

MAINE STATE LEGISLATURE

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(EMERGENCY)

SECOND REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 2474

H.P. 1872 House of Representatives, April 24, 1984

Reported by the Majority from the Committee on Taxation pursuant to
H.P. 1863 and printed under Joint Rule 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

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

AN ACT to Provide for Greater Equity in
Maine's Tax Structure.

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

Whereas, several studies mandated by the First Regular Session of the 111th Legislature have brought to light several situations in the current Maine tax structure which are causing serious problems for the people and businesses of this State; and

Whereas, changes in the tax structure are necessary to alleviate these problems; and

Whereas, these changes must become effective by the beginning of the next fiscal year, in order to provide the greatest relief; 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. 12 MRSA §9205-A, as enacted by PL 1983,
10 c. 556, §12, is repealed and the following enacted in
11 its place:

12 §9205-A. Payment of costs in the unorganized terri-
13 tory

14 Responsibility for the control of forest fires in
15 the unorganized territory lies with the State. The
16 unorganized territory shall reimburse the State for
17 1/2 of the costs of controlling and extinguishing
18 forest fires up to 1/2 of 1% of the state valuation
19 of the unorganized territory. The State may not re-
20 quire reimbursement for costs of services in the un-
21 organized territory unless a municipality would be
22 required to pay for the service under sections 9204
23 and 9205.

24 Sec. 2. 30 MRSA §5055, sub-§5, as repealed and
25 replaced by PL 1981, c. 522, §§1 and 2, is amended
26 to read:

27 5. Treasurer of State. An amount equal to 4%
28 4.75% of the receipts from the taxes imposed under
29 Title 36, Parts 3 and 8, and credited to the General
30 Fund, plus an amount equal to \$237,000 of the re-
31 ceipts from the tax imposed under Title 36, Part 3,
32 shall be transferred by the Treasurer of State to the
33 Local Government Fund on the first day of each month,
34 beginning July 1, 1983.

35 Beginning July 1, 1985, an amount equal to 5.1% of
36 the receipts under Title 36, Parts 3 and 8, and cred-
37 ited to the General Fund, plus an amount equal to
38 \$237,000 of the receipts from the tax imposed under
39 Title 36, Part 3, shall be transferred by the Trea-

1 surer of State to the Local Government Fund on the
2 first day of each month.

3 The Treasurer of State shall distribute the balance
4 in the Local Government Fund on the 20th day of each
5 month, beginning July 20, 1983.

6 Sec. 3. 36 MRSA §507 is enacted to read:

7 §507. Taxpayer information

8 Beginning January 1, 1985, when a municipality
9 issues a property tax bill to each taxpayer, each
10 bill shall contain a statement or calculation that
11 demonstrates the amount by which the taxpayer's tax
12 has been reduced by the distribution of
13 state-municipal revenue sharing and state aid for ed-
14 ucation. The State Tax Assessor shall annually pro-
15 vide each municipality with the amount of
16 state-municipal revenue sharing and state aid for ed-
17 ucation subject to identification under this section.

18 Sec. 4. 36 MRSA §841-B, as amended by PL 1983,
19 c. 556, §17, is further amended to read:

20 §841-B. Land Classification Appeals Board; purpose,
21 composition

22 The Land Classification Appeals Board is estab-
23 lished to hear appeals from decisions of municipal
24 tax assessors, chief assessors and the State Tax As-
25 sessor acting as assessor of the unorganized territory
26 relating to the Maine Tree Growth Tax Law, and the
27 Farm and Open Space Tax Law ~~or the Forest Fire Sup-~~
28 ~~pression Tax Law.~~ The board shall be composed of 4
29 voting members: The Commissioner of Conservation or
30 his designee; the Commissioner of Agriculture, Food
31 and Rural Resources or his designee; the person who,
32 pursuant to section 584, is currently serving on the
33 Forest Land Valuation Advisory Council as the land-
34 owner member; and the person who, pursuant to section
35 584, is currently serving on the Forest Land Valua-
36 tion Advisory Council as the municipal officer. The
37 Commissioner of Finance and Administration or his
38 designee shall serve in an advisory capacity as a
39 nonvoting member and as chairman of the board. In the
40 case of a tie vote, the Commissioner of Finance and

1 Administration or his designee shall vote to break
2 the tie. The landowner member and the municipal offi-
3 cer shall be compensated by the Bureau of Taxation at
4 \$25 per day plus actual expenses. All other members
5 shall be compensated by the agency they represent for
6 actual expenses incurred in the performance of their
7 duties under this section.

