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House of Representatives, March 22, 2021

An Act To Reduce Errors in Employment Tax Increment Financing Benefits

Received by the Clerk of the House on March 18, 2021. Referred to the Committee on Taxation pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative ARATA of New Gloucester.
Cosponsored by Senator LIBBY of Androscoggin and
Senators: POULIOT of Kennebec, TIMBERLAKE of Androscoggin.

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

2 **Sec. 1. 36 MRSA §6753, sub-§5-B** is enacted to read:

3 **5-B. Benefit base.** "Benefit base" means the total incremental gross wages paid during
4 the calendar year by a qualified business to qualified employees multiplied by the benefit
5 percentage.

6 **Sec. 2. 36 MRSA §6753, sub-§5-C** is enacted to read:

7 **5-C. Benefit percentage.** "Benefit percentage" means the percentage calculated by
8 the commissioner by dividing the total amount of benefits paid to all qualified businesses
9 under this chapter in fiscal year 2020-21 by the total gross income paid to all qualified
10 employees during that fiscal year.

11 **Sec. 3. 36 MRSA §6753, sub-§7**, as amended by PL 2005, c. 351, §22 and affected
12 by §26, is further amended to read:

13 **7. Employment tax increment.** "Employment tax increment" means that level of employment, payroll
14 and state income withholding taxes attributed to qualified employees employed by a
15 qualified business above the base level for the qualified business, adjusted pursuant to
16 subsection 12 for shifts in employment by affiliated businesses. For reimbursement based
17 on calendar years beginning in 2022, "employment tax increment" means the total gross
18 wages paid by a qualified business to qualified employees above the base level of
19 employment for the qualified business.

21 **Sec. 4. 36 MRSA §6753, sub-§9**, as enacted by PL 1995, c. 669, §5, is amended to
22 read:

23 **9. Gross employment tax increment.** "Gross employment tax increment" means that level of employment,
24 payroll and State state income tax withholding taxes attributed to qualified employees
25 employed by a qualified business that is greater than the base level for the qualified
26 business. For reimbursement based on calendar years beginning in 2022, "gross
27 employment tax increment" means the total gross wages paid by a qualified business to
28 qualified employees above the base level of employment for the qualified business.
29

30 **Sec. 5. 36 MRSA §6753, sub-§12**, as amended by PL 2015, c. 368, §5, is further
31 amended to read:

32 **12. Qualified employee.** Except for an employee in a call center in Aroostook County
33 or Washington County, "qualified employee" means a new, full-time employee hired in
34 this State by a qualified business, for whom a retirement program subject to the Employee
35 Retirement Income Security Act of 1974, 29 United States Code, Chapter 18 and group
36 health insurance are provided, and whose income derived from employment with the
37 applicant, calculated on a calendar year basis, is greater than the most recent annual per
38 capita personal income in the county in which the qualified employee is employed, as long
39 as Maine income tax withholding attributed to the qualified employee is subject to
40 reimbursement to the qualified business under this chapter for calendar years beginning
41 before 2022 and, for calendar years beginning in 2022 and after, the gross wages paid to
42 the qualified employee is subject to reimbursement under this chapter. "Qualified
43 employee" does not include an employee who is shifted to a qualified business from an

1 affiliated business. The commissioner shall determine whether a shifting of employees has
2 occurred.

3 For an employee in a call center in Aroostook County or Washington County, "qualified
4 employee" means a new, full-time employee hired in this State by a qualified business, for
5 whom a retirement program subject to the Employee Retirement Income Security Act of
6 1974, 29 United States Code, Chapter 18 and group health insurance are provided, and
7 whose income derived from employment with the applicant, calculated on a weekly basis,
8 is greater than the average weekly wage for the most recent available calendar year as
9 derived from the quarterly census of employment and wages and provided annually by the
10 Department of Labor, as long as Maine income tax withholding attributed to the qualified
11 employee is subject to reimbursement to the qualified business under this chapter for
12 calendar years beginning before 2022 and, for tax years beginning in 2022 and after, the
13 gross wages paid to the qualified employee is subject to reimbursement under this chapter.
14 "Qualified employee" does not include an employee who is shifted to a qualified business
15 from an affiliated business. The commissioner shall determine whether a shifting of
16 employees has occurred. The calculation of the average weekly wage must include data
17 from the counties of Androscoggin, Aroostook, Franklin, Hancock, Kennebec, Knox,
18 Lincoln, Oxford, Penobscot, Piscataquis, Sagadahoc, Somerset, Waldo and Washington.
19 Notwithstanding this subsection, with respect to a call center in Aroostook or Washington
20 county, in a county in which the average annual unemployment rate at the time of
21 certification for the most recent calendar year is greater than the state average for the same
22 year, the wage threshold is 90% of the average weekly wage as derived from the quarterly
23 census of employment and wages. Notwithstanding this subsection, with respect to a call
24 center in Aroostook or Washington county and upon approval of the commissioner, a
25 qualified business located in a county in which the average annual unemployment rate at
26 the time of certification for the most recent calendar year is greater than the state average
27 for that same year qualifies for a phase-in of salary threshold requirements. A qualified
28 business under this provision must meet 70% of the average weekly wage as derived from
29 the quarterly census of employment and wages in the first year of certification, 80% of the
30 average weekly wage as derived from the quarterly census of employment and wages in
31 the 2nd year of certification and 90% of the average weekly wage as derived from the
32 quarterly census of employment and wages in all following years of certification. Failure
33 to meet any of these requirements results in automatic revocation of certification.

34 **Sec. 6. 36 MRSA §6762** is enacted to read:

35 **§6762. Benefit calculation for calendar years beginning with 2022**

36 Notwithstanding any provision of this chapter to the contrary, for requests for
37 reimbursement under this chapter for calendar years beginning with 2022, the amount of
38 reimbursement must be based on the benefit base for a qualified employer rather than on
39 the amount of income tax withheld for qualified employees. The commissioner and the
40 State Tax Assessor shall take whatever action is necessary to implement this subsection,
41 including the adoption of routine technical rules as defined in Title 5, chapter 375,
42 subchapter 2-A.

43 **Sec. 7. Authority to submit legislation.** The Commissioner of Economic and
44 Community Development and the State Tax Assessor shall submit legislation by December

1 1, 2021 to the Second Regular Session of the 130th Legislature if necessary to implement
2 the provisions of this Act.

3 **SUMMARY**

4 This bill improves the employment tax increment financing program for calendar years
5 beginning with 2022 by basing benefits on the gross wages of qualified employees rather
6 than on income tax withholding for those employees. The bill directs the Commissioner
7 of Economic and Community Development and the State Tax Assessor to take actions,
8 including the adoption of routine technical rules, to implement the change.