

# MAINE STATE LEGISLATURE

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L.D. 449

DATE: 5.31.05

(Filing No. S-297)

**BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**

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**STATE OF MAINE  
SENATE  
122ND LEGISLATURE  
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to S.P. 147, L.D. 449, Bill, "An Act To Make Changes to the Pine Tree Development Zones"

Amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

**Emergency preamble.** Whereas, acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** changes to the Pine Tree Development Zone laws are required to simplify the zone amendment process, to clarify the sales tax exemptions before they become effective on July 1, 2005 and to allow for more efficient and effective administration of the Pine Tree Development Zones; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 30-A MRSA §5250-I, sub-§§3 to 5,** as enacted by PL 2003, c. 688, Pt. D, §2, are amended to read:

**3. Average employment during base period.** "Average employment during the base period" for a business means the total

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2 number of qualified employees of that business on each of 6  
3 consecutive measurement days in each of the 3 calendar years in  
4 the base period as chosen by the business divided by 18 as of  
5 each March 31st, June 30th, September 30th and December 31st of  
6 the base period, divided by 12.

7  
8 **4. Base level of employment.** "Base level of employment"  
9 means the greater of either the total employment in the State of  
10 a business and its affiliated businesses as of the March 31st,  
11 June 30th, September 30th and December 31st of the calendar year  
12 immediately preceding its certification as a qualified the year  
13 of the business's application to become a certified Pine Tree  
14 Development Zone business divided by 4 or its average employment  
15 during the base period.

16 **5. Base period.** "Base period" means the 3 calendar years  
17 prior to the year in which a business is applies to be certified  
18 as a qualified Pine Tree Development Zone business.

19 **Sec. 2. 30-A MRSA §5250-I, sub-§14, ¶¶C and D,** as enacted by PL  
20 2003, c. 688, Pt. D, §2, are amended to read:

21  
22 C. The sales tax exemptions exemption under Title 36,  
23 section 1760, ~~subsections 86 and~~ subsection 87 and the sales  
24 tax reimbursement under Title 36, section 2016; and

25  
26 D. The Pine Tree Development Zone tax credits provided by  
27 Title 36, sections 2529 and 5219-W; and

28  
29 **Sec. 3. 30-A MRSA §5250-I, sub-§14, ¶¶E and F** are enacted to  
30 read:

31  
32 E. Discounted rates approved by the Public Utilities  
33 Commission, if applicable, and offered by transmission and  
34 distribution utilities as authorized under Title 35-A,  
35 section 3210-B, subsection 1; and

36  
37 F. Line extensions and conservation programs approved or  
38 authorized by the Public Utilities Commission under Title  
39 35-A, section 3210-B, subsections 2 and 3.

40  
41 **Sec. 4. 30-A MRSA §5250-I, sub-§§17 and 18,** as enacted by PL  
42 2003, c. 688, Pt. D, §2, are amended to read:

43  
44 **17. Qualified Pine Tree Development Zone business.**  
45 "Qualified Pine Tree Development Zone business" or "qualified  
46 business" means any for-profit business in this State engaged in  
47 or that will engage in financial services, manufacturing or a  
48 targeted technology business that adds has added or will add at  
49 least one qualified Pine Tree Development Zone employees employee  
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above its base level of employment in this State and that meets the following criteria:

A. It demonstrates that the establishment or expansion of operations within the Pine Tree Development Zone would not occur within the State absent the availability of the Pine Tree Development Zone benefits. The department shall investigate determine whether the business has met the requirements of this paragraph and--provide--an--advisory opinion--to--the--Executive--Director--of--the--Bureau--of--Revenue Services--in--the--Department--of--Administrative--and--Financial Services,--who--shall--make--the--final--determination; and

B. It has received a certificate as a qualified business pursuant to section 5250-O.

18. Qualified Pine Tree Development Zone employees. "Qualified Pine Tree Development Zone employees" means new, full-time employees hired in this State by a qualified Pine Tree Development Zone business for work directly in one or more qualified business activities for whom a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 101 to 1461 (2003), as amended, and group health insurance are provided and whose wages income derived from employment within the Pine Tree Development Zone are, calculated on a calendar year basis, is greater than the average most recent annual per capita wages personal income in the-local-labor-market-area-in the county in which the qualified employee is employed. "Qualified Pine Tree Development Zone employees must-be-residents-of-this-State " does not include employees shifted to a qualified business activity from a nonqualified activity of the qualified Pine Tree Development Zone business or an affiliated business. The commissioner shall determine whether a shifting of employees has occurred.

