

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

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

PART A

Sec. A-1. 10 MRSA §963-A, sub-§47-D is enacted to read:

47-D. Retirement system. "Retirement system" means the Maine Public Employees Retirement System.

Sec. A-2. 10 MRSA §1026-N, sub-§1-A is enacted to read:

1-A. Loans from the retirement system. The retirement system may lend up to \$10,000,000 to the fund upon the following terms.

A. The term of any loan may not exceed 15 years. Payments of principal may be deferred for up to 6 years or for such shorter period as the authority and the retirement system may agree.

B. A portion of the loan may be set aside in a reserve for interest payments on the loan.

C. To secure its loans, the retirement system may have a first security interest in all assets of the fund. All distributions received by the authority on investments from the fund must be applied first to pay down the outstanding balance of loans from the retirement system.

D. The authority may agree to share with the retirement system up to 20% of profits on fund investments after all refundable tax credits have either expired or been released by the retirement system.

E. If assets of the fund are inadequate to repay a loan from the retirement system in accordance with its terms, the retirement system may redeem refundable tax credits in accordance with subsection 1-B.

Sec. A-3. 10 MRSA §1026-N, sub-§1-B is enacted to read:

1-B. Refundable tax credits. As provided by Title 36, section 5219-EE, the authority may issue to the retirement system certificates for up to \$10,000,000 in refundable tax credits as follows.

A. Refundable tax credits authorized by this subsection may be redeemed only as necessary to cure default in scheduled payments of interest or principal on debt owed to the retirement system to capitalize the fund. The rate of return, whether fixed or variable, must be determined by a formula

stipulated in the certificate issued as security. Refundable tax credits may not be redeemed prior to July 1, 2014 nor after June 30, 2031. No more than \$2,500,000 of credits may be redeemed per fiscal year.

B. A certificate of tax credits issued under this subsection is binding on the State and constitutes a solemn contractual commitment of the State protected under the contract clauses of the Constitution of Maine, Article I, Section 11 and the United States Constitution, Article I, Section 10. Once funds secured by a certificate are borrowed, the certificate may not be modified, terminated or rescinded until the underlying debt is paid or the certificate expires, is redeemed or is released by the retirement system.

C. The authority shall register each refundable tax credit with the Department of Administrative and Financial Services, Bureau of Revenue Services and shall report annually on the extent to which each credit has been extinguished through payment of interest and principal on the underlying debt.

D. The refundable tax credits allowed by this section are not securities under Title 32, chapter 135.

E. The authority shall certify any lending default immediately to the Department of Administrative and Financial Services, Bureau of Revenue Services, which shall verify the amount of the default and redeem registered credits as necessary to cure the default.

F. All obligations created under this subsection must be paid exclusively from investments in the fund or by redemption of refundable tax credits. No other public assets and no other assets of the authority may be placed at risk. Except for those rights that relate to refundable tax credits, nothing in this section may be construed to create an obligation of the State or of any political subdivision of the State.

Sec. A-4. 36 MRSA §5219-EE is enacted to read:

§ 5219-EE. Maine Economic Development Venture Capital Revolving Investment Program refundable tax credit

1. Credit allowed. The Maine Public Employees Retirement System in its capacity as lender to the Maine Economic Development Venture Capital Revolving Investment Program, referred to in this section as "the program" and established in Title 10, section 1026-N, is allowed a refundable credit against the taxes imposed by this Part in an amount certified by the Finance Authority of Maine as necessary to cure default in scheduled payments on debt owed by the program to the retirement system.

2. Transferability. Credits authorized by this section are transferable and may be redeemed by any transferee of the Maine Public Employees Retirement System.

3. Limitations. Refundable tax credits may not be redeemed prior to July 1, 2014 nor after June 30, 2034. No more than \$2,500,000 of credits may be redeemed per fiscal year. Pursuant to Title 10, section 1026-N, total credits redeemed may not exceed \$10,000,000.

