

MAINE STATE LEGISLATURE

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L.D. 1141

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DATE: 4-27-04

(Filing No. S-551)

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Reproduced and distributed under the direction of the Secretary of the Senate.

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STATE OF MAINE
SENATE
121ST LEGISLATURE
SECOND SPECIAL SESSION

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SENATE AMENDMENT "A" to H.P. 844, L.D. 1141, Bill, "An Act To Provide Property Tax Relief for Maine Residents and Businesses and Implement Comprehensive Tax Reform"

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

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PART A

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Sec. A-1. 5 MRSA §1521 is enacted to read:

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§1521. Education Funding Stabilization Fund

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1. Education Funding Stabilization Fund. The Education Funding Stabilization Fund, referred to in this section as "the fund," is established for the purposes of providing property tax relief and meeting the State's share of the cost of funding public education from kindergarten to grade 12.

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2. Source of revenue. The fund receives revenue transferred by the State Tax Assessor under Title 36, section 1811, subsection 2.

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3. Transfers. Transfers must be made from the fund as follows for the purpose of providing property tax relief.

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A. Before the beginning of each fiscal year, the State Tax Assessor shall estimate the following amounts and certify those amounts to the State Controller:

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R.O.S.

SENATE AMENDMENT "A" to H.P. 844, L.D. 1141

- 2 (1) The cost of funding the increase in state
3 reimbursement to municipalities as a result of the
4 increase in the homestead property tax exemption to
5 \$11,000;
- 6 (2) The incremental cost of the Homestead Tax Cap
7 Program over the cost of benefits calculated under the
8 formula contained in the Maine Residents Property Tax
9 Program as it existed on April 1, 2004;
- 10 (3) The cost of funding the increase to 100% in state
11 reimbursement to municipalities for property tax loss
12 resulting from the Maine Tree Growth Tax Law;
- 13 (4) The cost associated with the Job Creation Property
14 Tax Refund Act; and
- 15 (5) The amount of any appropriation from the General
16 Fund to the Mainely Small Business Capital Fund.

17 B. The State Controller shall transfer from the fund to the
18 General Fund each month an amount equal to 1/12th of the
19 amount certified by the State Tax Assessor under paragraph A.

20 C. At the close of each fiscal year, the State Tax Assessor
21 shall certify the actual amounts attributable to paragraph
22 A, subparagraphs (1) to (5). The State Controller shall
23 make transfers between the General Fund and the fund to
24 ensure that the balance of transfers to the General Fund for
25 the fiscal year reflects the actual amounts attributable to
26 paragraph A, subparagraphs (1) to (5).

27 4. Use of fund. Allocations from the fund may be made only
28 for the purpose of meeting the State's share of the cost of
29 funding public education from kindergarten to grade 12. Funds do
30 not lapse but are carried forward for the purposes of this
31 section.

32 Sec. A-2. 36 MRSA §1811, as amended by PL 2003, c. 510, Pt.
33 C, §12 and affected by §13, is repealed and the following enacted
34 in its place:

35 **§1811. Sales tax**

36 1. Base sales tax. A tax is imposed on the value of all
37 tangible personal property and taxable services sold at retail in
38 this State. The rate of tax is 7% on the value of liquor sold in
39 licensed establishments as defined in Title 28-A, section 2,
40 subsection 15, in accordance with Title 28-A, chapter 43; 7% on
41 the value of rental of living quarters in any hotel, rooming
42 house, or other place where a person is provided with sleeping
43 quarters for hire.

SENATE AMENDMENT

R. of S.

SENATE AMENDMENT "A" to H.P. 844, L.D. 1141

2 house or tourist or trailer camp; 10% on the value of rental for
3 a period of less than one year of an automobile; 7% on the value
4 of prepared food; and 5% on the value of all other tangible
5 personal property and taxable services. Value is measured by the
6 sale price, except as otherwise provided.

7 The tax imposed upon the sale and distribution of gas, water or
8 electricity, or telecommunications services, by any public
9 utility, the rates for which sale and distribution are
10 established by the Public Utilities Commission, must be added to
11 the rates so established. A tax may not be imposed upon the sale
12 or use of electrical energy, or water stored for the purpose of
13 generating electricity, when the sale is to or by a wholly owned
14 subsidiary by or to its parent corporation, except for electrical
15 energy or water purchased for resale to or by such wholly owned
16 subsidiary.

17 Rental or lease of an automobile for one year or more must be
18 taxed at the time of the lease or rental transaction at 5% of the
19 following: the total monthly lease payment multiplied by the
20 number of payments in the lease or rental, the amount of equity
21 involved in any trade-in and the value of any cash down payment.
22 Collection and remittance of the tax is the responsibility of the
23 person that negotiates the lease transaction with the lessee.

24 2. Additional tax. In addition to the tax imposed under
25 subsection 1, an additional tax in the amount of 1% is imposed on
26 sales that are subject to the tax at the rate of 5% under
27 subsection 1. The tax imposed under this subsection is subject
28 to the same conditions as the tax imposed under subsection 1.
29 After the transfers required under Title 30-A, section 5681,
30 subsection 5, the State Tax Assessor shall deposit revenue
31 collected under this subsection to the Education Funding
32 Stabilization Fund.

33 **Sec. A-3. Appropriations and allocations.** The following
34 appropriations and allocations are made.

35 **TREASURY, DEPARTMENT OF**

36 **Disproportionate Tax Burden Fund**

37 Initiative: Allocates funds to reflect additional transfers to
38 the Disproportionate Tax Burden Fund as a result of the Act.

39	Other Special Revenue Funds	2003-04	2004-05
40	All Other	\$0	\$4,345,111
41			
42	Other Special Revenue Funds Total	\$0	\$4,345,111

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SENATE AMENDMENT

R.O.S.

