

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2430

S.P. 960

In Senate, March 19, 1992

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator COLLINS of Aroostook (GOVERNOR'S BILL).

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-TWO

An Act to Establish Economic Recovery Tax Credits.

(EMERGENCY)



2 **§5219-I. One-time investment tax credit**

4 **1. Definitions.** For purposes of this section, "qualified
6 machinery and equipment" means machinery and equipment of which
 no prior use has been made and depreciable telemarketing personal
8 property when the business first began operation in this State
 during the taxable year. For purposes of this section, the terms
10 "machinery and equipment" and "depreciable telemarketing personal
 property" and have the same meanings as set out in section 5219-K.

12 **2. Credit allowed.** A taxpayer is allowed a credit against
14 the tax imposed by this Part in the amount of 20% of the total
 original basis for federal income tax purposes, without
16 adjustment, of qualified machinery and equipment purchased by the
 taxpayer during the taxable year. The credit is allowed only for
18 the taxable year in which the qualified property on which the
 credit is based is first claimed by the taxpayer for depreciation
20 purposes under the Code. The credit exists only for taxable
 years beginning on or after July 1, 1992 but no later than June
22 30, 1993.

24 **3. Adjustments.** If property on which credit has been taken
26 is disposed of or ceases to be in qualified use prior to the end
 of its useful life, the difference between the credit taken and
28 the credit allowed for actual use is added back as additional tax
 due in the year of disposition but, if that property is disposed
30 of or ceases to be in qualified use after it has been in
 qualified use for more than 12 consecutive years, it is not
32 necessary to add back any portion of the credit. The amount of
 credit allowed for actual use is determined by multiplying the
34 original credit by the ratio the months of qualified use bear to
 the months of useful life. For the purposes of this paragraph,
36 "useful life of property" has the same meaning as that used for
 depreciation purposes when computing federal income tax liability.

38 **§5219-J. Jobs training tax credit**

40 A taxpayer is allowed a credit against the tax imposed in
 this Part in the amount of 50% of the amount of educational
42 assistance as defined in section 127 of the Code that qualifies
 for exclusion from the gross income of employees of the taxpayer
44 for the taxable year. The credit allowed is limited to \$1,000
 per employee for the taxable year.

46 **§5219-K. Investment tax credit**

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

2 A. "Cumulative investment" means for the current taxable
4 year the sum of the property investment for all prior
6 consecutive taxable years to a limit of 9 taxable years,
8 after the exclusion of any property investment amount
 attributable to property that has been disposed of by the
 taxpayer or ceases to be in qualified use prior to the end
 of its useful life, plus the property investment for the
 current taxable year.

10 B. "Cumulative investment base" means for the current
12 taxable year the sum of the investment base for all prior
14 consecutive taxable years to a limit of 9 taxable years plus
 the investment base for the current taxable year. The
 investment base for prior years must be recalculated to
16 exclude property that has been disposed of by the taxpayer
 or ceases to be in qualified use prior to the end of its
18 useful life.

20 C. "Depreciable telemarketing personal property" means
22 tangible personal property with a situs in the State as of
 the last day of the taxable year that is used by the owner
24 directly and primarily in telemarketing, was first placed in
 service in this State during the taxable year and was
26 subject to an allowance for depreciation under the Code by
 the owner as of the last day of the taxable year.

28 D. "Directly" means directly as defined in section 1752,
 subsection 2-A.

30 E. "Gross receipts" means the taxpayer's gross business
32 receipts for federal income tax purposes.

34 F. "Investment base" means for the current taxable year an
 amount that is the greater of:

36 (1) An amount determined by multiplying the taxpayer's
38 gross receipts for the current taxable year by the
40 taxpayer's investment receipts ratio for the current
 taxable year, except that for taxpayers with a business
42 with less than 5 completed taxable years in this State
 this amount is zero; or

44 (2) An amount determined by multiplying the taxpayer's
46 limitation factor for the current taxable year by the
 taxpayer's property investment for the current taxable
48 year.

50 G. "Investment receipts ratio" means for the taxable year
 an amount that is determined by dividing the taxpayer's

2 total property investment for the 4 prior taxable years by
3 the taxpayer's total gross receipts for the 4 prior taxable
4 years. If the taxpayer has been in business in this State
5 for less than 4 taxable years the investment receipts ratio
6 is computed using those taxable years during which business
7 has been conducted in this State for the full taxable year.
8 If no prior taxable year business was conducted in this
9 State the investment receipts ratio is zero.

10 H. "Limitation factor" means for the taxable year an amount
11 that is determined as follows:

12 (1) 0% if the taxpayer has completed only one taxable
13 year of business in this State;

14 (2) 12.5% if the taxpayer has completed 2 taxable
15 years of business in this State;

16 (3) 25% if the taxpayer has completed 3 taxable years
17 of business in this State;

18 (4) 37.5% if the taxpayer has completed 4 taxable
19 years of business in this State; or

20 (5) 50% if the taxpayer has completed 5 or more
21 taxable years of business in this State.

