

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

SECOND REGULAR SESSION-2014

Legislative Document

No. 1835

S.P. 738

In Senate, March 20, 2014

An Act To Improve Maine's Ability To Attract Major Private Investments

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

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

DAREK M. GRANT
Secretary of the Senate

Presented by Senator CUSHING of Penobscot. (GOVERNOR'S BILL)
Cosponsored by Representative WILLETTE of Mapleton and
Senators: COLLINS of York, SHERMAN of Aroostook, THOMAS of Somerset,
Representative: DAVIS of Sangerville.

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

2 **Sec. 1. 10 MRSA §963-A, sub-§10, ¶T**, as amended by PL 2013, c. 378, §2, is
3 further amended to read:

4 T. An Efficiency Maine project; ~~and~~

5 **Sec. 2. 10 MRSA §963-A, sub-§10, ¶U**, as enacted by PL 2013, c. 378, §3, is
6 amended to read:

7 U. Any offshore wind energy development as defined in Title 35-A, section 102,
8 subsection 10-A or project to manufacture components for an offshore wind energy
9 development; and

10 **Sec. 3. 10 MRSA §963-A, sub-§10, ¶V** is enacted to read:

11 V. A transformational business expansion project.

12 **Sec. 4. 10 MRSA §963-A, sub-§49-K** is enacted to read:

13 **49-K. Transformational business expansion project.** "Transformational business
14 expansion project" means, when done by a qualified applicant certified pursuant to Title
15 36, section 6803, subsection 2, the construction, development, rehabilitation, expansion,
16 modernization or acquisition of any building, structure, system, machinery, equipment or
17 facility in a military redevelopment zone, as defined in Title 30-A, section 5250-I,
18 subsection 11-A, that has a projected cost of \$50,000,000 or more and the operation of
19 which is projected to result in a net gain of at least 1,500 job opportunities.
20 "Transformational business expansion project" does not include an electric rate
21 stabilization project or a project primarily involved in the provision of housing or retail
22 sales to consumers.

23 **Sec. 5. 10 MRSA §1043, sub-§2, ¶J**, as amended by PL 2003, c. 506, §2, is
24 further amended to read:

25 J. In the case of major business expansion projects and transformational business
26 expansion projects, the applicant is creditworthy and there is a strong likelihood that
27 the revenue obligation securities will be repaid through the revenues of the project
28 and any other sources of revenues and collateral pledged to the repayment of those
29 securities. In order to make this determination, the authority shall consider such
30 factors as it considers necessary to measure and evaluate the sufficiency of the
31 pledged revenues to repay the obligations, including:

32 (1) Whether individuals or entities obligated to repay the obligations have
33 demonstrated sufficient revenues from the project or from other sources to repay
34 the obligations, and a strong probability that those revenues will continue to be
35 available for the term of the revenue obligation securities;

36 (2) Whether the applicant demonstrates a strong probability that the project will
37 continue to operate and provide the public benefits projected to be created for the
38 term of the revenue obligation securities;

- 1 (3) Whether the applicant demonstrates that the benefits projected to be created
2 by the project are enhanced through the use of financing assistance from the
3 authority;
- 4 (4) Whether the applicant's creditworthiness is demonstrated by such factors as
5 historical financial performance, management ability, its plan for marketing its
6 product or service and its ability to access conventional financing;
- 7 (5) Whether the applicant meets or exceeds industry average financial
8 performance ratios commonly accepted in determining creditworthiness in that
9 industry;
- 10 (6) Whether the applicant demonstrates that the need for authority assistance is
11 due to the reduced cost and increased flexibility of the financing for the project
12 that result from authority assistance and not from an inability to obtain necessary
13 financing without the capital reserve fund security provided by the authority; and
- 14 (7) Whether collateral securing the repayment obligation is reasonably sufficient
15 under the circumstances.

