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Date: (Filing No. S-)

TAXATION

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**STATE OF MAINE
SENATE
130TH LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 566, L.D. 1713, “An Act To Increase Workforce Skills for the Revitalization of Maine's Paper Industry through the Establishment of an Income Tax Credit for Paper Manufacturing Workforce Training”

Amend the bill by striking out the title and substituting the following:

'An Act To Revitalize Maine's Paper Industry through the Establishment of an Income Tax Credit for Paper Manufacturing'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 36 MRSA §191, sub-§2, ¶MMM is enacted to read:

MMM. The disclosure to the joint standing committee of the Legislature having jurisdiction over taxation matters pursuant to section 5219-YY, subsection 4, paragraph C of the revenue loss, including the loss due to refundable credits, attributable to each taxpayer claiming the tax credit for paper manufacturing facility investment provided under that section, regardless of the number of persons eligible for the credit.

Sec. 2. 36 MRSA §191, sub-§2, ¶NNN is enacted to read:

NNN. The disclosure of information to the Department of Economic and Community Development necessary for the administration of the tax credit for paper manufacturing facility investment pursuant to section 5219-YY.

Sec. 3. 36 MRSA §5219-YY is enacted to read:

§5219-YY. Credit for paper manufacturing facility investment

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

A. "Certified applicant" means a qualified applicant that has received a certificate of approval from the commissioner pursuant to this section.

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- 1 B. "Commissioner" means the Commissioner of Economic and Community
2 Development.
- 3 C. "Employee based at a paper manufacturing facility" means an employee who
4 performs more than 50% of the employee's employee-related activities for the
5 employer at a paper manufacturing facility.
- 6 D. "Full-time" means an average of at least 36 hours weekly during the period of
7 measurement.
- 8 E. "Headquarters" has the same meaning as in section 5219-QQ, subsection 1,
9 paragraph F.
- 10 F. "Paper manufacturing facility" means a facility in the State that is used primarily to
11 manufacture paper products, including facilities used in support of such paper
12 manufacturing.
- 13 G. "Qualified applicant" means an applicant that, at the time an application for a
14 certificate of approval is submitted, satisfies the following criteria:
- 15 (1) The applicant owns a paper manufacturing facility located in a county in this
16 State with an unemployment rate that is at least 20% higher than the state average
17 unemployment rate, as determined in the most recent annual state and county
18 unemployment rate report issued by the Department of Labor;
- 19 (2) The applicant directly employs at least 400 qualified employees, at least 75%
20 of whom earn at least 115% of the most recent annual per capita personal income
21 in the county in which the qualified employee is employed;
- 22 (3) The applicant intends to make a qualified investment in the State within 2 years
23 following the date of the application;
- 24 (4) The applicant's paper manufacturing facility is not located within a low-income
25 community. As used in this subparagraph, "low-income community" has the same
26 meaning as in the Code, Section 45D(e)(1);
- 27 (5) The applicant has not received a qualified low-income community investment
28 under section 5219-HH with respect to the paper manufacturing facility at which
29 the qualified investment is made or intended to be made;
- 30 (6) The applicant's headquarters are or will be located in the State; and
- 31 (7) The applicant is not certified under the Pine Tree Development Zone program
32 pursuant to Title 30-A, section 5250-O or the Maine Employment Tax Increment
33 Financing Program established in chapter 917.
- 34 H. "Qualified employee" means a full-time employee of the qualified applicant based
35 at a paper manufacturing facility for whom a retirement program subject to the federal
36 Employee Retirement Income Security Act of 1974, 29 United States Code, Chapter
37 18 and group health insurance are provided and whose income derived from
38 employment at a paper manufacturing facility, calculated on a calendar year basis, is
39 greater than the most recent annual per capita personal income in the county in which
40 the qualified employee is employed. "Qualified employee" does not include an
41 employee who is transferred, as determined by the commissioner, to a qualified
42 applicant from an affiliated business located in the State.

1 I. "Qualified investment" means expenditures of at least \$15,000,000 to design, permit,
2 build, rebuild, modify, replace, repair or acquire machinery or equipment, including
3 supporting equipment, to modernize or improve a paper manufacturing facility. The
4 expenditures of a qualified applicant and other entities, whether or not incorporated,
5 that are part of a single business enterprise must be aggregated to determine whether a
6 qualified investment has been made. A qualified investment includes any amount
7 spent, prior to the issuance of a certificate of approval, on machinery, equipment, repair
8 parts, replacement parts or replacement equipment, including additions and accessions
9 to other machinery and equipment, as long as the machinery, equipment, parts,
10 additions or accessions are placed in service after the issuance of a certificate of
11 approval. A qualified investment does not include an investment made prior to January
12 1, 2019 or after December 31, 2023. "Qualified investment" does not include any
13 amount expended to qualify for Pine Tree Development Zone program benefits under
14 Title 30-A, chapter 206, subchapter 4.

