

# 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)

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
115TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1211, L.D. 1769, Bill, "An Act to Encourage Business Investments"

Amend the bill by striking out all of Part A and inserting in its place the following:

PART A

Sec. A-1. 30-A MRSA §5251, sub-§2-A is enacted to read:

2-A. State participation. Recognizing that the State, as well as municipalities, shares in the benefits of responsible new development, the State may also participate in the local program for improving a district:

A. To enhance local efforts for economic or commercial development, or both; and

B. To expand employment opportunities.

Sec. A-2. 30-A MRSA §5252, sub-§§1-A and 8-A are enacted to read:

1-A. Benefitted business. "Benefitted business" means a business that receives the direct financial benefits from the operation of the tax increment financing district.

8-A. State tax increment. "State tax increment" means that portion of all additional sales and individual income taxes generated as a result of increased sales and employment within a duly designated tax increment financing district above the normal growth for that district.

2           **Sec. A-3. 30-A MRS §5254-A** is enacted to read:

4    **§5254-A. State tax increment financing**

6           **1. Eligibility.** Any tax increment financing district, created by a municipality and duly designated by the State, in which captured assessed value is created after the effective date of this section, is eligible to be approved as a state tax increment financing district. Municipalities must demonstrate that without the approval as a state tax increment financing district the project will not go forward, and as a result will not generate new sales tax revenues or create new jobs that will result in new individual income taxes. Upon determination by the designating authority that these conditions have been met, the designating authority shall approve the municipal creation of the state tax increment financing district.

18           **2. Retained state tax revenues.** On an annual basis, designated businesses within the district shall report the amount of new sales tax and number of new employees and their compensation levels, above the average level of the previous 3 years. The State Tax Assessor shall determine the net annual gain in state tax revenues through newly generated individual income and sales taxes. The municipality may receive up to 25% of the total of new sales tax revenues and up to 25% of the total of new individual income taxes generated by each designated business within the district, as determined by the State Tax Assessor subject to the further limitations in subsection 4. The municipality shall then place this state tax increment financing revenue in the development sinking fund established in accordance with section 5254, subsection 3.

34           **3. State tax increment contingent account created.** At the end of each fiscal year, the Commissioner of Finance shall deposit up to 25% of the net annual gain in sales and individual income tax revenues as determined by the State Tax Assessor in the state tax increment contingent account. The State Controller shall pay the funds to municipalities as certified by the State Tax Assessor.

42           **4. Limitations.** The following limitations apply.

44           **A.** A state tax increment financing district may apply only to benefitted businesses involved in nonretail commercial activities, including but not limited to manufacturing, wholesaling, warehousing, distribution, office, administration and other service-related commercial activities.

50

2 B. A business relocating from another location in this  
3 State, moving employment and sales, is not eligible for the  
4 state tax increment financing.

5 C. A business must demonstrate that the operation within a  
6 tax increment financing district will have no adverse effect  
7 on other businesses in the State nor will it create an  
8 unfair competitive advantage in relation to other businesses  
9 in the State.

10 D. A state tax increment financing district may not  
11 designate an aggregate amount of retained state tax revenues  
12 greater than 10% of the aggregated total allowed within the  
13 state tax increment contingent account.

14 E. At no time may the aggregate annual liability for all  
15 state tax increment financing districts exceed \$20,000,000.

16 F. A transfer of ownership of an existing business may not  
17 be construed as creating newly generated state tax revenues.

18 5. Duration of state designation. State tax increment  
19 financing districts have a maximum duration of 10 years.

20 6. Program; administration. The Finance Authority of Maine  
21 shall administer a state tax increment financing program. The  
22 authority shall adopt rules pursuant to Title 5, chapter 375 for  
23 implementation of the program, including but not limited to rules  
24 for determining and certifying eligibility and the amount of tax  
25 increment financing attributable to particular districts. The  
26 authority may also establish by rule fees for administration of  
27 the program.

28 7. Repeal of state tax increment financing districts. The  
29 designation of new state tax increment financing districts ceases  
30 2 years after the effective date of this section, subject to  
31 review by the joint standing committees of the Legislature having  
32 jurisdiction over economic development and taxation matters.  
33 Designation of new state tax increment financing districts may  
34 only be resumed by act of the Legislature.

