

# MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 1885, L.D. 2485)  
2 (New Title)  
3 THIRD SPECIAL SESSION  
4

5 ONE HUNDRED AND ELEVENTH LEGISLATURE  
6

7 Legislative Document

No. 2494

9 H.P. 1898

House of Representatives, September 11, 1984

10 Reported by Six Members from the Committee on Taxation in Report A  
and printed under Joint Rule 2.

11 Original bill presented by Representative Higgins of Portland.

12 Cosponsored by Senator Wood of York and Representatives Cashman of Old  
Town and Kane of South Portland.

EDWIN H. PERT, Clerk

13  
14 STATE OF MAINE  
15

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

19 AN ACT to Revise Certain Portions of the  
20 Tax Laws Relative to Income Taxes,  
21 Sales Taxes, Real Estate Transfer Taxes and  
22 Cigarette Taxes and to Increase Revenue  
23 Collection.  
24

25 Be it enacted by the People of the State of Maine as  
26 follows:

27 PART A

28 Sec. 1. 36 MRSA §1752, sub-§2-B is enacted to  
29 read:

30 2-B. Extended cable television services. "Ex-  
31 tended cable television services" means all cable  
32 television service which is in addition to the mini-  
33 imum service which can be purchased from a cable tele-  
34 vision supplier including the use of associated  
35 equipment for which a charge is made. It does not

1 include installation of the associated equipment for  
2 which a separate charge is levied.

3       Sec. 2. 36 MRSA §1752, sub-§11, as amended by PL  
4 1983, c. 560, §§1 and 6, is further amended to read:

5       11. Retail sale or sale at retail. "Retail sale"  
6 or "sale at retail" means any sale of tangible per-  
7 sonal property, in the ordinary course of business,  
8 for consumption or use, or for any purpose other than  
9 for resale, except resale as a casual sale, in the  
10 form of tangible personal property, any rental of  
11 living quarters in any hotel, rooming house, tourist  
12 or trailer camp, any rental of automobiles on a  
13 short-term basis, other than rental to a person en-  
14 gaged in the business of renting automobiles, and the  
15 sale of telephone or telegraph service and the sale  
16 of extended cable television service. The term "re-  
17 tail sale" or "sale at retail" includes conditional  
18 sales, installment lease sales, and any other trans-  
19 fer of tangible personal property when the title is  
20 retained as security for the payment of the purchase  
21 price and is intended to be transferred later. The  
22 term "retail sale" or "sale at retail" also means  
23 sale of products for internal human consumption to a  
24 person for resale through coin-operated vending ma-  
25 chines when sold to a retailer whose gross receipts  
26 from the retail sale of tangible personal property  
27 derived through sales from vending machines are more  
28 than 50% of his gross receipts, which tax shall be  
29 paid by the retailer to the State. The term "retail  
30 sale" or "sale at retail" does not include any sale  
31 by an executor or administrator in the settlement of  
32 an estate, unless such sale is made through a retail-  
33 er, or unless such sale is made in the continuation  
34 or operation of a business; nor does the term include  
35 any other isolated transaction in which any tangible  
36 personal property is sold, transferred, offered for  
37 sale or delivered by the owner thereof, such sale,  
38 transfer, offer for sale, or delivery not being made  
39 in the ordinary course of repeated and successive  
40 transactions of a like character by such owner, such  
41 transactions being elsewhere sometimes referred to as  
42 "casual sales." "Casual sales" includes transactions  
43 by a civic, religious or fraternal organization,  
44 which is not a registered retailer, at bazaars,  
45 fairs, rummage sales, picnics or similar events but

