

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 971

H. P. 732

House of Representatives, March 9, 1977

On Motion of Mrs. Post of Owls Head referred to the Committee on Taxation. Sent up for concurrence and 2,000 ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Morton of Farmington.

Cosponsors: Mr. Teague of Fairfield, Mrs. Najarian of Portland, Mr. Brenerman of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Revise the Maine Tax Structure.

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

Whereas, the fairness of each tax — does it tax according to each person's ability to pay? — can only be judged when viewed in relation to the burdens of all other taxes; and

Whereas, the efficiency of each tax — does it produce sufficient revenues without causing a weakened state economy? — can only be judged in relation to the total effect of all taxes; and

Whereas, the uniform property tax mill rate should be lowered to no more than 45.4% of the basic allocation cost of education or else the philosophy of equal education funding for each Maine student, no matter where he or she lives, would be seriously threatened; and

Whereas, the repeal of the business inventories from the property tax base affects not only the burden on residential taxpayers but also the business climate; and

Whereas, the question of the taxation of inventories must be resolved as soon as possible to avoid undue hardships to citizens, businesses or municipalities; and

Whereas, the new tax year for each municipality commences April 1, 1977; 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. Title. This Act may be referred to as the 1977 Omnibus Tax Structure Act.

PART 1

PROPERTY TAX REVISIONS

Sec. 1. 30 MRSA § 5055, sub-§ 5, 1st sentence, as amended by PL 1971, c. 605, § 1, is further amended to read:

An amount equal to 4% of the receipts from the taxes imposed under Title 36, Parts 3 and 8, and credited to the General Fund shall be transferred by the Treasurer of State to the Local Government Fund on the first day of each month, beginning July 1, 1973 and ending November 1, 1978. From December 1, 1978, until December 1, 1983, the percentage amount shall increase each year by an amount equal to 2.8 million dollars. After December 1, 1983, the percentage amount shall remain at that year's level.

Sec. 2. 30 MRSA § 5056, sub-§ 2, as enacted by PL 1973, c. 592, § 2, is amended by adding at the end the following new sentence:

After the 1977 reimbursement, the amount distributed shall be decreased each year by 2.9 million dollars, with each municipality's share, as determined in this section, decreasing proportionately. Amounts less than \$15 need not be reimbursed.

Sec. 3. Sec. 36 MRSA § 209 is enacted to read:

§ 209. State valuations

1. **Valuation.** The Tax Assessor shall determine the taxable just value of each industrial property with taxable just value exceeding \$5,000,000. The Tax Assessor shall, on or before June 1st of each year, certify such values to the assessors of the municipalities and chief assessors of the primary assessing districts where such properties are subject to assessment. Assessors of municipalities and chief assessors of primary assessing districts shall use such values at their certified ratios for local assessment purposes. When he deems it necessary, the Tax Assessor shall cause a valuation to be made to determine whether certain property meets the dollar value criterion of this section.

2. **Industrial property.** As used in this section, "industrial property" shall mean all real and personal property located on contiguous parcels and used in

the processing of natural resources, in the production of electrical energy, or in the assembly, fabrication, processing, manufacture and warehousing of tangible personal property.

3. **Mandatory information.** The Tax Assessor may require the owner of industrial property to provide, within 90 days of his written request, any information which he deems necessary to the determination of the taxable just value of such industrial property. Any owner of industrial property who does not provide such information, in such format as the Tax Assessor may reasonably request, shall be foreclosed from reconsideration and appeal under subsections 5 and 6 of determinations made under this section by the Tax Assessor.

4. **Compensation.** The Tax Assessor shall charge each municipality the cost of any state valuation of property within a municipality's boundaries.

5. **Reconsideration.** A municipality, primary assessing district or any property owner aggrieved by a determination of the Tax Assessor under this section may petition in writing to the Tax Assessor for reconsideration of the determination within 15 days after notice of the determination. If a petition for reconsideration is not filed within the 15-day period, the determination of the Tax Assessor shall become final at the expiration thereof as to law and fact. If a petition for reconsideration is timely filed, the Tax Assessor shall reconsider his determination and, if the petitioner has so requested in his petition, shall grant the petitioner an oral hearing with 10 days' notice. If appeal is not taken under subsection 6, the decision upon reconsideration shall become final as to law and fact at the expiration of the 30-day period therein allowed.

6. **Appeals.** A municipality, primary assessing district or any property owner aggrieved by the decision upon reconsideration under subsection 5 may, within 30 days after notice thereof, apply in writing to the Board of Assessment Review for review of such decision. Either party may appeal from the decision of the Board of Assessment Review to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure. Pending the result of any appeal, the valuation established by the Tax Assessor shall be used for assessment purposes. In the event that an appeal results in the amendment of a valuation, the board or court shall order such supplemental assessments and reimbursements and such other relief as are necessary to offset inequities caused by the erroneous valuation.

Sec. 4. 36 MRSA § 451, sub-§ 2, 3rd sentence, as enacted by PL 1975, c. 660, § 5, is amended to read:

The uniform property tax rate shall be 13 mills for the period beginning July 1, 1976, and ending June 30, 1977, 11 mills for the period beginning July 1, 1977, and ending June 30, 1978, and 12.5 mills thereafter.

