

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1613

H.P. 1190

House of Representatives, March 13, 2001

An Act Concerning Technical Changes to the Tax Laws.

(EMERGENCY)

Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 204.

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative BUCK of Yarmouth.

Cosponsored by Representatives: GREEN of Monmouth, MURPHY of Berwick.

2 **Emergency preamble. Whereas,** Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4
6 **Whereas,** a delay in making technical changes to the tax laws
would interfere with administration of those laws; and

8 **Whereas,** legislative action is immediately necessary in
order to ensure continued and efficient administration of the tax
10 laws; and

12 **Whereas,** in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
14 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
16 safety; now, therefore,

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

20 **Sec. 1. 36 MRSA §111, sub-§2,** as amended by PL 1999, c. 708,
§4, is further amended to read:

22 **2. Notice.** "Notice" means notification served personally or
24 mailed by certified or registered mail or by any courier service
providing evidence of delivery to the last known address of the
26 person for whom the notification is intended.

28 If the State Tax Assessor attempts to give notice by certified or
registered mail or by courier and the mailing is returned by ~~the~~
30 ~~United--States--Postal--Service~~ with the notation "unclaimed" or
"refused" or a similar notation, the assessor may then give
32 notice, for purposes of this Title, by sending the notification
by first-class mail to the person for whom the notification is
34 intended at the address used on the returned certified or
registered mail. Notice given in this manner is deemed to be
36 received 3 days after the first-class mailing, excluding Sundays
and legal holidays.

38 In the case of a joint income tax return, notice may be a single
40 joint notice except that, if the assessor is notified by either
spouse that separate residences have been established, the
42 assessor shall mail a joint notice to each spouse.

44 If the person for whom notification is intended is deceased or
under a legal disability, notice may be mailed to that person's
46 last known address, unless the assessor has received notice of
the existence of a fiduciary relationship with respect to that
48 person, in which case notice must be mailed to the last known
address of the fiduciary.

50

2 **Sec. 2. 36 MRSA §112, sub-§7-A**, as amended by PL 1997, c. 526,
§7, is further amended to read:

4 **7-A. Taxpayer Bill of Rights.** The assessor shall prepare a
statement describing in simple and nontechnical terms the rights
6 of a taxpayer and the obligations of the bureau during an audit.
The statement must also explain the procedures by which a
8 taxpayer may appeal any adverse decision of the assessor,
including the informal conference and judicial appeals. This
10 statement must be distributed by the bureau to any taxpayer
contacted with respect to the determination or collection of any
12 tax, excluding the normal mailing of tax forms. This paragraph
does not apply to criminal tax investigations conducted by the
14 assessor or by the Attorney General.

16 **Sec. 3. 36 MRSA §135, sub-§1**, as amended by 1995, c. 281, §4,
is further amended to read:

18 **1. Taxpayers.** Persons subject to tax under this Title
20 shall maintain such records as the State Tax Assessor determines
necessary for the reasonable administration of this Title.
22 Records pertaining to taxes imposed by chapters 371 and 575 and
by Part 8 must be retained as long as is required by applicable
24 federal law and regulation. Records pertaining to the special
fuel tax user reports filed pursuant to section 3209, subsection
26 2 and the International Fuel Tax Agreement pursuant to section
3209, subsection 1-B must be retained for 4 years. Records
28 pertaining to all other taxes imposed by this Title must be
retained for a period of at least 6 years. The records must be
30 kept in such a manner as to ensure their security and
accessibility for inspection by the assessor or any designated
32 agent engaged in the administration of this Title.

34 **Sec. 4. 36 MRSA §141, sub-§2, ¶C**, as enacted by PL 1979, c.
378, §4, is amended to read:

36 C. An assessment may be made at any time with respect to a
38 time period for which a return has become due but has not
been filed. If any person failing to file a return fails to
40 produce, within a ~~reasonable time~~ 30 days after notice,
information ~~which~~ that the State Tax Assessor believes
42 necessary to determine tax liability for the period
involved, the State Tax Assessor may assess an estimated tax
44 liability based upon the best information otherwise
available. In any proceeding for the collection of tax for
46 the period involved, that estimate ~~shall constitute~~
constitutes prima facie evidence of the tax liability. The
48 30-day period provided by this paragraph is extended for up
to 90 days if the taxpayer requests an extension in writing
50 prior to the expiration of the 30-day period.

2 **Sec. 5. 36 MRSA §144, sub-§1**, as amended by PL 1999, c. 708,
§8, is further amended to read:

4
6 **1. Generally.** A taxpayer may request a credit or refund of
any tax imposed by this Title or administered by the State Tax
8 Assessor within 3 years from the time the return was filed or 2
years from the time the tax was paid, whichever period expires
10 later. Every claim for refund must be submitted to the State Tax
Assessor in writing and state the specific grounds upon which it
12 is founded and the tax period for which the refund is claimed.
The taxpayer may in writing request an informal conference
14 regarding the claim for refund, in which case the claim for
refund is considered a request for reconsideration of an
assessment under section 151.

