



# 130th MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2021

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Legislative Document

No. 1650

S.P. 537

In Senate, May 5, 2021

### **An Act To Create the Small Business Capital Savings Account Program**

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Received by the Secretary of the Senate on May 3, 2021. Referred to the Committee on Innovation, Development, Economic Advancement and Business pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator STEWART of Aroostook.  
Cosponsored by Representative: DUNPHY of Old Town.

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 Capital Savings Account Program**

4 **1. Program established.** The Small Business Capital Savings Account Program is  
5 established within and administered by the department to certify businesses as eligible for  
6 a tax deduction under Title 36, section 5122, subsection 2, paragraph XX or Title 36,  
7 section 5200-A, subsection 2, paragraph JJ for contributions made to small business capital  
8 savings accounts.

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

11 A. "Capital expenditure" means an expenditure for the acquisition of items that are  
12 depreciable under the United States Internal Revenue Code of 1986.

13 B. "Eligible small business" means a business that:

14 (1) Is subject to taxation under Title 36, Part 8;

15 (2) Has its business headquarters in the State;

16 (3) Is a C corporation, an S corporation or a sole proprietorship;

17 (4) Has no more than 99 full-time equivalent employees;

18 (5) Has its primary business activities in farming, fishing or forestry industries;

19 (6) Makes contributions in accordance with Title 26, section 1221; and

20 (7) Is determined by the department to have established no more than one small  
21 business capital savings account.

22 C. "Program" means the Small Business Capital Saving Account Program established  
23 in subsection 1.

24 D. "Small business capital savings account" means a savings account established in  
25 the State by an eligible small business at a financial institution as defined in Title 36,  
26 section 5206-D, subsection 8.

27 **3. Certification of businesses.** The department shall certify up to 10 eligible small  
28 businesses in each of the following industry categories:

29 A. Commercial agricultural production as defined in Title 36, section 2013, subsection  
30 1, paragraph A;

31 B. Commercial fishing as defined in Title 36, section 2013, subsection 1, paragraph  
32 B; or

33 C. Commercial wood harvesting as defined in Title 36, section 2013, subsection 1,  
34 paragraph B-1.

35 If there are not 10 eligible small businesses in one of the industry categories specified in  
36 paragraphs A to C, the department may certify eligible small businesses in one of the other  
37 industry categories, but the total number of eligible small businesses certified may not  
38 exceed 30. If there are more than 10 eligible small businesses in an industry category, the

1 department shall give priority in the order in which the businesses are determined to be  
2 eligible.

3 **4. Requirements for small business capital savings accounts.** A small business  
4 capital savings account must:

5 A. Have as its sole purpose the accumulation of capital to be used for capital  
6 expenditures by the eligible small business;

7 B. Maintain a balance that does not exceed \$250,000;

8 C. Provide that withdrawals from the account may be used only for capital  
9 expenditures by the eligible small business; and

10 D. Provide that all funds in the account must be withdrawn within one year of the  
11 dissolution of the business.

12 **5. Certification of withdrawals.** An eligible small business shall notify the  
13 department of all withdrawals from a small business capital savings account and provide  
14 information required by the department to verify the use of the funds withdrawn. The  
15 department shall annually certify all withdrawals made by an eligible small business for  
16 capital expenditures.

17 **6. Notification to the Bureau of Revenue Services.** The department shall notify the  
18 Department of Administrative and Financial Services, Bureau of Revenue Services  
19 annually of all eligible small businesses certified under subsection 3 that continue to meet  
20 the conditions of eligibility during the calendar year and withdrawals certified under  
21 subsection 5 for eligible small businesses and provide any other information necessary for  
22 the bureau to determine a taxpayer's eligibility for the tax deduction under Title 36, section  
23 5122, subsection 2, paragraph XX or Title 36, section 5200-A, subsection 2, paragraph JJ.

24 **7. Rules; other requirements.** The department, in consultation with the Department  
25 of Administrative and Financial Services, Bureau of Revenue Services, shall adopt routine  
26 technical rules, as defined in Title 5, chapter 375, subchapter 2-A, to implement this  
27 section. The department may establish any other guidelines or requirements necessary for  
28 the operation of the program.

29 **8. Report.** The department shall submit a report to the joint standing committee of  
30 the Legislature having jurisdiction over taxation matters by December 15, 2023 that  
31 includes data demonstrating the extent of business participation in the program, including  
32 the number of businesses certified as eligible for the tax deductions under Title 36, section  
33 5122, subsection 2, paragraph XX and Title 36, section 5200-A, subsection 2, paragraph  
34 JJ, the amount of savings contributed by eligible small businesses to small business capital  
35 savings accounts during each year and the amount of withdrawals by eligible small  
36 businesses each year for capital expenditures. The report must contain the department's  
37 analysis of the success of the program and a recommendation regarding whether the  
38 program should be continued. The committee may submit legislation related to the report  
39 to the Second Regular Session of the 131st Legislature.

40 **9. Application.** This section applies to tax years beginning on or after January 1,  
41 2021.

42 **10. Repeal.** This section is repealed December 31, 2024. After that date no new  
43 contributions may be made to a small business capital savings account.

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**Sec. 2. 36 MRSA §5122, sub-§1, ¶PP** is enacted to read:  
PP. The amount of funds withdrawn from a small business capital savings account established under Title 5, section 13100-A if the funds are not used during the tax year for capital expenditures. This paragraph applies to tax years beginning on or after January 1, 2021.

This paragraph is repealed December 31, 2024.

**Sec. 3. 36 MRSA §5122, sub-§2, ¶XX** is enacted to read:  
XX. An amount up to \$250,000 in the tax year contributed to a small business capital savings account by an eligible small business certified by the Department of Economic and Community Development under Title 5, section 13100-A, subsection 3 and used for capital expenditures. This paragraph applies to tax years beginning on or after January 1, 2021.

This paragraph is repealed December 31, 2024.

**Sec. 4. 36 MRSA §5200-A, sub-§1, ¶II** is enacted to read:  
II. The amount of funds withdrawn from a small business capital savings account established under Title 5, section 13100-A if the funds are not used during the tax year for capital expenditures. This paragraph applies to tax years beginning on or after January 1, 2021.

This paragraph is repealed December 31, 2024.

**Sec. 5. 36 MRSA §5200-A, sub-§2, ¶JJ** is enacted to read:  
JJ. An amount up to \$250,000 in the tax year contributed to a small business capital savings account by an eligible small business certified by the Department of Economic and Community Development under Title 5, section 13100-A, subsection 3 and used for capital expenditures. This paragraph applies to tax years beginning on or after January 1, 2021.

This paragraph is repealed December 31, 2024.

### SUMMARY

This bill establishes the Small Business Capital Savings Account Program in the Department of Economic and Community Development to certify businesses eligible to claim a tax deduction for contributions made to qualifying small business capital savings accounts to be used for capital expenditures. The bill creates the tax deduction and establishes that withdrawals from the savings accounts are taxable income if not used for capital expenditures.