Sec. 5. 36 MRSA § 486, sub-§ 2, ¶ C is enacted to read:

C. To hear and determine appeals by municipalities, primary assessing districts or property owners from determinations by the Tax Assessor under section 209.

Sec. 6. 36 MRSA § 708, as amended by PL 1973, c. 620, § 17, is further amended to read:

§ 708. Assessors to value real estate and personal property

The assessors and the chief assessor of a primary assessing area shall ascertain as nearly as may be the nature, amount and value as of the first day of each April of the real estate and personal property subject to be taxed, **except real and personal property valued by the Tax Assessor in accordance with section 209**, and shall estimate and record separately the land value, exclusive of buildings, of each parcel of real estate.

Sec. 7. 36 MRSA § 708-A, 1st sentence, as enacted by PL 1973, c. 620, § 18, is amended to read:

The chief assessor of each primary assessing area shall on or before the 30th day of each June make perfect lists of the real estate and personal property values referred to in ~~section~~ **sections 708 and 709** and commit the same to the municipal officers of each municipality comprising the primary assessing area.

Sec. 8. 36 MRSA Pt. 9, c. 901, as amended, is repealed.

Sec. 9. 36 MRSA Pt. 9-A is enacted to read:

PART 9-A

PROPERTY TAX RELIEF

CHAPTER 903

RELIEF FROM EXTREMELY BURDENSOME PROPERTY TAXES

§ 6171. Short title

This Part may be cited as the "Property Tax Circuit Breaker Act."

§ 6172. Purpose

The purpose of this chapter is to provide property tax relief for Maine residents whose property tax bill is such a large share of their annual income that it represents an extreme burden. The tax relief provided to the nonelderly under this chapter shall be limited each year to an appropriation of \$10,000,000 from the General Fund.

§ 6173. Definitions

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

1. **Claimant.** "Claimant" means a person who has filed a claim under this chapter and was domiciled in this State and owned or rented a homestead in this State during the entire calendar year preceding the year in which he files claim for relief under this chapter. When 2 or more individuals of a household are able to meet the qualifications for a claimant, they may deter-

mine among themselves as to who the claimant shall be. If they are unable to agree, the matter shall be referred to the Tax Assessor and his decision shall be final.

2. **Gross rent.** "Gross rent" means rental actually paid in cash or its equivalent solely for the right of occupancy, at arm's length, of a homestead, exclusive of charges for any utilities, services, furniture, furnishings or personal appliances furnished by the landlord as a part of the rental agreement. When a claimant occupies 2 or more homesteads in the year and does not own his homestead as of April 1st of the year for which relief is requested, "gross rent" shall mean the total rent paid for the homestead most recently rented multiplied by a number whose numerator is 12 and whose denominator is the number of months that homestead has been rented by the claimant.

If the landlord and tenant have not dealt with each other at arm's length and the Tax Assessor is satisfied that the gross rent charged was excessive, he may adjust the gross rent to a reasonable amount for purposes of this chapter.

3. **Homestead.** "Homestead" means a claimant's principal dwelling, situated within the State of Maine, whether owned or rented and so much of the land surrounding it, not exceeding one acre, as is reasonably necessary for use of the dwelling as a home and may consist of a part of a multidwelling or multipurpose building and a part of the land upon which it is built. "Owned" includes a vendee in possession under a land contract and one or more joint tenants in common. It does not include personal property such as furniture, furnishings or appliances, but a mobile home or a houseboat may be a homestead.

4. **Household.** "Household" means the association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations and expenses. The term does not include bona fide lessees, tenants or roomers and boarders on contract.

5. **Household income.** "Household income" means all income received by all persons of a household in a calendar year while members of the household, less an amount equal to \$750 multiplied by the number of persons who constitute the household. For purposes of this chapter, "household income" shall not be less than zero.

6. **Income.** "Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code of the United States and all nontaxable income, including, but not limited to, the amount of capital gains excluded from adjusted gross income, alimony, support money, nontaxable strike benefits, intrafamily gifts of more than \$500, public assistance and relief, not including relief granted under this chapter, the gross amount of any pension or annuity, including Railroad Retirement Act benefits and veterans' disability pensions, all payments received under the federal social security and state unemployment insurance laws, nontaxable interest received from the Federal Government or any of its instrumentalities, workman's compensation and the gross amount of "loss of time" insurance. Income does not include gifts from nongovernmental sources or surplus foods or other relief in kind supplied by a public or private agency.

7. Low income elderly. For the purpose of this chapter, "low income elderly" means a claimant who has attained at least the age of 62 during the year for which relief is requested and whose income does not exceed \$5,000 if a single member household, or \$6,000 if a household with 2 or more members.

8. Property taxes accrued. "Property taxes accrued" means property taxes exclusive of special assessment, delinquent interest and charges for services levied on a claimant's homestead in this State as of April 1, 1977, or any tax year thereafter. If a homestead is owned by 2 or more persons or entities as joint tenants or tenants in common, and one or more persons or entities is ont a member of claimant's household, "property taxes accrued" is that part of property taxes levied on the homestead which reflects the ownership percentage of the claimant and his household. If a claimant and spouse own their homestead part of the preceding tax year and rent it or a different homestead for part of the same tax year, "property taxes accrued" means only taxes levied on the homestead when both owned and occupied by the claimant on April 1st of the year next preceding the filing dates for claims multiplied by the percentage of 12 months that the property was owned and occupied by the household as its homestead during the preceding tax year. When a household owns and occupies 2 or more different homesteads in this State in the same tax year, "property taxes accrued" shall relate only to that property occupied by the household as a homestead on April 1st of the year next preceding the filing dates for claims.

