

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1088

H.P. 750

House of Representatives, March 17, 2009

**An Act To Modernize the Tax Laws and Provide over \$75,000,000 to
Residents of the State in Tax Relief**

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative PIOTTI of Unity.
Cosponsored by Senator PERRY of Penobscot and
Representatives: BERRY of Bowdoinham, CHASE of Wells, FLEMINGS of Bar Harbor,
KNIGHT of Livermore Falls, PILON of Saco, Speaker PINGREE of North Haven,
VALENTINO of Saco, WATSON of Bath, Senators: BARTLETT of Cumberland, BLISS of
Cumberland, MARRACHÉ of Kennebec, MILLS of Somerset, President MITCHELL of
Kennebec, SIMPSON of Androscoggin.

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

2 PART A

3 Sec. A-1. 36 MRSA §5111, as amended by PL 1999, c. 731, Pt. T, §§1 to 7, is
4 repealed and the following enacted in its place:

5 **§5111. Imposition and rate of tax**

6 A tax is imposed for each taxable year beginning on or after January 1, 2010 on the
7 Maine taxable income of every resident individual of this State at the rate of 6.5%.

8 Sec. A-2. 36 MRSA §5111-A, as repealed and replaced by PL 1987, c. 819, §3, is
9 repealed.

10 Sec. A-3. 36 MRSA §5112, as enacted by P&SL 1969, c. 154, Pt. F, §1, is
11 repealed.

12 Sec. A-4. 36 MRSA §5113, as repealed and replaced by PL 1983, c. 571, §19, is
13 repealed.

14 Sec. A-5. 36 MRSA §5121, as amended by PL 2003, c. 390, §26, is further
15 amended to read:

16 **§5121. Maine taxable income**

17 The Maine taxable income of a resident individual is equal to the individual's federal
18 adjusted gross income as defined by the Code with the modifications ~~and less the~~
19 ~~deductions and personal exemptions~~ provided in this chapter.

20 Sec. A-6. 36 MRSA §5122, sub-§2, ¶L, as amended by PL 2003, c. 705, §11
21 and affected by §14, is further amended to read:

22 L. For income tax years beginning on or after January 1, 2000 and before January 1,
23 2004, an amount equal to the total premiums spent for qualified long-term care
24 insurance contracts as defined in the Code, Section 7702B(b), as long as the amount
25 subtracted is reduced by the long-term care premiums claimed as an itemized
26 deduction pursuant to section 5125. For income tax years beginning on or after
27 January 1, 2004 and before January 1, 2010, an amount equal to the total premiums
28 spent for qualified long-term care insurance contracts as defined in the Code, Section
29 7702B(b), as long as the amount subtracted is reduced by any amount claimed as a
30 deduction for federal income tax purposes in accordance with the Code, Section
31 162(l) and by the long-term care premiums claimed as an itemized deduction
32 pursuant to section 5125. For income tax years beginning on or after January 1,
33 2010, an amount equal to the total premiums spent for qualified long-term care
34 insurance contracts as defined in the Code, Section 7702B(b), as long as the amount
35 subtracted is reduced by any amount claimed as a deduction for federal income tax
36 purposes in accordance with the Code, Section 162(l);

1 **Sec. A-7. 36 MRSA §5122, sub-§2, ¶T**, as amended by PL 2005, c. 519, Pt.
2 LLL, §1 and c. 622, §26, is further amended to read:

3 T. For income tax years beginning on or after January 1, 2002 and before January 1,
4 2004, an amount equal to the total premiums spent for long-term care insurance
5 policies certified under Title 24-A, section 5075-A as long as the amount subtracted
6 is reduced by the long-term care premiums claimed as an itemized deduction
7 pursuant to section 5125.

8 For income tax years beginning on or after January 1, 2004 but before January 1,
9 2010, an amount equal to the total premiums spent for qualified long-term care
10 insurance contracts certified under Title 24-A, section 5075-A, as long as the amount
11 subtracted is reduced by any amount claimed as a deduction for federal income tax
12 purposes in accordance with the Code, Section 162(l) and by the long-term care
13 premiums claimed as an itemized deduction pursuant to section 5125. For income
14 tax years beginning on or after January 1, 2010, an amount equal to the total
15 premiums spent for qualified long-term care insurance contracts certified under Title
16 24-A, section 5075-A, as long as the amount subtracted is reduced by any amount
17 claimed as a deduction for federal income tax purposes in accordance with the Code,
18 Section 162(l);

19 **Sec. A-8. 36 MRSA §5124-A**, as amended by PL 2005, c. 12, Pt. P, §5, is
20 repealed.

21 **Sec. A-9. 36 MRSA §5125**, as amended by PL 2007, c. 539, Pt. CCC, §§9 to 11,
22 is repealed.

23 **Sec. A-10. 36 MRSA §5126**, as amended by PL 2001, c. 583, §16, is repealed.

24 **Sec. A-11. 36 MRSA §5160**, as amended by PL 2003, c. 390, §35, is further
25 amended to read:

26 **§5160. Imposition of tax**

27 The tax is imposed, at the ~~rates~~ rate provided by section 5111 ~~for single individuals~~,
28 upon the Maine taxable income of estates and trusts. The tax must be paid by the
29 fiduciary.

30 **Sec. A-12. 36 MRSA §5192, sub-§2**, as amended by PL 1985, c. 783, §32, is
31 repealed.

32 **Sec. A-13. 36 MRSA §5203-B**, as amended by PL 2003, c. 673, Pt. JJ, §2 and
33 affected by §6, is repealed.

34 **Sec. A-14. 36 MRSA §5203-C**, as amended by PL 2005, c. 618, §§7 and 8 and
35 affected by §22, is further amended to read:

1 **§5203-C. State minimum tax**

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

4 A. ~~"Adjusted alternative minimum tax," for individuals, estates and trusts, means the~~
5 ~~excess, if any, of the alternative minimum tax over the amount that would have been~~
6 ~~the alternative minimum tax had only the adjustments and items of preference~~
7 ~~specified in the Code, Section 53(d)(1)(B)(ii) been taken into account in determining~~
8 ~~alternative minimum tax. For corporations subject to the tax imposed by this section,~~
9 ~~"adjusted alternative minimum tax" means alternative minimum tax.~~

10 B. "Alternative minimum tax" means any excess of tentative minimum tax over the
11 regular income tax.

12 ~~C. "Alternative minimum taxable income" means tentative alternative minimum~~
13 ~~taxable income less the applicable exemption amount, except that:~~

14 ~~(1) For taxable corporations with income from business activity that is taxable~~
15 ~~both within and without this State, "alternative minimum taxable income" means~~
16 ~~tentative alternative minimum taxable income less the applicable exemption~~
17 ~~amount, the result of which is multiplied by the fraction described in section~~
18 ~~5211, subsection 8; or~~

19 ~~(2) For nonresident estates and trusts with income derived from Maine sources,~~
20 ~~"alternative minimum taxable income" means tentative alternative minimum~~
21 ~~taxable income less the applicable exemption amount, the result of which is~~
22 ~~multiplied by a fraction, the numerator of which is the taxpayer's tentative~~
23 ~~alternative minimum taxable income from Maine sources and the denominator of~~
24 ~~which is the taxpayer's total tentative alternative minimum taxable income from~~
25 ~~all sources.~~

26 C-1. "Alternative minimum taxable income" for taxable corporations with income
27 from business activity that is taxable both within and without this State means
28 tentative alternative minimum taxable income less the applicable exemption amount,
29 the result of which is multiplied by the fraction described in section 5211, subsection
30 8.

