

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

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**Legislative Document**

**No. 1252**

H. P. 1160

House of Representatives, March 30, 1977

On motion of Mr. Carey of Waterville, referred to Committee on Taxation.  
Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Greenlaw of Stonington

Cosponsor: Mr. Blodgett of Waldoboro.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

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**AN ACT Relating to School Funding and Inventory Tax Reimbursement.**

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**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the statute relating to the repeal of the tax on business and agricultural inventories obligate the State to reimburse affected municipalities for their revenue loss based on inventory taxes assessed in 1973; and

Whereas, it is desirable that starting in fiscal year 1977-78 a method of distributing these reimbursements be established that will eventually be independent of circumstances as they existed in 1973; and

Whereas, it is desirable that an excise tax on inventories be levied at half the current rate for one year in 1977-78; and

Whereas, the present school finance act has increased property tax levels for some Maine towns; and

Whereas, the repeal of the uniform property tax, an increase in the state share of education funding and a ceiling on educational expenditures are necessary for a manageable education funding program; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the fol-

lowing legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1.** 20 MRSA § 3742, as enacted by PL 1975, c. 660, § 2, is repealed and the following enacted in its place:

**§ 3742. Intent**

It is the intent of the Legislature to limit the burden of education costs in public schools which are borne by the property tax to no more than 50% of the total basic education allocation and to provide at least 50% of the total basic education allocation from state general fund revenue sources.

It is further the intent of the Legislature that the total basic education allocation, as annually established by the Legislature, shall be an amount sufficient to meet the level of actual education costs in the year immediately prior to the year of allocation.

It is further the intent of the Legislature to reduce the education costs in the nonprofit private schools of this state by reducing such costs to the extent and in a manner permitted by section 3748, subsection 10.

**Sec. 2.** 20 MRSA § 3743, sub-§ 14, as enacted by PL 1975, c. 660, § 2, is repealed and the following enacted in its place:

14. Total basic education allocation. "Total basic education allocation" shall mean the amount for all public education programs established by the Legislature under section 3747.

**Sec. 3.** 20 MRSA § 3747, sub-§ 1 as enacted by PL 1975, c. 660, § 2 is amended to read:

1. Basic elementary per pupil operating rate. Establish the basic elementary per pupil operating rate. The rate for the year beginning July 1, 1977, and ending June 30, 1978, shall be \$840 per pupil.

**Sec. 4.** 20 MRSA § 3747, sub-§ 2 as enacted by PL 1975, c. 660, § 2 is amended to read:

2. Basic secondary per pupil operating rate. Establish the basic secondary per pupil operating rate. The rate for the year beginning July 1, 1977, and ending June 30, 1978, shall be \$1,185 per pupil.

**Sec. 5.** 20 MRSA § 3747, sub-§ 6, as repealed and replaced by PL 1975, c. 754, § 2, is repealed and the following enacted in its place:

6. Establishment of the total basic education allocation. Establish the amount of money which shall be the total basic education allocation. In establishing this amount, the Legislature shall include 90% of the amounts established for subsection 3, paragraphs C, D, E and F, subparagraph (1) and subsection 4.

Sec. 6. 20 MRSA § 3747, sub-§ 8, as amended by PL 1975, c. 754, § 3, is repealed and the following enacted in its place:

8. Appropriate the funds for unit allocations. Appropriate the necessary funds to provide the allocations to local administrative units as described in section 3748.

Sec. 7. 20 MRSA § 3747, sub-§ 9 is enacted to read:

9. Determine a minimum local property tax effort for education. For the year beginning July 1, 1977, and ending June 30, 1978, a minimum local property tax effort for education shall be a tax rate which raises the lesser of the 2 following amounts.

A. The amount raised by a tax rate of 12 mills applied to the state valuation of the local unit;

B. The amount equivalent to the unit's allocation prior to the adjustment as provided in section 3748, subsection 3-A.

This minimum local property tax effort for education shall be used only to measure local tax efforts for purposes of qualifying for state education subsidy payments and adjusting the allocations to units which qualify for these payments.

