

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**August 29, 2013**

**SECOND REGULAR SESSION**  
**January 8, 2014 to May 2, 2014**

**THE EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**EMERGENCY LAW IS**  
**SEPTEMBER 6, 2013**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 1, 2014**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Augusta, Maine**  
**2014**

for the public chance drawing under subsection 9 exceeds 3,140, 10% of the permits exceeding 3,140 must be allocated through a chance drawing separate from the chance drawing under subsection 9 to hunting outfitters in accordance with this subsection. The fee for a moose hunting permit under this subsection is \$1,500.

A. For the purposes of this subsection, "hunting outfitter" means a person who operates an eating and lodging place licensed under Title 22, chapter 562 and who provides package deals that include food, lodging and the services of a guide licensed under chapter 927 for the purpose of hunting.

B. A hunting outfitter may sell or transfer a permit allocated under this subsection only once, and only under the following conditions:

(1) The sale or transfer must be part of a package deal that includes the food and lodging to be provided by the hunting outfitter to the person receiving the permit;

(2) The person receiving the permit from the hunting outfitter must be accompanied during the hunt by a guide licensed under chapter 927; and

(3) The hunting outfitter must notify the department of the identity of the person receiving the permit.

C. A hunting outfitter may be allocated more than one permit.

D. A permit allocated under this subsection may be used only for the year, season, sex and wildlife management district for which the permit is issued.

E. Permits allocated under this subsection may not exceed 10% of the total permits issued per year for each season, sex and wildlife management district permit type.

F. An individual may hunt with a permit sold or transferred under this subsection only if that individual is otherwise eligible to obtain and hunt with a permit under subsection 5.

G. If proceeds in any year from the auction authorized under subsection 11 are less than \$107,000, proceeds from the chance drawing conducted pursuant to this subsection must be used to fund youth conservation education programs as provided under subsection 11 up to \$107,000. The remainder must be deposited in the Moose Research and Management Fund under section 10263.

**Sec. 2. Lapsed balances; Department of Inland Fisheries and Wildlife carrying account.** On or before June 30, 2014 and on or before June 30, 2015, the State Controller shall lapse \$10,374

from the Inland Fisheries and Wildlife Carrying Balances - General Fund account to the General Fund unappropriated surplus to offset the loss in revenue from changes made to moose permit fees.

See title page for effective date.

**CHAPTER 438**

**S.P. 281 - L.D. 743**

**An Act To Extend and Improve the Maine Seed Capital Tax Credit Program**

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

**Sec. 1. 10 MRSA §963-A, sub-§50-A** is enacted to read:

**50-A. Value-added.** "Value-added" means that an enhancement to a product or service that increases the value or marketability of the product or service has been applied.

**Sec. 2. 10 MRSA §1100-T, sub-§1-A,** as enacted by PL 2011, c. 454, §2, is amended to read:

**1-A. Private venture capital fund.** As used in this section, "private venture capital fund" means a professionally managed pool of capital organized ~~for a limited life~~ to make equity or equity-like investments in unrelated private companies using capital derived from multiple limited partners or members at least half of which, measured in dollar commitments, are unaffiliated and unrelated, and includes any venture capital fund licensed by the United States Small Business Administration. The authority may require such information as may be necessary or desirable for determining whether an entity qualifies as a private venture capital fund. An entity that otherwise qualifies as a private venture capital fund may elect not to be treated as a private venture capital fund for purposes of this section with respect to any investment.

**Sec. 3. 10 MRSA §1100-T, sub-§2,** as amended by PL 2011, c. 454, §§3 and 4, is further amended to read:

**2. Eligibility for tax credit certificate for individuals and entities other than venture capital funds.** The authority shall adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, to implement the program. Without limitation, the requirements for eligibility for a tax credit certificate include the following.

