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MAJORITY TAXATION

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STATE OF MAINE HOUSE OF REPRESENTATIVES 120TH LEGISLATURE SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1581, L.D. 2086, Bill, "An Act to Implement the Recommendations of the Education Funding Reform Committee"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 5 MRSA §1513, sub-§1, as corrected by RR 1999, c. 2, §1, is amended to read:

1. Maine Rainy Day Fund. As the first priority before any other transfer, the State Controller shall at the close of each fiscal year reserve from the unappropriated surplus of the General Fund an amount equal to 1/2 25% of the excess of total General Fund revenues received over accepted estimates in that fiscal year and transfer that amount to the Maine Rainy Day Fund at the beginning of the next fiscal year. Accepted revenue estimates may not be increased after adjournment of each First Regular Session of the Legislature except as provided. For the first year of the biennium, revenue estimates for the 2nd year of the biennium may be adjusted once during the Second Regular Session of the Legislature. Accepted revenue estimates may be increased for other fiscal periods only if an amount not to exceed 1/2 25% of the increase is transferred by the State Controller to the Rainy Day Fund at the same time from the unappropriated surplus of the General Fund. The fund may not exceed 6% of the total General Fund revenues received in the immediately preceding fiscal year and may not lapse, but remains in a continuing carrying account to carry out the purposes of this section. A reduction in the fund is not necessary in the event the total General Fund revenues received in the immediately preceding fiscal year are less than the total General Fund

COMMITTEE AMENDMENT

revenues received in the fiscal year 2 years previous and if the fund is at its 6% limit.

Sec. 2. 5 MRSA §1521 is enacted to read:

§1521. Education Funding Stabilization Fund

1. Education Funding Stabilization Fund. The Education Funding Stabilization Fund, referred to in this section as the "fund," is established to be used solely for meeting the State's share of the cost of funding public education from kindergarten to grade 12.

2. Definitions. For the purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Funding public education from kindergarten to grade 12" has the same meaning as provided in Title 20-A, section 15658-A.

3. Transfers to fund. As an equal priority with the transfer required under section 1513, the State Controller shall, at the close of each fiscal year, beginning with fiscal year 2003-04, reserve from the unappropriated surplus of the General Fund an amount equal to 25% of the excess of total General Fund revenues received over accepted estimates in that fiscal year and transfer that amount to the fund at the beginning of the next fiscal year. Accepted revenue estimates may not be increased after adjournment of each First Regular Session of the Legislature except as provided. For the first year of the biennium, revenue estimates for the 2nd year of the biennium may be adjusted once during the Second Regular Session of the Legislature. Accepted revenue estimates may be increased for other fiscal periods only if an amount not to exceed 25% of the increase is transferred by the State Controller to the Maine Rainy Day Fund at the same time from the unappropriated surplus of the General Fund.

4. Transfers from fund. Money in the fund may be allocated only for the purpose of meeting the State's share of the cost of funding public education from kindergarten to grade 12 and only upon a 2/3 vote of the Legislature.

5. Nonlapsing fund. Any unexpended balance in the fund may not lapse, but must be carried forward.

6. Investment of funds. The money in the fund may be invested as provided by law with the earnings credited to the fund.

2 **Sec. 3. 20-A MRSA §15617, sub-§1, ¶B**, as amended by PL 1993,
c. 435, §6, is further amended to read:

4 B. A summary of anticipated revenues and estimated school
6 expenditures for the fiscal year; and

8 **Sec. 4. 20-A MRSA §15617, sub-§1, ¶C**, as enacted by PL 1993,
c. 435, §7, is amended to read:

10 C. The following statement, including the estimated dollar
12 amount of state retirement payments: "This budget does not
14 include the estimated amount of \$..... in employer share
of teacher retirement costs that is paid directly by the
16 State." State"; and

18 **Sec. 5. 20-A MRSA §15617, sub-§1, ¶D** is enacted to read:

20 D. A statement indicating the estimated impact of the
budget document, if approved, on property tax mill rates for
education for all classes of property within the
municipalities that are part of the unit.

24 **Sec. 6. 20-A MRSA §15658-A** is enacted to read:

26 **§15658-A. Funding public education from kindergarten to grade 12**

28 "Funding public education from kindergarten to grade 12" has
the following meanings under the following circumstances.