31 D. "Exemption amount" means the applicable exemption as provided by the Code,
32 Section 55(d) as of December 31, 2002, except that tentative alternative minimum
33 taxable income as determined under paragraph G must be substituted in the
34 computation of the phase-out under the Code, Section 55(d)(3).

35 E. "Federal alternative minimum taxable income" means alternative minimum
36 taxable income determined in accordance with the Code, ~~Sections~~ Section 55(b)(2)
37 and 59(e).

38 ~~F. "Regular income tax" means:~~

39 ~~(1) For resident individuals, estates and trusts, the amount derived by~~
40 ~~multiplying the applicable tax rate or rates by taxable income under section 5121~~
41 ~~or 5163;~~

1 ~~(2) For nonresident individuals, estates and trusts, the amount derived by~~
2 ~~multiplying the applicable tax rate or rates by taxable income under section 5121~~
3 ~~or 5175, the result of which is adjusted for nonresident individuals in accordance~~
4 ~~with section 5111, subsection 4; or~~

5 ~~(3) For taxable corporations, the amount derived by multiplying the applicable~~
6 ~~tax rate or rates against Maine net income under section 5102, subsection 8.~~

7 F-1. "Regular income tax" means the amount derived by multiplying the applicable
8 tax rate or rates against Maine net income under section 5102, subsection 8.

9 G. "Tentative alternative minimum taxable income" means federal alternative
10 minimum taxable income:

11 (1) Reduced by income that states are prohibited under federal law from
12 subjecting to income tax to the extent included in federal alternative minimum
13 taxable income;

14 (2) Reduced by income, loss or deductions by which the State decreases federal
15 ~~adjusted gross income in the case of individuals or federal taxable income in the~~
16 ~~case of corporations, estates and trusts under section 5122, section 5125,~~
17 ~~subsection 3 or section 5164, 5176 or 5200-A or as otherwise indicated by law to~~
18 ~~the extent included in federal alternative minimum taxable income; and~~

19 (3) Increased by income, loss or deductions by which the State increases federal
20 ~~adjusted gross income in the case of individuals or federal taxable income in the~~
21 ~~case of corporations, estates and trusts under section 5122, section 5125,~~
22 ~~subsection 3 or section 5164, 5176 or 5200-A or as otherwise indicated by law to~~
23 ~~the extent not included in federal alternative minimum taxable income.~~

24 H. ~~"Tentative minimum tax" means:~~

25 ~~(1) Except as provided in subparagraph (2), in the case of a taxpayer other than~~
26 ~~a taxable corporation, the sum of:~~

27 ~~(a) An amount equal to 7% of so much of the alternative minimum taxable~~
28 ~~income as does not exceed \$175,000; plus~~

29 ~~(b) An amount equal to 7.6% percent of so much of the alternative minimum~~
30 ~~taxable income as exceeds \$175,000.~~

31 ~~For a nonresident individual, the tentative minimum tax must be adjusted in~~
32 ~~accordance with section 5111, subsection 4.~~

33 ~~(2) In the case of a married individual filing a separate return, the sum of:~~

34 ~~(a) An amount equal to 7% of so much of the alternative minimum taxable~~
35 ~~income as does not exceed \$87,500; plus~~

36 ~~(b) An amount equal to 7.6% percent of so much of the alternative minimum~~
37 ~~taxable income as exceeds \$87,500.~~

38 ~~For a nonresident individual, the tentative minimum tax must be adjusted in~~
39 ~~accordance with section 5111, subsection 4.~~

1 ~~(3) In the case of a taxable corporation, the tentative minimum tax for the~~
2 ~~taxable year is 5.4% of the alternative minimum taxable income.~~

3 H-1. "Tentative minimum tax" for the taxable year is 5.4% of the alternative
4 minimum taxable income.

5 ~~2. Tax imposed. In addition to all other taxes contained in this Part, a tax in an~~
6 ~~amount equal to the alternative minimum tax is imposed for each taxable year on the~~
7 ~~following taxpayers:~~

8 A. Resident individuals, trusts and estates;

9 B. Nonresident individuals, trusts and estates with Maine source income; and

10 C. ~~Taxable corporations required to file an income tax return under this Part,~~
11 ~~excluding financial institutions subject to the tax imposed by chapter 819 and persons~~
12 ~~not subject to the federal alternative minimum tax under the Code, Section 55(e).~~

13 2-A. Tax imposed. In addition to all other taxes contained in this Part, a tax in an
14 amount equal to the alternative minimum tax is imposed for each taxable year on taxable
15 corporations required to file an income tax return under this Part, excluding financial
16 institutions subject to the tax imposed by chapter 819 and persons not subject to the
17 federal alternative minimum tax under the Code, Section 55(e).

18 ~~3. Credit for tax paid to other taxing jurisdiction. A resident individual, estate or~~
19 ~~trust is allowed a credit against the tax otherwise due under this section for the amount of~~
20 ~~alternative minimum tax imposed on that individual, estate or trust for the taxable year by~~
21 ~~another state of the United States, a political subdivision of any such state, the District of~~
22 ~~Columbia or any political subdivision of a foreign country that is analogous to a state of~~
23 ~~the United States with respect to income derived from sources in that taxing jurisdiction~~
24 ~~also subject to tax under this section. The credit for any of the specified taxing~~
25 ~~jurisdictions may not exceed the proportion of the tax otherwise due under this section~~
26 ~~that the amount of the taxpayer's tentative alternative minimum taxable income derived~~
27 ~~from sources in that taxing jurisdiction bears to the taxpayer's entire tentative alternative~~
28 ~~minimum taxable income. When a credit is claimed for alternative minimum taxes paid to~~
29 ~~both a state and a political subdivision of that state, the total credit allowable for those~~
30 ~~taxes in the aggregate may not exceed the proportion of the tax otherwise due under this~~
31 ~~section that the amount of the taxpayer's tentative alternative minimum taxable income~~
32 ~~derived from sources in the other state bears to the taxpayer's entire tentative alternative~~
33 ~~minimum taxable income.~~

34 **4. Minimum tax credit.** A minimum tax credit is allowed as follows.

