Amend the bill in section 4 by striking out all of subsection 49-K and inserting the following:

'**49-K. Transformational business expansion project.** "Transformational business expansion project" means, when done by a qualified transformational expansion project business pursuant to Title 30-A, section 5250-J, subsection 4-D, the construction, development, rehabilitation, expansion, modernization or acquisition of any building, structure, system, machinery, equipment or facility in a military redevelopment zone, as defined in Title 30-A, section 5250-I, subsection 11-A, that has a projected cost of $50,000,000 or more and the operation of which is projected to result in a net gain of at least 1,500 job opportunities. "Transformational business expansion project" does not include an electric rate stabilization project or a project primarily involved in the provision of housing or retail sales to consumers.'

Amend the bill in section 6 in subsection 6 by striking out all of paragraph B (page 2, lines 32 to 38 in L.D.) and inserting the following:

'B. The sum of ~~$120,000,000~~$620,000,000 consisting of not more than $100,000,000 for loans and up to $20,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to this subchapter relating to loans for major business expansion projects and not more than $400,000,000 for loans and up to $100,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to this subchapter relating to loans for transformational business expansion projects;'

Amend the bill by striking out all of sections 8 to 15 and inserting the following:

'**Sec. 8. 26 MRSA §2031, sub-§5, ¶I** is enacted to read:

I. That the applicant has been certified as a qualified transformational expansion project business pursuant to Title 30-A, section 5250-J, subsection 4-D.

Sec. 9. 26 MRSA §2031, sub-§8, as amended by PL 2009, c. 213, Pt. JJJ, §1, is further amended to read:

8. Eligibility for funding. Applicants eligible to receive funding from the program include, but are not limited to, employers, qualified transformational expansion project businesses certified pursuant to Title 30-A, section 5250-J, subsection 4-D, regional and local economic development agencies or partnerships, community-based organizations, job training service providers, registered apprenticeship service providers, local adult education providers and postsecondary education institutions.

An applicant that is not a business shall demonstrate, in partnership with a business or a consortium of businesses, the ability to link training services with actual job creation, expansion, upgrade or retention. Training provided under this section is considered approved training under the unemployment insurance laws and the laws regarding dislocated workers administered by the Department of Labor.

Training funds authorized under this section must be paid to the employer on a reimbursement basis.

Sec. 10. 30-A MRSA §5250-J, sub-§4-D is enacted to read:

4-D. Qualified transformational expansion project business. A business certified under this subsection as a qualified transformational expansion project business qualifies for the incentives provided by this subsection with respect to the business activities for which certification has been granted.

A. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Employment" means, for each calendar 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 calendar year as chosen by the certified applicant and then dividing that sum by 6.

(2) "Full-time employee" means a person who works at least 36 hours per week.

(3) "Incentives" means:

(a) The income tax credit for investment in a qualified transformational expansion project business pursuant to Title 36, section 5219-KK;

(b) The sales tax exemption under Title 36, section 1760, subsection 96 and the reimbursement of sales tax pursuant to Title 36, section 2021;

(c) Reimbursement of Maine income tax withholding pursuant to Title 36, section 6754, subsection 1, paragraph E;

(d) Consideration for long-term, credit-enhanced financing pursuant to Title 10, chapter 110, subchapter 3;

(e) Workforce development training and recruitment assistance pursuant to the Governor's Jobs Initiative Program established pursuant to Title 26, chapter 25, subchapter 4; and

(f) Energy cost reimbursement pursuant to Title 35-A, section 10109.

(4) "Qualified employee" means an individual:

(a) Who is employed as a full-time employee of a qualified transformational expansion project business and is employed as a direct result of the project, excluding an employee or position shifted by the employer to the project location from another location in the State;

(b) Whose income from employment under division (a) is taxable under Title 36, chapter 803;

(c) For whom a retirement program is provided subject to the federal Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 101 to 1461, as amended;

(d) For whom health insurance is available; and

(e) Whose income calculated on a calendar year basis is greater than the most recent per capita annual income in the State as determined by the United States Department of Commerce.

