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Date: (Filing No. H- )

**LABOR AND HOUSING**

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
130TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1489, L.D. 2003, “An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions”

Amend the bill by striking out all of the emergency preamble.

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

**Sec. 1. 5 MRSA §13056, sub-§7**, as amended by PL 2003, c. 159, §3, is further amended to read:

**7. Contract for services.** When contracting for services, to the maximum extent feasible, seek to use the State's private sector resources in conducting studies, providing services and preparing publications; ~~and~~

**Sec. 2. 5 MRSA §13056, sub-§8**, as enacted by PL 2003, c. 159, §4, is amended to read:

**8. Lead agency for business assistance in response to certain events.** Be the lead agency for the State to provide information and business assistance to employers and businesses as part of the State's response to an event that causes the Department of Labor to carry out rapid-response activities as described in 29 United States Code, Sections 2801 to 2872 (2002); ~~and~~

**Sec. 3. 5 MRSA §13056, sub-§9** is enacted to read:

**9. Establish statewide housing production goals.** Establish, in coordination with the Maine State Housing Authority, a statewide housing production goal that increases the availability and affordability of all types of housing in all parts of the State. The department shall establish regional housing production goals based on the statewide housing production goal. In establishing these goals, the department shall:

A. Establish measurable standards and benchmarks for success of the goals;

**COMMITTEE AMENDMENT**

1 B. Consider information submitted to the department from municipalities about current  
2 or prospective housing developments and permits issued for the construction of  
3 housing; and

4 C. Consider any other information as necessary to meet the goals pursuant to this  
5 subsection.

6 **Sec. 4. 5 MRSA §13056-J** is enacted to read:

7 **§13056-J. Housing Opportunity Program**

8 **1. Program established; administration.** The Housing Opportunity Program,  
9 referred to in this section as "the program," is established within the department to  
10 encourage and support the development of additional housing units in this State, including  
11 housing units that are affordable for low-income and moderate-income people and housing  
12 units targeted to community workforce housing needs. The department shall administer  
13 the program and provide technical and financial assistance to support communities  
14 implementing zoning and land-use related policies required to support increased housing  
15 development. The program must support regional approaches and the development of  
16 municipal model ordinances and must encourage policies that support increased housing  
17 density where feasible to protect working and natural lands.

18 **2. Housing Opportunity Fund.** The Housing Opportunity Fund, referred to in this  
19 section as "the fund," is established as a fund within the department for the purpose of  
20 providing funds for the program in accordance with this section. The fund consists of  
21 money appropriated to the fund by the Legislature and any money received by the  
22 department for the purposes of the program.

23 A. The department shall solicit applications for grants from the fund through a  
24 competitive application process that may be awarded to experienced service providers  
25 to support municipal ordinance development, technical assistance, public input,  
26 community engagement and regional coordination between municipalities.

27 B. The department shall solicit applications for grants from the fund through a  
28 competitive application process for the following:

29 (1) Community housing planning grants for municipalities that support the creation  
30 of housing development plans that include, as needed, ordinance and policy  
31 amendments to support those plans. The grants must be awarded for a period of up  
32 to 3 years, with required progress reports each year; and

33 (2) The implementation of community housing priorities.

34 **3. Direct technical assistance.** The department shall provide technical assistance,  
35 including housing policy development and guidance, directly to regional groups,  
36 municipalities and other housing stakeholders to the extent feasible within available  
37 resources. Technical assistance may include, but is not limited to, assisting municipalities  
38 with information about available grant opportunities, sharing best practices from  
39 jurisdictions inside and outside the State, providing model language for local ordinances  
40 and policies and providing information to the general public that may support local and  
41 statewide policy changes meant to increase the supply of housing.

1            **4. Program evaluation.** Any recipient of grant funds through the program shall  
2 cooperate with the department in performing program evaluation and specific reporting  
3 requirements.

4            **Sec. 5. 30-A MRSA §4364** is enacted to read:

5            **§4364. Affordable housing density**

6            For an affordable housing development approved on or after July 1, 2023, a  
7 municipality with density requirements shall apply density requirements in accordance  
8 with this section.

