

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Twin City Printery
Lewiston, Maine
1987

PUBLIC LAWS

OF THE

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Reimbursement rates shall be as follows.

1. Administrative costs. School administrative units shall be reimbursed 70% of the administrative costs for evening and day school classes and educational activities for adults in the year following the expenditure. Administrative costs shall include administrative, supervisory and clerical salaries, the costs of maintaining and operating citizens' advisory committees, administrative fringe benefits as required for salaried positions and administrative travel to state meetings related to the support of the administrative function.

2. Adult vocational education courses. Adult vocational education courses shall be reimbursed at the rate of 75% of the cost of instructional salaries and fringe benefits required for salaried costs and 50% of the cost of consumable supplies and textbooks.

3. Handicapped adult courses. Handicapped adult courses shall be reimbursed at the rate of 75% of the cost of instructional salaries and fringe benefits required for salaried costs and 50% of the cost of consumable supplies and textbooks.

4. High school completion courses. High school completion courses shall be reimbursed at the rate of 75% of the cost of instructional salaries and fringe benefits required for salaried costs and 50% of the cost of consumable supplies and textbooks.

5. Basic literacy courses. Basic literacy courses shall be reimbursed at the rate of 75% of the cost of instructional salaries and fringe benefits required for salaried costs and 50% of the cost of consumable supplies and textbooks.

6. General adult courses. Courses provided for the general public in vocational, leisure and life skill programs shall be reimbursed at the rate of 50% of the cost of instructional salaries and fringe benefits required for salaried costs.

7. Other administrative costs. Other administrative costs, including program promotion and publicity, mailing and postage and telephone expenses related to program development, promotion and implementation, shall be reimbursed at the rate of 50% of these costs.

Sec. 5. Allocation. The following funds are allocated from the Federal Expenditure Fund to carry out the purposes of this Act.

	1987-88	1988-89
<u>EDUCATIONAL AND CULTURAL SERVICES, DEPARTMENT OF</u>		
Adult Education		
Positions	(-1.5)	(-1.5)
Personal Services	(\$41,375)	(\$57,757)
All Other	41,375	57,757
Total	\$ 0	\$ 0

Administration — Vocational Education		
Positions	(-1.5)	(-1.5)
Personal Services	(\$32,635)	(\$44,970)
All Other	32,635	44,970
Total	\$ 0	\$ 0

Adjusts these allocations to account for the transfer of these positions to the General Fund.

Effective September 29, 1987.

CHAPTER 497

S.P. 512 — L.D. 1536

AN ACT Providing for Administrative Changes in Maine Tax Laws.

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

Sec. 1. 4 MRSA §807-A, 2nd and 4th ¶¶, as enacted by PL 1985, c. 598, §2, is amended to read:

Upon promulgation of and in accordance with rules adopted by the Supreme Judicial Court, employees of the Bureau of Taxation may serve civil process and represent the bureau in District Court in disclosure proceedings pursuant to Title 14, chapter 502, ancillary to the collection of taxes for which warrants have been issued pursuant to ~~Title 26~~ Title 36, and may represent the State Tax Assessor in arraignment proceedings in District Court in cases in which a criminal complaint has been filed alleging violation of Title 36, section 2113, 3234 or 5332.

This section is repealed on April 1, ~~1988~~ 1989.

Sec. 2. 36 MRSA §176, sub-§3, ¶A, as enacted by PL 1985, c. 691, §5, is amended to read:

A. When the State Tax Assessor determines that any taxpayer is delinquent in the payment of a tax, he may cause a demand letter to be served upon the taxpayer in the manner specified in section 111, subsection 2. The demand letter shall comply in all respects with the provisions of section 171 and shall also state that no further administrative or judicial review is available as to the delinquent amount pursuant to section 151 and, that if payment of that amount is not received within 10 days of the date of the demand, the State Tax Assessor is empowered by law to levy upon the property of the taxpayer, including his salary or wages, in accordance with this chapter. Notwithstanding the provisions of section 171, assessments which became final before 1987 can be demanded as otherwise provided in this Part before the end of 1988 and a levy enforced as otherwise provided by this section.