22 I. "Machinery and equipment" means machinery and equipment,
23 as defined in section 1752, subsection 7-B, with a situs in
24 the State as of the last day of the taxable year, first
25 placed in service in this State during the taxable year:

26 (1) That was subject to an allowance for depreciation
27 under the Code by the owner as of the last day of the
28 taxable year; and

29 (2) That is used by the owner directly and primarily
30 in the production of tangible personal property
31 intended to be sold or leased ultimately for final use
32 or consumption.

33 J. "Primarily" has the same meaning as set out in section
34 1752, subsection 9-A.

35 K. "Production" has the same meaning as set out in section
36 1752, subsection 9-B.

37 L. "Property investment" means the total original basis for
38 federal income tax purposes, without adjustment, of all
39 qualified property owned by a taxpayer that is first claimed
40

2 by the taxpayer for depreciation purposes on a federal
3 income tax return during the taxable year.

4 M. "Qualified investment" means the excess of cumulative
5 investment over the cumulative investment base.

6 N. "Qualified property" means machinery and equipment or
7 depreciable telemarketing personal property.

8 O. "Telemarketing" means business activity in which
9 telephonic communication is used for taking sales orders,
10 providing information requested by potential customers
11 relative to products or services for sale, soliciting sales
12 orders or conducting market studies.

13 2. Credit allowed. A taxpayer is allowed a credit against
14 the tax imposed in this Part for each taxable year equal to 1.5%
15 of the taxpayer's qualified investment. When an affiliated group
16 of corporations is engaged in a unitary business, the credit is
17 applied against the total tax liability of all the taxable
18 corporations in the affiliated group and apportioned among those
19 taxable corporations in the same proportion as the tax liability
20 of each taxable corporation bears to the total tax liability of
21 all the taxable corporations.

22 3. Partnerships and S corporations. When qualified
23 property is owned by a partnership or an S corporation, the term
24 "taxpayer" as used in subsection 1 means the partnership or S
25 corporation. For the purposes of this section, a partner of a
26 partnership has a qualified investment determined by multiplying
27 the qualified investment of the partnership by the partner's
28 percentage interest in the taxable income or loss of the
29 partnership for federal income tax purposes for the taxable year,
30 and a shareholder of an S corporation has a qualified investment
31 determined by multiplying the qualified investment of the S
32 corporation by the shareholder's percentage share of the stock of
33 the S corporation as of the end of the taxable year.

34 §5219-L. New jobs credit

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

38 A. "New jobs credit base" means an amount equal to the
39 greater of:

- 40 (1) The wages paid by the taxpayer during the calendar
41 year prior to the calendar year ending during or with
42 the taxable year; or

2 (2) The average annual wages paid by the taxpayer
4 during the 3 calendar years prior to the calendar year
6 ending during or with the taxable year, adjusted to
 compensate for statutory changes to the amount of wages
 subject to contribution under Title 26, section 1221.

8 Following a taxable year in which a particular new jobs
10 credit base is used to compute a new jobs equivalent
12 resulting in a credit, the new jobs credit base remains at
14 that amount for the next 2 taxable years. For the 3rd
16 following taxable year the new jobs credit base is again
 computed in the initially defined manner. In computing its
 new jobs credit base, a successor taxpayer shall add its own
 wages for the calendar year to the wages of its predecessor
 for the same calendar year.

18 B. "New jobs equivalent" means the excess of wages for the
20 calendar year ending during or with the taxable year over
22 the new jobs credit base, adjusted to compensate for
24 statutory changes to the amount of wages subject to
26 contribution under Title 26, section 1221, divided by \$7,000
 or an amount adjusted proportionally for any subsequent
 change in wages from \$7,000 under Title 26, section 1043,
 subsection 2. If the quotient is less than 10, the new jobs
 equivalent is zero.

28 C. "Successor taxpayer" means a taxpayer that has acquired
30 within the previous 4 calendar years the organization, trade
32 or business of another business, or 50% or more of the
 assets of another business, which at the time of acquisition
 was an employing unit as defined in Title 26, section 1043,
 subsection 10.

34 D. "Wages" means total wages paid during a calendar year
36 for which a taxpayer is subject to make contributions under
38 Title 26, section 1221.

40 2. Credit. A taxpayer that constitutes an employing unit,
42 as defined in Title 26, section 1043, subsection 10, is allowed a
 credit against the tax imposed in this Part in the amount of
 \$1,000 multiplied by the taxpayer's new jobs equivalent.

44 §5219-M. Applicable limitations

46 1. Public utilities excluded. Public utilities as defined
48 in Title 35-A, section 102, subsection 13 are not eligible for
 any of the tax credits established by this subchapter.