A. For investments made in tax years beginning before January 1, 2012, a tax credit certificate may be issued in an amount not more than 40% of the amount of cash actually invested in an eligible Maine business in any calendar year or in an

amount not more than 60% of the amount of cash actually invested in any one calendar year in an eligible Maine business located in a high-unemployment area, as determined by rule by the authority. For investments made in tax years beginning on or after January 1, 2012, a tax credit certificate may be issued to an investor other than a private venture capital fund in an amount not more than 60% of the amount of cash actually invested in an eligible Maine business in any calendar year. For investments made in tax years beginning on or after January 1, 2014, a tax credit certificate may be issued to an investor other than a private venture capital fund in an amount not more than 50% of the amount of cash actually invested in an eligible Maine business in any calendar year. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

B. The Maine business must be determined by the authority to be a manufacturer or a value-added natural resource enterprise; must provide a product or service that is sold or rendered, or is projected to be sold or rendered, predominantly outside of the State; must be engaged in the development or application of advanced technologies; or must be certified as a visual media production company under Title 5, section 13090-L; or must bring capital into the State, as determined by the authority. The business must certify that the amount of the investment is necessary to allow the business to create or retain jobs in the State.

C. Aggregate investment eligible for tax credits may not be more than \$5,000,000 for any one business as of the date of issuance of a tax credit certificate.

D. The investment with respect to which any individual is applying for a tax credit certificate may not be more than an aggregate of \$500,000 in any one business in any 3 consecutive calendar years, except that this paragraph does not limit other investment by any applicant for which that applicant is not applying for a tax credit certificate and except that, if the entity applying for a tax credit certificate is a partnership, limited liability company, S corporation, nontaxable trust or any other entity that is treated as a flow-through entity for tax purposes under the federal Internal Revenue Code but not as a private venture capital fund, the aggregate limit of \$500,000 applies to each individual partner, member, stockholder, beneficiary or equity owner of the entity and not to the entity itself.

E. ~~The~~ For investments made in tax years beginning before January 1, 2014, the business receiving the investment must have annual gross sales of \$3,000,000 or less and the. For investments

made in tax years beginning on or after January 1, 2014, the business receiving the investment must have annual gross sales of \$5,000,000 or less. The operation of the business must be ~~the full-time~~ a substantial professional activity of at least one of the principal ~~owner~~ owners, as determined by the authority. The principal owner and the principal owner's spouse are not eligible for a credit for investment in that business. A tax credit certificate may not be issued to a parent, brother, sister or child of a principal owner if the parent, brother, sister or child has any existing ownership interest in the business.

F. The investment must be expended on plant, equipment, research and development, or working capital for the business or such other business activity as may be approved by the authority.

G. The authority shall establish limits on repayment of the investment. The investment must be at risk in the business.

H. The investors qualifying for the credit must each own less than 1/2 of the business.

I. The business receiving the investment may not be in violation of the requirements of subsection 6.

**Sec. 4. 10 MRSA §1100-T, sub-§2-C, ¶¶B, D and E,** as enacted by PL 2011, c. 454, §6, are amended to read:

B. As used in this subsection, unless the context otherwise indicates, "eligible business" means a business located in the State that has certified that the amount of the investment is necessary to allow the business to create or retain jobs in the State and that, as determined by the authority:

- (1) Is a manufacturer or a value-added natural resource enterprise;
- (2) Is engaged in the development or application of advanced technologies;
- (3) Provides a service that is sold or rendered, or is projected to be sold or rendered, predominantly outside of the State; or
- (4) ~~Brings capital into the State, as determined by the authority; or~~
- (5) Is certified as a visual media production company under Title 5, section 13090-L.