35 A. A minimum tax credit is allowed against the liability arising under this Part for
36 any taxable year other than withholding tax liability. The minimum tax credit equals
37 the excess, if any, of the adjusted alternative minimum tax, reduced by the credit for
38 tax paid to other jurisdictions determined under subsection 3 and the Pine Tree
39 Development Zone tax credit provided by section 5219-W, that was imposed for all
40 prior taxable years beginning after 2003 over the amount allowable as a credit under
41 this subsection for such prior taxable years, plus unused minimum tax credits from
42 years beginning after 1990.

1 B. The credit allowable for a taxable year under this subsection is limited to the
2 amount, if any, by which the regular income tax after application of all other credits
3 arising under this Part exceeds the tentative minimum tax.

4 **Sec. A-15. 36 MRSA §5204**, as amended by PL 1987, c. 772, §38, is repealed.

5 **Sec. A-16. 36 MRSA §5204-A**, as amended by PL 1993, c. 395, §20, is repealed.

6 **Sec. A-17. 36 MRSA §5216-C, sub-§1**, as enacted by PL 1999, c. 475, §6 and
7 affected by §7, is amended to read:

8 **1. Credit allowed.** A taxpayer who contributes to a family development account
9 reserve fund as defined in Title 10, section 1075 is allowed a credit against the tax
10 imposed by this Part equal to the lower of:

11 A. Twenty-five thousand dollars; ~~or~~ and

12 B. Fifty percent of the amount contributed by the taxpayer.

13 Only one credit may be claimed on each annual income tax return regardless of filing
14 status. The credit allowed under this section may not reduce the tax to less than 0 and
15 must be applied after allowance for all other eligible credits. ~~A taxpayer who claims a~~
16 ~~credit under this section may not claim an itemized charitable deduction under section~~
17 ~~5125 for the amount of the contribution that qualified for the credit.~~

18 **Sec. A-18. 36 MRSA §5217-A**, as amended by PL 2003, c. 673, Pt. JJ, §4 and
19 affected by §6, is further amended to read:

20 **§5217-A. Income tax paid to other taxing jurisdiction**

21 A resident individual is allowed a credit against the tax otherwise due under this Part,
22 ~~excluding the tax imposed by section 5203-C~~, for the amount of income tax imposed on
23 that individual for the taxable year by another state of the United States, a political
24 subdivision of any such state, the District of Columbia or any political subdivision of a
25 foreign country that is analogous to a state of the United States with respect to income
26 subject to tax under this Part that is derived from sources in that taxing jurisdiction. In
27 determining whether income is derived from sources in another jurisdiction, the assessor
28 may not employ the law of the other jurisdiction but shall instead assume that a statute
29 equivalent to section 5142 applies in that jurisdiction. The credit, for any of the specified
30 taxing jurisdictions, may not exceed the proportion of the tax otherwise due under this
31 Part, ~~excluding the tax imposed by section 5203-C~~, that the amount of the taxpayer's
32 Maine adjusted gross income derived from sources in that taxing jurisdiction bears to the
33 taxpayer's entire Maine adjusted gross income; except that, when a credit is claimed for
34 taxes paid to both a state and a political subdivision of a state, the total credit allowable
35 for those taxes does not exceed the proportion of the tax otherwise due under this Part,
36 ~~excluding the tax imposed by section 5203-C~~, that the amount of the taxpayer's Maine
37 adjusted gross income derived from sources in the other state bears to the taxpayer's
38 entire Maine adjusted gross income.

39 **Sec. A-19. 36 MRSA §5218-A** is enacted to read:

1 **§5218-A. Household credit**

2 **1. Credit allowed.** A resident individual is allowed a credit, referred to in this
3 section as "the household credit," against the tax imposed by this Part. Unless the
4 taxpayer elects to calculate the household credit under section 5218-B, the household
5 credit is equal to the amount calculated in this section. An individual filing a return under
6 section 5224-A is not eligible for a credit under this section.

7 **2. Amount of base credit.** The base credit is:

8 **A.** For single individuals and married persons filing separate returns, \$800 for tax
9 years beginning in 2010 through 2012 and \$825 thereafter;

10 **B.** For unmarried individuals or legally separated individuals who qualify as heads of
11 households, \$1,200 for tax years beginning in 2010 through 2012 and \$1,250
12 thereafter; and

13 **C.** For individuals filing married joint returns or surviving spouses permitted to file a
14 joint return, \$1,600 for tax years beginning in 2010 through 2012 and \$1,650
15 thereafter.

16 **3. Additional credit.** The base household credit is increased by \$150 for tax years
17 beginning in 2010 or 2011 and \$155 thereafter for each person for whom the individual is
18 entitled to claim an exemption as a dependent under the Code.

19 **4. Phaseout of credit.** The household credit calculated under subsections 2 and 3 is
20 reduced by \$1.50 for every \$100 that the individual's taxable income exceeds:

21 **A.** For single individuals and married persons filing separate returns:

- 22 (1) For tax years beginning in 2010, \$46,950;
23 (2) For tax years beginning in 2011, \$47,900;
24 (3) For tax years beginning in 2012, \$48,950; and
25 (4) For tax years beginning in 2013 or later, \$50,020;

26 **B.** For unmarried individuals or legally separated individuals who qualify as heads of
27 households:

- 28 (1) For tax years beginning in 2010, \$70,400;
29 (2) For tax years beginning in 2011, \$71,850;
30 (3) For tax years beginning in 2012, \$73,425; and
31 (4) For tax years beginning in 2013 or later, \$75,300; and

32 **C.** For individuals filing married joint returns or surviving spouses permitted to file a
33 joint return:

- 34 (1) For tax years beginning in 2010, \$93,900;
35 (2) For tax years beginning in 2011, \$95,800;
36 (3) For tax years beginning in 2012, \$97,900; and

1 (4) For tax years beginning in 2013 or later, \$100,400.

2 **5. Credit refundable.** The household credit allowed under this section is refundable
3 up to \$75 for tax years beginning in 2010 or 2011 and \$80 thereafter for each return filed
4 by an individual who is not claimed as a dependent by another individual on a return
5 under the Code.

6 **6. Adjustment for inflation.** Beginning in 2016, the household credit amounts
7 under subsections 2 and 3 and the credit phaseout thresholds under subsection 4 must be
8 adjusted annually for inflation as provided in chapter 841.

