

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE

FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987

SECOND SPECIAL SESSION

October 21, 1987 to November 20, 1987

and the

SECOND REGULAR SESSION

January 6, 1988 to May 5, 1988

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Twin City Printery
Lewiston, Maine
1988

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST AND SECOND SPECIAL SESSIONS
and
SECOND REGULAR SESSION
of the
ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

APPORTIONMENT OF INCOME

Sec. 9. 36 MRSA §5210, sub-§§1, 2 and 4, as enacted by PL 1981, c. 698, §187, are repealed.

Sec. 10. 36 MRSA §5211, sub-§§1 and 2, as enacted by P&SL 1969, c. 154, §F, are amended to read:

1. Apportionment. Any taxpayer, other than a resident individual, estate, or trust, having income from business activity which is taxable both within and without this State, other than the rendering of purely personal services by an individual, shall ~~allocate and~~ apportion his net income as provided in this section. Any taxpayer having income solely from business activity taxable within this State shall ~~allocate or~~ apportion his entire net income to this State.

2. Taxpayer taxable in another state. For purposes of ~~allocation and~~ apportionment of income under this section, a taxpayer is taxable in another state if in that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax, or that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether in fact, the state does or does not.

Sec. 11. 36 MRSA §5211, sub-§§3, 4, 5, 6 and 7, as enacted by P&SL 1969, c. 154, §F, are repealed.

Sec. 12. 36 MRSA §5211, sub-§8, as enacted by P&SL 1969, c. 154, §F, is amended to read:

8. Formula for apportionment of income to State. All ~~business~~ income shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is 3.

Sec. 13. 36 MRSA §5211, sub-§17, as enacted by P&SL 1969, c. 154, §F, is amended to read:

17. Variations. If the ~~allocation and~~ apportionment provisions of this section do not fairly represent the extent of the taxpayer's business activity in this State, the taxpayer may petition for, or the tax assessor may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

- A. Separate accounting;
- B. The exclusion of any one or more of the factors;
- C. The inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this State; or
- D. The employment of any other method to effectuate an equitable ~~allocation and~~ apportionment of the taxpayer's income.

Sec. 14. 36 MRSA §5244, as enacted by PL 1985, c. 675, §§3 and 5, is amended to read:

§5244. Combined report

The combined report required by section 5220, subsection 5, shall include, both in the aggregate and by corporation, a list of the federal taxable income, the modifications provided by section 5200-A, the property, payroll and sales in Maine and everywhere as defined in chapter 821 and the Maine net income of the unitary business. Neither the income nor the property, payroll and sales of a ~~member~~ corporation which is not required to file a federal income tax return or of an 80-20 corporation may be included in the combined report.

Effective August 4, 1988.

CHAPTER 842

H.P. 1784 — L.D. 2445

AN ACT to Protect Lake Water from Phosphorous Pollution.

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

Sec. 1. 38 MRSA §390-A, sub-§1, as amended by PL 1987, c. 192, §9, is further amended to read:

1. Fund purposes and administration. There is established a nonlapsing Lake Restoration and Protection Fund, from which the department may pay up to 50% of the eligible costs incurred in a lake restoration or protection project, except that projects addressing technical assistance, public education or research issues may be paid up to 100%. Eligible costs include all costs except those related to land acquisition, legal fees and debt service. All money credited to that fund shall be used by the department for projects to improve or maintain the quality of lake waters in the State and for no other purpose. The Commissioner of Environmental Protection may authorize the State Controller to draw his warrant for such funds as may be necessary to pay the lawful expenses of the lake restoration or protection project, up to the limits of the money duly authorized. Any balance remaining in the fund shall continue without lapse from year to year and remain available for the purposes for which the fund is established and for no other purpose.

Sec. 2. 38 MRSA §390-A, §§3 to 5 are enacted to read:

3. Intensive staffing program. The department shall establish an intensive staffing program which shall provide adequate staffing at both the state and regional levels. The department shall provide technical information and guidance and the regional agencies shall assist with the adoption of revised comprehensive plans, standards and local ordinances by local governments.

4. Public education program. The department shall develop a coordinated public education program which shall target school children and involve extensive use of the media.

5. Research. The department shall encourage inter-national research focused on the following statewide topics:

A. Lake vulnerability, particularly as it relates to noncultural features of the watershed;

B. The effectiveness and design of the best management practices to control phosphorous pollution; and

C. New lake and watershed diagnostic tools.

Sec. 3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	<u>1988-89</u>
<u>ENVIRONMENTAL PROTECTION, DEPARTMENT OF</u>	
Lake Restoration and Protection Fund	
Positions	(2 1/2)
Personal Services	\$75,000
All Other	175,000
 Total	 <u>\$250,000</u>
 Provides funds which will support this program in the first of 3 fiscal years and to allow the department to contract with regional planning agencies to accomplish the purposes of this Act.	

Effective August 4, 1988.

CHAPTER 843

H.P. 1728 — L.D. 2371

AN ACT to Appropriate Funds to Conduct a Marine Pollution Monitoring Program.

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

Sec. 1. 38 MRSA c. 3, art. 1-E is enacted to read:

ARTICLE 1-E

MARINE ENVIRONMENTAL MONITORING PROGRAM

§410-F. Marine Environmental Monitoring Program

The Department of Environmental Protection in cooperation with the Department of Marine Resources shall establish the Marine Environmental Monitoring

Program. The initial purpose of this program shall be to design a monitoring program to examine the extent and effect of industrial contaminants and pollutants on marine and estuarine ecosystems and to determine compliance with and attainment of water quality standards under article 4-A. This study shall include, but not be limited to:

1. Sources. The sources, fates and biological availability of these contaminants;

2. Impact. The impact of these contaminants on marine and estuarine biota; and

3. Assessment. An assessment of the condition of marine and estuarine habitats.

§410-G. Report required

The Department of Environmental Protection in cooperation with the Department of Marine Resources shall report to the joint standing committee of the Legislature having jurisdiction over energy and natural resources and the joint standing committee of the Legislature having jurisdiction over marine resources during the first regular session of each Legislature. The initial report shall include recommendations regarding the design of the monitoring program and on the level of funding necessary to fully implement the program. The report shall be due on or before March 15th. The report shall address the problems or potential problems of marine and estuarine resources caused by industrial contaminants. The department also shall prescribe remedial steps to address problems identified in the report.

Sec. 2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	<u>1988-89</u>
<u>ENVIRONMENTAL PROTECTION, DEPARTMENT OF</u>	
Water Quality Control	
Positions	(1)
Personal Services	\$29,226
All Other	3,274
Capital Expenditures	1,000
 Total	 <u>\$33,500</u>
 Provides funds for a Biologist II position to design the proposed Marine Environmental Monitoring Program.	

Effective August 4, 1988.

CHAPTER 844

H.P. 1880 — L.D. 2572