Sec. 8. 20 MRSA § 3748, sub-§ 2, 2nd sentence, as enacted by PL 1975, c. 660, § 2, is amended to read:

The sum thus obtained shall become the basis for allocation to the unit, subject to adjustments as defined under ~~subsection~~ subsections 3 and 3-A.

Sec. 9. 20 MRSA § 3748, sub-§ 3, ¶ E, 2nd sentence, as amended by PL 1975, c. 746, § 24-O, is further amended to read:

The number of pupils in excess of 3% increase shall be multiplied by the appropriate per pupil rate as established in ~~this~~ section 3747 to determine the allowable adjustment.

Sec. 10. 20 MRSA § 3748, sub-§ 3-A is enacted to read:

3-A. Adjustment for the minimum local property tax effort for education. The sum obtained as the result of the computation of allocations under subsections 1 and 2 and the adjustments under subsection 3, paragraphs A, B and D shall be reduced by the amount of revenue that can be raised in the municipality or the municipalities constituting the district if a minimum local property tax effort for education, as provided in section 3747, subsection 9, is made. Any unit which raises less than its allocation as determined in this section and makes less than the minimum local property tax effort for education shall receive no state education subsidy payments under this chapter. No municipality within an administrative unit shall be required to raise more than its portion of the unit's allocation. When any municipality within an administrative unit makes the minimum local property tax effort for education and raises less than its portion of the unit's allocation, the commissioner shall adjust the allocation to the unit to reflect an amount which is equivalent to

the difference between the amount raised by this effort and the municipality's portion of the unit's allocation. For any municipality within an administrative unit, its portion of the unit's allocation shall be the same percentage of that allocation as the total resident pupils of the municipality is of the total resident pupils of the administrative unit.

If a municipality or the municipalities constituting a district do not raise and appropriate a sum equal to what would be generated by the minimum local property tax effort for education, then upon written petition to the State Board of Education, within 45 days of the decision on the local tax effort, by 10% of the number of voters in the unit voting for the gubernatorial candidates at the most recent statewide election alleging that the municipality or district has not made the minimum local property tax effort for education, the State Board of Education shall conduct an investigation to determine whether the unit has made such an effort. If after due notice and public hearing the State Board of Education determines that the unit has not made such an effort, the State Board of Education may compel the municipality or municipalities constituting a district to make the minimum local property tax effort for education. The State Board of Education is authorized to promulgate reasonable, procedural rules and regulations to implement the disposition of any petition filed under this section.

Sec. 11. 20 MRSA 3748, sub-§ 4, as repealed and replaced by PL 1975, c. 746, § 24-P, is repealed and the following enacted in its place:

4. Optional local appropriations with state participation. The legislative body of any administrative unit may, in addition to the unit's allocation under this section, authorize an additional expenditure for either elementary or secondary pupils, or both, not to exceed a local appropriation of 2 mills on the state valuation in effect on July 1st. Such local appropriations shall be divided equally over a 12-month period and shall not exceed a 1/6 mill levy per month for each month in the unit's fiscal year. The commissioner is required to compute the maximum per pupil amount annually as follows.

The total basic education allowance as set by the Legislature under section 3747, minus the amount of that allocation entitled debt service, shall be divided by the average number of resident pupils on April 1st and October 1st of the latest calendar year. The result shall be multiplied by 12% to determine the maximum allowable per pupil appropriation with state participation. The amount thus determined shall be rounded down to the nearest multiple of \$5.

The maximum levy on the municipality within an administrative unit shall not exceed 1/2 of the dollar allowance for each mill levied on that municipality. If the additional school levy authorized under this subsection fails to produce 1/2 of the per pupil amount per mill levied, the commissioner shall add to the allocation of the unit for the unit's fiscal year a sum which, when combined with the local levy under this section, shall equal 1/2 the per pupil rate as set by the commissioner, for each mill levied. Said sum shall be paid annually to the administrative unit no later than December 31st for the previous 12-month period. Administrative units are authorized to establish an "accounts receivable" in anticipation of state aid under this section when the fiscal year

closes on June 30th. The funds appropriated under this section shall be called optional funds with state participation.

