

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

SECOND REGULAR SESSION-2002

Legislative Document

No. 2086

H.P. 1581

House of Representatives, January 22, 2002

An Act to Implement the Recommendations of the Education Funding Reform Committee.

Reported by Representative GREEN for the Education Funding Reform Committee pursuant to Public Law 2001, chapter 439, Part SSS.

Reference to the Joint Standing Committee on Taxation suggested and printing ordered under Joint Rule 218.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

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

2 **Sec. 1. 36 MRSA §198, sub-§3, ¶B**, as enacted by PL 1999, c.
4 708, §20, is amended to read:

6 B. Chapter 105, subchapters subchapter IV and IV-B.

8 **Sec. 2. 36 MRSA §501, sub-§§1-A, 4-A, 6-A and 11** are enacted to
10 read:

12 **1-A. Commercial, agricultural and industrial property.**
14 "Commercial, agricultural and industrial property" means all real
estate and tangible personal property subject to property
taxation used or held for use for a business purpose.

16 **4-A. Permanent residence.** "Permanent residence" means that
18 place where an individual has a true, fixed and permanent home
and principal establishment to which the individual, whenever
20 absent, has the intention of returning. An individual may have
only one permanent residence at a time and, once permanent
22 residence is established, that residence is presumed to continue
until circumstances indicate otherwise.

24 **6-A. Primary residential property.** "Primary residential
26 property" means any residential property in this State assessed
as real property owned by a resident of the property or held in a
28 revocable living trust for the benefit of a resident and occupied
by that resident as the resident's permanent residence. "Primary
30 residential property" does not include any real property used
solely for commercial, agricultural or industrial purposes.

32 **11. Tracts of undeveloped property not enrolled in a**
34 **current use taxation program.** "Tracts of undeveloped property
not enrolled in a current use taxation program" means any
36 separately deeded parcel of land 10 acres or greater in size that
is completely undeveloped and supports no buildings, improvements
38 or structures of any kind and that is not classified for current
use taxation under subchapter II-A or subchapter X.

40 **Sec. 3. 36 MRSA §507**, as amended by PL 1997, c. 643, Pt. HHH,
42 §2 and affected by §10, is further amended to read:

44 **§507. Taxpayer information**

46 When a municipality issues a property tax bill to each
48 taxpayer, each bill must contain a statement or calculation that
50 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

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

9
10 Each property tax bill issued with respect to a property tax
11 year beginning on or after April 1, 2004 must also contain the
12 following statement, including the appropriate values, accurately
13 calculated:

14 "In 2002, the Legislature and the voters established a
15 maximum property tax rate limit of 6 mills to be applied
16 against the just value of primary residential property,
17 commercial, agricultural and industrial property and tracts
18 of undeveloped property not enrolled in a current use
19 taxation program for the purpose of financing public
20 education from kindergarten to grade 12, beginning in 2004.
21 Before these changes went into effect, the property tax rate
22 for education purposes in (name of municipality) was
23 mills and the property tax rate for municipal and county
24 purposes was mills. The property tax rate for education
25 reflected in this bill for primary residential property,
26 commercial, agricultural and industrial property and tracts
27 of undeveloped property not enrolled in a current use
28 taxation program is mills and for municipal, county and
29 all other purposes is mills."

30
31 Each property tax bill issued by a municipality shall ~~shall~~ must
32 clearly state the date interest will begin to accrue on
33 delinquent taxes.

34 **Sec. 4. 36 MRSA c. 105, sub-c. I-A is enacted to read:**

35
36 **SUBCHAPTER I-A**

37
38 **PROPERTY TAX CONTRIBUTION TO PUBLIC EDUCATION**

39
40 **§511. Purpose**

41
42 This subchapter implements the 2002 amendment of Article IX,
43 Section 8 of the Maine Constitution, which authorizes the
44 Legislature to establish limits on the equalized property tax
45 rates that must be paid for the purposes of financing public
46 education from kindergarten to grade 12.

47
48 **§512. Maximum mill rates established**

2 With respect to the assessment of any property taxes for a
3 property tax year beginning on or after April 1, 2004, the
4 maximum property tax rate that may be applied against the value
5 of certain properties for the purpose of funding public education
6 from kindergarten to grade 12 is provided in this section. In a
7 municipality that assesses property at a percentage other than
8 100% of just value, the maximum mill rates established by this
9 section must be adjusted, in the process of assessment and prior
10 to commitment, to the mill rate that generates the equivalent
11 revenue that would be collected if the municipality were
12 assessing property at 100% of just value.

13 A. For primary residential property, commercial,
14 agricultural and industrial property, and tracts of
15 undeveloped property not enrolled in a current use taxation
16 program, the maximum mill rate is 6 mills.

