

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

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

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

DDD. The disclosure to the joint standing committee of the Legislature having jurisdiction over taxation matters pursuant to section 5219-QQ, subsection 4, paragraph B of the revenue loss, including the loss due to refundable credits, attributable to each taxpayer claiming the tax credit for major business headquarters expansions provided under that section, regardless of the number of persons eligible for the credit.

**Sec. 2. 36 MRSA §5219-QQ** is enacted to read:

**§ 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.

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

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.

D. "Facility" means one or more buildings and includes the real and personal property located in those buildings.

E. "Full-time" means an average of 36 hours weekly during the period of measurement.

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.

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 this 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.

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.

**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.

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.

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.

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.

E. The commissioner must 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 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 within 60 days following revocation of the certificate 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 through 10 years after the date the certificate was issued shall within 60 days following revocation of the certificate 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.

F. Upon making the qualified investment and completing the headquarters and employment criteria in subsection 1, paragraph H, 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 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.

**3. Refundable credit allowed.** A qualified 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 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 certified applicant's qualified investment. The credit allowed under this paragraph is refundable.

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 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.

(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 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.

(2) Cumulative credits under this subsection may not exceed \$16,000,000 under any one certificate.

**4. Reporting required.** A certified applicant and the commissioner 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 full-time employees based in this State of the certified applicant on the last day of the tax year ending during the calendar year immediately preceding 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 State Tax Assessor and to the joint standing committee of the Legislature having jurisdiction over taxation matters at the time the report is received.

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, and the State Tax Assessor shall report to the committee the revenue loss during the previous calendar year, including the loss due to refundable credits, as a result of this section for each taxpayer claiming the credit.

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.

**Sec. 3. Credit design evaluation.** By February 28, 2018, the Office of Program Evaluation and Government Accountability, referred to in this section as "the office," shall complete and submit to the Joint Standing Committee on Taxation and the Government Oversight Committee a tax expenditure design evaluation review of the credit for major business headquarters expansions established under the Maine Revised Statutes, Title 36, section 5219-QQ, referred to in this section as "the tax expenditure." The review must include an assessment of:

1. The extent to which the design of the tax expenditure supports accomplishment of the tax expenditure's purposes, intent and goals;
2. The extent to which the design of the tax expenditure directs benefits to the intended beneficiaries; and
3. The extent to which the State's current or planned administration of the tax expenditure, including enforcement efforts, is efficient and effective.

The office shall include with the review recommended performance measures appropriate for analyzing the evaluation objectives established for full evaluations under Title 3, section 999, subsection 1, paragraph A and make recommendations regarding data that would be necessary to perform the analyses. The Joint Standing Committee on Taxation may submit a bill to the Second Regular Session of the 128th Legislature regarding the credit for major business headquarters expansions.

**Sec. 4. Legislative findings, purpose.** The Legislature finds that it is in the best interest of the people of the State of Maine to encourage the location and expansion of major business headquarters in the State and to encourage the recruitment and training of employees for these facilities. The Legislature further finds that the location and expansion of major business headquarters in Maine will create jobs, benefit small businesses that supply goods and services to the major business headquarters and its employees, increase the tax base and provide many other direct and indirect economic benefits to the State.

The purpose of this credit is to create high-quality jobs in the State by encouraging major businesses to locate their headquarters in this State or to expand their headquarters in the State.'

## SUMMARY

This amendment makes the following changes to the bill.

1. It removes provisions authorizing a taxpayer receiving the headquarters credit to have any unused credit carry-forward for the research expense tax credit, super credit for substantial expansions of research and development, jobs and investment tax credit and Maine capital investment credit be made refundable for any tax year to the extent of the headquarters credit.

2. It removes from consideration as qualified investments expenditures for employee training and education and payment of student loan debt.

3. It provides that no credit may be claimed in any year in which employment targets are not met. During the first 10 tax years for which the credit is claimed, the employment target is a rolling average of 80 new full-time Maine jobs added per year. In the first year of the credit, the 80 new jobs may include employees added since the first day of the tax year to account for the fact that the certificate of completion may be granted late in the tax year. In years 11 through 20 of the credit, the employment target requires that the 800 jobs created in years 1 through 10 be sustained. The amendment also provides that new jobs may not be counted to establish eligibility under more than one certificate of completion.

4. It provides that if the certificate of completion is transferred the transferee must meet the same eligibility requirements and conditions as applied to the original certified applicant.

5. It provides that reports by the taxpayer and the State Tax Assessor are public records and provides that the State Tax Assessor must disclose information regarding credits received to the joint standing committee of the Legislature having jurisdiction over taxation matters.

6. It requires the Office of Program Evaluation and Government Accountability to complete a design evaluation review of the credit, identifying the extent to which the design of the credit supports the accomplishment of the credit's purposes, intent and goals, the extent to which benefits are directed to the intended beneficiaries and the extent to which the administration of the credit is efficient and effective. The office is directed to include with its evaluation recommended performance measures for the credit and an identification of the data needed for effective evaluation.

7. It provides that the purpose of the credit is to create high-quality jobs in the State by encouraging the location or expansion of the headquarters of major businesses in the State.

8. It makes technical corrections.