

MAINE STATE LEGISLATURE

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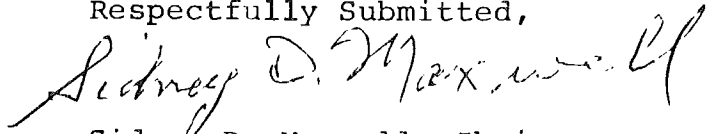
January 28, 1976

Legislative Council
107th Legislature
State House
Augusta, Maine 04333

Gentlemen:

In accordance with your order creating a joint interim committee on railroad taxation and directing it study the railroad excise tax in Maine, I enclose herein the final report of the committee.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Sidney D. Maxwell". The signature is written in dark ink and is positioned above the typed name.

Sidney D. Maxwell, Chairman
Joint Interim Committee on
Railroad Excise Taxation

TO: SEN. COLLINS, SEN. WYMAN, SEN. MERRILL, REP. S. HUGHES,
REP. USHER, REP. FINEMORE, REP. SUSI

FROM: REP. SIDNEY D. MAXWELL

PLEASE FIND ATTACHED A COPY OF THE COMMITTEE'S FINAL REPORT. IF YOU FEEL
ANOTHER MEETING IS NECESSARY, PLEASE CONTACT ME BY 1 PM, JANUARY 28. THANK
YOU.

REPORT OF THE
JOINT INTERIM COMMITTEE
OF THE 107TH LEGISLATURE ON
RAILROAD EXCISE TAXATION

January 26, 1976

SENATE

Samuel W. Collins, Jr. Vice Chairman
Hollis J. Wyman
Phillip L. Merrill

HOUSE

Sidney D. Maxwell, Chairman
Stephen T. Hughes
Ronald E. Usher
Louis F. Finemore
Roosevelt T. Susi

Legislative Assistant
James A. McKenna

The Joint Interim Committee on Railroad Excise Taxation, as authorized by H.P. 1518 (see Appendix A), concludes in general that:

1. The maintenance of a healthy rail system in Maine is of great importance and concern to the Legislature;
2. the railroads should be commended for husbanding their resources until this point in their history;
3. if any branch line operations are to be abandoned, then the railroads should be encouraged to keep in place the branch line's physical plant.

Specifically, a majority of the committee believes that the excise tax levied on the railroads should more accurately reflect their ability to pay. Therefore, the majority recommends that the present floor of the excise tax formula be removed so that a railroad unable to realize a fair rate of return on their investment would not be required to pay any excise tax for that year.

The excise tax, as defined in 36 MRSA § 2624, is a graduated levy that reflects not only a railroad's net railway operating income but also its percentage return on investment. Thus, when the net railway operating income for the preceding year is less than 5 3/4% of the railroad's investment in railway property used in transportation service (less depreciation and plus cash, including temporary cash investments and special deposits, and material and supplies), the tax payable is reduced by an amount which added to net railway operating income would equal 5 3/4% of return on investment. However, the current formula possess a floor of 1/4 of 1% of the gross transportation receipts so that no matter how poor a year a Maine railroad has, a minimum excise

tax must be paid. The majority of this committee recommend legislation that would remove this floor (see Appendix B).

The members voting to remove the excise tax floor were:

1. Sen. Samuel W. Collins, Jr.
2. Sen. Hollis J. Wyman
3. Sen. Phillip L. Merrill
4. Rep. Sidney D. Maxwell
5. Rep. Ronald E. Usher
6. Rep. Louis F. Finemore

The members opposed to removing the excise tax floor were:

1. Rep. Roosevelt T. Susi
2. Rep. Stephen T. Hughes

Finally, the committee unanimously encourages the railroads of the State of Maine and the Maine Department of Transportation to act together to avoid the unwarranted abandonment of any branch lines. While there are several possible remedies for maintaining branch lines that operate at a deficit, the committee specifically encourages the State Department of Transportation to consider where feasible the purchase or lease from the railroad of an abandoned branch line and the subsequent establishment of a short line railroad operator to insure continued service. The Federal Regional Rail Reorganization Act of 1973 could provide matching funds for such actions and the reduced labor costs of a short line railroad might make continued service economically feasible.

For a more detailed description of possible State or Federal-State solutions to abandoned branch lines, see Appendix C, an excerpt from the Maine Department of Transportation's Rail Transportation Plan for the State of Maine (1975).

