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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)

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.

DAREK M. GRANT Secretary of the Senate

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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.

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

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

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

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

- Sec. 1. Department of Economic and Community Development to create and administer a fund to provide seasonal and tourism industry recovery grants. Resolved: That the Department of Economic and Community Development shall create and administer a fund to operate a program to provide seasonal and tourism industry recovery grants, referred to in this resolve as "the program." The sources of the fund are any funds derived from the Federal Government through stimulus or relief funds to counter the effects of the COVID-19 pandemic that are received by the State in calendar year 2021 and are eligible to be used for the purposes of the program, as well as from any other public or private sources. The purpose of the program is to compensate an eligible business pursuant to section 2 for revenue and profits lost in calendar year 2020 as a result of state-directed closures or economic disruptions due to the restrictions imposed to limit the spread of the coronavirus disease 2019, referred to in this resolve as "COVID-19." An application may be made by an eligible business at any time and the department shall issue grants on a first-come, first-served basis until the fund is depleted.
- **Sec. 2. Eligibility. Resolved:** That a business in the State may participate in the program if the business:
- 1. Has a sales tax and use tax account with the Department of Administrative and Financial Services, Maine Revenue Services;
- 2. Had revenue and profits in calendar year 2020 that were less than revenue and profits in calendar year 2019;
- 3. Had gross annual sales between \$24,000 and \$12,000,000 prior to calendar year 2020;
- 4. Is in good standing and registered as having its primary place of business located in the State with the Secretary of State or, if a sole proprietorship or not otherwise registered with the Secretary of State, is able to provide evidence that its primary place of business is located in the State;

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; 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 COVID-19 prevention checklist requirements developed by the Department of Economic 8 9 and Community Development. 10 Sec. 3. Ineligible organizations. Resolved: That the following organizations are ineligible for participation in the program: 11 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; 4. A country club, golf club or other private club; or 16 5. A fraternal or social organization. 17 18 Sec. 4. Allowable uses of grant funds. Resolved: That a business receiving a grant under the program may use the funds for operational expenses or expenses related to 19 the COVID-19 pandemic including: 20 1. Payroll and other expenses; 21 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 and Community Development or to protect business employees, vendors or customers; 25 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. Sec. 5. Prohibited expenses. Resolved: That a business receiving a grant under 31 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;

5. Is current and in good standing with all payroll taxes, sales taxes and state income

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taxes:

6. Operations outside the State;

- 7. Expenses that were reimbursed by another government program; or
- 8. Any other expense determined by the Department of Economic and Community Development to not carry out the purposes of the program.
- **Sec. 6.** Amount of grant; taxable income. Resolved: That a grant from the program must be in the amount that the eligible business pursuant to section 2 lost in revenue and profits in calendar year 2020 determined by gross sales reported to the Department of Administrative and Financial Services, Maine Revenue Services in calendar year 2020 as compared with gross sales reported to Maine Revenue Services in calendar year 2019. For a business not in operation in calendar year 2019, the amount of the grant must be determined based upon the average loss of revenue and profits for a business of similar activity, licensing and gross sales. The amount calculated under this section must be reduced by the amount of any grant or forgiven government recovery or stimulus assistance loan received by the business subsequent to March 1, 2020. Funds received under the program are reportable income for tax filing purposes and are subject to audit. The State shall issue a statement of miscellaneous income to a grant recipient to be included with the grant recipient's state and federal tax filings.
- **Sec. 7. Violations. Resolved:** That a violation of the provisions of or a misuse of funds received under this resolve may result in a forfeiture of funds received and any other punishment, fine, penalty and interest due pursuant to law.

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

23 SUMMARY

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