35 Sec. A-4. Effective date. This Part takes effect 90 days after  
36 approval.'

37 Further amend the bill in Part C in section C-1 in  
38 subsection 3 in the 10th line (page 5, line 36 in L.D.) by  
39 striking out the following: "3 months" and inserting in its place  
40 the following: '30 days'

2 Further amend the bill in Part C by striking out all of  
section C-2 and inserting in its place the following:

4 'Sec. C-2. Affordable housing. The 30% set-aside authorized by  
the Maine Revised Statutes, Title 30-A, section 4852, subsection  
6 3 must be used by the Maine State Housing Authority to administer  
within its existing single-family mortgage loan program, a  
8 subcategory of the program designed to increase economic growth  
in Maine by encouraging the construction of new homes and to make  
10 affordable housing available to more residents of this State.  
The subcategory, called the Jump Start Program, or such other  
12 name chosen by the Maine State Housing Authority, is subject to  
all the rules and regulations of the existing single-family  
14 mortgage loan program.'

16 Further amend the bill in Part D in section D-2 in  
subsection 1 in the last line (page 6, line 21 in L.D.) by  
18 striking out the following: "Representatives;" and inserting in  
its place the following: 'Representatives. The members must be  
20 chosen to provide statewide representation and equal  
representation from small and large businesses;'

22 Further amend the bill in Part D in section D-4 in the 4th  
24 line (page 6, line 42 in L.D.) by inserting after the following:  
"rule." the following: 'The commission may establish  
26 subcommittees and appoint persons to serve on those subcommittees  
to assist in the performance of its duties. Subcommittee members  
28 are not eligible for compensation and serve in an advisory  
capacity to the commission.'

30 Further amend the bill in Part D in section D-4 in  
32 subsection 6 in the last line (page 7, line 12 in L.D.) by  
striking out the following: "and"

34 Further amend the bill in Part D in section D-4 by inserting  
36 after subsection 6 the following:

38 '7. The feasibility of a single administrative location  
where all license fees for businesses may be paid;

40 8. The feasibility of a generic form or forms to be used in  
42 permitting, reporting and licensing; and'

44 Further amend the bill by renumbering the subsections in  
Part D, section D-4 to read consecutively.

46 Further amend the bill in Part D by striking out all of  
48 sections D-5 and D-6 and inserting in their place the following:

2 'Sec. D-5. Staff assistance. The commission shall request  
staffing assistance from the Legislative Council and the business  
community. Business community staff will provide 2/3 of the  
4 staff assistance and the Legislative Council 1/3.

6 'Sec. D-6. Reimbursement. The members of the commission who  
are Legislators are entitled to the legislative per diem, as  
8 defined in the Maine Revised Statutes, Title 3, section 2, for  
each day's attendance at commission meetings. Legislative  
10 members of the commission are entitled to expenses, as defined in  
Title 5, section 12002, upon application to the Executive  
12 Director of the Legislative Council for those expenses. Business  
community members are not entitled to expenses.'

14 Further amend the bill by striking out all of Part E.

16 Further amend the bill in Part F by striking out all of  
18 section F-1 and inserting in its place the following:

20 'Sec. F-1. 10 MRSA §§1023-H and 1026-I are enacted to read:

22 §1023-H. Maine Street Investment Program Fund

24 1. Creation. The Maine Street Investment Program Fund,  
referred to in this section as the "fund," is created under the  
26 jurisdiction and control of the authority.

28 2. Sources of money. The fund consists of the following:

30 A. All money appropriated or allocated for inclusion in the  
32 fund, from whatever source;

34 B. Subject to any pledge, contract or other obligation, all  
interest, dividends or other pecuniary gains from investment  
36 of money from the fund;

38 C. Subject to any pledge, contract, fee or other  
obligation, any money that the authority receives in  
40 repayment of advances from the fund; and

42 D. Any other money available to the authority and directed  
by the authority to be paid into the fund.

44 3. Application of fund. Money in the fund may be applied  
to carry out any power of the authority under or in connection  
46 with section 1026-I or to pay obligations incurred in connection  
with the fund. Money in the fund not needed currently to meet  
48 the obligations of the authority as provided in this section may  
be invested in a manner permitted by law.

