

## Statute for Next Four Tax Expenditures Slated for OPEGA Review

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**§5219-RR. Tax credit for Maine shipbuilding 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. [PL 2017, c. 361, §2 (NEW).]
- B. "Commissioner" means the Commissioner of Economic and Community Development. [PL 2017, c. 361, §2 (NEW).]
- C. "Employment" means, for each tax year, the amount determined by adding the total number of qualified employees of a certified applicant on each of 6 consecutive measurement days of that tax year as chosen by the certified applicant and then dividing that sum by 6. [PL 2017, c. 361, §2 (NEW).]
- D. "Full-time" means an average of at least 32 hours weekly during the tax year. [PL 2017, c. 361, §2 (NEW).]
- E. "Maine shipbuilding facility" means a facility or facilities located within the State dedicated to the design, production, maintenance and repair of surface water vessels and includes real estate, tangible personal property, fixtures, machinery and equipment necessary for those activities. [PL 2017, c. 361, §2 (NEW).]
- F. "Measurement day" means the last business day of every other month of a tax year. [PL 2017, c. 361, §2 (NEW).]
- G. "Qualified applicant" means an applicant for a tax credit under this section that satisfies each of the following requirements:
- (1) The applicant owns and operates or proposes to construct a Maine shipbuilding facility;
  - (2) The applicant proposes to make a qualified investment;
  - (3) The applicant employs at least 5,000 qualified employees at the time the application is filed; and
  - (4) The applicant does not otherwise qualify for the Pine Tree Development Zone program pursuant to Title 30-A, section 5250-O or the Maine Employment Tax Increment Financing Program established in chapter 917 at the time the application is filed. [PL 2017, c. 361, §2 (NEW).]
- H. "Qualified employee" means an individual:
- (1) Who is a full-time employee of the certified or qualified applicant, as the case may be, working at a Maine shipbuilding facility owned and operated by that applicant;
  - (2) Whose income from that employment is taxable under chapter 803;
  - (3) For whom a retirement program is provided subject to the federal Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 1001 to 1461, as amended;
  - (4) For whom group health insurance is provided; and
  - (5) Whose income derived from employment with the Maine shipbuilding facility calculated on a calendar year basis is greater than the average annual per capita income in the State. [PL 2017, c. 361, §2 (NEW).]
- I. "Qualified investment" means expenditures incurred on or after January 1, 2018 that total at least \$100,000,000 and are related to the construction, improvement, modernization or expansion of a Maine shipbuilding facility, including, without limitation, all expenditures for investigation; planning; design; engineering; permitting; acquisition; financing; construction; demolition;

alteration; relocation; remodeling; repair; reconstruction; design, purchase or installation of machinery and equipment; clearing; filling; grading; reclamation of land; activities undertaken to upgrade a waterway serving the facility; training and development of employees; capitalized interest; professional services, including, but not limited to, architectural, engineering, legal, accounting or financial services; administration; environmental and utility costs, including, without limitation, sewage treatment plants, water, air and solid waste equipment and treatment plants, environmental protection devices, electrical facilities, storm or sanitary sewer lines, water lines or amenities, any other utility services, preparation of environmental impact studies, informing the public about the facility and environmental impact and environmental remediation, mitigation, clean-up and protection costs; related offices, support facilities and structures; and any of the foregoing expenditures made or costs incurred prior to or after the effective date of this section or certification of an applicant. "Qualified investment" includes only expenditures that are capitalized for federal income tax purposes. Except for employees who are engaged in the design, engineering and construction of the facility, "qualified investment" does not include the salaries or other compensation paid to the employees of the qualified applicant or of any affiliate of the qualified applicant. "Qualified investment" does not include any expenditure included as a qualified investment by an applicant under chapter 919 or any amount expended to qualify for Pine Tree Development Zone program benefits under Title 30-A, chapter 206, subchapter 4. [PL 2017, c. 361, §2 (NEW).]

[PL 2017, c. 361, §2 (NEW).]

**2. Procedures for application; certificate of approval.** This subsection governs the application and approval process for the tax credit under this section.

A. A qualified applicant may apply to the commissioner for a certificate of approval. An applicant shall submit to the commissioner information demonstrating that the applicant is a qualified applicant. A certified applicant may hold only one certificate under this section at any time. [PL 2017, c. 361, §2 (NEW).]

B. The commissioner, within 30 days of receipt of an application under paragraph A, shall review the information contained in the application and issue a written determination as to whether the applicant is a qualified applicant. If the commissioner determines that the applicant is a qualified applicant, the commissioner shall issue a certificate of approval to the qualified applicant at the time of the determination. If the commissioner determines that the applicant is not a qualified applicant, the commissioner shall issue a denial of the application at the time of the determination. [PL 2017, c. 361, §2 (NEW).]

C. If a certified applicant proposes to transfer, including, without limitation, transfer by operation of law, all or substantially all of the Maine shipbuilding facility in which a qualified investment was made to another person or if a person proposes to acquire more than 50% of the voting stock of the certified applicant, application may be made to the commissioner to approve transfer of the certificate of approval to that person in connection with the transfer of the stock or facility. The commissioner shall grant the transfer of the certificate only if:

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

(2) The transferee of the Maine shipbuilding facility or of the certified applicant's stock is not a member of the certified applicant's unitary affiliated group as defined in section 5102, subsection 1-B at the time of the transfer and the commissioner finds that the transferee intends to continue the operations of the Maine shipbuilding facility in substantially the same manner as prior to the transfer and has the financial capability to do so.

If the commissioner grants a transfer of the certificate of approval, the transferee must be treated as the certified applicant for all purposes of this section. For purposes of calculation of employment and qualified investments of the certified applicant, the qualified employees and the qualified investments of the transferor prior to transfer must be considered the qualified employees and qualified investments of the transferee. [PL 2017, c. 361, §2 (NEW).]

D. The applicant or certified applicant may appeal in accordance with Title 5, chapter 375, subchapter 7 any determination, action or failure to act by the commissioner. [PL 2017, c. 361, §2 (NEW).]

[PL 2017, c. 361, §2 (NEW).]

**3. Credit.** A certified applicant is allowed a credit annually against the tax otherwise due under this Part as provided in this subsection.

A. Beginning with the tax year after the certified applicant has made qualified investments of at least \$100,000,000, or the tax year beginning on or after January 1, 2020, whichever is later, and for each of the following 9 tax years, a certified applicant is allowed a credit against the tax due under this Part for each taxable year in an amount equal to 3% of the certified applicant's total qualified investment. [PL 2017, c. 361, §2 (NEW).]

