

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 2339

6
7 H.P. 1771

House of Representatives, March 22, 1984

8 Approved for introduction by the Legislative Council pursuant to Joint
9 Rule 26.

10 Referred to the Committee on Taxation. Sent up for concurrence and
ordered printed.

EDWIN H. PERT, Clerk

Presented by Speaker Martin of Eagle Lake.

Cosponsor: Senator Pray of Penobscot.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FOUR
16

17 AN ACT to Establish an Excise Tax on
18 Nuclear Fuel Assemblies.
19

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

22 Sec. 1. 36 MRSA §655, sub-§1, ¶1 is enacted to
23 read:

24 T. Nuclear fuel assemblies as defined in section
25 2873.

26 Sec. 2. 36 MRSA c. 373 is enacted to read:

27 CHAPTER 373

28 NUCLEAR FUEL ASSEMBLY EXCISE TAX

29 §2871. Findings and purpose

30 The Legislature makes the following findings and
31 state the following purposes.

1 1. Findings. Nuclear fuel assemblies present a
2 unique problem to the State. The problem is the ef-
3 efficient and safe temporary and permanent disposal of
4 these nuclear fuel assemblies when their useful pur-
5 pose is completed. This problem rests on all of the
6 people of this State and is a concern that transcends
7 municipal boundaries. Properly solving this problem
8 will require the focused and concerted efforts and
9 direction of State Government. It will create addi-
10 tional costs to State Government to properly plan
11 for, implement and regulate a program for safe stor-
12 age. It is vital that proper funding be provided to
13 meet these costs.

14 Further, in the event that the person primarily re-
15 sponsible for properly establishing, operating and
16 maintaining such a facility fails to do so, the State
17 has the obligation to directly insure that these ac-
18 tions are taken. It is vital that a sufficient re-
19 serve fund be available to the State to meet such a
20 contingency. It is appropriate and fair that the
21 necessary funds be provided by an excise tax on the
22 fuel assemblies that create the problem.

23 2. Purpose. It is the policy of this State to
24 require the safe and efficient temporary and perma-
25 nent disposal of spent nuclear fuel assemblies. It
26 is further the policy of this State that State Gov-
27 ernment should accept the obligation to act for the
28 people of this State in planning for, regulating and
29 controlling the storage of these spent nuclear fuel
30 assemblies. Finally, it is the state's responsibili-
31 ty to be prepared to act if proper, safe and effi-
32 cient storage is not provided by others. To accom-
33 plish this purpose, it is vital that the State secure
34 adequate funding to meet its responsibilities. This
35 Act will provide an adequate and appropriate source
36 of funding.

37 §2872. Excise tax in lieu of property tax.

38 1. Annual excise tax. A nuclear power genera-
39 tion facility operator shall pay to the State Tax As-
40 essor, for the use set forth in this chapter, an an-
41 ual excise tax for the privilege of operating that
42 facility in this State.

1 2. Property tax exemption. The excise tax im-
2 posed by this chapter shall be in lieu of property
3 taxes imposed on nuclear fuel assemblies.

4 §2873. Definitions

5 For the purposes of this chapter, unless the con-
6 text indicates otherwise, the following terms have
7 the following meanings.

8 1. Core capacity. "Core capacity" means the
9 maximum number of nuclear fuel assemblies that a nu-
10 clear fuel generating facility is designed to hold as
11 fuel at any one time.

12 2. Nuclear fuel assembly. "Nuclear fuel assem-
13 bly" means a single assembly of nuclear fuel elements
14 which are intended or designed to be used as fuel for
15 a nuclear power generating facility. It includes a
16 spent nuclear fuel assembly.

17 3. Nuclear power generating facility operator.
18 "Nuclear power generating facility operator" means a
19 person who operates, in whole or in part, a nuclear
20 power generation facility.

21 4. Operator. "Operator" means a nuclear power
22 generating facility operator.

23 5. Spent fuel capacity. "Spent fuel capacity"
24 means the maximum number of spent nuclear fuel assem-
25 blies that are actually stored on the site of a nu-
26 clear power generating facility.

27 6. Spent nuclear fuel assembly. "Spent nuclear
28 fuel assembly" means a nuclear fuel assembly of nu-
29 clear fuel elements which have been used in the core
30 of an operating nuclear power generating facility for
31 any period of time, and have been subsequently re-
32 moved from the core, notwithstanding the possibility
33 that the fuel elements may have some remaining useful
34 life. It shall not include nuclear fuel elements
35 that have been temporarily removed from the core for
36 maintenance purposes when no substitute fuel elements
37 are placed in the core.

