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TAXATION

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STATE OF MAINE
SENATE
127TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to S.P. 462, L.D. 1287, Bill, "An Act To Ensure That Tax Expenditures Create High-quality Jobs"

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

PART A

Sec. A-1. 30-A MRSA §5250-O, as amended by PL 2007, c. 263, §1, is repealed and the following enacted in its place:

§5250-O. Certification of qualified business; high-quality jobs requirement

1. Certification. A business may apply to the commissioner for certification as a qualified Pine Tree Development Zone business. Upon review and determination by the commissioner that a business is a qualified Pine Tree Development Zone business, the commissioner shall issue a certificate of qualification to the business that includes a description of the qualified business activity for which the certificate is being issued. Prior to issuing a certificate of qualification, the commissioner must find that the business activity meets the requirements of subsection 2 and will not result in a substantial detriment to existing businesses in the State. In order to make this determination, the commissioner shall consider those factors the commissioner determines necessary to measure and evaluate the effect of the proposed business activity on existing businesses, including whether any adverse economic effect of the proposed business activity on existing businesses is outweighed by the contribution to the economic well-being of the State. The State Economist must review applications under this section and provide an advisory opinion to assist the commissioner in making findings under this section.

2. Conditions of eligibility; high-quality jobs. To qualify for certification as a qualified Pine Tree Development Zone business under subsection 1, in addition to the other requirements of this chapter, the applicant must demonstrate that:

A. The business will create or retain employment positions that pay at least 80% of the statewide average for the positions created or retained as determined by the

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1 Department of Labor or 120% of the statewide average of wages for all occupations
 2 as determined by the Department of Labor, whichever is greater;

3 B. The business creating or retaining the positions under paragraph A agrees to
 4 provide a written estimate to a newly hired employee detailing the minimum number
 5 of scheduled hours and scheduled shifts per month for that employee, including the
 6 days and hours of shifts; and

7 C. The business creating or retaining the positions under paragraph A agrees to offer
 8 a part-time employee additional hours before hiring a new employee. For purposes
 9 of this paragraph, a part-time employee is an employee who customarily works less
 10 than 30 hours each week.

11 **3. Verification and enforcement of conditions of eligibility.** The department shall
 12 require annual reporting by each person certified as a qualified Pine Tree Development
 13 Zone business under subsection 1 indicating whether the certified business continues to
 14 meet the requirements of subsection 2. The department shall determine continuing
 15 eligibility annually and shall report to the State Tax Assessor if any certified business
 16 ceases to meet the requirements of subsection 2 and shall indicate the percentage of
 17 noncompliance. The department shall adopt rules providing a process for calculating the
 18 percentage of noncompliance.

19 **4. Rules.** The department shall adopt rules to implement subsections 2 and 3. Rules
 20 adopted under this subsection are major substantive rules as defined by Title 5, chapter
 21 375, subchapter 2-A.

22 **Sec. A-3. 36 MRSA §5219-W, sub-§6** is enacted to read:

23 **6. Cessation of eligibility.** For tax years beginning on or after January 1, 2016, a
 24 taxpayer's eligibility for a credit under this section is reduced for any year for which the
 25 Department of Economic and Community Development has reported to the State Tax
 26 Assessor under Title 30-A, section 5250-O, subsection 3 that the taxpayer has ceased to
 27 meet the eligibility requirements for certification. The percentage reduction in the credit
 28 must be the same as the percentage of noncompliance reported by the department.

29 **Sec. A-5. Effective date.** This Part takes effect September 1, 2016.

30 **PART B**

31 **Sec. B-1. 10 MRSA §1100-Z, sub-§3, ¶I** is enacted to read:

32 I. The authority may not certify qualified equity investments or long-term debt
 33 securities under paragraph G as eligible for tax credits under Title 36, section
 34 5219-HH unless the qualified community development entity seeking certification
 35 satisfies the requirements of subsection 8 or 9.

36 **Sec. B-2. 10 MRSA §1100-Z, sub-§7**, as enacted by PL 2011, c. 380, Pt. Q, §1
 37 and affected by §7, is amended to read:

38 **7. Rules.** By December 30, 2011, the authority shall adopt rules necessary to
 39 implement this section. Rules adopted pursuant to this subsection are routine technical

1 rules under Title 5, chapter 375, subchapter 2-A except that the authority shall adopt
2 major substantive rules to implement subsections 8 to 10.