16 Financing assistance may not exceed for any one major business expansion project
17 ~~may not exceed~~ \$25,000,000 or for any one transformational business expansion
18 project \$400,000,000 in loan amount. The authority may establish, pursuant to rules
19 adopted in accordance with Title 5, chapter 375, subchapter 2, application
20 procedures, approval criteria and reasonable fees for major business expansion
21 projects and transformational business expansion projects;

22 **Sec. 6. 10 MRSA §1053, sub-§6**, as amended by PL 2011, c. 586, §5, is further
23 amended to read:

24 **6. Securities outstanding.** The principal amount of revenue obligation securities the
25 authority may have outstanding at any one time, to which subsection 5 is stated to apply
26 in the trust agreement or other document, may not exceed an aggregate principal amount
27 equal to ~~\$912,000,000~~ \$1,412,000,000 as follows:

28 A. The sum of \$180,000,000 consisting of not more than \$150,000,000 for loans and
29 up to \$30,000,000 for use of bond proceeds to fund capital reserve funds for revenue
30 obligation securities issued pursuant to this subchapter relating to loans for electric
31 rate stabilization projects or loans for energy distribution system projects;

32 B. The sum of ~~\$120,000,000~~ \$620,000,000 consisting of not more than \$100,000,000
33 for loans and up to \$20,000,000 for use of bond proceeds to fund capital reserve
34 funds for revenue obligation securities issued pursuant to this subchapter relating to
35 loans for major business expansion projects and up to \$500,000,000 for use of bond
36 proceeds to fund capital reserve funds for revenue obligation securities issued
37 pursuant to this subchapter relating to loans for transformational business expansion
38 projects;

39 C. The sum of \$57,000,000 consisting of not more than \$45,000,000 for loans and up
40 to \$12,000,000 for use of bond proceeds to fund capital reserve funds for revenue
41 obligation securities issued pursuant to this subchapter relating to workers'
42 compensation residual market mechanism projects;

1 D. The sum of \$150,000,000 less the aggregate outstanding balance of mortgage
2 loans secured by capital reserve funds pursuant to section 1032 for all other revenue
3 obligation securities issued pursuant to this subchapter;

4 E. The sum of \$120,000,000 consisting of not more than \$100,000,000 for loans and
5 up to \$20,000,000 for use of bond proceeds to fund capital reserve funds for revenue
6 obligation securities issued pursuant to this subchapter relating to loans for paper
7 industry job retention projects;

8 F. The sum of \$100,000,000 consisting of not more than \$85,000,000 for loans and
9 up to \$15,000,000 for use of bond proceeds to fund capital reserve funds for revenue
10 obligation securities issued pursuant to this subchapter relating to loans for
11 transmission facilities projects as defined in section 963-A, subsection 49-H; and

12 G. The sum of \$35,000,000 consisting of not more than \$30,000,000 for the purposes
13 stated in section 1020-A, subsection 1, paragraphs A and C and up to \$5,000,000 for
14 use of bond proceeds to fund capital reserve funds for revenue obligation securities
15 issued pursuant to section 1020-A, subsection 1, paragraph A.

16 The amount of revenue obligation securities issued to refund securities previously issued
17 may not be taken into account in determining the principal amount of securities
18 outstanding, as long as proceeds of the refunding securities are applied as promptly as
19 possible to the refunding of the previously issued securities. In computing the total
20 amount of revenue obligation securities of the authority that may at any time be
21 outstanding for any purpose, the amounts of the outstanding revenue obligation securities
22 that have been issued as capital appreciation bonds or as similar instruments are valued as
23 of any date of calculation at their then current accreted value rather than their face value.

24 **Sec. 7. 26 MRSA §2031, sub-§5, ¶¶G and H**, as enacted by PL 1995, c. 665,
25 Pt. DD, §5 and affected by §12, are amended to read:

26 G. Employer willingness to hire new labor force entrants, economically
27 disadvantaged individuals, persons with disabilities or dislocated workers; ~~or~~

28 H. Employer willingness to provide a registered apprenticeship for current
29 employees or new hires; or

30 **Sec. 8. 26 MRSA §2031, sub-§5, ¶I** is enacted to read:

31 I. That the applicant has been certified as a qualified applicant for a transformational
32 business expansion project pursuant to Title 36, chapter 918.

