

MAINE STATE LEGISLATURE

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Date: 6/10/19

(Filing No. H-570)

BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
124TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1024, L.D. 1473, Bill, "An Act To Reaffirm Maine's Commitment to Business by Amending the Pine Tree Development Zone Laws"

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 5 MRSA §1710-F, sub-§2, as amended by PL 1997, c. 157, §1, is further amended to read:

2. Biennial revenue projections. The committee shall submit recommendations for state revenue projections for the next 2 fiscal biennia and analyze revenue projections for the current fiscal biennium, which must be approved by a majority of the committee members. No later than December 1st of each even-numbered year, the committee shall submit to the Governor, the Legislative Council, the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the State Budget Officer a report that presents the analyses, findings and recommendations for General Fund and Highway Fund revenue projections for the next 2 fiscal biennia. In its report the committee shall fully describe the methodology employed in reaching its recommendations. Revenue projections for other funds of the State may be included in the report at the discretion of the committee. Revenue projections for the General Fund may not include revenue that accrues pursuant to Title 30-A, section 5250-I, subsection 14 and is deposited into the Pine Tree Development Zone Reserve Fund pursuant to Title 30-A, section 5250-J, subsection 4-B that would not have accrued to the State but for the availability of Pine Tree Development Zone benefits as stated in Title 30-A, section 5250-I, subsection 17, paragraph A.

Sec. 2. 30-A MRSA §5250-I, sub-§2, as enacted by PL 2003, c. 688, Pt. D, §2, is repealed.

Sec. 3. 30-A MRSA §5250-I, sub-§4, as amended by PL 2009, c. 21, §1, is further amended to read:

1 **4. Base level of employment.** "Base level of employment" means the greater of
2 either the total employment in the State of a business as of March 31st, June 30th,
3 September 30th and December 31st of the calendar year immediately preceding the year
4 of the business's application to become a certified Pine Tree Development Zone business
5 divided by 4 or its average employment during the base period. Pursuant to section
6 5250-J, subsection 4-A, "base level of employment" may be adjusted to mean 25% of the
7 average number of employees of that business over the 3 months immediately preceding
8 the catastrophic occurrence.

9 Pursuant to section 5250-J, subsection 4-C, "base level of employment" must be adjusted
10 for a qualified business that has more than one location in the State and creates 250 or
11 more jobs at one of these locations, so that the base level of employment is calculated
12 from the location of the significant employment expansion of 250 jobs or more on the
13 basis of that specific location.

14 **Sec. 4. 30-A MRSA §5250-I, sub-§9,** as enacted by PL 2003, c. 688, Pt. D, §2, is
15 amended to read:

16 **9. Labor market average weekly wage.** "Labor market average weekly wage"
17 means the average weekly wage as published by the Department of Labor for the labor
18 market or markets in which potential qualified Pine Tree Development Zone employees
19 are located for the 12 most recently reported months preceding the date of application ~~for~~
20 ~~zone designation.~~

21 **Sec. 5. 30-A MRSA §5250-I, sub-§10,** as enacted by PL 2003, c. 688, Pt. D, §2,
22 is amended to read:

23 **10. Labor market unemployment rate.** "Labor market unemployment rate" means
24 the average unemployment rate as published by the Department of Labor for the labor
25 market or markets in which potential qualified Pine Tree Development Zone employees
26 are located for the 12 most recently reported months preceding the date of application ~~for~~
27 ~~zone designation.~~

28 **Sec. 6. 30-A MRSA §5250-I, sub-§11,** as enacted by PL 2003, c. 688, Pt. D, §2,
29 is repealed and the following enacted in its place:

- 30 **11. Manufacturing.** "Manufacturing" means:
31 A. The production of tangible personal property intended to be sold or leased
32 ultimately for final use or consumption;
33 B. The production of tangible personal property pursuant to a contract with the
34 Federal Government or any agency thereof; or
35 C. To make, process, convert or transform raw materials, components or parts into
36 finished goods or products for final use or consumption to meet customer
37 expectations or specifications.

38 **Sec. 7. 30-A MRSA §5250-I, sub-§11-A,** as enacted by PL 2005, c. 650, §1, is
39 amended to read:

40 **11-A. Military redevelopment zone.** "Military redevelopment zone" means a
41 specified area within a municipality that is contained within a labor market that includes a
42 military facility that sustained a loss of 400 or more employed workers, if the loss was

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1 caused by a federal military facility closure or downsizing, during the 5-year period
2 immediately preceding the time of application for designation as a military
3 redevelopment zone, or is projected to sustain a loss of 400 or more employed workers
4 during the 5-year period immediately following the time of application, and has been
5 designated by the commissioner as a military redevelopment zone under section 5250-J,
6 subsection ~~2-A~~ 3-A.