4. Audit. The State Tax Assessor may audit any transactions necessary to verify the amount of credits claimed or redeemed under this section. If the assessor determines that a credit larger than that authorized by this section has been received, the assessor may enforce repayment of the overpayment by assessment pursuant to the provisions of chapter 7 or may apply the overpayment against subsequent redemptions made pursuant to this section.

5. Repeal. This section is repealed April 16, 2035.

PART B

Sec. B-1. 10 MRSA §382, sub-§1-A is enacted to read:

1-A. Authority. "Authority" means the Finance Authority of Maine.

Sec. B-2. 10 MRSA §382, sub-§5 is enacted to read:

5. Retirement system. "Retirement system" means the Maine Public Employees Retirement System.

Sec. B-3. 10 MRSA §383, sub-§3 is enacted to read:

3. Loans from the retirement system. The retirement system may lend up to \$5,000,000 to the fund upon the following terms.

A. The term of any loan may not exceed 15 years. Payments of principal may be deferred for up to 6 years or for such shorter period as the board and the retirement system may agree.

B. A portion of the loan may be set aside in a reserve for interest payments on the loan.

C. To secure its loans, the retirement system may have a first security interest in all assets of the fund. All distributions received by the board on investments from the fund must be applied first to pay down the outstanding balance on loans from the retirement system.

D. The board may agree to share with the retirement system up to 20% of profits on fund investments after all refundable tax credits have either expired or been released by the retirement system.

E. If assets of the fund are inadequate to repay a loan from the retirement system in accordance with its terms, the retirement system may redeem refundable tax credits in accordance with subsection 4.

Sec. B-4. 10 MRSA §383, sub-§4 is enacted to read:

4. Refundable tax credits. As provided by Title 36, section 5219-FF, the authority may issue to the retirement system certificates for up to \$5,000,000 in refundable tax credits as follows.

A. Refundable tax credits authorized by this subsection may be redeemed only as necessary to cure a default in scheduled payments of interest or principal on debt owed to the retirement system to capitalize the fund. The rate of return, whether fixed or variable, must be determined by a formula

stipulated in the certificate issued as security. Refundable tax credits may not be redeemed prior to July 1, 2014 nor after June 30, 2031. No more than \$2,500,000 of credits may be redeemed per fiscal year.

B. A certificate of tax credits issued under this subsection is binding on the State and constitutes a solemn contractual commitment of the State protected under the contract clauses of the Constitution of Maine, Article I, Section 11 and the United States Constitution, Article I, Section 10. Once funds secured by a certificate are borrowed, the certificate may not be modified, terminated or rescinded until the underlying debt is paid or the certificate expires, is redeemed or is released by the retirement system.

C. The authority shall register each refundable tax credit with the Department of Administrative and Financial Services, Bureau of Revenue Services and shall report annually on the extent to which each credit has been extinguished through payment of interest and principal on the underlying debt.

D. The refundable tax credits allowed by this section are not securities under Title 32, chapter 135.

E. The authority and the board shall certify any lending default immediately to the Department of Administrative and Financial Services, Bureau of Revenue Services, which shall verify the amount of the default and redeem registered credits as necessary to cure the default.

F. All obligations created under this subsection must be paid exclusively from investments in the fund or by redemption of refundable tax credits. No other public assets and no other assets of the authority or the board may be placed at risk. Except for those rights that relate to refundable tax credits, nothing in this section may be construed to create an obligation of the State or of any political subdivision of the State.

Sec. B-5. 36 MRSA §5219-FF is enacted to read:

§ 5219-FF. Small Enterprise Growth Fund refundable tax credit

1. Credit allowed. The Maine Public Employees Retirement System in its capacity as lender to the Small Enterprise Growth Fund, referred to in this section as "the fund" and established in Title 10, section 383, is allowed a refundable credit against the taxes imposed by this Part in an amount certified by the Finance Authority of Maine as necessary to cure default in scheduled payments on debt owed by the fund to the retirement system.