Sec. 3. 36 MRSA §176, sub-§7, as enacted by PL 1985, c. 691, §5, is amended to read:

7. Actions permitted. Any person, other than the taxpayer whose delinquency occasioned the levy, who claims that property in which he has a preexisting perfected or otherwise valid security interest ~~or~~ lien was wrongfully made the subject of a physical seizure or notice of levy pursuant to subsection 3, paragraph B, subparagraphs (1) and (2) may bring a civil action against the State Tax Assessor in Superior Court. Any recovery in such an action shall be limited to the value of the property levied upon and shall in no case exceed the proceeds of any sale of the property conducted in accordance with the provisions of subsection 6. Except as provided in this subsection, no suit for the purpose of restraining the collection of taxes pursuant to this section may be maintained in any court of this State by any person.

Sec. 4. 36 MRSA §177, sub-§1, as enacted by PL 1985, c. 691, §5, is amended to read:

1. Generally. All sales and use taxes collected by any person ~~from purchasers~~ pursuant to Part 3, all taxes collected by any person ~~from purchasers~~ under color of Part 3, which have not been properly returned and ~~credit~~ or credited to the ~~purchasers~~ persons from whom they were collected, all taxes collected by any person pursuant to chapter 451 or 459, and all taxes collected by any person pursuant to chapter 827 shall constitute a special fund in trust for the State Tax Assessor. The liability for the taxes shall be enforceable by assessment and collection, in the manner prescribed in ~~Parts 3, 5 and 8~~ of this Part, against the person and against any officer, director, member, agent or employee of that person who, in that capacity, is responsible for the control or management of the funds or finances of that person or is responsible for the payment of that person's taxes. ~~The term "purchasers," as used in this subsection, includes persons who have paid rental charges for living quarters in any hotel, rooming house, tourist or trailer camp.~~

Sec. 5. 36 MRSA §177, sub-§3, as enacted by PL 1985, c. 691, §5, is amended to read:

3. Notice to segregate. Whenever the State Tax Assessor finds that the payment of the trust funds established under subsection 1 will be jeopardized by delay, neglect or misappropriation or whenever any person fails to make payment of taxes or file reports as required by Part 3, or by chapter 451, 459 or 827, the State Tax Assessor may direct that person to segregate the trust funds from and not to ~~commingle then commingle~~ them with any other funds or assets of that person. Within 5 days after the mailing of notice of that segregation requirement, all taxes which thereafter are collected shall be paid ~~over an~~ on account to the State Tax Assessor until the taxes are due. The State Tax Assessor shall establish in the segregation notice the manner in which the taxes are to be paid to him. The segregation requirement shall remain in effect until a notice of cancellation is given by the State Tax Assessor.

Sec. 6. 36 MRSA §177, sub-§4, as enacted by PL 1985, c. 691, §5, is amended to read:

4. Revocation for nonsegregation. Upon the expiration of the 5-day period designated in subsection 3, if any person who is a "retailer" under Part 3 or a fuel supplier, distributor or importer subject to Part 5 fails to make the required payments on account to the State Tax Assessor, the State Tax Assessor may revoke any registration certificate which has been issued ~~on~~ to that person. The revocation shall be reviewable in accordance with section 151.

Sec. 7. 36 MRSA §191, sub-§2, ¶K, as amended by PL 1987, c. 19, §2 and PL 1987, c. 43, is repealed and the following enacted in its place:

K. The disclosure by a municipal assessor, or by the State Tax Assessor with regard to the unorganized territory, of information contained on the declaration of value form required by section 4641-B;

Sec. 8. 36 MRSA §191, sub-§2, ¶L, as enacted by PL 1987, c. 19, §3 is amended to read:

L. The listing of gasoline distributors possessing a certificate under section: ;

Sec. 9. 36 MRSA §191, sub-§2, ¶¶M and N are enacted to read:

M. The disclosure by employees of the Bureau of Taxation, in connection with their official duties relating to any examination, collection activity, civil or criminal tax investigation or any other offense under this Title, of return information to the limited extent that disclosure is necessary in obtaining information, which is not otherwise available, with respect to the correct determination of tax, liability for tax or the amount to be collected or with respect to the enforcement of this Title; and

N. The disclosure by the State Tax Assessor of computerized individual income tax data, without identification by taxpayer name, number or address, to a research agency of the Legislature.

