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STATE OF MAINE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

COMMITTEE ON TAXATION

DATE: February 4, 2010

TO: Senator G. William Diamond, Senate Chair
Representative Emily Cain, House Chair
Members, Joint Standing Committee on Appropriations and Financial
Affairs

FROM: Senator Joseph Perry, Senate Chair ^{JP}
Representative Thomas Watson, House Chair ^{TW}
Members, Joint Standing Committee on Taxation

RE: Committee recommendations with regard to LD 1671, An Act Making
Supplemental 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, 2010 and June 30, 2011

Yesterday, the Joint Standing Committee on Taxation voted on the language in Part JJ and Part KK, which were the only outstanding issues from our budget recommendations included in the memorandum dated January 29, 2010. The Committee voted unanimously to reject the language in Part JJ, which is an additional cut to revenue sharing, as well as the language in Part KK proposing a change in eligibility for the circuitbreaker program. We have attached the required report back pages as a record of this final vote.

Recognizing that our rejection of these items creates a General Fund budget gap, we explored several alternative proposals. The Taxation Committee spent a significant amount of time reviewing tax exemptions, credits and reimbursements (collectively referred to as tax expenditures) in an attempt to identify revenue. The Committee held multiple meetings during the interim to gather detailed information for decision making. We reviewed many reports specific to Maine's tax expenditures for economic development as well as literature related to evaluation methods that included information from other states and independent research such as the Federal Reserve Bank of Boston's report entitled *State Business Tax Incentives*. We worked extensively with Maine Revenue Services, met with the Department of Community and Economic Development and had the director of the Office of Program Evaluation & Government Accountability

(OPEGA) come to one of our meetings. We had a subcommittee that investigated specific issues related to specific tax expenditures and reported back to the Committee several times. Ultimately, we developed the attached list of 10 tax expenditures that we discussed as possible means of filling the budget gap. However, we only identified one to include as a budget recommendation (modify the fuel and electricity sales tax exemption for manufacturers) and the Committee divided on this issue.

We discussed many other proposals as well. One proposal that has the support of the full Committee is the attached language related to the circuitbreaker program, which will create savings of \$175,000 annually by excluding the amount of abatements for poverty or inability to pay from the property tax reimbursement. Unfortunately, we did not reach consensus on any of the other proposed solutions. Therefore, we offer majority and minority reports for your consideration.

If the Joint Standing Committee on Appropriations and Financial Affairs supports any of these options we will be happy to work on any language needed to implement a particular initiative. Also, we respectfully request that you hold joint public hearings with us on any of the issues you decide should be considered as part of this budget.

Majority Report

Members in support of the majority report estimate that the initiatives listed below would generate in the range of \$34 million to \$48 million annually. Members supporting this report include: Senator Perry, Representative Watson, Representative Pilon, Representative Crockett, Representative Valentino, Representative Flemings, Representative Sirois and Representative Bryant. As noted above, the majority report also includes the attached language for the circuitbreaker program.

1. Reduce the fuel and electricity sales tax exemption for manufacturers from 95% to 85%. Based on a revenue projection of \$46.6 million for FY 2011, this proposal would generate \$4.66 million.
2. Increase the filing fee on Limited Liability Corporations (LLCs) and S-corporations from \$85 to \$250. Based on the 23,387 LLCs and S-corps currently doing business in Mine, this would generate approximately \$3.9 million.
3. Consider increasing the excise tax on tobacco products and alcohol. We have received estimates ranging from \$26 million to \$40 million in revenue that could be raised on tobacco products alone. However, we realize there are many variables involved in these calculations and, thus, we would defer to you on the details if you choose to move forward with this proposal.

Minority Report

Members in support of the minority report estimate that the initiatives listed below would generate at least \$43 million annually. Members supporting this report include: Senator Nass, Representative Chase, Representative Knight and Representative Langley. As noted above, the minority report also includes the attached language for the circuitbreaker program.