9            **1. Definition.** For the purposes of this section, "affordable housing development"  
10 means:

11            A. For rental housing, a development in which a household whose income does not  
12 exceed 80% of the median income for the area as defined by the United States  
13 Department of Housing and Urban Development under the United States Housing Act  
14 of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority  
15 of the units that the developer designates as affordable without spending more than  
16 30% of the household's monthly income on housing costs; and

17            B. For owned housing, a development in which a household whose income does not  
18 exceed 120% of the median income for the area as defined by the United States  
19 Department of Housing and Urban Development under the United States Housing Act  
20 of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority  
21 of the units that the developer designates as affordable without spending more than  
22 30% of the household's monthly income on housing costs.

23            **2. Density requirements.** A municipality shall allow an affordable housing  
24 development where multifamily dwellings are allowed to have a dwelling unit density of  
25 at least 2 1/2 times the base density that is otherwise allowed in that location and may not  
26 require more than 2 off-street parking spaces for every 3 units. The development must be  
27 in a designated growth area of a municipality consistent with section 4349-A, subsection  
28 1, paragraph A or B or the development must be served by a public, special district or other  
29 centrally managed water system and a public, special district or other comparable sewer  
30 system.

31            **3. Long-term affordability.** Before approving an affordable housing development, a  
32 municipality shall require that the owner of the affordable housing development have  
33 executed a restrictive covenant, recorded in the appropriate registry of deeds, for the benefit  
34 of and enforceable by a party acceptable to the municipality, to ensure that for at least 30  
35 years after completion of construction:

36            A. For rental housing, occupancy of all of the units designated affordable in the  
37 development will remain limited to households at or below 80% of the local area  
38 median income; and

39            B. For owned housing, occupancy of all of the units designated affordable in the  
40 development will remain limited to households at or below 120% of the local area  
41 median income.

1            **4. Shoreland zoning.** An affordable housing development must comply with  
2 shoreland zoning requirements established by the Department of Environmental Protection  
3 under Title 38, chapter 3 and municipal shoreland zoning ordinances.

4            **5. Water and wastewater.** The owner of an affordable housing development shall  
5 provide written verification to the municipality that each unit of the housing development  
6 is connected to adequate water and wastewater services before the municipality may certify  
7 the development for occupancy. Written verification under this subsection must include:

8            A. If a housing unit is connected to a public, special district or other comparable sewer  
9 system, proof of adequate service to support any additional flow created by the unit  
10 and proof of payment for the connection to the sewer system;

11           B. If a housing unit is connected to a septic system, proof of adequate sewage disposal  
12 for subsurface wastewater. The septic system must be verified as adequate by a local  
13 plumbing inspector under section 4221. Plans for subsurface wastewater disposal must  
14 be prepared by a licensed site evaluator in accordance with subsurface wastewater  
15 disposal rules adopted under Title 22, section 42;

16           C. If a housing unit is connected to a public, special district or other centrally managed  
17 water system, proof of adequate service to support any additional flow created by the  
18 unit, proof of payment for the connection and the volume and supply of water required  
19 for the unit; and

20           D. If a housing unit is connected to a well, proof of access to potable water. Any tests  
21 of an existing well or proposed well must indicate that the water supply is potable and  
22 acceptable for domestic use.

23           **6. Subdivision requirements.** This section may not be construed to exempt a  
24 subdivider from the requirements for division of a tract or parcel of land in accordance with  
25 subchapter 4.

26           **7. Restrictive covenants.** This section may not be construed to interfere with,  
27 abrogate or annul the validity or enforceability of any valid and enforceable easement,  
28 covenant, deed restriction or other agreement or instrument between private parties that  
29 imposes greater restrictions than those provided in this section, as long as the agreement  
30 does not abrogate rights under the United States Constitution or the Constitution of Maine.

