

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 290

H.P. 226

House of Representatives, January 21, 1997

An Act to Provide a New Jobs Tax Credit.

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 SPEAR of Nobleboro.
Cosponsored by Senator FERGUSON of Oxford and
Representatives: LEMONT of Kittery, OTT of York, TRIPP of Topsham, VIGUE of
Winslow, Senators: ABROMSON of Cumberland, CAREY of Kennebec.

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

2
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
following meanings.

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

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

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

34 A. For a taxable year beginning in 1997, the credit is an
36 amount equal to 50% of the excess of the aggregate Maine
Employment Security Commission wages paid during 1997 over
38 102% of the aggregate Maine Employment Security Commission
wages paid during 1996.

40 B. For a taxable year beginning in 1998, the credit is an
42 amount equal to 50% of the excess of the aggregate Maine
Employment Security Commission wages paid during 1998 over
44 102% of the aggregate Maine Employment Security Commission
wages paid during 1997.

46 **4. Minimum preceding year wages.** For purposes of
48 determining the amount of the credit under subsection 3 with
respect to a taxable year beginning in 1997 or 1998, 102% of the
50 amount of the aggregate Maine Employment Security Commission
wages paid during the preceding calendar year is deemed to be not
52 less than 50% of the amount of those wages paid during 1997 or
1998.

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

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

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

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

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

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

40 9. Special rules. The following special rules apply to
42 this section.

44 A. Employees of corporations that are members of the same
controlled group of corporations must be treated as employed
46 by a single employer. The credit allowable by this section
to each member must be its proportionate contribution to the
48 increase in the Maine Employment Security Commission wages
giving rise to the credit. For purposes of this paragraph,
50 "controlled group of corporations" has the meaning given to
this term by the United States Internal Revenue Code,
52 Section 1563, and all subsequent amendments, except that the

2 determination must be made without regard to Section 1563,
3 subsections (a)(4) and (e)(3)(c) of the Code.

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

12 C. Acquisitions and dispositions are governed by the
13 following provisions.

14
15 (1) If, after December 31, 1995, an employer acquires
16 the major portion of a trade or business of another
17 person or the major portion of a separate unit of a
18 trade or business of another person, then, for purposes
19 of applying this section for any calendar year ending
20 after that acquisition, the amount of the Maine
21 Employment Security Commission wages deemed paid by the
22 employer during periods before the acquisition must be
23 increased by the amount of the wages paid by the
24 predecessor with respect to the acquired trade or
25 business or separate unit as is attributable to the
26 portion of the trade or business or separate unit
27 acquired by the employer.

28
29 (2) If, after December 31, 1995, an employer disposes
30 of the major portion of any trade or business of the
31 employer or the major portion of a separate unit of a
32 trade or business of the employer and the employer
33 furnishes the acquiring person the information as is
34 necessary for the application of subparagraph (1),
35 then, for purposes of applying this section for any
36 calendar year ending after that disposition, the amount
37 of the Maine Employment Security Commission wages
38 deemed paid by the employer during periods before the
39 disposition must be decreased by the amount of the
40 wages as is attributable to the portion of the disposed
41 trade or business or separate unit.

42
43 D. A credit under this section may not be allowed to any
44 organization, except a cooperative described in the United
45 States Internal Revenue Code, Section 521, and all
46 subsequent amendments, that is exempt from income tax under
47 the Code.

48
49 E. If during calendar year 1996 or 1997 an individual has
50 net earnings from self-employment, as defined in the United
51 States Internal Revenue Code, Section 1402(a), and all
52

2 subsequent amendments, that are attributable to a trade or
4 business and for any portion of the succeeding calendar year
6 the individual is an employee of that trade or business,
8 then, for purposes of determining the credit allowable for a
10 taxable year beginning in a succeeding calendar year, the
12 employer's aggregate Maine Employment Security Commission
14 wages for 1996 or 1997 must be increased by an amount equal
16 to the amount of those net earnings, not to exceed \$7,000.

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

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

32
34 H. If the employer has more than one taxable year beginning
36 in 1997 or 1998, the credit under this section must be
38 determined for the employer's last taxable year beginning in
40 1997 or 1998.

SUMMARY

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