17 B. For property other than that listed in paragraph A, the
18 maximum mill rate is 12 mills.

19 **§513. Exceeding mill rate limits**

20
21 The legislative body of a school administrative unit, as
22 defined in Title 20-A, section 1, subsection 26, may vote to
23 adopt a school budget, undertake a school construction project or
24 otherwise obligate itself to educational expenditures in such a
25 manner and to such a degree so as to require the application of
26 property tax rates that exceed the limits established by section
27 512, except that in all such circumstances the property tax rate
28 for educational purposes that exceeds the limits established by
29 section 512 must be applied against primary residential property
30 and no other class of property.

31 **Sec. 5. 36 MRSA c. 105, sub-c. IV-B, as amended, is repealed.**

32
33 **Sec. 6. 36 MRSA §709, as amended by PL 1975, c. 651, §7, is**
34 **further amended to read:**

35 **§709. Assessment and commitment**

36
37 The assessors shall assess upon the estates in their
38 municipality all taxes for public education from kindergarten to
39 grade 12 in accordance with subchapter I-A and all municipal
40 taxes and their due proportion of any state or county tax payable
41 during the municipal year for which municipal taxes are being
42 raised, make perfect lists thereof and commit the same, when
43 completed and signed by a majority of them, to the tax collector
44 of their municipality, if any, otherwise to the sheriff of the
45 county.

2 county or his the sheriff's deputy, with a warrant under their
hands, in the form prescribed by section 753.

4 **Sec. 7. 36 MRSA §709-A, first ¶**, as amended by PL 1973, c. 788,
§184, is further amended to read:

6
8 The municipal officers after receipt of the valuation lists
from the primary assessing areas shall assess upon the estates in
10 their municipality all taxes for public education from
kindergarten to grade 12 in accordance with subchapter I-A and
12 all municipal taxes and their due proportion of any state or
county tax, make perfect lists thereof and commit the same, when
14 completed and signed by a majority of them, to the tax collector
of their municipality, if any, otherwise to the sheriff of the
16 county or his the sheriff's deputy, with a warrant under their
hands in the form prescribed by section 753.

18 **Sec. 8. 36 MRSA §6664** is enacted to read:

20 **§6664. Phaseout of program**

22 This chapter applies only to property first placed in
service on or before April 1, 2003. Property first placed in
24 service after April 1, 2003 is not eligible for reimbursement of
property taxes under this chapter.

26
28 **Sec. 9. Legislative duties.** During the First Regular Session of
the 121st Legislature, the joint standing committee of the
Legislature having jurisdiction over taxation matters, referred
30 to in this section as the "committee," shall develop
recommendations designed to generate the additional revenue
32 necessary to fund public education from kindergarten to grade
12. The committee must be guided by this section.

34
36 1. The committee's recommendation must be designed to fund
a total allocation that is adequate to provide a high-quality
38 education for all the students in the public elementary and
secondary schools in this State and for which the entire local
share is established by the property tax rate limitations
40 established by this Act. In order to determine the total
allocation that is entirely adequate to provide a high-quality
42 education for all the students in the public elementary and
secondary schools in this State, the committee shall consult with
44 the joint standing committee of the Legislature having
jurisdiction over education matters.

46
48 2. The committee may consider increases to rates or
expansions to the base, or both, of any broad-based tax that
provides revenue to the General Fund, and the committee shall
50 give special consideration to expanding the base of the sales and

2 use tax to include services presently excluded from taxation. In
3 addition, the committee shall give consideration to converting
4 the State's sales and use tax to a gross receipts tax.

5
6 3. For the purpose of obtaining revenue to fund the State's
7 share of the total allocation for education, the committee may
8 not recommend reductions to or freezes in revenues or
9 reimbursements that historically have been provided to or shared
10 with municipalities or the payers of the property tax directly
11 beyond the repeal of the homestead property tax exemption,
12 residual savings provided by the diminishing demands on the
13 Business Equipment Tax Reimbursement Program and whatever
14 reductions in appropriations for the Maine Residents Property Tax
15 program the committee finds to be warranted in light of the
16 property tax relief provided by this Act.

17
18 4. The committee shall develop legislation establishing a
19 municipally collected and retained excise tax on certain personal
20 property, with the goals of balancing the State's interest in
21 establishing a uniform, stable and competitive industrial tax
22 obligation compared to that of other states, removing
23 disincentives to replacement or modernization of business
24 machinery and equipment and obtaining revenues from the personal
25 property tax base that the Legislature considers reasonable to
26 support municipal services and a fair share of the cost for
27 public education from kindergarten to grade 12.

