

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 1431

S.P. 539

In Senate, May 21, 2015

**An Act To Help Facilitate New Career Opportunities and Attract
Major Private Investment**

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator CUSHING of Penobscot. (GOVERNOR'S BILL)

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 further 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 30-A, section 5250-J, subsection 4-D, the construction, development, rehabilitation,
16 expansion, modernization or acquisition of any building, structure, system, machinery,
17 equipment or facility in a military redevelopment zone, as defined in Title 30-A, section
18 5250-I, subsection 11-A, that has a projected cost of \$25,000,000 or more and the
19 operation of which is projected to result in a net gain of at least 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 for any one major business expansion project may not exceed
17 \$25,000,000 in loan amount. For any one transformational business expansion
18 project, the financing assistance amount is up to \$400,000,000 in loan amount. The
19 authority may establish, pursuant to rules adopted in accordance with Title 5, chapter
20 375, subchapter 2, application procedures, approval criteria and reasonable fees for
21 major business expansion 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 not more than \$400,000,000 for
36 loans and up to \$100,000,000 for use of bond proceeds to fund capital reserve funds
37 for revenue obligation securities issued pursuant to this subchapter relating to loans
38 for transformational business expansion 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. Certification as a qualified applicant for a transformational business expansion
32 project pursuant to Title 30-A, section 5250-J, subsection 4-D.

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 30-A,
37 section 5250-J, subsection 4-D. regional and local economic development agencies or
38 partnerships, community-based organizations, job training service providers, registered
39 apprenticeship service providers, local adult education providers and postsecondary
40 education 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 30-A, section
10 5250-J, subsection 4-D is eligible for funds available under the Competitive Skills
11 Scholarship Program established 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 30-A, section 5250-J, subsection 4-D.

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. 30-A MRSA §5250-J, sub-§4-D** is enacted to read:

5 **4-D. Qualified transformational business expansion project.** A business certified
6 under this subsection as a qualified transformational business expansion project qualifies
7 for the incentives provided by this subsection.

8 A. As used in this subsection, unless the context otherwise indicates, the following
9 terms have the following meanings.

10 (1) "Certified applicant" means a qualified applicant that has received a
11 certificate of approval for a transformational business expansion project pursuant
12 to this subsection.

13 (2) "Employment" means, for each calendar year, the amount determined by
14 adding the total number of qualified employees of a certified applicant on each of
15 6 consecutive measurement days of that calendar year as chosen by the certified
16 applicant and then dividing that sum by 6.

17 (3) "Full-time employee" means a person who works at least 36 hours per week.

18 (4) "Incentives" means:

19 (a) The income tax credit for investment in a qualified transformational
20 business expansion project pursuant to Title 36, section 5219-NN;

21 (b) The reimbursement of sales tax pursuant to Title 36, section 2021;

22 (c) Reimbursement of Maine income tax withholding pursuant to Title 36,
23 section 6754, subsection 1, paragraph E;

24 (d) Long-term, credit-enhanced financing pursuant to Title 10, chapter 110,
25 subchapter 3;

26 (e) Workforce development training and recruitment assistance pursuant to
27 the Governor's Jobs Initiative Program established pursuant to Title 26,
28 chapter 25, subchapter 4; and

29 (f) Energy cost reimbursement pursuant to Title 35-A, section 10124.

30 (5) "Qualified applicant" means an applicant for benefits available under this
31 subsection for a transformational business expansion project that satisfies the
32 following criteria:

33 (a) The applicant owns or operates or proposes to construct a business
34 facility within this State; and

35 (b) The applicant proposes to make a qualified investment and demonstrates
36 that the investment would not occur within the State absent the availability of
37 the incentives offered to the transformational business expansion project.

38 (6) "Qualified employee" means an individual:

1 (a) Who is employed at a military redevelopment zone as a full-time
2 employee of a qualified transformational business expansion project and is
3 employed as a direct result of the project, excluding an employee or position
4 shifted by the employer to the project location from another location in the
5 State;

6 (b) Whose income from employment under division (a) is taxable under
7 Title 36, chapter 803;

8 (c) For whom a retirement program is provided subject to the federal
9 Employee Retirement Income Security Act of 1974, 29 United States Code,
10 Sections 101 to 1461, as amended;

11 (d) For whom health insurance is available; and

12 (e) Whose income calculated on a calendar year basis is greater than the
13 most recent per capita annual income in the State as determined by the
14 United States Department of Commerce.

15 (7) "Qualified investment" means expenditures incurred by a qualified
16 transformational business expansion project on or after October 1, 2015.
17 "Qualified investment" does not include investments in an electric rate
18 stabilization project, as defined in Title 10, section 963-A, subsection 7-A, or in a
19 project primarily involved in the provision of housing or retail sales to
20 consumers.

