

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 1078

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H.P. 781

House of Representatives, March 30, 1995

**An Act Eliminating Use of the Property Tax and Increasing the Sales and Cigarette Taxes to Fund Schools.**

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Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative AHEARNE of Madawaska.  
Cosponsored by Representatives: BUNKER of Kossuth Township, JONES of Bar Harbor,  
VOLENIK of Sedgwick, Senator: PARADIS of Aroostook.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 5 MRSA §1517** is enacted to read:

6 **§1517. Maine Education Fund**

8 The Maine Education Fund is established for the purpose of providing a portion of state funding for public schools.

10 **1. Source of funds.** The following revenues are dedicated to the Maine Education Fund:

12 A. A portion of the state sales tax as described in Title  
14 36, section 1811;

16 B. A portion of the state cigarette tax as described in  
18 Title 36, section 4365; and

20 C. The tobacco products tax described in Title 36, section  
4365-E.

22 **2. Distribution of funds.** The Maine Education Fund money must be distributed in accordance with Title 20-A, section 254, subsection 11.

26 **Sec. 2. 20-A MRSA §254, sub-§11** is enacted to read:

28 **11. Maine Education Fund.** Administer the Maine Education Fund established in Title 5, section 1517 in accordance with rules established under the Maine Administrative Procedure Act and the requirements of the School Finance Act of 1985, as amended.

34 **Sec. 3. 20-A MRSA §1310**, as amended by PL 1983, c. 485, §14, is repealed.

36 **Sec. 4. 20-A MRSA §1703**, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

40 **Sec. 5. 20-A MRSA §15602, sub-§10** is enacted to read:

42 **10. Maine Education Fund; per-pupil revenue guarantee.** Beginning in fiscal year 1996-97, the Maine Education Fund established in Title 5, section 1517 shall pick up the difference between the General Fund allocation established in subsection 1 and 100% of the total actual education costs for each school administrative unit in the State. The State guarantees that the total state and local per-pupil revenue for school operating purposes for each local school district may not be less than the 1995-96 total state and local per-pupil revenue for school

2 operating purposes for that local school district, as adjusted  
4 for consolidations, annexations or other boundary changes. This  
6 guarantee does not apply for a year in which the local school  
8 district levies a millage rate for school district operating  
10 purposes less than it levied in 1995.

12 **Sec. 6. 20-A MRSA §15609, sub-§2** is enacted to read:

14 **2. Funding source.** The State shall allocate funds from the  
16 Maine Education Fund sufficient to cover the maximum local share  
18 of the foundation allocation computed under subsection 1.

20 **Sec. 7. 20-A MRSA §15611, sub-§1,** as amended by PL 1993, c.  
22 410, Pt. F, §18, is further amended to read:

24 **1. Local share.** The State shall allocate funds from the  
26 Maine Education Fund sufficient to cover the local share of  
28 allocation for debt service. The commissioner shall compute the  
30 local share of allocation for debt service for each unit as  
32 follows.

34 **A.** The local share of allocation for debt service is the  
36 product of the debt service allocation multiplied by the  
38 percentage local share determined in section 15609 or the  
40 debt service millage limit established in section 15607  
42 times the fiscal capacity of the municipalities in the  
44 school administrative units, whichever is less.

46 (1) The debt service millage limit is the mills  
48 derived by dividing 45% of the debt service costs as  
50 defined in section 15603, subsection 8 by the fiscal  
capacity of all municipalities.

(2) The local share percentage of debt service costs  
is the proportion that the local share of the  
allocation for debt service cost is to the maximum debt  
service cost allocation.

**Sec. 8. 20-A MRSA §15613, sub-§4,** as amended by PL 1989, c.  
104, Pt. C, §§8 and 10, is repealed.

**Sec. 9. 20-A MRSA §§15614 and 15615,** as enacted by PL 1983,  
c. 859, Pt. G, §§2 and 4, is repealed.

**Sec. 10. 30-A MRSA §5724,** as amended by PL 1993, c. 494, §4,  
is repealed.

**Sec. 11. 30-A MRSA §5724-A** is enacted to read:

**§5724-A. Libraries**

2 A municipality may raise or appropriate money to provide for  
3 libraries.

4 **Sec. 12. 36 MRSA §1811**, as amended by PL 1995, c. 5, Pt. F,  
5 §1 and affected by §2, is further amended to read:

