

# MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

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NINETY - SECOND LEGISLATURE

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No. 1245

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H. P. 1528

House of Representatives, July 18, 1946

Reported by a majority of the Committees on Military Affairs and Appropriations and Financial Affairs jointly and printed by direction of the Clerk of the House pursuant to Joint Order.

HARVEY R. PEASE, Clerk

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FORTY-SIX

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**AN ACT Providing for the Payment of a Bonus to or Insurance Premiums for Maine Veterans of World War II and for the Payment of Other Veterans' Benefits and to Provide for Such Payments by a Sales Tax.**

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

**TITLE I**

**Bonus**

**Sec. 1. Veterans in World War II entitled to bonus of \$150.** In order to promote the spirit of patriotism and loyalty, in testimony of the gratitude of the state of Maine, and in recognition of the splendid services of Maine men and women in World War II, every veteran, as hereinafter defined, shall be entitled to receive from the state of Maine, from a fund hereinafter created and called "The Veterans' Bonus Fund," the sum of \$150.

**Sec. 2. The word "veteran" defined.** The word "veteran" as used in this title shall mean any male or female officer, soldier, sailor, marine, nurse or any other person regularly enlisted or inducted, who has been a

part of the military or naval forces of the United States in World War II at least 3 months between December 8, 1941 and August 14, 1945, inclusive, unless honorably discharged for physical disability incident to such service, and who was a resident of the state of Maine at the time he or she was commissioned, enlisted, inducted, appointed or mustered into the military or naval service of the United States, and who has been or may be given an honorable discharge or release from such service.

**Sec. 3. Application for bonus, when and where filed; what application shall contain.** Applications for such bonus shall be filed with the adjutant-general, on forms provided by him, within 6 months from the date this act goes into effect; or, in the case of an applicant whose final discharge from service is received after the date this act goes into effect, within 6 months after the date of such discharge. Such application shall state facts sufficient to establish the status of such applicant as veteran as defined herein, and shall be duly verified.

**Sec. 4. "Veterans' Bonus Board" created, powers and duties.** There is hereby created a board to be known as "The Veterans' Bonus Board," to consist of the finance commissioner, the treasurer of state and the adjutant-general. It shall be the duty of the said board to examine into such applications and make any other examination necessary to establish facts, and approve or disapprove the same. Whenever any such application is approved by said board, it shall be the duty of the adjutant-general to prepare a voucher and transmit the same to the state controller; said state controller shall issue his warrant therefor, for the amount stated therein, and the treasurer of state shall pay the same upon the approval of the governor and council out of said Veterans' Bonus Fund. The board shall have the authority to determine the date when bonus payments shall commence.

**Sec. 5. Board authorized to employ assistance for administration.** The Veterans' Bonus Board is hereby empowered, subject to the provisions of the personnel law, to employ such assistance and, with the approval of the governor and council, to incur such other expense as may be necessary for the administration and the carrying out of the provisions of this title; and the funds necessary for such administration and carrying out of the provisions of this title shall be expended from said Veterans' Bonus Fund.

**Sec. 6. In case of decease of veteran, bonus to be paid to dependents; order of procedure; bonus not subject to assignment nor to claims of creditors.** In the case of the decease of any person who would if alive be entitled to the benefits of this title, the sum herein named shall be paid in

cash to his or her dependents, if any, and otherwise to his or her heirs-at-law; provided that if there is more than one dependent, or heir-at-law, payments shall in either case be made in such proportions as the said Veterans' Bonus Board shall determine, and in determining the order of precedence the following order so far as practicable shall be observed: spouse and children, mother or father, brother or sister, other dependents; provided, however, that no right or payment under this title shall be subject to the claims of creditors, capable of assignment and no assignment of the same shall be valid or binding, regarded as assets legal or equitable of the estate of the deceased or made the basis for administration thereof.

**Sec. 7. Eligibility.** Any veteran who applies for benefits under the provisions of this title shall not be eligible for benefits under the provisions of Title II.

## TITLE II

### Insurance Premiums

**Sec. 1. Veterans in World War II entitled to insurance premium payments.** In order to promote the spirit of patriotism and loyalty in testimony of the gratitude of the state of Maine, and in recognition of the splendid services of Maine men and women in World War II, every veteran, as hereinafter defined, shall be entitled to apply to the state of Maine for the payment of the premiums, or parts thereof, for his or her national service life insurance in an amount not to exceed \$150. Such payments shall be in not less than 3 nor more than 4 equal yearly installments.

