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S.P. 491 In Senate, April 21, 2015

An Act To Support Innovation and Entrepreneurship in Maine through the Start Maine Up Program

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

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator MILLETT of Cumberland.
Cosponsored by Representative HERBIG of Belfast and
Senators: BREEN of Cumberland, LIBBY of Androscoggin, McCORMICK of Kennebec, PATRICK of Oxford, VOLK of Cumberland, Representatives: GOODE of Bangor, HAMANN of South Portland, TIPPING-SPITZ of Orono.

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

Sec. 1. 5 MRSA §12004-G, sub-§7-G is enacted to read:

7-G.

Economic Development	Start Maine Up Approval Board	Expenses Only	5 MRSA §13120-FF

Sec. 2. 5 MRSA c. 383, sub-c. 10 is enacted to read:

SUBCHAPTER 10

START MAINE UP PROGRAM

§13120-R. Start Maine Up Program

The Start Maine Up Program is established within the department to encourage and promote economic development by providing tax-free economic incentives for approved businesses that create operations and expand within or relocate in designated areas of vacant land located at a state university or college campus in this State, as long as the businesses demonstrate future positive community and economic benefits for the State. The department shall administer the program in conjunction with the University of Maine System and the Maine Community College System.

§13120-S. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Approval board. "Approval board" means the Start Maine Up Approval Board established in section 12004-G, subsection 7-G and described in section 13120-FF.

2. Approved business. "Approved business" means a business that the commissioner or the approval board has determined is eligible to participate in the program.

3. Eligible land. "Eligible land" means land eligible pursuant to this subchapter for approval as a tax-free area in this State.

4. Net new job. "Net new job" means a job created in a tax-free area in this State that:

A. Is new to this State;

B. Has not been transferred from another business located in this State through an acquisition, merger, consolidation or other reorganization of businesses or the acquisition of assets of another business or, except as provided in subsection 5, paragraph D, has not been transferred from employment with a related person in this State;

C. Is not filled by an individual employed within the State within the immediately preceding 60 months by a related person;

D. Is either a full-time wage-paying job or equivalent to a full-time wage-paying job requiring at least 35 hours of work per week; and

E. Is filled for more than 6 months.

5. New business. "New business" means a business that:

A. Is not operating or located within this State at the time it submits its application to participate in the program;

B. Is not moving existing jobs into the tax-free area in this State from another area in the State;

C. Is not substantially similar in operation and in ownership to a business entity taxable, or previously taxable, within the last 5 taxable years, under section 13120-Y; and

D. May not have caused individuals to transfer from existing employment with a related person located in the State to similar employment with the business, unless the business has received approval for the transfers from the commissioner after demonstrating that the related person has not eliminated those existing positions.

6. Program. "Program" means the Start Maine Up Program established under section 12004-G, subsection 7-G.

7. Sponsoring state university or college campus. "Sponsoring state university or college campus" means a state university or college campus that has received approval to sponsor a tax-free area in this State pursuant to this subchapter.

8. State incubator. "State incubator" means an entity that has a partnership with the state university or college campus to provide assistance and physical space to eligible businesses and that works directly towards the goals of jointly creating jobs and incubating new start-up businesses. The mission and activities of the state incubator must align with or further the academic mission of the state university or college campus.

9. State university or college campus. "State university or college campus" means any of the universities and colleges established in Title 20-A, sections 10901-A and 12702.

10. Strategic state asset. "Strategic state asset" means land or a building or group of buildings owned by the State that are closed or vacant. "Strategic state asset" includes land or a building or buildings for which notice of closure has been given pursuant to any statutory notice requirement or that is otherwise authorized to be closed pursuant to statute.

11. Tax-free area. "Tax-free area" means the land or vacant space of a state university or college campus that meets the eligibility criteria specified in section

13120-T and that has been approved as a tax-free area, or a strategic state asset that has been approved by the approval board pursuant to the provisions in section 13120-V.

12. Underutilized property. "Underutilized property" means vacant or abandoned land or space in an existing industrial park, manufacturing facility or a distressed or abandoned property that has been identified by the county or the municipality that contains such distressed or abandoned property.