Sec. 5. 30-A MRSA §5250-J, sub-§3, as enacted by PL 2003, c. 688, Pt. D, §2, is amended to read:

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

A. The total area of a zone,--including--all--noncontiguous parcels, may not exceed 5,000 acres, which need not be contiguous. In calculating the 5,000-acre limit, only developable acres may be counted;

B. A zone located in Aroostook County as described in subsection 1, paragraph A may include property that is also included within the Aroostook County Empowerment Zone as

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2 designated by the federal Community Renewal Tax Relief Act  
of 2000, Public Law 106-554;

4 C. Pine Tree Development Zone benefits may not be used to  
6 encourage or facilitate the transfer of existing positions  
or property of a qualified business or affiliated businesses  
8 into to a zone qualified business activity from a location  
nonqualified activity elsewhere in the State;

10 D. Pine Tree Development Zone benefits may not be provided  
12 based upon any property, employees or positions transferred  
by the business or affiliated businesses into to a Pine-Tree  
14 Development-Zone qualified business activity from a location  
elsewhere-in-the-State nonqualified activity;

16 ~~E. A Pine Tree Development Zone may not consist of more  
than 20 noncontiguous parcels of property;~~

18 ~~F. All property included within the boundaries of a Pine  
20 Tree Development Zone must be suitable for one One or more  
qualified Pine Tree Development Zone business activities  
22 must be a permissible activity in the Pine Tree Development  
Zone;~~

24 G. All property included within a Pine Tree Development  
26 Zone must meet one of the following:

28 (1) The property is located within a market area for  
30 which the labor market unemployment rate is greater  
than the state unemployment rate at the time of the  
32 application; or

34 (2) The property is included within a county in which  
the average weekly wage is below the state average  
36 weekly wage at the time of the application.

38 In the case of a multijurisdictional or joint application,  
the requirements of this paragraph are met if the combined  
40 unemployment rate of the cooperating units of local  
government meets the requirements of subparagraph (1) or the  
42 average weekly wage of the cooperating units of local  
government, on a per-employed-worker basis, meets the  
44 requirements of subparagraph (2); and

46 H. The restrictions contained in paragraph G may be waived  
for property that is contained within a labor market area  
48 that has sustained a greater than 5% loss of population or  
employed workers during the 3-year period immediately  
preceding the time of application if the loss was caused by  
50 business closings.

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2           **Sec. 6. 30-A MRSA §5250-K, sub-§§3 and 5**, as enacted by PL  
4           2003, c. 688, Pt. D, §2, are amended to read:

6           **3. Effective date.** The establishment of a Pine Tree  
8           Development Zone is effective upon preliminary designation by the  
          commissioner.

10           **5. Amendments.** ~~The designation, size, location, number and~~  
12           ~~configuration of the parcels in a Pine Tree Development Zone or~~  
14           ~~the terms~~ All aspects of a development plan as described in  
16           section 5250-J, subsection 4, including the designation of  
18           additional acreage, may be amended by an affirmative a majority  
20           vote of all the participating units of local government as  
22           evidenced by either a majority vote of the municipal officers or  
24           legislative body of each unit of local government or their  
26           representatives on the zone's governing body. A participating  
          unit of local government may amend, or entirely remove  
          designation of, previously designated acreage within its  
          jurisdiction by a majority vote of its municipal officers or  
          legislative body, as long as the amendment does not increase its  
          total acres. In no case may an amendment adversely affect the  
          Pine Tree Development Zone benefits of a qualified business. An  
          amendment may not result in the zone's being out of compliance  
          with any of the requirements in section 5250-J.

28           **Sec. 7. 36 MRSA §1760, sub-§86**, as amended by PL 2003, c. 688,  
          Pt. D, §3, is repealed.