The purpose of these appropriations is to provide that all administrative units may raise and appropriate moneys in addition to the basic education allocation less debt service. The Legislature shall annually appropriate an amount equal to the maximum state obligation under this section. The amount appropriated under section 3747, subsection 7, shall be the maximum state obligation under this subsection. An article in substantially the following form is to be used when any municipality, school administrative district or community school district is considering the appropriation of additional local funds under this subsection.

**Article :** To see what sum the municipality or district will authorize to be expended from optional local appropriations with state participation for school purposes, and to see if the municipality or district will raise and appropriate its local share.

Recommended: Local share	\$ _____
State share	\$ _____
Total optional funds approved under the provisions of 20 MRSA, section 3748, subsection 4	\$ _____

Sec. 12. 20 MRSA § 3748, § 4-A is enacted to read:

**§ 4-A. Local appropriations without state participation**

Local units are authorized to raise funds for education in the following amounts:

1. Minimum local property tax for education. The amount raised as the minimum local property tax for education;
2. Optional local appropriations with state participation. The amount, not to exceed 2 mills, raised as optional local appropriations with state participation;
3. Amount actually budgeted minus unit's allocation. The amount which can be determined by subtracting the unit's allocation, prior to the adjustment in section 3748, subsection 3-A from the amount actually budgeted by the unit for education costs in the year prior to the year of allocation of funds.

No unit shall appropriate toward its total education costs an amount exceeding the local allocation as provided and adjusted under subsections 1, 2, 3, 3-A and 4 and any other amounts, as provided under this subsection. If any unit petitions to the State Board of Education and demonstrates that unusual circumstances require additional appropriations and expenditures in order to avoid serious educational hardship in the unit, the State Board of Education shall grant authority to the unit to make additional appropriations for school purposes. Moneys appropriated under such a special grant of authority by the State Board of Education shall not be included in any future calculations of the state or local average per pupil operating costs and shall be reported as

local funds without state participation in future calculations of the actual costs of education as provided in section 3744, subsection 1, paragraph O.

**Sec. 13.** 20 MRSA § 3748, sub-§ 9, as enacted by PL 1975, c. 660, § 2, is repealed.

**Sec. 14.** 20 MRSA § 3749, as amended by PL 1975, c. 746, § 24-V, is repealed.

**Sec. 15.** 20 MRSA § 3750, as repealed and replaced by PL 1975, c. 746, § 24-X, is repealed and the following enacted in its place:

**§ 3750. Major capital projects**

In the event an administrative unit undertakes major capital projects without the approval of the State Board of Education, those projects shall meet the requirements of all other statutes and shall not be reimbursed with state funds.

**Sec. 16.** 30 MRSA § 5055, sub-§ 2, as last amended by P & SL 1971, c. 146, § E, § 1, is further amended by adding at the end the following new paragraph:

An amount equal to 8% of the estimated revenues received from the sales and use taxes collected under Title 36, Part 3, and the income taxes collected under Title 36, Part 8, shall be appropriated to the Local Government Fund.

**Sec. 17.** 30 MRSA § 5055, sub-§ 5, as last amended by P & SL 1975, c. 147, § C, § 15, is repealed and the following enacted in its place:

5. Treasurer of State. An amount equal to 8% of the receipts from the taxes imposed under Title 36, Parts 3 and 8, and credited to the General Fund shall be transferred by the Treasurer of State to the Local Government Fund on the first day of each month.

Commencing July 1, 1978, balances in the Local Government Fund as of the first day of each month shall be distributed on the 20th day of each month in the following manner:

**A.** Each municipality shall receive the amount it received for that month during the year 1977-78; and either of the following, whichever is the greater:

(1) 1/12 of the reimbursement for revenue loss as defined in section 5056; or

(2) The allocation the municipality would receive if the amount in the Local Government Fund less the amount distributed as reimbursement for the revenue loss in the previous month, that exceeds the amount that was in the fund on the first day of the corresponding month in the year 1976-77, were distributed in accordance with subsection 3;

**B.** After allocations have been made under subsection 5, paragraph A, the remaining balances in the Local Government Fund shall be distributed in accordance with subsection 3 to only those municipalities that did not receive reimbursements under subsection 5, paragraph A, subparagraph (1).

