



# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 278

S.P. 111

In Senate, February 7, 2013

**An Act To Provide Greater Access to Capital for Certain Businesses  
Through Advance Payment of Employment Tax Increment  
Financing Benefits**

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Submitted by the Department of Economic and Community Development pursuant to Joint Rule 204.

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator PATRICK of Oxford.

Cosponsored by Representative BENNETT of Kennebunk and

Senator: KATZ of Kennebec, Representatives: CHASE of Wells, FREDETTE of Newport, GILBERT of Jay, JOHNSON of Greenville, LOCKMAN of Amherst, MASTRACCIO of Sanford, VOLK of Scarborough.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 5 MRSA §13120-A, first ¶**, as amended by PL 2011, c. 563, §10, is  
3 further amended to read:

4 The Maine Rural Development Authority, as established by section 12004-F,  
5 subsection 18 and referred to in this subchapter as the "authority," is a body both  
6 corporate and politic and a public instrumentality of the State established for the purpose  
7 of providing loans to communities for the development of commercial facilities on a  
8 speculative basis and for serving as lender or investor in the acquisition, development,  
9 redevelopment and sale of commercial facilities in areas where economic needs are not  
10 supported by private investment. The authority may also provide loans to businesses that  
11 are eligible for an advance payment of employment tax increment financing benefits  
12 under Title 36, section 6754 or that currently do not own real estate and that are not  
13 supported by private investment.

14 **Sec. 2. 36 MRSA §6753, sub-§8-A** is enacted to read:

15 **8-A. Extraordinary circumstances.** "Extraordinary circumstances" means that a  
16 qualified business plans to add at least 50 net new qualified employees in the State or  
17 make an investment of \$50,000,000 or more in the State.

18 **Sec. 3. 36 MRSA §6753, sub-§10-A** is enacted to read:

19 **10-A. Net present value calculation.** "Net present value calculation" means the  
20 present value of the projected revenue from the 5-year or 10-year benefit to the applicant  
21 under this chapter as determined by the State Tax Assessor.

22 **Sec. 4. 36 MRSA §6754, sub-§1**, as amended by PL 2011, c. 240, §44, is further  
23 amended to read:

24 **1. Generally.** Subject to the provisions of ~~subsection~~ subsections 2 and 4, a  
25 qualified business is entitled to reimbursement of Maine income tax withheld during the  
26 calendar year for which reimbursement is requested and attributed to qualified employees  
27 after July 1, 1996 in the following amounts.

28 A. For qualified employees employed by a qualified business in labor market areas  
29 in this State in which the labor market unemployment rate is at or below the State's  
30 unemployment rate at the time of application, the reimbursement is equal to 30% of  
31 Maine income tax withheld during each of the first 5 calendar years for which  
32 reimbursement is requested and attributed to those qualified employees. The  
33 percentage of reimbursement for the 6th to 10th years of the employment tax  
34 increment financing development program is established based upon the labor market  
35 unemployment rate at the beginning of the 6th year.

36 B. For qualified employees employed by a qualified business in labor market areas in  
37 this State in which the labor market unemployment rate is greater than the State's  
38 unemployment rate at the time of application, the reimbursement is equal to 50% of  
39 Maine income tax withheld during each of the first 5 calendar years for which

1 reimbursement is requested and attributed to those qualified employees. The  
2 percentage of reimbursement for the 6th to 10th years of the employment tax  
3 increment financing development program is established based upon the labor market  
4 unemployment rate at the beginning of the 6th year.

5 C. For qualified employees employed by a qualified business in labor market areas in  
6 this State in which the labor market unemployment rate is greater than 150% of the  
7 State's unemployment rate at the time of application, the reimbursement is equal to  
8 75% of Maine income tax withheld during each of the first 5 calendar years for which  
9 reimbursement is requested and attributed to those qualified employees. The  
10 percentage of reimbursement for the 6th to 10th years of the employment tax  
11 increment financing development program is established based upon the labor market  
12 unemployment rate at the beginning of the 6th year.

13 D. For qualified Pine Tree Development Zone employees, as defined in Title 30-A,  
14 section 5250-I, subsection 18, employed directly in the qualified business activity of  
15 a qualified Pine Tree Development Zone business, as defined in Title 30-A, section  
16 5250-I, subsection 17, for whom a certificate of qualification has been issued in  
17 accordance with Title 30-A, section 5250-O, the reimbursement under this subsection  
18 is equal to 80% of Maine income tax withheld each year for which reimbursement is  
19 requested and attributed to those qualified employees for a period of no more than 10  
20 years for a tier 1 location as defined in Title 30-A, section 5250-I, subsection 21-A  
21 and no more than 5 years for a tier 2 location as defined in Title 30-A, section 5250-I,  
22 subsection 21-B. Reimbursement under this paragraph may not be paid for years  
23 beginning after December 31, 2028.

24 **Sec. 5. 36 MRSA §6754, sub-§4** is enacted to read:

25 **4. Advance payment permitted.** The commissioner, under extraordinary  
26 circumstances, may provide an advance payment in anticipation of reimbursement under  
27 subsection 1 to a qualified business using a net present value calculation, determined by  
28 the commissioner and the State Tax Assessor, based on an estimate of future employment  
29 tax increment financing benefits. The payment must be made in the form of a loan from  
30 the Maine Rural Development Authority pursuant to applicable requirements in Title 5,  
31 chapter 383, subchapter 9. The commissioner and the State Tax Assessor shall establish  
32 procedures for determining any variations between advance payments and final benefits  
33 due and for repayment of loans from the Maine Rural Development Authority under this  
34 subsection.

35 **SUMMARY**

36 This bill allows the Commissioner of Economic and Community Development, under  
37 extraordinary circumstances, to provide advance payments of employment tax increment  
38 financing benefits to a qualified business based on a net present value calculation of the  
39 projected employment tax increment financing benefit to the business. The advance  
40 payment must be made in the form of a loan through the Maine Rural Development  
41 Authority, pursuant to applicable conditions and requirements.