8 Sec. 5. 36 MRSA §841-C, 2nd ¶, as amended by PL
9 1983, c. 556, §18, is further amended to read:

10 On receipt of an application for review by the
11 Land Classification Appeals Board, the chairman shall
12 designate a time and place for hearing and make such
13 other arrangements for the hearing as may be neces-
14 sary. The board may summons witnesses, administer
15 oaths, order the production of books, records, pa-
16 pers, instruments and any additional evidence it
17 deems necessary in order to make a decision. The
18 board may affirm, reject or amend determinations of
19 assessors, chief assessors and the State Tax Asses-
20 sor, made pursuant to the Maine Tree Growth Tax Law,
21 and the Farm and Open Space Tax Law ~~or the Forest~~
22 ~~Fire Suppression Tax Law~~. The board may order a re-
23 fund in whole or in part of any taxes, costs, penal-
24 ties or interest thereon which have been erroneously
25 or unjustly paid. If the board fails to give written
26 notice of its decision within 90 days of the filing
27 of such an appeal, the appeal shall be deemed to be
28 denied and the applicant may appeal further as pro-
29 vided, unless the applicant consents in writing to
30 further delay.

31 Sec. 6. 36 MRSA §1760, sub-§10 is repealed.

32 Sec. 7. 36 MRSA §1760, §§46 and 47 are enacted
33 to read:

34 46. Community action agencies. Sales to communi-
35 ty action agencies designated in accordance with Ti-
36 tle 5, section 3519.

37 47. Emergency shelter and feeding organizations.
38 Sales of household and sanitary supplies to incorpo-
39 rated nonprofit organizations which provide free tem-
40 porary emergency shelter or food for underprivileged
41 individuals in this State.

1 Sec. 8. 36 MRS §2711, sub-§1, as enacted by PL
2 1983, c. 556, §21, is repealed and the following en-
3 acted in its place:

4 1. Annual tax. An excise tax is assessed against
5 persons owning protected land. Ownership and number
6 of acres owned shall be determined as of April 1st of
7 each year. "Protected land" means forest land and
8 other undeveloped land such as blueberry barrens,
9 swamps, bogs, undeveloped pastureland or brushland.
10 It does not include federal, municipal or state-owned
11 land.

12 Sec. 9. 36 MRS §2711, sub-§1-A is enacted to
13 read:

14 1-A. Exemption. Each person owning protected
15 land shall be entitled to an exemption of 500 acres
16 of protected land with regard to each municipality or
17 the unorganized territory where protected land is
18 owned.

19 Sec. 10. 36 MRS §2711, sub-§2, as enacted by PL
20 1983, c. 556, §21, is repealed and the following en-
21 acted in its place:

22 2. Computation of the tax. The tax shall be com-
23 puted as follows.

24 A. By December 1st, annually, the Commissioner
25 of Conservation shall provide the State Tax As-
26 essor with the total projected costs of forest
27 fire protection for the next fiscal year and the
28 projected amount of any receipts of funds as a
29 result of forest fire protection activities, in-
30 cluding federal funds, receipts from municipali-
31 ties and the unorganized territory pursuant to
32 Title 12, sections 9204, 9205 and 9205-A and re-
33 ceipts from sales of vehicles, land and equip-
34 ment. By January 5th, annually, the Governor
35 shall submit a bill to the Legislature stating
36 the total projected costs of forest fire protec-
37 tion, less other sources of funding, for the next
38 fiscal year. By May 1st, annually, the Legisla-
39 ture shall determine the total projected costs of
40 forest fire protection, less other sources of
41 funding, for the next fiscal year. For fiscal

1 year 1984-85, the amount is \$5,115,000.

