

# MAINE STATE LEGISLATURE

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(EMERGENCY)  
THIRD SPECIAL SESSION

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ONE HUNDRED AND THIRTEENTH LEGISLATURE

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Legislative Document

NO. 2693

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H.P. 1991 House of Representatives, September 15, 1988  
Approved for introduction by a majority of the  
Legislative Council pursuant to Joint Rule 26.  
Reference to the Committee on Taxation suggested and  
ordered printed.

EDWIN H. PERT, Clerk

Presented by Speaker MARTIN of Eagle Lake.

Cosponsored by Senators CLARK of Cumberland, EMERSON of  
Penobscot, and Representative DORE of Auburn.

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STATE OF MAINE

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

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1 AN ACT to Clarify the Maine Jobs and  
2 Investment Tax Credit Law.  
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4 Emergency preamble. Whereas, Acts of the  
5 Legislature do not become effective until 90 days  
6 after adjournment unless enacted as emergencies; and

7 Whereas, the Maine jobs and investment tax credit  
8 law was enacted by Public Law 1978, chapter 722 to  
9 allow a credit against income taxes for businesses

1 making an investment of at least \$5,000,000 in Maine  
2 and creating at least 200 new jobs as a result of that  
3 investment; and

4 Whereas, the jobs and investment tax credit law  
5 contains certain technical deficiencies; and

6 Whereas, these deficiencies are defeating the  
7 original intent of the law; and

8 Whereas, in the judgment of the Legislature, these  
9 facts create an emergency within the meaning of the  
10 Constitution of Maine and require the following  
11 legislation as immediately necessary for the  
12 preservation of the public peace, health and safety;  
13 now, therefore,

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

16 Sec. 1. 36 MRSA §5215, sub-§2, ¶B, as enacted  
17 by PL 1977, c. 722, is amended to read:

18 B. The term "new jobs credit base" means the  
19 excess of Maine Employment Security Commission  
20 wages for the taxable year of the qualified  
21 investment or the next calendar year over the  
22 Maine Employment Security Commission wages for the  
23 highest of the 3 preceding taxable calendar  
24 years preceding the year of the qualified  
25 investment. In computing its new jobs credit base,  
26 a successor-taxpayer shall add to its own Maine  
27 Employment Security Commission wages the Maine  
28 Employment Security Commission wages of its  
29 predecessor.

30 Sec. 2. 36 MRSA §5215, sub-§3, ¶B, as amended  
31 by PL 1985, c. 535, §17, is further amended to read:

32 B. With a payroll records and reports  
33 substantiating that at least 200 new jobs,  
34 attributable to the operation of property  
35 considered to be a qualified investment, were  
36 created in the 12-month period following the date  
37 the property was placed in service. To assess the

1 continuing nature of the jobs, the taxpayer shall  
2 demonstrate that the new jobs credit base which  
3 increases by is at least \$1,400,000 for the  
4 taxable year of the qualified federal credit and  
5 is attributable to the operation of property  
6 considered to be a qualified investment or the  
7 next calendar year. The \$1,400,000 is to be  
8 adjusted proportionally for any change in Title  
9 26, section 1043, subsection 2 wages from \$7,000.

10 Sec. 3. 36 MRSA §5215, sub-§7, as amended by PL  
11 1985, c. 535, §18, is further amended to read:

12 7. Legislative findings. The Legislature finds  
13 the encouragement of the growth of major industry in  
14 the State to be in the public interest and for the  
15 promotion of the general welfare of the people of the  
16 State; and that the use of investment tax credits to  
17 encourage industry to make substantial capital  
18 investments in the State is necessary to promote the  
19 purpose of the Legislature of encouraging the growth  
20 of industry; and that the Legislature further finds  
21 that the selecting of limits of \$5,000,000 in  
22 qualified investment in the State and an increase of  
23 a new job credit base of \$1,400,000 for a taxable  
24 year 200 new jobs following the investment are  
25 reasonable qualifying criteria for the application of  
26 an investment tax credit and will best promote  
27 substantial capital investment in the State.

28 Sec. 4. Effective date. This Act shall apply  
29 to all tax returns for tax years beginning on or after  
30 January 1, 1985, notwithstanding prior amendments to  
31 the law.

32 Emergency clause. In view of the emergency  
33 cited in the preamble, this Act shall take effect when  
34 approved.

35 STATEMENT OF FACT

36 The purpose of this bill is to clarify and conform  
37 the present statute which allows businesses to claim a  
38 jobs and investment tax credit to the original intent  
39 of the Legislature in creating the jobs and investment  
40 tax credit.

1 The law was intended to provide an incentive, in  
2 the form of a credit against state income taxes, to  
3 those businesses situated within the State that  
4 invested at least \$5,000,000 in the acquisition and  
5 use of property and created at a minimum 200 new jobs  
6 directly related to the \$5,000,000 investment.

7 The present statute contains a mechanical test to  
8 determine whether a business has in fact created a  
9 minimum of 200 new jobs. This test requires that the  
10 taxpayer's Maine Employment Security Commission wage  
11 base increase by at least \$1,400,000 (200 X \$7,000 =  
12 \$1,400,000) during the taxable year for which the  
13 credit is sought over the highest taxable wage base  
14 for the 3 preceding taxable years.

15 This test does not in actuality determine whether  
16 or not a business has created 200 new jobs in  
17 conjunction with the \$5,000,000 property investment,  
18 especially when the investment and 200 new jobs occur  
19 at or near the end of the taxpayer's calendar or  
20 fiscal year.

21 This bill modifies the taxable wage base test with  
22 a more direct test to determine whether 200 new jobs  
23 were created.

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