

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

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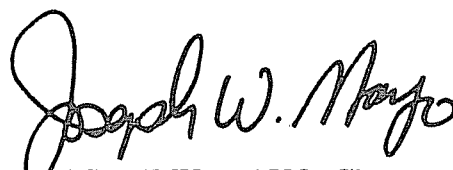
H.P. 1466

House of Representatives, March 30, 1994

**An Act to Demonstrate the Value the State Places on a Strong,
Competitive and Sustainable Paper Industry.**

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Reference to the Committee on Taxation suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative COLES of Harpswell.
Cosponsored by President DUTREMBLE of York and
Representatives: AHEARNE of Madawaska, ALIBERTI of Lewiston, ANDERSON of
Woodland, BAILEY of Township 27, BAILEY of Farmington, BARTH of Bethel, BEAM of
Lewiston, BENNETT of Norway, BRUNO of Raymond, CAMERON of Rumford, CARROLL
of Gray, CASHMAN of Old Town, CATHCART of Orono, CHONKO of Topsham, CLARK of
Millinocket, CONSTANTINE of Bar Harbor, DAGGETT of Augusta, DEXTER of Kingfield,
DONNELLY of Presque Isle, DORE of Auburn, DRISCOLL of Calais, DUTREMBLE of
Biddeford, ERWIN of Rumford, FAIRCLOTH of Bangor, FARNUM of South Berwick,
GOULD of Greenville, GWADOSKY of Fairfield, HEINO of Boothbay, HICHBORN of
LaGrange, HOGLUND of Portland, HUSSEY of Milo, JACQUES of Waterville, JOSEPH of
Waterville, KERR of Old Orchard Beach, KETTERER of Madison, KILKELLY of Wiscasset,
KNEELAND of Easton, KONTOS of Windham, LARRIVEE of Gorham, LEMONT of Kittery,
LIBBY of Buxton, LINDAHL of Northport, LIPMAN of Augusta, LORD of Waterboro,
MARSH of West Gardiner, MARTIN of Eagle Lake, MELENDY of Rockland, MICHAUD of
East Millinocket, MITCHELL of Freeport, O'GARA of Westbrook, OTT of York, PARADIS

Additional cosponsors on next page

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of Augusta, PFEIFFER of Brunswick, PINEAU of Jay, PINETTE of Fort Kent, PLOURDE of Biddeford, PLOWMAN of Hampden, POULIN of Oakland, POULIOT of Lewiston, REED of Falmouth, ROTONDI of Athens, RUHLIN of Brewer, RYDELL of Brunswick, SIMONDS of Cape Elizabeth, SWAZEY of Bucksport, THOMPSON of Lincoln, TOWNSEND of Eastport, TRUE of Fryeburg, VIGUE of Winslow, WALKER of Blue Hill, WINN of Glenburn, YOUNG of Limestone, ZIRNKILTON of Mount Desert, Senators: BEGLEY of Lincoln, BUSTIN of Kennebec, CAHILL of Sagadahoc, CAREY of Kennebec, CARPENTER of York, CIANCHETTE of Somerset, CONLEY of Cumberland, ESTY of Cumberland, FOSTER of Hancock, GOULD of Waldo, HANDY of Androscoggin, HARRIMAN of Cumberland, LAWRENCE of York, LUDWIG of Aroostook, LUTHER of Oxford, MARDEN of Kennebec, O'DEA of Penobscot, PARADIS of Aroostook, PINGREE of Knox, SUMMERS of Cumberland, VOSE of Washington.