§13120-T. Eligibility criteria for state university or college campus

1. Eligible land. The following constitutes eligible land of a state university or college campus:

A. Any vacant space in any building located on a campus of a state university or college campus;

B. Any vacant land on a campus of a state university or college campus; or

C. A state incubator with an affiliation to a state university or college campus to provide assistance and physical space to eligible businesses that is approved by the commissioner.

2. Eligible land located off campus. In addition to the eligible land identified under subsection 1, a state university or college campus may apply to the commissioner for a determination that identified vacant land or identified vacant space in a building that is located more than one mile from its campus is eligible land for purposes of the program. The commissioner must give consideration to factors including rural, suburban and urban geographic considerations and may qualify the identified land or space in a building as eligible land if the commissioner, in consultation with the Chancellor of the University of Maine System or the President of the Maine Community College System, determines that a state university or college campus has shown that the use of the land or space will be consistent with the requirements of this program and the plan submitted pursuant to section 13120-V. In addition, 200,000 square feet of vacant land or vacant building space affiliated with or in partnership with the Maine Maritime Academy is eligible under this subsection. The aggregate amount of eligible land or space under this subsection may not exceed 200,000 square feet.

3. Aggregate eligible land or space. The total aggregate amount of eligible land or space approved under this program may not exceed 600,000 square feet, except that up to 200,000 square feet for land or vacant space located more than one mile from a state university or college campus under subsection 2 is not included in this calculation.

4. Prohibition. A state university or college campus is prohibited from relocating or eliminating any academic programs, any administrative programs, offices, housing facilities, dining facilities, athletic facilities or any other facility, space or program that actively serves students, faculty or staff in order to create vacant land or space to be used for the program. In addition, nothing in this subchapter may waive or impair any rights or benefits of employees of the state university or college campus that otherwise would be available to the employees pursuant to the terms of agreements between the certified representatives of such employees and their employers. Services or work currently performed by public employees of a state university or college campus, or future work that is similar in scope and nature to the work being currently performed by public employees, may not be contracted out or privatized by the state university or college campus or by an affiliated entity or associated entity of the state university or college campus. For the purpose of this section, "affiliated entity" or "associated entity" does not include a business that is participating in the program.

§13120-U. Eligibility criteria for businesses; exceptions

1. Eligibility criteria. In order to become eligible to participate in the program, a business must satisfy all of the following criteria:

A. The mission and activities of the business must align with or further the academic mission of the university sponsoring the tax-free area in which the business seeks to locate, and the business's participation in the program must have positive community and economic benefits;

B. The business must demonstrate that it will, in its first year of operation, create net new jobs. After its first year of operation, the business must maintain those net new jobs. In addition, the average number of employees of the business and its related persons in the State during the year must equal or exceed the sum of the average number of employees of the business and its related persons in the State during the year immediately preceding the year in which the business submits its application to locate in a tax-free area and the net new jobs of the business in the tax-free area during the year. The average number of employees of the business and its related persons in the State is determined by adding together the total number of employees of the business and its related persons in the State on March 31st, June 30th, September 30th and December 31st and dividing the total by the number of such dates occurring within such year;

C. Except as provided in subsection 2, at the time the business submits its application for the program, the business must be a new business to the State;

D. The business may be organized as a corporation, partnership, limited liability company or sole proprietorship; and

E. Upon completion of its first year in the program and thereafter, the business must complete and timely file the annual report required under section 13120-AA.

2. Exceptions. Except as provided in this subsection, a business is not eligible to participate in the program if it is engaged in a line of business that is currently or was previously conducted by the business or a related person in the last 5 years in the State. If a business does not satisfy the eligibility standard set forth in subsection 1, paragraph C because at one point in time it operated in this State but moved its operations out of state, the commissioner may grant that business permission to apply for participation in the program if the commissioner determines that the business has demonstrated that it will substantially restore the jobs in this State that it previously had moved out of state.

If a business seeks to expand its current operations in this State into a tax-free area but the business does not qualify as a new business because it does not satisfy the eligibility standard set forth in this subsection, the commissioner may grant the business permission to apply for participation in the program if the commissioner determines that the business has demonstrated that it will create net new jobs in the tax-free area and that it or any related person has not eliminated any jobs in this State in connection with this expansion.