B. If a certified applicant completes an additional qualified investment of at least \$100,000,000 prior to January 1, 2025, the certified applicant is allowed a credit against the tax due under this Part beginning with the 11th tax year after the investment required in paragraph A was made and continuing through the 15th tax year after making that investment. The amount of the additional credit available in each of those tax years is 3% of the certified applicant's additional qualified investment. Eligibility for the additional credit must be demonstrated by the certified applicant in the annual reports submitted pursuant to subsection 9. [PL 2017, c. 361, §2 (NEW).]

C. The credit allowed under this subsection may not reduce the tax otherwise due under this Part to less than zero. [PL 2017, c. 361, §2 (NEW).]

[PL 2017, c. 361, §2 (NEW).]

**4. Limitations.** The following are limitations on the credit allowed under subsection 3.

A. Except as provided in subsection 5, the annual credit allowed to a certified applicant or its transferee may not exceed \$3,000,000 in any tax year. Cumulative credits taken under subsection 3, paragraph A may not exceed \$30,000,000 to any certified applicant or transferee. Total cumulative credits taken under this section may not exceed \$45,000,000 to any certified applicant or transferee. [PL 2017, c. 361, §2 (NEW).]

B. For a tax year in which the qualified applicant has employment of fewer than 5,500, the amount of the credit is reduced as provided in subsection 6. [PL 2017, c. 361, §2 (NEW).]

C. A taxpayer that is certified as a qualified Pine Tree Development Zone business under Title 30-A, section 5250-O or that has received a certificate of approval for its employment tax increment financing program pursuant to section 6755 is not eligible for a credit under this section. [PL 2017, c. 361, §2 (NEW).]

D. In no case may the credit be claimed for a tax year that begins after December 31, 2034. [PL 2017, c. 361, §2 (NEW).]

[PL 2017, c. 361, §2 (NEW).]

**5. Accelerated credit.** If a certified applicant has employment in any tax year of at least 6,000, the credit limitation in subsection 4, paragraph A is increased to \$3,125,000 for that tax year. If employment is at least 6,500, the credit limitation is increased to \$3,250,000. If employment is at least 7,000, the credit is increased to \$3,375,000. If employment is 7,500 or more, the credit is increased to \$3,500,000.

[PL 2017, c. 361, §2 (NEW).]

**6. Reduced credit for reduced employment.** If a certified applicant's employment is fewer than 5,500 employees during the tax year, the credit allowed pursuant to subsection 3 is reduced as follows.

A. If a certified applicant has employment in a tax year of fewer than 5,500 but at least 5,250, the credit for that year is 90% of the credit otherwise allowed under subsection 3. [PL 2017, c. 361, §2 (NEW).]

B. If a certified applicant has employment in a tax year of fewer than 5,250 but at least 5,000, the credit authorized for that year is 80% of the credit otherwise allowed under subsection 3. [PL 2017, c. 361, §2 (NEW).]

C. If a certified applicant has employment in a tax year of fewer than 5,000 but at least 4,750, the credit for that year is 70% of the credit otherwise allowed under subsection 3. [PL 2017, c. 361, §2 (NEW).]

D. If a certified applicant has employment in a tax year of fewer than 4,750 but at least 4,500, the credit for that year is 60% of the credit otherwise allowed under subsection 3. [PL 2017, c. 361, §2 (NEW).]

E. If a certified applicant has employment in a tax year of fewer than 4,500 but at least 4,250, the credit for that year is 50% of the credit otherwise allowed under subsection 3. [PL 2017, c. 361, §2 (NEW).]

F. If a certified applicant has employment in a tax year of fewer than 4,250 but at least 4,000, the credit for that year is 40% of the credit otherwise allowed under subsection 3. [PL 2017, c. 361, §2 (NEW).]

G. If a certified applicant has employment in a tax year of fewer than 4,000, the credit allowed under subsection 3 may not be taken. [PL 2017, c. 361, §2 (NEW).]

[PL 2017, c. 361, §2 (NEW).]

**7. Revocation.** A certificate of approval must be revoked by the commissioner if the certified applicant has not made qualified investments of at least \$100,000,000 within 5 years after issuance of the certificate of approval.

[PL 2017, c. 361, §2 (NEW).]

**8. Additional requirements.** A certified applicant, when awarding contracts, purchasing supplies or subcontracting work related to a qualified investment, shall give preference, to the greatest extent possible, to Maine workers, companies and bidders as long as the supplies, products, services and bids meet the standards required by the certified applicant regarding value, quality, delivery terms and price. [PL 2017, c. 361, §2 (NEW).]

**9. Annual reporting requirement.** A certified applicant, the commissioner and the State Tax Assessor shall report annually in accordance with this subsection. Notwithstanding any other provision of law to the contrary, the reports provided under this subsection are public records as defined in Title 1, section 402, subsection 3.

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

(1) The employment of the certified applicant for the report year, including specific information on:

(a) The number of qualified employees that are employed by the certified applicant at the end of the report year;

(b) The total number of qualified employees hired during the report year; and

- (c) The number of qualified employees in positions that are covered by a collective bargaining agreement;
- (2) The total dollar amount of payroll associated with employment in the report year, including specific information on:
  - (a) The average annual salary and wages for qualified employees; and
  - (b) The median annual salary and wages for qualified employees;
- (3) The total dollar amount that was spent on goods and services obtained from businesses with an office in the State from which business operations in the State are managed; and
- (4) The incremental level of qualified investments made during the report year, including specific information on:
  - (a) The amount of qualified investment in facility, production equipment and employee training and development, reported as an aggregate sum;
  - (b) The portion of the qualified investment reported under subparagraph (a) that was spent on goods and services from businesses with an office in the State from which business operations in the State are managed; and
  - (c) Whether the certified applicant has qualified for the additional credit under subsection 3, paragraph B.

The commissioner may prescribe forms for the annual reports required under this paragraph. The commissioner shall provide copies of the report to the State Tax Assessor and to the joint standing committee of the Legislature having jurisdiction over taxation matters at the time the report is received. [PL 2019, c. 607, Pt. C, §5 (AMD).]

B. On or before April 1st annually, the commissioner shall report to the joint standing committee of the Legislature having jurisdiction over taxation matters aggregate data, with detail consistent with information required of certified applicants under paragraph A, on employment levels and qualified investment amounts of certified applicants for each year beginning with expenditures incurred on or after January 1, 2018. [PL 2017, c. 361, §2 (NEW).]