21 (8) "Qualified transformational business expansion project" means a business
22 that is a qualified Pine Tree Development Zone business and that proposes to
23 make a qualified investment of at least \$25,000,000 in, and add at least 500
24 qualified employees at, a military redevelopment zone within 10 years from the
25 date of certification under paragraph B. The business must demonstrate that the
26 qualified investment would not occur absent the availability of the incentives
27 made available under this subsection. For purposes of this subsection, employees
28 added or that will be added for certification as a qualified Pine Tree Development
29 Zone business must be added with respect to the project for which the business is
30 certified as a qualified transformational business expansion project under this
31 subsection.

32 B. This paragraph governs the procedures for application for and approval and
33 revocation of certification as a qualified transformational business expansion project.

34 (1) In addition to an application for certification as a qualified Pine Tree
35 Development Zone business under section 5250-O, a business must submit an
36 application to the commissioner to receive incentives under this subsection. The
37 application must contain information, in a form prescribed by the commissioner,
38 demonstrating that the business meets the requirements for a qualified
39 transformational business expansion project.

40 (2) The commissioner, within 7 days of receipt of the application under
41 subsection 1 for certification as a qualified applicant, shall review the information
42 contained in the application and issue a written determination as to whether the
43 applicant is a qualified transformational business expansion project eligible to

1 apply for incentives to the Governor, the President of the Senate and the Speaker
2 of the House of Representatives. No later than 2 days following notice of that
3 determination, if the commissioner determines that the applicant is a qualified
4 transformational business expansion project, the commissioner shall issue a
5 certificate of approval to the applicant. If the commissioner determines that the
6 applicant is not a qualified transformational business expansion project, the
7 commissioner shall issue a denial of the application.

8 (3) The commissioner shall revoke a certificate issued under this subsection:

9 (a) If the qualified transformational business expansion project does not
10 invest at least \$10,000,000 and hire at least 250 qualified employees within 5
11 years of the date of the certificate issued under this subsection; or

12 (b) If the qualified transformational business expansion project does not
13 invest at least \$25,000,000 and hire at least 500 qualified employees within
14 10 years of the date of the certificate issued under this subsection.

15 A qualified transformational business expansion project whose certificate issued
16 under this subsection has been revoked may not apply or qualify for incentives
17 for a period of 10 years after the date of revocation of the certificate.

18 C. The commissioner and the Commissioner of Labor shall work with other agencies
19 across State Government involved in employment or skills training to identify and
20 marshal the necessary financial resources to assist a certified applicant who makes a
21 qualified investment in recruiting and training qualified employees.

22 D. On or before March 1st of each year a certified applicant, on forms prescribed by
23 the commissioner, shall file a report with the commissioner and the State Tax
24 Assessor for the immediately preceding calendar year, referred to in this paragraph as
25 "the report year," that contains the following information:

26 (1) The number of qualified employees of the qualified transformational
27 business expansion project for the calendar year immediately preceding the report
28 year; and

29 (2) The incremental level of qualified investments made for the calendar year
30 immediately preceding the report year.

31 The commissioner shall audit the report filed under this paragraph to ensure
32 continued eligibility for the incentives provided under this subsection.

33 E. The commissioner shall report to the joint standing committee of the Legislature
34 having jurisdiction over taxation matters and the joint standing committee of the
35 Legislature having jurisdiction over labor, commerce, research and economic
36 development matters aggregate annual data on employment levels and qualified
37 investment amounts of qualified transformational business expansion projects under
38 this subsection. The report must be made by March 15th of the first regular session of
39 each Legislature beginning with the 128th Legislature.

40 F. A qualified transformational business expansion project, when awarding contracts,
41 purchasing supplies or subcontracting work related to a qualified investment, shall
42 give preference, to the greatest extent possible, to Maine resident individuals.

1 companies and bidders as long as the supplies, products and bids meet the standards
2 required by the qualified transformational business expansion project for best value,
3 including, without limitation, quality and delivery, and are competitively priced. The
4 qualified transformational business expansion project, in conjunction with the
5 department, shall sponsor regional seminars for Maine businesses on conducting
6 business with the qualified transformational business expansion project.

7 **Sec. 12. 35-A MRSA §10124** is enacted to read:

8 **§10124. Reimbursement for transformational business expansion projects**

9 **1. Reimbursement allowed.** Notwithstanding any provision of this chapter to the
10 contrary, a qualified applicant for a transformational business expansion project that is
11 certified pursuant to Title 30-A, section 5250-J, subsection 4-D that incurs electric supply
12 rates that are provided by a transmission and distribution utility that exceed the national
13 average industrial rate, as published by the United States Energy Information
14 Administration for the prior calendar year, is eligible for an annual reimbursement of
15 those excess costs for up to 5 years following certification of the transformational
16 business expansion project.

