

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND SPECIAL SESSION-2004

Legislative Document

No. 1923

S.P. 759

In Senate, March 10, 2004

**An Act To Increase Business Investment, Provide Expanded
Property Tax Relief to Low-income and Moderate-income
Homeowners and Cap Local and County Spending**

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator STANLEY of Penobscot. (GOVERNOR'S BILL)
Cosponsored by Representative LEMOINE of Old Orchard Beach and
Representatives: McCORMICK of West Gardiner, PERRY of Bangor, TARDY of Newport,
WOODBURY of Yarmouth.

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

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PART A

Sec. A-1. 36 MRSA §662 is enacted to read:

§662. Business equipment

1. Eligible business equipment exempt. Eligible business equipment is exempt from all taxation under this Part, except chapters 111 and 112.

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "BETR-expired property" means property that was eligible for property tax reimbursement under chapter 915, but is no longer eligible for such reimbursement due to the fact that reimbursements have been made for the entire length of time for which reimbursements were allowed under section 6652, subsection 1.

B. "Eligible business equipment" means qualified business property that, in the absence of this section, would first be subject to taxation under this Part after April 1, 2004 and BETR-expired property. "Eligible business equipment" includes, without limitation, repair parts, replacement parts, replacement equipment, additions, accessions and accessories to other qualified business property that first became taxable under this Part on or before April 1, 2004 if the part, addition, equipment, accession or accessory would, in the absence of this section, first be subject to taxation under this Part after April 1, 2004. "Eligible business equipment" also includes inventory parts.

"Eligible business equipment" does not include:

- (1) Office furniture, including, without limitation, tables, chairs, desks, bookcases, filing cabinets and modular office partitions;
- (2) Lamps and lighting fixtures;
- (3) Property owned or used by an excluded person; and
- (4) Telecommunications personal property subject to the tax imposed by section 457.

2 C. "Excluded person" means:

4 (1) A public utility as defined in Title 35-A, section 102, subsection 13;

6 (2) A person that provides radio paging service as defined in Title 35-A, section 102, subsection 15;

8 (3) A person that provides mobile telecommunications services as defined in Title 35-A, section 102, subsection 9-A;

10 (4) A cable television company as defined in Title 30-A, section 2001, subsection 2;

12 (5) A person that provides satellite-based direct television broadcast services; or

14 (6) A person that provides multichannel, multipoint television distribution services.

16 D. "Inventory parts" includes repair parts, replacement parts, replacement equipment, additions, accessions and accessories on hand but not in service and stocks or inventories of repair parts, replacement parts, replacement equipment, additions, accessions and accessories on hand but not in service and other machinery and equipment on hand for future use but not in service if acquired after April 1, 2004, regardless of when placed in service.

18 E. "Qualified business property" means tangible personal property that:

20 (1) Is used or held for use exclusively for a business purpose by the person in possession of it or, in the case of construction in progress or inventory parts, is intended to be used exclusively for a business purpose by the person who will possess that property; and

22 (2) Either:

24 (a) Was subject to an allowance for depreciation under the Code on April 1st of the property tax year for which a claim for exemption under subsection 4 is filed or would have been subject to an allowance for depreciation under the Code as of that date but for the fact that the property has been fully depreciated; or

2 (b) In the case of construction in progress or
3 inventory parts, would be subject under the Code
4 to an allowance for depreciation when placed in
5 service or would have been subject to an allowance
6 for depreciation under the Code as of that date
7 but for the fact that the property has been fully
8 depreciated.

9 "Qualified business property" also includes all property
10 that is affixed or attached to a building or other real
11 estate if the property is used primarily to further a
12 particular trade or business activity taking place in that
13 building or on that real estate. "Qualified business
14 property" does not include components or attachments to a
15 building if they are used primarily to serve the building as
16 a building, regardless of the particular trade or activity
17 taking place in or on the building. "Qualified business
18 property" also does not include land improvements if they
19 are used primarily to further the use of the land as land,
20 regardless of the particular trade or business activity
21 taking place in or on the land. In the case of construction
22 in progress or inventory parts, the term "used" means
23 intended to be used. "Qualified business property" also
24 does not include any vehicle registered for on-road use on
25 which a tax assessed pursuant to chapter 111 has been paid
26 or any watercraft registered for use on state waters on
27 which a tax assessed pursuant to chapter 112 has been paid.

