

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 1385

S.P. 456

In Senate, March 18, 2003

### An Act To Establish the Pine Tree Development Zones Program

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Reference to the Committee on Business, Research and Economic Development suggested and ordered printed.

A handwritten signature in cursive script, reading 'Joy J. O'Brien'.

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator BROMLEY of Cumberland. (GOVERNOR'S BILL)  
Under suspension of the rules, cosponsored by Representative SULLIVAN of Biddeford and Senators: President DAGGETT of Kennebec, DAVIS of Piscataquis, EDMONDS of Cumberland, GAGNON of Kennebec, HALL of Lincoln, HATCH of Somerset, MARTIN of Aroostook, SHOREY of Washington, STANLEY of Penobscot, TREAT of Kennebec, WOODCOCK of Franklin, Representatives: ASH of Belfast, AUSTIN of Gray, BARSTOW of Gorham, BERUBE of Lisbon, CARR of Lincoln, CLARK of Millinocket, Speaker COLWELL of Gardiner, DUDLEY of Portland, DUPLESSIE of Westbrook, DUPREY of Medway, EARLE of Damariscotta, FINCH of Fairfield, FISCHER of Presque Isle, FLETCHER of Winslow, GERZOFKY of Brunswick, GOODWIN of Pembroke, GREELEY of Levant,

HATCH of Skowhegan, HOTHAM of Dixfield, JACKSON of Fort Kent, JACOBSEN of Waterboro, JOY of Crystal, LAVERRIERE-BOUCHER of Biddeford, LERMAN of Augusta, MARLEY of Portland, McKEE of Wayne, McKENNEY of Cumberland, McLAUGHLIN of Cape Elizabeth, McNEIL of Rockland, MOORE of the Passamaquoddy Tribe, O'BRIEN of Lewiston, PELLON of Machias, PERRY of Calais, PINGREE of North Haven, RECTOR of Thomaston, RICHARDSON of Greenville, RICHARDSON of Brunswick, ROGERS of Brewer, SHERMAN of Hodgdon, SHIELDS of Auburn, SMITH of Monmouth, THOMPSON of China, USHER of Westbrook.

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

4 **Sec. 1. 30-A MRSA §5223, sub-§3, ¶C**, as enacted by PL 2001, c.  
669, §1, is amended to read:

6 C. The original assessed value of a proposed tax increment  
8 financing district plus the original assessed value of all  
10 existing tax increment financing districts within the  
12 municipality may not exceed 5% of the total value of taxable  
property within the municipality as of April 1st preceding  
the date of the commissioner's approval of the designation  
of the proposed tax increment financing district.

14 Excluded from the calculation in this paragraph is any  
16 district excluded from the calculation under former section  
5253, subsection 1, paragraph C, any district included  
18 within a Pine Tree Development Zone designated and approved  
20 under subchapter 3 and any district designated on or after  
the effective date of this chapter that meets the following  
criteria:

22 (1) The development program contains project costs,  
24 authorized by section 5225, subsection 1, paragraph A,  
that exceed \$10,000,000;

26 (2) The geographic area consists entirely of  
28 contiguous property owned by a single taxpayer;

30 (3) The assessed value exceeds 10% of the total value  
of taxable property within the municipality; and

32 (4) The development program does not contain project  
34 costs authorized by section 5225, subsection 1,  
paragraph C.

36 For the purpose of this paragraph, "contiguous property"  
38 includes a parcel or parcels of land divided by a road,  
power line or right-of-way.

40 **Sec. 2. 30-A MRSA c. 206, sub-c. 3** is enacted to read:

42 **SUBCHAPTER 3**

44 **PINE TREE DEVELOPMENT ZONES**

46 **§5245. Findings and declaration of necessity**

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

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

10           2. Authorization. For the reasons set out in subsection  
12 1, cooperating municipalities and counties may develop a program  
for improving an area within their collective boundaries;

- 14           A. To provide impetus for targeted commercial development;
- 16           B. To increase employment; and
- 18           C. To provide the facilities outlined in the development  
20 plan submitted pursuant to section 5247, subsection 4,  
paragraph E.

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

28           §5246. Definitions

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

32           1. Affiliated business. "Affiliated business" means 2  
34 businesses exhibiting either of the following relationships:

36           A. One business owns 50% or more of the stock of the other  
business or owns a controlling interest in the other; or

38           B. Fifty percent or more of the stock or a controlling  
40 interest is directly or indirectly owned or acquired by a  
common owner or owners following approval by the  
42 commissioner, whether by acquisition of substantially all of  
the assets, 50% or more of the stock or through a merger,  
44 consolidation or reorganization.

