

# MAINE STATE LEGISLATURE

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RMG  
6/11/15

L.D. 1300

Date: 6/11/15

Majority

(Filing No. H-396)

LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
127TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 886, L.D. 1300, Bill, "An Act To Create and Sustain Jobs through Development of Cooperatives"

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

'Sec. 1. 5 MRSA §135, first ¶, as amended by PL 2005, c. 386, Pt. CC, §2, is further amended to read:

The Treasurer of State may deposit the money, including trust funds of the State, in any national bank or in any banking institution, trust company, state or federal savings and loan association or mutual savings bank organized under the laws of this State or having a location in the State except as provided in chapter 161. The Treasurer of State may place 1% or more of all deposits made under this section in institutions devoted primarily to meeting the borrowing needs of cooperatives organized under Title 13, chapter 85 if the institutions meet the requirements of this chapter as effectively as other institutions with which the Treasurer of State makes deposits, make loans to cooperatives in the State in amounts equal to at least the amount deposited by the Treasurer of State and pay a market rate of return. Before making a deposit, the Treasurer of State must consider the rating of the banking institution, trust company, state or federal savings and loan association or mutual savings bank on its most recent assessment conducted pursuant to the federal Community Reinvestment Act, 12 United States Code, Section 2901 and must consider whether the banking institution, trust company, state or federal savings and loan association or mutual savings bank has demonstrated an ability to meet the needs of cooperatives organized under Title 13, chapter 85 through representation of cooperatives in a loan portfolio or through development of lending policies that address the unique needs of cooperatives. The Treasurer of State may transfer funds into and out of the respective funds in the cash pool as circumstances may require to meet current obligations and shall request the State Controller to effect such transfers by journal entry as set forth in section 131-B. When there is excess money in the State Treasury that is not needed to meet current obligations, the Treasurer of State may invest, with the concurrence of the State Controller or the Commissioner of Administrative and Financial Services and with the consent of the Governor, those amounts in bonds, notes, certificates

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1 of indebtedness or other obligations of the United States and its agencies and  
 2 instrumentalities that mature not more than 36 months from the date of investment or in  
 3 repurchase agreements that mature within the succeeding 12 months that are secured by  
 4 obligations of the United States and its agencies and instrumentalities, prime commercial  
 5 paper, tax-exempt obligations and corporate bonds rated "AAA" that mature not more  
 6 than 36 months from the date of investment, banker's acceptances or so-called "no-load"  
 7 shares of any investment company registered under the federal Investment Company Act  
 8 of 1940, as amended, that complies with Rule 2a-7 guidelines and maintains a constant  
 9 share price. The Treasurer of State may participate in the securities loan market by  
 10 loaning state-owned bonds, notes or certificates of indebtedness of the Federal  
 11 Government, only if loans are fully collateralized by treasury bills or cash. The Treasurer  
 12 of State shall seek competitive bids for investments except when, after a reasonable  
 13 investigation, it appears that an investment of the desired maturity is procurable by the  
 14 State from only one source. Interest earned on those investments of money must be  
 15 credited to the respective funds, except that interest earned on investments of special  
 16 revenue funds must be credited to the General Fund of the State. Effective July 1, 1995,  
 17 interest earned on investments of the Highway Fund must be credited to the Highway  
 18 Fund. Interest earned on funds of the Department of Inland Fisheries and Wildlife must  
 19 be credited to the General Fund. Interest earned on funds of the Baxter State Park  
 20 Authority must be credited to the Baxter State Park Fund. This section does not prevent  
 21 the deposit for safekeeping or custodial care of the securities of the several funds of the  
 22 State in banks or safe deposit companies in this State or any other state, nor the deposit of  
 23 state funds required by the terms of custodial contracts or agreements negotiated in  
 24 accordance with the laws of this State. All custodial contracts and agreements are subject  
 25 to the approval of the Governor.

