

MAINE STATE LEGISLATURE

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Date: 4-11-08

(Filing No. S-617)

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**STATE OF MAINE
SENATE
123RD LEGISLATURE
FIRST SPECIAL SESSION**

SENATE AMENDMENT "A" to S.P. 921, L.D. 2305, Bill, "An Act To Restore Benefits under the Circuitbreaker Program"

Amend the bill by striking out all of Part B and inserting the following:

PART B

Sec. B-1. 36 MRSA §5200-A, sub-§1, ¶S, as amended by PL 2007, c. 539, Pt. CCC, §14, is further amended to read:

S. An amount equal to the taxpayer's federal deduction relating to income attributable to domestic production activities claimed in accordance with Section 102 of the federal American Jobs Creation Act of 2004, Public Law 108-357; ~~and~~

Sec. B-2. 36 MRSA §5200-A, sub-§1, ¶T, as enacted by PL 2007, c. 539, Pt. CCC, §15, is amended to read:

T. For taxable years beginning on or after January 1, 2008 but prior to January 1, 2010, an amount equal to the net increase in depreciation attributable to the 50% bonus depreciation deduction claimed by the taxpayer pursuant to Section 103 of the Economic Stimulus Act of 2008, Public Law 110-185 with respect to property placed in service during the taxable year; and

Sec. B-3. 36 MRSA §5200-A, sub-§1, ¶U is enacted to read:

U. For tax years beginning in 2008, 10% of the absolute value in excess of \$100,000 of any net operating loss that, pursuant to the Code, Section 172, is being carried over for federal income tax purposes to the taxable year by the taxpayer.

Sec. B-4. 36 MRSA §5200-A, sub-§2, ¶Q, as amended by PL 2007, c. 539, Pt. CCC, §17, is further amended to read:

Q. For income tax years beginning on or after January 1, 2006, to the extent included in federal taxable income and not otherwise removed from Maine taxable income, an amount equal to the total of capital gains and ordinary income resulting from depreciation recapture determined in accordance with the Code, Sections 1245 and 1250 that is realized upon the sale of property certified as multifamily affordable

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SENATE AMENDMENT "A" to S.P. 921, L.D. 2305

1 housing property by the Maine State Housing Authority in accordance with Title 30-
2 A, section 4722, subsection 1, paragraph AA; and

3 **Sec. B-5. 36 MRSA §5200-A, sub-§2, ¶R**, as enacted by PL 2007, c. 539, Pt.
4 CCC, §18, is amended to read:

5 R. For taxable years beginning on or after January 1, 2009, an amount equal to the
6 net decrease in the depreciation deductions allowable under sections 167 and 168 of
7 the Code that would have been applicable to that property had the 50% bonus
8 depreciation deduction under Section 103 of the Economic Stimulus Act of 2008,
9 Public Law 110-185 not been claimed with respect to such property for which an
10 addition was required under subsection 1, paragraph T in a prior year.

11 Upon the taxable disposition of property to which this paragraph applies, the amount
12 of any gain or loss includable in federal adjusted gross income must be adjusted for
13 Maine income tax purposes by an amount equal to the difference between the
14 addition modification for such property under subsection 1, paragraph T and the
15 subtraction modifications allowed pursuant to this paragraph.

16 The total amount of subtraction claimed for property under this paragraph for all tax
17 years may not exceed the addition modification under subsection 1, paragraph T for
18 the same property; and

19 **Sec. B-6. 36 MRSA §5200-A, sub-§2, ¶S** is enacted to read:

20 S. An amount equal to the value of any prior year addition modification under
21 subsection 1, paragraph U, but only to the extent that:

- 22 (1) Maine taxable income is not reduced below zero;
- 23 (2) The taxable year is within the allowable federal period for carryover of the
24 net operating loss plus one year; and
- 25 (3) The amount has not been previously used as a modification pursuant to this
26 subsection.

27 **SUMMARY**

28 This amendment removes the changes to the recapture of carry-back net operating
29 losses proposed in the bill. This amendment requires for income tax years beginning in
30 2008 a corporation to increase its income, for Maine income tax purposes, by 10% of the
31 value in excess of \$100,000 of any net operating loss carried over for federal income tax
32 purposes and allows the corporation during the allowable federal period for carryover of
33 the loss plus one year to reduce its income, for Maine income tax purposes, by a like
34 amount, with certain limitations.

35 **SPONSORED BY:** Richard A. Nass
36 (Senator NASS, R.)

37 **COUNTY:** York **FISCAL NOTE REQUIRED**
(See attached)

SENATE AMENDMENT

**123rd MAINE LEGISLATURE****LD 2305****LR 3622(02)****An Act To Restore Benefits under the Circuitbreaker Program****Fiscal Note for Senate Amendment "A"****Sponsor: Sen. Nass, R. of York****Fiscal Note Required: Yes****Fiscal Note**

	2007-08	2008-09	Projections 2009-10	Projections 2010-11
Net Cost (Savings)				
General Fund	\$0	(\$14,235)	\$6,613,485	(\$1,667,295)
Revenue				
General Fund	\$0	\$14,235	(\$6,613,485)	\$1,667,295
Other Special Revenue Funds	\$0	\$765	(\$362,765)	\$91,455

Fiscal Detail and Notes

The changes to the net operating loss provisions will increase General Fund revenue by \$14,235 in fiscal year 2008-09.

As amended, this bill will have the following impact:

	2008-09	Projections 2009-10	Projections 2010-11
Net Change to Circuitbreaker Revenue:			
General Fund	(\$1,347,580)	(\$1,784,348)	(\$2,864,087)
Other Special Revenue Funds	<u>(\$72,420)</u>	<u>(\$97,876)</u>	<u>(\$157,101)</u>
Total	(\$1,420,000)	(\$1,882,224)	(\$3,021,188)
Net Change to Corporate Income Tax Revenue:			
General Fund	\$1,376,050	(\$223,372)	(\$360,832)
Other Special Revenue Funds	<u>\$73,950</u>	<u>(\$12,252)</u>	<u>(\$19,792)</u>
Total	\$1,450,000	(\$235,624)	(\$380,624)