

# MAINE STATE LEGISLATURE

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(Filing No. S-452)

**BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**

Reported by: **MAJORITY**

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**STATE OF MAINE  
SENATE  
121ST LEGISLATURE  
SECOND SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to S.P. 666, L.D. 1818, Bill, "An Act To Amend the Economic Development Laws"

Amend the bill by inserting after section 2 the following:

'Sec. 3. 5 MRSA §13054, sub-§§1 and 2, as amended by PL 2003, c. 451, Pt. L, §1, are further amended to read:

1. **Commissioner.** "Commissioner" means the Commissioner of ~~Economic--and--Community--Development~~ Commerce, Communities and Tourism.

2. **Department.** "Department" means the Department of ~~Economic--and--Community--Development~~ Commerce, Communities and Tourism.

Further amend the bill by striking out all of section 10 and inserting in its place the following:

'Sec. 10. 5 MRSA §13120-P, sub-§§2 and 3, as amended by PL 2003, c. 281, §8, are further amended to read:

2. **Redevelopment of property.** Except as provided in section 13120-Q, the authority may undertake the redevelopment of property as an owner or lender for subsequent use and sale under the following conditions:

A. The property has been previously and materially used as a commercial facility or the property is suitable for

adaptive use as a commercial or industrial facility;

B. The property is currently not in productive commercial use or is expected to be taken out of productive commercial use within the immediate future;

~~C. The property has not been placed under a purchase option or contract;~~

D. The authority, using due diligence, has determined that:

(1) There is a reasonable expectation that the property will become financially viable following its redevelopment; and

(2) The economic benefits, including the restoration of employment opportunities, expected to result from the redevelopment justify the risks associated with the authority's equity, security or other interest in the property; and

~~E. At a municipality, another governmental entity or a local development corporation has provided or will provide in connection with the acquisition or redevelopment of the property assistance whose value is at least 25% of the total cost to acquire, redevelop and return value of the authority's assistance for acquiring, redeveloping and returning the property to productive commercial use will be borne by the municipality or local development corporation.~~

The authority may finance undeveloped land or personal property only if the undeveloped land or personal property is part of the overall redevelopment project.

**3. Development of property.** Except as provided in section 13120-Q, the authority may undertake the development of property as an owner or lender for subsequent use and sale under the following conditions:

A. The property consists of real estate that is zoned, sited or otherwise suitable for development as a commercial facility;

B. The property is currently not in productive commercial use;

~~C. The property has not been placed under a purchase option or contract;~~

D. The authority, using due diligence, has determined that:

2 (1) There is a reasonable expectation that the  
4 property will become financially viable following its  
development;

6 (2) The development of the property will create  
8 employment opportunities and other economic benefits  
within the region; and

10 (3) The economic benefits expected to result from the  
12 development justify the risks associated with the  
14 authority's equity, loan or other interest in the  
property; and

16 E. At A municipality, another governmental entity or a  
local development corporation has provided or will provide  
in connection with the acquisition or development of the  
property assistance whose value is at least 25% of the total  
cost-to-acquire,-develop-and-bring value of the authority's  
assistance for acquiring, developing and bringing the  
property to productive commercial use will-be-borne-by-the  
municipality-or-local-development-corporation.

24 The authority may finance undeveloped land or personal property  
only if the undeveloped land or personal property is part of the  
overall development project.'

28 Further amend the bill by striking out all of sections 13 to  
30 25 and inserting in their place the following:

32 'Sec. 13. 10 MRSA §1464, as amended by PL 1989, c. 501, Pt.  
DD, §25, is further amended to read:

34 **§1464. Regional Ride Share Services Matching Fund Program**

36 There is established, to carry out the purposes of this  
38 chapter, a Regional Ride Share Services Matching Fund Program to  
be administered by the Department of ~~Economic--and--Community~~  
40 Development Transportation.