2. Transferability. Credits authorized by this section are transferable and may be redeemed by any transferee of the Maine Public Employees Retirement System.

3. Limitations. Refundable tax credits may not be redeemed prior to July 1, 2014 nor after June 30, 2034. No more than \$2,500,000 of credits may be redeemed per fiscal year. Pursuant to Title 10, section 383, total credits redeemed may not exceed \$5,000,000.

4. Audit. The State Tax Assessor may audit any transactions necessary to verify the amount of credits claimed or redeemed under this section. If the assessor determines that a credit larger than that authorized by this section has been received, the assessor may enforce repayment of the overpayment by assessment pursuant to the provisions of chapter 7 or may apply the overpayment against subsequent redemptions made pursuant to this section.

5. Repeal. This section is repealed April 16, 2035.

PART C

Sec. C-1. 10 MRSA §1026-T is enacted to read:

§ 1026-T. Innovation finance program

1. Established. The authority may create and oversee a state innovation finance program, referred to in this section as "the program," to increase the supply of venture capital to the economy of the State. Investment performance of the program may be partially guaranteed by refundable tax credits issued by the authority to the retirement system.

2. Investment goals; guidelines. The purpose of the program is to provide the retirement system with an incentive to invest in a series of high-quality venture capital funds oriented toward the state economy and managed with the goal of producing a favorable aggregate return among diversified investments while minimizing the risk of tax credit redemption. Consistent with these investment goals, the retirement system shall select, with the approval of the authority, fund managers whose strategies include:

- A. Maintaining at least a periodic presence in the State;
- B. Building links to organizations promoting the State's innovation economy including the Maine Technology Institute, the Small Enterprise Growth Fund, the Department of Economic and Community Development, the Maine Patent Program, the University of Maine System and other venture capital investors within the State;
- C. Actively prospecting for investments in the State;
- D. Creating or retaining jobs in the State; and
- E. Bringing to fruition the ideas, technologies and intellectual property produced by citizens and institutions of the State.

3. Investment restrictions. Investments under the program are governed by this subsection.

- A. The retirement system may not invest directly in individual businesses but may invest only in venture capital funds that are managed to best achieve the goals of subsection 2.

B. No more than \$4,000,000 of tax credits may be placed at risk within any single venture capital fund.

C. The retirement system may at any time be relieved of investment restrictions by releasing the State from its obligations under all outstanding tax credit certificates issued under the program.

4. Refundable tax credits. The authority may issue to the retirement system certificates of up to \$20,000,000 in refundable tax credits as provided by Title 36, section 5219-GG to serve as partial security against a loss of capital under the program. Certificates must be issued to expire on a valuation date that is no later than July 1, 2027.

A. Refundable tax credits as authorized by this subsection may be redeemed only as necessary to offset 80% of any loss of capital in the program as appraised on the valuation date.

B. A certificate of tax credits issued by the authority under this section is binding on the State and constitutes a solemn contractual commitment of the State protected under the contract clauses of the Constitution of Maine, Article I, Section 11 and the United States Constitution, Article I, Section 10. Once issued, the certificate may not be modified, terminated or rescinded until the certificate expires, is redeemed or is released by the retirement system.

C. The authority shall register each refundable tax credit under this section with the Department of Administrative and Financial Services, Bureau of Revenue Services. The retirement system shall report annually to the authority on the state of investments secured by the certificate pursuant to an agreement between the retirement system and the authority.

D. Any refundable tax credit allowed pursuant to this section is not a security under Title 32, chapter 135.

E. On the valuation date identified in the certificate, the authority shall appraise the value of investments made under the program and immediately certify any capital loss to the Department of Administrative and Financial Services, Bureau of Revenue Services. The bureau shall redeem registered credits as necessary to pay 80% of the loss up to a maximum payment of \$20,000,000.