16 **Sec. 6. 36 MRSA §176-A, sub-§2, ¶E**, as enacted by PL 1989, c.
18 880, Pt. E, §3, is amended to read:

20 E. The effect of a levy on salary or wages payable to or
received by a taxpayer is continuous from the date the levy
22 is first made until the liability out of which the levy
arose is satisfied. A Except as otherwise provided by this
24 paragraph, a levy on any other intangible personal property
or rights to intangible personal property remains in effect
26 until ~~6-months~~ one year after the date that notice of levy
and demand under subsection 3, paragraph A, is served on the
28 person in possession of or liable to the taxpayer with
respect to intangible personal property, including property
30 that is first possessed or liabilities that arise after the
date of service of the notice of levy and demand; except
32 that a levy upon property held by a financial institution
described in subsection 3, paragraph A, only extends to
34 accounts in existence on the date the notice of levy and
demand is served on the financial institution, but includes
36 deposits made or collected in those accounts after the
notice is served. A levy on intangible personal property or
38 rights to intangible personal property, ownership of which
is disputed at the time the levy is issued, remains in
40 effect until one year after the dispute is resolved by
competent authority.

42 **Sec. 7. 36 MRSA §176-A, sub-§3, ¶A**, as enacted by PL 1989, c.
44 880, Pt. E, §3, is amended to read:

46 A. Except as otherwise provided in paragraph B, any person
in possession of, or obligated with respect to, property or
48 rights to property subject to levy upon which a levy has
been made shall, upon demand of the assessor, surrender any
50 such property or rights or discharge any such obligation to

2 the assessor within 21 days after receipt of the notice of
3 levy, except that part of the property or rights as is, at
4 the time of the demand, subject to an attachment or
5 execution under any judicial process. It is a defense to
6 the liability imposed by this subsection that the person
7 refusing to comply with the terms of a notice of a levy or
8 that person's bailor has a valid claim against the
9 delinquent taxpayer accruing prior to service of the notice
10 or a valid security interest or lien upon the property of
11 the taxpayer perfected prior to service of the notice; but
12 this defense exonerates the person refusing to comply from
13 liability only to the extent of that claim, security
14 interest or lien.

15 Any financial institution chartered under state or federal
16 law, including, but not limited to, trust companies, savings
17 banks, savings and loan associations, national banks and
18 credit unions, shall surrender to the assessor any deposits,
19 including any interest in the financial institution that
20 would otherwise be required to be surrendered under this
21 subsection only after 21 days after service of levy, but not
22 later than 30 days after service of levy. Except as
23 provided in subsection 5, paragraph D, with respect to a
24 levy on salary or wages, any person in possession of, or
25 obligated with respect to, property subject to a continuing
26 levy against intangible personal property, which property is
27 first possessed or which obligation first arises subsequent
28 to service of a notice of levy on such person, shall, upon
29 demand of the assessor, surrender the property or rights, or
30 discharge the obligation to the assessor within 30 days
31 after the property is first possessed or the obligation
32 first arises.

33 **Sec. 8. 36 MRS §176-A. sub-§3, ¶C**, as enacted by PL 1989, c.
34 880, Pt. E, §3, is amended to read:

35 C. Any person who fails or refuses to surrender any
36 property or rights to property, subject to levy, upon demand
37 by the assessor:

38 (1) Is liable in person and estate to the State in a
39 sum equal to the value of the property not so
40 surrendered, but not exceeding the amount of taxes for
41 the collection of which the levy has been made,
42 together with costs and interests on the sum from the
43 date of the levy. Any amount, other than costs,
44 recovered under this paragraph must be credited against
45 the tax liability for the collection of which the levy
46 was made; and
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2 (2) Without reasonable cause, is liable for a penalty
3 equal to 50% of the amount recoverable under
4 subparagraph (1). A part of the penalty may not be
5 credited against the tax liability for the collection
6 of which the levy was made. ~~It--is--lawful--for--the
7 assessor--to--collect--the--liability--as--determined--by--this
8 paragraph--by--levy--upon--the--person's--property--in
9 accordance--with--the--provisions--of--this--section.~~

10 The liability established by this paragraph is enforceable
11 by assessment and collection, in the manner prescribed in
12 this Part, against the person failing or refusing to comply
13 with the levy.

14 **Sec. 9. 36 MRSA §177, sub-§6**, as amended by PL 1999, c. 414,
15 §8, is further amended to read:

16 **6. Sale or cessation of business; purchaser liable for**
17 **tax.** If a person liable for any trust fund taxes incurred in the
18 course of operating a business sells the business or stock of
19 goods or quits the business, the person shall make a final return
20 and payment within 15 days after the date of selling or quitting
21 the business. The successor, successors or assignees, if any,
22 shall withhold a sufficient amount of the purchase money price to
23 cover the amount of those taxes, along with applicable interest
24 and penalties, until such time as the former owner produces a
25 receipt from the State Tax Assessor showing that the taxes have
26 been paid, or a certificate from the assessor stating that no
27 trust fund taxes, interest or penalties are due. The liability
28 of a purchaser is limited to the higher of the purchase price or
29 the fair market value of the assets sold, transferred or
30 assigned. A purchaser who fails to withhold a sufficient amount
31 of the purchase money price is personally jointly and severally
32 liable for the payment of the taxes, penalties and interest
33 accrued and unpaid on account of the operation of the business by
34 the former owner, owners or assignors and the assessor may make
35 an assessment against the purchaser at any time within 6 years
36 from the date of the sale or transfer.

