

MAINE STATE LEGISLATURE

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Date: 4/28/06
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(Filing No. H-1078)

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
SECOND REGULAR SESSION

9 COMMITTEE AMENDMENT "A" to H.P. 1452, L.D. 2056, Bill, "An Act To
10 Replace Municipal Revenues Subject to Business Equipment Property Tax Exemption"

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

13 'Sec. 1. 36 MRSA c. 105, sub-c. 4-C is enacted to read:

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SUBCHAPTER 4-C

BUSINESS EQUIPMENT TAX EXEMPTION

16 §691. Definitions; exemption limitations

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

19 A. "Eligible business equipment" means qualified property that, in the absence of
20 this subchapter, would first be subject to assessment under this Part on or after April
21 1, 2008. "Eligible business equipment" includes, without limitation, repair parts,
22 replacement parts, replacement equipment, additions, accessions and accessories to
23 other qualified business property that first became subject to assessment under this
24 Part before April 1, 2008 if the part, addition, equipment, accession or accessory
25 would, in the absence of this subchapter, first be subject to assessment under this Part
26 on or after April 1, 2008. "Eligible business equipment" also includes inventory
27 parts.

28 "Eligible business equipment" does not include:

- 29 (1) Office furniture, including, without limitation, tables, chairs, desks,
30 bookcases, filing cabinets and modular office partitions;
31 (2) Lamps and lighting fixtures used primarily for the purpose of providing
32 general purpose office or worker lighting;
33 (3) Property owned or used by an excluded person;

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- 1 (4) Telecommunications personal property subject to the tax imposed by section
2 457;
- 3 (5) Gambling machines or devices, including any device, machine, paraphernalia
4 or equipment that is used or usable in the playing phases of any gambling activity
5 as that term is defined in Title 8, section 1001, subsection 15, whether that
6 activity consists of gambling between persons or gambling by a person involving
7 the playing of a machine. "Gambling machines or devices" includes, without
8 limitation:
 - 9 (a) Associated equipment as defined in Title 8, section 1001, subsection 2;
 - 10 (b) Computer equipment used directly and primarily in the operation of a slot
11 machine as defined in Title 8, section 1001, subsection 39;
 - 12 (c) An electronic video machine as defined in Title 17, section 330,
13 subsection 1-A;
 - 14 (d) Equipment used in the playing phases of lottery schemes; and
 - 15 (e) Repair and replacement parts of a gambling machine or device; or
- 16 (6) Property located at a retail sales facility and used primarily in a retail sales
17 activity unless the property is owned by a business that operates a retail sales
18 facility in the State exceeding 100,000 square feet of interior customer selling
19 space that is used primarily for retail sales and whose Maine-based operations
20 derive less than 30% of their total annual revenue on a calendar year basis from
21 sales that are made at a retail sales facility located in the State. For purposes of
22 this subparagraph, the following terms have the following meanings:
 - 23 (a) "Primarily" means more than 50% of the time;
 - 24 (b) "Retail sales activity" means an activity associated with the selection and
25 purchase of goods or services or the rental of tangible personal property.
26 "Retail sales activity" does not include production as defined in section 1752,
27 subsection 9-B; and
 - 28 (c) "Retail sales facility" means a structure used to serve customers who are
29 physically present at the facility for the purpose of selecting and purchasing
30 goods or services at retail or for renting tangible personal property. "Retail
31 sales facility" does not include a separate structure that is used as a
32 warehouse or call center facility.
- 33 B. "Excluded person" means:
 - 34 (1) A public utility as defined in Title 35-A, section 102, subsection 13;
 - 35 (2) A person that provides radio paging service as defined in Title 35-A, section
36 102, subsection 15;
 - 37 (3) A person that provides mobile telecommunications services as defined in
38 Title 35-A, section 102, subsection 9-A;