If a homestead is an integral part of a large unit, such as a farm, or a multi-purpose or multidwelling building, "property taxes accrued" shall be that percentage of the total property taxes accrued as the value of the homestead is of the total value. For purposes of this chapter, "unit" refers to the parcel of property separately assessed of which the homestead is a part.

9. Rent constituting property taxes accrued. "Rent constituting property taxes accrued" consists of a fixed percentage of gross rent actually paid in cash or its equivalent in any tax year by a claimant and his household solely for the right of occupancy of their Maine homestead in the tax year, and which rent constitutes the basis, in the succeeding calendar year, of a claim for relief under this chapter by the claimant. The fixed percentages are as follows:

A. If the claimant applies for the entitlement for low income elderly, 25% of the gross rent; or

B. If the claimant applies for the entitlement for all others, 25% of the gross rent.

10. Year for which relief is requested. "Year for which relief is requested" means the calendar year preceding that in which the claim is filed.

§ 6174. Claim is personal

The right to file a claim under this chapter shall be personal to the claimant and shall not survive his death, but such right may be exercised on be-

half of a claimant by his legal guardian or attorney-in-fact. If a claimant dies after having filed a timely claim, the amount thereof shall be disbursed to another member of the household as determined by the Tax Assessor. If the claimant was the only member of his household, the claim may be paid to his executor or administrator, but if neither is appointed and qualified within 2 years of the filing of the claim, the amount of the claim shall escheat to the State.

§ 6175. Claim as rebate from state funds

Subject to the limitations provided in this chapter, a claimant may claim in any year a rebate for property taxes accrued or rent constituting property taxes accrued in the preceding year. The amount of the rebate, after audit or certification by the Tax Assessor shall be paid to a claimant beginning in August of the filing year from balances retained by the Treasurer of State for general purposes. No interest shall be allowed on any payment made to a claimant pursuant to this chapter.

§ 6176. Filing date

Subject to the limitations and conditions of this chapter, no claim with respect to property taxes accrued or with respect to rent constituting property taxes accrued, of the next preceding calendar year, shall be paid or allowed unless:

1. Claim filed. The claim is filed with and is in possession of the Tax Assessor on or after January 1st and on or before the following April 15th; or

2. Claim received. If the claim is received by the following October 15th and the reason for its lateness is deemed so extraordinary that, in the judgment of the Tax Assessor, tax relief is still justified.

§ 6177. Satisfaction of outstanding tax liabilities

The amount of any claim otherwise payable under this chapter may be applied by the Tax Assessor against any liability outstanding on the books of the department against the claimant, or against his or her spouse who was a member of the claimant's household in the year to which the claim relates.

§ 6178. One claim per household

Only one claimant per household per year shall be entitled to relief under this chapter.

§ 6179. Computation of refund

The amount of any claim made pursuant to this chapter shall be determined as follows.

1. Entitlement for low income elderly. For a claimant who has attained the age of 62 during the year for which relief is requested and when income as determined by section 6173, subsection 6, does not exceed \$5,000 if a single

member household, or \$6,000 if a household with 2 or more members, the claim shall be limited to the amount by which property taxes accrued, or rent constituting property taxes, in such tax year upon the claimant's homestead is in excess of 18% of such income which exceeds \$3,000 but does not exceed \$6,000.

2. Qualifications for all others. For any taxable year, a claimant shall be qualified for a refund equal to 50% of the amount by which the property taxes, or rent constituting property taxes, upon the individual's homestead for the taxable year exceeds a percentage of the individual's income for the taxable year determined according to the following schedule:

| If Household Income (Rounded to the nearest dollar) is: | Then the Taxpayer is Entitled to Credit for Property Tax Paid in Excess of this Percent of that Income |
|---|---|
| \$ 3,999 | 4.0% |
| 4,000 - 7,999 | 4.5 |
| 8,000 - 11,999 | 5.0 |
| 12,000 - 15,999 | 5.5 |
| 16,000 - and up | 6.0 |

3. Limitation. No refund or grant under this chapter shall exceed \$500. In no event shall the refund exceed the amount of the property tax.

4. Claimant's recording of claim not required. The claimant, at his election, shall not be required to record on his claim the amount claimed by him. The claim allowable to persons making this election shall be computed by the Bureau of Taxation, which shall notify the claimant by mail of the amount of his allowable claim.

5. Ineligible claimants. An individual may not be a claimant if he is under 18 years of age or a full-time or part-time student claimed as a dependent by any taxpayer under the Federal Internal Revenue Code.

6. Disbursal of rebates. In the event that the total qualified claims exceed the amount appropriated by the Legislature to fund this chapter, the funds shall be disbursed as follows:

A. Claimants qualified under "entitlement for low income elderly" shall be paid; and

B. Those claiming under "qualifications for all others" shall be paid in the order of "household income," lowest first; the claims being paid in this way until there are not sufficient funds to pay all who claim at the next level of household income.