§13120-V. Approval of tax-free areas; designation of strategic state assets

1. Plan submission. The Chancellor of the University of Maine System, the President of the Maine Maritime Academy or the President of the Maine Community College System seeking to sponsor a tax-free area and have some of its eligible land specified under section 13120-T designated as a tax-free area must submit a plan to the commissioner that specifies the following:

A. The land or space the state university or college campus wants to include in the plan;

B. The type of business or businesses that may locate on the land or in the space under paragraph A;

C. How the types of businesses under paragraph B align with or further the academic mission of a state university or college campus;

D. How participation by the types of businesses under paragraph B in the program has positive community and economic benefits; and

E. The process the state university or college campus will follow to select participating businesses.

2. Notice of the plan. At least 30 days prior to submitting a plan, a state university or college campus must provide the municipality or municipalities in which the proposed tax-free area is located, local economic development entities, the applicable state university or college campus faculty senate, union representatives and the campus student government with a copy of the plan. In addition, if the plan includes land or space located outside of a state university or college campus boundaries, a state university or college campus must consult with the municipality or municipalities in which the land or space is located prior to including such space or land in its proposed tax-free area and shall give preference to underutilized properties.

3. Approval of the plan. Before approving or rejecting a plan submitted under subsection 1, the commissioner shall consult with the Chancellor of the University of Maine System, the President of the Maine Maritime Academy or the President of the Maine Community College System or the designee of the chancellor or president.

4. Plan amendment. A state university or college campus may amend its approved plan, as long as the amendment does not violate the terms of any lease with a business located in the approved tax-free area. In addition, if a business located in a tax-free area does not have a lease with a state university or college campus and such business is terminated from the program and subsequently does not relocate outside of the tax-free area, the state university or college campus may amend its approved plan to allocate an amount of vacant land or space equal to the amount of space occupied by the business that is terminated. The amendment must be approved by the commissioner.

5. Designation of strategic state assets; maximum square footage. The approval board, by majority vote, shall designate up to 20 strategic state assets as tax-free areas that must be affiliated with a state university or college campus. The approval board's designation of these strategic state assets requires the support of the affiliated state university or college campus. Each strategic state asset may not exceed a maximum of 200,000 square feet of vacant land or vacant building space designated as a tax-free area. Designation of strategic state assets as tax-free areas does not count against any square footage limitations that apply to state university or college campuses under section 13120-T.

§13120-W. Rules

The commissioner shall adopt rules necessary to carry out this subchapter, including, but not limited to, the following: the process for the plan submissions and approvals of tax-free areas; eligibility criteria that will be applied in evaluating those plans; the process for the evaluation and possible rejection of business applications; eligibility criteria that will be applied in evaluating those applications; a definition of "related person"; and the process for terminations from the program and administrative appeals of such terminations. Rules adopted pursuant to this section are routine technical rules as defined in chapter 375, subchapter 2-A.

§13120-X. Prohibited businesses; restrictions

The following types of businesses are prohibited from participating in the program: retail and wholesale businesses; restaurants; real estate brokers; law firms; medical or dental practices; real estate management companies; hospitality; finance and financial services; businesses providing personal services; businesses providing business administrative or support services, unless such a business has received permission from the commissioner to apply to participate in the program upon demonstration that the business would create no fewer than 100 net new jobs in the tax-free area; accounting firms; businesses providing utilities; and businesses engaged in the generation or distribution of electricity, the distribution of natural gas or the production of steam associated with the generation of electricity.

A business must be in compliance with all worker protection and environmental laws and rules under the state laws. In addition, a business may not owe past due federal or state taxes or local property taxes.

§13120-Y. Tax benefits

Beginning January 1, 2016, a business that is accepted into the program and locates in a tax-free area or the owner of a business that is accepted into the program and locates in a tax-free area is eligible for the tax benefits specified in this section. Subject to the limitations of this section, employees of such a business satisfying the eligibility requirements are eligible for the personal income tax benefits described in this section in a manner to be determined by the Department of Administrative and Financial Services, Maine Revenue Services.

