

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE
AT THE

SECOND REGULAR SESSION

January 4, 1978 to April 6, 1978

FIRST SPECIAL SESSION

(No laws enacted)

September 6, 1978 to September 15, 1978

SECOND SPECIAL SESSION

October 18, 1978

THIRD SPECIAL SESSION

December 6, 1978

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PUBLIC LAWS
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person, firm or institution shall be eligible for more than one \$400 grant.

In the event that other public or private moneys become available to establish such a solar water heater demonstration program, they shall be used to expand the program.

The receipt of a demonstration grant shall not keep an applicant from applying for and receiving any tax credit he may be eligible for under federal or state law on the remainder of the cost of the installed solar water heater over the amount of the grant.

Effective July 6, 1978

CHAPTER 686

AN ACT to Provide for Reform of the State Tax Laws, Including the State Sales Tax and the State Income Tax.

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

Sec. 1. 36 MRSA § 1760, sub-§ 9 is amended to read:

9. **Coal, oil and wood.** Coal, oil, wood and all other fuels, except gas and electricity, when bought for cooking and heating in homes, **mobile homes**, hotels and apartment houses, and other buildings designed both for human habitation and sleeping.

Sec. 2. 36 MRSA § 1760, sub-§ § 9-B and 9-C are enacted to read:

9-B. **Residential electricity.** Sale of the first 750 kilowatt hours of residential electricity per month. For the purpose of this subsection, "residential electricity" shall mean electricity furnished to homes, mobile homes, boarding homes and apartment houses, with the exception of hotels and motels.

9-C. **Residential gas.** Sales of gas when bought for cooking and heating in residences. For the purpose of this subsection, "residences" shall mean homes, mobile homes, boarding homes and apartment houses, with the exception of hotels and motels.

Sec. 3. 36 MRSA § 1760, sub-§ 39 is enacted to read:

39. Residential water. Sales of water purchased for use in homes, mobile homes, boarding homes and apartment houses and other buildings designed for both human habitation and sleeping, with the exception of hotels and motels.

Sec. 4. 36 MRSA § 1765, as last repealed and replaced by PL 1975, c. 765, § 20, is repealed and the following enacted in its place:

§ 1765. Trade-in credit for vehicles, boats or aircraft

When one or more motor vehicles, farm tractors, boats, aircraft or self-propelled vehicles used to harvest lumber is traded in toward the sale price of another motor vehicle, farm tractor, boat, aircraft or self-propelled vehicle used to harvest lumber, the tax imposed by chapters 211 to 225 shall be levied only upon the difference between the sale price of the purchased vehicle and the sale price of the vehicle or vehicles taken in trade, except for transactions between dealers involving exchange of the vehicles from inventory.

Sec. 5. 36 MRSA § 2013 is enacted to read:

§ 2013. Refund of sales tax on depreciable machinery and equipment purchases

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

A. "Agricultural production" means commercial production of crops for human and animal consumption and production of livestock.

B. "Commercial fishing" means attempting to catch fish or any other marine animals with the intent of disposing of them for profit or trade in commercial channels and does not include subsistence fishing for personal use, sport fishing or charter boat fishing where the vessel is used for carrying sport fishermen to available fishing grounds.

C. "Depreciable machinery and equipment" means that part of the following machinery and equipment for which depreciation is allowable under the Internal Revenue Code:

(1) New or used machinery and equipment for use by the purchaser directly and primarily in commercial agricultural production, including self-propelled vehicles, attachments and equipment for the production of field and orchard crops; new or used machinery and equipment used in production of milk and in animal husbandry and production of livestock, including poultry; or

(2) New or used watercraft used primarily for commercial fishing; and nets, traps, cables, tackle and related equipment necessary to the operation of a commercial fishing venture.

2. Credit authorized. Any person, association of persons, firm or corporation who purchases depreciable machinery or equipment for use in commercial agricultural production or commercial fishing shall be refunded the amount of sales tax paid by him by presenting to the State Tax Assessor evidence that the machinery or equipment complies with the definitions of subsection 1.

Evidence required by the State Tax Assessor shall include, but not be limited to, a copy or copies of that portion of the purchaser's most recent filing under the Internal Revenue Code which indicates that the purchaser is in fact engaged in commercial agricultural production or commercial fishing and that the purchased machinery or equipment is depreciable for those purposes.

In the event that any piece of machinery or equipment shall be only partially depreciable under the Internal Revenue Code, any reimbursement of the sales tax shall be prorated accordingly.

