

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
108TH LEGISLATURE
THIRD SPECIAL SESSION

(Filing No. H-1299)

COMMITTEE AMENDMENT "B" to H.P. 2349, L. D. 2215,
Bill, "AN ACT Providing for a Jobs and Investment Tax
Credit."

Amend the Bill by striking out everything after the
enacting clause and inserting in its place the following:

'36 MRSA §§5214 and 5215 are enacted to read:

§5214. Legislative findings and purpose

The Legislature finds the encouragement of the growth of
major industry in the State of Maine to be in the public interest
and for the promotion of the general welfare of the people of
the State of Maine; and that the use of investment tax credits
to encourage industry to make substantial capital investments
in the State of Maine is necessary to promote the purpose of the
Legislature of encouraging the growth of industry; and that
the Legislature further finds that the selecting of limits
of \$5,000,000 in qualified investment in the State of Maine
and an increase of a new job credit base of \$1,200,000 for a
taxable year are reasonable qualifying criteria for the application
of an investment tax credit and will best promote substantial
capital investment in the State of Maine.

§5215. Jobs and investment tax credit

1. Credit allowed. A taxpayer, other than a public utility, as defined by Title 35, section 15, shall be allowed a credit to be computed as hereinafter provided against the tax imposed by this Part, subject to the limitations contained in subsection 3. The amount of the credit shall equal the qualified federal credit, as defined in subsection 2, for taxable years beginning on or after January 1, 1979.

2. Definitions. As used in this section and in section 5214 unless the context otherwise indicates, the following terms shall have the following meanings.

A. The term "qualified federal credit" means with respect to any taxable year, that portion of the credit allowed by the Internal Revenue Code, Section 38 without regard to the limitations imposed by the Internal Revenue Code, Section 46 (a) (3), which is directly and solely attributable to qualified investment with a situs in this State and placed in service by the taxpayer after January 1, 1979.

B. The term "new jobs credit base" means the excess of Maine Employment Security Commission wages for the taxable year over the Maine Employment Security Commission wages for the highest of the 3 preceding taxable years. In computing its new jobs credit base, a successor-taxpayer shall add to its own Maine Employment Security Commission wages the Maine Employment Security Commission wages of its predecessor.

C. The term "Maine Employment Security Commission wages" means the total amount of wages paid by an employer

subject to tax under Title 26, section 1221, less any excesses attributable to statutory increases.

D. "Successor-taxpayer" means any taxpayer which has acquired within 4 years of its taxable year end in 1978 the organization, trade or business, or 50% or more of the assets thereof, of another taxpayer which, at the time of the acquisition, was an employing unit.

3. Limitations. The tax credit for any taxable year shall be applicable only to those taxpayers:

A. With property considered to be qualified investment of at least \$5,000,000 for that taxable year with a situs in Maine and placed in service by the taxpayer after January 1, 1979; and

B. With a new jobs credit base which increases by at least \$1,200,000 for the taxable year of the qualified federal credit and is attributable to the operation of property considered to be a qualified investment. The \$1,200,000 is to be adjusted proportionally for any change in Title 26, section 1043, subsection 2 wages from \$6,000.

4. Carryover. The amount of credit that may be used by a taxpayer for any taxable year shall not exceed either \$300,000 or the amount of tax otherwise due, whichever is less. Any unused credit may be carried over to the following year or years for a period not to exceed 7 years, including the year the credit was first taken, and may be deducted

from the taxpayer's tax for such year or years, subject to the same limitations provided herein.

5. Carryback. There shall be no carryback to prior years of the amount of credit allowable under this section.

6. Recapture. If during any taxable year any qualified investment property is disposed of, or otherwise ceases to be property covered by subsection 2, paragraph A with respect to the taxpayer, before the end of the useful life which was taken into account in computing the credit under subsection 1, then the tax under this Part for that taxable year shall be increased by an amount equal to the aggregate decrease in the credit allowed under subsection 1 for all prior taxable years which would have resulted solely from substituting for the useful life, in determining qualified investment under the Internal Revenue Code, the period beginning with the time the property was placed in service by the taxpayer and ending with the time the property ceased to be property covered by subsection 2.

7. Recapture for employee reduction. If, for any taxable year in which a taxpayer could use a credit received under subsection 1, the employer reduces the employment by which he qualified for the credit, below the minimum qualifying employment level in subsection 3, the taxpayer may not use any credit available for that taxable year.

8. Provision for repeal. This section shall be repealed on January 15, 1982, except for the following provisions:

A. Tax credit carryover to subsequent years pursuant to subsection 4; and

B. Recapture provisions of subsections 6 and 7.

Statement of Fact

This amendment makes the following changes:

1. Requires the new job credit base to reflect an increase in employment over the highest level of the 3 preceding years;

2. Includes all public utilities in the exemption from tax credit;

3. Insures that Federal limitations on the investment tax credit will not apply;

4. This bill refers to Title 36, section 5213 for the definition of "jobs credit base." Since section 5213 will be repealed in 1980, that definition has been clarified and placed in ^{section 5215,} subsection 2, of the bill;

5. ^{Section 5215,} ~~Subsection 4,~~ has been reworded to clarify the intent to place a maximum annual ceiling of \$300,000 per year on the tax credit;

6. Section 5215, subsection 7 has been added to provide that in any year an employer reduces employment below the minimum level of 200 employees, that employer would be denied the use of any available carryover credit for that year.

7. Section 5215, subsection 8, repeals the bill on January 15, 1982.

Reported by Report "B" of the Committee on Taxation
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