31           **8. Rules.** The Department of Economic and Community Development shall adopt  
32 rules to administer and enforce this section. The department shall consult with the  
33 Department of Agriculture, Conservation and Forestry in adopting rules pursuant to this  
34 subsection. The rules must include criteria for a municipality to use in calculating housing  
35 costs. Rules adopted pursuant to this subsection are routine technical rules as defined in  
36 Title 5, chapter 375, subchapter 2-A.

37           **Sec. 6. 30-A MRSA §4364-A** is enacted to read:

38           **§4364-A. Residential areas, generally; up to 4 dwelling units allowed**

39           **1. Use allowed.** Notwithstanding any provision of law to the contrary, except as  
40 provided in Title 12, section 4807-A, for any area in which housing density is limited to no  
41 more than one dwelling unit per lot or no more than 2 dwelling units per lot, a municipality  
42 shall allow structures with up to 2 dwelling units per lot if that lot does not contain an  
43 existing dwelling unit, except that a municipality shall allow up to 4 dwelling units per lot

1 if that lot does not contain an existing dwelling unit and the lot is located in a designated  
2 growth area within a municipality consistent with section 4349-A, subsection 1, paragraph  
3 A or B or if the lot is served by a public, special district or other centrally managed water  
4 system and a public, special district or other comparable sewer system in a municipality  
5 without a comprehensive plan.

6 A municipality shall allow on a lot with one existing dwelling unit the addition of up to 2  
7 dwelling units: one additional dwelling unit within or attached to an existing structure or  
8 one additional detached dwelling unit, or one of each.

9 **2. Zoning requirements.** With respect to dwelling units allowed under this section,  
10 municipal zoning ordinances must comply with the following conditions.

11 A. A lot is considered single-family even if more than one dwelling unit has been  
12 constructed as a result of the allowance under this section or section 4364-B.

13 B. A municipal zoning ordinance may establish a prohibition or an allowance for lots  
14 where a dwelling unit in existence after July 1, 2023 is torn down and an empty lot  
15 results.

16 **3. General requirements.** A municipal ordinance may not establish dimensional  
17 requirements or setback requirements for dwelling units allowed under this section that are  
18 greater than dimensional requirements or setback requirements for single-family housing  
19 units.

20 **4. Water and wastewater.** The owner of a housing structure must provide written  
21 verification to the municipality that the structure is connected to adequate water and  
22 wastewater services before the municipality may certify the structure for occupancy.  
23 Written verification under this subsection must include:

24 A. If a housing structure is connected to a public, special district or other comparable  
25 sewer system, proof of adequate service to support any additional flow created by the  
26 structure and proof of payment for the connection to the sewer system;

27 B. If a housing structure is connected to a septic system, proof of adequate sewage  
28 disposal for subsurface wastewater. The septic system must be verified as adequate by  
29 a local plumbing inspector under section 4221. Plans for subsurface wastewater  
30 disposal must be prepared by a licensed site evaluator in accordance with subsurface  
31 wastewater disposal rules adopted under Title 22, section 42;

32 C. If a housing structure is connected to a public, special district or other centrally  
33 managed water system, proof of adequate service to support any additional flow  
34 created by the structure, proof of payment for the connection and the volume and  
35 supply of water required for the structure; and

36 D. If a housing structure is connected to a well, proof of access to potable water. Any  
37 tests of an existing well or proposed well must indicate that the water supply is potable  
38 and acceptable for domestic use.

39 **5. Municipal implementation.** In adopting an ordinance, a municipality may:

40 A. Establish an application and permitting process for housing structures;

41 B. Impose fines for violations of building, zoning and utility requirements for housing  
42 structures; and

1            C. Establish alternative criteria that are less restrictive than the requirements of  
2            subsection 4 for the approval of a housing structure only in circumstances in which the  
3            municipality would be able to provide a variance under section 4353, subsection 4,  
4            4-A, 4-B or 4-C.

5            **6. Shoreland zoning.** A housing structure must comply with shoreland zoning  
6            requirements established by the Department of Environmental Protection under Title 38,  
7            chapter 3 and municipal shoreland zoning ordinances.

8            **7. Subdivision requirements.** This section may not be construed to exempt a  
9            subdivider from the requirements for division of a tract or parcel of land in accordance with  
10           subchapter 4.

