

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1476

S.P. 538

In Senate, May 2, 1995

An Act to Establish the Employee Partnership Reward Act.

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator PINGREE of Knox.

Cosponsored by Senators: FAIRCLOTH of Penobscot, LAWRENCE of York, PARADIS of Aroostook, Representatives: GATES of Rockport, SHIAH of Bowdoinham.

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

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

Sec. 1. 5 MRSA c. 383, sub-c. II, art. 6 is enacted to read:

ARTICLE 6

**NONDEFERRED DISTRIBUTIONS FROM
PERFORMANCE-BASED REWARD PLAN**

§13070-J. Qualified performance-based reward plan

A performance-based reward plan, referred to in this article as the "plan," must meet the following requirements.

1. Determination requirement. The plan meets the requirements of this section if the amount to be distributed under the plan for any year is determined in accordance with a fixed formula set forth in the plan that is based on a measurable and auditable indicator of the employer's performance or, at the election of the employer, of the organizational unit in which the employees covered by the plan perform services.

2. Allocation requirement. The plan meets the requirements of this section if, under the plan, amounts are distributed to employees of the employer maintaining the plan only in accordance with a fixed formula set forth in the plan. A formula is treated as a fixed formula only if under the plan any change in the formula may not take effect until the plan year following the plan year in which the change is adopted by the plan.

3. Distribution requirement. The plan meets the requirements of this section if the plan requires that, for each year, the total value of rewards made under the plan to employees that are not highly compensated is not less than the lesser of:

A. Two percent of the total wages paid to the employees during the year by the employer maintaining the plan; or

B. The amount that, when added to the total rewards made under the plan to the employees during the 2 preceding years, is equal to 2% of the sum of the total wages paid to the employees by the employer during the year and the 2 preceding years.

For the purpose of this subsection, "total wages" means all remuneration for employment, including the cash value of all remuneration and benefits paid in any medium other than cash. "Total wages" does not include rewards from a qualified performance-based reward plan.

2 4. Antidiscrimination requirement. The plan meets the
3 requirements of this section if the plan benefits the employees
4 who qualify under a classification set up by the employer and
5 found by the commissioner not to favor highly compensated
6 employees. The plan may not be considered discriminatory merely
7 because the benefits under the plan bear a uniform relationship
8 to the compensation of the employees. In determining the
9 requirements of this subsection, the following employees are
10 excluded from consideration:

11 A. Employees who have not completed 6 months of service;

12 B. Employees who normally work less than 17 1/2 hours per
13 week;

14 C. Employees who normally work not more than 6 months
15 during a year;

16 D. Employees who have not attained 21 years of age; and

17 E. Employees who are included in a unit of employees
18 covered by an agreement that the Commissioner of Labor finds
19 to be a collective bargaining agreement between employee
20 representatives and the employer.

21 5. Approval requirement. The plan meets the requirements
22 of this section if the plan is submitted to the commissioner in a
23 form prescribed by the commissioner and is approved by the
24 commissioner.

25 6. Plans that are part of deferred plan. A plan that
26 includes a qualified cash or deferred arrangement must be treated
27 as a qualified performance-based reward plan.

28 7. Definitions. As used in this section, unless the
29 context otherwise indicates, the following terms have the
30 following meanings.

31 A. "Highly compensated employee" means an employee who,
32 during the year or the preceding year:

33 (1) Was at any time a 5% owner;

34 (2) Received compensation from the employer in excess
35 of \$75,000;

36 (3) Received compensation from the employer in excess
37 of \$50,000 and was in the top paid group of employees
38 for the plan year; or

2 A. The collection and dissemination of information
3 regarding successful implementation of performance-based
4 reward plans and employee decision-making participation
5 programs;

6
7 B. The development of best-practices guidelines concerning
8 performance-based reward plans and employee decision-making
9 participation programs;

10
11 C. The provision of technical assistance and training to
12 aid firms in designing and implementing performance-based
13 reward plans and employee decision-making participation
14 programs; and

15 D. Proactive education and outreach to key groups such as
16 business owners, unions, managers, trade associations and
17 community associations to inform the groups about the
18 benefits of performance-based reward plans and employee
19 decision-making participation programs.

20
21 6. Nonstate share. In order to be eligible for a grant
22 under the program, an eligible entity must agree to provide an
23 amount at least equal to the amount of the grant from nonstate
24 sources for activities described in subsection 5.

25
26 7. Report. A report and all required legislation must be
27 submitted by the commissioner to the joint standing committee of
28 the Legislature having jurisdiction over business and economic
29 development matters by January 1, 1997.

30
31 8. Repeal. This subchapter is repealed January 1, 2001.

32
33 Sec. 3. 36 MRSA §§5219-K and 5219-L are enacted to read:

34
35 §5219-K. Qualified performance-based reward plan tax credit

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

40
41 A. "Eligible taxpayer" means a person who is employed by an
42 employer who is a participant in a qualified
43 performance-based reward plan. "Eligible taxpayer" does not
44 include a highly compensated employee or an employee engaged
45 in sales.

46
47 B. "Plan year" means the year an employer has a qualified
48 performance-based reward plan in effect.

49
50

2 C. "Qualified performance-based reward plan" means a
3 written plan maintained by an employer of which the
4 principal purpose is to improve the performance of the
5 organization and reward employers as a function of that
6 improvement and that meets the requirements of Title 5,
7 section 13070-J.

8 2. Credit allowed. A taxpayer is allowed a credit against
9 the tax imposed by this Part for each taxable year equal to 10%
10 of the value of the rewards received by the taxpayer from a
11 qualified performance-based reward plan for a plan year ending in
12 the same taxable year. This credit does not apply to a reward
13 that is made more than 2 months following the close of the plan
14 year.

15 3. Limitation; amount of credit. The credit allowed under
16 subsection 2 in a taxable year for an eligible taxpayer is an
17 amount:

18 A. Not less than \$100; or

19 B. Not more than \$500.

20 As a cost-of-living adjustment, each dollar amount in paragraphs
21 A and B is increased by an amount equal to the dollar amount
22 multiplied by the cost-of-living adjustment as determined by 26
23 United States Code, Section 1(f)(3) for the calendar year. If an
24 increase is not a multiple of \$50, the increase is rounded to the
25 nearest multiple of \$50.

26 **§5219-L. Deduction to employers for performance-based rewards**

27 A taxpayer that is an employer is allowed a deduction
28 against the tax imposed by this Part for each taxable year equal
29 to 10% of the value of the rewards offered under a qualified
30 performance-based reward plan for a plan year ending in a taxable
31 year.

32 **Sec. 4. Collection of statistics.** The Commissioner of Labor shall
33 collect statistics on the extent of qualified performance-based
34 reward plans and prepare studies that describe the nature and
35 terms of the plans. The studies must differentiate between
36 various types of plans and between plans that do and do not have
37 fixed formulas for determining amounts payable to employees.

38 **Sec. 5. Publication of data.** The Deputy Commissioner of the
39 Bureau of the Budget shall publish annually estimates of the
40 annual tax expenditures for deferred profit-sharing plans and
41 employee stock ownership.