STATE OF MAINE

APPENDIX A

In House April 18, 1975

Ordered, the Senate concurring, that there is created a Joint Interim Committee to consist of 3 Senators to be appointed by the President of the Senate and 5 Representatives to be appointed by the Speaker of the House to make a comprehensive study of all provisions of law pertaining to the annual excise tax on railroads as provided by Title 36, section 2624 and to recommend any changes in such tax as the committee deems necessary; and be it further

Ordered, that the Committee shall report the results of its study to the Legislature together with its recommendations and final draft of any proposed legislation by January 30, 1976; and be it further

Ordered, that the members of the Committee shall be compensated in the same manner as members of the Legislative Council for the performance of their duties under this Order, such sums to be paid out of the Legislative Account; and be it further

Ordered, that the Public Utilities Commission, the Department of Transportation and the Bureau of Taxation be directed to provide such technical advice and other needed assistance as the Committee deems necessary or desirable; and be it further

Ordered, upon passage in concurrence, that suitable copies of this Order be transmitted forthwith to said agencies as notice of this directive.

OUT OF ORDER
HOUSE OF REPRESENTATIVES
READ AND PASSED

IN SENATE CHAMBER
TABLED BY SEN. [Signature]
OF KENN. SEC.

APR 22 1975

APR 23 1975

SENT UP FOR CONCURRENCE

PENDING Passage
HARRY W. STANBRANCH, SECRETARY

H.P. 1518

(Smith)

[Signature]
CLERK

Name:

Dover-Foxcroft

AN ACT To Remove The Minimum Mandatory Tax From The Railroad Excise Tax Formula.

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

Sec. 1. 36 MRSA § 2623, as amended by PL 1973, c. 268, § 2, is further amended to read:

§ 2623. Excise tax; payment to cities and towns one percent on stock held therein.

Every corporation, person or association operating any railroad in the State under lease or otherwise shall pay when revenues justify to the State Tax Assessor, for the use of the State, an annual excise tax for the privilege of exercising its franchises and the franchises of its leased roads in the State, which, with the tax provided for in section 561, is in place of all taxes upon the property of such railroad.

Sec. 2. 36 MRSA § 2624, next to last sentence of 1st ¶, as amended by PL 1971, c. 549, is further amended to read:

When net railway operating income for the preceding year is less than 5 3/4% of investment in railway property used in transportation service, less depreciation and plus cash, including temporary cash investments and special deposits, and material and supplies, as reported by the railroad in its annual report to the Public Utilities Commission, the tax payable shall be diminished by a sum which added to said net railway operating income would equal 5 3/4% of the investment as aforesaid; ~~except that in any event the tax payable shall not be diminished below a minimum amount equal to 1% of the gross transportation receipts for the year 1971 and equal~~

~~to 9/10 of 1% of the gross transportation receipts for the year 1972 and equal to 1/4 of 1% of the gross transportation receipts for each succeeding year.~~ In the case of railroads operating not over 50 miles of road, the tax shall not exceed 1 3/4% of the gross transportation receipts.

Statement of Fact

The purpose of this bill is to remove the minimum mandatory tax floor from the current railroad excise tax formula. The effect would be that any year a railroad's rate of return on their investment was particularly poor, there would be no taxes owed.

The current excise tax formula features a graduated rate and this removal of its floor would more accurately reflect a railroad's ability to pay.

Appendix C

Under the provisions of the Regional Rail Reorganization Act of 1973, the State of Maine published in December of 1975, The Rail Transportation Plan for the State of Maine. The purpose of this plan is to permit an effective response by the State and communities served to problems that may develop in the future in regard to essential rail service. Reproduced here is a brief section, pages II-7 to II-12 from the "Planning Volume" of the Rail Transportation Plan, which describes possible responses to abandoned branch lines. For additional information on this subject, please see, The States and Rural Rail Preservation: Alternative Strategies, a 1975 study by the Council of State Governments. Chapter 4 of this study, "Subsidy and Acquisition as Alternatives for the Preservation of Local Rail Service" deals directly with branch line abandonments.

(2) Line Abandonments. The State should not automatically oppose all petitions before the Interstate Commerce Commission to abandon light density branch lines. Opposition by the State should be based upon a determination that:

- (a) The line is an essential part of the State rail system, and
- (b) The continued operation of the line by the owning carrier will not unduly burden its other operations and general financial condition in the short term (3 to 5 years).

In determining that a line is an essential part of the State rail system, the criteria described in this section under Methodology will be employed.