Sec. 10. 36 MRSA §305, sub-§1, as amended by PL 1985, c. 650, §7, is further amended to read:

1. Just value. Certify to the Secretary of State before the first day of February in the year of the regular session of the Legislature the equalized just value of all real and personal property in each municipality and unorganized place which is subject to taxation under the laws of this State, except captured assessed value located within a tax increment financing district, for purposes of calculating state aid for education under Title 20-A, effective for districts designated after December 31, 1986, only 75% of the captured assessed value within a tax increment financing district is excepted from a municipality's equalized just valuation. Such equalized just value shall be uniformly assessed in each municipality and unorganized place and shall be based on 100% of the current market value. It shall separately show for each

municipality and unorganized place the actual or estimated value of all real estate which is exempt from property taxation by law or is the captured value within a tax increment financing district. The valuation as filed shall remain in effect until the next valuation is filed and shall be the basis for the computation and apportionment of the state and county taxes;

Sec. 11. 36 MRSA §581-A, as enacted by PL 1973, c. 308, §13, is amended to read:

§581-A. Sale of a portion of a parcel of forest land

Sale of a portion of a parcel of forest land subject to taxation under this subchapter shall not affect the taxation under this subchapter of the resulting parcels, unless ~~they are~~ any is less than 10 forested acres in area. Each resulting parcel shall be taxed to the owners under this subchapter until such parcel is withdrawn from taxation under this subchapter, in which case the penalties provided for in sections 579 and 581 shall apply only to the owner of such parcel. If a parcel resulting from such sale is less than 10 forested acres in area, such parcel shall be considered as withdrawn from taxation under this subchapter as a result of such sale.

Sec. 12. 36 MRSA §610-A, as reenacted by PL 1983, c. 632, Pt. B, §4, is repealed.

Sec. 13. 36 MRSA §708-A, as enacted by PL 1973, c. 620, §18, is repealed.

Sec. 14. 36 MRSA §1484, sub-§3, ¶C, as amended by PL 1983, c. 828, §3, is further amended to read:

C. If the motor vehicle is owned by a corporation or a partnership, the excise tax shall be paid in the following manner.

(1) If it is a corporation or partnership other than one described in subparagraph (2), the excise tax shall be paid to the place in which the registered or main office of that organization is located, except that if the organization has an additional permanent place, or places, of business where motor vehicles are customarily kept, the tax on these vehicles shall be paid to the place where such permanent place of business is located. The temporary location of an office and the stationing of vehicles in connection with a construction project of less than 24 months duration is not considered to constitute a permanent place of business. In the case of a foreign corporation or partnership not maintaining a place of business within the State, the excise tax shall be paid to the State.

(2) In the case of corporations described in Title 35, section 2301, any excise taxes owed shall be paid to the place in which the registered or main office of that organization is located.

(3) If a municipality, county or motor vehicle own-

er feels the excise tax has been improperly levied under the authority of this paragraph, the owner, county or municipality may request within 3 years from the date of an excise tax levy a determination of this question by the State Tax Assessor. The State Tax Assessor's determination is limited to the same 3-year period and shall be binding on all parties. Any party may seek review of the determination in accordance with the Maine Rules of Civil Procedure, Rule 80-B 80-C. Upon notification by the State Tax Assessor of a determination made under this section, any municipality or county which has incorrectly accepted excise tax money, within 30 days of that determination, shall pay the money, together with interest at the maximum rate determined by the Treasurer of State, pursuant to section 505, to the municipality or county named in the determination as the proper place of payment.

Sec. 15. 36 MRSA §1752, sub-§§1-B, 1-C and 1-D are enacted to read:

1-B. Automobile. "Automobile," for purposes of subsection 17-A, paragraph B, means a self-propelled 4-wheel motor vehicle designed primarily to carry passengers and not designed to run on tracks.

1-C. Business. "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit or advantage, either direct or indirect.

1-D. Casual sale. "Casual sale" means an isolated transaction in which tangible personal property or a taxable service is sold other than in the ordinary course of repeated and successive transactions of like character by the person making the sale. "Casual sales" include transactions by a civic, religious or fraternal organization which is not a registered retailer at a bazaar, fair, rummage sale, picnic or similar event, but, if any such organization makes such transactions during more than 8 days during a calendar year, all such transactions during the calendar year constitute retail sales. The sale by a registered retailer of tangible personal property which that retailer has used in the course of his business is not a "casual sale" if that property is of like character to that sold in the ordinary course of repeated and successive transactions. "Casual sale" does not include any transaction in which tangible personal property is sold by a representative for the owner's account when that representative is a registered retailer and the registered retailer shall have the same duties respecting any such transaction as if he had sold on his own account.