§ 6180. Administration

1. Claimant forms. The Tax Assessor shall make available suitable forms with instructions for claimants. The claim shall be in such form as the Tax Assessor may prescribe and shall be signed by the claimant under the penalty of perjury. Those claimants who file state income tax forms shall use the

tear-off section of that income tax form, which will be provided for the purpose of this chapter by the Tax Assessor, in order to file claim for a property tax rebate. It is the intent of the Legislature to eliminate the cost and inconvenience of the filing of 2 forms by those who do file state income tax forms.

2. Method of payment. Prior to paying claims according to the procedure set forth in section 6179, the Tax Assessor shall set aside \$40,000 of the appropriated funds in order to pay valid late claims, as determined by him according to section 6176, subsection 2.

§ 6181. Proof of claim

Every claimant under this chapter shall supply to the Tax Assessor, in support of his claim, reasonable proof of rents paid, name and addresses of the owners or managing agents of properties rented, property taxes accrued, changes of homestead and a statement of the property taxes accrued and used for purposes of this chapter which have been or will be paid by him and that there are no more than one year of delinquent property taxes on the homestead. Claimants who file under this chapter for property taxes accrued through homestead ownership shall include a copy of their receipt of property taxes paid with their applications for rebates. The local property tax collector shall provide 2 receipts to the taxpayer for taxes paid. The Tax Assessor shall have authority to request a receipt of rent paid from claimants filing for rebates for rent constituting property taxes under this chapter.

§ 6182. Audit of claim

If on the audit of any claim filed under this chapter the Tax Assessor determines the amount to have been incorrectly determined, he shall redetermine the claim and notify the claimant of the redetermination and his reason for it. The redetermination shall be final unless appealed within 30 days of notice.

§ 6183. Denial of claim

If it is determined that a claim is excessive and was filed with fraudulent intent, the claim shall be disallowed in full and, if the claim has been paid, the rebate shall be canceled and the amount paid may be recovered by assessment, and the assessment shall bear interest from the date of payment of the claim, until refunded or paid, at the rate of 1% per month. The claimant in such case, and any person who assisted in the preparation or filing of such excessive claim or supplied information upon which such excessive claim was prepared, with fraudulent intent, is guilty of a misdemeanor. If it is determined that a claim is excessive and was negligently prepared, 10% of the corrected claim shall be disallowed and if the claim has been paid, the rebate shall be reduced or canceled and the proper portion of any amount paid shall be similarly recovered by assessment, and the assessment shall bear interest at 1% per month from the date of payment until refunded or paid.

§ 6184. Rental determination

If a homestead is rented by a person from another person under circumstances deemed by the Tax Assessor to be not at arm's length, he may de-

termine rent constituting property taxes accrued as at arm's length, and, for the purposes of this chapter, such determination shall be final.

§ 6185. Appeals

Any person aggrieved by the denial in whole or in part of relief claimed under this chapter, except when the denial is based upon late filing of claim for relief or is based upon a redetermination of rent constituting property taxes accrued at arm's length, may appeal the denial to the Administrative Court Judge by filing a petition within 30 days after the denial.

§ 6186. Disallowance of certain claims

A claim shall be disallowed if the Bureau of Taxation finds that the claimant received title to his homestead primarily for the purpose of receiving benefits under this chapter.

§ 6187. Rules and regulations

The Tax Assessor may establish those rules and regulations necessary for the effective administration of this chapter.

Sec. 10. Effective dates of Part 1. Sections 3 to 6 of this Part shall become effective January 1, 1979. Section 9 of this Part shall become effective January 1, 1978, except that Title 36, section 6181 shall become effective when the Act is approved.

Sec. 11. Appropriation. There is appropriated from the General Fund to fund the state's valuation of industrial property an amount equal to \$150,000. This appropriation would be for 1978-79 only and would not be necessary for 1979-80. There is also appropriated from the General Fund to fund the expanded property tax relief program an additional \$10,000,000 per year. The breakdown shall be as follows:

1978-79

FINANCE AND ADMINISTRATION, DEPARTMENT OF

| | |
|----------------------|-----------------|
| Bureau of Taxation | |
| Personal Services | (13) \$ 120,000 |
| All Other | 10,925,000 |
| Capital Expenditures | 5,000 |

PART 2

INCOME TAX REVISIONS

Sec. 1. 36 MRSA § 5111, as repealed and replaced by PL 1975, c. 661, is repealed and the following enacted in its place:

§ 5111. Imposition and rate of tax

A tax is imposed for each taxable year on the entire taxable income of every resident individual of this State and on the taxable income of every nonresident individual which is derived from sources within this State. The amount of the tax 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 \$ 5,000 | \$ 20 plus 2% of excess over \$ 2,000 |
| \$ 5,000 but not over \$10,000 | \$ 80 plus 3% of excess over \$ 5,000 |
| \$10,000 but not over \$25,000 | \$ 230 plus 4% of excess over \$10,000 |
| \$25,000 but not over \$50,000 | \$ 830 plus 5% of excess over \$25,000 |
| \$50,000 or more | \$2,080 plus 6% of excess over \$50,000 |

