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Legislative Document

No. 851

H.P. 600

House of Representatives, March 7, 2017

**An Act To Repeal and Subject to Referendum in 2018 the Fund To
Advance Public Kindergarten to Grade 12 Education and the 3
Percent Income Tax Surcharge**

(EMERGENCY)

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script, reading "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative SIROCKI of Scarborough.
Cosponsored by Senator LANGLEY of Hancock and
Representatives: AUSTIN of Gray, GUERIN of Glenburn, HILLIARD of Belgrade, MALABY
of Hancock, O'CONNOR of Berwick, PICKETT of Dixfield, TURNER of Burlington, Senator:
DOW of Lincoln.

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

Whereas, Initiated Bill 2015, chapter 4 imposes a 3% surcharge on certain income, beginning in 2017, and requires all of the revenue from the surcharge to be deposited in the Fund to Advance Public Kindergarten to Grade 12 Education, beginning January 1, 2018; and

Whereas, this legislation repeals the surcharge and the fund; and

Whereas, the repeal needs to take effect as soon as possible to avoid uncertainty and administrative issues; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of 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 A-1. 20-A MRSA §15697, as enacted by IB 2015, c. 4, §1, is repealed.

Sec. A-2. 36 MRSA §5111, sub-§6, as enacted by IB 2015, c. 4, §2, is repealed.

Sec. A-3. Retroactivity. This Part applies retroactively to January 10, 2017.

PART B

Sec. B-1. 20-A MRSA §15698 is enacted to read:

§15698. Fund to Advance Public Kindergarten to Grade 12 Education

1. Fund established. The Fund to Advance Public Kindergarten to Grade 12 Education, referred to in this section as "the fund," is established as an interest-bearing account administered by the department.

2. Revenue; 30-day review before changing use of fund. The Treasurer of State shall deposit all revenue collected pursuant to Title 36, section 5111, subsection 7 from the income tax surcharge to advance public kindergarten to grade 12 education into the fund according to the schedule in Title 36, section 5111, subsection 7. Any private or public funds appropriated, allocated or dedicated to the fund must be deposited into the fund as well as income from any other source directed to the fund. All interest earned by the fund becomes part of the fund. Legislation that proposes to enact or amend a law that would change the distribution of the revenue directed to the fund by this subsection or by Title 36, section 5111, subsection 7 must be submitted to the Legislative Council and to the joint standing committee of the Legislature having jurisdiction over education matters at least 30 days prior to any vote or public hearing on that legislation.

1 **3. Use of fund to supplement and not supplant General Fund appropriations;**
2 **direct support for student learning.** The use of the fund is controlled by this
3 subsection. The fund may not be used for any purpose other than as described in this
4 subsection.

5 A. If the General Fund appropriation for the state contribution for general purpose
6 aid for local schools as finally enacted in any year is insufficient to meet the annual
7 target established by section 15752, the commissioner shall use the fund to
8 supplement the state contribution. These supplemental funds must be used to enable
9 the State to meet the annual target established by section 15752 or to decrease the
10 amount by which state funding from all other sources falls short of the target. The
11 commissioner shall announce the increased state contribution amounts made possible
12 by the supplemental amounts obtained from the fund within 14 days after final
13 enactment of the General Fund appropriation for general purpose aid for local
14 schools. The commissioner shall distribute the increased state contribution amounts
15 on the basis of the essential programs and services formula set forth in this chapter.

16 B. The fund may be used only to pay for portions of the state contribution that
17 constitute direct support for student learning and not for the costs of administration.
18 As used in this paragraph, "direct support for student learning" includes salary and
19 benefit costs paid for public school classroom teachers; special teachers of reading or
20 mathematics; literacy specialists; career and technical education teachers; education
21 technicians; associate teachers; assistant teachers; special education technicians I, II
22 or III; guidance staff; health staff; librarians; and media assistants as documented in
23 the department's database. Direct support for student learning does not include salary
24 and benefit costs paid for school administrative staff or clerical staff. By July 1st
25 annually each school administrative unit must file a report to the department detailing
26 how the funding provided by this section was used to provide direct support for
27 student learning in this chapter.