28 **3. Additional limitations.** The exemptions provided
29 pursuant to this section are limited pursuant to this subsection.

30 **A. Exemption for certain energy facilities under this**
31 section is limited as follows.

32 (1) The exemption provided by this section does not
33 apply to a natural gas pipeline, including pumping or
34 compression stations, storage depots and appurtenant
35 facilities used in the transportation, delivery or sale
36 of natural gas, but not including a pipeline that is
37 less than a mile in length and is owned by a consumer
38 of natural gas delivered through the pipeline.

39 (2) The exemption provided in this section does not
40 apply to property used to produce or transmit energy
41 primarily for sale. Energy is primarily for sale if
42 during the immediately preceding property tax year 2/3
43 or more of the useful energy is directly or indirectly
44 sold and transmitted through the facilities of a
45 transmission and distribution utility.

46

2 (3) For purposes of this paragraph, unless the context
3 otherwise indicates, the following terms have the
4 following meanings.

5 (a) "Transmission and distribution utility" has
6 the same meaning as defined in Title 35-A, section
7 102, subsection 20-B.

8 (b) "Useful energy" is energy in any form that
9 does not include waste heat, efficiency losses,
10 line losses or other energy dissipation.

11 B. Pollution control facilities that are entitled to
12 exemption pursuant to section 656, subsection 1, paragraph E
13 are not entitled to an exemption under this section, except
14 if:

15 (1) The property is entitled to an exemption under
16 section 656, subsection 1, paragraph E but has not yet
17 been certified for exemption under that paragraph;

18 (2) The property has been placed in service after the
19 December 1st immediately preceding April 1st of the tax
20 year for which the exemption is sought but prior to
21 April 1st of the property tax year for which the
22 exemption is sought; and

23 (3) The taxpayer has submitted the required
24 application for certification to the Commissioner of
25 Environmental Protection prior to April 1st.

26 The exemption under this section continues for property that
27 meets the requirements of subparagraphs (1), (2) and (3)
28 only until the certification for exemption under section
29 656, subsection 1, paragraph E has been granted. If the
30 State Tax Assessor or assessor denies an exemption on the
31 ground that the property in question is entitled to
32 exemption under section 656, subsection 1, paragraph E and
33 the taxpayer appeals the denial, the State Tax Assessor or
34 assessor shall, at the taxpayer's request, allow the
35 taxpayer up to one year to obtain a statement from the
36 Commissioner of Environmental Protection that the property
37 at issue is not exempt under section 656, subsection 1,
38 paragraph E. If the taxpayer timely produces such a
39 statement or otherwise demonstrates that the property is not
40 exempt under section 656, subsection 1, paragraph E, the
41 State Assessor or assessor shall allow the exemption under
42 this section, but only for the year in question.

2 4. Reporting. On or before June 1st of each year, a
taxpayer claiming an exemption under this section shall file a
report with the assessor of the taxing jurisdiction in which the
property would otherwise be subject to taxation. The report must
identify the property for which exemption is claimed and must be
made on a form prescribed by the State Tax Assessor or substitute
form approved by the State Tax Assessor. The State Tax Assessor
shall furnish copies of the form to each municipality in the
State, and the form must be made available to taxpayers prior to
April 1st. The assessor of the taxing jurisdiction may require
the taxpayer to sign the form and make oath to its truth.

The assessor of the taxing jurisdiction may require in writing
that a taxpayer answer in writing all reasonable inquiries as to
the property for which exemption is requested. A taxpayer has 30
days from receipt of such an inquiry to respond. The answer to
any such inquiry is not binding on the assessor.

Upon written request, a taxpayer is entitled as a matter of right
to a 30-day extension of any deadline imposed by this subsection
and an additional extension of up to 60 days for good cause.