26 **Sec. 2. 5 MRSA §135, 6th and 7th ¶¶**, as amended by PL 2003, c. 20, Pt. T, §3,  
 27 are further amended to read:

28 The Treasurer of State may deposit an amount not to exceed \$4,000,000 in each  
 29 calendar year with responsible financial institutions authorized to do business in the State  
 30 at a rate of return not more than 2% per year below the rate of return otherwise obtainable  
 31 had the funds been invested with such financial institutions for a similar term, as  
 32 determined by the treasurer, for periods not to exceed one year, ~~provided that~~ as long as  
 33 each such financial institution covenants with the treasurer as a condition of the deposit to  
 34 loan an amount at least equal to the amount so deposited with the financial institution by  
 35 the treasurer under this paragraph to agricultural enterprises located within the State for  
 36 agricultural purposes and to provide an equal opportunity for participation to agricultural  
 37 enterprises organized as cooperatives under Title 13, chapter 85. All the loans must be at  
 38 interest rates that are below the interest rates the loans would have borne under existing  
 39 market conditions and loan standards of the financial institution but for the deposit by the  
 40 treasurer under this paragraph, and the interest rates must fully reflect the savings to the  
 41 financial institution due to the reduced interest rate paid on the deposit. Notwithstanding  
 42 any provisions of this section to the contrary, the treasurer is not obligated to seek  
 43 competitive bids for investments or deposits pursuant to this paragraph. The Finance  
 44 Authority of Maine shall provide assistance to the treasurer in implementing this  
 45 paragraph. For purposes of this section, "agricultural enterprises" means a business  
 46 involving cultivating soil, producing crops and raising livestock or their by-products. In  
 47 adopting rules to implement this paragraph, the treasurer shall consider criteria targeting

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1 loans under the program to geographic areas of financial need and borrowers who are  
2 new entrants to agriculture, and may establish limits on deposits to any one financial  
3 institution and limits on deposits supporting loans to any one borrower.

4 The Treasurer of State may deposit an amount not to exceed \$4,000,000 in each  
5 calendar year with responsible financial institutions authorized to do business in the State  
6 at a rate of return not more than 2% per year below the rate of return otherwise obtainable  
7 had the funds been invested with such financial institutions for a similar term, as  
8 determined by the treasurer, for periods not to exceed one year, ~~provided that~~ as long as  
9 each such financial institution covenants with the treasurer as a condition of the deposit to  
10 loan an amount at least equal to the amount so deposited with the financial institution by  
11 the treasurer under this paragraph to commercial enterprises approved by the treasurer  
12 pursuant to this paragraph. All the loans must be at interest rates that are below the  
13 interest rates the loans would have borne under existing market conditions and loan  
14 standards of the financial institution but for the deposit by the treasurer under this  
15 paragraph, and the interest rates must fully reflect the savings to the financial institution  
16 due to the reduced interest rate paid on the deposit. Notwithstanding any provisions of  
17 this section to the contrary, the treasurer is not obligated to seek competitive bids for  
18 investments or deposits pursuant to this paragraph. The Finance Authority of Maine shall  
19 provide assistance to the treasurer in implementing this paragraph. For purposes of this  
20 paragraph, eligible commercial enterprises are for-profit businesses with 20 or fewer  
21 employees or annual sales of less than \$2,500,000, whose sales of services or products  
22 are primarily out of state or that are manufacturers, that are primarily owned and operated  
23 by Maine residents or by corporations that are primarily owned and operated by Maine  
24 residents, when the treasurer determines that not less than one job will be created or  
25 retained per \$20,000 of deposited funds. The maximum loan to any borrower for which a  
26 deposit may be applied under this paragraph is \$200,000, and businesses are eligible to  
27 receive subsidies pursuant to this paragraph for a maximum of an aggregate of 24  
28 months. In adopting rules to implement this paragraph, the treasurer shall consider  
29 criteria targeting loans under the program to geographic areas of financial need, shall  
30 facilitate access to capital for cooperatives organized under Title 13, chapter 85 and may  
31 establish limits on deposits to any one financial institution, further limits on deposits  
32 supporting loans to any one borrower, and further restrictions on eligibility.