**Sec. 2. The word "veteran" defined.** The word "veteran" as used in this title shall mean any male or female officer, soldier, sailor, marine, nurse or any other person regularly enlisted or inducted, who has been a part of the military or naval forces of the United States in World War II at least 3 months between December 8, 1941 and August 14, 1945, inclusive, unless honorably discharged for physical disability incident to such service, and who was a resident of the state of Maine at the time he or she was commissioned, enlisted, inducted, appointed or mustered into the military or naval service of the United States, and who has been or may be given an honorable discharge or release from such service.

**Sec. 3. Application for insurance premium payments, when and where filed; what application shall contain.** Applications for such insurance premium payments shall be filed with the adjutant-general, on forms provided by him, within 6 months from the date this act goes into effect; or, in

the case of an applicant whose final discharge from service is received after the date this act goes into effect, within 6 months after the date of such discharge. Such application shall state facts sufficient to establish the status of such applicant as veteran as defined herein, and shall be duly verified.

**Sec. 4. "Veterans' Bonus Board" powers and duties.** The veterans' bonus board, as created by section 5 of Title I, shall be empowered to carry out the provisions of this title. It shall be the duty of the said board to examine into such applications and make any other examination necessary to establish facts, and approve or disapprove the same. Whenever any such application is approved by said board and the insurance premiums are payable, it shall be the duty of the adjutant-general to prepare a voucher and transmit the same to the state controller; said state controller shall issue his warrant therefor, for the amount stated therein, and the treasurer of state shall pay the same to the treasurer of the United States upon the approval of the governor and council out of the Veterans' Insurance Fund.

The veterans' bonus board is hereby authorized to adopt whatever rules and regulations are necessary to carry out the provisions of this title.

**Sec. 5. Board authorized to employ assistance for administration.** The Veterans' Bonus Board is hereby empowered, subject to the provisions of the personnel law, to employ such assistance and, with the approval of the governor and council, to incur such other expense as may be necessary for the administration and the carrying out of the provisions of this title; and the funds necessary for such administration and carrying out of the provisions of this title shall be expended from the Veterans' Insurance Fund.

**Sec. 6. Eligibility.** Any veteran who applies for benefits under the provisions of this title shall not be eligible for benefits under the provisions of Title I.

### TITLE III

#### State Technical and Vocational Institute

**Sec. 1. R. S., c. 37, § 177-A, additional.** Chapter 37 of the revised statutes is hereby amended by adding thereto a new section to be numbered 177-A, to read as follows:

**Sec. 177-A. State technical and vocational institute; purpose; supervision.** The vocational education board is authorized and empowered to purchase or lease lands, buildings, equipment, materials and supplies, or to construct or improve the same for the purpose of establishing a state

technical and vocational institute. All costs thus incurred shall be subject to the approval of the governor and council. Such institute shall promote specialized training for veterans of World War II and other persons who give evidence of special aptitude or need and who desire specialized preparation designed specifically to train for service in trade, industry or commerce. The supervision and administration of such institute shall be under the control and direction of the vocational education board.'

**Sec. 2. Appropriation.** There is hereby appropriated from the bonds issued under the provisions of title V the sum of \$700,000 to carry out the provisions of section 1 of this title.

**Sec. 3. Expenses.** There is hereby appropriated from the general fund the sum of \$100,000 for operational and maintenance expenses of the state technical and vocational institute established under the provisions of section 1 of this title.

#### TITLE IV

##### **Plant Science Building and Engineering Building at University of Maine**

**Plant science building and engineering building; appropriation for.** There is hereby appropriated in favor of the University of Maine the sum of \$400,000 for aid in constructing a plant science building and an engineering building.