1 not exceeding 8 days in a calendar year. The sale by  
2 a registered retailer of tangible personal property,  
3 which that retailer has used in the course of his or  
4 its business, is not a casual sale and is a retail  
5 sale subject to taxation under this Part, if that  
6 property is of a like character to that sold in the  
7 ordinary course of repeated and successive transac-  
8 tions. "Casual sale" shall not include any transac-  
9 tion in which tangible personal property is sold,  
10 transferred or offered for sale by a representative  
11 for the owner's account when such representative is a  
12 registered retailer, in which event such registered  
13 retailer shall have the same duties respecting such  
14 sale as if he had sold on his own account. "Retail  
15 sale" and "sale at retail" do not include the sale of  
16 tangible personal property which becomes an ingredi-  
17 ent or component part of, or which is consumed or de-  
18 stroyed or loses its identity in the manufacture of,  
19 tangible personal property for later sale or lease,  
20 other than lease for use in this State, but shall in-  
21 clude fuel and electricity but shall not include  
22 electricity separately metered and consumed in any  
23 electrolytic process for the manufacture of tangible  
24 personal property for later sale, nor any fuel oil or  
25 coal, the by-products from the burning of which be-  
26 come an ingredient or component part of tangible per-  
27 sonal property for later sale. "Retail sale" and  
28 "sale at retail" do not include the sale, to a person  
29 engaged in the business of renting automobiles, of  
30 automobiles, or integral parts thereof or accessories  
31 thereto, for rental or for use in an automobile  
32 rented, on a short-term basis. It shall be consid-  
33 ered that tangible personal property is "consumed or  
34 destroyed" or "loses its identity" in such manufac-  
35 ture, if it has a normal physical life expectancy of  
36 less than one year as a usable item in the use to  
37 which it is applied. "Retail sale" or "sale at re-  
38 tail" do not include the sale of containers, boxes,  
39 crates, bags, cores, twines, tapes, bindings,  
40 wrappings, labels and other packing, packaging and  
41 shipping materials when sold to persons for use in  
42 packing, packaging or shipping tangible personal  
43 property sold by them or upon which they have per-  
44 formed the service of cleaning, pressing, dyeing,  
45 washing, repairing or reconditioning in their regular  
46 course of business and which are transferred to the  
47 possession of the purchaser of such tangible personal  
48 property.

1           Sec. 3. 36 MRSA §1754, sub-§9 is enacted to  
2 read:

3           9. Extended cable television service. Every  
4 person furnishing extended cable television service.

5           Sec. 4. 36 MRSA §1760, sub-§9-A, as enacted by  
6 PL 1973, c. 594, is repealed.

7           Sec. 5. 36 MRSA §1760, sub-§11 is repealed.

8           Sec. 6. 36 MRSA §1760, sub-§36, as enacted by PL  
9 1975, c. 741, §33, is repealed.

10          Sec. 7. 36 MRSA §1760, sub-§50 is enacted to  
11 read:

12          50. Certain libraries. Sales to any nonprofit  
13 free public lending library which is funded in part  
14 or wholly by the State or any political subdivision  
15 or the federal government.

16          Sec. 8. 36 MRSA §1811, first ¶, as amended by PL  
17 1977, c. 198, §6, is further amended to read:

18          A tax is imposed at the rate of 5% on the value  
19 of all tangible personal property and, on telephone  
20 and telegraph service and on extended cable televi-  
21 sion service sold at retail in this State, and upon  
22 the rental charged for living quarters in hotels,  
23 rooming houses, tourist or trailer camps and the  
24 rental charged for automobiles rented on a short-term  
25 basis, other than a rental charged to a person en-  
26 gaged in the business of renting automobiles, mea-  
27 sured by the sale price, except as in chapters 211 to  
28 225 provided. Retailers shall pay such tax at the  
29 time and in the manner provided, and it shall be in  
30 addition to all other taxes.

31          Sec. 9. 36 MRSA §4365, as amended by PL 1983, c.  
32 477, Pt. F, sub-Pt. 2, is further amended to read:

33          §4365. Rate of tax

34          A tax is imposed on all cigarettes held in this  
35 State by any person for sale, ~~said~~ the tax to be at  
36 the rate of ~~10~~ 14 mills for each cigarette and the

1 payment thereof to be evidenced by the affixing of  
2 stamps to the packages containing the cigarettes. If  
3 a federal program similar to that provided in Title  
4 22, section 3185, becomes effective, this tax is re-  
5 duced by one mill for each cigarette. The Governor  
6 shall determine by proclamation when the federal pro-  
7 gram has become effective. Any cigarette on which a  
8 tax has been paid, such payment being evidenced by  
9 the affixing of such stamp, shall not be subject to a  
10 further tax under this chapter. Nothing contained in  
11 this chapter shall be construed to impose a tax on  
12 any transaction, the taxation of which by this State  
13 is prohibited by the Constitution of the United  
14 States.

15 Each unclassified importer shall, within 24 hours  
16 after receipt of any unstamped cigarettes in this  
17 State, notify the State Tax Assessor of the number of  
18 cigarettes received, and the name and address of con-  
19 signor. The State Tax Assessor thereupon shall noti-  
20 fy the unclassified importer of the amount of the tax  
21 due thereon, which shall be at the rate of ~~10~~ 14  
22 mills per cigarette. Payment of the amount due the  
23 State shall be made within 10 days from mailing date  
24 of notice thereof.

25 Sec. 10. 36 MRSA §4641-A, as enacted by PL 1975,  
26 c. 572, §1, is amended to read:

27 §4641-A. Rate of tax

28 There is imposed a tax upon the privilege of  
29 transferring title to real property at the rate of  
30 ~~55¢~~ \$1.10 for each \$500 or fractional part thereof,  
31 of consideration therefor. The grantor shall be lia-  
32 ble for payment of ~~said~~ the tax.