33 Sec. 3. 5 MRSA §13035, sub-§4 is enacted to read:

34 4. Advance employee ownership and cooperative development. The commission  
35 shall ensure that each small business development center receives training regarding  
36 employee ownership and cooperative organization. In carrying out its duties, the  
37 commission shall give due consideration to the economic and community development  
38 benefits of employee ownership and shall advise the commissioner, the Governor and the  
39 Legislature with respect to ensuring that small business assistance and entrepreneurial  
40 programs provide equal access to employee-owned and cooperative businesses and to  
41 businesses seeking to convert to employee ownership or cooperative organization.

42 Sec. 4. 5 MRSA §13058, sub-§20 is enacted to read:

43 20. Consideration of employee ownership and cooperatives. In carrying out the  
44 provisions of this chapter and in particular with respect to a program that extends credit  
45 or technical assistance, the commissioner shall act in a manner that advances the

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1 development of businesses that are employee-owned or organized as cooperatives under  
2 Title 13, chapter 85 and the conversion of businesses to employee ownership or  
3 cooperative organization and shall ensure that programs provide equal access to  
4 employee-owned and cooperative businesses and to businesses seeking to convert to  
5 employee ownership or cooperative organization.

6 **Sec. 5. 7 MRSA §2, 4th ¶**, as amended by PL 2011, c. 655, Pt. MM, §5 and  
7 affected by §26, is further amended to read:

8 In addition, the commissioner shall be concerned with the quality of life of Maine  
9 farmers and rural communities. The commissioner shall promote: farm financing and  
10 rural development proposals; conservation and preservation of agricultural lands;  
11 increased and improved production of beef, poultry, sheep, dairy beef and other livestock;  
12 expanded and improved production of potatoes, fruits and other vegetables and  
13 horticultural ventures; coordinated foreign and domestic marketing of Maine agricultural  
14 products; in conjunction with the university, crop development and integrated pest  
15 management; and conservation of nonrenewable energy resources and utilization of  
16 renewable energy resources in conjunction with the Governor's Energy Office. To  
17 accomplish these objectives, the commissioner is authorized for, or on behalf of, Maine's  
18 farmers and rural community: to engage in research and educational programs; to  
19 participate directly or indirectly in programs to encourage and enable individuals to enter  
20 agricultural or other rural enterprises; to institute litigation or upon request to represent  
21 farmers or other members of the rural community in litigation where the commissioner  
22 determines that such litigation may be beneficial to agricultural industry as a whole; and  
23 to exercise all other powers of an agency of State Government. The commissioner may  
24 study such issues and, consistent with statute, take such actions either individually, for, or  
25 on behalf of, the State's farmers or rural residents, or jointly with such other persons,  
26 agencies or organizations as the commissioner determines may benefit the State's farmers  
27 and rural communities. To further accomplish these objectives, the commissioner is  
28 authorized beginning July 1, 1991, on behalf of the State's rural community, to administer  
29 food assistance programs including the receipt, distribution and administration of federal  
30 and state funds, including block grants, for food assistance. In carrying out the provisions  
31 of this chapter and in particular with respect to a program that extends credit or technical  
32 assistance, the commissioner shall act in a manner that advances the development of  
33 businesses that are organized as cooperatives under Title 13, chapter 85 and the  
34 conversion of businesses to cooperative organization and shall ensure that programs  
35 provide equal access to cooperative businesses and to businesses seeking to convert to  
36 cooperative organization.

37 **Sec. 6. 10 MRSA c. 110, sub-c. 13** is enacted to read:

38 **SUBCHAPTER 13**

39 **COOPERATIVE DEVELOPMENT GRANTS PROGRAM**

40 **§1100-AA. Cooperative Development Grants Program**

41 **1. Program.** The Cooperative Development Grants Program, referred to in this  
42 section as "the program," is created under the jurisdiction of the authority.

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**2. Cooperative Development Grants Fund.** The Cooperative Development Grants Fund, referred to in this section as "the fund," is created as a nonlapsing, interest-earning, revolving fund. The fund is managed by the authority but held separate from other funds of the authority and is used by the authority to carry out this subchapter. Money in the fund consists of:

- A. All money appropriated or allocated for inclusion in the program;
- B. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money in the fund;
- C. Subject to any pledge, contract or other obligation, any money that the authority receives in repayment of advances from the fund; and
- D. Any money available to the authority and directed by the authority to be paid into the fund.