The effective date of change from the foregoing rate table to the next following rate table shall be January 1, 1976. The amount of tax for any taxable year or portion thereof in the period on or after January 1, 1976, to on or before December 31, 1976, shall be determined in accordance with the following :

| 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 plus 2% of excess over \$ 2,000 |
| \$ 4,000 but not over \$ 5,000 | \$ 60 plus 3% of excess over \$ 4,000 |
| \$ 5,000 but not over \$ 6,000 | \$ 90 plus 3.5% of excess over \$ 5,000 |
| \$ 6,000 but not over \$ 8,000 | \$ 125 plus 4.5% of excess over \$ 6,000 |
| \$ 8,000 but not over \$10,000 | \$ 215 plus 5% of excess over \$ 8,000 |
| \$10,000 but not over \$15,000 | \$ 315 plus 6% of excess over \$10,000 |
| \$15,000 but not over \$25,000 | \$ 615 plus 6.5% of excess over \$15,000 |
| \$25,000 but not over \$50,000 | \$1,265 plus 7.5% of excess over \$25,000 |
| \$50,000 or more | \$3,140 plus 8% of excess over \$50,000 |

The effective date of change from the foregoing rate table to the next following rate table shall be January 1, 1977. The amount of tax for any taxable year or portion thereof on or after January 1, 1977 to on or before December 31, 1977, 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 plus 2% of excess over \$ 2,000 |
| \$ 4,000 but not over \$ 6,000 | \$ 60 plus 4% of excess over \$ 4,000 |
| \$ 6,000 but not over \$ 8,000 | \$ 140 plus 6% of excess over \$ 6,000 |
| \$ 8,000 but not over \$10,000 | \$ 260 plus 7% of excess over \$ 8,000 |
| \$10,000 but not over \$15,000 | \$ 400 plus 8% of excess over \$10,000 |
| \$15,000 but not over \$25,000 | \$ 800 plus 9% of excess over \$15,000 |
| \$25,000 or more | \$1,700 plus 10% of excess over \$25,000 |

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

Single persons

| If the taxable income is : | The tax is : |
|------------------------------|---------------------------------------|
| Not over \$500 | 2.1% of the taxable income |
| \$ 500 but not over \$ 1,000 | \$ 11 plus 2.3% of excess over \$ 500 |

Single persons

| If the taxable income is: | The tax is: |
|----------------------------------|---|
| \$ 1,000 but not over \$ 1,500 | \$ 22 plus 2.4% of excess over \$ 1,000 |
| \$ 1,500 but not over \$ 2,000 | \$ 34 plus 2.6% of excess over \$ 1,500 |
| \$ 2,000 but not over \$ 4,000 | \$ 47 plus 2.9% of excess over \$ 2,000 |
| \$ 4,000 but not over \$ 6,000 | \$ 104 plus 3.2% of excess over \$ 4,000 |
| \$ 6,000 but not over \$ 8,000 | \$ 167 plus 3.6% of excess over \$ 6,000 |
| \$ 8,000 but not over \$ 10,000 | \$ 239 plus 3.8% of excess over \$ 8,000 |
| \$ 10,000 but not over \$ 12,000 | \$ 314 plus 4.1% of excess over \$ 10,000 |
| \$ 12,000 but not over \$ 14,000 | \$ 395 plus 4.4% of excess over \$ 12,000 |
| \$ 14,000 but not over \$ 16,000 | \$ 482 plus 4.7% of excess over \$ 14,000 |
| \$ 16,000 but not over \$ 18,000 | \$ 575 plus 5.1% of excess over \$ 16,000 |
| \$ 18,000 but not over \$ 20,000 | \$ 677 plus 5.4% of excess over \$ 18,000 |
| \$ 20,000 but not over \$ 22,000 | \$ 785 plus 5.7% of excess over \$ 20,000 |
| \$ 22,000 but not over \$ 26,000 | \$ 899 plus 6 % of excess over \$ 22,000 |
| \$ 26,000 but not over \$ 32,000 | \$1,139 plus 6.8% of excess over \$ 26,000 |
| \$ 32,000 but not over \$ 38,000 | \$1,544 plus 7.5% of excess over \$ 32,000 |
| \$ 38,000 but not over \$ 44,000 | \$1,994 plus 8.3% of excess over \$ 38,000 |
| \$ 44,000 but not over \$ 50,000 | \$2,489 plus 9 % of excess over \$ 44,000 |
| \$ 50,000 but not over \$ 60,000 | \$3,029 plus 9.3% of excess over \$ 50,000 |
| \$ 60,000 but not over \$ 70,000 | \$3,959 plus 9.6% of excess over \$ 60,000 |
| \$ 70,000 but not over \$ 80,000 | \$4,919 plus 9.9% of excess over \$ 70,000 |
| \$ 80,000 but not over \$ 90,000 | \$5,909 plus 10.2% of excess over \$ 80,000 |
| \$ 90,000 but not over \$100,000 | \$6,939 plus 10.4% of excess over \$ 90,000 |
| \$100,000 or more | \$7,964 plus 10.5% of excess over \$100,000 |