33 **Sec. 9. 26 MRSA §2031, sub-§8**, as amended by PL 2009, c. 213, Pt. JJJ, §1, is
34 further amended to read:

35 **8. Eligibility for funding.** Applicants eligible to receive funding from the program
36 include, but are not limited to, employers, applicants certified pursuant to Title 36,
37 chapter 918, regional and local economic development agencies or partnerships,
38 community-based organizations, job training service providers, registered apprenticeship
39 service providers, local adult education providers and postsecondary education
40 institutions.

1 An applicant that is not a business shall demonstrate, in partnership with a business or a
2 consortium of businesses, the ability to link training services with actual job creation,
3 expansion, upgrade or retention. Training provided under this section is considered
4 approved training under the unemployment insurance laws and the laws regarding
5 dislocated workers administered by the Department of Labor.

6 Training funds authorized under this section must be paid to the employer on a
7 reimbursement basis.

8 Notwithstanding any provision of law to the contrary, a qualified applicant for a
9 transformational business expansion project certified pursuant to Title 36, chapter 918 is
10 eligible for funds available under the Competitive Skills Scholarship Program established
11 pursuant to section 2033.

12 **Sec. 10. 26 MRSA c. 43** is enacted to read:

13 **CHAPTER 43**

14 **RIGHT TO REFRAIN FROM JOINING A UNION IN TRANSFORMATIONAL**
15 **BUSINESS EXPANSION PROJECT**

16 **§3501. Definitions**

17 As used in this chapter, unless the context otherwise indicates, the following terms
18 have the following meanings.

19 **1. Employer.** "Employer" means the owner of a transformational business
20 expansion project certified pursuant to Title 36, chapter 918.

21 **2. Labor organization.** "Labor organization" means an organization, agency or
22 employee representation committee or union that exists for the purpose, in whole or in
23 part, of negotiating or bargaining with employers on behalf of employees concerning
24 wages, rates of pay, hours of work, other conditions of employment or other forms of
25 compensation.

26 **§3502. Right to refrain**

27 Notwithstanding any law to the contrary, a person may not be required, as a condition
28 of employment or continuation of employment in a transformational business expansion
29 project, to:

30 **1. Member.** Become or remain a member of a labor organization;

31 **2. Dues.** Pay any dues, fees, assessments or other similar charges, however
32 denominated, of any kind or amount to a labor organization; or

33 **3. Payment to 3rd party.** Pay to a charity or other 3rd party, in lieu of payments
34 specified in subsection 2, any amount equivalent to or a pro rata portion of dues, fees,
35 assessments or other charges required of members of a labor organization.

1 **§3503. Agreements in violation**

2 An agreement, understanding or practice, written or oral, implied or expressed,
3 between a labor organization and an employer that violates a provision of this chapter is
4 unlawful and without any legal effect.

5 **§3504. Penalty**

6 A person who violates any provision of this chapter commits a Class D crime.

7 **§3505. Injunctive relief**

8 A person injured as a result of another person's violation or threatened violation of
9 the provisions of this chapter is entitled to injunctive relief against the person violating or
10 threatening to violate this chapter.

11 **§3506. Damages**

12 A person injured as a result of a violation or threatened violation of the provisions of
13 this chapter may recover all damages, including court costs and reasonable attorney's
14 fees, resulting from the violation or threatened violation. A recovery of damages under
15 this section is independent of and in addition to the penalty provided in section 3504.

16 **§3507. Duty to investigate and enforce**

17 The Attorney General shall investigate complaints of a violation or threatened
18 violation of this chapter and shall prosecute any person violating any of its provisions.
19 The Attorney General shall use all means in the command of the Attorney General to
20 ensure effective enforcement of this chapter.

21 **§3508. Jurisdiction**

22 The Superior Court has jurisdiction to hear and decide prosecutions of all offenses
23 under this chapter.

24 **§3509. Exceptions**

25 This chapter does not apply to the following:

26 **1. Federal Railway Labor Act.** Employers and employees covered by the federal
27 Railway Labor Act;

28 **2. Federal employers and employees.** Federal employers and employees;

29 **3. Federal enclaves.** Employers and employees on federal enclaves;

30 **4. Federal preemption or conflict.** Areas of federal law with which this chapter is
31 in conflict or that preempt this chapter; or

1 **5. Existing contract.** An employment contract entered into before the effective date
2 of this chapter during the term of that contract; however, this chapter applies to a contract
3 entered into, renewed or extended on or after the effective date of this chapter.