30           **Sec. 8. 36 MRSA §1760, sub-§87**, as amended by PL 2003, c. 688,  
          Pt. D, §3, is further amended to read:

32           **87. Sales of tangible personal property to qualified**  
34           **development zone businesses.** Beginning July 1, 2005, sales of  
36           tangible personal property to a qualified Pine Tree Development  
38           Zone business, as defined in Title 30-A, section 5250-I,  
40           subsection 17, for use directly and primarily in one or more  
42           qualified business activities, as defined in Title 30-A, section  
44           5250-I, subsection 16. The exemption provided by this subsection  
46           is limited for each qualified Pine Tree Development Zone business  
48           to sales occurring within a period of 10 years from the date the  
50           business is certified pursuant to Title 30-A, section 5250-O or  
          until December 31, 2018, whichever occurs first. As used in this  
          subsection, "primarily" means more than 50% of the time during  
          the period that begins on the date on which the property is first  
          placed in service by the purchaser and ends 2 years from that  
          date or at the time the property is sold, scrapped, destroyed or  
          otherwise permanently removed from service by the purchaser,  
          whichever occurs first.

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Sec. 9. 36 MRSA §2016 is enacted to read:

§2016. Pine Tree Development Zone businesses; reimbursement of certain taxes

1. Terms defined. As used in this section, the terms "qualified Pine Tree Development Zone business" and "qualified business activity" have the meanings given to them in Title 30-A, section 5250-I. For the purposes of this section, "primarily" means more than 50% of the time during the period that begins on the date on which the property is first placed in service by the purchaser and ends 2 years from that date or at the time the property is sold, destroyed or otherwise permanently removed from service by the purchaser, whichever occurs first.

2. Reimbursement allowed. A reimbursement is allowed as provided in this section for a tax paid pursuant to this Part with respect to the sale or use of tangible personal property that is physically incorporated in and becomes a permanent part of real property that is owned by or sold to a qualified Pine Tree Development Zone business and that is used directly and primarily by that business in one or more qualified business activities.

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

A. A claim for reimbursement under this section must be filed by the contractor or subcontractor with the State Tax Assessor within 3 years from the date on which the tangible personal property was incorporated into real property. The reimbursement claim must be submitted on a form prescribed by the assessor and must be accompanied by a statement from a qualified Pine Tree Development Zone business certifying, under penalties of perjury, that the personal property with respect to which the tax was paid by the claimant has been placed in use directly and primarily in a qualified business activity. All records pertaining to such certification and to the transactions in question must be retained for at least 6 years by the contractor or subcontractor, by the qualified Pine Tree Development Zone business and by the person, if any, that sold the real property in question to that business. The reimbursement claim must be accompanied by such additional information as the assessor may require. If a sales or use tax is included in the contractor's or subcontractor's contract price, the contractor or subcontractor shall file, at the request of the qualified Pine Tree Development Zone business, a claim for reimbursement in accordance with this section and pay the

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2 reimbursement to the qualified Pine Tree Development Zone  
3 business.

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

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

19 A. Reimbursements made by the assessor pursuant to this  
20 section are limited to taxes paid in connection with sales  
21 of tangible personal property that occur within a period of  
22 10 years from the date the qualified Pine Tree Development  
23 Zone business receiving the property is certified pursuant  
24 to Title 30-A, section 5250-O or by December 31, 2018,  
25 whichever occurs first.

26 B. Reimbursement pursuant to this section of taxes paid in  
27 connection with the sale of tangible personal property  
28 subsequently attached to real property may not be made when  
29 those real property improvements:

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

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

38 **5. Audit.** The assessor has the authority to audit any claim  
39 filed under this section. If the assessor determines that the  
40 amount of the claimed reimbursement is incorrect, the assessor  
41 shall redetermine the claim and notify the claimant in writing of  
42 the redetermination. If the claimant has received reimbursement  
43 of an amount that the assessor concludes should not have been  
44 reimbursed, the assessor may issue an assessment for that amount

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2 within 3 years from the date the reimbursement claim was filed or  
3 at any time if a fraudulent reimbursement claim was filed. The  
4 claimant may seek reconsideration, pursuant to section 151, of  
5 the redetermination or assessment.