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- 1 (4) A cable television company as defined in Title 30-A, section 2001, subsection
- 2 2;
- 3 (5) A person that provides satellite-based direct television broadcast services; or
- 4 (6) A person that provides multichannel, multipoint television distribution
- 5 services.
- 6 C. "Exempt business equipment" means eligible business equipment that is exempt
- 7 under this subchapter.
- 8 D. "Inventory parts" includes repair parts, replacement parts, replacement equipment,
- 9 additions, accessions and accessories on hand but not in service and stocks or
- 10 inventories of repair parts, replacement parts, replacement equipment, additions,
- 11 accessions and accessories on hand but not in service and other machinery and
- 12 equipment on hand for future use but not in service if acquired after April 1, 2007,
- 13 regardless of when placed in service.
- 14 E. "Municipal tax increment percentage" means, with respect to tax increment
- 15 financing districts, the specified percentage of captured assessed value retained as
- 16 provided in Title 30-A, section 5227 and allocated to the municipality for the
- 17 municipality's own authorized project costs as provided in Title 30-A, section 5225.
- 18 With respect to tax increment financing districts authorized pursuant to Title 30-A,
- 19 former chapter 207, "municipal tax increment percentage" means the specified
- 20 percentage of captured assessed value retained as provided in Title 30-A, former
- 21 section 5254, subsection 1 and allocated to the municipality for the municipality's
- 22 own authorized project costs as provided in Title 30-A, former section 5252,
- 23 subsection 8.
- 24 F. "Qualified property" means tangible personal property that:
- 25 (1) Is used or held for use exclusively for a business purpose by the person in
- 26 possession of it or, in the case of construction in progress or inventory parts, is
- 27 intended to be used exclusively for a business purpose by the person who will
- 28 possess that property; and
- 29 (2) Either:
- 30 (a) Was subject to an allowance for depreciation under the Code on April 1st
- 31 of the property tax year for which a claim for exemption under this
- 32 subchapter is filed or would have been subject to an allowance for
- 33 depreciation under the Code as of that date but for the fact that the property
- 34 has been fully depreciated; or
- 35 (b) In the case of construction in progress or inventory parts, would be
- 36 subject under the Code to an allowance for depreciation when placed in
- 37 service or would have been subject to an allowance for depreciation under the
- 38 Code as of that date but for the fact that the property has been fully
- 39 depreciated.

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1 "Qualified property" also includes all property that is affixed or attached to a building
2 or other real estate if the property is used primarily to further a particular trade or
3 business activity taking place in that building or on that real estate.

4 "Qualified property" does not include a building or components or attachments to a
5 building if they are used primarily to serve the building as a building, regardless of
6 the particular trade or activity taking place in or on the building. "Qualified property"
7 also does not include land improvements if they are used primarily to further the use
8 of the land as land, regardless of the particular trade or business activity taking place
9 in or on the land. In the case of construction in progress or inventory parts, the term
10 "used" means "intended to be used." "Qualified property" also does not include any
11 vehicle registered for on-road use on which a tax assessed pursuant to chapter 111
12 has been paid or any watercraft registered for use on state waters on which a tax
13 assessed pursuant to chapter 112 has been paid.

14 G. "TIF exempt business equipment" means exempt business equipment that is
15 located within a tax increment financing district.

16 **2. Additional limitations.** The exemptions provided pursuant to this subchapter are
17 limited pursuant to this subsection.

18 A. Exemption for certain energy facilities under this subchapter is limited as follows.

19 (1) The exemption provided by this subchapter does not apply to a natural gas
20 pipeline, including pumping or compression stations, storage depots and
21 appurtenant facilities used in the transportation, delivery or sale of natural gas,
22 but not including a pipeline that is less than a mile in length and is owned by a
23 consumer of natural gas delivered through the pipeline.

24 (2) The exemption provided in this subchapter does not apply to property used to
25 produce or transmit energy primarily for sale. Energy is primarily for sale if
26 during the immediately preceding property tax year 2/3 or more of the useful
27 energy is directly or indirectly sold and transmitted through the facilities of a
28 transmission and distribution utility.

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

31 (a) "Transmission and distribution utility" has the same meaning as in Title
32 35-A, section 102, subsection 20-B.