4 **Sec. 11. 35-A MRSA §10124** is enacted to read:

5 **§10124. Reimbursement for transformational business expansion projects**

6 **1. Reimbursement allowed.** Notwithstanding any provision of this chapter to the
7 contrary, a qualified applicant for a transformational business expansion project that is
8 certified pursuant to Title 36, chapter 918 that incurs electric supply rates that are
9 provided by a transmission and distribution utility that exceed the national average
10 industrial rate, as published by the United States Energy Information Administration for
11 the prior calendar year, is eligible for an annual reimbursement of those excess costs for
12 up to 5 years following certification of the transformational business expansion project.

13 **2. Administration.** The commission shall establish routine technical rules pursuant
14 to Title 5, chapter 375, subchapter 2-A to ensure accurate reporting by a qualified
15 applicant for a transformational business expansion project eligible under subsection 1
16 and shall accurately assess and verify the annual electric rates experienced by the
17 transformational business expansion project. The commission shall calculate and the
18 trust shall disburse to that qualified applicant the appropriate annual reimbursement from
19 the funding provided to the commission under section 10109, subsection 4, paragraph A.

20 **Sec. 12. 36 MRSA §2021** is enacted to read:

21 **§2021. Reimbursement of certain taxes related to transformational business**
22 **expansion projects**

23 **1. Definitions.** As used in this section, unless the context otherwise indicates,
24 "certified applicant," "qualified investment" and "transformational business expansion
25 project" have the same meaning as in chapter 918.

26 **2. Reimbursement allowed.** A reimbursement is allowed as provided in this section
27 for a tax paid pursuant to this Part with respect to the sale or use of tangible personal
28 property that is physically incorporated in and becomes a permanent part of real property
29 that is owned by or sold to a certified applicant that makes a qualified investment in a
30 transformational business expansion project.

31 **3. Claim for reimbursement.** Claims under this section for reimbursement of taxes
32 are controlled by this subsection.

33 **A.** A claim for reimbursement under this section must be filed by a contractor or
34 subcontractor of a certified applicant with the assessor within 3 years from the date
35 on which the tangible personal property was incorporated into real property. The
36 reimbursement claim must be submitted on a form prescribed by the assessor and
37 must be accompanied by a statement from a certified applicant certifying, under
38 penalties of perjury, that the personal property with respect to which the tax was paid
39 by the claimant has been placed in use directly and primarily in a transformational
40 business expansion project. All records pertaining to that certification and to the

1 transactions in question must be retained for at least 6 years by the contractor or
2 subcontractor, by the certified applicant and by the person, if any, that sold the real
3 property in question used in that transformational business expansion project. The
4 reimbursement claim must be accompanied by such additional information as the
5 assessor may require. If a sales or use tax is included in the contractor's or
6 subcontractor's contract price, the contractor or subcontractor shall file, at the request
7 of the certified applicant, a claim for reimbursement in accordance with this section
8 and pay the reimbursement to the certified applicant.

9 B. If, by agreement between the contractor or subcontractor and the certified
10 applicant, the contractor or subcontractor assigns its right to claim and receive
11 reimbursement, the certified applicant must file a claim for reimbursement in
12 accordance with this subsection. A reimbursement may not be issued to a certified
13 applicant under this paragraph unless the contractor or subcontractor has previously
14 submitted to the bureau a certificate, signed by the contractor or subcontractor,
15 releasing the contractor's or subcontractor's claim to the reimbursement. The
16 certificate must be in a format prescribed by the assessor.

17 **4. Limitations.** Limitations on reimbursements made pursuant to this section are as
18 set out in this subsection.

19 A. Reimbursements made by the assessor pursuant to this section are limited to taxes
20 paid in connection with sales of tangible personal property that occur within a 20-
21 year period for a transformational business expansion project by a qualified applicant.