**3. Application of funds.** The authority shall apply funds from the fund to provide matching grants of up to \$5,000 per business to cover the cost of a technical feasibility study to help employers or employees determine the appropriateness of employee ownership for the business's particular circumstances. The authority may require conversion of a grant to a loan in the event of a conversion of a business to employee ownership. The authority shall adopt rules to determine eligibility, which may address issues such as financial condition and employee and employer interest. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Costs and expenses of maintaining, servicing and administering the fund and of administering the program may be paid out of amounts in the fund. The authority may contract administration of the program to another entity as the authority determines appropriate.

**Sec. 7. 32 MRSA §16201, sub-§8,** as enacted by PL 2005, c. 65, Pt. A, §2, is amended to read:

**8. Cooperatives.** A member's or owner's interest in, or a retention certificate or like security given in lieu of a cash patronage dividend issued by, a cooperative organized and operated as a nonprofit membership cooperative under the cooperative laws of a state, but not a member's or owner's interest, retention certificate or like security sold to persons other than bona fide members of the cooperative; and

**Sec. 8. 36 MRSA §5122, sub-§2, ¶00** is enacted to read:

00. To the extent included in federal adjusted gross income and to the extent otherwise subject to Maine income tax, for a period of up to 10 years after the taxable year, an amount equal to any gain recognized on the disposition by the taxpayer of an ownership interest in a business of which the taxpayer was the principal owner to the extent that the taxpayer transferred the business to an employee stock ownership plan or an eligible worker-owner cooperative as defined in 26 United States Code, Section 1042(c)(2) and to the extent and in the amount that the owner provides equity financing for the transfer or junior debt financing with maturity of at least 5 years for the transfer. Recognition occurs at the year that return of capital for the junior financing is complete or 10 years after the taxable year, whichever occurs earlier.

18. 9. 8.

1           **Sec. 9. Coordination of state agencies in seeking federal funding for**  
2 **development of cooperatives and employee ownership.** The Department of  
3 Agriculture, Conservation and Forestry, the Department of Economic and Community  
4 Development, the Department of Labor, the Finance Authority of Maine and the  
5 University of Maine System shall identify and make best efforts to pursue federal sources  
6 of funding for development of cooperatives and employee ownership.

7           **Sec. 10. Employee ownership and cooperative development training for**  
8 **small business development centers.** The Maine Small Business and  
9 Entrepreneurship Commission, established in the Maine Revised Statutes, Title 5, section  
10 13032, shall ensure, to the extent feasible within existing resources and consistent with  
11 the State's obligations to the federal Small Business Administration under the Small  
12 Business Development Center Program, defined in Title 5, section 13031, subsection 5,  
13 that each small business development center receives training on issues relating to  
14 employee ownership and cooperative development and provides appropriate information  
15 regarding employee ownership and cooperative development. The commission shall  
16 report within one year to the joint standing committee of the Legislature having  
17 jurisdiction over labor, commerce, research and economic development matters with  
18 respect to the commission's implementation of this provision.

19           **Sec. 11. Application.** That section of this Act that enacts the Maine Revised  
20 Statutes, Title 36, section 5122, subsection 2, paragraph OO applies to income tax years  
21 beginning on or after January 1, 2016.

22           **Sec. 12. Appropriations and allocations.** The following appropriations and  
23 allocations are made.

24 **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

25 **Revenue Services, Bureau of 0002**

26 Initiative: Provides one-time funding for computer programming costs.

27	<b>GENERAL FUND</b>	<b>2015-16</b>	<b>2016-17</b>
28	All Other	\$0	\$11,000
29			
30	<b>GENERAL FUND TOTAL</b>	<u>\$0</u>	<u>\$11,000</u>
31			

32 **SUMMARY**

33 This amendment is the majority report of the committee. It replaces the bill and does  
34 the following to support employee-owned businesses and cooperatives.

35 1. It permits the Treasurer of State to place 1% or more of deposited state funds in  
36 institutions that meet the borrowing needs of cooperatives.