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

35 B. Pollution control facilities that are entitled to exemption pursuant to section 656,
36 subsection 1, paragraph E are not entitled to an exemption under this subchapter,
37 except if:

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

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

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

6 The exemption under this subchapter continues for property that meets the
7 requirements of subparagraphs (1), (2) and (3) only until the certification for
8 exemption under section 656, subsection 1, paragraph E has been granted. If the
9 State Tax Assessor or an assessor denies an exemption on the ground that the
10 property in question is entitled to exemption under section 656, subsection 1,
11 paragraph E and the taxpayer appeals the denial, the State Tax Assessor or assessor
12 shall, at the taxpayer's request, allow the taxpayer up to one year to obtain a statement
13 from the Commissioner of Environmental Protection that the property at issue is not
14 exempt under section 656, subsection 1, paragraph E. If the taxpayer timely produces
15 such a statement or otherwise demonstrates that the property is not exempt under
16 section 656, subsection 1, paragraph E, the State Tax Assessor or an assessor shall
17 allow the exemption under this subchapter, but only for the year in question.

18 **§692. Exemption of business equipment**

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

21 **2. Just value of exemption.** In determining the just value of exempt business
22 equipment, the assessor shall determine the just value of the property in the same manner
23 as prescribed in section 701-A as if the property were subject to taxation.

24 **3. Effect on state valuation.** The exemption has the following effect on state
25 valuation.

26 **A.** Except as provided in paragraph B, the percentage of just value of exempt
27 business equipment to be included in the annual determination of state valuation
28 under sections 208 and 305 for tax year 2008 and subsequent tax years is as follows:

29 **(1)** The applicable percentage specified in section 694, subsection 2, paragraph A
30 for exempt business equipment for which the municipality is entitled to receive
31 reimbursement under section 694, subsection 2, paragraph A;

32 **(2)** The applicable percentage calculated under section 694, subsection 2,
33 paragraph B for exempt business equipment for which the municipality receives
34 reimbursement under section 694, subsection 2, paragraph B; and

35 **(3)** Zero for exempt business equipment for which the municipality receives
36 reimbursement under section 694, subsection 2, paragraph C.

37 **B.** In the case of a municipality that has one or more tax increment financing districts
38 authorized pursuant to Title 30-A, chapter 206, subchapter 1 and effective under Title
39 30-A, section 5226, subsection 3 prior to April 1, 2008 or authorized pursuant to Title
40 30-A, former chapter 207 and effective under Title 30-A, former section 5253,

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1 subsection 1, paragraph F prior to April 1, 2008, for the 2008 tax year and subsequent
2 tax years, the percentage of just value of TIF exempt business equipment located in
3 such a tax increment financing district that must be included in the annual
4 determination of state valuation pursuant to paragraph A, subparagraph (1) or (3) is
5 decreased, but not below zero, by a percentage amount equal to the municipal tax
6 increment percentage for the tax increment financing district in which the TIF exempt
7 business equipment is located.

8 **4. Property tax rate.** The following percentages of the value of exempt business
9 equipment must be included in the total municipal valuation used to determine the
10 municipal tax rate for 2008 and subsequent tax years:

11 A. The applicable percentage specified in section 694, subsection 2, paragraph A for
12 exempt business equipment for which the municipality is entitled to receive
13 reimbursement under section 694, subsection 2, paragraph A;

14 B. The applicable percentage calculated under section 694, subsection 2, paragraph
15 B for exempt business equipment for which the municipality receives reimbursement
16 under section 694, subsection 2, paragraph B; and

17 C. The applicable percentage calculated under section 694, subsection 2, paragraph
18 C for exempt business equipment for which the municipality receives reimbursement
19 under section 694, subsection 2, paragraph C.

20 **§693. Forms; reporting**

21 1. Reporting. On or before May 1st of each year, a taxpayer claiming an exemption
22 under this section shall file a report with the assessor of the taxing jurisdiction in which
23 the property would otherwise be subject to taxation. The report must identify the
24 property for which exemption is claimed and must be made on a form prescribed by the
25 State Tax Assessor or substitute form approved by the State Tax Assessor. The State Tax
26 Assessor shall furnish copies of the form to each municipality in the State and the form
27 must be made available to taxpayers prior to April 1st annually. The assessor of the
28 taxing jurisdiction may require the taxpayer to sign the form and make oath to its truth.
29 Upon written request, the assessor may at any time grant extensions of time to file the
30 report. Failure to file the report in a timely manner, including any extensions of time,
31 disqualifies the property involved from exemption for that tax year. The assessor of the
32 taxing jurisdiction may require in writing that a taxpayer answer in writing all reasonable
33 inquiries as to the property for which exemption is requested. A taxpayer has 30 days
34 from receipt of such an inquiry to respond. Upon written request, a taxpayer is entitled to
35 a 30-day extension to respond to the inquiry and the assessor may at any time grant
36 additional extensions upon written request. The answer to any such inquiry is not binding
37 on the assessor.