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

2 **Sec. 1. 10 MRSA §363, sub-§2-A**, as enacted by PL 1987, c. 413,
4 §4, is amended to read:

6 **2-A. Recommendation of Governor and issuers.** At any time
8 action of the Legislature under subsection 1-A is necessary or
10 desirable, the Governor shall recommend to the appropriate
12 committee of the Legislature a proposed allocation or
14 reallocation of all or part of the state ceiling. To assist the
16 Governor in making a recommendation of proposed allocations of
18 the federal ceiling on private activity bonds, the Finance
20 Authority of Maine shall conduct an annual survey of the State's
22 pulp and paper companies during the years 1994 through 2000 to
24 determine what projects they are considering that are eligible
26 for tax-exempt financing. The results of this survey must be
 taken into consideration in the Governor's recommendation. This
 recommendation shall must, including the results of the survey,
 be considered by the Legislature prior to taking any such
 action. In recommending any allocation or reallocation of the
 state ceiling to the Legislature, the Governor shall consider the
 requests and recommendations of those issuers of bonds within the
 State designated in this section and shall explain the basis of
 any recommendation which that varies from the requests and
 recommendation of those issuers.

28 **Sec. 2. 30-A MRSA c. 207-A** is enacted to read:

30 CHAPTER 207-A

32 PULP AND PAPER MANUFACTURING SECTOR
 STABILIZATION ASSISTANCE

34 §5262. Declaration of necessity

36 1. Legislative finding. The Legislature finds that there
38 is a need to provide assistance in the financing of substantial
40 capital investments in the State's pulp and paper manufacturing
42 sector that will be required by federal environmental regulation
44 and to finance other major capital investments that should be
 made in conjunction with environmental investments in order to
 modernize facilities and to increase productivity. This
 investment is required to:

46 A. Stabilize existing employment and to provide new
 employment opportunities;

48 B. Stabilize, improve and broaden the tax base;

50 C. Improve the quality of the State's environment; and

2 D. Stabilize and improve the general economy of the State.

4 2. Authorization. For the reasons set out in subsection 1,
6 municipalities may develop a program for improving a district of
the municipality:

8 A. To provide impetus for industrial investment;

10 B. To stabilize and increase employment; and

12 C. To provide the facilities outlined in the development
14 program adopted by the legislative body of the municipality.

16 3. Declaration of public purpose. It is declared that the
actions required to assist the implementation of these
18 development programs are a public purpose and that the execution
and financing of these programs are a public purpose.

20 **§5263. Definitions**

22 As used in this chapter, unless the context otherwise
24 indicates, the following terms have the following meanings.

26 1. Base period capital investment. "Base period capital
investment" means 90% of the average annual capital investment in
28 real and personal property at a pulp and paper industry facility
during the 3 calendar years preceding either the calendar year in
30 which an application for approval of a state tax increment
financing district is submitted to the Commissioner of Economic
32 and Community Development by an applicant or preceding January 1,
1995, whichever is earlier.

34 2. Captured assessed value. "Captured assessed value"
means the valuation amount by which the current assessed value of
36 a tax increment financing district exceeds the original assessed
value of the district. If the current assessed value is equal to
38 or less than the original, there is no captured assessed value.

40 3. Designee. "Designee" means a business engaged in the
pulp and paper industry that is selected by a municipality as a
42 partner in a development district.

44 4. Development district. "Development district" means a
specified area within the corporate limits of a municipality that
46 has been designated and separately numbered as provided under
section 5264, and that is to be developed by the municipality or
48 its designee under a development program.

2 5. Development program. "Development program" means a
3 statement of means and objectives designed to improve and
4 modernize the manufacturing facilities and related structures and
5 equipment within the development district. The statement must
6 include:

7 A. A financial plan;

8 B. A complete list of public and private facilities to be
9 constructed;

10 C. The uses of private property within the district;

11 D. The environmental controls to be applied;

12 E. An estimate of the number of jobs to be created,
13 stabilized or retained;

14 F. The proposed operation of the district after the planned
15 capital improvements are completed; and

16 G. The duration of the program, which may not exceed 20
17 years from the date of designation of the district.

18 6. Financial plan. "Financial plan" means a statement of
19 the costs and sources of revenue required to accomplish the
20 development program.