2 B. By September 1st, annually, the State Tax As-
3 essor shall add the amount appropriated by the
4 Legislature for administration of the forest fire
5 suppression tax to the amount determined under
6 paragraph A and divide the total in half. The re-
7 sulting amount shall be divided by the number of
8 acres subject to the excise tax, as determined
9 under section 2712, and rounded to the nearest
10 1/10th of a cent to determine the amount of the
11 tax per acre. The cents per acre tax shall be
12 multiplied by the number of protected nonexempt
13 acres owned by each person to determine the
14 amount of the excise tax to be assessed against
15 each owner.

16 C. If the amount calculated under this subsec-
17 tion is less than \$5, the tax assessed shall be
18 \$5.

19 Sec. 11. 36 MRSA §2712, as amended by PL 1983,
20 c. 586, is repealed and the following enacted in its
21 place:

22 §2712. Identification of persons subject to tax

23 The State Tax Assessor shall, annually, update
24 the list of persons subject to the tax imposed under
25 this chapter, and may require assistance from local
26 assessors in identifying any changes in ownership or
27 number of acres owned from the preceding year.

28 Sec. 12. 36 MRSA §2713, sub-§1, as enacted by PL
29 1983, c. 556, §21, is repealed and the following en-
30 acted in its place:

31 1. Assessment. By October 15th, annually, the
32 State Tax Assessor shall notify each owner, subject
33 to the tax imposed under this chapter, of the total
34 amount of tax due for the year. The tax shall be due
35 December 1st, annually.

36 Sec. 13. 36 MRSA §2715, as enacted by PL 1983,
37 c. 556, §21, is repealed.

38 Sec. 14. 36 MRSA §5102, sub-§11, as amended by
39 PL 1983, c. 590, §1, is further amended to read:

1 11. Other terms. Any other term used in this
2 Part has the same meaning as when used in a compara-
3 ble context in the laws of the United States relating
4 to federal income taxes, unless a different meaning
5 is clearly required. Any reference in this Part to
6 the laws of the United States shall be construed as a
7 reference to the provisions of the United States In-
8 ternal Revenue Code of 1954, and amendments thereto
9 and other provisions of the laws of the United States
10 relating to federal income taxes as of ~~December 31,~~
11 ~~1980~~ January 31, 1983. This subsection shall be ef-
12 fective as to items of income, deductions, loss or
13 gain accruing in taxable years ending on or after
14 January 1, ~~1980~~ 1984, but only to the extent that
15 those items have been earned, received, incurred or
16 accrued on or after that effective date. Notwith-
17 standing other provisions of this subsection, for
18 taxable years ending in 1981 and 1982, any reference
19 in this Part to the laws of the United States shall
20 be construed as a reference to the provisions of the
21 United States Internal Revenue Code of 1954, and
22 amendments thereto and other provisions of the laws
23 of the United States relating to federal income taxes
24 as of December 31, 1981 for items of income, deduc-
25 tions, loss or gain earned, incurred or accrued with-
26 in those taxable years. Notwithstanding other provi-
27 sions of this subsection, for taxable years ending in
28 1983, any reference in this Part to the laws of the
29 United States shall be construed as a reference to
30 the provisions of the United States Internal Revenue
31 Code of 1954, and amendments thereto and other provi-
32 sions of the laws of the United States relating to
33 federal income taxes as of January 31, 1983 for items
34 of income, deductions, loss or gain earned, incurred
35 or accrued within those taxable years.

