

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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Legislative Document

No. 272

S.P. 92

In Senate, January 21, 1997

**An Act to Establish 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 "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator MacKINNON of York.

Cosponsored by Senators: FERGUSON of Oxford, LIBBY of York, Representatives: CHICK of Lebanon, DONNELLY of Presque Isle, MacDOUGALL of North Berwick, WRIGHT of Berwick.

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

2  
3       **Sec. 1. 36 MRSA §198, sub-§4, ¶N**, as enacted by PL 1989, c.  
4 508, §7, is amended to read:

6       N. Section 5219-A; and

8       **Sec. 2. 36 MRSA §198, sub-§4, ¶O**, as enacted by PL 1989, c.  
9 508, §7, is amended to read:

10       O. Section 5219-B; and

12       **Sec. 3. 36 MRSA §198, sub-§4, ¶P** is enacted to read:

14       P. Section 5215-A.

16       **Sec. 4. 36 MRSA §5215-A** is enacted to read:

18       **§5215-A. New jobs tax credit**

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

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

30       B. "New employee income" means the total wages paid by the  
32 taxpayer to those employees whose employment by the taxpayer  
results in a credit under this section.

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

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

40       A. For a tax year beginning on or after January 1, 1997,  
42 the credit is an amount equal to 50% of the excess of the  
44 aggregate Maine Employment Security Commission wages paid  
during that tax year over 102% of the aggregate Maine  
46 Employment Security Commission wages paid during the tax  
year immediately preceding that tax year.

48       4. Minimum preceding year wages. For purposes of  
50 determining the amount of the credit under subsection 3, 102% of  
the amount of the aggregate Maine Employment Security Commission

2 wages paid during the preceding calendar year is deemed to be not  
3 less than 50% of the amount of those wages paid during that tax  
4 year.

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

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

14 B. "One hundred and five percent" were substituted for  
15 "102%" in the determination of the amount of the credit  
16 pursuant to subsection 3.

18 6. Limitations. For the purposes of this section, the  
19 following limitations apply.

20 A. A taxpayer with more than 50 employees at any time  
21 during the tax year does not qualify for a credit under this  
22 section.

24 B. The amount of the credit determined under this section  
25 may not exceed \$2,000 for any taxpayer whose average new  
26 employee income is less than the average annual per capita  
27 income in the labor market area in which the new jobs are  
28 located.

30 C. The amount of the credit determined under this section  
31 may not exceed \$3,000 for any taxpayer whose average new  
32 employee income is equal to or greater than the average  
33 annual per capita income in the labor market area in which  
34 the new jobs are located.

36 D. A taxpayer may not claim a credit under this section if  
37 the taxpayer is claiming either a credit under section 5215  
38 or reimbursement of any amount of an employee's withholding  
39 taxes pursuant to any other tax incentive program.

42 E. The credit allowed under this section for any tax year  
43 may not reduce the tax due to less than zero.

44 7. Carry-over allowed; carry-back prohibited. Any unused  
45 credit may be carried over to the following year or years for a  
46 period not to exceed 7 years, including the year the credit was  
47 first taken, and may be deducted from the taxpayer's tax for that  
48 year or those years. There may be no carry-back to prior years  
49 of the amount of credit allowable under this section.

2           8. Wages for trade or business employment within State.  
3           Wages paid by an employer to an employee during any calendar year  
4           may be taken into account in the computation of the credit  
5           allowed by this section only if more than 1/2 of the wages paid  
6           are for services performed in the State in a trade or business of  
7           the employer.

8  
9           9. Special rules. The following special rules apply to  
10          this section.

11          A. Employees of corporations that are members of the same  
12          controlled group of corporations must be treated as employed  
13          by a single employer. The credit allowable by this section  
14          to each member must be its proportionate contribution to the  
15          increase in the Maine Employment Security Commission wages  
16          giving rise to the credit. For purposes of this paragraph,  
17          "controlled group of corporations" has the meaning given to  
18          this term by the Code, Section 1563, and all subsequent  
19          amendments, except that the determination must be made  
20          without regard to Section 1563, subsections (a)(4) and  
21          (e)(3)(c) of the Code.

22  
23          B. Employees of a trade or business, whether or not  
24          incorporated, such as employees of a partnership,  
25          proprietorship or similar business organization, that are  
26          under common control must be treated as employed by a single  
27          employer and the credit allowable by this section with  
28          respect to each trade or business must be its proportionate  
29          contribution to the increase in the Maine Employment  
30          Security Commission wages giving rise to the credit.

31          C. Acquisitions and dispositions are governed by the  
32          following provisions.

33                  (1) If, after December 31, 1996, an employer acquires  
34                  the major portion of a trade or business of another  
35                  person or the major portion of a separate unit of a  
36                  trade or business of another person, then, for purposes  
37                  of applying this section for any calendar year ending  
38                  after that acquisition, the amount of the Maine  
39                  Employment Security Commission wages deemed paid by the  
40                  employer during periods before the acquisition must be  
41                  increased by the amount of the wages paid by the  
42                  predecessor with respect to the acquired trade or  
43                  business or separate unit as is attributable to the  
44                  portion of the trade or business or separate unit  
45                  acquired by the employer.  
46  
47  
48

2           (2) If, after December 31, 1996, an employer disposes  
4           of the major portion of any trade or business of the  
6           employer or the major portion of a separate unit of a  
8           trade or business of the employer and the employer  
10           furnishes the acquiring person the information  
12           necessary for the application of subparagraph (1),  
          then, for purposes of applying this section for any  
          calendar year ending after that disposition, the amount  
          of the Maine Employment Security Commission wages  
          deemed paid by the employer during periods before the  
          disposition must be decreased by the amount of the  
          wages attributable to the portion of the disposed trade  
          or business or separate unit.

14           D. A credit under this section is not allowed to any  
16           organization, except a cooperative described in the Code,  
18           Section 521, and all subsequent amendments, that is exempt  
          from income tax under the Code.

20           E. If during any calendar year an individual has net  
22           earnings from self-employment, as defined in the Code,  
24           Section 1402(a) and all subsequent amendments, that are  
26           attributable to a trade or business and for any portion of  
28           the succeeding calendar year the individual is an employee  
30           of that trade or business, then, for purposes of determining  
          the credit allowable for a tax year beginning in a  
          succeeding calendar year, the employer's aggregate Maine  
          Employment Security Commission wages for the calendar year  
          must be increased by an amount equal to the amount of those  
          net earnings, not to exceed \$7,000.

32           F. In the case of an electing S corporation, as defined in  
34           the Code, Section 1361, and all subsequent amendments, the  
36           amount of the credit determined under this section for any  
38           tax year must be apportioned pro rata among the persons who  
          are shareholders of the corporation on the last day of the  
          tax year. A person to whom an amount is apportioned under  
          this paragraph must be allowed a credit under this section  
          for that amount.

40           G. In the case of an estate or trust, the amount of the  
42           credit determined under this section for any tax year must  
44           be apportioned between the estate or trust and the  
46           beneficiaries on the basis of the income of the estate or  
48           trust allocable to each. A beneficiary to whom any amount  
50           has been apportioned under this paragraph must be allowed a  
          credit under this section for that amount. The amount  
          specified in subsection 6 applicable to an estate or trust  
          must be reduced to an amount that bears the same ratio to  
          the amount specified in subsection 6 as the portion of the

2 credit allocable to the estate or trust under this paragraph  
3 bears to the entire amount of the credit.

4 10. Repeal. This section is repealed January 1, 2002.

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### SUMMARY

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