11           **8. Restrictive covenants.** This section may not be construed to interfere with,  
12           abrogate or annul the validity or enforceability of any valid and enforceable easement,  
13           covenant, deed restriction or other agreement or instrument between private parties that  
14           imposes greater restrictions than those provided in this section, as long as the agreement  
15           does not abrogate rights under the United States Constitution or the Constitution of Maine.

16           **9. Rules.** The Department of Economic and Community Development may adopt  
17           rules to administer and enforce this section. The department shall consult with the  
18           Department of Agriculture, Conservation and Forestry in adopting rules pursuant to this  
19           subsection. Rules adopted pursuant to this section are routine technical rules as defined in  
20           Title 5, chapter 375, subchapter 2-A.

21           **10. Implementation.** A municipality is not required to implement the requirements  
22           of this section until July 1, 2023.

23           **Sec. 7. 30-A MRSA §4364-B** is enacted to read:

24           **§4364-B. Accessory dwelling units**

25           **1. Use permitted.** A municipality shall allow an accessory dwelling unit to be located  
26           on the same lot as a single-family dwelling unit in any area in which housing is permitted.

27           **2. Restrictions.** An accessory dwelling unit may be constructed only:

28           A. Within an existing dwelling unit on the lot;

29           B. Attached to or sharing a wall with a single-family dwelling unit; or

30           C. As a new structure on the lot for the primary purpose of creating an accessory  
31           dwelling unit.

32           This subsection does not restrict the construction or permitting of accessory dwelling units  
33           constructed and certified for occupancy prior to July 1, 2023.

34           **3. Zoning requirements.** With respect to accessory dwelling units, municipal zoning  
35           ordinances must comply with the following conditions:

36           A. At least one accessory dwelling unit must be allowed on any lot where a single-  
37           family dwelling unit is the principal structure; and

38           B. A lot must be deemed single-family even if more than one dwelling unit has been  
39           constructed as a result of the allowance under this section or section 4364-A;

40           **4. General requirements.** With respect to accessory dwelling units, municipalities  
41           shall comply with the following conditions.

1           A. A municipality shall exempt an accessory dwelling unit from any density  
2           requirements or calculations related to the area in which the accessory dwelling unit is  
3           constructed.

4           B. For an accessory dwelling unit located within the same structure as a single-family  
5           dwelling unit or attached to or sharing a wall with a single-family dwelling unit, the  
6           setback requirements and dimensional requirements must be the same as the setback  
7           requirements and dimensional requirements of the single-family dwelling unit, except  
8           for an accessory dwelling unit permitted in an existing accessory building or secondary  
9           building or garage as of July 1, 2023, in which case the requisite setback requirements  
10           for such a structure apply. A municipality may establish more permissive dimensional  
11           and set back requirements for an accessory dwelling unit.

12           C. An accessory dwelling unit may not be subject to any additional parking  
13           requirements beyond the parking requirements of the single-family dwelling unit on  
14           the lot where the accessory dwelling unit is located.

15           **5. Shoreland zoning.** An accessory dwelling unit must comply with shoreland zoning  
16           requirements established by the Department of Environmental Protection under Title 38,  
17           chapter 3 and municipal shoreland zoning ordinances.

18           **6. Size requirements.** An accessory dwelling unit must meet a minimum size of 190  
19           square feet. If the Technical Building Codes and Standards Board under Title 10, section  
20           9722 adopts a different minimum size, that standard applies. A municipality may impose  
21           a maximum size for an accessory dwelling unit.

