

# MAINE STATE LEGISLATURE

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1 (EMERGENCY)  
2 (New Draft of S.P. 312, L.D. 926)

3 FIRST REGULAR SESSION  
4

5 ONE HUNDRED AND ELEVENTH LEGISLATURE  
6

7 Legislative Document

No. 1769

8  
9 S.P. 629

In Senate, June 16, 1983

10 Reported by Senator Wood of York from the Committee on Taxation and  
11 printed under Joint Rule 2.

12 Original bill presented by Senator Wood of York. Cosponsored by  
Representative Higgins of Portland.

JOY J. O'BRIEN, Secretary of the Senate

13  
14 STATE OF MAINE  
15

16 IN THE YEAR OF OUR LORD  
17 NINETEEN HUNDRED AND EIGHTY-THREE  
18

19 AN ACT to Delay the Effective Date of the  
20 Property Tax Exemption for Naturally Occurring  
21 Metallic Minerals.  
22

23 **Emergency preamble.** Whereas, Acts of the Legis-  
24 lature do not become effective until 90 days after  
25 adjournment unless enacted as emergencies; and

26 Whereas, an exemption from property tax for nat-  
27 urally occurring metallic minerals has taken effect  
28 on March 1, 1983; and

29 Whereas, a March, 1983 effective date was chosen  
30 with the hope that a constitutional amendment would  
31 be approved to remove the requirement of reimburse-  
32 ment for minerals exemptions; and

33 Whereas, time did not permit consideration by the  
34 voters of a constitutional amendment; and

1           Whereas, in the judgment of the Legislature,  
2 these facts create an emergency within the meaning of  
3 the Constitution of Maine and require the following  
4 legislation as immediately necessary for the preser-  
5 vation of the public peace, health and safety; now,  
6 therefore,

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

9           Sec. 1. 36 MRSA §655, sub-§1, ¶S is enacted to  
10 read:

11           S. Mining property as provided in section 2854.

12           Sec. 2. 36 MRSA §656, sub-§1, ¶B, as repealed  
13 and replaced by PL 1981, c. 711, §8, is repealed and  
14 the following enacted in its place:

15           B. Mines of gold, silver or baser metals, when  
16 opened and in the process of development, are ex-  
17 empt from taxation for 10 years from the time of  
18 such opening. This exemption does not apply to  
19 the taxation of the lands or the surface improve-  
20 ments of such mines;

21           Sec. 3. 36 MRSA §656, sub-§1, ¶I is enacted to  
22 read:

23           I. Mining property as provided in section 2854.

24           Sec. 4. 36 MRSA §2858, sub-§4-A is enacted to  
25 read:

26           4-A. Credits for municipal reimbursement  
27 paid. A person owning minerals with respect to which  
28 the State is required to reimburse a municipality in  
29 which the minerals are located for property tax reve-  
30 nuce loss pursuant to section 661, due to the exemp-  
31 tion provided for in section 656, shall reimburse the  
32 State for the reimbursement which the State is re-  
33 quired to pay the municipality with respect to the  
34 minerals.

35           A. Upon payment to the municipality of the reim-  
36 bursement required by section 661, the State Tax  
37 Assessor shall notify the owner in writing of the

1           reimbursement due the State under this section  
2           and the reimbursement shall be payable to the  
3           Treasurer of State within 90 days of receipt of  
4           the minerals by the owner of the notice.

5           B. Any reimbursement paid pursuant to this  
6           section by a mining company or any other person  
7           shall be allowed as a credit against any excise  
8           tax payable pursuant to this chapter with respect  
9           to the mine site within which the minerals which  
10           gave rise to the reimbursement are located. The  
11           credit may be used in the tax year the reimburse-  
12           ment is payable or in any tax year thereafter.

13           Sec. 5. PL 1981, c. 711, §18 is amended to read:

14           Sec. 18. **Effective date.** Section 8 of this Act  
15 shall take effect on March 1, ~~1983~~ 1984 and shall  
16 apply to taxable years commencing on April 1, 1983  
17 and years thereafter, only if, prior to March 1,  
18 1984, the Secretary of State certifies to the Gover-  
19 nor that the Constitution of Maine has been amended  
20 to change the municipal property tax loss reimburse-  
21 ment provisions, and to change the penalty payable  
22 upon the change of use of land containing minerals  
23 which is being valued at current use.

