

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1068

S.P. 391

In Senate, March 28, 1995

An Act to Change the Method of Computing the Hospital Tax.

(EMERGENCY)

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator PENDEXTER of Cumberland.
Cosponsored by Representative WINGLASS of Auburn and
Senators: ABROMSON of Cumberland, AMERO of Cumberland, BEGLEY of Lincoln,
BENOIT of Franklin, BUTLAND of Cumberland, CAREY of Kennebec, CARPENTER of
York, CASSIDY of Washington, ESTY of Cumberland, FERGUSON of Oxford,
GOLDTHWAIT of Hancock, HALL of Piscataquis, HANLEY of Oxford, HARRIMAN of
Cumberland, HATHAWAY of York, KIEFFER of Aroostook, LAWRENCE of York, LORD
of York, MICHAUD of Penobscot, MILLS of Somerset, PARADIS of Aroostook, PINGREE
of Knox, RAND of Cumberland, RUHLIN of Penobscot, SMALL of Sagadahoc, STEVENS
of Androscoggin, Representatives: AIKMAN of Poland, AULT of Wayne, BAILEY of
Township 27, BARTH of Bethel, BIGL of Bucksport, BIRNEY of Paris, BUCK of Yarmouth,
CAMERON of Rumford, CAMPBELL of Holden, CARLETON of Wells, CHICK of
Lebanon, CLARK of Millinocket, CLUKEY of Houlton, CROSS of Dover-Foxcroft,
DAMREN of Belgrade, DEXTER of Kingfield, DiPIETRO of South Portland, DONNELLY
of Presque Isle, DORE of Auburn, DUNN of Gray, FARNUM of South Berwick,
FITZPATRICK of Durham, GOOLEY of Farmington, GOULD of Greenville, GUERRETTE
of Pittston, HARTNETT of Freeport, HEINO of Boothbay, HICHBORN of LaGrange, JOY of
Crystal, JOYCE of Biddeford, JOYNER of Hollis, KNEELAND of Easton, LANE of Enfield,
LEMONT of Kittery, LIBBY of Kennebunk, LINDAHL of Northport,

Additional cosponsors on next page

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LOVETT of Scarborough, LUMBRA of Bangor, LUTHER of Mexico, MADORE of Augusta, MARSHALL of Eliot, MARVIN of Cape Elizabeth, MAYO of Bath, McALEVEY of Waterboro, McELROY of Unity, MURPHY of Berwick, NICKERSON of Turner, OTT of York, PEAVEY of Woolwich, PERKINS of Penobscot, PINKHAM of Lamoine, POIRIER of Saco, POVICH of Ellsworth, REED of Falmouth, REED of Dexter, RICE of South Bristol, RICKER of Lewiston, ROBICHAUD of Caribou, SAVAGE of Union, SIMONEAU of Thomaston, SPEAR of Nobleboro, STEDMAN of Hartland, STONE of Bangor, TAYLOR of Cumberland, TRIPP of Topsham, TRUE of Fryeburg, TUFTS of Stockton Springs, UNDERWOOD of Oxford, VIGUE of Winslow, WATERHOUSE of Bridgton, WHITCOMB of Waldo, WINSOR of Norway, YACKOBITZ of Hermon.

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

4 **Whereas,** the current law taxing hospitals in the State
6 calculates an assessment based on regulatory calculations that do
not reflect the actual revenues received by these hospitals for
8 services provided; and

10 **Whereas,** the current system of taxation is causing financial
hardship for a number of these hospitals in the State,
12 threatening the financial capability of hospitals to continue
providing access to health care to all residents of the State; and

14 **Whereas,** the current method of computing the tax generates
16 revenues in excess of the amounts reasonably expected by the
Legislature when the tax was first established, due to increases
18 in hospital revenue limits that have not been matched by
increases in actual revenues; and

20 **Whereas,** the current system of taxation will continue to a
22 new fiscal year unless revisions take effect immediately; and

24 **Whereas,** in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
26 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
28 safety; now, therefore,

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

32 **Sec. 1. 36 MRSA §2801-A, sub-§1,** as amended by PL 1991, c.
780, Pt. R, §6, is repealed and the following enacted in its
34 place:

36 1. Method of assessment. Assessments must be calculated as
follows.

38 A. For hospital payment years as defined in Title 22,
40 section 382 that end in state fiscal years 1991-92, 1992-93,
42 1993-94 and 1994-95, each hospital licensed under Title 22,
44 chapter 405, excluding state hospitals, must be assessed 6%
of the hospital's final gross patient service revenue limit
as established by the Maine Health Care Finance Commission.

46 B. For hospital payment years that end in state fiscal year
48 1995-96 and following state fiscal years, each hospital
licensed under Title 22, chapter 405, excluding state
hospitals, must be assessed 6% of the hospital's acute care

2 net revenues collected for services rendered during that
3 payment year. For purposes of this section, "acute care net
4 revenues" means the total amount actually received by the
5 hospital during the payment year as payment for acute care
6 services provided to its patients. Acute care net revenues
7 must be calculated by deducting bad debt and charity care
8 expenses from the net revenues of the hospital as reported
9 on its audited financial statements or such other method as
10 may be consistent with generally accepted accounting
11 principles.