21 A. The statement must include:

22 (1) Cost estimates for the development program;

23 (2) The amount of any indebtedness to be incurred;

24 (3) Sources of anticipated revenues;

25 (4) Estimates of captured assessed values of the
26 district;

27 (5) The portion of the captured assessed values to be
28 applied to the development program and resulting tax
29 increments in each year of the program; and

30 (6) A statement of the estimated impact of tax
31 increment financing on all taxing jurisdictions in
32 which the district is located.

33 7. Maintenance and operation. "Maintenance and operation"
34 means all activities necessary to maintain facilities after they
35 have been developed and all activities necessary to operate the
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2 facilities, including, but not limited to, informational,
3 promotional and educational programs and safety and surveillance
4 activities.

6 8. Major construction project. "Major construction
7 project" means a project or projects, in one or more locations,
8 including all design, planning, engineering, permitting,
9 acquisition, construction, installation or testing of real or
10 personal property used at a pulp and paper industry manufacturing
11 facility, including, without limitation, air or water pollution
12 abatement or control devices, processes or improvements
13 associated with the facility.

14 9. Original assessed value. "Original assessed value"
15 means the assessed value of the district as of March 31st of the
16 preceding tax year.

18 10. Project costs. "Project costs" means expenditures made
19 or estimated to be made or monetary obligations incurred or
20 estimated to be incurred by the municipality or its designee
21 under the development program that are listed in a project plan
22 as costs of improvements, including public works, acquisition,
23 construction or rehabilitation of land or improvements for sale
24 or use by industrial users, within a development district plus
25 costs incidental to those improvements, reduced by income,
26 special assessments or other revenues, other than tax increments,
27 received or reasonably expected to be received by the
28 municipality in connection with the implementation of this plan.

30 A. The term "project costs" does not include the cost of
31 buildings, or portions of buildings, used predominantly for
32 the general conduct of government. These buildings include,
33 but are not limited to, city halls and other headquarters of
34 government where the governing body meets regularly,
35 courthouses, jails, police stations and other State
36 Government and local government office buildings.

38 B. The term "project costs" includes, but is not limited to:

40 (1) Capital costs, including, but not limited to:

42 (a) The actual costs of the construction of
43 public works or improvements, new buildings,
44 structures and fixtures;

46 (b) The demolition, alteration, remodeling,
47 repair or reconstruction of existing buildings,
48 structures and fixtures;

50 (c) The acquisition of equipment; and

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(d) The clearing and grading of land:

(2) Financing costs, including, but not limited to, all interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity:

(3) Real property assembly costs, meaning a deficit incurred resulting from the sale or lease as lessor by the municipality of real or personal property within a development district for consideration that is less than its cost to the municipality:

(4) Professional service costs, including, but not limited to, those costs incurred for architectural, planning, engineering and legal advice and services:

(5) Administrative costs, including, but not limited to, reasonable charges for the time spent by municipal employees in connection with the implementation of a project plan:

(6) Relocation costs, including, but not limited to, those relocation payments made following condemnation:

(7) Organizational costs, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public about the creation of development districts and the implementation of project plans:

(8) Payments made, in the discretion of the local legislative body, that are found to be necessary or convenient to the creation of development districts or the implementation of project plans:

(9) That portion of the costs related to the construction or alteration of sewage treatment plants, water treatment plants or other environmental protection devices, storm or sanitary sewer lines or water lines, the rebuilding or expansion of which is required by the project plan for a development district, whether or not the construction, alteration, rebuilding or expansion is within the development district:

2 (10) Training costs, including, but not limited to,
3 those costs associated with providing skills
4 development and training for employees of businesses
5 within the development district. These costs may not
6 exceed 20% of the total project costs and must be
7 designated as training funds within 3 years of the
8 designation of the district;

9 (11) Improvements, meaning costs associated with
10 developing new employment opportunities; establishing
11 and maintaining administrative and management support;
12 and such other services as are necessary or appropriate
13 to carry out the development program; and

