

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## SECOND REGULAR SESSION-2024

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Legislative Document

No. 2258

S.P. 975

In Senate, March 7, 2024

**An Act to Create an Income Tax Credit for Investments in a Team's  
Qualified Minor League Baseball Facility to Keep the Team in the  
State**

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Taxation 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.  
Cosponsored by Speaker TALBOT ROSS of Portland and  
Senators: CHIPMAN of Cumberland, DUSON of Cumberland, Representatives: COLLINGS  
of Portland, CROCKETT of Portland, MOONEN of Portland, PERRY of Bangor, SKOLD of  
Portland, ZAGER of Portland.

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

2 **Sec. 1. 36 MRSA §5122, sub-§1, ¶QQ** is enacted to read:

3 QQ. For taxable years beginning on or after January 1, 2025:

4 (1) An amount equal to the net increase in depreciation attributable to the  
5 depreciation deduction claimed by the taxpayer under the Code, Section 168(k)  
6 with respect to a facility placed in service in the State during the taxable year for  
7 which a credit is claimed under section 5219-BBB for that taxable year; and

8 (2) An amount equal to the net increase in depreciation attributable to the  
9 depreciation deduction claimed by the taxpayer under the Code, Section 168(k)  
10 with respect to a facility for which a credit is not claimed under section 5219-BBB.

11 As used in this paragraph, "facility" means a qualified professional baseball facility, as  
12 defined in section 5219-BBB, paragraph F, that is the subject of a qualified investment,  
13 as defined in section 5219-BBB, paragraph E.

14 **Sec. 2. 36 MRSA §5200-A, sub-§1, ¶LL** is enacted to read:

15 LL. For taxable years beginning on or after January 1, 2025:

16 (1) An amount equal to the net increase in depreciation attributable to the  
17 depreciation deduction claimed by the taxpayer under the Code, Section 168(k)  
18 with respect to a facility placed in service in the State during the taxable year for  
19 which a credit is claimed under section 5219-BBB for that taxable year; and

20 (2) An amount equal to the net increase in depreciation attributable to the  
21 depreciation deduction claimed by the taxpayer under the Code, Section 168(k)  
22 with respect to a facility for which a credit is not claimed under section 5219-BBB.

23 As used in this paragraph, "facility" means a qualified professional baseball facility, as  
24 defined in section 5219-BBB, paragraph F, that is the subject of a qualified investment,  
25 as defined in section 5219-BBB, paragraph E.

26 **Sec. 3. 36 MRSA §5219-BBB** is enacted to read:

27 **§5219-BBB. Credit for investment in qualified professional baseball facilities in the**  
28 **State**

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

31 A. "Certified applicant" means a qualified applicant that has received a certificate of  
32 approval from the commissioner pursuant to subsection 2.

33 B. "Commissioner" means the Commissioner of Economic and Community  
34 Development.

35 C. "Full-time" means an average of at least 36 hours weekly during the period of  
36 measurement.

37 D. "Qualified applicant" means an applicant that, at the time the application for a  
38 certificate of approval is submitted pursuant to subsection 2, operates a qualified  
39 professional baseball facility.

1 E. "Qualified investment" means an investment made between October 1, 2023 and  
2 November 30, 2026 of at least \$1,000,000 but not more than \$15,000,000 to design,  
3 permit, construct, modify, equip or expand a qualified professional baseball facility.  
4 The expenditures of a qualified applicant and other entities, whether or not  
5 incorporated, that are part of a single business enterprise must be aggregated to  
6 determine whether a qualified investment has been made.

7 F. "Qualified professional baseball facility" means real and personal property in the  
8 State, including one or more structures and the equipment, machinery, fixtures and  
9 personal property located in, on, over, under and adjacent to those structures, used for  
10 the operation of a minor league baseball team that is recognized by a national  
11 organization of major or minor league baseball teams.

12 **2. Procedures for application; certificate of approval.** This subsection governs the  
13 procedures for applying for and obtaining a certificate of approval.

14 A. An applicant may apply to the commissioner for a certificate of approval. An  
15 applicant shall submit to the commissioner information demonstrating that the  
16 applicant is a qualified applicant. Such information must include an agreement by the  
17 applicant that all employees and subcontractors of the applicant are provided fair  
18 minimum wages and benefits at a rate specified in Title 26, section 1306 or greater.

19 B. Within 30 days of receipt of an application for a certificate of approval submitted  
20 pursuant to paragraph A, the commissioner shall determine whether the applicant is a  
21 qualified applicant and shall issue either a certificate of approval as a certified applicant  
22 or a written denial indicating why the applicant is not qualified. A certificate of  
23 approval issued by the commissioner must describe the qualified investment and  
24 specify the total amount of qualified investment approved under the certificate of  
25 approval.

26 C. A certified applicant shall apply to the commissioner for a certificate of completion.  
27 If the commissioner determines that the certified applicant has made a qualified  
28 investment, the commissioner shall issue a certificate of completion to the certified  
29 applicant as soon as is practicable. The certificate of completion must state the amount  
30 of qualified investment made by the certified applicant.

31 D. If a certified applicant intends to transfer the qualified professional baseball facility  
32 prior to completion of the qualified investment, the certified applicant must obtain  
33 approval from the commissioner to transfer the certificate of approval or, if the certified  
34 applicant has obtained a certificate of completion, that certificate of completion to the  
35 transferee. The commissioner shall approve the transfer of the certificate of approval  
36 or the certificate of completion only if at least one of the following conditions is  
37 satisfied:

38 (1) The transferee is a member of the certified applicant's unitary affiliated group  
39 at the time of the transfer; or

40 (2) The commissioner finds that the transferee will, and has the capacity to,  
41 maintain operations of the qualified professional baseball facility in a manner that  
42 meets the minimum qualifications for continued eligibility for the tax credit under  
43 this section after the transfer occurs.

