

MAINE STATE LEGISLATURE

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L.D. 1137

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APPROPRIATIONS AND FINANCIAL AFFAIRS

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 832, L.D. 1137, Bill, "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1998 and June 30, 1999"

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

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of state departments and institutions will become due and payable immediately; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of

COMMITTEE AMENDMENT

COMMITTEE AMENDMENT "A" to H.P. 832, L.D. 1137

Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

PART A

Sec. A-1. Appropriations and allocations. In order to provide for necessary expenditures of State Government and other purposes for the fiscal years ending June 30, 1998 and June 30, 1999, the following sums as designated in the following tabulations are appropriated or allocated out of any money not otherwise appropriated or allocated.

Sec. A-2. Allotments required. Upon receipt of allotments duly approved by the Governor based upon work programs submitted to the State Budget Officer, the State Controller shall authorize expenditures of these funds, together with expenditures for other purposes necessary to the conduct of State Government on the basis of these allotments and not otherwise. Allotments for Personal Services, Capital Expenditures and amounts for All Other departmental expenses may not exceed the amounts shown in the budget document or as they may be revised by the joint standing committee of the Legislature having jurisdiction over these appropriations and allocations, unless recommended by the State Budget Officer and approved by the Governor in accordance with established law.

Sec. A-3. Personal Services funding. The amounts provided for Personal Services in appropriated and allocated accounts are subject to the provision that the total number of positions and the costs thereof in any account may not, during any fiscal year, vary from either the positions included in computing the total dollars appropriated or allocated for Personal Services or in the specific cost of each position upon which the appropriations and allocations are based. The State Budget Officer shall take the action necessary to assure compliance with this section except as provided for in section 6 of this Part and as follows.

An appointing authority shall comply with the Civil Service Law, rules and regulations and collective bargaining agreements pertaining to the hiring, promoting, demoting and bumping of state employees. The Legislature shall act upon any recommendation for additional appropriations or allocations in order to fund additional requirements created by complying with this paragraph.

Except as indicated below, savings accruing from unused funding of employee benefits may not be used to increase services provided by employees. Except as indicated below, accrued salary savings generated from vacant positions within an appropriation

COMMITTEE AMENDMENT

health plan pursuant to subsection 1, paragraph A and who have subsequently become eligible pursuant to subsection 1, paragraph G based on the total number of years of participation in the group health plan prior to retirement as follows:

Years of Participation	State Portion
10 or more years	100% group health plan premium
9 but less than 10 years	90% group health plan premium
8 but less than 9 years	80% group health plan premium
7 but less than 8 years	70% group health plan premium
6 but less than 7 years	60% group health plan premium
5 but less than 6 years	50% group health plan premium
Less than 5 years	No contribution

Sec. C-2. 5 MRSA §1507, as corrected by RR 1995, c. 2, §4, is amended by adding at the end a new paragraph to read:

At the close of each fiscal year, there must be transferred from the General Fund an amount as may be available from time to time until the maximum of \$350,000 is achieved to be used for the purposes specified in subsections 1 to 6.

Sec. C-3. 8 MRSA §382, as amended by PL 1993, c. 6, Pt. B, §2, is further amended by adding at the end a new paragraph to read:

Unclaimed prize money for a game for which there is no drawing must be retained by the director for a reasonable period of time and may be transferred to the General Fund if the director determines that adequate funds have been retained to pay anticipated delayed claims.

Sec. C-4. 36 MRSA §578, sub-§1, as amended by PL 1993, c. 452, §4, is further amended by amending the first blocked ¶ to read:

The State Tax Assessor shall pay any municipal claim found to be in satisfactory form within 90 days after receipt of the claim. ~~If the sum of all approved claims exceeds funds appropriated for reimbursement under this subchapter, payments must be prorated so that each eligible municipality receives the same percentage of its approved reimbursement.~~

Sec. C-5. 36 MRSA §2526, sub-§4, as amended by PL 1995, c. 656, Pt. A, §15, is further amended to read:

4. ~~Limitation; carry-over.~~ The amount of the credit that may be used by a taxpayer for a taxable year may not exceed 50% of the amount of tax otherwise due under this Part for that year. A credit may not be used to reduce taxes in any tax year starting before January 1, 1993. Any unused credit may be carried over to the following year or years but must be used by ~~the tax year ending not later than June 30, 1998~~ December 31, 2004.

