



# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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Legislative Document

No. 1345

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H.P. 914

House of Representatives, April 16, 2015

### **An Act To Provide Funding for Incubators for Business Start-ups**

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Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative FECTEAU of Biddeford.  
Cosponsored by Senator DUTREMBLE of York and  
Representatives: AUSTIN of Gray, EDGECOMB of Fort Fairfield, GILBERT of Jay,  
GOLDEN of Lewiston, GROHMAN of Biddeford, HERBIG of Belfast, MASTRACCIO of  
Sanford, WARD of Dedham.

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

2 **Sec. 1. 5 MRSA §13100-A** is enacted to read:

3 **§13100-A. Small Business Incubator Program**

4 **1. Program established.** The Small Business Incubator Program is established  
5 under the direction of the department to provide loans, loan guarantees and grants for the  
6 establishment, operation and administration of small business incubators.

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

9 A. "Incubator" means a program in which small units of space may be leased by a  
10 tenant and in which management maintains or provides access to business  
11 development services for use by tenants or a program without physical infrastructure  
12 in which participants access business development services to assist in the growth of  
13 their start-up small businesses.

14 B. "Local sponsor" means an organization that enters into a written agreement with  
15 the department to establish, operate and administer an incubator or to provide funding  
16 to an organization that operates an incubator.

17 C. "Participant" means a sole proprietorship, business partnership or corporation  
18 operating a business for profit through which the owner accesses business  
19 development services in an incubator.

20 D. "Tenant" means a sole proprietorship, business partnership or corporation  
21 operating a business for profit and leasing or otherwise occupying space in an  
22 incubator.

23 **3. Applications.** A local sponsor may submit an application to the department to  
24 obtain a loan, loan guarantee or grant to establish an incubator. An application must:

25 A. Demonstrate the plan for creating an incubator at a specified cost;

26 B. Demonstrate the ability to directly provide or arrange for the provision of business  
27 development services for tenants and participants in the incubator. These services  
28 must include, but are not limited to, financial consulting assistance, management and  
29 marketing assistance, business education and physical services;

30 C. Demonstrate a potential for sustained use of the incubator by tenants and  
31 participants through a market study or other means;

32 D. Demonstrate the ability to manage and operate the incubator; and

33 E. Include information as the department may require by rule.

34 **4. Criteria for awards.** The department shall review and accept applications for  
35 loans, loan guarantees and grants under this section based on the following criteria:

36 A. Ability of the local sponsor to carry out the provisions of this section;

37 B. Economic impact of the incubator on the community;

1           C. Conformance with regional and local economic development plans, if such plans  
2           exist; and

3           D. Proximity of the incubator to an accredited Maine community college, college or  
4           university, as defined in Title 20-A, section 12541, subsection 1.

5           **5. Administration of loans, loan guarantees and grants.** The department shall  
6           administer loans, loan guarantees and grants according to this subsection.

7           A. Loans awarded or guaranteed and grants awarded under this section may be used  
8           only for the acquisition and leasing of land and existing buildings, the rehabilitation  
9           and renovation of buildings or other facilities, the purchase of equipment and  
10          furnishings that are necessary for the creation and operation of the incubator and  
11          business development services, including, but not limited to, business management  
12          advising and business education.

13          B. Loans, loan guarantees and grants awarded under this section may not exceed  
14          50% of total eligible project costs.

15          C. Payment of interest and principal on loans awarded under this section may be  
16          deferred at the discretion of the department.

17          **6. Duties of local sponsor.** A local sponsor, or the organization receiving assistance  
18          through the local sponsor, in establishing and operating an incubator with assistance from  
19          the Small Business Incubator Program, shall:

20          A. Secure title on a facility for the incubator or a lease of a facility for the incubator;

21          B. Manage the physical development of the incubator, including the provision of  
22          common conference or meeting space;

23          C. Provide furnishings and equipment to the incubator to provide business services  
24          to the tenants and participants;

25          D. Market the incubator and secure tenants and participants;

26          E. Provide financial consulting, marketing and management assistance services or  
27          arrange for the provision of these services for tenants and participants, including  
28          assistance in accessing private financial markets;

29          F. Set rental and service fees that would be revenue for the municipality upon  
30          approval from the department;

31          G. Encourage the sharing of ideas between tenants and participants and otherwise aid  
32          the tenants and participants using innovative technology and facilities;

33          H. Establish policies and criteria for the acceptance of tenants and participants and  
34          for the termination of occupancy of tenants so as to maximize the opportunity to  
35          succeed for the greatest number of tenants; and

36          I. Submit annual reports to the department that include a financial statement for the  
37          incubator, a summary of the economic impact of the incubator on the local  
38          community and a list of companies in the incubator.

1           7. Administration of loans; evaluation of reports. The department may make  
2 loans, loan guarantees and grants to local sponsors for incubators and must ensure that  
3 local sponsors receiving loans, loan guarantees or grants meet the conditions of this  
4 section. The department shall receive and evaluate annual reports from local sponsors.

5           8. Conversion of loans to grants. The department is authorized to review any  
6 previous loans made under the Small Business Incubator Program and, when appropriate,  
7 convert such loans to grant status.