Failure to comply with the provisions of this subsection on a
timely basis, including any extensions of time, results in a
penalty equal to \$25,000 or 10% of the taxes that would be
imposed on the exempt property in the absence of the exemption,
whichever is less, as long as the taxpayer complies with the
provisions of this subsection by the October 1st following the
April 1st exemption date or by the municipality's tax commitment
date, whichever is earlier. The penalty amount is treated as
property taxes and must be paid to the municipality as such. The
assessor shall waive the penalty for good cause. A failure to
comply with the provisions of this subsection by the October 1st
following the April 1st exemption date disqualifies the property
involved from exemption for that tax year. All notices and
requests provided pursuant to this subsection must conspicuously
state the consequences of the taxpayer's failure to respond to
the notice or request in a timely manner.

If an exemption has already been granted and the State Tax
Assessor then determines that the property is not entitled to
exemption, a supplemental assessment must be made within 3 years
of the original assessment date with respect to the property in
compliance with section 713, without regard to the limitations
contained in that section regarding the justification necessary
for a supplemental assessment.

5. Local review. Reports properly filed pursuant to
subsection 4 must be reviewed by the assessor with whom they are
filed. A taxing jurisdiction is not entitled to state

2 reimbursement pursuant to section 661 with respect to property
4 entitled to exemption under this section unless the assessor
6 certifies to the State Tax Assessor that the property qualifies
8 for such exemption. The local taxing jurisdiction shall file an
10 annual certification for business equipment exemptions by the
12 November 1st following the April 1st exemption date or 30 days
14 after commitment of taxes, whichever is later, but in no event
later than 120 days following the November 1st following the
April 1st exemption date. All exemptions certified by the local
taxing jurisdiction must be applied in calculating the taxable
valuation of property in that jurisdiction, unless the
jurisdiction determines that the property is not entitled to
exemption and provides a corrected certification to the State Tax
Assessor.

16 **6. State valuation.** The State Tax Assessor shall annually
18 determine the value of property that is exempt pursuant to this
20 section based upon the business equipment exemption
22 certifications filed by local taxing jurisdictions under
24 subsection 5. The State Tax Assessor shall use the valuation of
26 exempt property so determined to compute the reimbursement
28 required by section 661 arising from property tax exemptions.
30 The State Tax Assessor shall establish a uniform methodology to
32 be used in determining the just value of certified exempt
34 property. The valuations of certified exempt property as
36 determined by the State Tax Assessor must be reported to local
38 taxing jurisdictions no later than July 1st following receipt of
40 the certified reports. The valuations determined may be appealed
in the same fashion as provided for the state valuation
determined in accordance with section 305, subsection 1, with the
exception that the State Board of Property Tax Review, as
established by Title 5, section 12004-B, subsection 6, must
render its decision no later than November 15th following the
date on which the appeal is taken. The board must certify its
decisions on these exemption appeals to the State Tax Assessor by
December 1st of the year following the application of the
exemption. The valuations of exempt property must be filed with
the Secretary of State by December 10th following the year of
exemption.

42 **7. State review; appeal by municipality.** The State Tax
44 Assessor may review exemption claims made under this section and
46 may disqualify any exemption certified under subsection 5 within
48 a 2-year period from the date of the local tax jurisdiction
certification. In a case in which a local taxing jurisdiction
has already received reimbursement, the excess reimbursement may
be offset against the next reimbursement payment. A local taxing
jurisdiction aggrieved by a decision of the State Tax Assessor to
disqualify a certified exemption after the exemption amount has

2 been filed with the Secretary of State may seek review as
3 provided by section 151.

4 **8. Notice of decision by State Tax Assessor; appeal by**
5 **taxpayer.** The State Tax Assessor shall send notice to the
6 taxpayer, in the manner and of the type provided for in section
7 151 in the case of a reconsideration decision, of any decision to
8 disqualify an exemption. The taxpayer may seek reconsideration
9 pursuant to section 151 of the State Tax Assessor's decision to
10 disqualify any exemption claimed by the taxpayer.
11 Notwithstanding any other provision of law, if a taxpayer appeals
12 a decision of the State Tax Assessor to disqualify an exemption
13 and does not prevail in that appeal, the local taxing
14 jurisdiction must issue a supplemental assessment with respect to
15 the property at issue within 90 days after the appeal has been
16 resolved in the State Tax Assessor's favor, and the taxpayer may
17 not appeal that supplemental assessment except as to issues of
18 valuation.