Sec. 18. 30 MRSA § 5056, sub-§ 2, as enacted by PL 1973, c. 592, § 2, is repealed and the following enacted in its place:

2. Reimbursements for revenue loss. The Treasurer of State shall make reimbursements for revenue loss in accordance with section 5055, subsection 5.

Sec. 19. 36 MRSA § 451, as repealed and replaced by PL 1975, c. 660, § 5, is repealed and the following enacted in its place:

#### § 451. Rate of tax

1. Property tax for expenses of local and State Government. For necessary expenses of local and State Government, the Legislature shall annually, prior to April 1st, enact legislation establishing a local and State Government tax rate which shall be assessed upon each municipality and the unorganized territory. For the year beginning July 1, 1977 and ending June 30, 1978, the rate shall be 22 $\frac{3}{4}$  mills. In each municipality, the tax assessed under this subsection shall be paid when collected to the treasurer thereof to be disbursed by him for the necessary expenses of local government as determined or appropriated by the legislative body of that municipality within the purposes specified in Title 30. The tax assessed under this subsection upon the unorganized territory shall be paid to the State.

2. Determination. The State Tax Assessor shall determine the amount to be assessed on each municipality and the unorganized territory. That rate shall never exceed whatever shall from time to time be the weighted average municipal tax rate. The "weighted average municipal tax rate" means the total municipal property taxes levied statewide for the previous year, as determined by the State Tax Assessor from the annual return of municipalities in effect for the previous year. The valuation as determined by the State Tax Assessor, as set forth in the statement filed by him as provided by section 305, subsection 1, shall be the basis for the computation and apportionment of the tax assessed.

The method for determining the amount of state tax from each municipality in a calendar year is to add the state tax for the period January 1st to June 30th of the same calendar year to the state tax for the period July 1st to December 31st of the same calendar year. The state tax as determined for a fiscal year is to be divided by 2 to establish the amount of tax for the period July 1st to December 31st or January 1st to June 30th.

The State Tax Assessor shall, before July 1st annually, determine the amount of state tax to be assessed and collected for the year in the unorganized territory. The rate of taxation in the unorganized territory is to be determined by dividing the amount of state tax by the total valuation of taxable property in the unorganized territory on April 1st of the same year.

Sec. 20. 36 MRSA § 452, as repealed and replaced by PL 1975, c. 660, § 5, is repealed and the following enacted in its place:

#### § 452. Assessment of state property tax

On July 1st annually the state tax described in section 451 is to be assessed for the fiscal year ending June 30th of the following calendar year.



As soon as practicable after April 1st annually, the State Tax Assessor shall certify to each municipality the amount of state tax due under section 451 in the current calendar year. The State Tax Assessor shall send the certification to the municipal officers of each municipality requiring them to assess the sum so certified, according to the law for the assessment of taxes and add the amount of this tax to the amount of county and municipal taxes to be by them assessed in their municipality.

Sec. 21. 36 MRSA § 453, as amended by PL 1975, c. 754, § 6, is repealed.

Sec. 22. 36 MRSA § 453-A, as enacted by PL 1975, c. 754, § 7, is repealed.

Sec. 23. 36 MRSA c. 108 is enacted to read:

#### CHAPTER 108

### INDUSTRIAL, COMMERCIAL AND AGRICULTURAL EXEMPTIONS

#### § 1351. Excise tax

Persons owning or possessing property in the following categories shall, for the taxable year beginning April 1, 1977, be subject to an excise tax on the privilege of engaging in industrial, commercial or agricultural enterprise within this State:

1. Industrial inventories. Industrial inventories, including raw materials, goods in process and finished work on hand;
2. Stock in trade. Stock in trade, including inventory held for resale by a distributor, wholesaler, retail merchant or service establishment;
3. Agricultural produce. Agricultural produce and forest products, including logs, pulpwood, woodchips and lumber;
4. Livestock. Livestock, including farm animals, neat cattle and fowl.

