

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

5ME
2018

Date: 4/13/2018

(Filing No. S-472)

LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE
SENATE
128TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 611, L.D. 1654, Bill, "An Act To Protect Economic Competitiveness in Maine by Extending the End Date for Pine Tree Development Zone Benefits"

Amend the bill by striking out the title and substituting the following:

'An Act To Protect Economic Competitiveness in Maine by Extending the End Date for Pine Tree Development Zone Benefits and Making Other Changes to the Program'

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

'Sec. 1. 30-A MRSA §5250-I, sub-§16, as enacted by PL 2003, c. 688, Pt. D, §2, is amended to read:

16. Qualified business activity. "Qualified business 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 which the business receives a ~~certificate~~ letter of certification from the commissioner pursuant to section 5250-O.

Sec. 2. 30-A MRSA §5250-I, sub-§17, as amended by PL 2005, c. 351, §4 and affected by §26, is further amended to read:

17. Qualified Pine Tree Development Zone business. "Qualified Pine Tree Development Zone business" or "qualified business" means any for-profit business in this State engaged in or that will engage in financial services, manufacturing or a targeted technology business that has added or will add at least one qualified Pine Tree Development Zone employee above its base level of employment in this State and that meets the following criteria:

- A. It demonstrates that the establishment or expansion of operations within the Pine Tree Development Zone would not occur within the State absent the availability of the Pine Tree Development Zone benefits and provides, at a minimum, a signed and

COMMITTEE AMENDMENT

1 notarized statement to this effect. The department shall determine whether the
2 business has met the requirements of this paragraph; and

3 B. It has received a ~~certificate~~ letter of certification as a qualified business pursuant
4 to section 5250-O.

5 **Sec. 3. 30-A MRSA §5250-J, sub-§5,** as repealed and replaced by PL 2009, c.
6 461, §22, is amended to read:

7 **5. Termination.** A qualified Pine Tree Development Zone business located in a tier
8 1 location may not be certified under this subchapter after December 31, ~~2018~~ 2021, and
9 a qualified Pine Tree Development Zone business located in a tier 2 location may not be
10 certified under this subchapter after December 31, 2013. All Pine Tree Development
11 Zone benefits provided under this subchapter are terminated on December 31, ~~2028~~ 2031.

12 **Sec. 4. 30-A MRSA §5250-O,** as amended by PL 2007, c. 263, §1, is further
13 amended to read:

14 **§5250-O. Certification of qualified business**

15 A business may apply to the commissioner for certification as a qualified Pine Tree
16 Development Zone business. Upon review and determination by the commissioner that a
17 business is a qualified Pine Tree Development Zone business, the commissioner shall
18 issue a ~~certificate of qualification~~ letter of certification to the business that includes a
19 description of the qualified business activity for which the ~~certificate~~ letter is being
20 issued. Prior to issuing a ~~certificate of qualification~~ letter of certification, the
21 commissioner must find that the business activity will not result in a substantial detriment
22 to existing businesses in the State. In order to make this determination, the commissioner
23 shall consider those factors the commissioner determines necessary to measure and
24 evaluate the effect of the proposed business activity on existing businesses, including
25 whether any adverse economic effect of the proposed business activity on existing
26 businesses is outweighed by the contribution to the economic well-being of the State.
27 The State Economist must review applications under this section and provide an advisory
28 opinion to assist the commissioner in making findings under this section. The
29 commissioner shall provide a copy of the letter of certification to the State Tax Assessor.

30 The commissioner shall issue a certificate of qualification to a qualified Pine Tree
31 Development Zone business after the commissioner has verified that the business has
32 added at least one qualified Pine Tree Development Zone employee above its base level
33 of employment. This verification may be obtained in such manner as the commissioner
34 may prescribe. The commissioner shall provide a copy of the certificate of qualification
35 to the State Tax Assessor.

36 **Sec. 5. 30-A MRSA §5250-P,** as enacted by PL 2003, c. 688, Pt. D, §2, is
37 repealed and the following enacted in its place:

38 **§5250-P. Annual reporting; evaluation**

39 **1. Annual reports.** A qualified Pine Tree Development Zone business, the State
40 Tax Assessor and the commissioner each shall report annually in accordance with this
41 subsection.