1 §2874. Amount of tax

2 The amount of the annual excise tax on nuclear
3 fuel assemblies shall be the sum of the excise taxes
4 on the core capacity and on the spent nuclear fuel
5 assemblies. These tax rates are as follows:

6 1. Tax on core capacity. The sum of \$3,000 mul-
7 tiplied by the number of nuclear fuel assemblies in
8 the core capacity; and

9 2. Tax on spent nuclear fuel assemblies. The
10 sum of \$500 multiplied by the number of nuclear fuel
11 assemblies in the spent fuel capacity.

12 §2875. Returns

13 1. Annual return. An operator shall file, on or
14 before the date its state income tax return is due to
15 be filed, an annual return on a form specified by the
16 State Tax Assessor for each tax year.

17 2. Form and content. The return shall indicate:

18 A. The tax due;

19 B. The estimated tax payments made; and

20 C. Other relevant information as the State Tax
21 Assessor may by rule require.

22 3. Payments. An operator shall pay the tax due,
23 less estimated tax payments and credits, at the time
24 its annual return is due without extensions.

25 4. Extensions. The State Tax Assessor may grant
26 a reasonable extension of time for filing a return,
27 declaration, statement or other document or payment
28 of tax or estimated tax required by this chapter on
29 such terms and conditions as he may require. The ex-
30 ension may not exceed 8 months.

31 §2876. Refunds and abatements

32 Credits, refunds and amendments shall be computed
33 and applied separately for each nuclear power gener-
34 ating facility.

1 Tax refunds and abate-ments shall be made in ac-
2 cordance with section 2011, except if estimated tax
3 payments exceed the tax due for the tax year, the
4 State Tax Assessor shall refund the excess, unless
5 the operator requests otherwise.

6 §2877. Estimated tax declarations

7 An operator shall make a declaration of its esti-
8 imated tax for the tax year.

9 1. Amount. The estimated tax may not be less
10 than the smaller of the following:

11 A. An amount equal to the preceding tax year's
12 tax liability under this chapter, if the tax ap-
13 plied for a taxable year of 12 months; or

14 B. Eighty percent of the tax liability under
15 this chapter for the current tax year.

16 2. Time for filing. A declaration shall be
17 filed on or before the 15th day of the 4th month of
18 the tax year.

19 3. Payments of estimated tax. The estimated tax
20 shall be paid in 4 equal installments on or before
21 the dates federal corporate estimated income taxes
22 are due to be paid. These payments shall be consid-
23 ered payments on account.

24 4. Short tax year. If the tax year is less than
25 12 months, declarations and payments shall be made as
26 provided by rule of the State Tax Assessor.

27 5. Amendment. A declaration may be amended as
28 provided by rule of the State Tax Assessor. If a
29 declaration is amended, the remaining installments
30 shall be ratably increased or decreased to reflect
31 the change in the estimated tax.

32 §2878. Enforcement

33 The following provisions shall apply to enforce-
34 ment of this chapter.

1 1. General enforcement provisions. Chapters 1
2 to 7 and chapter 835 shall apply with like effect to
3 collecting the tax and enforcing the provisions on
4 this chapter.

5 2. Lien. The tax, if unpaid when due, may be-
6 come a lien on any property of the operator, as pro-
7 vided under section 5313.

8 §2879. Municipal reimbursement

9 1. Reimbursement. Excise tax revenues shall be
10 used first to reimburse municipalities for the tax
11 exemption established by this chapter.

12 2. Treasurer's duties. The Treasurer of State
13 shall reimburse each municipality 50% of the property
14 tax revenue loss suffered by that municipality during
15 the previous calendar year as a result of the exemp-
16 tion established by this chapter.

17 3. Determination of amount. The property tax
18 revenue loss shall be determined as follows.

19 A. The State Tax Assessor shall make the follow-
20 ing determinations:

21 (1) The total amount of property taxes
22 levied by the municipality in the previous
23 calendar year;

24 (2) The municipal valuation which resulted
25 in subparagraph (1); and

26 (3) The valuation of the property which is
27 exempt as a result of section 655, subsec-
28 tion 1, paragraph T.

29 B. The State Tax Assessor shall add the valua-
30 tion as determined in paragraph A, subparagraph
31 (2), to the valuation as determined in paragraph
32 A, subparagraph (3), and divide the sum into the
33 figure determined in paragraph A, subparagraph
34 (1).

35 C. The State Tax Assessor shall apply the rate
36 calculated in paragraph B to the valuation of the

1 exempt property to determine the amount of poten-
2 tial tax revenue loss.

3 D. The State Tax Assessor shall reduce the
4 amount from paragraph C to reflect the additional
5 school support provided by the State because of
6 the change in valuation caused by the property
7 tax exemption created by section 655, subsection
8 1, paragraph T, which figure shall be the actual
9 tax revenue loss.

