

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2231

H. P. 2055

House of Representatives, February 19, 1976

On motion of Mrs. Mitchell of Vassalboro, referred to the Committee on Taxation and sent up for concurrence.

EDWIN H. PERT, Clerk

Presented by Mrs. Mitchell of Vassalboro.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SIX

**AN ACT to Provide Relief from the Burden of the
State Uniform School Tax.**

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

Whereas, the uniform school tax has had different but direct effects on the property taxes of individuals throughout the State; and

Whereas, relief by cash grants is urgently needed for individuals whose property taxes or rent constituting property taxes resulting from such tax have exceeded a certain amount of their income; 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:

Sec. 1. 36 MRSA Part 9-A is enacted to read:

PART 9-A

PROPERTY TAX RELIEF

CHAPTER 903

STATE UNIFORM SCHOOL TAX RELIEF

§ 6171. Short title

This Part may be cited as the State Uniform School Tax Relief Act.

§ 6172. Purpose

The purpose of this chapter is to provide property tax relief from the burden of the Uniform School Tax to any eligible homeowner or renter through a system of grants.

§ 6173. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. **Claimant.** "Claimant" means a person who has filed a claim under this Part and was domiciled in this State and owned or rented a homestead in this State during the entire calendar year preceding the year in which he files claim for relief under this Part. When 2 individuals of a household are able to meet the qualifications for a claimant, they may determine between them as to who the claimant shall be. If they are unable to agree, the matter shall be referred to the State Tax Assessor and his decision shall be final. If a homestead is occupied by 2 or more individuals and more than one individual is able to qualify as a claimant, the individuals may determine among them as to who the claimant shall be. If they are unable to agree, the matter shall be referred to the State Tax Assessor and his decision shall be final. An individual may not be a claimant if he is under 18 years of age or a full-time student claimed as a dependent by any taxpayer under the Federal Internal Revenue Code.

2. **Gross rent.** "Gross rent" means rental paid at arms-length solely for the right of occupancy of a homestead, exclusive of charges for any utilities, services, furniture, furnishings or personal property appliances furnished by the landlord as part of the rental agreement, whether or not expressly set out in the rental agreement. If the landlord and tenant have not dealt with each other at arms-length and the State Tax Assessor is satisfied that the gross rent charged was excessive, he may adjust the gross rent to a reasonable amount for purposes of this chapter.

3. **Homestead.** "Homestead" means the claimant's principal dwelling within the State of Maine and the parcel of land upon which it is situated, whether owned or rented by the claimant and occupied by the claimant and his household. A "homestead" may consist of a part of a multi-dwelling or multi-purpose home. A homestead does not include personal property such as furniture, furnishings or appliances. A mobile home or a houseboat may be a homestead. "Owned" includes a vendor in possession under a land contract and one or more joint tenants or tenants in common.

4. **Household.** "Household" means the association of persons, including but not limited to, the dependents for whom the claimant may claim an exemption under Part 8, who live in the same dwelling sharing its furnishings, facilities, accommodations and expenses. The term "household" does not include bona fide lessees, tenants or roomers and boarders on contract.

5. Household income. "Household income" means all income received by all persons of a household while members of the claimant's household in the year for which relief is requested.

6. Income. "Income" means the sum of Maine adjusted gross income determined in accordance with Part 8, the amount of capital gains excluded from adjusted gross income, alimony, support money, intrafamily gifts and gifts from other non-governmental sources, nontaxable strike benefits, the gross amount of any pension or annuity including railroad retirement benefits, all payments received under the Federal Social Security Act, state unemployment insurance laws, veterans disability pensions, non-taxable interest received from the Federal Government or any of its instrumentalities, workmen's compensation, the gross amount of "loss of time" insurance and cash public assistance and relief, but not including relief granted under this Part. Income does not include surplus foods or other relief in kind supplied by a governmental agency.