36 Sec. 15. 36 MRSA §5122, sub-§1, ¶¶D and E, as
37 enacted by PL 1981, c. 706, §35, are amended to read:

38 D. The amount of any net operating loss in the
39 taxable year which has been carried back to pre-
40 vious years pursuant to the United States Inter-
41 nal Revenue Code, Section 172; and

42 E. The amount of any deduction claimed for the
43 taxable year under the United States Internal
44 Revenue Code, Section 172 which has previously

1 been used to offset the modifications provided by
2 this subsection-; and

3 Sec. 16. 36 MRSA §5122, sub-§1, ¶F is enacted to
4 read:

5 F. For a taxable year ending in 1984, the sum of
6 the following portions of the deductions allowed
7 for that taxable year to the taxpayer under the
8 United States Internal Revenue Code, Section 168:

9 (1) 2.5% of the deductions for 3-year prop-
10 erty;

11 (2) 7.5% of the deductions for 5-year prop-
12 erty;

13 (3) 12.5% of the deductions for 10-year
14 property; and

15 (4) 20% of the deductions for 15-year prop-
16 erty.

17 Sec. 17. 36 MRSA §5122, sub-§2, as amended by PL
18 1983, c 519, §25, is further amended to read:

19 2. Subtractions. For tax years beginning on or
20 after January 1, 1977, federal adjusted gross income
21 shall be reduced by:

22 A. Interest or dividends on obligations of the
23 United States and its territories and possessions
24 or of any authority, commission or instrumentali-
25 ty of the United States or on a seller-sponsored
26 loan, as defined by Title 10, section 974, sub-
27 section 16 to the extent includible in gross in-
28 come for federal income tax purposes but exempt
29 from state income taxes under the laws of the
30 United States, provided that the amount sub-
31 tracted shall be decreased by any expenses in-
32 curred in the production of the interest or divi-
33 dend income to the extent that these expenses,
34 including amortizable bond premiums, are deduct-
35 ible in determining federal adjusted gross in-
36 come; and

1 B. An amount equal to the taxpayer's federal new
2 jobs credit as determined under the laws of the
3 United States-; and

4 C. For each of the taxable years ending in 1985
5 through 1987, 1/3 of the amount by which federal
6 adjusted gross income was increased for the tax-
7 able year ending in 1984 under subsection 1, par-
8 agraph F.

9 Sec. 18. 36 MRSA §5200-A, sub-§1, ¶D, as enacted
10 by PL 1981, c. 704, §4, is amended to read:

11 D. For a taxable year ending in 1982, Subchapter
12 S corporations excepted, the amount of deductions
13 allowed for that taxable year to the taxpayer as
14 the nominal lessor in a safe harbor lease pursu-
15 ant to the United States Internal Revenue Code,
16 Section 168(f)(8), plus 18% of the remaining de-
17 ductions allowed for that taxable year under the
18 United States Internal Revenue Code, Sections 167
19 and 168; and

20 Sec. 19. 36 MRSA §5200-A, sub-§1, ¶F, as enacted
21 by PL 1983, c. 590, §2, is amended to read:

22 F. For a taxable year ending in 1983, the sum of
23 the following portions of the deductions allowed
24 for that taxable year to the taxpayer under the
25 United States Internal Revenue Code, Section 168:

26 (1) 5% of the deductions for 3-year proper-
27 ty;

28 (2) 15% of the deductions for 5-year prop-
29 erty;

30 (3) 25% of the deductions for 10-year prop-
31 erty; and

32 (4) 40% of the deductions for 15-year prop-
33 erty-; and

34 Sec. 20. 36 MRSA §5200-A, sub-§1, ¶G is enacted
35 to read:

1 G. For a taxable year ending in 1984, the sum of
2 the following portions of the deductions allowed
3 for that taxable year to the taxpayer under the
4 United States Internal Revenue Code, Section 168:

5 (1) 2.5% of the deductions for 3-year prop-
6 erty;

7 (2) 7.5% of the deductions for 5-year prop-
8 erty;

9 (3) 12.5% of the deductions for 10-year
10 property; and

11 (4) 20% of the deductions for 15-year prop-
12 erty.