46           2. Base level of employment. "Base level of employment"  
means the greater of either the total employment of a business as  
48 of the December 31st immediately preceding its certification as a  
qualified Pine Tree Development Zone business or its average  
50 employment during the base period.

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

6 4. Commissioner. "Commissioner" means the Commissioner of  
Economic and Community Development.

8 5. Department. "Department" means the Department of  
10 Economic and Community Development.

12 6. Pine Tree Development Zone. "Pine Tree Development  
Zone" means a specified area within the corporate limits of a  
14 municipality or the corporate limits of cooperating  
16 municipalities in a multijurisdictional application that has been  
designated as a Pine Tree Development Zone in accordance with  
chapter 120 and approved by the commissioner.

18 7. Pine Tree Development Zone benefits. "Pine Tree  
20 Development Zone benefits" means:

22 A. Municipal tax increment financing under subchapter 1;

24 B. Employment tax increment financing under Title 36,  
chapter 917; and

26 C. The Pine Tree Development Zone tax credit provided by  
28 Title 36, section 5219-W.

30 8. Financial services. "Financial services" means services  
provided by an insurance company subject to taxation under Title  
32 36, chapter 357; a financial institution subject to taxation  
under Title 36, chapter 819; or a mutual fund service provider as  
34 defined in Title 36, section 5212, subsection 1, paragraph E.

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

42 10. Qualified Pine Tree Development Zone business.  
"Qualified Pine Tree Development Zone business" means any  
44 for-profit business in the State engaged in financial services or  
manufacturing or a targeted technology sector that adds qualified  
46 Pine Tree Development Zone employees above its base level of  
employment in the State and that meets the following criteria:

48 A. The industrial sector in which it principally operates  
50 is identified in the state economic development strategy as  
a targeted growth sector;

2           B. Its business operations established within the Pine Tree  
4           Development Zone represent net new investment or employment  
          within the State;

6           C. It demonstrates that the establishment of operations  
8           within the Pine Tree Development Zone would not occur absent  
          the availability of the benefits described in subsection 7;  
10          and

12          D. It is not engaged in retail operations.

14          Upon review and determination by the commissioner that a business  
16          is a qualified Pine Tree Development Zone business, the  
          commissioner shall issue a certificate of qualification to the  
          business.

18          11. Qualified Pine Tree Development Zone employees.  
20          "Qualified Pine Tree Development Zone employees" means new,  
22          full-time employees hired in the State by a qualified Pine Tree  
24          Development Zone business and for whom a retirement program  
26          subject to the federal Employee Retirement Income Security Act of  
          1974, 29 United States Code, Sections 101 to 1461, as amended,  
          and group health insurance are provided, and whose income derived  
          from employment with the applicant, calculated on a calendar year  
          basis, is greater than the average annual per capita income in  
          the county in which the qualified employee is employed and whose  
          state income withholding taxes are subject to reimbursement to  
          the qualified Pine Tree Development Zone business under this  
          subchapter. Qualified Pine Tree Development Zone employees must  
          be residents of the State.

32          12. Retail operations. "Retail operations" means sales of  
34          consumer goods for household use to consumers who personally  
          visit the business location to purchase the goods.

36          13. Targeted technology sector. "Targeted technology  
38          sector" means an industry sector receiving sut through the  
          Applied Technology Development Center System under Title 5,  
40          section 15321.

42          14. Tax increment financing. "Tax increment financing"  
44          means financing provided under section 5227.

46          §5247. Pine Tree Development Zones

48          1. Creation; application. One or more municipalities, or  
50          an organization representing one or more municipalities, referred  
          to throughout this subchapter as "applicant," may apply to the  
          commissioner for the designation of a Pine Tree Development Zone

2 within the boundaries of the municipality or municipalities in  
3 accordance with the requirements of this subchapter. The  
4 designation of a Pine Tree Development Zone may not conflict with  
5 the provisions of a municipal charter. Zones that meet the  
6 requirements of subsection 2 are authorized for location within  
7 the following regions:

8 A. Aroostook County, including up to 100 acres of trust  
9 land reserved for designation by the Aroostook Band of  
10 Micmacs and the Houlton Band of Maliseet Indians;

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

16 C. The Penobscot Valley region, including up to 500 acres  
17 of trust land reserved for designation by the Penobscot  
18 Nation; and

20 D. The Washington County-Downeast region, including up to  
21 500 acres of trust land reserved for designation by the  
22 Passamaquoddy Tribe.

