

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

SECOND REGULAR SESSION-2000

Legislative Document

No. 2683

S.P. 1078

In Senate, April 7, 2000

An Act to Enhance Economic Development in the State of Maine.

Reported by Senator KONTOS of Cumberland for the Joint Standing Committee on Business and Economic Development pursuant to Joint Order S.P. 1022.

Reference to the Committee on Appropriations and Financial Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

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

PART A

Sec. A-1. 10 MRSA §1026-J, first ¶, as enacted by PL 1991, c. 849, §1 and affected by §7, is amended to read:

The Economic Recovery Program, referred to in this section as the "program," is established to provide loans to businesses that do not have sufficient access to credit but demonstrate the ability to survive, preserve and create jobs, and repay the loans obligations.

Sec. A-2. 10 MRSA §1026-J, sub-§1, ¶D, as amended by PL 1997, c. 563, Pt. A, §1, is repealed.

Sec. A-3. 10 MRSA §1026-J, sub-§2, as enacted by PL 1991, c. 849, §1 and affected by §7, is amended to read:

2. **Loan terms and conditions.** Loans may not exceed \$1,000,000 per project. The authority may establish prudent terms and conditions for loans, including limits on the amount of loans for any one project and requiring adequate collateral for the loans. Loan terms may not exceed 20 years in the case of loans primarily secured by real estate, 10 years in the case of loans secured primarily by machinery and equipment and 7 years for other loans. The interest rate charged on each loan may not exceed the prime rate for interest plus 4%, as determined by the authority. The authority may establish conditions, such as balloon payments, to encourage borrowers to make the transition to conventional financing as soon as they are reasonably able to do so. The authority may further assist the borrower by allowing for the deferral of interest or principal payments for a period of time. Loans may be subject to conditions that allow the authority to make a reasonable return based on the risk of the investment, which may include royalties or additional payments based on sales, net cash flow or other financial measures and rights to equity in the company.

PART B

Sec. B-1. 10 MRSA §1026-N, sub-§§1 and 2, as enacted by PL 1995, c. 424, §1, are amended to read:

1. **Established.** The Maine Economic Development Venture Capital Revolving Investment Program, referred to in this section as the "program," is established to provide venture capital to businesses that need assistance in order to create or retain jobs. The Maine Economic Development Venture Capital Revolving

Investment Program Fund, referred to in this section as the "fund," is established as a revolving fund, into which must be deposited all amounts appropriated to the program or allocated for inclusion in the fund, from whatever source, interest and investment earnings on the fund and any amounts repaid to the program by participating venture capital funds.

2. Eligible venture capital funds. Money in the fund may be invested in one or more private, professionally managed venture capital funds located in the State capable of providing venture capital to businesses in order to create and protect jobs and ~~with an established track record of~~ that provide evidence of past or potential management success and risk diversification. To be eligible for investments from the fund, a private venture capital fund must:

A. Apply to the authority. The application must describe the private venture capital fund and its funding sources, the region it serves, its methods and criteria for qualifying investments, including any targeted investing and economic development strategy, its expertise in venture capital assistance and investing in small and emerging businesses, the method by which it will leverage funds from other sources than those received from the fund and other information the authority determines necessary;

B. Have a strategy for the creation and retention of jobs, an effective small business marketing and technical assistance plan and enough expert assistance available to it to underwrite, document and service investments and to assist the businesses in which it invests;

C. Be determined by the authority to be able to prudently and effectively administer venture capital investments; and

D. Propose performance standards and goals and a process for monitoring compliance with proposed measurement and goals.

Sec. B-2. 10 MRSA §1026-N, sub-§4, ¶A, as enacted by PL 1995, c. 424, §1, is amended to read:

A. The private venture capital fund shall certify that it will use funds only for eligible purposes and that it will make best efforts to invest an amount equal to the authority's investment in the fund in businesses that meet all eligibility requirements for a tax credit certificate pursuant to section 1100-T, subsection 2, paragraph B;

2 **Sec. B-3. 10 MRSA §1026-N, sub-§4, ¶B**, as enacted by PL 1995,
c. 424, §1, is repealed.

