

MAINE STATE LEGISLATURE

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L.D. 1629

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DATE: 8-19-03

(Filing No. H-603)

REPORT
TAXATION

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
121ST LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "E" to H.P. 1209, L.D. 1629,
"RESOLUTION, Proposing a Competing Measure under the Constitution of Maine To Create Municipal Service Districts To Reduce the Cost of Local Government, To Provide Property Tax Relief and To Increase Economic Competitiveness"

Amend the resolution by striking out the title and substituting the following:

'RESOLUTION, Proposing a Competing Measure under the Constitution of Maine To Reduce the Cost of Local Government through 55% State Funding of Public Education, To Reduce State Taxes by Requiring a 2/3 Vote To Raise Taxes, To Limit the Growth of State Spending to the Growth in State Personal Income and To Dedicate Excess Revenue To Provide Income Tax Relief'

Further amend the resolution in the first indented paragraph after the title in the last 2 lines (page 1, lines 5 and 6 in L.D.) by striking out the following: "to Enact the School Finance" and inserting in its place the following: 'To Enact the School Finance and Tax Reform'

Further amend the resolution by striking out all of Parts A to D and inserting in their place the following:

COMMITTEE AMENDMENT

PART A

2
4 Sec. A-1. 20-A MRSA §15671, sub-§7, ¶B, as enacted by PL 2003, c. 504, Pt. A, §5, is amended to read:

6 B. The annual targets for the state share percentage are as follows.

8 (1) For fiscal year 2005-06, the target is 49%.

10 (2) For fiscal year 2006-07, the target is 49.25%
12 50.5%.

14 (3) For fiscal year 2007-08, the target is 49.50% 52%.

16 (4) For fiscal year 2008-09, the target is 49.75%
18 53.5%.

20 (5) For fiscal year 2009-10 and succeeding years, the target is 50% 55%.

22 Sec. A-2. 20-A MRSA §15671-A is enacted to read:

24 §15671-A. Property tax contribution to public education

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

30 A. "Funding public education from kindergarten to grade 12"
32 means the cost of funding essential programs and services as described in this chapter plus the total allocations for program cost, debt service costs and adjustments.

34 B. "Local cost share expectation" means the maximum amount
36 of money needed for the purpose of funding public education from kindergarten to grade 12 that may be derived from property tax.

40 2. Local cost share expectation established. The local cost share expectation is established as follows.

42 A. This paragraph applies to the local cost share expectation.
44 Notwithstanding any other provision of law, with respect to the assessment of any property taxes for property tax years beginning on or after April 1, 2005, this subsection establishes the local cost share expectation that may be assessed on the value of property for the purpose of funding public education from kindergarten to grade 12. The commissioner shall annually by February 1st notify each
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2 school administrative unit of its local cost share
3 expectation. Each superintendent shall report to the
4 municipal officers whenever a school administrative unit is
5 notified of the local cost share expectation or a change
6 made in the local cost share expectation resulting from an
7 adjustment.

8 B. This paragraph applies to the calculation of the
9 full-value education mill rate. For property tax years
10 beginning on or after April 1, 2005, the commissioner shall
11 calculate the full-value education mill rate that is
12 required to raise the total of the local cost share
13 expectation for funding public education from kindergarten
14 to grade 12. The full-value education mill rate is derived
15 by dividing the applicable tax year percentage of the
16 projected cost of funding public education from kindergarten
17 to grade 12 by the certified total state valuation for the
18 year prior to the most recently certified total state
19 valuation for all municipalities. The full-value education
20 mill rate must decline over the period described in
21 subparagraphs (1) to (5) and may not exceed 10.0 mills. The
22 full-value education mill rate must be applied according to
23 section 15688, subsection 3, paragraph A to determine a
24 municipality's local cost share expectation. Full-value
25 education mill rates must be derived according to the
26 following schedule:

27 (1) For the 2005 property tax year, the full-value
28 education mill rate is the amount necessary to result
29 in a 51% local share in fiscal year 2005-06;

30 (2) For the 2006 property tax year, the full-value
31 education mill rate is the amount necessary to result
32 in a 49.5% local share in fiscal year 2006-07;

33 (3) For the 2007 property tax year, the full-value
34 education mill rate is the amount necessary to result
35 in a 48% local share in fiscal year 2007-08;

36 (4) For the 2008 property tax year, the full-value
37 education mill rate is the amount necessary to result
38 in a 46.5% local share in fiscal year 2008-09; and

39 (5) For the 2009 property tax year and subsequent
40 years, the full-value education mill rate is the amount
41 necessary to result in a 45% local share in fiscal year
42 2009-10 and subsequent years.