38 All notices and requests provided pursuant to this subsection must be made by personal
39 delivery or certified mail and must conspicuously state the consequences of the taxpayer's
40 failure to respond to the notice or request in a timely manner.

41 If an exemption has already been accepted and the State Tax Assessor subsequently
42 determines that the property is not entitled to exemption, a supplemental assessment must
43 be made within 3 years of the original assessment date with respect to the property in

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1 compliance with section 713, without regard to the limitations contained in that section
2 regarding the justification necessary for a supplemental assessment.

3 2. False filing. An individual who knowingly gives false information for the
4 purpose of claiming an exemption under this subchapter commits a Class E crime.

5 3. Continuation of eligibility. A person must annually file the report required by
6 this section for all eligible business equipment, even though there may be no substantive
7 change in the property from one year to the next.

8 **§694. Duty of assessor; reimbursement by State**

9 1. Examination and identification. The assessor shall examine each report
10 pursuant to section 693 that is timely filed, determine whether the property identified in
11 the report is entitled to an exemption under this subchapter and determine the just value
12 of the property.

13 2. Entitlement to reimbursement by State; calculation. Reimbursement is
14 calculated as follows.

15 A. Notwithstanding section 661, upon proof in a form satisfactory to the bureau,
16 unless a municipality chooses reimbursement under paragraph B, a municipality that
17 has accepted a valid exemption under this subchapter is entitled to recover from the
18 State the applicable percentage of property tax revenue lost by reason of the
19 exemption. Except as otherwise provided in this subsection, the applicable
20 percentage is:

- 21 (1) For property tax years beginning April 1, 2008, 100%;
- 22 (2) For property tax years beginning April 1, 2009, 90%;
- 23 (3) For property tax years beginning April 1, 2010, 80%;
- 24 (4) For property tax years beginning April 1, 2011, 70%;
- 25 (5) For property tax years beginning April 1, 2012, 60%; and
- 26 (6) For property tax years beginning April 1, 2013 and for subsequent tax years,
27 50%.

28 B. In the case of municipalities choosing reimbursement under this paragraph in
29 which the personal property factor exceeds 5%, the applicable percentage for exempt
30 business equipment is 50% plus an amount equal to 1/2 of the personal property
31 factor. For purposes of this paragraph, "personal property factor" means the
32 percentage derived from a fraction, the numerator of which is the value of business
33 personal property in the municipality, whether taxable or exempt, and the
34 denominator of which is the value of all taxable property in the municipality plus the
35 value of exempt eligible business equipment. For purposes of this paragraph, the
36 taxable value of exempt eligible business equipment is the value that would have
37 been assessed on that equipment if it were taxable.

38 C. In the case of a municipality that has one or more tax increment financing
39 districts authorized pursuant to Title 30-A, chapter 206, subchapter 1 and effective
40 under Title 30-A, section 5226, subsection 3 prior to April 1, 2008 or authorized

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1 pursuant to Title 30-A, former chapter 207 and effective under Title 30-A, former
2 section 5253, subsection 1, paragraph F, prior to April 1, 2008, the applicable
3 percentage with respect to TIF exempt business equipment is 50% plus a percentage
4 amount equal to the percentage amount, if any, by which the municipal tax increment
5 percentage for the tax increment financing district in which the TIF exempt business
6 equipment is located exceeds 50%. This paragraph applies only when it will result in
7 a greater percentage of reimbursement for the TIF exempt business equipment than
8 would be provided under paragraph B.

9 **3. Reimbursement to unorganized territory education and services.** The bureau
10 shall reimburse the Unorganized Territory Education and Services Fund for taxes lost by
11 reason of the exemption at the same percentages as are applicable to municipalities.