4 **Sec. B-4. 10 MRSA §1026-N, sub-§4, ¶B-1** is enacted to read:

6 B-1. The authority has rights equal to those of all other
investors in the private venture capital fund;

8 **Sec. B-5. 10 MRSA §1026-N, sub-§5**, as enacted by PL 1995, c.
10 424, §1, is amended to read:

12 **5. Administrative costs.** A private venture capital fund
may not use ~~any-money-disbursed~~ more than 4% annually of the
14 amount invested from the fund by the authority for administrative
expenses or load charges. The authority shall review and approve
16 a private venture capital fund's administrative expenses on an
annual basis. The authority may establish by rule reasonable
18 administrative fees for its administration of the fund.

20 **Sec. B-6. 10 MRSA §1026-N, sub-§6**, as enacted by PL 1995, c.
424, §1, is repealed.

22 **Sec. B-7. 10 MRSA §1026-N, sub-§7**, as enacted by PL 1995, c.
24 424, §1, is amended to read:

26 **7. Reports.** A private venture capital fund shall report at
least semiannually to the authority on the businesses in which
28 the private venture capital fund invests and the administration
of the program. The report must include a description of each
30 business, the amount, type and terms of assistance the business
received, the amount of funds invested in businesses that meet
32 the criteria of section 1100-T, subsection 2, paragraph B, the
number of jobs that were created or retained and other
34 information the authority requires. The report must contain an
accounting of the investment portfolio and any investments that
36 are in default, as well as an accounting of the private venture
capital fund's administrative and technical assistance expenses
38 incurred and charged.

40 **Sec. B-8. Transfer to the Maine Economic Development Venture**
Capital Revolving Investment Program Fund. On the effective date
42 of this Part, the Finance Authority of Maine shall transfer up to
\$3,000,000 from the Economic Recovery Program Fund to the Maine
44 Economic Development Venture Capital Revolving Investment Program
Fund.

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PART C

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PART E

Sec. E-1. Stimulate rural development. The Maine Rural Development Council, a quasi-independent agency of the State, shall:

1. Provide advocacy for the social and economic needs and issues of rural Maine communities, particularly in the most distressed counties of the State;

2. Coordinate the development of "community capacity building" projects and demonstrate innovative approaches to achieving growth in these distressed counties through locally developed strategies that are driven by civic vision, grounded in communal assets and commanded by local leadership;

3. Stimulate rural development innovation and foster the flow of information on "best practices" to these communities; and

4. Report annually to the Governor and the Legislature on the effectiveness of these community capacity building projects and recommendations for future action regarding conditions in the rural areas of the State.

Sec. E-2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

2000-01

MAINE RURAL DEVELOPMENT COUNCIL

Maine Rural Development Council

All Other \$125,000

Provides funds for the Maine Rural Development Council for development of community capacity building projects and for provision of advocacy for social and economic needs in rural Maine.

PART F

Sec. F-1. 5 MRSA c. 383, sub-c. II, art. 2-A is enacted to read:

Article 2-A

2 **MAINE MICROENTERPRISE INITIATIVE**

4 **§13063-D. Definitions**

6 As used in this article, unless the context otherwise
8 indicates, the following terms have the following meanings.

10 **1. Community-based organization.** "Community-based
12 organization" means a nonprofit organization that has:

14 A. A viable plan for providing training and technical
16 assistance to microenterprises;

18 B. Broad-based community support;

20 C. An adequate source of operating capital; and

22 D. A demonstrated need for funding to provide training and
24 technical assistance to microenterprises.

26 **2. Fund.** "Fund" means the Maine Microenterprise Initiative
28 Fund established in section 13063-E.

30 **3. Microenterprise.** "Microenterprise" means a business
32 located in the State that produces goods or provides services and
34 has fewer than 10 full-time equivalent employees.

36 **§13063-E. Maine Microenterprise Initiative Fund**

38 **1. Fund established.** The Maine Microenterprise Initiative
40 Fund is established as a nonlapsing fund administered by the
42 department. The fund consists of money appropriated to it by the
44 Legislature from the General Fund and eligible investment
46 earnings from fund assets. The fund must be held separate from
48 all other money, funds and accounts, and all eligible investment
50 earnings from fund assets must be credited to the fund.

2. Fund purposes. The department shall administer the fund
to provide grants to community-based organizations to aid them in
providing technical assistance and training to microenterprises.