33 Sec. 11. 36 MRSA §4641-B, 5th ¶, as amended by  
34 P&SL 1975, c. 78, §21, is further amended to read:

35 Each register of deeds shall, on or before the  
36 10th day of each month, pay over to the State Tax As-  
37 sessor ~~85%~~ 90% of the tax collected during the previ-  
38 ous month. The remaining ~~15%~~ 10% shall be retained  
39 for the county by the register of deeds and accounted  
40 for to the county treasurer as reimbursement for ser-  
41 vices rendered by the county in collecting the tax.

1           Sec. 12. 36 MRS §5102, sub-§11, as amended by  
2 PL 1983, c. 855, §14, is further amended to read:

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

38           Sec. 13. Appropriation. The following funds are  
39 appropriated form the General Fund to carry out the  
40 purposes of this Act.

41 1984-85

42 FINANCE AND ADMINISTRATION,  
43 DEPARTMENT OF





1 a district, the governing body shall consult with the  
2 municipal planning agency or department and with an  
3 advisory board, if established under section 4870,  
4 and shall also hold at least one public hearing, no-  
5 tice of which shall be published at least 10 days  
6 prior to the hearing in a newspaper of general circ-  
7 ulation within the municipality.

8 A. Not less than 25%, by area, of the real prop-  
9 erty within such district shall meet at least one  
10 of the following criteria:

11 (1) Is a blighted area;

12 (2) Is in need of rehabilitation or conser-  
13 vation work; or

14 (3) Is suitable for industrial sites.

15 B. The total area of a single development dis-  
16 trict shall not exceed 2% of the total acreage of  
17 the municipality and all development districts  
18 shall not exceed 5% of the total acreage of the  
19 municipality. The aggregate value of equalized  
20 taxable property of the district plus all exist-  
21 ing districts does not exceed 5% of the total  
22 value of equalized taxable property within the  
23 municipality. The boundaries of a district may  
24 be altered only after meeting the requirements  
25 for adoption under this subsection.

26 C. The designation of captured assessed value of  
27 property within a development district shall be  
28 subject to the following limitations:

29 (1) The annual increase in captured as-  
30 essed value of property within development  
31 districts must not exceed \$5,000,000 in any  
32 county; and

33 (2) The annual increase in captured as-  
34 essed value of property within development  
35 districts must not exceed \$15,000,000 state-  
36 wide. The Director of the State Development  
37 Office shall promulgate any rules necessary  
38 to allocate or apportion the designation of  
39 captured assessed value of property within

1                    development districts in accordance with  
2                    these limitations.

3                    D. Before final designation of a district, the  
4                    Director of the State Development Office shall  
5                    review the proposal to ensure that it is in com-  
6                    pliance with statutory requirements and shall  
7                    identify tax shifts within the county where the  
8                    district will exist. A designation under this  
9                    subsection shall be effective upon approval by  
10                   the governing body of the municipality and the  
11                   Director of the State Development Office. If the  
12                   municipality has a charter, the designation shall  
13                   be done in accordance with the provisions of the  
14                   charter.

15                   Sec. 2. 30 MRSA §5055, sub-§4, ¶B, as amended by  
16 PL 1983, c. 858, §2, is further amended to read:

17                   B. Property tax burden. "Property tax burden"  
18                   shall mean the total real and personal property  
19                   taxes assessed in the most recently completed mu-  
20                   nicipal fiscal year, except the taxes assessed  
21                   ~~from~~ on captured value within a tax increment fi-  
22                   nancing district, divided by the latest state  
23                   valuation certified to the Secretary of State.

24                   Sec. 3. 36 MRSA §305, sub-§1, as amended by PL  
25 1983, c. 858, §3, is further amended to read:

26                   1. Just value. Certify to the Secretary of State  
27                   before the first day of February in the year of the  
28                   regular session of the Legislature the equalized just  
29                   value of all real and personal property in each mu-  
30                   nicipality and unorganized place which is subject to  
31                   taxation under the laws of this State, except cap-  
32                   tured assessed value located within a tax increment  
33                   financing district. Such equalized just value shall  
34                   be uniformly assessed in each municipality and unor-  
35                   ganized place and shall be based on 100% of the cur-  
36                   rent market value. It shall separately show for each  
37                   municipality and unorganized place the actual or es-  
38                   timated value of all real estate which is exempt from  
39                   property taxation by law or is the captured value  
40                   within a tax increment financing district. The valu-  
41                   ation as filed shall remain in effect until the next  
42                   valuation is filed and shall be the basis for the

1 computation and apportionment of the state and county  
2 taxes;

3 Sec. 4. 36 MRS §381, as amended by PL 1983, c.  
4 858, §4, is further amended to read:

5 §381. State valuation; definition; to be filed with  
6 Bureau of Taxation annually; abatement