1. Tax credit for participating businesses. For any taxable year beginning after December 31, 2015, a participating business that would be subject to the state income tax imposed under Title 36, Part 8 is entitled to a tax credit against any tax otherwise due under the provisions of Title 36, Part 8; Title 36, section 5206; and Title 36, chapter 357 in the amount of 100% of any amount contributed by the taxpayer during the taxpayer's tax year after the participating business's application has been accepted and approved by the department. The following tax exemptions are available to participating businesses in the program:

A. Corporate franchise taxes;

B. Individual income taxes attributable to business operations at the tax-free area site;

C. Corporate organization tax and license and maintenance fees;

D. Sales and use taxes, pursuant to Title 36, chapters 213 and 215;

E. Local property taxes; and

F. State or local real estate transfer taxes.

2. Tax benefits for employees of participating businesses. Employees of participating businesses are eligible for the following:

A. Exemption from individual income taxes on the income earned from the approved business for the first 5 years; and

B. For the 2nd 5 years, exemption from paying state individual income taxes on income from the approved business for the first $100,000 of wages for single individuals, $150,000 for a head of household and $200,000 for taxpayers filing a joint return. The number of net new jobs eligible for these personal income tax benefits may not exceed 10,000 new jobs per year statewide.

3. Aggregate number of net new jobs. The income tax benefits under this subchapter may not exceed 1,000 jobs per year statewide during the period in which applications are accepted under this subchapter. The commissioner, with assistance from the Department of Administrative and Financial Services, Maine Revenue Services, shall allocate to each business accepted to locate in a tax-free area a maximum number of net new jobs that may be eligible for the personal income tax benefits described in this subchapter based on the schedule of job creation included in the application of the business. At such time as the total number of net new jobs under the approved applications reaches the applicable allowable total of aggregate net new jobs for tax benefits for the year in which the application is accepted, the commissioner shall stop granting eligibility for personal income tax benefits for net new jobs until the next year. Any business not granted personal income tax benefits for net new jobs for such reason must be granted those benefits in the next year prior to the consideration of new applicants.

4. Additional tax credits not allowed. A business that has been accepted into the program is not allowed to claim any other tax credit allowed under this chapter with respect to its activities or employees in a tax-free area.

§13120-Z. Businesses locating in tax-free areas; application and approval process

1. Application submission process. A state university or college campus that has sponsored a tax-free area, referred to in this section as "the sponsoring campus," including a strategic state asset affiliated with the campus, shall solicit and accept applications from businesses to locate in the tax-free area that are consistent with the plan of the campus or strategic state asset that has been approved pursuant to this subchapter. A business that wants to locate in a tax-free area must submit an application to the campus that is sponsoring the tax-free area by December 31, 2021. Prior to that date, the commissioner shall prepare an evaluation on the effectiveness of the program and deliver it to the Governor and the Legislature to determine continued eligibility for application submissions.

2. Application information. The sponsoring campus must provide the application and all supporting documentation of any business it decides to accept into its tax-free area to the commissioner for review. The application must be in a form prescribed by the commissioner and contain all information the commissioner determines is necessary to properly evaluate the business's eligibility, including, but not limited to, the following: the name, address and employer identification number of the business; a description of the land or space the business will use and the terms of the lease agreement, if applicable, between the sponsoring campus and the business; and whether or not the land or space being used by the business is being transferred or sublet to the business from some other business. The application must include a certification by the business that it meets the eligibility criteria specified in section 13120-U and will align with or further the academic mission of the sponsoring campus and that the business's participation in the program will have positive community and economic benefits. The application must also describe whether or not the business competes with other businesses in the same community but outside the tax-free area. In addition, the application must include a description of how the business plans to recruit employees from the local workforce or campus.

3. Determination by commissioner to accept or reject the application. The commissioner shall review a business's application and documentation within 60 days and may reject that application upon a determination that the business does not meet the eligibility criteria in section 13120-U, has submitted an incomplete application, has failed to comply with subsection 5 or has failed to demonstrate that the business's participation in the program will have positive community and economic benefits, which must be evaluated based on factors including but not limited to whether or not the business competes with other businesses in the same community but outside the tax-free area. If the commissioner rejects the application, the commissioner must provide notice of this decision to the sponsoring campus and business. If the commissioner does not reject the application within 60 days, the business is considered to be accepted to locate in the tax-free area, and the application of the business constitutes a contract between the business and the sponsoring campus. The sponsoring campus must provide accepted businesses with documentation of acceptance in a form prescribed by the commissioner.