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

24 **Sec. 13. 36 MRSA §2021** is enacted to read:

25 **§2021. Reimbursement of certain taxes related to qualified transformational**
26 **business expansion projects**

27 **1. Definitions.** As used in this section, unless the context otherwise indicates,
28 "qualified investment" and "qualified transformational business expansion project" have
29 the same meanings as in Title 30-A, section 5250-J, subsection 4-D, paragraph A.

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

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

36 A. A claim for reimbursement under this section must be filed by a contractor or
37 subcontractor of a qualified transformational business expansion project with the
38 assessor within 3 years from the date on which the tangible personal property was
39 incorporated into real property. The reimbursement claim must be submitted on a
40 form prescribed by the assessor and must be accompanied by a statement from a

1 qualified transformational business expansion project certifying, under penalties of
2 perjury, that the personal property with respect to which the tax was paid by the
3 claimant has been placed in use directly and primarily in real property directly related
4 to the project for which the qualified transformational business expansion project is
5 certified. All records pertaining to that certification and to the transactions in question
6 must be retained for at least 6 years by the contractor or subcontractor, by the
7 qualified transformational business expansion project and by the person, if any, that
8 sold the real property in question. The reimbursement claim must be accompanied by
9 such additional information as the assessor may require. If a sales or use tax is
10 included in the contractor's or subcontractor's contract price, the contractor or
11 subcontractor shall file, at the request of the qualified transformational business
12 expansion project, a claim for reimbursement in accordance with this section and pay
13 the reimbursement to the qualified transformational business expansion project.

14 B. If, by agreement between the contractor or subcontractor and the qualified
15 transformational business expansion project, the contractor or subcontractor assigns
16 its right to claim and receive reimbursement, the qualified transformational business
17 expansion project must file a claim for reimbursement in accordance with this
18 subsection. A reimbursement may not be issued to the qualified transformational
19 business expansion project under this paragraph unless the contractor or
20 subcontractor has previously submitted to the bureau a certificate, signed by the
21 contractor or subcontractor, releasing the contractor's or subcontractor's claim to the
22 reimbursement. The certificate must be in a format prescribed by the assessor.

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

25 A. Reimbursements made by the assessor pursuant to this section are limited to taxes
26 paid in connection with sales of tangible personal property that occur within a 20-
27 year period beginning on the date the qualified transformational business expansion
28 project is certified under Title 30-A, section 5250-J, subsection 4-D.

29 B. Reimbursement pursuant to this section of taxes paid in connection with the sale
30 of tangible personal property subsequently incorporated into real property may not be
31 made when those real property improvements:

32 (1) Are owned by more than one person prior to their acquisition by the qualified
33 transformational business expansion project whose certification accompanies the
34 reimbursement claim pursuant to subsection 3; or

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

38 **5. Audit.** The assessor has the authority to audit any claim filed under this section.
39 If the assessor determines that the amount of the claimed reimbursement is incorrect, the
40 assessor shall redetermine the claim and notify the claimant in writing of the
41 redetermination. If the claimant has received reimbursement of an amount that the
42 assessor concludes should not have been reimbursed, the assessor may issue an
43 assessment for that amount within 3 years from the date the reimbursement claim was
44 filed or paid, whichever is later, or at any time if a fraudulent reimbursement claim was

1 filed. The claimant may seek reconsideration, pursuant to section 151, of the
2 redetermination or assessment.

3 **6. Payment of claims.** The assessor shall determine the benefit for each claimant
4 under this section. The assessor shall pay those amounts to each qualified
5 transformational business expansion project qualifying for the benefit under this section
6 within 30 days after receipt of a properly completed claim. Interest is not allowed on any
7 payment made to a claimant pursuant to this section.

8 **Sec. 14. 36 MRSA §5219-NN** is enacted to read:

9 **§5219-NN. Credit for qualified transformational business expansion project**

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

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

15 B. "Property" means the average value of the taxpayer's real and tangible personal
16 property that is owned or rented and used during the tax period. Property owned by
17 the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at
18 8 times the annual rental rate paid by the taxpayer.

19 C. "Qualified transformational business expansion project" means a business
20 certified under Title 30-A, section 5250-J, subsection 4-D.

21 **2. Credit allowed.** Notwithstanding any other provision of law, a taxpayer that is a
22 qualified transformational business expansion project is allowed a credit in the amount of:

23 A. One hundred percent of the tax that would otherwise be due under this Part for
24 each of the first 10 tax years beginning with the tax year in which the taxpayer is
25 certified pursuant to Title 30-A, section 5250-J, subsection 4-D; and

26 B. Fifty percent of the tax that would otherwise be due under this Part for each of the
27 10 tax years following the time period in paragraph A.