C. By December 31st of each year, the State Tax Assessor shall report to the joint standing committee of the Legislature having jurisdiction over taxation matters the revenue loss during the report year as a result of this section for each taxpayer claiming the credit and, if necessary, shall include updated revenue loss amounts for any previous tax year. For purposes of this paragraph, "revenue loss" means the credit claimed by the taxpayer and allowed pursuant to this section. [PL 2019, c. 607, Pt. C, §6 (AMD).]

[PL 2019, c. 607, Pt. C, §§5, 6 (AMD).]

**10. Evaluation; specific public policy objective; performance measures.** The credit provided under this section is subject to ongoing legislative review in accordance with Title 3, chapter 37. In developing evaluation parameters to perform the review, the Office of Program Evaluation and Government Accountability, the Legislature's government oversight committee and the joint standing committee of the Legislature having jurisdiction over taxation matters shall consider:

A. That the specific public policy objective of the credit provided under this section is to create and retain jobs in the shipbuilding industry in this State by providing an income tax credit to reduce the cost of investments in shipbuilding businesses and thereby encourage investment in shipbuilding businesses and improve the competitiveness of this State's shipbuilding industry; and [PL 2017, c. 361, §2 (NEW).]

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

- (1) Employment during the period being reviewed and how employment during that period compares to the minimum employment requirements set forth in subsection 4, paragraph B;
- (2) The amount of qualified investment during the period being reviewed, and how expenditures compare to the minimum level of expenditure set forth in subsection 1, paragraph I;
- (3) Measures of industry competitiveness;
- (4) Measures of fiscal impact and overall economic impact to the State; and
- (5) Information regarding the procedures for ensuring compliance with the preference requirements under subsection 8. [PL 2017, c. 361, §2 (NEW).]

The Office of Program Evaluation and Government Accountability shall provide a report of its evaluation under this subsection to the joint standing committee of the Legislature having jurisdiction over taxation matters by August 15, 2024. Following receipt of the report, the joint standing committee shall determine whether the credit provided under this section is meeting its public policy objectives and whether it should be continued. The joint standing committee may submit a bill to the First Regular Session of the 132nd Legislature to accomplish its recommendations.

[PL 2017, c. 361, §2 (NEW).]

#### SECTION HISTORY

PL 2017, c. 361, §2 (NEW). PL 2019, c. 607, Pt. C, §§5, 6 (AMD).

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**§5219-QQ. Credit for major business headquarters expansions**

**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. [PL 2017, c. 297, §2 (NEW).]

A-1. "Base level of employment" means either the total employment of a qualified applicant as of the March 31st, June 30th, September 30th and December 31st of the calendar year immediately preceding the application for a certificate of approval under subsection 2 divided by 4 or the qualified applicant's average employment during the base period, whichever is greater. [PL 2017, c. 405, §1 (NEW).]

A-2. "Base period" means the 3 calendar years prior to the year in which a qualified applicant's application for a certificate of approval under subsection 2 is approved by the commissioner. [PL 2017, c. 405, §1 (NEW).]

B. "Commissioner" means the Commissioner of Economic and Community Development. [PL 2017, c. 297, §2 (NEW).]

C. "Employees based in the State" means employees that perform more than 50% of employee-related activities for the employer at the headquarters in the State. [PL 2017, c. 297, §2 (NEW).]

D. "Facility" means one or more buildings and includes the real and personal property located in those buildings. [PL 2017, c. 297, §2 (NEW).]

E. "Full-time" means an average of 36 hours weekly during the period of measurement. [PL 2017, c. 297, §2 (NEW).]

F. "Headquarters" means the principal facility from which the applicant directs its national or global business activities, as determined by the commissioner at the time of application. [PL 2017, c. 297, §2 (NEW).]

G. "Qualified applicant" means an applicant that, at the time an application for a certificate of approval is submitted, satisfies all of the following criteria:

- (1) The applicant's headquarters are or will be located in the State;
- (2) The applicant employs at least 5,000 full-time employees worldwide of which at least 25% are or will be based in the State;
- (3) The applicant has business locations in at least 3 other states or foreign countries; and
- (4) The applicant intends to make a qualified investment in the State within 5 years following the date of the application. [PL 2017, c. 405, §1 (AMD).]

H. "Qualified investment" means an investment of at least \$35,000,000 to design, permit, construct, modify, equip or expand the applicant's headquarters in the State. The investments and activities of a qualified applicant and other entities that are members of the qualified applicant's unitary business must be aggregated to determine whether a qualified investment has been made. A qualified investment does not include an investment made prior to the issuance of a certificate of approval or after December 31, 2022. [PL 2017, c. 297, §2 (NEW).]  
[PL 2017, c. 405, §1 (AMD).]

**2. Procedures for application; certificate of approval.** The provisions of this subsection govern the procedures for providing for and obtaining a certificate of approval.

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



certified applicant may apply to the commissioner for an additional certificate of approval. [PL 2017, c. 297, §2 (NEW).]

B. The commissioner, within 30 days of receipt of an application submitted pursuant to paragraph A, shall determine whether the applicant is a qualified applicant and shall issue either a certificate of approval or a written denial indicating why the applicant is not qualified. The certificate issued by the commissioner must describe the qualified investment and specify the total amount of qualified investment approved under the certificate. [PL 2017, c. 297, §2 (NEW).]

C. Upon issuance of a certificate of completion in accordance with paragraph F, the commissioner shall issue, on behalf of the State, a memorandum to the qualified applicant describing the benefits provided by this section at the time the certificate of completion is issued. The memorandum must provide that the certificate of completion does not prohibit the commissioner from revoking a certificate in accordance with paragraph E and does not prohibit the assessor from assessing and collecting an overpaid benefit in accordance with the provisions of this Title. [PL 2017, c. 297, §2 (NEW).]

D. A certified applicant shall obtain approval from the commissioner to transfer the certificate of approval or, if the certified applicant has obtained a certificate of completion, that certificate of completion to another person. A certificate of approval or certificate of completion may be transferred only if all or substantially all of the assets of the certified applicant are, or will be, transferred to that person or if 50% or more of the certified applicant's voting stock is, or will be, acquired by that person. The commissioner shall approve the transfer of the certificate of approval or the certificate of completion only if at least one of the following conditions is satisfied:

- (1) The transferee is a member of the applicant's unitary affiliated group at the time of the transfer; or
- (2) The commissioner finds that the transferee will, and has the capacity to, maintain operations of the headquarters in the State in a manner that meets the minimum qualifications for continued eligibility of benefits under this section after the transfer occurs.