43 3. Exceeding local cost share expectation; referendum
44 process. Beginning with the 2009-10 school budget, the
45 commissioner shall calculate the full-value education mill rate
46 that is required to raise the total of the local cost share
47 expectation for funding public education from kindergarten
48 to grade 12. The full-value education mill rate is derived
49 by dividing the applicable tax year percentage of the
50 projected cost of funding public education from kindergarten
51 to grade 12 by the certified total state valuation for the
52 year prior to the most recently certified total state
53 valuation for all municipalities. The full-value education
54 mill rate must decline over the period described in
55 subparagraphs (1) to (5) and may not exceed 10.0 mills. The
56 full-value education mill rate must be applied according to
57 section 15688, subsection 3, paragraph A to determine a
58 municipality's local cost share expectation. Full-value
59 education mill rates must be derived according to the
60 following schedule:

legislative body of a school administrative unit may adopt property tax rates that exceed the local cost share expectation calculated under section 15688, subsection 3, paragraph A if that action is approved by the voters of the school administrative unit by referendum or the referendum validation processes authorized by sections 1305-B and 1701-B and the voters are properly notified as required by section 15617 or Title 30-A, section 2523 or 2551, as applicable.

Sec. A-3. 20-A MRSA §15684, sub-§3 is enacted to read:

3. Repeal. This section is repealed on July 1, 2005.

Sec. A-4. 20-A MRSA §15686, as enacted by PL 2003, c. 504, Pt. A, §6, is amended to read:

§15686. Transition adjustment

For each of the fiscal years described in section 15671, subsection 7, the commissioner shall establish a transition adjustment calculated to minimize the adverse fiscal impact directly---related---to that may be experienced by some municipalities as a result of the phase-in of this Act. The transition adjustment for a municipality must be directly related to the phase-in of essential programs and services and the local cost share expectation method of determining the local contribution to the cost of funding essential programs and services. The amount of this adjustment is established at \$10,000,000 for fiscal year 2005-06 and must decline with each successive fiscal year, ~~and the~~. The adjustments must end no later than fiscal year 2009-10.

Sec. A-5. 20-A MRSA §15688 is enacted to read:

§15688. School administrative unit contribution to total cost of funding public education from kindergarten to grade 12

1. School administrative unit; total cost. For each school administrative unit, the commissioner shall annually determine the school administrative unit's total cost of education. A school administrative unit's total cost of education must include:

A. The school administrative unit's total cost of funding essential programs and services subject to the transition percentages described in section 15671, subsection 7, paragraph A;

B. The program cost allocation as used in chapter 606; and

§1677. Enactment of or increase in tax or certain license fees

The following provisions apply to the enactment of or increase in a tax or certain license fees.

1. Enactment. A tax or license fee assessed by the State may not be enacted except by vote of at least 2/3 of all members of each House of the Legislature. For purposes of this section, "license fee" means license and registration fees that are assessed by the State in connection with the operation of motor vehicles on the roads and highways of the State or for the privilege of hunting or fishing, including commercial fishing, in the State;

2. Increase. A tax or license fee assessed by the State may not be increased except by vote of at least 2/3 of all members of each House of the Legislature;

3. Exemption repeal. A tax exemption may not be repealed except by vote of at least 2/3 of all members of each House of the Legislature; and

4. Exception; debt payment. To the extent necessary to make up for General Fund revenues set apart by the Treasurer of State to pay interest and principal on bonded debt as provided under the Constitution of Maine, Article V, Part Third, Section 5, the Legislature may eliminate a tax exemption without application of subsection 3 or enact a tax or license fee or increase the rate of taxes or license fees without application of subsections 1 and 2.

