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Date: (Filing No. H- )

**TAXATION**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
128TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1227, L.D. 1781, Bill, “An Act To Encourage New Major Investments in Shipbuilding Facilities and the Preservation of Jobs”

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, ¶¶EEE and FFF** are enacted to read:

EEE. The disclosure to the joint standing committee of the Legislature having jurisdiction over taxation matters pursuant to section 5219-RR, subsection 9, paragraph B of the revenue loss attributable to each taxpayer claiming the tax credit under that section, regardless of the number of persons eligible for the credit; and

FFF. The disclosure of information to the Department of Economic and Community Development necessary for the administration of the tax credit for major shipbuilding facility investments pursuant to section 5219-RR.

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

**§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.

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

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.

D. "Full-time" means an average of at least 32 hours weekly during the tax year.

**COMMITTEE AMENDMENT**

1           E. "Maine shipbuilding facility" means a facility or facilities located within the State  
2           dedicated to the design, production, maintenance and repair of surface water vessels  
3           and includes real estate, tangible personal property, fixtures, machinery and  
4           equipment necessary for those activities.

5           F. "Measurement day" means the last business day of every other month of a tax  
6           year.

7           G. "Qualified applicant" means an applicant for a tax credit under this section that  
8           satisfies each of the following requirements:

9                   (1) The applicant owns and operates or proposes to construct a Maine  
10                  shipbuilding facility;

11                  (2) The applicant proposes to make a qualified investment; and

12                  (3) The applicant employs at least 5,000 qualified employees at the time the  
13                  application is filed.

14           H. "Qualified employee" means an individual:

15                   (1) Who is a full-time employee of the certified or qualified applicant, as the  
16                   case may be, working at a Maine shipbuilding facility owned and operated by  
17                   that applicant;

18                   (2) Whose income from that employment is taxable under chapter 803;

19                   (3) For whom a retirement program is provided subject to the federal Employee  
20                   Retirement Income Security Act of 1974, 29 United States Code, Sections 1001  
21                   to 1461, as amended;

22                   (4) For whom group health insurance is provided; and

23                   (5) Whose income derived from employment with the Maine shipbuilding  
24                   facility calculated on a calendar year basis is greater than the average annual per  
25                   capita income in the State.

26           I. "Qualified investment" means expenditures incurred on or after January 1, 2018  
27           that total at least \$100,000,000 and are related to the construction, improvement,  
28           modernization or expansion of a Maine shipbuilding facility, including, without  
29           limitation, all expenditures for investigation; planning; design; engineering;  
30           permitting; acquisition; financing; construction; demolition; alteration; relocation;  
31           remodeling; repair; reconstruction; design, purchase or installation of machinery and  
32           equipment; clearing; filling; grading; reclamation of land; activities undertaken to  
33           upgrade a waterway serving the facility; training and development of employees;  
34           capitalized interest; professional services, including, but not limited to, architectural,  
35           engineering, legal, accounting or financial services; administration; environmental  
36           and utility costs, including, without limitation, sewage treatment plants, water, air and  
37           solid waste equipment and treatment plants, environmental protection devices,  
38           electrical facilities, storm or sanitary sewer lines, water lines or amenities, any other  
39           utility services, preparation of environmental impact studies, informing the public  
40           about the facility and environmental impact and environmental remediation,  
41           mitigation, clean-up and protection costs; related offices, support facilities and

1 structures; and any of the foregoing expenditures made or costs incurred prior to or  
2 after the effective date of this section or certification of an applicant. "Qualified  
3 investment" includes only expenditures that are capitalized for federal income tax  
4 purposes. Except for employees who are engaged in the design, engineering and  
5 construction of the facility, "qualified investment" does not include the salaries or  
6 other compensation paid to the employees of the qualified applicant or of any affiliate  
7 of the qualified applicant. "Qualified investment" does not include any expenditure  
8 included as a qualified investment by an applicant under chapter 919.

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

11 A. A qualified applicant may apply to the commissioner for a certificate of approval.  
12 An applicant shall submit to the commissioner information demonstrating that the  
13 applicant is a qualified applicant. A certified applicant may hold only one certificate  
14 under this section at any time.

15 B. The commissioner, within 30 days of receipt of an application under paragraph A,  
16 shall review the information contained in the application and issue a written  
17 determination as to whether the applicant is a qualified applicant. If the commissioner  
18 determines that the applicant is a qualified applicant, the commissioner shall issue a  
19 certificate of approval to the qualified applicant at the time of the determination. If  
20 the commissioner determines that the applicant is not a qualified applicant, the  
21 commissioner shall issue a denial of the application at the time of the determination.