Sec. A-4. Effective date. This Part takes effect August 1, 2004.

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PART B

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Sec. B-1. 20-A MRSA §15653, sub-§4, as amended by PL 2003, c. 20, Pt. C, §3, is further amended to read:

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4. Statewide local share. For fiscal year ~~2003-04~~ 2004-05, the statewide local share amount of the operating costs allocation is based on the sum of the amounts determined by multiplying for each unit ~~6.74~~ 6.45 mills times the unit's property fiscal capacity. In subsequent years the mill rate is 7.57 mills, except that the Legislature shall determine if an increase is needed to achieve the targeted per pupil guarantee under this section.

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Sec. B-2. Basic elementary and secondary per pupil operating rates. Notwithstanding any other provision of law, the basic elementary per pupil operating rate for fiscal year 2004-05 is \$5,515 and the basic secondary per pupil operating rate for fiscal year 2004-05 is \$6,132. The foundation per pupil operating rate for fiscal year 2004-05 is \$5,716.

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Sec. B-3. Per pupil guarantee and statewide factor. Notwithstanding any other provision of law, the per pupil guarantee for fiscal year 2004-05 is \$5,047. The statewide factor for fiscal year 2004-05 is 0.61350.

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Sec. B-4. Foundation allocation. Notwithstanding any other provision of law, the foundation allocation of state and local funds for fiscal year 2004-05 for the purposes listed in this section is as follows:

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	2004-05
	TOTAL
Operating	
Per pupil guarantee pursuant to the Maine Revised Statutes, Title 20-A, section 15653, subsection 1.	\$1,062,465,117
Program Costs	
Early Childhood	1,367,317
Special Education (Local)	195,504,985
Special Education (Tuition and Board)	19,395,944

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R.O.S.

SENATE AMENDMENT "A" to H.P. 844, L.D. 1141

2 **Sec. B-8. Debt service allocation.** Notwithstanding any other
3 provision of law, the debt service allocation of state and local
4 funds for fiscal year 2004-05 for the purposes listed in this
5 section is as follows.

6		2004-05
7		TOTAL
10	Debt Service Costs	
12	Principal and Interest	\$73,787,290
14	Approved Leases and Lease-purchases of Space	6,178,767
16	Insured Value Factor	3,055,623
18		
20	Debt Service Cost Total	83,021,680
22	Less percentage reduction of insured	
23	value factor pursuant to the Maine	
24	Revised Statutes, Title 20-A, section	
25	15603, subsection 26-A, paragraph F.	(60,807)
26		
28	Adjusted Debt Service Cost Total	\$82,960,873

30 **Sec. B-9. Debt service subsidy indexes.** Notwithstanding any
31 other provision of law, this section establishes mill rates
32 pursuant to the Maine Revised Statutes, Title 20-A, chapter 606
33 as follows: operating cost millage, 8.67 mills; debt service
34 millage limit, 0.38 mills.

36 **Sec. B-10. Debt service reduction percentages.** Notwithstanding
37 any other provision of law, this section establishes reduction
38 percentages as follows: insured value factor reduction
percentage, 1.99%.

40 **Sec. B-11. Debt service appropriation.** Notwithstanding any
41 other provision of law, the debt service appropriation provided
42 for General Purpose Aid for Local Schools for the fiscal year
43 beginning July 1, 2004 and ending June 30, 2005 is calculated as
44 follows.

46		2004-05	2004-05
47		TOTAL	STATE
48	ADJUSTED DEBT SERVICE ALLOCATION TOTAL	\$82,960,873	\$59,244,203

SENATE AMENDMENT

		2004-05	2004-05
		TOTAL	STATE
2			
4	COMBINED ADJUSTED FOUNDATION AND ADJUSTED DEBT SERVICE ALLOCATIONS		
6	TOTAL	\$1,477,841,624	\$724,238,669

Sec. B-12. Adjustments and miscellaneous costs allocation.
 Notwithstanding any other provision of law, the adjustments and
 miscellaneous costs allocation of state funds for fiscal year
 2004-05 for the purposes listed in this section is as follows.

12			2004-05
14	Adjustments and Miscellaneous Costs		TOTAL
16	Cost of Geographic Isolation Adjustments		\$489,904
18	Cost of Quality Incentive Adjustments		0
20	Audit Adjustments		0
22	Cost of Reimbursement for Private School Services		203,031
24			
26	Special Education Tuition and Board for State Wards and Other Pupils Placed Directly by the State		11,231,613
28			
30	State Agency Clients		25,839,830
32	English as a 2nd Language		2,129,818
34	Out-of-district Placements		2,981,064
36	Long-term Drug Treatment Centers		166,392
38	Maine Education Policy Research Institute		150,000
40	Essential Programs and Services Contract		75,000
42	Carpenter Bus Loan		550,000
44	Regionalization/Consolidation/Efficiency Assistance		125,000
46	Learning Results Accountability		250,000
48	Learning Results Implementation and Assessment		1,112,000

B.O.S.

2 **Total Adjustments** \$45,303,652

4 **Sec. B-13. Adjustments and miscellaneous costs appropriation.**
 6 Notwithstanding any other provision of law, the adjustments and
 8 miscellaneous costs appropriation provided for General Purpose
 Aid for Local Schools for the fiscal year beginning July 1, 2004
 and ending June 30, 2005 is calculated as follows.