7. Property taxes accrued. "Property taxes accrued" means that portion of property taxes which are the result of the levy of the Uniform School Tax, exclusive of special assessment, delinquent interest and charges for service levied on a claimant's homestead in this State as of April 1, 1976 or any tax year thereafter. If a homestead is owned by 2 or more persons or entitles as joint tenants or tenants in common, and one or more persons or entitles are not a member of the claimant's household, "property taxes accrued" is that part of property taxes which are the result of the Uniform School Tax levied on the homestead which reflects the ownership percentage of the claimant and his household. If a claimant and spouse own their homestead part of the preceding tax year and rent it or a different homestead for part of the same tax year, "property taxes accrued" means only taxes which are the result of the Uniform School Tax levied on the homestead when both owned and occupied by the claimant on April 1st, multiplied by the percentage of 12 months that such property was owned and occupied by the household as its homestead during the preceding tax year. When a household owns and occupies 2 or more different homesteads in this State in the same tax year, property taxes accrued shall relate only to that property occupied by the household as a homestead on April 1st. If a homestead is an integral part of a larger unit such as multi-purpose or multi-dwelling building, property taxes accrued shall be the same percentage of the total property taxes accrued because of the levy of the Uniform School Tax as the value of the homestead is of the total value of the larger unit. For purposes of this chapter, "unit" refers to that parcel of property separately assessed of which the homestead is a part.

8. Rent constituting property taxes accrued. "Rent constituting property taxes accrued" means 15% of the gross rent actually paid in cash or its equivalent in any tax year by a claimant and his household solely for the right of occupancy of their Maine homestead in the tax year, and which rent constitutes the basis, in the succeeding calendar year, of a claim for relief under this chapter by the claimant.

9. Year for which relief is requested. "Year for which relief is requested" means the calendar year preceding that in which the claim is filed.

§ 6174. Claim is personal

The right to file claim under this chapter shall be personal to the claimant and shall not survive his death, but such right may be exercised on behalf of a claimant by his legal guardian or attorney-in-fact. If a claimant dies after having filed a timely claim, the amount thereof shall be disbursed to another member of the household as determined by the State Tax Assessor.

If the claimant was the only member of his household, the claim may be paid to his executor or administrator, but if neither is appointed and qualified within 2 years of the filing of the claim, the amount of the claim shall escheat to the State.

§ 6175. Claim to be paid from General Fund

Subject to this chapter, a claimant may file claim in any year for a rebate of property taxes accrued or rent constituting property taxes accrued in the preceding year. The amount of the rebate, after audit or certification by the State Tax Assessor, shall be paid to the claimant from the General Fund. No interest shall be allowed on any payment made to a claimant pursuant to this chapter.

§ 6176. Filing date

No claim shall be paid unless the claim is filed with the Bureau of Taxation on or before August 1st or on or before October 15th.

§ 6177. Computation of State's obligation

Prior to the payment of any claim filed under this chapter and on or before November 15th annually, the State Tax Assessor shall make an initial computation of the State's obligation under this chapter for claims which have been certified.

If the State's obligation exceeds 90% of the amount appropriated for the purposes of grant payments under this chapter, the State Tax Assessor shall have the authority to prorate this amount to all claimants certified prior to the initial computation. The State Tax Assessor shall retain 10% of the amount appropriated for the payment of claims which are certified after this initial computation.

§ 6178. Satisfaction of outstanding tax liabilities

The amount of any claim otherwise payable under this chapter may be applied by the State Tax Assessor against any liability outstanding on the books of the department against the claimant or against the claimant's spouse who was a member of the claimant's household in the year for which relief is requested.

§ 6179. One claim per household

Only one claimant per household or homestead per year shall be entitled to relief under this Part.

§ 6180. Limitations

Claims filed under this chapter shall be subject to the following limitations:

1. **Income limitation.** No claim otherwise allowable shall be granted to claimants of single member households with household income in excess of \$4,500 in the year for which relief is requested; and no claim otherwise allowable shall be granted to claimants of households of 2 or more members with income in excess of \$5,000 in the year for which relief is requested.