37 **Sec. 10. 36 MRSA §187-B, sub-§1**, as amended by PL 1999, c.
38 521, Pt. A, §2, is further amended to read:

39 **1. Failure to file return.** Any person who fails to make
40 and file any return required under this Title at or before the
41 time the return becomes due is liable for one of the following
42 penalties if the person's tax liability shown on such return or
43 otherwise determined to be due is greater than \$25.

44 **A.** If the return is filed before or within 30 days after
45 the taxpayer receives from the assessor a formal demand that

2 the return be filed, or if the return is not filed but the
tax due is assessed by the assessor before the taxpayer
4 receives from the assessor a formal demand that the return
be filed, the penalty is \$25 or 10% of the tax due,
whichever is greater.

6
8 B. If the return is not filed within 30 days after the
taxpayer receives from the assessor a formal demand that the
return be filed, the penalty is 100% of the tax due.

10
12 C. If the return is not filed and the assessor issues a
jeopardy assessment pursuant to section 141, subsection 2,
14 paragraph D, the penalty is 100% of the tax due.

16 This subsection does not apply to any return required pursuant to
chapter 459 and administered pursuant to the International Fuel
Tax Agreement.

18
20 **Sec. 11. 36 MRSA §187-B, sub-§2,** as amended by PL 1999, c.
708, §§10 and 11, are further amended to read:

22 **2. Failure to pay.** The following penalties apply.

24 A. Any person who fails to pay, on or before the due date,
any amount shown as tax on any return required under this
26 Title is liable for a penalty of 1% of the unpaid tax for
each month or fraction of a month during which the failure
28 continues, to a maximum in the aggregate of 25% of the
unpaid tax.

30
32 A-1. Any person who fails to make and file any return
required under this Title at or before the time the return
becomes due against whom the assessor has made an assessment
34 of tax pursuant to section 141 and who has not paid the tax
on or before the date specified in that assessment is liable
36 for a penalty of 1% of the unpaid tax for each month or
fraction of a month during which the tax remains unpaid,
38 calculated retroactively from the original due date of the
unfiled return, to a maximum in the aggregate of 25% of the
40 unpaid tax.

42 B. Any person who fails to pay a tax assessment for which
no further administrative or judicial review is available
44 pursuant to section 151 and the Maine Administrative
Procedure Act is liable for a penalty in the amount of 25%
46 of the amount of the tax due if the payment of the tax is
not made within 10 days of the person's receipt of notice of
48 demand for payment as provided by this Title. This penalty
must be explained in the notice of demand and is final when
50 levied.

2 This subsection does not apply to taxes due pursuant to chapter
369 459 and administered pursuant to the terms of the
4 International Fuel Tax Agreement.

6 **Sec. 12. 36 MRSA §187-B, sub-§7**, as amended by PL 1999, c.
708, §13, is further amended to read:

8
9 **7. Reasonable cause.** For reasonable cause, the State Tax
10 Assessor shall waive or abate any penalty imposed by subsection
11 1; subsection 2, paragraphs A and B; and subsections 4-A and 5-A;
12 or by the terms of the International Fuel Tax Agreement.
13 Reasonable cause includes, but is not limited to, the following:

14
15 A. The failure to file or pay resulted directly from
16 erroneous information provided by the Bureau of Revenue
17 Services;

18
19 B. The failure to file or pay resulted directly from the
20 death or serious illness of the taxpayer or a member of the
21 taxpayer's immediate family;

22
23 C. The failure to file or pay resulted directly from a
24 natural disaster;

25
26 D. A return that was due monthly was filed and paid less
27 than one month late and all of the taxpayer's returns and
28 payments during the preceding 12 months were timely;

29
30 E. A return that was due other than monthly was filed and
31 paid less than one month late and all of the taxpayer's
32 returns and payments during the preceding 3 years were
33 timely;

34
35 F. The taxpayer has supplied substantial authority
36 justifying the failure to file or pay; or

37
38 G. The amount subject to a penalty imposed by subsections
39 1, 2 and 4-A; and subsection 5-A is de minimis when
40 considered in relation to the amount otherwise properly
41 paid, the reason for the failure to file or pay and the
42 taxpayer's compliance history.

43
44 The burden of establishing grounds for waiver or abatement is on
45 the taxpayer.

46
47 **Sec. 13. 36 MRSA §191, sub-§2, ¶Q**, as repealed and replaced by
48 PL 1995, c. 625, Pt. A, §46, is amended to read:

2 Q. The listing of licensed special fuel suppliers
3 possessing certificates under section 3204 and registered
4 suppliers possessing certificates under section 3205;

6 **Sec. 14. 36 MRSA §457, sub-§8,** as enacted by PL 1991, c. 121,
Pt. B, §2 and affected by §18, is amended to read:

8 **8. Penalty.** Underpayment of the tax imposed by this
9 section and the prepayment of estimated tax required by this
10 section are subject to the penalties imposed by section ~~187~~ 187-B.

12 **Sec. 15. 36 MRSA §844, sub-§2,** as amended by PL 1995, c. 262,
13 §7, is further amended to read:

14 **2. Nonresidential property of \$1,000,000 or greater.**
15 Notwithstanding subsection 1, with regard to nonresidential
16 property or properties with an equalized municipal valuation of
17 \$1,000,000 or greater either separately or in the aggregate,
18 either party may choose to appeal the decision of the assessers
19 assessor or the municipal officers with regard to a request for
20 abatement to the State Board of Property Tax Review within 60
21 days after notice of the decision from which the appeal is taken
22 or after the application is deemed to be denied. If the state
23 board thinks that the applicant is over-assessed, it shall grant
24 such reasonable abatement as the board thinks proper. For the
25 purposes of this subsection, "nonresidential property" means
26 property that is used primarily for commercial, industrial or
27 business purposes, excluding unimproved land that is not
28 associated with a commercial, industrial or business use.