#### TITLE V

##### **Bond Issue**

**Sec. 1. Bond issue authorized to provide funds; bonds to mature within 10 years of issue.** For the purpose of carrying out the provisions of this act, the treasurer of state is hereby authorized, with the approval of the governor and council, to issue bonds or notes from time to time as they are needed, to an amount not exceeding in the aggregate \$16,000,000. Such bonds or notes shall be designated "Maine Military Service Loan, Act of 1946," shall mature not more than 10 years from the date thereof, and shall bear such rate of interest, and be in such form and on such terms and conditions, other than those herein specified, as the governor and council may determine. Such bonds shall contain such callable features as the governor and council shall determine. Such bonds or notes shall be issued in the name and behalf of the state, and shall be deemed a pledge of the faith and credit of the state. The proceeds of the sale thereof shall be paid into the general fund and expended in the following manner:

**I.** Such sum as may be necessary to the credit of a fund hereby created, which fund shall be known as "The Veterans' Bonus Fund," and from which the payments authorized by Title I shall be made;

**II.** Such sum as may be necessary to the credit of a fund hereby created, which fund shall be known as "The Veterans' Insurance Fund," and from which the payments authorized by Title II shall be made; and

**III.** Such sum as may be necessary to carry out the provisions of:

**A.** Title III, relating to the establishment of a technical and vocational institute;

**B.** Title IV, relating to the aid in construction of a plant science building and an engineering building at the University of Maine.

**IV.** The sum of \$1,000,000 to be paid into the Maine Post War Public Works Reserve.

**Sec. 2. How funds shall be provided for retirement of bonds.** The amount necessary to pay said bonds or notes as they mature, and the interest as it accrues, shall be raised from taxes levied and collected under the provisions of titles VI and VII. Beginning April 1, 1947 and for each and every succeeding year for 9 years, there shall be raised from such taxes a sum sufficient for the redemption of such bonds or notes to an amount not exceeding \$1,600,000 per year and such additional sum as may be required for the payment of interest on all such bonds or notes outstanding. The sum so levied and collected shall be paid into the general fund, and redemption of said bonds or notes and payment of the interest thereon shall be made from said fund.

## TITLE VI

### Tax on Sale of Tangible Personal Property

**R. S., c. 14, §§ 244-261, additional.** Chapter 14 of the revised statutes is hereby amended by adding thereto the following new sections to be numbered sections 244 to 261, inclusive:

**'Sec. 244. Imposition of tax.** For the privilege of selling tangible personal property at retail, and services, as hereinafter defined, in this state, every vendor shall pay a tax of 2% upon the receipts therefrom, except as hereinafter provided.

The burden of proof that the sale of tangible personal property was not a sale at retail shall be upon the vendor, unless such vendor shall have

taken from the vendee a certificate signed by and bearing the name and address of the vendee to the effect that the property was purchased for resale. Any person who executes a resale certificate shall himself be a licensed vendor. For the purpose of the proper administration of this title, and to prevent evasion of the tax hereby imposed, it shall be presumed that all receipts from the sale of tangible personal property at retail and services are subject to the tax until the contrary is established.

In any case in which tangible personal property or services are sold under a contract made prior to the effective date of this title, which specifies and fixes the sale price and such sale is taxable under this title, the vendor may add the tax imposed by this title and collect it from the vendee.

Sec. 245. Addition of tax. The vendor is hereby authorized to add the tax imposed herein to the price of tangible personal property or services sold.

Sec. 246. Definitions. For the purpose of this title and unless the context clearly indicates a different meaning:

I. The word "receipts" means the total amount of the sale of tangible personal property sold at retail in this state, valued in money, whether received in money, credits or property of any kind or nature, or otherwise, and also any amount for which credit is allowed by the vendor to the vendee, without any deductions therefrom on account of the cost of the property sold, the cost of materials used, labor or services costs, interest or discount paid or any other expense whatsoever. It shall also include the total amount of the consideration received for performing services taxable under this title, valued in money, whether received in money or otherwise. If the vendor adds the tax, the "receipts" shall be deemed to be the amount received exclusive of the tax.

II. The term "retail sale" or "sale at retail" means the total amount for which tangible personal property is sold, valued in money, whether paid in money or otherwise, to a vendee or to any person for any purpose other than for resale; provided that cash discounts allowed and taken on sales shall not be included;

III. The word "sale" means any exchange, barter or transfer in any manner, conditional or otherwise, or by any means whatsoever, including the rental, lease or license to use for a consideration;