§13063-F. Application process

1. Process established. The department shall adopt rules
establishing an application process for fund grants for the
purposes set forth in section 13063-E, subsection 2. In
establishing the application process, the department shall
consult with business experts involved with microenterprises in
the State.

2 2. Process requirements. The application process must be
3 competitive. An applicant shall specify whether a grant is
4 sought for microenterprise technical assistance or training or a
5 combination thereof. In making grants, the department shall give
6 priority to applications that:

8 A. Are joint applications by 2 or more community-based
9 organizations or otherwise provide for cooperation among
10 community-based organizations;

12 B. Target aid to low-income individuals; or

14 C. Target aid to areas of high unemployment or to
15 underserved areas of the State.

16 The department may establish additional criteria for assessing
17 applications for fund grants.

20 **§13063-G. Rules**

22 The department shall adopt rules necessary to carry out this
23 article. Rules adopted pursuant to this article are routine
24 technical rules as defined in chapter 375, subchapter II-A.

26 **§13063-H. Report**

28 The department shall submit to the joint standing committee
29 of the Legislature having jurisdiction over business and economic
30 development matters an update on the fund by January 1, 2001 and
31 every year thereafter.

32 **Sec. F-2. Appropriation.** The following funds are appropriated
33 from the General Fund to carry out the purposes of this Part.

36 **2000-01**

38 **ECONOMIC AND COMMUNITY DEVELOPMENT,**
39 **DEPARTMENT OF**

40 **Maine Microenterprise Initiative Fund**

42 All Other \$1,000,000

44 Provides money for grants to community-based
45 organizations for training and technical
46 assistance to microenterprises.

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PART G

2 Sec. G-1. 5 MRSA §13073-A is enacted to read:

4 **§13073-A. Regional Economic Development Assistance Fund**

6 The Director of the Office of Tourism and Community
8 Development shall administer the Regional Economic Development
10 Assistance Fund, referred to in this section as the "fund."

12 1. Fund established. The fund is established as a
14 nonlapsing fund within the Office of Tourism and Community
16 Development.

18 2. Fund purpose. The purpose of the fund is to provide
20 funding to develop effective local and regional economic
22 development programs. The department shall administer the fund
24 to award start-up grants to nonprofit local or regional community
26 organizations that are providing local or regional economic
28 development programs.

30 3. Application process. The department shall adopt rules
32 establishing an application process for fund grants for the
34 purposes set forth in this section.

36 4. Competitive procedure. Funds must be dispersed in
38 accordance with a competitive, quality-based selection procedure
40 as established and administered by the department.

42 5. Preference in awards. In awarding grants, the
44 department shall give preference to those projects or programs
46 that will benefit economically distressed communities and
48 regions. In determining preference, the department shall
 consider such factors as unemployment rates, per capita income,
 educational attainment, business failures and dependence upon
 mature or dominant industries.

6. Local match requirements. All funds awarded must be
 matched by local funds on a minimum one-to-one basis.

7. Rules. The department shall adopt rules necessary to
 carry out this section. Rules adopted pursuant to this section
 are routine technical rules as defined in chapter 375, subchapter
 II-A.

Sec. G-2. Appropriation. The following funds are appropriated
 from the General Fund to carry out the purposes of this Part.

2000-01

2 **ECONOMIC AND COMMUNITY DEVELOPMENT,**
4 **DEPARTMENT OF**

6 **Regional Economic Development**
8 **Assistance Fund**

8 All Other \$500,000

10 Provides funds for grants to nonprofit local
12 or regional community organizations to
14 provide seed funds to develop effective
16 economic development programs.

16 **PART H**

18 **Sec. H-1. 10 MRSA §997-B**, as enacted by PL 1999, c. 474, §2,
20 is amended to read:

22 **§997-B. Agricultural Products Utilization Commission**

24 The Agricultural Products Utilization Commission, as
26 established in Title 5, section 12004-I, subsection 6-F, referred
28 to in this section as the "commission," shall advise the members
30 of the authority on the adoption, amendment or repeal of rules,
32 policies or administrative procedures for carrying out section
34 997-A. The commission shall work with state departments and
36 agencies to identify issues related to the development of
38 agriculturally derived fuel industries in the State. In
addition, the commission shall advise the members of the
authority on environmental impact considerations, including the
impact that agriculturally derived fuels may have on ground
water. The commission may also identify agriculturally derived
fuel development programs, including incentives, financing and
other market and infrastructure issues, and analyze the potential
for agriculturally derived fuel production in the State.