Sec. 16. 36 MRSA §1752, sub-§2 is repealed.

Sec. 17. 36 MRSA §1752, sub-§2-C, as enacted by PL 1985, c. 783, §1, is repealed and the following enacted in its place:

2-C. Fabrication services. "Fabrication services" means the production of tangible personal property for a

consideration for a person who furnishes, either directly or indirectly, the materials used in that production. "Fabrication services" does not include the production of tangible personal property if a sale to the consumer of the tangible personal property so produced would be exempt or otherwise not subject to tax under this Part or if the services are purchased by an exempt entity.

Sec. 18. 36 MRSA §1752, sub-§9-A, as enacted by PL 1977, c. 477, §7, is repealed and the following enacted in its place:

9-A. Primarily. "Primarily," when used in relation to production, means more than 50% of the time.

Sec. 19. 36 MRSA §1752, sub-§9-B, as amended by PL 1979, c. 541, Pt. A, §220, is repealed and the following enacted in its place:

9-B. Production. "Production" means an operation or integrated series of operations engaged in as a business or segment of a business which transforms or converts personal property by physical, chemical or other means into a different form, composition or character from that in which it originally existed.

Production includes manufacturing, processing, assembling and fabricating operations which meet the definitional requisites.

Production does not include biological processes, wood harvesting operations, the severance of sand, gravel, oil, gas or other natural resources produced or severed from the soil or water, or activities such as cooking or preparing drinks, meals, food or food products by a retailer for retail sale. The foregoing are examples of activities that are not included within the term "production."

Sec. 20. 36 MRSA §1752, sub-§9-C, as reallocated by PL 1977, c. 696, §273, is repealed.

Sec. 21. 36 MRSA §1752, sub-§10, as amended by PL 1977, c. 198, §2, is repealed and the following enacted in its place:

10. Retailer. "Retailer" means any person who makes retail sales or who is required to register by section 1754 or is registered under section 1756.

Sec. 22. 36 MRSA §1752, sub-§11, as amended by PL 1985, c. 691, §8, is repealed and the following enacted in its place:

11. Retail sale. "Retail sale" means any sale of tangible personal property, in the ordinary course of business, for consumption or use, or for any purpose other than for resale, except resale as a casual sale, in the form of tangible personal property. "Retail sale" also means any sale of a taxable service in the ordinary course of business for any purpose other than for resale, except resale as a casual sale. "Retail sale" includes conditional sales, installment lease sales and any other transfer of

tangible personal property when the title is retained as security for the payment of the purchase price and is intended to be transferred later. "Retail sale" includes sale of products for internal human consumption to a person for resale through coin-operated vending machines when sold to a retailer whose gross receipts from the retail sale of tangible personal property derived through sales from vending machines are more than 50% of his gross receipts, which tax shall be paid by the retailer to the State. "Retail sale" does not include any sale by a personal representative in the settlement of an estate, unless the sale is made through a retailer, or unless the sale is made in the continuation or operation of a business; nor does the term include any other casual sale. "Retail sale" does not include the sale of tangible personal property which becomes an ingredient or component part of, or which is consumed or destroyed or loses its identity directly and primarily in the production of, tangible personal property for later sale or lease, other than lease for use in this State, but shall include fuel and electricity, but shall not include electricity separately metered and consumed in any electrolytic process for the manufacture of tangible personal property for later sale, nor any fuel oil or coal, the by-products from the burning of which become an ingredient or component part of tangible personal property for later sale. Tangible personal property is "consumed or destroyed" or "loses its identity" in that production, if it has a normal physical life expectancy of less than one year as a usable item in the use to which it is applied. "Retail sale" does not include the sale, to a person engaged in the business of renting automobiles, of automobiles, or integral parts of automobiles or accessories to automobiles, for rental or for use in an automobile rented, on a short-term basis. "Retail sale" does not include the sale of containers, boxes, crates, bags, cores, twines, tapes, bindings, wrappings, labels and other packing, packaging and shipping materials when sold to persons for use in packing, packaging or shipping tangible personal property sold by them or upon which they have performed the service of cleaning, pressing, dyeing, washing, repairing or reconditioning in their regular course of business and which are transferred to the possession of the purchaser of such tangible personal property. "Retail sale" does not include the provision of meals or lodging to employees at their place of employment when the value of those meals or that lodging is allowed as a credit toward the wages of those employees.