IV. The word "services" means:



- A. Any beneficial act performed or rendered in connection with and incident to the sale of tangible personal property by a vendor for or on behalf of a vendee, for a consideration;
- B. Admission to theaters, recreation parks, golf courses, dance halls, circuses and any other places of recreation and amusement;
- C. The use of rooms and suites in hotels and lodging houses and the use of hotels, cottage camps, guest houses and similar places of lodging;
- D. The cleaning, dyeing or repairing of clothing and household or other furnishings and equipment by laundries, dry cleaning and dyeing establishments;
- E. The use of billiard halls, pool tables and other similar equipment for recreation, whether payment for such use is evidenced by tickets of admission or by the amounts paid for each separate act of use of said halls, tables or other equipment;
- V. The term "tangible personal property" means all chattels, movables, including boats and vessels, merchandise and stock in trade, furniture and personal effects, live stock, vehicles, farming implements, movable machinery and equipment, but such words do not include any structure, improvement, machinery equipment or fixtures attached to and forming a part of real property;
- VI. The word "vendee" means any person who buys tangible personal property or services for consumption by himself or others, without subsequent resale, trade or exchange for profit;
- VII. The word "vendor" includes any individual, firm, partnership, joint adventure, association, corporation, estate, trust, business trust, receiver or any other group or combination acting as a unit who sells tangible personal property or services to a vendee, and the plural as well as the singular number.

Sec. 247. Exemptions. The following are exempted from the tax imposed herein:

- I. Sales of internal combustion engine fuels, upon which a tax is imposed by this state;
- II. Sales of telephone, telegraph, transportation, electricity, water and sewer services;

III. Sales of tangible personal property or services which the state is prohibited from taxing under the constitution or laws of the United States or under the constitution of this state and such sales to the state of Maine and the counties, municipalities and other political subdivisions thereof;

IV. Sales of the following tangible property:

A. Any tangible personal property including containers which it is intended shall, by means of fabrication, compounding, manufacturing or germination, become an integral part of other tangible personal property intended to be sold ultimately at retail;

B. Fuel which is consumed in creating power, heat or steam for processing or for generating electric current;

C. Industrial materials and equipment, which are not readily obtainable in Maine, and which are directly used in the actual fabricating, compounding, manufacturing or servicing of tangible personal property intended to be sold ultimately at retail;

D. Any tangible personal property for use in manufacturing or producing, including seeds, fertilizers, insecticides and fungicides, feeds and other materials purchased by farmers and used in producing farm products for sale, but not including goods or materials that are used in building or repairing buildings;

V. Sales of liquor in the state liquor stores;

VI. Sales of food to students in school cafeterias, dormitories, fraternities and sororities;

VII. Casual and isolated sales by a person who is not engaged in the business of selling tangible personal property or services at retail;

VIII. Sales of all articles of tangible personal property brought into the state of Maine by a non-resident individual thereof for his or her use or enjoyment while within the state;

IX. Sales of newspapers.

Sec. 248. Licenses. Every vendor engaged in the sale of tangible personal property at retail or services in this state on the effective date of this title shall be deemed to have a license to do so.

Every vendor engaging in the sale of tangible personal property at retail or services in this state after the effective date of this title shall first

apply to and procure from the state tax assessor a license to do so, giving the name and address of the vendor and the address of the place or places where such sales are to be made.

The state tax assessor shall have power to suspend the license of any vendor who shall violate or fail to comply with any provision of this title or any rule or regulation adopted by him pursuant to this title and shall also have power to restore licenses after such suspension. A license shall be suspended in case a return or corrected return is not filed as in this title provided, or in case any tax under any assessment made by the state tax assessor, or penalty thereon, shall not be paid within 30 days from the giving of notice of such assessment, unless proceedings instituted to contest the tax are pending, or the state tax assessor shall have granted an extension of time for the filing of the return or the payment of the tax, but any such extension shall not have the effect of changing the due date of the tax.

The filing of delinquent returns or the payment of delinquent taxes and penalties shall have the effect of restoring the license. Any vendor who shall sell tangible personal property at retail or services in this state after his license shall have been suspended, or without procuring a license, and the officers of any corporation which shall so sell, shall be guilty of a misdemeanor.

The license to sell tangible personal property at retail or services provided for in this title shall be in addition to any and all other licenses which may be required by law.

Sec. 249. Records. Every vendor selling tangible personal property at retail or services in this state and subject to the tax imposed by this title shall keep such records of receipts and in such form as the state tax assessor may by regulation require. Such records shall be offered for inspection and examination at any time upon demand by the state tax assessor or his duly authorized agent or employee, and shall be preserved for a period of 3 years, except that the state tax assessor may consent to their destruction within that period, or may require that they be kept longer.

