

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2023

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Legislative Document

No. 1918

S.P. 780

In Senate, May 11, 2023

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**An Act to Modernize Maine's Business Incentive Programs by  
Creating the Dirigo Business Incentives Program and Eliminating  
Certain Other Tax Incentive Programs**

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Reference to the Committee on Innovation, Development, Economic Advancement and Business 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 President JACKSON of Aroostook. (GOVERNOR'S BILL)  
Cosponsored by Representative TERRY of Gorham and  
Senator: CURRY of Waldo, Representatives: COLLAMORE of Pittsfield, DUCHARME of  
Madison, ROBERTS of South Berwick, WHITE of Waterville.

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

2 **Sec. 1. 30-A MRSA §5250-J, sub-§5**, as amended by PL 2021, c. 398, Pt. IIII, §1,  
3 is further amended to read:

4 **5. Termination and repeal.** A qualified Pine Tree Development Zone business  
5 located in a tier 1 location may not be certified under this subchapter after December 31,  
6 ~~2023~~ 2024, and a qualified Pine Tree Development Zone business located in a tier 2  
7 location may not be certified under this subchapter after December 31, 2013. All Pine Tree  
8 Development Zone benefits provided under this subchapter are terminated on December  
9 31, ~~2033~~ 2034. This subchapter is repealed July 1, 2035.

10 **Sec. 2. 30-A MRSA c. 206, sub-c. 5**, as amended, is repealed.

11 **Sec. 3. 30-A MRSA c. 206, sub-c. 6**, as amended, is repealed.

12 **Sec. 4. 35-A MRSA §3210-E, sub-§1**, as enacted by PL 2009, c. 627, §5 and  
13 affected by §12, is amended to read:

14 **1. Discount rates.** Transmission and distribution utilities may offer discounted rates  
15 on new incremental electricity usage to qualified Pine Tree Development Zone businesses  
16 established under Title 30-A and qualified businesses with respect to the Dirigo business  
17 incentives program established under Title 36, section 5219-AAA. If a transmission and  
18 distribution utility requires approval prior to offering any such rate, the transmission and  
19 distribution utility shall apply to the commission in accordance with applicable provisions  
20 of this Title, and the commission may approve the rate if it finds it to be in accord with  
21 applicable requirements of this Title, except that the commission may take into account the  
22 overall benefits to ratepayers resulting from state efforts to promote economic development  
23 within Pine Tree Development Zones.

24 **Sec. 5. 35-A MRSA §3210-E, sub-§6**, as amended by PL 2021, c. 398, Pt. IIII, §2,  
25 is further amended to read:

26 **6. Repeal.** This section is repealed December 31, ~~2033~~ 2034.

27 **Sec. 6. 36 MRSA §191, sub-§2, ¶SSS** is enacted to read:

28 SSS. The disclosure of information to the Department of Economic and Community  
29 Development necessary for the administration of the Dirigo business incentives  
30 program and the joint standing committees of the Legislature having jurisdiction over  
31 taxation and economic development matters for purposes of the annual report required  
32 by section 5219-AAA.

33 **Sec. 7. 36 MRSA §1760, sub-§87**, as amended by PL 2021, c. 398, Pt. IIII, §3, is  
34 further amended to read:

35 **87. Sales of tangible personal property and transmission and distribution of**  
36 **electricity to qualified development zone businesses.** Beginning July 1, 2005, sales of  
37 tangible personal property, and of the transmission and distribution of electricity, to a  
38 qualified Pine Tree Development Zone business, as defined in Title 30-A, section 5250-I,  
39 subsection 17, for use directly and primarily in one or more qualified business activities, as  
40 defined in Title 30-A, section 5250-I, subsection 16. The exemption provided by this  
41 subsection is limited for each qualified Pine Tree Development Zone business to sales  
42 occurring within a period of 10 years in the case of a business located in a tier 1 location,