4. Confidential information. For the purposes of Title 1, section 402, subsection 3, proprietary information or supporting documentation submitted by a business to a sponsoring campus is designated as confidential and may not be disclosed. The proprietary information and supporting documentation may be used only for the purpose of evaluating the business's application or compliance with the provisions of this subchapter.

5. Required documentation; performance benchmarks. The business submitting the application, as part of the application, must:

A. Agree to allow the Department of Administrative and Financial Services, Maine Revenue Services to share the business's tax information with the department and the sponsoring campus;

B. Agree to allow the Department of Labor to share the business's tax and employer information with the department and the sponsoring campus;

C. Allow the department and its agents and the sponsoring campus access to all books and records the department or sponsoring campus may require to monitor compliance;

D. Include performance benchmarks, including the number of net new jobs that must be created, the schedule for creating those jobs and details on job titles and expected salaries, with the application. The application must specify the consequences for failure to meet such benchmarks, as determined by the business and the sponsoring campus, which may include one or more of the following:

(1) Suspension of the business's participation in the program for one or more tax years as specified in the application;

(2) Termination of the business's participation in the program; and

(3) Proportional recovery of tax benefits awarded under the program;

E. Provide the following information to the department and sponsoring campus upon request:

(1) The prior 3 years of federal and state income or franchise tax returns, unemployment insurance quarterly returns, real property tax bills and audited financial statements; and

(2) The employer identification or social security numbers for all related persons to the business, including those of any members of a limited liability company or partners in a partnership;

F. Provide a clear and detailed presentation of all related persons to the business to assure the department that jobs are not being shifted within the State; and

G. Certify, under penalty of perjury, that the business is in substantial compliance with all environmental, worker protection and local, state and federal tax laws and that the business satisfies all the eligibility requirements to participate in the program.

6. Termination from the program. If at any time the sponsoring campus or the commissioner determines that a business no longer satisfies any of the eligibility criteria under section 13120-U, the sponsoring campus shall recommend to the commissioner that the commissioner terminate or the commissioner on the commissioner's own initiative shall immediately terminate the business's participation in the program. A copy of the termination notice must be sent to the Executive Director of Maine Revenue Services within the Department of Administrative and Financial Services. Upon termination, the business is not eligible for the tax benefits specified in this subchapter for that or any future taxable year, although employees of the business may continue to claim the tax benefit for their wages during the remainder of that taxable year. A lease or contract between the sponsoring campus and the business must be rescinded, effective on the 30th day after the commissioner mailed the termination notice to the business, and the land or space and any improvements must revert to the sponsoring campus.

7. Failure to meet performance benchmarks. If the department, with assistance from the Department of Administrative and Financial Services, Maine Revenue Services, makes a determination that a business has failed to meet its performance benchmarks under subsection 5 in accordance with its contract, the business is required to reduce the total amount of tax benefits described in section 13120-Y that the business or its owners claimed or received during the taxable year by the percentage reduction in net new jobs promised by the performance benchmarks. If the tax benefits are reduced to an amount less than zero, those negative amounts must be added back as tax. The amount required to be added back must be reported on the business's corporate franchise tax report if such business is taxed as a corporation or on the corporate franchise tax reports or personal income tax returns of the owners of such business if such business is taxed as a sole proprietorship, partnership or S corporation.

§13120-AA. Reports

Beginning January 1, 2017, the commissioner shall prepare an annual report to the Governor and the Legislature that must include the number of business applicants, number of businesses approved, names and addresses of the businesses located within a tax-free area, total amount of benefits distributed, benefits received per business, number of net new jobs created, net new jobs created per business, new investment per business, the types of industries represented and other information as the commissioner determines is necessary to evaluate the progress of the program.

Any business located in a tax-free area must submit an annual report to the commissioner in a form and at such time and with such information as prescribed by the commissioner in consultation with the Executive Director of Maine Revenue Services within the Department of Administrative and Financial Services. The information must be sufficient for the commissioner and the executive director to monitor the continued eligibility of the business and its employees to participate in the program and receive the tax benefits described in this subchapter; evaluate the progress of the program; and prepare the annual report required by this section. The annual report must also include information regarding the wages paid by the business during the year to its employees employed in the net new jobs created and maintained in the tax-free area.