Sec. 250. Returns to be filed. Every vendor selling tangible personal property at retail, or services in this state, and subject to the tax imposed by this title shall file with the state tax assessor on or before the 15th day of the succeeding month a return of his receipts for each preceding month after the effective date of this title. The forms for such return shall be prescribed by and furnished by the state tax assessor and shall contain such information as he may deem necessary for the proper administration of this title.

Sec. 251. Cancelled sales. The state tax assessor shall provide by regulation for the exclusion from receipts of amounts representing sales where the contract of sale has been cancelled, or the goods returned, or the purchase price or charge for the same or any part thereof, is proven uncollectible, or in case the tax has been paid upon such receipts, for a credit for the amount of the tax against future tax liability of the vendor.

Sec. 252. Payment of tax. At the time of filing a return of receipts each vendor shall pay to the state tax assessor the tax imposed by this title for the period covered by such return. The state tax assessor shall pay over all receipts to the treasurer of state daily. All taxes for the period for which a return is required to be filed shall be due and payable on the date established for the filing of the return for such period, without regard to whether a return is filed or whether the return which is filed shows the correct amount of tax due. If any vendor shall make sales of tangible personal property at retail or services while his license is suspended, the tax prescribed by this title shall nevertheless be imposed and payable with respect to such sales, but the payment of such tax shall not afford relief from any of the penalties prescribed by this title for selling while a license is suspended.

Sec. 253. Vendor as trustee. Any tax collected by a vendor pursuant to the provisions of section 245 shall be held by the vendor as trustee for the state.

Sec. 254. Procedure in investigation. For the purpose of ascertaining the correctness of any return, or for the purpose of determining the amount of tax due from any vendor of tangible personal property at retail, or services, the state tax assessor or his authorized agent may hold investigations and hearings concerning any matters covered by this title, and may examine any books, records, papers and memoranda bearing upon the sales of tangible personal property or services of any such vendor, and may require the attendance of any such vendor or any officer or employee of such vendor, or of any person having knowledge of such sales, and may take testimony and require proof for his information. The tax assessor or his authorized agent shall have power to administer oaths to such persons. If any person summoned as a witness shall fail to obey such summons to appear before the tax assessor or his authorized agent, or shall refuse to testify or answer any material question, or to produce any book, record, paper or memorandum when required to do so, such failure or refusal shall constitute a misdemeanor, and on complaint of the tax assessor or his authorized agent the person so neglecting or refus-

ing to furnish such evidence may be punished for a misdemeanor by any judge of a municipal court within the jurisdiction of the county wherein the offender lives. Officers who serve summonses or subpoenas, and witnesses attending, shall receive compensation as officers and witnesses in the superior courts. The tax assessor or his authorized agent, or any party in an investigation or hearing before the tax assessor, may cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in courts of this state, and to that end compel the attendance of witnesses and the production of books, papers, records and memoranda.

If the state tax assessor is not satisfied with the return filed, or in cases where no return is filed, he may make an estimate of the gross receipts of the vendor from the sale of tangible personal property or services and the tax due thereon from any information in his possession. Notice of this assessment may be given to the vendor by registered mail and the assessment shall become final unless within 30 days from the date of the assessment the vendor appeals in accordance with the provisions of section 256.

Sec. 255. Refund. If within 30 days from the payment of any excise or penalty, the vendor who paid the same shall make application for a refund thereof and the state tax assessor or the court shall determine that such excise or penalty or any portion thereof was erroneously or illegally collected, the state tax assessor shall refund the amount so determined, without interest, such amount to be paid from the general fund. After making his determination, the state tax assessor shall give notice thereof to such vendor, who shall be entitled to appeal under the provisions of section 256.

Sec. 256. Appeal. If a vendor, making a return, believes he has been aggrieved by any decision of the tax assessor at any hearing as provided in section 254 of this title, he may appeal from said decision to the superior court of the county wherein he lives, if said appeal is made within a period of 30 days from the date of such decision. Such appeal shall be entered at the term first occurring after said appeal is made.

