

No Spin Zone: History of Revenue Sharing

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Some municipal officials have reported that comments made by their legislators and local reporters suggest that it would be valuable to have access to a concise history of the municipal revenue sharing program. The comments causing concern suggest that revenue sharing:

- Was enacted as a temporary program or a stop-gap measure of some kind.
- Was enacted when the state was so flush with revenue it didn't know what to do with it.
- And, it has always been treated as an appropriation by the Legislature, is raided annually, and like the "55 percent" requirement to fund public education, has never been funded as the statute requires.

A review of the enactments associated with the creation of revenue sharing, as well as the actual history of the program, show those characterizations to be false.

The municipal revenue sharing program was enacted into law 41 years ago, in 1972 (PL 1971, chap. 478). Major enactments at that time were based on legislative "findings". The Legislature's original findings that supported the creation of a revenue sharing program are still found, word for word, in current statute.

"Findings and Purpose. The Legislature finds that:

- The principal problem of financing municipal services is the burden on the property tax; and
- To stabilize the municipal property tax burden and to aid in financing all municipal services, it is necessary to provide funds from the

broad-based taxes of State Government....

.....To strengthen the state-municipal fiscal relationship pursuant to (these) findings and objectives....there is created the Local Government Fund." (30-A MRSA, Section 5681, Sections 1 and 3)

TAX BACKDROP

Just three years before the enactment of municipal revenue sharing, the income tax was first established in Maine and the state's income tax revenue stream was becoming established.

Also, revenue sharing was by no means the only major public policy initiative enacted in 1972 with significant impact for municipal government.

The Shoreland Zoning Act was also put into law in 1972, requiring municipalities to administer the land use regulation system in all shoreland areas.

The "current use" taxation system was also established in 1972, requiring municipal assessors to manage all Tree Growth, Farmland and Open Space enrollments. "Current use" taxation reduces municipal tax revenue associated with all three enrollments.

Just one year later, in 1973, another major transformation of the state's tax policy was enacted under the title "*An Act Reforming the Administration of the Property Tax and Replacing the Tax on Inventories with an Increased Corporate Income Tax.*" (PL 1973, chap. 592). The repeal of the "inventory tax" eliminated a line of municipal tax revenue generated by commercial entities and shifted that tax jurisdiction directly to the state.

In short, the municipal revenue sharing program was established in the context of three driving forces:

- The state was deliberately moving toward a greater reliance on the more progressive system of income taxation and away from the high reliance on the regressive property tax.
- The Legislature was enacting significant municipal mandates and recognized that those obligations should be supported financially.
- And, a component of the property tax base upon which local government relied – commercial inventory – was made exempt from municipal taxation and replaced with a state corporate income tax.

The revenue sharing program was a way to structurally replace that lost municipal tax revenue, provide some generalized financial assistance associated with unfunded state mandates and use a fraction of the state's "broad based" and more progressive tax revenues to blunt the regressivity of the property tax.

PURPOSE: REQUIRED USE

From its inception to today, the municipal use of revenue sharing has been prescribed by law for a single purpose, which is to reduce the property tax rate. That prescribed use was written into the original law and is now found in a separate tax statute (36 MRSA, Section 714). After all budgetary actions of the town meeting or town or city council, and after the "true and perfect" assessing lists have been completed and the value of all taxable property has been determined, the municipal assessors must identify the value of municipal revenue sharing the town or city is scheduled to receive and subtract that value from the

aggregate value of all appropriations. This results in a lower property tax rate. Revenue sharing is a property-tax relief program for all taxpayers in the community.

After its first transition year in 1972-1973, the municipal revenue sharing program became a true sharing program. As a sharing system, a fixed percentage of all state sales and income tax revenue is dedicated by statute to the "Local Government Fund" in such a way that it doesn't

even get deposited into the state's General Fund. The design of a true revenue sharing program has two characteristics.

First, the revenue sharing account (the Local Government Fund) is capitalized "above the line" and does not have to compete with other appropriations made by the Legislature in the process of enacting a state budget. As a matter of design, this establishes a base level of assurance and predictability for the local government recipients.

