

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

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**Legislative Document**

**No. 654**

H. P. 539

House of Representatives, February 24, 1977

On motion of Mr. Carey of Waterville, referred to the Committee on Taxation. Sent up for concurrence and 1,800 copies ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Durgin of Kittery.

Cosponsors: Mr. Goodwin of South Berwick, Mr. McMahon of Kennebunk, Mr. McPherson of Eliot.

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**STATE OF MAINE**

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

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**AN ACT to Avoid Double Taxation on Income Earned in New Hampshire  
by Citizens of the State of Maine.**

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

Whereas, income earned by Maine citizens in New Hampshire has been taxed under the provisions of New Hampshire's commuter tax, New Hampshire Revised Statutes 77-B et seq.; and

Whereas, on March 19, 1975, the Supreme Court of the United States declared the New Hampshire commuter tax on income earned by Maine citizens unconstitutional; and

Whereas, New Hampshire collected tax on income earned by Maine citizens in New Hampshire until March 19, 1975; and

Whereas, the State of Maine also collected tax on income earned by Maine citizens in New Hampshire from January 1, 1975 to March 19, 1975; and

Whereas, with great hardship and deprivation citizens of the State of Maine have been doubly taxed for income earned in New Hampshire from January 1, 1975 to March 19, 1975; 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. State of Maine; authorization for legal action.** The Attorney General of the State of Maine shall take all appropriate legal action to recover to the citizens of the State of Maine for all illegal taxes collected by New Hampshire from Maine citizens pursuant to New Hampshire Revised Statutes 77-B.

**Sec. 2. Double taxation; recovery.** Any recovery obtained by action of the Attorney General shall be used to avoid double taxation of income earned by Maine citizens in New Hampshire from January 1, 1975 to March 19, 1975 and the remainder, if any, shall be paid into the General Fund.

**Sec. 3. Certification of failure to obtain recovery.** In the event of certification to the Commissioner of Finance and Administration of a failure to obtain recovery by the Attorney General, Maine tax liability for income derived in New Hampshire from January 1, 1975, shall be void and taxes collected for income earned in New Hampshire during that period plus interest of 6% thereon from date of payment shall be refunded to Maine citizens who have paid them.

**Sec. 4. Appropriation.** There is appropriated from the General Fund to the Department of Attorney General the sum of \$5,000 to meet all expenses and costs of action authorized in this Act. The breakdown shall be as follows:

1977-78

ATTORNEY GENERAL, DEPARTMENT OF

All Other \$5,000

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

STATEMENT OF FACT

The intent of this bill is reflected in the emergency preamble.