42 **Sec. 14. 20-A MRSA §12705, sub-§1,** as amended by PL 2003, c.  
20, Pt. 00, §2 and affected by §4, is further amended to read:

44 **1. Membership.** The board of trustees consists of 13  
46 appointed voting members, one ex officio voting member and 2 one  
ex officio, nonvoting ~~members~~ member as follows:

48 C. Twelve from the field of business and industry, the  
50 field of labor, the field of education and the general  
public;

2 D. The Commissioner of Education, or the commissioner's  
successor, who serves as an ex officio voting member;

4 ~~E. The Commissioner of Economic and Community Development,~~  
6 ~~or the commissioner's successor, who serves as an ex officio~~  
8 ~~nonvoting member;~~

10 F. The Commissioner of Labor, or the commissioner's  
successor, who serves as an ex officio nonvoting member; and

12 G. One member who is from the student body of one of the  
14 community college campuses at the time of appointment and  
16 who is a permanent resident of the State. To be eligible  
for appointment as a student member, a student must be  
enrolled for a minimum of 12 credit hours per semester.

18 The student member is a full voting member of the board of  
20 trustees and serves for a 2-year term and until a successor  
22 is qualified. By January 1st of every 2nd year, the  
24 president of the system shall solicit a list of 6 eligible  
26 students from the student governments from 6 of the campuses  
within the Maine Community College System, the 7th campus  
being excluded in accordance with this subsection. The  
Governor shall then nominate a student trustee chosen from  
the list within 30 days of receiving the list of names. The  
nomination is subject to review by the joint standing  
committee of the Legislature having jurisdiction over  
education matters and to confirmation by the Legislature.  
The student trustee may not come from the same campus in any  
2 consecutive terms. In the event that the student trustee  
transfers from one campus to another during the student's  
term of appointment, the student's original campus of  
enrollment is the campus excluded when the next student  
trustee is appointed.

36 **Sec. 15. 30-A MRSA c. 206, sub-c. 3, as enacted by PL 2003, c.**  
38 **451, Pt. NNN, §2, is repealed.**

40 **Sec. 16. 30-A MRSA c. 206, sub-c. 4 is enacted to read:**

42 **SUBCHAPTER 4**

44 **PINE TREE DEVELOPMENT ZONES**

46 **§5250-H. Findings and declaration of necessity**

48 **1. Legislative finding. The Legislature finds that there**  
**is a need to encourage development in economically distressed**  
50 **areas of the State in order to:**

52 **A. Provide new employment opportunities;**

- 2           B. Improve existing employment opportunities;
- 4           C. Improve and broaden the tax base; and
- 6           D. Improve the general economy of the State.

8           2. Authorization. For the reasons set out in subsection  
10 1, a unit of local government or 2 or more cooperating units of  
12 local government may develop a program for improving a district  
within its boundaries or their collective boundaries, as the case  
may be:

- 14           A. To provide impetus for targeted business development;
- 16           B. To increase employment; and
- 18           C. To provide the facilities outlined in the development  
20 program adopted by the participating units of local  
government.

22           3. Declaration of public purpose. The Legislature declares  
24 that the actions required to assist the implementation of these  
26 development programs are for a public purpose and that the  
execution and financing of these programs are a public purpose.

28           **§5250-I. Definitions**

30           As used in this subchapter, unless the context otherwise  
indicates, the following terms have the following meanings.

32           1. Affiliated business. "Affiliated business" means a  
34 member of a group of 2 or more businesses in which more than 50%  
of the voting stock of each member corporation or more than 50%  
36 of the ownership interest in a business other than a corporation  
is directly or indirectly owned by a common owner or owners,  
38 either corporate or noncorporate, or by one or more of the member  
businesses.

40           2. Applicant. "Applicant" means any unit of local  
42 government and any group of cooperating units of local government  
in the State that apply for designation as a Pine Tree  
44 Development Zone under section 5250-J.

46           3. Average employment during base period. "Average  
48 employment during base period" for a business means the total  
number of qualified employees of that business on each of 6  
50 consecutive measurement days in each of the 3 calendar years in  
the base period as chosen by the business divided by 18.

2       4. Base level of employment. "Base level of employment"  
3       means the greater of either the total employment in the State of  
4       a business and its affiliated businesses as of the December 31st  
5       immediately preceding its certification as a qualified Pine Tree  
6       Development Zone business or its average employment during the  
7       base period.

8       5. Base period. "Base period" means the 3 calendar years  
9       prior to the year in which a business is certified as a qualified  
10      Pine Tree Development Zone business.