If the commissioner approves the transfer of the certificate, the transferee, from the date of the transfer, must be treated as the certified applicant and as eligible to claim any remaining benefit under the certificate of approval or the certificate of completion that has not been previously claimed by the transferor as long as the transferee meets the same eligibility requirements and conditions for the credit as applied to the original certified applicant. [PL 2017, c. 297, §2 (NEW).]

E. The commissioner shall revoke a certificate of approval if the certified applicant or a person to whom a certificate of approval has been transferred pursuant to paragraph D fails to make a qualified investment within 5 years of the date of the certificate of approval. The commissioner shall revoke a certificate of approval or a certificate of completion if the applicant or transferee ceases operations of the headquarters in the State or the certificate of approval or certificate of completion is transferred to another person without approval from the commissioner pursuant to paragraph D. A certified applicant whose certificate of completion is revoked within 5 years after the date issued shall return to the State an amount equal to the total credits claimed for all tax years under this section. A certified applicant whose certificate of completion is revoked during the period from 6 years after through 10 years after the date the certificate was issued shall return to the State an amount equal to the total credits claimed under this section for the period from 6 years after through 10 years after the date the certificate was issued. If credit amounts are recaptured after a certificate of approval has been transferred as provided in paragraph D, the transferee is responsible for payment of any credit amounts that must be returned to the State. The amount to be returned to the State under this paragraph is, for purposes of this Title, a tax subject to the collection and enforcement provisions contained in Part 1, including the application of applicable

interest and penalties. The amount to be returned to the State must be added to the tax imposed on the taxpayer under this Part for the taxable year during which the certificate is revoked. [PL 2019, c. 401, Pt. D, §1 (RPR).]

F. Upon making the qualified investment and completing the headquarters and employment criteria in subsection 1, paragraph G, a certified applicant shall submit an application to the commissioner for a certificate of completion. If the commissioner determines that a qualified investment has been made, the applicant's headquarters is located in the State and at least 25% of the applicant's full-time employees, as measured at the time of application for the certificate of approval, are based in the State, the commissioner shall issue a certificate of completion to the certified applicant as soon as is practical. The certificate of completion must state the amount of qualified investment made by the certified applicant. [PL 2017, c. 405, §1 (AMD).]

The commissioner may not issue certificates of approval under this subsection that total, in the aggregate, more than \$100,000,000 of qualified investment or any individual certificate of approval for more than \$40,000,000 of qualified investment. [PL 2019, c. 401, Pt. D, §1 (AMD).]

**3. Refundable credit allowed.** A certified applicant who has received a certificate of completion is allowed a credit as provided in this subsection.

A. Subject to the limitations under paragraph B, beginning with the tax year during which the certificate of completion is issued or the tax year beginning in 2020, whichever is later, and for each of the following 19 tax years, a certified applicant is allowed a credit against the tax due under this Part for the taxable year in an amount equal to 2% of the amount of actual qualified investment specified on the certified applicant's certificate of completion under subsection 2, paragraph F or the amount of qualified investment approved by the commissioner in the certificate of approval under subsection 2, paragraph B, whichever is less. The credit allowed under this paragraph is refundable. [PL 2019, c. 401, Pt. D, §2 (RPR).]

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

(1) A credit is not allowed for any tax year during which the taxpayer does not meet or exceed the following employment targets as measured on the last day of the tax year.

(a) For each of the first 10 tax years for which the credit is claimed, there must be a total of at least 80 additional full-time employees based in the State above the certified applicant's base level of employment whose jobs were added since the first day of the first tax year for which the credit was claimed multiplied by the number of years for which the credit has been claimed, including the tax year for which the credit is currently being claimed.

(b) For each tax year after the 10th tax year for which the credit is claimed, the taxpayer must employ a total of at least 800 additional full-time employees based in the State above the certified applicant's base level of employment whose jobs were added since the first day of the first tax year for which the credit was claimed.

Jobs for additional full-time employees that are counted for determining eligibility for the credit under one certificate of completion may not be counted for determining eligibility for the credit under a separate certificate of completion. For purposes of this paragraph, "additional full-time employees" does not include employees who are shifted to a certified applicant's headquarters in the State from an affiliated business in the State. The commissioner shall determine whether a shifting of employees has occurred. For purposes of this paragraph, "affiliated business" has the same meaning as in section 6753, subsection 1-A.

(2) Cumulative credits under this subsection may not exceed \$16,000,000 under any one certificate. [PL 2019, c. 401, Pt. D, §2 (RPR).]

[PL 2019, c. 401, Pt. D, §2 (RPR).]

**4. Reporting required.** A certified applicant, the commissioner and the State Tax Assessor are required to make reports pursuant to this subsection.

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

- (1) The number of all full-time employees based in this State of the certified applicant on the last day of the report year;
- (2) The incremental amount of qualified investment made in the report year;
- (3) The total number of additional full-time employees added in the State by the certified applicant above the certified applicant's base level of employment since the date a certificate of approval was issued;
- (4) The incremental number of additional full-time employees added in the State by the certified applicant above the certified applicant's base level of employment during the report year;
- (5) The average and median wages of all additional full-time employees above the certified applicant's base level of employment in the State whose jobs were added since the first day of the first tax year for which the credit was claimed; and
- (6) The percentage and number of all additional full-time employees above the certified applicant's base level of employment who have access to retirement benefits and health benefits.

The commissioner may prescribe forms for the annual report described in this paragraph. The commissioner shall provide copies of the report to the State Tax Assessor and to the joint standing committee of the Legislature having jurisdiction over taxation matters at the time the report is received. [PL 2019, c. 401, Pt. D, §3 (RPR).]

B. By December 31st of each year, the State Tax Assessor shall report to the joint standing committee of the Legislature having jurisdiction over taxation matters the revenue loss during the report year as a result of this section for each taxpayer claiming the credit and, if necessary, shall include updated revenue loss amounts for any previous tax year. For purposes of this paragraph, "revenue loss" means the credit claimed by the taxpayer and allowed pursuant to this section, consisting of the amount of the credit used to reduce the tax liability of the taxpayer and the amount of the credit refunded to the taxpayer, stated separately. [PL 2019, c. 401, Pt. D, §3 (RPR).]

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

[PL 2019, c. 401, Pt. D, §3 (RPR).]