Sec. 23. 36 MRSA §1752, sub-§13-A is enacted to read:

13-A. Sale at retail. "Sale at retail" means retail sale.

Sec. 24. 36 MRSA §1752, sub-§14, as amended by PL 1983, c. 828, §4, is repealed and the following enacted in its place:

14. Sale price. "Sale price" means the total amount of a retail sale valued in money, whether received in money or otherwise.

A. "Sale price" includes:

- (1) Services which are a part of a retail sale; and
- (2) All receipts, cash, credits and property of any kind or nature and any amount for which credit is allowed by the seller to the purchaser, without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, losses or any other expenses.

B. "Sale price" does not include:

- (1) Discounts allowed and taken on sales;
- (2) Allowances in cash or by credit made upon the return of merchandise or with respect to fabrication services pursuant to warranty;
- (3) The price of property returned or fabrication services rejected by customers, when the full price is refunded either in cash or by credit;
- (4) The price received for labor or services used in installing or applying or repairing the property sold or fabricated, if separately charged or stated;
- (5) Any amount charged or collected, in lieu of a gratuity or tip, as a specifically stated service charge, when that amount is to be disbursed by a hotel, motel, restaurant or other eating establishment to its employees as wages;
- (6) The amount of any tax imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer, except any manufacturers', importers', alcohol or tobacco excise tax; or
- (7) The cost of transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, provided that those charges are separately stated and the transportation occurs by means of common carrier, contract carrier or the United States mail.

Sec. 25. 36 MRSA §1752, sub-§17-A is enacted to read:

17-A. Taxable service. "Taxable service" means:

- A. Rental of living quarters in any hotel, rooming house, tourist or trailer camp;
- B. Rental, for a period of less than one year, of an automobile;
- C. Telephone or telegraph service;
- D. Extended cable television service;
- E. Fabrication services; and

F. Custom computer programming, including, but not limited to, modification of a standard program.

Sec. 26. 36 MRSA §1753 is repealed and the following enacted in its place:

§1753. Tax is a levy on consumer

The liability for, or the incidence of, the tax imposed by this Part is declared to be a levy on the consumer. The retailer shall add the amount of the tax to the sale price and may state the amount of the tax separately from the sale price of tangible personal property or taxable services on price display signs, sales or delivery slips, bills and statements which advertise or indicate the sale price of that property or those services.

Sec. 27. 36 MRSA §1754, sub-§1 is amended to read:

1. Maintains place of business. Every seller of tangible personal property or taxable services, whether or not at retail, ~~maintaining~~ who maintains within this State any office, place of manufacture, place of distribution, sales or sample room or place, warehouse or storage place or other place of business.

Sec. 28. 36 MRSA §1754, sub-§2 is amended to read:

2. Makes sales or solicits orders. Every seller of tangible personal property or taxable services who does not ~~maintaining~~ maintain such a place who but makes retail sales within this State or who solicits orders by means of salesmen within the State for retail sales for use, storage or other consumption within the State.

Sec. 29. 36 MRSA §1754, sub-§3 is amended to read:

3. Consignee or agent. Every consignee or agent who makes retail sales in the State of tangible personal property or taxable services on behalf of a principal who is without the State if the principal is not the holder of a valid registration certificate.

Sec. 30. 36 MRSA §1754, sub-§4 is amended to read:

4. Sales for use within State. Every agent, representative, salesman, entrepreneur, solicitor, distributor or independent selling agent, when such person receives compensation by reason of sales of tangible personal property or taxable services made outside the State by his principal for use, storage or other consumption in the State, and every salesman within the State of any seller subject to subsection 2, if said principal is not the holder of a valid registration certificate.

Sec. 31. 36 MRSA §1754, sub-§6, as enacted by PL 1965, c. 362, §5, is repealed.

Sec. 32. 36 MRSA §1754, sub-§7, as enacted by PL 1977, c. 198, §5, is repealed.