Married - Joint

| If the taxable income is: | The tax is: |
|----------------------------------|---|
| Not over \$1,000 | 2.1% of taxable income |
| \$ 1,000 but not over \$ 2,000 | \$ 21 plus 2.3% of excess over \$ 1,000 |
| \$ 2,000 but not over \$ 3,000 | \$ 44 plus 2.4% of excess over \$ 2,000 |
| \$ 3,000 but not over \$ 4,000 | \$ 68 plus 2.6% of excess over \$ 3,000 |
| \$ 4,000 but not over \$ 8,000 | \$ 93 plus 2.9% of excess over \$ 4,000 |
| \$ 8,000 but not over \$ 12,000 | \$ 207 plus 3.3% of excess over \$ 8,000 |
| \$ 12,000 but not over \$ 16,000 | \$ 339 plus 3.8% of excess over \$ 12,000 |
| \$ 16,000 but not over \$ 20,000 | \$ 489 plus 4.2% of excess over \$ 16,000 |
| \$ 20,000 but not over \$ 24,000 | \$ 657 plus 4.8% of excess over \$ 20,000 |
| \$ 24,000 but not over \$ 28,000 | \$ 849 plus 5.4% of excess over \$ 24,000 |
| \$ 28,000 but not over \$ 32,000 | \$ 1,065 plus 5.9% of excess over \$ 28,000 |
| \$ 32,000 but not over \$ 36,000 | \$ 1,299 plus 6.3% of excess over \$ 32,000 |
| \$ 36,000 but not over \$ 40,000 | \$ 1,551 plus 6.8% of excess over \$ 36,000 |
| \$ 40,000 but not over \$ 44,000 | \$ 1,821 plus 7.2% of excess over \$ 40,000 |
| \$ 44,000 but not over \$ 52,000 | \$ 2,109 plus 7.5% of excess over \$ 44,000 |
| \$ 52,000 but not over \$ 64,000 | \$ 2,709 plus 8 % of excess over \$ 52,000 |
| \$ 64,000 but not over \$ 76,000 | \$ 3,663 plus 8.3% of excess over \$ 64,000 |
| \$ 76,000 but not over \$ 88,000 | \$ 4,653 plus 8.7% of excess over \$ 76,000 |
| \$ 88,000 but not over \$100,000 | \$ 5,697 plus 9 % of excess over \$ 88,000 |
| \$100,000 but not over \$120,000 | \$ 6,777 plus 9.3% of excess over \$100,000 |

Married - Joint

| If the taxable income is : | The tax is : |
|----------------------------------|--|
| \$120,000 but not over \$140,000 | \$ 8,637 plus 9.6% of excess over \$120,000 |
| \$140,000 but not over \$160,000 | \$10,557 plus 9.9% of excess over \$140,000 |
| \$160,000 but not over \$180,000 | \$12,527 plus 10.2% of excess over \$160,000 |
| \$180,000 but not over \$200,000 | \$14,577 plus 10.4% of excess over \$180,000 |
| \$200,000 or more | \$16,647 plus 10.5% of excess over \$200,000 |

Sec. 2. 36 MRSA § 5113, as enacted by P&SL 1969, c. 154, Sec. F., is repealed and the following enacted in its place:

§ 5113. Surviving spouse

If a person qualifies as a surviving spouse for federal income tax purposes, he may also qualify as a surviving spouse for the purposes of this chapter.

Sec. 3. 36 MRSA § 5115 is enacted to read:

§ 5115. Head of household

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. 4. 36 MRSA § 5129 is enacted to read:

§ 5129. Income averaging

A taxpayer may compute his income tax using the income averaging formula of the Internal Revenue Code, section 1301.

Sec. 5. 36 MRSA § 5130 is enacted to read:

§ 5130. Retirement credit

Each year a resident may receive a credit against state taxes due equal to 20% of any credit he received that same year under the Internal Revenue Code, section 37, credit for the elderly.

Sec. 6. 36 MRSA § 5131 is enacted to read:

§ 5131. Married taxpayers filing separate returns

In the case of a married taxpayer filing a separate return, the tax imposed by section 5111 shall be $\frac{1}{2}$ of the tax which would be imposed on married taxpayers filing joint returns on a taxable income twice as large as the taxable income of the married taxpayer filing the separate return.

PART 3

SALES TAX REVISIONS

Sec. 1. 36 MRSA § 1752, sub-§ 1-B is enacted to read:

1-B. Admission. "Admission" means the sale of tickets or the right to enter a public or private event.

Sec. 2. 36 MRSA § 1752, sub-§ 2-A is enacted to read:

2-A. Commercial fishing. "Commercial fishing" means attempting to catch fish or any other marine animals with the intent of disposing of them for profit or by trade in commercial channels. The term does not include:

- A. Subsistence fishing for personal use;
- B. Sport fishing; or
- C. Charter boat fishing when the vessel is used for carrying amateur fishermen to available fishing grounds.

Sec. 3. 36 MRSA § 1752, sub-§ 10, as amended by PL 1965, c. 362, § 1, is further amended to read:

10. Retailer. "Retailer" means every person engaged in the business of making sales at retail, renting any living quarters in any hotel, rooming house, tourist or trailer camp, or furnishing telephone or telegraph service, or selling admissions to or the right to participate in amusements or sporting events, and every person required to register by section 1754 or registered under section 1756.

Sec. 4. 36 MRSA § 1752, sub-§ 11, 1st sentence, as amended by PL 1965, c. 362, § 2, is further amended to read:

"Retail sale" or "sale at retail" means any sale of tangible personal property, in the ordinary course of business, for consumption or use, or for any purpose other than for resale, except resale as a casual sale, in the form of tangible personal property, any rental of living quarters in any hotel, rooming house, tourist or trailer camp, ~~and~~ the sale of telephone or telegraph service, and admission to or the right to participate in amusements or sporting activities.