§13120-BB. Conflict of interest guidelines

1. Policy requirements. A state university or college campus participating in the program shall adopt a conflict of interest policy. The conflict of interest policy must include the following provisions relating to the program:

A. An official at a state university or college campus may not use that official's position for private benefit or inurement, and a relative of the official or any entity with which the official has an interest may not use that official's position for private benefit or inurement;

B. An official of the state university or college campus who is also a vendor or employee of a vendor of goods or services to the state university or college campus or who has a business interest in that vendor or whose relative has a business interest in that vendor may not vote on or participate in the administration by the state university or college campus of any transaction with that vendor; and

C. Upon becoming aware of an actual or potential conflict of interest, an official shall advise the president or chief executive officer of the state university or college campus of the conflict of interest. Each state university or college campus must maintain a written record of all disclosures of actual or potential conflicts of interest made pursuant to this paragraph and must report the disclosures by January 31st of each year to the auditor for that campus. The auditor shall forward the conflict of interest reports to the commissioner.

For the purpose of this subsection, "relative" has the same meaning as in Title 14, section 3572. For the purpose of this subsection, "official" means a person employed by a state university or college campus in a position of authority or trust.

§13120-CC. Prohibition of anticompetitive behavior

A sponsoring state university or college campus may not accept any application from a business to locate in a tax-free area under section 13120-Z if that business would compete with other businesses in the same community but outside the tax-free area. The commissioner shall reject any application upon determining that the business competes with other businesses in the same community but outside the tax-free area.

§13120-DD. Penalties for fraudulent activity

If the commissioner, on the commissioner's initiative or on the recommendation of a sponsoring state university or college campus, finally determines that a business participating in the program has acted fraudulently in connection with its participation in the program, that business must be immediately terminated from the program. The execution by a business of an application containing false statements constitutes unsworn falsification under Title 17-A, section 453. In addition, the business must be required to add back to its taxes the total value of the tax benefits described in section 13120-Y that the business received for that year and that the employees of the business have received up to the date of those findings. The amount required to be added back must be reported on the business's corporate franchise report.

§13120-EE. Permitted disclosures

The commissioner, to the extent practicable, may disclose publicly the names and addresses of the businesses receiving any of the tax benefits specified in this subchapter. In addition, the commissioner may disclose publicly the amounts of those benefits allowed to each business, and whether or not a business created or maintained net new jobs during the taxable year, as well as the aggregate amounts of tax benefits allowed to employees. In addition, the commissioner may publicly disclose the number of net new jobs the business reports on its tax return or report or any other information necessary for the commissioner, or the state university or college campus sponsoring the tax-free area approved under this subchapter, to monitor and enforce compliance with this subchapter.

Notwithstanding any provision of this subchapter to the contrary, the Executive Director of Maine Revenue Services within the Department of Administrative and Financial Services in determining whether a business or any of its owners is entitled to the tax benefits described in section 13120-Y may use and if necessary obtain from the commissioner information derived from the tax returns of that business and wage reporting information relating to employees of that business or its related persons.

§13120-FF. Start Maine Up Approval Board

The Start Maine Up Approval Board, established in Title 5, section 12004-G, subsection 7-G, is established to advise the department in accordance with section 13120-V.

1. Membership. The approval board is composed of 3 members, one each appointed by the Governor, the President of the Senate and the Speaker of the House of Representatives. Each member of the board must have significant expertise and experience in academic-based economic development and may not have a personal interest in any project that comes before the board.

2. Terms. All members serve a term of office of 2 years. Vacancies in membership must be filled in the same manner as the original appointment.

3. Duties; rules. The approval board, by majority vote, shall designate up to 20 strategic state assets as tax-free areas pursuant to section 13120-V that must be affiliated with a state university or college campus. This designation must be supported by the affiliated state university or college campus.

Sec. 3. 36 MRSA §1760, sub-§96 is enacted to read:

96. Property purchased in Start Maine Up Program. Sales of property purchased and used directly and exclusively for a business that is located in a tax-free area, as defined in Title 5, section 13120-S, subsection 11 and that has been accepted by the Commissioner of Economic and Community Development under the Start Maine Up Program pursuant to Title 5, chapter 383, subchapter 10. The credit or refund is allowed for 120 consecutive months beginning with the month during which the business locates in the tax-free area.