2. **Net asset limitation.** A claimant may not have net assets, excluding the value of the homestead, consisting of real estate, bank accounts, cars and securities in the net value of more than \$20,000.

3. **Benefit limitation.** No claim of more than \$400 shall be granted and in no event shall the claim granted exceed the amount of property taxes accrued or rent constituting property taxes in the year for which relief is requested.

§ 6181. Amount of claim

The claim shall be limited to the amount by which property taxes or rent constituting property taxes accrued as the result of the levy of the Uniform School Tax in the year for which relief is requested on the claimant's homestead, is in excess of 12% of such household income which exceeds \$3,000 but does not exceed \$5,000.

§ 6182. Claimant's recording of claim not required

The claimant, at his election, shall not be required to record on his claim the amount claimed by him. The claim allowable to persons making this election shall be computed by the department which shall notify the claimant by mail of the amount of his allowable claim.

§ 6183. Administration

The State Tax Assessor shall make available suitable forms with instructions for claimants. The claim shall be in such form as the State Tax Assessor may prescribe and shall be signed by the claimant under the pains and penalties of perjury.

Annually, prior to March 1st, the State Tax Assessor shall furnish to all municipal officials the percentage of the municipal tax rate for the preceding year attributable to the uniform school tax rate for the preceding year.

In addition, the State Tax Assessor shall furnish to all municipal assessors instruction forms in sufficient number that each recipient of a property tax bill shall also receive an instruction form from the municipal assessor. The instruction form shall include the following:

1. **Percentage of the Uniform School Tax.** Each form shall contain a space with the heading "Percentage of Total Municipal Tax Rate Due to the Uniform School Tax."

2. **Computation of amount due.** Each form shall contain instructions as to how the amount of tax on an individual's homestead due to the Uniform School Tax may be computed.

3. Table of income and taxes. Each form shall contain a column consisting of the income levels between \$3,000 and \$5,000 in \$100 increments and a 2nd column consisting of the Uniform School Tax obligation for each of these income levels required prior to any refund according to section 6181.

§ 6184. Duties of municipal tax assessors

To carry out the purposes of this chapter, all municipal tax assessors shall send 2 copies of each property tax bill to each property taxpayer and shall enclose with these 2 copies an instruction form furnished by the State Tax Assessor as described in section 6183. In addition, municipal assessors shall annually print on this form the percentage of total municipal tax rate due to the Uniform School Tax for the preceding year as furnished by the State Tax Assessor.

§ 6185. Proof of claim

Every claimant filing under this chapter shall supply to the State Tax Assessor in support of his claim reasonable proof of rent paid, name and address of the owner or managing agent of property rented, receipt for property taxes accrued, changes of homestead and a receipt for the property taxes paid which will be the basis for the claim filed under this chapter.

§ 6186. Audit of claim

The State Tax Assessor may audit any claim filed under this Chapter. If, on the audit of any claim filed under this chapter, the State Tax Assessor determines the amount to have been incorrectly determined, he shall redetermine the claim and notify the claimant of the redetermination and his reasons for it. The redetermination shall be final unless appealed to the State Tax Assessor within 30 days of notice.

§ 6187. Denial of claim

If it is determined that a claim is excessive and was filed with fraudulent intent, the claim shall be disallowed in full, and, if the claim has been paid, the amount may be recovered by assessment as income taxes are assessed, and the assessment shall bear interest from the date of payment or credit of the claim, until refunded or paid, at the rate of 1% per month. The claimant in such case, and any person who assisted in the preparation or filing of such excessive claim or supplied information upon which such excessive claim was made with fraudulent intent, is guilty of a misdemeanor. If it is determined that a claim is excessive and was negligently prepared, 10% of the corrected claim shall be disallowed, and if the claim has been paid, the proper portion of any amount paid shall be similarly recovered by assessment, as income taxes are assessed, and the assessment shall bear interest at 1% per month from the date of payment until refunded.

