

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

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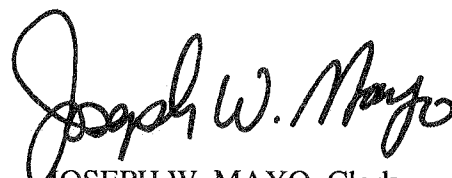
H.P. 1005

House of Representatives, March 5, 1997

**An Act to Encourage the Development of High-technology Industry in
the State.**

(EMERGENCY)

Reference to the Committee on Taxation suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative DONNELLY of Presque Isle.
Cosponsored by Senator HARRIMAN of Cumberland and
Senators: JENKINS of Androscoggin, PINGREE of Knox.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the world is witnessing revolutionary change in various fields of high technology, including electronic communications, the Internet and computer equipment, software and services, and the rapid integration of these new technologies into commerce will have important implications for the economic future of regions and states that are quick to adapt to these new technologies and create environments beneficial to their development; and

Whereas, emerging high-technology industry is producing economic growth built upon a foundation of high-quality, high-wage jobs, with little, if any, environmental impact, and is consistent with the quality of life of which the people of this State are justly proud; and

Whereas, some regions and states have already attracted a core of high-technology businesses to serve as a magnet for growth and to expand the economic opportunities available to their citizens; and

Whereas, the Maine Economic Growth Council has determined that the State's national ranking in technology resources should improve from 44th to 35th by 2005; and

Whereas, the scale of the challenge is of such magnitude that new economic development paradigms are necessary and substantial coinvestments by the private and public sectors in science and technology enterprise in the State are needed; and

Whereas, in light of the rapid advances in the industry, the provisions of this legislation encouraging the development of high-technology industry in this State must take effect immediately; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

PART A

Sec. A-1. 36 MRSA §1752, sub-§17-A, ¶F, as amended by PL 1993, c. 701, §3, is repealed.

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Sec. A-2. 36 MRSA §§5219-L and 5219-M are enacted to read:

§5219-L. Super credit for substantially increased research and development

1. Super credit allowed for substantial expansions of research and development. A taxpayer qualifying for a research expense tax credit under section 5219-K is allowed an additional credit against tax due equal to the excess, if any, of the qualified research expenses for the taxable year over the super credit base amount. For purposes of this section, "super credit base amount" means the average amount spent on qualified research expenses by the taxpayer in the 3 years immediately preceding the effective date of this section, increased by 50%. The super credit allowed under this subsection applies only to the expenditures for research conducted in this State.

2. Limitation on super credit allowed. The credit allowed under this section is limited to 100% of a corporation's first \$25,000 of tax due, as determined before the allowance of any credits, plus 75% of the corporations's tax due, as determined in excess of \$25,000.

3. Reduction not less than base amount tax liability. The credit allowed under this section for any taxable year may not reduce the tax due to less than the base amount, which is defined as the average tax due by the taxpayer during the 3 years immediately preceding the effective date of this section.

4. Carry over to succeeding years. A taxpayer entitled to a credit under this section for any taxable year may carry over and apply to the tax due for any one or more of the next succeeding 15 taxable years the portion, as reduced from year to year, of the credit that exceeds the tax due for the taxable year. A taxpayer may carry over and apply to the tax due for any subsequent taxable year the portion of those credits, as reduced from year to year, not allowed by subsection 3.

5. Limitation. The credit provided by this section may not be used to reduce the taxpayer's tax liability under this Part to an amount less than the amount paid by the taxpayer in the preceding taxable year.

§5219-M. High-technology investment tax credit

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

2 A. "High-technology activities" means:

4 (1) The manufacture, creation or production of
6 computer equipment, electronic components and
 accessories, communications equipment and computer
 software;

8 (2) The provision of communications services, media
10 services, data access services, Internet access
 services, Internet support services or other related
 communication services; and

12 (3) The provision by the taxpayer of "telephone or
14 telegraph service" using "telecommunications and
16 telegraph equipment" as those terms are defined in
18 section 1752, subsections 18-A and 18-B, regardless of
 whether the service provided would be taxable under
 section 1752, and as if the service provided originated
 and terminated within this State.