10	2004-05	2004-05
	TOTAL	STATE
12 ADJUSTMENTS AND MISCELLANEOUS		
14 COSTS TOTAL	\$45,303,652	\$45,303,652
16 FOUNDATION, DEBT SERVICE AND		
18 ADJUSTMENTS AND MISCELLANEOUS		
COSTS TOTAL	\$1,523,145,276	\$769,542,321

20 **Sec. B-14. Limit of State's obligation.** Notwithstanding any other
 22 provision of law, if the State's continued obligation for any
 24 individual program contained in sections 4, 7, 8, 11, 12 and 13
 26 of this Part exceeds the level of funding provided for that
 program, any unexpended balances occurring in other programs may
 be applied to avoid proration of payments for any individual
 program. Any unexpended balances from sections 4, 7, 8, 11, 12
 and 13 of this Part may not lapse but must be carried forward for
 the same purpose.

30 **Sec. B-15. Authorization of payments.** Notwithstanding any
 32 other provision of law, sections 1 to 14 of this Part may not be
 34 construed to require the State to provide payments that exceed
 the appropriation of funds for General Purpose Aid for Local
 Schools for the fiscal year beginning July 1, 2004 and ending
 June 30, 2005.

36 **Sec. B-16. Component funding.** Notwithstanding any other
 38 provision of law, in accordance with the Maine Revised Statutes,
 40 Title 20-A, section 15607, subsection 3, component funding within
 General Purpose Aid for Local Schools for the fiscal year 2004-05
 is as follows:

42		2004-05
	Foundation (including Minimum State Subsidy)	\$664,994,466
44	Debt Service	59,244,203
46	Adjustments	45,303,652
48	TOTAL	\$769,542,321

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2 **Sec. B-17. General Purpose Aid for Local Schools; fiscal year 2003-04**
3 **balances.** Notwithstanding any other provision of law, the total
4 amount of funds available in the General Purpose Aid for Local
5 Schools program in this Part to be distributed to school
6 administrative units in fiscal year 2004-05 includes \$5,050,000
7 in funds carried forward from fiscal year 2003-04.

8 **Sec. B-18. Appropriations and allocations.** The following
9 appropriations and allocations are made.

12 **EDUCATION, DEPARTMENT OF**

14 **General Purpose Aid for Local Schools (0308)**

16 Initiative: Provides additional funds for the General Purpose
17 Aid for Local Schools program.

18	Other Special Revenue Funds	2003-04	2004-05
20	All Other	\$0	\$29,163,745
22	Other Special Revenue Funds Total	<u>\$0</u>	<u>\$29,163,745</u>

24
26 **PART C**

28 **Sec. C-1. 36 MRSA §683, sub-§1,** as repealed and replaced by PL
29 2003, c. 20, Pt. BB, §1 and affected by §3, is repealed.

30 **Sec. C-2. 36 MRSA §683, sub-§1-A,** as enacted by PL 2003, c.
31 20, Pt. BB, §2 and affected by §3, is repealed.

32 **Sec. C-3. 36 MRSA §683, sub-§1-B** is enacted to read:

34
35 1-B. Exemption amount. The estate up to the just value of
36 \$11,000 of the homestead of a permanent resident of this State
37 who has owned a homestead in this State for the preceding 12
38 months is exempt from taxation except for assessments for special
39 benefits. In determining the local assessed value of the
40 exemption, the assessor shall multiply the amount of the
41 exemption by the ratio of current just value upon which the
42 assessment is based as furnished in the assessor's annual return
43 pursuant to section 383. If the title to a homestead is held by
44 the applicant jointly or in common with others, the exemption may
45 not exceed \$11,000 of the just value of the homestead but may be
46 apportioned among the owners who reside on the property to the
47 extent of their respective interests. A municipality responsible
48 for administering the homestead exemption has no obligation to
49 create separate accounts for each partial interest in a homestead
50 owned jointly or in common.

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CHAPTER 907

HOMESTEAD TAX CAP PROGRAM

Sec. D-2. 36 MRSA §6201, sub-§11-A, as amended by PL 1999, c. 401, Pt. R, §1 and affected by §2, is further amended to read:

11-A. Rent constituting property taxes accrued for nonelderly household. "Rent constituting property taxes accrued for nonelderly household" means 18% 20% of the gross rent actually paid in cash or its equivalent in any tax year by a claimant and the claimant's household solely for the right of occupancy of their Maine homestead in the tax year and which rent constitutes the basis, in the succeeding calendar year, of a claim for relief under this chapter by the claimant.

Sec. D-3. 36 MRSA §6201-A, as enacted by PL 1989, c. 534, Pt. A, §4, is amended to read:

§6201-A. Short title

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

Sec. D-4. 36 MRSA §6203, as enacted by PL 1987, c. 516, §§3 and 6, is repealed.

Sec. D-5. 36 MRSA §6203-A is enacted to read:

§6203-A. Procedure for reimbursement

At least monthly on or before the last day of the month, the State Tax Assessor shall determine the benefit for each claimant under this chapter and certify the amount to the State Controller to be transferred to the so-called circuit breaker reserve established, maintained and administered by the State Controller from General Fund undedicated revenue within the individual income tax category. At least monthly, the assessor shall pay the certified amounts to each approved applicant qualifying for the benefit under this chapter. Interest may not be allowed on any payment made to a claimant pursuant to this chapter.

Sec. D-6. 36 MRSA §6207, as amended by PL 1999, c. 494, §1, is further amended to read:

§6207. Calculation of benefits for nonelderly households

A claimant representing a nonelderly household qualifies for

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SENATE AMENDMENT "A" to H.P. 844, L.D. 1141

the following benefits subject---to---the---following---income
2 limitations.

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

8 A-1. Fifty percent of that portion of the benefit base that
10 exceeds 4% but does not exceed 8% of income plus 100% of
that portion of the benefit base that exceeds 8% of income
to a maximum payment of \$1,000 \$2,000.