15 **2. Procedures for application; certificate of approval.** This subsection governs the
16 procedures for providing for and obtaining a certificate of approval.

17 A. A qualified applicant may apply to the commissioner for a certificate of approval.
18 An applicant shall submit to the commissioner information demonstrating that the
19 applicant is a qualified applicant. If a certified applicant undertakes to make an
20 additional qualified investment, the certified applicant may apply to the commissioner
21 for an additional certificate of approval.

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

28 The commissioner may not issue certificates of approval under this subsection that
29 total, in the aggregate, more than \$40,000,000 of qualified investment.

30 C. A certified applicant shall obtain approval from the commissioner prior to the
31 transfer of a certificate of approval or, if the certified applicant has obtained a certificate
32 of completion under paragraph E, that certificate of completion to another person. A
33 certificate of approval or certificate of completion may be transferred only if all or
34 substantially all of the assets of the certified applicant are, or will be, transferred to that
35 person or if 50% or more of the certified applicant's voting stock or analogous
36 noncorporate equity interest is, or will be, acquired by that person. The commissioner
37 shall approve the transfer of the certificate of approval or the certificate of completion
38 only if at least one of the following conditions is satisfied:

39 (1) The transferee is a member of the certified applicant's unitary affiliated group
40 as defined in section 5102, subsection 1-B at the time of the transfer; or

41 (2) The commissioner finds that the transferee will, and has the capacity to,
42 maintain operations of the paper manufacturing facility in a manner that meets the
43 minimum qualifications for continued eligibility of benefits under this section after
44 the transfer occurs.

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

7 D. The commissioner shall revoke a certificate of approval if the certified applicant or
8 a person to whom a certificate of approval has been transferred pursuant to paragraph
9 C fails to make a qualified investment within 2 years of the date of the certificate of
10 approval. The commissioner shall revoke a certificate of approval or a certificate of
11 completion under paragraph E if the applicant or transferee ceases operations of the
12 paper manufacturing facility in the State or the certificate of approval or certificate of
13 completion is transferred to another person without approval from the commissioner
14 pursuant to paragraph C. A certified applicant whose certificate of completion is
15 revoked within 5 years after the date issued shall return to the State an amount equal to
16 the total credits claimed under this section. A certified applicant whose certificate of
17 completion is revoked during the period from 6 years after to 10 years after the date
18 the certificate was issued shall return to the State an amount equal to the total credits
19 claimed under this section for the period from 6 years after to 10 years after the date
20 the certificate was issued. If credit amounts are subject to recapture after a certificate
21 of approval has been transferred as provided in paragraph C, the transferee is
22 responsible for payment of any credit amounts that must be returned to the State. A
23 certified applicant whose certificate of approval or certificate of completion has been
24 revoked pursuant to this paragraph is not eligible for the tax credit under this section
25 for the tax year in which the certificate is revoked and any year thereafter. Any amount
26 to be returned to the State pursuant to this paragraph must be added to the tax imposed
27 on the taxpayer under this Part for the taxable year during which the certificate is
28 revoked.

29 E. Upon making a qualified investment, a certified applicant shall submit an
30 application to the commissioner for a certificate of completion. If the commissioner
31 determines that a qualified investment has been made, the commissioner shall issue a
32 certificate of completion to the certified applicant as soon as is practical. The certificate
33 of completion must state the amount of qualified investment made by the certified
34 applicant.

35 F. Upon issuance of a certificate of completion in accordance with paragraph E, the
36 commissioner shall issue, on behalf of the State, a memorandum to the qualified
37 applicant describing the tax credits provided by this section to the applicant at the time
38 the certificate of completion is issued. The memorandum must provide that the
39 certificate of completion does not prohibit the commissioner from revoking a
40 certificate in accordance with paragraph D and does not prohibit the assessor from
41 assessing and collecting an overpaid benefit in accordance with the provisions of this
42 Title.

43 **3. Refundable credit allowed.** A certified applicant is allowed a credit as provided
44 in this subsection.