1 A. On or before April 15th annually, beginning in 2019, a qualified Pine Tree
2 Development Zone business shall file a report with the commissioner for the
3 immediately preceding calendar year, referred to in this subsection as "the report
4 year," that contains the following information with such additional information and
5 on forms as the commissioner may require:

6 (1) The total number of Maine employees and total salary and wages for those
7 employees for the report year;

8 (2) The total number of qualified Pine Tree Development Zone employees and
9 total salary and wages for those employees for the report year;

10 (3) The number of qualified Pine Tree Development Zone employees hired
11 within the report year;

12 (4) The amount of investments made during the report year at the qualified Pine
13 Tree Development Zone business location or directly related to the qualified
14 business activity; and

15 (5) In aggregate, the estimated or total value of Pine Tree Development Zone
16 benefits received or claimed in the report year.

17 B. On or before October 1st annually, beginning in 2019, the State Tax Assessor
18 shall report to the commissioner and to the joint standing committees of the
19 Legislature having jurisdiction over taxation and economic development matters the
20 aggregate revenue loss to the State for the most recently completed state fiscal year
21 resulting from Pine Tree Development Zone benefits under section 5250-I, subsection
22 14, paragraphs B, C and D.

23 C. On or before June 1st annually, beginning in 2019, the commissioner shall report
24 to the joint standing committees of the Legislature having jurisdiction over taxation
25 and economic development matters information on qualified Pine Tree Development
26 Zone businesses, including, but not limited to:

27 (1) The names of qualified Pine Tree Development Zone businesses for the
28 report year;

29 (2) The estimated or total aggregate amount of Pine Tree Development Zone
30 benefits received by qualified Pine Tree Development Zone businesses in the
31 report year; and

32 (3) Aggregate information for each of the most recent 3 report years on:

33 (a) Employment levels for all Maine employees and for qualified Pine Tree
34 Development Zone employees and associated salary and wages for both
35 groups of employees;

36 (b) Average annual salary and wages and access to health insurance and
37 retirement benefits for all Maine employees and for qualified Pine Tree
38 Development Zone employees; and

1 (c) Amount of investment associated with the qualified Pine Tree
2 Development Zone business locations or directly related to the qualified
3 business activities.

4 **2. Evaluation; specific public policy objective; performance measures.** The Pine
5 Tree Development Zone program established by this subchapter is subject to ongoing
6 legislative review in accordance with Title 3, chapter 37. In developing evaluation
7 parameters to perform the review, the Office of Program Evaluation and Government
8 Accountability, the Legislature's government oversight committee and the joint standing
9 committee of the Legislature having jurisdiction over taxation matters shall consider:

10 A. That the specific public policy objective of the Pine Tree Development Zone
11 program established by this subchapter is to create and retain quality jobs in this State
12 by reducing the tax burden experienced by businesses and thereby making this State's
13 business tax burden more comparable to other states, encouraging location and
14 expansion of businesses in this State and improving the competitiveness of this
15 State's businesses; and

16 B. Performance measures, including:

17 (1) Change in employment levels of qualified Pine Tree Development Zone
18 employees;

19 (2) Amount of investment directly related to a qualified business activity;

20 (3) Comparison of business tax burden in this State to other states;

21 (4) Comparison of other cost burdens in this State to other states;

22 (5) Comparison of the amount of public incentives received from the Pine Tree
23 Development Zone program to the amount of public incentives received from
24 other incentive programs in the State;

25 (6) Measures of industry competitiveness for businesses receiving Pine Tree
26 Development Zone benefits;

27 (7) Measures of fiscal impact and overall economic impact to the State; and

28 (8) Other measures as may be relevant to the evaluation of program outcomes.