1 as defined in Title 30-A, section 5250-I, subsection 21-A, and 5 years in the case of a  
2 business located in a tier 2 location, as defined in Title 30-A, section 5250-I, subsection  
3 21-B, from the date the business is certified pursuant to Title 30-A, section 5250-O or until  
4 December 31, ~~2033~~ 2034, whichever occurs first. For a business that applies for  
5 certification as a qualified Pine Tree Development Zone business with the Commissioner  
6 of Economic and Community Development on or after January 1, 2019, the exemption  
7 provided by this subsection requires a qualified Pine Tree Development Zone business to  
8 obtain a certificate of qualification issued by the Commissioner of Economic and  
9 Community Development pursuant to Title 30-A, section 5250-O. As used in this  
10 subsection, "primarily" means more than 50% of the time during the period that begins on  
11 the date on which the property is first placed in service by the purchaser and ends 2 years  
12 from that date or at the time the property is sold, scrapped, destroyed or otherwise  
13 permanently removed from service by the purchaser, whichever occurs first.

14 **Sec. 8. 36 MRSA §2016, sub-§4, ¶A**, as amended by PL 2021, c. 398, Pt. III, §4,  
15 is further amended to read:

16 A. Reimbursements made by the assessor pursuant to subsection 2, paragraph A are  
17 limited to taxes paid in connection with sales of tangible personal property that occur  
18 within a period of 10 years in the case of a qualified Pine Tree Development Zone  
19 business located in a tier 1 location, as defined in Title 30-A, section 5250-I, subsection  
20 21-A, and 5 years in the case of a qualified Pine Tree Development Zone business  
21 located in a tier 2 location, as defined in Title 30-A, section 5250-I, subsection 21-B,  
22 from the date the qualified Pine Tree Development Zone business receiving the  
23 property is certified pursuant to Title 30-A, section 5250-O or by December 31, ~~2033~~  
24 2034, whichever occurs first.

25 **Sec. 9. 36 MRSA §2529, sub-§3**, as amended by PL 2021, c. 398, Pt. III, §5, is  
26 further amended to read:

27 **3. Limitation.** The credit provided by this section may not be claimed for calendar  
28 years beginning on or after January 1, ~~2034~~ 2035.

29 **Sec. 10. 36 MRSA §5219-W, sub-§4**, as amended by PL 2021, c. 398, Pt. III, §6,  
30 is further amended to read:

31 **4. Limitation.** The credit provided by this section may not be claimed for tax years  
32 beginning on or after January 1, ~~2034~~ 2035.

33 **Sec. 11. 36 MRSA §5219-NN, sub-§1-A**, as enacted by PL 2019, c. 527, Pt. A,  
34 §6, is amended to read:

35 **1-A. Credit allowed; on or after January 1, 2020 and before January 1, 2025.** A  
36 taxpayer that claims a depreciation deduction under the Code, Section 168(k) for property  
37 placed in service in the State during a taxable year that begins on or after January 1, 2020  
38 and before January 1, 2025 is allowed a credit as follows:

39 A. For a taxable corporation, a credit against the taxes imposed by this Part in an  
40 amount equal to 1.2% of the amount of the net increase in the depreciation deduction  
41 reported as an addition to income for the taxable year under section 5200-A, subsection  
42 1, paragraph CC, subparagraph (1) with respect to that property, except for excluded  
43 property under subsection 2; and

1 B. For an individual, a credit against the taxes imposed by this Part in an amount equal  
2 to 1.2% of the net increase in the depreciation deduction reported as an addition to  
3 income for the taxable year under section 5122, subsection 1, paragraph KK,  
4 subparagraph (1) with respect to that property, except for excluded property under  
5 subsection 2.

6 **Sec. 12. 36 MRSA §5219-AAA** is enacted to read:

7 **§5219-AAA. Dirigo business incentives program**

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

10 A. "Affiliated business" means a member of a group of 2 or more businesses in which  
11 more than 50% of the voting stock of each member corporation or more than 50% of  
12 the ownership interest in a business other than a corporation is directly or indirectly  
13 owned by a common owner, either corporate or noncorporate.

14 B. "Commissioner" means the Commissioner of Economic and Community  
15 Development.

16 C. "Department" means the Department of Economic and Community Development.

17 D. "Eligible business property" means business property placed in service in this State  
18 in the tax year and used exclusively for a qualified business activity described in a letter  
19 of certification issued under subsection 3.