Sec. 33. 36 MRSA §1754, sub-§8, as enacted by PL

1979, c. 268, is repealed and the following enacted in its place:

8. Other presence in State. Every seller of tangible personal property or fabrication services who maintains a continuing presence of a nonsoliciting employee within the State or who makes regular or frequent delivery in this State, by means of its own employees or agents, of that property or of tangible personal property on which fabrication services have been performed.

Sec. 34. 36 MRSA §1754, sub-§9, as enacted by PL 1983, c. 859, Pt. M, §§3 and 13, is repealed.

Sec. 35. 36 MRSA §1756, as amended by PL 1971, c. 20, is further amended to read:

§1756. Voluntary registration

Every seller of tangible personal property or taxable services, not required by section 1754 to register, may register upon such terms as the State Tax Assessor may prescribe. Upon registration, he shall have the rights and duties of a person required to be registered and shall be subject to the same penalties, except that his liability may be limited to tax actually collected. The person so registered may at any time surrender his registration certificate and request that the same be canceled. Upon receipt of such certificate and request, the State Tax Assessor shall grant the same, if it appears to the State Tax Assessor that the registrant has satisfied all liability to the State and that he is not required by law to register. Upon surrender of his certificate, the registered person shall cease to collect sales or use taxes upon sales taking place on and after the date of such surrender.

Sec. 36. 36 MRSA §1760, sub-§25, as amended by PL 1985, c. 691, §13, is further amended to read:

25. Boats sold to nonresidents. Sales in this State to nonresidents of yachts and other pleasure boats and commercial vessels and boats actually registered for numbering, enrolled or documented under federal or foreign law in the appropriate customhouses or registry offices for location thereof or home ports thereof outside the State, when such craft are either delivered outside the State or delivered in the State to be sailed or transported outside the State immediately upon delivery by the seller; and any sales to nonresidents, under contracts for the construction of any such craft to be so delivered, of materials to be incorporated therein; and any sales to nonresidents for the repair, alteration, refitting, reconstruction, overhaul or restoration of any such craft to be so delivered, of materials to be incorporated therein. If a craft ~~so registered~~ is present in the State for more than 30 days during the 12-month period following its date of purchase or is registered for a location in Maine or documented with a home port in the State Maine, within 12 months of the date of purchase, the ~~person seeking registration purchaser~~ shall be liable for the use tax on the basis of the original purchase price.

Sec. 37. 36 MRSA §1760, sub-§40, as reallocated by PL 1979, c. 663, §221, is repealed and the following enacted in its place:

40. Mobile and modular homes. Sales of mobile or modular homes includes:

A. Used mobile and modular homes; and

B. New mobile and modular homes. Exemption is limited to all costs, other than materials, included in the sale price, but not to exceed 50% of the sale price.

Sec. 38. 36 MRSA §1760, sub-§41, as amended by PL 1981, c. 705, Pt. K, is further amended to read:

41. Certain instrumentalities of interstate or foreign commerce. The sale of a vehicle, railroad rolling stock, aircraft or watercraft which is placed in use by the purchaser as an instrumentality of interstate or foreign commerce within 30 days after that sale and which is used by the purchaser not less than 80% of the time for the next 2 years as an instrumentality of interstate or foreign commerce. The State Tax Assessor may for good cause extend for not more than ~~30~~ 60 days the time for placing the instrumentality in use in interstate or foreign commerce. For purposes of this subsection, property is "placed in use as an instrumentality of interstate or foreign commerce" by its carrying of, or providing the motive power for the carrying of, a bona fide payload in interstate or foreign commerce, or by being dispatched to a specific location at which it will be loaded upon arrival with, or will be used as motive power for the carrying of, a payload in interstate or foreign commerce. For purposes of this subsection, "bona fide payload" means a cargo of persons or property transported by a contract or common carrier for compensation which exceeds the direct cost of carrying that cargo or pursuant to a legal obligation to provide service as a public utility or a cargo of property transported in the reasonable conduct of the purchaser's own nontransportation business in interstate commerce.