Sec. 257. All information confidential; exception. All information received by the state tax assessor from returns filed under this title, or from any investigations conducted under the provisions of this title, shall be confidential, except for official purposes, and any officer or employee of such tax assessor who divulges any such information in any manner, except in accordance with a proper judicial order or as otherwise provided

by law, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$100, nor more than \$1,000. Official purposes, for the purpose of this title, includes the exchange of taxing information with the proper taxing authorities of the United States, other states and political subdivisions thereof.

Sec. 258. Failure to pay; penalties. Any person, failing to file a return or corrected return or to pay any tax and/or amount required to be paid by this title within the time required by this title, shall be subject to a penalty of 5% of the amount due, plus 1% of such amount for each month of delay or fraction thereof, excepting the first month after such return was required to be filed or such tax or amount became due; but the state tax assessor, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid to the state tax assessor and disposed of in the same manner as other receipts under this title. Unpaid penalties may be enforced in the same manner as the tax imposed by this title. The certificate of the said assessor to the effect that a tax and/or amount required to be paid by this title has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this title, shall be prima facie evidence thereof.

Sec. 259. Fraud. Any person required to make, render, sign or certify any return or supplementary return, who makes any false or fraudulent return with intent to defeat or evade the tax, and/or amount required to be paid by this title, shall be punished by a fine of not less than \$500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment.

The state tax assessor may assess against such person who files a fraudulent return a penalty of 20% of the amount of the tax due.

Sec. 260. Penalty. Any vendor or other person failing or refusing to furnish any return herein required to be made, or failing or refusing to furnish a supplemental return or other data required by the state tax assessor or violating any rule or regulation of the state tax assessor for the administration and enforcement of this title, shall be punished by a fine of not more than \$100 for each offense, or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

Sec. 261. Rules and regulations; effective date. The state tax assessor is hereby authorized to issue such rules and regulations as he deems necessary to carry out the provisions of this title. The provisions of this title shall become effective on November 1, 1946.'

## TITLE VII

## Use Tax

R. S., c. 14, §§ 262-273, additional. Chapter 14 of the revised statutes is hereby amended by adding thereto the following new sections to be numbered sections 262 to 273, inclusive:

‘Sec. 262. Imposition of tax. An excise tax is hereby imposed on the use in this state of tangible personal property purchased on or after the effective date of this title for use in this state, at the rate of 2% of the purchase price of such property. Said tax is hereby imposed upon every person using such property within this state until such tax has been paid directly to the state tax assessor or to a retailer, as hereinafter provided.

Sec. 263. Use tax; definitions. For the purpose of this title and unless the context clearly indicates a different meaning:

I. “Person” includes any individual, firm, partnership, joint adventure, association, corporation, estate, trust, business trust, receiver or any other group or combination acting as a unit and the plural as well as the singular number;

II. “Purchase” means any exchange, barter or transfer in any manner, conditional or otherwise, by any means whatsoever, including the rental, lease or license to use for a consideration;

III. “Purchase price” means the total amount for which tangible personal property is sold, valued in money, whether paid in money or otherwise; provided that cash discounts allowed and taken on sales shall not be included;

IV. “Retailer” means and includes every person engaged in the business of selling tangible personal property for use within the meaning of this title; provided, however, that when in the opinion of the state tax assessor it is necessary for the efficient administration of this title to regard any salesmen, representatives, truckers, peddlers or canvassers as the agents of the dealers, distributors, supervisors, employers or persons under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, employers or persons, the state tax assessor may so regard them and may regard the dealers, distributors, supervisors, employers or persons a retailer for the purposes of this title;

V. "Retailer maintaining a place of business in this state" or any like term shall mean and include any retailer having or maintaining within this state directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent operating within this state under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent is located here permanently or temporarily, or whether such retailer or subsidiary is admitted to do business within this state pursuant to law;

VI. "Tangible personal property" means tangible goods, wares and merchandise when furnished or delivered to consumers or users within this state;

VII. "Taxpayer" shall mean any person within the meaning of subsection I hereof who is subject to a tax imposed by this title whether acting for himself or as a fiduciary;

VIII. "Use" means and includes the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, except that it shall not include processing or the sale of that property in the regular course of business. Property used in "processing" within the meaning of this title shall mean and include:

A. Any tangible personal property including containers which it is intended shall, by means of fabrication, compounding, manufacturing or germination, become an integral part of other tangible personal property intended to be sold ultimately at retail;

B. Fuel which is consumed in creating power, heat or steam for processing or for generating electric current;

C. Industrial materials and equipment, which are not readily obtainable in Maine, and which are directly used in the actual fabricating, compounding, manufacturing or servicing of tangible personal property intended to be sold ultimately at retail.