29 The Office of Program Evaluation and Government Accountability shall provide a report
30 of its evaluation of the Pine Tree Development Zone program established by this
31 subchapter in accordance with Title 3, section 999 by January 15, 2021 and shall also
32 provide this report to the joint standing committee of the Legislature having jurisdiction
33 over economic development matters, which may report out a bill to the First Regular
34 Session of the 130th Legislature in response to the report's recommendations.

35 **Sec. 6. 35-A MRSA §3210-E, sub-§6**, as enacted by PL 2009, c. 627, §5 and
36 affected by §12, is amended to read:

37 **6. Repeal.** This section is repealed December 31, ~~2028~~ 2031.

38 **Sec. 7. 36 MRSA §1760, sub-§87**, as amended by PL 2011, c. 285, §5, is further
39 amended to read:

1 **87. Sales of tangible personal property and transmission and distribution of**
2 **electricity to qualified development zone businesses.** Beginning July 1, 2005, sales of
3 tangible personal property, and of the transmission and distribution of electricity, to a
4 qualified Pine Tree Development Zone business, as defined in Title 30-A, section 5250-I,
5 subsection 17, for use directly and primarily in one or more qualified business activities,
6 as defined in Title 30-A, section 5250-I, subsection 16. The exemption provided by this
7 subsection is limited for each qualified Pine Tree Development Zone business to sales
8 occurring within a period of 10 years in the case of a business located in a tier 1 location,
9 as defined in Title 30-A, section 5250-I, subsection 21-A, and 5 years in the case of a
10 business located in a tier 2 location, as defined in Title 30-A, section 5250-I, subsection
11 21-B, from the date the business is certified pursuant to Title 30-A, section 5250-O or
12 until December 31, ~~2028~~ 2031, whichever occurs first. For a business that applies for
13 certification as a qualified Pine Tree Development Zone business with the Commissioner
14 of Economic and Community Development on or after January 1, 2019, the exemption
15 provided by this subsection requires a qualified Pine Tree Development Zone business to
16 obtain a certificate of qualification issued by the Commissioner of Economic and
17 Community Development pursuant to Title 30-A, section 5250-O. As used in this
18 subsection, "primarily" means more than 50% of the time during the period that begins on
19 the date on which the property is first placed in service by the purchaser and ends 2 years
20 from that date or at the time the property is sold, scrapped, destroyed or otherwise
21 permanently removed from service by the purchaser, whichever occurs first.

22 **Sec. 8. 36 MRSA §2016, sub-§2,** as enacted by PL 2005, c. 351, §9 and affected
23 by §26, is repealed and the following enacted in its place:

24 **2. Reimbursement allowed.** A reimbursement is allowed as provided in this section
25 for a tax paid pursuant to this Part with respect to:

26 A. The sale or use of tangible personal property that is physically incorporated in and
27 becomes a permanent part of real property that is owned by or sold to a qualified Pine
28 Tree Development Zone business and that is used directly and primarily by that
29 business in one or more qualified business activities; or

30 B. The sale or use of tangible personal property and the transmission and distribution
31 of electricity to a qualified Pine Tree Development Zone business that is used directly
32 and primarily in one or more qualified business activities.

33 **Sec. 9. 36 MRSA §2016, sub-§3,** as enacted by PL 2005, c. 351, §9 and affected
34 by §26, is amended to read:

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

37 A. A claim for reimbursement under this section pursuant to subsection 2,
38 paragraph A must be filed by the contractor or subcontractor with the State Tax
39 Assessor within 3 years from the date on which the tangible personal property was
40 incorporated into real property. The reimbursement claim must be submitted on a
41 form prescribed by the assessor and must be accompanied by a statement from a
42 qualified Pine Tree Development Zone business certifying, under penalties of
43 perjury, that the personal property with respect to which the tax was paid by the
44 claimant has been placed in use directly and primarily in a qualified business activity.

1 All records pertaining to such certification and to the transactions in question must be
2 retained for at least 6 years by the contractor or subcontractor, by the qualified Pine
3 Tree Development Zone business and by the person, if any, that sold the real property
4 in question to that business. The reimbursement claim must be accompanied by such
5 additional information as the assessor may require. If a sales or use tax is included in
6 the contractor's or subcontractor's contract price, the contractor or subcontractor shall
7 file, at the request of the qualified Pine Tree Development Zone business, a claim for
8 reimbursement in accordance with this section and pay the reimbursement to the
9 qualified Pine Tree Development Zone business.