3 **Sec. B-3. 10 MRSA §1100-Z, sub-§§8 to 10** are enacted to read:

4 **8. High-quality jobs requirement.** To qualify for certification of a qualified equity
5 investment or long-term debt securities for a credit under Title 36, section 5219-HH, a
6 qualified community development entity must demonstrate that the requirements of this
7 subsection or subsection 9 are met:

8 A. The business or businesses that are the subject of the investment that forms the
9 basis for a credit under this section will create or retain employment positions that
10 pay at least 80% of the statewide average for the positions created or retained as
11 determined by the Department of Labor or 120% of the statewide average of wages
12 for all occupations as determined by the Department of Labor, whichever is greater;

13 B. The business creating or retaining the positions under paragraph A agrees to
14 provide a written estimate to a newly hired employee detailing the minimum number
15 of scheduled hours and scheduled shifts per month for that employee, including the
16 days and hours of shifts; and

17 C. The business creating or retaining the positions under paragraph A agrees to offer
18 a part-time employee additional hours before hiring a new employee. For purposes
19 of this paragraph, a part-time employee is an employee who customarily works less
20 than 30 hours each week.

21 **9. Alternate means of establishing eligibility.** To qualify for certification of a
22 qualified equity investment or long-term debt securities for a credit under Title 36,
23 section 5219-HH, a qualified community development entity may demonstrate that it has
24 entered into a community benefits agreement that provides tangible benefits to the
25 workers in the affected community. A community benefits agreement under this
26 subsection must set out specific measurable goals related to borrower operations and
27 broader community improvements and include measurable goals, reporting requirements,
28 penalty provisions and at least one of the following:

29 A. The creation of high-quality jobs;

30 B. Positive environmental impacts, including, but not limited to, environmentally
31 sustainable construction standards, avoided greenhouse gas emissions, resource
32 efficiency and avoided pollution;

33 C. Development of a skilled workforce through, for example, the provision of
34 educational scholarships and workforce development programs and training; or

35 D. Nonprofit, educational or governmental community supportive tenants.

36 **10. Verification and enforcement of conditions of eligibility; rules.** The authority
37 shall require annual reporting by each qualified community development entity with a tax
38 credit approved under subsection 3, paragraph G indicating whether the entity continues
39 to meet the requirements of eligibility. The authority shall determine continuing
40 eligibility annually and shall report to the State Tax Assessor if any qualified equity
41 investment or long-term debt security ceases to meet the eligibility requirements for the
42 tax credit and shall indicate percentage of noncompliance. The authority shall adopt rules

1 providing a process for calculating the percentage of noncompliance. Rules adopted
2 under this subsection are major substantive rules as defined in Title 5, chapter 375,
3 subchapter 2-A.

4 **Sec. B-4. 36 MRSA §5219-HH, sub-§8** is enacted to read:

5 **8. Cessation of eligibility.** For tax years beginning on or after January 1, 2016, a
6 taxpayer's credit under this section is reduced for any year for which the authority has
7 reported to the State Tax Assessor under Title 10, section 1100-Z, subsection 10 that the
8 taxpayer has ceased to meet the eligibility requirements for the tax credit. The percentage
9 reduction in the credit must be the same as the percentage of noncompliance reported by
10 the authority.

11 **Sec. B-5. Effective date.** This Part takes effect September 1, 2016.

12 **PART C**

13 **Sec. C-1. 10 MRSA §1100-T, sub-§§7 and 8** are enacted to read:

14 **7. High-quality jobs requirement.** To qualify for certification of an investment for
15 a credit under Title 36, section 5216-B, a person seeking certification must demonstrate
16 that the investment meets the requirements of this subsection:

17 A. The business or businesses that are the subject of the investment that forms the
18 basis for a credit under this section will create or retain employment positions that
19 pay at least 80% of the statewide average for the positions created or retained as
20 determined by the Department of Labor or 120% of the statewide average of wages
21 for all occupations as determined by the Department of Labor, whichever is greater;

22 B. The business creating or retaining the positions under paragraph A agrees to
23 provide a written estimate to a newly hired employee detailing the minimum number
24 of scheduled hours and scheduled shifts per month for that employee, including the
25 days and hours of shifts; and

26 C. The business creating or retaining the positions under paragraph A agrees to offer
27 a part-time employee additional hours before hiring a new employee. For purposes
28 of this paragraph, a part-time employee is an employee who customarily works less
29 than 30 hours each week.