Sec. C-6. 36 MRSA §2723-A, sub-§5-A, as amended by PL 1993, c. 410, Pt. KK, §1, is further amended to read:

5-A. ~~Computing tax.~~ This amount must be multiplied by ~~50% in 1992, 1993, 1994 and 1995, 45% in 1996, 40% in 1997, 35% in 1998, 30% in 1999 and 25% in 2000~~ 40% and the sum must then be divided by the total number of adjusted acres of commercial forest land, rounded to the nearest 1/10 of a cent and multiplied by the number of adjusted acres of commercial forest land owned by each taxpayer to determine the amount of tax for which each owner of commercial forest land is liable.

Sec. C-7. 36 MRSA §4641-B, next to the last ¶, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

The State Tax Assessor shall pay all net receipts to the Treasurer of State, who shall credit ~~1/2~~ 3/4 of the revenue to the General Fund and who shall monthly pay the remaining ~~1/2~~ 1/4 to the Maine State Housing Authority, which shall deposit the funds in the Housing Opportunities for Maine Fund created in Title 30-A, section 4853.

Sec. C-8. 36 MRSA §5102, sub-§6-A, as enacted by PL 1987, c. 841, §1, is repealed.

Sec. C-9. 36 MRSA §5102, sub-§8, as amended by PL 1995, c. 281, §25 and affected by §43, is further amended to read:

8. ~~Maine net income.~~ "Maine net income" means, for any taxable year for any corporate taxpayer, the taxable income of that taxpayer for that taxable year under the laws of the United States as modified by section 5200-A and apportionable to this State under chapter 821. To the extent that it derives from a unitary business carried on by 2 or more members of an affiliated group, the Maine net income of a corporation is determined by apportioning that part of the federal taxable income of the entire group that derives from the unitary business, ~~except income of an S-C corporation.~~ If a taxable corporation is an S

corporation, "Maine net income" means the amount taxable at the federal level pursuant to the Code, Sections 1374 and 1375.

Sec. C-10. 36 MRSA §5111-B, as enacted by PL 1995, c. 368, Pt. VV, §1, is repealed.

Sec. C-11. 36 MRSA §5219-E, sub-§1, ¶B, as amended by PL 1995, c. 368, Pt. FFF, §1 and affected by §3, is further amended to read:

B. "Investment credit base" means the total original basis, without adjustment, for federal income tax purposes, of the taxpayer of all machinery and equipment placed in service for the first time in this State by the taxpayer or other person during any of the prior 5 taxable years, except in taxable years ending in 1995, the prior 6 taxable years, excluding the basis of machinery and equipment placed in service in this State prior to January 1, 1989 and after April 1, 1996. In the case of a combined report, the term investment credit base means the sum of the investment credit bases for all corporations included in the report.

If the taxpayer is reimbursed pursuant to chapter 915 for 100% of the property taxes assessed during the taxable year against all of the machinery and equipment that constitutes eligible property as defined in section 6651, subsection 1, that machinery and equipment may not be included in the investment credit base for that taxable year. The term "taxable year" means the taxable year for income tax purposes of the taxpayer.

Sec. C-12. 36 MRSA §5244, as amended by PL 1987, c. 841, §14, is further amended to read:

§5244. Combined report

The combined report required by section 5220, subsection 5, shall must include, both in the aggregate and by corporation, a list of the federal taxable income, the modifications provided by section 5200-A, the property, payroll and sales in Maine and everywhere as defined in chapter 821 and the Maine net income of the unitary business. Neither the income nor the property, payroll and sales of a corporation which that is not required to file a federal income tax return or of an 80-20-corporation may be included in the combined report.

Sec. C-13. 36 MRSA §6651, sub-§1, as enacted by PL 1995, c. 368, Pt. FFF, §2, is amended to read:

1. Eligible property. "Eligible property" means qualified business property first placed in service in the State, or constituting construction in progress commenced in the State, after April 1, 1995. "Eligible property" includes, without limitation, repair parts, replacement parts, additions, accessions and accessories to other qualified business property placed in service on or before April 1, 1995 if the part, addition, accession or accessory is first placed in service, or constitutes construction in progress, in the State after April 1, 1995. "Eligible property" also includes inventory parts. After reimbursement has been made for "eligible property" for 12 years, that property is no longer "eligible property" under this chapter. "Eligible property" is subject to reimbursement pursuant to this chapter for up to 12 years, but the 12 years must be reduced by one year for each year during which a taxpayer included the same property in its investment credit base under section 5219-E and claimed the credit provided by that section on its income tax return.

