestimated how quickly the capital could be deployed.

MRS' estimates for 2016 -2017 Tax Expenditures report were based on actual QEI data provided by FAME as of November 2014 which allowed MRS to estimate foregone revenue fairly precisely. The estimates assumed that tax credit recipients would file promptly and would not carry over the fully refundable credits to future years. MRS also assumed that payment would occur in the first half of the year

[10] MRS' biennial Tax Expenditure reports are released to coincide with the biennial State budget cycle. Estimates for the Tax Expenditure Report for fiscal years 2014 – 2015 were generated in calendar year 2012 and reported in calendar year 2013. Estimates for the Tax Expenditure Report for fiscal years 2016 – 2017 were generated in calendar year 2014 and reported in calendar year 2015. Each Tax Expenditure report provides estimates for the most recent two years and projects estimates for the coming biennium.

subsequent to the tax year because investors would file claims to receive their payments as soon as possible. While OPEGA finds this method generally reasonable, we note that MRS estimated the claimable credits based on the closing date for the QLICI deal rather than the QEI date. As shown in Table 5, this has resulted in underestimating lost revenue by about 20% in 2014, 7% in 2015 and 5% in 2016.

**Table 5. Comparison of Estimated Revenue Loss in MRS' 2016 – 2017 Tax Expenditure Report to OPEGA Estimate of Tax Credits Claimed by Year**

| Tax Year | Fiscal year | MRS Estimated General Fund Revenue Loss | Estimated Credits Claimed Based on QEI Date | % MRS Estimate is Understated |
|---|---|---|---|---|
| 2013 | 2014 | $0 | $0 | 0% |
| 2014 | 2015 | $2,715,000 | $3,380,000 | 20% |
| 2015 | 2016 | $9,205.000 | $9,855,000 | 7% |
| 2016 | 2017 | $13,509,000 | $14,259,000 | 5% |

Sources: MRS revenue loss estimate taken from "Maine State Tax Expenditure Reports" for fiscal year 2016-2017. Other figures from OPEGA Analysis.

For most of the Maine NMTC deals as of August 2016, the closing date of the deal and the QEI date have been relatively close. This will not always be the case, however, and dates that are further apart could result in a more significant underestimate. In the future, MRS plans to use the QEI date in generating the lost revenue estimates.

### Actual Direct Costs as of August 2016 and Estimated Future Direct Costs

OPEGA estimates total direct cost for the Program to be about $76 million in the period 2013 – 2021 for the ten projects funded as of August 2016.

The State's direct costs of the Maine NMTC program include the value of the credits plus the administrative costs the State incurs to manage the program. OPEGA estimates that the program has had a direct cost of approximately $14 million from 2012 through 2016, and will cost approximately another $62 million in the following five calendar years. Our estimates assume that credits will be claimed as soon as they are available and will not be carried over since they are fully refundable.

As shown in Table 6, the direct cost has been significantly lower in the past five years than it will be in the future. This is partly because the first program investments were not made until the fall of 2012, with the bulk of the program investments following in 2013. However, the primary cause of the delayed cost to the State is the schedule of credit allowance dates which intentionally postpones the cost by allowing none of the total 39% credit to be claimed in the first two years. As a result of this schedule, tax credits could not be claimed on the first QEIs until 2015 – three years after those QEIs were made.

Table 6. Maine NMTC Program Total Direct Cost to the State for Fiscal Years 2012 – 2021

| Year | Total Credits Expected to be Claimed* | Administrative Cost Estimate** | Total Direct Cost to the State |
|---|---|---|---|
| 2012 | $0 | $82,407 | $82,407 |
| 2013 | $0 | $19,407 | $19,407 |
| 2014 | $0 | $19,407 | $19,407 |
| 2015 | $3,558,380 | $19,407 | $3,577,787 |
| 2016 | $10,373,911 | $19,407 | $10,393,318 |
| 2017 | $15,009,625 | $19,407 | $15,029,032 |
| 2018 | $15,543,152 | $19,407 | $15,562,559 |
| 2019 | $15,543,152 | $19,407 | $15,562,559 |
| 2020 | $11,476,432 | $19,407 | $11,495,839 |
| 2021 | $4,268,213 | $19,407 | $4,287,620 |
| **Total** | **$75,772,865** | **$257,070** | **$76,029,935** |

*Based on NMTC deals closed as of August 2016. Estimates are in nominal dollars meaning they have not been adjusted for the time value of money.
**Administrative costs estimated based on the administrative requirements of the program from 2012 through 2016 and reduced by the amount of program fees collected by FAME from participants.
Sources: Total credits estimated by OPEGA. Administrative cost estimates provided by FAME and MRS respectively.

OPEGA's estimates of the tax credits expected to be claimed in each year are based on the Maine NMTC deals that had been closed as of August 2016. These estimates will obviously increase if additional tax credit certifications are granted for new projects resulting from the lapsed remaining $55.7 million in allocation that FAME recent reallocated. Similarly, the estimates can be expected to increase if the Legislature authorizes additional NMTC allocations. Actual amounts claimed in any year may also differ from our estimates if investors choose to carry forward their credits. This would not change the aggregate direct cost of the credits, but would affect the timing of when the State budget would feel the impact of the cost.

Regarding the administrative costs associated with the program, OPEGA asked both FAME and MRS to provide an estimate of the cost for their agencies. The cost estimates they reported are small relative to the tax credits, equating to less than 1% of the total credits per year. The annual administrative cost of $19,407 primarily represents MRS' costs. FAME's costs are low as Board members are uncompensated and FAME staff costs are mostly covered by the application and annual reporting fees FAME charges NMTC participants. The estimated administrative costs provided to OPEGA also included approximately $63,000 in one-time costs for MRS with $33,000 for computer programming to prepare MRS' systems to process documents for the new credit and $30,000 for MRS-prepared advisory rulings.

OPEGA found the administrative costs estimated by both FAME and MRS to be very reasonable based on our understanding of the activities involved in managing the program. Both agencies were expected to administer the NMTC within existing resources and they have managed to do so.

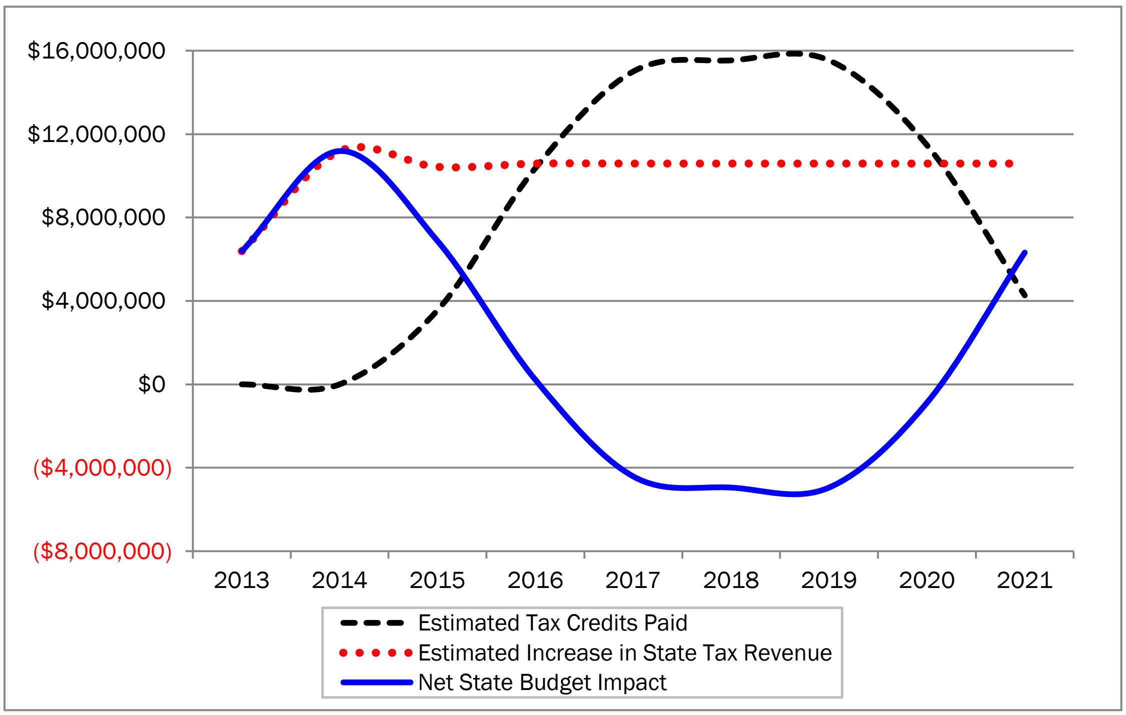
### Actual Net Impacts as of August 2016 and Estimated Future Net Impacts

We estimate the Net Impact to State Budget is an overall positive impact of $15 million for the period 2013 – 2021.

OPEGA estimated the net impact on the State budget from the 10 projects funded as of August 2016 as the amount of increased State tax revenue minus the direct costs of the program. Overall, we estimate the net State budget impact from Maine NMTC investments as being a $24.7 million increase in State revenues from 2013 through 2016, and an $8.9 million revenue loss in the following five years, for an overall positive fiscal impact of $15.8 million in the period 2013 - 2021.

The increase in State tax revenue attributable to the program was estimated using an economic impact model as described on page 10.[11] The total direct costs are primarily the estimated tax credits as described on page 27. Figure 2 illustrates the trends in these components, as well as the Net Budget Impact, through 2021 when the last of the tax credits on the ten projects are expected to be claimed. Detailed figures are provided in Table 7.

**Figure 2. Estimated Net State Budget Impact from Maine NMTC Program 2013 - 2021**




Source: OPEGA tax credit data analysis and economic impact modeling.

**Table 7. Estimated Net State Budget Impact from Maine NMTC Program 2013 – 2021**

| | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
|---|---|---|---|---|---|---|---|---|---|
| Estimated Tax Credits Paid | $0 | $0 | $3,558,380 | $10,373,911 | $15,009,625 | $15,543,152 | $15,543,152 | $11,476,432 | $4,268,213 |
| Increase in State Tax Revenue | $6,388,898 | $11,191,575 | $10,431,276 | $10,590,025 | $10,590,025 | $10,590,025 | $10,590,025 | $10,590,025 | $10,590,025 |
| Net State Budget Impact | $6,388,898 | $11,191,575 | $6,872,896 | $216,114 | ($4,419,600) | ($4,953,127) | ($4,953,127) | ($886,407) | $6,321,812 |

Additional State tax revenues were higher in years 2014 and 2015 when businesses were spending the invested funds. The additional tax revenues for the remainder of the period are driven by the job impacts associated with the investments which OPEGA held at a steady state from 2016 on. Direct costs begin to rise in 2015 as

[11] The increased State tax revenue used in OPEGA's calculation does not include any municipal or county level taxes generated by the model.

this is the first year tax credits can be claimed. By 2017, the amount of claimed credits exceeds the increased tax revenue resulting in a negative net impact on the State budget. This situation begins to reverse itself by 2020 as the amount of tax credits claimed decreases and there is an estimated positive net impact again in 2021.

## Assessing Beneficiaries and Benefits

### Intended Beneficiaries

As of August 2016, ten qualified businesses in eight Maine municipalities had received $182.9 million in Maine NMTC investments.

The intended beneficiaries of the Maine NMTC Program are primarily qualified businesses in economically distressed areas, and secondarily the economically distressed communities themselves. OPEGA found that all investments made as of August 2016 went to qualifying businesses in qualifying communities.

The design of the Maine NMTC Program effectively targets qualified businesses in economically distressed communities who are the primary intended beneficiaries. Statute specifically defines what qualifies a business and what constitutes an economically distressed community, thus directing investments to where the benefits are intended to accrue. Further, statute requires that "substantially all", at least 85%, of the QEIs are invested in these businesses for seven years.

OPEGA observed, however, that there are no program design elements to ensure the economically distressed communities receive benefits, or that describe what community benefits are expected. For example, projects that involve hiring local residents into permanent jobs, purchasing local goods and services, and constructing buildings or adding equipment subject to property taxes could be expected to have local community impact. There are no provisions in statute or rule, however, to direct what types of business investments may be made, or that express a preference for uses of funds that more positively affect local communities. In addition, there is limited required reporting that measures community benefits.

While the Maine NMTC Program design does not directly address expectations for community benefits, CDEs are ranked on their ability to demonstrate positive impacts on distressed communities when seeking allocations from the federal NMTC program. Maine communities can be expected to benefit from this focus.

As of August 2016, 10 qualified businesses in eight different Maine municipalities had received Maine NMTC investments. The QLICIs totaled $182.9 million for an average of $18.3 million per business. Actual amounts individual businesses received ranged from a low of $575,000 to a high of $40 million. As previously discussed in this report, the businesses usually do not have the entire QLICI available for new spending on their projects. OPEGA estimates that about $126 million of the $182.9 million in QLICIs was available for new spending. The Maine NMTC investments, however, allowed four of the businesses to attract other investment that would likely not have been otherwise available. Based on information provided by the businesses, OPEGA estimates these additional investments totaled about $130 million, ranging from about $2 million to over $100 million for individual businesses. In addition to the financial benefits received, some QALICBs also reported benefitting from having the national business expertise of CDE representatives involved with their boards, or otherwise providing support for their management.

The businesses, their locations and the QLICI amounts are detailed in Table 8 and illustrated in Figure 3. More detailed descriptions of their projects and the Maine NMTC investments in them can be found in Appendix B. OPEGA observed the following about the characteristics of this group:

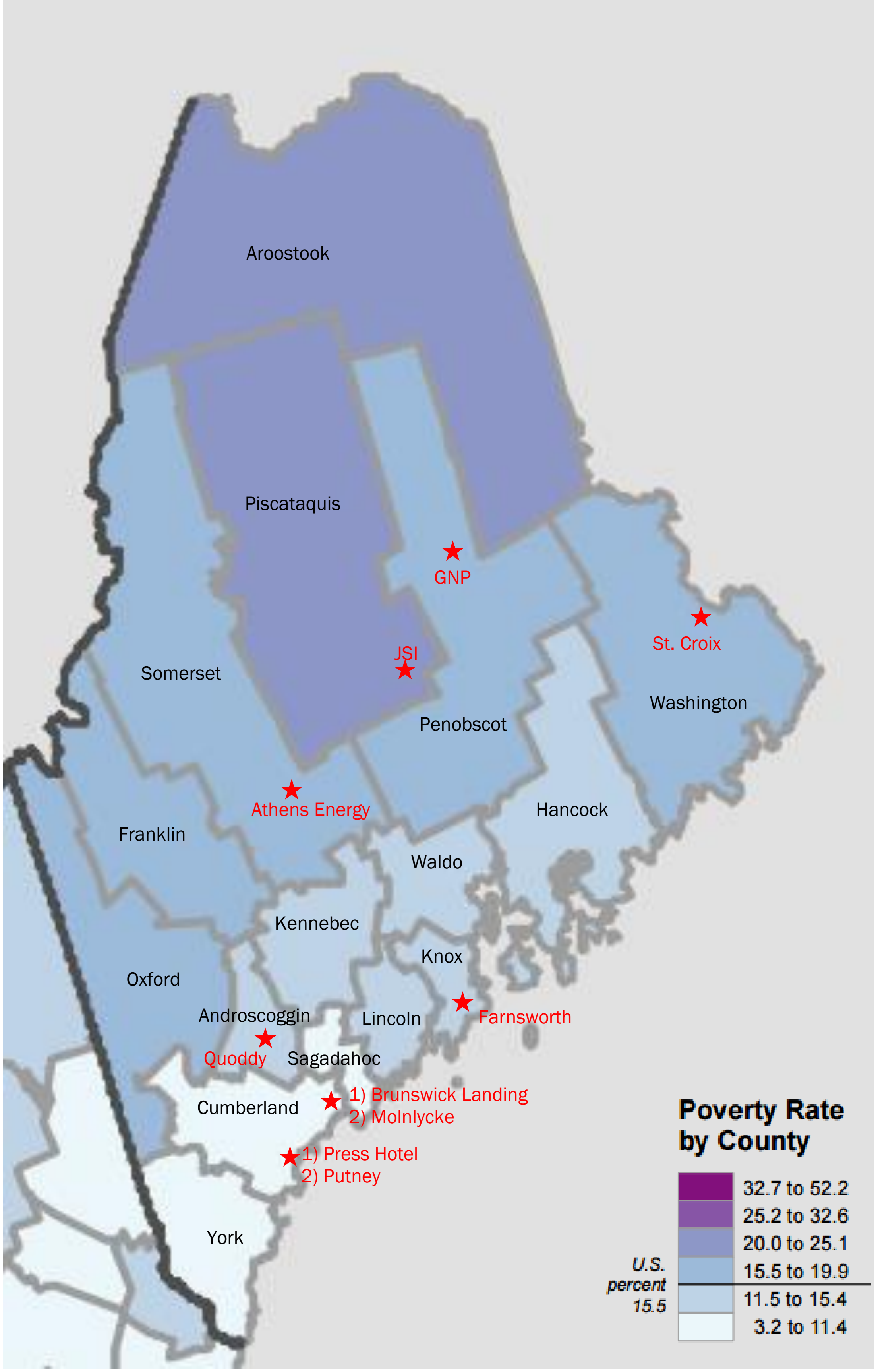
- Three of the 10 businesses are in the forest products industry and they received about 59% of the total QLICIs. Another three businesses are manufacturing enterprises in other industries and they received another 19% of the total QLICIs.
- One of the 10 businesses, Great Northern Paper, ceased operations in 2014 and filed for bankruptcy. Appendix C includes a case study of this situation as an example of the risk inherent in some of the Maine NMTC investments.
- Seven of the eight communities were located in federal census tracts qualified as economically distressed areas under the federal NMTC program based on income and/or poverty rate. The community that was not in a qualified federal census tract, Baileyville, was still eligible under federal requirements for a "targeted low-income work force." To meet these requirements, St. Croix Tissue committed to 60% of its workforce being drawn from a low-income population. Baileyville would also have qualified for the Maine NMTC Program under the additional State criteria for a municipality with average unemployment rates higher than the State average. However, the project involved both federal and State NMTC allocations which required meeting federal, as well as State, criteria.
- The eight municipalities with qualifying businesses are located in seven different counties. Two municipalities in Cumberland County both host two of the qualifying businesses but only about 22% of the total QLICIs went to these businesses. The majority of the investments, 73% of total QLICIs, went to four businesses in municipalities located north of Bangor.

