



Teresa S. Pierce  
Senator, District 25

THE MAINE SENATE  
131st Legislature

3 State House Station  
Augusta, Maine 04333

**Testimony Regarding LD 258, Language Part I**  
Joint Standing Committee on Appropriations and Financial Affairs  
*February 8, 2023*

Senator Rotundo, Representative Sachs, and distinguished members of the Joint Standing Committee on Appropriations and Financial Affairs, I am Senator Teresa Pierce. I represent senate district 25. I am testifying today regarding the initiative brought forward in Language Part I by the administration to update statutes relevant to the General Fund appropriation limit to rebase the limit, simplify, and clarify the calculation. I am in support of the administration's proposal but would like to bring to your attention issues in other parts of the statute involving the budget process of communities I represent.

As you know, many municipalities across our state approve their budgets through the referendum process rather than in a town meeting setting or by vote of their town council.

Municipalities that use the referendum process are facing challenges with the state-imposed cap on property tax levies, which requires towns to create a separate warrant article asking voters to approve an override of the state budget cap. This can cause confusion for voters who may not understand the implications of overriding the cap, leading to misinterpretations about increasing taxes or mil rates. In some cases, voters have approved the municipal budget and spending priorities but failed to pass the cap override, even though it would not have affected their taxes.

This creates uncertainty for the town council and staff, who must then interpret the voters' intentions and determine whether to reduce spending, present the cap override again, or take an alternate approach, all the while costing time and taxpayer dollars.

I ask the committee to review Title 30-A §5721-A, "Limitation on municipal property tax levy" and provide clarifying language that will bring much-needed simplification to the municipal budget process while promoting the efforts of municipalities that seek to increase the public's awareness and participation in this vital process. Furthermore, by streamlining the budget process, the municipalities will save valuable time and resources that can be invested back into the community.



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Updating and clarifying the statute will make the budget process more efficient and transparent. I am happy the municipality of Gray is here to share with you their firsthand experience navigating this issue. I am happy to answer any questions.

Sincerely,

A handwritten signature in black ink that reads "Teresa S. Pierce".

**Teresa S. Pierce**  
State Senator, District 25  
*Serving the people of Falmouth, Cumberland, North  
Yarmouth, Yarmouth (majority), Gray, and Long Island*

# **Title 30-A: MUNICIPALITIES AND COUNTIES**

## **Part 2: MUNICIPALITIES**

### **Subpart 9: FISCAL MATTERS**

## **Chapter 223: MUNICIPAL FINANCES**

### **Subchapter 4: EXPENDITURES**

#### **§5721-A. Limitation on municipal property tax levy**

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

A. "Average personal income growth" has the same meaning as in Title 5, section 1531, subsection 2. [PL 2015, c. 267, Pt. L, §13 (AMD).]

B. [PL 2015, c. 267, Pt. L, §14 (RP).]

C. "Property growth factor" means the percentage equivalent to a fraction established by a municipality, whose denominator is the total valuation of the municipality, and whose numerator is the amount of increase in the assessed valuation of any real or personal property in the municipality that became subject to taxation for the first time, or taxed as a separate parcel for the first time for the most recent property tax year for which information is available, or that has had an increase in its assessed valuation over the prior year's valuation as a result of improvements to or expansion of the property. A municipality identified as having a personal property factor that exceeds 5%, as determined pursuant to Title 36, section 694, subsection 2, paragraph B, may calculate its property growth factor by including in the numerator and the denominator the value of personal and otherwise qualifying property introduced into the municipality notwithstanding the exempt status of that property pursuant to Title 36, chapter 105, subchapter 4-C. [PL 2009, c. 545, §1 (AMD).]

D. "Property tax levy" means the total annual municipal appropriations, excluding assessments properly issued by a county of which the municipality is a member and amounts governed by and appropriated in accordance with Title 20-A, chapter 606-B, and amounts appropriated to pay assessments properly issued by a school administrative unit or tuition for students or amounts attributable to a tax increment financing district agreement or similar special tax district, reduced by all resources available to fund those appropriations other than the property tax. [PL 2005, c. 12, Pt. WW, §11 (AMD).]

E. [PL 2015, c. 267, Pt. L, §15 (RP).]

[PL 2015, c. 267, Pt. L, §§13-15 (AMD).]

**2. Property tax levy limit.** Except as otherwise provided in this section, a municipality may not in any year adopt a property tax levy that exceeds the property tax levy limit established in this subsection.

A. The property tax levy limit for the first fiscal year for which this section is effective is the property tax levy for the municipality for the immediately preceding fiscal year multiplied by one plus the growth limitation factor pursuant to subsection 3. [PL 2005, c. 2, Pt. C, §1 (NEW); PL 2005, c. 2, Pt. C, §§3, 5 (AFF); PL 2005, c. 12, Pt. WW, §16 (AFF).]

