114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document **No. 626**

H.P. 461 House of Representatives, March 6, 1989

Reference to the Committee on Taxation suggested and ordered printed.

Ed Pert
EDWIN H. PERT, Clerk

Presented by Representative CASHMAN of Old Town.

STATE OF MAINE

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

An Act to Encourage Industry to Maintain and Modernize Machinery and Equipment.

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

Sec. 1. 36 MRSA §5219-C is enacted to read:

§5219-C. Investment tax credit

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Directly" has the same meaning as defined in section 1752, subsection 2-A.

B. "Investment credit base" means the total cost or other basis, for federal income tax purposes, of the taxpayer as of the date placed in service by the taxpayer of all machinery and equipment which was placed in service for the first time in this State by the taxpayer or other person during any of the prior 7 taxable tax years, excluding the cost or other basis of machinery and equipment placed in service in this State prior to January 1, 1989. In the case of a combined report, the term investment credit base means the sum of the investment credit bases for all corporations included in the report.

C. "Machinery and equipment" has the same meaning as defined in section 1752, subsection 7-B, with a situs in Maine:

(1) The cost or other basis of which is subject to an allowance for depreciation under Sections 167 and 168 of the Code by the taxpayer as of the last day of the immediately prior taxable year or would have been subject to an allowance for depreciation under Sections 167 and 168 of the Code by the taxpayer as of that date, but for the fact that the property had been fully depreciated; and

(2) Which is used directly and primarily in the production of tangible personal property, which property is intended to be sold or leased ultimately for final use or consumption.

D. "Primarily" has the same meaning as defined in section 1752, subsection 9-A.

E. "Production" has the same meaning as defined in section 1752, subsection 9-B.

2. Credit allowed. A taxpayer is allowed a credit against the tax imposed by this Part for each taxable year equal to 1.5% of the investment credit base of the taxpayer. In the case of an affiliated group of corporations engaged in a unitary business, the credit shall be applied against the total tax liability of all the taxable corporations in the affiliated group and shall be apportioned among those taxable corporations in the same proportion as the tax liability each taxable corporation bears to the total tax liability of all the taxable corporations.

3. Limitation. The credit allowed by subsection 2 for the taxable year, plus any credit carry-forward or carry-back to the taxable year allowed by subsection 5, shall not exceed so much of the tax liability of the taxpayer or the total tax liability of all taxable corporations that are members of an affiliated group engaged in a unitary business, for the taxable year as does not exceed $25,000 plus 75% of so much of the tax liability for the taxable year as exceeds $25,000.

4. Partnerships and S corporations. In the case of machinery and equipment held by a partnership or an S corporation, the term taxpayer as used in subsection 1 means the partnership or S corporation. For the purposes of this section, a partner of a partnership shall have an investment credit base determined by multiplying the investment credit base of the partnership by the partner's percentage interest in the taxable income or loss of the partnership for federal income tax purposes for the taxable year and a shareholder of an S corporation shall have an investment credit base determined by multiplying the investment credit base of the S corporation by the shareholder's percentage share of the stock of the S corporation as of the end of the taxable year.

5. Carry-forward and carry-back. If the sum of the amount of the credit allowed for any taxable year under subsection 2, plus the amount of any credit carry-forwards or carry-backs to the taxable year exceeds the amount of the limitation imposed by subsection 3, for that taxable year, that excess attributable to the credit allowed for the taxable year under subsection 2, may be carried back for no more than 3 years and may be carried forward for no more than 15 years and, subject to the provisions of subsection 3, may be applied as a credit against the tax imposed by this Part for the taxable year or years to which carried. The entire amount of the unused credit shall be carried to the earliest of the taxable years to which, by reason of this subsection, the credit may be carried and then to each of the other taxable years to the extent the unused credit may not be used for a prior taxable year due to the provisions of subsection 3.

Sec. 2. Application. This Act shall apply to tax years ending on or after July 1, 1990, but any unused credit may be carried back to tax years ending prior to July 1, 1990, in accordance with the Maine Revised Statutes, Title 36, section 5219-C, subsection 5.

STATEMENT OF FACT

Maine manufacturers provide many jobs which are important to Maine workers. In addition, these manufacturers are of great importance to the general economic well-being of the State. In order for Maine manufacturers to continue to provide jobs and benefit the economy of the State, it is critical that they purchase machinery and equipment to maintain and modernize their production facilities. Manufacturers in many other states enjoy exemptions from property tax on machinery and equipment used in manufacturing. Maine manufacturers do not have the benefit of these exemptions and, therefore, are at a competitive disadvantage. This bill provides an investment tax credit of 1.5% of the cost of machinery and equipment which can be applied against the manufacturer's income tax liability for 7 years. While this does not place Maine manufacturers on the same footing as manufacturers in states which totally exempt manufacturing machinery and equipment from property taxation, it will help to offset some of the competitive advantages which out-of-state manufacturers enjoy due to property tax exemptions.