**Table 8. Maine NMTC Investments by Municipality and County**

| MUNICIPALITY | COUNTY | BUSINESSES | Total QLICI |
|---|---|---|---|
| East Millinocket | Penobscot | Great Northern Paper | $40 million |
| Milo | Piscataquis | JSI Store Fixtures | $24.9 million |
| Baileyville | Washington | St. Croix Tissue | $39.1 million |
| Athens | Somerset | Athens Energy | $29 million |
| Rockland | Knox | Farnsworth Museum | $9.7 million |
| Lewiston | Androscoggin | Quoddy Shoes | $0.575million |
| Brunswick | Cumberland | (1) Molnlycke | $9.7 million |
| | | (2) Brunswick Landing | $10 million |
| Portland | Cumberland | (1) The Press Hotel | $10 million |
| | | (2) Putney, Inc | $10 million |

Source: FAME program documents.

Figure 3. Locations of Maine NMTC Businesses




Source: Poverty rate map from US Census 2014 Small Area Income and Poverty Estimates.

OPEGA was unable to assess well, or quantify, the extent to which economically distressed communities benefitted from the Maine NMTC investments other than having a potentially stronger business in their midst. We noted that for some projects the QALICBs spent most of the invested funds on goods and services obtained from outside the community, and even outside the State, while others had spending that could be expected to have more local benefit. This is discussed further on page 44 of this report. Similarly, we did not assess to what extent jobs created or retained were held by residents from the local community, as opposed to other communities, though we certainly expect that some portion of them are locally sourced.

OPEGA did note several other ways in which local communities were benefitting from the Maine NMTC investments. Examples include:

- Some projects included Community Benefit Agreements (CBAs) in which the QALICB agreed to provide certain services to their community as part of their investment deal. For example, the Farnsworth deal included a CBA requiring the museum to provide art education for local schools.
- Some investments seem to have encouraged other development in the surrounding community that is real and meaningful, but not easily quantified. For example, Quoddy is an anchor tenant in the old mill building in Lewiston they operate from. Since Quoddy received the NMTC investment the business has become more secure, and has taken over more space. As a result, the landlord began to make improvements to the building and is now attracting new tenants.
- Some projects involved improvements to physical properties that resulted in an increase in property taxes for the local communities. For example, the Press Hotel was a vacant building prior to the NMTC investment but has since been completely remodeled as an upscale hotel. According to developers, property taxes the business pays have increased by well over $150,000 a year.

OPEGA observes that some of the legislative and rule changes made to the program since its inception, described on page 14, likely have impacts on what businesses and communities benefit from the Maine NMTC Program. The Legislature may want to consider these impacts if additional allocations are authorized for this program. See Recommendations 1 and 2 for further discussion.

### Other Entities That Benefit from the Program

Other entities deriving financial benefit from the Program include the equity investors and CDEs that are required participants, as well as leverage lenders and professional services firms.

Though they are not intended beneficiaries, the NMTC program is designed in a way that requires the participation of investors and CDEs in NMTC transactions and allows them to derive financial benefits. NMTC deals also typically involve a number of professional service providers, such a legal and accounting firms, which are compensated for their roles. OPEGA found that these participants are receiving some financial benefits that are not dependent on the degree of benefit the intended beneficiaries are getting, or how successful the businesses or projects become.

The equity investors in NMTC deals receive returns on their investments in the form of State tax credits. The State tax credits are equal to 39% of the total QEI the investor contributed to. The guarantee of the tax credits, which are fully refundable, transferrable and able to be carried forward to future tax years, reduces the risk on what might otherwise be considered a high risk investment. There may also be opportunity for equity investors to make additional profit by selling their Maine NMTC credits to other entities.

OPEGA noted that NMTC deals are typically structured in ways that increase the rates of return for equity investors such that these investors can waive, or significantly reduce, any principal due back to them from the business at the end of the seven year investment period. Rates of return are often raised by adding loaned funds, obtained from a leverage lender, to the QEI the tax credits are based on with the equity investor getting the tax credits on the entire QEI. Additionally, equity investors can receive a greater rate of return in cases where portions of the same invested dollars also qualify for federal New Markets tax credits, or tax credits from other federal or State programs.

Three equity investors are eligible to receive the tax credits certified as of August 2016. One is entitled to about $59.5 million in credits with the other two entitled to about $8 million each.

There have been only three equity investors in Maine NMTC deals as of August 2016. Two of these investors are large investment banks that typically trade in the tax credits. The third is an entity affiliated with one of the CDEs. These three investors are certified for a total of $75.8 million in Maine tax credits payable over seven years. Two of the investors are entitled to approximately $8 million each and one is entitled to about $59.5 million[12].

The other $132.1 million of QEI has been in the form of loans from leverage lenders. These lenders are financial institutions or private parties that may or may not be related in some way to the businesses receiving the investments. These entities are referred to as the "leverage lenders" because their participation in the deal helps raise the total QEI to a level that triggers high enough tax credits to ensure the equity investor receives the return on invest they require. The leverage lenders benefit from the interest they charge on the funds loaned and are ensured of receiving these benefits unless the QALICB defaults on the loan for some reason.

OPEGA estimates the six CDEs participating in the Program received, or will receive, a total of at least $16 million from a combination of pre- and post-investment fees and charges on NMTC deals.

CDEs are required intermediaries in the program and there were six involved in the 10 Maine NMTC deals completed as of August 2016. CDEs benefit regardless of the degree to which the QALICB or the State realizes any benefits associated with the investment. They are allowed allocation fees of up to 15% of the amount of the QEI before making investments in businesses and may also collect ongoing annual fees and finance charges, or interest on loans, from QALICBs after the investment is made.

OPEGA estimates that CDEs received about $16 million from the combination of pre- and post-investment fees and charges on the 10 Maine NMTC deals. Overall, this represents about 8% of the total QEIs, which is less than the 15% allowed by statute. Most of the $16 million is attributable to one CDE whose operating model is different than the others. According to this CDE, it typically retains the 15% of

[12] The tax credits are transferrable so the initial investors may receive compensation for their credits, rather than receiving the credits themselves, if they choose to sell their credits rather than claim them.

QEI and contributes it to a fund the CDE then uses to make investments in other low-income community projects.

Additional parties receiving financial gain associated with the Maine NMTC Program are professional service providers including attorneys, accountants and brokers. A relatively small group of accounting and legal firms serving New England with expertise in this complex program typically provide assistance in structuring Maine NMTC deals. Businesses are often connected with and independently hire these professionals via referrals from CDEs. One CDE indicated that avoiding conflicts of interest among attorneys representing various parties in a deal can be a challenge when many parties are involved. A limited number of economists obtain referrals for generating impact analyses required to be submitted to FAME on the larger deals.

These professionals receive compensation for services provided throughout the life cycle of a NMTC deal. The costs for some of these services are captured as closing costs typically paid from investment funds at the time the deal closes. Other costs are paid directly by the party engaging the professional. OPEGA noted that the professional fees associated with NMTC deals varied with the complexity of the deals.

## Assessing Program Outcomes

OPEGA assessed whether program design effectively supports achievement of the four program outcomes and the extent to which each of those outcomes have been met.

**Program Intent** - To promote economic development by encouraging major investments in qualified businesses and developments located in economically distressed areas of the State; to preserve jobs and make the State more competitive in the attraction of investment capital.

**Program Goal** - To encourage new investments in qualified businesses and developments located in economically distressed areas of the State.

Four desired outcomes are expressed within the intent and goal of the Maine NMTC Program:

- making the State more competitive in the attraction of investment capital;
- encouraging investment – major and new;
- preserving jobs; and
- promoting economic development.

OPEGA assessed whether the program design, as reflected in statute and rule, effectively supports achievement of each outcome. We also used program data and information gathered from CDEs and businesses to assess the extent to which each outcome has been met. Recommendations 1 and 2 discuss observations the Legislature may want to consider if additional allocations are made to this program in the future.

## Making the State More Competitive in Attraction of Investment Capital

The program design does support the desired outcome of making the State more competitive in attracting investment capital. In OPEGA's assessment, the program has attracted substantial investment that would not have occurred without the State tax credits.

The existence of the Maine NMTC Program in and of itself could be expected to make Maine attractive to large investment banks that trade in tax credits, particularly in comparison to states without a state-level NMTC program. Several characteristics of Maine's tax credit additionally support this outcome.

- Maine NMTC credits are transferrable so investors have the flexibility to sell their credits.

- Maine NMTC credits are refundable so an investor does not need to have Maine tax liability to get the benefit of the credits.

- Maine's NMTC credit is 39% so investors could potentially double the amount of credits they receive for projects where their investments qualify for both State and federal NMTC credits.

In OPEGA's assessment, these design elements seem to be working and Maine's NMTC Program does appear to have made the State more competitive in the attraction of investment capital. All $250 million of the program's authorized allocation was originally awarded to six CDEs, five of which had never done a NMTC deal in Maine before the state-level program was enacted. The six CDEs were successful in using 78% of those allocations for qualified investments in QALICBs within two years. The other $55.7 million lapsed back to FAME and was re-allocated in 2016 to 12 CDEs.

OPEGA interviewed the CDEs that have closed NMTC deals in Maine and asked whether they would have invested in Maine businesses using their federal NMTC allocations if there had been no state-level program. One of them is a Maine-based company with a long history of using federal allocation in Maine, but the others said they would not have been drawn here if not for the state-level credits. OPEGA believes the out-of-state investors these CDEs worked with are also not likely to have otherwise made these investments in Maine. In some cases, the CDEs are also using their federal allocation in Maine which can lead to greater total dollars invested in the State.

The program design also supports the outcome of encouraging investment. CDEs had obtained QEIs of $194.2 million as of August 2016 with $182.9 million of that being invested in Maine businesses. Undefined terms in statute make it less clear, however, whether the desired types of investments have been made.

## Encouraging Investment – "Major" and "New"

Encouraging investments in businesses is a logical result of the design of the Maine NMTC Program. However, whether the design effectively targets "major" or "new" investments, and even whether it is intended to, is less clear. The terms "major" and "new" are both used in different sections of statute to describe the desired investments, but neither term is defined in statute. As a result, there is a lack of clarity about the types of investments the Legislature seeks to encourage.

The program design encourages investments to be "major" in the sense of high dollar amounts by setting relatively high maximums on the amounts that can be invested. The QLICI limit is $10 million per project, or $40 million per project for certain manufacturing enterprises that expect to create or retain at least 200 jobs, which would seem to allow more than one project per business. We note, however, that larger investments in individual businesses necessarily reduce the number of businesses that can be served as the total allocation for the program is limited to $250 million. We also note that the term “major” could mean having greater importance or effect and there are no provisions in statute that seem to prefer types of investments that might be associated with this meaning.

There are also program design elements, discussed previously in this report, which support attracting “new” investment that would not otherwise have occurred to the State or to economically distressed areas. But if “new” is intended to mean investments that fund new business projects or efforts, then there was nothing in the program design to encourage “new” investment prior to FAME’s rule change in 2015. The rule limits the amount of investment proceeds that can be used for acquiring an existing Maine business or covering business costs incurred or paid for prior to the date of the investment. OPEGA observes this rule is a critical design element driving invested dollars into new business uses in future projects.

As regards to actual program results, $194.2 million of QEI has been invested under Maine’s NMTC Program since 2012 resulting in 10 Maine businesses receiving a total of $182.9 million in qualifying investments. OPEGA found that most of this “major” investment was likely new to the State in that it would not have occurred without the program. However, we also found that only about $126 million of the investment, or 65% of the $194.2 million in QEI, was used for new business spending.

### Preserving Jobs

The desired outcome of preserving jobs is not directly supported in the design of the Maine NMTC Program. CDEs, however, are well aware of the importance of job creation or retention in Maine NMTC projects.

The desired outcome of preserving jobs is not directly supported in the design of the Maine NMTC Program. The only provision for creating or retaining jobs is for projects seeking the maximum $40 million investment. Those projects are required by rule to include an independent study, as part of their certification application, showing that at least 200 jobs will be created or retained as direct employment within the business, or employment within the direct supply chain of the business. There does not appear to be any formal monitoring at the State level of whether these jobs are actually created or retained, or any established penalties if they are not.

There are also very few program restrictions on what a business may do with the dollars invested in it. Projects, like increased automation, intended to gain efficiencies and reduce costs by reducing the number of workers needed in the short-term are just as eligible for Maine NMTC investments as those that create jobs. Although the design of the Maine NMTC Program does not require job preservation from most investments made under the program, the CDEs OPEGA spoke with seem very aware that jobs are at the forefront of legislators’ minds when they consider the value of particular investments on the State economy.

OPEGA estimates the 10 projects created or retained a total of 764 jobs still existing in 2016 and expected to persist. Those jobs spurred creation or retention of another 1,034 indirect permanent jobs. We also estimate 781 jobs were temporarily supported by business spending of invested funds.

OPEGA gathered information on job creation and retention for the 10 funded projects during our interviews with CDEs and QALICBs. Based on the information provided, we conservatively estimate that those Maine NMTC projects can be credited with 764 direct permanent jobs, still existing as of 2016 and expected to persist, that would likely not have been created or retained without the NMTC investment. The following nuances are captured in this estimate:

- In one project, 257 jobs were retained for 14 months but were lost due to business failure in 2014. The number of jobs created by other projects completed during this timeframe, however, exceeded the number lost resulting in a continuing upward trend in overall direct permanent jobs through 2016.

- In one project, jobs were initially created but, in subsequent workforce reductions, the number of positions was cut back to fewer than the business had when the Maine NMTC investment was made.

- One project underway at the time of the Maine NMTC investment was creating new jobs, and the Maine investment was used to introduce previously unplanned automation that ultimately resulted in fewer new jobs being needed than had been originally projected.

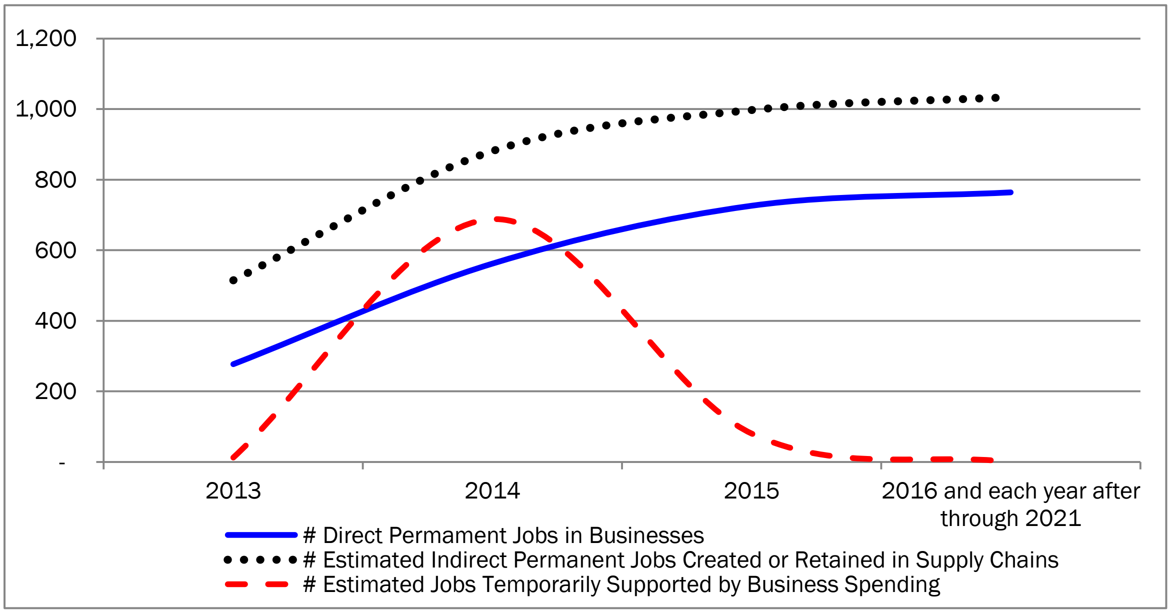
- One business' total job count is still lower than it was prior to the Maine NMTC investment, but it appears the job losses the business was facing would have been much worse without the investment and the business has begun hiring again.