6 **§1811. Sales tax**

7  
8 A tax is imposed on the value of all tangible personal  
9 property and taxable services sold at retail in this State. The  
10 rate of tax is 7% 9% on the value of liquor sold in licensed  
11 establishments as defined in Title 28-A, section 2, subsection  
12 15, in accordance with Title 28-A, chapter 43; 7% 9% on the value  
13 of rental of living quarters in any hotel, rooming house, tourist  
14 or trailer camp; ~~10%~~ 12% on the value of rental for a period of  
15 less than one year of an automobile; 7% 9% on the value of  
16 prepared food sold in establishments that are licensed for  
17 on-premises consumption of liquor pursuant to Title 28-A, chapter  
18 43; and 6% 8% on the value of all other tangible personal  
19 property and taxable services. Value is measured by the sale  
20 price, except as otherwise provided.  
21

22  
23 The tax imposed upon the sale and distribution of gas, water  
24 or electricity, or telephone or telegraph service, by any public  
25 utility, the rates for which sale and distribution are  
26 established by the Public Utilities Commission, shall must be  
27 added to the rates so established. No A tax shall may not be  
28 imposed upon the sale or use of electrical energy, or water  
29 stored for the purpose of generating electricity, when the sale  
30 is to or by a wholly owned subsidiary by or to its parent  
31 corporation, except for electrical energy or water purchased for  
32 resale to or by such wholly owned subsidiary.  
33

34  
35 ~~On or before May 15th of each year, the State Budget Officer~~  
36 ~~shall present a final estimate of General Fund revenues for the~~  
37 ~~current fiscal year, taking into consideration an estimate of the~~  
38 ~~Revenue--Forecasting--Committee. If estimated General Fund~~  
39 ~~revenues for the current fiscal year exceed those of the prior~~  
40 ~~fiscal year by 8% or more, on a base-to-base comparison excluding~~  
41 ~~one-time revenue gains and losses, revenue in an amount~~  
42 ~~equivalent to that generated by 0.5% of the tax on the sale of~~  
43 ~~personal property and taxable services taxed at a rate of 6% on~~  
44 ~~the effective date of this paragraph must be transferred by the~~  
45 ~~State Controller to the Maine Rainy Day Fund as described in this~~  
46 ~~section.~~

47  
48 ~~Each month following a fiscal year during which General Fund~~  
49 ~~revenues exceed those of the previous fiscal year by 8% or more,~~  
50 ~~on a base-to-base comparison excluding one-time revenue gains and~~

2 losses, the State Controller shall transfer an amount equivalent  
to that generated over the preceding month by 0.5% of the tax on  
4 the sale of personal property and taxable services taxed at a  
rate of 6% on the effective date of this paragraph to the Maine  
6 Rainy Day Fund until such time as the tax imposed by this chapter  
is reduced.

8 If General Fund revenues for any fiscal year, as determined  
by the State Controller at the close of the fiscal year following  
10 the end of that fiscal year, exceed those of the previous fiscal  
year by 8% or more, on a base to base comparison excluding  
12 one-time revenue gains and losses, the tax on the sale of those  
tangible personal property and taxable services taxed at a rate  
14 of 6% on the effective date of this paragraph shall fall by 0.5%  
on the subsequent October 1st, unless the Legislature takes  
16 action to prevent the reduction.

18 For the period beginning July 1, 1993 and ending June 30,  
1995, the State Tax Assessor shall transfer each month to the  
20 Tourism Marketing and Development Fund all receipts of taxes  
imposed pursuant to this section on the value of liquor sold in  
22 licensed establishments, as defined in Title 28-A, section 2,  
subsection 15, in accordance with Title 28-A, chapter 43, on the  
24 value of rental of living quarters in any hotel, rooming house,  
tourist or trailer camp and rental for a period of less than one  
26 year of an automobile and on the value of prepared food sold in  
establishments as defined in section 1752, subsection 8-A, less  
28 transfers pursuant to Title 30-A, section 5681, subsection 5, in  
excess of the base General Fund revenue estimates effective July  
30 1, 1993 for the previous month. The State Tax Assessor shall  
reduce any subsequent transfers to the Tourism Marketing and  
32 Development Fund by an amount equal to the amount of General Fund  
revenues defined in this paragraph that are below the base  
34 General Fund estimates effective July 1, 1993 for the previous  
month. This paragraph is repealed July 1, 1995.