22 B. Reimbursement pursuant to this section of taxes paid in connection with the sale
23 of tangible personal property subsequently attached to real property may not be made
24 when those real property improvements:

25 (1) Are owned by more than one person prior to their acquisition by the qualified
26 applicant for a transformational business expansion project whose certification
27 accompanies the reimbursement claim pursuant to subsection 3; or

28 (2) Have been used for a business purpose by a person other than the qualified
29 applicant for a transformational business expansion project whose certification
30 accompanies the reimbursement claim pursuant to subsection 3.

31 **5. Audit.** The assessor has the authority to audit any claim filed under this section.
32 If the assessor determines that the amount of the claimed reimbursement is incorrect, the
33 assessor shall redetermine the claim and notify the claimant in writing of the
34 redetermination. If the claimant has received reimbursement of an amount that the
35 assessor concludes should not have been reimbursed, the assessor may issue an
36 assessment for that amount within 3 years from the date the reimbursement claim was
37 filed or at any time if a fraudulent reimbursement claim was filed. The claimant may seek
38 reconsideration, pursuant to section 151, of the redetermination or assessment.

39 **6. Payment of claims.** The assessor shall determine the benefit for each claimant
40 under this section. The assessor shall pay the certified amounts to each approved
41 applicant qualifying for the benefit under this section within 30 days after receipt of a
42 properly completed claim. Interest is not allowed on any payment made to a claimant
43 pursuant to this section.

1 **Sec. 13. 36 MRSA §5219-KK** is enacted to read:

2 **§5219-KK. Credit for investment in a transformational business expansion project**

3 **1. Credit allowed.** Notwithstanding any other provision of law, a taxpayer that is
4 certified and makes a qualified investment in a transformational business expansion
5 project as defined in chapter 918 is allowed a credit in the amount of:

6 **A.** One hundred percent of the tax that would otherwise be due under this Part for
7 each of the first 10 tax years beginning with the tax year in which the taxpayer
8 commences its qualified investment, as defined in chapter 918; and

9 **B.** Fifty percent of the tax that would otherwise be due under this Part for each of the
10 10 tax years following the time period in paragraph A.

11 **2. Limitation.** The credit provided by this section may not be claimed for tax years
12 beginning on or after January 1, 2035.

13 **Sec. 14. 36 MRSA §6754, sub-§1, ¶E** is enacted to read:

14 **E.** For a transformational business expansion project, the reimbursement is equal to
15 80% of Maine income tax withheld during each of the first 10 calendar years for
16 which reimbursement is requested and attributed to qualified employees. In the 11th
17 to 20th years, for a transformational business expansion project, the reimbursement is
18 equal to 50% of Maine income tax withheld during each of those years for which
19 reimbursement is requested and attributed to those qualified employees.
20 Reimbursement may not be paid pursuant to this paragraph for years beginning after
21 December 31, 2034. As used in this paragraph, "transformational business expansion
22 project" and "qualified employee" have the same meaning as in chapter 918.

23 **Sec. 15. 36 MRSA c. 918** is enacted to read:

24 **CHAPTER 918**

25 **TRANSFORMATIONAL BUSINESS EXPANSION PROJECTS**

26 **§6801. Purpose and intent**

27 The Legislature finds that the encouragement of transformational business expansion
28 projects in this State and the creation of substantial numbers of jobs are in the public
29 interest and promote the general welfare of the people of the State. The Legislature
30 further finds that the enactment of incentives as set forth in this chapter to promote
31 transformational investments in the State and substantial job retention is necessary in
32 order to preserve opportunities for jobs for the people of the State and to make this State
33 more economically competitive and thus to ensure the preservation and betterment of the
34 economy of the State for the benefit of its people. The Legislature further finds that the
35 forgoing of benefits to the State and its people far exceeds the costs to the State of
36 providing the incentives set forth in this chapter.

1 **§6802. Definitions**

2 As used in this chapter, unless the context otherwise indicates, the following terms
3 have the following meanings.

4 **1. Business facility.** "Business facility" includes real estate, tangible personal
5 property, fixtures, machinery and equipment.

6 **2. Certified applicant.** "Certified applicant" means a qualified applicant that has
7 received a certificate of approval for a transformational business expansion project
8 pursuant to this chapter.