50

2 4. Accounts within fund. The authority may divide the fund  
3 into separate accounts it determines necessary or convenient for  
4 carrying out this section, including, but not limited to,  
5 accounts reserved for grants or for loans.

6 5. Revolving fund. The fund is a nonlapsing, revolving  
7 fund. All money in the fund must be continuously applied by the  
8 authority to carry out this section and section 1026-I.

10 §1026-I. Maine Street Investment Program

12 The Maine Street Investment Program is established to  
13 provide grants to municipalities and loans to businesses or  
14 municipalities on a matching basis for public and private  
15 investments to revitalize downtown areas and business districts.

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

19 A. "Business district" means any area zoned by a  
20 municipality for business or industrial uses or, where no  
21 zoning exists, where business or industrial uses would not  
22 be inconsistent with current uses, as determined by the  
23 authority.

24 B. "Downtown" means the area designated by a municipality  
25 or generally considered to be the central business district  
26 of a municipality, as determined by the authority.

27 2. Eligibility for grants. Municipalities may apply to the  
28 authority for grants under the Maine Street Investment Program on  
29 forms approved by the authority. The forms must be signed by an  
30 authorized municipal official. To approve a grant, the authority  
31 must find that:

32 A. The municipality has \$3 of private funding or investment  
33 commitments for each \$1 of grant funds. The authority may  
34 establish procedures to ensure that the matching requirement  
35 is met;

36 B. The private investment would not take place unless the  
37 grant is provided to the municipality;

38 C. The grant proceeds will be used for public  
39 infrastructure improvements such as parking facilities,  
40 acquisition and demolition of sites, street improvements and  
41 waste disposal improvements, or for such other improvements  
42 as the authority determines to be necessary or desirable in  
43 order to attract private investment;

2  
4  
6  
8  
10  
12  
14  
16  
18  
20  
22  
24  
26  
28  
30  
32  
34  
36  
38  
40  
42  
44  
46  
48

D. The municipality will comply with the applicable criteria and conditions for the program established by the authority by rulemaking; and

E. The project for which the grant is requested will not result in a substantial detriment to existing business or other municipalities in the State. In making this determination, the authority shall consider such factors as it considers necessary to measure and evaluate the effect of the project on existing business and other municipalities, including considering:

(1) Whether a grant for a project should be approved if, as a result of the project, there will not be sufficient demand within the market area of the State to be served by the project to employ the efficient capacity of existing business; and

(2) Whether any adverse economic effect of the project on existing business or other municipalities is outweighed by the contribution that the project will make to the economic growth and vitality of the State.

The applicant has the burden of demonstrating a reasonable likelihood that the project will not result in a substantial detriment to existing business or other municipalities, except in cases where no interested parties object to the project, in which event the requirements of this paragraph are deemed satisfied. Interested parties must be given an opportunity, with or without a hearing at the discretion of the authority, to present their objections to the project on grounds that the project will result in a substantial detriment to existing business or other municipalities. If any such party presents such objections with reasonable specificity and persuasiveness, the authority may divulge whatever information concerning the project that it considers necessary for a fair presentation by the objecting party and evaluation of such objections. If the authority finds that the applicant has failed to meet its burden of proof as specified in this paragraph, the application must be denied.

3. Maximum allowable grant. A single grant to a municipality may not exceed \$500,000.

4. Eligibility for loans. Businesses and municipalities may apply to the authority for loans under the program.



2       A. The projects to be financed must pertain to  
3       manufacturing, industrial, recreational or natural resource  
4       enterprises, be located in the State and provide significant  
5       public benefit in relation to the amount of the loan, as  
6       determined by the authority. Public benefits include, but  
7       are not limited to, increased opportunities for employment,  
8       increased capital flows, particularly capital flowing in  
9       from outside the State, increased state and municipal tax  
10       revenues, rehabilitation of blighted or underutilized areas  
11       and provision of necessary services. Loan proceeds may be  
12       used for any appropriate commercial purpose, as determined  
13       by the authority, including working capital.