1. Reduce the budget of Maine Revenue Services by 15%. Maine Revenue Services estimates that this cut would represent a little over \$5 million.
2. Consider closing Maine Revenue Services' Houlton office. We have estimates of the cost of operating the Houlton office that range from \$600,000 to \$850,000. Senator Nass would like the record to note that he does not support this initiative.
3. Cut 1,000 positions across state government; exclude cuts in Maine Revenue Services staff if the initiative to cut their budget by 15% moves forward. Based on an average annual salary of \$37,000 (an estimate provided by MSEA-SEIU at our meeting yesterday), we calculate that at least \$37 million in annual savings could be achieved. We recognize that this is a rough estimate, but should you be interested in moving forward with this proposal we will work with you to develop solid figures.
4. Consider implementing the ideas for programmatic changes to the General Assistance program that were suggested by Maine Municipal Association that include adopting accountability standards, creating a lifetime limit for non-categorical applicants and recognize LI-HEAP assistance in the calculation of a household's unmet need. Details of this proposal can be found on page 2 of the attached list of municipal mandates supplied by Maine Municipal Association.

In addition to the ideas presented above, the Taxation Committee also discussed municipal service fees as proposed in LD 1290 during the 1st Regular Session as well as possible sunset and clawback language for tax expenditures. Since these items do not directly relate to the budget, we expect to continue these discussions in the context of other bills before the Taxation Committee. Also, we discussed the attached list of municipal mandates identified by Maine Municipal Association. Although none of the items are within our jurisdiction, we are concerned about the impact State budget cuts have had on municipalities and encourage other policy committees to review this list.

Thank you for your consideration of our recommendations and please let us know if you have questions or need additional information.

Taxation Committee
 2/3/10 VOTE: OUT
 see memorandum 2/4/10 for
 alternative proposals.

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

2 **PART JJ**

3 **Sec. JJ-1. 30-A MRSA §5681, sub-§5-C**, as enacted by PL 2009, c. 213, Pt. S,
 4 §6 and affected by §16, is amended to read:

5 **5-C. Transfers to General Fund.** For the months beginning on or after July 1,
 6 2009, ~~\$18,758,840~~ \$30,758,840 in fiscal year 2009-10 and ~~\$25,260,943~~ \$40,260,943 in
 7 fiscal year 2010-11 from the total transfers pursuant to subsection 5 must be transferred to
 8 General Fund undedicated revenue. The amounts transferred to General Fund
 9 undedicated revenue each fiscal year pursuant to this subsection must be deducted from
 10 the distributions required by subsections 4-A and 4-B based on the percentage share of
 11 the transfers to the Local Government Fund pursuant to subsection 5. The reductions in
 12 this subsection must be allocated to each month proportionately based on the budgeted
 13 monthly transfers to the Local Government Fund as determined at the beginning of the
 14 fiscal year.

15 **Sec. JJ-2. Transfers to General Fund for fiscal year, 2009-10.**
 16 Notwithstanding the requirement in the Maine Revised Statutes, Title 30-A, section 5681,
 17 subsection 5-C that amounts be transferred to General Fund undedicated revenue on a
 18 proportionate basis, for fiscal year 2009-10, the transfer of the amount as increased
 19 pursuant to this Part must be transferred on a proportional basis based on the number of
 20 months remaining in fiscal year 2009-10 following the effective date of this Part.

21

Fiscal Note

| | FY 2009-10 | FY 2010-11 | FY 2011-12 | FY 2012-13 |
|-----------------------|---------------|---------------|------------|------------|
| Revenue | | | | |
| General Fund | \$12,000,000 | \$15,000,000 | \$0 | \$0 |
| Other Special Revenue | -\$12,000,000 | -\$15,000,000 | \$0 | \$0 |

22 **SUMMARY**

23 **PART JJ**

24 This Part requires an additional transfer from the Local Government Fund to the
 25 General Fund of \$12,000,000 in fiscal year 2009-10 and \$15,000,000 in fiscal year
 26 2010-11. The increased amount for fiscal year 2009-10 must be transferred on a
 27 proportional basis based on the number of months remaining in the fiscal year.

LEGISLATION COMMITTEE
2/3/10 VOTE: OUT
See memo dated 2/4/10 for
alternative proposals.

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

2 PART KK

3 Sec. KK-1. 36 MRSA §6207, sub-§2-A, as enacted by PL 2007, c. 700, Pt. A,
4 §2, is amended to read:

5 2-A. **Income eligibility.** For application periods beginning on or after August 1,
6 ~~2008~~, a A single-member household with a household income in excess of \$60,000
7 \$36,900 and a household with 2 or more members with a household income in excess of
8 ~~\$80,000~~ \$49,200 are not eligible for a benefit.