#### § 1352. Levy on just value of certain property

The excise tax levied under this chapter shall be assessed on the just value of the average amount of property enumerated in section 1351 kept on hand for sale or for processing during the taxable year at the rate of 12 mills beginning April 1, 1976, through March 31, 1977, or any portion of that period that persons subject to the tax owned or possessed such property.

#### § 1353. Place of assessment

The excise taxes levied under this chapter shall be assessed in the place where the property is found to the owner, the person in possession, or to the person owning as occupying any store, storehouse, shop, mill, wharf, landing, shipyard, or other place therein where such property is.

#### § 1354. Exemptions

The exemptions applicable to personal property under chapter 105 except those provided under section 655, subsection 1, paragraphs A, B, C and D shall apply to excise taxes under this chapter.

**§ 1355. Manner of assessment and collection.**

**Excise taxes levied under this chapter shall be assessed, collected and enforced in the same manner as personal property taxes under chapter 105.**

**Sec. 24. Transition.** For the month of July, 1978, and for the purposes of Title 30, section 5055, subsection 5, paragraph A, subparagraph (2), the amount distributed as reimbursement for revenue loss in the previous month shall be  $\frac{1}{12}$  of the amount distributed in fiscal year 1977-78.

**Sec. 25. Appropriation.** There is appropriated from the General Fund to the Bureau of Property Taxation the sum of \$7.4 million for fiscal year 1977-78 to be used to reimburse municipalities for revenue loss as provided in Title 30, section 5056.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved, except sections 16, 17, 18 and 23 which shall take effect July 1, 1978, and sections 1 to 15 and 19 to 22 which shall be effective from July 1, 1977, to June 30, 1978.

## STATEMENT OF FACT

This bill relates to both school finance and the reimbursement for the change in the inventory tax.

### SCHOOL FINANCE PROVISIONS

This bill will:

1. Retain the existing allocation method for the distribution of the state's share of education costs. The Legislature would determine total education costs and unit allocations on a per pupil basis.
2. Eliminate the uniform state property tax. The estimated cost is \$5.9 million.
3. Require a minimum local property tax effort equal to the unit's allocation, or an amount raised by 12 mills times the state valuation of the unit, for 1977-78, whichever is lower.
4. Enlarge the local leeway provision by permitting the state's share to increase up to 12% above the allocation, exclusive of debt. The state's maximum exposure would be approximately \$2 million over that provided in present law, \$90/pupil.
5. Set the per pupil operating costs at \$840/pupil elementary and \$1,185/pupil secondary. The estimated cost is \$3 million above the commissioner's proposal, \$830/\$1,162.
6. Establish a maximum local expenditure ceiling which would be the sum of the minimum local property tax effort, local optional funding up to 2 mills and an additional amount which represents the difference between the unit's

actual budget levels in the year prior to the year of allocation and the level of allocation in the year of the allocation of funds.

### **INVENTORY TAX PROVISIONS**

1. In 1978-79 and thereafter, the Local Government Revenue Sharing Fund would be increased to 8% adding approximately \$14 million in 1978-79.

2. In 1978-79 and thereafter, municipalities would receive the same revenue sharing allocation they received in 1977-78 and in addition the 1973 inventory reimbursement amount from communities which have been receiving a state reimbursement for inventory tax losses. Their proposal includes a "hold-harmless" concept.

3. Municipalities receiving reimbursement would not receive a share of any revenue growth, from the base year 1977-78, in the Local Government Fund until such time that their share of the Local Government Fund growth equals the 1973 reimbursement amount. Thereafter municipalities would receive their full share of the revenue sharing fund.

4. In 1978-79 and thereafter, those municipalities that do not receive inventory reimbursements would share in the undistributed revenue sharing growth until reimbursements are no longer made to other communities.

5. Because complete assumption of inventory revenue loss reimbursements may not be possible in 1977-78, it is proposed that an excise tax be assessed against business and agricultural inventories in 1977-78 only. This would generate approximately \$6.8 million and the state general fund obligation would be approximately \$7.4 million.