30 **Sec. 16. 36 MRSA §1481, sub-§5,** as amended by PL 1981, c.
31 706, §18, is further amended to read:

34 **5. Vehicle.** "Vehicle" means a motor vehicle, mobile home,
35 camper trailer, heavier-than-air aircraft or lighter-than-air
36 aircraft. "Vehicle" shall does not include any snowmobiles as
37 defined in Title 12, section ~~1971~~ 7821.

38 **Sec. 17. 36 MRSA §1752, sub-§17-A, ¶G,** as repealed and
39 replaced by PL 1999, c. 790, Pt. A, §42 and affected by §43, is
40 amended to read:

42 G. Rental of ~~audio--and~~ video tapes and ~~audio--and~~ video
43 equipment;

46 **Sec. 18. 36 MRSA §1752, sub-§17-A, ¶K,** as enacted by PL 1999,
47 c. 790, Pt. A, §46 and affected by §47, is amended to read:

2 K. Rental of furniture, audio tapes and audio equipment
3 pursuant to a rental-purchase agreement as defined in Title
4 9-A, section 11-105.

6 **Sec. 19. 36 MRSA §1760, sub-§54**, as enacted by PL 1985, c.
8 819, Pt. A, §§42 and 43, is amended to read:

10 **54. Food stamp and WIC purchases.** Sales of items purchased
12 with federal food stamps or Women, Infants and Children, WIC,
14 Special Supplemental Food Program food instruments distributed by
16 the Department of Human Services.

18 **Sec. 20. 36 MRSA §2013, sub-§§2 and 3**, as amended by PL 1999,
20 c. 757, §1 and affected by §3, are further amended to read:

22 **2. Refund authorized.** Any person, association of persons,
24 firm or corporation that purchases electricity, or that purchases
26 or leases depreciable machinery or equipment, for use in
28 commercial agricultural production, commercial fishing or
30 commercial aquacultural production must be refunded the amount of
32 sales tax paid upon presenting to the State Tax Assessor evidence
34 that the purchase is eligible for refund under this section.

36 Evidence required by the assessor may include a copy or copies of
38 that portion of the purchaser's or lessee's most recent filing
40 under the United States Internal Revenue Code that indicates that
42 the purchaser or lessee is engaged in commercial agricultural
44 production, commercial fishing or commercial aquacultural
46 production and that the purchased machinery or equipment is
48 depreciable for those purposes or would be depreciable for those
50 purposes if owned by the lessee.

In the event that any piece of machinery or equipment is only
partially depreciable under the United States Internal Revenue
Code, any reimbursement of the sales tax must be prorated
accordingly. In the event that electricity is used in qualifying
and nonqualifying activities, any reimbursement of the sales tax
must be prorated accordingly.

Application for refunds must be filed with the assessor within 36
months of the date of purchase or execution of the lease.

3. Purchases made free of tax with certificate. Sales tax
need not be paid on the purchase of electricity or of a single
item of machinery or equipment if the purchaser has obtained a
certificate from the assessor stating that the purchaser is
engaged in commercial agricultural production, commercial fishing
or commercial aquacultural production and authorizing the
purchaser to purchase electricity or depreciable machinery and
equipment without paying Maine sales tax. The seller is required

to obtain a copy of the certificate together with an affidavit as prescribed by the assessor, to be maintained in the seller's records, attesting to the qualification of the purchase for exemption pursuant to this section. In order to qualify for this exemption, the electricity or depreciable machinery or equipment must be used directly in commercial agricultural production, commercial fishing or commercial aquacultural production. In order to qualify for this exemption, the electricity must be used in qualifying activities, including support operations.

Sec. 21. 36 MRSA §3202, sub-§§2-B and 2-C are enacted to read:

2-B. IFTA. "IFTA" means the International Fuel Tax Agreement administered by the International Fuel Tax Association, Inc., a nonprofit corporation organized under the laws of the State of Arizona.

2-C. IFTA governing documents. "IFTA governing documents" means the IFTA Articles of Agreement, the IFTA Audit Manual and the IFTA Procedures Manual.

Sec. 22. 36 MRSA §3203, sub-§1, as amended by PL 1999, c. 733, §4 and affected by §17, is further amended to read:

1. Generally. Except as provided in section 3204-A, an excise tax is levied and imposed on all suppliers of special-fuel distillates sold, on all retailers of low-energy fuel sold and on all users of special fuel used in this State for each gallon of distillate at the rate of 23¢ per gallon and for each gallon of low-energy fuel based on the British Thermal Unit, referred to in this subsection as "BTU," energy content for each fuel as compared to gasoline. These values are as follows.