9 Sec. KK-2. 36 MRSA §6209, sub-§4, as amended by PL 2009, c. 434, §81, is
10 further amended to read:

11 4. **Income eligibility adjustment.** Beginning March 1, ~~2009~~ 2011, the State Tax
12 Assessor shall annually multiply the household income eligibility adjustment factor by
13 the maximum income eligibility amounts specified in section 6207, subsection 2-A, as
14 previously adjusted. The result must be rounded to the nearest \$50 and applies to the
15 application period beginning the next August 1st.

16 Sec. KK-3. **Application.** That section of this Part that amends the Maine Revised
17 Statutes, Title 36, section 6207, subsection 2-A applies to application periods beginning
18 on or after August 1, 2010.

19 Sec. KK-4. **Effective date.** That section of this Part that amends the Maine
20 Revised Statutes, Title 36, section 6207, subsection 2-A takes effect August 1, 2010.

21

Fiscal Note

| | FY 2009-10 | FY 2010-11 | FY 2011-12 | FY 2012-13 |
|-----------------------|------------|-------------|-------------|-------------|
| Revenue | | | | |
| General Fund | \$0 | \$5,581,932 | \$7,089,384 | \$7,279,784 |
| Other Special Revenue | \$0 | -\$3,388 | -\$9,443 | -\$11,036 |

22 SUMMARY

23 PART KK

24 This Part amends the Maine Residents Property Tax Program by modifying the
25 income limitations to restrict eligibility for the program to single-member households
26 with incomes of \$36,900 or less and households with 2 or more members with incomes of
27 \$49,200 or less. This Part also changes the year the annual income eligibility adjustment
28 for inflation begins to 2011 to reflect the change in income limitations.

**Tax Incentives for Economic Development
Consider by the Taxation Committee
For Budget Discussion - February 3, 2010**

1. Fuel and Electricity for Manufacturing Sales Tax Exemptions
2. Manufacturing Machinery and Equipment Sales Tax Exemptions (for production machinery)
3. Jobs and Investment Tax Credit
4. High-Technology Investment Tax Credit
5. Super Research and Development Credit
6. Research Expense Tax Credit
7. Shipbuilding Facility Credit
8. Commercial Agriculture and Commercial Fishing Machinery and Equipment Sales Tax Exemptions
9. Machinery and Equipment for Research Sales Tax Exemptions
10. Reimbursement for taxes paid on certain business (BETR)

MAINE REVENUE SERVICES
Income/Estate Tax Division
February 2, 2010

Sec. 1. 36 MRSA §6201, sub-§10, as amended by PL 2007, c. 325, §1, is further amended to read:

10. Property taxes accrued. "Property taxes accrued" means property taxes exclusive of amounts abated for poverty or inability to pay, special assessment, delinquent interest and charges for service levied on a claimant's homestead in this State as of April 1, 1972, or any tax year thereafter. If a homestead is owned by 2 or more persons or entities as joint tenants or tenants in common, and one or more persons or entities are not members of the claimant's household, "property taxes accrued" is that part of property taxes levied on the homestead that reflects the ownership percentage of the claimant and the claimant's household. If a claimant and spouse own their homestead for part of the year for which relief is requested and rent it or a different homestead for part of the same tax year, "property taxes accrued" means taxes levied on the homestead on April 1st, multiplied by the percentage of 12 months that the property was owned and occupied by the household as its homestead during the year for which relief is requested. When a household owns and occupies 2 or more different homesteads in this State in the same calendar year, property taxes accrued relate only to the total of the property taxes owed for the time that each property was occupied by the household as a homestead. To calculate the amount attributable to each property, the April 1st assessment on each homestead is multiplied by the percentage of 12 months that each property was owned and occupied by the claimant as the claimant's homestead during the year for which relief is requested. If a homestead is an integral part of a larger unit such as a farm, or a multipurpose or multidwelling building, property taxes accrued are that percentage of the total property taxes accrued that the value of the homestead is of the total value, except that property taxes accrued do not include any portion of taxes claimed as a business expense for federal income tax purposes. For purposes of this chapter, "unit" refers to the parcel of property separately assessed of which the homestead is a part.

Sec. 2. Application. The section of this Act that amends the Maine Revised Statutes, Title 36, section 6201, sub-§10 applies to application periods beginning on or after August 1, 2010.

ADMINISTRATIVE COSTS

Enactment of this legislation will result in nominal administrative costs that can be absorbed by the Bureau of Revenue Services utilizing existing budgeted resources.