7 **Sec. 8. 30-A MRSA §5250-I, sub-§13**, as enacted by PL 2003, c. 688, Pt. D, §2,
8 is amended to read:

9 **13. Pine Tree Development Zone.** "Pine Tree Development Zone" or "zone" means
10 a specified area within the boundaries of ~~a unit of local government, or within the~~
11 ~~boundaries of cooperating units of local government in a multijurisdictional application,~~
12 ~~the State~~ that has been designated by the commissioner as a Pine Tree Development Zone
13 in accordance with section 5250-J, subsection 3-A or 3-B.

14 **Sec. 9. 30-A MRSA §5250-I, sub-§19**, as enacted by PL 2003, c. 688, Pt. D, §2,
15 is amended to read:

16 **19. State average weekly wage.** "State average weekly wage" means the average
17 weekly wage as published by the Department of Labor for the State as a whole for the 12
18 most recently reported months preceding the date of application ~~for zone designation.~~

19 **Sec. 10. 30-A MRSA §5250-I, sub-§20**, as enacted by PL 2003, c. 688, Pt. D,
20 §2, is amended to read:

21 **20. State unemployment rate.** "State unemployment rate" means the average
22 unemployment rate published by the Department of Labor for the State as a whole for the
23 12 most recently reported months preceding the date of application ~~for zone designation.~~

24 **Sec. 11. 30-A MRSA §5250-I, sub-§21-A** is enacted to read:

25 **21-A. Tier 1 location.** "Tier 1 location" means a location designated by the
26 department to be eligible for Pine Tree Development Zone benefits for a period of 10
27 years.

28 **Sec. 12. 30-A MRSA §5250-I, sub-§21-B** is enacted to read:

29 **21-B. Tier 2 location.** "Tier 2 location" means a location designated by the
30 department to be eligible for Pine Tree Development Zone benefits for a period of 5
31 years. After the 5 years, all Pine Tree Development Zone benefits expire, except for the
32 expanded employment tax increment financing benefits under Title 36, chapter 917,
33 which must be recalculated at that time to reflect the standard rates under that chapter.

34 **Sec. 13. 30-A MRSA §5250-J, sub-§1**, as amended by PL 2007, c. 466, Pt. A,
35 §53, is repealed.

36 **Sec. 14. 30-A MRSA §5250-J, sub-§2**, as enacted by PL 2003, c. 688, Pt. D, §2,
37 is amended to read:

38 **2. Requirements for designation.** The commissioner shall adopt rules establishing
39 the minimum requirements for the designation of Pine Tree Development Zones pursuant
40 to subsections 3-A and 3-B. ~~Additionally, each participating unit of local government~~

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1 ~~must agree to maintain at least one prepermitted construction or development site~~
2 ~~available within the zone on a continual basis throughout the term of the zone.~~

3 **Sec. 15. 30-A MRSA §5250-J, sub-§2-A**, as enacted by PL 2005, c. 650, §5, is
4 repealed.

5 **Sec. 16. 30-A MRSA §5250-J, sub-§3**, as amended by PL 2005, c. 650, §6 and
6 c. 669, §1, is further amended to read:

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

9 ~~A. The total area of a zone may not exceed 5,000 acres, which need not be~~
10 ~~contiguous. In calculating the 5,000-acre limit, only developable acres may be~~
11 ~~counted;~~

12 ~~B. A zone located in Aroostook County as described in subsection 1, paragraph A~~
13 ~~may include property that is also included within the Aroostook County~~
14 ~~Empowerment Zone as designated by the federal Community Renewal Tax Relief~~
15 ~~Act of 2000, Public Law 106-554;~~

16 C. Pine Tree Development Zone benefits may not be used to encourage or facilitate
17 the transfer of existing positions or property of a qualified business or affiliated
18 businesses to a qualified business activity from a nonqualified activity elsewhere in
19 the State;

20 D. Pine Tree Development Zone benefits may not be provided based upon any
21 property, employees or positions transferred by the business or affiliated businesses
22 to a qualified business activity from a nonqualified activity; and

23 F. One or more qualified Pine Tree Development Zone business activities must be a
24 permissible activity in the Pine Tree Development Zone;