Sec. 5. 36 MRSA § 1754, sub-§ 7 is enacted to read:

7. Amusements and sporting events. Every person providing admission or participation in amusements or sporting events.

Sec. 6. 36 MRSA § 1760, sub-§ 9 is repealed and the following enacted in its place:

9. Coal, oil, wood, gas and electricity. Coal, oil, wood, gas, electricity and all other fuels, when used in homes, hotels, apartment houses and other buildings designed both for human habitation and sleeping;

Sec. 7. 36 MRSA § 1760, sub-§ 37, is enacted to read:

37. Commercial fishing vessels, machinery and equipment. Sales to a person licensed by the State to engage in commercial fishing, of water craft that are used exclusively for commercial fishing, of nets, cables, tackle and other fishing machinery and equipment used in commercial fishing;

Sec. 8. 36 MRSA § 1760, sub-§ 38 is enacted to read:

38. Water. Water when used in homes, hotels, apartment houses and other buildings designed for human habitation and sleeping.

Sec. 9. 36 MRSA § 1811, 1st sentence, as amended by PL 1969, c. 295, § 2, is further amended to read:

A tax is imposed at the rate of 5% on the value of all tangible personal property ~~and, admission to or right to participate in amusements or sporting events,~~ telephone and telegraph service sold at retail in this State, and upon the rental charged for living quarters in hotels, rooming houses, tourist or trailer camps, measured by the sale price, except as in chapters 211 to 225 provided.

Sec. 10. Effective date. This Part shall become effective June 1, 1977.

Sec. 11. Appropriation. There is appropriated to the Department of Taxation from the General Fund the sum of \$44,000 to carry out the purposes of this Part. The breakdown shall be as follows:

| | |
|--------------------------------|----------------|
| | 1977-78 |
| TAXATION, DEPARTMENT OF | |
| Personal Services | (3) \$27,500 |
| All Other | 15,000 |
| Capital Expenditures | 1,500 |

PART 4

MISCELLANEOUS REFORMS

Sec. 1. 36 MRSA § 1752, sub-§ 14, as last amended by PL 1971, c. 479, is further amended by adding at the end the following new sentence:

“Sales price” shall include the amount of any sales tax levied under subsections 1-B, 2-A, 10 and 11; section 1754, subsection 7; section 1760, subsections 9, 37 and 38 and section 1811.

Sec. 2. 36 MRSA § 1760, sub-§ 10 is repealed.

Sec. 3. 36 MRSA § 3461, sub-§ 2, is repealed and the following enacted in its place:

2. Life insurance. All proceeds of life insurance policies upon the life of a decedent in which the decedent had an incident of ownership, with the exception of credit life insurance as defined in Title 24-A, section 2853, subsection 1, in excess of a single \$50,000 prorated exemption. The proportionate exemption shall be determined by dividing the face value of the individual taxable policy by the total value of all taxable policies and applying the resulting percentage to the single \$50,000 exemption.

Sec. 4. 36 MRSA § 4641-A, 1st sentence, as enacted by PL 1975, c. 572, § 1, is amended to read:

There is imposed a tax upon the privilege of transferring title to real property at the rate of ~~5%~~ \$1 for each \$500 or fractional part thereof, of consideration therefor.

Sec. 5. 36 MRSA § 5200, as last 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 imposed on every corporation as follows: The tax shall be the greater of:

1. 5% of the Maine net income not over \$25,000 plus 7% of the Maine net income over \$25,000 but less than \$100,000, plus 8% of the Maine net income over \$100,000; or

2. \$50.

Sec. 6. 36 MRSA c. 818 is enacted to read:

CHAPTER 818

A MINIMUM TAX ON TAX PREFERENCE INCOME

§ 5203. Minimum tax on tax preference income

Each taxpayer shall pay to the State a sum equal to 20% of their minimum tax on tax preferences paid to the Federal Government under Section 56 (a) of the Internal Revenue Code. If only a portion of the taxpayer's income is taxable by the State, this state tax shall be adjusted proportionately.

Sec. 7. 36 MRSA § 5205, as repealed and replaced by PL 1973, c. 788, § 194, is repealed and the following enacted in its place:

§ 5205. 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 shall be the greater of:

A. 5% of the taxable income not over \$25,000, plus 7% of the taxable income over \$25,000 but less than \$100,000, plus 8% of the taxable income over \$100,000 of the corporation or association for that taxable year under the laws of the United States, reduced by the amount of the tax payable by the corporation or association for the taxable year under chapter 817; or

B. \$50.

Sec. 8. Effective date for Part 4. Part 4 of this Act shall become effective July 1, 1977.

Emergency clause. In view of the emergency cited in the preamble, this Act shall become effective when approved, except as otherwise indicated.

STATEMENT OF FACT

1. Description.

This bill is based on the report of the Joint Select Committee on State Tax Policy which was authorized by H.P. 2247, a joint order of the First

Special Session of the 107th Legislature. It provides for specific reforms in the areas of property, sales and income taxes in addition to the estate tax and real estate transfer tax. Copies of this report can be obtained from the Office of Legislative Assistants, Room 427, State House, Augusta, Maine.