28 **3. Apportioned credit in certain circumstances.** In the case of a qualified
29 transformational business expansion project that engages in both qualified and
30 nonqualified transformational business expansion project activities in this State, the credit
31 provided for in this section is limited to that portion that is attributable to the qualified
32 transformational business expansion project activity. The limitation is calculated by an
33 apportionment. The apportionment is determined by a fraction, the numerator of which is
34 the property value plus the payroll for the taxable year attributed to the qualified
35 transformational business expansion project activity of the business and the denominator
36 of which is the statewide property value plus payroll for the taxable year of the qualified
37 transformational business expansion project.

38 If the qualified transformational business expansion project is a taxable corporation that
39 has affiliated groups, as defined in section 5102, subsection 1-B, engaged in a unitary
40 business, as defined in section 5102, subsection 10-A, the property and payroll values in

1 the State of the unitary affiliated groups must be included in the apportionment fraction.
2 The resulting fraction must be multiplied by the total tax liability otherwise due under this
3 Part of the qualified transformational business expansion project and those affiliated
4 groups.

5 If the apportionment provisions of this subsection do not fairly reflect the amount of the
6 credit associated with the taxpayer's qualified transformational business expansion project
7 activity, the taxpayer may petition for, or the State Tax Assessor may require, in respect
8 to all or any part of the taxpayer's business activity, the employment of another
9 reasonable method to effectuate an equitable apportionment of the credit associated with
10 the taxpayer's qualified transformational business expansion project activity.

11 **4. Members of pass-through entities.** A member of a pass-through entity that is a
12 qualified transformational business expansion project is allowed a credit under this
13 section based on the tax due under this Part related to items of income, gain, deduction,
14 loss or other items required to be reported by the pass-through entity to the member. For
15 purposes of this subsection, "pass-through entity" means a corporation that for the
16 applicable tax year is treated as an S corporation under the Code and a partnership, trust,
17 limited liability company or similar entity that for the applicable tax year is not taxed as a
18 C corporation for federal tax purposes; "member" means an individual or other owner of
19 a pass-through entity.

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

22 **Sec. 15. 36 MRSA §6754, sub-§1, ¶E** is enacted to read:

23 E. For a qualified transformational business expansion project certified under Title
24 30-A, section 5250-J, subsection 4-D, the reimbursement is equal to 80% of the
25 Maine income tax withheld from each qualified employee during each of the first 10
26 calendar years for which reimbursement is requested, beginning with the calendar
27 year during which the business is certified as a qualified transformational business
28 expansion project under Title 30-A, section 5250-J, subsection 4-D. For each of the
29 11th to 20th years for which reimbursement is requested, the qualified
30 transformational business expansion project is eligible for a reimbursement equal to
31 50% of the Maine income tax withheld from each qualified employee.
32 Reimbursement may not be paid pursuant to this paragraph for calendar years
33 beginning after December 31, 2034. As used in this paragraph, "qualified employee"
34 has the same meaning as in Title 30-A, section 5250-J, subsection 4-D, paragraph A,
35 subparagraph (5).

36 SUMMARY

37 The purpose of this bill is to improve Maine's overall competitiveness and ability to
38 attract major private investment to the State by creating a mechanism for competing for
39 major business expansion and creation projects, referred to as transformational business
40 expansion projects, which are the construction, development, rehabilitation, expansion,
41 modernization or acquisition of any building, structure, system, machinery, equipment or
42 facility in a military redevelopment zone that has a projected cost of \$25,000,000 or more

1 and the operation of which is projected to result in a net gain of at least 500 job
2 opportunities. An applicant who is certified by the Commissioner of Economic and
3 Community Development as a transformational business expansion project is eligible for
4 the following incentives and benefits:

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

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

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

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

21 5. Access to a pool of up to \$400,000,000 in loans and up to \$100,000,000 in bond
22 funding for transformational business expansion projects to provide long-term, credit-
23 enhanced financing at taxable bond rates. Financing assistance for a single project may
24 not exceed \$400,000,000;

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

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

32 Additionally, this bill prohibits requiring a person, as a condition of employment or
33 continuation of employment at a transformational business expansion project, to join a
34 labor organization or pay any labor organization dues or fees and establishes, in a manner
35 similar to laws governing the shipbuilding facility credit, a preference for Maine workers,
36 companies and bidders as part of the contractual inducement for the qualified applicant to
37 make a qualified investment and for the State to provide the incentives.