12 **Sec. 2. 36 MRSA §2801-A, sub-§§2 and 3**, as enacted by PL 1991,
13 c. 591, Pt. Q, §8, are repealed and the following enacted in
14 their place:

15 **2. Notice.** For the payment year ending in state fiscal
16 year 1995-96 each hospital must be notified in writing by the
17 Bureau of Taxation of the estimated assessment for the payment
18 year no later than September 1, 1995. For subsequent payment
19 years, each hospital must be notified no less than 30 days prior
20 to the beginning of each payment year.

21 **3. Estimated assessments.** Estimated assessments must be
22 calculated as follows.

23 **A.** For payment years ending in state fiscal year 1994-95 or
24 a prior fiscal year, estimated assessments must be based on
25 the proposed gross patient service revenue limit established
26 by the Maine Health Care Finance Commission with adjustment
27 for modifications. If the commission makes an interim
28 adjustment under Title 22, section 398, subsection 2, no
29 change in the assessment may be made until the final
30 assessment is determined.

31 **B.** For payment years ending in state fiscal year 1995-96
32 and following state fiscal years, estimated assessments must
33 be based on the hospital's acute care net revenues as shown
34 on the hospital's financial statements for the fiscal year
35 ending 2 years prior to the first day of the current payment
36 year. These revenues must be multiplied by the factor used
37 by the Executive Director of the Maine Health Care Finance
38 Commission to compute the adjustment for the impact of
39 inflation under Title 22, section 396-D, subsection 1, for
40 the payment year to which the estimated assessment will
41 apply. If the factor used by the executive director for the
42 applicable payment year is not yet available, the estimated
43 assessment may be computed using the inflation factor
44 applied by the Maine Health Care Finance Commission in
45 establishing revenue limits for the immediately preceding
46 payment year.

2 **Sec. 3. 36 MRSA §2801-A, sub-§4**, as corrected by RR 1991, c.
1, §56, is repealed and the following enacted in its place:

4 **4. Basis of final assessments; reporting.** Following the
6 close of each payment year, a final assessment must be
8 established as follows.

10 A. For hospital payment years ending prior to the close of
12 state fiscal year 1994-95, the Bureau of Taxation shall base
14 each hospital's final assessment on the final decision and
16 order of the Maine Health Care Finance Commission issued
18 after the close of a payment year to determine compliance by
20 a hospital with its revenue limits and the final obligations
22 of its payors according to Title 22, section 396-I. The
24 commission shall promptly report its final decision to the
26 Bureau of Taxation. Upon notice, the Bureau of Taxation
28 shall promptly report to the affected hospital the Maine
30 Health Care Finance Commission's final decision and order as
32 it affects the final assessment of the hospital under this
34 section for the payment year involved.

36 B. For hospital payment years ending in state fiscal year
38 1995-96 and following state fiscal years, the Bureau of
40 Taxation shall base each hospital's final assessment on
42 audited financial statements that report the hospital's
44 acute care net revenues. Each hospital shall provide
46 audited financial statements containing the information
48 necessary to determine its acute care net revenues to the
50 Bureau of Taxation no later than 30 days following the final
decision and order of the Maine Health Care Finance
Commission issued after the close of the payment year to
which the assessment applies to determine compliance by a
hospital with its revenue limits and the final obligations
of its payors under Title 22, section 396-I. Upon receipt
of audited financial statements, the Bureau of Taxation
shall promptly report to the affected hospital its
computation of the final assessment under this section for
the payment year involved.

C. If the estimated assessment paid exceeds the actual
liability, a refund must be authorized by the Bureau of
Taxation in the amount of the excess payment. The refund
must be paid from the Medical Care - Payments to Providers
Special Revenue Account.

If the estimated assessment paid is less than the actual
liability, the underpayment must be assessed and payment to
the Bureau of Taxation is due within 30 days of notice.

2 **Sec. 4. 36 MRSA §2801-A, sub-§§10 and 11** are enacted to read:

4 **10. Transition.** For those hospital payment years for which
6 the Bureau of Taxation has determined an estimated annual
8 assessment based upon the hospital's proposed gross patient
10 service revenue limit but to which a final assessment based upon
12 actual net revenues must be applied under this section, the
14 Bureau of Taxation shall determine a revised, estimated
16 assessment within 30 days of receipt from the affected hospital
18 of financial statements providing the information necessary to
20 compute an estimate under subsection 3, paragraph B. For each
22 month of the payment year following the date on which the
24 hospital filed financial statement information with the Bureau of
26 Taxation sufficient to compute a revised, estimated assessment,
28 the hospital's monthly payment under subsection 5 must be the
30 lesser of 1/12 of the originally determined, estimated assessment
32 and 1/12 of the revised, estimated assessment.

34 **11. Repeal.** This section is repealed July 1, 1997.

Emergency clause. In view of the emergency cited in the
preamble, this Act takes effect when approved.

STATEMENT OF FACT

 This bill changes the basis of the hospital tax from 6% of
maximum allowed gross revenue to 6% of net revenue actually
received.

 The bill also revises the method of estimating the tax and
provides a transition for those payment years for which an
estimated assessment has already been calculated using the old
method. The bill repeals the hospital tax effective July 1, 1997.