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

A. That the specific public policy objective of the credit provided under this section is to create and retain high-quality jobs in the State by encouraging major businesses to locate their headquarters in the State or to expand their headquarters in the State. For purposes of this subsection, "high-quality jobs" means jobs for which health insurance benefits and retirement benefits are available; and [PL 2017, c. 405, §1 (NEW).]

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

- (1) The number of additional full-time employees added during a period being reviewed and how employment during that period compares to the minimum employment requirements set forth in subsection 3, paragraph B;
- (2) The amount of qualified investment during a period being reviewed, and how expenditures compare to the minimum level of expenditure set forth in subsection 1, paragraph H;
- (3) The change in the number of major business headquarters located in the State and the number of expansions of those headquarters during a period being reviewed;
- (4) Measures of fiscal impact and overall economic impact to the State; and
- (5) The number of new employees for whom health benefits and retirement benefits are available. [PL 2017, c. 405, §1 (NEW).]

[PL 2017, c. 405, §1 (NEW).]

**REVISOR'S NOTE:** (Subsection 5 as enacted by PL 2017, c. 375, Pt. D, §5 is REALLOCATED TO TITLE 36, SECTION 5219-QQ, SUBSECTION 6)

**6. (REALLOCATED FROM T. 36, §5219-QQ, sub-§5 ) Rules.** The commissioner and the State Tax Assessor may adopt routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A for implementation of the credit under this section, including, but not limited to, rules for determining and certifying eligibility. The commissioner may also by rule establish fees for obligations under this section. Any fees collected pursuant to this section must be deposited into a special revenue account administered by the commissioner, and those fees may be used only to defray the actual costs of administering the credit under this section.

[PL 2019, c. 401, Pt. D, §4 (RAL).]

## SECTION HISTORY

RR 2017, c. 1, §33 (COR). PL 2017, c. 297, §2 (NEW). PL 2017, c. 375, Pt. D, §§3-5 (AMD). PL 2017, c. 405, §1 (AMD). PL 2019, c. 401, Pt. D, §§1-4 (AMD).

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**§5219-VV. Credit for major food processing and manufacturing facility expansion**

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

- A. "Base level of employment" means the greater of:
- (1) The total employment of a qualified applicant as of the March 31st, June 30th, September 30th and December 31st immediately preceding the application for a certificate of approval under subsection 2 divided by 4; and
  - (2) The qualified applicant's average employment during the base period. [PL 2019, c. 386, §2 (NEW).]
- B. "Base period" means the 3 calendar years prior to the year in which a qualified applicant's application for a certificate of approval under subsection 2 is approved by the commissioner. [PL 2019, c. 386, §2 (NEW).]
- C. "Certified applicant" means a qualified applicant that has received a certificate of approval from the commissioner pursuant to this section. [PL 2019, c. 386, §2 (NEW).]
- D. "Commissioner" means the Commissioner of Economic and Community Development. [PL 2019, c. 386, §2 (NEW).]
- E. "Employees based in the State" means employees that perform 100% of employee-related activities for the employer at the facility in the State. [PL 2019, c. 386, §2 (NEW).]
- F. "Facility" means a food processing and manufacturing facility, plant or mill, including one or more structures and including the equipment, machinery, fixtures and personal property located in, on, over, under and adjacent to those structures, by which the applicant, as determined by the commissioner, processes, produces and manufactures food from agricultural products primarily grown and harvested in the State. [PL 2019, c. 659, Pt. H, §1 (AMD).]
- G. "Full-time" means an average of at least 36 hours weekly during the period of measurement. [PL 2019, c. 386, §2 (NEW).]
- H. "Headquarters" means the principal office from which a qualified applicant directs its national or global business activities, as determined by the commissioner at the time of application. [PL 2019, c. 386, §2 (NEW).]
- I. "Primarily grown and harvested in the State" means that not less than 95% of the agricultural products processed in the facility are grown and harvested in the State, except when such products are not reasonably available by reason of an act of God, pestilence, weather or other factors beyond the reasonable control of the applicant or applicant's suppliers. [PL 2019, c. 386, §2 (NEW).]
- J. "Qualified applicant" means an applicant that, at the time an application for a certificate of approval is submitted, is itself, or is the parent or subsidiary of, an entity that satisfies all of the following criteria:
- (1) The applicant's headquarters are, and have been for each of the last 5 years prior to application for a certificate of approval, located in the State;
  - (2) The applicant intends to make a qualified investment in the State within 5 years following the date of the application;
  - (3) Construction of the applicant's facility begins no sooner than April 1, 2019 as evidenced by the date of issuance of an appropriate municipal building permit;
  - (4) The applicant employs or will employ upon start-up of the facility at least 40 full-time employees based in the State; and

(5) The annual income derived from employment with the applicant of at least 75% of the applicant's employees exceeds the most recent annual per capita personal income in the county in which the facility is located. [PL 2019, c. 386, §2 (NEW).]

K. "Qualified investment" means an expenditure of at least \$35,000,000 to design, permit, construct, modify, equip or expand the applicant's facility in the State. The expenditures of a qualified applicant and other entities, whether or not incorporated, that are part of a single business enterprise must be aggregated to determine whether a qualified investment has been made. A qualified investment does not include an expenditure made prior to April 1, 2019 or after December 31, 2024. [PL 2019, c. 659, Pt. H, §2 (AMD).]

[PL 2019, c. 659, Pt. H, §§1, 2 (AMD).]

**2. Procedures for application; certificate of approval.** The provisions of this subsection govern the procedures for providing for and obtaining a certificate of approval.

A. A qualified applicant may apply to the commissioner for a certificate of approval. An applicant shall submit to the commissioner information demonstrating that the applicant is a qualified applicant. If a certified applicant undertakes to make an additional qualified investment, the certified applicant may apply to the commissioner for an additional certificate of approval. [PL 2019, c. 386, §2 (NEW).]

B. The commissioner, within 30 days of receipt of an application submitted pursuant to paragraph A, shall determine whether the applicant is a qualified applicant and shall issue either a certificate of approval or a written denial indicating why the applicant is not qualified. The certificate issued by the commissioner must describe the qualified investment and specify the total amount of qualified investment approved under the certificate. [PL 2019, c. 386, §2 (NEW).]

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

- (1) The transferee is a member of the applicant's unitary affiliated group at the time of the transfer; or
- (2) The commissioner finds that the transferee will, and has the capacity to, maintain operations of the facility in the State in a manner that meets the minimum qualifications for continued eligibility of benefits under this section after the transfer occurs.

