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No. 1430

H.P. 1040

House of Representatives, March 28, 2019

An Act To Create Tax Equity among Renewable Energy Investments

Reference to the Committee on Taxation suggested and ordered printed.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT
Clerk

Presented by Representative TIPPING of Orono.
Cosponsored by Senator POULIOT of Kennebec and
Representatives: BERRY of Bowdoinham, BICKFORD of Auburn, TUCKER of Brunswick,
Senators: BLACK of Franklin, CHIPMAN of Cumberland.

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

2 **Sec. 1. 36 MRSA §655, sub-§1, ¶S**, as amended by PL 2005, c. 652, §1 and
3 affected by §3, is further amended to read:

4 S. Mining property as provided in section 2854; ~~and~~

5 **Sec. 2. 36 MRSA §655, sub-§1, ¶T**, as enacted by PL 2005, c. 652, §1 and
6 affected by §3, is amended to read:

7 T. Trail-grooming equipment registered under Title 12, section 13113; and

8 **Sec. 3. 36 MRSA §655, sub-§1, ¶U** is enacted to read:

9 U. Renewable energy facilities used for noncommercial purposes, including solar
10 energy facilities, wind energy facilities and combined heat and power biomass
11 facilities.

12 **Sec. 4. 36 MRSA §656, sub-§1, ¶K** is enacted to read:

13 K. Renewable energy facilities used for noncommercial purposes, including solar
14 energy facilities, wind energy facilities and combined heat and power biomass
15 facilities.

16 **Sec. 5. 36 MRSA §691, sub-§1, ¶F**, as enacted by PL 2005, c. 623, §1, is
17 amended to read:

18 F. "Qualified property" means tangible personal property that:

19 (1) Is used or held for use exclusively for a business purpose by the person in
20 possession of it or, in the case of construction in progress or inventory parts, is
21 intended to be used exclusively for a business purpose by the person who will
22 possess that property; and

23 (2) Either:

24 (a) Was subject to an allowance for depreciation under the Code on April 1st
25 of the property tax year for which a claim for exemption under this
26 subchapter is filed or would have been subject to an allowance for
27 depreciation under the Code as of that date but for the fact that the property
28 has been fully depreciated; or

29 (b) In the case of construction in progress or inventory parts, would be
30 subject under the Code to an allowance for depreciation when placed in
31 service or would have been subject to an allowance for depreciation under the
32 Code as of that date but for the fact that the property has been fully
33 depreciated.

34 "Qualified property" also includes all property that is affixed or attached to a building
35 or other real estate if the property is used primarily to further a particular trade or
36 business activity taking place in that building or on that real estate.

1 "Qualified property" also includes property that is a renewable energy facility that
2 meets the provisions of subsection 2, paragraph A.

3 "Qualified property" does not include a building or components or attachments to a
4 building if they are used primarily to serve the building as a building, regardless of
5 the particular trade or activity taking place in or on the building, unless the property
6 is a renewable energy facility that meets the provisions of subsection 2, paragraph A.

7 "Qualified property" also does not include land improvements if they are used
8 primarily to further the use of the land as land, regardless of the particular trade or
9 business activity taking place in or on the land. In the case of construction in
10 progress or inventory parts, the term "used" means "intended to be used." "Qualified
11 property" also does not include any vehicle registered for on-road use on which a tax
12 assessed pursuant to chapter 111 has been paid or any watercraft registered for use on
13 state waters on which a tax assessed pursuant to chapter 112 has been paid.

14 **Sec. 6. 36 MRSA §691, sub-§2, ¶A,** as enacted by PL 2005, c. 623, §1, is
15 amended to read:

16 A. Exemption for certain energy facilities under this subchapter is limited as follows.

17 (1) The exemption provided by this subchapter does not apply to a natural gas
18 pipeline, including pumping or compression stations, storage depots and
19 appurtenant facilities used in the transportation, delivery or sale of natural gas,
20 but not including a pipeline that is less than a mile in length and is owned by a
21 consumer of natural gas delivered through the pipeline.

22 (2) The exemption provided in this subchapter does not apply to property used to
23 produce or transmit energy primarily for sale. Energy is primarily for sale if
24 during the immediately preceding property tax year 2/3 or more of the annual
25 useful energy is directly or indirectly sold and transmitted through the facilities of
26 a transmission and distribution utility. Energy transmitted through the facilities
27 of a transmission and distribution utility and compensated through a utility bill
28 credit is not considered primarily for sale for the purposes of this subparagraph.

29 (3) For purposes of this paragraph, unless the context otherwise indicates, the
30 following terms have the following meanings.

31 (a) "Transmission and distribution utility" has the same meaning as in Title
32 35-A, section 102, subsection 20-B.

33 (b) "Useful energy" is energy in any form that does not include waste heat,
34 efficiency losses, line losses or other energy dissipation.

35 **Sec. 7. Report regarding valuation of renewable energy facilities.** The
36 Department of Administrative and Financial Services, Maine Revenue Services, within
37 existing resources, shall engage with a stakeholder group and prepare a report by
38 December 1, 2019 that includes guidance for determining the valuation and assessment of
39 noncommercial renewable energy facilities and commercial renewable energy facilities
40 that qualify for the business equipment tax exemption under the Maine Revised Statutes,
41 Title 36, chapter 105, subchapter 4-C. The department shall make this report available
42 on its publicly accessible website.

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SUMMARY

2 This bill provides clarification related to the eligibility of business investments in
3 renewable energy facilities for purposes of the business equipment tax exemption and
4 provides personal property tax and real estate tax exemptions for renewable energy
5 facilities installed for noncommercial use. Additionally, the bill directs the Department
6 of Administrative and Financial Services, Maine Revenue Services to provide guidance
7 documents to assist municipalities with the assessment of renewable energy facilities
8 included in these provisions.