D. The investment with respect to which any ~~entity~~ private venture capital fund is applying for a tax credit certificate may not be more than the lesser of an amount equal to \$500,000 times the number of investors in the private venture capital fund and an aggregate of \$500,000 \$4,000,000 in any one eligible business invested in by a private venture capital fund in any 3 consecutive calendar

years, except that this paragraph does not limit other investment by an applicant for which that applicant is not applying for a tax credit certificate ~~and except that, if the entity applying for a tax credit certificate is a partnership, limited liability company, S corporation, nontaxable trust or any other entity that is treated as a flow through entity for tax purposes under the federal Internal Revenue Code, the aggregate limit of \$500,000 applies to each individual partner, member, stockholder, beneficiary or equity owner of the entity and not to the entity itself. This paragraph does not limit other investment by an applicant for which that applicant is not applying for a tax credit certificate.~~ A private venture capital fund must certify to the authority that it will be in compliance with these limitations. The tax credit certificate issued to a private venture capital fund may be revoked and any credit taken recaptured pursuant to Title 36, section 5216-B, subsection 5 if the fund is not in compliance with this paragraph.

~~E. A~~ For investments made in tax years beginning before January 1, 2014, an eligible business receiving an investment from a private venture capital fund, which investment is used as the basis for the issuance of a tax credit certificate, may not have annual gross sales of more than \$3,000,000 ~~and the~~. For investments made in tax years beginning on or after January 1, 2014, an eligible business receiving an investment from a private venture capital fund, which investment is used as the basis for the issuance of a tax credit certificate, may not have annual gross sales of more than \$5,000,000. The operation of the business must be ~~the full time~~ a substantial professional activity of ~~the principal owner~~ one or more individuals who are not managers of the private venture capital fund, as determined by the authority. A tax credit certificate may not be issued to a private venture capital fund if ~~an investor in a manager~~ of the fund is a principal owner of the eligible business or a spouse, parent, sibling or child of a principal owner and if the spouse, parent, sibling or child has any existing ownership interest in the business. A private venture capital fund must certify to the authority that it will be in compliance with these limitations. The tax credit certificate issued to a private venture capital fund may be revoked and any credit taken recaptured pursuant to Title 36, section 5216-B, subsection 5 if the fund is not in compliance with this paragraph.

**Sec. 5. 10 MRSA §1100-T, sub-§4**, as amended by PL 2011, c. 454, §7, is further amended to read:

**4. Total of credits authorized.** The authority may issue tax credit certificates to investors eligible pursuant to subsections 2, 2-A and 2-C in an aggregate amount not to exceed \$2,000,000 up to and including

calendar year 1996, \$3,000,000 up to and including calendar year 1997, \$5,500,000 up to and including calendar year 1998, \$8,000,000 up to and including calendar year 2001, \$11,000,000 up to and including calendar year 2002, \$14,000,000 up to and including calendar year 2003, \$17,000,000 up to and including calendar year 2004, \$20,000,000 up to and including calendar year 2005, \$23,000,000 up to and including calendar year 2006, \$26,000,000 up to and including calendar year 2007 and \$30,000,000 ~~thereafter~~ up to and including calendar year 2013, in addition to which, the authority may issue tax credit certificates to investors eligible pursuant to subsections 2, 2-A and 2-C in an annual amount not to exceed \$675,000 for investments made between January 1, 2014 and December 31, 2014, \$4,000,000 for investments made in calendar year 2015 and \$5,000,000 each year for investments made in calendar years beginning with 2016. The authority may provide that investors eligible for a tax credit under this section in a year when there is insufficient credit available are entitled to take the credit when it becomes available subject to limitations established by the authority by rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 6. 36 MRSA §5216-B, sub-§2**, as amended by PL 2011, c. 454, §16, is further amended to read:

**2. Credit.** An investor is entitled to a credit against the tax otherwise due under this Part equal to the amount of the tax credit certificate issued by the Finance Authority of Maine in accordance with Title 10, section 1100-T and as limited by this section. Except with respect to tax credit certificates issued under Title 10, section 1100-T, subsection 2-C, in the case of partnerships, limited liability companies, S corporations, nontaxable trusts and any other entities that are treated as flow-through entities for tax purposes under the Code, the individual partners, members, stockholders, beneficiaries or equity owners of such entities must be treated as the investors under this section and are allowed a credit against the tax otherwise due from them under this Part in proportion to their respective interests in those partnerships, limited liability companies, S corporations, trusts or other flow-through entities. Except as limited or authorized by subsection 3 or 4, 25% of the credit must be taken in the taxable year in which the investment is made and 25% per year must be taken in each of the next 3 taxable years. With respect to tax credit certificates issued under Title 10, section 1100-T, subsection 2-C, the credits are fully refundable and the investor may file a return requesting a refund for an investment for which it has received a tax credit certificate on or after January 1st of the calendar year after the calendar year in which the investment was made.