1 If the commissioner approves the transfer of the certificate of approval or the certificate  
2 of completion, the transferee, from the date of the transfer, must be treated as the  
3 certified applicant and as eligible to claim any remaining tax credit under the certificate  
4 of approval or the certificate of completion that has not been previously claimed by the  
5 original certified applicant as long as the transferee meets the same eligibility  
6 requirements and conditions for the tax credit as applied to the original certified  
7 applicant.

8 **3. Refundable tax credit allowed.** Beginning with the tax year during which a  
9 certificate of completion is issued under subsection 2, paragraph C, a certified applicant is  
10 allowed a credit against the tax due under this Part for the taxable year in an amount equal  
11 to 10% of the certified applicant's qualified investment. A credit under this section for a  
12 certified applicant may not exceed \$100,000 per year and \$1,000,000 in cumulative total.

13 **4. Reporting required.** A certified applicant, the commissioner and the assessor are  
14 required to make reports pursuant to this subsection.

15 A. On or before March 1st of each year, beginning in 2025, a certified applicant shall  
16 file a report with the commissioner for the tax year ending during the immediately  
17 preceding calendar year, referred to in this subsection as "the report year," containing  
18 the following information:

19 (1) The incremental amount of qualified investment made by the certified applicant  
20 in the report year;

21 (2) The number of full-time employees based in this State of the certified applicant  
22 on the last day of the report year;

23 (3) The total number of any additional full-time employees in the State added by  
24 the certified applicant since the date a certificate of approval was issued pursuant  
25 to subsection 2, paragraph B and since the last annual report;

26 (4) The average and median wages of all full-time employees of the certified  
27 applicant; and

28 (5) The percentage and number of full-time employees of the certified applicant  
29 who have access to retirement benefits and health benefits.

30 The commissioner may prescribe forms for the annual report described in this  
31 paragraph. The commissioner shall provide copies of the report to the assessor and to  
32 the joint standing committee of the Legislature having jurisdiction over taxation  
33 matters at the time the report is received.

34 B. On or before April 1st of each year, beginning in 2025, the commissioner shall  
35 report to the joint standing committee of the Legislature having jurisdiction over  
36 taxation matters aggregate data on qualified investment amounts of each certified  
37 applicant for each year that the certified applicant claimed a tax credit under this  
38 section.

39 C. On or before December 31st of each year, beginning in 2025, the assessor shall  
40 report to the joint standing committee of the Legislature having jurisdiction over  
41 taxation matters the revenue loss during the report year as a result of this section for  
42 each certified applicant claiming the tax credit and, if necessary, shall include updated  
43 revenue loss amounts for any previous tax year. For purposes of this paragraph,

1 "revenue loss" means the tax credit claimed by the taxpayer and allowed pursuant to  
2 this section, consisting of the amount of the credit used to reduce the tax liability of the  
3 taxpayer and the amount of the credit refunded to the taxpayer, stated separately.

4 Notwithstanding any provision of law to the contrary, the reports provided under this  
5 subsection are public records as defined in Title 1, section 402, subsection 3.

6 **5. Recapture.** The credit allowed under this section must be fully recaptured to the  
7 extent claimed by the taxpayer if the qualified investment forming the basis of the credit is  
8 not used as a qualified professional baseball facility by the certified applicant or a transferee  
9 approved pursuant to subsection 2, paragraph D for the entire 60-month period following  
10 the qualified investment. The credit must be recaptured by filing an amended return in  
11 accordance with section 5227-A for the tax year in which that qualified investment was  
12 used to calculate the credit under this section. The amended return must reflect the credit  
13 disallowed and the income modifications required by section 5122, subsection 1, paragraph  
14 QQ and section 5200-A, subsection 1, paragraph LL with respect to that facility.

15 **6. Rules.** The commissioner and the assessor may jointly adopt rules to implement  
16 this section, including, but not limited to, rules for determining and certifying eligibility.  
17 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,  
18 chapter 375, subchapter 2-A.

19 **7. Evaluation.** The tax credit provided under this section is subject to ongoing  
20 legislative review in accordance with Title 3, chapter 37. In developing evaluation  
21 parameters to perform the review, the Office of Program Evaluation and Government  
22 Accountability, the joint legislative committee established to oversee program evaluation  
23 and government accountability matters and the joint standing committee of the Legislature  
24 having jurisdiction over taxation matters shall consider:

25 A. The amount of qualified investment made by each certified applicant during the  
26 period being reviewed and measures of fiscal impact;

27 B. Employment measures taken by each certified applicant, including:

28 (1) The number of any additional full-time employees in the State added by each  
29 certified applicant since that applicant was issued a certificate of approval pursuant  
30 to subsection 2, paragraph B;

31 (2) The average and median wages paid to full-time employees of each certified  
32 applicant; and

33 (3) The percentage and number of full-time employees of each certified applicant  
34 for whom health benefits and retirement benefits are available; and

35 C. The overall economic impact to the State and to the regions in which certified  
36 applicants are located.

## 37 **SUMMARY**

38 This bill provides an income tax credit for a qualified investment of at least \$1,000,000  
39 but no more than \$15,000,000 by a certified applicant in a qualified professional baseball  
40 facility in the State. The certified applicant must continue operations as a professional  
41 baseball facility for at least 60 months following the investment for which the tax credit is  
42 issued.