

# MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 2149

S. P. 737

In Senate, January 2, 1974

Referred to the Committee on Taxation. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Shute of Franklin.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FOUR

AN ACT Providing for a Credit in Maine Income Tax Law for Investment  
in Pollution Control Facilities.

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

R. S., T. 36, § 5202, additional. Title 36 of the Revised Statutes is amended by adding a new section 5202 to read as follows:

§ 5202. Credit for investment in pollution control facilities

1. General rule. There shall be allowed, as a credit against the tax imposed by this chapter, an amount equal to 7% of the qualified investment in pollution control facilities as defined in subsection 4.

2. Limitation based on amount of tax. Notwithstanding subsection 1, the credit allowed by this section for the taxable year shall not exceed:

A. So much of the liability for tax for the taxable year as does not exceed \$25,000, plus

B. 50% of so much of the liability for tax for the taxable year as exceeds \$25,000.

3. Carryover of unused credits. If the amount of the credit determined under subsection 1 for any taxable year exceeds the limitation provided by subsection 2 for such year, hereinafter in this subsection referred to as "unused credit year," such excess shall be an investment credit carryover to each of the 5 succeeding taxable years following the unused credit year and shall be added to the amount allowable as a credit by subsection 1 for such years

to the extent that, because of the limitation hereafter contained in this subsection, such unused credit may not be added for a prior taxable year to which such unused credit may be carried. The amount of the unused credit which may be added under subsection 1 for any succeeding taxable year shall not exceed the amount by which the limitation provided by subsection 2 for such taxable year exceeds the sum of:

- A. The credit allowable under subsection 1 for such taxable year, and
- B. The amounts which, by reason of this subsection, are added to the amount allowable for such taxable years and attributable to taxable years preceding the unused credit year.

4. Qualified investment in pollution control facilities. For purposes of this section the term "qualified investment in pollution control facilities" means, with respect to any taxable year the basis of water pollution control facilities and air pollution control facilities, as defined in section 656, subsection 1, paragraph E placed in service by the taxpayer for use in this State during such taxable year and having a useful life, used in computing the allowance for depreciation for the taxable year in which the property is placed in service, in excess of 5 years. In applying this subsection there shall be taken into account only property acquired after December 31, 1972, if the original use of such property as a pollution control facility commences with the taxpayer and commences after such date or, in the case of the construction, reconstruction or erection of property, so much of the basis of such property which is properly attributable to construction, reconstruction or erection after December 31, 1972.

5. Early disposition, etc. Under regulations prescribed by the Tax Assessor, if during any taxable year any property constituting all or a part of a pollution control facility is disposed of, or otherwise ceases to be a pollution control facility as defined in subsection 4 with respect to the taxpayer prior to the close of the 5th year from which said property was first placed in service, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate amount of credits allowed under this section for all prior taxable years with respect to the qualified investment in such property, beginning with the time such property was placed in service by the taxpayer and ending with the time such property ceased to be a pollution control facility. In the case of any cessation described in the preceding sentence, the carryover under subsection 3 shall be adjusted by reason of such cessation. This subsection shall not apply to any disposition in a transaction to which section 381(a) of the Internal Revenue Code applies. In the case of a transaction to which section 381(a) of the Internal Revenue Code applies, the acquiring corporation shall take into account, to the extent proper to carry out the purposes of this section, and under such regulations as may be prescribed by the Tax Assessor, the items required to be taken into account for purposes of this section in respect of the distributor or transferor corporation. Any increase in tax by reason of this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit allowable under this section.

**6. Regulations. The Tax Assessor shall prescribe such regulations as may be necessary to carry out the purposes of this section.**

STATEMENT OF FACT

The purpose of this bill is to provide an investment credit for the installation of pollution facilities similar to that which exists under federal laws to encourage the prompt installation of private pollution control facilities.