OPEGA also acknowledges that Maine's NMTC investments are still very new in some respects and many businesses have just finished the projects that were invested in. The longer-term job-related benefits of these projects may not yet be evident.

As described on page 10, yearly figures for direct permanent jobs created or retained, and business spending on certain activities attributable to the program, were input to the economic impact model to estimate other job impacts. The specific inputs and model results are provided in Table 9 and the trends are illustrated in Figure 4.

Overall, we estimate the 764 direct permanent jobs spurred the creation or retention of an additional 1,034 indirect permanent jobs in Maine within the businesses' supply chains. The model also estimates 781 Maine jobs were temporarily supported via the businesses' spending, for example jobs associated with spending for construction and equipment installation.

**Figure 4. Estimated Jobs from Maine NMTC Program 2013 - 2021**




Source: OPEGA tax credit data analysis and economic impact modeling.

**Table 9. Estimated Jobs from Maine NMTC Program 2013 - 2021**

| | 2013 | 2014 | 2015 | 2016 and each year after |
|---|---|---|---|---|
| # of Direct Permanent Jobs in Businesses | 277 | 562 | 726 | 764 |
| # Indirect Permanent Jobs in Supply Chains | 515 | 881 | 997 | 1,034 |
| # Jobs Temporarily Supported | 12 | 688 | 81 | |

## Promoting Economic Development

The program design does not directly support the outcome of promoting economic development. Nothing in the design requires, prefers or rewards the types of businesses, projects, or uses of invested funds that would generate additional economic activity directly beneficial to the State of Maine.

Investment in a low-income community business, in and of itself, represents an economic development effort. However, there is nothing in the program design that necessarily requires or rewards additional economic activity that will directly benefit the State of Maine.

OPEGA's research indicates that different types of businesses, projects and uses of the invested funds can be expected to produce different economic impacts based on a number of factors, including the degree to which:

- the investments resulted in new or retained direct employment;
- the businesses receiving the investments have local supply chains;
- the businesses receiving the investments export their products;
- the projects financed with the investments required construction or other temporary staff that was sourced locally;
- the projects financed with the investments required new equipment or other assets that were sourced locally; and
- the investments were used to pay off existing debt.

These factors also determine the degree to which a NMTC investment in one business may have more, or less, of an adverse impact on competitors.

There is no preference in the program for businesses that affect economic development more positively than others. Business start-ups with few employees or that use non-local supply chains are equally eligible for investments as those using local labor and suppliers. As previously discussed, there is also little in the program design that directs what uses the invested funds may be put toward. Lastly, the reality is that there is no guarantee any project will generate long-term economic impact in exchange for the tax credits the State pays. Despite the best efforts of all parties involved, investments can fail with the State still being committed to paying the credits. Appendix C is a case study of just this situation and how it occurred.

Despite the lack of direct support for this outcome in the program design, economic impact modeling estimates that the 10 projects will generate a total of $1.64 billion in additional GSP over the period 2013 - 2021.

Despite the lack of program design support for this outcome, the 10 projects funded with Maine NMTC investments as of August 2016 have generated positive economic activity as measured by additional Gross State Product (GSP). The economic impact modeling described on page 10 indicates there was total additional GSP generated from Maine NMTC investments of about $693 million between 2013 and 2016, for an average annual impact of 0.31% in those years. Under the assumptions used to model future impact, about another $949 million in GSP is estimated for 2017 – 2021. This combines for an estimated total $1.64 billion in additional GSP over the period 2013 – 2021. Table 10 includes the detail on additional GSP by year as well as detail on the direct and indirect permanent jobs, and the business spending of invested funds, that drives it.

**Table 10. Gross State Product and Related Economic Drivers for Maine NMTC Program 2013 - 2021**

| | 2013 | 2014 | 2015 | 2016 and each year after |
|---|---|---|---|---|
| Business NMTC In-State Spending | $1,644,803 | $79,785,106 | $8,851,002 | $0 |
| # of Direct Permanent Jobs in Businesses | 277 | 562 | 726 | 764 |
| # Indirect Permanent Jobs in Supply Chains | 515 | 881 | 997 | 1,034 |
| Maine Gross State Product Generated | $103,952,644 | $210,823,468 | $188,243,087 | $189,884,216 |

# Assessing Impact on Investment Behavior

### Desired Behavior: Investments in Maine Businesses

The availability of State tax credits is what drove five CDEs, with no prior investment experience in Maine, to invest in the State, bringing their equity investors with them.

OPEGA found that the availability of State tax credits were what drove five CDEs with no prior experience in Maine to invest in the State, bringing their equity investors with them. It appears that absent the Maine NMTC Program, or some other State program offering substantial tax credits, these CDEs and investors would have been seeking investment opportunities in other states.

In addition, CDEs with no prior presence in Maine faced initial hurdles that OPEGA believes made it less likely they would have brought their federal NMTC allocations (and the associated equity investors) to Maine projects without the State program. CDEs described spending significant resources establishing themselves in Maine, particularly in identifying local business investment opportunities and leverage lenders. Absent some incentive to come to Maine, it seems they would have continued to pursue investment opportunities in states where they were already operating, at least until those opportunities were depleted.

The equity investors in all of Maine's NMTC deals were large, national firms that specialize in tax credits, including NMTC programs. They had no preexisting relationships with the QALICBs and, absent the Maine program, it seems unlikely they would have pursued investments in any of the individual Maine QALICBs as:

- they are unlikely to have been aware of those Maine businesses as possible investments; and
- investments directly in the individual businesses would have carried a high degree of risk if not for the guarantee of a return in the form of tax credits.

### Desired Behavior: Businesses Undertaking Major Projects

While it is difficult to say with certainty, in OPEGA's professional judgement, the majority of the 10 projects funded would not have gone forward in their current form without the Maine NMTC investments.

The federal NMTC program encourages CDEs to invest in projects that would not occur "but for" the program and many CDEs now use "but for" letters when using their federal allocations for investments in businesses. Nonetheless, the federal Government Accountability Office noted in a 2010 report that it could not determine whether the incentivized investments would have occurred absent the federal NMTC program.

We note that there is no "but for" requirement, or other stipulation, in statute that requires a business to show a certain level of need to qualify for the Maine NMTC Program. While a "but for" letter provides questionable assurance that a project would not have gone forward without the incentivized investment, the Legislature could consider adding some stipulation or criteria if additional allocations are made to this program in the future. This is discussed further in Recommendation 1.

While it is difficult to say with certainty, in OPEGA's professional judgement, the majority of the 10 Maine projects funded would likely not have gone forward in their current form without the Maine NMTC investment. Even in most cases where the leverage lender was a more local financial institution or a party related to the QALICB, the equity investor's contributions were a key factor in reducing the leverage lender's risk and improving the loan terms for the business to make the project viable.

OPEGA's assessment of whether the funded projects were dependent on NMTC investment is largely based on how readily the QALICB could access other investment. From interviews with CDEs and QALICBs, and independent research, OPEGA is fairly confident that most QALICBs would have been unable to secure investment at a reasonable cost and the projects would not have gone forward if it were not for the Maine NMTC investment. In a few cases, it appears the business had other reasonable financing options such that some variation of the project would likely have gone forward at some point, although perhaps not with terms that were quite as favorable for the QALICB.

### Similar Tax Credits Offered by Other States

Some CDEs have said they would likely continue to use their federal allocations in Maine in the future even if additional allocations are not available from the State program because they have already invested the resources in getting established and are now aware of the investing opportunities here. In effect, Maine has become a familiar state to a larger number of CDEs that operate on a national level. This raises the question of whether Maine would need to extend its state-level NMTC program in order to continue incentivizing the current level of investment, or whether the current level of investment could be maintained in the future with a state-level NMTC credit that was less than 39%. Examining the comparable programs offered by other states may shed some light on this question.

OPEGA contacted the National Conference of State Legislatures and the PEW Center for the States for information about other states that offer a state-level New Markets program. Based on the information provided by those entities, OPEGA found that there are 14 other states that offer comparable programs around the country though Maine is the only state to offer one in the Northeast. The other states' programs are summarized in Table 11 with details on the credit percentage they offer and the schedules on which credits can be claimed.

**Table 11. NMTC Programs in Other States**

| State | Year Enacted | Total % Credit | Credit by Year |
|---|---|---|---|
| Alabama | 2009 | 50% | Year 1: 0%, Years 2-7: 8.33% |
| Arkansas | 2013 | 58% | Year 0-1: 0% Year 2-4: 12% Year 5-6: 11% |
| Florida | 2013; expires Dec. 2022 | 39% | Years 1-2: 0%, Year 3: 7%, and Years 4-7: 8%. |
| Illinois | 2008 | 39% | Years 1-2: 0%, Year 3: 7%, and Years 4-7: 8% |
| Kentucky | 2010, effective until 2016 | 39% | Years 1-2: 0%, Year 3: 7%, and Years 4-7: 8% |
| Louisiana | 2013 | 45% | Years 1-2: 14%, Year 3-4: 8.5%, Year 5-7: 0% |
| Mississippi | 2007 | 24% | Years 1-3: 8% |
| Nebraska | 2012 | 39% | Years 1-2: 0% Years 3: 7% Years 4-7: 8% |
| Nevada | 2013 | 58% | Years 1-2: 0% Years 3-5: 12% Years 6-7: 11% |
| North Carolina | 2013 | 58% | Years 1-2: 0% Years 3-5: 12% Years 6-7: 11% |
| Ohio | 2009 | 39% | Years 1-2: 0% Years 3: 7% Years 4-7: 8% |
| Oregon | 2011; scheduled to sunset 2016 | 39% | Years 1-2: 0% Year 3: 7% Years 4-7: 8% |
| South Carolina | 2015 | 58% | Years 1-2: 0%, Years 3-6: 12%, Year 7: 10% |
| Utah | 2014 | 58% | Year 0-2: 0%, Years 3-5: 12%, Year 6-7: 11% |

Source: Research provided by PEW Center for the States and the National Conference of State Legislatures supplemented with additional OPEGA research.

OPEGA also found that Missouri had a comparable program but ended it in 2013, and that Arkansas considered eliminating their program in 2015 but did not. As shown in Table 11, two other states—Kentucky and Oregon—have state-level NMTC programs slated to sunset or expire in 2016.

Although many of the states with state-level NMTC programs offer a credit of 39% like Maine, six offer a higher percent (from 45% to as high as 58%) and one offers a lower percent (24%). The credit payment schedule varies widely among the states, and Maine is the only state to offer a state-level NMTC credit that is refundable.

One other state – Alaska – offers a related program that makes the leveraged loan portion of the federal NMTC deals less risky. The intent is that the state will attract more federal NMTC deals because they will be easier to put together in Alaska than in other states where the leveraged loan can be challenging to secure.

# Assessing Cost-Effectiveness

OPEGA analyzed cost-effectiveness from the perspective of overall impact to Maine GSP and three key factors that drive that impact.

The level of investments made in businesses and how those funds are used generally drive the outcomes achieved. These are, therefore, key factors in assessing the cost-effectiveness of the Maine NMTC Program. Investments associated with both the State and federal NMTC programs are often made through complex financing structures that can reduce transparency, increase the business's cost and effort to participate, and decrease the amount of investment that a business actually has available for use. Figure 5 illustrates how this complexity has affected the amount of total QEI in Maine's 10 projects that was spent in ways that impacted the Maine economy. Consequently, although the Maine NMTC Program has generated positive outcomes, it may not be accomplishing those ends cost-effectively.

OPEGA analyzed cost-effectiveness for the Maine NMTC Program from the perspective of overall impact to Maine's GSP and three key factors that drove the impact:

- the amount of Maine NMTC-related investment available for businesses to spend on their projects;
- the amount of investment spent in ways that would most directly impact the Maine economy; and
- the number of direct permanent jobs created or retained as a result of the projects.

**Cost-Effectiveness Measures Calculated by OPEGA**

$21.67 – Dollars of GSP generated per dollar of tax credit

$1.67 – Dollars available for business spending per dollar of tax credit

$1.19 - Dollars of business in-state spending per dollar of tax credit

$99,179 – **One-time cost** per direct permanent job still existing in 2016 and expected to persist

We calculated several cost-effectiveness measures on a per dollar of tax credit basis. Our results reflect the portfolio of 10 projects for which the State had committed $75.8 million in State tax credits as of August 2016. A portfolio of projects stemming from additonal State allocations to this program could have very different results.

Our analysis suggests opportunities exist to improve the cost-effectiveness of this program by further targeting investments in ways that are likely to have greater impact on the Maine economy.

Our analysis suggests opportunities may exist to improve the cost-effectiveness of this program by further targeting investments in ways that are likely to have greater economic impact. These considerations are discussed in Recommendation 1.

## Impact to Maine's Gross State Product

As described on page 40, economic impact modeling indicates Maine NMTC investments generated average annual additional Gross State Product of $173 million between 2013 and 2016. Under the assumptions used to model future impact, an average additional $189.9 million in GSP is estimated for each of the years 2017 – 2021. Overall, the estimated total additional GSP over the period 2012 – 2021 is $1.64 billion which equates to $21.67 in GSP generated per dollar of tax credit. Assumptions and limitations relevant to the modeling and OPEGA's estimate of GSP generated are discussed on page 10.

### Investment Available for Business Spending

A key factor in generating GSP is the actual amount of invested dollars businesses spend on their projects. Although businesses received a total of $182.9 million in QLICIs for the portfolio of 10 projects, OPEGA found that they typically did not have the entire amount of the QLICI available to spend for their projects. The QLICI amounts actually available for use were usually reduced by closing costs, annual management fees paid to the CDE over the investment period and interest payments. OPEGA found these costs ranged from very little on some projects to as much as $2.25 million and tended to increase with the complexity of the transactions. In addition to these costs, some projects involved "one-day loans" in which a portion of the invested dollars were immediately paid back to investors, further reducing the amount of investment available for ongoing business use on a project.

OPEGA estimates that $126 million of the $182.9 million in QLICIs was actually available for businesses to spend on their projects. This equates to $1.66 for every one dollar of State tax credit. Some businesses were able to attract additional investments that appear to be directly attributable to the Maine NMTC investment, for an additional $130 million that was available to spend. Overall then, businesses had an average of $3.39 available to spend for every $1 of State tax credit. However, for three of the four Maine NMTC deals that involved "one-day loans", the tax credits awarded exceeded the amount of funds the QALICB had available to use. In these cases, businesses had an average of less than $1 of investment to spend for every $1 of State tax credit even when factoring in leveraged investments.

OPEGA notes the recent FAME rule that restricts use of the QLICI proceeds for certain purposes that were related to "one day loans" should also serve to increase the funds available for business use on future projects. See Recommendation 2 for further discussion.