B. The property tax levy limit for subsequent fiscal years is the property tax levy limit for the preceding year multiplied by one plus the growth limitation factor pursuant to subsection 3. [PL 2005, c. 621, §12 (AMD).]

C. If a previous year's property tax levy reflects the effect of extraordinary, nonrecurring events, the municipality may submit a written notice to the State Tax Assessor requesting an adjustment in its property tax levy limit. [PL 2005, c. 2, Pt. C, §1 (NEW); PL 2005, c. 2, Pt. C, §§3, 5 (AFF); PL 2005, c. 12, Pt. WW, §16 (AFF).]

[PL 2005, c. 621, §12 (AMD).]

**3. Growth limitation factor.** The growth limitation factor is the average personal income growth plus the property growth factor.

A. [PL 2015, c. 267, Pt. L, §16 (RP).]

B. [PL 2015, c. 267, Pt. L, §16 (RP).]

[PL 2015, c. 267, Pt. L, §16 (AMD).]

**4. Adjustment for new state funding.** If the State provides net new funding to a municipality for existing services funded in whole or in part by the property tax levy, other than required state mandate funds pursuant to section 5685 that do not displace current property tax expenditures, the municipality shall lower its property tax levy limit in that year in an amount equal to the net new funds. For purposes of this subsection, "net new funds" means the amount of funds received by the municipality from the State during the most recently completed calendar year, with respect to services funded in whole or in part by the property tax levy, less the product of the following: the amount of such funds received in the prior calendar year multiplied by one plus the growth limitation factor described in subsection 3. "Net new funds" refers to state-municipal revenue sharing and does not include changes in state funding for general assistance under Title 22, section 4311 or in state funding under the Local Road Assistance Program under Title 23, section 1803-B if those changes are the result of the operation of the formula for calculation of state funding under that section but does include changes in funding that are the result of a statutory change in the formula for calculation of state funding under that section. If the calculation required by this subsection reveals that the municipality received or will receive a net reduction in funding, the municipality is authorized to adjust its property tax levy limit in an amount equal to the net reduction of funds. For the purpose of determining if there was or will be a net reduction in funding, the municipality may consider only those funds that are net new funds. For purposes of this subsection, with respect to the development of any municipal budget that was finally adopted on or before July 1, 2013, "net reduction in funding" means the amount of funds received by the municipality from the State during the calendar year immediately preceding the most recently completed calendar year less the amount of such funds received in the most recently completed calendar year. For the purposes of this subsection, with respect to the development of a municipal budget that is finally adopted after July 1, 2013, a municipality may calculate net reduction in funding as the amount of funds received by the municipality from the State during the municipal fiscal year immediately preceding the fiscal year for which the budget is being developed less the amount of such funds that will be received during the fiscal year for which the budget is being prepared, as reasonably calculated on the basis of all available information. If the calculation required by this subsection yields a positive value, that value may be added to the municipality's property tax levy limit. If a municipality receives net new funds in any fiscal year for which its property tax levy limit has not been adjusted as provided in this subsection, the municipality shall adjust its property tax levy limit in the following year in an amount equal to the net new funds.

[PL 2013, c. 368, Pt. G, §1 (AMD).]

**5. Exceeding property tax levy limit; extraordinary circumstances.** The property tax levy limit established in subsection 2 may be exceeded for extraordinary circumstances only under the following circumstances.

A. The extraordinary circumstances must be circumstances outside the control of the municipal legislative body, including:

- (1) Catastrophic events such as natural disaster, terrorism, fire, war or riot;
- (2) Unfunded or underfunded state or federal mandates;
- (3) Citizens' initiatives or other referenda;
- (4) Court orders or decrees; or
- (5) Loss of state or federal funding.

Extraordinary circumstances do not include changes in economic conditions, revenue shortfalls, increases in salaries or benefits, new programs or program expansions that go beyond existing program criteria and operation. [PL 2005, c. 2, Pt. C, §1 (NEW); PL 2005, c. 2, Pt. C, §§3, 5 (AFF); PL 2005, c. 12, Pt. WW, §16 (AFF).]

B. The property tax levy limit may be exceeded only as provided in subsection 7. [PL 2005, c. 2, Pt. C, §1 (NEW); PL 2005, c. 2, Pt. C, §§3, 5 (AFF); PL 2005, c. 12, Pt. WW, §16 (AFF).]