6 6. Payment of claims. The State Tax Assessor shall  
7 determine the benefit for each claimant under this section and  
8 certify to the State Controller the amount to be transferred to  
9 the Pine Tree Development Zone reimbursement reserve account  
10 established, maintained and administered by the State Controller  
11 from General Fund undedicated revenue within the sales tax  
12 category. The assessor shall pay the certified amounts to each  
13 approved applicant qualifying for the benefit under this section  
14 within 30 days after receipt of a properly completed claim.  
15 Interest is not allowed on any payment made to a claimant  
16 pursuant to this section.

17 **Sec. 10. 36 MRSA §2529, sub-§1, ¶¶A and B,** as amended by PL  
18 2003, c. 688, Pt. D, §4, are repealed and the following enacted  
19 in their place:  
20

21 A. One hundred percent of the tax that would otherwise be  
22 due under this chapter upon premiums that are attributable  
23 to a qualified business activity as defined in Title 30-A,  
24 section 5250-I, subsection 16 for each of the first 5 tax  
25 years beginning with the tax year in which the taxpayer  
26 commences its qualified business activity; and

27 B. Fifty percent of the tax that would otherwise be due  
28 under this chapter upon premiums that are attributable to a  
29 qualified business activity as defined in Title 30-A,  
30 section 5250-I, subsection 16 for each of the 5 tax years  
31 following the time period in paragraph A.

32 **Sec. 11. 36 MRSA §2529, sub-§2,** as amended by PL 2003, c. 688,  
33 Pt. D, §4, is repealed and the following enacted in its place:  
34

35 2. Apportioned credit in certain circumstances. In the  
36 case of a qualified Pine Tree Development Zone business as  
37 defined in Title 30-A, section 5250-I, subsection 17 that engages  
38 in both qualified and nonqualified business activities in the  
39 State, the credit provided for in this section is limited to that  
40 portion that is attributable to the qualified business activity.  
41 The limitation is calculated by an apportionment. The  
42 apportionment is determined by a fraction, the numerator of which  
43 is the property value plus the payroll for the taxable year  
44 attributed to the qualified business activity of the business and  
45 the denominator of which is the statewide property value plus  
46 payroll for the taxable year of the business.  
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2 If the apportionment provisions of this subsection do not fairly  
4 reflect the amount of the credit associated with the taxpayer's  
6 qualified business activity, the taxpayer may petition for, or  
8 the State Tax Assessor may require, in respect to all or any part  
of the taxpayer's business activity, the employment of another  
reasonable method to effectuate an equitable apportionment of the  
credit associated with the taxpayer's qualified business activity.

10 **Sec. 12. 36 MRSA §2529, sub-§4** is enacted to read:

12 **4. Definitions.** As used in this section, unless the  
14 context otherwise indicates, the following terms have the  
following meanings.

16 A. "Property" means the average value of the taxpayer's  
18 real and tangible personal property that is owned or rented  
20 and used during the tax period. Property owned by the  
22 taxpayer is valued at its original cost. Property rented by  
the taxpayer is valued at 8 times the net annual rental  
rate. The net annual rental rate is the annual rental rate  
paid by the taxpayer.

24 B. "Payroll" means the total amount paid in this State  
26 during the tax period by the taxpayer for compensation,  
28 including wages, pretax employee contributions made to a  
benefit package and employer contributions made to an  
employee benefit package.

30 **Sec. 13. 36 MRSA §5219-W, sub-§1, ¶¶A and B,** as amended by PL  
32 2003, c. 688, Pt. D, §5, are repealed and the following enacted  
in their place:

34 A. One hundred percent of the tax that would otherwise be  
36 due under this Part for each of the first 5 tax years  
38 beginning with the tax year in which the taxpayer commences  
its qualified business activity, as defined in Title 30-A,  
section 5250-I, subsection 16; and

40 B. Fifty percent of the tax that would otherwise be due  
42 under this Part for each of the 5 tax years following the  
time period in paragraph A.