30 **1. Before implementation of essential programs and services**
model. In fiscal year 2003-04, and in any succeeding year before
an essential programs and services model is in effect, "funding
public education from kindergarten to grade 12" means the sum of:

36 A. The total allocation amount for that year, as defined in
section 15603, subsection 28 as adjusted by section 15658;

38 B. All adjustments for that year listed in sections 15612
and 15613; and

40 C. The additional local appropriation amount for the prior
year.

42 **2. At implementation of essential programs and services**
model. Beginning in the first year in which an essential
programs and services model is in effect, "funding public
education from kindergarten to grade 12" means the total costs of
the essential programs and services components that must be
funded that year pursuant to the transition plan that is in

effect for that year plus the state and local share amounts for any nonredundant components of the School Finance Act of 1985 and the School Finance Act of 1995 that remain in effect for that year.

3. Municipalities that are part of school administrative district or community school district. For a municipality that is a member of a school administrative district or a community school district as defined in section 1, "funding public education from kindergarten to grade 12" means the amount that is calculated under subsection 1 or subsection 2 for the school administrative district or the community school district of which the municipality is a member. For a municipality that is a member of a community school district and that also operates a municipal school unit as defined in subsection 1, "funding public education from kindergarten to grade 12" means the sum of amounts that are calculated under subsection 1 or subsection 2 for the community school district and the municipal school unit.

Sec. 7. 30-A MRSA §2523, sub-§6 is enacted to read:

6. Budgetary articles. With respect to any town meeting warrant that contains one or more budgetary articles that, if enacted, would have an impact on municipal expenditures for public education for kindergarten to grade 12, a statement must be printed on the article indicating the estimated impact of the budget document, if approved, on property tax mill rates for education for all classes of property within the municipality.

Sec. 8. 30-A MRSA §5731 is enacted to read:

§5731. Budget statement

A statement must be printed on the municipal budget document that is prepared for public hearing in any suitable location at the beginning of the document, indicating the estimated impact of the budget document, if approved, on property tax mill rates for education for all classes of property within the municipality.

Sec. 9. 36 MRSA §507, as amended by PL 1997, c. 643, Pt. HHH, §2 and affected by §10, is further amended to read:

§507. Taxpayer information

When a municipality issues a property tax bill to each taxpayer, each bill must contain a statement or calculation that demonstrates the amount or percentage by which the taxpayer's tax has been reduced by the distribution of state-municipal revenue sharing, ~~state reimbursement for the Maine resident homestead property tax exemption~~ and state aid for education. ~~The property~~

~~tax bill must contain a statement of the assessed value of a homestead, before and after the calculation of a Maine resident homestead property tax exemption, and the amount of the exemption applied to the homestead. The State Tax Assessor shall annually provide each municipality with the amount of state-municipal revenue sharing and state aid for education subject to identification under this section.~~

Each property tax bill issued with respect to a property tax year beginning on or after April 1, 2004 must also contain the following statement, including the appropriate values accurately calculated:

"In 2002, the Legislature and the voters established a maximum equalized property tax rate of 12 mills for secondary residential property and 6 mills for all other property for the purpose of financing public education from kindergarten to grade 12, beginning in 2004. A school administrative unit may adopt a budget that results in mill rates higher than 6 mills for primary residential property. Before these changes went into effect, the property tax rate for education purposes in (name of municipality) was _____ mills and the property tax rate for municipal and county purposes was _____ mills. The property tax rate for education reflected in this bill for property subject to the 6 mill limitation is _____ mills and for municipal, county and all other purposes is _____ mills."

Each property tax bill issued by a municipality shall must clearly state the amount of the tax bill that is attributable to the cost of education, the amount attributable to county taxes, the amount attributable to the remainder of the municipal budget and the date interest will begin to accrue on delinquent taxes.

Sec. 10. 36 MRSA c. 105, sub-c. I-A is enacted to read:

SUBCHAPTER I-A

PROPERTY TAX CONTRIBUTION TO PUBLIC EDUCATION

§511. Purpose

This subchapter implements the 2002 amendment of Article IX, Section 8 of the Constitution of Maine, which authorizes the Legislature to establish limits on the equalized property tax rates that must be paid for the purposes of funding public education from kindergarten to grade 12.

§512. Definitions

For the purposes of this subchapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Funding public education from kindergarten to grade 12. "Funding public education from kindergarten to grade 12" has the same meaning as in Title 20-A, section 15658-A.

2. Permanent residence. "Permanent residence" means the place where an individual has a true, fixed and permanent home and principal establishment to which the individual, whenever absent, has the intention of returning. An individual may have only one permanent residence at a time and, once permanent residence is established, that residence is presumed to continue until circumstances indicate otherwise.