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

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

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

38 If the commissioner grants a transfer of the certificate of approval, the transferee  
39 must be treated as the certified applicant for all purposes of this section. For purposes  
40 of calculation of employment and qualified investments of the certified applicant, the  
41 qualified employees and the qualified investments of the transferor prior to transfer  
42 must be considered the qualified employees and qualified investments of the  
43 transferee.

1           D. The applicant or certified applicant may appeal in accordance with Title 5,  
2           chapter 375, subchapter 7 any determination, action or failure to act by the  
3           commissioner.

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

6           A. Beginning with the tax year after the certified applicant has made qualified  
7           investments of at least \$100,000,000, or the tax year beginning on or after January 1,  
8           2020, whichever is later, and for each of the following 9 tax years, a certified  
9           applicant is allowed a credit against the tax due under this Part for each taxable year  
10           in an amount equal to 3% of the certified applicant's total qualified investment.

11           B. If a certified applicant completes an additional qualified investment of at least  
12           \$100,000,000 prior to January 1, 2025, the certified applicant is allowed a credit  
13           against the tax due under this Part beginning with the 11th tax year after the  
14           investment required in paragraph A was made and continuing through the 15th tax  
15           year after making that investment. The amount of the additional credit available in  
16           each of those tax years is 3% of the certified applicant's additional qualified  
17           investment. Eligibility for the additional credit must be demonstrated by the certified  
18           applicant in the annual reports submitted pursuant to subsection 9.

19           C. The credit allowed under this subsection may not reduce the tax otherwise due  
20           under this Part to less than zero.

21           **4. Limitations.** The following are limitations on the credit allowed under subsection  
22           3.

23           A. Except as provided in subsection 5, the annual credit allowed to a certified  
24           applicant or its transferee may not exceed \$3,000,000 in any tax year. Cumulative  
25           credits taken under subsection 3, paragraph A may not exceed \$30,000,000 to any  
26           certified applicant or transferee. Total cumulative credits taken under this section  
27           may not exceed \$45,000,000 to any certified applicant or transferee.

28           B. For a tax year in which the qualified applicant has employment of fewer than  
29           5,500, the amount of the credit is reduced as provided in subsection 6.

30           C. A taxpayer that is certified as a qualified Pine Tree Development Zone business  
31           under Title 30-A, section 5250-O or that has received a certificate of approval for its  
32           employment tax increment financing program pursuant to section 6755 is not eligible  
33           for a credit under this section.

34           D. In no case may the credit be claimed for a tax year that begins after December 31,  
35           2034.

36           **5. Accelerated credit.** If a certified applicant has employment in any tax year of at  
37           least 6,000, the credit limitation in subsection 4, paragraph A is increased to \$3,125,000  
38           for that tax year. If employment is at least 6,500, the credit limitation is increased to  
39           \$3,250,000. If employment is at least 7,000, the credit is increased to \$3,375,000. If  
40           employment is 7,500 or more, the credit is increased to \$3,500,000.

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

4           A. If a certified applicant has employment in a tax year of fewer than 5,500 but at  
5 least 5,250, the credit for that year is 90% of the credit otherwise allowed under  
6 subsection 3.

7           B. If a certified applicant has employment in a tax year of fewer than 5,250 but at  
8 least 5,000, the credit authorized for that year is 80% of the credit otherwise allowed  
9 under subsection 3.

10          C. If a certified applicant has employment in a tax year of fewer than 5,000 but at  
11 least 4,750, the credit for that year is 70% of the credit otherwise allowed under  
12 subsection 3.

13          D. If a certified applicant has employment in a tax year of fewer than 4,750 but at  
14 least 4,500, the credit for that year is 60% of the credit otherwise allowed under  
15 subsection 3.

16          E. If a certified applicant has employment in a tax year of fewer than 4,500 but at  
17 least 4,250, the credit for that year is 50% of the credit otherwise allowed under  
18 subsection 3.

19          F. If a certified applicant has employment in a tax year of fewer than 4,250 but at  
20 least 4,000, the credit for that year is 40% of the credit otherwise allowed under  
21 subsection 3.

22          G. If a certified applicant has employment in a tax year of fewer than 4,000, the  
23 credit allowed under subsection 3 may not be taken.