12      6. Commissioner. "Commissioner" means the Commissioner of  
13      Economic and Community Development.

14      7. Department. "Department" means the Department of  
15      Economic and Community Development.

18      8. Financial services. "Financial services" means services  
19      provided by an insurance company subject to taxation under Title  
20      36, chapter 357; a financial institution subject to taxation  
21      under Title 36, chapter 819; or a mutual fund service provider as  
22      defined in Title 36, section 5212, subsection 1, paragraph E.

24      9. Labor market average weekly wage. "Labor market average  
25      weekly wage" means the average weekly wage as published by the  
26      Department of Labor for the labor market or markets in which  
27      potential qualified Pine Tree Development Zone employees are  
28      located for the 12 most recently reported months preceding the  
29      date of application for zone designation.

30      10. Labor market unemployment rate. "Labor market  
31      unemployment rate" means the average unemployment rate as  
32      published by the Department of Labor for the labor market or  
33      markets in which potential qualified Pine Tree Development Zone  
34      employees are located for the 12 most recently reported months  
35      preceding the date of application for zone designation.

38      11. Manufacturing. "Manufacturing" means the production of  
39      tangible personal property intended to be sold or leased  
40      ultimately for final use or consumption or the production of  
41      tangible personal property pursuant to a contract with the  
42      Federal Government or any agency thereof.

44      12. Person. "Person" has the same meaning as defined in  
45      Title 36, section 111, subsection 3.

46      13. Pine Tree Development Zone. "Pine Tree Development  
47      Zone" or "zone" means a specified area within the boundaries of a  
48      unit of local government, or within the boundaries of cooperating  
49      units of local government in a multijurisdictional application,  
50

2 that has been designated by the commissioner as a Pine Tree  
Development Zone in accordance with section 5250-J.

4 14. Pine Tree Development Zone benefits. "Pine Tree  
Development Zone benefits" means:

6  
8 A. The exclusion from the limitations established under  
section 5223, subsection 3 of tax increment financing  
districts included within a Pine Tree Development Zone;

10  
12 B. Expanded employment tax increment financing benefits  
under Title 36, chapter 917;

14 C. The sales tax exemptions under Title 36, section 1760,  
subsections 86 and 87; and

16  
18 D. The Pine Tree Development Zone tax credits provided by  
Title 36, sections 2529 and 5219-W.

20 15. Production. "Production" has the same meaning as  
22 defined in Title 36, section 1752, subsection 9-B.

24 16. Qualified business activity. "Qualified business  
26 activity" means a business activity that is conducted within a  
Pine Tree Development Zone and is directly related to financial  
services, manufacturing or a targeted technology business for  
28 which the business receives a certificate from the commissioner  
pursuant to section 5250-O.

30 17. Qualified Pine Tree Development Zone business.  
32 "Qualified Pine Tree Development Zone business" or "qualified  
business" means any for-profit business in this State engaged in  
financial services, manufacturing or a targeted technology  
34 business that adds qualified Pine Tree Development Zone employees  
above its base level of employment in this State and that meets  
36 the following criteria:

38 A. It demonstrates that the establishment or expansion of  
operations within the Pine Tree Development Zone would not  
40 occur within the State absent the availability of the Pine  
Tree Development Zone benefits. The department shall  
42 investigate whether the business has met the requirements of  
this paragraph and provide an advisory opinion to the  
44 Executive Director of the Bureau of Revenue Services in the  
Department of Administrative and Financial Services, who  
46 shall make the final determination; and

48 B. It has received a certificate as a qualified business  
50 pursuant to section 5250-O.



**18. Qualified Pine Tree Development Zone employees.**

2 "Qualified Pine Tree Development Zone employees" means new,  
4 full-time employees hired in this State by a qualified Pine Tree  
6 Development Zone business for work directly in one or more  
8 qualified business activities for whom a retirement program  
10 subject to the federal Employee Retirement Income Security Act of  
12 1974, 29 United States Code, Sections 101 to 1461 (2003) and  
14 group health insurance are provided and whose wages derived from  
16 employment within the Pine Tree Development Zone are greater than  
18 the average annual per capita wages in the local labor market  
20 area in the county in which the qualified employee is employed.  
22 Qualified Pine Tree Development Zone employees must be residents  
24 of this State.