14       B. The authority must determine that the borrower is a  
15       for-profit or nonprofit commercial entity, that it is  
16       creditworthy and reasonably likely to repay the loan. If  
17       the authority determines that the proposed borrower is not  
18       creditworthy or not likely to be able to repay the loan, the  
19       municipality may elect either to cosign the loan or borrow  
20       the money directly and relend the proceeds to the business,  
21       assuming the obligation to repay the loan to the authority.

22       C. The authority must determine that the loan is necessary  
23       to implementation of the project either because the borrower  
24       has insufficient access to other funds or because the  
25       borrower demonstrates and the authority determines that the  
26       project would not provide the projected public benefits  
27       without the availability of the loan.

28       D. The authority must determine that the project will not  
29       result in a substantial detriment to existing business in  
30       the State. In making this determination, the authority  
31       shall consider it necessary to measure and evaluate the  
32       effect of the project on existing business, including  
33       considering:

34               (1) Whether a loan for a project should be approved  
35               if, as a result of the project, there will not be  
36               sufficient demand within the market area of the State  
37               to be served by the project to employ the efficient  
38               capacity of existing business; and

39               (2) Whether any adverse economic effect of the project  
40               on existing business is outweighed by the contribution  
41               that the project will make to the economic growth and  
42               vitality of the State.

43       The applicant has the burden of demonstrating a reasonable  
44       likelihood that the project will not result in a substantial  
45       detriment to existing business, except in cases where no  
46       detriment to existing business, except in cases where no  
47       detriment to existing business, except in cases where no  
48       detriment to existing business, except in cases where no  
49       detriment to existing business, except in cases where no  
50       detriment to existing business, except in cases where no

2 interested parties object to the project, in which event the  
3 requirements of this paragraph are deemed satisfied.  
4 Interested parties must be given an opportunity, with or  
5 without a hearing at the discretion of the authority, to  
6 present their objections to the project on grounds that the  
7 project will result in a substantial detriment to existing  
8 business. If any such party presents such objections with  
9 reasonable specificity and persuasiveness, the authority may  
10 divulge whatever information concerning the project that it  
11 considers necessary for a fair presentation by the objecting  
12 party and evaluation of such objections. If the authority  
13 finds that the applicant has failed to meet its burden of  
14 proof as specified in this paragraph, the application must  
15 be denied.

16 4. Loan terms and conditions. Loans may not exceed 50% of  
17 total project costs up to a total loan of \$500,000 per project.  
18 The authority may establish prudent terms and conditions for  
19 loans, including limits on the amount of loans for any one  
20 project and requiring adequate collateral for the loans. Loan  
21 terms may not exceed 20 years in the case of loans primarily  
22 secured by real estate, 10 years in the case of loans secured  
23 primarily by machinery and equipment and 7 years for other  
24 loans. The interest rate charged on each loan may not exceed the  
25 prime rate of interest less 2%, as determined by the authority.

26 5. Rulemaking. The authority shall establish rules for the  
27 implementation of the program established by this section,  
28 including, but not limited to, the establishment of fees that may  
29 be charged for the administration of the program.'

30  
31 Further amend the bill by inserting after Part F the  
32 following:

33

34 **PART G**

35

36 **Sec. G-1. 10 MRSA §1026-D, sub-§5, as amended by PL 1987, c.**  
37 **393, §9, is further amended to read:**

38  
39 **5. Office space. The Except in the case of projects for**  
40 **borrowers that qualify as nonprofit tax exempt organizations**  
41 **under the Internal Revenue Code, the authority may not insure any**  
42 **mortgage loan for a project 35% or more of which, as determined**  
43 **by the authority, is professional office space, as defined by the**  
44 **authority.**

45

46 **Sec. G-2. 10 MRSA §1041-A, as amended by PL 1987, c. 393,**  
47 **§10, is repealed and the following enacted in its place:**

48 **§1041-A. Limitations on certain projects**  
49



2 Part C establishes the Jump Start program to be administered  
by the Maine State Housing Authority. The program is to be  
4 funded by a set-aside of funds from the proceeds of mortgage  
purchase bonds. No General Fund appropriations are required for  
6 administration.