3. Primary residential property. "Primary residential property" means any residential property in this State assessed as real property owned by a resident of the property or held in a revocable living trust for the benefit of a resident and occupied by that resident as the resident's permanent residence. "Primary residential property" does not include any real property used solely for commercial, agricultural or industrial purposes.

4. Secondary residential property. "Secondary residential property" means noncommercial residential property that is not a permanent residence.

§513. Maximum mill rates established

With respect to the assessment of any property taxes for a property tax year beginning on or after April 1, 2004, the maximum property tax rate that may be applied against the value of the following classes of property for the purpose of funding public education from kindergarten to grade 12 is provided in this section. In a municipality that assesses property at a percentage other than 100% of just value, the maximum mill rates established by this section must be adjusted, in the process of assessment and prior to commitment, to the mill rate that generates the equivalent revenue that would be collected if the municipality were assessing property at 100% of just value.

1. Class A property. For secondary residential property, which may be referred to as "Class A property," the maximum mill rate is 12 mills. Mill rates applied under this subsection to Class A property may not exceed the mill rate applied to Class B property unless the mill rate applied against Class B property has reached the maximum permitted for that class.

2 2. Class B property. For property other than that listed
3 in subsection 1, which may be referred to as "Class B property,"
4 the maximum mill rate is 6 mills.

6 **§514. Exceeding mill rate limits**

8 The legislative body of a school administrative unit, as
9 defined in Title 20-A, section 1, subsection 26, may vote to
10 adopt a school budget, undertake a school construction project or
11 otherwise obligate itself to educational expenditures in such a
12 manner and to such a degree so as to require the application of
13 property tax rates that exceed the limits established by section
14 513, except that in all such circumstances other than expenses
15 for renovations the property tax rate for educational purposes
16 that exceeds the limits established by section 513 must be
17 applied against primary residential property and no other class
18 of property. Additional educational expenses for renovations may
19 be assessed against all taxable property.

20 **Sec. 11. 36 MRSA §709**, as amended by PL 1975, c. 651, §7, is
21 further amended to read:

22 **§709. Assessment and commitment**

24
25 The assessors shall assess upon the estates in their
26 municipality all taxes for public education from kindergarten to
27 grade 12 in accordance with subchapter I-A and all municipal
28 taxes and their due proportion of any state or county tax payable
29 during the municipal year for which municipal taxes are being
30 raised, make perfect lists thereof and commit the same, when
31 completed and signed by a majority of them, to the tax collector
32 of their municipality, if any, otherwise to the sheriff of the
33 county or his the sheriff's deputy, with a warrant under their
34 hands, in the form prescribed by section 753.

36 **Sec. 12. 36 MRSA §709-A, first ¶**, as amended by PL 1973, c.
37 788, §184, is further amended to read:

38
39 The municipal officers after receipt of the valuation lists
40 from the primary assessing areas shall assess upon the estates in
41 their municipality all taxes for public education from
42 kindergarten to grade 12 in accordance with subchapter I-A and
43 all municipal taxes and their due proportion of any state or
44 county tax, make perfect lists thereof and commit the same, when
45 completed and signed by a majority of them, to the tax collector
46 of their municipality, if any, otherwise to the sheriff of the
47 county or his the sheriff's deputy, with a warrant under their
48 hands in the form prescribed by section 753.

2 **Sec. 13. 36 MRSA §6207, sub-§1, ¶A-1**, as amended by PL 1997, c.
3 557, Pt. A, §3 and affected by Pt. G, §1, is further amended to
4 read:

6 A-1. Fifty percent of that portion of the benefit base that
7 exceeds -4%- 3.5% but does not exceed 8% of income plus 100%
8 of that portion of the benefit base that exceeds 8% of
9 income to a maximum payment of \$1,000.

10 **Sec. 14. Legislative duties.** During the First Regular Session of
11 the 121st Legislature, the joint standing committee of the
12 Legislature having jurisdiction over taxation matters shall
13 report out revenue neutral legislation designed to increase the
14 sales tax on meals and lodging from 7% to 8%, to expand the 5%
15 sales tax to cover sales of services not currently subject to the
16 tax and to address the progressivity of the income tax. The
17 legislation must generate the additional revenue necessary to
18 provide adequate funding for public education from kindergarten
19 to grade 12 pursuant to the Maine Revised Statutes, Title 20-A,
20 section 15658-A and may include any further legislation necessary
21 to implement the provisions of this Act.