Sec. 4. 36 MRSA §1866 is enacted to read:

§1866. No use tax on property located in the Start Maine Up Program

A sales or use tax may not be imposed on the retail sale of tangible personal property or a service, the sale of which would be subject to tax under section 1764 or 1811, that is directly and exclusively for a business located in a tax-free area, as defined in Title 5, section 13120-S, subsection 11, that has been accepted by the Commissioner of

Economic and Community Development under the Start Maine Up Program pursuant to Title 5, chapter 383, subchapter 10. The credit is allowed for 120 consecutive months beginning with the month during which the business locates in the tax-free area.

Sec. 5. 36 MRSA §4641-C, sub-§19, as amended by PL 2001, c. 559, Pt. I, §7 and affected by §15, is further amended to read:

19. Change in identity or form of ownership. Any transfer of real property, whether accomplished by deed, conversion, merger, consolidation or otherwise, if it consists of a mere change in identity or form of ownership of an entity. This exemption is limited to those transfers when no change in beneficial ownership is made and may include transfers involving corporations, partnerships, limited liability companies, trusts, estates, associations and other entities; ~~and~~

Sec. 6. 36 MRSA §4641-C, sub-§20, as enacted by PL 2001, c. 559, Pt. I, §8 and affected by §15, is amended to read:

20. Controlling interests. Transfers of controlling interests in an entity with a fee interest in real property if the transfer of the real property would qualify for exemption if accomplished by deed of the real property between the parties to the transfer of the controlling interest~~.~~; and

Sec. 7. 36 MRSA §4641-C, sub-§21 is enacted to read:

21. Certain deeds to a business conveyed in a tax-free area. Any lease or transfer of real property to a business located in a tax-free area, as defined in Title 5, section 13120-S, subsection 11, that has been accepted by the Commissioner of Economic and Community Development under the Start Maine Up Program pursuant to Title 5, chapter 383, subchapter 10.

Sec. 8. 36 MRSA §5219-NN is enacted to read:

§5219-NN. Start Maine Up tax credit

1. Business credit allowed. Any business or owner of a business, in the case of a business taxed as a sole proprietorship, partnership or S corporation, that is located in a tax-free area, as defined in Title 5, section 13120-S, subsection 11, and that has been accepted by the Commissioner of Economic and Community Development under the Start Maine Up Program pursuant to Title 5, chapter 383, subchapter 10 is allowed a credit in the amount of 100% of any amount of the tax that would otherwise be due under this Part contributed by the business at the location within the tax-free area during the taxable year. In order to be eligible for these tax benefits during any taxable year, calendar quarter or sales tax quarter, the business must be approved to participate in the program, must operate at the approved location in the tax-free area and must satisfy the eligibility criteria specified in Title 5, chapter 383, subchapter 10.

2. Employee credit allowed. The wages paid by a business located in a tax-free area to employees employed in the tax-free area are allowed as a credit against the tax imposed by this Part in accordance with the following provisions:

A. The employee when employed by the business must be engaged in work performed exclusively at the location within the tax-free area during the tax year;

B. The employee when employed by the business must be engaged in work at the location of the business within the tax-free area for at least 1/2 of the tax year; and

C. The employee must be employed by the business in a net new job created by the business in the tax-free area. For the purposes of this paragraph, "net new job" has the same meaning as in Title 5, section 13120-S, subsection 4.

The credit allowed under this subsection is allowed for 120 consecutive months beginning with the month during which the business locates in the tax-free area.

Sec. 9. Tax provisions; application dates. That section of this Act that amends the Maine Revised Statutes, Title 36, section 5219-NN applies to tax years beginning on or after January 1, 2016; those sections of this Act that amend Title 36, section 1760, subsection 96 and Title 36, section 1866 apply to sales tax quarters beginning on or after March 1, 2016; and that section of this Act that applies to real estate transfers under Title 36, section 4641-C, subsection 21 applies to transactions occurring on or after January 1, 2016.

SUMMARY

This bill establishes the Start Maine Up Program in the Department of Economic and Community Development to encourage and promote economic development by providing tax-free economic incentives for approved businesses that create operations in, expand within or relocate in designated areas of vacant land located at state university campuses or community college campuses in the State as long as the businesses demonstrate future positive community and economic benefits for the State. The department is responsible for administering the program in conjunction with the University of Maine System, the Maine Maritime Academy and the Maine Community College System.