24 The commissioner may designate up to 4 zones through the process  
25 established in section 5249.

28 **2. Requirements for designation.** The commissioner shall  
29 adopt rules establishing the minimum requirements for the  
30 designation of Pine Tree Development Zones. Additionally, each  
31 participating municipality must:

32 A. Designate the area of the Pine Tree Development Zone  
33 lying within its corporate limits as a municipal development  
34 district in which 10 years of municipal tax increment  
35 financing is provided to qualified Pine Tree Development  
36 Zone businesses equal to at least 100% of the real property  
37 tax increment resulting from the business's investment  
38 within the district following the district's designation; and

40 B. Agree to maintain at least one prepermitted construction  
41 or development site available within the Pine Tree  
42 Development Zone on a continual basis throughout the term of  
43 the zone.

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

48 A. A Pine Tree Development Zone located in Aroostook County  
49 as described in subsection 1, paragraph A may include only  
50



2 property that is not also included within the Aroostook  
3 County Empowerment Zone as designated by the federal  
4 Community Renewal Tax Relief Act of 2000, Public Law 106-554;

6 B. With the exception of tax increment financing, Pine Tree  
7 Development Zone benefits may be provided to qualified  
8 businesses for a period not to exceed 10 years;

10 C. Pine Tree Development Zone benefits may not be used to  
11 encourage or facilitate the transfer of existing positions  
12 or property of a qualified Pine Tree Development Zone  
13 business or any affiliated businesses;

14 D. Pine Tree Development Zone benefits may not be provided  
15 based upon any employees or positions transferred by the  
16 qualified Pine Tree Development Zone business, or an  
17 affiliated business into a Pine Tree Development Zone from a  
18 location elsewhere in the State;

20 E. A Pine Tree Development Zone may not consist of more  
21 than 10 noncontiguous parcels of property; and

22 F. All property included within the boundaries of a Pine  
23 Tree Development Zone must be suitable for commercial use.

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

30 A. A narrative description of the Pine Tree Development  
31 Zone to be designated;

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

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

37 D. Any information evidencing economic distress; and

38 E. A development plan that includes:

39 (1) Documentation of all municipal requirements  
40 required under subsection 2;

41 (2) A description of how the Pine Tree Development Zone  
42 will be administered, including any related interlocal  
43 cooperative agreements;

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

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

8           (5) Plans for accomplishing the goals and objectives,  
including a marketing plan.

10           5. Termination. All Pine Tree Development Zone  
12           designations approved under this subchapter are terminated on  
December 31, 2018.

14           **§5248. Procedure**

16           1. Notice and hearing. Before designating a Pine Tree  
18           Development Zone or adopting a development plan, the legislative  
body of each applicant municipality or the legislative body's  
20           designee must hold at least one public hearing. Notice of the  
hearing must be published at least 10 days before the hearing in  
22           a newspaper of general circulation within the municipality.

24           2. Vote of municipal legislative body. Each applicant  
municipality must designate that portion of the Pine Tree  
26           Development Zone contained within its municipal boundaries by  
majority vote of its legislative body.

28           3. Effective date. A designation of a Pine Tree  
30           Development Zone is effective upon approval by the commissioner.

32           4. Administration. The municipalities participating in a  
Pine Tree Development Zone may create an organization, designate  
34           an existing department or agency or enter into a contractual  
arrangement with a private entity to administer activities  
36           authorized under this subchapter.

38           5. Amendments. A participating municipality may amend the  
designation of that portion of a Pine Tree Development Zone  
40           contained within its boundaries or an adopted development plan  
only after meeting the requirements of this section for  
42           designation of a Pine Tree Development Zone or adoption of a  
development plan and with the concurrence of all other  
44           participating municipalities. A participating municipality may  
not amend the designation of a Pine Tree Development Zone if the  
46           amendment would result in the zone's being out of compliance with  
any of the requirements under in section 5247.

48           **§5249. Selection criteria**

50

2 1. Review and selection. The commissioner shall review  
3 applications and designate Pine Tree Development Zones based upon  
4 the following criteria:

5 A. Severity of economic distress within a region affected  
6 by the Pine Tree Development Zone;

7 B. Viability of a development plan described under section  
8 5247, subsection 4, paragraph E;

9 C. Commitment of local and regional financial resources;

10 D. Partnerships with public and private organizations; and

11 E. Impact on surrounding regions of the Pine Tree  
12 Development Zone.

13 **§5250. Program administration; rules**

14 The commissioner shall administer this subchapter. The  
15 commissioner and the State Tax Assessor may adopt rules for  
16 implementation of the Pine Tree Development Zone program,  
17 including, but not limited to, rules for determining and  
18 certifying eligibility. Rules adopted pursuant to this  
19 subchapter are routine technical rules as defined in Title 5,  
20 chapter 375, subchapter 2-A.