10 B. If, by agreement between the contractor or subcontractor and the qualified Pine
11 Tree Development Zone business, the contractor or subcontractor assigns its right to
12 claim and receive reimbursement pursuant to subsection 2, paragraph A, the qualified
13 Pine Tree Development Zone business must file a claim for reimbursement in
14 accordance with this subsection. A reimbursement may not be issued to a qualified
15 Pine Tree Development Zone business under this paragraph unless the contractor or
16 subcontractor has previously submitted to the bureau a certificate, signed by the
17 contractor or subcontractor, releasing the contractor's or subcontractor's claim to the
18 reimbursement. The certificate must be in a format prescribed by the assessor.

19 C. A claim for reimbursement under subsection 2, paragraph B by a qualified Pine
20 Tree Development Zone business must include proof that the business was issued a
21 certificate of qualification by the Commissioner of Economic and Community
22 Development pursuant to Title 30-A, section 5250-O.

23 **Sec. 10. 36 MRSA §2016, sub-§4**, as amended by PL 2009, c. 627, §7 and
24 affected by §12, is further amended to read:

25 **4. Limitations.** The following are the limitations on reimbursements made pursuant
26 to this section.

27 A. Reimbursements made by the assessor pursuant to ~~this section~~ subsection 2,
28 paragraph A are limited to taxes paid in connection with sales of tangible personal
29 property that occur within a period of 10 years in the case of a qualified Pine Tree
30 Development Zone business located in a tier 1 location, as defined in Title 30-A,
31 section 5250-I, subsection 21-A, and 5 years in the case of a qualified Pine Tree
32 Development Zone business located in a tier 2 location, as defined in Title 30-A,
33 section 5250-I, subsection 21-B, from the date the qualified Pine Tree Development
34 Zone business receiving the property is certified pursuant to Title 30-A, section
35 5250-O or by December 31, ~~2028~~ 2031, whichever occurs first.

36 B. Reimbursement pursuant to ~~this section~~ subsection 2, paragraph A of taxes paid in
37 connection with the sale of tangible personal property subsequently attached to real
38 property may not be made when those real property improvements:

39 (1) Are owned by more than one person prior to their acquisition by the qualified
40 Pine Tree Development Zone business whose certification accompanies the
41 reimbursement claim pursuant to subsection 3; or

42 (2) Have been used for a business purpose by a person other than the qualified
43 Pine Tree Development Zone business whose certification accompanies the
44 reimbursement claim pursuant to subsection 3.

1 C. Reimbursements pursuant to subsection 2, paragraph B are limited to taxes paid in
2 connection with the sale or use of tangible personal property and the transmission and
3 distribution of electricity that has occurred within the period of time between the date
4 a qualified Pine Tree Development Zone business was issued a letter of certification
5 pursuant to Title 30-A, section 5250-O and the date the business received a sales tax
6 exemption certificate pursuant to eligibility for a sales tax exemption under section
7 1760, subsection 87, but in no case may this period of time exceed a period of time
8 beyond 2 years from the date of issuance of the letter of certification.

9 **Sec. 11. 36 MRSA §2529, sub-§3**, as amended by PL 2009, c. 627, §9, is further
10 amended to read:

11 **3. Limitation.** The credit provided by this section may not be claimed for calendar
12 years beginning on or after January 1, ~~2029~~ 2032.

13 **Sec. 12. 36 MRSA §5219-W, sub-§4**, as amended by PL 2009, c. 627, §11, is
14 further amended to read:

15 **4. Limitation.** The credit provided by this section may not be claimed for tax years
16 beginning on or after January 1, ~~2029~~ 2032.