44 **Sec. 14. 36 MRSA §5219-W, sub-§2,** as amended by PL 2003, c.  
46 688, Pt. D, §5, is repealed and the following enacted in its  
place:

48 **2. Apportioned credit in certain circumstances.** In the  
50 case of a qualified Pine Tree Development Zone business as  
defined in Title 30-A, section 5250-I, subsection 17 that engages

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2 in both qualified and nonqualified business activities in this  
3 State, the credit provided for in this section is limited to that  
4 portion that is attributable to the qualified business activity.  
5 The limitation is calculated by an apportionment. The  
6 apportionment is determined by a fraction, the numerator of which  
7 is the property value plus the payroll for the taxable year  
8 attributed to the qualified business activity of the business and  
9 the denominator of which is the statewide property value plus  
10 payroll for the taxable year of the business.

11 If the qualified business is a taxable corporation that has  
12 affiliated groups, as defined in section 5102, subsection 1-B,  
13 engaged in a unitary business, as defined in section 5102,  
14 subsection 10-A, the property and payroll values in the State of  
15 the unitary affiliated groups must be included in the  
16 apportionment fraction. The resulting fraction must be multiplied  
17 by the total tax liability otherwise due under this Part of the  
18 qualified business and those affiliated groups.

19 If the apportionment provisions of this subsection do not fairly  
20 reflect the amount of the credit associated with the taxpayer's  
21 qualified business activity, the taxpayer may petition for, or  
22 the State Tax Assessor may require, in respect to all or any part  
23 of the taxpayer's business activity, the employment of another  
24 reasonable method to effectuate an equitable apportionment of the  
25 credit associated with the taxpayer's qualified business activity.

26  
27 **Sec. 15. 36 MRSA §5219-W, sub-§3, as enacted by PL 2003, c.**  
28 **451, Pt. NNN, §5 and affected by §8, is repealed and the**  
29 **following enacted in its place:**

30  
31 **3. Members of pass-through entities.** A member of a  
32 pass-through entity that is a qualified Pine Tree Development  
33 Zone business, as defined in Title 30-A, section 5250-I,  
34 subsection 17, is allowed a credit under this section based on  
35 the tax due under this Part related to items of income, gain,  
36 deduction, loss or other items required to be reported by the  
37 pass-through entity to the member. For purposes of this  
38 subsection, "pass-through entity" means a corporation that for  
39 the applicable tax year is treated as an S corporation under the  
40 Code and a partnership, trust, limited liability company or  
41 similar entity that for the applicable tax year is not taxed as a  
42 C corporation for federal tax purposes; "member" means an  
43 individual or other owner of a pass-through entity.

44  
45 **Sec. 16. 36 MRSA §5219-W, sub-§5 is enacted to read:**

46  
47 **5. Definitions.** As used in this section, unless the  
48 context otherwise indicates, the following terms have the  
49 following meanings.

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A. "Property" means the average value of the taxpayer's real and tangible personal property that is owned or rented and used during the tax period. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at 8 times the net annual rental rate. The net annual rental rate is the annual rental rate paid by the taxpayer.

B. "Payroll" means the total amount paid in this State during the tax period by the taxpayer for compensation, including wages, pretax employee contributions made to a benefit package and employer contributions made to an employee benefit package.

Sec. 17. 36 MRSA §6753, sub-§1, as enacted by PL 1995, c. 669, §5, is repealed.

Sec. 18. 36 MRSA §6753, sub-§1-A is enacted to read:

1-A. Affiliated business. "Affiliated business" means a member of a group of 2 or more businesses in which more than 50% of the voting stock of each member corporation or more than 50% of the ownership interest in a business other than a corporation is directly or indirectly owned by a common owner or owners, either corporate or noncorporate, or by one or more of the member businesses.

Sec. 19. 36 MRSA §6753, sub-§2, as enacted by PL 1995, c. 669, §5, is repealed.

Sec. 20. 36 MRSA §6753, sub-§3-A is enacted to read:

3-A. Average employment during base period. "Average employment during the base period" for a business means the total number of employees of that business as of each March 31st, June 30th, September 30th and December 31st of the base period, divided by 12.

