

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND AND SIXTEEN

—  
S.P. 578 - L.D. 1480

**An Act To Create and Sustain High-quality Maine Jobs**

**Be it enacted by the People of the State of Maine as follows:**

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

**§1026-U. Maine Capital Investment Program**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

**A. "Business development project"** means a project that involves the construction, development, rehabilitation, modernization or acquisition of a building, a structure, a system, machinery, equipment or a facility that has a projected cost of at least \$50,000,000 or is projected to result in the creation or retention of a 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.

**B. "Fund"** means the Maine Capital Investment Fund established in subsection 4.

**C. "Program"** means the Maine Capital Investment Program authorized pursuant to subsection 2.

**2. Program authorized.** The authority may create and oversee the Maine Capital Investment Program to increase the availability of capital to eligible business development projects as provided under this section.

**3. Authority assets; obligation.** This section may not be construed to place the assets of the authority at risk. This section may not be construed to create an obligation of the State or of any political subdivision of the State.

**4. Maine Capital Investment Fund.** The Maine Capital Investment 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 is capitalized by sums that are appropriated or allocated by the Legislature 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 implementing and administering the program and any loans or bonds authorized by this section.

**5. Criteria to qualify for financial support.** The authority shall provide financial support to an applicant to support a business development project under the program based in part but not solely on the following criteria:

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

B. The sufficiency of collateral pledged by the applicant;

C. The sufficiency of projected revenues from the business development project or other sources to repay the financial support received under and meet the requirements of subsection 6 for the term of the obligation;

D. The extent to which financial support from the authority enhances the employment and wage benefits projected to be created by the business development project;

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

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

**6. Financial support.** The authority may provide the following financial support to an applicant determined to be qualified under subsection 5:

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

B. Up to \$100,000,000 in bond funding from bonds issued pursuant to subsection 7 for a single business development project and up to \$200,000,000 in bond funding to the same applicant for multiple business development projects.

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

**7. Bonding authorization.** The authority may provide by resolution for the issuance of bonds in accordance with subsection 6, paragraph B for the purpose of funding business development projects. Bonds issued pursuant to this subsection do not constitute a general obligation of the authority, and the authority may not pledge an obligation under section 1053 or otherwise seek an appropriation for repayment. Bonds issued under this subsection do not constitute a debt of the State or any agency or political

subdivision of the State and are payable solely from the revenues of the business development project for which the bonds are issued. Neither the faith nor credit nor taxing power of the State or any political subdivision of the State may be pledged to payment of the bonds issued under this subsection. Notwithstanding any other provision of law, any bonds issued pursuant to this subsection are fully negotiable. If any member of the authority whose signature appears on the bond or coupons ceases to be a member of the authority before the delivery of those bonds, that signature is valid and sufficient for all purposes as if that member of the authority had remained a member of the authority until delivery.

**8. Requirements of recipient.** A recipient of financial support under subsection 6 shall provide the following.

A. In addition to repayment of the financial support received under subsection 6 pursuant to the terms set by the authority, within 5 years after the completion of the business development project the recipient shall pay to the fund an amount equal to 10% of the amount of the financial support received under subsection 6 pursuant to terms determined by the authority.

B. The recipient shall report to the authority 5 years after completion of the business development project. The report must include a description of the business development project and the number of jobs created or retained. The report must identify the entity or entities using the business development project and, for each entity, indicate the extent to which the entity is owned or managed by minorities or women, the percentage of the entity's operations located within and outside the State, the entity's payroll and the property taxes paid by the entity.

**9. Report.** The authority shall report annually, on or before January 1st, to the joint standing committee of the Legislature having jurisdiction over economic development matters. The report must include a description of each business development project under the program, the amount, type and terms of financial support the business development project received and the information reported to the authority pursuant to subsection 8. The report must contain an accounting of the fund, bonds issued pursuant to subsection 7 and any loans or bonds that are in default. The accounting must include, at a minimum, identification of amounts received from each public or private source, identification of amounts returned to each public or private source and an accounting of the authority's implementation and administration expenses incurred and charged to the fund.

The committee may request that the joint legislative committee established to oversee program evaluation and government accountability matters direct the Office of Program Evaluation and Government Accountability to review the program as provided in Title 3, section 991.

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

**Sec. 2. Contingent effective date.** This Act takes effect only upon the receipt by the Finance Authority of Maine for the Maine Capital Investment Fund under the Maine

Revised Statutes, Title 10, section 1026-U of an appropriation or allocation by the Legislature or funds from another funding source in the amount of at least \$50,000,000. The Finance Authority of Maine shall notify the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes when the funds are received pursuant to this section.