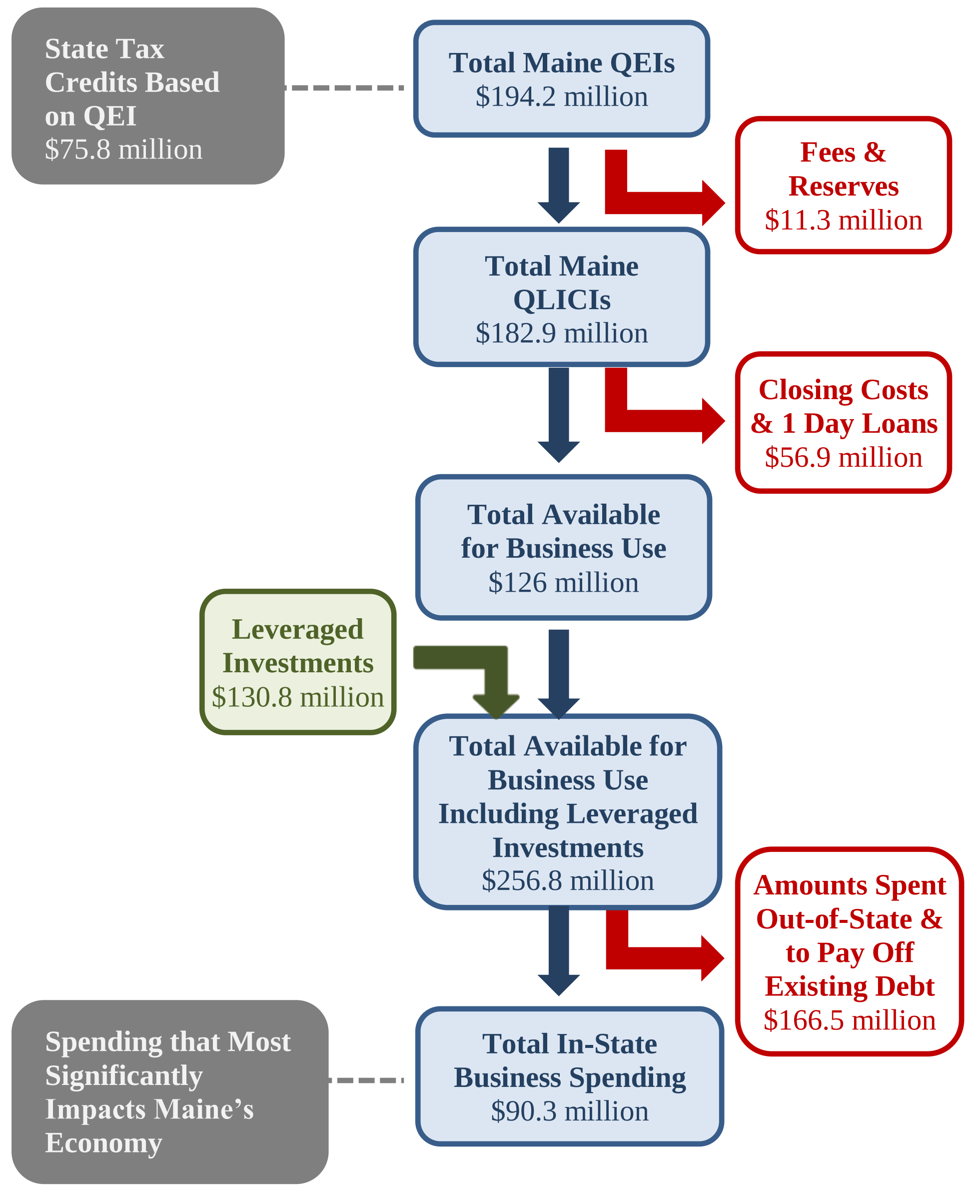
In particular, increasing the amount of invested funds spent on in-state goods and services and/or increasing the number of direct permanent jobs created or retained in the businesses can be expected to generate a greater amount of GSP per tax credit dollar.

### Uses of Invested Dollars

GSP is also impacted by how the business uses the invested dollars. As described on page 39, some uses generate more economic activity in Maine, and in the local economies, than other uses. For example, spending on goods and services from Maine-based contractors and vendors, or that draws on Maine labor, can be expected to have greater impact on State GSP than spending on out-of-state vendors and contractors.

OPEGA gathered information on how the $126 million in Maine NMTC investments were used from FAME documents and from the 10 businesses that had received investments. We also gathered information on how businesses spent the additional $130 million in investments they received due to the Maine NMTC investment. Based on this information, we estimate that $90.3 million of the total $256.8 million available for business spending on projects, or 35%, was spent on in-state goods and services resulting in economic impact for Maine. This equates to $1.19 of in-state spending for every $1 in tax credits.

Figure 5. Flow of Funds from QEI to Spending on In-State Goods & Services




Note: Amounts are from OPEGA analysis of the 10 Maine NMTC projects funded as of 2016.

### Jobs Created or Retained

The number of direct permanent jobs created and retained by the 10 projects receiving investments also generated economic activity that impacted the GSP. Direct permanent jobs drive creation and retention of indirect permanent jobs, as well as temporarily support other jobs like construction and professional services.

A customary measure of cost-effectiveness for business incentive programs is cost per direct permanent job. As discussed on page 37, OPEGA estimates that, as of August 2016, Maine NMTC investments have been responsible for creating or retaining 764 direct permanent jobs existing in 2016 that are expected to persist. The **one-time cost** per job is $99,179.

# Assessing Program Similarities and Coordination

## The Federal NMTC Program

Maine's NMTC Program has generally the same purpose and goals as the federal program, and is similar in its structure. Though CDEs often use both programs in the same NMTC deals, the State and federal programs essentially run parallel to each other and are not coordinated from an administrative standpoint.

The Maine NMTC Program is modeled after the federal NMTC program. It generally has the same purpose and goals and is similar in its structure and in many of its processes. This "piggybacking" on the federal program is evident in statutory language, for example 10 MRSA § 1100-Z.2 states that "For the purposes of this section, unless otherwise defined in the section, all terms have the same meaning as under Title 36, section 5219-HH and Section 45D of the United States Internal Revenue Code of 1986, as amended." Some other definitions in statute are ostensibly the same even if they do not reference the Code.

The State and federal programs do differ, however, in a few substantial ways, primarily:

1. Refundability – The federal program provides non-refundable tax credits whereas the Maine program offers fully refundable tax credits. National investors that may not have any Maine tax liability can still benefit from Maine credits by receiving a payment for the credits, or by selling the credits to other entities that may or may not have Maine tax liability.

2. Timing of Credit Availability – Both the federal program and the Maine program allow total tax credits of 39% of the QEI, payable over seven years. However, the Maine program delays the redemption of tax credits using the schedule of 0% the first 2 years, 7% for the 3rd year, and 8% for the remaining 4 years. The federal schedule allows 5% for the first 3 years and 6% for the remaining 4 years.

3. Allocation Method – In Maine, FAME is directed to allocate credits to CDEs on a first-come, first-served basis, while the federal code allows the Treasury Department to selectively allocate credits based on each CDE's success with prior federal NMTC projects and other factors. The first-come, first-served model is very administratively efficient for both the State and the CDEs, but it does not allow FAME to exercise any judgment about which CDEs might offer Maine a better return based on their past performance.

4. Time Limits for Investments – The federal program allows CDEs five years after being granted an allocation of tax credits to get a QEI certified. After the QEI is certified, the CDE can use it for any QLICI allowable under federal rules with no additional government approval required. In contrast, Maine allows CDEs two years from the credit allocation date to obtain a QEI and then requires the CDE to have it certified in conjunction with a specific QLICI within two years following the QEI date. This is commonly referred to as the 2+2 model.

5. Allowable Uses of Invested Funds – The allowable uses of QEI funds in Maine includes any capital or equity investment in, or loan to, any QALICB. The federal program allows these uses, as well as: the purchase of any loans made by another CDE; any financial counseling or other

services specified in regulations to any business located in, or residents of, low-income communities; or any equity investment in, or loan to, any other CDE.

6. Definition of Low-Income Community – Maine's statutory definition of a low-income community references and aligns with the federal definition. However, it also includes language that allows one further way that a community can qualify in Maine even if it does not meet the federal definition. Under Maine's definition, a municipality can also be considered low-income if it has an average unemployment rate higher than the State average based on Maine Department of Labor statistics for the year prior to the initial investment.

7. Restrictions on "One-Day Loans" – Federal and State rules have recently been updated to disallow certain uses of invested funds historically associated with controversial "one-day loans." Maine specifies that no more than 5% of the QLICI be used to pay transaction fees or other prohibited uses. Maine's new rule is currently more restrictive than the federal rule. The federal rule allows a 24-month "look-back" period such that the limit on some of the specified uses does not apply if those costs were incurred in the two years prior to the investment date. Maine's rule has no look back period but rather limits investments to any costs from the investment date forward.

The structural similarities between the State and federal programs have the effect of keeping the cost to administer Maine's NMTC Program very low and making the program very readily accessible for CDEs already involved in the federal NMTC program. To be eligible for Maine's program, CDEs need only certify that they are registered as a CDE with the administrator of the federal program and that they are not subject to any federal recapture efforts. Another effect of the similarity between the two programs is that projects qualifying for State NMTC investments are likely to qualify for federal NMTC investments as well.

Maine's program overall seems intended to be complementary rather than duplicative of the federal program. However, other than CDEs using both programs to construct NMTC deals, the State and federal programs essentially run parallel to each other and are not coordinated from an administrative standpoint. FAME has no direct contact with the federal government with respect to the NMTC program and MRS has little to none.

### Other State Programs

OPEGA did not perform a comprehensive assessment to identify other specific Maine programs with purposes and goals similar to the Maine NMTC Program. We observe that State programs we are aware of, that are focused on improving the economy, tend to have the same broadly stated intents and purposes as the Maine NMTC, i.e. to encourage investment, preserve jobs and encourage economic development, particularly in economically distressed areas of the State. Consequently, there are likely quite a few State programs that would be considered to have similar intents.

The Maine NMTC Program also has broad intents and purposes similar to other State programs focused on economic development. According to State agencies we interviewed, the Maine NMTC Program is not coordinated with any other State program. OPEGA also finds it is unlikely to be specifically complementary to, or duplicative of, any other State programs given its unique approach and design.

We also did not comprehensively assess whether the Maine NMTC Program is complementary or duplicative of any other specific State programs. According to the State agencies OPEGA interviewed, the Maine NMTC Program is not currently coordinated with, or duplicative of, any other State programs. Given the program's unique approach and design, OPEGA also finds it unlikely to be specifically complementary to, or duplicative of, any other state programs.

OPEGA did observe instances of businesses participating in the Maine NMTC Program also benefitting from some other State programs – in some cases for the same projects. We also noted from FAME documents that one Maine NMTC deal also involved Historic Preservation Tax Credits and another involved funds from the Major Business Expansion Program and from pledges from the Business Equipment Tax Reimbursement and Employment Tax Increment Financing programs.

We were unable, however, to more broadly assess the degree to which businesses participating in the Maine NMTC program are receiving benefits from other programs. We are also unable to say whether the combination of benefits from multiple programs constitutes a package necessary to make the projects viable, or instead results in a level of support that exceeds what is necessary to incent the desired behavior. This issue is not unique to the Maine NMTC Program as the State's current data collection and management practices for business incentive programs, as a whole, are not designed to allow such an assessment.

# Recommendations

1

## *Opportunities to Improve Program Design and Cost-Effectiveness Should be Considered if Legislature Authorizes Additional Allocations*

The outcomes achieved by Maine's NMTC Program are directly related to the level of investments made and how those dollars are used. OPEGA observed several areas that could be addressed to help ensure incentivized investments are used in ways that most directly drive toward desired outcomes or that might reduce the State's cost for the program.

**Allocations to CDEs**. Under current FAME rules, FAME awards allocations on a first-come, first-served basis with all applications received on the same day being treated as having been received simultaneously. As a result, twelve CDEs each received about $4.6 million of the $55.7 million FAME re-allocated in February 2016. OPEGA noted that, while this approach is administratively efficient, allocating small amounts to a large number of CDEs can be problematic because each CDE's allocation ends up being too small to be effectively used on its own. CDEs will likely have to work together and/or combine State allocations with their federal allocations. More participants in a deal typically increase the cost such that less of the investment is actually available for business use on the project. OPEGA also observes that this approach does not take into consideration past CDE performance or types of projects a CDE typically invests in, such that FAME might allocate more to CDEs that are likely to produce greater benefits for the State of Maine. The federal allocation process does consider these factors when awarding federal allocations and may have scoring or ranking results that could be shared with FAME if something other than a first-come, first-served approach is desired.

**Desired Investments**. The terms "major" and "new" are both used in different sections of statute[13] to describe the desired investments, but neither term is defined in statute. As a result, there is a lack of clarity about the types of investments the State seeks to encourage, making it difficult to assess whether the program is meeting its intent in this regard. Several program design elements allow investments to be "major" in the sense of investing high dollar amounts. However, "major" could also mean of greater importance or effect and there are no provisions in statute that seem to prefer types of investments that might be associated with this meaning. Similarly, "new" could be defined as investments that are new to the State, or new to economically distressed areas, in which case any design elements supporting investments that would not otherwise have occurred encourages "new" investment. On the other hand, if "new" is defined as a new investment or project within the business, there was nothing in the program design to encourage "new" investment prior to FAME's recent rule change that is further discussed in Recommendation 2.

[13] "Major" is used to describe the desired investments in 10 MRSA § 1100-Z.1 and "new" is used in 10 MRSA § 1100-Z.2.

**Desired Outcomes**. The program's design does not specifically address the desired outcomes of preserving jobs, encouraging economic development, and benefitting economically distressed communities. These outcomes are quite dependent on the types of businesses receiving investments and how businesses use the invested funds. Some types of businesses and uses are more likely to create jobs and/or impact local communities than others. OPEGA observes there are no preferences expressed in statute, or applied through FAME's certification process, for projects that could be expected to produce greater positive impacts for these three desired outcomes.[14] Some CDEs described taking these types of factors into consideration when vetting whether to invest in a project, as they are ranked on ability to demonstrate community impacts when applying for federal NMTC allocations. Maine communities could generally be expected to benefit from this focus. These CDEs may also have internal criteria that the State could also apply directly in its certification process.

**Desired Beneficiaries.** Past legislative changes to Maine's NMTC program appear to have impacted the number of businesses that could potentially benefit from the program and where those businesses can be located. This in turn impacts how many, and which, communities could benefit.

- One amendment to statute[15] added to the definition of a qualifying business to include businesses located in any Maine municipality with an unemployment rate higher than the State average. This expanded the number of communities a qualified business could be located in beyond what the federal code allows. While more communities might now be eligible to benefit from the program, the change potentially reduced emphasis on targeting benefits to the most economically distressed communities. OPEGA noted that none of the projects currently certified in Maine have needed to qualify under this statutory change as they have all qualified under federal rules. It also appears this expanded definition is not relevant in NMTC deals that use both federal and State allocations as CDEs would need to meet federal requirements. Most of the 10 projects we reviewed involved both federal and State allocations and, consequently, the desired intent of the amendment may not have been met.

- Two other amendments[16] potentially impacted the number and/or types of businesses that could benefit. The first amendment increased the maximum $10 million investment to $40 million if the low-income community business is a manufacturing, or value-added, production enterprise that projects to create or retain more than 200 jobs. The other amendment changed the investment limit from a "per business" to a "per project" basis.

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[14] As described on page 15, FAME rules originally included language specifying that "substantially all of [the investment] is expended by the qualified active low-income community business within a low-income community in the state." However, CDE lawyers argued that this rule was an over-reach of statute and, in August 2013, the Board adopted an amendment removing the requirement. Board members felt this better aligned the Maine NMTC rules with the federal program. OPEGA observed that the requirement may also have been too restrictive as most of the resources needed for a project may not exist within the low-income community.

[15] This amendment was to 36 MRSA § 5219-HH sub-§ 1, paragraph G.

[16] These amendments were to 36 MRSA § 5219-HH sub-§ 1, paragraph J.

Since the program's total legislative allocation of $250 million did not change, these amendments potentially reduced the number of businesses that could receive certified investments in the lifetime of the program. It also shifted the program toward benefitting larger businesses more likely to be undertaking projects warranting the larger investments. OPEGA noted that none of the businesses with current certified Maine NMTC investments have had more than one project funded via the program.

**"But for".** Although legislators often express interest in ensuring that public funds are not used to support business initiatives that would have occurred anyway, there is no stipulation in statute that only projects with a certain level of need can qualify for the Maine NMTC program. OPEGA observed that all 10 businesses receiving investments as of August 2016 were appropriate beneficiaries under the current program parameters, but they did have varying degrees of financial need in terms of whether they had access to other reasonable financing options for their projects. In some cases, the business had no other financing options available. In other cases, the business primarily benefitted from the lower cost of capital available through the program which may have allowed them to expedite or expand their projects. Adding a "but for" requirement to this program could limit the pool of potential eligible projects and some CDEs expressed that they had already had difficulties finding good projects to invest in. Nonetheless, one CDE described considering the business's level of need in choosing projects and may have an internal criteria the State could apply if a "but for" stipulation is desired.

**Level of State Support.** OPEGA observed that there may be opportunity to reduce the State's cost of the program, or the timing of the program's fiscal impact, by adjusting the level and structure of tax credit offered. We noted the following :

- Maine is one of 15 states with an active state level NMTC program. We noted that the tax credit percentages offered varied among the states, as did the schedule on which the credits could be claimed. One state offered something less than a 39% credit but allowed all credits to be claimed within three years. Table 11 on page 42 has specifics on the state comparisons.

- Maine is the only state offering a refundable credit. The refundable credit is likely of more value to investors who have little or no Maine tax liability. OPEGA has been told that investors are willing to invest more per dollar of Maine tax credits than for credits in other states. However, because they are refundable, claimed credits are more likely to be a direct payout of State General Fund than an offset against State tax revenue that would otherwise have been received.

- CDEs who had previously not invested in Maine indicated that they now have good networks established for identifying potential Maine projects to invest in. This increases the likelihood they would use their federal NMTC allocations here even if there were no State tax credits involved. In our research of other states, we found that Missouri had discontinued its program in 2013. Alaska offers an alternative program that seeks to incent leverage lenders to participate in federal NMTC deals by lowering their financial risk.

**Performance Measures.** There are no set quantifiable performance measures and targets against which to measure the outcomes or cost-effectiveness of the Maine NMTC Program. Consequently, it is difficult to assess the extent to which program results meet legislative expectations.

### Recommended Legislative Action:

If another round of Maine NMTC allocation is funded in the future, then the Legislature should consider addressing the areas described above for possible statutory or rule changes that would further focus or otherwise improve the program. The Legislature should be aware in doing so that varying significantly from the federal program could create complications because most deals use both federal and State allocation and would need to comply with federal regulations. The Legislature should also seek input from stakeholders with expertise in NMTC programs to ensure all potential consequences of program changes were identified.