19 **9. Legislative findings.** The Legislature finds that
20 encouragement of the growth of capital investment in this State
21 is in the public interest and promotes the general welfare of the
22 people of the State. The Legislature further finds that the high
23 cost of owning qualified business property in this State is a
24 disincentive to the growth of capital investment in this State.
25 The Legislature further finds that the tax exemption set forth in
26 this section is a reasonable means of overcoming this
27 disincentive and will encourage capital investment in this State.
28

29 **Sec. A-2. Economic development and job creation.** Savings to the
30 State resulting from the establishment of a property tax
31 exemption for business equipment and machinery under the Maine
32 Revised Statutes, Title 36, section 662 must be used to establish
33 a fund for economic development and job creation in
34 municipalities affected by the exemption and in economically
35 distressed communities. The Commissioner of Administrative and
36 Financial Services shall establish a procedure for creation of
37 the fund and identification of affected municipalities and
38 distressed communities.
39

40 **PART B**

41 **Sec. B-1. 20-A MRSA §1310, sub-§6,** as repealed and replaced by
42 PL 2003, c. 212, §1, is amended to read:

43 **6. Enforcement.** If a municipal treasurer fails to pay the
44 installment due, or any part, on the dates required, to initiate
45 collection procedures, the treasurer of the school administrative
46 district may notify the municipal treasurer of the failure to
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2 pay. Interest accrues on each unpaid installment at the rate
4 established under Title 36, section 186 beginning on the 60th day
6 after the date the installment is due under subsection 4. If
8 payment of an installment is not made within 60 days after the
10 due date, the treasurer of the district may initiate an action in
12 Superior Court to compel payment of the delinquent installment.
14 The court shall determine the amount owed by the municipality to
16 the district and shall order the municipal treasurer to pay all
18 delinquent installments, accrued interest and any court costs and
20 reasonable attorney's fees incurred by the district. To ensure
22 prompt payment of the delinquent installments, the court may
24 require that amounts due to the municipality from the State under
26 Title 30-A, section 5681 and Title 36, ~~sections~~ section 578 and
685 be paid to the district until the amount determined by the
court is satisfied. The court shall promptly notify the
disbursing state agency of the determination and direct the
agency to make the required change in payee and the amounts to be
paid. If additional funds are needed to satisfy the amount
determined by the court to be paid to the district, the court may
order the attachment or trustee process and sale of real or
personal property owned by the municipality or the attachment of
the municipality's bank accounts or require property tax payments
to the municipality to be turned over to the court and may pay
the amount owed the district from the proceeds and return any
excess to the municipality.

28 **Sec. B-2. 20-A MRSA §1703, sub-§6**, as repealed and replaced by
PL 2003, c. 212, §2, is amended to read:

30 **6. Enforcement.** If a municipal treasurer fails to pay the
32 installment due, or any part, on the dates required, to initiate
34 collection procedures, the treasurer of the community school
36 district may notify the municipal treasurer of the failure to
38 pay. Interest accrues on each unpaid installment at the rate
40 established under Title 36, section 186 beginning on the 60th day
42 after the date the installment is due under subsection 4. If
44 payment of an installment is not made within 60 days after the
46 due date, the treasurer of the district may initiate an action in
48 Superior Court to compel payment of the delinquent installment.
50 The court shall determine the amount owed by the municipality to
the district and shall order the municipal treasurer to pay all
delinquent installments, accrued interest and any court costs and
reasonable attorney's fees incurred by the district. To ensure
prompt payment of the delinquent installments, the court may
require that amounts due to the municipality from the State under
Title 30-A, section 5681 and Title 36, ~~sections~~ section 578 and
685 be paid to the district until the amount determined by the
court is satisfied. The court shall promptly notify the
disbursing state agency of the determination and direct the
agency to make the required change in payee and the amounts to be

2 paid. If additional funds are needed to satisfy the amount
4 determined by the court to be paid to the district, the court may
6 order the attachment or trustee process and sale of real or
8 personal property owned by the municipality or the attachment of
the municipality's bank accounts or require property tax payments
to the municipality to be turned over to the court and may pay
the amount owed the district from the proceeds and return any
excess to the municipality.