See title page for effective date.

**CHAPTER 439**  
**S.P. 378 - L.D. 1096**

**An Act To Amend the Laws  
Governing Students  
Experiencing Education  
Disruption**

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

**Sec. 1. 20-A MRSA §257, sub-§4**, as enacted by PL 2007, c. 451, §1, is repealed.

**Sec. 2. 20-A MRSA §257-A** is enacted to read:

**§257-A. Department of Education diploma**

The commissioner shall issue a Department of Education diploma to a student who qualifies for the diploma pursuant to this section. A Department of Education diploma has the same legal status as a diploma awarded by a school administrative unit.

**1. Eligibility to apply for diploma.** A student is eligible to apply for a Department of Education diploma if that student is unable to satisfy the requirements for a diploma from a school administrative unit because the student experienced one or more education disruptions, as defined in section 5161, subsection 2-A, during the student's educational history.

**2. Standard for awarding diploma.** The commissioner shall issue a diploma under this section only to a student who demonstrates achievement of the content standards of the system of learning results established pursuant to section 6209.

**3. Process.** A student who seeks a Department of Education diploma shall submit an application to the commissioner, including such evidence of student achievement and other information as is required by the commissioner. Evidence of student achievement may include, but is not limited to, transcripts, waivers, academic reports and school work recognition plans. The commissioner shall form a review team to review evidence of student achievement and to make a recommendation to the commissioner on the awarding of a diploma under this section. The commissioner shall

make the final determination of eligibility for a diploma under this section.

**Sec. 3. 20-A MRSA §4722, sub-§3**, as amended by PL 2011, c. 686, §1, is further amended to read:

**3. Satisfactory completion.** A diploma may be awarded to secondary school students who have satisfactorily completed all diploma requirements in accordance with the academic standards of the school administrative unit and this chapter. All secondary school students must achieve the content standards of the parameters for essential instruction and graduation requirements established pursuant to section 6209. Children with disabilities, as defined in section 7001, subsection 1-B, who successfully meet the content standards of the parameters for essential instruction and graduation requirements in addition to any other diploma requirements applicable to all secondary school students, as specified by the goals and objectives of their individualized education plans, may be awarded a high school diploma. Career and technical students may, with the approval of the commissioner, satisfy the requirements of subsection 2 through separate or integrated study within the career and technical school curriculum, including through courses provided pursuant to section 8402 or 8451-A.

~~Students who experience education disruption, as defined in section 5001 A, subsection 4, paragraph F, who successfully demonstrate achievement of the content standards of the parameters for essential instruction and graduation requirements in addition to any other diploma requirements applicable to secondary school students as set forth in their school work recognition plans as defined in section 5161, subsection 6 must, with the approval of the commissioner, be awarded a Department of Education diploma as defined in section 5161, subsection 2.~~

**Sec. 4. 20-A MRSA §4722-A, sub-§3, ¶C**, as enacted by PL 2011, c. 669, §7, is repealed.

**Sec. 5. 20-A MRSA §5031, sub-§1, ¶C**, as enacted by PL 2011, c. 614, §12, is amended to read:

C. Beginning with the graduation rate reported for school year 2011-2012 and for each school year thereafter, other descriptors of academic success for school-age students on a statewide aggregate basis, including the rates of attainment of a:

- (1) Department of Education diploma as described under section ~~5161~~ 257-A;
- (2) High school equivalency diploma as described under section 257; and
- (3) High school equivalency diploma obtained through a high school completion course that includes general educational development preparation courses from an adult