§ 6188. Rental determination

If a homestead is rented by a person from another person under circumstances deemed by the State Tax Assessor to be not at arms-length, the State Tax Assessor may redetermine rent constituting property taxes accrued, as at arms-length and notify the claimant of his redetermination. For the purposes of this chapter, such a redetermination shall be final unless appealed within 30 days of the notice.

§ 6189. Appeals

Any person aggrieved by the denial in whole or in part of relief claimed under this Part, except when denial is based upon late filing of claim for relief, may appeal the denial to the Administrative Court Judge by filing a petition within 30 days after notice of such denial.

§ 6190. Disallowance of certain claims

A claim shall be disallowed if the State Tax Assessor finds that the claimant received title to his homestead primarily for the purpose of receiving benefits under this Part.

§ 6191. Extension of time for filing claims

In case of sickness, absence or other disability, or if in his judgment, good cause exists, the State Tax Assessor may extend, for a period not to exceed 6 months, the time for filing a claim.

§ 6192. Rules and regulations

The State Tax Assessor may establish those rules and regulations necessary for the effective administration of this chapter.

§ 6193. Initial filing of claims

No claim shall be filed under this chapter before August 1, 1977.

Sec. 2. Appropriation. There is appropriated to the Bureau of Taxation from the General Fund the sum of \$8,000,000 for the fiscal year ending June 30, 1977. The breakdown shall be as follows:

1976-77

FINANCE AND ADMINISTRATION,
DEPARTMENT OF

Bureau of Taxation

State uniform school tax relief	\$8,000,000
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Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect on June 30, 1976.

FISCAL NOTE

This Act will require no appropriations until the first year of the next biennium.

The amount that will be required to be provided for this program will be \$8,000,000 in the first year of the next biennium.

STATEMENT OF FACT

The Uniform School Tax has had different but direct effects on the property taxes of individuals throughout the State. The purpose of this bill is to provide relief through cash grants to individuals whose property taxes or rent constituting property taxes resulting from the Uniform School Tax have exceeded a certain portion of their income.

This bill would be implemented in the following way. Each municipal tax assessor will include with each property tax bill the percentage of the local tax rate due to the Uniform School Tax, and instructions provided by the State, describing how to compute the amount of tax due to the Uniform School Tax. The individual would continue to pay his property tax bill to the local treasurer. In the year following payment of the tax, however, the individual could file a claim for tax relief with the State Tax Assessor. Renters would follow similar procedures.

The State Tax Assessor will be required to compute the State's total obligation for tax relief in this program and if the State's obligation exceeded the amount appropriated by the Legislature, the grants would be prorated accordingly.

Income and net assets limits as well as a maximum allowable grant are included as features which would assure that the relief was targeted to only deserving individuals.

To assure efficient and less costly administration, the program would be carried out at the same time as the existing property tax relief program for the elderly. Using the formula for computing the amount of the grant that is presently used in the "elderly" program also eases implementation of the program.

In general, "circuit breaker" tax relief offers refunds to individuals whose property taxes exceed a certain percentage of their income. If 2 individuals have the same property tax obligation, the individual with smaller income would be eligible for a larger refund. Unlike homestead tax exemptions, circuit breakers do not reduce the local tax base. Unlike homestead tax credits, circuit breakers do not shift the burden to other local property taxpayers. The use of a circuit breaker is a way to recognize that although the property tax is still a major source of income for governments, it must be modified because of its impact on individuals of lower income but higher property wealth.

The circuit breaker contained in this bill is based only on the Uniform School Tax portion of total property taxes. Focusing relief in this way enables the program to respond precisely to changes in education costs as they are translated into the Uniform School Tax.

Linking relief to the Uniform School Tax portion of property taxes avoids the argument often lodged against general circuit breakers that they create a group of citizens who can vote for higher taxes without having to pay them. Since the Legislature sets the Uniform School Tax, this weakness of general circuit breakers is avoided.

Finally, applying this circuit breaker only to the uniform property tax portion of the total property tax reduces what has been called the urban bias of most circuit breakers. In communities (usually rural) where the uniform property tax constitutes a high percentage of the total property tax, relief to eligible individuals will also constitute a higher percentage.