PART C

Sec. C-1. 5 MRSA §1514-A is enacted to read:

§1514-A. Income Tax Rate Management Fund

1. Fund established. For the purposes of reducing the volatility of state tax revenues, improving the predictability of state and local budgeting efforts and managing the State's overall tax burden, there is established the Income Tax Rate Management Fund, referred to in this section as "the fund." The fund may be used to alleviate only the characteristics of the State's income tax rate structure that concentrate the individual income tax rates within a narrow range of taxable incomes and apply the highest marginal rate to a relatively low level of taxable income. Money in the fund does not lapse, but is carried forward for the purposes of this section.

H. 518

2 2. Revenues reserved. Beginning with fiscal year 2005-06,
 4 and before making transfers required by section 1513, if the
 6 total General Fund revenues for a fiscal year, as determined by
 8 the State Controller at the close of the fiscal year, exceed
 10 those of the previous fiscal year by more than the average real
 12 personal income growth rate, as defined in section 1665,
 14 subsection 1, the State Controller shall at the close of the
 16 fiscal year reserve from amounts available from the
 18 unappropriated surplus of the General Fund an amount equal to the
 20 identified excess General Fund revenues and transfer that amount
 22 to the fund before any other transfer.

24 3. Changes to rate structure. By September 1st, annually,
 26 the State Tax Assessor shall adopt by rule changes to the
 28 individual income tax rate structure for income tax years that
 30 begin on or after January 1st of that year in accordance with
 32 this section and within the financial limits of the money
 34 available in the fund. Specifically, the assessor shall
 36 proportionately reduce the individual income tax rates to the
 38 nearest 1/10th of 1% without exceeding the amount of money
 40 available in the fund. Rules adopted under this section are
 42 routine technical rules as defined in Title 5, chapter 375,
 44 subchapter 2-A.

46 4. Transfer to General Fund. The State Controller shall
 48 transfer from the fund to the General Fund the amount certified
 50 by the State Tax Assessor as the adjustment necessary to offset
 any individual income tax revenue reduction implemented by the
 assessor pursuant to subsection 3.

Sec. C-2. 5 MRSA §1664, last ¶, as enacted by PL 2003, c. 451,
 Pt. X, §8, is amended to read:

The total General Fund appropriation for each fiscal year of
 the biennium in the Governor's budget submission to the
 Legislature may not exceed the General Fund appropriation of the
 previous fiscal year multiplied by one plus the average real
 personal income growth rate, as defined in section 1665,
 subsection 1, ~~plus the average forecasted inflation rate.~~ For
 purposes of this paragraph, ~~"average forecasted inflation rate"~~
 means ~~the average forecasted change in the Consumer Price Index~~
~~underlying the revenue projections developed by the Revenue~~
~~Forecasting Committee pursuant to chapter 151-B.~~ This
 appropriation limitation may be exceeded only by the amount of
 the additional costs or the lost federal revenue from the
 following exceptional circumstances: unfunded or under-funded new
 federal mandates; losses in federal revenues or other revenue
 sources; citizens' initiatives or referenda that require
 increased state spending; court orders or decrees that require
 additional state resources to comply with the orders or decrees;

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2 and sudden or significant increases in demand for existing state
3 services that are not the result of legislative changes that
4 increased eligibility or increased benefits. The Governor may
5 designate exceptional circumstances that are not explicitly
6 defined in this paragraph but meet the intent of this paragraph.
7 For purposes of this paragraph, "exceptional circumstances" means
8 an unforeseen condition or conditions over which the Governor and
9 the Legislature have little or no control. Exceptional
10 circumstances do not apply to new programs or program expansions
11 that go beyond existing program criteria and operation.

12 **PART D**

14 **Sec. D-1. 36 MRSA §4641-B, sub-§3**, as enacted by PL 2001, c.
15 559, Pt. I, §4 and affected by §15, is amended to read:

16 **3. Disposition of funds.** Each register of deeds shall, on
17 or before the 10th day of each month, pay over to the State Tax
18 Assessor 90% of the tax collected pursuant to this section during
19 the previous month. The remaining 10% must be retained for the
20 county by the register of deeds and accounted for to the county
21 treasurer as reimbursement for services rendered by the county in
22 collecting the tax. If the tax collected is not paid over by the
23 10th day of the month, the State Tax Assessor may impose interest
24 pursuant to section 186. This subsection is repealed July 1,
25 2005.