22           **7. Water and wastewater.** The owner of an accessory dwelling unit must provide  
23           written verification to the municipality that the accessory dwelling unit is connected to  
24           adequate water and wastewater services before the municipality may certify the accessory  
25           dwelling unit for occupancy. Written verification under this subsection must include:

26           A. If an accessory dwelling unit is connected to a public, special district or other  
27           comparable sewer system, proof of adequate service to support any additional flow  
28           created by the accessory dwelling unit and proof of payment for the connection to the  
29           sewer system;

30           B. If an accessory dwelling unit is connected to a septic system, proof of adequate  
31           sewage disposal for subsurface wastewater. The septic system must be verified as  
32           adequate by a local plumbing inspector under section 4221. Plans for subsurface  
33           wastewater disposal must be prepared by a licensed site evaluator in accordance with  
34           subsurface wastewater disposal rules adopted under Title 22, section 42;

35           C. If an accessory dwelling unit is connected to a public, special district or other  
36           centrally managed water system, proof of adequate service to support any additional  
37           flow created by the accessory dwelling unit, proof of payment for the connection and  
38           the volume and supply of water required for the accessory dwelling unit; and

39           D. If an accessory dwelling unit is connected to a well, proof of access to potable  
40           water. Any tests of an existing well or proposed well must indicate that the water supply  
41           is potable and acceptable for domestic use.

42           **8. Municipal implementation.** In adopting an ordinance under this section, a  
43           municipality may:

- 1           A. Establish an application and permitting process for accessory dwelling units;  
2           B. Impose fines for violations of building, zoning and utility requirements for  
3           accessory dwelling units; and  
4           C. Establish alternative criteria that are less restrictive than the requirements of  
5           subsections 4, 5, 6 and 7 for the approval of an accessory dwelling unit only in  
6           circumstances in which the municipality would be able to provide a variance under  
7           section 4353, subsection 4, 4-A, 4-B or 4-C.

8           **9. Rate of growth ordinance.** A permit issued by a municipality for an accessory  
9           dwelling unit does not count as a permit issued toward a municipality's rate of growth  
10           ordinance as described in section 4360.

11           **10. Subdivision requirements.** This section may not be construed to exempt a  
12           subdivider from the requirements for division of a tract or parcel of land in accordance with  
13           subchapter 4.

14           **11. Restrictive covenants.** This section may not be construed to interfere with,  
15           abrogate or annul the validity or enforceability of any valid or enforceable easement,  
16           covenant, deed restriction or other agreement or instrument between private parties that  
17           imposes greater restrictions than those provided in this section, as long as the agreement  
18           does not abrogate rights under the United States Constitution or the Constitution of Maine.

19           **12. Rules.** The Department of Economic and Community Development may adopt  
20           rules to administer and enforce this section. The department shall consult with the  
21           Department of Agriculture, Conservation and Forestry in adopting rules pursuant to this  
22           subsection. Rules adopted pursuant to this subsection are routine technical rules as defined  
23           in Title 5, chapter 375, subchapter 2-A.

24           **13. Implementation.** A municipality is not required to implement the requirements  
25           of this section until July 1, 2023.

26           **Sec. 8. 30-A MRSA §4364-C** is enacted to read:

27           **§4364-C. Municipal role in statewide housing production goals**

28           This section governs the responsibilities and roles of municipalities in achieving the  
29           statewide and regional housing production goals set by the Department of Economic and  
30           Community Development in Title 5, section 13056, subsection 9.

31           **1. Fair housing and nondiscrimination.** A municipality shall ensure that ordinances  
32           and regulations are designed to affirmatively further the purposes of the federal Fair  
33           Housing Act, 42 United States Code, Chapter 45, as amended, and the Maine Human Rights  
34           Act to achieve the statewide or regional housing production goal.

35           **2. Municipalities may regulate short-term rentals.** A municipality may establish  
36           and enforce regulations regarding short-term rental units in order to achieve the statewide  
37           or regional housing production goal. For the purposes of this subsection, "short-term rental  
38           unit" means living quarters offered for rental through a transient rental platform as defined  
39           by Title 36, section 1752, subsection 20-C.

40           **Sec. 9. Report.** By January 15, 2024, the Department of Economic and Community  
41           Development shall report to the Governor and the joint standing committees of the  
42           Legislature having jurisdiction over economic development matters and housing matters



1 about the Housing Opportunity Program established in the Maine Revised Statutes, Title  
 2 30-A, section 13056-J with any recommendations for changes in the statutes to improve  
 3 the program and its delivery of services to municipalities. The joint standing committees  
 4 of the Legislature having jurisdiction over economic development matters and housing  
 5 matters may each report out a bill to the 131st Legislature in 2024 relating to this program  
 6 and continued funding.