Sec. 39. 36 MRSA §1760, sub-§56 is enacted to read:

56. Construction contracts with exempt organizations. Sales of tangible personal property, to a construction contractor, which are to be physically incorporated in, and become a permanent part of, real property for sale to any organization or government agency provided exemption under this section, except as otherwise provided. In order to qualify for this exemption, the contractor must have entered into a construction contract with the exempt organization prior to the purchase of the tangible personal property.

Sec. 40. 36 MRSA §1811, first ¶, as amended by PL 1985, c. 783, §5, is repealed and the following enacted in its place:

A tax is imposed at the rate of 5% on the value of all tangible personal property, on telephone and telegraph

service, on extended cable television service, on fabrication services and on custom computer programming sold at retail in this State and at the rate of 7% on the value of all other taxable services sold at retail in this State. Value shall be measured by the sale price, except as otherwise provided.

Sec. 41. 36 MRSA §1861, as repealed and replaced by PL 1985, c. 783, §7, is amended to read:

§1861. Imposition

A tax is imposed, at the respective rate provided in section 1811, on the storage, use or other consumption in this State of ~~purchases, tangible personal property or a service the sale of which, if the sale occurred or it had occurred in this State, will~~ would be subject to tax under section 1764 or 1811. ~~A tax is imposed at the rate provided in section 1811 on the sale price on these purchases.~~ Every person so storing, using or otherwise consuming is liable for the tax until he has paid the tax or has taken a receipt from his seller, as duly authorized by the State Tax Assessor, showing that the seller has collected the sales or use tax, in which case the seller shall be liable for it. Retailers registered under section 1754 or 1756 shall collect the tax and make remittance to the State Tax Assessor. The amount of the tax payable by the purchaser shall be that provided in the case of sales taxes by section 1812. When tangible personal property purchased for resale is withdrawn from inventory by the retailer for his own use, use tax liability accrues at the date of withdrawal.

Sec. 42. 36 MRSA §1955-A, as amended by PL 1979, c. 541, Pt. A, §223, is further amended to read:

§1955-A. Failure to pay tax on vehicles

If, after notice of ~~deficiency~~ assessment and demand for payment, any amount required to be paid with respect to any vehicle is not paid as demanded within the 12-day period prescribed in section 1959, or such extension thereof as the State Tax Assessor may allow, the State Tax Assessor may, in addition to proceeding to enforce collection pursuant to chapters 211 to 225, immediately notify the Secretary of State who shall proceed in accordance with Title 29, section 55-B, to mail the required 5-day notice and to suspend any registration certificate and plates issued for the vehicle in respect to which the tax remains unpaid upon the expiration of the 5-day period provided therein.

Sec. 43. 36 MRSA §2724, sub-§2, as enacted by PL 1985, c. 514, §2, is amended to read:

2. Commercial forest land. "Commercial forest land" means land which is classified or which is eligible for classification as forest land pursuant to the Maine Tree Growth Tax Law, chapter 105, subchapter II-A, except that "commercial forest land" does not include land described in section 573, subsection 3, paragraph B, C or D when all commercial harvesting of forest products

is prohibited. In determining whether land not classified under the Maine Tree Growth Tax Law is eligible for classification under that law, all facts and circumstances shall be considered, including whether the landowner is engaged in the forest products business and the land is being used in that business or there is a forest management plan for commercial use of the land or a particular parcel of land has been harvested for commercial purposes within the preceding 5 years.

Sec. 44. 36 MRSA §3851 is repealed.

Sec. 45. 36 MRSA §3852, as amended by PL 1983, c. 480, Pt. A, §58, is repealed.

Sec. 46. 36 MRSA §4404, last ¶, as enacted by PL 1985, c. 783, §16, is repealed.

Sec. 47. 36 MRSA §§4405 to 4409, as enacted by PL 1985, c. 783, §16, are repealed.

Sec. 48. 36 MRSA §5124-A, first ¶, as repealed and replaced by PL 1985, c. 535, §15, is amended to read:

The For tax years beginning on or after January 1, 1985, the standard deduction of a resident individual or of a resident husband and wife who file a joint return or of a resident married person who files a separate return shall be as follows:

Sec. 49. 36 MRSA §5124-A, sub-§3, as repealed and replaced by PL 1985, c. 535, §15, is amended to read:

3. Married person; separate return. A married person filing a separate return, the higher of a low-income allowance of ~~\$1,000~~ \$1,100 or 16% of Maine adjusted gross income up to a maximum deduction of \$1,400, except that if either spouse used the low-income allowance, both must use it.