Application for refunds shall be filed with the State Tax Assessor within 15 months of the date of purchase and shall be limited to purchases made subsequent to July 1, 1978.

Sec. 6. 36 MRSA § 5102, sub-§ 8, ¶ D is enacted to read:

D. For the tax years beginning on or after January 1, 1977, an amount equal to the taxpayer's federal new jobs credit as determined under the laws of the United States.

Sec. 7. 36 MRSA § 5111, as repealed and replaced by PL 1975, c. 661, is amended by inserting before the last paragraph the following:

The effective date of change from the foregoing rate table to the next following rate table shall be July 1, 1978. The amount of tax for any taxable year or portion thereof on or after July 1, 1978 shall be determined in accordance with the following table:

If the taxable income is:

The tax is:

Not over \$2,000	1% of the taxable income
\$ 2,000 but not over \$ 4,000	\$ 20 + 2% of excess of \$ 2,000
\$ 4,000 but not over \$ 6,000	\$ 60 + 3% of excess over \$ 4,000
\$ 6,000 but not over \$ 8,000	\$ 120 + 6% of excess over \$ 6,000
\$ 8,000 but not over \$10,000	\$ 240 + 7% of excess over \$ 8,000
\$10,000 but not over \$15,000	\$ 380 + 8% of excess over \$10,000
\$15,000 but not over \$25,000	\$ 780 + 9.2% of excess over \$15,000
\$25,000 or more	\$1,700 + 10% of excess over \$25,000

Sec. 8. 36 MRSA § 5115 is enacted to read:

§ 5115. Head of household

For taxable years beginning on and after January 1, 1978, a taxpayer who qualifies to file his federal income tax return as a head of a household may also

file as a head of a household with the State. If he does so, his tax shall be equal to $\frac{1}{2}$ the amount imposed by section 5111 on his income if he were single, plus $\frac{1}{2}$ of the amount imposed by section 5111 if he were filing a joint return.

Sec. 9. 36 MRSA § 5122, sub-§ 2, as enacted by P&SL 1969, c. 154, § F, § 1, is repealed and the following enacted in its place:

2. Subtractions. For tax years beginning on or after January 1, 1977, federal adjusted gross income shall be reduced by:

A. Interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent includible in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States, provided that the amount subtracted shall be decreased by any expenses incurred in the production of the interest or dividend income to the extent that these expenses, including amortizable bond premiums, are deductible in determining federal adjusted gross income; and

B. An amount equal to the taxpayer's federal new jobs credit as determined under the laws of the United States.

Sec. 10. 36 MRSA § 5126, as enacted by P&SL 1969, c. 154, § F, is amended to read:

§ 5126. Personal exemptions

A resident individual shall be allowed an exemption of \$1,000 for each exemption to which he is entitled for the taxable year for federal income tax purposes, except that for a taxable year ending during 1978 the exemption shall be \$1,200 for each federal exemption. This section shall not take effect unless actual total General Fund revenues for the first 6 months of fiscal year 1978-79 meet or exceed the estimates as revised by the Governor and approved by the Legislature.

Sec. 11. 36 MRSA § 5130 is enacted to read:

§ 5130. Retirement credit

For any taxable year beginning on and after January 1, 1978, a resident may receive a credit against state taxes due equal to 20% of any credit he received for that year under the Internal Revenue Code, section 37, credit for the elderly. In no case shall this credit reduce the Maine income tax to less than zero.

Sec. 12. 36 MRSA § 5200, as repealed and replaced by PL 1973, c. 788, § 193, is repealed and the following enacted in its place:

§ 5200. Imposition and rate of tax

A tax is hereby imposed upon every "taxable corporation" as follows:

1. Rate. 4.95% of Maine net income not in excess of \$25,000 plus 6.93% of any Maine net income in excess of \$25,000 attributable on or after January 1, 1978.

Sec. 13. 36 MRSA § 5205, sub-§ 3, as enacted by PL 1973, c. 788, § 194, is amended to read:

3. 5% of taxable income not in excess of \$25,000, plus 7% of the taxable income in excess of \$25,000 attributable on or after January 1, 1974 and on or before December 31, 1977, provided that taxable income, for the purposes of this subsection, shall be reduced by the amount of the corporation's or association's federal new jobs credit for tax years beginning on or after January 1, 1977; and is reduced by the amount of the tax payable by the corporation or association for the taxable year under chapter 817.