12 2. **Income eligibility.** Single-member households with
14 household incomes in excess of \$25,700 \$40,000 and households
with 2 or more members with a household income in excess of
16 \$40,000 \$60,000 are not eligible for a benefit.

18 3. **Subsidized housing; special needs payment.** A claim may
not be granted under this section to claimants:

20 A. Whose housing costs for the year for which relief is
22 requested were subsidized by government programs that limit
housing costs to a percentage of household income, except
24 that the exclusion provided by this paragraph does not apply
to persons receiving social security disability or
26 supplemental security income disability benefits.

28 4. **Minimum benefit.** A claim of less than \$10 may not be
granted.

30 **Sec. D-7. 36 MRSA §6209, sub-§1,** as amended by PL 1989, c.
508, §25, is further amended to read:

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

44 **Sec. D-8. 36 MRSA §6210,** as amended by PL 1997, c. 557, Pt.
46 A, §4 and affected by Pt. G, §1, is further amended to read:

48 **§6210. Administration**

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

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

Sec. D-9. 36 MRSA §6218, as enacted by PL 1989, c. 534, Pt. A, §10, is amended to read:

§6218. Readability; application; instructions

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

Sec. D-10. 36 MRSA §6219, as enacted by PL 1989, c. 534, Pt. A, §10 and amended by PL 1997, c. 526, §14, is further amended to read:

§6219. Outreach plan required

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

Sec. D-11. 36 MRSA §6220, as amended by PL 1997, c. 668, §40, is further amended to read:

§6220. Coordination required

The bureau shall seek the advice and cooperation of the Bureau of Elder and Adult Services; the Bureau of Family Independence; the Bureau of Child and Family Services; advocates 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.

Sec. D-12. Application. This Part applies to applications for benefits made on or after August 1, 2004.

2 section 383 and if it achieves the appropriate minimum assessment
ratio described in section 327. The per acre reimbursement is
4 90% ~~100%~~ of the per acre tax revenue lost as a result of this
subchapter. For purposes of this section, the tax lost is the
6 tax that would have been assessed, but for this subchapter, on
the classified forest lands if they were assessed according to
8 the undeveloped acreage valuations used in the state valuation
then in effect, or according to the current local valuation on
undeveloped acreage, whichever is less, minus the tax that was
10 actually assessed on the same lands in accordance with this
subchapter. A municipality that fails to achieve the minimum
12 assessment ratio established in section 327 loses 10% of the
reimbursement provided by this section for each one percentage
14 point the minimum assessment ratio falls below the ratio
established in section 327.

16
18 No municipality may receive a reimbursement payment under this
section that would exceed an amount determined by calculating the
tree growth tax loss less the municipal savings in educational
20 costs attributable to reduced state valuation.

22 A. The tree growth tax loss is the adjusted tax that would
have been assessed, but for this subchapter, on the
24 classified forest lands if they were assessed according to
the undeveloped acreage valuations used in the state
26 valuation then in effect minus the tax that was actually
assessed on the same lands in accordance with this
28 subchapter.

30 In determining the adjusted tax that would have been
assessed, the tax rate to be used is computed by adding the
32 additional school support required by the modified state
valuation attributable to the increased valuation of forest
34 land to the original tax committed and dividing this sum by
the modified total municipal valuation. The adjusted tax
36 rate is then applied to the valuation of forest land based
on the undeveloped acreage valuations, adjusted by the
38 certified ratio, to determine the adjusted tax.

40 B. The municipal savings in educational costs is determined
by multiplying the school subsidy index by the change in
42 state valuation attributable to the use of the valuations
determined in accordance with this subchapter on classified
44 forest lands rather than their valuation using the
undeveloped acreage valuations used in the state valuation
46 then in effect.

48 **Sec. E-2. Appropriations and allocations.** The following
appropriations and allocations are made.

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2 ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

4 Tree Growth Tax Reimbursement 0261

6 Initiative: Provides funds to increase tree growth reimbursement
8 from 90% to 100%.

10	General Fund	2003-04	2004-05
	All Other	\$0	\$100,000
12	General Fund Total	<u>\$0</u>	<u>\$100,000</u>

14 PART F

16 Sec. F-1. 30-A MRSA c. 3, sub-c. 3 is enacted to read:

18 SUBCHAPTER 3

20 COUNTY APPROPRIATION LIMITATION

22 §981. County appropriation limitation

24 Notwithstanding the other provisions of this chapter, the
26 following limitations apply to a county services appropriation
28 for county fiscal years that begin on or after January 1, 2005.

30 1. Definitions. As used in this subchapter, unless the
32 context otherwise indicates, the following terms have the
34 following meanings.

36 A. "County budget authority" means a body with authority to
38 adopt a county budget under this chapter.

40 B. "County services appropriation" means the total amount
42 of money raised and appropriated to pay for services,
44 programs and public debt that is included in a county's
46 annual budget but does not include any grant or subsidy that
the county receives from the Federal Government.

48 C. "Exceptional circumstances" means an unforeseen
condition or conditions over which the county budget
authority has little or no control and does not mean new
programs or program expansions that go beyond existing
program criteria and operations.

2. Appropriation limitation. The total county services
appropriation for each fiscal year of a county may not exceed the

county services appropriation of the previous fiscal year multiplied by the limitation on the total General Fund appropriation described in Title 5, section 1664.

3. Exceptional circumstances. Except as provided in subsection 4, the amount derived under subsection 2 may be exceeded only by the amount of additional costs or the lost revenue from the following exceptional circumstances:

A. Unfunded or underfunded new state or federal mandates;

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

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

D. Court orders or decrees that require additional county resources to comply with the orders or decrees; or

E. Sudden or significant increases in demand for existing county services that are not the result of county budget authority actions that increase eligibility or increase benefits.