28
29 5. The committee, in consultation with the joint standing
30 committee of the Legislature having jurisdiction over
31 appropriations and financial affairs and the joint standing
32 committee of the Legislature having jurisdiction over education
33 matters, shall recommend to the First Regular Session of the
34 121st Legislature an educational budget stabilization fund
35 designed to ensure that an appropriate level of educational
36 funding revenues is retained and protected during positive
37 economic periods to ameliorate the volatility of sales tax
38 revenue production.

39
40 6. The committee shall submit its recommendations to the
41 121st Legislature for consideration during the first regular
42 session. The Legislature may either adopt the recommendations or
43 send one or more recommendations to the voters in November 2003
44 for ratification.

45
46 **Sec. 10. Application date.** That section of this Act that
47 repeals the Maine Revised Statutes, Title 36, chapter 105,
48 subchapter IV-B applies to property tax years beginning on or
after April 1, 2004.

2 **Sec. 11. Effective date.** That section of this Act that repeals
the Maine Revised Statutes, Title 36, chapter 105, subchapter
IV-B takes effect April 1, 2004.

4
6 **Sec. 12. Statutory referendum procedure; submission at general
election; form of question; effective date.** This Act must be submitted
8 to the legal voters of the State of Maine at the next general
election in the month of November following passage of this Act.
10 The municipal officers of this State shall notify the inhabitants
of their respective cities, towns and plantations to meet, in the
12 manner prescribed by law for holding a statewide election, to
vote on the acceptance or rejection of this Act by voting on the
following question:

14 "If an amendment to the Constitution of Maine permitting the
16 Legislature to establish different maximum property rates is
approved, do you favor ratifying the action of the 120th
18 Legislature whereby it passed an Act establishing a maximum
property tax rate on taxes raised for education of 6 mills
20 on primary residential property, commercial, agricultural
and industrial property, and tracts of undeveloped property
22 not enrolled in a current use taxation program and 12 mills
for all other property, repealing the homestead property tax
24 exemption and directing 121st Legislature to develop
recommendations designed to generate additional revenue
26 necessary to fund the costs of public education from
kindergarten to grade 12?"

28 The legal voters of each city, town and plantation shall
30 vote by ballot on this question and shall designate their choice
by a cross or check mark placed within a corresponding square
32 below the word "Yes" or "No." The ballots must be received,
sorted, counted and declared in open ward, town and plantation
34 meetings and returns made to the Secretary of State in the same
manner as votes for members of the Legislature. The Governor
36 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
38 proclaim that fact without delay. This Act takes effect 30 days
after the date of the proclamation only if the Governor has by
40 that date also proclaimed that the Constitution of Maine has been
amended to permit the Legislature to establish different maximum
42 property tax rates for different classes of property and to
exempt personal property from property tax if certain personal
44 property is subject to an excise tax to be collected and retained
by municipalities.

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

50

2

SUMMARY

4 This bill is presented by the Education Funding Reform
6 Committee pursuant to Public Law 2001, chapter 439, Part SSS as a
8 proposal for reducing the State's reliance on the property tax
10 for funding public education. This bill is accompanied by
12 separate legislation to amend the Constitution of Maine to
14 authorize aspects of the proposed changes. A minority of the
16 committee recommends legislative adoption of this proposal. A
18 majority of the committee supports presenting the proposal for
 further consideration by the Legislature rather than as
 recommendations of the substantive changes contained in the
 committee's proposal. This bill provides that the Act must be
 submitted to the voters for approval, and, if approved, it takes
 effect only if the proposed constitutional amendment is also
 approved by the voters.

18

 This bill establishes property tax maximum mill rates for
20 local costs for public education from kindergarten to grade 12.
22 Mill rates would be limited to 6 mills for primary residential
24 property, commercial, agricultural and industrial property, and
 tracts of undeveloped property not enrolled in a current use
 taxation program and 12 mills for all other property.
 Municipalities would be able to raise additional amounts for
26 public education through the property tax but only from primary
 residential property. The bill repeals the homestead property
28 tax exemption and requires information regarding the impact of
 the changes to be included on property tax bills. The bill
30 directs the joint standing committee of the 121st Legislature
 having jurisdiction over taxation matters to develop
32 recommendations designed to generate the additional state revenue
 necessary to fund public education from kindergarten to grade
34 12. The committee is directed to give special consideration to
 sales and use tax base expansions and to consider converting the
36 State's sales and use tax to a gross receipts tax. The committee
 is also directed to recommend an excise tax on personal property
38 as partial replacement of property taxes on personal property and
 an education budget stabilization fund designed to ensure that
40 adequate funds are available for education costs during periods
 when General Fund revenues do not keep pace with education
42 costs. Recommendations developed by the committee may be enacted
 by the Legislature or submitted to the voters for approval in
44 November 2003.