

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 358

H.P. 288

House of Representatives, January 25, 2007

An Act To Create the Maine Fishery Infrastructure Tax Credit Program

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative WATSON of Bath.
Cosponsored by Senator BRYANT of Oxford and
Representatives: JACKSON of Allagash, PIOTTI of Unity, WHEELER of Kittery.

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

2 **Sec. 1. 5 MRSA §13070-J, sub-§1, ¶D,** as amended by PL 2005, c. 519, Pt.
3 TTT, §1, is further amended to read:

4 D. "Economic development incentive" means:

- 5 (1) Assistance from Maine Quality Centers under Title 20-A, chapter 431-A;
- 6 (2) The Governor's Training Initiative Program under Title 26, chapter 25,
7 subchapter 4;
- 8 (3) Municipal tax increment financing under Title 30-A, chapter 206;
- 9 (4) The jobs and investment tax credit under Title 36, section 5215;
- 10 (5) The research expense tax credit under Title 36, section 5219-K;
- 11 (6) Reimbursement for taxes paid on certain business property under Title 36,
12 chapter 915;
- 13 (7) Employment tax increment financing under Title 36, chapter 917;
- 14 (8) The shipbuilding facility credit under Title 36, chapter 919;
- 15 (9) The credit for seed capital investment under Title 36, section 5216-B;~~or~~
- 16 (10) The credit for pollution-reducing boilers under Title 36, section 5219-Z; or
- 17 (11) The credit for Maine fishery infrastructure investment under Title 36,
18 section 5216-D.

19 **Sec. 2. 12 MRSA c. 903, sub-c. 8** is enacted to read:

20 **SUBCHAPTER 8**

21 **MAINE FISHERY INFRASTRUCTURE TAX CREDIT PROGRAM**

22 **§10331. Tax credit certificates**

23 **1. Authorization.** In order to encourage equity investment in infrastructure
24 improvements and facilities that enhance the State's fisheries, the department is
25 authorized to issue certificates of eligibility for the Maine fishery infrastructure
26 investment tax credit permitted by Title 36, section 5216-D, subject to the requirements
27 of this section. This program is known as the Maine Fishery Infrastructure Tax Credit
28 Program.

29 **2. Eligibility for tax credit certificate; rules.** The department shall adopt rules in
30 accordance with the Maine Administrative Procedure Act to implement the program
31 under this subchapter. Rules adopted pursuant to this subsection are routine technical
32 rules as defined by Title 5, chapter 375, subchapter 2-A. The rules must establish
33 requirements for project eligibility for a tax credit certificate and must include at least the
34 following.

1 A. A tax credit certificate may be issued in an amount not more than 50% of the
2 amount of cash actually invested in an eligible public fishery infrastructure project in
3 any calendar year.

4 B. Eligible public fishery infrastructure projects must be determined by the
5 department to have a public benefit and constitute:

6 (1) A publicly owned infrastructure improvement or facility that enhances the
7 State's fisheries; or

8 (2) A privately owned infrastructure improvement or facility that is publicly
9 accessible.

10 3. Credit certificate limit. The aggregate investment eligible for tax credits under
11 this subchapter may not exceed \$5,000,000 per project.

12 4. List of projects. The department shall develop and maintain a list of projects
13 eligible under this subchapter.

14 5. Revocation of tax credit certificate. The department may revoke a tax credit
15 certificate under this subchapter if any representation to the department in connection
16 with the application for the certificate proves to have been false when made or if the
17 applicant violates any conditions established by the department and stated in the tax
18 credit certificate. The revocation may be in full or in part as the department determines.
19 The department shall specify the amount of credit being revoked and send notice of the
20 revocation to the investor and to the State Tax Assessor.

21 6. Reports. As a condition for determination of eligibility or continuation of
22 eligibility for a tax credit certificate under this subchapter, the department may require
23 any information or reports from the project that it considers necessary.

24 **Sec. 3. 36 MRSA §5216-D** is enacted to read:

25 **§5216-D. Maine Fishery Infrastructure Investment Tax Credit Program**

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

28 A. "Certificate" means a tax credit certificate issued by the Department of Inland
29 Fisheries and Wildlife pursuant to Title 12, chapter 903, subchapter 8.

30 B. "Investment" means an investment for which a certificate has been received.

31 C. "Investor" means a taxpayer who has received a certificate.

32 2. Credit. An investor is entitled to a credit against the tax otherwise due under this
33 Part equal to the amount of the tax credit certificate issued by the Department of Inland
34 Fisheries and Wildlife in accordance with Title 12, section 10331 and as limited by
35 subsection 3. In the case of partnerships, limited liability companies, S corporations,
36 nontaxable trusts and any other entities that are treated as flow-through entities for tax
37 purposes under the Code, the individual partners, members, stockholders, beneficiaries or
38 equity owners of such entities must be treated as the investors under this section and are

1 allowed a credit against the tax otherwise due from them under this Part in proportion to
2 their respective interests in those partnerships, limited liability companies, S corporations,
3 nontaxable trusts or other flow-through entities. Except as limited or authorized by
4 subsection 3 or 4, 25% of the credit must be taken in the taxable year the investment is
5 made and 25% per year must be taken in each of the next 3 taxable years.

6 **3. Limitation.** The amount of the credit allowed under this section for any one
7 taxable year may not exceed 50% of the tax imposed by this Part on the investor for the
8 taxable year before application of the credit.

9 **4. Carry forward.** A credit under this section not taken because of the limitation in
10 subsection 3 must be taken in the next taxable year in which the credit may be taken, and
11 the limitation of subsection 3 also applies to the carry-forward years. In no case may this
12 carry-forward period exceed 15 years.

13 **5. Recapture.** In the event that the Department of Inland Fisheries and Wildlife
14 revokes a certificate, there must be added to the tax imposed on the investor under this
15 Part for the taxable year in which the revocation occurs an amount equal to the excess of
16 the amount of credit revoked over the amount of credit not yet taken.

17 **SUMMARY**

18 This bill provides an income tax credit for investment in eligible public fishery
19 infrastructure projects in the State. Eligible projects must be certified by the Department
20 of Inland Fisheries and Wildlife, which is required to adopt rules for determination of
21 eligibility. Tax certificates may be issued for up to \$5,000,000 per project. Credits must
22 be taken in increments of 25% over 4 years and may not exceed 50% of the total tax
23 imposed on the investor for the applicable year. Unused credits may be carried forward
24 for up to 15 years.