**19. State average weekly wage.** "State average weekly wage"

16 means the average weekly wage as published by the Department of  
18 Labor for the State as a whole for the 12 most recently reported  
months preceding the date of application for zone designation.

**20. State unemployment rate.** "State unemployment rate"

20 means the average unemployment rate published by the Department  
22 of Labor for the State as a whole for the 12 most recently  
24 reported months preceding the date of application for zone  
designation.

**21. Targeted technology business.** "Targeted technology

26 business" means a business primarily involved in a targeted  
28 technology as defined in Title 5, section 15301.

**22. Unit of local government.** "Unit of local government"

30 means a municipality, county, plantation, unorganized territory  
32 or Indian tribe.

**§5250-J. Pine Tree Development Zones**

**1. Creation.** One or more units of local government, or an

36 organization representing one or more units of local government,  
38 may apply to the commissioner for the designation of a Pine Tree  
40 Development Zone within the boundaries of the unit or units of  
42 local government in accordance with the requirements of this  
44 subchapter. County governments may apply on behalf of  
46 unorganized territories. Groups of units of local government may  
48 apply for multijurisdictional or joint projects. Multijurisdictional applications require designation of one unit of local government as the lead applicant and consent for that designation by each participating unit of local government. Counties may also apply on behalf of a consortium of units of local government. The designation of a Pine Tree Development Zone may not conflict with the provisions of a municipal or other unit

of local government charter. Zones that meet the requirements of subsection 2 are authorized for designation as follows:

A. Aroostook County, including up to 100 acres of land reserved for the Aroostook Band of Micmacs and the Houlton Band of Maliseet Indians;

B. The Androscoggin Valley region, including the Lewiston Enterprise Community Zone as designated by the federal Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, Appropriations Act, Public Law 105-277 (1999);

C. The Penobscot Valley region, including up to 500 acres of land reserved for the Penobscot Nation; and

D. Washington County and the Downeast region, including up to 500 acres of land reserved for the Passamaquoddy Tribe.

No more than one zone may be established in each of the areas specified in paragraphs A to D, except that the commissioner may designate up to 4 additional zones through the process established in section 5250-L.

2. Requirements for designation. The commissioner shall adopt rules establishing the minimum requirements for the designation of Pine Tree Development Zones. Additionally, each participating unit of local government must agree to maintain at least one prepermitted construction or development site available within the zone on a continual basis throughout the term of the zone.

3. Limitations. The designation of Pine Tree Development Zones is subject to the following limitations:

A. The total area of a zone, including all noncontiguous parcels, may not exceed 5,000 acres;

B. A zone located in Aroostook County as described in subsection 1, paragraph A may include property that is also included within the Aroostook County Empowerment Zone as designated by the federal Community Renewal Tax Relief Act of 2000, Public Law 106-554;

C. Pine Tree Development Zone benefits may not be used to encourage or facilitate the transfer of existing positions or property of a qualified business or affiliated businesses into a zone from a location elsewhere in the State;

2 D. Pine Tree Development Zone benefits may not be provided  
3 based upon any employees or positions transferred by the  
4 business or affiliated businesses into a Pine Tree  
5 Development Zone from a location elsewhere in the State;

6 E. A Pine Tree Development Zone may not consist of more  
7 than 20 noncontiguous parcels of property;

8 F. All property included within the boundaries of a Pine  
9 Tree Development Zone must be suitable for one or more  
10 qualified Pine Tree Development Zone business activities;

11 G. All property included within a Pine Tree Development  
12 Zone must meet one of the following:

13 (1) The property is located within a market area for  
14 which the labor market unemployment rate is greater  
15 than the state unemployment rate at the time of the  
16 application; or

17 (2) The property is included within a county in which  
18 the average weekly wage is below the state average  
19 weekly wage at the time of the application.