45 A. Subject to the limitations under paragraph B, beginning with the tax year during
46 which a certificate of completion is issued under subsection 2, paragraph E or the tax

1 year beginning in 2021, whichever is later, and for each of the following 9 tax years, a
2 certified applicant is allowed a credit against the tax due under this Part for the taxable
3 year in an amount equal to 4% of the certified applicant's qualified investment.

4 The credit allowed under this subsection is refundable.

5 B. The credit under this subsection is limited as follows.

6 (1) A credit is not allowed for any tax year during which the taxpayer does not
7 have at least 400 qualified employees based at the paper manufacturing facility
8 where the qualified investment was made, at least 75% of whom earn at least 115%
9 of the most recent annual per capita personal income in the county in which the
10 qualified employee is employed, as measured on the last day of the tax year.

11 (2) Cumulative credits under this subsection for all certified applicants may not
12 exceed \$1,600,000 per year and \$16,000,000 in total.

13 (3) A credit is not allowed to any person if the certified applicant has received a
14 qualified low-income community investment under section 5219-HH with respect
15 to the paper manufacturing facility at which the qualified investment is made under
16 this section.

17 (4) A credit is not allowed to any person who receives benefits under the Pine Tree
18 Development Zone program pursuant to Title 30-A, section 5250-O or the Maine
19 Employment Tax Increment Financing Program established in chapter 917 related
20 to the paper manufacturing facility in the tax year for which a credit is claimed
21 under this section.

22 (5) A credit is not allowed to any person for any tax year during which the
23 headquarters of the certified applicant are not located in the State.

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

26 A. On or before March 1st of each year, a certified applicant shall file a report with
27 the commissioner for the tax year ending during the immediately preceding calendar
28 year, referred to in this paragraph as "the report year," containing the following
29 information:

30 (1) The number of qualified employees of the certified applicant on the last day of
31 the report year; and

32 (2) The incremental amount of qualified investment made in the report year.

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

37 B. By April 1st of each year, the commissioner shall report to the joint standing
38 committee of the Legislature having jurisdiction over taxation matters aggregate data
39 on employment levels and qualified investment amounts of certified applicants for each
40 year that a certified applicant claimed a credit under this section.

41 C. By December 31st of each year, beginning in 2022, the assessor shall report to the
42 joint standing committee of the Legislature having jurisdiction over taxation matters

1 the revenue loss during the report year as a result of this section for each taxpayer
2 claiming the credit and, if necessary, shall include updated revenue loss amounts for
3 any previous tax year. For purposes of this paragraph, "revenue loss" means the credit
4 claimed by the taxpayer and allowed pursuant to this section, consisting of the amount
5 of the credit used to reduce the tax liability of the taxpayer and the amount of the credit
6 refunded to the taxpayer, stated separately.

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

9 **5. Rules; fees.** The commissioner and the assessor may jointly adopt rules to
10 implement this section, including, but not limited to, rules for determining and certifying
11 eligibility. The commissioner may also by rule establish fees to offset the costs of
12 administering this section. Rules adopted pursuant to this subsection are routine technical
13 rules as defined in Title 5, chapter 375, subchapter 2-A. Any fees collected pursuant to this
14 subsection must be deposited into a special revenue account administered by the
15 commissioner, and those fees may be used only to defray the actual costs of administering
16 the credit under this section.

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

24 A. That the specific public policy objectives of the credit provided under this section
25 are to provide incentives for the revitalization of paper manufacturing facilities in
26 counties with high unemployment and to create or retain high-quality jobs in the State
27 by encouraging paper manufacturers to modernize their paper manufacturing
28 equipment to better compete in the marketplace; and

29 B. Performance measures, including, but not limited to:

30 (1) The number of qualified employees added or retained during the period being
31 reviewed and how employment during that period compares to the minimum
32 employment requirements established in subsection 3, paragraph B, subparagraph
33 (1);

34 (2) The amount of qualified investment made by certified applicants during the
35 period being reviewed and how those investments compare to the minimum level
36 of investment required in subsection 1, paragraph I;

37 (3) The increase in the vitality and competitiveness of the State's paper industry in
38 the marketplace;

39 (4) The change in the number of paper manufacturers and machinery used for the
40 production of paper products located in the State and the number of modernization
41 projects undertaken at those paper manufacturing facilities during the period being
42 reviewed; and

43 (5) Measures of fiscal impact and overall economic impact to the State and to the
44 regions in which certified applicants are located.

