

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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. 2495

8
9 H.P. 1899

House of Representatives, September 11, 1984

10 Reported by Three Members of the Committee on Taxation in Report C
11 and printed under Joint Rule 2.

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 Tax Conformity,
21 Sales Taxes, Real Estate Transfer Taxes and
22 Cigarette Taxes and to Increase
23 Revenue Collections.
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 MRSA §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	Bureau of Taxation	
2	Positions	(4)
3	Personal Services	\$90,000
4	All Other	16,000
5	Capital Expenditures	2,000

6 This appropriation
7 provides funding to
8 establish by January
9 1, 1985, an audit job
10 classification beyond
11 that of senior re-
12 venue agent to support
13 acquisition of 4 au-
14 ditors who are certi-
15 fied public accoun-
16 tants to enhance the
17 bureau's audit and
18 collection capabili-
19 ties.

20

21	TOTAL	<hr/> \$108,000
----	-------	-----------------

22 Sec. 14. Effective date. Section 9 of this Part
23 shall be effective October 1, 1985. All other sec-
24 tions shall be effective December 15, 1984.

25 PART B

26 Sec. 1. 30 MRSA §4863, sub-§1, as amended by PL
27 1983, c. 858, §1, is repealed and the following en-
28 acted in its place:

29 1. Districts. The governing body of a municipi-
30 ality may designate development districts within the
31 boundaries of the municipality. Prior to designating
32 a district, the governing body shall consult with the
33 municipal planning agency or department and with an
34 advisory board, if established under section 4870,
35 and shall also hold at least one public hearing, no-
36 tice of which shall be published at least 10 days
37 prior to the hearing in a newspaper of general circu-
38 lation within the municipality.

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

4 (1) Is a blighted area;

5 (2) Is in need of rehabilitation or conser-
6 vation work; or

7 (3) Is suitable for industrial sites.

8 B. The total area of a single development dis-
9 trict shall not exceed 2% of the total acreage of
10 the municipality and all development districts
11 shall not exceed 5% of the total acreage of the
12 municipality. The aggregate value of equalized
13 taxable property of the district plus all exist-
14 ing districts does not exceed 5% of the total
15 value of equalized taxable property within the
16 municipality. The boundaries of a district may
17 be altered only after meeting the requirements
18 for adoption under this subsection.

19 C. The designation of captured assessed value of
20 property within a development district shall be
21 subject to the following limitations:

22 (1) The annual increase in captured as-
23 essed value of property within development
24 districts must not exceed \$5,000,000 in any
25 county; and

26 (2) The annual increase in captured as-
27 essed value of property within development
28 districts must not exceed \$15,000,000 state-
29 wide. The Director of the State Development
30 Office shall promulgate any rules necessary
31 to allocate or apportion the designation of
32 captured assessed value of property within
33 development districts in accordance with
34 these limitations.

35 D. Before final designation of a district, the
36 Director of the State Development Office shall
37 review the proposal to ensure that it is in com-
38 pliance with statutory requirements and shall
39 identify tax shifts within the county where the

1 district will exist. A designation under this
2 subsection shall be effective upon approval by
3 the governing body of the municipality and the
4 Director of the State Development Office. If the
5 municipality has a charter, the designation shall
6 be done in accordance with the provisions of the
7 charter.

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

10 B. Property tax burden. "Property tax burden"
11 shall mean the total real and personal property
12 taxes assessed in the most recently completed mu-
13 nicipal fiscal year, except the taxes assessed
14 ~~from~~ on captured value within a tax increment fi-
15 nancing district, divided by the latest state
16 valuation certified to the Secretary of State.

17 Sec. 3. 36 MRSA §305, sub-§1, as amended by PL
18 1983, c. 858, §3, is further amended to read:

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

38 Sec. 4. 36 MRSA §381, as amended by PL 1983, c.
39 858, §4, is further amended to read:

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

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

15 FISCAL NOTE

16 It is estimated that enactment of Part A of this
 17 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>
20 General Fund			
21 Sections 1,2,3,8	\$172,000	\$375,000	\$400,000
22 Section 4	10,000	12,000	12,000
23 Sections 5,6	1,106,000	2,538,600	2,538,600
24 Section 7	(5,420)	(10,000)	(10,500)
25 Section 9		9,380,000	12,569,000
26 Sections 10,11	476,000	1,220,000	1,100,000
27 Section 12	2,238,400	4,906,300	6,643,000
28 Section 13	(108,000)	(200,000)	(210,000)
29	<u>411,480</u>	<u>1,518,400</u>	<u>1,898,000</u>
30 Total	\$4,300,460	\$19,740,300	\$24,940,100

1	Local Government			
2	Fund			
3	Sections 1,2,3,8	\$8,500	\$20,000	\$21,500
4	Section 4	500	650	650
5	Sections 5,6	55,000	136,400	136,400
6	Section 7	(250)	(510)	(520)
7	Section 9		20,000	31,000
8	Section 12	131,600	263,700	357,000
9	Section 13	<u>20,520</u>	<u>81,600</u>	<u>102,000</u>
10	Total	\$215,870	\$521,840	\$648,030
11	County Government			
12	Sections 10,11	\$18,700	\$70,000	\$60,000

13 STATEMENT OF FACT

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

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

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

21 Section 7 creates a sales tax exemption for free
22 nonprofit lending librabries.

23 Section 9 increases the excise tax on cigarettes
24 by 8¢ per pack. This increase is to be effective on
25 October 1, 1985, the scheduled date of the 8¢ per
26 pack reduction in federal excise tax.

27 Sections 11 and 12 increase the real estate
28 transfer tax to \$1.10 per \$500 of the selling price
29 of real estate.

1 Section 12 updates the state's reference to the
2 Internal Revenue Code thereby providing conformity
3 with the Tax Reform Act of 1984 as enacted by the
4 United States Congress.

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

9 PART B

10 Part B insures that the use of tax increment fi-
11 nancing is limited to \$15,000,000 per year statewide
12 with no more than \$5,000,000 per year in any one
13 county.

14 7323091084