

# MAINE STATE LEGISLATURE

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(Governor's Bill)  
FIRST REGULAR SESSION

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ONE HUNDRED AND TENTH LEGISLATURE

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**Legislative Document**

**No. 1529**

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S. P. 558

In Senate, April 9, 1981

Referred to the Committee on Taxation. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary of the Senate

Presented by Senator Pray of Penobscot.

Cosponsors: Representative Ingraham of Houlton, Representative Carter of Winslow and Representative K. Brown of Bethel.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

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**AN ACT to Expand the Jobs and Investment Income Tax Credit.**

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

Sec. 1. **36 MRSA § 5214**, as enacted by PL 1977, c. 722, is repealed.

Sec. 2. **36 MRSA § 5215**, as amended by PL 1979, c. 541, Pt. A, § 237, is further amended to read:

**§ 5215. Jobs and investment credit**

1. **Credit.** A For taxable years beginning on or after January 1, 1981 and before January 1, 1986, a qualified taxpayer ~~other than a public utility, as defined by Title 35, section 15, shall be~~ is 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 in the amount of the credit shall equal the qualified taxpayer's adjusted federal credit as defined in subsection 2, for taxable years beginning on or after January 1, 1979~~ except that the credit which may be used by a taxpayer in any taxable year may not exceed \$300,000 or the amount of tax otherwise due, whichever is less.

2. **Definitions.** As used in this section unless the context otherwise indicates, the following terms ~~shall~~ have the following meanings—.

A. ~~The term "qualified~~ **"Adjusted 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 the investment with a situs in this State and placed in service by the taxpayer after January 1, 1979 by which the taxpayer meets the requirement of paragraph E, subparagraph (2).~~

B. ~~The term "new~~ **"New jobs credit base"**, with respect to any taxable year, means the excess of ~~Maine Employment Security Commission the taxpayer's MESC wages for the that taxable year over the Maine Employment Security Commission taxpayer's highest MESC wages for the highest any of the 3 preceding taxable years less any excess attributable to a statutory increase in the maximum amount of wages per employee prescribed in Title 26, section 1043, subsection 2 for use in computing "annual payroll". In computing its new jobs credit base, a successor-taxpayer shall add to its own Maine Employment Security Commission MESC wages the Maine Employment Security Commission MESC wages of its predecessor.~~

C. ~~The term "Maine Employment Security Commission~~ **"MESC wages"**, with respect to any employer, means the total amount of wages paid by ~~and that employer which are 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 the 4 taxable years ~~of its preceding the taxable year end in 1978 for which the credit is sought,~~ 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.

E. **"Qualified taxpayer"** means a taxpayer which:

- (1) Is not a public utility as defined by Title 35, section 15;
- (2) Is not subject to any excise tax imposed by this State upon engaging in the mining of minerals;
- (3) During the taxable year for which the credit is sought or the preceding taxable year, invests in and places in service property, as described in the Internal Revenue Code, Section 38, constituting a qualified investment of at least \$5,000,000 which has a situs in Maine;
- (4) During one of the 2 taxable years specified in subparagraph (3), has a new jobs credit base of at least \$1,200,000 which is attributable to the operation of that property described in the Internal Revenue Code, Section 38; and
- (5) Has not previously claimed the credit provided by this section, with respect to either the investment by which it meets the requirement of subparagraph (3) or the new jobs credit base by which it meets the requirement of subparagraph (4).

Qualified investment in excess of \$5,000,000 in the taxable year in which the taxpayer meets the requirement of subparagraph (3) may be applied toward the new jobs credit base requirement and new jobs credit base in excess of \$1,200,000 in the taxable year in which the taxpayer meets the requirement of subparagraph (4) may be applied toward the investment requirement at the rate of \$240,000 in new jobs credit base to \$1,000,000 in qualified investment, except that a taxpayer may not qualify for the credit with a qualified investment of less than \$1,000,000 or a new jobs credit base of less than \$240,000. The new jobs credit base requirements and the rate at which new jobs credit base and qualified investment may be substituted for one another shall be adjusted proportionally for any change from \$6,000 in the maximum amount of wages per employee prescribed in Title 26, section 1043, subsection 2 for use in computing "annual payroll" except to the extent that the change has been adjusted for in paragraph B.

~~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 Subject to the limitations provided in subsection 1, unused credit may be carried over to the following year or years for a period not to exceed 7 years, including the first year of qualification for 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. ~~Unused credit may not be carried back to prior years of the amount of credit allowable under this section.~~

~~6. Recapture.~~ If, during any taxable year, any qualified investment property from which this credit arises is disposed of, or otherwise ceases to be property covered by subsection 2, paragraph A constitute qualified investment with a situs in Maine, 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~~ constitute qualified investment with a situs in Maine.

7. **Legislative findings and purpose.** The Legislature finds the encouragement of the growth of major industry in the State to be in the public interest and for the promotion of the general welfare of the people of the State; that the use of investment tax credits to encourage industry to make substantial capital investments in the State is necessary to promote the purpose of the Legislature of encouraging the growth of industry; and that a significant investment in the State in a taxable year, when accompanied by a significant increase in jobs provided in the State in the same or an adjoining taxable year, is a reasonable qualifying criteria for an investment tax credit and will best promote substantial capital investment in the State.

8. **Additional credit for depressed areas.** A qualified taxpayer whose qualified investment which meets the requirement of subsection 2, paragraph E, subparagraph (3) has a situs in a municipality which, for 2 of the 3 complete calendar years immediately preceding the first of the 2 taxable years stated in that subparagraph, had an unemployment rate certified by the Commissioner of Manpower Affairs or his designee to be greater than the average unemployment rate for the State, or in an unorganized territory contiguous to such a municipality, shall be allowed an additional credit in an amount equal to the credit to which that taxpayer is entitled under subsection 1, provided that the aggregate of both credits which may be used in any taxable year shall not exceed \$300,000 or the amount of tax otherwise due, whichever is less.

#### STATEMENT OF FACT

This bill would broaden the present jobs and investment income tax credit provision by allowing the investment and job creation requirements to be met in either of 2 consecutive years rather than in one year and by allowing those requirements to be met by substituting investment for job creation or job creation for investment at the rate of 40 jobs, \$240,000 in MESC wages, to \$1,000,000 in investment. Minimum requirements for the credit would be \$1,000,000 in investment, with 360 jobs created, or 40 jobs created, with \$9,000,000 in investment.