20 B. "Investment credit base of equipment" means the total
22 original basis of the eligible equipment for federal income
24 tax purposes of the taxpayer for equipment that was placed
26 into service for the first time in the State by the taxpayer
 or other person during the tax year for which the credit is
 claimed.

28 **2. Purchaser of eligible equipment; credit allowed.** A
30 taxpayer that purchases and uses eligible equipment or purchases
32 and leases eligible equipment to a person for use by that person
34 in the provision of high-technology activities may claim a credit
 in the amount of the investment credit base of equipment, net of
 any lease payments received for the eligible equipment in the
 taxable year.

36 **3. Lessor of eligible equipment; credit allowed.** A
38 taxpayer that leases and uses eligible equipment or leases and
40 subleases eligible equipment to a person for use by that person
42 in the provision of high-technology activities may claim a credit
 in the amount of the lease payments made on the eligible
 equipment, net of sublease payments received in the taxable year.

44 **4. Eligible equipment.** Equipment eligible for the credit
 allowed under this section includes:

46 A. All computer equipment, electronics components and
48 accessories, communications equipment and computer software;
 and

2 B. All "telecommunication or telegraphic equipment"
4 necessary to the provision of "telephone or telegraph
6 service" as those terms are defined in section 1752,
 subsections 18-A and 18-B, regardless of whether the service
 provided would be taxable under section 1752 and as if the
 service provided originated and terminated within this State.

8 Eligible equipment must be placed into service in the State.

10 5. Limitation. The credit provided by this section may not
12 be used to reduce the taxpayer's tax liability under this Part to
14 an amount less than the amount paid by the taxpayer in the
16 preceding taxable year.

18 PART B

18 **Sec. B-1. Commission established.** The Commission to Study the
20 Restructuring of the State's Fiscal Policies to Promote the
22 Development of High-technology Industry in Maine, referred to in
24 this Part as the "commission," is established.

24 **Sec. B-2. Issues.** The commission shall study the fiscal
26 issues associated with the encouragement and development of
28 high-technology industry in the State, including specifically
30 issues affecting providers of computer equipment, computer
32 software, electronic components and accessories, communications
34 equipment and communications services. The scope of the
36 commission's study includes, but is not limited to:

30 1. An examination and report on state fiscal policies,
32 laws, regulations and financial incentives for the growth and
34 development of high-technology industry in the State, relative to
36 those of other states;

36 2. An examination and study of the key fiscal issues
38 affecting the State's high-technology industry; and

38 3. An examination and a report outlining specific
40 legislative recommendations for restructuring the State's fiscal
42 policies, laws and rules to create to create comparative
44 advantages designed to encourage the beneficial expansion of
46 high-technology industry in the State.

44 **Sec. B-3. Membership.** The commission consists of 29 members
46 appointed as follows:

48 1. Two members of the Senate, appointed jointly by the
 President of the Senate and the Speaker of the House, one of whom

2 must be a member of the majority party and one of whom must be a
3 member of the minority party;

4 2. Two members of the House of Representatives, appointed
5 jointly by the President of the Senate and the Speaker of the
6 House, one of whom must be a member of the majority party and one
7 of whom must be a member of the minority party;

8 3. Twenty members, 7 of whom must be appointed by the
9 President of the Senate, 7 of whom must be appointed by the
10 Speaker of the House and 6 of whom must be appointed by the
11 Governor. Two of the appointments by the President and 2 of the
12 appointments by the Speaker must be made upon the recommendation
13 of the minority floor leader of the respective chamber. These
14 members must include:

15 A. Six representatives with practical experience and
16 knowledge of high-technology industry, including one person
17 whose background includes significant experience in computer
18 equipment, one person whose background includes significant
19 experience with electronic components and accessories, one
20 person whose background includes significant experience with
21 communication equipment, one person whose background
22 includes significant experience with communication services
23 and 2 people whose backgrounds include significant
24 experience with computer software;

25 B. Four representatives from the academic community,
26 including one economist who has practical experience and
27 knowledge of high-technology industry and its impact on
28 economic development, one representative with knowledge of
29 electronic communications and computer software, one
30 representative with knowledge of electrical engineering; and
31 one representative of the Maine Technical College System;