FISCAL NOTE

| | 2009-10 | 2010-11 | 2011-12 | 2012-13 |
|-----------------------|---------|-----------|-----------|-----------|
| General Fund | \$ 0 | \$175,000 | \$175,000 | \$175,000 |
| Local Government Fund | \$ 0 | \$ 000 | \$ 000 | \$ 000 |
| Total | \$ 0 | \$175,000 | \$175,000 | \$175,000 |

SUMMARY

This amendment requires that the property tax reimbursement under the "circuit breaker" program be reduced by any abatement for poverty or inability to pay.

Another approach: Repealing expensive mandates. In the spirit of brainstorming, the Taxation Committee also expressed an interest in reviewing unfunded mandates that would relieve municipal government of financial burdens if a particular mandate was removed or redesigned as a discretionary function. Fully aware that the most expensive unfunded mandates are found outside the Taxation Committee's jurisdiction, the Committee nonetheless expressed an interest in learning about unfunded mandates that municipal officials believe could or should be repealed or modified.

MMA's Legislative Policy Committee is very interested in helping identify municipal mandates that should be addressed. A short list would include:

- *First, do no further harm by not approving a bill currently before the Legislature that would give final approval to rules promulgated by the Department of Environmental Protection that would significantly increase the municipal cost of installing road culverts (LD 1725).*

This new mandate (which for technical reasons is not being labeled a "mandate") is LD 1725, Resolve, Regarding Legislative Review of Portions of Section 10: Stream Crossing within Chapter 305 Permit by rule Standards, a Major Substantive Rule of the Department of Environmental Protection. The bill had its public hearing before the Natural Resources Committee on Friday, January 29th.

- *Staying on the Department of Environmental Protection front, enact modifications to an entire group of environmental regulations governing storm drains, sand-salt shed regulation, wood waste "stump dumps", transfer station siting and licensing regulations, universal waste management, etc.*

The siting of sand-salt sheds is found at DEP regulation, Chapter 574.

The regulation of wood-waste "stump dumps" is found at DEP regulation, Chapter 401, Section 7.

The regulations governing the siting and operation of transfer stations is found at DEP regulation, Chapter 402.

The regulations governing the management of universal wastes is found at DEP regulation, Chapter 850, Section 4.

Some of the frustrating "mandate" issues associated with these regulations are relatively minor, such as requirements to maintain operational and management records with respect to very environmentally benign activities. Some of the frustrations are more significant. In general, municipal officials believe almost all DEP regulations as applied to municipalities should be comprehensively reviewed with municipal folks at the table for some common-sense amendments.

- *Support the proposed rulemaking by the Department of Education that would more closely align special education procedures and protocols with the established federal*

requirements. This is a time of "shared sacrifice", and the adoption of these rules is a way to programmatically and financially share the sacrifice in a responsible way.

These emergency rules are found at Department of Education regulations, Chapter 101. A description of the rules can be found at <http://www.maine.gov/education/rulechanges.htm>

- *Take a serious look at the municipal ideas to improve the accountability of the General Assistance program.*

General Assistance law is found at 22 MRSA §§4401 et seq. The municipal ideas for programmatic changes to the GA program were identified in the January 29th edition of our legislative Legislative Bulletin, and include:

- **Adopt Accountability Standards.** Over the past few years, the Maine Welfare Directors Association has developed legislation that would limit assistance to applicants who have broken programmatic rules in other jurisdictions, such as HUD rent assistance regulations. Under existing GA law, municipalities are required to provide the assistance under those circumstances because the applicants had not misused a resource which they were expressly required to use by the municipality to which they are applying for assistance. Therefore, if a person misuses a public assistance resource in Massachusetts and then relocates to Maine, the misuse of the revenue in the Bay State cannot be considered a factor in that person's GA eligibility.
 - **Lifetime Limit for Non-categorical Applicants.** Create a lifetime limit for General Assistance for "non-categorical" applicants, perhaps in the three-five year range. Non-categorical applicants for this purpose would be persons who are between the ages of 21 and 60 who are not disabled and who do not have custodial responsibility for dependent children. If lifetime limits are for some reason deemed unacceptable, perhaps a certain minimum wage income could be imputed for these applicants who claim zero income, just as income is imputed for this category of individuals for child support purposes.
 - **Recognize the Existence of LI-HEAP Assistance.** Allow municipalities to recognize a household's receipt of federal heating assistance (LI-HEAP) in the calculation of the household's "unmet need" during any 30-day period. Similarly, require "Circuit Breaker" benefits issued as rent rebates to be actually applied to the recipients rental obligations.
- *Strike the expensive requirement in the "school budget validation referendum" law that requires the referendum election to be held within 14 days of the open-meeting budget adoption. That often forces a special referendum that is uncoordinated with the primary election in June or another efficient election opportunity. It is a command-and-control scheduling requirement from Augusta that makes no sense.*

This provision is found at 20-A MRSA § 1486(2), first sentence.