14 (12) Without limiting the generality of the foregoing
15 provisions, the cost of acquisition, design,
16 engineering, construction, building, alteration,
17 enlargement, reconstruction, renovation, improvement,
18 equipping, remodeling, installation and maintenance of
19 a project; the cost of all labor, materials, building
20 systems, machinery and equipment; the cost of all
21 lands, structures, real or personal property, rights,
22 easements and franchises acquired; the cost of all
23 utility extensions, access roads, site development,
24 financing charges, premiums for insurance, interest
25 prior to and during construction and for 6 months after
26 construction; the cost of working capital for the
27 project; the cost of reserves for payment of future
28 debt service relating to the financing transaction and
29 improvements; and the cost of all other administrative
30 and operating expenses necessary or incidental to the
31 project, whether or not the foregoing is owned by
32 private parties, associated with or in any way relating
33 to the pulp and paper industry or the treatment,
34 recycling or disposal of waste from pulp and paper
35 manufacturing processes, and including specifically,
36 but not limited to, costs associated with projects for
37 the improvement of pulp and paper mills, and premises
38 or products relating to the pulp and paper mills,
39 landfills, equipment in landfills, equipment used in
40 air and water pollution control facilities and all
41 projects necessary or desirable for the implementation
42 of environmental controls.

43 11. Pulp and paper industry. "Pulp and paper industry"
44 means any industrial activity currently described by the United
45 States Office of Management and Budget under Standard Industrial
46 Classifications 261, 262 or 263, including, without limitation,
47 any activity regarding the treatment, recycling or disposal of
48 wastewater, air emissions, solid residues or other related
49 activities.

2 manufacturing by-products. This term does not include activity
3 relating to, associated with or otherwise involving the growth,
4 harvesting, transportation or preparation of timber, pulpwood or
5 other wood products prior to the manufacture of pulp, paper or
6 paperboard.

7 12. Tax increment. "Tax increment" means that portion of
8 all real and personal property taxes assessed by a municipality
9 in excess of any state, county or special district tax upon the
10 captured assessed value of property in the development district.

11 13. Tax increment financing district. "Tax increment
12 financing district" means a type of development district, or
13 portion of a district, that uses tax increment financing under
14 section 5265.

15 **§5264. Development districts; development programs and ordinances**

16
17 1. Districts. The municipal legislative body may designate
18 development districts within the boundaries of the municipality.
19 Before designating a district, the municipal legislative body or
20 the municipal legislative body's designee shall hold at least one
21 public hearing. Notice of the hearing must be published at least
22 10 days before the hearing in a newspaper of general circulation
23 within the municipality. New districts may not be established
24 after January 1, 1998.

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27 A. At least 75%, by area, of the real property within a
28 development district must be owned by a company engaged in
29 the pulp and paper industry.

30
31 B. Subsequent changes in the boundaries of a development
32 district must be adopted in the same manner as the original
33 delegation under this subsection.

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35 C. The development program must be completed within 5 years
36 of the designation of the tax increment financing district
37 by the municipality.

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39 D. Within 30 days of final designation of a tax increment
40 financing district, the municipality shall file with the
41 Commissioner of Economic and Community Development a
42 description of the district demonstrating that the district
43 complies with statutory requirements and identifying tax
44 shifts within the county where the tax increment financing
45 district is designated. A designation under this subsection
46 is effective upon approval by the municipal legislative
47 body. If the municipality has a charter, the designation of
48 a development district may not be in conflict with the
49 provisions of the municipal charter.
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2 2. Program. The legislative body of a municipality shall
4 adopt a development program for each development district. The
6 program must be adopted at the same time as the district as part
8 of the district adoption proceedings or, if at a different time,
10 in the same manner as adoption of the district, with the same
 notice, hearing and consultation requirements of subsection 1.
 Subsequent changes in the program must be adopted in the same
 manner as the original adoption under this subsection.