This bill provides for no change in the action of the 106th Legislature which discontinued the inventory tax entirely in 1977 and provided for full reimbursement to the municipalities, but it does commence in 1978 a 5-year switch to reimbursement via the revenue sharing formula. It requires the Tax Assessor to value all industrial properties with a taxable value over \$5,000,000 and all utilities and to bill the municipalities for this service. It provides for property tax relief for low income households by means of a graduated circuit breaker and retains the elderly tax and rent refund with more generous provisions. It sets the uniform property tax rate at 11 mills for fiscal year 1978. This rate recognizes past legislative decisions to have the state fund roughly 50% of the basic cost of education.

It creates a new personal income tax schedule commencing January 1, 1978, which is evenly progressive from a minimum taxable income taxed at 2.1% to an increased 10.5% of taxable incomes over \$100,000. This schedule brings back onto the income tax rolls income taxpayers who were relieved from paying any income tax by the most recent changes and provides relief for middle and higher bracket taxpayers who were hardest hit by that same change. Highest bracket payers will pay a bit more. It provides a head of household schedule, same as federal, allows income averaging and allows a retirement income credit, all of which will benefit certain income taxpayers with specific problems. Finally, this bill closes an existing loophole, by requiring payment amounting to 20% of federal minimum tax.

In the corporate income tax area, this bill creates a new, more progressive bracket for taxable income over \$100,000 which is 1% higher than previously. In addition, it provides for a minimum corporate tax of \$50 regardless of income.

Sales taxes on residential water, household fuels and electricity are exempted as are those on commercial fishing vessels, machinery and equipment. At the same time, the exemption is removed and the sales tax is imposed on cigarettes and admission to or participation in amusements or sporting events.

This bill provides that the proceeds of life insurance policies owned by the decedent in excess of \$50,000 will be subject to inheritance taxes.

This bill provides that the real estate transfer tax be increased from 55¢ per \$500 to \$1 per \$500.

These provisions are designed as a unit to create fair progressivity in the whole tax system, to shift burdens toward disposable income and away from essentials and to recognize changes in our overall economy and our way of life in 1977. It is urged that they be treated as a package.

2. Summary of the sections. The following is a summary of each section of the bill.

Part I. Property Tax Revisions:

Sec. 1. Amend the state revenue sharing formula so that, starting next year, the amounts distributed will increase over 5 years to equal the total amount of inventory reimbursements.

Sec. 2. Phase out, starting next year, inventory reimbursements.

Sec. 3, 5, 6 & 7. Assessment by the State of large industrial properties and public utilities.

Sec. 4. Lowers the uniform property tax mill rate so that it funds 45.4% of the basic allocation cost of education.

Sec. 8-9. Expanding the current elderly tax relief program and making it a part of a general property tax circuit breaker.

Sec. 10. Effective dates of this Part.

Sec. 11. Appropriation.

Part 2. Income Tax Revisions:

Sec. 1. A new personal income tax schedule.

Sec. 2. Surviving spouse.

Sec. 3. Head of household provision.

Sec. 4. Income averaging provision.

Sec. 5. Retirement credit provision.

Sec. 6. Married taxpayers filing separate.

Part 3. Sales Tax Revision:

Sec. 1, 3, 4, 5 and 9. Expansion of sales tax to include amusements.

Sec. 2 and 7. Exemption from the sales tax of fishing equipment.

Sec. 6 and 8. Exemption from the sales tax of residential water, gas or electricity.

Sec. 10. Effective date.

Sec. 11. Appropriation.

Part 4. Miscellaneous tax reforms:

Sec. 1 and 2. Sales tax expanded to cigarettes.

Sec. 3. Life insurance proceeds.

Sec. 4. Real estate transfer tax increase.

Sec. 5. Corporate income tax rate increase.

Sec. 6. Taxing federal "loop-hole" income.

Sec. 7. Minimum tax on corporations.

The financial impact of each action of the 1977 Omnibus Tax Structure Act is shown in the following table:

| Area | Revenues | Revenues | Programs |
|---|--------------|--------------|--------------|
| Property Taxation | Increased | Decreased | New |
| Continued repeal of inventory tax with full municipal reimbursement | — | \$12,500,000 | — |
| State valuation of high value real estate | — | — | \$150,000 |
| Property tax circuit breaker | — | — | \$10,900,000 |
| Uniform property tax mill rate at 11 mills | \$10,790,000 | | |
| Income Taxation | | | |
| New personal income tax schedule | — | — | — |
| Head of household rates | — | \$135,000 | — |
| Income averaging | — | \$435,000 | — |
| Retirement income credit | — | \$417,000 | — |
| Tax on "loop-hole" income | \$200,000 | — | — |
| New corporate income tax rate | \$2,100,000 | — | — |
| Minimum corporate income tax rate | \$120,000 | — | — |
| Sales Taxation | | | |
| Exempt fishing equipment | — | \$750,000 | — |
| Exempt residential water, gas and electricity | — | \$3,300,000 | — |
| Tax cigarettes | \$3,700,000 | — | — |
| Tax amusements | \$1,600,000 | — | \$44,000 |
| Estate Taxation | | | |
| Include life insurance proceeds | — | — | — |
| Real Estate Transfer Taxation | | | |
| Increase rate | \$600,000 | | |
| TOTALS | \$19,110,000 | \$17,537,000 | \$11,094,000 |
| NET REVENUE INCREASE | \$ 1,573,000 | | |
| NET EXPENDITURES | \$11,094,000 | | |
| NET GENERAL FUND IMPACT | \$ 9,521,000 | | |