In addition, the county budget authority may designate exceptional circumstances that are not explicitly described in paragraphs A to E but meet the intent of this section.

4. Voter approval. Except as provided in subsection 3, the amount derived under subsection 2 may be exceeded only if approved by a referendum vote in the county.

Sec. F-2. 30-A MRS §5721-A is enacted to read:

§5721-A. Municipal appropriation limitation

The following limitations apply to a municipality's appropriations adopted on or after September 1, 2004.

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

A. "Exceptional circumstances" means an unforeseen condition or conditions over which the municipal legislative body has little or no control and does not mean new programs or program expansions that go beyond existing program criteria and operations.

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SENATE AMENDMENT "A" to H.P. 844, L.D. 1141

2 B. "Municipal services appropriation" means the total
4 amount of money raised and appropriated to pay for services,
6 programs and public debt that is included in a
8 municipality's annual budget but does not include local
10 costs for public education from kindergarten to grade 12,
 assessments made to support general county government and
 any grant or subsidy that the municipality receives from the
 Federal Government.

12 2. Appropriation limitation. The total municipal services
14 appropriation for each fiscal year of a municipality may not
16 exceed the municipal services appropriation of the previous
 fiscal year multiplied by the limitation on the total General
 Fund appropriation described in Title 5, section 1664.

18 3. Exceptional circumstances. The amount derived under
20 subsection 2 may be exceeded only by the amount of additional
 costs or the lost revenue from the following exceptional
 circumstances:

22 A. Unfunded or underfunded new state or federal mandates;

24 B. Losses in state or federal revenues or other revenue
 sources, except losses in revenue under subsection 5;

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

30 D. Court orders or decrees that require additional
32 municipal resources to comply with the orders or decrees; or

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

38 In addition, the municipal legislative body may designate
40 exceptional circumstances that are not explicitly described in
 paragraphs A to E but meet the intent of this section.

42 4. Voter approval. Except as provided in subsection 3, the
44 amount derived under subsection 2 may be exceeded only if
 approved by a referendum vote in the municipality or by a town
 meeting.

46 5. Revenue-sharing deduction. If a municipality's spending
48 exceeds the amount derived under subsections 2 and 3 due to
 circumstances that are not exceptional, as established in

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SENATE AMENDMENT "A" to H.P. 844, L.D. 1141

2 subsection 3, its share of distributions under section 5681,
subsections 4-A and 4-B must be reduced in the following manner:

4 A. The Department of Audit shall declare the amount by
which the municipality has exceeded the amount derived under
6 subsection 2 and shall determine what the property tax
burden of the municipality would be without the exceeding of
8 the amount derived under subsections 2 and 3;

10 B. The Department of Audit shall report the property tax
burden determination under paragraph A to the Treasurer of
12 State; and

14 C. The Treasurer of State shall use the property tax burden
amount reported under paragraph B to determine the amount to
16 be disbursed to the municipality under section 5681,
subsections 4-A and 4-B.

18 6. Procedures. The Department of Audit and the Treasurer
20 of State shall establish procedures and may adopt rules to
implement the requirements of this section. Rules adopted under
22 this subsection are routine technical rules as defined in Title
5, chapter 375, subchapter 2-A.

24 **Sec. F-3. 30-A MRSA §5823, sub-§3, ¶A,** as amended by PL 2003,
26 c. 178, §5, is further amended to read:

28 A. The report must contain the following items:

- 30 (1) A management letter, if applicable;
- 32 (2) A letter of transmittal;
- 34 (3) The independent auditor's report on the financial
36 statements; and
- 38 (4) All financial statements and all other information
required by governmental accounting and financial
40 reporting standards; and
- 42 (5) A statement of:
 - 44 (a) Whether the municipality has exceed the amount
derived under section 5721-A, subsection 2 due to
circumstances that are not exceptional, as
46 described in section 5721-A, subsection 3, if
applicable; and
 - 48 (b) If the amount derived under section 5721-A,

SENATE AMENDMENT

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subsection 2 has been exceeded as described in division (a), a calculation of the amount by which the municipality has exceeded that amount.

Sec. F-4. 30-A MRSA §5823, sub-§3, ¶B, as amended by PL 1997, c. 142, §2, is further amended to read:

B. Within 30 days after the postaudit is completed, the auditor shall send to the State Auditor:

(1) A certified copy of the postaudit report, excluding the management letter; and

(2) A certified copy of the audit procedural form prescribed by the State Auditor for governmental audits; and

(3) A copy of the municipality's approved official budget for the year audited.

Sec. F-5. Legislation. The Department of Audit and the Treasurer of State may introduce legislation to the First Regular Session of the 122nd Legislature by February 1, 2005 if considered necessary to implement the provisions of the Maine Revised Statutes, Title 30-A, section 5721-A.

PART G

Sec. G-1. 30-A MRSA §5681, sub-§2, ¶F is enacted to read:

F. "Noneducation mill rate" means the total real and personal property taxes assessed in the most recently completed municipal fiscal year for purposes other than public education from kindergarten to grade 12, except the taxes assessed on captured value within a tax increment financing district, divided by the latest state valuation certified to the Secretary of State.

Sec. G-2. 30-A MRSA §5681, sub-§4-B, as enacted by PL 1999, c. 731, Pt. U, §4, is amended to read:

4-B. Distribution of Disproportionate Tax Burden Fund. The Treasurer of State shall transfer the balance in the Disproportionate Tax Burden Fund on the 20th day of each month to municipalities whose noneducation mill rate is 6 or greater. Money in the Disproportionate Tax Burden Fund must be distributed to each-municipality eligible municipalities in proportion to the product of the population of the municipality multiplied by the disproportionate tax burden of the municipality.