9 **7. Purpose.** The household credit is intended to provide relief to low-income and
10 middle-income persons from the burden attributable to the impact of local property taxes
11 on primary residences and state sales and use tax resulting from the costs of maintaining a
12 household in this State.

13 **Sec. A-20. 36 MRSA §5218-B** is enacted to read:

14 **§5218-B. Alternate calculation of household credit**

15 **1. General.** A resident individual who has claimed itemized deductions from federal
16 adjusted gross income in determining the individual's federal taxable income for the
17 taxable year may elect to calculate the household credit as provided in this section instead
18 of under section 5218-A. An individual filing a return under section 5224-A is not
19 eligible for a credit under this section. The credit calculated under this section is referred
20 to in this section as "the alternate household credit."

21 **2. Base.** The alternate household credit is calculated by modifying the individual's
22 total federal itemized deductions by:

23 A. Reducing the total by any amount attributable to income taxes or sales and use
24 taxes imposed by this State or any other taxing jurisdiction;

25 B. Increasing the total by any amount of interest or expense incurred in the
26 production of income taxable under this Part but exempt from federal income tax that
27 was not deducted in determining the individual's federal taxable income;

28 C. Reducing the total by any amount of deduction attributable to income taxable to
29 financial institutions under chapter 819;

30 D. Reducing the total by any amount attributable to interest or expenses incurred in
31 the production of income exempt from tax under this Part; and

32 E. Reducing the total by any amount attributable to a contribution that qualified for
33 and was actually used as a credit under section 5216-C.

34 **3. Additional credit.** The base alternate household credit is increased by \$150 for
35 each person for whom the individual is entitled to claim an exemption as a dependent
36 under the Code.

37 **4. Maximum alternate credit.** An individual's alternate household credit may not
38 exceed the lower of:

1 A. Eight percent of the individual's federal itemized deductions modified under
2 subsection 2; and

3 B. The following applicable amount:

4 (1) For individuals filing as single or for married individuals filing separately,
5 \$1,100 for tax years beginning in 2010 or 2011, \$1,125 for tax years beginning in
6 2012 and \$1,175 thereafter;

7 (2) For individuals filing as heads of households, \$1,650 for tax years beginning
8 in 2010 or 2011, \$1,675 for tax years beginning in 2012 and \$1,750 thereafter; or

9 (3) For married individuals filing jointly, \$2,200 for tax years beginning in 2010
10 or 2011, \$2,250 for tax years beginning in 2012 and \$2,350 thereafter.

11 5. Phaseout; refundability. An alternate household credit calculated under this
12 section is subject to the phaseout and refundability provisions of section 5218-A,
13 subsections 4 to 6. The maximum alternate credit amounts under subsection 3, paragraph
14 B must be adjusted annually for inflation as provided in chapter 841.

15 **Sec. A-21. 36 MRSA §5218-C** is enacted to read:

16 **§5218-C. Adjustment of household credit**

17 By September 15, 2013, September 15, 2015 and September 15, 2017, the assessor
18 shall adjust the amounts used in the calculation of the household credit under sections
19 5218-A and 5218-B to maintain the same levels of distribution of net tax liability as
20 estimated for tax year 2010.

21 **Sec. A-22. 36 MRSA §5219-H, sub-§2**, as repealed and replaced by PL 2003, c.
22 673, Pt. F, §1 and affected by §2, is amended to read:

23 **2. Meaning of tax liability.** Whenever a credit provided for in chapter 822 is
24 limited by reference to tax liability, "tax liability" means the tax liability for all taxes
25 under this Part, except ~~the minimum tax imposed by section 5203-C~~ and the taxes
26 imposed by chapter 827.

27 **Sec. A-23. 36 MRSA §5219-N**, as amended by PL 2003, c. 673, Pt. JJ, §5 and
28 affected by §6, is repealed.

29 **Sec. A-24. 36 MRSA §5224-A**, as amended by PL 1989, c. 596, Pt. J, §5, is
30 further amended to read:

31 **§5224-A. Tax return of part-year resident**

32 If an individual changes that individual's status as a resident individual or nonresident
33 individual during the taxable year, the individual shall file a nonresident return pursuant
34 to section 5220, subsection 2. That individual's tax ~~shall~~ **must** be computed, pursuant to
35 section 5111, ~~subsection 4~~, as if that individual were a nonresident individual, except that
36 the numerator of the apportionment ratio ~~shall be~~ **is** comprised of the individual's Maine
37 adjusted gross income, as defined in section 5102, subsection 1-C, paragraph A, for the
38 portion of the taxable year during which that individual was a resident, plus that

1 individual's Maine adjusted gross income as defined in section 5102, subsection 1-C,
2 paragraph B, for the portion of the taxable year during which that individual was a
3 nonresident. The part-year resident ~~shall~~ is also ~~be~~ entitled to the credit provided by
4 section 5217-A, computed as if the individual's Maine adjusted gross income for the
5 entire year were comprised only of that portion ~~which~~ that is attributed to the portion of
6 the year during which that individual was a resident.

7 **Sec. A-25. 36 MRSA §5250, sub-§2**, as amended by PL 1997, c. 668, §§36 and
8 37, is repealed.

9 **Sec. A-26. 36 MRSA §5250, sub-§5** is enacted to read:

10 **5. Adjustment for household credit.** The withholding amounts determined by the
11 assessor under subsection 1 must take into account the effect of the household credit
12 under section 5218-A.

13 **Sec. A-27. 36 MRSA §5275, sub-§1**, as enacted by P&SL 1969, c. 154, §F, is
14 amended to read:

15 **1. An amount less than wages.** As the amount of the wages shown on ~~his~~ the
16 individual's return for any taxable year an amount less than such wages actually shown,
17 or the individual must pay a fine of \$50 for the statement, unless:

18 A. Such statement did not result in a decrease in the amounts deducted and
19 withheld; or

20 B. The taxes imposed with respect to the individual under this Part for the
21 succeeding taxable year do not exceed the sum of the payments of estimated tax that
22 are considered payments on account of such taxes.

23 **Sec. A-28. 36 MRSA §5275, sub-§2**, as amended by PL 1979, c. 378, §44, is
24 repealed.

