

MAINE STATE LEGISLATURE

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Legislative Document

No. 1518

S.P. 541

March 20, 2007

An Act To Establish a Renewable Energy Tax Credit

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BARTLETT of Cumberland.
Cosponsored by Representative BRAUTIGAM of Falmouth and Senators: BRYANT of Oxford, DAMON of Hancock, HOBBS of York, PERRY of Penobscot, STRIMLING of Cumberland, Representative: EBERLE of South Portland.

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

2 **Sec. 1. 36 MRSA §5219-BB** is enacted to read:

3 **§5219-BB. Renewable energy tax credit**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Payroll" means the total amount paid in this State during the tax period by the
7 taxpayer for compensation, including wages, pretax employee contributions made to
8 a benefit package and employer contributions made to an employee benefit package.

9 B. "Property" means the average value of the taxpayer's real and tangible personal
10 property that is owned or rented and used during the tax period. Property owned by
11 the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at
12 8 times the net annual rental rate. The net annual rental rate is the annual rental rate
13 paid by the taxpayer.

14 C. "Qualified business activity" means manufacturing renewable energy products or
15 biofuel or conducting research and development in renewable energy. For purposes
16 of this paragraph, "biofuel" has the same meaning as in section 5219-X, subsection 1.

17 **2. Credit allowed.** Except as provided by subsection 3, a taxpayer that is a business
18 conducting a qualified business activity is allowed a credit in the amount of:

19 A. One hundred percent of the tax that would otherwise be due under this Part for
20 each of the first 5 tax years beginning with the tax year in which the taxpayer
21 commences its qualified business activity; and

22 B. Fifty percent of the tax that would otherwise be due under this Part for each of the
23 5 tax years following the time period in paragraph A.

24 **3. Apportioned credit in certain circumstances.** In the case of a business engaged
25 in both qualified and nonqualified business activities in the State, the credit provided for
26 in this section is limited to that portion that is attributable to the qualified business
27 activity. The limitation is calculated by an apportionment. The apportionment is
28 determined by a fraction, the numerator of which is the property value plus the payroll for
29 the taxable year attributed to the qualified business activity of the business and the
30 denominator of which is the statewide property value plus payroll for the taxable year of
31 the business.

32 If the qualified business is a taxable corporation that has affiliated groups, as defined in
33 section 5102, subsection 1-B, engaged in a unitary business, as defined in section 5102,
34 subsection 10-A, the property and payroll values in the State of the unitary affiliated
35 groups must be included in the apportionment fraction. The resulting fraction must be
36 multiplied by the total tax liability otherwise due under this Part of the qualified business
37 and those affiliated groups.

38 If the apportionment provisions of this subsection do not fairly reflect the amount of the
39 credit associated with the taxpayer's qualified business activity, the taxpayer may petition
40 for, or the State Tax Assessor may require, in respect to all or any part of the taxpayer's

1 business activity, the employment of another reasonable method to effectuate an equitable
2 apportionment of the credit associated with the taxpayer's qualified business activity.

3 **4. Members of pass-through entities.** A member of a pass-through entity that
4 conducts a qualified business activity is allowed a credit under this section based on the
5 tax due under this Part related to items of income, gain, deduction, loss or other items
6 required to be reported by the pass-through entity to the member. For purposes of this
7 subsection, "pass-through entity" means a corporation that for the applicable tax year is
8 treated as an S corporation under the Code and a partnership, trust, limited liability
9 company or similar entity that for the applicable tax year is not taxed as a C corporation
10 for federal tax purposes; "member" means an individual or other owner of a pass-through
11 entity.

12 **5. Limitations.** A taxpayer receiving a credit under this section may not receive a
13 credit under section 5219-X for the same business activity. The credit under this section
14 may not reduce the tax due under this Part to less than zero. The credit provided by this
15 section may not be claimed for tax years beginning on or after January 1, 2019.

16 **Sec. 2. Application.** This Act applies to tax years beginning on or after January 1,
17 2007.

18 **SUMMARY**

19 This bill provides a tax credit for a business engaged in the qualified business activity
20 of manufacturing renewable energy products or biofuel or engaged in research and
21 development in renewable energy equal to the income taxes otherwise due for 5 years and
22 then 50% of the income taxes due for the next 5 years from when the business
23 commences the qualified activity, similar to the credit given for Pine Tree Development
24 Zone businesses.