If the commissioner approves the transfer of the certificate, the transferee, from the date of the transfer, must be treated as the certified applicant and as eligible to claim any remaining benefit under the certificate of approval or the certificate of completion that has not been previously claimed by the transferor as long as the transferee meets the same eligibility requirements and conditions for the credit as applied to the original certified applicant. [PL 2019, c. 386, §2 (NEW).]

D. The commissioner shall revoke a certificate of approval if the certified applicant or a person to whom a certificate of approval has been transferred pursuant to paragraph C fails to make a qualified investment within 5 years of the date of the certificate of approval. The commissioner shall revoke a certificate of approval or a certificate of completion under paragraph E if the applicant or transferee ceases operations of the facility in the State or the certificate of approval or certificate of completion is transferred to another person without approval from the commissioner

pursuant to paragraph C. A certified applicant whose certificate of completion is revoked within 5 years after the date issued shall return to the State an amount equal to the total credits claimed for all tax years under this section. A certified applicant whose certificate of completion is revoked during the period from 6 years after through 10 years after the date the certificate was issued shall return to the State an amount equal to the total credits claimed under this section for the period from 6 years after through 10 years after the date the certificate was issued. The amount to be returned to the State under this paragraph is, for purposes of this Title, a tax subject to the collection and enforcement provisions contained in Part 1, including the application of applicable interest and penalties. The amount to be returned to the State must be added to the tax imposed on the taxpayer under this Part for the taxable year during which the certificate is revoked. An applicant whose certificate of approval or certificate of completion has been revoked pursuant to this paragraph is not eligible for the tax credit under this section for the tax year in which the certificate is revoked and any year after that. [PL 2019, c. 659, Pt. H, §3 (AMD).]

E. A certified applicant shall submit an application to the commissioner for a certificate of completion. If the commissioner determines that the certified applicant has made a qualified investment and determines that, at the time the application for a certificate of completion is submitted, the certified applicant is itself, or is the parent or subsidiary of, an entity that satisfies all of the criteria in subsection 1, paragraph J, subparagraphs (1) and (5), the commissioner shall issue a certificate of completion to the certified applicant as soon as is practical. The certificate of completion must state the amount of qualified investment made by the certified applicant. [PL 2019, c. 659, Pt. H, §4 (AMD).]

The commissioner may not issue certificates of approval under this subsection that total, in the aggregate, more than \$100,000,000 of qualified investment or any individual certificate of approval for more than \$85,000,000 of qualified investment.

[PL 2019, c. 659, Pt. H, §§3, 4 (AMD).]

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

A. Subject to the limitations under paragraph B, beginning with the first full tax year after the certified applicant has been issued a certificate of completion under subsection 2, paragraph E or the tax year beginning on January 1, 2022, whichever is later, and for each of the following 19 tax years, a certified applicant is allowed a credit against the tax due under this Part for the taxable year in an amount equal to 1.8% of the certified applicant's qualified investment. If the certified applicant is a pass-through entity, the owner or owners of the certified applicant are allowed the credit. The credit allowed under this paragraph is refundable. [PL 2019, c. 386, §2 (NEW).]

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

(1) A credit is not allowed for any tax year during which the taxpayer does not meet or exceed the following employment targets as measured on the last day of the tax year.

(a) For each of the first 3 tax years for which the credit is claimed, there must be a total of at least 40 full-time employees based in the State above the certified applicant's base level of employment whose jobs were added since the first day of the year in which the certificate of approval was issued.

(b) For each tax year after the 3rd tax year for which the credit is claimed, the taxpayer must employ a total of at least 60 full-time employees based in the State above the certified applicant's base level of employment whose jobs were added since the first day of the year in which the certificate of approval was issued.

Jobs for additional full-time employees that are counted for determining eligibility for the credit under one certificate of completion under subsection 2, paragraph E may not be counted for

determining eligibility for the credit under a separate certificate of completion. For purposes of this subparagraph, "additional full-time employees" does not include employees who are shifted to a certified applicant's facility in the State from an affiliated business in the State. The commissioner shall determine whether a shifting of employees has occurred. For purposes of this subparagraph, "affiliated business" has the same meaning as in section 6753, subsection 1-A.

(2) A credit is not allowed for any tax year following 2 consecutive tax years during which the certified applicant did not have between \$5,500,000 and \$12,000,000 in ordinary business income.

(3) Cumulative credits under this subsection may not exceed \$30,600,000 under any one certificate.

(4) A credit is not allowed for any tax year during which the certified applicant does not satisfy all of the following criteria:

- (a) The certified applicant's headquarters are located in the State;
- (b) The certified applicant has a facility in the State; and
- (c) The annual income derived from employment with the certified applicant of at least 75% of the certified applicant's employees exceeds the most recent annual per capita personal income in the county in which the facility is located.

For purposes of this subparagraph, "certified applicant" includes the parent or subsidiary of the certified applicant. [PL 2019, c. 659, Pt. H, §5 (AMD).]

[PL 2019, c. 659, Pt. H, §5 (AMD).]

**4. Appeals.** The applicant or certified applicant may appeal in accordance with Title 5, chapter 375, subchapter 7 any determination, action or failure to act by the commissioner under this section. [PL 2019, c. 386, §2 (NEW).]

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

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

- (1) The number of full-time employees based in the State of the certified applicant on the last day of the report year; and
- (2) The incremental amount of qualified investment made in the report year.

The commissioner may prescribe forms for the annual report described in this paragraph. The commissioner shall provide copies of the report to the assessor, to the Office of Program Evaluation and Government Accountability and to the joint standing committee of the Legislature having jurisdiction over taxation matters at the time the report is received. [PL 2019, c. 607, Pt. C, §7 (AMD); PL 2019, c. 659, Pt. H, §6 (AMD).]

B. By April 1st of each year, the commissioner shall report to the Office of Program Evaluation and Government Accountability and to the joint standing committee of the Legislature having jurisdiction over taxation matters aggregate data on employment levels and qualified investment amounts of certified applicants for each year that the certified applicant claimed a credit under this section. [PL 2019, c. 607, Pt. C, §7 (AMD).]

C. By December 31st of each year, the assessor shall report to the Office of Program Evaluation and Government Accountability and to the joint standing committee of the Legislature having jurisdiction over taxation matters the revenue loss during the report year as a result of this section



for each taxpayer claiming the credit and, if necessary, shall include updated revenue loss amounts for any previous tax year. For purposes of this paragraph, "revenue loss" means the credit claimed by the taxpayer and allowed pursuant to this section, consisting of the amount of the credit used to reduce the tax liability of the taxpayer and the amount of the credit refunded to the taxpayer, stated separately. [PL 2019, c. 607, Pt. C, §7 (NEW).]