Sec. 50. 36 MRSA §5206-B, sub-§2, as repealed and replaced by PL 1985, c. 783, §35, is amended to read:

2. Maine assets. "Maine assets" means, for any taxable year, a taxable entity's total end of year assets as required to be reported on United States Internal Revenue Service Form 1120, Schedule L, except for tangible personal property and real property located outside the State. The term includes, in the case of a unitary business, the tangible personal property and real property located in the State of any member of the affiliated group which is not subject for the taxable year to taxation under Part 8. This property in the possession of a taxable entity at year-end and located in the State is to be reported as a Maine asset by the possessor taxable entity.

Sec. 51. 36 MRSA §5255-B, as amended by PL 1985, c. 535, §28, is further amended to read:

§5255-B. Certain items of income under the United States Internal Revenue Code

Any person maintaining an office or transacting business within this State and who is required to deduct and withhold a tax on items of income under the United States Internal Revenue Code, other than wages subject to withholding as provided in section 5250, shall deduct and withhold from such items to the extent they constitute Maine net income which is not excluded from taxation under Maine law, a tax equal to 5% thereof, unless withholding pursuant to the United States Internal Revenue Code is based on other than a flat rate amount. In that event, the State's withholding procedure should estimate taxable income using the same approach to exemptions as the United States Internal Revenue Code and the amount of tax to be withheld should be calculated in accordance with withholding methods prescribed pursuant to section 5250.

Sec. 52. Application. Sections 48 to 51 of this Act are effective for tax years beginning on or after January 1, 1987.

Effective September 29, 1987.

CHAPTER 498

H.P. 496 — L.D. 666

AN ACT to Create the Maine Health Policy Council.

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

Sec. 1. 5 MRSA §12004, sub-§10, ¶A, sub-¶(28-B) is enacted to read:

(28-B)	Health	Maine Health Policy Advisory Council	Expenses Only	5 MRSA §19101
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Sec. 2. 5 MRSA Pt. 22 is enacted to read:

PART 22

INTERDEPARTMENTAL ADVISORY COUNCILS

CHAPTER 435

MAINE HEALTH POLICY ADVISORY COUNCIL

§19101. Establishment; role

The Maine Health Policy Advisory Council, as established in section 12004, subsection 10, paragraph A, shall advise and be available for consultation to the Governor, Commissioner of Human Services, Commissioner of Mental Health and Mental Retardation, other executive branch agencies, the Legislature and the Maine congressional delegation on health policy issues related to health status, health promotion and health care delivery that the council believes to be significant and that it has the resources to address.

§19102. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Health care delivery. "Health care delivery" means the quality and cost of care, availability of care, access to care, appropriateness of services, use of services and adequacy of facilities, equipment and personnel.

2. Health promotion. "Health promotion" means any combination of health education and related organizational, political and economic interventions designed to bring about behavioral and environmental changes conducive to health.

§19103. Membership; officers; compensation

1. Membership. The council shall consist of the following 17 members. Thirteen members shall be appointed by the Governor; 2 appointed by the Speaker of the House; and 2 appointed by the President of the Senate. Nine of the members appointed by the Governor must be private citizens who are nonproviders of health care services. The Governor's appointees shall serve 3-year terms, with no member serving more than 2 consecutive full terms. There shall be 3 groups of gubernatorial appointees, with one group's term expiring each year. The legislative officers' appointees shall serve 2-year terms, coterminous with the legislative term in which they are appointed. Legislators may serve no more than 3 consecutive full terms on the council.

2. Officers. The council shall elect a chairman and a vice-chairman annually. Only one of the 2 officers may be a provider of health care.

3. Compensation and reimbursement. Council members shall be compensated in accordance with chapter 379.

§19104. Studies and reports

The council may conduct or commission studies and reports on health policy matters.

§19105. Working relationships

In carrying out its responsibilities under this chapter, the council shall maintain active liaison with the Department of Human Services, Department of Mental Health and Mental Retardation, other executive branch agencies, the Legislature and consumer and provider groups. The responsibilities of the council shall in no way supplant the health care planning responsibilities of the Department of Human Services, the Department of Mental Health and Mental Retardation and other executive branch agencies.

§19106. Annual reports