12 3. Powers. Within development districts, and consistent
14 with the development program, the municipality or the
16 municipality's designee may acquire, construct, reconstruct,
18 improve, preserve, alter, extend, operate, maintain or promote
20 development intended to meet the objectives of the development
22 program. Pursuant to the development program, the municipality
 may acquire property, land or easements through negotiation or by
 using eminent domain powers in the manner authorized for
 community development programs under section 5204. The
 municipality's legislative body may adopt ordinances regulating
 traffic in and access to facilities constructed within the
 development district. The municipality may install public
 improvements.

24 **§5265. Tax increment financing**

26 1. Captured assessed value. The municipality may retain
28 all or part of the tax increment of a tax increment financing
30 district for the purpose of financing the development program.
32 The amount of tax increment to be retained is determined by
34 designating the amount of captured assessed value to be
36 retained. When a development program for a tax increment
38 financing district is adopted, the municipal legislative body
40 shall adopt a statement of the percentage of captured assessed
 value to be retained in accordance with the development program.
 The statement of percentage may establish a specific percentage
 or percentages or may describe a method or formula for
 determination of the percentage. The municipal assessor shall
 certify the amount of the captured assessed value to the
 municipality each year.

42 2. Original assessed value. On or after formation of a tax
44 increment financing district, the assessor of the municipality in
46 which it is located shall, on request of the municipal
48 legislative body, certify the original assessed value of the
50 taxable property within the boundaries of the tax increment
 financing district. Each year, after the formation of a tax
 increment financing district, the municipal assessor shall
 certify the amount by which the assessed value has increased or
 decreased from the original value.

2 3. Development program fund; tax increment revenues. If a
3 municipality has elected to retain all or a percentage of the
4 retained captured assessed value under subsection 1, the
5 municipality:

6 A. Shall establish a development program fund that consists
7 of the following:

8 (1) A development sinking fund account that is pledged
9 to and charged with the payment of the interest and
10 principal as the interest and principal fall due and
11 the necessary charges of paying interest and principal
12 on notes, bonds or other evidences of indebtedness that
13 were issued by the municipality or its designee to fund
14 or refund the cost of the development program fund; and

15 (2) A project cost account that is pledged to and
16 charged with the payment of project costs as outlined
17 in the financial plan and are paid in a manner other
18 than as described in subparagraph (1);

19 B. Shall annually set aside all tax increment revenues on
20 retained captured assessed values and deposit all such
21 revenues to the appropriate development program fund account
22 in the following order of priority:

23 (1) To the development sinking fund account, an amount
24 sufficient together with estimated future revenues to
25 be deposited to the account and earnings on the amount
26 to satisfy all annual debt service on bonds and notes
27 issued under section 5269 and the financial plan; and

28 (2) To the project cost account, an amount sufficient,
29 together with estimated future revenues to be deposited
30 to the account and earnings on the amount, to satisfy
31 all annual project costs to be paid from the account;

32 C. May make transfers between development program fund
33 accounts as required, as long as the transfers do not result
34 in a balance in the development sinking fund account that is
35 insufficient to cover the annual obligations of that
36 account; and

37 D. Shall annually return to the municipal general fund any
38 tax increment revenues in excess of those estimated to be
39 required to satisfy the obligations of the development
40 sinking fund account. The corresponding amount of local
41 valuation may not be included as part of the retained
42 captured assessed value as specified by the municipality.

2 4. Limitations. The following limitations apply.

4 A. Nothing in this section allows or sanctions unequal
6 apportionment or assessment of the taxes paid on real
8 property in the State. Taxes on real property within the
10 tax increment financing district must be apportioned equally
12 with property taxes on real property elsewhere in the
14 municipality.

10 B. The municipality shall expend the tax increments
12 received for a development program only in accordance with
14 the financing plan. These revenues may not be used to
16 circumvent existing tax laws.

16 §5266. Pulp and paper state tax increment financing

18 1. Eligibility. A business engaged in the pulp and paper
20 industry undertaking a major construction project or projects
22 requiring capital expenditures that collectively exceed the base
24 period capital investment of that business is eligible to apply
26 for approval of a pulp and paper state tax increment financing
28 district.