Sec. 21. 36 MRSA §6753, sub-§4, as enacted by PL 1995, c. 669, §5, is amended to read:

4. Base level of employment. "Base level of employment" means the greater of either the total employment of a business as of the March 31st, June 30th, September 30th and December 31st of the calendar year immediately preceding the application for approval of the employment tax increment financing development program divided by 4 or its average employment during the base period.

2           **Sec. 22. 36 MRSA §6753, sub-§7**, as enacted by PL 1995, c. 669,  
§5, is amended to read:

4           **7. Employment tax increment.** "Employment tax increment"  
6 means that level of employment, payroll and state income  
withholding taxes attributed to qualified employees employed by a  
8 qualified business above the base level for the qualified  
business, adjusted pursuant to ~~section--6757~~ subsection 12 for  
10 shifts in employment by affiliated businesses.

12           **Sec. 23. 36 MRSA §6753, sub-§12**, as amended by PL 2003, c.  
391, §13, is further amended to read:

14           **12. Qualified employees.** "Qualified employees" means new,  
16 full-time employees hired in this State by a qualified business  
and for whom a retirement program subject to the Employee  
18 Retirement Income Security Act of 1974, 29 United States Code,  
Sections 101 to 1461, as amended, and group health insurance are  
20 provided, and whose income derived from employment with the  
applicant, calculated on a calendar year basis, is greater than  
22 the most recent average annual wage per capita personal income in  
the county in which the qualified employee is employed and whose  
24 state income withholding taxes are subject to reimbursement to  
the qualified business under this chapter. "Qualified employees  
26 must-be-residents-of-this-State " does not include employees  
shifted to a qualified business from an affiliated business. The  
commissioner shall determine whether a shifting of employees has  
28 occurred.

30           **Sec. 24. 36 MRSA §6757**, as enacted by PL 1995, c. 669, §5, is  
repealed.

32           **Sec. 25. 36 MRSA §6758, sub-§2**, as repealed and replaced by PL  
34 1999, c. 127, Pt. A, §51, is amended to read:

36           **2. Determination by assessor.** On or before June 30th of  
each year, the assessor shall determine the employment tax  
38 increment of each qualified business for the preceding calendar  
year. A qualified business may receive up to 75% ~~80%~~ of the  
40 employment tax increment generated by that business as determined  
by the assessor, subject to the further limitations in section  
42 6754, subsection 2. That amount is referred to as "retained  
employment tax increment revenues."

44           **Sec. 26. Application.** That section of this Act that amends  
46 the Maine Revised Statutes, Title 30-A, section 5250-I,  
subsections 17 and 18 applies retroactively to June 12, 2003,  
48 except that changes to subsection 17, paragraph A are effective  
upon enactment. That section of this Act that amends Title 30-A,  
50 section 5250-J, subsection 3 applies retroactively to June 12,

2003. The amendment in this Act of Title 30-A, section 5250-K, subsection 3 applies retroactively to June 12, 2003. That section of this Act that repeals Title 36, section 1760, subsection 86 applies retroactively to sales occurring on or after July 1, 2005. That section of this Act that amends Title 36, section 1760, subsection 87 applies to qualified sales occurring on or after July 1, 2005. That section of this Act that enacts Title 36, section 2016 applies to qualified sales occurring on or after July 1, 2005. Those sections of this Act that repeal and replace Title 36, section 2529, subsection 1, paragraphs A and B and subsection 2 apply retroactively to tax years beginning on or after January 1, 2004. Those sections of this Act that repeal and replace Title 36, section 5219-W, subsection 1, paragraphs A and B and subsections 2 and 3 apply retroactively to tax years beginning on or after January 1, 2004. That section of this Act that amends Title 36, section 6753, subsection 7 applies retroactively to applications submitted by a qualified business on or after September 13, 2003. That section of this Act that amends Title 36, section 6753, subsection 12 applies retroactively to applications submitted by a qualified business on or after September 13, 2003. That section of this Act that repeals Title 36, section 6757 applies retroactively to applications submitted by a qualified business on or after September 13, 2003. That section of this Act that amends Title 36, section 6758, subsection 2 applies retroactively to January 1, 2004.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.'