9 **3. Commissioner.** "Commissioner" means the Commissioner of Economic and
10 Community Development.

11 **4. Employment.** "Employment" means, for each calendar year, the amount
12 determined by adding the total number of qualified employees of a certified applicant on
13 each of 6 consecutive measurement days of that calendar year as chosen by the certified
14 applicant and then dividing that sum by 6.

15 **5. Incentives.** "Incentives" means the following credits, reimbursements, assistance
16 or other benefits available to a certified applicant:

17 A. The income tax credit for investment in a transformational business expansion
18 project pursuant to section 5219-KK;

19 B. The reimbursement of sales tax pursuant to section 2021;

20 C. Reimbursement of Maine income tax withholding pursuant to section 6754,
21 subsection 1, paragraph E;

22 D. Long-term, credit-enhanced financing pursuant to Title 10, chapter 110,
23 subchapter 3;

24 E. Workforce development training and recruitment assistance pursuant to Title 26,
25 chapter 25, subchapter 4, including funding assistance from the Governor's Jobs
26 Initiative Program; and

27 F. Energy cost reimbursement pursuant to Title 35-A, section 10124.

28 **6. Qualified applicant.** "Qualified applicant" means an applicant for benefits
29 available under this chapter for a transformational business expansion project that
30 satisfies the following criteria:

31 A. The applicant owns or operates or proposes to construct a business facility within
32 this State; and

33 B. The applicant proposes to make a qualified investment and demonstrates that the
34 investment would not occur within the State absent the availability of the incentives
35 offered to the transformational business expansion project.

36 **7. Qualified employee.** "Qualified employee" means a person:

37 A. Who is a full-time employee of a certified or qualified applicant;

- 1 B. Whose income from employment under paragraph A is taxable under chapter 803;
- 2 C. For whom a retirement program is provided subject to the federal Employee
- 3 Retirement Income Security Act of 1974, 29 United States Code, Sections 101 to
- 4 1461, as amended;
- 5 D. For whom health insurance is available; and
- 6 E. Whose income calculated on a calendar year basis is greater than the per capita
- 7 annual income in the State as determined by the United States Department of
- 8 Commerce.

9 **8. Qualified investment.** "Qualified investment" means expenditures incurred by a
10 certified applicant after October 1, 2014 for a transformational business expansion
11 project.

12 **9. Transformational business expansion project.** "Transformational business
13 expansion project" means the construction, development, rehabilitation, expansion,
14 modernization or acquisition of any building, structure, system, machinery, equipment or
15 facility in a military redevelopment zone, as defined in Title 30-A, section 5250-I,
16 subsection 11-A, that has a projected cost of \$50,000,000 or more and the operation of
17 which is projected to result in a net gain of at least 1,500 job opportunities.
18 "Transformational business expansion project" does not include an electric rate
19 stabilization project, as defined in Title 10, section 963-A, subsection 7-A, or a project
20 primarily involved in the provision of housing or retail sales to consumers.

21 **§6803. Application procedure; certificate of approval**

22 **1. Application.** To receive benefits available to a transformational business
23 expansion project under this chapter, an applicant must submit to the commissioner
24 information, in a form determined by the commissioner, demonstrating that the applicant
25 is a qualified applicant.

26 **2. Determination by commissioner; issue of certificate.** The commissioner, within
27 7 days of receipt of the application under subsection 1 for certification as a qualified
28 applicant, shall review the information contained in the application and issue a written
29 determination as to whether the applicant is a qualified applicant to the Governor, the
30 President of the Senate and the Speaker of the House of Representatives. No later than 2
31 days following notice of that determination, if the commissioner determines that the
32 applicant is a qualified applicant, the commissioner shall issue a certificate of approval to
33 the qualified applicant. If the commissioner determines that the applicant is not a
34 qualified applicant, the commissioner shall issue a denial of the application. A certified
35 applicant may hold only one certificate of approval at one time.