Sec. C-14. 36 MRSA §6652, as amended by PL 1995, c. 639, §34 and affected by §35, is further amended to read:

§6652. Reimbursement allowed; limitation

1. Generally. Subject to the provisions of subsection 2 subsections 1-A and 1-B and of sections 6653 and 6654, a person against whom taxes have been assessed pursuant to Part 2, except for chapters 111 and 112, with respect to eligible property and who has paid those taxes is entitled to reimbursement of those taxes from the State.

1-A. Certain persons excluded. Notwithstanding any other provision of law, the following persons are not eligible for reimbursement pursuant to this chapter:

- A. A public utility as defined by Title 35-A, section 102;
- B. A person that provides radio paging services as defined by Title 35-A, section 102;
- C. A person that provides mobile telecommunications services as defined by Title 35-A, section 102;
- D. A cable television company as defined by Title 30-A, section 2001;
- E. A person that provides satellite-based direct television broadcast services; and

In Part D, the Maine Court Facilities Authority will require additional General Fund appropriations once the additional \$2,500,000 in authorized securities are sold. The amounts will depend on the actual amount issued and the timing of that issuance.

Part E and Part S will decrease the amount available in the Unappropriated Surplus of the General Fund in fiscal years 1997-98 and 1998-99 by amounts that can not be determined at this time.

Part F authorizes a tax anticipation note in fiscal year 1997-98 up to \$100,000,000 to assist the General Fund cash flow. The additional General Fund revenue in fiscal year 1997-98 from interest earnings of \$4,500,000 is offset by an appropriation of \$4,500,000 to pay the interest on the note.

Part DD, section 3 permits the Department of Human Services to expand General Fund appropriations to provide medical assistance to certain legal immigrants. The department has determined that the estimated General Fund cost of approximately \$1,200,000 in fiscal years 1997-98 and 1998-99 is available within the current services appropriations in the Medical Care - Payments to Providers program.

Part EE authorizes the members of the Joint Standing Committee on Appropriations and Financial Affairs to receive per diem when they attend monthly meetings when the Legislature is not in session. These additional costs can be absorbed by the Legislature.

Part SS, section 3 constitutes a mandate as prescribed by the Constitution of Maine, Article IX, Section 21. Requiring counties to be responsible for the first 48 hours of physically restrictive juvenile detention will create additional costs. The amount can not be determined. Pursuant to the Mandate Preamble, the 2/3 votes of all members elected to each House exempts the State from the constitutional requirement to fund 90% of these additional county costs.'

SUMMARY

This amendment is the majority report of the Joint Standing Committee on Appropriations and Financial Affairs.

PART A

Part A makes "unified" appropriations and allocations of funds.

PART B

Part B does the following:

1. Makes appropriations from the General Fund representing reduction proposals or adjustments;
2. Makes allocations from the Highway Fund to support the General Fund reduction proposals or adjustments;
3. Makes allocations from the Federal Expenditure Fund to support the General Fund reduction proposals or adjustments;
4. Makes allocations from Other Special Revenue to support the General Fund reduction proposals or adjustments;
5. Makes allocations from Federal Block Grant funds to support the General Fund reduction proposals or adjustments; and
6. Makes allocations from the Marine Ports Fund to support the General Fund reduction proposals or adjustments.

PART C

Part C does the following:

1. Establishes that the State shall pay 100% of the employee's share of the individual premium for a standard plan identified and offered by the State Employee Health Commission. If the commission should offer more than one plan, the State shall pay 100% of the employee's share of the individual premium for the standard plan or an equivalent amount for any other plan selected by the employee;
2. Amends the law to authorize a transfer from the General Fund to the Contingent Account at the close of each fiscal year;
3. Amends the law to allow unclaimed lottery prize money to be transferred to the General Fund;
4. Amends the law by removing the provision that allows the State to reimburse municipalities on a prorated basis in the tree growth tax reimbursement program if the sum of all approved claims exceeds the funds appropriated;
5. Amends the law to extend the opportunity to carry forward any unused solid waste reduction investment tax credit until December 31, 2004;