## SUMMARY

This amendment replaces the bill, adds an emergency preamble and clause and makes the following changes to the laws governing the Pine Tree Development Zone, or "zone," program.

It clarifies the method for determining baseline information, adds language to adjust employment seasonality and aligns definitions with the Maine Employment Tax Increment Financing Program, or "ETIF program."

It updates a statutory reference made obsolete by changes made in this amendment.

It adds the utility benefits enacted by Public Law 2003, chapter 610.

It clarifies the requirement for a business to add a new employee, aligns the qualifying criteria with those under the

ETIF program by assigning determination duties to the Department of Economic and Community Development and removing Department of Administration and Financial Services responsibility and redefines "qualified Pine Tree Development Zone employees" to restore the meaning originally used under the ETIF program in order to align programs and match past practice. This section also clarifies the status of shifted employees and assigns antishifting oversight to the Department of Economic and Community Development.

It clarifies that under the 5,000-acre limit, acres need not be contiguous and only developable acres may be counted, aligns the antipiracy and antishifting provisions by including property in both and clarifies the language regarding antipiracy and antishifting if companies move from nonqualified to qualified activities. It also repeals the limitation on the number of parcels allowed within a zone, opting instead for a cap on total acres. This permits more communities to participate in each zone as they respond to development project needs.

It clarifies that zones were legally constituted when the commissioner issued preliminary designations.

It simplifies the amendment process and clarifies that all aspects of a zone's development program may be amended by majority vote of the participating municipalities. Voting responsibilities may be delegated to the zone's governing body. It also permits municipalities to independently shift or delete acres within their own boundaries and clarifies that amendments may not be enacted that jeopardize existing benefits to qualified businesses.

It repeals the sales and use tax exemption for sales to contractors of Pine Tree Development Zone businesses and establishes a reimbursement program under which the contractors may recover the tax paid on qualifying purchases.

It limits eligibility for Pine Tree Development Zone credit against the insurance premium tax to 10 years from the commencement of the qualified business activity and clarifies the rules regarding apportionment of the credit by companies that engage in both qualified and nonqualified activities.

It limits eligibility for Pine Tree Development Zone credit against the corporate income tax to 10 years from the commencement of the qualified business activity and clarifies the rules regarding apportionment of the credit by corporations that engage in both qualified and nonqualified activities.

It limits the amount of Pine Tree Development Zone credit for a member of a pass-through entity to the amount of tax attributable to taxable income derived from the pass-through entity.

It redefines "affiliated business" under the ETIF program to match the definition under the Maine Revised Statutes, Title 36, Part 8.

It repeals the definition of "affiliated group" under the ETIF program and defines "average employment during the base period" for purposes of the ETIF program. Existing law measures employment on December 31st of each year. This change allows measurement of employment at the end of each quarter during the year, creating a more accurate employment picture.

It redefines "base level of employment" for purposes of the ETIF program. Existing law measures employment on December 31st of the previous year. This change allows measurement of employment at the end of each quarter during the year, creating a more accurate employment picture.

It updates a statute reference made obsolete by the changes in this amendment.

It adds a limitation to the ETIF program stating that "qualified employees" does not include those employees that are shifted to a qualified activity from elsewhere in the company or from an affiliate of the company. This limitation currently exists in a separate section of law.

It repeals the section of law that describes the shifting limitation for the ETIF program. The limitation is moved to Title 36, section 6753, subsection 12 in this amendment.

Finally, it amends the ETIF law to reflect the increase in the top percentage of employment tax increment available to employers for qualified employees in a Pine Tree Development Zone tax increment from 75% to 80%.

**FISCAL NOTE REQUIRED**  
(See attached)



# 122nd MAINE LEGISLATURE

LD 449

LR 0416(02)

**An Act To Make Changes to the Pine Tree Development Zones**

**Fiscal Note for Bill as Amended by Committee Amendment "A"**

**Committee: Business, Research and Economic Development**

**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - General Fund

### Fiscal Detail and Notes

Any additional costs to the Department of Economic and Community Development and Maine Revenue Services can be absorbed utilizing existing budgeted resources.