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

27           **8. Additional requirements.** A certified applicant, when awarding contracts,  
28 purchasing supplies or subcontracting work related to a qualified investment, shall give  
29 preference, to the greatest extent possible, to Maine workers, companies and bidders as  
30 long as the supplies, products, services and bids meet the standards required by the  
31 certified applicant regarding value, quality, delivery terms and price.

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

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

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

- 1                    (a) The number of qualified employees that are employed by the certified  
2                    applicant at the end of the report year;
- 3                    (b) The total number of qualified employees hired during the report year;  
4                    and
- 5                    (c) The number of qualified employees in positions that are covered by a  
6                    collective bargaining agreement;
- 7                    (2) The total dollar amount of payroll associated with employment in the report  
8                    year, including specific information on:
- 9                    (a) The average annual salary and wages for qualified employees; and
- 10                   (b) The median annual salary and wages for qualified employees;
- 11                   (3) The total dollar amount that was spent on goods and services obtained from  
12                   businesses with an office in the State from which business operations in the State  
13                   are managed; and
- 14                   (4) The incremental level of qualified investments made during the report year,  
15                   including specific information on:
- 16                   (a) The amount of qualified investment in facility, production equipment and  
17                   employee training and development, reported as an aggregate sum;
- 18                   (b) The portion of the qualified investment reported under subparagraph (a)  
19                   that was spent on goods and services from businesses with an office in the  
20                   State from which business operations in the State are managed; and
- 21                   (c) Whether the certified applicant has qualified for the additional credit  
22                   under subsection 3, paragraph B.

23                   The commissioner may prescribe forms for the annual reports required under this  
24                   paragraph. The commissioner shall provide copies of the report to the State Tax  
25                   Assessor and to the joint standing committee of the Legislature having jurisdiction  
26                   over taxation matters at the time the report is received.

27                   B. On or before April 1st annually, the commissioner shall report to the joint  
28                   standing committee of the Legislature having jurisdiction over taxation matters  
29                   aggregate data, with detail consistent with information required of certified applicants  
30                   under paragraph A, on employment levels and qualified investment amounts of  
31                   certified applicants for each year beginning with expenditures incurred on or after  
32                   January 1, 2018.

33                   C. The State Tax Assessor shall report to the joint standing committee of the  
34                   Legislature having jurisdiction over taxation matters the revenue loss during each  
35                   state fiscal year as a result of this section for each taxpayer claiming the credit.

36                   **10. Evaluation; specific public policy objective; performance measures.** The  
37                   credit provided under this section is subject to ongoing legislative review in accordance  
38                   with Title 3, chapter 37. In developing evaluation parameters to perform the review, the  
39                   Office of Program Evaluation and Government Accountability, the Legislature's

1 government oversight committee and the joint standing committee of the Legislature  
2 having jurisdiction over taxation matters shall consider:

3 A. That the specific public policy objective of the credit provided under this section  
4 is to create and retain jobs in the shipbuilding industry in this State by providing an  
5 income tax credit to reduce the cost of investments in shipbuilding businesses and  
6 thereby encourage investment in shipbuilding businesses and improve the  
7 competitiveness of this State's shipbuilding industry; and

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

9 (1) Employment during the period being reviewed and how employment during  
10 that period compares to the minimum employment requirements set forth in  
11 subsection 4, paragraph B;

12 (2) The amount of qualified investment during the period being reviewed, and  
13 how expenditures compare to the minimum level of expenditure set forth in  
14 subsection 1, paragraph I;

15 (3) Measures of industry competitiveness;

16 (4) Measures of fiscal impact and overall economic impact to the State; and

17 (5) Information regarding the procedures for ensuring compliance with the  
18 preference requirements under subsection 8.

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

## 26 SUMMARY

27 This amendment makes the following changes to the bill.

28 1. It changes the duration of the tax credit provided by the bill to a maximum of 15  
29 years and requires an investment of at least \$100,000,000 be made to qualify for the first  
30 10 years and an additional investment of \$100,000,000 to qualify for the next 5 years.

31 2. It changes the calculation for accelerated credits by changing the number of  
32 qualified employees required and providing that the amount of accelerated credit is a  
33 specified amount rather than a percentage.

34 3. It provides a reduced credit for years when employment drops below specified  
35 levels and eliminates the availability of exception years.

36 4. It removes provisions making the credit refundable.

37 5. It provides that a certified applicant may not receive the credit if it is a qualified  
38 Pine Tree Development Zone business or has received a certificate of approval for an  
39 employment tax increment financing program.