(5) "Qualified investment" means expenditures incurred by a qualified transformational expansion project business on or after October 1, 2014.

(6) "Qualified transformational expansion project business" means a business located in a military redevelopment zone that is a qualified Pine Tree Development Zone business that has an active certificate of qualification pursuant to paragraph B, subparagraph (2).

B. This paragraph governs the procedures for application for and approval and revocation of certification as a qualified transformational expansion project business.

(1) In addition to an application for certification as a qualified Pine Tree Development Zone business under section 5250-O, a business must submit an application to the commissioner to receive incentives under this subsection. The business must propose to make a qualified investment of at least $50,000,000 in, and add at least 1,500 qualified employees at, a military redevelopment zone within 10 years from the date of certification under subparagraph (2). The business must demonstrate that the qualified investment would not occur absent the availability of the incentives made available under this subsection. For purposes of this subsection, employees added or that will be added for certification as a qualified Pine Tree Development Zone business must be added with respect to the project for which the business is certified as a qualified transformational expansion project business under this subsection. The application must contain information, in a form prescribed by the commissioner, demonstrating that the business meets the requirements for a qualified transformational expansion project business.

(2) Upon review and determination by the commissioner that a business meets the requirements for certification as a qualified transformational expansion project 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 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 subsection and provide an advisory opinion to assist the commissioner in making findings under this subsection.

(3) If the business does not invest at least $25,000,000 and hire at least 750 qualified employees within 5 years of the date of the certificate issued under this subsection, the commissioner shall revoke the certificate issued under this subsection. If the business does not invest at least $50,000,000 and hire at least 1,500 qualified employees within 10 years of the date of the certificate issued under this subsection, the commissioner shall revoke the certificate issued under this subsection.

A business whose certificate issued under this subsection has been revoked does not qualify for Pine Tree Development Zone incentives beyond 10 years from the date the certificate was issued and continues to be responsible for fulfilling responsibilities under any long-term, credit-enhanced financing received under Title 10, chapter 110, subchapter 3.

A business that is certified under this subsection may not be certified and receive incentives under this subsection beyond 20 years from the date of certification.

C. The commissioner and the Commissioner of Labor shall work with other agencies across State Government involved in employment or skills training to identify and marshal the necessary financial resources to assist a qualified transformational expansion project business who makes a qualified investment in recruiting and training qualified employees.

D. On or before March 1st of each year a qualified transformational expansion project business, on forms prescribed by the commissioner, shall file a report with the commissioner and the State Tax Assessor for the immediately preceding calendar year, referred to in this paragraph as "the report year," that contains the following information:

(1) The employment of the qualified transformational expansion project business for the calendar year immediately preceding the report year; and

(2) The incremental level of qualified investments made for the calendar year immediately preceding the report year.

The commissioner shall audit the report filed under this paragraph to ensure continued eligibility for the incentives provided under this subsection.

E. The commissioner shall report to the joint standing committee of the Legislature having jurisdiction over taxation matters and the joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters aggregate annual data on employment levels and qualified investment amounts of qualified transformational expansion project businesses under this subsection. The report must be made by March 15th of the first regular session of each Legislature beginning with the 128th Legislature.

F. A qualified transformational expansion project business, when awarding contracts, purchasing supplies or subcontracting work related to a qualified investment, shall give preference, to the greatest extent possible, to Maine resident individuals, companies and bidders provided the supplies, products and bids meet the standards required by the qualified transformational expansion project business for best value, including, without limitation, quality and delivery, and are competitively priced. The qualified transformational expansion project business, in conjunction with the department, shall sponsor regional seminars for Maine businesses on how to do business with the qualified transformational expansion project business.