24 2. Application for establishing districts. A business
26 desiring to establish a district shall apply to the Commissioner
28 of Economic and Community Development for approval of the
30 proposed district. The application must contain the following
32 information:

30 A. The name, address, taxpayer identification number and a
32 brief description of the applicant;

34 B. A description of the major construction project to be
36 financed with the pulp and paper state tax increment
38 revenues, including:

38 (1) The nature and scope of the improvements
40 anticipated to be acquired, constructed or installed
42 within the district and all property, both real and
44 personal, to be purchased for use or location within
46 the district as a part of the major construction
48 project;

44 (2) The anticipated amount of all capital expenditures
46 associated with the major construction project;

48 (3) The base period capital investment together with
50 supporting documentation as the Commissioner of
Economic and Community Development may require;

2 (4) The anticipated number of full-time and part-time
4 jobs associated with or resulting from the major
 construction project during the duration of the major
6 construction project, whether the jobs relate to
 employment by the applicant, its general contractor,
8 subcontractors, sub-subcontractors, vendors, suppliers
 or service providers; a brief description of the nature
10 of the jobs; and the anticipated payroll associated
 with the jobs; and

12 (5) The anticipated duration of the major construction
 project, together with a timeline reflecting the
14 anticipated progress of the work; and

16 C. The boundaries of the proposed district, which must
 encompass the entire land area within which the major
18 construction project is anticipated to occur and which may
 be noncontiguous if required by multiple locations
20 constituting sites for the major construction project.

22 3. Approval of district. Approval of a pulp and paper state
 tax increment financing district is subject to this subsection.

24 A. The Commissioner of Economic and Community Development is
26 responsible for approval of each pulp and paper state tax
 increment financing district. Upon determination that the
28 application satisfies the provisions of subsections 1 and 2
 and verification that the information contained in the
30 application is accurate, the commissioner shall issue a
 certificate of approval for the district. The district is
32 established as of the date of issuance of the certificate of
 approval by the commissioner.

34 B. The certificate of approval must specify:

36 (1) The boundaries of the district; and

38 (2) The duration of the district, which may not exceed
40 the lesser of the duration of the major construction
 project or 5 years.

42 4. Calculation of pulp and paper state tax increment
44 revenues. Pulp and paper state tax increment revenues are
 calculated in accordance with the following provisions:

46 A. On or before April 15th of each year during the term of
48 the district, the applicant shall report to the State Tax
 Assessor for the immediately preceding calendar year:

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2 (1) The amount of sales and use tax paid with respect
4 to the purchase or acquisition of assets associated
6 with, relating to or used or consumed in connection
8 with a major construction project, or any aspect of the
10 project, or incorporated into the improvements
 resulting from the major construction project, whether
 the sales and use tax is paid by the applicant, its
 general contractor, subcontractors, sub-subcontractors,
 vendors, suppliers or service providers; and

12 (2) The number of persons employed and state income
14 taxes withheld with respect to all jobs associated with
16 or resulting from the major construction project,
18 whether such employment is with the applicant, its
 general contractor, subcontractors, sub-subcontractors,
 vendors, suppliers or service providers for the major
 construction project.

20 B. Each applicant is responsible for obtaining all necessary
22 and appropriate evidence of the state income tax withholding
24 and sales and use tax payments of its general contractors,
26 subcontractors, sub-subcontractors, vendors, suppliers and
 service providers attributable to labor, materials, supplies
 or services provided to or in connection with the major
 construction project and verifying the accuracy of such
 information.

28 C. On or before May 31st of each year, the State Tax
30 Assessor shall calculate the pulp and paper state tax
32 increment revenue for each district that consists of the
34 total amount of sales and use tax and income tax withholding
 identified in paragraph A, the calculation to be based upon
 reports filed by applicants pursuant to paragraph A.