PART H

Sec. H-1. 36 MRSA c. 921 is enacted to read:

CHAPTER 921

SMALL BUSINESS JOB CREATION PROPERTY TAX REFUND

§6901. Short title

This chapter may be known and cited as "the Job Creation Property Tax Refund Act."

§6902. Program established; declaration of public purpose

The Job Creation Property Tax Refund Act is established to encourage the creation of net new quality jobs in this State, improve and broaden the tax base and improve the general economy of the State.

§6903. Definitions

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

1. Affiliated businesses. "Affiliated businesses" means 2 businesses exhibiting either of the following relationships:

A. One business owns 50% or more of the stock of the other business or owns a controlling interest in the other business; or

B. Fifty percent or more of the stock or a controlling interest is directly or indirectly owned or acquired by a common owner or owners, whether by acquisition of substantially all of the assets or 50% or more of the stock or through a merger, consolidation or reorganization

2. Affiliated group. "Affiliated group" means a qualified business and its corresponding affiliated businesses.

3. Applicant. "Applicant" means a qualified business that has submitted an application for a refund under this chapter.

4. Base level of employment. "Base level of employment" means the total employment of a business as of the December 31st immediately preceding the calendar year for which an application

for a refund is filed under this chapter or its average employment during the base period, whichever is greater.

5. Base period. "Base period" means the 3 calendar years prior to the year in which an application is made under this chapter.

6. Labor market unemployment rate. "Labor market unemployment rate" means the average unemployment rate as published by the Department of Labor for the labor market or markets in which potential qualified employees are located and in which reimbursement is claimed under this chapter for the 12 most recently reported months preceding the date of application for a refund under this chapter.

7. Qualified business. "Qualified business" means any for-profit business in this State, other than a public utility as defined by Title 35-A, section 102, with a base level of employment of 25 or fewer employees, that adds qualified employees above its base level of employment in this State within a calendar year commencing on or after January 1, 2004 and that meets one of the following criteria:

A. The business is not engaged in retail operations;

B. The business is engaged in retail operations but less than 50% of its total annual revenues from Maine-based operations are derived from sales taxable in this State; or

C. The business is engaged in retail operations and can demonstrate that any increased sales will not include sales tax revenues derived from a transferring or shifting of retail sales from other businesses in this State.

For purposes of this subsection, "retail operations" means sales of consumer goods for household use to consumers who personally visit the business location to purchase the goods.

8. Qualified employees. "Qualified employees" means new, full-time employees hired in this State during the preceding calendar year by a qualified business whose income derived from employment with the applicant, calculated on a calendar year basis, is greater than the most recent average annual wage in the county in which the qualified employee is employed. Qualified employees must be residents of this State.

9. Rent constituting property taxes. "Rent constituting property taxes" means 25% of the gross rent actually paid in cash or its equivalent by a qualified business for the right of

H.C.E.

2 occupancy of property at which the business operations of the
3 qualified business are carried on.

4 10. State unemployment rate. "State unemployment rate"
5 means the average unemployment rate published by the Department
6 of Labor for the State as a whole for the calendar year preceding
7 the date of application for a refund under this chapter.

8
9 **§6904. Refund allowed**

10
11 1. Generally. Subject to the provisions of subsection 2, a
12 qualified business is entitled to refund of a portion of property
13 taxes, or rent constituting property taxes, paid during the
14 previous calendar year. The amount of reimbursement is
15 calculated as follows.

16
17 A. For qualified employees employed by a qualified business
18 in state labor market areas in which the labor market
19 unemployment rate is at or below the state unemployment rate
20 at the time of application, the refund is equal to \$200 per
21 qualified employee.

22
23 B. For qualified employees employed by a qualified business
24 in state labor market areas in which the labor market
25 unemployment rate is greater than the state unemployment
26 rate at the time of application, the refund is equal to \$400
27 per qualified employee.

28
29 C. For qualified employees employed by a qualified business
30 in state labor market areas in which the labor market
31 unemployment rate is greater than 150% of the state
32 unemployment rate at the time of application, the refund is
33 equal to \$800 per qualified employee.

34
35 2. Limitation. The refund may not exceed the amount of
36 property taxes or rent constituting property taxes paid by the
37 applicant during the preceding calendar year.

38
39 **§6905. Procedures for application**

40
41 A qualified business that applies for a refund under this
42 chapter shall submit, in a form acceptable to the State Tax
43 Assessor, the following information:

44
45 1. Base level data. Employment data necessary to calculate
46 the base level of employment:

47
48 2. Number of qualified employees. The number of qualified
49 employees that the applicant added during the preceding calendar
50 year:

Notes

SENATE AMENDMENT "A" to H.P. 844, L.D. 1141

2 State Tax Assessor for the unorganized territory, within 3 years
3 from commitment, may, on their own knowledge or on written
4 application therefor, make such abatements as they believe
5 reasonable on the real and personal taxes on all--persons the
6 primary residence of any person who, by reason of infirmity or
7 poverty, are is in their judgment unable to contribute to the
8 public charges. The municipal officers or the State Tax Assessor
9 for the unorganized territory may extend the 3-year period within
10 which they may make abatements under this subsection.