2

## *Legislature Should Consider Incorporating Recent FAME Rule Change into Statute*

In August 2015, FAME amended its program rules to limit certain uses of the qualifying investment the businesses receive. The new rule, which is currently not reflected in statute, states that that no more than 5% of the investment proceeds can be used to:

- refinance costs, expenses, or investments incurred or paid for by the business prior to the date of the investment; or
- acquire an already existing Maine business.

Around the same time, new guidance was issued for the federal NMTC program that imposed similar limits, but still allowed proceeds to be used for project expenses incurred up to 24 months prior to the investment.

The new FAME rule was established in response to negative publicity and public concern surrounding several Maine NMTC projects that involved “one-day loans”. The rule effectively prohibits “one-day loans” by limiting the types of transactions for which they were typically used. Four of the 10 projects we reviewed would not have qualified under the new rule in whole or in part. CDEs and businesses OPEGA spoke with explained that “one-day loans” made some projects possible by unlocking the value in a business’ existing assets. These stakeholders also explained that getting a Maine NMTC deal in place can be a lengthy process and often businesses need to get their projects started before the deals finally close. In these cases, owners or lenders finance the expenses incurred in anticipation that investment proceeds will be available to reimburse these costs. Such reimbursements would be subject to the 5% limitation under FAME’s rule, but would not be limited under the federal rule as long as the expenses were incurred within the prior 24 months.

OPEGA observes that this rule is a critical design element for achieving “new” investment within businesses. It also reduces risk that “one-day loans” will be used to artificially inflate the Qualifying Equity Investments on which the tax credits are based. However, we agree that it can take quite a period of time for Maine NMTC deals to get put together and there will likely be situations where businesses need to get projects started, and incur expenses, before the deals are actually closed.

#### Recommended Management Action:

We recommend that the FAME Board consider amending its rule to mirror the federal program guidance that allows investment proceeds to be used for reimbursements of legitimate project expenses incurred within a set timeframe prior to the NMTC investment.

#### Recommended Legislative Action:

If the Legislature considers FAME's new rule, as existing or amended, to be beneficial for the program, then OPEGA recommends that it be incorporated into statute. Establishing it in statute would serve to guard against claims that the rule is over-reaching statute and legislative intent. Such claims have been made in the past on other FAME rules and resulted in subsequent rule changes.

3

### *Guidance Should be Established for Potential Situations Where Annual Aggregate Claims Exceed $20 Million*

OPEGA interprets statute as limiting the aggregate tax credits that can be claimed in any one year to $20 million. However, carry forward provisions in statute, or delays in taxpayer filings, could technically result in more than $20 million in credits being claimed in any one year. There is no guidance in statute or rule as to what actions MRS should take in the event that more than $20 million in credits is claimed in one fiscal year.

> **5 MRSA § 1100-Z(4) provides:**
>
> **4. Limit on amount of tax credits authorized.** The maximum aggregate amount of qualified equity investments for which the authority may issue tax credit authority under this section is $250,000,000; a tax credit claim may not exceed $20,000,000 in any one state fiscal year over the 7 years of the tax credit allowance dates as described in Title 36, section 5219-HH, subsection 1, paragraph A.

FAME notes that the maximum credit investors could collectively claim in any year is 8% of the total $250 million in allocations authorized for the program. This would equate to a maximum credit of $20 million, but it does not take into consideration the possibility of carryovers, or extensions or delays in taxpayer filings. MRS notes that depending on context, the term "claimed" could mean the filing of a claim, the allowance of a claim, or the payment of a claim.

The probability of exceeding $20 million in credits in any fiscal year seems low since the credits are refundable and are not likely to be carried over. Nonetheless, if the $20 million is intended to be a cap on the total credits claimed each year, OPEGA believes it would be prudent to have a formalized plan for such an eventuality so there is sufficient authority and transparency for any adjustments to taxpayer claims that would need to be made.

**Recommended Management Action:**

If the Legislature intended the $20 million as a cap on the amount of credits claimed, then statute should be amended to make that clear and MRS should be directed to develop a protocol for handling claims in excess of $20 million in a fiscal year.

## 4 *Data Needed for Efficient and Effective Program Evaluation Should Be Captured and Maintained*

Although there is considerable information contained in the various documents CDEs submit to FAME, OPEGA was not able to easily discern some of the specific data required for evaluating the Maine NMTC Program. For example, it was difficult to:

- identify the exact amount of qualifying investment (QLICI) that went into each project and how much of the QLICI the business actually had available for use;
- determine how much CDEs received, as a result of the Maine NMTC deals, in retained QEI, and annual fees and interest paid by the businesses; and
- understand how federal and state NMTC allocations and tax credits interact when both are used for a project.

Additionally, FAME had little of the detailed actual data needed to meaningfully assess outcomes and impacts of the program. Data that FAME did have was mostly planned or projected figures developed pre-investment for FAME's certification process. CDEs are required to submit Annual Reports to FAME on projects they have invested in, but there are no requirements for the CDE to report the type of data needed for program evaluation. Though CDEs do often report job numbers in the Annual Reports, those numbers are not always provided at the desired level of detail or standardization. As a result, OPEGA had to gather actual data needed directly from businesses during the evaluation.

We also noted that FAME currently has no plans for collecting pertinent information on how the Maine NMTC deals are closed out when the seven year term ends, or if the business repays the investment early.

**Recommended Management Action:**

OPEGA recognizes that FAME's assigned responsibilities for the Maine NMTC Program are to ensure compliance with program requirements rather than to evaluate program performance. FAME, however, appears to be in the best position to capture the data needed for evaluation efforts. Consequently, we recommend that FAME develop and implement a process and tool for efficiently collecting and maintaining the specific data elements needed on each project to facilitate meaningful evaluation. FAME should confer with OPEGA on the data elements required. OPEGA may also provide input, if requested, on design of the data collection tool. FAME should then add the data reporting requirements to program rules as appropriate.

**Recommended Legislative Action:**

The Legislature should consider amending statute to require CDEs and/or businesses to report the data needed for program evaluation to FAME via whatever means FAME prescribes.

## Acknowledgements

OPEGA would like to thank the staff of FAME, DECD and MRS for their cooperation throughout this review. We also appreciate the information provided by the CDEs and QALICBs involved in Maine New Markets investments.

We would like to thank the Attorney General's Office for their research and guidance regarding access to confidential taxpayer information.

Lastly, we appreciate the expertise of the consultants at Economic Development Research Group who supported OPEGA in the economic modeling work for this review.

## Agency Response

In accordance with 3 MRSA § 996, OPEGA provided FAME and MRS an opportunity to submit additional comments after reviewing the report draft. FAME provided a response letter that can be found at the end of this report.

## *Appendix A. Scope and Methods*

The nine GOC-approved objectives for the evaluation of the Maine New Markets Capital Investment Program are detailed in Appendix D. The scope of the review was from inception of the program in 2012 through 2021, when all State tax credits certified under the program as of August 2016 are expected to have been claimed. OPEGA used information on actual program activity through August 2016 to estimate program impacts through 2021.

Information was gathered through:

- extensive review of relevant statute and rules, including the history of changes made since inception of the program;
- review of regulations for the federal NMTC program;
- extensive review of program documents held by FAME, such as applications and certification materials;
- interviews with program administrators at FAME and Maine Revenue Services, as well as with the Commissioner of Maine's Department of Economic and Community Development; and
- interviews with the six Community Development Entities, and nine of the ten qualified businesses, that have participated in the program as of August 2016.

OPEGA also analyzed specific program data obtained from these sources. The analysis work included calculating the GOC-approved performance metrics detailed in Appendix D, as well as several additional metrics relevant to cost-effectiveness of the program. OPEGA used the economic impact model IMPLAN for those metrics that were intended to capture both direct and indirect impacts. Contracted consultant Economic Development Research Group, Inc. (EDRG) assisted OPEGA in determining the input data needed for the model and performed the modeling work using a Maine-specific IMPLAN package. OPEGA and EDRG agreed upon the specific inputs to the model, including relevant assumptions. EDRG also assisted OPEGA in understanding the model outputs, the limitations of the model, and economic impact theory in general. Further description of the economic impact modeling performed for this review is on page 10.

## *Appendix B. Summaries of Projects Funded with Maine NMTC Investments as of August 2016*

The following one-page summaries are intended to provide a brief overview of the projects funded with Maine NMTC investments as of August 2016. They are based on information OPEGA gathered from NMTC program documents, and interviews with CDEs and businesses that have participated in the program. The census tract data shown was obtained from the Community Development Financial Institutions Fund, the administrator for the federal NMTC program.

The job counts shown in these summaries include only the direct permanent jobs created or retained within the businesses that received the NMTC investments. Each project could also be expected to generate indirect permanent jobs, as well temporarily support other jobs. However, OPEGA modeled those jobs, and other economic impacts, at the portfolio level rather than the individual project level.

OPEGA provided the CDEs and businesses the opportunity to review and offer comments on these summaries which are presented, in alphabetical order, on the following pages:

# Athens Energy — Athens, Maine

## PROJECT AT A GLANCE

| | | | |
|---|---|---|---|
| CDE | CCG Community Partners, LLC | Qualified Low-Income Community Investment | $29.0M* |
| Qualified Equity Investment | $29.7M | Investment Date | Sep 2014 |
| State Tax Credit to Investors | $11.6M over 7 years | 1-Day Loan / 1-Day Equity | $0 |

Note: State tax credits are based on the "Qualified Equity Investment." However the business doesn't receive this amount. The business receives the QEI less allocation fees. This is shown above as the "Qualified Low-Income Community Investment". If there are 1-day loans involved in the NMTC deal these, and closing costs would further reduce the amount of the investment available for the business to use.

**The Low Income Community:**
Census Tract #23025965600 - Athens

18.1% ⇨ poverty rate

9.7% ⇨ unemployment rate

62.5% ⇨ average family income as a percent of state median family income

| Project Timeline | |
|---|---|
| Feb 2012 | Allocation received by CDEs |
| Sep 2013 & Feb 2014 | QEI made & tax credits authorized |
| Sep 2014 | Investment received by Athens Energy |
| Summer 2016 | Start-up |

### The Project – Installation of a Biomass Boiler with an 8MW Electrical Generator

- The roughly $32M investment was used to purchase and install the biomass boiler and electrical generator at the co-located, Maine Woods Pellets Company plant which manufactures wood heating pellets for market.
- The new boiler and electrical generator went online in the summer of 2016.
- The combined facility manufactures wood pellets at lower cost by drying them with waste heat from the boiler which is fueled primarily by very low grade biomass that can't be used for pellets. The electrical generator uses boiler output to produce 8MW of electricity for the mill which helps to stabilize energy costs as well as allows another revenue stream through sales of excess electrical power to the grid.

### Economic & Community Benefits

- There were 11 jobs directly created from this investment and management states that 40 jobs from Maine Woods Pellets and another 40 jobs associated with Linkletter and Sons, the forest products company affiliated with Maine Woods Pellet Company, are likely retained due to this investment.

**Schedule of Maine NMTC Credits Expected to be Paid FY2014 – FY2021**

| Fiscal Year | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
|---|---|---|---|---|---|---|---|---|
| Credits Expected to be Paid | $0 | $0 | $525K | $2.157M | $2.380M | $2.380M | $2.380M | $1.780M |

**Sources: NMTC program documents, CDFI Fund census tract data, and interviews with management of the CDE and of the business.**

***Under statute, projects may receive more than $10M if they are expected to create or retain more than 200 direct and indirect jobs. While OPEGA modeled indirect jobs on a portfolio basis and includes those aggregate figures elsewhere in this report, we did not model impacts for individual projects. As a result, this summary accounts only for direct employment reported by the CDEs and/or businesses.**

# Brunswick Landing — Brunswick, Maine

## PROJECT AT A GLANCE

| | | | |
|---|---|---|---|
| CDE | US Bank CDE (US BANCORP) | Qualified Low-Income Community Investment | $10.0M |
| Qualified Equity Investment | $10.2M | Investment Date | Mar 2014 |
| State Tax Credit to Investors | $3.98M over 7 years | 1-Day Loan / 1-Day Equity | $1.65M |

Note: State tax credits are based on the "Qualified Equity Investment." However the business doesn't receive this amount. The business receives the QEI less allocation fees. This is shown above as the "Qualified Low-Income Community Investment". If there are 1-day loans involved in the NMTC deal these, and closing costs would further reduce the amount of the investment available for the business to use.

**The Low Income Community:**
Census Tract #23005011100 – Brunswick

7.1% ⇨ poverty rate

6.3% ⇨ unemployment rate

73.6% ⇨ average family income as a percent of state median family income

| Project Timeline | |
|---|---|
| Feb 2012 | Allocation received by CDEs |
| Feb 2014 | QEI made & tax credits authorized |
| Mar 2014 | Investment received by Brunswick Landing |
| Sep 2014 | Facilities in service |

### The Project – Redevelopment of Property on Former Brunswick Naval Air Station

- Investment supported the second phase of an ongoing redevelopment project on a portion of the former Brunswick Naval Air Station. The development project was completed in September 2014.
- The new facilities were intended to house Providence Service Corporation which provides services to autistic children, to provide space for the all-volunteer Midcoast Veterans Resource Center, and to add facilities for Coastal Orthopedics & Sports Medicine.
- The one-day loan was used to pay expenses incurred by the developer before the NMTC investment, leaving approximately $5.9M to pay off the property mortgage and $1.9M to pay for renovations.

### Economic & Community Benefits

- Providence Services was able to consolidate 5 locations into one facility at half the market rate. The developer states that this cost savings helped the company to create 45 new jobs and may have allowed some of the original 160 jobs be retained.
- The developer reports that Coastal Orthopedics & Sports Medicine has added 36 people since the NMTC investment.
- Brunswick Landing is leasing space to the Midcoast Veterans Resource Center for $1/year. The Center has assisted over 1000 veterans as of summer 2016.
- P3 Park, on the property, is used by the veterans' group for events and the old chapel is now a naval museum.

**Schedule of Maine NMTC Credits Expected to be Paid FY2014 – FY2021**

| Fiscal Year | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
|---|---|---|---|---|---|---|---|---|
| Credits Expected to be Paid | $0 | $0 | $0 | $714K | $816K | $816K | $816K | $816K |

**Sources: NMTC program documents, CDFI Fund census tract data, and interviews with management of the CDE and of the business.**

# Farnsworth Museum Rockland, Maine

## PROJECT AT A GLANCE

| | | | |
|---|---|---|---|
| CDE | CEI Capital Management LLC (CCML) | Qualified Low-Income Community Investment | $9.7M |
| Qualified Equity Investment | $10.0M | Investment Date | Mar 2015 |
| State Tax Credit to Investors | $3.9M over 7 years | 1-Day Loan / 1-Day Equity | $7.4M |

Note: State tax credits are based on the "Qualified Equity Investment." However the business doesn't receive this amount. The business receives the QEI less allocation fees. This is shown above as the "Qualified Low-Income Community Investment". If there are 1-day loans involved in the NMTC deal these, and closing costs would further reduce the amount of the investment available for the business to use.

## The Project – Restore and Maintain Museum Buildings

**The Low Income Community:**
Census Tract #23013970600 - Rockland

- 12.9% ⇨ poverty rate
- 8.5% ⇨ unemployment rate
- 73.7% ⇨ average family income as a percent of state median family income

- The project involved capital improvements to buildings and updating heating and fire suppression systems. The project was completed in late 2015.
- By addressing needed maintenance, the facility expected to lower operational costs, avoid budget cuts and remain open to the public.
- After repayment of one-day loans, fees, and transaction costs, total funds available for the project were approximately $4 million.

## Economic & Community Benefits

| Project Timeline | |
|---|---|
| Feb 2012 | Allocation received by CDEs |
| Feb 2014 | QEI made & tax credits authorized |
| Mar 2015 | Investment received by Farnsworth |
| Late 2015 | Project completion |

- According to management, the NMTC investment allowed the Farnsworth to retain 45 employees.
- Part of project cost was to create a program using art as a vehicle to study social sciences, science and other subjects in the Rockland schools.
- Museum management hoped the improvements would make the Farnsworth a "destination museum". In the first year after completion of the improvements, management calculated a 25% increase in attendance.
- The project leveraged walkway and storm drainage improvements funded by the City of Rockland.