10 **Sec. B-3. 36 MRSA §383, sub-§4**, as repealed and replaced by PL
12 2001, c. 32, §1, is amended to read:

14 **4. Penalty for late filing.** If the complete return and
16 lists required by this section are not filed on time, the State
18 Tax Assessor shall impose a penalty to be deducted from state
reimbursement due to the municipality or primary assessing area
pursuant to the following programs in the following order of
priority:

20 A. Maine Tree Growth Tax Law, section 578; and

22 B. Veterans' property tax exemptions, section 653; and

24 ~~C. Maine resident homestead property tax exemption, section~~
26 ~~685.~~

For a municipality or primary assessing area with a population of
2,000 or less, the penalty is \$50 for the first late day plus \$10
for each late day thereafter. For a municipality or primary
assessing area with a population of more than 2,000, the penalty
is \$100 for the first late day plus \$20 for each late day
thereafter.

34 **Sec. B-4. 36 MRSA §507**, as amended by PL 1997, c. 643, Pt.
36 HHH, §2 and affected by §10, is further amended to read:

38 **§507. Taxpayer information**

40 When a municipality issues a property tax bill to each
42 taxpayer, each bill must contain a statement or calculation that
44 demonstrates the amount or percentage by which the taxpayer's tax
46 has been reduced by the distribution of state-municipal revenue
48 sharing, ~~state reimbursement for the Maine resident homestead
property tax exemption and state aid for education. The property
tax bill must contain a statement of the assessed value of a
homestead, before and after the calculation of a Maine resident
homestead property tax exemption, and the amount of the exemption
applied to the homestead.~~ The State Tax Assessor shall annually
provide each municipality with the amount of state-municipal

2 revenue sharing and state aid for education subject to
2 identification under this section.

4 Each property tax bill issued by a municipality ~~shall~~ must
4 clearly state the date interest will begin to accrue on
6 delinquent taxes.

8 **Sec. B-5. 36 MRSA c. 105, sub-c. 4-B,** as amended, is repealed.

10 **Sec. B-6. 36 MRSA c. 907,** as amended, is further amended by
12 repealing the chapter headnote and enacting the following in its
12 place:

14 **CHAPTER 907**

16 **HOMESTEAD TAX CAP PROGRAM**

18 **Sec. B-7. 36 MRSA §6201-A,** as enacted by PL 1989, c. 534, Pt.
20 A, §4, is amended to read:

22 **§6201-A. Short title**

24 This chapter ~~shall--be~~ is known and may be cited as "the
24 "Maine-Residents-Property Homestead Tax Cap Program."

26 **Sec. B-8. 36 MRSA §6207, sub-§§1 and 2,** as amended by PL 1997,
28 c. 557, Pt. A, §3 and affected by Pt. G, §1, are further amended
28 to read:

30 **1. Benefit calculation.** For claimants representing a
32 nonelderly household, the benefit is calculated as follows:

34 A-1. Fifty percent of that portion of the benefit base that
34 exceeds ~~4%~~ 3.5% but does not exceed 8% of income plus 100%
36 of that portion of the benefit base that exceeds 8% of
36 income to a maximum payment of ~~\$1,000~~ \$1,325 for
38 applications filed under this chapter beginning August 1,
38 2004 and ending December 31, 2004 and \$2,000 thereafter.

40 **2. Income eligibility.** Single-member households with
42 household incomes in excess of ~~\$25,700~~ \$75,000 and households
42 with 2 or more members with a household income in excess of
44 ~~\$40,000~~ \$100,000 are not eligible for a benefit.