Sec. 264. Exemptions. The use in this state of the following tangible personal property is hereby specifically exempted from the tax imposed by this title:

I. Tangible personal property, on the sale of which at retail a tax is imposed by title VI;

II. Tangible personal property used:

A. In interstate transportation or interstate commerce; or



B. For the performance of a building or construction contract executed prior to the effective date of this title;

III. Tangible personal property, the sales of which at retail are exempted from the sales tax imposed by title VI.

Sec. 265. Evidence of use. For the purpose of the proper administration of this title and to prevent evasion of the tax, evidence that tangible personal property was sold by any person for delivery in this state shall be prima facie evidence that such tangible personal property was sold for use in this state.

Sec. 266. How collected. The tax herein imposed shall be collected in the following manner:

I. The tax upon the use of all tangible personal property which is sold by a retailer maintaining a place of business in this state, or by such other retailer as the state tax assessor shall authorize pursuant to section 268, shall be collected by such retailer and remitted to the state tax assessor pursuant to the provisions of this title;

II. The tax upon the use of all tangible personal property not paid pursuant to subsection I hereof shall be paid to the state tax assessor directly by any person using such property within this state, pursuant to the provisions of this title.

Sec. 267. Collection by retailer. Every retailer maintaining a place of business in this state and making sales of tangible personal property for use in this state, not exempted under the provisions of section 264, shall at the time of making such sales, whether within or without the state, collect the tax imposed by this title from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the state tax assessor, if the state tax assessor shall, by regulation, require such receipt. Each such retailer shall require such receipt. Each such retailer shall list with the state tax assessor the name and address of all his agents operating in this state and the location of any and all his distribution or sales houses or offices or other places of business in this state.

Sec. 268. Foreign retailers. The state tax assessor may, in his discretion, upon application authorize the collection of the tax herein imposed, by any retailer not maintaining a place of business within this state who, to the satisfaction of the said assessor, furnishes adequate security to insure collection and payment of the tax. Such retailer shall be issued, without charge, a permit to collect such tax in such manner, and

subject to such regulations and agreements as the said assessor shall prescribe. When so authorized, it shall be the duty of such retailer to collect the tax upon all tangible personal property sold to his knowledge for use within this state, in the same manner and subject to the same requirements as a retailer maintaining a place of business within this state. Such authority and permit may be cancelled when, at any time, the said assessor considers the security inadequate, or that such tax can more effectively be collected from the person using such property in this state.

Sec. 269. Payment to state tax assessor. Each retailer required or authorized pursuant to this title to collect the tax herein imposed shall be required to pay to the state tax assessor the amount of such tax on or before the 30th day of the succeeding month for each preceding month after the effective date of this title. At such time, each such retailer shall file with the state tax assessor a return for the preceding month in such form as may be prescribed by the said assessor showing the sales price of any or all tangible personal property sold by the retailer during such preceding month, the use of which is subject to the tax imposed by this title and such other information as the said assessor may deem necessary for the proper administration of this title. The return shall be accompanied by a remittance of the amount of such tax, for the period covered by the return, provided that where such tangible personal property is sold under a conditional sales contract, or under any other form of sale where the payment of the principal sum, or a part thereof, is extended over a period longer than 60 days from the date of the sale thereof, the retailer may collect and remit each monthly period that portion of the tax equal to 2% of that portion of the purchase price actually received during such monthly period. The said assessor may, upon request and a proper showing of the necessity therefor, grant an extension of time not to exceed 30 days for making any return and payment.

Sec. 270. Liability of user. Any person who uses any property upon which the tax herein imposed has not been paid, either to a retailer or direct to the state tax assessor as herein provided, shall be liable therefor, and shall on or before the 30th day of the month next succeeding each monthly period pay the tax herein imposed upon all such property used by him during the preceding month in such manner and accompanied by such returns as the state tax assessor shall prescribe. All of the provisions of section 269 with reference to such returns and payments shall be applicable to the return and payments herein required.