Fuel type	BTU content per gallon	Formula (BTU value fuel/ BTU value gasoline) x tax rate gasoline	Tax rate
Gasoline	115,000	100% x 22¢	22¢ per gallon as authorized in section 2903

2	Methanol	65,530	57% x 22¢	12.5¢ per
4	(M85)			gallon
6	Ethanol	81,850	71% x 22¢	15.6¢ per
8	(E85)			gallon
10	Propane	84,500	73% x 22¢	16¢ per
12				gallon
14	Compressed	100,000	87% x 22¢	19.1¢ per
16	Natural Gas	(BTU per 100		100
18		standard cubic		standard
		feet)		cubic
				feet

20 **Sec. 23. 36 MRSA §3205**, as amended by PL 1999, c. 414, §30,
 is further amended to read:

22 **§3205. Registered supplier**

24 Every supplier of special fuel making sales only of dyed
 26 fuel or taxable ~~special-fuel~~ distillates pursuant to section 3203
 28 shall register with the State Tax Assessor on forms prescribed
 and supplied by the assessor. A copy of the registration
 30 certificate must be displayed in each place of business of that
 supplier.

32 **Sec. 24. 36 MRSA §3209**, as amended by PL 1999, c. 733, §§11
 and 12 and affected by §17, is further amended to read:

34 **§3209. Reports; International Fuel Tax Agreement; payment of**
 36 **tax; allowance for losses**

38 **1. Suppliers.** Every licensed supplier shall file on or
 before the last day of each month a report with the ~~assesse~~
 40 State Tax Assessor stating the gross gallons of ~~special--fuel~~
distillates received, sold and used in this State by that
 42 supplier during the preceding calendar month, on a form
 prescribed and furnished by the assessor. The report must
 44 contain any further information reasonably required by the
 assessor. At the time of filing the report required by this
 46 subsection, each supplier must pay to the assessor a tax as
 prescribed in section 3203 upon each gallon reported as a taxable
 48 sale or as taxable gallons used.

2 **1-A. Retailers.** Every licensed retailer shall file on or
3 before the last day of each month a report with the assessor
4 stating the gross gallons of ~~special--fuel~~ low-energy fuel
5 received, sold and used in this State by that retailer during the
6 preceding calendar month on a form prescribed and furnished by
7 the assessor. The report must contain any further information
8 reasonably required by the assessor. At the time of filing the
9 report required by this subsection, each retailer shall pay to
10 the assessor a tax as prescribed in section 3203 upon each gallon
11 reported as a taxable sale or as taxable gallons used.

12 **1-B. International Fuel Tax Agreement.** The State Tax
13 Assessor shall take all steps necessary to maintain the State's
14 membership in the IFTA, in order to:

15 A. Facilitate the administration of this chapter;

16 B. Promote the fullest and most efficient possible use of
17 the highway system; and

18 C. Make uniform the administration, collection and
19 enforcement of special fuel use taxation laws with respect
20 to motor vehicles operated in multiple jurisdictions, by
21 ensuring this State's full participation in the single-base
22 jurisdiction system embodied in the IFTA governing
23 documents, agreed to by other IFTA member jurisdictions and
24 approved by the United States Congress in the Intermodal
25 Surface Transportation Efficiency Act of 1991.

26 The assessor is authorized to ratify amendments to the IFTA
27 governing documents on behalf of this State, except that the
28 assessor may not ratify any provision that infringes on the
29 substantive taxation authority of the Legislature, including the
30 power to impose taxes, set tax rates and determine exemptions.
31 Subject to the provisions of this Title, the assessor may
32 delegate to the Secretary of State the responsibility for the
33 processing of special fuel tax returns, special fuel tax
34 collection and compliance with IFTA administrative requirements.
35 The assessor shall consult with the Secretary of State and the
36 Commissioner of Public Safety with respect to rules adopted by
37 the Secretary of State pertaining to IFTA.

38 **2. Users generally.** Except as provided by subsection 4,
39 for the purpose of determining the amount of tax imposed, each
40 user, not later than the last day of April, July, October and
41 January of each year, shall file with the assessor a report that
42 must include the total gallonage of fuels used within this State
43 during the quarter ending the last day of the preceding month.
44 The report must contain any further information reasonably
45 required by the assessor. At the time of filing the report
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2 required by this subsection, each user shall pay to the assessor
the tax imposed by section 3203 upon each gallon reported as a
4 taxable use or as taxable gallons used, which has not been
subjected to the special fuel tax.

6 **3. Exempt users.** Any user of special fuel operating
exclusively within this State and using only special fuel
8 purchased within this State upon which the State has received the
special fuel tax, may be exempted, at the discretion of the
10 assessor, from filing reports under this chapter. Any user of
special fuel requesting exemption from filing reports shall file
12 an affidavit as prescribed by the assessor.

14 **4. Annual returns in certain circumstances.**
Notwithstanding any other provisions of this section, ~~when the~~
16 ~~annual tax liability is expected to be \$100 or less,~~ a user,
~~with the approval of the assessor,~~ may file an annual return with
18 payment on or before January 31st of each year covering the prior
year when the annual tax liability is expected to be \$100 or less
20 or when allowed by the IFTA governing documents.

22 **5. Monthly reports from wholesalers.** Each wholesaler shall
submit on or before the last day of each month on a form
24 prescribed and furnished by the assessor a report stating the
number of gross gallons sold by that wholesaler to each supplier,
26 importer, exporter or any other person that purchased special
fuel from that wholesaler during the preceding month. The report
28 must clearly identify each purchaser and indicate the number of
gallons that each purchaser received from the wholesaler. The
30 report must also contain any other information reasonably
required by the assessor.