Sec. 11. 35-A MRSA §10109, sub-§4, ¶A, as amended by PL 2013, c. 369, Pt. A, §15, is further amended to read:

A. During fiscal years 2013-14, 2014-15 and 2015-16, not less than 50% of the trust funds received during those years must be allocated for measures, investments and arrangements that reduce electricity consumption or reduce greenhouse gas emissions and lower energy costs at commercial or industrial facilities, and 35% of the funds received by the trust fund during those years must be used for investment in measures that lower residential heating energy demand and reduce greenhouse gas emissions. The measures that lower residential heating demand must be fuel-neutral and may include, but are not limited to, energy efficiency improvements to residential buildings and upgrades to efficient heating systems that will reduce residential energy costs and greenhouse gas emissions, as determined by the board. The trust shall transfer to the commission 15% of funds received by the trust fund during fiscal years 2013-14, 2014-15 and 2015-16, which the commission shall ~~direct transmission and distribution utilities to~~ disburse as reimbursement to qualified business projects in accordance with paragraph A-1; to the extent those funds are not needed for such reimbursement, the commission shall direct transmission and distribution utilities to disburse the funds to ratepayers in a manner that provides maximum benefit to the Maine economy. Subject to the apportionment pursuant to this subsection, the trust shall fund conservation programs that give priority to measures with the highest benefit-to-cost ratio, as long as cost-effective collateral efficiency opportunities are not lost, and that:

(1) Reliably reduce greenhouse gas production and heating energy costs by fossil fuel combustion in the State at the lowest cost in funds from the trust fund per unit of emissions; or

(2) Reliably reduce the consumption of electricity in the State at the lowest cost in funds from the trust fund per kilowatt-hour saved.

Sec. 12. 35-A MRSA §10109, sub-§4, ¶A-1 is enacted to read:

A-1. The trust fund must be expended to reimburse qualified business projects for certain electricity supply costs in accordance with this paragraph.

(1) To qualify for reimbursement under this paragraph, the business project must:

(a) Be a qualified transformational expansion project business certified pursuant to Title 30-A, section 5250-J, subsection 4-D; and

(b) Pay a per kilowatt-hour rate for electricity supply that exceeds the national average industrial rate, as published by the United States Energy Information Administration.

(2) A qualified business project is eligible to receive reimbursement from the trust fund up to an amount equal to the amount the qualified business project paid for electricity supply that exceeded the national average industrial rate, as verified and certified by the commission in accordance with the rules adopted by the commission. The qualified business project may receive the reimbursement for up to 5 years following certification pursuant to Title 30-A, section 5250-J, subsection 4-D.

(3) The total reimbursement provided under this paragraph annually may not exceed 15% of the revenue deposited into the trust fund in any fiscal year. If the total amount needed to reimburse all qualified business projects exceeds 15% of the revenue deposited into the trust fund in any fiscal year, the funds must be disbursed based upon a qualified business project's pro rata share of the electricity consumed by all qualified business projects in that fiscal year.

Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 13. 36 MRSA §1760, sub-§96 is enacted to read:

96. Sales of tangible personal property and transmission and distribution of electricity to a qualified transformational expansion project business. Sales of tangible personal property and sales of the transmission and distribution of electricity to a qualified transformational expansion project business, as defined in Title 30-A, section 5250-J, subsection 4-

D, for use directly and primarily in a qualified investment, as defined in Title 30-A, section 5250-J, subsection 4-D. The exemption provided by this subsection is limited for each qualified transformational expansion project business to sales occurring within the 20-year period beginning on the date the qualified transformational expansion project business is certified under Title 30-A, section 5250-J, subsection 4-D. As used in this subsection, "primarily" means more than 50% of the time during the period that begins on the date on which the property is first placed in service by the purchaser and ends 2 years from that date or at the time the property is sold, scrapped, destroyed or otherwise permanently removed from service by the purchaser, whichever occurs first.

Sec. 14. 36 MRSA §2021 is enacted to read:

§ 2021. Reimbursement of certain taxes related to qualified transformational expansion project businesses

1. Definitions. As used in this section, unless the context otherwise indicates, "qualified investment" and "qualified transformational expansion project business" have the same meanings as in Title 30-A, section 5250-J, subsection 4-D, paragraph A.

2. Reimbursement allowed. A reimbursement is allowed as provided in this section for a tax paid pursuant to this Part with respect to the sale or use of tangible personal property that is physically incorporated in and becomes a permanent part of real property that is owned by or sold to a qualified transformational expansion project business.