25 **Sec. A-29. 36 MRSA §5401**, as enacted by IB 1983, c. 2, §4, is amended to read:

26 **§5401. Findings and purpose**

27 Inflation erodes the value of ~~personal exemptions and deductions~~ provisions in the
28 Maine individual income tax structure intended to moderate the impact of state and local
29 taxes and distorts fiscal equity among taxpayers. Inflation-induced increases in individual
30 income tax revenues result in annual collections that exceed the amounts anticipated by
31 legislative actions establishing rates, exemptions, deductions and other features of the
32 Maine individual income tax. Furthermore, the income tax laws of this State, in
33 combination with economic inflation, have caused inequitable treatment of the taxpayers
34 because the application of inflexible, statutorily prescribed rates of tax, standard
35 deduction and personal exemption to increasing personal incomes has resulted in
36 increasing the taxpayer's tax liability while the ~~taxpayers~~ taxpayer's purchasing power has
37 remained the same or, in some instances, has decreased. It is the purpose of this Act to
38 correct this situation by requiring that certain components of the individual income tax
39 structure be adjusted in order to compensate for the impact of inflation.

1 **Sec. A-30. 36 MRSA §5403**, as repealed and replaced by PL 1999, c. 731, Pt. T,
2 §10 and affected by §11, is amended to read:

3 **§5403. Annual adjustments for inflation**

4 Beginning in ~~2002~~ 2013, and each subsequent calendar year thereafter, on or about
5 September 15th, the State Tax Assessor shall multiply the cost-of-living adjustment for
6 taxable years beginning in the succeeding calendar year by the dollar amounts of ~~the tax~~
7 ~~rate tables specified in section 5111, subsections 1 B, 2 B and 3 B household credit~~
8 ~~amounts under section 5218-A, subsections 2 and 3, the credit phaseout thresholds under~~
9 ~~section 5218-A, subsection 4 and the maximum alternate household credit amounts under~~
10 ~~section 5218-B, subsection 4, paragraph B. If the dollar amounts of each rate bracket for~~
11 ~~each household credit amount under section 5218-A, subsections 2 and 3, credit threshold~~
12 ~~amount under section 5218-A, subsection 4 or maximum alternate household credit~~
13 ~~amount under section 5218-B, subsection 4, paragraph B, adjusted by application of the~~
14 cost-of-living adjustment, are not multiples of \$50, any increase must be rounded to the
15 next lowest multiple of \$50. If the cost-of-living adjustment for any taxable year is 1.000
16 or less, no adjustment may be made for that taxable year ~~in the dollar bracket amounts of~~
17 ~~the tax rate tables. The assessor shall incorporate such changes into the income tax~~
18 forms, instructions and withholding tables for the taxable year.

19 **Sec. A-31. Effective date; application.** This Part takes effect January 1, 2010
20 and applies to income tax years beginning on or after January 1, 2010.

21 **PART B**

22 **Sec. B-1. 5 MRSA §13090-K, sub-§2**, as enacted by PL 2001, c. 439, Pt.
23 UUUU, §1, is amended to read:

24 **2. Source of fund.** ~~Beginning July 1, 2003 and every~~ Every July 1st thereafter, the
25 State Controller shall transfer to the Tourism Marketing Promotion Fund an amount, as
26 certified by the State Tax Assessor, that is equivalent to 5% of the ~~7%~~ 8.5% tax imposed
27 on tangible personal property and taxable services pursuant to Title 36, section 1811, for
28 the first 6 months of the prior fiscal year after the reduction for the transfer to the Local
29 Government Fund as described by Title 30-A, section 5681, subsection 5. ~~Beginning on~~
30 ~~October 1, 2003 and every~~ Every October 1st thereafter, the State Controller shall transfer
31 to the Tourism Marketing Promotion Fund an amount, as certified by the State Tax
32 Assessor, that is equivalent to 5% of the ~~7%~~ 8.5% tax imposed on tangible personal
33 property and taxable services pursuant to Title 36, section 1811, for the last 6 months of
34 the prior fiscal year after the reduction for the transfer to the Local Government Fund.
35 The tax amount must be based on actual sales for that fiscal year and may not consider
36 any accruals that may be required by law. The amount transferred from General Fund
37 sales and use tax revenues does not affect the calculation for the transfer to the Local
38 Government Fund.

39 **Sec. B-2. 10 MRSA §1305**, as amended by PL 1997, c. 668, §1, is further
40 amended to read:

1 **§1305. Terminal rental adjustment clauses; vehicle leases that are not sales or**
2 **security interests**

3 Notwithstanding any other provision of law, in the case of motor vehicles or trailers,
4 a transaction does not create a sale or security interest merely because the agreement
5 provides that the rental price is permitted or required to be adjusted upward or downward
6 by reference to the amount realized upon sale or other disposition of the motor vehicle or
7 trailer. ~~A transaction may be considered a sale for purposes of Title 36.~~

8 **Sec. B-3. 23 MRSA §4210-B, sub-§7**, as enacted by PL 2007, c. 677, §1, is
9 amended to read:

10 **7. Sales tax revenue.** Beginning July 1, 2009 and every July 1st thereafter, the State
11 Controller shall transfer to the STAR Transportation Fund an amount, as certified by the
12 State Tax Assessor, that is equivalent to ~~50%~~ 1/3 of the revenue from the tax imposed on
13 the value of rental for a period of less than one year of an automobile pursuant to Title 36,
14 section 1811 for the first 6 months of the prior fiscal year after the reduction for the
15 transfer to the Local Government Fund under Title 30-A, section 5681, subsection 5.
16 Beginning on October 1, 2009 and every October 1st thereafter, the State Controller shall
17 transfer to the STAR Transportation Fund an amount, as certified by the State Tax
18 Assessor, that is equivalent to ~~50%~~ 1/3 of the revenue from the tax imposed on the value
19 of rental for a period of less than one year of an automobile pursuant to Title 36, section
20 1811 for the last 6 months of the prior fiscal year after the reduction for the transfer to the
21 Local Government Fund. The tax amount must be based on actual sales for that fiscal
22 year and may not consider any accruals that may be required by law. The amount
23 transferred from General Fund sales and use tax revenues does not affect the calculation
24 for the transfer to the Local Government Fund.

25 **Sec. B-4. 30-A MRSA §5681, sub-§2, ¶C**, as amended by PL 2007, c. 662, §1,
26 is further amended to read:

27 C. "Annual growth ceiling" for fiscal year 2005-06 means \$100,000,000. For
28 subsequent fiscal years, "annual growth ceiling" must be determined by the State Tax
29 Assessor by September 1st annually and means the annual growth ceiling for the
30 previous fiscal year adjusted by the lower of the percentage change for the previous
31 calendar year in the Consumer Price Index compared to the calendar year
32 immediately preceding the previous calendar year and the percentage change in
33 receipts for the previous fiscal year from the taxes imposed under Title 36, Parts 3
34 and 8 and Title 36, section 2552, subsection 1, paragraphs A to F and L and credited
35 to the General Fund compared to the fiscal year immediately preceding the previous
36 fiscal year. The annual growth ceiling may not be less than the annual growth ceiling
37 for the previous year.

