

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2021

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Legislative Document

No. 1493

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S.P. 480

In Senate, April 14, 2021

**Resolve, Directing the Department of Economic and Community  
Development To Create and Administer a Fund To Provide  
Seasonal and Tourism Industry Recovery Grants**

(EMERGENCY)

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Received by the Secretary of the Senate on April 12, 2021. Referred to the Committee on Innovation, Development, Economic Advancement and Business pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator RAFFERTY of York.

Cosponsored by Representative BABBIDGE of Kennebunk and

Senators: BALDACCI of Penobscot, DAUGHTRY of Cumberland, Representatives: CEBRA of Naples, CUDDY of Winterport, DODGE of Belfast, HYMANSON of York, WADSWORTH of Hiram, WHITE of Waterville.

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

3           **Whereas,** the State is currently in a prolonged state of emergency where a global  
4 pandemic has decimated certain industries such as the seasonal and tourism sectors; and

5           **Whereas,** the health of these affected industries is crucial as they are major industries  
6 in the State, contributing substantially to the State's economy and representing tens of  
7 thousands of jobs; and

8           **Whereas,** with the state of emergency having now surpassed one year, many of these  
9 industries were not able to operate profitably, if at all, in the year 2020 and are unable  
10 financially to wait until the economy recovers and may fail or go out of business in the near  
11 future, especially if the adverse effects of the pandemic last throughout the remainder of  
12 this year; and

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

17           **Sec. 1. Department of Economic and Community Development to create**  
18 **and administer a fund to provide seasonal and tourism industry recovery**  
19 **grants. Resolved:** That the Department of Economic and Community Development shall  
20 create and administer a fund to operate a program to provide seasonal and tourism industry  
21 recovery grants, referred to in this resolve as "the program." The sources of the fund are  
22 any funds derived from the Federal Government through stimulus or relief funds to counter  
23 the effects of the COVID-19 pandemic that are received by the State in calendar year 2021  
24 and are eligible to be used for the purposes of the program, as well as from any other public  
25 or private sources. The purpose of the program is to compensate an eligible business  
26 pursuant to section 2 for revenue and profits lost in calendar year 2020 as a result of state-  
27 directed closures or economic disruptions due to the restrictions imposed to limit the spread  
28 of the coronavirus disease 2019, referred to in this resolve as "COVID-19." An application  
29 may be made by an eligible business at any time and the department shall issue grants on a  
30 first-come, first-served basis until the fund is depleted.

31           **Sec. 2. Eligibility. Resolved:** That a business in the State may participate in the  
32 program if the business:

33           1. Has a sales tax and use tax account with the Department of Administrative and  
34 Financial Services, Maine Revenue Services;

35           2. Had revenue and profits in calendar year 2020 that were less than revenue and profits  
36 in calendar year 2019;

37           3. Had gross annual sales between \$24,000 and \$12,000,000 prior to calendar year  
38 2020;

39           4. Is in good standing and registered as having its primary place of business located in  
40 the State with the Secretary of State or, if a sole proprietorship or not otherwise registered  
41 with the Secretary of State, is able to provide evidence that its primary place of business is  
42 located in the State;

- 1 5. Is current and in good standing with all payroll taxes, sales taxes and state income  
2 taxes;
- 3 6. Is in good standing with the Department of Labor;
- 4 7. Is not in bankruptcy;
- 5 8. Has not permanently ceased all operations;
- 6 9. Provides evidence that its business or revenue is seasonal in nature; and
- 7 10. Is in consistent compliance with and not under any current enforcement actions of  
8 COVID-19 prevention checklist requirements developed by the Department of Economic  
9 and Community Development.

10 **Sec. 3. Ineligible organizations. Resolved:** That the following organizations are  
11 ineligible for participation in the program:

- 12 1. An organization under the United States Internal Revenue Code of 1986, Section  
13 501(c)(4) or 501(c)(6);
- 14 2. An organization engaged in gambling activity;
- 15 3. An organization engaged in providing adult entertainment;
- 16 4. A country club, golf club or other private club; or
- 17 5. A fraternal or social organization.

18 **Sec. 4. Allowable uses of grant funds. Resolved:** That a business receiving a  
19 grant under the program may use the funds for operational expenses or expenses related to  
20 the COVID-19 pandemic including:

- 21 1. Payroll and other expenses;
- 22 2. Rent or mortgage payments for business facilities;
- 23 3. Utility payments;
- 24 4. Purchase of personal protective equipment required by the Department of Economic  
25 and Community Development or to protect business employees, vendors or customers;
- 26 5. Business-related equipment;
- 27 6. Investments that support the long-term sustainability of the business;
- 28 7. Expenses incurred to replenish inventory or other necessary reopening expenses;  
29 and
- 30 8. Other necessary operating expenses.

31 **Sec. 5. Prohibited expenses. Resolved:** That a business receiving a grant under  
32 the program may not use the funds for:

- 33 1. Depreciation expenses;
- 34 2. Entertainment;
- 35 3. Lobbying;
- 36 4. Goods or services for personal use;
- 37 5. Fines, penalties, damages or other settlements;

- 1           6. Operations outside the State;
- 2           7. Expenses that were reimbursed by another government program; or
- 3           8. Any other expense determined by the Department of Economic and Community
- 4 Development to not carry out the purposes of the program.

5           **Sec. 6. Amount of grant; taxable income. Resolved:** That a grant from the  
6 program must be in the amount that the eligible business pursuant to section 2 lost in  
7 revenue and profits in calendar year 2020 determined by gross sales reported to the  
8 Department of Administrative and Financial Services, Maine Revenue Services in calendar  
9 year 2020 as compared with gross sales reported to Maine Revenue Services in calendar  
10 year 2019. For a business not in operation in calendar year 2019, the amount of the grant  
11 must be determined based upon the average loss of revenue and profits for a business of  
12 similar activity, licensing and gross sales. The amount calculated under this section must  
13 be reduced by the amount of any grant or forgiven government recovery or stimulus  
14 assistance loan received by the business subsequent to March 1, 2020. Funds received  
15 under the program are reportable income for tax filing purposes and are subject to audit.  
16 The State shall issue a statement of miscellaneous income to a grant recipient to be included  
17 with the grant recipient's state and federal tax filings.

18           **Sec. 7. Violations. Resolved:** That a violation of the provisions of or a misuse of  
19 funds received under this resolve may result in a forfeiture of funds received and any other  
20 punishment, fine, penalty and interest due pursuant to law.

21           **Emergency clause.** In view of the emergency cited in the preamble, this legislation  
22 takes effect when approved.

23                                           **SUMMARY**

24           This resolve directs the Department of Economic and Community Development to  
25 create and administer a fund to provide grants to seasonal and tourism businesses to  
26 compensate for the loss of revenue and profits due to state-ordered closures or restrictions  
27 to prevent the spread of COVID-19, to be funded by any federal funds received by the State  
28 in 2021 eligible to be used for that purpose. The program is based on the Maine Tourism,  
29 Hospitality and Retail Recovery Grant Program operated by the department to disburse past  
30 federal stimulus and recovery funds to counter the adverse economic effects of the  
31 COVID-19 pandemic.