24           Sec. 6. **Effective date.** Section 2 of this Act  
25 shall take effect on March 1, 1984, and shall apply  
26 to taxable years commencing on April 1, 1983 and  
27 years thereafter, only if the Constitution of Maine  
28 is not amended prior to March 1, 1984, to change the  
29 municipal property tax loss reimbursement provisions,  
30 and to change the penalty payable upon the change of  
31 use of land containing minerals which is being valued  
32 at current use.

33           Sec. 7. **Purpose and intent.** The purpose of this  
34 new draft is to move the effective date of the tax  
35 exemption for unextracted minerals that was created  
36 in the bill enacting the mining excise tax to allow  
37 consideration by the voters of constitutional amend-  
38 ments relating to municipal reimbursement for the new  
39 property tax exemption for unextracted minerals and  
40 to penalties for changes of use under the current use  
41 valuation tax law.

1           These proposed constitutional amendments are an  
2 integral part of the concept embodied in the mining  
3 excise tax law. That concept is to move from taxa-  
4 tion based on property valuation to taxation based on  
5 production because of the difficulty of valuing min-  
6 erals in the ground. Though the mining excise tax law  
7 does not depend on constitutional amendments to be  
8 constitutionally valid, several provisions of the  
9 taxation concept are based on these amendments being  
10 approved by the voters. Section 5 of this new draft  
11 is intended to delay the effective date of the new  
12 tax exemption for naturally occurring metallic min-  
13 erals to allow consideration of the amendments.

14           If the amendments are approved, it is the intent  
15 of this new draft that the mining excise tax, includ-  
16 ing this expanded exemption, will take effect and  
17 will apply for all tax years beginning on or after  
18 April 1, 1983.

19           If the amendments fail to be approved, it is the  
20 intent of sections 2, 5 and 6 of this new draft that  
21 the new tax exemption for naturally occurring metal-  
22 lic minerals would not take effect, but that the  
23 limited exemption in effect prior to March 1, 1983  
24 would continue to remain in effect.

25           The Legislature and Governor recognize that if  
26 the proposed constitutional amendments are not  
27 approved by the voters, that certain of the basic  
28 premises of the mining excise tax law would not have  
29 been met and that changes would be required in order  
30 to fulfill those purposes. As that law states, the  
31 purposes of the excise tax are to establish a prac-  
32 tical scheme of taxation on mining companies which  
33 will:

34           1. Permit these companies to profitably operate  
35 mines within the State;

36           2. Encourage the economically efficient extrac-  
37 tion of minerals;

38           3. Permit the State to derive a benefit from the  
39 extraction of a nonrenewable resource; and

1 4. Compensate the State and its political sub-  
2 divisions for present and future costs incurred or to  
3 be incurred as a result of the mining activity.

4 The Legislature believes that careful considera-  
5 tion would have to be given to changes in provisions  
6 of the mining excise tax scheme to assure fulfillment  
7 of the purposes of that law and to insure that mining  
8 companies would not be subject to double taxation on  
9 minerals. It recognizes that several possible  
10 changes may be considered. The intent of this new  
11 draft is to retain the exemption in effect prior to  
12 March 1, 1983, so as to avoid prejudging possible  
13 solutions to the problems that would be created by  
14 the failure of these constitutional amendments.

15 **Emergency clause.** In view of the emergency cited  
16 in the preamble, this Act shall take effect when  
17 approved.

18 STATEMENT OF FACT

19 The purpose of this new draft is to delay the  
20 effective date of the expanded tax exemption for nat-  
21 urally occurring metallic minerals in the mining  
22 excise tax law until after the people have voted on  
23 the proposed constitutional amendments relating to  
24 that excise tax. The new draft provides that if  
25 these constitutional amendments are approved, the new  
26 exemption will take effect as of April 1, 1983. It  
27 also provides that if these amendments fail, the tax  
28 exemption in effect prior to March 1, 1983 would  
29 remain in effect.

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