11 Municipal officers or the State Tax Assessor for the unorganized
12 territory shall:

13 A. Provide that any person indicating an inability to pay
14 all or part of taxes that have been assessed because of
15 poverty or infirmity shall be informed of the right to make
16 application under this subsection;

17 B. Assist individuals in making application for abatement;

18 C. Make available application forms for requesting an
19 abatement based on poverty or infirmity and provide that
20 those forms contain notice that a written decision shall be
21 made within 30 days of the date of application;

22 D. Provide that persons are given the opportunity to apply
23 for an abatement during normal business hours;

24 E. Provide that all applications, information submitted in
25 support of the application, files and communications
26 relating to an application for abatement and the
27 determination on the application for abatement shall be
28 confidential. Hearings and proceedings held pursuant to
29 this subsection shall be in executive session;

30 F. Provide to any person applying for abatement under this
31 subsection, notice in writing of their decision within 30
32 days of application; and

33 G. Provide that any decision made under this subsection
34 shall include the specific reason or reasons for the
35 decision and shall inform the applicant of the right to
36 appeal and the procedure for requesting an appeal.

37 Sec. I-2. 36 MRSA §943-A, as enacted by PL 1985, c. 364, §2,
38 is amended to read:

39 §943-A. Application for abatement

R. 818

SENATE AMENDMENT "A" to H.P. 844, L.D. 1141

2 Beginning with taxes that are assessed after April 1, 1985
3 2004, each notice under sections 942 and 1281 which that
4 is sent by a municipality or the State Tax Assessor to a person
5 against whom taxes have been assessed, ~~shall on that person's~~
6 primary residence must contain a statement that that person may
7 apply for an abatement of taxes if the person cannot pay the
8 taxes that have been assessed because of poverty or infirmity.'

PART J

10 Sec. J-1. 10 MRSA §1023-O is enacted to read:

12 §1023-O. Mainely Small Business Capital Fund

14 1. Creation. The Mainely Small Business Capital Fund,
15 referred to in this section as "the fund," is created under the
16 jurisdiction of the authority.

18 2. Sources of money. There must be paid into the fund the
19 following:

22 A. All money appropriated for inclusion in the fund;

24 B. Subject to any pledge, contract or other obligation, all
25 interest, dividends or other pecuniary gains from investment
26 of money of the fund;

28 C. Subject to any pledge, contract or other obligation, any
29 money that the authority receives in repayment of advances
30 from the fund; and

32 D. Any other money available to the authority and directed
33 by the authority to be paid into the fund.

34 3. Application of fund. Money in the fund must be
35 allocated by the authority to the following funds or programs if
36 those funds or programs directly benefit businesses with 50 or
37 fewer full-time employees:

40 A. Other existing funds or programs of the authority;

42 B. Funds or programs of the Maine Technology Institute
43 established under Title 5, section 15302; or

44 C. The Small Enterprise Growth Program established in
45 section 381.

48 Priority must be given by the authority to those funds or
programs specified in paragraphs A to C that create high-quality

SENATE AMENDMENT

Page

jobs, as determined by the authority.

The authority, pursuant to Title 5, chapter 375, subchapter 2-A, shall adopt major substantive rules for determining the process and priority of distribution of the fund. Money in the fund not needed currently to meet the obligations of the authority as provided in this section may be invested in a manner permitted by law. Interest earned on money in the fund may be used to pay the costs of the authority in administering the fund.

4. Accounts within fund. The authority may divide the fund into separate accounts the authority determines necessary or convenient for carrying out this section.

5. Revolving fund. The fund is a nonlapsing, revolving fund. All money in the fund must be continuously applied by the authority to carry out this section.

Sec. J-2. Appropriations and allocations. The following appropriations and allocations are made.

FINANCE AUTHORITY OF MAINE

Mainly Small Business Capital Fund

Initiative: Appropriates funds to provide start-up and expansion capital to businesses with fewer than 50 employees. Funds may be allocated to those programs within the Finance Authority of Maine, the Maine Technology Institute and the Small Enterprise Growth Program.

General Fund	2003-04	2004-05
All Other	\$0	\$6,000,000
General Fund Total	<u>\$0</u>	<u>\$6,000,000'</u>

SUMMARY

This amendment provides comprehensive tax reform in the following ways.

Part A increases the general sales tax from 5% to 6% and requires that the additional revenue be used to fund property tax relief. After transfers to the Local Government Fund for state-municipal revenue sharing, the additional revenue is transferred to the Education Funding Stabilization Fund to fund property tax relief, including the increase in the State's share of the cost of funding public education from kindergarten to grade 12.

1148

SENATE AMENDMENT "A" to H.P. 844, L.D. 1141

2 Part B does the following:

4 1. It provides an allocation to general purpose aid for
6 local schools in fiscal year 2004-05 of \$29,163,745; and

8 2. It amends the statewide local share amount of the
10 operating costs allocation for fiscal year 2004-05 for purposes
12 of education funding and specifies the general purpose aid for
14 local schools actual education certification and appropriation
levels for fiscal year 2004-05 as required by the Maine Revised
Statutes, Title 20-A, section 15605 to reflect the allocation of
additional funds.

16 Part C increases the homestead property tax exemption for
all homesteads to \$11,000.

18 Part D changes the Maine Residents Property Tax Program to
20 the Homestead Property Tax Cap Program. It increases income
eligibility requirements for a property rebate to \$40,000 for
22 single-member households and \$60,000 for multiple-member
households and increases the maximum payment to \$2,000.

24 Part E increases state reimbursement to municipalities for
26 losses due to current use classification under the Maine Tree
Growth Tax Law from 90% to 100%.

28 Part F establishes spending caps for counties and
30 municipalities, applying the same standard as current law applies
to state budget submissions. The limits could be exceeded by a
voter referendum or town meeting vote.

32 Part G changes the so-called "Revenue Sharing II" formula to
34 direct payments to municipalities where the noneducation portion
of the tax rate exceeds 6 mills.