3. Claim for reimbursement. Claims under this section for reimbursement of taxes are controlled by this subsection.

A. A claim for reimbursement under this section must be filed by a contractor or subcontractor of a qualified transformational expansion project business with the assessor within 3 years from the date on which the tangible personal property was incorporated into real property. The reimbursement claim must be submitted on a form prescribed by the assessor and must be accompanied by a statement from a qualified transformational expansion project business certifying, under penalties of perjury, that the personal property with respect to which the tax was paid by the claimant has been placed in use directly and primarily in real property directly related to the project for which the qualified transformational expansion project business is certified. All records pertaining to that certification and to the transactions in question must be retained for at least 6 years by the contractor or subcontractor, by the qualified transformational expansion project business and by the person, if any, that sold the real property in question. The reimbursement claim must be accompanied by such additional information as the assessor may require. If a sales or use tax is included in the contractor's or subcontractor's contract price, the contractor or subcontractor shall file, at the request of the qualified transformational expansion project business, a claim for reimbursement in accordance with this section and pay the reimbursement to the qualified transformational expansion project business.

B. If, by agreement between the contractor or subcontractor and the qualified transformational expansion project business, the contractor or subcontractor assigns its right to claim and receive reimbursement, the qualified transformational expansion project business must file a claim for reimbursement in accordance with this subsection. A reimbursement may not be issued to the qualified transformational expansion project business under this paragraph unless the contractor or subcontractor has previously submitted to the bureau a certificate, signed by the contractor or subcontractor, releasing the contractor's or subcontractor's claim to the reimbursement. The certificate must be in a format prescribed by the assessor.

4. Limitations. Limitations on reimbursements made pursuant to this section are as set out in this subsection.

A. Reimbursements made by the assessor pursuant to this section are limited to taxes paid in connection with sales of tangible personal property that occur within a 20-year period beginning on the date the qualified transformational expansion project business is certified under Title 30-A, section 5250-J, subsection 4-D.

B. Reimbursement pursuant to this section of taxes paid in connection with the sale of tangible personal property subsequently incorporated into real property may not be made when those real property improvements:

(1) Are owned by more than one person prior to their acquisition by the qualified transformational expansion project business whose certification accompanies the reimbursement claim pursuant to subsection 3; or

(2) Have been used for a business purpose by a person other than the qualified transformational expansion project business whose certification accompanies the reimbursement claim pursuant to subsection 3.

5. Audit. The assessor has the authority to audit any claim filed under this section. If the assessor determines that the amount of the claimed reimbursement is incorrect, the assessor shall redetermine the claim and notify the claimant in writing of the redetermination. If the claimant has received reimbursement of an amount that the assessor concludes should not have been reimbursed, the assessor may issue an assessment for that amount within 3 years from the date the reimbursement claim was filed or paid, whichever is later, or at any time if a fraudulent reimbursement claim was filed. The claimant may seek reconsideration, pursuant to section 151, of the redetermination or assessment.

6. Payment of claims. The assessor shall determine the benefit for each claimant under this section. The assessor shall pay those amounts to each qualified transformational expansion project business qualifying for the benefit under this section within 30 days after receipt of a properly completed claim. Interest is not allowed on any payment made to a claimant pursuant to this section.

Sec. 15. 36 MRSA §5219-W, sub-§4, as amended by PL 2009, c. 627, §11, is further amended to read:

4. Limitation. The credit provided by this section may not be claimed for tax years beginning on or after January 1, 2029. A person eligible for the credit under section 5219-KK for a taxable year may not claim the credit under this section for that taxable year.

Sec. 16. 36 MRSA §5219-KK is enacted to read:

§ 5219-KK. Credit for qualified transformational expansion project business

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

A. "Payroll" means the total amount paid in this State during the tax period by the taxpayer for compensation, including wages, pretax employee contributions made to a benefit package and employer contributions made to an employee benefit package.

B. "Property" means the average value of the taxpayer's real and tangible personal property that is owned or rented and used during the tax period. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at 8 times the annual rental rate paid by the taxpayer.