32 **Sec. 25. 36 MRSA §4365,** as amended by PL 1999, c. 414, §37,
34 is further amended to read:

36 **§4365. Rate of tax**

38 A tax is imposed on all cigarettes imported into this State
or held in this State by any person for sale at the rate of ~~18.5~~
40 37 mills for each cigarette. Payment of the tax is evidenced by
the affixing of stamps to the packages containing the
42 cigarettes. If an individual purchases in any one month
unstamped packages containing cigarettes in a quantity greater
44 than 2 cartons from a person other than a licensed distributor or
dealer, the tax may be assessed directly against the purchaser by
46 the State Tax Assessor within 3 years from the date of the
purchase.

48 ~~Beginning November 1, 1997, as a public health measure, the~~
50 ~~tax imposed under this section is 37 mills per cigarette.~~

2 **Sec. 26. 36 MRSA §4373-A, sub-§2**, as enacted by PL 1997, c.
458, §19, is amended to read:

6 **2. Inspection and examination; penalty.** The assessor or
any authorized agent may enter into or upon any premises where
8 there is reason to believe that cigarettes are possessed, stored
or sold, and may examine the books, papers, records and cigarette
10 stock of any distributor or dealer to determine compliance with
the provisions of this chapter. Failure or refusal to permit an
12 examination pursuant to this subsection is a civil violation for
which a fine in the amount of \$250 must be imposed, no part of
14 which may be suspended.

16 **Sec. 27. 36 MRSA §5122, sub-§2, ¶L**, as amended by PL 1999, c.
708, §35 and c. 731, Pt. S, §2 and affected by §4 and amended by
18 c. 790, Pt. A, §49, is repealed and the following enacted in its
place:

20 L. For income tax years beginning on or after January 1,
22 2000, an amount equal to the total premiums spent for
qualified long-term care insurance contracts as defined in
24 the Code, Section 7702B(b), as long as the amount subtracted
is reduced by the long-term care premiums claimed as an
26 itemized deduction pursuant to section 5125;

28 **Sec. 28. 36 MRSA §5122, sub-§2, ¶M**, as enacted by PL 1999, c.
708, §36 and c. 731, Pt. S, §3 and affected by §4, is repealed
30 and the following enacted in its place:

32 M. An amount, for each primary recipient of benefits under
an employee retirement plan, that is the lesser of:

34 (1) Six thousand dollars reduced by the total amount
36 of the primary recipient's social security benefits and
railroad retirement benefits paid by the United States,
38 but not less than \$0; or

40 (2) The aggregate of benefits received by the primary
42 recipient under employee retirement plans and included
in federal adjusted gross income.

44 For purposes of this paragraph, "employee retirement plan"
46 means a state, federal or military retirement plan or any
other retirement benefit plan established and maintained by
48 an employer for the benefit of its employees under Section
401(a), Section 403 or Section 457(b) of the Code.
50 "Employee retirement plan" does not include an individual
retirement account under Section 408 of the Code, a Roth IRA

2 under Section 408A of the Code, a rollover individual
4 retirement account, a simplified employee pension under
Section 408(k) of the Code or an ineligible deferred
compensation plan under Section 457(f) of the Code.

6 For purposes of this paragraph, "primary recipient" means
8 the retiree whose employment gave rise to the pension or
that retiree's surviving spouse. In the case of a
10 retirement plan benefit distributed to both a living retiree
and the retiree's living spouse, the retiree may calculate
12 the deduction under this paragraph based on the total amount
received during the tax year by both spouses;

14 **Sec. 29. 36 MRSA §5122, sub-§2, ¶N** is enacted to read:

16 N. Interest or dividends on obligations or securities of
18 this State and its political subdivisions and authorities to
the extent included in federal adjusted gross income;

20 **Sec. 30. 36 MRSA §5200, first ¶**, as repealed and replaced by PL
22 1983, c. 477, Pt. F, sub-Pt. 3, §1, is amended to read:

24 A tax is imposed upon the Maine net income of taxable
26 corporations for each taxable year at the following rates:

28 If the Maine net income is:	The tax is:
30 Not over \$25,000	3.5% of Maine net income
32 \$25,000 but not over \$75,000	\$875 plus 7.93% of excess over \$25,000
34 \$75,000 but not over \$250,000	\$4,840 plus 8.33% of excess over \$75,000
36 \$250,000 or more	\$19,417 <u>\$19,418</u> plus 8.93% of 38 excess over \$250,000

40 **Sec. 31. 36 MRSA §5200-A, sub-§2, ¶C**, as amended by PL 1983,
42 c. 855, §21, is further amended to read:

44 C. An amount equal to the taxpayer's new jobs credit or
work opportunity credit as determined under the laws of the
46 United States;

48 **Sec. 32. 36 MRSA §5219-O, sub-§1**, as amended by PL 1999, c.
414, §48, is further amended to read:

2 **1. Credit allowed.** A taxpayer constituting an employing
3 unit that employs fewer than 5 ~~low-income~~ employees is allowed a
4 credit to be computed as provided in this section against the tax
5 imposed by this Part, subject to the limitations contained in
6 subsections 3 and 4. The credit equals the lesser of 20% of
7 dependent health benefits paid with respect to the taxpayer's
8 low-income employees under a health benefit plan during the
9 taxable year for which the credit is allowed or \$125 per
10 low-income employee with dependent health benefits coverage. A
11 taxpayer who received a credit under this section in the
12 preceding year and whose number of low-income employees is 5 or
13 more may continue to receive the credit for 2 years after the
14 last year in which the number of ~~low-income~~ employees was fewer
15 than 5.