12 **4. Information provided to State; deviations in assessment ratio.** The assessor
13 shall provide by June 1st annually any relevant information requested by the bureau for
14 the purpose of determining the actual assessment ratio in use for personal property in the
15 municipality. The certified ratio declared by the municipality must be considered
16 accurate by the bureau if it is within 10% of the assessment ratio last determined by the
17 bureau in its annual report of ratio studies. The assessor may submit additional
18 information on the relevant assessment ratio to the bureau in order to prove that a
19 different ratio should apply. The bureau may accept a certified ratio that deviates more
20 than 10% from the bureau's most recent state valuation report only if the information
21 submitted by the municipality clearly indicates that the certified ratio is more accurate
22 than the assessment ratio contained in the bureau's most recent report.

23 Any municipality that is eligible for an applicable percentage of reimbursement other
24 than the general 50% applicable percentage described in subsection 2, paragraph A shall,
25 annually by June 1st, provide any relevant information requested by the bureau to
26 determine the percentage of value of exempt business equipment to be included in the
27 determination of state valuation under sections 208 and 305.

28 **5. Payments by State.** Reimbursements to municipalities must be made as
29 described in this subsection. A municipality claiming reimbursement under this section
30 shall submit a claim to the bureau by November 1st of the year in which the exemption
31 applies or within 30 days of commitment of taxes, whichever occurs later. The bureau
32 shall review the claims and determine the total amount to be paid. The bureau shall
33 certify and the Treasurer of State shall pay by December 15th of the year in which the
34 exemption applies the amount that the bureau determines for that tax year. Municipal
35 claims that are timely filed after November 1st must be paid as soon as reasonably
36 possible after the December 15th payment date.

37 **§695. Denial of exemption; appeals**

38 If the assessor determines that a property is not entitled to an exemption under this
39 subchapter, the assessor shall provide a written notice of denial prior to the tax
40 commitment date in that municipality, including the reasons for the denial, to the
41 applicant by either personal delivery or certified mail. An applicant may contest a denial
42 by the assessor of an exemption under this subchapter either by using the procedures
43 provided in subchapter 8 or by pursuing such other actions or proceedings by which other
44 property tax exemptions under this chapter may be reviewed or adjudicated. If the
45 assessor determines that a property receiving an exemption under this subchapter in any

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1 year within the 3 preceding years was not eligible for the exemption, the assessor shall
2 immediately notify the bureau in writing.

3 **§696. Supplemental assessment**

4 If the assessor makes a determination under section 695 that property receiving an
5 exemption under this subchapter was not entitled to an exemption under this subchapter,
6 the assessor shall by means of a supplemental assessment assess the property for which
7 the exemption was improperly received, plus costs and interest. The taxpayer may contest
8 a supplemental assessment under this subchapter either by using the procedures provided
9 in subchapter 8 or by pursuing such other actions or proceedings by which other property
10 tax exemptions under this chapter may be reviewed or adjudicated. The supplemental
11 assessment must be assessed and collected pursuant to section 713. The bureau shall
12 deduct the amount of the portion of the supplemental assessment that pertains to any
13 funds previously reimbursed to the municipality under section 694 from the next
14 reimbursement issued to the municipality.

15 **§697. Audits; determination of bureau**

16 The bureau may audit the records of a municipality to ensure compliance with this
17 subchapter. The bureau may independently review the records of a municipality to
18 determine if exemptions have been properly approved. If the bureau determines that an
19 exemption was improperly approved for any of the 3 years immediately preceding the
20 determination, the bureau shall ensure, by setoff against other payments due the
21 municipality under this subchapter or subchapter 4-B, that the municipality is not
22 reimbursed for the exemption.

