

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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Legislative Document

No. 469

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H.P. 347

House of Representatives, January 23, 1997

### **An Act to Provide a Quality 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 COLWELL of Gardiner.  
Cosponsored by Senator RUHLIN of Penobscot and  
Representatives: BUNKER of Kossuth Township, GAGNON of Waterville, JONES of Bar  
Harbor, KERR of Old Orchard Beach, MADORE of Augusta, PIEH of Bremen, USHER of  
Westbrook, Senator: TREAT of Kennebec.

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

2           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.  
10 508, §7, is amended to read:

12           O. Section 5219-B.; and

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

16           P. Section 5215-A.

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

20           §5215-A. New jobs tax credit

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

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

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

34           2. Credit allowed. A taxpayer is allowed a credit to be  
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  
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  
aggregate Maine Employment Security Commission wages paid  
44 during that tax year over 102% of the aggregate Maine  
Employment Security Commission wages paid during the tax  
46 year immediately preceding that tax year.

48           4. Minimum preceding year wages. For purposes of  
determining the amount of the credit under subsection 3, 102% of  
50 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. This credit may be obtained only for taxpayers whose  
25 average new employee income is equal to or greater than the  
26 average annual per capita income in the labor market area in  
27 which the new jobs are created.

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.

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

44 F. This credit exists for 2 years following the creation of  
45 the new jobs. The first year the employer is eligible for  
46 100% of the tax credit. The 2nd year the employer is  
47 eligible for 50% of the tax credit.

48 G. If, after receiving the credit, the employer fires, lays  
49 off or otherwise dismisses those employees for whom the  
50

2        employer received the credit, the employer is subject to a  
3        fine equal to 100% of the credit.

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

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

16       **9. Special rules.** The following special rules apply to  
17       this section.

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

29       **B. Employees of a trade or business, whether or not**  
30       incorporated, such as employees of a partnership,  
31       proprietorship or similar business organization, that are  
32       under common control must be treated as employed by a single  
33       employer and the credit allowable by this section with  
34       respect to each trade or business must be its proportionate  
35       contribution to the increase in the Maine Employment  
36       Security Commission wages giving rise to the credit.

37       **C. Acquisitions and dispositions are governed by the**  
38       following provisions.

39       **(1) If, after December 31, 1996, an employer acquires**  
40       the major portion of a trade or business of another  
41       person or the major portion of a separate unit of a  
42       trade or business of another person, then, for purposes  
43       of applying this section for any calendar year ending  
44       after that acquisition, the amount of the Maine

2       Employment Security Commission wages deemed paid by the  
4       employer during periods before the acquisition must be  
6       increased by the amount of the wages paid by the  
8       predecessor with respect to the acquired trade or  
      business or separate unit as is attributable to the  
      portion of the trade or business or separate unit  
      acquired by the employer.

10       (2) If, after December 31, 1996, an employer disposes  
12       of the major portion of any trade or business of the  
14       employer or the major portion of a separate unit of a  
16       trade or business of the employer and the employer  
18       furnishes the acquiring person the information  
20       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.

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

28       E. If during any calendar year an individual has net  
30       earnings from self-employment, as defined in the Code,  
32       Section 1402(a) and all subsequent amendments, that are  
34       attributable to a trade or business and for any portion of  
36       the succeeding calendar year the individual is an employee  
38       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.

40       F. In the case of an electing S corporation, as defined in  
42       the Code, Section 1361, and all subsequent amendments, the  
44       amount of the credit determined under this section for any  
46       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.

48       G. In the case of an estate or trust, the amount of the  
50       credit determined under this section for any tax 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 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 credit allocable to the estate or trust under this paragraph bears to the entire amount of the credit.

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

## SUMMARY

This bill provides a tax credit to businesses and individuals that create new jobs. Under this bill, the new jobs tax credit is repealed January 1, 2002. This bill specifies that the credit may be obtained only for a taxpayer whose average new employee income is equal to, or greater than, the average annual per capita income in the labor market area in which the new jobs are created.

Under this bill, the credit exists for 2 years following the creation of the new jobs. During the first year, the employer is eligible for 100% of the tax credit. During the 2nd year, the employer is eligible for 50% of the tax credit. If, after receiving the credit, the employer dismisses those employees for whom the tax credit was received, the employer is subject to a fine equal to 100% of the credit.