25 ~~G. Except for a military redevelopment zone established pursuant to subsection 1,~~
26 ~~paragraph F, all property included within a Pine Tree Development Zone must meet~~
27 ~~one of the following:~~

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

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

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

38 H. The restrictions contained in paragraph G may be waived for:

39 (1) Property that is contained within a labor market area that has sustained a
40 greater than 5% loss of population or employed workers during the 3-year period

1 immediately preceding the time of application if the loss was caused by business
2 closings; or

3 ~~(2) Property that is contained within an industrial site with appropriate~~
4 ~~infrastructure and zoning or other land use regulations in place that has sustained~~
5 ~~a minimum loss of 500 employed workers during the 5 year period immediately~~
6 ~~preceding the time of application, as long as an application for a waiver under~~
7 ~~this subparagraph is received by August 1, 2010. Only a qualified business with~~
8 ~~a base level of employment equal to zero is eligible to receive Pine Tree~~
9 ~~Development Zone benefits under this subparagraph.~~

10 **Sec. 17. 30-A MRSA §5250-J, sub-§3-A** is enacted to read:

11 **3-A. Pine Tree Development Zone classification; tier 1 locations.** Beginning
12 January 1, 2009, the department shall classify the following units of local government on
13 an annual basis as tier 1 locations:

14 A. From January 1, 2009 to December 31, 2009, all units of local government; and

15 B. Beginning January 1, 2010, a unit of local government that is contained in a
16 county other than Cumberland County or York County, as well as a unit of local
17 government that is contained in Cumberland County or York County with a
18 municipal unemployment rate that is 15% higher than its labor market unemployment
19 rate, based upon data published by the Department of Labor from the last completed
20 calendar year.

21 A unit of local government that has been designated by the department as a participating
22 municipality in the Pine Tree Development Zone program as of December 31, 2008 will
23 be classified as a tier 1 location.

24 Property within a military redevelopment zone as long as the property is classified by the
25 department no later than December 31, 2018.

26 **Sec. 18. 30-A MRSA §5250-J, sub-§3-B** is enacted to read:

27 **3-B. Pine Tree Development Zone classification; tier 2 locations.** Beginning
28 January 1, 2010, the department shall classify the following units of local government on
29 an annual basis as tier 2 locations:

30 A. All units of local government contained in Cumberland County or York County
31 that are not classified as tier 1 locations pursuant to subsection 3-A.

32 **Sec. 19. 30-A MRSA §5250-J, sub-§4**, as enacted by PL 2003, c. 688, Pt. D, §2,
33 is repealed.

34 **Sec. 20. 30-A MRSA §5250-J, sub-§4-B** is enacted to read:

35 **4-B. Pine Tree Development Zone Reserve Fund established.** The Pine Tree
36 Development Zone Reserve Fund, referred to in this subsection as "the fund," is
37 established as a nonlapsing fund to capture all net positive revenues pursuant to section
38 5250-I, subsection 14 that accrue to the State and that would not have accrued to the State
39 but for the availability of Pine Tree Development Zone benefits as stated in section
40 5250-I, subsection 17, paragraph A. The Office of the State Controller shall administer
41 the fund, which notwithstanding Title 5, section 1666 is not subject to legislative

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1 allocation. The fund must be established and held separate from any other fund and used
2 and administered exclusively for the purposes of this section. The fund consists of all
3 revenues received pursuant to section 5250-I, subsection 14.

4 The State Tax Assessor shall identify all revenues that accrue to the State pursuant to
5 section 5250-I, subsection 14 and deposit them into the fund. The State Controller shall
6 transfer or authorize the transfer of funds from the fund in accordance with Title 36,
7 sections 2016 and 6758 and any other relevant provisions. Any excess revenues not
8 transferred pursuant to this section must be deposited by the State Controller into the
9 General Fund.

10 **Sec. 21. 30-A MRSA §5250-J, sub-§4-C is enacted to read:**

11 **4-C. Significant employment expansion; Pine Tree Development Zone benefits.**
12 **A qualified Pine Tree Development Zone business that expands its employment at one of**
13 **its locations in the State may apply for an adjustment of the base level of employment if**
14 **it:**

- 15 **A. Has more than one location in the State;**
- 16 **B. Creates 250 or more jobs at one location;**
- 17 **C. Maintains its total employment in the State above 50% of its growth at the**
18 **location of the employment expansion; and**
- 19 **D. Has appropriate infrastructure and zoning or other land use regulations in place.**

20 For purposes of this section and calculation of Pine Tree Development Zone benefits in
21 section 5250-I, subsection 14, the base level of employment must be calculated from the
22 location where the business produces significant employment expansion of 250 jobs or
23 more. The department shall determine on an annual basis if the business has produced
24 significant employment expansion. If the department determines that the business does
25 not meet the requirements of this section and its total employment in the State falls below
26 50% of its growth at this location of expansion, the business may not receive the
27 adjustment pursuant to this section and the department shall calculate the base level of
28 employment pursuant to section 5250-I, subsection 4.