16 **Sec. 33. 36 MRSA §5228, sub-§4,** as repealed and replaced by PL
17 1985, c. 691, §§35 and 48, is amended to read:

18 **4. Due dates for estimated tax installments.** For
19 individuals, trusts and estates, an installment payment is due
20 the 15th day of the 4th, 6th, 9th and 13th month following the
21 beginning of ~~their~~ the taxpayers' fiscal year, except that
22 farmers and ~~fishermen~~ persons who fish commercially have a single
23 installment payment due date of January 15th of the following
24 taxable year. For corporations and financial institutions, an
25 installment payment is due the 15th day of the 4th, 6th, 9th and
26 12th month following the beginning of ~~their~~ the taxpayers' fiscal
27 year.
28

29 **Sec. 34. 36 MRSA §6201, sub-§2,** as amended by PL 1999, c. 507,
30 §1 and affected by §3, is further amended to read:

31 **2. Claimant.** "Claimant" means an individual who has filed
32 a claim under this chapter and was domiciled in this State and
33 occupied a homestead in this State during the entire calendar
34 year preceding the year in which a claim for relief under this
35 chapter is filed. "Claimant" also includes an individual who has
36 filed a claim under this chapter and who was domiciled in this
37 State and owned or otherwise maintained a homestead in this State
38 during the entire calendar year preceding the year in which the
39 claim for relief under this chapter is filed and occupied that
40 homestead for at least 6 months during that year. Regardless of
41 how many names of individuals appear on the property deed, the
42 person who meets the qualifications described in this subsection
43 and proves sole responsibility for the payment of the property
44 taxes on the subject property is the claimant ~~for~~ with respect to
45 that property. If 2 or more individuals meet the qualifications
46 in this subsection and share the payment of the rent or the
47 responsibility for the payment of the property taxes, each
48 individual may apply on the basis of the rent paid or the
49
50

2 property taxes levied on the homestead that reflect the ownership
percentage of the claimant and the claimant's household.

4 If 2 or more individuals claim the same property, the matter must
be referred to the State Tax Assessor, whose decision is final.
6 Ownership of a homestead under this chapter may be by fee, by
life tenancy, by bond for deed, as mortgagee or any other
8 possessory interest in which the owner is personally responsible
for the tax for which a refund is claimed.

10
12 **Sec. 35. 36 MRSA §6201, sub-§12**, as amended by PL 1997, c.
557, Pt. A, §1 and affected by Pt. G, §1, is further amended to
read:

14
16 **12. Year for which relief is requested.** "Year for
which relief is requested" means the calendar year preceding that
in which the claim is filed. ~~For a claim filed in January of any~~
18 ~~year, -- "year for which relief is requested" means the calendar~~
~~year 2 years preceding that in which the claim is filed.~~

20
22 **Sec. 36. 36 MRSA §6204**, as amended by PL 1997, c. 562, Pt. A,
§1, is further amend to read:

24 **§6204. Filing date**

26 A claim may not be paid unless the claim is filed with the
Bureau of Revenue Services on or after August 1st and on or
28 before the following January December 31st.

30 **Sec. 37. 36 MRSA §6651, sub-§1**, as amended by PL 1997, c. 557,
Pt. B, §11 and affected by Pt. G, §1, is further amended to read:

32
34 **1. Eligible property.** "Eligible property" means qualified
business property first placed in service in the State, or
constituting construction in progress commenced in the State,
36 after April 1, 1995. "Eligible property" includes, without
limitation, repair parts, replacement parts, additions,
38 accessions and accessories to other qualified business property
placed in service on or before April 1, 1995 if the part,
40 addition, accession or accessory is first placed in service, or
constitutes construction in progress, in the State after April 1,
42 1995. "Eligible property" also includes inventory parts.
~~"Eligible property" is subject to reimbursement pursuant to this~~
44 ~~chapter for up to 12 years, but the 12 years must be reduced by~~
~~one year for each year during which a taxpayer included the same~~
46 ~~property in its investment credit base under section 5219-E or~~
~~5219-M and claimed the credit provided in either section on its~~
48 ~~income tax return.~~

2 **Sec. 38. 36 MRSA §6651, sub-§3.** as enacted by PL 1995, c. 368,
Pt. FFF, §2, is amended to read:

4 **3. Qualified business property.** "Qualified business
property" means tangible personal property that:

6 A. Is used or held for use exclusively for a business
8 purpose by the person in possession of it or, in the case of
construction in progress or inventory parts, is intended to
10 be used exclusively for a business purpose by the person who
will possess that property; and

12 B. Either:

14 (1) Was subject to an allowance for depreciation under
16 the Code on April 1st of the property tax year to which
the claim for reimbursement relates or would have been
18 subject to an allowance for depreciation under the Code
as of that date but for the fact that the property has
20 been fully depreciated; or

22 (2) In the case of construction in progress or
inventory parts, would be subject under the Code to an
24 allowance for depreciation when placed in service or
would have been subject to an allowance for
26 depreciation under the Code as of that date but for the
fact that the property has been fully depreciated.