C. Exceeding the property tax levy limit established in subsection 2 permits the property tax levy to exceed the property tax levy limit only for the year in which the extraordinary circumstance occurs and does not increase the base for purposes of calculating the property tax levy limit for future years. [PL 2005, c. 2, Pt. C, §1 (NEW); PL 2005, c. 2, Pt. C, §§3, 5 (AFF); PL 2005, c. 12, Pt. WW, §16 (AFF).]

[PL 2005, c. 2, Pt. C, §1 (NEW); PL 2005, c. 2, Pt. C, §§3, 5 (AFF); PL 2005, c. 12, Pt. WW, §16 (AFF).]

**6. Increase in property tax levy limit.** The property tax levy limit established in subsection 2 may be increased for other purposes only as provided in subsection 7.

[PL 2005, c. 2, Pt. C, §1 (NEW); PL 2005, c. 2, Pt. C, §§3, 5 (AFF); PL 2005, c. 12, Pt. WW, §16 (AFF).]

**7. Process for exceeding property tax levy limit.** A municipality may exceed or increase the property tax levy limit only by the following means.

A. If the municipal budget is adopted by town meeting or by referendum, the property tax levy limit may be exceeded by the same process that applies to adoption of the municipal budget except that the vote must be by written ballot on a separate article that specifically identifies the intent to exceed the property tax levy limit. [PL 2005, c. 2, Pt. C, §1 (NEW); PL 2005, c. 2, Pt. C, §§3, 5 (AFF); PL 2005, c. 12, Pt. WW, §16 (AFF).]

B. If the municipal budget is adopted by a town council or city council, the property tax levy limit may be exceeded only by a majority vote of all the elected members of the town council or city council on a separate article that specifically identifies the intent to exceed the property tax levy limit. Unless a municipal charter otherwise provides or prohibits a petition and referendum process, if a written petition, signed by at least 10% of the number of voters voting in the last gubernatorial election in the municipality, requesting a vote on the question of exceeding the property tax levy limit is submitted to the municipal officers within 30 days of the council's vote pursuant to this paragraph, the article voted on by the council must be submitted

to the legal voters in the next regular election or a special election called for that purpose. The election must be held within 45 days of the submission of the petition. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the clerk to post a new list of voters and absentee ballots must be prepared and made available at least 14 days prior to the date of the referendum. For the purpose of registration of voters, the registrar of voters must be in session the secular day preceding the election. The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the article. The results must be declared by the municipal officers and entered upon the municipal records. [PL 2005, c. 12, Pt. WW, §12 (AMD).]

[PL 2005, c. 12, Pt. WW, §12 (AMD).]

**8. Treatment of surplus; reserves.** Any property tax revenues collected by a municipality in any fiscal year in excess of its property tax levy limit, as determined by a final audited accounting, must be transferred to a property tax relief fund, which each municipality must establish, and used to reduce property tax levies in subsequent fiscal years. Nothing in this subsection limits the ability of a municipality to maintain adequate reserves pursuant to section 5801.

[PL 2005, c. 2, Pt. C, §1 (NEW); PL 2005, c. 2, Pt. C, §§3, 5 (AFF); PL 2005, c. 12, Pt. WW, §16 (AFF).]

**9. Fractional divisions.** A municipality may, consistent with Title 36, section 710, exceed its property tax levy limit in such reasonable amount as necessary to avoid fractional divisions.

[PL 2005, c. 2, Pt. C, §1 (NEW); PL 2005, c. 2, Pt. C, §§3, 5 (AFF); PL 2005, c. 12, Pt. WW, §16 (AFF).]

**10. Enforcement.** If a municipality adopts a property tax levy in violation of this section, the State Tax Assessor may require the municipality to adjust its property tax levy downward in an amount equal to the illegal property tax levy and impose such other penalties as the Legislature may provide.

[PL 2005, c. 2, Pt. C, §1 (NEW); PL 2005, c. 2, Pt. C, §§3, 5 (AFF); PL 2005, c. 12, Pt. WW, §16 (AFF).]

#### SECTION HISTORY

PL 2005, c. 2, §C1 (NEW). PL 2005, c. 2, §§C3-5 (AFF). PL 2005, c. 12, §§WW11,12 (AMD). PL 2005, c. 12, §§WW15, 16 (AFF). PL 2005, c. 515, §1 (AMD). PL 2005, c. 621, §§9-13 (AMD). PL 2005, c. 683, §12 (AMD). PL 2007, c. 662, §3 (AMD). PL 2009, c. 545, §1 (AMD). PL 2011, c. 652, §12 (AMD). PL 2011, c. 652, §14 (AFF). PL 2013, c. 368, Pt. G, §1 (AMD). PL 2015, c. 267, Pt. L, §§13-16 (AMD).