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

[PL 2019, c. 607, Pt. C, §7 (AMD); PL 2019, c. 659, Pt. H, §6 (AMD).]

**6. Rulemaking.** The commissioner may adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A to implement this section.

[PL 2019, c. 386, §2 (NEW).]

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

A. That the specific public policy objectives of the credit provided under this section are:

(1) To create high-quality jobs in the State by encouraging major businesses to locate or expand their food processing and manufacturing facilities in this State and to encourage the recruitment and training of employees for these facilities; and

(2) To directly and indirectly improve the overall economy of the State including the agricultural economy, small businesses, employment in rural areas and expansion of the tax base; and [PL 2019, c. 386, §2 (NEW).]

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

(1) The number, geographic distribution and income of full-time employees added or retained during a period being reviewed who would not have been added or retained in the absence of the credit;

(2) The number and amount of qualified investments made by certified applicants during the review period;

(3) The increase in value in agricultural products produced in the State; and

(4) Direct and indirect economic benefits to the State attributable to qualified investments entitled to a credit under this section. [PL 2019, c. 386, §2 (NEW).]

[PL 2019, c. 386, §2 (NEW).]

## SECTION HISTORY

PL 2019, c. 386, §2 (NEW). PL 2019, c. 607, Pt. C, §7 (AMD). PL 2019, c. 659, Pt. H, §§1-6 (AMD).

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**§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. [PL 2021, c. 482, §3 (NEW); PL 2021, c. 485, §3 (AFF).]

B. "Commissioner" means the Commissioner of Economic and Community Development. [PL 2021, c. 482, §3 (NEW); PL 2021, c. 485, §3 (AFF).]

C. "Employee based at a paper manufacturing facility" means an employee who performs more than 50% of the employee's employee-related activities for the employer at a paper manufacturing facility. [PL 2021, c. 482, §3 (NEW); PL 2021, c. 485, §3 (AFF).]

D. "Full-time" means an average of at least 36 hours weekly during the period of measurement. [PL 2021, c. 482, §3 (NEW); PL 2021, c. 485, §3 (AFF).]

E. "Headquarters" has the same meaning as in section 5219-QQ, subsection 1, paragraph F. [PL 2021, c. 482, §3 (NEW); PL 2021, c. 485, §3 (AFF).]

F. "Paper manufacturing facility" means a facility in the State that is used primarily to manufacture paper products, including facilities used in support of such paper manufacturing. [PL 2021, c. 482, §3 (NEW); PL 2021, c. 485, §3 (AFF).]

G. "Qualified applicant" means an applicant that, at the time an application for a certificate of approval is submitted, satisfies the following criteria:

(1) The applicant owns a paper manufacturing facility located in a county in this State with an unemployment rate that is at least 20% higher than the state average unemployment rate, as determined in the most recent annual state and county unemployment rate report issued by the Department of Labor;

(2) The applicant directly employs at least 400 qualified employees, at least 75% of whom earn at least 115% of the most recent annual per capita personal income in the county in which the qualified employee is employed;

(3) The applicant intends to make a qualified investment in the State within 2 years following the date of the application;

(4) The applicant's paper manufacturing facility is not located within a low-income community. As used in this subparagraph, "low-income community" has the same meaning as in the Code, Section 45D(e)(1);

(5) The applicant has not received a qualified low-income community investment under section 5219-HH with respect to the paper manufacturing facility at which the qualified investment is made or intended to be made;

(6) The applicant's headquarters are or will be located in the State; and

(7) The applicant is not certified under the Pine Tree Development Zone program pursuant to Title 30-A, section 5250-O or the Maine Employment Tax Increment Financing Program established in chapter 917. [PL 2021, c. 482, §3 (NEW); PL 2021, c. 485, §3 (AFF).]

H. "Qualified employee" means a full-time employee of the qualified applicant based at a paper manufacturing facility for whom a retirement program subject to the federal Employee Retirement Income Security Act of 1974, 29 United States Code, Chapter 18 and group health insurance are provided and whose income derived from employment at a paper manufacturing facility, calculated on a calendar year basis, is greater than the most recent annual per capita personal income in the

county in which the qualified employee is employed. "Qualified employee" does not include an employee who is transferred, as determined by the commissioner, to a qualified applicant from an affiliated business located in the State. [PL 2021, c. 482, §3 (NEW); PL 2021, c. 485, §3 (AFF).]

I. "Qualified investment" means expenditures of at least \$15,000,000 to design, permit, build, rebuild, modify, replace, repair or acquire machinery or equipment, including supporting equipment, to modernize or improve a paper manufacturing facility. The expenditures of a qualified applicant and other entities, whether or not incorporated, that are part of a single business enterprise must be aggregated to determine whether a qualified investment has been made. A qualified investment includes any amount spent, prior to the issuance of a certificate of approval, on machinery, equipment, repair parts, replacement parts or replacement equipment, including additions and accessions to other machinery and equipment, as long as the machinery, equipment, parts, additions or accessions are placed in service after the issuance of a certificate of approval. A qualified investment does not include an investment made prior to January 1, 2019 or after December 31, 2023. "Qualified investment" does not include any amount expended to qualify for Pine Tree Development Zone program benefits under Title 30-A, chapter 206, subchapter 4. [PL 2021, c. 485, §1 (AMD); PL 2021, c. 485, §3 (AFF).]  
[PL 2021, c. 485, §1 (AMD); PL 2021, c. 485, §3 (AFF).]

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

A. A qualified applicant may apply to the commissioner for a certificate of approval. An applicant shall submit to the commissioner information demonstrating that the applicant is a qualified applicant. If a certified applicant undertakes to make an additional qualified investment, the certified applicant may apply to the commissioner for an additional certificate of approval. [PL 2021, c. 482, §3 (NEW); PL 2021, c. 485, §3 (AFF).]

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

The commissioner may not issue certificates of approval under this subsection that total, in the aggregate, more than \$40,000,000 of qualified investment. [PL 2021, c. 482, §3 (NEW); PL 2021, c. 485, §3 (AFF).]

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

- (1) The transferee is a member of the certified applicant's unitary affiliated group as defined in section 5102, subsection 1-B at the time of the transfer; or
- (2) The commissioner finds that the transferee will, and has the capacity to, maintain operations of the paper manufacturing facility in a manner that meets the minimum qualifications for continued eligibility of benefits under this section after the transfer occurs.