28 "Qualified business property" also includes all property that is
30 affixed or attached to a building or other real estate if it is
used to further a particular trade or business activity taking
32 place in that building or on that real estate. "Qualified
business property" does not include components or attachments to
34 a building if used primarily to serve the building as a building,
regardless of the particular trade or activity taking place in or
36 on the building. "Qualified business property" also does not
include land improvements if used primarily to further the use of
38 the land as land, regardless of the particular trade or business
activities taking place in or on the land. In the case of
40 construction in progress or inventory parts, the term "used"
means intended to be used. "Qualified business property" also
42 does not include any vehicle registered for on-road use on which
a tax assessed pursuant to chapter 111 has been paid or any
44 watercraft registered for use on state waters on which a tax
assessed pursuant to chapter 112 has been paid.

46 **Sec. 39. 36 MRSA §6652, sub-§1,** as amended by PL 1997, c. 729,
48 Pt. B, §1, is further amended to read:

2 **1. Generally.** A person against whom taxes have been
4 assessed pursuant to Part 2, except for chapters 111 and 112,
6 with respect to eligible property and who has paid those taxes is
8 entitled to reimbursement of those taxes from the State as
10 provided in this chapter. For purposes of this chapter, a tax
12 applied as a credit against a tax assessed pursuant to chapter
14 111 or 112 is a tax assessed pursuant to chapter 111 or 112.
16 Eligible property is subject to reimbursement pursuant to this
 chapter for up to 12 property tax years, but the 12 years must be
 reduced by one year for each year during which a taxpayer
 included the same property in its investment credit base under
 section 5219-D, 5219-E or 5219-M and claimed the credit provided
 in one or more of those sections on its income tax return, and
 reimbursement may not be made in a year in which one or more
 those credits is taken.

18 **Sec. 40. 36 MRSA §6652, sub-§1-B,** as enacted by PL 1997, c.
20 24, Pt. C, §14, is amended to read:

22 **1-B. Certain property excluded.** Notwithstanding any other
24 provision of law, reimbursement pursuant to this chapter may not
26 be made with respect to the following property:

28 A. Office furniture, including without limitation tables,
30 chairs, desks, bookcases, filing cabinets and modular office
32 partitions; and

34 B. Lamps and lighting fixtures.

36 This subsection applies to property tax years beginning after
38 April 1, 1996. Property affected by this subsection that was
40 eligible for reimbursement pursuant to chapter 915 of property
42 taxes paid for the 1996 property tax year is grandfathered into
44 the program and continues to be eligible for reimbursements for
46 up to 12 property tax years, unless it subsequently becomes
48 ineligible.

50 **Sec. 41. 36 MRSA §6652, sub-§1-C, ¶¶B and C,** as amended by PL
 1999, c. 398, Pt. A, §103 and affected by §§104 and 105, are
 further amended to read:

 B. Except as provided in paragraph C, reimbursement may not
 be made for property used to produce or transmit energy
 primarily for sale. Energy is primarily for sale if during
 the property tax year immediately preceding the property tax
 year for which a claim is being made 2/3 or more of the
 useful energy is directly or indirectly sold and transmitted
 ~~during the property tax year~~ through the facilities of a
 transmission and distribution utility as defined in Title
 35-A, section 102, subsection 20-B.

2 C. A cogeneration facility is eligible for reimbursement on
4 that portion of property taxes paid multiplied by a
6 fraction, the numerator of which is the total amount of
8 useful energy produced by the facility during the property
10 tax year immediately preceding the property tax year for
12 which a claim is being made that is directly used by a
14 manufacturing facility without transmission over the
facilities of a transmission and distribution utility as
defined in Title 35-A, section 102, subsection 20-B and the
denominator of which is the total amount of useful energy
produced by the facility during the property tax year
immediately preceding the property tax year for which a
claim is being made.

16 **Sec. 42. 36 MRSA §6658**, as enacted by PL 1995, c. 368, Pt.
18 FFF, §2 and amended by PL 1997, c. 526, §14, is further amended
to read:

20 **§6658. Subsequent changes**

22 If, after a claim for reimbursement has been filed, the
24 associated property tax assessment is reduced or abated for any
26 reason, or the property tax paid is applied as a credit against
28 the tax assessed pursuant to chapter 111 or 112, the claimant
shall file, within 60 days after receipt of the reduction or
abatement or credit, an amended claim for reimbursement
reflecting the reduction or abatement or credit. If a claimant
has received reimbursement for property tax that is reduced or
abated or credited against the tax assessed pursuant to chapter
111 or 112, the claimant shall, within 60 days of receipt of the
reduction or abatement or credit, refund to the Bureau of
Revenue Services the amount of the reimbursement for the property
tax that has been reduced or abated or credited. If the
claimant fails to make the refund within the 60-day period, the
State Tax Assessor, within 3 years from the claimant's receipt of
reimbursement, may issue an assessment for the amount that the
claimant owes to the Bureau of Revenue Services. The claimant
may seek reconsideration, pursuant to section 151, of the
assessment.

42 **Sec. 43. 36 MRSA §6661** is enacted to read:

44 **§6661. Program name**

46 The procedure for business property tax reimbursement
48 provided by this chapter may be referred to as the "Business
Equipment Tax Reimbursement" or "BETR" program.

2 **Emergency clause.** In view of the emergency cited in the
preamble, this Act takes effect when approved.

4

SUMMARY

6

8 This bill makes technical corrections, clarifications,
updates and in some cases minor substantive changes to various
provisions of the tax law, the Maine Revised Statutes, Title 36.