36 5. Pulp and paper state tax increment contingent account
38 created. After July 1st and before July 15th of each year, the
40 Commissioner of Administrative and Financial Services shall
42 deposit an amount equal to the total pulp and paper state tax
44 increment revenues for the preceding calendar year for approved
46 pulp and paper state tax increment financing districts in the
48 pulp and paper state tax increment contingent account
 established, maintained and administered by the commissioner. On
 or before July 31st of each year, the commissioner shall pay to
 each applicant or its successors or assigns an amount equal to
 the pulp and paper state tax increment revenues for the preceding
 calendar year from all pulp and paper state tax increment
 financing districts established for the applicant's benefit.

50 6. Utilization. Pulp and paper state tax increment
 financing districts may be established and used in conjunction

2 with, or separate and apart from, any tax increment financing
3 district established pursuant to section 5265 or under chapter
4 207.

6 7. Program; administration. The Commissioner of Economic
7 and Community Development shall administer the pulp and paper
8 state tax increment financing program. The commissioner may
9 adopt rules pursuant to the Maine Administrative Procedure Act
10 for implementation of the program, including, but not limited to,
11 rules for determining and certifying eligibility and, in
12 consultation with the State Tax Assessor, the amount of the pulp
13 and paper state tax increment attributable to particular
14 districts. Although the commissioner is authorized to adopt
15 rules regarding the program, the operation of the program and its
16 eligibility for use is self-implementing and rules are not
17 required to establish and operate a pulp and paper state tax
18 increment financing district. The commissioner may also
19 establish by rule fees for administration of the program,
20 including fees payable to the State Tax Assessor for obligations
21 under this chapter. All fees collected pursuant to this
22 subsection must be deposited into the General Fund.

24 8. Audit process. Nothing in this section may be construed
25 to limit the State Tax Assessor's authority to conduct an audit
26 of any applicant. If it is determined by the State Tax Assessor
27 upon audit that an applicant, its successors or assigns, has
28 received a distribution larger than that to which it is entitled
29 under this section, the overpayment must be applied against
30 subsequent distributions. If there is no subsequent
31 distribution, the applicant to which overpayments were made is
32 liable for the amount of overpayments and may be assessed
33 pursuant to Title 36.

34 9. Confidential information. The following records are
35 designated as confidential for purposes of Title 1, section 402,
36 subsection 3, paragraph A:

38 A. A record obtained or developed by the applicant, the
39 Commissioner of Economic and Community Development or the
40 State Tax Assessor for designation or approval of a pulp and
41 paper state tax increment financing district. After receipt
42 of the application by the Commissioner of Economic and
43 Community Development or the State Tax Assessor, a record
44 pertaining to the application is not considered confidential
45 unless it meets one or more of the requirements of
46 paragraphs B to F;

48 B. A record obtained or developed by the applicant, the
49 Commissioner of Economic and Community Development or the
50 State Tax Assessor if:

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(1) A person, which may include a corporation, partnership, limited partnership or other business organization, to whom the record belongs or pertains has requested that the record be designated confidential; or

(2) The information in the record gives the owner or a user of that information an opportunity to obtain business or competitive advantage over another person who does not have access to the information or access to the information by others would result in a business or competitive disadvantage, loss of business or other significant detriment to a person to whom the record belongs or pertains;

C. A record, including a financial statement or tax return, obtained or developed by the applicant, the Commissioner of Economic and Community Development or the State Tax Assessor, the disclosure of which would constitute an invasion of personal privacy, as determined by the governmental entity in possession of that record or information;

D. A record, including a financial statement or tax return, obtained or developed by the applicant, the Commissioner of Economic and Community Development or the State Tax Assessor in connection with monitoring or servicing activity by the Commissioner of Economic and Community Development or the State Tax Assessor that pertains to a district;

E. A record obtained or developed by the Commissioner of Economic and Community Development or the State Tax Assessor that contains an assessment by a person who is not employed by the State of the creditworthiness or financial condition of a person or project; and

F. A financial statement of a person to whom the statement belongs or pertains who has requested that the record be designated confidential.