21 **§5250-A. Unorganized territory**

22 For the purposes of this subchapter, a county may act as a  
23 municipality for the unorganized territory within the county and  
24 may designate development districts within the unorganized  
25 territory. When a county acts under this section, the county  
26 commissioners act as the municipality and as the municipal  
27 legislative body, the State Tax Assessor acts as the municipal  
28 assessor and the unorganized territory fund receives the funds  
29 designated for the municipal general fund.

30 **Sec. 3. 36 MRSA §655, sub-§1, ¶T is enacted to read:**

31 T. Personal property owned by a qualified Pine Tree  
32 Development Zone business as defined by Title 30-A, chapter  
33 206, subchapter 3 that is otherwise taxable by the taxing  
34 jurisdiction in which the development zone is located.

35 **Sec. 4. 36 MRSA §5219-W is enacted to read:**

36 **§5219-W. Pine Tree Development Zone tax credit**

2 1. Credit allowed. Except as provided by subsection 2, a  
taxpayer that is a qualified Pine Tree Development Zone business  
4 as defined in Title 30-A, chapter 206, subchapter 3 is allowed a  
credit in the amount of:

6 A. One hundred percent of the tax that would otherwise be  
7 due under this Part for each of the first 5 taxable years  
8 that the taxpayer is required to file a return pursuant to  
9 this Part; and

10 B. Fifty percent of the tax that would otherwise be due  
11 under this Part for each of the taxable years beginning with  
12 the 6th year and ending with the 10th year that the taxpayer  
13 is required to file a return pursuant to this Part.

14 2. Apportioned credit in certain circumstances. In the  
15 case of a business, including an affiliated group, that has a  
16 business presence in the State other than that conducted within a  
17 Pine Tree Development Zone as defined by Title 30-A, section  
18 5246, subsection 6, including, but not limited to, a taxpayer  
19 that is required to file a combined report pursuant to section  
20 5206-G or 5244, the assessor shall make a pro forma determination  
21 of the state income tax liability of the qualified Pine Tree  
22 Development Zone business, based upon which the credit provided  
23 by this section is to be calculated. In making the pro forma  
24 determination, the assessor shall assume that all of the business  
25 activities conducted by the taxpayer within this State constitute  
26 a unitary business, but that only the qualified Pine Tree  
27 Development Zone business is subject to the tax imposed by this  
28 Part and the assessor shall apply the apportionment rules set  
29 forth in chapter 821 or in section 5206-E.

30 3. Limitation. The credit provided by this section is  
31 limited to an amount that would not reduce the taxpayer's  
32 liability under this Part, including the aggregate tax liability  
33 under this Part of affiliated members of a unitary group, to less  
34 than the liability under this Part in the taxable year prior to  
35 the commencement of the taxpayer's activity within a Pine Tree  
36 Development Zone as defined in Title 30-A, chapter 206,  
37 subchapter 3.

38 **Sec. 5. 36 MRSA §6754, sub-§1, ¶D** is enacted to read:

39 D. For qualified employees employed by a qualified Pine  
40 Tree Development Zone business, as defined in Title 30-A,  
41 section 5246, subsection 10 and for whom a certificate of  
42 qualification has been issued in accordance with Title 30-A,  
43 section 5246, subsection 10, the reimbursement is equal to  
44 100% of the withholding taxes withheld each year for which  
45 reimbursement is requested and attributed to those qualified

2 employees, as defined in Title 30-A, section 5246,  
3 subsection 11.

4  
5 **SUMMARY**

6  
7 This bill establishes the Pine Tree Development Zone program  
8 within the Department of Economic and Community Development and  
9 authorizes qualified businesses in the manufacturing, technology  
10 and financial services sectors to receive the following benefits  
11 for a period of 10 years as a result of their operations  
12 established within the zones:

13  
14 1. Financing assistance equal to 100% of the tax paid on  
15 real property improvements;

16  
17 2. Exemption of personal property from taxation;

18  
19 3. Employment tax increment financing equal to 100% of  
20 qualified employees' state income tax withholdings for a period  
21 of 10 years; and

22  
23 4. A tax credit equal to 100% of the state income tax due  
24 and attributable to operations within the zones for each of the  
25 first 5 years, followed by a credit equal to 50% of the state  
26 income tax due and attributable to operations within the zones  
for the 6th through the 10th years.