**Schedule of Maine NMTC Credits Expected to be Paid FY2014 – FY2021**

| Fiscal Year | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
|---|---|---|---|---|---|---|---|---|
| Credits Expected to be Paid | $0 | $0 | $0 | $700K | $800K | $800K | $800K | $800K |

**Sources: NMTC program documents, CDFI Fund census tract data, and interviews with management of the CDE and of the business.**

# Great Northern Paper East Millinocket, Maine

| PROJECT AT A GLANCE | | | |
|---|---|---|---|
| CDEs | (1) Stonehenge Community Development and (2) Enhanced Community Development | Qualified Low-Income Community Investment | $40M* |
| Qualified Equity Investment | $40.8M | Investment Date | Dec 2012 |
| State Tax Credit to Investors | $15.9M over 7 years | 1-Day Loan / 1-Day Equity | $27.9M |

Note: State tax credits are based on the "Qualified Equity Investment." However the business doesn't receive this amount. The business receives the QEI less allocation fees. This is shown above as the "Qualified Low-Income Community Investment". If there are 1-day loans involved in the NMTC deal these, and closing costs would further reduce the amount of the investment available for the business to use.

**The Low Income Community:**
Census Tract #23019031000 – East Millinocket

13.0% ⇨ poverty rate

3.8% ⇨ unemployment rate

77.8% ⇨ average family income as a percent of state median family income

| Project Timeline | |
|---|---|
| Feb 2012 | Allocation received by CDEs |
| Oct & Dec 2012 | QEI made & tax credits authorized |
| Dec 2012 | Investment received by GNP |
| Jan 2014 | Mill shutdown |
| Sep 2014 | Filed for bankruptcy |

## The Project – Refinancing Debt to Keep the Mill Running

- The project was intended to repay high interest debt to provide working capital for operations and to allow the mill to avoid foreclosure.
- After one-day loans, fees, and transaction costs, approximately $10.5M was available to pay off high-interest debt.
- The mill continued operations for 14 months after the investment, but management states that extremely high energy costs in the winter of 2013/2014 could not be overcome despite the New Markets investment. The mill was shut down in early 2014 and filed for bankruptcy in September of that year.
- For more detailed information on this project, see the case study in Appendix C.

## Economic & Community Benefits

- The mill was able to continue operations, locally purchasing many raw materials and services for 14 months after investment.
- For 14 months after the investment, GNP continued to employ 257 individuals at the facility.
- According to management, the 14 month period provided a bridge to retirement for many mill employees. The average age of the workforce was over 60 years.

**Schedule of Maine NMTC Credits Expected to be Paid FY2014 – FY2021**

| Fiscal Year | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
|---|---|---|---|---|---|---|---|---|
| Credits Expected to be Paid | $0 | $2.858M | $3.267M | $3.267M | $3.267M | $3.267M | $0 | $0 |

**Sources: NMTC program documents, CDFI Fund census tract data, and interviews with management of the CDE and of the business.**

***Under statute, projects may receive more than $10M if they are expected to create or retain more than 200 direct and indirect jobs. While OPEGA modeled indirect jobs on a portfolio basis and includes those aggregate figures elsewhere in this report, we did not model impacts for individual projects. As a result, this summary accounts only for direct employment reported by the CDEs and/or businesses.**

# JSI Store Fixtures — Milo, Maine

| PROJECT AT A GLANCE | | | |
|---|---|---|---|
| CDE | Advantage Capital Partners | Qualified Low-Income Community Investment | $24.85M* |
| Qualified Equity Investment | $29.2M | Investment Date | Dec 2013 |
| State Tax Credit to Investors | $11.4M over 7 years | 1-Day Loan / 1-Day Equity | $14.85M |

Note: State tax credits are based on the "Qualified Equity Investment." However the business doesn't receive this amount. The business receives the QEI less allocation fees. This is shown above as the "Qualified Low-Income Community Investment". If there are 1-day loans involved in the NMTC deal these, and closing costs would further reduce the amount of the investment available for the business to use.

**The Low Income Community:**
Census Tract #23021960800 – Milo

22.1% ⇨ poverty rate

10.7% ⇨ unemployment rate

69.4% ⇨ average family income as a percent of state median income

| Project Timeline | |
|---|---|
| Feb 2012 | Allocation received by CDEs |
| Nov 2013 | QEI made & tax credits authorized |
| Dec 2013 | Investment received by JSI |
| 2015 | Resumed hiring & opened the Bangor location |

## The Project – Refinance High Interest Debt to Stabilize Operations and Enable Growth

- At the time of investment the company was constrained by high interest debt that was diverting funds that could be used for working capital towards debt service payments. The refinancing, along with some initial layoffs, allowed the company to reduce expenses and use its funds to support operations.
- The improvement of working capital as result of the New Markets investment allowed the company to grow. The company began hiring again in 2015 and has both maintained the Milo location and expanded to a second location in Bangor.

## Economic & Community Benefits

- Even though some layoffs occurred during the downturn, the CDE associated with this investment reported to OPEGA that 141 jobs were retained as a result of this investment and 10 additional jobs were added once the company had stabilized.
- JSI is one of the largest employers in Piscataquis County and provides average annual wages and benefits valued at $37,000 per employee.

**Schedule of Maine NMTC Credits Expected to be Paid FY2014 – FY2021**

| Fiscal Year | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
|---|---|---|---|---|---|---|---|---|
| Credits Expected to be Paid | $0 | $0 | $2.046M | $2.339M | $2.339M | $2.339M | $2.339M | $0 |

**Sources: NMTC program documents, CDFI Fund census tract data, and interviews with management of the CDE and of the business.**

***Under statute, projects may receive more than $10M if they are expected to create or retain more than 200 direct and indirect jobs. While OPEGA modeled indirect jobs on a portfolio basis and includes those aggregate figures elsewhere in this report, we did not model impacts for individual projects. As a result, this summary accounts only for direct employment reported by the CDEs and/or businesses.**

# Molnlycke Brunswick, Maine

| PROJECT AT A GLANCE | | | |
|---|---|---|---|
| CDE | CEI Capital Management LLC (CCML) | Qualified Low-Income Community Investment | $9.7M |
| Qualified Equity Investment | $10.0M | Investment Date | Nov 2013 |
| State Tax Credit to Investors | $3.9M over 7 years | 1-Day Loan / 1-Day Equity | $0 |

Note: State tax credits are based on the "Qualified Equity Investment." However the business doesn't receive this amount. The business receives the QEI less allocation fees. This is shown above as the "Qualified Low-Income Community Investment". If there are 1-day loans involved in the NMTC deal these, and closing costs would further reduce the amount of the investment available for the business to use.

## The Project – Develop a Wound Care Products Manufacturing Facility

**The Low Income Community:**
Census Tract #23005011100 – Brunswick

- 7.1% ⇨ poverty rate
- 6.3% ⇨ unemployment rate
- 73.6% ⇨ average family income as a percent of state median family income

- The project involved development of a wound care products manufacturing facility in Brunswick, similar to the plant Molnlycke has in Finland.
- The new facility provides a local, stable market for much of the output of Molnlycke's sister-plant in Wiscasset.
- The New Markets investment allowed the business to install equipment in the new plant that was more automated and state of the art and should both improve quality and reduce operating costs long-term.
- The Brunswick plant was completed in 2013 and began operations in early 2014.

| Project Timeline | |
|---|---|
| Feb 2012 | Allocation received by CDEs |
| Nov 2013 | QEI made & tax credits authorized |
| Nov 2013 | Investment received by Molnlycke |
| 2013 – early 2014 | Hiring, training & start-up |

## Economic & Community Benefits

- By the end of 2015, Molnlycke – Brunswick employed 66 full-time employees with average annual wages and benefits of almost $65,000 per employee.
- Due to integration between the new, Brunswick plant and the pre-existing Wiscasset facility owned by Molnlycke, management suggests the 79 jobs at the Wiscasset plant are likely more secure.
- Molnlycke is delivering wound-care seminars to local hospitals and clinics.
- Molnlycke has partnered with Southern Maine Community College for workforce training.

**Schedule of Maine NMTC Credits Expected to be Paid FY2014 – FY2021**

| Fiscal Year | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
|---|---|---|---|---|---|---|---|---|
| Credits Expected to be Paid | $0 | $0 | $700K | $800K | $800K | $800K | $800K | $0 |

**Sources: NMTC program documents, CDFI Fund census tract data, and interviews with management of the CDE and of the business.**

# The Press Hotel — Portland, Maine

| PROJECT AT A GLANCE | | | |
|---|---|---|---|
| CDE | Stonehenge Community Development | Qualified Low-Income Community Investment | $10M |
| Qualified Equity Investment | $10.8M | Investment Date | May 2014 |
| State Tax Credit to Investors | $4.2M over 7 years | 1-Day Loan / 1-Day Equity | $0 |

Note: State tax credits are based on the "Qualified Equity Investment." However the business doesn't receive this amount. The business receives the QEI less allocation fees. This is shown above as the "Qualified Low-Income Community Investment". If there are 1-day loans involved in the NMTC deal these, and closing costs would further reduce the amount of the investment available for the business to use.

**The Low Income Community:**
Census Tract #23005000300 – Portland

30.4% ⇨ poverty rate

10.2% ⇨ unemployment rate

49.8% ⇨ average family income as a percent of state median family income

## The Project – Renovating a Historic Building

- Project was to renovate a vacant, historic building on upper Exchange Street into an upscale, 110 room hotel.
- Total project cost was approximately $25 million and included State and Federal Historic Preservation Credits and additional private investment leveraged by the NMTC investment.
- Construction focused on local materials and services including a Portland, Maine general contractor and subcontractors and design firms primarily based in Maine.
- Renovations were completed and the hotel opened in May 2015.

| Project Timeline | |
|---|---|
| Feb 2012 | Allocation received by CDE |
| Feb 2014 | QEI made & tax credits authorized |
| May 2014 | Investment received by the hotel |
| May 2015 | Hotel opens |

## Economic & Community Benefits

- After opening in May 2015, total employment grew to its current level of 109 positions: 85 full-time positions, 13 part-time, 8 seasonal, and 3 on-call positions.
- At 30 hours per week, employees are eligible for health, dental, vision and life insurance benefits for which the company pays 70%.
- The developer worked with Coastal Enterprises Inc. to partner with Southern Maine Community College in providing workforce training through a hospitality certificate program targeting local residents including populations struggling to find employment.
- Local property taxes for the renovation site increased by $171,000 per year

**Schedule of Maine NMTC Credits Expected to be Paid FY2014 – FY2021**

| Fiscal Year | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
|---|---|---|---|---|---|---|---|---|
| Credits Expected to be Paid | $0 | $0 | $0 | $758K | $867K | $867K | $867K | $867K |

**Sources: NMTC program documents, CDFI Fund census tract data, and interviews with management of the CDE and of the business.**

# Putney, Inc. Portland, Maine

| PROJECT AT A GLANCE | | | |
|---|---|---|---|
| CDE | Advantage Capital Partners | Qualified Low-Income Community Investment | $10.00M |
| Qualified Equity Investment | $11.76M | Investment Date | Jul 2013 & Jun 2014 |
| State Tax Credit to Investors | $4.59M over 7 years | 1-Day Loan / 1-Day Equity | $0 |

Note: State tax credits are based on the "Qualified Equity Investment." However the business doesn't receive this amount. The business receives the QEI less allocation fees. This is shown above as the "Qualified Low-Income Community Investment". If there are 1-day loans involved in the Maine NMTC deal these, and closing costs would further reduce the amount of the investment available for the business to use.

**The Low Income Community:**
Census Tract #23005000300 - Portland

30.4% ⇨ poverty rate

10.2% ⇨ unemployment rate

49.8% ⇨ average family income as a percent of state median family income

## The Project – Developing Generic Pet Medications

- The Maine NMTC investment was used to fund R&D and pay salaries of scientists who managed the contracted development and manufacturing processes at laboratories and plants primarily outside of Maine.
- The business was sold in April of 2016, and the new owner was reported to have laid-off 15 of 62 employees. Since the investment was paid off prior to the 7 year New Markets compliance period, the original QEI has been redeployed by the CDE to investment in another qualified Maine business.

## Economic & Community Benefits

- The CDE associated with this investment stated in their annual report to FAME that 15 jobs were created following the initial Maine NMTC investment.
- The jobs created by Putney were reported by the former management to be highly compensated professional and scientific jobs with an average annual salary of $90,000 per employee.

| Project Timeline | |
|---|---|
| Feb 2012 | Allocation received by CDEs |
| Sep 2012, Jul 2013 & Dec 2013 | QEI made & tax credits authorized |
| Jul 2013 | First investment received by Putney |
| Jun 2014 | Second investment |
| April 2016 | Company sold to Dechra |

**Schedule of Maine NMTC Credits Expected to be Paid FY2014 – FY2021**

| Fiscal Year | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
|---|---|---|---|---|---|---|---|---|
| Credits Expected to be Paid | $0 | $700K | $924K | $941K | $941K | $941K | $141K | $0 |

**Sources: Maine NMTC program documents, CDFI Fund census tract data, and interviews with management of the CDE and of the business.**

# Quoddy Shoes Lewiston, Maine

| PROJECT AT A GLANCE | | | |
|---|---|---|---|
| CDE | Advantage Capital Partners | Qualified Low-Income Community Investment | $0.575M |
| Qualified Equity Investment | $0.667M | Investment Date | Aug 2013 & Dec 2014 |
| State Tax Credit to Investors | $0.260M over 7 years | 1-Day Loan / 1-Day Equity | $0 |

Note: State tax credits are based on the "Qualified Equity Investment." However the business doesn't receive this amount. The business receives the QEI less allocation fees. This is shown above as the "Qualified Low-Income Community Investment". If there are 1-day loans involved in the NMTC deal these, and closing costs would further reduce the amount of the investment available for the business to use.

## The Project – Stabilizing Operations and Moving to a New Business Model

- The investment allowed Quoddy to pivot from wholesale distribution to a more profitable, direct, made to order sales model.
- Funds were used for building renovations, equipment upgrades and to develop a new website to facilitate the new direct sales model. Some funds also covered operating costs, including salaries, during the transition.

**The Low Income Community:**
Census Tract #23001020400 - Lewiston

43.7% ⇨ poverty rate

20.1% ⇨ unemployment rate

44.5% ⇨ average family income as a percent of state median family income

## Economic & Community Benefits

- Although some layoffs still occurred, they were minimized by having the NMTC investment. 32 jobs were retained.
- Website development and photography were contracted to Maine firms.
- The Quoddy factory has become an anchor tenant, and its presence has allowed the owner of the former mill building in downtown Lewiston to make upgrades and attract other tenants.
- Management reports some tourism has grown up around the Quoddy facility as customers purchasing Quoddy's high-end shoes sometimes make trips to Lewiston to tour the space where their shoes were handmade.

| Project Timeline | |
|---|---|
| Feb 2012 | Allocation received by CDEs |
| Jul 2013, Dec 2013 & Feb 2014 | QEI made & tax credits authorized |
| Aug 2013 | First investment received by Quoddy |
| Dec 2014 | Second investment |

| Schedule of Maine NMTC Credits Expected to be Paid FY2014 – FY2021 | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Fiscal Year | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
| Credits Expected to be Paid | $0 | $0 | $42.0K | $52.7K | $53.3K | $53.3K | $53.3K | $5.3K |

**Sources: NMTC program documents, CDFI Fund census tract data, and interviews with management of the CDE and of the business.**

# St. Croix Tissue — Baileyville, Maine

| PROJECT AT A GLANCE | | | |
|---|---|---|---|
| CDEs | (3) CEI Capital Management LLC (CCML)<br>(4) Enhanced Community Development<br>(5) US Bank CDE (US BANCORP) | Qualified Low-Income Community Investment | $39.1M* |
| Qualified Equity Investment | $41.0M | Investment Date | Dec 2013 |
| State Tax Credit to Investors | $16.0M over 7 years | 1-Day Loan / 1-Day Equity | $0 |

Note: State tax credits are based on the "Qualified Equity Investment." However the business doesn't receive this amount. The business receives the QEI less allocation fees. This is shown above as the "Qualified Low-Income Community Investment". If there are 1-day loans involved in the NMTC deal these, and closing costs would further reduce the amount of the investment available for the business to use.

## The Project – Installation of Tissue Production Machines

- The project involved installation of two new tissue production machines co-located with the Woodland Pulp pulpmill, diversifying the product mix of the combined facility.
- While the particular location is not normally a qualified census tract for federal New Markets projects, Maine statute also qualifies municipalities with an unemployment rate greater than the state average for use of state allocation. Baileyville meets this criterion. Further, the site becomes eligible for using federal New Markets allocation due to serving a "targeted population". This part of federal code requires that more than 40% of new hires will be low-income persons. St. Croix and the CDEs agreed to a stricter requirement of 60% low-income hires.
- Both new machines began operating by the summer of 2016.

**The Low Income Community:**
Census Tract #23029955400 – Baileyville

- 9.2% ⇨ poverty rate
- 12.2% ⇨ unemployment rate
- 98.8% ⇨ average family income as a percent of state median family income

| Project Timeline | |
|---|---|
| Feb 2012 | Allocation received by CDEs |
| Dec 2013 | QEI made & tax credits authorized |
| Dec 2013 | Investment received by St. Croix |
| Mid-year 2016 | Both machines operating |

## Economic & Community Benefits

- Along with 78 jobs associated with the tissue machines, management states that the product diversification allowed by the new machinery also supported the retention of over 300 jobs at Woodland Pulp.
- St. Croix / Woodland contributed $500,000 to a workforce development program in the local community.
- According to management and the CDE, at least 60% of new hires have qualified as low-income at the time they were hired.