10 4. Payment. The Treasurer of State shall use
11 the excise tax revenues to pay to each municipality
12 50% of the actual tax revenue loss as determined by
13 subsection 3, paragraph D. The Treasurer of State
14 shall set aside an amount from these revenues suffi-
15 cient to meet this obligation. He shall pay the 50%
16 due to the municipality by February 1st of the year
17 following the year in which property tax revenue was
18 lost by the municipality.

19 §2880. Distribution of remaining revenues

20 Excise tax revenues remaining after municipal re-
21 imbursement under section 2879 shall be used as fol-
22 lows.

23 1. Nuclear Fuel Disposal Planning and Emergency
24 Fund. Fifty percent of the revenues shall be depos-
25 ited in the Nuclear Fuel Disposal Planning and Emer-
26 gency Fund, established under Title 38, chapter 14-A,
27 subchapter IV.

28 2. Local Government Fund. Fifty percent of the
29 revenues shall be deposited in the Local Government
30 Fund and used according to Title 30, section 5055.

31 Sec. 3. 38 MRSA c. 14-A, sub-c. IV is enacted to
32 read:

33 SUBCHAPTER IV

34 NUCLEAR FUEL DISPOSAL PLANNING AND EMERGENCY FUND

35 §1501. Purpose

1 The purpose of this subchapter is to establish a
2 Nuclear Fuel Disposal Planning and Emergency Fund.
3 This fund shall provide funding for the State to
4 properly study, plan for and regulate the safe and
5 efficient temporary and permanent storage of spent
6 nuclear fuel generated in this State. The fund shall
7 also be available to provide funds to the State if it
8 chooses to establish, operate or maintain such a
9 storage facility.

10 §1502. Nuclear Fuel Disposal Planning and Emergency
11 Fund

12 There is created a separate trust fund to be
13 known as the Nuclear Fuel Disposal Planning and Emer-
14 gency Fund.

15 1. Nonlapsing fund. The fund shall not lapse.

16 2. Investment. The Treasurer of State shall in-
17 vest the fund in accordance with Title 5, section
18 138.

19 §1503. Uses of the fund.

20 Available funds from the fund may be used for ex-
21 penditures by the State for studying, planning for
22 and regulating the temporary and permanent storage of
23 nuclear wastes and spent nuclear fuel generated in
24 this State. The funds may also be used for state ex-
25 penditures to establish, operate and maintain such a
26 storage facility, if the State so chooses, in the
27 event that the person having primary responsibility,
28 or the Federal Government, fails to properly and
29 safely establish, operate or maintain any such stor-
30 age facility.

31 All expenditures of interest or principal of this
32 fund shall be by appropriation by law.

33 Sec. 4. Effective date. This Act shall take ef-
34 fect on January 1, 1985.

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STATEMENT OF FACT

2 This bill exempts nuclear fuel assemblies from
3 the local property tax and imposes a state excise tax
4 in its place. The purpose of this bill, as stated in
5 the findings and purpose sections, is to provide
6 funding for the State to meet its obligation to prop-
7 erly plan for, implement and regulate the safe and
8 efficient temporary and permanent disposal of spent
9 nuclear fuel, and to meet any requirement to estab-
10 lish, operate and maintain such a facility if those
11 responsible for doing so fail to carry out those re-
12 sponsibilities.

13 To accomplish this end, a special fund is created
14 to provide funding for these state activities.

15 The bill also provides funding for municipal re-
16 imbursement for the loss of property tax revenues
17 created by the new property tax exemption created in
18 this bill.

19 The bill also provides for a portion of the ex-
20 cise tax revenues to be paid into the Local Govern-
21 ment Fund.

22 Finally, the bill creates the administrative pro-
23 visions necessary to collect this new excise tax.

24 The excise tax imposed under this bill will gen-
25 erate approximately \$1,010,000 per year, based on the
26 present core capacity and storage capacity at Maine
27 Yankee Atomic Power Plant in Wiscasset. The Town of
28 Wiscasset presently receives approximately \$1,000,000
29 in property tax receipts on the nuclear fuel at Maine
30 Yankee. Under the municipal reimbursement provision
31 of the Constitution of Maine and state law, the State
32 will be required to reimburse Wiscasset in the amount
33 of \$500,000 per year for its loss of property tax
34 revenues.

1 The balance of the excise tax revenues will be
2 equally divided between the Nuclear Fuel Disposal
3 Planning and Emergency Fund and the Local Government
4 Fund, providing about \$250,000 per year to each fund.
5 The Local Government Fund will then redistribute this
6 income to municipalities on the basis of the
7 state-local revenue sharing formula.

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