36 Part H creates the Small Business Job Creation Property Tax
38 Refund Act to provide a property tax refund for employers with
fewer than 25 employees who create new jobs that pay a wage that
40 is higher than average annual wage in the county in which the
employee is employed.

42 Part I restricts to a taxpayer's principal residence
44 property tax abatements based on poverty.

46 Part J creates the Mainely Small Business Capital Fund
within the Finance Authority of Maine. The money in the fund is

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SENATE AMENDMENT "A" to H.P. 844, L.D. 1141

2 allocated by the authority among its other funds or programs,
provided to funds or programs of the Maine Technology Institute
4 or the Small Enterprise Growth Program if those funds or programs
assist small businesses. Part J appropriates \$6,000,000 to the
fund in fiscal year 2004-05.

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10 SPONSORED BY: John D. Stanley
(Senator STANLEY)

12 COUNTY: Penobscot

14

FISCAL NOTE REQUIRED
(See Attached)

SENATE AMENDMENT

**121st Maine Legislature
Office of Fiscal and Program Review**

**LD 1141**

**An Act to Provide Property Tax Relief for Maine Residents and
Businesses and Implement Comprehensive Tax Reform**

LR 0392(06)

Fiscal Note for Senate Amendment "A"

Sponsor: Sen. Stanley

Fiscal Note Required: Yes

Fiscal Note

	2003-04	2004-05	Projections 2005-06	Projections 2006-07
Net Cost (Savings)				
General Fund	\$0	\$0	\$0	\$0
Appropriations/Allocations				
General Fund	\$0	\$33,424,519	\$33,836,085	\$34,358,107
Other Special Revenue Funds	\$0	\$33,508,856	\$5,336,136	\$5,567,653
Revenue				
General Fund	\$0	(\$28,793,642)	(\$29,710,026)	(\$31,549,633)
Other Special Revenue Funds	\$0	\$109,646,796	\$126,991,900	\$133,052,237
Transfers				
General Fund	\$0	\$62,218,161	\$63,546,111	\$65,907,740
Other Special Revenue Funds	\$0	(\$91,381,906)	(\$63,546,111)	(\$65,907,740)

Fiscal Detail and Notes

	2003-04	2004-05	Projections 2005-06	Projections 2006-07
General Fund Appropriations				
Increase homestead exemption to \$11,000, no tier		\$26,916,336	\$27,399,700	\$27,902,963
Mainely Small Business Capital Fund (FAME)		\$6,000,000	\$6,000,000	\$6,000,000
Tree Growth Reimbursement		\$100,000	\$102,000	\$104,040
Administrative and Mandate costs		\$408,183	\$334,385	\$351,104
Total General Fund Appropriations	\$0	\$33,424,519	\$33,836,085	\$34,358,107

	2003-04	2004-05	Projections 2005-06	Projections 2006-07
General Fund Revenue				
Homestead Property Tax Cap Program		(\$25,291,220)	(\$26,248,785)	(\$28,089,585)
Small Business Job Creation Tax Refund		(\$3,796,000)	(\$3,792,000)	(\$3,792,000)
Individual income tax - property tax reimbursement		\$293,578	\$330,759	\$331,952
Total General Fund Revenue	\$0	(\$28,793,642)	(\$29,710,026)	(\$31,549,633)
Disproportionate Tax Burden Fund - Increases (Decreases) to Balance				
Sales tax to 6% *		\$5,892,504	\$6,965,800	\$7,298,224
Homestead Property Tax Cap		(\$1,359,170)	(\$1,439,807)	(\$1,540,779)
Small Business Job Creation Tax Refund		(\$204,000)	(\$208,000)	(\$208,000)
Individual income tax - property tax reimbursement		\$15,777	\$18,143	\$18,208
Net Increase (Decrease)	\$0	\$4,345,111	\$5,336,136	\$5,567,653
Education Funding Stabilization Fund (EFSF) - Increases (Decreases) to Balance				
Sales tax to 6% - Net *		\$109,646,796	\$126,991,900	\$133,052,237
Transfers to General Fund		(\$62,218,161)	(\$63,546,111)	(\$65,907,740)
Allocation to General Purpose Aid for Local Schools		(\$29,163,745)		
Net Balance Remaining in EFSF	\$0	\$18,264,890	\$63,445,789	\$67,144,497

* Reflects August 1, 2004 effective date and excludes sales affected by LD 1919 Part V.

Conflicts with LD 1919 - 2004-2005 Supplemental Budget Bill

The estimates included in this fiscal note reflect the impact of the bill as amended by this amendment and attempt to anticipate the interaction effects of this bill as amended and LD 1919, the 2004-2005 Supplemental Budget Bill, as amended by Committee Amendment "A".

The additional sales tax revenue generated by the 1% increase is reduced as a result of LD 1919 Part V, which changes the sales tax base by moving certain taxable sales to a service provider tax. If LD 1919 Part V is not enacted, the revenue that would accrue to the Education Funding Stabilization Fund and the Disproportionate Tax Burden Fund in this bill would be increased.

This bill also does not reflect the deappropriation in fiscal year 2004-05 as a result of the change of the treatment of the Maine Residents Property Tax Program (or "circuit breaker" program) as reductions of individual income tax revenue rather than a General Fund appropriation. If LD 1919 is not enacted, a deappropriation from the Maine Residents Property Tax Program will be required and the amount of the net change to General Fund revenue and the transfers to the Disproportionate Tax Burden Fund will be increased.

The General Purpose Aid for Local Schools statutory changes and language establishing the fiscal year 2004-05 distribution to municipalities assume that the additional \$15 million provided in LD 1919 Part N is also appropriated. If the amounts in LD 1919 are affected, the amounts included in this bill and the statutory and other language establishing the distribution will need to be revised accordingly.