8           9. Report. Beginning January 1, 2016, the department shall annually provide a  
9 report to the Governor, the President of the Senate and the Speaker of the House of  
10 Representatives that must include, but is not limited to:

11           A. The number of applications for incubators submitted to the department;

12           B. The number of applications for incubators approved by the department;

13           C. The number of incubators created through the Small Business Incubator Program;

14           D. The numbers of tenants and participants engaged in each incubator;

15           E. The number of jobs provided by each incubator;

16           F. The occupancy rate of each incubator; and

17           G. The number of firms that have left incubators and that are operating in the State  
18 and the number of jobs they have provided.

19           10. Fund established. The Maine Small Business Incubators Fund is established as  
20 a nonlapsing fund under the jurisdiction and control of the department. The fund consists  
21 of all money that may be appropriated to it, money that has been paid back from loans  
22 and any gifts, contributions, grants or bequests received from federal, private or other  
23 sources.

24           11. Tax credit. For any taxable year beginning after December 31, 2015, a  
25 taxpayer, including a charitable organization that is exempt from federal income tax and  
26 whose Maine unrelated business taxable income, if any, would be subject to the state  
27 income tax imposed under Title 36, Part 8, is entitled to a tax credit against any tax  
28 otherwise due under the provisions of Title 36, Part 8 and Title 36, chapter 357, excluding  
29 withholding tax imposed by Title 36, section 5250, in the amount of 50% of any amount  
30 contributed by the taxpayer to the Maine Small Business Incubators Fund during the  
31 taxpayer's tax year or any contribution by the taxpayer to a local sponsor after the local  
32 sponsor's application has been accepted and approved by the department. The tax credit  
33 allowed by this subsection must be claimed by the taxpayer at the time the taxpayer files  
34 the return and must be applied against the income tax liability imposed by Title 36, Part  
35 8, after all other credits provided by law have been applied. That portion of a tax credit  
36 under this subsection that exceeds the taxpayer's tax liability may be carried forward for  
37 up to 5 years. The aggregate of all tax credits authorized under this subsection may not  
38 exceed \$500,000 in any taxable year.

39           12. Transfer of tax credits. Notwithstanding any provision of law to the contrary, a  
40 taxpayer may sell, assign, exchange, convey or otherwise transfer tax credits allowed in

1 subsection 11 under the terms and conditions prescribed in paragraphs A and B. The  
2 taxpayer may sell, assign, exchange or otherwise transfer allowed tax credits:

3 A. For no less than 75% of the par value of such credits; and

4 B. In an amount not to exceed 100% of annual allowed credits. The taxpayer  
5 acquiring allowed credits may use the acquired credits to offset up to 100% of the tax  
6 liabilities otherwise imposed by Title 36, excluding the withholding tax. Unused  
7 credits in the hands of the assignee may be carried forward for up to 5 years. The  
8 assignor shall enter into a written agreement with the assignee establishing the terms  
9 and conditions of the agreement and shall perfect such transfer by notifying the  
10 department in writing within 30 calendar days following the effective date of the  
11 transfer and shall provide any information as may be required by the department to  
12 administer and carry out the provisions of this subsection. The commissioner shall  
13 prescribe the method for submitting applications for claiming a tax credit transferred  
14 pursuant to this subsection and shall, if an application is approved, certify to the  
15 director of Maine Revenue Services that the taxpayer to whom the credit is  
16 transferred has satisfied all the requirements specified in this section and is eligible to  
17 claim the credit.

18 **13. Rules.** The department may adopt rules and guidelines that are necessary for the  
19 implementation of this section. Rules adopted pursuant to this subsection are routine  
20 technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

21 **Sec. 2. 36 MRSA §2535** is enacted to read:

22 **§2535. Small business incubator tax credit**

23 **1. Credit allowed.** A taxpayer that has made a contribution to a local sponsor under  
24 the Small Business Incubator Program pursuant to Title 5, section 13100-A, subsection  
25 11 is allowed a credit in the amount of 50% of the tax that would otherwise be due under  
26 this chapter upon premiums that are attributable to the Small Business Incubator Program  
27 pursuant to Title 5, section 13100-A.

28 **Sec. 3. 36 MRSA §5206-H** is enacted to read:

29 **§5206-H. Small business incubator tax credit**

30 **1. Credit allowed.** A taxpayer that has made a contribution to a local sponsor under  
31 the Small Business Incubator Program pursuant to Title 5, section 13100-A, subsection  
32 11 is allowed a credit in the amount of 50% of the tax that would otherwise be due under  
33 this chapter pursuant to Title 5, section 13100-A.

34 **Sec. 4. 36 MRSA §5219-NN** is enacted to read:

35 **§5219-NN. Small business incubator tax credit**

36 **1. Credit allowed.** A taxpayer is allowed a credit against the tax that would  
37 otherwise be due under this Part in the amount of 50% of any amount contributed by the  
38 taxpayer to the Maine Small Business Incubators Fund during the taxpayer's tax year or

1 any contribution by the taxpayer to a local sponsor, as defined in Title 5, section  
2 13100-A, after the local sponsor's application has been accepted and approved by the  
3 Department of Economic and Community Development.

4

#### **SUMMARY**

5 This bill enacts the Small Business Incubator Program under the direction of the  
6 Department of Economic and Community Development to provide loans, loan guarantees  
7 and grants for the establishment, operation and administration of small business  
8 incubators in Maine. It also establishes a small business incubator tax credit to provide  
9 incentives to Maine taxpayers to make contributions of private funds to be used to  
10 establish small business incubators.