- *Allow schools to purchase the laptop computers for their students outside of the contract the state has with one single provider.*

The law governing the “Maine Learning Technology Fund” is found at 20-A MRSA, Chapter 801 (§§ 19101-19110).

- *Completely back-off on comprehensive plan compliance review at the State Planning Office level.*

The pertinent laws governing the SPO comprehensive plan review process and the “weighting” of grant programs associated with SPO plan review are found at: 30-A MRSA §§ 4326 and all of subchapter 3-A (§§4345-4349-A). The SPO comprehensive plan review functions are also found in certain laws governing the lending authority of the Maine Municipal Bond Bank (see, for example, 30-A MRSA §5953-D(3)(D)).

It is already extremely well-established law that all municipal zoning ordinances must be consistent with that municipality’s comprehensive plan. Where the courts ultimately decide the issue of “consistency”, the SPO consistency-review process is something that could be suspended during these difficult economic times.

- *Back off on the Labor Department overview/oversight of fire department operations.*

The Department of Labor oversight functions are found in DOL regulations, Occupational Safety and Health Board, Chapter 4.

- *Require the state, rather than the municipalities, to respond to complaints of suspected rabies in wild (“undomesticated”) animals.*

This provision is found at 22 MRSA §1313.

- *Allow municipalities to order the euthanasia of animals picked up by Animal Control Officers, determined to be strays and found to be in need of expensive medical treatment.*

The requirement to give medical attention to strays is found at 7 MRSA §3948(2).

- *Allow municipalities to publish legal notes in less expensive but widely circulated “shopper notes” newspapers rather than daily newspapers. This particular cost-saving idea was recently enacted by the Legislature only to be vetoed by the Governor.*

This mandate is centrally housed at 1 MRSA §601, and then referenced throughout the many laws that specifically require newspaper notice to be provided. (See, for example, 30-A MRSA §4352 regarding zoning notice

requirements.) The issue was addressed in a version of LD 1878, a bill considered by the 123rd Legislature, which expressly allowed a municipality to use a “newspaper medium distributed as 3rd-class postal matter” (i.e., a “shopping notes-type newspaper”) rather than a “newspaper of general circulation” (i.e., a daily newspaper) if the municipal officers of that town or city adopted a certain notice policy that ensured the published notice in the shopper-notes type newspaper would be widely distributed and retained as an archival record. Ultimately, LD 1878 was vetoed by the Governor.

- *Although not a mandate issue, stop interfering with local government labor-management relations by providing special benefits to favored local government constituencies. The law setting minimum teachers' salaries is an example, as is the bridge health insurance benefit for firefighters who retire before normal retirement age. It doesn't matter that the state covers the costs. The state-local intergovernmental financing system is a squishy balloon. When the state pays for employee benefits it cannot afford, the municipalities end up paying in other ways.*

The law governing minimum teacher salaries is found at 20-A MRSA §§13402-13406.

The law governing the early-retired firefighter health benefit is found at 5 MRSA §286-M.

- *Although not exactly a mandate issue, end the practice of the state charging municipalities for boiler inspections that the state never actually conducts. It's a \$50 per boiler fee for essentially filing a piece a paper the municipalities must provide certifying an inspection has occurred which is actually conducted and paid for by the municipalities through their insurance companies. The state should consider waiving all fees it charges municipalities so as to provide in-kind support for the service being provided. For example, the state charges municipalities a licensing fee for establishing snow dumps so Maine's roadways can be cleared of snow*

The fees for the “boiler inspection” program are found at the Department of Professional and Financial Regulation, Chapter 12 (Board of Boiler rules, Chapter 12, Fees). The underlying law requiring state-level boiler inspections of municipal public houses and schools is found at 32 MRSA, chapter 131 (§§15101-15121). See, especially, §15102(E), which exempts most normal boilers from the state inspection process except the boilers of “schoolhouses” and “municipalities”. It is entirely unclear why school and municipal buildings do not get the exemption provided to every other similarly sized entity or institution.

The regulations regarding snow dumps are found at DEP regulations, Chapter 573. The issue here is not so much the licensing regulations themselves, but the licensing fees.