**Schedule of Maine NMTC Credits Expected to be Paid FY2014 – FY2021**

| Fiscal Year | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
|---|---|---|---|---|---|---|---|---|
| Credits Expected to be Paid | $0 | $0 | $2.870M | $3.280M | $3.280M | $3.280M | $3.280M | $0 |

**Sources: NMTC program documents, CDFI Fund census tract data, and interviews with management of the CDEs and of the business.**

***Under statute, projects may receive more than $10M if they are expected to create or retain more than 200 direct and indirect jobs. While OPEGA modeled indirect jobs on a portfolio basis and includes those aggregate figures elsewhere in this report, we did not model impacts for individual projects. As a result, this summary accounts only for direct employment reported by the CDEs and/or businesses.**

## *Appendix C. Great Northern Paper: Case Study of A Maine NMTC Program Project*

### Introduction

The Great Northern Paper project was one of the first projects to receive certified investments under Maine's New Market Capital Investment Credit Program. It is an example of the Maine NMTC Program being used to bring substantial investment to a high risk venture that had few, if any, other financing options available. The guarantee of the State tax credits essentially reduced the risk of investing in the project to a point where investors would provide funds for the project through loans that were at much lower interest rates than could otherwise be obtained, with interest only payments over the seven year period, and with the additional possibility that the balance on the loans would not need to be repaid at the end of the seven year period.

> **About Cate Street Capital**
>
> Cate Street Capital Inc. (CSC) is a management company that provides management, engineering and back office services to investment funds pursuant to contracts with those funds. CSC manages investments for sustainable initiatives in the energy field that primarily focus on young, early stage companies. CSC primarily provides its services to rural businesses and is dedicated to Maine and New Hampshire where most of its employees live. Great Northern Paper contracted CSC to provide executive management services.
>
> Source: Interviews with CSC managers

The GNP project is also the only State NMTC project to date that has had to declare bankruptcy, and is an example of the potential risk that is inherent to the State in this program. While the business and its jobs are gone and no longer contributing to Maine's economy, the State is still committed to providing $16 million in tax credits for the investments. Those credits are expected to be claimed on the statutorily-established schedule for the program, with claims ending in 2019. GNP did, however, continue to operate for 14 months after the NMTC investment was made, retaining 256 jobs for those 14 months and 46 jobs for another 8 months after shut down.

### About the Great Northern Paper Project

In August 2011, Cate Street Capital Inc. (CSC), as manager for a group of investors, formed a group of entities commonly referred to as Great Northern Paper, LLC (GNP). GNP acquired the East Millinocket and Millinocket Paper Mills, including the real estate and paper machines, for $1. The Millinocket mill had been closed since 2008 and the East Millinocket mill had shut down in April of 2011. The group of investors included CSC Group Holdings, LLC, a company managed by CSC, and 27 third party investors who were seeking a site for another CSC-managed investment called Thermogen Industries. Thermogen is a biomass to wood pellet manufacturing project. According to CSC managers and the Commissioner of Maine's Department of Economic and Community Development, the State approached CSC about considering the Millinocket sites for the Thermogen project and re-opening the mills. CSC had initial reservations about restarting the shutdown mills but saw potential synergy between the East Millinocket mill, its highly skilled workforce, and the proposed separate, but nearby, Thermogen project. By October 2011, GNP restarted paper making operations at the East Millinocket mill.

In November 2011, GNP secured a $10 million high-interest loan from White Oaks Global Advisors to fund working capital required to continue the re-start of the East Millinocket Mill. The scrap value of the facility was used as collateral. White Oaks specializes in high-interest, risky loans that have extremely strict debt covenants. The White Oaks loan was necessary for the purchase of raw materials, including wood; paying mill employees, including their benefits; and purchasing necessary equipment. CSC believed that keeping the paper mill running was an integral step toward a longer term, more sustainable business strategy that included the key elements of maintaining the area's logging capacity, along with the skilled workforce, while it worked toward financing its future Thermogen operation.

GNP had a strategy to make the mill a breakeven proposition and perhaps earn a small profit, though they never expected it to be much more than that. The strategy involved moving the mill away from making paper for telephone books and toward producing high quality newsprint, expanding into foreign markets, and reducing energy and operational costs. At the time, there was a capacity shortage for newsprint in the European Market. GNP worked with another company with expertise in sourcing and marketing forest products worldwide who had the idea, resources and, GNP thought, the reach to tap into the European market.

On the cost side, however; fuel oil was unexpectedly reaching prices in excess of $100 a barrel, so GNP made investments to convert one of the power boilers to compressed natural gas (CNG). This CNG investment was financed by a separate $1.4 million loan from Xpress Natural Gas. Lastly, GNP intended to start up both paper machines at the mill since, with fixed costs about as low as they could make them, profitability was thought to be through more volume.

By the end of 2011, GNP knew there was a problem. Exchanges rates became less favorable and GNP's marketing company was unable to deliver on penetrating the European market. GNP switched to what they called a Northeastern sales strategy, promoting its quality newsprint which includes groundwood that has good four color reproduction.

The officials OPEGA interviewed said that GNP had a difficult startup of the paper machines that had been shut down. The previous owner had deferred much maintenance and spare parts had not been replenished so the facility had a working capital deficit which cost more time and money to overcome. GNP also found that it could not run both paper machines in the winter because it could not produce enough steam without running high-cost oil boilers. CSC representatives explained they also started with an empty wood yard and many of the former GNP employees had already found new jobs, so bringing back a quality workforce was more difficult and more expensive than originally expected.

By the end of 2012, GNP was not meeting its debt covenants on the White Oaks loan, and White Oaks was ready to foreclose. GNP felt their strategy would work if they had enough time. They looked to the State of Maine's newly established NMTC program to unlock the value in the GNP assets and pay off the White Oaks debt. Because this was a distressed industry in an economically distressed community, other financing options were very limited. NMTC financing would, in effect, refinance the facility by converting the short-term high interest White Oaks debt to a larger amount of longer-term, low-interest debt with a "put option" at the end of seven years.

The NMTC transaction closed in December 2012 and White Oaks was paid off. GNP, with CSC, also hired a new president who had successfully aided three previous turnarounds in the paper industry. According to a Certified Public Accountant's report commissioned by CSC (CPA Report), several key employees of GNP were also employees of CSC.

Although individual salaries of CSC employees totaling $325,000 per year were paid by GNP, CSC did not fully collect management fees from GNP. Under White Oaks covenants, half of the management fees due to CSC from GNP were deferred while the White Oaks debt was outstanding. Only some of the monthly payments, totaling $666,667, had been made since 2011. According to the CPA report, after the NMTC transaction closed, CSC continued to defer all management fees which ultimately reached a total of $2.3 million.

The GNP management team continued efforts to convert to compressed natural gas and restart the second paper machine. GNP also started focusing on expanding its newsprint product into the Latin America and Indian markets and introduced financial printing paper as a product, securing a large, new customer. GNP and CSC proceeded with this strategy into 2013-2014 facing a declining market for their other products. Over the three year span since GNP had purchased the mill, the market decreased by 10% the first year, an additional 10% the second year, and a further 25% the third year.

The winter of 2013-2014 also brought a pivotal point in energy prices. Oil was close to $120 a barrel and increments of natural gas hit prices in excess of $30 per mmbtu. GNP had neither a clean balance sheet nor the cash to be able to hedge against the incremental energy prices. The market price for paper was now below the cash cost to manufacture and GNP was no longer able to economically supply its commitments to customers. According to CSC, the cost of energy was the single reason the mill needed to suspend operations at that time.

GNP kept 46 employees on staff to evaluate options, but the company had $13 to $14 million in unsecured creditors and suppliers that could not be paid. These creditors pressured GNP and the company ultimately filed for Chapter 7 bankruptcy in October 2014. According to CSC management, CSC was one of GNP's largest creditors at bankruptcy but did not apply to be paid during the proceedings. CSC also paid the final checks and benefits for the small number of employees remaining at bankruptcy from their own funds. The $1.2 million federal tax liability associated with the East Millinocket Mill was discharged during the bankruptcy, however; Cate Street still owed the $1.5 million in federal taxes for the Millinocket mill that it took on when the mill was purchased. CSC is also liable for the debt of $2.9 million to Xpress Natural Gas.

**<u>About the GNP New Markets Investment Deal</u>**

The GNP NMTC deal was intended as a refinancing mechanism to replace short-term, high-interest debt with longer-term debt at low rates. The deal was structured such that the equity investors had a "put option" at the end of seven years where they could, in effect, put their ownership of the loans to a GNP subsidiary for a small fee. GNP also had a "call option" which allowed them to purchase the debt at the fair market value of the loan. This common feature of NMTC deals increases the equity that is retained in a business at the end of the investment period. The deal essentially converted a loan with $1.3 million in annual interest and principal due in 2014, to a loan with $0.56 million in annual interest and the strong likelihood that the principal would not have to be repaid at the end of seven years.

The deal was also structured to accomplish these ends while staying in compliance with the rules of the federal and State NMTC programs and other relevant tax laws. As a result, the deal involved a complex array of transactions and multiple new entities through which those transactions flowed, some of which were created solely for tax compliance purposes. The details are described beginning on page 72 and illustrated in Figure 8 at the end of this case study.

In short, however, two Community Development Entities (Enhanced Capital New Markets Development Fund X, LLC and Stonehenge Community Development LXI, LLC) accumulated between them $40.834 million from equity investors and "one-day loan" providers to act as a qualified equity investment (QEI). This QEI is the basis upon which the 39% tax credits are awarded over the seven-year compliance period. US BANCORP and Enhanced Capital are the equity investors entitled to those tax credits and the nearly $16 million in credits is split between them on a proportional basis that reflects their investments. Some of the QEI provided by US BANCORP also qualified for $3.9 million in federal tax credits from the federal NMTC program.

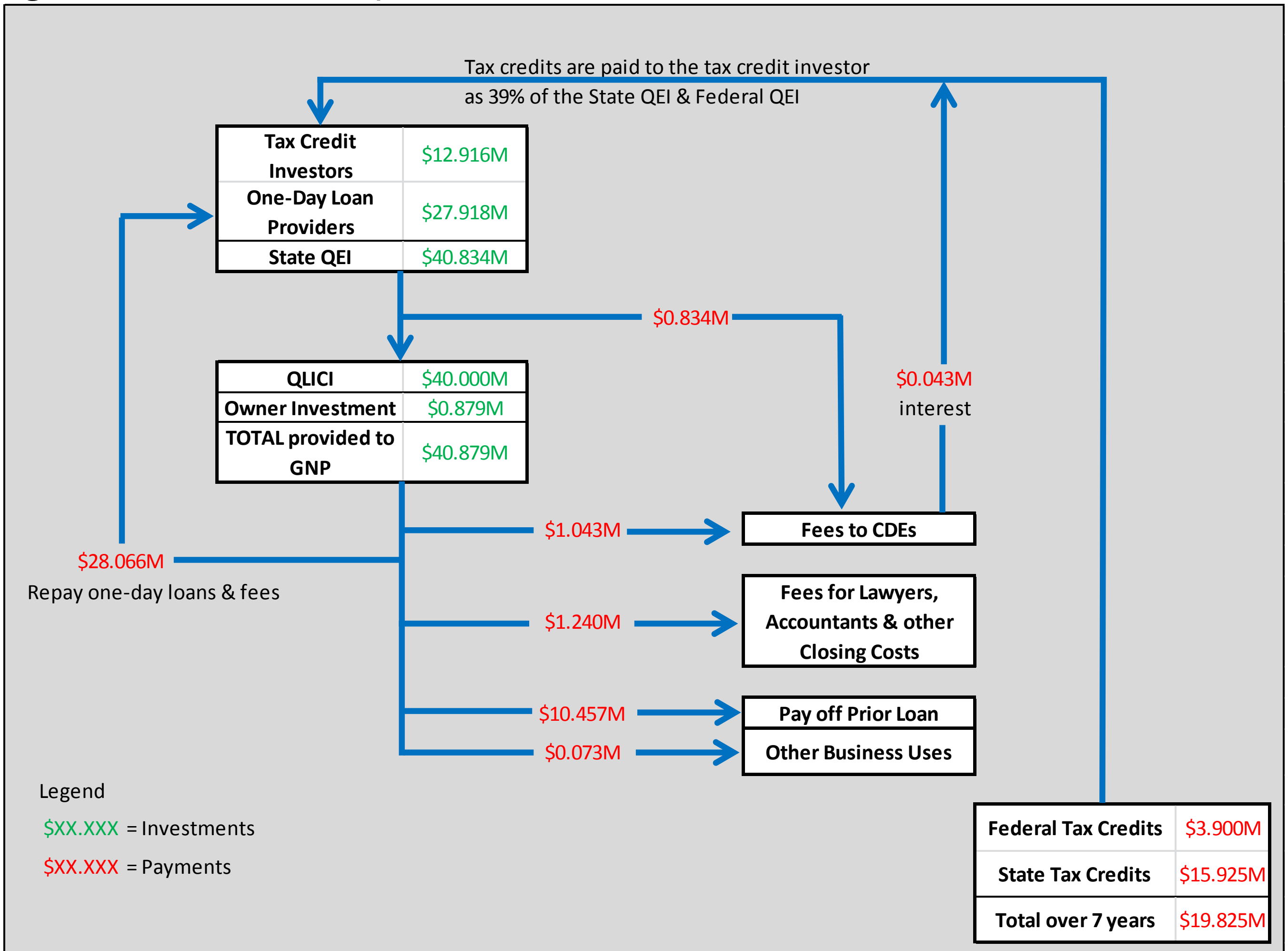
GNP received $40 million in low-interest loans from the $40.834 million QEI with each of the two Community Development Entities (CDE) providing $20 million. The owners of GNP (CSC Group Holdings, LLC and the 27 other members in Great Northern Ventures, LLC) contributed another $879,000 of equity. However, a portion of the funds invested in GNP was immediately repaid, with interest, to the "one-day loan" providers. This $28.1 million in "one-day loans" effectively served to achieve the rate of return the equity investors required to make the investment and be paid back over seven years. According to CSC, the "one-day loan" mechanism was an essential feature to allow an asset-rich, cash-poor business like GNP to access necessary capital. The breakdown of how GNP used the $40.8 million it received is shown in Table 12.

| Table 12. Great Northern Paper Use of NMTC Investments | Amount |
|---|---|
| Pay back one-day equity investment from US BANCORP with interest | $12.2 million |
| Pay back one- day loan from ODFC, LLC with interest | $15.9 million |
| Pay state and federal allocation fees charged by CDEs | $1.0 million |
| Pay closing costs to various parties for legal, accounting & other services | $1.2 million |
| Pay off White Oaks high interest debt | $10.5 million |
| **TOTAL** | **$40.8 million** |
| Sources: OPEGA interpretation of Pierce Atwood's 12/27/2012 memo titled: "Great Northern Paper Project – Opinion on Certain Tax Issues" and Dawson Smith Purvis & Bassett – Certified Public Accountants and Business Advisors – memo dated 02/08/2016. Provided to OPEGA by Cate Street Capital, Inc. 08/25/2016 | |

Although the deal reduced interest payments for GNP, which improved cash flow and potentially freed up funds for other uses, it provided no immediate funds for further investment in the mill. This aspect, along with the "one-day loan" transactions, concerned FAME staff. FAME staff's opinion was that refinancing previously expended funds is not the same as expending the proceeds for new purposes. There was concern that the State's investment would not be used to promote new investment in the low-income community. FAME asked for, and received, data from GNP demonstrating that GNP and its principals had actually expended approximately $32.9 million, including $10.5 million to be refinanced, on the mill. FAME also ultimately included an indemnity agreement with its certification of the QEI to ensure that, at least, the company's 2013 capital budget of approximately $9 million would actually be invested in the mill over the subsequent nine months. According to FAME, GNP satisfied this additional requirement.

Figure 6 illustrates, in simplified terms, the general flow of funds in the GNP NMTC deal. Equity investors provided almost $13 million in 2012 and will receive almost $16 million from the State to be paid over the subsequent seven years. The one-day loan / one-day equity providers invested $27.9 million and received almost $28.1 million in immediate repayment of principal and interest. The CDEs received $1.8 million in fees for the use of their New Market Tax Credit allocation as well as to act as a broker between the investors and GNP. Lawyers, accountants and other providers of services associated with closing a transaction of this size and complexity were paid $1.2 million. The remaining $10.5 million was primarily used to pay off GNP's debt to White Oaks.

## Figure 6 – Great Northern Paper New Markets Transaction Flow of Funds




Note - This diagram is simplified. The actual flow of funds requires multiple entities of the business with which to transfer assets at market value in order to ensure the value of the total QLICI loan stays in the business for the length of the 7 year compliance period.