Second, because it is a strict percentage of all state sales- and income-tax revenue, revenue sharing distributions rise or fall naturally, in accordance with the rise and fall of state revenues. Unlike a fixed appropriation, the revenue sharing distribution falls during difficult economic times. Because of this "natural decline" during tough times, municipalities argue that additional legislative raids on revenue sharing funds, cutting even deeper than the natural decline, are uncalled for.

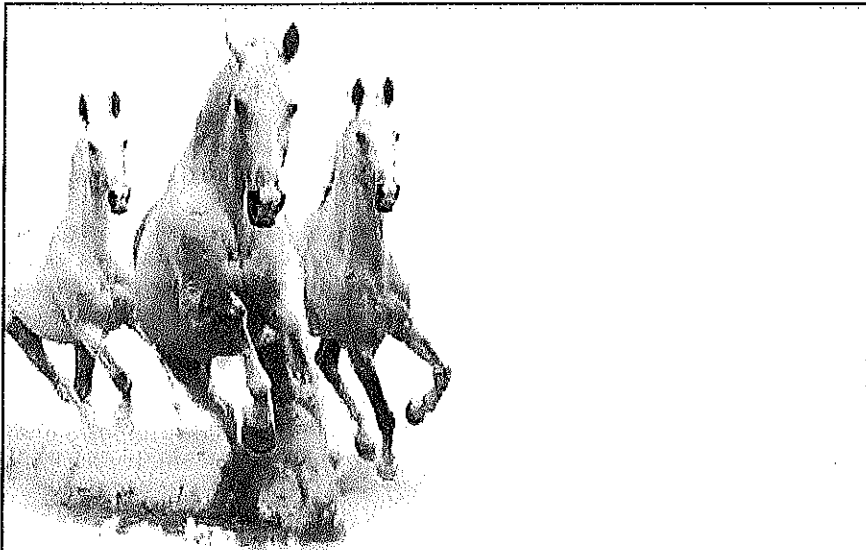
When first enacted, the Local Government Fund was capitalized with 4 percent of all state sales and income tax revenue. In 1983, the Legislature increased that rate to 4.75 percent and then to 5.1 percent in 1985. Coincidence or not, these increases occurred simultaneously with a major reform of public education, which imposed significant new educational mandates on local government.

In 2000, the Legislature created a revenue sharing supplement, nicknamed "Rev. II" that takes a share of total revenue sharing resources and distributes them to municipalities with disproportionately high property tax rates. When "Rev II" was created, the Legislature increased the rate of sales and income taxes going to the Local Government Fund from 5.1 percent to 5.2 percent to cover the new supplementary distribution.

Although that increase was technically in the law books for several years, that higher rate was never implemented and eventually was repealed. In 2009, the sharing percentage was established at a flat 5 percent in the context of a revenue sharing "simplification" effort worked on collaboratively between the Appropriations Committee and Maine Municipal Association.

The original revenue sharing distribution formula still applies for 80 percent of all revenue sharing. Now nicknamed "Rev. I", the distribution formula is simple. Each municipality's share of the monthly distribution is a factor determined by multiplying the municipal population by its "full value" property tax rate.

The only change to the basic distribution formula is the so-called "Rev II" distribution, enacted in 2000, which takes 20 percent of the Local Government Fund and distributes those resources on the basis of a slightly



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different factor. Under Rev II, the municipality's population is multiplied by its full value mill rate minus 10 mills. By subtracting 10 mills from each municipality's full value mill rate, the Rev II distribution is targeted to those towns and cities with property tax rates well over the state average.

