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LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT

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**STATE OF MAINE
SENATE
127TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 401, L.D. 1132, Bill, “An Act To Invest in Maine Companies”

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

'Sec. 1. 10 MRSA §1026-U is enacted to read:

§1026-U. Maine Business Capital Investment Program

1. Establishment. The authority may create and oversee the Maine Business Capital Investment Program, referred to in this section as "the program," to increase the availability of capital to certain eligible business development projects. For purposes of this section, "business development project" means a project that involves the construction, development, rehabilitation, modernization or acquisition of a building, structure, system, machinery, equipment or facility that has a projected cost of at least \$50,000,000 or is projected to result in the creation or retention of at least 250 full-time employment positions that pay at least 125% of the annual average weekly wage under Title 26, section 1043, subsection 1-A.

2. Limitation. Nothing in this section may be construed to place the assets of the authority at risk or to create an obligation of the State or of any political subdivision of the State.

3. Fund established. The Maine Business Capital Investment Fund, referred to in this section as "the fund," is established as a nonlapsing revolving loan and equity fund administered by the authority to support the capital needs of business development projects under the program. The fund consists of sums that are appropriated or allocated by the Legislature to the fund or transferred to the fund from time to time by the State Controller, interest earned from the investment of fund balances, state bond issues, state employee pension funds, institutional endowments and other funds from any public or private source received for use for any of the purposes for which the fund has been established. The authority may charge the fund reasonable fees for the cost of

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1 implementing and administering the program and any loans or bonds authorized by this
2 section.

3 **4. Criteria to qualify for financial support.** The authority shall provide financial
4 support as described in subsection 5 to an applicant to support a business development
5 project based in part on criteria that include but are not limited to:

6 A. The creditworthiness of the applicant, considering factors such as the applicant's
7 historical financial performance, management ability, plan to market the applicant's
8 product or service and whether the applicant meets or exceeds industry average
9 financial performance ratios commonly accepted in determining creditworthiness in
10 that industry;

11 B. The sufficiency of collateral pledged by the applicant;

12 C. The sufficiency of projected revenues from the project or other sources to repay
13 the financial obligation and meet the requirements of subsection 5 for the term of the
14 obligation;

15 D. The extent to which financial support from the authority would enhance the
16 employment and wage benefits projected to be created by the business development
17 project;

18 E. The duration of the employment and wage benefits projected to be created by the
19 business development project; and

20 F. The demonstration that the financial support from the authority is necessary due to
21 the reduced cost and increased flexibility of the financial support and not due to the
22 applicant's inability to obtain financing from another source.

23 **5. Financial support.** The authority may provide the following financial support to a
24 qualified program applicant:

25 A. A direct loan of up to \$50,000,000 from the fund for a single business
26 development project, which must be matched by an amount equal to at least 50% of
27 the loan that is obtained from another source; or

28 B. Up to \$100,000,000 in bond funding for a single business development project
29 and up to \$200,000,000 to the same applicant for multiple business development
30 projects.

31 The authority may require other terms or conditions of financial support under this
32 subsection as the authority determines necessary and reasonable.

33 **6. Bonding authorization.** The authority may provide by resolution for the issuance
34 of bonds for the purpose of funding business development projects, except that the bonds
35 may not constitute a general obligation of the authority and the authority may not pledge
36 an obligation under section 1053 or otherwise seek an appropriation for repayment.
37 Bonds issued under this subsection may not constitute a debt of the State, or of any
38 agency or political subdivision of the State, and are payable solely from the revenues of
39 the business development project for which the bonds are issued. Neither the full faith
40 nor credit nor taxing power of the State or any political subdivision of the State may be
41 pledged to payment of bonds issued under this subsection. Notwithstanding any other
42 provision of law, any bonds issued pursuant to this subsection are fully negotiable. If any

1 member of the authority whose signature appears on the bond or coupons ceases to be a
2 member of the authority before the delivery of those bonds, that signature is valid and
3 sufficient for all purposes as if that member of the authority had remained a member of
4 the authority until delivery.

5 **7. Requirements of recipient.** Pursuant to the terms set by the authority, in addition
6 to repayment of the financial support received under subsection 5, within 5 years after the
7 completion of the business development project the recipient shall pay to the fund an
8 amount equal to 10% of the amount of the financial support received under subsection 5.

9 **8. Rules.** The authority may adopt rules as necessary to implement this section.
10 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
11 chapter 375, subchapter 2-A.

12 **Sec. 2. Contingent effective date.** This Act does not take effect unless the
13 Finance Authority of Maine, Maine Business Capital Investment Fund, established under
14 the Maine Revised Statutes, Title 10, section 1026-U, receives funding from
15 appropriations, allocations and other funding sources in the amount of at least
16 \$250,000,000 and the chief executive officer for the Finance Authority of Maine notifies
17 the Secretary of State, the Secretary of the Senate, the Clerk of the House of
18 Representatives and the Revisor of Statutes that the funds have been received.'

19 **SUMMARY**

20 This amendment is the minority report of the committee and replaces the bill. It
21 authorizes the Finance Authority of Maine to establish the Maine Business Capital
22 Investment Program to provide loans or bond funding to certain eligible business
23 projects. As in the bill, the projects must have projected costs of at least \$50,000,000 or
24 be projected to result in the creation or retention of at least 250 full-time employment
25 positions that pay at least 125% of the state annual average wage. The amendment
26 specifies that the legislation takes effect only upon the receipt by the Finance Authority of
27 Maine for the Maine Business Capital Investment Fund of appropriations, allocations or
28 funds from other funding sources in the amount of at least \$250,000,000.

29 **FISCAL NOTE REQUIRED**

30 **(See attached)**