36 Rental or lease of an automobile for more than one year must  
38 be taxed at the time of the lease or rental transaction at 6% 8%  
of the following: the total monthly lease payment multiplied by  
40 the number of payments in the lease or rental, the amount of  
equity involved in any trade-in and the value of any cash down  
42 payment.

44 The State Tax Assessor shall transfer to the Maine Education  
Fund, from the taxes collected pursuant to this section, an  
46 amount equivalent to 2% of all taxable sales, less refunds or  
other adjustments, reported for the previous month.  
48

50 **Sec. 13. 36 MRSA §4365**, as amended by PL 1989, c. 588, Pt. D,  
§1, is further amended to read:

2       **§4365. Rate of tax**

4           A tax is imposed on all cigarettes held in this State by any  
6       person for sale, the tax to be at the rate of 15.5 mills for each  
8       cigarette beginning October 1, 1989; 16.5 mills for each  
10       cigarette beginning January 1, 1991; and 18.5 mills for each  
12       cigarette beginning July 1, 1991; and 37.5 mills per cigarette  
14       beginning January 1, 1996. Payment of the tax ~~shall--be~~ is  
16       evidenced by the affixing of stamps to the packages containing  
18       the cigarettes. If a federal program similar to that provided in  
20       Title 22, section 3185, becomes effective, this tax is reduced by  
22       one mill for each cigarette. The Governor shall determine by  
24       proclamation when the federal program has become effective.  
26       Nothing contained in this chapter ~~shall~~ may be construed to  
28       impose a tax on any transaction, the taxation of which by this  
30       State is prohibited by the Constitution of the United States.

2           Each unclassified importer shall, within 24 hours after  
4       receipt of any unstamped cigarettes in this State, notify the  
6       State Tax Assessor of the number of cigarettes received, and the  
8       name and address of consignor. The State Tax Assessor ~~thereupon~~  
10       shall then notify the unclassified importer of the amount of the  
12       tax due ~~thereon~~, which shall must be at the same rate as for  
14       cigarettes held in this State by any person for sale. Payment of  
16       the amount due the State shall must be made within 10 days from  
18       the mailing date of the notice thereof.

20           **Sec. 14. 36 MRSA §§4365-D and 4365-E are enacted to read:**

22       **§4365-D. Rate of tax after January 1, 1996**

24           Cigarettes that have been stamped at the rate of 18.5 mills  
26       for each cigarette that are held for resale by any person after  
28       January 1, 1996 are subject to tax at the rate of 37.5 mills for  
30       each cigarette.

32           Any person holding cigarettes for resale is liable for the  
34       difference between the 37.5 mills for each cigarette tax rate and  
36       the 18.5 mills for each cigarette tax rate in effect before  
38       January 1, 1996. Stamps evidencing payment of the tax imposed by  
40       this section must be affixed to all packages of cigarettes held  
42       as of January 1, 1996 for resale, except that cigarettes held in  
44       vending machines as of January 1, 1996 need not be so stamped.

46           Notwithstanding any other provision of this chapter, it is  
48       presumed that all cigarette vending machines are filled to  
      capacity on January 1, 1996 and the tax imposed by this section  
      must be reported on that basis. A credit against this inventory

2 tax is allowed for cigarettes stamped at the 37.5 rate placed in  
vending machines before January 1, 1996.

4 Payment of the tax imposed by this section must be made to  
the State Tax Assessor before February 15, 1996 and it must be  
6 accompanied by forms prescribed by the State Tax Assessor.

8 **§4365-E. Rate of tax on other tobacco products**

10 Beginning January 1, 1996, a tax is imposed on all cigars,  
noncigarette smoking tobacco and smokeless tobacco held in this  
12 State by any person for sale, the tax to be at the rate of 16% of  
the wholesale price and to be paid in the time and manner  
14 prescribed by the State Tax Assessor. This tax is in addition to  
any other taxes prescribed by law and a person liable for the tax  
16 may be reimbursed by adding to the price of the tobacco products  
an amount equal to the tax levied under this section.