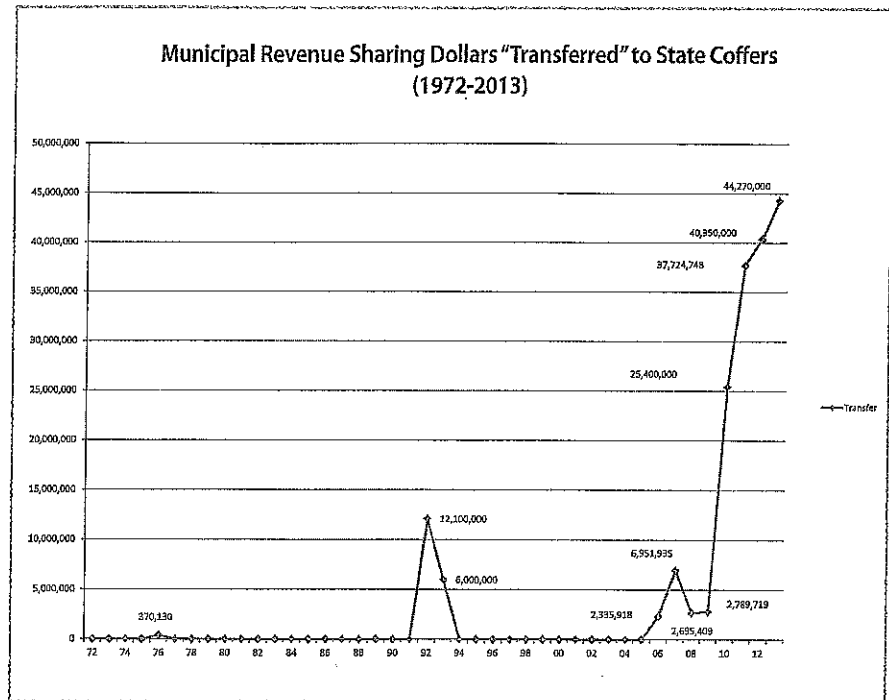
LEGISLATIVE HISTORY

The Legislature is above the law, so even though the program was designed to keep revenue sharing out of the annual appropriations process, the Legislature can ignore that policy if it chooses to. As the data provided on P. 19 makes perfectly clear, the Maine Legislature treated the municipal revenue sharing program with respect for most of its 41-year history. For its first 34 years, there was only one significant legislative raid on the revenue sharing program, coming in the 1992-1993 period. It is only over the last eight years of the program's existence that the Legislature has been taking revenue sharing funds to pay for state spending priorities as an ever-growing matter of course. The practice has taken on an expanding aggressiveness in the past four years. Gov. LePage's proposal to eliminate the program represents the culmination of the state's ever-growing appetite for these "sharing" resources.

No report on the municipal revenue sharing program in Maine can ignore the unfortunate history of the "Fund for the Efficient Delivery of Local and Regional Services."

In 2004, the voters of Maine adopted citizen-initiated legislation with the title "*The School Finance and Tax Reform Act of 2003*." In summary, that Act directed the state to provide 55 percent of the cost of K-12 public education from General Fund resources and comprehensively reform the state's tax code in order to accomplish that result. It should be noted that the citizens' initiative expressly prohibited the Legislature from raiding the revenue sharing program in order to meet its 55 percent obligation, which is just one of many elements the voter-adopted law that the Legislature has either ignored or repealed.

Another element of that enactment created the Local Government Efficiency Fund. The purpose of that fund was to set aside 2 percent of the total revenue sharing distribution and make those resources available



to municipalities or multi-municipal applicants that were proposing to develop potentially cost-effective regional service delivery systems, but could use some start-up capital to make the transition to the new system.

As adopted by the voters, the Local Government Efficiency Fund was not seeking any additional resources for the revenue sharing program. Instead, it was dedicating 2 percent of the existing distribution – approximately \$2 million annually – for the purpose of exploring the regional service delivery efficiencies that lawmakers often claim are abundantly available.

The Legislature's treatment of the Local Government Efficiency Fund can only be described as abusive. Generally speaking, for the five years the program was allowed to marginally exist before it was repealed, the Legislature allowed the 2 percent of municipal revenue sharing to be set aside into the Local Government Efficiency Fund, and then it simply swept those revenues back into the state's General Fund to balance the state budget.

When reviewing the Legislature's treatment of the municipal revenue sharing program over its 40-year history, it would appear that these undisguised legislative raids on the Local Government Efficiency Fund were what whetted the Legislature's appetite for dipping into this property

tax relief resource for state budgeting purposes.

LEGISLATIVE 'FINDINGS'

The only proper way to conclude any history of Maine's municipal revenue sharing program is to reiterate the "findings" that the Legislature made 41 years ago, which formed the foundation of this piece of tax policy that goes to the core of the state-local intergovernmental relationship. The question to be asked is whether these findings are still as accurate, appropriate and relevant today as they were four decades ago. Few municipal officials would argue otherwise.

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- To stabilize the municipal property tax burden and to aid in financing all municipal services, it is necessary to provide funds from the broad-based taxes of State Government...

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