29 **Sec. 22. 30-A MRSA §5250-J, sub-§5, as enacted by PL 2003, c. 688, Pt. D, §2,**
30 **is repealed and the following enacted in its place:**

31 **5. Termination. A qualified Pine Tree Development Zone business located in a tier,**
32 **1 location may not be certified under this subchapter after December 31, 2018, and a**
33 **qualified Pine Tree Development Zone business located in a tier 2 location may not be**
34 **certified under this subchapter after December 31, 2013. All Pine Tree Development**
35 **Zone benefits provided under this subchapter are terminated on December 31, 2028.**

36 **Sec. 23. 30-A MRSA §5250-K, as amended by PL 2005, c. 351, §6 and affected**
37 **by §26, is repealed.**

38 **Sec. 24. 30-A MRSA §5250-L, as enacted by PL 2003, c. 688, Pt. D, §2, is**
39 **repealed.**

40 **Sec. 25. 36 MRSA §2016, sub-§6, as enacted by PL 2005, c. 351, §9 and**
41 **affected by §26, is amended to read:**

1 **6. Payment of claims.** The State Tax Assessor shall determine the benefit for each
2 claimant under this section and certify to the State Controller the amount to be transferred
3 from the Pine Tree Development Zone Reserve Fund, established pursuant to Title 30-A,
4 section 5250-J, subsection 4-B, to the Pine Tree Development Zone reimbursement
5 reserve account established, maintained and administered by the State Controller from
6 General Fund undedicated revenue within the sales tax category. The assessor shall pay
7 the certified amounts to each approved applicant qualifying for the benefit under this
8 section within 30 days after receipt of a properly completed claim. Interest is not allowed
9 on any payment made to a claimant pursuant to this section.

10 **Sec. 26. 36 MRSA §6753, sub-§4,** as amended by PL 2009, c. 21, §6, is repealed
11 and the following enacted in its place:

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

17 **A.** Pursuant to Title 30-A, section 5250-J, subsection 4-A, "base level of
18 employment" may be adjusted to mean 25% of the average number of employees of
19 that business over the 3 months immediately preceding the catastrophic occurrence.

20 **B.** Pursuant to Title 30-A, section 5250-J, subsection 4-C, "base level of
21 employment" must be adjusted to be calculated from the location where the business
22 produced the significant employment expansion of 250 jobs or more.

23 **Sec. 27. 36 MRSA §6754, sub-§1, ¶D,** as amended by PL 2003, c. 688, Pt. D,
24 §6, is further amended to read:

25 **D.** For qualified Pine Tree Development Zone employees, as defined in Title 30-A,
26 section 5250-I, subsection 18, employed directly in the qualified business activity of
27 a qualified Pine Tree Development Zone business, as defined in Title 30-A, section
28 5250-I, subsection 17, for whom a certificate of qualification has been issued in
29 accordance with Title 30-A, section 5250-O, the reimbursement under this subsection
30 is equal to 80% of the withholding taxes withheld each year for which reimbursement
31 is requested and attributed to those qualified employees for a period of no more than
32 10 years for tier 1 locations and no more than 5 years for tier 2 locations. In no event
33 may reimbursement under this subsection be paid for years beginning after December
34 31, 2018 2028.

35 **Sec. 28. 36 MRSA §6758, sub-§3,** as enacted by PL 1995, c. 669, §5, is amended
36 to read:

37 **3. Deposit and payment of revenue.** On or before June 30th of each year, the
38 Commissioner of Administrative and Financial Services shall deposit from the Pine Tree
39 Development Zone Reserve Fund, established pursuant to Title 30-A, section 5250-J,
40 subsection 4-B, an amount equal to the total retained employment tax increment revenues
41 for the preceding calendar year for approved employment tax increment financing
42 programs in the state employment tax increment contingent account established,
43 maintained and administered by the Commissioner of Administrative and Financial
44 Services. On or before July 31st of each year, the Commissioner of Administrative and

1 Financial Services shall pay to each approved qualified business an amount equal to the
2 retained employment tax increment revenues for the preceding calendar year.'