Sec. 14. 36 MRSA § 5206 is enacted to read:

§ 5206. Franchise tax on banking corporations and loan associations

A tax is imposed for each calendar year or fiscal year ending during that calendar year upon the franchise or privilege of doing business in this State of every corporation which is a bank, savings bank, savings institution, trust company and every savings and loan association, or loan and building association, that has a business location in this State. The tax is measured by the taxable income of the corporation or association for that taxable year under the laws of the United States as follows:

1. Rate. 4.95% of taxable income not in excess of \$25,000, plus 6.93% of the taxable income in excess of \$25,000 attributable on or after January 1, 1978, provided that taxable income, for purposes of this subsection, shall be reduced by the amount of the corporation's or association's federal new jobs credit for tax years beginning on or after January 1, 1978; and is reduced by the amount of the tax payable by the corporation or association for the taxable year under chapter 817.

Sec. 15. 36 MRSA c. 822 is enacted to read:

CHAPTER 822

TAX CREDITS

§ 5213. New jobs credit

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

- A. "Employing unit" has the same meaning as in Title 26, section 1043.
- B. "Maine Employment Security Commission wages" means the total wages subject to tax under Title 26, section 1221;
- C. "New jobs credit base" means the lesser of:

(1) The excess of Maine Employment Security Commission wages for the taxable year over Maine Employment Security Commission wages for the immediately preceding taxable year, less any excess which is attributable to the statutory increase in Maine Employment Security Commission wages from \$4,200 to \$6,000; or

(2) The excess of Maine Employment Security Commission wages for the taxable year over average Maine Employment Security Commission wages for the 3 preceding taxable years, less any excess which is attributable to the statutory increase in Maine Employment Security Commission wages from \$4,200 to \$6,000.

In computing its new jobs credit base, a successor-taxpayer shall add to its own Maine Employment Security Commission wages the Maine Employment Security Commission wages of its predecessor.

D. "Successor-taxpayer" means any taxpayer which has acquired within 4 years of its taxable year end in 1978 the organization, trade or business, or 50% or more of the assets thereof, of another taxpayer which, at the time of the acquisition, was an employing unit.

2. Credit. A taxpayer which constitutes an employing unit is allowed a credit in the amount of 2% of that taxpayer's new jobs credit base for the taxable year ending in 1978. The credit shall be applied against the tax imposed by this Part for that taxable year insofar as the credit does not reduce that tax by more than 50%. Any excess credit may be carried forward to the next succeeding taxable year or years, provided that the credit shall in no year reduce the tax otherwise imposed for that year by more than 50%.

3. Repeal. This section shall be repealed on January 1, 1980.

Sec. 16. 36 MRSA § 6108, as repealed and replaced by PL 1973, c. 634, § 3, is amended to read:

§ 6108. Income limitation

No claim otherwise allowable shall be granted to claimants of single member households with household income in excess of ~~\$4,500~~ \$5,000 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~~ \$6,000 in the year for which relief is requested.

Sec. 17. 36 MRSA § 6112, as last amended by PL 1977, c. 579, § D, § 1, is repealed and the following enacted in its place:

§ 6112. Amount of claim

The claim shall be limited to the amount by which property taxes accrued or rent constituting property taxes accrued in such tax year on the claimant's homestead.

Sec. 18. Appropriation. The following funds shall be appropriated from the General Fund to carry out the purposes of this Act:

	1978-79
FINANCE AND ADMINISTRATION,	
DEPARTMENT OF	
Bureau of Taxation	
Personal Services	(2) \$25,000
All Other	8,500
Capital Expenditures	1,500
	<hr/>
	\$35,000

Sec. 19. **Appropriation for Elderly Householders Tax and Rent Refund Act.** The following funds shall be appropriated from the General Fund to carry out the purposes of this Act:

1978-79

FINANCE AND ADMINISTRATION,
DEPARTMENT OF
Elderly Householders Tax and
Rent Refund Act
Bureau of Taxation
All Other

\$1,400,000

Sec. 20. **Effective date.** This Act shall become effective on July 1, 1978.

Effective July 1, 1978

CHAPTER 687

AN ACT Relating to Certificate of Need.

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

Whereas, the National Health Planning Act of 1974 and its accompanying regulations require the State to implement a certificate of need program by July 1, 1978, or be subject to the loss of federal funds for health planning as well as other purposes; and

Whereas, this bill may not become effective until after July 1, 1978, if it is not enacted as an emergency; and

Whereas, the loss of federal funds might severely restrict the state's efforts in health planning; 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. 22 MRSA c. 103, is enacted to read:

CHAPTER 103

CERTIFICATE OF NEED