38 **Sec. B-5. 30-A MRSA §5681, sub-§5**, as amended by PL 2007, c. 240, Pt. S,
39 §§1 and 2, is further amended to read:

40 **5. Transfers to funds.** On the last day of each month, the Treasurer of State shall
41 transfer to the Local Government Fund a percentage, as provided in this subsection, of the
42 receipts from the taxes imposed under Title 36, Parts 3 and 8, and Title 36, section 2552,

1 subsection 1, paragraphs A to F and L, and credited to the General Fund without any
2 reduction, except that the postage, state cost allocation program and programming costs
3 of administering state-municipal revenue sharing may be paid by the Local Government
4 Fund. Any amounts transferred to the Local Government Fund in excess of the annual
5 growth ceiling must be transferred to the Disproportionate Tax Burden Fund. The
6 percentage transferred to the Local Government Fund on the last day of each month is:

7 A. For months beginning before July 1, 2009, 5.1%; and

8 B. For months beginning on or after July 1, 2009, 5.2%.

9 **Sec. B-6. 36 MRSA §1752, sub-§1-I** is enacted to read:

10 **1-I. Amusement, entertainment and recreation services.** "Amusement,
11 entertainment and recreation services" means the following services, except those
12 services provided by a governmental entity or an incorporated nonprofit organization:
13 admission to entertainment venues and performances, including theaters, movies,
14 lectures, concerts, amusement parks, water parks, fairgrounds except for licensed
15 agricultural fairs, race tracks, carnivals, circuses, sports activities, stadiums,
16 amphitheaters, museums, planetariums, animal parks, petting zoos, aquariums, historical
17 sites and convention centers; fees charged for participation in or entry to golf courses,
18 miniature golf courses, bowling alleys, swimming pools, skating rinks, ski lifts, billiard
19 parlors, gymnasiums, go-cart courses, tennis and racquetball courts and paintball;
20 admission fees charged for exhibition shows such as auto, boat, camping, home, garden,
21 animal and antique shows; scenic and sightseeing excursions including aircraft,
22 helicopter, balloon, blimp, watercraft, railroad, bus, trolley and wagon rides; whitewater
23 rafting and guided recreation, but excluding guided recreation services on federally
24 navigable waters; entertainment services such as those provided by bands, orchestras,
25 disc jockeys, comedians, clowns, jugglers, children's entertainers and ventriloquists; and
26 proceeds from arcade games.

27 **Sec. B-7. 36 MRSA §1752, sub-§1-J** is enacted to read:

28 **1-J. Candy.** "Candy" means a preparation of sugar, honey or other natural or
29 artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or
30 flavorings in the form of bars, drops or pieces.

31 **Sec. B-8. 36 MRSA §1752, sub-§2-F** is enacted to read:

32 **2-F. Fabrication facility.** "Fabrication facility" means a site consisting of at least 35
33 acres at which the primary business is the performance of fabrication services and any
34 activities associated with or in support of fabrication services.

35 **Sec. B-9. 36 MRSA §1752, sub-§2-G** is enacted to read:

36 **2-G. Fabrication services.** "Fabrication services" means the production of tangible
37 personal property for a consideration for a person who furnishes, either directly or
38 indirectly, the materials used in that production.

39 **Sec. B-10. 36 MRSA §1752, sub-§4-A** is enacted to read:

1 **4-A. Installation, repair or maintenance services.** "Installation, repair or
2 maintenance services" means all services involved in the installation, repair or
3 maintenance of jewelry, cameras, guns, musical instruments, electronic and mechanical
4 equipment, lawn and garden equipment, computer hardware and office equipment,
5 vehicles and appliances; service and maintenance contracts; tailoring, clothing and shoe
6 repair; and furniture repair and restoration. "Installation, repair or maintenance services"
7 does not include services performed on tangible personal property used or held for use at
8 or located at a manufacturing facility or fabrication facility, other than tangible personal
9 property used in administrative support operations, or services performed on aircraft
10 including refurbishing of aircraft.

11 **Sec. B-11. 36 MRSA §1752, sub-§5-D** is enacted to read:

12 **5-D. Lease or rental.** "Lease" or "rental" includes sublease or subrental and means
13 any transfer of possession or control of tangible personal property for a fixed or
14 indeterminate term for consideration. A lease or rental may include future options to
15 purchase or extend.

16 A. "Lease" or "rental" includes agreements covering motor vehicles and trailers
17 when the amount of consideration may be increased or decreased by reference to the
18 amount realized upon sale or disposition of the property, as defined in Section
19 7701(h)(1) of the Code.

20 B. "Lease" or "rental" does not include:

21 (1) Any transfer of possession or control of property under a security agreement
22 or deferred payment plan that requires the transfer of title upon completion of the
23 required payments;

24 (2) Any transfer of possession or control of property under an agreement that
25 requires the transfer of title upon completion of required payments and payment
26 of an option price that does not exceed the greater of \$100 and 1% of the total
27 required payments; or

28 (3) Providing tangible personal property along with an operator for a fixed or
29 indeterminate period of time. A condition of this exclusion is that the operator is
30 necessary for the equipment to perform as designed. For the purpose of this
31 paragraph, an operator must do more than maintain, inspect or set up the tangible
32 personal property.

33 **Sec. B-12. 36 MRSA §1752, sub-§8-A**, as repealed and replaced by PL 2001, c.
34 439, Pt. TTTT, §1 and affected by §3, is amended to read:

35 **8-A. Prepared food.** "Prepared food" means:

36 A. Meals served on or off the premises of the retailer;

37 B. Food and drinks that are prepared by the retailer and ready for consumption
38 without further preparation; and

1 C. All food and drinks sold from an establishment whose sales of food and drinks
2 that are prepared by the retailer account for more than 75% of the establishment's
3 gross receipts; and

4 D. Candy.

5 "Prepared food" does not include bulk sales of grocery staples.

6 **Sec. B-13. 36 MRSA §1752, sub-§8-C** is enacted to read:

7 **8-C. Personal property services.** "Personal property services" means the following
8 services related to personal property: dry cleaning; laundry and diaper services not
9 including self-service laundry services; embroidery and monogramming; car washing;
10 pressure cleaning and washing; pet services such as exercising, sitting, training, grooming
11 and boarding for nonmedical purposes; picture framing; domestic services, including
12 house cleaning and furniture and rug cleaning; interior decoration; meal preparation;
13 butchering; art restoration; warehousing and storage, including rental of storage units and
14 warehouse space, but not including warehousing and storage services provided to a
15 business; moving services; vehicle towing; and boat mooring. "Personal property
16 services" does not include fabrication services; installation, repair or maintenance
17 services; services performed on tangible personal property used or held for use at or
18 located at a manufacturing facility or fabrication facility, other than tangible personal
19 property used in administrative support functions; or services performed on aircraft
20 including refurbishing of aircraft.