17 **Sec. 13. 36 MRSA §6754, sub-§1, ¶D**, as amended by PL 2011, c. 240, §44, is
18 further amended to read:

19 D. For qualified Pine Tree Development Zone employees, as defined in Title 30-A,
20 section 5250-I, subsection 18, employed directly in the qualified business activity of
21 a qualified Pine Tree Development Zone business, as defined in Title 30-A, section
22 5250-I, subsection 17, for whom a certificate of qualification has been issued in
23 accordance with Title 30-A, section 5250-O, the reimbursement under this subsection
24 is equal to 80% of Maine income tax withheld each year for which reimbursement is
25 requested and attributed to those qualified employees for a period of no more than 10
26 years for a tier 1 location as defined in Title 30-A, section 5250-I, subsection 21-A
27 and no more than 5 years for a tier 2 location as defined in Title 30-A, section 5250-I,
28 subsection 21-B. Reimbursement under this paragraph may not be paid for years
29 beginning after December 31, ~~2028~~ 2031.

30 **Sec. 14. Department of Economic and Community Development; study**
31 **and report.**

32 **1. Study.** By January 15, 2019, the Department of Economic and Community
33 Development shall study:

34 A. Whether the income requirements with respect to qualified Pine Tree
35 Development Zone employees pursuant to the Maine Revised Statutes, Title 30-A,
36 section 5250-I, subsection 18 should be amended in order to more effectually
37 describe high-quality jobs; and

38 B. Whether geographical limitations under the Pine Tree Development Zone program
39 should be amended in light of the public policy objectives of the program, given the
40 current geographical distribution of qualified Pine Tree Development Zone
41 businesses.

1 While performing this study, the Department of Economic and Community Development
2 shall consult with, at a minimum, the Department of Labor and the Department of
3 Administrative and Financial Services, Maine Revenue Services.

4 **2. Report.** The Department of Economic and Community Development shall submit
5 a report of its findings and any recommended legislation to the joint standing committee
6 of the Legislature having jurisdiction over economic development matters by January 15,
7 2019. The committee may report out a bill in response to the study to the First Regular
8 Session of the 129th Legislature.

9 **Sec. 15. Department of Economic and Community Development; annual**
10 **reports before June 1, 2021.** With respect to aggregate information for the most
11 recent 3 report years that must be reported to the relevant joint standing committees of the
12 Legislature pursuant to the Maine Revised Statutes, Title 30-A, section 5250-P,
13 subsection 1, paragraph C, the Commissioner of Economic and Community Development
14 is not required to report information for a year in which the data upon which such
15 aggregate information would be based are not available and were not collected by virtue
16 of such data collection not being required pursuant to statute. By June 1, 2021 the
17 commissioner shall fully report all requisite information in the commissioner's annual
18 reports to the Legislature.

19 **Sec. 16. Application.** Those sections of this Act that amend the Maine Revised
20 Statutes, Title 30-A, section 5250-I, subsections 16 and 17 and section 5250-O and Title
21 36, section 1760, subsection 87 and section 2016, subsections 3 and 4 and repeal and
22 replace Title 36, section 2016, subsection 2 apply to businesses that apply to the
23 Commissioner of Economic and Community Development for certification as a qualified
24 Pine Tree Development Zone business on or after January 1, 2019.

25 **Sec. 17. Appropriations and allocations.** The following appropriations and
26 allocations are made.

27 **ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF**

28 **Business Development 0585**

29 Initiative: Provides one-time funds to update tax incentive software in order to expand
30 data collection and reporting.

31	GENERAL FUND	2017-18	2018-19
32	All Other	\$0	\$33,750
33			
34	GENERAL FUND TOTAL	\$0	\$33,750
35			

36 **SUMMARY**

37 This amendment strikes the bill and changes the title. It amends the Pine Tree
38 Development Zone program as follows.

39 1. It extends the end date for Pine Tree Development Zone certification and benefits
40 by 3 years, instead of 5 years as proposed in the bill.