It may be determined that a line is essential and that its existing operations must be continued without interruption or that a line is essential as a future transportation corridor but existing operations need not be continued. It may also be determined that a line is not essential, is not needed as a future transportation corridor, and should be abandoned. Realistically railroads will not seek the abandonment of a line unless, in the carrier's

opinion, its continued operation will unduly burden other operations. In those instances where the State's analysis differs from that of the carrier, disagreement as to the proper solution will exist. In any case, when the Interstate Commerce Commission authorizes the abandonment of an essential line the State and communities served should be prepared to act to preserve the line and the service to the extent necessary.

As a response to the authorized abandonment of an essential line, the State may temporarily lease the line and contract for continued operation by the owning railroad until a permanent solution can be recommended to the Legislature by the Maine Department of Transportation. The action selected must, of necessity, be based on the facts and circumstances involved in each individual case. Recommended actions may include the following:

(c) State purchase of the line:

- (1) If service is to be continued without interruption or reinstated in the near future, the State may consider purchase of the line intact, including track, track appurtenances, ties, bridges and other necessary structures for long term lease (with yearly

review provisions) to the existing carrier or to a short line railroad or,

- (2) If service is to be discontinued and the right of way retained as a future transportation corridor, the State may consider purchase of the right of way allowing other materials to be salvaged by the owning railroad or,

(d) The communities served may purchase the line through the formation of a Transportation Authority or other Corporation of that type that could operate the service or lease to or subsidize the existing carrier or a short line railroad.

It should be noted that, under existing State and Federal law, any resolution of these matters that involve State and local governments must be undertaken with the cooperation of the railroad company involved.

(3) Funding. It is recommended that public sector funds that are available for the preservation of essential lines be provided on a matching basis as follows:

<u>Line Classification</u>	<u>Sources</u>
Primary and Secondary Main Line	90% Federal - 10% Non-Federal
Local Service Lines	70% Federal - 30% Non-Federal

(a) Federal Funds. The Regional Rail Reorganization Act as it is now written provides funds to the State under Title IV for a two year period to be used for

(a) Cont'd.

service continuation subsidies, purchase and modernization on a 70% Federal - 30% State matching basis. Because virtually all rail service is interstate in character the Federal Government should bear a significant portion of public sector costs as is the case in the Interstate Highway System. This is particularly true on the primary and secondary main lines and the State of Maine suggests that the Federal share should be increased from 70% to 90% which is the same as the Interstate Highway apportionment.

Service operated on local service lines is also predominantly interstate in character; however because these lines serve the more remote and less developed areas whose needs are of great importance to local interests, the State and local governments have a greater responsibility for their preservation. The State of Maine suggests that the present matching requirements be continued for these lines. These and other recommended changes in the Federal law are discussed in part (C) of this Section.

(b) State and Local Funds. State funds should be considered in the legislative appropriation process and may include contributions from the municipalities and industries served by the line in question. Although it is reasonable to expect that the municipalities served will make some contribution to the cost of preserving essential rail service, no specific responsibility for matching funds is recommended because of the varying degree of the ability to raise funds, and the interest and needs of the towns and cities located on the line.

The Maine Department of Transportation is empowered under existing law to receive and use federal, state, local or private funds to lease and contract for service or purchase rail line in Maine as provided in 23 MRSA, Sec. 4207.

(Appendix A of this Plan). It is recommended that the existing provisions of the law which require appropriations by the Maine Legislature on a specific project basis on recommendation of the Maine Department of Transportation be

(b) Cont'd.

continued without change. It is further recommended that interim or temporary contracts for the continuation of essential service or the lease of an essential line between the railroad and the Maine Department of Transportation be funded by specific legislative appropriation or by funds appropriated each biennium to the Department of Transportation for such overall purposes. Funds appropriated for these purposes that are not spent or committed shall lapse to the General Fund.

(C) Amendments to the RRR Act of 1973.

The Regional Rail Reorganization Act of 1973 sets forth the terms and conditions of Federal assistance in planning and restructuring the rail system in the Northeast and Midwest Region. Title IV of the Act in general governs State participation in this process. Title IV provides Federal assistance for two years to the states on a 70% Federal - 30% State matching ratio, half of which will be made available from entitlement funds that are allocated to each state in the region on a formula basis and the other half will be available from a discretionary fund administered by the Secretary of Transportation. If the full authorization is appropriated, the State of Maine could be entitled to \$2.7 million over the next two