20 In the case of a multijurisdictional or joint application,  
21 the requirements of this paragraph are met if the combined  
22 unemployment rate of the cooperating units of local  
23 government meets the requirements of subparagraph (1) or the  
24 average weekly wage of the cooperating units of local  
25 government, on a per-employed-worker basis, meets the  
26 requirements of subparagraph (2); and

27 H. The restrictions contained in paragraph G may be waived  
28 for property that is contained within a labor market area  
29 that has sustained a greater than 5% loss of population or  
30 employed workers during the 3-year period immediately  
31 preceding the time of application if the loss was caused by  
32 business closings.

33 4. Application. An application for designation of a Pine  
34 Tree Development Zone must include, but is not necessarily  
35 limited to, the following:

36 A. A narrative description of the Pine Tree Development  
37 Zone to be designated;

38 B. Maps and any other information necessary to clearly  
39 identify the geographic boundaries of the Pine Tree  
40 Development Zone and any subzones it may include;

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2           C. Evidence that the Pine Tree Development Zone meets the  
          requirements of subsection 3;

4           D. Any information evidencing economic distress; and

6           E. A development plan that includes:

8                   (1) Documentation of all municipal commitments required  
                  under subsection 2;

10                   (2) A description of how the Pine Tree Development Zone  
12                   will be administered, including any related interlocal  
14                   cooperative agreements;

16                   (3) A description of the goals and objectives to be  
                  accomplished through the Pine Tree Development Zone;

18                   (4) A description of the resources to be committed to  
20                   the Pine Tree Development Zone by the applicant or  
                  applicants; and

22                   (5) Plans for accomplishing the goals and objectives,  
24                   including a marketing plan and related time line and  
                  milestones.

26           5. Termination. All Pine Tree Development Zone  
28           designations approved under this subchapter and all Pine Tree  
          Development Zone benefits are terminated on December 31, 2018.

30           **§5250-K. Procedure**

32                   1. Notice and hearing. Before designating a Pine Tree  
34                   Development Zone or adopting a development plan, the municipal  
36                   officers of each applicant unit of local government or the  
38                   municipal officers' designee must hold at least one public  
40                   hearing. Notice of the hearing must be published at least 10  
                  days before the hearing in a newspaper of general circulation  
                  serving the section of the State in which the local government is  
                  located.

42                   2. Vote of unit of local government legislative body. Each  
44                   applicant unit of local government must designate that portion of  
46                   the Pine Tree Development Zone contained within its boundaries  
                  and take all actions required to satisfy the requirements of  
                  section 5250-J, subsection 2 by majority vote of its municipal  
                  officers.

48                   3. Effective date. The establishment of a Pine Tree  
50                   Development Zone is effective upon designation by the  
                  commissioner.

2           4. Administration of zone. The participating units of  
3 local government may contract or otherwise arrange with a public  
4 or private organization including a regional council as described  
5 in section 2302 to administer activities authorized under this  
6 subchapter. The organization may act as the lead entity for the  
7 purpose of filing and administering the Pine Tree Development  
8 Zone.

10           5. Amendments. The designation, size, location, number and  
11 configuration of the parcels in a Pine Tree Development Zone or  
12 the terms of the development plan may be amended by an  
13 affirmative vote of all the participating units of local  
14 government as evidenced by a majority vote of the municipal  
15 officers of each unit of local government. An amendment may not  
16 result in the zone's being out of compliance with any of the  
17 requirements in section 5250-J.

18           **§5250-L. Selection criteria**

20           1. Review and selection. The commissioner shall review  
21 applications and select zones for designation based upon the  
22 following criteria:

24           A. Severity of economic distress within the region affected  
25 by the Pine Tree Development Zone;

28           B. Viability of a development plan described under section  
29 5250-J, subsection 4, paragraph E;

30           C. Commitment of local and regional financial resources;

32           D. Partnerships with public and private organizations; and

34           E. Impact on surrounding regions of the Pine Tree  
35 Development Zone.

38           **§5250-M. Program administration; rules**

40           The commissioner shall administer this subchapter. The  
41 commissioner shall adopt rules pursuant to the Maine  
42 Administrative Procedure Act for implementation of Pine Tree  
43 Development Zones, including, but not limited to, rules for  
44 determining and certifying eligibility, selecting zones for  
45 designation and evaluating on a periodic basis the progress and  
46 success of each zone in achieving its goals. Rules adopted under  
47 this section are routine technical rules as defined in Title 5,  
48 chapter 375, subchapter 2-A.