46 **Sec. B-9. 36 MRSA §6209,** as amended by PL 1989, c. 508, §25,
46 is further amended to read:

48 **§6209. Annual adjustment**

2 **1. Household limitation adjustment.** Beginning March 1,
1989, and annually thereafter, the State Tax Assessor shall
determine the household income eligibility adjustment factor.
4 That factor shall must be multiplied by the income limitations in
section 6206, applicable for the year prior to that for which
6 relief is requested. The result shall must be rounded to the
nearest \$100 and shall must apply to the year for which relief is
8 requested corresponding to the year on which the annualized cost
of living adjustments were based. Beginning March 1, ~~1991~~ 2005,
10 the same procedure shall must be employed to adjust the income
limitation in section 6207, subsection 2.

12 **Sec. B-10. 36 MRSA §6210**, as amended by PL 1997, c. 557, Pt.
14 A, §4 and affected by Pt. G, §1, is further amended to read:

16 **§6210. Administration**

18 The State Tax Assessor shall make available suitable forms
with instructions for claimants. The claim shall must be in the
20 form ~~the--State--Tax--Assessor--may--prescribe~~ prescribed by the
assessor and shall must be signed by the claimant.

22 The State Tax Assessor shall include a checkoff to request
24 an application for the ~~Maine-Residents-Property~~ Homestead Tax Cap
Program on the individual income tax form. The assessor shall
26 also provide for the option of filing an application for the
~~Maine-Residents-Property~~ Homestead Tax Cap Program using the
28 telefile system established by the assessor.

30 **Sec. B-11. 36 MRSA §6218**, as enacted by PL 1989, c. 534, Pt.
A, §10, is amended to read:

32 **§6218. Readability; application; instructions**

34 The application form and instructions used by applicants for
36 assistance under the ~~Maine-Residents-Property~~ Homestead Tax Cap
Program and its successor, if any, shall must have a readability
38 score, as determined by a recognized instrument for measuring
adult literacy levels, equivalent to no higher than a 6th grade
40 reading level.

42 **Sec. B-12. 36 MRSA §6219**, as amended by PL 1997, c. 526, §14,
is further amended to read:

44 **§6219. Outreach plan required**

46 The Bureau of Revenue Services shall develop and implement a
48 plan of outreach to ensure that all eligible households are made
aware of assistance available under the ~~Maine-Residents-Property~~
50 Homestead Tax Cap Program and its successor, if any.

2 **Sec. B-13. 36 MRSA §6220**, as amended by PL 1997, c. 668, §40,
4 is further amended to read:

6 **§6220. Coordination required**

8 The bureau shall seek the advice and cooperation of the
10 Bureau of Elder and Adult Services; the Bureau of Family
12 Independence; the Bureau of Child and Family Services; advocates
14 for elderly and low-income individuals; and other interested
agencies and organizations in developing the application form and
instruction booklet for the ~~Maine Residents Property~~ Homestead
Tax Cap Program and the outreach plan required by section 6219.

16 **Sec. B-14. Application.** That section of this Part that
18 repeals the Maine Revised Statutes, Title 36, chapter 105,
20 subchapter 4-B applies to property tax years beginning on or
after April 1, 2004. Those sections of this Part that amend
Title 36, chapter 907 apply to applications required to be filed
on or after August 1, 2004.

22 **Sec. B-15. Appropriations and allocations.** The following
24 appropriations and allocations are made.

26 **ADMINISTRATIVE AND FINANCIAL
SERVICES, DEPARTMENT OF**

28 **Homestead Property Tax
30 Exemption Reimbursement**

32 Initiative: Deappropriates funds to reflect savings as a result
of repealing the Maine Residents Property Tax Program.

34 General Fund	2003-04	2004-05
36 All Other	\$0	(\$34,931,664)
38 General Fund Total	<hr/> \$0	<hr/> (\$34,931,644)

40 **Sec. B-16. Appropriations and allocations.** The following
42 appropriations and allocations are made.

44 **ADMINISTRATIVE AND FINANCIAL
SERVICES, DEPARTMENT OF**

46 **Maine Residents Property
Tax Program**

48 Initiative: Provides funds due to the increase in the number and
amount of refunds as a result of increases in the maximum income

2 eligibility criteria and maximum refund allowed under the
Homestead Tax Cap Program.