## Details of the Great Northern Paper New Markets Deal

There are two main aspects to every New Markets project: the accumulation of the QEI into a CDE, and the subsequent investment by the CDE into a Qualified Active Low-Income Community Business (QALICB). This two-step process is the mechanism by which the investor is insulated from some of the inherent risk associated with investing in low-income community businesses. The details of the Maine NMTC deal for the Great Northern Paper project are illustrated in Figure 8 at the end of this case study.

### The QEI

In the case of GNP, two CDEs received qualified equity investments totaling $40.834 million. These investments were first aggregated into investment funds owned by the tax credit equity investors and were comprised of $12.916 million from the equity investors themselves, as well as $27.918 million in the form of "one-day loans". The investment funds subsequently made the $40.834 equity contribution to the CDEs. This equity investment in the CDEs is the basis upon which the State tax credits are calculated. The State pays the tax credit equity investors 39% of the QEI ($15.925 million for the GNP project) over the subsequent seven years from the date of investment. Upon certification of the QEI by FAME, the equity investor will be paid by the State regardless of whether the business venture succeeds or fails. The QEI, however; is certified by FAME only after the second step of the process is completed – making a Qualified Low-Income Community Investment (QLICI) into a QALICB.

## The QLICI

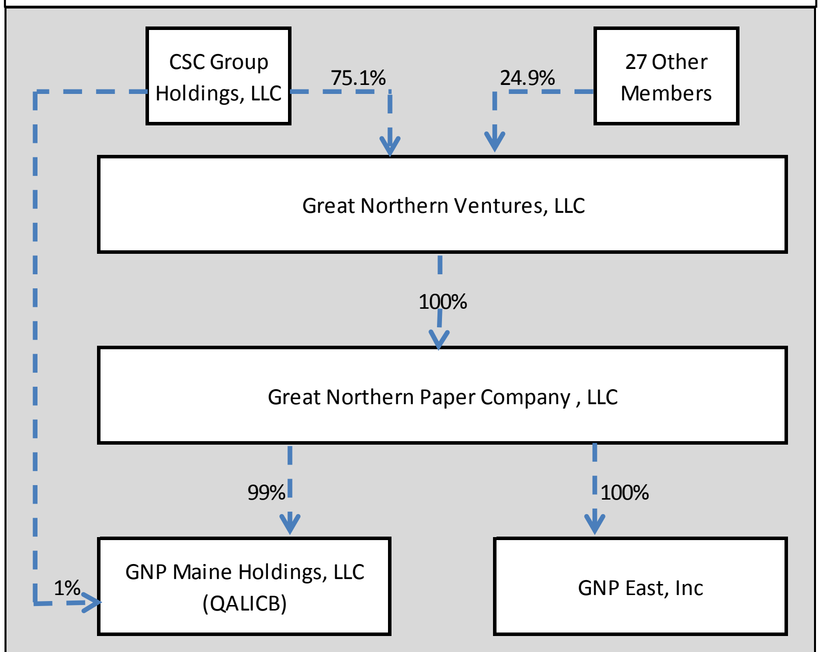
One of the CDEs retained its allocation fee of $0.834 million prior to investing in the GNP QALICB while the other CDE received its allocation fees subsequent to the investment. Combined, the CDEs invested the maximum allowed QLICI of $40 million into the QALICB. Another $0.879 million in owner equity was added to this investment which provided GNP $40.879 million in funds.

NMTC transactions require particular arrangements of legal entities in order to comply with federal tax code. In some cases, these arrangements are necessary to allow the return of "one-day loans" while ensuring that 85% of the value of the QEI remains in the QALICB as required by federal code and State statute. The ownership diagram of GNP is shown in Figure 7. The applicable portion of this diagram is the legal separation of GNP East, Inc. from the newly created QALICB, GNP Maine Holdings, LLC.

The $40 million QLICI, supplemented by $879,000 in owner equity, was invested in the QALICB, GNP Maine Holdings, LLC. The QALICB spent those funds as follows:

- purchase of paper machines and ancillary machinery owned by GNP East, Inc for $28.5 million; the purchase price was based on an appraisal;
- payment of a $0.6 million State NMTC allocation fee to the CDE which had not already collected its allocation fee;
- payment of $1.240 million in closing costs to various parties for transaction closing services;
- payment of approximately $43,000 in accrued interest back through the CDEs to the investors; and
- payment of $10.475 million in high interest debt to White Oaks.

**Figure 7. GNP Ownership Diagram**



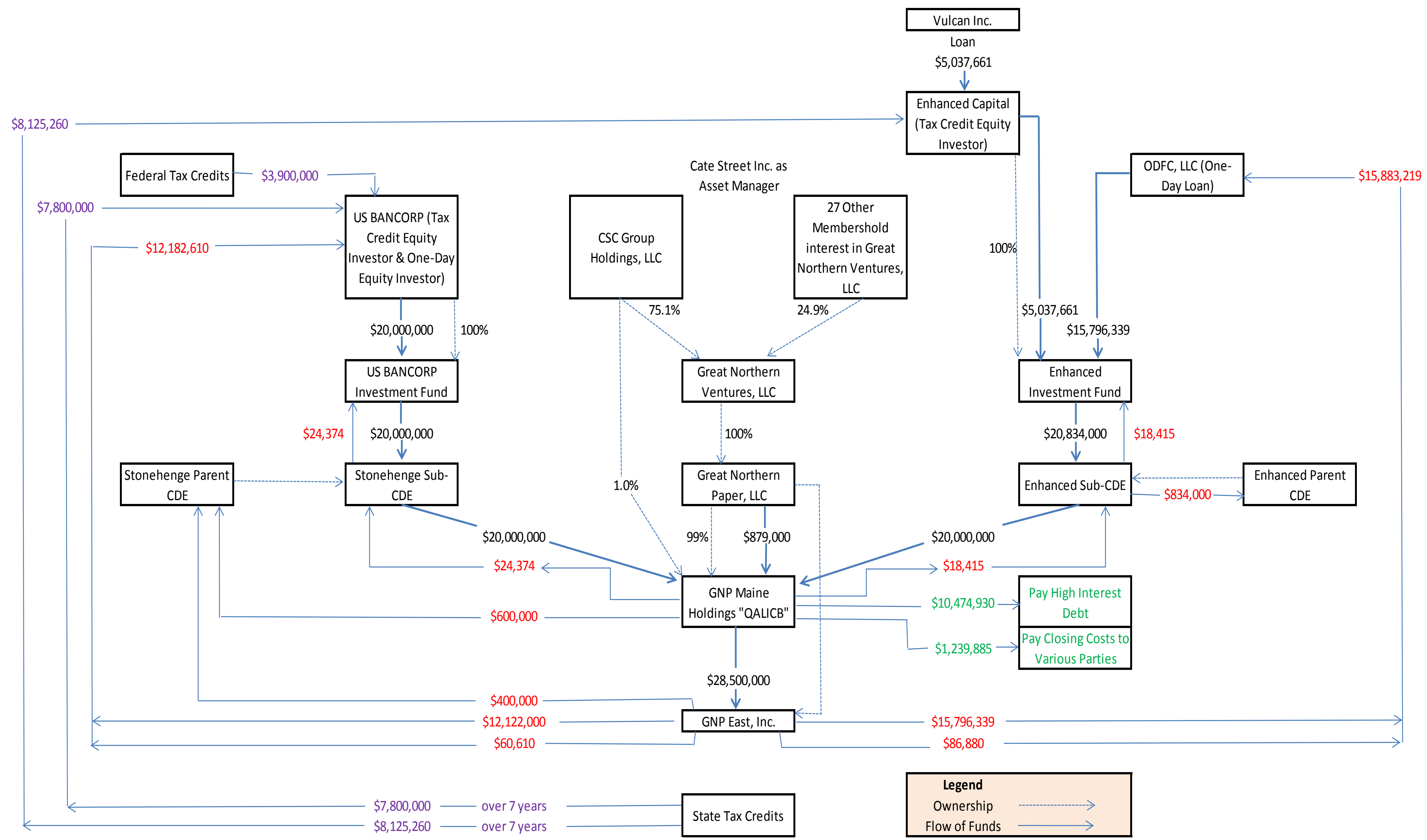

Source: OPEGA interpretation of Pierce Atwood's 12/27/2012 memo titled: "Great Northern Paper Project - Opinion on Certain Tax Issues"

Given that GNP Maine Holdings, LLC now owned GNP East's assets, the value of those assets remained in the QALICB satisfying the requirement for 85% of the QEI to remain in the QALICB. GNP East then used its $28.5 million proceeds as follows:

- payment of a $0.4 million federal allocation fee to one of the CDEs;
- payment of $12.183 million in one-day loans and bridge fees to one of the lenders; and
- payment of $15.883 million in one-day loans and bridge fees to the other lender.

The ultimate business use of these investments was to refinance the White Oaks debt which was due for repayment in 2014. The investment allowed GNP to trade $10.5 million of high interest, short term debt for $40 million of low interest, longer term debt. This deal freed up $0.74 million of working capital, but declining paper markets, combined with high energy costs, led GNP to file for bankruptcy in October 2014.

**Figure X. Detailed Diagram of the Maine NMTC Deal for the Great Northern Paper Project**




Source: OPEGA interpretation of Pierce Atwood's 12/27/2012 memo titled: "Great Northern Paper Project – Opinion on Certain Tax Issues"

## *Appendix D. GOC- Approved Evaluation Parameters*

**Parameters for OPEGA's Full Evaluation of the New Markets Capital Investment Program as approved by the Government Oversight Committee 1-22-16**

| Enacted | Statute(s) | Type | Category | Est. Revenue Loss |
|---|---|---|---|---|
| 2011 | 36 MRSA §5219-HH<br>10 MRSA §1100-Z | Income Credit | Business Incentive, Financial Investment | FY16 $9,205,000<br>FY17 $13,509,000 |

*Source for Estimated Revenue Loss: Maine State Tax Expenditure Report 2016 – 2017*

### Program Description

Maine's New Markets Capital Investment Program is a state program modeled after the federal New Markets Tax Credit program. It provides a 39% credit for investors with qualified equity investments in low-income community businesses made via a qualified community development entity (CDE). To be considered qualified, a CDE must meet a number of requirements including:

- being certified by the US Treasury, and
- having an existing allocation agreement under the federal New Markets program.

The credit may be taken over seven years, with 0% allowed in the first two years, 7% in year three and 8% in each of the remaining years. The credit is fully refundable or may be carried forward for up to 20 years. This means credits may be paid out in full if the investor owes no taxes in the state. Credits may also be subject to recapture by the State Tax Assessor pursuant to 36 MRSA §5219-HH.7. Total authorized credits under this program may not exceed $20,000,000 per year. As of the writing of this document, all funds available under this program had been allocated.

There is a two step application process for the New Markets program. First the Finance Authority of Maine (FAME) reviews each CDE's application for an allocation. If approved, an allocation reserves tax credits to be claimed against future qualified investments and is valid for to up to two years.

The second step occurs once the CDE has a pool of funding (from private investors or issuance of long term debt) ready to invest in a qualified low-income community business. At that point the CDE must file a certification application with FAME providing details of the proposed investment such as:

- a description of the qualified low-income community business proposed to receive the investment proceeds; and
- how the qualified business intends to use the investment proceeds.

FAME reviews the proposed investment to determine whether it can be approved as a qualified equity investment under program rules. Upon approval, FAME notifies Maine Revenue Service of the investors (individuals or businesses) deemed eligible for the credit and how much each is entitled to. The investors later claim their credit by filing with Maine Revenue Services.

The New Markets program requires all CDEs that have been approved for allocations and all those that have received certifications to file annual reports with FAME. Statute also required FAME to report to the Taxation Committee and Appropriations Committee on the New Markets program, including the amount of private investment received and number of jobs created or retained, by January 31, 2015. No further reports from FAME are required under statute.

## Evaluation Parameters Subject to Committee Approval

The following parameters are submitted for GOC approval as required by 3 MRSA §999 subsection 1, paragraph A.

(1) Purposes, Intent or Goals

Intent – To promote economic development by encouraging major investments in qualified businesses and developments located in economically distressed areas of the State; to preserve jobs and make the State more competitive in the attraction of investment capital.

Goal – To encourage new investments in qualified businesses and developments located in economically distressed areas of the State.

(2) Beneficiaries

Primary Intended Beneficiaries – Qualified businesses in economically distressed areas of the State

Secondary Intended Beneficiaries – Economically distressed communities

Credit Recipient – Investors (or others to whom the credits are transferred)

(3) Evaluation Objectives

Below are the objectives the evaluation proposes to address. The objectives are coded to indicate which of the performance measures in section (4) below could potentially be applicable.

Each objective will be explored to the degree possible based on the level of resources required and the availability of necessary data. Any substantial statutory changes since the program's enactment will be considered in addressing objectives impacted by those changes.

| Objectives Allowed Under 3 MRSA §999 subsection 1 paragraph A | | Applicable Measures |
|---|---|---|
| (a) | The fiscal impact of the tax expenditure, including past and estimated future impacts; | C, D, E, F Qualitative |
| (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; | Qualitative |
| (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; | A, B, C, D, G, H, J, L Qualitative |
| (d) | The extent to which those actually benefiting from the tax expenditure are the intended beneficiaries; | A, B, C, G, H, I, M Qualitative |
| (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; | C, D, I, J Qualitative |
| (f) | The extent to which the State's administration of the tax expenditure, including enforcement efforts, is efficient and effective; | Qualitative |
| (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; | Qualitative |
| (h) | The extent to which the tax expenditure is a cost-effective use resources compared to other options for using the same resources or addressing the same purposes, intent or goals; and | E, F, G, H, I, J, K Qualitative |
| (i) | Any opportunities to improve the effectiveness of the tax expenditure in meeting its purposes, intent or goals. | Qualitative |

OPEGA will perform additional work as necessary, and as possible within existing resources, to provide context for OPEGA's assessment of this program in Maine, including review of literature or reports concerning these programs nationally or in other states.

(4) Performance Measures

Measures will be calculated to the degree possible based on the level of resources required and the availability of necessary data.

| | |
|---|---|
| A | # Total businesses receiving qualified investments under the program |
| B | # Economically distressed communities where businesses received qualified investment under the program |
| C | $ Value of tax credits to investors ($ value paid in past years and expected in coming years) |
| D | $ Value of credits available compared to credits taken |
| E | Total direct program cost (credits plus administrative costs) |
| F | Net impact on State budget (using economic modeling, as possible and appropriate, to include capture of indirect benefits and costs) |
| G | Total qualified investment received by businesses |
| H | $ Value of average qualified investment received per business (also min and max) |
| I | Average value of tax credits per investor (also min and max) |
| J | $ Value of tax credits received by investors per $ of qualified investment |
| K | Leveraging Ratio, for example [$ of qualified investment]\[Net impact on State budget] |
| L | Indicators of economic growth in economically distressed areas with businesses that received qualified investments under the program (such as change in # qualifying businesses, # jobs, per capita income, or unemployment rate – using economic modeling, as possible and appropriate, to include capture of indirect benefits and costs) |
| M | Participation Rate (% of economically distressed communities in the State that have benefitted from the program) |

Performance measures would typically be calculated by year to allow for analysis of percentage changes year over year, trends, etc. Further calculations and breakouts would be considered as appropriate. For example:

- per beneficiary,
- per geographic region,
- comparison to industry or geographic trends,
- comparison to time period preceding program implementation or receipt of program benefits,
- by new vs. continuing beneficiary,
- by taxpayers' state of residence,
- by reduction of tax liability vs refunded credit,
- by type of qualifying business,
- by taxpayer type, or
- by relevant indicator of community economic distress level, i.e. per capita income, unemployment rate, etc.

FINANCE AUTHORITY OF MAINE

March 2, 2017

Beth L. Ashcroft, Director
Office of Program Evaluation and Government Accountability
Maine State Legislature
82 State House Station
Augusta, Maine 04333-0082

Dear Ms. Ashcroft:

Pursuant to 3 M.R.S.A. § 997(1), the Finance Authority of Maine (FAME) wishes to offer this brief response regarding your office's final report on the New Markets Capital Investment Program.

First, FAME has enjoyed working with your staff over the past sixteen months and has appreciated their professionalism and thoroughness in approaching this complex topic. We are pleased to have fully cooperated with all requests in a prompt and thorough manner.

Second, FAME largely agrees with the findings and recommendations contained in the report. As you know, we take our role as co-administrator (along with Maine Revenue Services) of the program very seriously, and strive to administer our portion of the program with fairness, transparency, and accountability. We have consistently sought and obtained improvements to this complex program along the way, and, while it remains an imperfect program worthy of further refinements, we continue to believe that it is overall a successful and worthwhile program whose benefits to the state's economy far outweigh its shortcomings.

Third, we look forward to further discussion of some of the report details, including the recommended actions for improvement of the program. If FAME is to be required to assume further responsibilities regarding capturing data needed for efficient and effective program evaluation and ensuring further reporting by program recipients, we will require additional resources. We would not be able to continue to absorb such responsibilities as we have previously.

We look forward to meeting with the Government Oversight Committee in the near future to discuss this matter further.

Sincerely,

B.E. Wagner

Bruce E. Wagner
Chief Executive Officer