A person may not knowingly divulge or disclose records declared confidential by this subsection.

§5267. Grants

A municipality may receive grants or gifts for the purposes of this chapter. The tax increment within a development district may be used as the local match for certain grant programs.

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§5268. Financing

The legislative body of a municipality may authorize, issue and sell bonds, including, but not limited to, general obligation or revenue bonds or notes, that mature within 20 years from the date of issue, or may enter into other types of financing transactions as it determines appropriate to finance all project costs needed to carry out the development program within the development district. The municipal officers authorized to issue the bonds or notes may borrow money in anticipation of the sale of the bonds for a period of up to 3 years by issuing temporary notes and notes in renewal of the bonds. All revenues derived under section 5265 or under section 5267, subsection 1 received by the municipality are pledged for the payment of the activities described in the development program and must be used to reduce or cancel the taxes that may otherwise be required to be expended for that purpose. The notes, bonds or other forms of financing may not be included when computing the municipality's net debt. Nothing in this section restricts the ability of the municipality to raise revenue for the payment of project costs in a manner otherwise authorized by law.

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§5269. Administration

The legislative body of a municipality may create a department, designate an existing department, office, agency, municipal housing or redevelopment authority, or enter into a contractual arrangement with a private entity to administer activities authorized under this chapter.

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§5270. Advisory board

The legislative body of a municipality may create an advisory board, a majority of whose members must be owners or occupants of real property located in or adjacent to the development district that they serve. The advisory board shall advise the legislative body and the designated administrative entity on the planning, construction and implementation of the development program and maintenance and operation of the district after the program has been completed.

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STATEMENT OF FACT

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The pulp and paper industry is a vital factor in the State's economy. The continued existence and success of that industry is critical to the health and growth of the State's economy. The State desires to assist business engaged in the pulp and paper industry in this State in making capital investment in their

2 facilities located within the State, thereby retaining and
3 creating jobs and tax base within the State.

4 This bill establishes a 3-prong approach to assisting the
5 pulp and paper industry with financing a broad range of capital
6 improvements, including process changes and investments to comply
7 with new environmental regulations. Such assistance is necessary
8 to retain the pulp and paper industry as an economically viable
9 industry in Maine.

10 The first prong enables the pulp and paper industry to
11 access tax-exempt financing more easily. It provides for the
12 annual evaluation of the eligible projects within the pulp and
13 paper industry for private activity bonds administered by the
14 Finance Authority of Maine.

15 The 2nd prong is the establishment of a special pulp and
16 paper industry tax increment financing program that will assist
17 the pulp and paper industry in utilizing tax increment financing
18 for improvements. Specifically, the bill exempts the pulp and
19 paper industry from the 2% acreage limitation, 5% assessed value
20 limitation and the \$50,000,000 per county indebtedness limitation
21 applicable to other tax increment financing districts. The bill
22 also broadens the usefulness of this financing program for large
23 capital projects.

24 The 3rd prong is the establishment of special state tax
25 increment financing provisions for the pulp and paper industry.
26 It enables the establishment of a district that would allow the
27 capture of up to 100% of the sales and use tax and individual
28 income tax withholding generated by the construction of
29 improvements at a mill or other premises where a project is
30 located. Associated with the construction process for large
31 construction project is an incremental increase in sales and use
32 and personal income tax withholding. The bill would enable the
33 capture of that increase and the application of that sum toward
34 the cost of the project. The bill captures only the income and
35 sales and use tax associated with the "economic bubble" created
36 by the construction project. It does not attempt to draw
37 revenues from any incremental increase in those taxes associated
38 with ongoing operation of the facility. Although the Department
39 of Economic and Community Development is authorized to develop
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2 regulations regarding pulp and paper state tax increment
financing, the legislation is self-implementing and no additional
4 regulation is required to establish such districts.

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This document has not yet been reviewed to determine the
need for cross-reference, stylistic and other technical
amendments to conform existing law to current drafting standards.