13 Sec. 21. 36 MRSA §5200-A, sub-§2, ¶¶C and D, as
14 enacted by PL 1981, c. 704, §4, are amended to read:

15 C. An amount equal to the taxpayer's new jobs
16 credit as determined under the laws of the United
17 States; and

18 D. For each of the taxable years ending in 1983
19 through 1985, Subchapter S corporations excepted,
20 6% of the deductions allowed under the United
21 States Internal Revenue Code, Sections 167 and
22 168 for the taxable year 1982, excluding the
23 amount of deduction allowed for that taxable year
24 to the nominal lessor in a safe harbor lease pur-
25 suant to the United States Internal Revenue Code,
26 Section 168(f)(8)-; and

27 Sec. 22. 36 MRSA §5200-A, sub-§2, ¶E is enacted
28 to read:

29 E. For each of the taxable years ending in 1985
30 through 1987, 1/3 of the amount by which taxable
31 income was increased for the taxable year ending
32 in 1984 under subsection 1, paragraph G.

33 Sec. 23. 36 MRSA §5206, sub-§3, ¶¶C and D, as
34 enacted by PL 1983, c. 590, §3, are amended to read:

1 C. Increased, for taxable year ending in 1982,
2 by the amount of deductions allowed for that tax
3 year to the taxpayer as nominal lessor in a safe
4 harbor lease pursuant to the United States Inter-
5 nal Revenue Code, Section 168(f)(8) plus 18% of
6 the remaining deductions allowed for that year
7 under the United States Internal Revenue Code,
8 Sections 167 and 168; and

9 D. Increased, for taxable years ending in 1983,
10 by the sum of the following portions of the de-
11 ductions allowed for that taxable year to the
12 taxpayer under the United States Internal Revenue
13 Code, Section 168:

14 (1) 5% of the deductions for 3-year proper-
15 ty;

16 (2) 15% of the deductions for 5-year prop-
17 erty;

18 (3) 25% of the deductions for 10-year prop-
19 erty; and

20 (4) 40% of the deductions for 15-year prop-
21 erty;

22 Sec. 24. 36 MRSA §5206, sub-§3, ¶¶E and F are
23 enacted to read:

24 E. Increased, for taxable years ending in 1984,
25 by the sum of the following portions of the de-
26 ductions allowed for that taxable year to the
27 taxpayer under the United States Internal Revenue
28 Code, Section 168:

29 (1) 2.5% of the deductions for 3-year prop-
30 erty;

31 (2) 7.5% of the deductions for 5-year prop-
32 erty;

33 (3) 12.5% of the deductions for 10-year
34 property; and

35 (4) 20% of the deductions for 15-year prop-
36 erty; and

1 F. Decreased, for each of the taxable years end-
2 ing in 1985 through 1987, by 1/3 of the amount by
3 which taxable income was increased for the tax-
4 able year ending in 1984 under paragraph E.

5 Sec. 25. Appropriation. The following funds are
6 appropriated from the General Fund to carry out the
7 purposes of this Act.

8 1984-85

9 FINANCE AND ADMINISTRATION,
10 DEPARTMENT OF

11 Bureau of Taxation

12 All Other (\$5,000,000)

13 Deappropriates funds
14 appropriated in 1983
15 for circuit breaker
16 property tax relief.

17 Bureau of Taxation

18 All Other 20,000

19 For fire suppression
20 tax administration.

21 Emergency clause. In view of the emergency cited
22 in the preamble, this Act shall take effect June 1,
23 1984, except that section 2 shall take effect July
24 30, 1984.