3 **SUMMARY**

4 This amendment makes the following changes to the Pine Tree Development Zone
5 laws.

6 1. Beginning January 1, 2009 to December 31, 2009, it allows for all units of local
7 government statewide to be considered tier 1 locations, where qualified businesses may
8 become eligible for Pine Tree Development Zone benefits for a period of 10 years.

9 2. Beginning January 1, 2010, it allows a unit of local government that is contained
10 in a county other than Cumberland County or York County, as well as a unit of local
11 government that is contained in Cumberland County or York County with a municipal
12 unemployment rate that is 15% higher than its labor market unemployment rate, a unit of
13 local government that has been designated by the Department of Economic and
14 Community Development as a participating municipality in the Pine Tree Development
15 Zone program as of December 31, 2008 and property within a military redevelopment
16 zone to be classified as a tier 1 location, where qualified businesses may become eligible
17 for Pine Tree Development Zone benefits for a period of 10 years.

18 3. Beginning January 1, 2010, it allows any unit of local government that is
19 contained in Cumberland County or York County that is not classified as a tier 1 location
20 to be classified as a tier 2 location, where qualified businesses may become eligible for
21 Pine Tree Development Zone benefits for a period of 5 years. After the 5 years, all Pine
22 Tree Development Zone benefits expire, except for the expanded employment tax
23 increment financing benefits under the Maine Revised Statutes, Title 36, chapter 917,
24 which must be recalculated at that time to reflect the standard rates under that chapter.

25 4. It extends the duration of benefits through the year 2028.

26 5. It allows significant business development projects to have a base level of
27 employment adjustment, determined by a single location versus a statewide aggregate.

28 6. It amends the definition of "manufacturing."

29 7. It repeals several provisions of the Pine Tree Development Zone laws that relate to
30 the designation of zones that are no longer necessary.

31 8. It establishes the Pine Tree Development Zone Reserve Fund as a nonlapsing fund
32 to capture all net positive revenues gained by the program that accrue to the State and that
33 would not have accrued to the State but for the availability of Pine Tree Development
34 Zone benefits.

FISCAL NOTE REQUIRED
(See attached)



124th MAINE LEGISLATURE

LD 1473

LR 1987(02)

An Act To Reaffirm Maine's Commitment to Business by Amending the Pine Tree Development Zone Laws

Fiscal Note for Bill as Amended by Committee Amendment "A"
 Committee: Business, Research and Economic Development
 Fiscal Note Required: Yes

Fiscal Note

	2009-10	2010-11	Projections 2011-12	Projections 2012-13
Net Cost (Savings)				
General Fund	\$0	\$412,916	\$788,749	\$1,166,285
Revenue				
General Fund	\$0	(\$412,916)	(\$788,749)	(\$1,166,285)
Other Special Revenue Funds	\$0	(\$21,732)	(\$41,513)	(\$61,383)

Fiscal Detail and Notes

This expansion of Pine Tree Development Zone benefits will result in reductions of sales tax revenue from exemptions for purchases of certain building materials and tangible personal property purchased by qualified businesses. Individual and corporate income taxes will also be reduced by credits and Maine Employment Tax Increment Financing equal to 80% of qualified employees' state income tax withholding reimbursed to qualified businesses.

This bill will set aside revenue resulting from any new economic activity that would not have occurred but for the availability of Pine Tree Development Zone benefits. The amount of the initial reduction of General Fund revenue that will be deposited in the Pine Tree Development Zone Fund can not be estimated at this time as it will depend on the amount of additional economic activity that has already occurred or will occur as a result of the Pine Tree Development Zone benefits and a calculation of the resulting revenue generated by that economic activity. This would need to be determined within the State's economic and revenue forecasts. The revenue not required to administer and provide benefits under the Pine Tree Development Zone program would be transferred back to the General Fund.

CA(H-570)

Based on the current economic and revenue forecasts, this bill will result in net reductions of budgeted General Fund revenue beginning in fiscal year 2010-11. The total General Fund revenue loss is estimated at \$412,916 in fiscal year 2010-11, \$788,749 in fiscal year 2011-12 and \$1,166,285 in fiscal year 2012-13. Local Government Fund revenue will also be reduced by \$21,732 in fiscal year 2010-11 and proportionately to the General Fund revenue loss in future fiscal years.

The amount of the additional administrative costs incurred by Maine Revenue Services to determine the amount of revenue accruing from Pine Tree Development Zones can not be determined at this time.