30 The authority shall adopt major substantive rules under Title 5, chapter 375, subchapter
31 2-A to implement this subsection.

32 **8. Verification and enforcement of conditions of eligibility; rules.** The authority
33 shall require annual reporting by each person with a certified tax credit under this section
34 indicating whether each business that is the subject of the investment continues to meet
35 the requirements of eligibility for the certification. The authority shall determine
36 continuing eligibility annually and shall report to the State Tax Assessor if any
37 investment ceases to meet the eligibility requirements for certification and shall indicate
38 the percentage of noncompliance. The authority shall adopt major substantive rules
39 pursuant to Title 5, chapter 375, subchapter 2-A to implement this subsection.

40 **Sec. C-2. 36 MRSA §5216-B, sub-§6,** is enacted to read:

1 6. Cessation of eligibility. Notwithstanding subsection 2, for tax years beginning on
 2 or after January 1, 2016, a taxpayer's credit under this section is reduced for any year for
 3 which the authority has reported to the State Tax Assessor under Title 10, section 1100-T,
 4 subsection 8 that the taxpayer has ceased to meet the eligibility requirements for
 5 certification. The percentage reduction in the credit must be the same as the percentage
 6 of noncompliance reported by the authority.

7 **Sec. C-3. Effective date.** This Part takes effect September 1, 2016.

8 **PART D**

9 **Sec. D-1. Verification of employment standards.** The Department of
 10 Administrative and Financial Services, Maine Revenue Services, the Department of
 11 Economic and Community Development and the Finance Authority of Maine shall jointly
 12 evaluate options for verification of taxpayer compliance with the employment standards
 13 required as conditions of eligibility for income tax credits under this Act and shall report
 14 to the Joint Standing Committee on Taxation by January 15, 2016 their recommendations
 15 with regard to the penalties imposed for noncompliance and any statutory changes
 16 necessary to enforce the penalties for noncompliance. The committee may submit
 17 legislation to the Second Regular Session of the 127th Legislature related to the report.

18 **PART E**

19 **Sec. E-1. Appropriations and allocations.** The following appropriations and
 20 allocations are made.

21 **ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF**
 22 **Business Development 0585**
 23 Initiative: Provides funds for one Project Development Officer position and related All
 24 Other necessary to verify and enforce the high-quality jobs requirement.

25	GENERAL FUND	2015-16	2016-17
26	POSITIONS - LEGISLATIVE COUNT	1.000	1.000
27	Personal Services	\$49,530	\$67,954
28	All Other	\$60,000	\$25,000
29			
30	GENERAL FUND TOTAL	\$109,530	\$92,954

31	ECONOMIC AND COMMUNITY		
32	DEVELOPMENT, DEPARTMENT OF		
33	DEPARTMENT TOTALS	2015-16	2016-17
34			
35	GENERAL FUND	\$109,530	\$92,954
36			

1	DEPARTMENT TOTAL - ALL FUNDS	\$109,530	\$92,954
2	FINANCE AUTHORITY OF MAINE		
3	Finance Authority of Maine 0582		
4	Initiative: Provides funds for one half-time position to verify and enforce the high-quality		
5	jobs requirement.		
6	GENERAL FUND	2015-16	2016-17
7	All Other	\$38,573	\$53,487
8			
9	GENERAL FUND TOTAL	\$38,573	\$53,487
10	FINANCE AUTHORITY OF MAINE		
11	DEPARTMENT TOTALS	2015-16	2016-17
12			
13	GENERAL FUND	\$38,573	\$53,487
14			
15	DEPARTMENT TOTAL - ALL FUNDS	\$38,573	\$53,487
16	SECTION TOTALS	2015-16	2016-17
17			
18	GENERAL FUND	\$148,103	\$146,441
19			
20	SECTION TOTAL - ALL FUNDS	\$148,103	\$146,441
21			

SUMMARY

This amendment replaces the bill and establishes standards for ensuring that entities receiving the Pine Tree Development Zone tax credit, the seed capital investment tax credit or the new markets capital investment credit must certify that the credit results in high-quality jobs. The amendment requires annual reporting by credit recipients and a reduction in the percentage of the credit the taxpayer receives if not in compliance with the jobs requirements. The Department of Administrative and Financial Services, Maine Revenue Services, the Department of Economic and Community Development and the Finance Authority of Maine are required to evaluate penalties and enforcement procedures and report to the Joint Standing Committee on Taxation by January 15, 2016. The amendment also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED**(See attached)**