

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 1458

H.P. 1039

House of Representatives, May 2, 1995

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**An Act to Provide a New Jobs Tax Credit.**

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Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative SIMONEAU of Thomaston.

Cosponsored by Representatives: AIKMAN of Poland, BAILEY of Township 27, BRENNAN of Portland, CAMERON of Rumford, CAMPBELL of Holden, DAMREN of Belgrade, DiPIETRO of South Portland, DONNELLY of Presque Isle, FITZPATRICK of Durham, HARTNETT of Freeport, HEINO of Boothbay, JOSEPH of Waterville, KERR of Old Orchard Beach, LAYTON of Cherryfield, LEMONT of Kittery, LOVETT of Scarborough, MORRISON of Bangor, OTT of York, POULIOT of Lewiston, SAVAGE of Union, STONE of Bangor, Senators: BEGLEY of Lincoln, CAREY of Kennebec, CIANCHETTE of Somerset, HANLEY of Oxford, HARRIMAN of Cumberland, MICHAUD of Penobscot.

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

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4       **Sec. 1. 36 MRSA §198, sub-§4, ¶¶N and O**, as enacted by PL 1989, c. 508, §7, are amended to read:

6           N. Section 5219-A; and

8           O. Section 5219-B; and

10       **Sec. 2. 36 MRSA §198, sub-§4, ¶P** is enacted to read:

12           P. Section 5215-A.

14       **Sec. 3. 36 MRSA §5215-A** is enacted to read:

16       **§5215-A. New jobs tax credit**

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

24           A. "Maine Employment Security Commission wages" means the  
26 total amount of wages paid by an employer subject to tax  
28 under Title 26, section 1221, less any excesses attributable  
30 to statutory increases.

32           **2. Credit allowed.** A taxpayer is allowed a credit to be  
34 computed as provided in this section against the tax imposed by  
36 this Part, subject to the limitation contained in subsection 6.

38           **3. Amount of credit.** The amount of the credit provided by  
40 this section is as follows.

42           A. For a taxable year beginning in 1996, the credit is an  
44 amount equal to 50% of the excess of the aggregate Maine  
46 Employment Security Commission wages paid during 1996 over  
48 102% of the aggregate Maine Employment Security Commission  
50 wages paid during 1995.

          B. For a taxable year beginning in 1997, the credit is an  
amount equal to 50% of the excess of the aggregate Maine  
Employment Security Commission wages paid during 1997 over  
102% of the aggregate Maine Employment Security Commission  
wages paid during 1996.

**4. Minimum preceding year wages.** For purposes of  
determining the amount of the credit under subsection 3 with  
respect to a taxable year beginning in 1996 or 1997, 102% of the  
amount of the aggregate Maine Employment Security Commission  
wages paid during the preceding calendar year is deemed to be not

2 less than 50% of the amount of those wages paid during 1996 or  
3 1997.

4 **5. Total wages must increase.** Notwithstanding subsection  
5 4, the amount of the credit allowed by this section for any  
6 taxable year may not exceed the amount that would be determined  
7 for that year under subsection 3, if:

8 A. The aggregate amounts taken into account as Maine  
9 Employment Security Commission wages were determined without  
10 any dollar limitation; and

11 B. "One hundred and five percent" were substituted for  
12 "102%" in the determination of the amount of the credit  
13 pursuant to subsection 3.

14 **6. Per year limitation on credit.** The amount of the credit  
15 determined under this section for any taxpayer with respect to  
16 any calendar year may not exceed \$10,000. The amount of the  
17 credit that may be used by a taxpayer for a taxable year may not  
18 exceed the amount of tax otherwise due under this Part. In the  
19 case of a husband or wife who files a separate return, the amount  
20 of the credit determined under this section may not exceed \$5,000  
21 each but this limitation does not apply if the spouse of the  
22 taxpayer has no interest in the trade or business of the taxpayer  
23 for the taxable year of the spouse that ends within or at the  
24 same time as the taxpayer's taxable year.

25 **7. Carry-over allowed; carry-back prohibited.** Any unused  
26 credit may be carried over to the following year or years for a  
27 period not to exceed 7 years, including the year the credit was  
28 first taken, and may be deducted from the taxpayer's tax for that  
29 year or those years. There may be no carry-back to prior years  
30 of the amount of credit allowable under this section.

31 **8. Wages for trade or business employment within State.**  
32 Wages paid by an employer to an employee during any calendar year  
33 may be taken into account in the computation of the credit  
34 allowed by this section only if more than 1/2 of the wages paid  
35 are for services performed in the State in a trade or business of  
36 the employer.