20 E. "Eligible capital investment" means the total of business expenditures incurred by a  
21 taxpayer after receiving a letter of certification under subsection 3 that exceed \$50,000  
22 to purchase eligible business property that was placed in service during the tax year.

23 F. "Eligible sector" means one of the following industries only:

24 (1) Agriculture, forestry and fishing;

25 (2) Manufacturing;

26 (3) Long-distance freight transportation;

27 (4) Software publishing, data processing and computer design services; or

28 (5) Engineering, architecture and scientific research and development services.

29 G. "Facility" means one or more buildings and includes the real and personal property  
30 located in those buildings.

31 H. "Layoff" means a reduction in workforce at a qualified business with 20 or more  
32 persons employed during any one of the preceding 4 quarters that results in an  
33 employment loss for at least 2 consecutive months within the same tax year of at least  
34 20% of the qualified business's employees in this State. "Layoff" does not mean a  
35 reduction in workforce due to an accidental fire, flood, hurricane, windstorm,  
36 earthquake or other similar event.

37 I. "Primarily" means more than 50% of the time and, with respect to a building or other  
38 structure, more than 50% of the usable space.

39 J. "Program" means the Dirigo business incentives program created under subsection  
40 2.

1 K. "Qualified business" means any for-profit business in this State engaged in an  
2 eligible sector that has received a letter of certification as a qualified business pursuant  
3 to subsection 3.

4 L. "Qualified business activity" means a business activity carried on primarily in an  
5 eligible sector.

6 M. "Qualified employee" means an employee who is employed in this State by a  
7 qualified business and works primarily in a qualified business activity in this State.

8 N. "Qualified employee training program" means a qualified business's training  
9 activities for a qualified business activity described in a letter of certification issued  
10 under subsection 3 for a minimum of 3 qualified employees that provide a minimum  
11 of 20 total training hours for each qualified employee and are:

12 (1) An apprenticeship program registered under the Maine Apprenticeship  
13 Program pursuant to Title 26, chapter 37;

14 (2) An on-the-job training contract pursuant to Title 26, section 2172;

15 (3) A training provided by or approved for funding from the Maine Community  
16 College System; or

17 (4) Education or training provided by the University of Maine System or other  
18 accredited university or college.

19 "Qualified employee training program" includes only training hours during which the  
20 qualified business pays a participating qualified employee the employee's regular  
21 hourly rate or training hours for which the qualified business pays more than \$2,000  
22 per participant.

23 **2. Program.** The commissioner shall create the Dirigo business incentives program.

24 **3. Certification of qualified business.** A business may apply to the commissioner for  
25 certification as a qualified business for purposes of the program. Upon review and  
26 determination by the commissioner that a business is a qualified business, the  
27 commissioner shall issue a letter of certification to the business that includes a description  
28 of the qualified business activity for which the letter is being issued. A letter of certification  
29 for a qualified business activity is valid for 5 years for purposes of this section. A letter of  
30 certification may describe qualified business activities in multiple locations and multiple  
31 eligible business sectors. The commissioner may issue more than one letter of certification  
32 to a qualified business. A business may not be a qualified business if the business is:

33 A. A public utility as defined by Title 35-A, section 102, subsection 13;

34 B. A business certified as a qualified Pine Tree Development Zone business as  
35 provided by Title 30-A, section 5250-O;

36 C. A business with a certificate of approval for the Maine Employment Tax Increment  
37 Financing Program as provided by section 6755;

38 D. A business with a certificate of approval for one of the tax credits allowed under  
39 section 5219-RR or 5219-YY; or

40 E. A business that has undergone a layoff within the past 2 tax years.

1           **4. Credit allowed.** For tax years beginning on or after January 1, 2025, a taxpayer who  
2 is a qualified business is allowed a credit as provided in this section. Subject to subsections  
3 5 and 6, the credit allowed is equal to the total of the following:

4           A. Fifteen percent of the eligible capital investment placed in service outside of  
5 Cumberland, Sagadahoc and York counties;

6           B. Seven and one-half percent of the eligible capital investment placed in service in  
7 Cumberland, Sagadahoc and York counties; and

8           C. Two thousand dollars for each qualified employee engaged in a qualified employee  
9 training program provided by the business completed in the tax year.