40 **1. Membership.** The commission consists of ~~11~~ 12 members.
42 Five members must be appointed by the Governor for terms of 2
44 years each, arranged so that 2 terms expire in odd-numbered years
46 and 3 terms expire in even-numbered years; 3 of these must be
48 actively engaged in farming in this State and 2 members appointed
50 by the Governor must be actively engaged in business in this
State. The Commissioner of Agriculture, Food and Rural Resources
shall appoint one member for a term of 2 years, which expires in
odd-numbered years. The member appointed by the Commissioner of
Agriculture, Food and Rural Resources must be actively engaged in
farming in this State. The Commissioner of Environmental
Protection shall appoint one member for a term of 2 years, which

2 expires in even-numbered years. Commission members may be
4 reappointed to the commission. Terms of members run from the
6 first day of July. The ~~Director~~ Commissioner of Economic and
8 Community Development, the President of the University of Maine,
10 the Commissioner of Environmental Protection, the chief executive
12 officer of the authority and the Commissioner of Agriculture,
14 Food and Rural Resources, or their designees, are members of the
16 commission. The commission shall elect one of its members as
18 chair.

20 **2. Commission meetings; staff.** The commission shall meet as
22 necessary and shall report annually to the joint standing
24 committee of the Legislature having jurisdiction over natural
26 resources matters ~~and~~, the joint standing committee of the
28 Legislature having jurisdiction over agriculture, food and rural
30 resources matters and the joint standing committee of the
32 Legislature having jurisdiction over business and economic
34 development matters on the commission's activities and deposits
36 and expenditures from the Agriculturally Derived Fuel Fund. The
38 authority shall provide staff and support services to the
40 commission.

24 PART I

26 **Sec. I-1. Appropriation.** The following funds are appropriated
28 from the General Fund to carry out the purposes of this Part.

30 **2000-01**

32 **MAINE TECHNICAL COLLEGE SYSTEM, BOARD OF TRUSTEES OF THE**

34 **Maine Technical College System - Board of Trustees**

36 All Other \$58,000

38 Provides funds for a pilot program proposal
40 for the Aroostook County Machine Tool
42 Program. The pilot program will enroll 10
44 students in a machine tool program to be
46 offered jointly by Northern Maine Technical
48 College in Presque Isle and Eastern Maine
Technical College in Bangor. The majority
of the program will be delivered at Northern
Maine Technical College with lab instruction
delivered in daylong classes on Saturdays at
Eastern Maine Technical College.

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FISCAL NOTE

2000-01

APPROPRIATIONS/ALLOCATIONS

General Fund \$1,873,000

This bill includes a General Fund appropriation of \$1,690,000 in fiscal year 2000-01 for the Department of Economic and Community Development to enhance economic development in the state of Maine. This amount includes \$1,000,000 for the Maine Microenterprise Initiative Fund, \$500,000 for the Regional Economic Development Assistance Fund for grants to nonprofit local or regional community organizations, \$60,000 to contract for field representative services and \$130,000 for one Information Technology Manager position and related expenses. A General Fund appropriation of \$125,000 in fiscal year 2000-01 for the Maine Rural Development Council is also included for development of community capacity building projects. A General Fund appropriation of \$58,000 in fiscal year 2000-01 for the Maine Technical College System for the Aroostook County Machine Tool Program is also included in this bill.

The additional costs associated with adopting rules, reporting and administering the Maine Microenterprise Initiative Fund and the Regional Economic Development Assistance Fund can be absorbed by the Department of Economic and Community Development utilizing existing budgeted resources.

The Finance Authority of Maine will incur some minor additional costs to serve on the Agricultural Products Utilization Commission. These costs can be absorbed within the authority's existing budgeted resources.

SUMMARY

Part A modifies the Economic Recovery Program administered by the Finance Authority of Maine by making the programs more flexible to meet the needs of Maine businesses.