7 **Sec. 10. Appropriations and allocations.** The following appropriations and  
 8 allocations are made.

9 **ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF**

10 **Housing Opportunity Program Z336**

11 Initiative: Establishes 2 limited-period Public Service Coordinator II positions through  
 12 June 8, 2024 and provides funding for the associated All Other costs to administer the  
 13 Housing Opportunity Program within the Department of Economic and Community  
 14 Development.

15	<b>GENERAL FUND</b>	<b>2021-22</b>	<b>2022-23</b>
16	Personal Services	\$0	\$243,874
17	All Other	\$0	\$206,126
18			
19	GENERAL FUND TOTAL	\$0	\$450,000

20 **Housing Opportunity Program Z336**

21 Initiative: Provides funding for competitive grants to regional service providers to support  
 22 municipal housing ordinance development and planning board and public processes in each  
 23 participating municipality.

24	<b>GENERAL FUND</b>	<b>2021-22</b>	<b>2022-23</b>
25	All Other	\$0	\$1,000,000
26			
27	GENERAL FUND TOTAL	\$0	\$1,000,000

28 **Housing Opportunity Program Z336**

29 Initiative: Provides funding for community housing implementation grants to individual  
 30 municipalities to support community housing priorities.

31	<b>GENERAL FUND</b>	<b>2021-22</b>	<b>2022-23</b>
32	All Other	\$0	\$1,450,000
33			
34	GENERAL FUND TOTAL	\$0	\$1,450,000

35 **Housing Opportunity Program Z336**

36 Initiative: Provides one-time funds to reimburse municipalities by June 30, 2023 for the  
 37 mandated costs of amending and implementing ordinances related to accessory dwelling  
 38 units and multifamily dwelling units allowed in residential areas.

39	<b>GENERAL FUND</b>	<b>2021-22</b>	<b>2022-23</b>
40	All Other	\$0	\$100,000
41			
42	GENERAL FUND TOTAL	\$0	\$100,000

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**ECONOMIC AND COMMUNITY  
DEVELOPMENT, DEPARTMENT OF  
DEPARTMENT TOTALS**

	2021-22	2022-23
<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$3,000,000</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$3,000,000</b>

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

**SUMMARY**

This amendment, which is the majority report of the committee, makes the following changes. The amendment:

1. Removes the emergency preamble and clause;
2. Eliminates amending the fair housing provisions of the Maine Human Rights Act;
3. Eliminates the Municipal Housing Development Permit Review Board;
4. Eliminates the prohibition on municipalities from adopting any ordinance that caps the number of building or development permits each year for any kind of residential dwellings;
5. Establishes the Housing Opportunity Program and the Housing Opportunity Fund within the Department of Economic and Community Development to encourage and support the development of additional housing units in this State, including housing units that are affordable to low-income and moderate-income people and housing units targeted to community workforce housing needs;
6. Eliminates a municipal incentive program to provide grants to municipalities for fulfilling certain requirements related to reviewing how its zoning and land use ordinances may impact the availability of housing;
7. Clarifies that density requirements apply to zoning ordinances where multifamily housing is already permitted;
8. Clarifies that long-term affordability in affordable housing developments applies only to the majority of affordable units;
9. Provides that, in a municipality in which housing density is limited to no more than one dwelling unit per lot or no more than 2 dwelling units per lot, the municipality shall allow structures with up to 2 dwelling units per lot if that lot does not contain an existing dwelling unit, except that, as long as the minimum lot size requirements for waste disposal are not violated, a municipality must allow up to 4 dwelling units per lot if that lot does not contain an existing dwelling unit and the lot is located in a designated growth area within a municipality consistent with the Maine Revised Statutes, Title 30-A, section 4349-A, subsection 1, paragraph A or B or if the lot is served by public water and sewer systems in a municipality without a comprehensive plan;

