

# MAINE STATE LEGISLATURE

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EIGHTY - SEVENTH LEGISLATURE

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Legislative Document

No. 470

H. P. 1358

House of Representatives, Feb. 12, 1935.

Referred to Committee on Taxation and 1,000 copies ordered printed.  
Sent up for concurrence.

HARVEY R. PEASE, Clerk.

Presented by Mr. Crowell of Weston.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
THIRTY-FIVE

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AN ACT Relating to Taxation.

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

**Sec. 1. Reports to the tax commissioner.** Every corporation engaged as a public utility in the business of producing and distributing or selling electricity in this state shall make an annual report to the tax commissioner in such form as he shall by regulation prescribe, reporting therein specifically the amount of the gross receipts from the sale of electricity during the preceding taxable year, and the amount and location of its tangible property used in the production, distribution and sale of its product or products. The tax commissioner shall have power, and it shall be his duty, to require such further information respecting the gross receipts or the character and location of the tangible property owned and used in the business of producing and supplying electricity, as he shall deem necessary in order to carry out the purposes of this act. Every such return shall be signed by the president of the company or by its chief financial officer, and an affidavit as to the accuracy of the information therein contained shall be duly signed and executed.

**Sec. 2. Franchise tax.** For the privilege of exercising its franchise as a public utility in this state, every corporation engaged in the business of producing and distributing or supplying electricity shall pay an annual

franchise tax at the rate of 4%, based on the amount of its gross receipts from such business during the preceding taxable year.

Such tax shall be paid to the tax commissioner on or before the 1st day of April of each year, and all moneys collected by him under this section shall be forthwith turned over to the treasurer of state for the account of the state general fund.

**Sec. 3. Tax in lieu of property tax.** Every corporation engaged as a public utility in the business of producing and distributing or supplying electricity in this state shall pay a further annual tax, based on the amount of its gross receipts from the sale of its product or products, at the rate of 4%. Such tax shall be in lieu of all taxation of the property, real and personal, tangible and intangible, owned and used by the corporation in the business of producing and distributing or supplying electricity in this state. The tax imposed under this section shall be paid to the tax commissioner on or before the 1st day of April of each year, and all moneys collected by him in accordance with this section shall be immediately transmitted to the treasurer of state, to be distributed among the several cities and towns proportionately to the value of the tangible property of each such corporation located therein.

Such distribution shall be made on the 1st day of July of each year. The tax commissioner shall prepare a certificate showing for each city and town the value of the property of each corporation engaged in the business of producing and distributing or supplying electricity located therein. He shall also prepare an apportionment table showing the equitable apportionment among the several cities and towns, of the tax hereby imposed on gross receipts in lieu of the property tax, according to the allocation therein of the tangible property of the several corporations. The treasurer of state shall draw his warrant in favor of the treasurer of each city and town entitled to share in this distribution, for the amount certified by the tax commissioner to be distributed to each, and transmit to the treasurers of the several cities and towns, by whom the money so received shall be paid into the fund for general local purposes.

**Sec. 4. Returns and payment of the tax.** All returns required to be made under this act shall be transmitted to the tax commissioner on or before the 1st day of April in each year, covering the gross receipts from the business done during the preceding calendar year. Payment of the taxes imposed by this act, as shown by the return, shall be made at the time of filing the return.

**Sec. 5. Examination of returns.** As soon as practicable thereafter, the tax commissioner shall examine, or cause to be examined, the returns of gross receipts made as provided in the previous section, and verify the amount of tax due. He shall have power to examine all books, papers and records of every taxpayer subject to this act, and to compel the production of any and all records, and the appearance of witnesses, in any hearing or examination held or conducted by him for the purpose of ascertaining the correct amount of taxable gross receipts.

**Sec. 6. Adjustments and refunds.** If, as a result of any audit or examination of records made by the tax commissioner, the amount of the tax due shall be found to be in excess of the payment tendered at the time of filing the return, the tax commissioner shall make demand by registered mail addressed to the last known address of the taxpayer for such balance due and the same shall be paid within 10 days thereafter, with interest thereon at 6% from the date when the same should have been paid. Should the tax commissioner discover, as a result of his audit or examination, that the amount paid at the time of filing the return is in excess of the amount actually due and payable, he shall certify to the treasurer of state the amount of such overpayment, and the same shall be refunded to the taxpayer within 10 days thereafter. For the purpose of making prompt payment of amounts due to taxpayers under this act, the treasurer shall maintain at all times, out of the proceeds of the taxes provided for by this act, the sum of \$            as a revolving fund.

**Sec. 7. Failure or refusal to make returns; fraudulent returns.** If any company or any official thereof subject to the provisions of this act, shall fail or refuse to make and file a return at the time when the same should be submitted, the tax commissioner shall have power, and it shall be his duty, to levy an assessment upon the gross receipts of such taxpayers, on the basis of the best information that he can obtain. The tax commissioner may grant an extension of time for the filing of a return, upon good cause shown, but such extension shall not be for more than 60 days, and interest at the rate of 6% shall be paid on the tax due, computed from the date when such return should have been filed.

Any person who knowingly and wilfully files a fraudulent or false return shall be guilty of a misdemeanor, and subject, further, to all the penalties provided by law for perjury.

**Sec. 8. Review of tax commissioner's findings.** Any taxpayer who is aggrieved by any finding or assessment made by the tax commissioner

under this act may appeal for a review of the same to the supreme court holden at Augusta. Such appeal shall be heard by the court at the next term. Provided, however, that no appeal shall be entertained unless application therefor is filed with the clerk of the court within 90 days after the date of the tax commissioner's notice and demand for additional tax, and unless notice of such appeal be given to the tax commissioner within 30 days after the date of said notice and demand.