If the commissioner approves the transfer of the certificate, the transferee, from the date of the transfer, must be treated as the certified applicant and as eligible to claim any remaining benefit under the certificate of approval or the certificate of completion that has not been previously claimed by the transferor as long as the transferee meets the same eligibility requirements and conditions for the credit as applied to the original certified applicant. [PL 2021, c. 482, §3 (NEW); PL 2021, c. 485, §3 (AFF).]

D. The commissioner shall revoke a certificate of approval if the certified applicant or a person to whom a certificate of approval has been transferred pursuant to paragraph C fails to make a qualified investment within 2 years of the date of the certificate of approval. The commissioner shall revoke a certificate of approval or a certificate of completion under paragraph E if the applicant or transferee ceases operations of the paper manufacturing facility in the State or the certificate of approval or certificate of completion is transferred to another person without approval from the commissioner pursuant to paragraph C. A certified applicant whose certificate of completion is revoked within 5 years after the date issued shall return to the State an amount equal to the total credits claimed under this section. A certified applicant whose certificate of completion is revoked during the period from 6 years after to 10 years after the date the certificate was issued shall return to the State an amount equal to the total credits claimed under this section for the period from 6 years after to 10 years after the date the certificate was issued. If credit amounts are subject to recapture after a certificate of approval has been transferred as provided in paragraph C, the transferee is responsible for payment of any credit amounts that must be returned to the State. A certified applicant whose certificate of approval or certificate of completion has been revoked pursuant to this paragraph is not eligible for the tax credit under this section for the tax year in which the certificate is revoked and any year thereafter. Any amount to be returned to the State pursuant to this paragraph must be added to the tax imposed on the taxpayer under this Part for the taxable year during which the certificate is revoked. [PL 2021, c. 482, §3 (NEW); PL 2021, c. 485, §3 (AFF).]

E. Upon making a qualified investment, a certified applicant shall submit an application to the commissioner for a certificate of completion. If the commissioner determines that a qualified investment has been made, the commissioner shall issue a certificate of completion to the certified applicant as soon as is practical. The certificate of completion must state the amount of qualified investment made by the certified applicant. [PL 2021, c. 482, §3 (NEW); PL 2021, c. 485, §3 (AFF).]

F. Upon issuance of a certificate of completion in accordance with paragraph E, the commissioner shall issue, on behalf of the State, a memorandum to the qualified applicant describing the tax credits provided by this section to the applicant at the time the certificate of completion is issued. The memorandum must provide that the certificate of completion does not prohibit the commissioner from revoking a certificate in accordance with paragraph D and does not prohibit the assessor from assessing and collecting an overpaid benefit in accordance with the provisions of this Title. [PL 2021, c. 482, §3 (NEW); PL 2021, c. 485, §3 (AFF).]

[PL 2021, c. 482, §3 (NEW); PL 2021, c. 485, §3 (AFF).]

**3. Refundable credit allowed.** For tax years beginning on or after January 1, 2024, a certified applicant is allowed a credit as provided in this subsection.

A. Subject to the limitations under paragraph B, beginning with the tax year during which a certificate of completion is issued under subsection 2, paragraph E or the tax year beginning in 2024, whichever is later, and for each of the following 9 tax years, a certified applicant is allowed a credit against the tax due under this Part for the taxable year in an amount equal to 4% of the certified applicant's qualified investment.

The credit allowed under this subsection is refundable. [PL 2021, c. 485, §2 (AMD); PL 2021, c. 485, §3 (AFF).]

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

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

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

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

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

(5) A credit is not allowed to any person for any tax year during which the headquarters of the certified applicant are not located in the State. [PL 2021, c. 482, §3 (NEW); PL 2021, c. 485, §3 (AFF).]

[PL 2021, c. 485, §2 (AMD); PL 2021, c. 485, §3 (AFF).]

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

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

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

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

The commissioner may prescribe forms for the annual report described in this paragraph. The commissioner shall provide copies of the report to the assessor and to the joint standing committee of the Legislature having jurisdiction over taxation matters at the time the report is received. [PL 2021, c. 482, §3 (NEW); PL 2021, c. 485, §3 (AFF).]

B. By April 1st of each year, the commissioner shall report to the joint standing committee of the Legislature having jurisdiction over taxation matters aggregate data on employment levels and qualified investment amounts of certified applicants for each year that a certified applicant claimed a credit under this section. [PL 2021, c. 482, §3 (NEW); PL 2021, c. 485, §3 (AFF).]

C. By December 31st of each year, beginning in 2025, the assessor shall report to the joint standing committee of the Legislature having jurisdiction over taxation matters the revenue loss during the report year as a result of this section for each taxpayer claiming the credit and, if necessary, shall include updated revenue loss amounts for any previous tax year. For purposes of this paragraph, "revenue loss" means the credit claimed by the taxpayer and allowed pursuant to this section, consisting of the amount of the credit used to reduce the tax liability of the taxpayer and the amount of the credit refunded to the taxpayer, stated separately. [PL 2021, c. 482, §3 (NEW); PL 2021, c. 485, §3 (AFF).]

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

[PL 2021, c. 482, §3 (NEW); PL 2021, c. 485, §3 (AFF).]

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

[PL 2021, c. 482, §3 (NEW); PL 2021, c. 485, §3 (AFF).]

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

A. That the specific public policy objectives of the credit provided under this section are to provide incentives for the revitalization of paper manufacturing facilities in counties with high unemployment and to create or retain high-quality jobs in the State by encouraging paper manufacturers to modernize their paper manufacturing equipment to better compete in the marketplace; and [PL 2021, c. 482, §3 (NEW); PL 2021, c. 485, §3 (AFF).]

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

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

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

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

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

(5) Measures of fiscal impact and overall economic impact to the State and to the regions in which certified applicants are located. [PL 2021, c. 482, §3 (NEW); PL 2021, c. 485, §3 (AFF).]

[PL 2021, c. 482, §3 (NEW); PL 2021, c. 485, §3 (AFF).]

**REVISOR'S NOTE:** §5219-YY. Access to justice credit (As enacted by PL 2021, c. 473, §2 is REALLOCATED TO TITLE 36, SECTION 5219-ZZ)

#### SECTION HISTORY

PL 2021, c. 482, §3 (NEW). PL 2021, c. 485, §§1, 2 (AMD). PL 2021, c. 485, §3 (AFF).

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