28 **Sec. D-2. 36 MRSA §4641-B, sub-§3-A** is enacted to read:

30 **3-A. Disposition of funds.** Each register of deeds shall,
31 on or before the 10th day of each month, pay over to the State
32 Tax Assessor 50% of the tax collected pursuant to this section
33 during the previous month. The remaining 50% must be retained
34 for the county by the register of deeds and accounted for to the
35 county treasurer as reimbursement for services rendered by the
36 county in collecting the tax. If the tax collected is not paid
37 over by the 10th day of the month, the State Tax Assessor may
38 impose interest pursuant to section 186. This subsection takes
39 effect July 1, 2005.'

40 Further amend the resolution in Part E in section 1 by
41 striking out all of the question and inserting in its place the
42 following:

44 **"Do you want the State to pay 55% of the cost of public**
45 **education, provide greater financial assistance to counties**
46 **and lower state taxes by limiting annual state spending and**
47 **revenue growth to the same percentage as personal income**
48 **growth, using any excess revenues to reduce income tax**

rates, and to require a 2/3 vote of the Legislature to increase any taxes or certain license fees?"

Further amend the resolution by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment is a minority report. It replaces Parts A to D of the resolution. Part A of the amendment changes the Essential Programs and Services Funding Act to increase the State's share of funding public education from kindergarten to grade 12 from 50% over 5 years to 55% over 5 years. Part A also establishes the essential programs and services model for funding education as the basis for the calculation of a full-value education mill rate expectation identifying the state and local share of the cost of providing essential programs and services beginning in fiscal year 2005-06.

Part B requires a 2/3 vote of each House of the Legislature to enact or increase taxes or certain license fees.

Part C restricts growth in state revenues and in the Governor's budget request to the rate of growth in average real personal income. If revenues exceed the limit, the excess would be placed in the Income Tax Rate Management Fund and used to reduce income tax rates.

Part D changes the disposition of the real estate transfer tax by permitting counties to retain 50% of the revenues rather than the current 10%.

This amendment also replaces the question in Part E of the resolution.

FISCAL NOTE REQUIRED
(See attached)

121st Maine Legislature
Office of Fiscal and Program Review



LD 1629

RESOLUTION, Proposing a Competing Measure under the Constitution of Maine To Reduce the Cost of Local Government through 55% State Funding of Public Education, To Reduce State Taxes by Requiring a 2/3 Vote To Raise Taxes, To Limit the Growth of State Spending to the Growth in State Personal Income and To Dedicate Excess Revenue To Provide Income Tax Relief

LR 2165(06)

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Taxation

Fiscal Note Required: Yes

Minority Report

Fiscal Note

	2003-04	2004-05	Projections 2005-06	Projections 2006-07
Net Cost (Savings)				
General Fund	\$0	\$0	\$5,042,033	\$76,128,929
Appropriations/Allocations				
General Fund	\$0	\$0	\$0	\$20,235,995
Revenue				
General Fund	\$0	\$0	(\$5,042,033)	(\$55,892,929)
Other Special Revenue Funds	\$0	\$0	(\$4,430,033)	(\$4,518,634)

Referendum Costs	Month/Year	Election Type	Question	Length
	Nov-03	General	Referendum	Lengthy

The Secretary of State's budget includes sufficient funds to accommodate one ballot of average length for the general election in November 2003. If the number or size of the referendum questions increases the ballot length, an additional appropriation of \$8,000 or more may be required.

Fiscal Detail and Notes

The implementation of this bill is contingent upon approval by the voters. If approved by the voters, this bill has the following impact.

General Fund Summary	2003-04	2004-05	Projections 2005-06	Projections 2006-07
Additional Appropriation needed to fund EPS in LD 1629	\$0	\$0	\$0	\$20,235,995
Cost of General Fund revenue growth cap at the 10-year moving average of real personal income growth	\$0	\$0	\$0	\$50,750,055
Cost of the revenue loss associated with Real Estate Transfer Tax changes	\$0	\$0	\$5,042,033	\$5,142,874
Net General Fund Cost (Savings)	\$0	\$0	\$5,042,033	\$76,128,924

This bill provides for a new method of determining the state and local share of funding the cost of K-12 public education beginning in fiscal year 2005-06. This bill includes the Essential Programs and Services model, as approved by the Legislature in Public Law 2003, c. 504, An Act to Implement School Funding Based on Essential Programs and Services, as the basis for determining the total cost of K-12 public education. However, this bill differs from PL 2003, c. 504 in that it requires the State's share to increase to 55% by fiscal year 2009-10 versus the 50% requirement in PL 2003, c. 504. This bill also provides for the calculation of a full value education mill rate that is required to raise the total maximum local share of the cost of funding K-12 education and establishes a 10 mill cap on the full value education mill rate. The Department of Education estimates the mill rate expectation to be 8.55 mills in fiscal year 2005-06.