1 2. It requires the Pine Tree Development Zone program to be evaluated in
2 accordance with existing tax expenditure review provisions in the Maine Revised
3 Statutes, Title 3, chapter 37 and specifies the public policy objective of the program that
4 should be used for evaluation as well as performance measures to be considered for that
5 objective. It also requires the Office of Program Evaluation and Government
6 Accountability to submit a report of its evaluation of the program by January 15, 2021
7 and authorizes the joint standing committee of the Legislature having jurisdiction over
8 economic development matters to report out a bill to the First Regular Session of the
9 130th Legislature in response to the report's recommendations.

10 3. It amends the reporting requirements of qualified Pine Tree Development Zone
11 businesses, the Commissioner of Economic and Community Development and the State
12 Tax Assessor by requiring the annual reports to contain additional specific categories of
13 information and changing the date those reports are due.

14 4. For businesses applying to the program on or after January 1, 2019, it requires a
15 qualified Pine Tree Development Zone business to obtain certification from the
16 Commissioner of Economic and Community Development that the business has added at
17 least one new qualified employee before being eligible for a sales tax exemption with
18 respect to sales of tangible personal property and the transmission and distribution of
19 electricity.

20 5. For businesses applying to the program on or after January 1, 2019, it provides for
21 sales tax reimbursements to a qualified Pine Tree Development Zone business with
22 respect to sales taxes paid for tangible personal property and the transmission and
23 distribution of electricity for the period of time between the time the business became a
24 qualified Pine Tree Development Zone business and the time the business received a
25 sales tax exemption certificate and limits this benefit to a period of 2 years.

26 6. It directs the Department of Economic and Community Development to study
27 whether the income levels currently required for qualified Pine Tree Development Zone
28 employees should be amended in order to more effectually describe high-quality jobs and
29 whether the geographical limitations of the program should be amended in light of the
30 public policy objectives of the program and to submit a report of its findings and any
31 recommended legislation to the joint standing committee of the Legislature having
32 jurisdiction over economic development matters.

33 7. It requires a signed and notarized statement from a business applying for
34 certification as a qualified Pine Tree Development Zone business that the establishment
35 or expansion of operations within the Pine Tree Development Zone would not occur
36 within the State absent the availability of the Pine Tree Development Zone benefits.

37 This amendment also includes an appropriation to allow the Department of Economic
38 and Community Development to update tax incentive software to meet the reporting
39 requirements specified in the amendment.

FISCAL NOTE REQUIRED

(See attached)

COMMITTEE AMENDMENT



128th MAINE LEGISLATURE

LD 1654

LR 2734(02)

An Act To Protect Economic Competitiveness in Maine by Extending the End Date for Pine Tree Development Zone Benefits

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-472)
Committee: Labor, Commerce, Research and Economic Development
Fiscal Note Required: Yes

Fiscal Note

	FY 2017-18	FY 2018-19	Projections FY 2019-20	Projections FY 2020-21
Net Cost (Savings)				
General Fund	\$0	\$46,000	\$351,510	\$896,680
Appropriations/Allocations				
General Fund	\$0	\$33,750	\$90,260	\$89,180
Revenue				
General Fund	\$0	(\$12,250)	(\$261,250)	(\$807,500)
Other Special Revenue Funds	\$0	(\$250)	(\$13,750)	(\$42,500)

Fiscal Detail and Notes

This bill extends the end date for Pine Tree Development Zone certification and benefits by 3 years and amends certain provisions of the laws associated with the program. Certification will now end on December 31, 2021 and benefits will cease on December 31, 2031. The bill would result in a loss of General Fund revenue of \$12,250 and a loss of Local Government Fund revenue of \$250 in fiscal year 2018-19.

The bill includes a one-time General Fund appropriation of \$33,750 in fiscal year 2018-19 to the Business Development program within the Department of Economic and Community Development for the costs associated with updating tax incentive software to allow for expanded data collection in order to meet the reporting requirements of this legislation.

The Department of Administrative and Financial Services will require a future General Fund appropriation of \$90,260 in fiscal year 2019-20 for one Tax Examiner position and related All Other costs to review and process sales tax reimbursement requests.

Additional costs to the Legislature's Office of Program Evaluation and Government Accountability can be absorbed within existing budgeted resources.