4	General Fund	2003-04	2004-05
6	All Other	\$0	\$24,920,771
8	General Fund Total	\$0	\$24,920,771

10 **Sec. B-17. Appropriations and allocations.** The following
appropriations and allocations are made.

12 **ADMINISTRATIVE AND FINANCIAL**
14 **SERVICES, DEPARTMENT OF**

16 **Homestead Property Tax**
Exemption Mandate Reimbursement

18 Initiative: Provides funds to reimburse municipalities for 90%
20 of the estimated local costs incurred to terminate the Maine
Residents Property Tax Program.

22	General Fund	2003-04	2004-05
24	All Other	\$0	\$190,000
26	General Fund Total	\$0	\$190,000

28 **PART C**

30 **Sec. C-1. 30-A MRSA c. 231** is enacted to read:

32 **CHAPTER 231**

34 **LOCAL AND COUNTY GOVERNMENT BUDGET CAP**

36 **§6201. Definitions**

38 As used in this chapter, unless the context otherwise
40 indicates, the following terms have the following meanings.

42 1. Adjusted annual growth rate. "Adjusted annual growth
44 rate" means the total dollar amount of the municipal or county
46 budget approved by the pertinent local taxation authority for the
prior fiscal year multiplied by one plus the average real
personal income growth rate, plus the average forecasted
inflation rate.

2 **2. Average forecasted inflation rate.** "Average forecasted
inflation rate" means the average forecasted inflation rate as
defined by Title 5, section 1664.

4
6 **3. Average real personal income growth rate.** "Average
real personal income growth rate" means the average real personal
income growth rate as defined by Title 5, section 1665,
subsection 1.

10 **4. County budget authority.** "County budget authority"
means the entity with authority under chapter 3 to approve the
county budget.

14 **5. County tax appropriation.** "County tax appropriation"
means the appropriations budgeted by a municipality to meet its
portion of the county tax assessed under section 706.

18 **6. Education appropriation.** "Education appropriation" means
the appropriations budgeted by a municipality to meet its local
share of education funding established under Title 20-A, chapter
606-B.

22 **7. Exceptional circumstances.** "Exceptional circumstances"
means an unforeseen condition or conditions regarding which the
local taxation authority lacks discretion, authority or other
means of control, including, but not limited to:

28 A. Unfunded or under-funded new state or federal mandates;

30 B. Losses in state or federal revenues or other revenue
sources;

32 C. Citizens' initiatives or referenda that require
increased municipal spending;

34 D. Court orders or decrees that require additional,
unbudgeted municipal resources to comply with the orders or
decrees; and

36 E. Sudden or significant increases in demand for existing
municipal services that are not the result of municipal
legislative body actions that increase eligibility or
increase benefits.

40 **8. Local taxation authority.** "Local taxation authority"
means the legislative body of a municipality or the county budget
authority.

44
46 **9. Municipal services appropriation.** "Municipal services
appropriation" means the total amount of money appropriated to

2 pay for services, programs and public debt that is included in a
3 municipality's annual budget, excluding the education
4 appropriation, the county tax appropriation and allocation of the
5 proceeds of any state or federal grant awarded on a competitive
6 basis.

7 **§6202. Local and county government growth rate management system**

8
9 **1. Compliance with budget cap.** Except as otherwise
10 provided in subsection 2, the budget adopted by a local taxation
11 authority may not exceed the adjusted annual growth rate.

12
13 **2. Determination of compliance with adjusted annual growth**
14 **rate.** Determination of whether a budget proposed for adoption by
15 a local taxation authority exceeds the adjusted annual growth
16 rate must be made as follows:

17 **A.** The proposed municipal services appropriation is
18 considered to comply with the annual adjusted growth rate if
19 it is no greater than the municipal services appropriation
20 for the previous fiscal year as adjusted by the average real
21 personal income growth rate; and

22
23 **B.** The proposed county budget is considered to comply with
24 the annual adjusted growth rate if the total amount
25 apportioned to municipalities under section 706 for the
26 fiscal year is no greater than the total amount apportioned
27 to municipalities under section 706 for the prior fiscal
28 year as adjusted by the average real personal income growth
29 rate. For purposes of this chapter, each municipality's
30 county tax appropriation is deemed to comply with the annual
31 adjusted growth rate.