Sec. 271. Bond to secure payment. The state tax assessor may, when

in his judgment it is necessary and advisable to do so in order to secure the collection of the tax levied under this title, authorize any person subject to such tax, and any retailer required or authorized to collect such tax pursuant to the provisions of this title, to file with him a bond issued by a surety company authorized to transact business in this state and approved by the insurance commissioner as to solvency and responsibility, in such amount as the state tax assessor may fix, to secure the payment of any tax, amount, and/or penalties due or which may become due from such person. In lieu of such bond, securities approved by the state tax assessor in such amount as he may prescribe, may be deposited with him, which securities shall be sold by the said assessor at public or private sale, without notice to the depositor thereof, if it becomes necessary to do so in order to recover any tax and/or penalties due. Upon any such sale, the surplus, if any, above the amounts due under this section shall be returned to the person who deposited the securities.

**Sec. 272. Taxation in another state.** If any article of tangible personal property has already been subjected to a tax by any other state in respect to its sale or use in an amount less than the tax imposed by this title, the provisions of this title shall apply, but at a rate measured by the difference only between the rate herein fixed and the rate by which the previous tax upon the sale or use was computed. If such tax imposed in such other state is 2% or more, then no tax shall be due on such articles.

**Sec. 273. Application; effective date.** The provisions of sections 245, 253, 254, 255, 256, 257, 258, 259, 260 and 261 shall, as far as practicable, apply to sections 262 to 272, inclusive. The provisions of this title shall become effective on November 1, 1946.'

## TITLE VIII

The proceeds of titles VI and VII shall be devoted to carry out:

- I. The provisions of section 2 of title V;
- II. The extension of educational facilities at the University of Maine;
- III. Council Order No. 240 passed September 6, 1945, which created the office of director of veterans' affairs;
- IV. Sections 295 to 298, inclusive, of chapter 22 of the revised statutes of 1944, relating to pensions to veterans and their dependents;
- V. Sections 199 to 306-A, inclusive, of chapter 22 of the revised stat-

utes of 1944, relating to support of dependents of veterans of World War I and World War II;

**VI.** Sections 119 to 122, inclusive, of chapter 37 of the revised statutes of 1944, relating to the education of orphans of veterans;

**VII.** Sections 169 to 180, inclusive, of chapter 37 of the revised statutes of 1944, relating to the rehabilitation of veterans;

**VIII.** Sections 45 and 46 of chapter 82 of the revised statutes of 1944 relating to the burial of veterans; and

**IX.** Such sum as may be necessary to pay the expenses of the administration, collection and enforcement of this act.

## **TITLE IX**

### **Referendum**

This act shall be submitted for approval or rejection to the duly qualified voters of the state of Maine at the general election to be held on the 2nd Monday of September, 1946. The municipal officers of the cities, towns and plantations in this state are hereby empowered and directed to notify the inhabitants of their respective cities, towns and plantations to meet in the manner prescribed by law for calling and holding biennial meetings of said inhabitants for the election of senators and representatives to give in their votes upon this act, and the question shall be: "Shall the act providing for the payment of a bonus to and insurance premiums for Maine veterans of World War II and for the payment of other veterans' benefits and to provide for such payments by a sales tax, as submitted by the 92nd legislature to the people, be accepted?" and the inhabitants of said cities, towns and plantations shall vote by ballot on said question, those in favor of the act expressing it by making a cross within the square opposite the word "Yes" upon the ballots and those opposed to the act by making a cross within the square opposite the word "No" upon their ballots, and the ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings, and returns made to the office of the secretary of state in the same manner as votes for governor and members of the legislature, and the governor and council shall count the same, and if it shall appear that a majority of the inhabitants voting on the question are in favor of the act, the governor shall forthwith make known the fact by his proclamation and thereupon this act shall become law. The secretary of state shall prepare and furnish to the several cities,

towns and plantations ballots and blank returns in conformity with the foregoing act, accompanied by a copy thereof.

### TITLE X

**Conditional upon adoption of constitutional amendment; act to become effective upon same date as constitutional amendment.** This act shall take effect only under the provisions of title IX and upon the adoption in September, 1946, of the proposed amendment to article IX of the constitution providing for the issuing of state bonds for the purpose of paying a bonus to or insurance premiums for Maine members of the military and naval forces in World War II and for the payment of other veterans' benefits and to provide for the payment of such bonds by a sales tax; and in case of such adoption shall take effect on the day said constitutional amendment becomes effective.