36 **3. Memorandum of agreement.** Upon issuance of a certificate of approval to a
37 qualified applicant pursuant to subsection 2, the commissioner shall enter into an
38 agreement on behalf of the State with the qualified applicant. That agreement must
39 provide that the State will allow the incentives provided for in this chapter as it is in
40 effect on the date the certificate of approval is issued for as long as the applicant qualifies
41 for the incentives.

1 **4. Transfer of certificate.** If a certified applicant proposes to transfer, including,
2 without limitation, transfer by operation of law, all or substantially all of the business
3 facility in which a qualified investment was made to another person, or a person proposes
4 to acquire 50% or more of the voting stock of the certified applicant, application may be
5 made to the commissioner to approve transfer of the certificate of approval to that person
6 in connection with the transfer of the stock or facility. The commissioner shall grant the
7 transfer of the certificate if:

8 A. The transferee of the business facility or of the certified applicant's stock is a
9 member of the certified applicant's affiliated group as defined in section 5102,
10 subsection 1-B at the time of the transfer; or

11 B. The transferee of the business facility or of the certified applicant's stock is not a
12 member of the certified applicant's affiliated group as defined in section 5102,
13 subsection 1-B at the time of the transfer and the commissioner finds that the
14 transferee intends to continue the operations of the business facility in substantially
15 the same manner as prior to the transfer and has the financial capability to do so. In
16 addition, prior to approval of any transfer, the commissioner may request and must be
17 provided with the report and audit of the transferor pursuant to section 6805. The
18 commissioner may condition the approval of the transfer based upon the findings of
19 the report and audit.

20 If the commissioner grants a transfer of the certificate of approval, the transferee must be
21 treated as the certified applicant for all purposes of this chapter. For purposes of
22 calculation of employment, withholding taxes, qualified investment expenditures and the
23 number of qualified employees of the transferor prior to transfer, the state income taxes
24 deducted and withheld by the transferor from the wages of those qualified employees
25 pursuant to chapter 827 prior to transfer and the qualified investment expenditures of the
26 transferor prior to transfer must be considered the qualified employees, withholding taxes
27 and qualified investment expenditures of the transferee, respectively.

28 **5. Revocation of certificate.** The commissioner shall revoke a certificate of
29 approval if the certified applicant has not created at least 1,500 jobs within 2 years of
30 becoming certified, made qualified investments of at least \$15,000,000 within 5 years
31 after issuance of the certificate of approval and made qualified investments of at least
32 \$50,000,000 within 10 years after issuance of the certificate of approval or if the business
33 facility is closed or transferred in an unapproved transfer within 5 years after issuance of
34 the certificate of approval. A certified applicant whose certificate of approval is revoked
35 within 5 years after issuance of the certificate of approval shall pay to the State the
36 amount of any credits claimed by the certified applicant under this chapter prior to
37 revocation of the certificate. A certified applicant whose certificate of approval is revoked
38 between 6 and 10 years after issuance of the certificate of approval shall pay to the State
39 the amount of any credit claimed by the certified applicant under this chapter between the
40 6th year and the year in which the certificate is revoked.

41 **6. Appeal.** An applicant, qualified applicant or certified applicant may appeal in
42 accordance with Title 5, chapter 375, subchapter 7 any determination, action or failure to
43 act by the commissioner or the assessor under this chapter.

1 **§6804. Assistance with workforce training**

2 The commissioner and the Commissioner of Labor shall work with other agencies
3 across State Government involved in employment or skill training to identify and marshal
4 the necessary financial resources to assist a certified applicant who makes a qualified
5 investment in recruiting and training qualified employees.

6 **§6805. Reporting required**

7 **1. Annual reporting by certified applicant.** On or before March 1st of each year a
8 certified applicant shall file a report with the assessor and the commissioner for the
9 immediately preceding calendar year, referred to in this subsection as "the report year,"
10 containing the following information:

11 A. The employment of the certified applicant for the calendar year immediately
12 preceding the report year; and

13 B. The incremental level of qualified investments made for the calendar year
14 immediately preceding the report year.