32
33 **3. Noncompliance due to exceptional circumstances;**
34 **disclosure of information regarding noncompliance.** The budget
35 proposed for adoption by a local taxation authority may exceed
36 the adjusted annual growth rate if:

37
38 **A.** The proposed budget exceeds the adjusted annual growth
39 rate due to exceptional circumstances;

40
41 **B.** The following information is printed clearly near the
42 title on the proposed budget document's initial page:

43
44 **(1)** A statement that the proposed budget does not
45 comply with the adjusted annual growth rate; and

46
47 **(2)** A description of the exceptional circumstances
48 that cause the proposed budget to exceed the adjusted
49 annual growth rate; and
50

2 C. The local taxation authority approves the exceeding of
3 the adjusted annual growth rate by a vote on a separate
4 article using the same process as that used for approving
5 the budget.

6

8

SUMMARY

10

PART A

12

13 Part A establishes a property tax exemption for property
14 that would have been first subject to property tax after April 1,
15 2004 in the absence of this exemption. Property placed in
16 service on or before April 1, 2004 will remain eligible for the
17 Business Equipment Tax Reimbursement, or "BETR," program for the
18 duration of the 12-year window for BETR program entitlement,
19 after which it will be exempt. Property placed in service on or
20 before April 1, 1995, the date after which property placed into
21 service is eligible under BETR, will remain subject to property
22 taxation as long as it continues to be otherwise subject to
23 personal property taxation in the State.

24

25 It establishes a procedure for the State Tax Assessor to
26 value business equipment entitled to the personal property tax
27 exemption. Continuing valuation of this class of property will
28 be required in order to provide the required 50% state
29 reimbursement to municipalities for lost property tax revenue.
30 Valuation by the State Tax Assessor will help ensure uniform
31 determinations of just value and relieve municipalities of the
32 burden of continuing to value exempt property.

32

33 It establishes a penalty for a taxpayer's failure to comply
34 on a timely basis with reporting requirements. The penalty is
35 set at \$25,000 or 10% of the tax liability, whichever is less.
36 The penalty may be waived for good cause.

38

39 It requires the establishment of a fund for economic
40 development and job creation in municipalities affected by the
41 prospective property tax exemption for business equipment and
42 machinery and in economically distressed communities. The
43 savings to the State from the elimination of BETR reimbursement
44 for business equipment and machinery put into service after the
45 exemption will be used to create the fund.

46

PART B

48

49 Part B repeals the homestead property tax exemption program
50 for property tax years beginning on or after April 1, 2004,

2 expands the Maine Residents Property Tax Program and renames the
4 expanded property tax reimbursement "the Homestead Tax Cap
6 Program" for applications required to be filed on or after August
8 1, 2004. The program is expanded by increasing the income
10 eligibility requirements for nonelderly households to \$75,000 for
12 single-member households and to \$100,000 for households with 2 or
14 more members and by increasing the maximum allowable benefit from
\$1,000 to \$1,325 for the fiscal year 2003-04 program and to
\$2,000 thereafter. Under current law, the projected income
limitations for the 2004 Maine Residents Property Tax Program, as
adjusted for inflation, are projected to be \$30,300 for
single-member households and \$46,900 for households with 2 or
more members. The new income limitations would be adjusted for
inflation for program filing periods beginning after 2004.

16 PART C

18 Part C, which is modeled after the budget stabilization cap
20 applicable to the State Government budget, establishes a cap on
22 municipal and county government spending and promotes informed
24 taxpayer decisions regarding municipal and county budgets. Each
26 year, municipal and county budgets may not exceed the average
28 real personal income growth rate, adjusted by inflation, except
in exceptional circumstances. For a budget to exceed the
adjusted annual growth rate, the municipal or county budget
authority must state what exceptional circumstances require the
cap to be exceeded and vote on a separate article to exceed the
cap.