7 The term "state valuation" as used in reference  
8 to the unorganized territory in this Title, except in  
9 this chapter, means an annual valuation of all prop-  
10 erty subject to a Maine property tax but not taxable  
11 by a municipality. The annual valuation is to be  
12 completed by and on file in the office of the Bureau  
13 of Taxation prior to the assessment of the annual  
14 property tax in the unorganized territory. The annu-  
15 al valuation is to be based on the status of property  
16 on April 1st. In this chapter and outside of this Ti-  
17 tle, the term "state valuation" means the valuation  
18 filed with the Secretary of State pursuant to section  
19 305, subsection 1, ~~except captured value located~~  
20 ~~within a tax increment financing district.~~

21 PART C

22 Sec. 1. 36 MRS §5116 is enacted to read:

23 §5116. Tax surcharge

24 For tax years beginning on or after January 1,  
25 1985, but before January 1, 1986, the amount of tax  
26 due under this chapter is increased by an additional  
27 3.25%.

28 Sec. 2. Effective date. This Part shall take ef-  
29 fect on October 1, 1985, if by that date the federal  
30 excise tax reduction set out in the United States In-  
31 ternal Revenue Code, Section 5701 (C) as enacted by  
32 Section 283 of the United States Tax Equity and Fis-  
33 cal Responsibility Act of 1982, Public Law 97-248,  
34 has not been implemented.

35 FISCAL NOTE

36 It is estimated that enactment of Part A of this  
37 bill will result in the following impact on revenues:

		<u>Fiscal Year</u>	<u>Fiscal Year</u>	<u>Fiscal Year</u>
		<u>1985</u>	<u>1986</u>	<u>1987</u>
1				
2				
3	General Fund			
4	Sections 1,2,3,8	\$172,000	\$375,000	\$400,000
5	Section 4	10,000	12,000	12,000
6	Sections 5,6	1,106,000	2,538,600	2,538,600
7	Section 7	(5,420)	(10,000)	(10,500)
8	Section 9		9,380,000	12,569,000
9	(if implemented)			
10	Sections 10,11	476,000	1,220,000	1,100,000
11	Section 12	2,238,400	4,906,300	6,643,000
12	Section 13	(108,000)	(200,000)	(210,000)
13		<u>411,480</u>	<u>1,518,400</u>	<u>1,898,000</u>
14	Total	\$4,300,460	\$19,740,300	\$24,940,100
15	Local Government			
16	Fund			
17	Sections 1,2,3,8	\$8,500	\$20,000	\$21,500
18	Section 4	500	650	650
19	Sections 5,6	55,000	136,400	136,400
20	Section 7	(250)	(510)	(520)
21	Section 9		20,000	31,000
22	Section 12	131,600	263,700	357,000
23	Section 13	<u>20,520</u>	<u>81,600</u>	<u>102,000</u>
24	Total	\$215,870	\$521,840	\$648,030
25	County Government			
26	Sections 10,11	\$18,700	\$70,000	\$60,000

1 Fiscal Note  
2 Part C \$9,380,000

3 STATEMENT OF FACT

4 PART A

5 Sections 1, 2, 3 and 8 of this new draft impose a  
6 sales tax on cable television services which are be-  
7 yond the basic minimum service.

8 Section 4 repeals the sales tax exemption for fu-  
9 el used for burning blueberry lands.

10 Sections 5 and 6 remove the sales tax exemption  
11 for liquor sold in state or agency stores.

12 Section 7 creates a sales tax exemption for free  
13 nonprofit lending librabries.

14 Section 9 increases the excise tax on cigarettes  
15 by 8¢ per pack. This increase is to be effective on  
16 October 1, 1985, if the scheduled 8¢ per pack federal  
17 reduction is implemented by that date.

18 Sections 11 and 12 increase the real estate  
19 transfer tax to \$1.10 per \$500 of the selling price  
20 of real estate.

21 Section 12 updates the state's reference to the  
22 Internal Revenue Code thereby providing conformity  
23 with the Tax Reform Act of 1984 as enacted by the  
24 United States Congress.

25 Section 13 provides appropriations to cover 4 new  
26 auditing positions which are expected to collect \$4  
27 for every \$1 spent in the first year and at least \$8  
28 for each \$1 spent thereafter.

29 PART B

30 Part B insures that the use of tax increment fi-  
31 nancing is limited to \$15,000,000 per year statewide  
32 with no more than \$5,000,000 per year in any one

1 county.

2

PART C

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Part C provides that if the scheduled 8¢ per pack federal reduction in the cigarette tax does not take effect on October 1, 1985, a 3.25% personal income tax surcharge for tax years beginning on or after January 1, 1985, but before January 1, 1986, will take effect.

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