18 **Sec. 15. 36 MRSA §4381** is repealed and the following enacted  
20 in its place:

22 **§4381. Allocation of tax revenues**

24 **1. Allocation to the General Fund.** Beginning January 1,  
1996, the revenue derived from the 18.5 mills of the tax imposed  
26 by section 4365 must be credited to the General Fund.

28 **2. Allocation to the Maine Education Fund.** Beginning  
January 1, 1996, the revenue derived from 19 mills of the tax  
30 imposed by section 4365 and all of the revenue from the tax  
imposed by section 4365-E must be credited to the Maine Education  
32 Fund established by Title 5, section 1517.

34 **Sec. 16. Computation of sales tax schedules.** The Bureau of  
36 Taxation shall compute the amount of tax that must be added to  
the sale price of items based on the tax rates established in the  
38 Maine Revised Statutes, Title 36, section 1811. The Bureau of  
Taxation shall submit to the Second Regular Session of the 117th  
40 Legislature legislation proposing amendments to Title 36, section  
1812 to reflect the computation of sales tax schedules.

42 **Sec. 17. Statutory referendum procedure; submission at statewide**  
**election; form of question; effective date.** This Act must be submitted  
44 to the legal voters of the State of Maine at a statewide election  
to be held on the Tuesday following the first Monday of November  
46 following passage of this Act. The municipal officers of this  
State shall notify the inhabitants of their respective cities,  
48 towns and plantations to meet, in the manner prescribed by law  
for holding



2 a statewide election, to vote on the acceptance or rejection of  
this Act by voting on the following question:

4 "Do you favor the proposal to eliminate the property tax as  
6 a source of funding for local schools and the establishment  
of the Maine Education Fund with revenues from the  
8 imposition of a 2% increase in the sales tax, an increase in  
the tax per cigarette from 18.5 to 37.5 mills and a 16% tax  
10 on the wholesale price of other tobacco products, to be  
added to the currently guaranteed General Fund revenues to  
fully fund local schools?"

12 The legal voters of each city, town and plantation shall  
14 vote by ballot on this question, and shall designate their choice  
by a cross or check mark placed within a corresponding square  
16 below the word "Yes" or "No." The ballots must be received,  
sorted, counted and declared in open ward, town and plantation  
18 meetings and returns made to the Secretary of State in the same  
manner as votes for members of the Legislature. The Governor  
20 shall review the returns and, if it appears that a majority of  
the legal votes are cast in favor of the Act, the Governor shall  
22 proclaim that fact without delay, and the Act takes effect 30  
days after the date of the proclamation.

24 The Secretary of State shall prepare and furnish to each  
26 city, town and plantation all ballots, returns and copies of this  
Act necessary to carry out the purpose of this referendum.

### 30 STATEMENT OF FACT

32 This bill, based on Michigan law, does the following.

34 1. It establishes the Maine Education Fund as a dedicated  
revenue account for distribution to local school administrative  
36 units for education funding.

38 2. It repeals laws authorizing assessment of property taxes  
for funding the municipality's share of funding for school  
40 administrative districts and community school districts.

42 3. Beginning with fiscal year 1996-97, it guarantees state  
funding of 100% of the total actual education costs for each  
44 school administrative unit in the State through a combination of  
the current General Fund guarantees and the additional funds from  
46 the Maine Education Fund.

48 4. It repeals sections of the School Finance Act of 1985  
concerning payment of the local share for school operating  
50 expenses and debt service costs.

2           5. It repeals the section authorizing municipalities to  
raise and appropriate money to provide for schools and libraries,  
4 replacing it with a section authorizing the raising and  
appropriation of money for libraries.

6  
8           6. It enacts a 2% increase in current sales taxes to be  
dedicated to the Maine Education Fund.

10           7. It enacts a 19 mill-per-cigarette increase in the  
cigarette tax and adds a 16% tax on the wholesale price of other  
12 tobacco products held for resale, to be dedicated to the Maine  
Education Fund.

14  
16           8. It contains a referendum clause for submission to the  
electorate of the proposed change in the source of school funding.