21 **Sec. B-14. 36 MRSA §1752, sub-§11**, as amended by PL 2007, c. 627, §42 and
22 affected by §96 and amended by c. 693, §14, is repealed.

23 **Sec. B-15. 36 MRSA §1752, sub-§11-A** is enacted to read:

24 **11-A. Retail sale.** "Retail sale" means any sale, lease or rental of tangible personal
25 property or a taxable service in the ordinary course of business.

26 **A. "Retail sale" includes:**

27 (1) Sale of products for internal human consumption to a person for resale
28 through vending machines when sold to a person more than 50% of whose gross
29 receipts from the retail sale of tangible personal property are derived from sales
30 through vending machines. The tax must be paid by the retailer to the State;

31 (2) A sale in the ordinary course of business by a retailer to a purchaser who is
32 not engaged in selling that kind of tangible personal property or taxable service in
33 the ordinary course of repeated and successive transactions of like character; and

34 (3) The sale or liquidation of a business or the sale of substantially all of the
35 assets of a business, to the extent that the seller purchased the assets of the
36 business for resale, lease or rental in the ordinary course of business, except
37 when:

38 (a) The sale is to an affiliated entity and the transferee, or ultimate transferee
39 in a series of transactions among affiliated entities, purchases the assets for
40 resale, lease or rental in the ordinary course of business; or

1 (b) The sale is to a person that purchases the assets for resale, lease or rental
2 in the ordinary course of business or that purchases the assets for transfer to
3 an affiliate, directly or through a series of transactions among affiliated
4 entities, for resale, lease or rental by the affiliate in the ordinary course of
5 business.

6 For purposes of this subparagraph, "affiliate" or "affiliated" includes both direct
7 and indirect affiliates.

8 B. "Retail sale" does not include:

9 (1) Any casual sale;

10 (2) Any sale by a personal representative in the settlement of an estate, unless the
11 sale is made through a retailer or unless the sale is made in the continuation or
12 operation of a business;

13 (3) The sale of loaner vehicles to a new vehicle dealer licensed as such pursuant
14 to Title 29-A, section 953;

15 (4) The sale of automobile repair parts used in the performance of repair services
16 on an automobile pursuant to an extended service contract sold on or after
17 September 20, 2007 that entitles the purchaser to specific benefits in the service
18 of the automobile for a specific duration;

19 (5) The sale, to a retailer that has been issued a resale certificate pursuant to
20 section 1754-B, subsection 2-B or 2-C, of tangible personal property for resale in
21 the form of tangible personal property, except resale as a casual sale;

22 (6) The sale, to a retailer that has been issued a resale certificate pursuant to
23 section 1754-B, subsection 2-B or 2-C, of a taxable service for resale, except
24 resale as a casual sale;

25 (7) The sale, to a retailer that is not required to register under section 1754-B, of
26 tangible personal property for resale outside the State in the form of tangible
27 personal property, except resale as a casual sale;

28 (8) The sale, to a retailer that is not required to register under section 1754-B, of
29 a taxable service for resale outside the State, except resale as a casual sale; or

30 (9) The sale, to a person engaged in the business of renting or leasing tangible
31 personal property, of tangible personal property for lease or rental.

32 **Sec. B-16. 36 MRSA §1752, sub-§13**, as amended by PL 1981, c. 706, §20, is
33 further amended to read:

34 **13. Sale.** "Sale" means any transfer, exchange or barter, in any manner or by any
35 means whatsoever, for a consideration and includes ~~leases and contracts payable by rental~~
36 ~~or license fees for the right of possession and use, but only when such leases and~~
37 ~~contracts are deemed by the State Tax Assessor to be in lieu of purchase~~ lease or rental of
38 tangible personal property.

39 **Sec. B-17. 36 MRSA §1752, sub-§14, ¶B**, as amended by PL 2007, c. 627, §43,
40 is further amended to read:

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B. "Sale price" does not include:

- (1) Discounts allowed and taken on sales;
- (2) Allowances in cash or by credit made upon the return of merchandise pursuant to warranty;
- (3) The price of property returned by customers, when the full price is refunded either in cash or by credit;
- ~~(4) The price received for labor or services used in installing or applying or repairing the property sold, if separately charged or stated;~~
- (5) Any amount charged or collected, in lieu of a gratuity or tip, as a specifically stated service charge, when that amount is to be disbursed by a hotel, restaurant or other eating establishment to its employees as wages;
- (6) The amount of any tax imposed by the United States on or with respect to retail sales, whether imposed upon the retailer or the consumer, except any manufacturers', importers', alcohol or tobacco excise tax;
- (7) The cost of transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, provided that those charges are separately stated and the transportation occurs by means of common carrier, contract carrier or the United States mail;
- (8) The fee imposed by Title 10, section 1169, subsection 11;
- (9) The fee imposed by section 4832, subsection 1;
- (10) The lead-acid battery deposit imposed by Title 38, section 1604, subsection 2-B;
- (11) Any amount charged or collected by a person engaged in the rental of living quarters as a forfeited room deposit or cancellation fee if the prospective occupant of the living quarters cancels the reservation on or before the scheduled date of arrival; or
- (12) The premium on motor vehicle oil changes imposed by Title 10, section 1020, subsection 6.

Sec. B-18. 36 MRSA §1752, sub-§14-F is enacted to read:

14-F. Soft drink. "Soft drink" means any nonalcoholic beverage that contains natural or artificial sweeteners. "Soft drink" does not include any beverage that contains milk or milk products, greater than 50% of vegetable or fruit juice by volume or flavored or unflavored soy milk, rice milk, almond milk, grain milk and similar milk substitutes.

Sec. B-19. 36 MRSA §1752, sub-§17-B, as amended by PL 2007, c. 410, §2 and affected by §6, is repealed and the following enacted in its place:

17-B. Taxable service. "Taxable service" means:

- A. Rental of living quarters in a hotel, rooming house or tourist or trailer camp;
- B. Transmission and distribution of electricity;

1 C. Rental or lease of tangible personal property;

2 D. The sale of an extended service contract on an automobile that entitles the
3 purchaser to specific benefits in the service of the automobile for a specific duration;

4 E. Sale of prepaid calling service;

5 F. Amusement, entertainment and recreation services;

6 G. Installation, repair and maintenance services;

7 H. Personal property services; and

8 I. Transportation and courier services.

9 **Sec. B-20. 36 MRSA §1752, sub-§20-B** is enacted to read:

10 **20-B. Transportation and courier services.** "Transportation and courier services"
11 means in-state transportation of persons or property by taxicab or limousine and courier
12 services.