37 2. It requires the Maine Small Business and Entrepreneurship Commission to ensure  
38 that the State's small business development centers receive training and provide  
39 information on employee ownership and cooperative development.

12-28-08

COMMITTEE AMENDMENT "A" to H.P. 886, L.D. 1300

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3. It requires the Commissioner of Economic and Community Development to ensure equal access to Department of Economic and Community Development programs for employee-owned businesses and cooperatives, as well as businesses seeking to convert to employee ownership or cooperative organization.

4. It requires the Commissioner of Agriculture, Conservation and Forestry to ensure equal access to Department of Agriculture, Conservation and Forestry programs for employee-owned businesses and cooperatives, as well as businesses seeking to convert to employee ownership or cooperative organization.

5. It creates the Cooperative Development Grants Program.

6. It modifies the exemption from registration for certain membership securities issued by cooperatives.

7. It subtracts from the Maine income tax the amount of gain recognized by a business owner in transferring the business to an employee stock ownership plan or eligible worker-owner cooperative.

8. It requires the Department of Agriculture, Conservation and Forestry, the Department of Economic and Community Development, the Department of Labor, the Finance Authority of Maine and the University of Maine System to identify and make best efforts to pursue federal sources of funding for advancement of employee ownership and development of cooperatives.

9. It requires the Maine Small Business and Entrepreneurship Commission to ensure, to the extent feasible, that each small business development center receives training on issues relating to employee ownership and cooperative development. It requires the commission to provide a report to the joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters on the commission's implementation of this provision.

10. It also adds an appropriations and allocations section.

**FISCAL NOTE REQUIRED**

**(See attached)**

**COMMITTEE AMENDMENT**





# 127th MAINE LEGISLATURE

LD 1300

LR 1555(02)

## An Act To Create and Sustain Jobs through Development of Cooperatives

Fiscal Note for Bill as Amended by Committee Amendment *A. (H-396)*  
Committee: Labor, Commerce, Research and Economic Development  
Fiscal Note Required: Yes

### Fiscal Note

	FY 2015-16	FY 2016-17	Projections FY 2017-18	Projections FY 2018-19
<b>Net Cost (Savings)</b>				
General Fund	\$0	\$87,000	\$76,000	\$76,000
<b>Appropriations/Allocations</b>				
General Fund	\$0	\$11,000	\$0	\$0
<b>Revenue</b>				
General Fund	\$0	(\$76,000)	(\$76,000)	(\$76,000)
Other Special Revenue Funds	\$0	(\$4,000)	(\$4,000)	(\$4,000)

### Fiscal Detail and Notes

This legislation allows a business owner to subtract from taxable income the gain recognized when transferring a business to an employee stock ownership plan or eligible worker-owner cooperative and would reduce General Fund revenue by \$76,000 beginning in fiscal year 2016-17 and reduce Local Government Fund revenue by \$4,000 beginning in fiscal year 2016-17. The bill includes a one-time General Fund appropriation to the Department of Administrative and Financial Services of \$11,000 in fiscal year 2016-17 for computer programming charges.

This legislation allows costs to the Finance Authority of Maine to maintain, service and administer the Cooperative Development Grants Fund to be paid by the fund. Therefore, no General Fund appropriations to FAME are required. Additional costs to the Department of Agriculture, Conservation and Forestry (ACF), the Department of Labor, the Department of Economic and Community Development and the University of Maine System to identify and make best efforts to pursue federal sources of funding for the development of cooperatives and employee ownership can be absorbed within existing budgeted resources. Additional costs to ACF to ensure that ACF programs provide equal access to cooperative businesses and businesses seeking to convert to cooperative organization can be absorbed within existing budgeted resources.

The State Treasurer already has two programs that allow banks to pay the State rates on deposits that are 2% below market with the agreement that the banks will pass the lower interest rates on to certain borrowers. One is for commercial enterprises and one is for agricultural entities. Each is capped at \$4,000,000 for a total of \$8,000,000 in state deposits at reduced rates. This bill expands eligibility for the agricultural linked investment program to include agricultural enterprises organized as cooperatives. Expanding eligibility but keeping the same \$4,000,000 cap will not lose any additional revenue to the State.