23 **§698. Appeals**

24 The bureau shall send notice of its determination that an exemption was improperly
25 or erroneously approved by the municipality to the taxpayer, in the manner provided for
26 in section 151. The taxpayer may seek reconsideration pursuant to section 151 of any
27 such decision. Notwithstanding any other provision of law, if a taxpayer does not timely
28 request reconsideration of the bureau's decision under section 151, the local taxing
29 jurisdiction must issue a supplemental assessment with respect to such property within 90
30 days after the bureau's determination. The taxpayer may not appeal that supplemental
31 assessment except as to issues unrelated to the applicability of the exemption.
32 Notwithstanding any other provision of law, if a taxpayer appeals a decision of the bureau
33 to disqualify an exemption and does not prevail in that appeal, the local taxing
34 jurisdiction must issue a supplemental assessment with respect to the property at issue
35 within 90 days after the appeal has been resolved in the bureau's favor. The taxpayer may
36 not appeal that supplemental assessment except as to issues unrelated to the applicability
37 of the exemption. Notwithstanding any other provision of law, if a taxpayer appeals a
38 decision of the bureau that an exemption was improperly or erroneously approved and the
39 taxpayer prevails in that appeal, the bureau shall promptly restore any reimbursement to
40 the municipality that was not made or was set off or otherwise denied the municipality
41 under section 697.

42 **§699. Legislative findings; intent**

43 1. Findings. The Legislature finds that encouragement of the growth of capital
44 investment in this State is in the public interest and promotes the general welfare of the
45 people of the State. The Legislature further finds that the high cost of owning qualified
46 business property in this State is a disincentive to the growth of capital investment in this

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1 State. The Legislature further finds that the tax exemption set forth in this subchapter is a
2 reasonable means of overcoming this disincentive and will encourage capital investment
3 in this State.

4 2. Intent. It is the intent of the Legislature to fund fully transfers to the
5 Disproportionate Tax Burden Fund under section 700-A, subsection 1 and
6 reimbursements under the business equipment tax reimbursement program under section
7 6652, subsection 4, paragraph B.

8 **§700. Reimbursement for state-mandated costs**

9 The bureau shall reimburse municipalities and the Unorganized Territory Education
10 and Services Fund for state-mandated costs in the manner provided in Title 30-A, section
11 5685.

12 **§700-A. Additional municipal compensation**

13 1. Transfers to Disproportionate Tax Burden Fund. Pursuant to section 699,
14 subsection 2 and in order to provide additional compensation to municipalities affected
15 by property tax exemptions provided under this subchapter, the Treasurer of State shall
16 make the following transfers as provided in section 700-B to the Disproportionate Tax
17 Burden Fund established in Title 30-A, section 5681, subsection 3:

- 18 A. In fiscal year 2009-10, \$2,000,000;
- 19 B. In fiscal year 2010-11, \$2,500,000;
- 20 C. In fiscal year 2011-12, \$3,000,000;
- 21 D. In fiscal year 2012-13, \$3,500,000; and
- 22 E. In fiscal year 2013-14 and subsequent fiscal years, \$4,000,000.

23 **§700-B. Adjustments to revenue**

24 1. Certification. By June 30, 2009 and each subsequent year, the State Tax
25 Assessor shall certify to the State Controller amounts certified to the Treasurer of State as
26 reimbursements to be paid to municipalities during the fiscal year under section 694,
27 subsection 5. The Treasurer of State shall certify to the State Controller payments due
28 under section 700-A.

29 2. Transfer. The State Controller shall transfer amounts certified under subsection 1
30 to the Business Equipment Tax Reimbursement reserve account established, maintained
31 and administered by the State Controller from the General Fund undedicated revenue
32 within the individual income tax category after the reduction for the transfer to the Local
33 Government Fund required by Title 30-A, section 5681, subsection 5. The assessor and
34 the Treasurer of State shall pay amounts required under section 694, subsection 5 and
35 section 700-A.

36 **Sec. 2. 36 MRSA §6651, sub-§1, as amended by PL 2001, c. 396, §43, is further**
37 **amended to read:**

38 **1. Eligible property.** "Eligible property" means qualified business property first
39 placed in service in the State, or constituting construction in progress commenced in the
40 State, after April 1, 1995, but does not include property that qualifies for exemption
41 pursuant to chapter 105, subchapter 4-C. "Eligible property" includes, without limitation,
42 repair parts, replacement parts, additions, accessions and accessories to other qualified

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1 business property placed in service on or before April 1, 1995 if the part, addition,
2 accession or accessory is first placed in service, or constitutes construction in progress, in
3 the State after April 1, 1995, unless such property qualifies for exemption pursuant to
4 chapter 105, subchapter 4-C. "Eligible property" also includes inventory parts.