2 2. Minimum credit required. A tax credit claimed under
3 this subchapter must equal at least \$2,500 for any taxable year.
4 Credits of less than \$2,500 may not be taken and are reduced to
5 zero.

6 3. Maximum credit. The credit allowed for a taxable year
7 under this subchapter may not total more than \$250,000 and must
8 be proportionally reduced if necessary to reach this limit.

10 4. Minimum investment. To be included in the computation
11 of the credits provided by section 5219-I or 5219-K, a taxpayer's
12 property investment, as defined in section 5219-K, must exceed
13 \$100,000 in order for the taxpayer to be qualified for either of
14 those provisions.

16 5. Eligible property. For property to be included in the
17 computation of credits pursuant to this subchapter the property
18 must:

20 A. Have a useful life under the Code of at least 4 years;

22 B. Have been owned and in use in this State by the taxpayer
23 on the last day of the taxable year; and

24 C. Have been depreciable for the taxable year by the
25 taxpayer under the Code.

28 6. New jobs; educational assistance. To be included in the
29 computation of credits pursuant to this subchapter, the new jobs
30 must be located in this State and the educational assistance must
31 be for employees who work in this State.

32 7. Carry-forward provisions. If the sum of the credits
33 allowed for a taxable year under this subchapter plus the amount
34 of any credit carried forward to the taxable year exceeds the
35 amount of the limitation imposed by section 5219-N for that
36 taxable year, the excess attributable to the sum of the credits
37 allowed under this subchapter may be carried forward for up to 5
38 taxable years subject to the limitation imposed by section 5219-N
39 and may be applied as a credit against the tax imposed in this
40 Part for the taxable year or years to which carried. The entire
41 amount of the unused credit must be carried forward to the
42 earliest of the taxable years to which, under this provision, the
43 credit may be carried forward and then to each of the other
44 taxable years to the extent the unused credit is not used for a
45 prior taxable year due to the limitation imposed by section
46 5219-N.

48 8. Election of new job credit. New jobs may not be claimed
49 under both section 5215 and section 5219-L. The taxpayer may
50 elect to make a claim under either section.

2 9. Priority of credits. The tax credits provided by this
3 subchapter for a taxable year may be claimed only after any
4 credit available for the taxable year pursuant to section 5219-E
5 has been claimed.

6
7 §5219-N. Limitation on business credits

8
9 Notwithstanding any other provision of this chapter, tax
10 credits contained in this chapter, except in section 5217-A, are
11 considered to reduce tax liability for the taxable year in which
12 they are taken except that the credits taken pursuant to this
13 subchapter may not reduce the tax liability of a taxpayer,
14 exclusive of tax credits contained elsewhere in this chapter
15 resulting from business activities, other than section 5217-A, by
16 more than 50%.

17
18 **Sec. 4. Effective date.** That section of this Act that enacts
19 the Maine Revised Statutes, Title 36, section 5219-K is effective
20 for tax years beginning on or after July 1, 1992 and for property
21 first placed in service in Maine on or after the beginning of
22 that taxable year.

23
24 **Sec. 5. Effective date.** That section of this Act that enacts the
25 Maine Revised Statutes, Title 36, section 5219-I is effective for
26 property first placed in service in this State for the taxpayer's
27 taxable year beginning on or after July 1, 1992 but no later than
28 June 30, 1993.

29
30 **Sec. 6. Effective date.** That section of this Act that enacts
31 the Maine Revised Statutes, Title 36, section 5219-L is effective
32 for jobs created during or after calendar year 1992.

33
34 **Sec. 7. Effective date.** That section of this Act that enacts
35 the Maine Revised Statutes, Title 36, section 5219-J is effective
36 for educational assistance provided for taxable years beginning
37 on or after July 1, 1992.

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39 **Sec. 9. Supplemental appropriations from General Fund.** There
40 are appropriated from the General Fund for the fiscal year ending
41 June 30, 1993 to the Department of Administrative and Financial
42 Services the following sums.

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ADMINISTRATIVE AND FINANCIAL SERVICES,
DEPARTMENT OF

Bureau of Taxation

2

	Positions - Legislative Count	3
4	Personal Services	\$40,254
	All Other	121,496
6	Capital Expenditures	15,586

8

**DEPARTMENT OF ADMINISTRATIVE AND
FINANCIAL SERVICES**

10

TOTAL \$177,336

12

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved except as otherwise indicated.

14

16

STATEMENT OF FACT

18

This bill creates several income tax credits intended to provide business with incentives for new investment and job creation in this State. A one-time investment tax credit provides a substantial credit to counteract the current dire economic situation and provide an immediate and significant investment incentive for business in this State. A separate investment tax credit available for up to 10 years is established to replace the existing 5-year investment tax credit. A new jobs tax credit provides a significant credit for the creation of new jobs in this State. A jobs training tax credit establishes a credit based upon educational assistance provided by state employers pursuant to the Internal Revenue Code.

30