25 Fiscal Note

26 The Bureau of Taxation estimates that this bill
27 will have the following fiscal impact.

	<u>1984-85</u>	<u>1984-85</u>
	<u>GENERAL</u>	<u>LOCAL GOVERNMENT</u>
	<u>FUND</u>	<u>FUND</u>

31 Section 2: Increased state-
32 municipal revenue sharing. (\$4,591,373) \$4,591,373

1	Section 5: Repeal of sales		
2	tax exemption on cigarettes.	6,916,800	340,200
3	Section 6: Sales tax exemp-		
4	tions for community action		
5	agencies	(273,600)	(11,400)
6	and emergency shelter and		
7	feeding organizations.	(17,600)	(730)
8	Section 8: Forest fire excise		
9	tax and administration.	(862,700)	
10	Sections 12-22: Conformity		
11	with federal tax		
12	laws.	(5,085,500)	(211,900)
13	Circuit breaker	<u>5,000,000</u>	<u> </u>
14	TOTAL	\$1,086,027	\$4,707,543

15 STATEMENT OF FACT

16 This bill is reported by the Joint Standing Com-
17 mittee on Taxation pursuant to joint order. The pur-
18 pose of the bill is to make some adjustments in the
19 tax laws and policies of the State to provide for a
20 more equitable distribution of the burden of paying
21 for state services.

22 This bill incorporates a number of tax measures
23 considered by the Joint Standing Committee on Taxa-
24 tion and one provision which was recommended by the
25 Joint Standing Committee on Taxation of the 110th
26 Legislature. It contains the following provisions.

27 1. Property tax relief. The bill deappropriates
28 the \$5,000,000 appropriated during the First Regular
29 Session of the 111th Legislature for circuit breaker
30 property tax relief. In order to provide badly
31 needed property tax relief, the bill increases local
32 revenue sharing from 4% to 4.75% of sales and income
33 tax revenues beginning August, 1984. This increase
34 will add an additional \$4,591,373 to local revenue
35 sharing in 1984. The bill also increases revenue
36 sharing to 5.1% beginning July 1, 1985.

1 2. Conformity. The bill provides for partial
2 conformity with the Accelerated Cost Recovery System
3 depreciation provisions of the United States Internal
4 Revenue Code for 1984 and full conformity for 1985.
5 In 1984, all users of Accelerated Cost Recovery Sys-
6 tem depreciation would be required to add-back a por-
7 tion of federal depreciation deductions to state tax-
8 able income. The add-back would be recovered over
9 the next 3 years. The committee believes that this
10 change is necessary in order to bring the State into
11 conformity with federal tax policy. This change will
12 result in increased attractiveness of Maine to capi-
13 tal investment, thereby improving the economy, creat-
14 ing new and better paying jobs and resulting, over
15 time, in increased state and local tax revenues.

16 3. Forest fire protection. This provision con-
17 tinues the excise tax enacted last year for the priv-
18 ilege of owning commercially valuable amounts of pro-
19 tected land. The acreage level is raised from 100 to
20 500 acres to resolve serious administrative problems
21 at the 100-acre level. The tax is charged based on
22 aggregate acreage owned in a municipality rather than
23 based on size of parcel, in order to make the tax
24 more equitable. An exemption is granted for the
25 first 500 acres owned in each municipality, so as not
26 to unduly burden persons owning small amounts of tax-
27 able protected land. The minimum tax would be \$5.
28 The following additional changes are made. The bill
29 provides for 50% funding from the General Fund for
30 forest fire protection costs. The remaining 50%
31 would be funded by an excise tax on persons owning at
32 least 500 acres of protected land in the aggregate
33 in a municipality or the unorganized territory. The
34 tax would be approximately 25.9¢ per acre.

35 4. Sales tax adjustments. The bill includes
36 sales tax exemptions for community action agencies
37 and emergency shelter and feeding organizations. It
38 also removes the sales tax exemption on cigarettes as
39 recommended by a study conducted by the Joint Stand-
40 ing Committee on Taxation of the 110th Legislature.
41 These changes will permit community action agencies
42 to fund weatherization activities for approximately
43 400 households. It will also permit increased meals
44 and shelter to be provided by emergency shelter and
45 feeding organizations.

1 5. Revenue effect. The combined effect of the
2 provisions of this bill for fiscal year 1984-85 is a
3 gain of \$1,086,027 to the General Fund and \$4,707,543
4 to the Local Government Fund.

5

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