32 C. Five representatives of industries likely to be affected
33 by the development of high-technology industry, including
34 one person who represents the health care industry, one
35 person who represents major manufacturers, one person who
36 represents small businesses, one person who represents the
37 banking and financial services industry and one person who
38 represents the tourism industry; and

39 D. Five representatives from the public, including one
40 person who represents a nonprofit consumer advocacy
41 organization, one person who represents a nonprofit public
42 interest environmental organization, one person who
43 represents a nonprofit organization with an interest in
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2 encouraging international trade by Maine concerns and 2
persons who represent the general public; and

4 4. The State Planning Director, the Commissioner of
Administrative and Financial Services, the Commissioner of
6 Economic and Community Development and the President of the Maine
Science and Technology Foundation, who are ex officio members.

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10 **Sec. B-4. Appointments.** All appointments must be made no
later than 30 days following the effective date of this Part.
12 The appointing authorities shall notify the Executive Director of
the Legislative Council upon making their appointments. When the
14 appointment of members is complete, the Chair of the Legislative
Council shall call and convene the first meeting of the
commission no later than 2 months from the effective date of this
16 Part.

18 **Sec. B-5. Staff assistance.** The commission shall request
staffing assistance from the Legislative Council.

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22 **Sec. B-6. Reimbursement.** The commission members who are
Legislators are entitled to receive the legislative per diem, as
24 defined in the Maine Revised Statutes, Title 3, section 2, for
each day's attendance at meetings of the commission. All members
of the commission are entitled to reimbursement for travel and
26 other necessary expenses upon application to the Legislative
Council. The Executive Director of the Legislative Council shall
28 administer the commission's budget.

30 **Sec. B-7. Chair.** The commission shall, at its first meeting,
select a member to serve as chair. At the first meeting or a
32 subsequent meeting, the commission may select a vice-chair from
among its members and establish programmatic and structural
34 committees.

36 **Sec. B-8. Meetings.** The commission may meet as often as
necessary.

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40 **Sec. B-9. Staffing.** If funding permits, the commission may
employ staff as needed and may contract for administrative,
professional, legislative drafting and clerical services.

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44 **Sec. B-10. Funding.** The commission may seek, accept and
expend outside sources of funding to carry out the commission's
activities. The Legislative Council shall administer any outside
46 funds acquired for the purposes of this Part.

48 **Sec. B-11. Report.** The commission shall present its findings
and any recommended legislation to the Second Regular Session of
50 the 118th Legislature by December 1, 1997.

2 **Sec. B-12. Allocation.** The following funds are allocated from
Other Special Revenue to carry out the purposes of this Part.

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1997-98

LEGISLATURE

Commission to Study the Restructuring of the State's Fiscal Policies to Promote the Development of High-technology Industry in Maine

Personal Services

\$25,000

Provides funds to the commission for staff.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

SUMMARY

The purpose of this bill is to encourage the development of high-technology industry through the repeal of the sales tax on custom computer software, the expansion of the existing tax credit for research and development and through the creation of a new section of the State's investment tax credit that will apply specifically to high-technology industry.

In Part A of the bill, a "super credit" is created to expand the State's existing research and development tax credit for taxpayers who increase their research and development expenditures within the State by 50% or more over their current levels. The taxpayer is not allowed to use the credit to reduce tax liability from the prior year's level. This limitation is designed to encourage expansion of investments that would otherwise not occur, while at the same time protecting the State's revenue base.

Part A also establishes a high-technology investment tax credit that allows tax credit for investments in computers, computer software, electronic equipment and communications equipment used in high-technology activities. These activities include the manufacture and production of computers, computer software, electronic equipment and communications equipment, as well as the provision of media and high-technology communications and support services on the Internet. Equipment used by telecommunications service providers is also eligible. The high-technology investment tax credit is capped at the amount of

the taxpayer's prior year tax liability, to ensure the protection
2 of the State's revenue base.

4 Part B of the bill establishes the Commission to Study the
Restructuring of the State's Fiscal Policies to Promote the
6 Development of High-technology Industry in Maine.