5 **Sec. 3. 36 MRSA §6652, sub-§1**, as amended by PL 2005, c. 457, Pt. BBB, §1, is
6 further amended to read:

7 **1. Generally.** A person against whom taxes have been assessed pursuant to Part 2,
8 except for chapters 111 and 112, with respect to eligible property and who has paid those
9 taxes is entitled to reimbursement of a portion of those taxes from the State as provided in
10 this chapter. The reimbursement under this chapter is 100% the percentage of the taxes
11 assessed and paid with respect to eligible property specified in subsection 4, except that
12 for claims filed for the application period that begins on August 1, 2006 the
13 reimbursement is limited to 90% of the taxes assessed and paid with respect to eligible
14 property. For purposes of this chapter, a tax applied as a credit against a tax assessed
15 pursuant to chapter 111 or 112 is a tax assessed pursuant to chapter 111 or 112. Eligible
16 property is subject to reimbursement pursuant to this chapter for up to 12 property tax
17 years, but the 12 years must be reduced by one year for each year during which a A
18 taxpayer that included the same property in its investment credit base under section 5219-
19 D, 5219-E or 5219-M and claimed the credit provided in one or more of those sections on
20 its income tax return, and reimbursement may not be made reimbursed under this chapter
21 for taxes assessed in a year in which one or more of those credits is are taken. A
22 successor in interest of a person against whom taxes have been assessed with respect to
23 eligible property is entitled to reimbursement pursuant to this section, whether the tax was
24 paid by the person assessed or by the successor, as long as a transfer of the property in
25 question to the successor has occurred and the successor is the owner of the property as of
26 August 1st, of the year in which a claim for reimbursement may be filed pursuant to
27 section 6654. For purposes of this paragraph, "successor in interest" includes the initial
28 successor and any subsequent successor. When an eligible successor in interest exists,
29 the successor is the only person to whom reimbursement under this chapter may be made
30 with respect to the transferred property. For an item of eligible business equipment that is
31 first subject to assessment under Part 2 on or after April 1, 2008, and for any item of
32 eligible business equipment for which reimbursement is paid under subsection 4,
33 paragraph B, the reimbursement otherwise payable under this section with respect to that
34 item of eligible business equipment must be reduced by an amount equal to the amount, if
35 any, by which the reimbursement otherwise payable under this section plus payments
36 received by the taxpayer under a tax increment financing arrangement pursuant to Title
37 30-A, chapter 206, subchapter 1 with respect to that item of eligible business equipment
38 exceeds 100% of the property taxes assessed with respect to that item of eligible business
39 equipment.

40 **Sec. 4. 36 MRSA §6652, sub-§1-B**, as amended by PL 2005, c. 218, §61 and
41 affected by §63, is further amended to read:

42 **1-B. Certain property excluded.** Notwithstanding any other provision of law,
43 reimbursement pursuant to this chapter may not be made with respect to the following
44 property:

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- 1 A. Office furniture, including, without limitation, tables, chairs, desks, bookcases,
2 filing cabinets and modular office partitions;
- 3 B. Lamps and lighting fixtures; and
- 4 C. Gambling machines or devices, including any device, machine, paraphernalia or
5 equipment that is used or usable in the playing phases of any gambling activity as that
6 term is defined in Title 8, section 1001, subsection 15, whether that activity consists
7 of gambling between persons or gambling by a person involving the playing of a
8 machine. "Gambling machines or devices" includes, without limitation:
- 9 (1) Associated equipment as defined in Title 8, section 1001, subsection 2;
- 10 (2) Computer equipment used directly and primarily in the operation of a slot
11 machine as defined in Title 8, section 1001, subsection 39;
- 12 (3) An electronic video machine as defined in Title 17, section 330, subsection
13 1-A;
- 14 (4) Equipment used in the playing phases of lottery schemes; and
- 15 (5) Repair and replacement parts of a gambling machine or device.

16 This subsection applies to property tax years beginning after April 1, 1996. Property
17 affected by this subsection that was eligible for reimbursement pursuant to chapter 915 of
18 property taxes paid for the 1996 property tax year is grandfathered into the program and
19 continues to be eligible for reimbursements ~~for up to 12 property tax years~~, unless it
20 subsequently becomes ineligible.