C. "Qualified transformational expansion project business" means a business certified under Title 30-A, section 5250-J, subsection 4-D.

2. Credit allowed. Notwithstanding any other provision of law, a taxpayer that is a qualified transformational expansion project business is allowed a credit in the amount of:

A. One hundred percent of the tax that would otherwise be due under this Part for each of the first 10 tax years beginning with the tax year in which the taxpayer is certified pursuant to Title 30-A, section 5250-J, subsection 4-D; and

B. Fifty percent of the tax that would otherwise be due under this Part for each of the 10 tax years following the time period in paragraph A.

3. Apportioned credit in certain circumstances. In the case of a qualified transformational expansion project business that engages in both qualified and nonqualified transformational expansion project business activities in this State, the credit provided for in this section is limited to that portion that is attributable to the qualified transformational expansion project business activity. The limitation is calculated by an apportionment. The apportionment is determined by a fraction, the numerator of which is the property value plus the payroll for the taxable year attributed to the qualified transformational expansion project business activity of the business and the denominator of which is the statewide property value plus payroll for the taxable year of the qualified transformational expansion project business.

If the qualified transformational expansion project business is a taxable corporation that has affiliated groups, as defined in section 5102, subsection 1-B, engaged in a unitary business, as defined in section 5102, subsection 10-A, the property and payroll values in the State of the unitary affiliated groups must be included in the apportionment fraction. The resulting fraction must be multiplied by the total tax liability otherwise due under this Part of the qualified transformational expansion project business and those affiliated groups.

If the apportionment provisions of this subsection do not fairly reflect the amount of the credit associated with the taxpayer's qualified transformational expansion project business activity, the taxpayer may petition for, or the State Tax Assessor may require, in respect to all or any part of the taxpayer's business activity, the employment of another reasonable method to effectuate an equitable apportionment of the credit associated with the taxpayer's qualified transformational expansion project business activity.

4. Members of pass-through entities. A member of a pass-through entity that is a qualified transformational expansion project business is allowed a credit under this section based on the tax due under this Part related to items of income, gain, deduction, loss or other items required to be reported by the pass-through entity to the member. For purposes of this subsection, "pass-through entity" means a corporation that for the applicable tax year is treated as an S corporation under the Code and a partnership, trust, limited liability company or similar entity that for the applicable tax year is not taxed as a C corporation for federal tax purposes; "member" means an individual or other owner of a pass-through entity.

5. Limitation. The credit provided by this section may not be claimed for tax years beginning on or after January 1, 2035.

Sec. 17. 36 MRSA §6754, sub-§1, ¶E is enacted to read:

E. For a qualified transformational expansion project business certified under Title 30-A, section 5250-J, subsection 4-D, the reimbursement is equal to 80% of the Maine income tax withheld from each qualified employee during each of the first 10 calendar years for which reimbursement is requested, beginning with the calendar year during which the business is certified as a qualified transformational expansion project business under Title 30-A, section 5250-J, subsection 4-D. For each of the 11th to 20th years for which reimbursement is requested, the qualified transformational expansion project business is eligible for a reimbursement equal to 50% of the Maine income tax withheld from each qualified employee. Reimbursement may not be paid pursuant to this paragraph for calendar years beginning after December 31, 2034. As used in this paragraph, "qualified employee" has the same meaning as in Title 30-A, section 5250-J, subsection 4-D, paragraph A, subparagraph (4).'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment, which is a minority report of the Joint Standing Committee on Labor, Commerce, Research and Economic Development, is identical to the committee's other minority report except for 2 changes. It removes the "right to refrain" provisions that prohibit requiring a person, as a condition of

employment or continuation of employment at a qualified transformational expansion project business, to join a labor organization or pay any labor organization dues or fees. Additionally, the amendment removes the provision in the bill and Committee Amendment "A" that allows a qualified transformational expansion project business engaged in workforce training under the Governor's Jobs Initiative Program to be eligible for funds under the Competitive Skills Scholarship Program.