10           **5. Credit refundable.** The credit allowed under this section is refundable up to  
11 \$500,000 per tax year, with the following exceptions.

12           A. In the case of a taxpayer that is a partner in a partnership or a shareholder in an S  
13 corporation, the credit under this section is refundable up to an amount equal to  
14 \$500,000 multiplied by the pro rata share of the partner or shareholder determined in  
15 accordance with section 5219-G, subsection 1.

16           B. In the case of a taxpayer that is a beneficiary of an estate or trust that is a partner in  
17 a partnership or shareholder in an S corporation, the credit under this section is  
18 refundable up to an amount equal to the amount determined in accordance with  
19 paragraph A for the estate or trust multiplied by each beneficiary's pro rata share of tax  
20 credits determined in accordance with section 5219-G, subsection 2.

21           C. In the case of a taxpayer that is a partner in a partnership or a shareholder in an S  
22 corporation that is an affiliated business, the credit under this section is refundable up  
23 to an amount equal to \$500,000 multiplied by the ratio determined in accordance with  
24 paragraph A, the result of which is multiplied by a ratio, the numerator of which is the  
25 eligible capital investment of the affiliated business during the tax year plus \$2,000 for  
26 each qualified employee of the affiliated business engaged in a qualified employee  
27 training program during the tax year and the denominator of which is the total eligible  
28 capital investment of all members of the affiliated business group during the tax year  
29 plus \$2,000 for each qualified employee of all members of the affiliated business group  
30 engaged in a qualified employee training program during the tax year.

31           D. In the case of corporations that are members of an affiliated business group engaged  
32 in a unitary business, the credit under this section is refundable up to \$500,000 for the  
33 entire group. The credit limit of \$500,000 must be apportioned among the taxable  
34 corporations in the affiliated business group in the same proportion that the tax liability  
35 of each taxable corporation in the affiliated business group bears to the total tax liability  
36 of all the taxable corporations in the affiliated business group.

37           **6. Limitation; carry-over.** A taxpayer entitled to a credit under this section for any  
38 tax year may carry over any unused portion of the credit determined in accordance with  
39 subsection 4, as reduced from year to year, and apply it to the tax liability for any one or  
40 more of the next succeeding 4 tax years. Carry-over amounts may be applied to tax years  
41 after the expiration of a taxpayer's letter of certification issued pursuant to subsection 3.  
42 The credit allowed pursuant to this section, including carry-overs, may not exceed  
43 \$2,000,000 for any one tax year, with the following exceptions.

1 A. In the case of a taxpayer that is a partner in a partnership or a shareholder in an S  
2 corporation, the credit under this section may not exceed \$2,000,000 multiplied by the  
3 pro rata share of the partner or shareholder determined in accordance with section  
4 5219-G, subsection 1.

5 B. In the case of a taxpayer that is a beneficiary of an estate or trust that is a partner in  
6 a partnership or shareholder in an S corporation, the credit under this section may not  
7 exceed \$2,000,000 multiplied by the ratio determined in accordance with paragraph A,  
8 the result of which is multiplied by each beneficiary's pro rata share of tax credits  
9 determined in accordance with section 5219-G, subsection 2.

10 C. In the case of a taxpayer that is a partner in a partnership or a shareholder in an S  
11 corporation that is an affiliated business, the credit under this section may not exceed  
12 \$2,000,000 multiplied by the ratio determined in accordance with paragraph A, the  
13 result of which is multiplied by a ratio, the numerator of which is the eligible capital  
14 investment of the affiliated business during the tax year plus \$2,000 for each qualified  
15 employee of the affiliated business engaged in a qualified employee training program  
16 during the tax year and the denominator of which is the total eligible capital investment  
17 of all members of the affiliated business group during the tax year plus \$2,000 for each  
18 qualified employee of all members of the affiliated business group engaged in a  
19 qualified employee training program during the tax year.