The modifications allow the Finance Authority of Maine to establish repayment terms reflective of the risk of a particular loan by allowing the authority to use financing techniques such as obtaining repayment based on the performance of the company through royalty payments, repayment tied to actual cash flow or

2 through a convertible debenture, which allows the debt to be
converted to equity in the company.

4 It repeals the requirement that an applicant must have been
turned down by all other lenders. This allows the Finance
6 Authority of Maine to participate in financing packages with
commercial lenders and other economic development agencies.

8
10 Part B modifies the Maine Economic Development Venture
Capital Revolving Investment Program Fund administered by the
Finance Authority of Maine.

12
14 It clarifies that capitalization of the fund may come from
sources other than direct appropriations.

16 It amends the law to allow the authority to invest in newly
established venture capital funds that show evidence of
18 likelihood of success by the manager's background and other
factors, as well as established venture capital funds.

20
22 It amends the law to require that a private venture capital
fund receiving an investment from the authority certify to the
authority that it will undertake to invest in an amount equal to
24 the authority's investment in Maine manufacturers or Maine
companies that are involved in the development or application of
26 advanced technologies that provide a product or service that is
sold or projected to be sold predominantly outside the State or
28 that otherwise bring capital into the State.

30 It repeals the prohibition on an officer or employee of a
private venture capital firm from participating in a decision on
32 a project in which the officer or employee has a direct financial
interest. It replaces that provision with a requirement that the
34 authority's contract with the private venture capital firm give
the authority rights and access equal to all other investors in
36 the venture capital firm.

38 It amends the law to allow the venture capital funds
receiving an investment to use up to 4% annually of the funds
40 received from the authority for administrative purposes.

42 It repeals a provision that requires that a private venture
capital firm invest 80% of all its funds in a business that is
44 eligible for the Maine Seed Capital Tax Credit.

46 It adds a requirement that private venture capital funds
that receive an investment from the authority report on the
48 amount of funds invested in Maine manufacturers or Maine
companies that are involved in the development or application of
50 advanced technologies, that provide a product or service sold or

2 projected to be sold predominantly outside the State or that
otherwise bring capital into the State.

4 It transfers funds that have revolved back into the Economic
Recovery Program Fund to the Maine Economic Development Venture
6 Capital Revolving Investment Program Fund.

8 Part C appropriates funds to the Department of Economic and
Community Development for an information technology manager to
10 work with the Maine Business Works program.

12 Part D appropriates funds to the Department of Economic and
Community Development to allow the department to contract with a
14 field representative to serve in a currently underserved and
economically depressed area.

16 Part E directs the Maine Rural Development Council to
18 provide advocacy for the social and economic needs of rural Maine
communities and to develop community capacity building projects,
20 and it appropriates \$125,000 to the council. The Maine Rural
Development Council is a quasi-independent state agency whose
22 members are representatives from intergovernmental and
interagency associations concerning rural development issues.

24 Part F establishes the Maine Microenterprise Initiative Fund
26 in the Department of Economic and Community Development. The
department will give grants from the fund to community-based
28 organizations providing training and technical assistance to
microenterprises. Priority consideration will be given to grant
30 applications that are joint applications or target low-income
individuals or areas of high unemployment. The department is
32 required to adopt rules to establish grant application procedures
and criteria. The bill appropriates from the General Fund a
34 nonlapsing \$1,000,000 to the Maine Microenterprise Initiative
Fund.

36 Part G establishes the Regional Economic Development
38 Assistance Fund in the Department of Economic and Community
Development. The department will award grants from the fund to
40 nonprofit community organizations providing local or regional
economic development programs. The bill appropriates \$500,000
42 from the General Fund to the fund.

44 Part H amends the law creating the Agricultural Products
Utilization Commission by authorizing the commission to identify
46 issues related to the development of agriculturally derived fuel
industries in Maine, to identify agriculturally derived fuel
48 development programs and to analyze the potential for
agriculturally derived fuel production in Maine. It also adds
50 the chief executive officer of the Finance Authority of Maine to

2 the commission membership and adds a requirement to report to the
joint standing committee of the Legislature having jurisdiction
4 over business and economic development matters.

6 Part I appropriates funds to the Maine Technical College
System for a pilot program for the Aroostook County Machine Tool
Program.