8 Part D establishes the Commission to Study State Permitting  
and Reporting Requirements and provides a General Fund  
10 appropriation to the Legislature of \$2,710 in fiscal year 1991-92  
for the per diem and expenses of legislative members, expenses  
12 for other members, printing costs and other meeting expenses.

14 Part E establishes the Maine Street Investment Program to be  
administered by the Finance Authority of Maine. No General Fund  
16 appropriations to the authority are required for program  
administration. Funding for this program is contingent on the  
18 passage of a bond issue in a companion bill.

20 Part F has no fiscal impact.'

22 **STATEMENT OF FACT**

24 This amendment makes several changes to the original bill.

26 In Part A, the provision that would have encouraged  
28 construction of major public facilities is eliminated.

30 Several clarifications have been made in Part A concerning  
operation of state tax increment financing districts. The first  
32 makes clear that a portion of any increase in individual income  
taxes, not payroll taxes, generated within a state tax increment  
34 district may be returned to a municipality. The second  
authorizes the State Tax Assessor to determine the net annual  
36 gain in tax revenues within a state tax increment district. The  
third authorizes the State Tax Assessor to determine, at the end  
38 of each fiscal year, the amount of funds to be directed to the  
state tax increment contingent account and authorizes the  
40 Commissioner of Finance to deposit the funds in the contingent  
account. The fourth adds a provision clarifying that a state tax  
42 increment financing district may only apply to benefitted  
businesses involved in nonretail commercial activities. The  
44 fifth limits a state tax increment district to 10% of the total  
allowed within the state tax increment contingent account and  
46 limits the contingent account to \$20,000,000. The sixth  
clarifies that transfer of ownership of a business can not be  
48 considered as creating new tax revenues. The seventh adds a  
repeal provision that prohibits creation of new tax increment  
50 financing districts 2 years after the effective date of this Act  
and provides for legislative review.

2 In Part C, the Maine State Housing Authority is directed to  
make available for 30 days 30% of the proceeds of mortgage  
4 purchase bonds for the purchase of mortgage loans for newly  
constructed owner-occupied housing. The original bill required  
6 the housing authority to make those proceeds available for 3  
months.

8  
10 In Part D, language has been added to clarify that members  
of the Commission to Study State Permitting and Reporting  
Requirements must be chosen from around the State and from both  
12 small and large businesses. The commission is directed to study  
the feasibility of a single administrative location where all  
14 license fees for businesses may be paid and the feasibility of a  
generic form or forms to be used in permitting, reporting and  
16 licensing. Minor changes have also been made to the staff  
assistance reimbursement sections.

18  
20 Part E, which contained language for the \$25 million bond  
issue to support the Maine Street Investment Fund, has been  
deleted from the original bill and will be proposed in a separate  
22 bill to be considered by the Joint Standing Committee on  
Appropriations and Financial Affairs.

24  
26 Part F provides further technical details concerning  
operation of the Maine Street Investment Program Fund. It  
provides the Treasurer of State with flexibility in issuing and  
28 refunding the bonds to reduce costs to the State, clarifies that  
the program is intended to continue from year to year, authorizes  
30 the Treasurer of State to issue all or a portion of the bonds as  
taxable bonds if required by federal law and creates a fund under  
32 the jurisdiction of the Finance Authority of Maine to contain  
proceeds of bonds and repayments of loans from the fund. It also  
34 sets additional parameters for grants to municipalities and for  
loans to business borrowers and municipalities on behalf of  
36 businesses.

38 Part G removes existing restrictions on the issuance of  
tax-exempt bonds for nonprofit entities that are otherwise  
40 eligible under the federal Internal Revenue Code.

42 The amendment also adds a fiscal note to the bill.

Reported by the Committee on Housing and Economic Development  
Reproduced and distributed under the direction of the Clerk of the  
House  
(6/10/91) (Filing No. H-603)