20 D. In the case of corporations that are members of an affiliated business group engaged  
21 in a unitary business, the credit under this section may not exceed \$2,000,000 for the  
22 entire group. The credit limit of \$2,000,000 must be apportioned among the taxable  
23 corporations in the affiliated business group in the same proportion that the tax liability  
24 of each taxable corporation in the affiliated business group bears to the total tax liability  
25 of all the taxable corporations in the affiliated business group.

26 **7. Disallowance of carry-overs.** Unused carry-over amounts allowed under this  
27 section must be disallowed if the eligible business property forming the basis of the credit  
28 under subsection 3 is not used in the State for the entire 5-year period following the date it  
29 is placed in service or the taxpayer undergoes a layoff. The amount disallowed is equal to  
30 the credit amount allowed based on subsection 4 multiplied by a fraction, the numerator of  
31 which is the number of years remaining in the 5-year period, rounded up to the nearest  
32 whole number, and the denominator of which is 5. Unused carry-over amounts are not  
33 required to be disallowed for eligible business property temporarily removed from service  
34 for maintenance or repair or as a result of a declared state disaster or emergency within the  
35 meaning of Title 10, section 9902, subsection 1.

36 **8. Eligible business property.** To qualify as eligible business property, a property  
37 must be placed in service in the State and must be subject to an allowance for depreciation  
38 under the Code during the tax year or would be subject to an allowance for depreciation  
39 under the Code but for the fact that the property has been fully depreciated.

40 A property does not qualify as eligible business property if that property is:

41 A. Property with a depreciable useful life of less than 5 years;

42 B. Property purchased or transferred from an affiliated business located in the State;

43 C. Property located at a retail sales facility and used primarily in a retail sales activity.

44 For purposes of this paragraph, the following terms have the following meanings.



1           (1) "Retail sales activity" means an activity primarily associated with the selection  
2           and retail purchase of goods or rental of tangible personal property. "Retail sales  
3           activity" does not include production as defined in section 1752, subsection 9-B.

4           (2) "Retail sales facility" means a structure used to serve customers who are  
5           physically present at the facility for the purpose of selection and retail purchase of  
6           goods or rental of tangible personal property;

7           D. A vehicle on which a tax assessed pursuant to chapter 111 has been paid or a  
8           watercraft registered for use on state waters on which a tax assessed pursuant to chapter  
9           112 has been paid;

10          E. Qualified rehabilitation property used to calculate the credit for rehabilitation of  
11          historic properties under section 5219-BB; or

12          F. Real property placed in service in the State before the tax year for which a credit is  
13          sought.

14          **9. Rules.** The assessor and the commissioner may adopt joint rules necessary to  
15          implement this section. Rules adopted under this subsection are routine technical rules as  
16          defined in Title 5, chapter 375, subchapter 2-A.

17          **10. Annual report to department and Legislature.** On or before December 31st  
18          annually, beginning in 2026, the assessor shall report to the department the following  
19          information for each qualified business that received a credit pursuant to this section for  
20          the tax year ending during the immediately preceding calendar year:

21           A. The name of the qualified business;

22           B. The number of qualified employees engaged in a qualified employee training  
23           program;

24           C. The value of eligible capital investment expenditures in the municipalities in which  
25           the property was placed into service;

26           D. The credit amount received under subsection 4, paragraph A, B or C for the tax year;  
27           and

28           E. The eligible sector of the business's qualified business activity.

29          On or before March 1st annually, beginning in 2027, the department shall report to the joint  
30          standing committees of the Legislature having jurisdiction over taxation and economic  
31          development matters information on the program, including the information reported by  
32          the assessor under this subsection.

33          **11. Evaluation; specific public policy objective; performance measures.** The credit  
34          provided under this section is subject to legislative review in accordance with Title 3,  
35          section 999. In developing evaluation parameters to perform the review, the Office of  
36          Program Evaluation and Government Accountability, the joint legislative committee  
37          established to oversee program evaluation and government accountability matters and the  
38          joint standing committee of the Legislature having jurisdiction over taxation matters shall  
39          consider:

40           A. That the specific public policy objective of the credit provided under this section is  
41           to improve the productivity of workers and businesses in the State by encouraging  
42           businesses to invest in capital and worker training; and