15 The assessor may prescribe forms for the annual report.

16 **2. Audit of report.** The assessor may audit any report or return filed under this
17 chapter or chapter 827 to ensure the certified applicant was eligible for the credit claimed
18 by the certified applicant. If the certified applicant has claimed an incentive in an amount
19 that the assessor concludes exceeded the amount that the certified applicant was entitled
20 to claim for that calendar year, the assessor shall issue an assessment for that amount
21 within 3 years after the date of the certified applicant's last withholding return on which
22 the credit for that calendar year was claimed. A certified applicant may seek
23 reconsideration of any determination or assessment pursuant to section 151.

24 **3. Report to Legislature.** The assessor shall report to the joint standing committee
25 of the Legislature having jurisdiction over taxation matters aggregate data on
26 employment levels and qualified investment amounts of a certified applicant for each
27 year, beginning with incentives granted after October 1, 2014. The report must be made
28 during the first regular session of each Legislature beginning with the 127th Legislature.

29 **§6806. Maine preference**

30 As part of the contractual inducement for the qualified applicant to make a qualified
31 investment and for the State to provide the incentives pursuant to this chapter, a certified
32 applicant, when awarding contracts, purchasing supplies or subcontracting work related
33 to a qualified investment, shall give, to the greatest extent possible, preference to Maine
34 workers, companies and bidders provided the supplies, products and bids meet the
35 standards required by the certified applicant for best value, including, without limitation,
36 quality and delivery, and are competitively priced.

37 The certified applicant in conjunction with the Department of Economic and
38 Community Development shall sponsor regional seminars for Maine businesses on how
39 to do business with the certified applicant.

1 **SUMMARY**

2 The purpose of this bill is to improve Maine's overall competitiveness and ability to
3 attract major private investment to the State by creating a mechanism for competing for
4 major business expansion and creation projects, referred to as transformational business
5 expansion projects, which are the construction, development, rehabilitation, expansion,
6 modernization or acquisition of any building, structure, system, machinery, equipment or
7 facility in a military redevelopment zone that has a projected cost of \$50,000,000 or more
8 and the operation of which is projected to result in a net gain of at least 1,500 job
9 opportunities. An applicant who is certified by the Commissioner of Economic and
10 Community Development as a transformational business expansion project is eligible for
11 the following incentives and benefits:

12 1. A 20-year corporate income tax credit that includes a 100% credit for the first 10
13 years that the project is in operation and a 50% credit for the next 10 years that the project
14 is in operation;

15 2. A sales tax exemption and reimbursement for expenditures made for the project
16 for up to 20 years;

17 3. An annual reimbursement for up to 5 years from the Efficiency Maine Trust for
18 electric rates that exceed the national average industrial rate as determined by the United
19 States Energy Information Administration and certified by the Public Utilities
20 Commission;

21 4. Employment tax increment financing benefits for qualified investments. The
22 reimbursement is equal to 80% of Maine income tax withheld each year for which
23 reimbursement is requested and attributed to qualified employees for a period of no more
24 than 10 years. For years of operation beginning after the 10th year until the 20th year, the
25 certified applicant is eligible for a reimbursement of 50% of Maine income tax withheld
26 each year for which reimbursement is requested. This benefit expires after December 31,
27 2034;

28 5. Access to a pool of up to \$500,000,000 in bond funding for transformational
29 business expansion projects to provide long-term, credit-enhanced financing at taxable
30 bond rates. Financing assistance for a single project may not exceed \$400,000,000;

31 6. Access to workforce development assistance, training and recruitment by the
32 Commissioner of Economic and Community Development and the Commissioner of
33 Labor, who are required to work with agencies across State Government involved in
34 employment or skill training to identify and marshal financial resources to help a
35 transformational business expansion project recruit and train workers; and

36 7. Access to the benefits available under the Governor's Jobs Initiative Program,
37 including access to funds from the Competitive Skills Scholarship Program.

38 Additionally, this bill prohibits requiring a person, as a condition of employment or
39 continuation of employment at a transformational business expansion project, to join a
40 labor organization or pay any labor organization dues or fees and establishes, in a manner

1 similar to laws governing the shipbuilding facility credit, a preference for Maine workers,
2 companies and bidders as part of the contractual inducement for the qualified applicant to
3 make a qualified investment and for the State to provide the incentives.