22 **Sec. 15. Statutory referendum procedure; submission at general**
23 **election; form of question; effective date.** This Act must be submitted
24 to the legal voters of the State of Maine at the next general
25 election in the month of November following passage of this Act.
26 The municipal officers of this State shall notify the inhabitants
27 of their respective cities, towns and plantations to meet, in the
28 manner prescribed by law for holding a statewide election, to
29 vote on the acceptance or rejection of this Act by voting on the
30 following question:

32 "If an amendment to the Constitution of Maine is approved
33 permitting the Legislature to establish different maximum
34 property tax rates for different classes of property, do you
35 favor ratifying the action of the 120th Legislature whereby
36 it passed an Act establishing a maximum property tax rate of
37 12 mills for secondary residential property and 6 mills for
38 all other property, based on equalized state valuation, for
39 the purpose of supporting public education from kindergarten
40 to grade 12 and directing the taxation committee of the
41 121st Legislature to report out legislation to increase the
42 sales tax on meals and lodging to 8%, expand the sales tax
43 base to include services for the purpose of adequately
44 funding public education from kindergarten to grade 12 and
45 address the progressivity of the income tax?"

46 The legal voters of each city, town and plantation shall
47 vote by ballot on this question, and shall designate their choice
48 by a cross or check mark placed within a corresponding square
49 below the word "Yes" or "No." The ballots must be received,
50

sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns and, if it appears that a majority of the legal votes are cast in favor of the Act, the Governor shall proclaim that fact without delay, and the Act takes effect 30 days after the date of the proclamation only if the Governor has by that date also proclaimed that the Constitution of Maine has been amended to permit the Legislature to establish different maximum property tax rates for different classes of property for the purpose of funding public education from kindergarten to grade 12.

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

Sec. 16. Application. The sections of this Act that amend the Maine Revised Statutes, Title 5, section 1513 and enact Title 5, section 1521 apply to fiscal years beginning with fiscal year 2003-04.'

Further amend the bill by inserting at the end before the summary the following:

FISCAL NOTE

The estimated cost of sending these changes out to referendum will vary according to the total number of referenda enacted during the Second Regular Session of the 120th Legislature to be submitted to the voters in November. The estimated cost to the Secretary of State if one to 6 referenda are enacted is \$121,392. Each additional referendum costs an additional \$8,000.

If approved by the voters, and contingent upon approval of a constitutional amendment to allow the Legislature to establish different maximum property tax rates for different classes of property for the purpose of funding local education costs, this bill provides for the following changes.

The bill will establish equalized property tax maximum mill rates for local costs for public education from kindergarten to grade 12. Mill rates would be limited to 12 mills for secondary residential property and 6 mills for all other property. Mills raised for education in 2001-02 are 11.87 mills, or \$906.9 million. If approved, this bill would significantly reduce the amount of funds raised on the local level for education and would require the 121st Legislature to develop recommendations for the

State to generate the additional revenue necessary to fund public education from kindergarten to grade 12. The amount of additional funding needed can not be determined at this time.

The bill will establish a nonlapsing Education Funding Stabilization Fund and provide for the transfer to that fund of 50% of the amount currently transferred to the Maine Rainy Day Fund. The amounts that will be transferred to each fund can not be determined at this time. The first transfers to the Education Funding Stabilization Fund will be in fiscal year 2003-04.

The bill will require information regarding the impact of the property tax changes to be included on municipal and school budget documents and on property tax bills.

The bill will require the joint standing committee of the Legislature having jurisdiction over taxation matters of the 121st Legislature, during the First Regular Session, to report out revenue neutral legislation increasing the rate of sales tax on meals and lodging, extending the sales tax to certain services and addressing the progressivity of the income tax. The cost of the committee's work can be absorbed within the Legislature's existing budget resources.'

SUMMARY

This amendment replaces the bill. The amendment provides for a statutory referendum on establishing a cap on local property taxes of 12 mills on secondary residential property and 6 mills for all other property for the purpose of funding public education from kindergarten to grade 12. A municipality would be able to raise additional revenues for education but only from additional assessment on primary residential property. The amendment also establishes an Education Funding Stabilization Fund, funded by a portion of year-end surplus revenues for the purpose of ensuring adequate state funding for education in years when General Fund revenues do not provide adequate revenue for education funding. The amendment requires notification on local budget documents of the impact of school and municipal budgets on property tax mill rates and directs the joint standing committee of the Legislature having jurisdiction over taxation matters to report out legislation to the First Regular Session of the 121st Legislature to extend the sales tax to services not currently taxed, to increase the sales tax on meals and lodging from 7% to 8% to provide adequate funding for education and to address the progressivity of the income tax.