This bill also provides for a transition adjustment through fiscal year 2009-10 for municipalities that experience an adverse fiscal impact as a result of the phase-in of the essential programs and services model and the maximum local share mill rate expectation method of determining the local contribution of funding K-12 education. This bill proposes a transition adjustment amount of \$10,000,000 in fiscal year 2005-06 with the amount declining in each successive year through fiscal year 2009-10. Since this legislation does not specify the transition amounts for fiscal years 2006-07 through fiscal year 2009-10, this fiscal note assumes that the transition adjustment declines evenly over the 5-year period. This fiscal note also assumes that the transition adjustment amounts are included in the estimated General Fund appropriation amounts needed to fund K-12 education based on the Essential Programs and Services model in this measure thereby affecting the distribution among individual school units. The impact to each local school unit can not be determined at this time.

The following table provides estimates for the total State and Local Operating Cost of funding education based on the Essential Programs and Services model and provides a comparison of the General Fund appropriations that are estimated to be needed to fund the state's share of the cost of funding K-12 education based on the State's contribution reaching 50% in fiscal year 2009-10, as approved in Public Law 2003, c. 504, versus the 55% State contribution proposed in this legislation.

**State and Local Cost to Fund K-12 Public Education
Utilizing the Essential Programs and Services Model
Comparison of 50% State Contribution vs. 55% by FY 2009-10**

	Base Year <u>2003-04*</u>	<u>2004-05*</u>	Projections <u>2005-06</u>	Projections <u>2006-07</u>
Total State & Local Operating Cost allocation based on EPS model (100%)	1,256,951,694	1,260,260,954	1,270,125,664	1,285,714,652
EPS Transition Percentage	80.82%	82.00%	84.00%	88.00%
Adjusted Total Operating Allocation based on EPS model	1,015,819,375	1,033,413,982	1,066,905,558	1,131,428,894
Total State & Local cost based on EPS funding model (includes program costs, debt service and adjustments)	1,467,408,432	1,518,173,106	1,537,199,970	1,618,879,589
State Share Targets to fund K-12 education based on EPS model approved in P.L. 2003, c. 504	49.89%	47.81%	49.00%	49.25%
State Share Targets to fund K-12 education based on EPS model in LD 1629	49.89%	47.81%	49.00%	50.50
Estimated General Fund appropriation needed to fund K-12 education based on EPS model approved in P.L. 2003, c. 504			753,227,985	797,298,197
Estimated General Fund appropriation needed to fund K-12 education based on LD 1629			753,227,985	817,534,192
Additional General Fund Appropriation required to fund EPS model in LD 1629 vs. P.L. 2003, c. 504			0	20,235,995

* No adjustment in fiscal year 2003-04 and fiscal year 2004-05

The change in the distribution of the revenue generated by the Real Estate Transfer Tax will reduce General Fund Revenue by \$5,042,033 in fiscal year 2005-06 and \$5,142,874 in fiscal year 2006-07 and will reduce Other Special Revenue to the Housing Opportunities for Maine Fund by \$4,430,033 in fiscal year 2005-06 and \$4,518,634 in fiscal year 2006-07. The increase in the amount of transfer tax revenue that the counties may retain is estimated to be \$9,472,067 in fiscal year 2005-06 and \$9,661,508 in fiscal year 2006-07.

Establishing a General Fund revenue growth cap at the 10-year moving average of real personal income growth will reduce General Fund revenue in fiscal year 2006-07 by over \$50 million since this amount will be transferred to the Income Tax Rate Management Fund at the end of fiscal year 2006-07. Beginning in fiscal year 2007-08 individual income tax revenue will be reduced as a result of the required proportionate adjustment in individual income tax rates.