F. No assets of the authority are placed at risk by this section. Except for those rights that relate to refundable tax credits, nothing in this section may be construed to create an obligation of the State or of any political subdivision of the State.

G. The authority may charge the retirement system reasonable fees for the cost of administering any tax credits authorized by this section.

Sec. C-2. 36 MRSA §5219-GG is enacted to read:

§ 5219-GG. Maine Public Employees Retirement System innovation finance credit

1. Credit allowed. The Finance Authority of Maine is authorized to issue to the Maine Public Employees Retirement System a refundable credit against the taxes imposed by this Part in an amount certified by the Finance Authority of Maine as equal to 80% of any loss of capital sustained in the

innovation finance program established under Title 10, section 1026-T. The loss of capital must be calculated as of the valuation date denominated in the certificate authorizing the credit. The valuation date may be no later than July 1, 2027.

2. Transferability. Credits authorized by this section are transferable and may be redeemed by any transferee of the Maine Public Employees Retirement System.

3. Limitations. A credit under this section may not be redeemed for any loss occurring after July 1, 2027. Pursuant to Title 10, section 1026-T, total credits redeemed may not exceed \$20,000,000.

4. Audit. The State Tax Assessor may audit any transactions necessary to verify the amount of credits claimed or redeemed under this section. If the assessor determines that a credit larger than that authorized by this section has been received, the assessor may enforce repayment of the overpayment by assessment pursuant to the provisions of chapter 7 or may apply the overpayment against subsequent redemptions made pursuant to this section.

5. Repeal. This section is repealed April 16, 2028.

PART D

Sec. D-1. Appropriations and allocations. The following appropriations and allocations are made.

FINANCE AUTHORITY OF MAINE

Finance Authority of Maine 0582

Initiative: Provides one-time funds for the costs associated with rulemaking and programming costs associated with providing incentives for the Maine Public Employees Retirement System to use its assets for economic development in the State.

GENERAL FUND	2009-10	2010-11
All Other	\$7,500	\$0
GENERAL FUND TOTAL	\$7,500	\$0

SUMMARY

This amendment replaces the Maine Fund of Funds proposed in the bill with 3 smaller initiatives to encourage the use of assets of the Maine Public Employees Retirement System for economic development in the State.

Part A, which establishes a secured loan of up to \$10,000,000 from the retirement system to the Maine Economic Development Venture Capital Revolving Investment Program administered by the Finance Authority of Maine, creates an incentive for the retirement system to loan up to \$10,000,000 to the program. Amounts loaned by the retirement system are secured by assets of the Maine Economic Development Venture Capitol Revolving Investment Program Fund and by refundable tax credits issued by the Finance Authority of Maine. Tax credits may be redeemed from the Department of Administrative and Financial Services, Maine Revenue Services in future years in the event of default on payment of interest or principal. The Finance Authority of Maine may agree to share with the retirement system up to 20% of the profits from the venture capital investments.

Part B, which establishes a secured loan of up to \$5,000,000 from the retirement system to the Small Enterprise Growth Fund, creates an incentive for the retirement system to loan up to \$5,000,000 to the fund. Amounts loaned are secured by assets of the fund and by refundable tax credits issued by the Finance Authority of Maine. Tax credits may be redeemed from Maine Revenue Services in future years in the event of default on payment of interest or principal. The fund may agree to share with the retirement system up to 20% of the profits from the venture capital investments.

Part C, which establishes an innovation finance program authorizing the Finance Authority of Maine to guarantee up to 80% of certain investments by the retirement system in Maine-connected venture capital funds, authorizes the Finance Authority of Maine to issue refundable tax credits to guarantee up to 80% of any investments made by the retirement system in venture capital funds whose strategies include meeting 5 criteria for strong connections to the Maine economy. Tax credits under this program are limited to \$20,000,000. No more than \$4,000,000 of tax credits may be placed at risk within any single venture capital fund.

Part D adds an appropriations and allocations section.

FISCAL NOTE REQUIRED
(See attached)