37 **9. Special rules.** The following special rules apply to  
38 this section.

39 A. Employees of corporations that are members of the same  
40 controlled group of corporations must be treated as employed  
41 by a single employer. The credit allowable by this section  
42 to each member must be its proportionate contribution to the  
43 increase in the Maine Employment Security Commission wages  
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2 giving rise to the credit. For purposes of this paragraph,  
3 "controlled group of corporations" has the meaning given to  
4 this term by the United States Internal Revenue Code,  
5 Section 1563, and all subsequent amendments, except that the  
6 determination must be made without regard to Section 1563,  
7 subsections (a)(4) and (e)(3)(c) of the Code.

8 B. Employees of a trade or business, whether or not  
9 incorporated, such as employees of a partnership,  
10 proprietorship or similar business organization, that are  
11 under common control must be treated as employed by a single  
12 employer and the credit allowable by this section with  
13 respect to each trade or business must be its proportionate  
14 contribution to the increase in the Maine Employment  
15 Security Commission wages giving rise to the credit.

16 C. Acquisitions and dispositions are governed by the  
17 following provisions.

18  
19 (1) If, after December 31, 1994, an employer acquires  
20 the major portion of a trade or business of another  
21 person or the major portion of a separate unit of a  
22 trade or business of another person, then, for purposes  
23 of applying this section for any calendar year ending  
24 after that acquisition, the amount of the Maine  
25 Employment Security Commission wages deemed paid by the  
26 employer during periods before the acquisition must be  
27 increased by the amount of the wages paid by the  
28 predecessor with respect to the acquired trade or  
29 business or separate unit as is attributable to the  
30 portion of the trade or business or separate unit  
31 acquired by the employer.

32  
33 (2) If, after December 31, 1994, an employer disposes  
34 of the major portion of any trade or business of the  
35 employer or the major portion of a separate unit of a  
36 trade or business of the employer and the employer  
37 furnishes the acquiring person the information as is  
38 necessary for the application of subparagraph (1),  
39 then, for purposes of applying this section for any  
40 calendar year ending after that disposition, the amount  
41 of the Maine Employment Security Commission wages  
42 deemed paid by the employer during periods before the  
43 disposition must be decreased by the amount of the  
44 wages as is attributable to the portion of the disposed  
45 trade or business or separate unit.

46  
47 D. A credit under this section may not be allowed to any  
48 organization, except a cooperative described in the United  
49 States Internal Revenue Code, Section 521, and all  
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2 subsequent amendments, that is exempt from income tax under  
the Code.

4 E. If during calendar year 1995 or 1996 an individual has  
net earnings from self-employment, as defined in the United  
6 States Internal Revenue Code, Section 1402(a), and all  
subsequent amendments, that are attributable to a trade or  
8 business and for any portion of the succeeding calendar year  
the individual is an employee of that trade or business,  
10 then, for purposes of determining the credit allowable for a  
taxable year beginning in a succeeding calendar year, the  
12 employer's aggregate Maine Employment Security Commission  
wages for 1995 or 1996 must be increased by an amount equal  
14 to the amount of those net earnings, not to exceed \$7,000.

16 F. In the case of an electing S corporation, as defined in  
the United States Internal Revenue Code, Section 1361, and  
18 all subsequent amendments, the amount of the credit  
determined under this section for any taxable year must be  
20 apportioned pro rata among the persons who are shareholders  
of the corporation on the last day of the taxable year. A  
22 person to whom an amount is apportioned under this paragraph  
must be allowed a credit under this section for that amount.

24 G. In the case of an estate or trust, the amount of the  
credit determined under this section for any taxable year  
26 must be apportioned between the estate or trust and the  
beneficiaries on the basis of the income of the estate or  
28 trust allocable to each. A beneficiary to whom any amount  
has been apportioned under this paragraph must be allowed a  
30 credit under this section for that amount. The \$10,000  
amount specified in subsection 6 applicable to an estate or  
32 trust must be reduced to an amount that bears the same ratio  
to \$10,000 as the portion of the credit allocable to the  
34 estate or trust under this paragraph bears to the entire  
36 amount of the credit.

38 H. If the employer has more than one taxable year beginning  
in 1996 or 1997, the credit under this section must be  
40 determined for the employer's last taxable year beginning in  
1996 or 1997.

42  
44 **STATEMENT OF FACT**

46 This bill provides a tax credit to businesses and  
individuals that create new jobs.