28 C. The fund may be used for the necessary expenses of the department in the
29 administration of the fund.

30 **4. Report.** Annually by January 15th, the department shall submit a report to the
31 joint standing committee of the Legislature having jurisdiction over education matters
32 showing the amounts deposited into and disbursed from the fund and detailing how those
33 disbursements increased the state contribution and enabled the State to meet or come
34 closer to meeting the applicable annual targets specified in section 15752. The
35 department shall post the report on its publicly accessible website.

36 **5. Rule of construction.** This section must be liberally construed to increase the
37 amount of funding available for public kindergarten to grade 12 education above the
38 General Fund appropriation for that year to the greatest extent possible in any year.

39 **Sec. B-2. 36 MRSA §5111, sub-§7** is enacted to read:

40 **7. Income tax surcharge to advance public kindergarten to grade 12 education.**
41 An income tax surcharge to advance public kindergarten to grade 12 education, referred
42 to in this subsection as "the surcharge," is established and administered as follows.

1 A. For tax years beginning on or after January 1, 2019, in addition to any other tax
2 imposed by this chapter, a tax at the rate of 3% is imposed on that portion of the
3 taxpayer's Maine taxable income in excess of \$200,000.

4 B. One hundred percent of the revenue from the surcharge must be deposited each
5 year into the Fund to Advance Public Kindergarten to Grade 12 Education
6 established in Title 20-A, section 15698 in accordance with this paragraph.

7 (1) Prior to January 1st of each year, the bureau shall estimate the annual
8 revenue to be collected from the surcharge for the immediately following
9 calendar year.

10 (2) On the first of each month, beginning on January 1, 2020, the Treasurer of
11 State shall deposit 8.333% of the estimated annual total revenue from the
12 surcharge into the Fund to Advance Public Kindergarten to Grade 12 Education.

13 (3) The bureau may adjust the monthly transfer amount once annually to account
14 for any difference between the estimated collection and actual collection.

15 C. The surcharge must be imposed and collected regardless of whether the income
16 tax brackets in this section are changed, replaced or eliminated by an act of the
17 Legislature or by a measure approved by voters pursuant to the Constitution of
18 Maine, Article IV, Part Third, Section 18.

19 **Sec. B-3. Statutory referendum procedure; submission at statewide**
20 **election; form of question; effective date.** This Part must be submitted to the legal
21 voters of the State at a statewide election held in November 2018. The municipal officers
22 of this State shall notify the inhabitants of their respective cities, towns and plantations to
23 meet, in the manner prescribed by law for holding a statewide election, to vote on the
24 acceptance or rejection of this Part by voting on the following question:

25 "Do you favor adding a 3% tax on individual Maine taxable income
26 above \$200,000 to create a state fund that would provide direct support
27 for student learning in kindergarten through 12th grade public
28 education?"

29 The legal voters of each city, town and plantation shall vote by ballot on this question
30 and designate their choice by a cross or check mark placed within a corresponding square
31 below the word "Yes" or "No." The ballots must be received, sorted, counted and
32 declared in open ward, town and plantation meetings and returns made to the Secretary of
33 State in the same manner as votes for members of the Legislature. The Governor shall
34 review the returns. If a majority of the legal votes are cast in favor of this Part, the
35 Governor shall proclaim the result without delay and this Part becomes effective 30 days
36 after the date of the proclamation.

37 The Secretary of State shall prepare and furnish to each city, town and plantation all
38 ballots, returns and copies of this Part necessary to carry out the purposes of this
39 referendum.

40 **Emergency clause.** In view of the emergency cited in the preamble, Part A of this
41 Act takes effect when approved.

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SUMMARY

Part A of this bill repeals the 3% surcharge imposed on taxable individual income over \$200,000 for tax years beginning in or after 2017 and the Fund to Advance Public Kindergarten to Grade 12 Education, both as enacted in Initiated Bill 2015, chapter 4. The repeal is retroactive to the effective date of the initiated bill.

Part B of this bill enacts a 3% surcharge on taxable individual income over \$200,000 for tax years beginning in or after 2019 and it enacts the Fund to Advance Public Kindergarten to Grade 12 Education, but only if approved by the voters at referendum in November 2018.