50           **§5250-N. Unorganized territory**

2           For the purposes of this subchapter, a county may act as a  
4           municipality for the unorganized territory within the county and  
6           may designate development districts within the unorganized  
8           territory. When a county acts under this section, the county  
10           commissioners act as the municipality and as the municipal  
          legislative body, the State Tax Assessor acts as the municipal  
          assessor and the unorganized territory education and services  
          fund receives the funds designated for the municipal general fund.

12           **§5250-O. Certification of qualified business**

14           A business may apply to the commissioner for certification  
16           as a qualified Pine Tree Development Zone business. Upon review  
18           and determination by the commissioner that a business is a  
20           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.

22           **§5250-P. Report**

24           By January 15, 2004, the commissioner shall report to the  
26           joint standing committee of the Legislature having jurisdiction  
28           over economic development matters regarding rulemaking and  
30           progress in implementing Pine Tree Development Zones. Not later  
32           than April 1, 2005 and April 1st of each odd-numbered year  
          thereafter, the commissioner shall report to the joint standing  
          committee of the Legislature having jurisdiction over economic  
          development matters on the status of the Pine Tree Development  
          Zones.

34           **Sec. 17. Revision clause.** Wherever in the Maine Revised  
36           Statutes the words "Department of Economic and Community  
38           Development" or "Commissioner of Economic and Community  
40           Development" appear or reference is made to that department or  
42           commissioner or to those words, they are amended to read and  
44           mean, as the case may be, "Department of Commerce, Communities  
          and Tourism" or "department," or "Commissioner of Commerce,  
          Communities and Tourism" or "commissioner," as appropriate, and  
          the Revisor of Statutes shall implement this revision when  
          updating, publishing or republishing the statutes. This section  
          takes effect July 1, 2005.

46           **Sec. 18. Effective date.** That section of this Act that amends  
48           the Maine Revised Statutes, Title 5, section 13054, subsections 1  
          and 2 takes effect July 1, 2005.'

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

2

**SUMMARY**

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This amendment, which is the majority report of the committee, does the following:

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1. Changes the name of the Department of Economic and Community Development to "Department of Commerce, Communities and Tourism," effective July 1, 2005;

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2. Allows the Maine Rural Development Authority to finance projects in which the subject property is under purchase option or contract, so that the value and ownership of the property may be established more easily and with greater accuracy;

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3. Clarifies that a municipality, another governmental entity or a local development corporation may meet its requirement to contribute 25% of the authority's contribution using any type of assistance, not limited to cash;

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4. Deletes all the provisions of the bill that concern transfer of the Department of Economic and Community Development's statutory responsibility for energy conservation, other than the provision of law concerning the ride share program. The program was repealed in the bill. The amendment transfers authority over the ride share program from the Department of Economic and Community Development to the Department of Transportation;

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5. Repeals the provision of law allowing the Commissioner of Economic and Community Development to serve on the Board of Trustees of the Maine Community College System;

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36

6. Simplifies the process for amending provisions governing a Pine Tree Development Zone, including allowing amendment by majority vote of municipal officers within a zone; and

38

40

7. Corrects an error that was created when Public Law 2003, chapters 426 and 451 both enacted a new Title 30-A, chapter 206, subchapter 3 in the Maine Revised Statutes with similar section numbers by repealing subchapter 3 as enacted by Public Law 2003, chapter 451, Part NNN, section 2 and enacting it as subchapter 4 with new section numbers.

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44

46

**FISCAL NOTE REQUIRED**  
(See attached)

48

**121st Maine Legislature  
Office of Fiscal and Program Review**



**LD 1818**

**An Act to Amend the Economic Development Laws**

**LR 2621(02)**

**Fiscal Note for Bill as Amended by Committee Amendment *A***

**Committee: Business, Research and Economic Development**

**Fiscal Note Required: No**

**Majority Report**

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**Fiscal Note**

Minor cost increase - General Fund

**Fiscal Detail and Notes**

Additional costs to the Department of Economic and Community Development, the Department of Transportation and the Finance Authority of Maine can be absorbed utilizing existing budgeted resources.