21 **Sec. 5. 36 MRSA §6652, sub-§4** is enacted to read:

22 **4. Reimbursement percentage.** Reimbursements under this chapter are for the
23 following percentage of taxes assessed and paid with respect to each item of eligible
24 property.

25 A. For each of the first to 12th years for which reimbursement is made, the
26 percentage is 100%.

27 B. Pursuant to section 699, subsection 2, reimbursement under this chapter after the
28 12th year for which reimbursement is made is according to the following percentages
29 of taxes assessed and paid with respect to each item of eligible property.

30 (1) For the 13th year for which reimbursement is made, the percentage is 75%.

31 (2) For the 14th year for which reimbursement is made, the percentage is 70%.

32 (3) For the 15th year for which reimbursement is made, the percentage is 65%.

33 (4) For the 16th year for which reimbursement is made, the percentage is 60%.

34 (5). For the 17th year for which reimbursement is made, the percentage is 55%.

35 (6) For the 18th year for which reimbursement is made and for subsequent years,
36 the percentage is 50%.

R.O.S.

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SUMMARY

This amendment removes so-called "BETR-expired" property and certain retail property from eligibility for the new property tax exemption but leaves that property eligible for reimbursement to the taxpayer under the BETR program.

The generally applicable rate of reimbursement to municipalities for revenue losses from the new exemption are changed to 100% in the first year of the exemption and are reduced 10% each year until they reach 50%. Municipalities with more than 5% of their valuation in exempt property may choose alternative reimbursement. Alternative reimbursement is 50% plus 1/2 of the percentage that business personal property represents of the total taxable value plus exempt business personal property value in the municipality.

Reimbursement is provided for property remaining in the BETR program after 12 years at the rate of 75% in the 13th year and decreasing 5% a year until it reaches 50%.

Additional funds are provided for the Disproportionate Tax Burden Fund beginning at \$2,000,000 in fiscal year 2009-10 and increasing \$500,000 each year until funding reaches \$4,000,000.

Reimbursements received by taxpayers under the BETR program for property first subject to assessment on or after April 1, 2008 and for property still qualifying for BETR after the first 12 years of reimbursement are reduced by the amount of taxes reimbursed under a tax increment financing district to avoid a taxpayer's receiving reimbursement for more than 100% of property taxes paid.

FISCAL NOTE REQUIRED
(See attached)



122nd MAINE LEGISLATURE

LD 2056

LR 3069(04)

An Act To Replace Municipal Revenues Subject to Business Equipment Property Tax Exemption

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Taxation

Fiscal Note Required: Yes

Fiscal Note

Future biennium revenue decrease - General Fund

Future biennium cost increase - General Fund

	2005-06	2006-07	Projections 2007-08	Projections 2008-09
Net Cost (Savings)				
General Fund	\$0	\$0	\$0	\$11,373,516
Revenue				
General Fund	\$0	\$0	\$0	(\$11,373,516)
Other Special Revenue Funds	\$0	\$0	\$0	\$393,741

Funded State Mandate

State Mandate

New or Expanded Activity

Administrative costs associated with the business equipment tax exemption that are required to be funded pursuant to 36 MRSA §700

Unit Affected

Municipality

Costs

Less than
\$100,000
annually

Fiscal Detail and Notes

This bill will decrease General Fund revenue by an estimated \$11,373,516 in fiscal year 2008-09 to reimburse municipalities for the business equipment tax exemption. The General Fund impact beyond this four-year forecast period is estimated to be a net General Fund cost of \$14,360,215 in fiscal year 2009-10, \$11,277,578 in fiscal year 2010-11, \$6,786,980 in fiscal year 2011-12 and \$1,889,742 in fiscal year 2012-13. Beginning in fiscal year 2013-2014, the provisions of this bill are expected to result in net General Fund savings.

Maine Revenue Services will require a General Fund appropriation in fiscal year 2008-09 to reimburse municipalities for 90% of the state-mandated costs. The amount of the additional administrative costs and the 90% reimbursement will be determined by Maine Revenue Services. The estimated annual General Fund appropriations required for reimbursement are expected to be less than \$100,000 and reflect only the local administrative costs of processing and reviewing the taxpayer forms and reports. This estimate does not reflect any costs associated with local enforcement or appeals.