13 **Sec. B-21. 36 MRSA §1752, sub-§21**, as amended by PL 2005, c. 215, §17, is
14 further amended to read:

15 **21. Use.** "Use" includes the exercise in this State of any right or power over tangible
16 personal property incident to its ownership, ~~including the derivation of income, whether~~
17 ~~received in money or in the form of other benefits, by a lessor from the rental of tangible~~
18 ~~personal property located in this State.~~

19 **Sec. B-22. 36 MRSA §1754-B, sub-§1, ¶C**, as enacted by PL 1995, c. 640, §3,
20 is amended to read:

21 C. Every lessor engaged in the leasing of tangible personal property located in this
22 State ~~that does not maintain a place of business in this State but makes retail sales to~~
23 ~~purchasers from this State;~~

24 **Sec. B-23. 36 MRSA §1758**, as repealed and replaced by PL 1999, c. 708, §24, is
25 repealed.

26 **Sec. B-24. 36 MRSA §1760, sub-§32-A** is enacted to read:

27 **32-A. Services to certain machinery and equipment.** Sales of taxable services
28 performed on machinery and equipment exempt from sales tax under subsections 29 to
29 32.

30 **Sec. B-25. 36 MRSA §1760, sub-§45**, as amended by PL 2007, c. 691, §1 and
31 affected by §2, is further amended to read:

32 **45. Certain property purchased outside State.** Sales of property purchased and
33 used by the present owner outside the State:

1 A. If the property is an automobile, as defined in Title 29-A, section 101, subsection
 2 7, and if the owner is an individual who was, at the time of purchase, a resident of the
 3 other state and either employed or registered to vote there;

4 A-1. If the property is a watercraft that is registered outside the State by an owner
 5 who is an individual who was a resident of another state at the time of purchase and
 6 the watercraft is present in the State not more than 30 days during the 12 months
 7 following its purchase for a purpose other than temporary storage;

8 A-2. If the property is a snowmobile or all-terrain vehicle as defined in Title 12,
 9 section 13001 and the purchaser is an individual who is not a resident of the State;

10 A-3. If the property is an aircraft not exempted under subsection 88 and the owner at
 11 the time of purchase was a resident of another state or tax jurisdiction and the aircraft
 12 is present in this State not more than 20 days during the 12 months following its
 13 purchase, exclusive of days during which the aircraft is in this State for the purpose
 14 of undergoing "major alterations," "major repairs" or "preventive maintenance" as
 15 those terms are described in 14 Code of Federal Regulations, Appendix A to Part 43,
 16 as in effect on January 1, 2005. For the purposes of this paragraph, the location of an
 17 aircraft on the ground in the State at any time during a day is considered presence in
 18 the State for that entire day, and a day must be disregarded if at any time during that
 19 day the aircraft is used to provide free emergency or compassionate air transportation
 20 arranged by an incorporated nonprofit organization providing free air transportation
 21 in private aircraft by volunteer pilots so children and adults may access life-saving
 22 medical care; or

23 B. For more than 12 months in all other cases.

24 Property, other than automobiles, watercraft, snowmobiles, all-terrain vehicles and
 25 aircraft, that is required to be registered for use in this State does not qualify for this
 26 exemption unless it was registered by its present owner outside this State more than 12
 27 months prior to its registration in this State. If property required to be registered for use
 28 in this State was not required to be registered for use outside this State, the owner must be
 29 able to document actual use of the property outside this State for more than 12 months
 30 prior to its registration in this State. For purposes of this subsection, "use" does not
 31 include storage but means actual use of the property for a purpose consistent with its
 32 design. This exemption does not apply to leased property.

33 **Sec. B-26. 36 MRSA §1760, sub-§92** is enacted to read:

34 **92. Certain taxable services.** The sale of a taxable service sold by a person that has
 35 made sales taxable under this chapter during the most recent calendar year of no more
 36 than \$5,000.

37 **Sec. B-27. 36 MRSA §1760-C**, as amended by PL 2007, c. 437, §11, is further
 38 amended to read:

39 **§1760-C. Exempt activities**

40 The tax exemptions provided by section 1760 to a person based upon its charitable,
 41 nonprofit or other public purposes apply only if the property or service purchased is

1 intended to be used by the person primarily in the activity identified by the particular
2 exemption. The tax exemptions provided by section 1760 to a person based upon its
3 charitable, nonprofit or other public purposes do not apply where title is held or taken by
4 the person as security for any financing arrangement. Exemption certificates issued by
5 the State Tax Assessor pursuant to section 1760 must identify the exempt activity and
6 must state that the certificate may be used by the holder only when purchasing property
7 or services intended to be used by the holder primarily in the exempt activity. If the
8 holder of an exemption certificate furnishes that certificate to a person for use in
9 purchasing tangible personal property or taxable services that are physically incorporated
10 in, and become a permanent part of, real property that is not used by the holder of the
11 certificate primarily in the exempt activity, the State Tax Assessor may assess the unpaid
12 tax against the holder of the certificate as provided in section 141. When an otherwise
13 qualifying person is engaged in both exempt and nonexempt activities, an exemption
14 certificate may be issued to the person only if the person has established to the
15 satisfaction of the assessor that the applicant has adequate accounting controls to limit the
16 use of the certificate to exempt purchases. The tax exemptions provided by section 1760
17 to a person based upon its charitable, nonprofit or other public purposes do not apply to
18 the sale of meals or lodging or the rental of automobiles.

19 **Sec. B-28. 36 MRSA §1763**, as amended by PL 2007, c. 693, §16, is further
20 amended to read:

21 **§1763. Presumptions**

22 The burden of proving that a transaction was not taxable is on the person charged
23 with tax liability. The presumption that a sale was not for resale may be overcome during
24 an audit or upon reconsideration if the seller proves that the purchaser was the holder of a
25 currently valid resale certificate as provided in section 1754-B at the time of the sale or
26 proves through other means that the property purchased was purchased for resale by the
27 purchaser in the ordinary course of business. Notwithstanding section 1752, subsection
28 ~~11-A~~ 11-A, paragraph B, if the seller satisfies the seller's burden of proof, the sale is not
29 considered a retail sale.

30 **Sec. B-29. 36 MRSA §1811, first ¶**, as repealed and replaced by PL 2007, c.
31 627, §51 and affected by §96, is amended to read:

32 A tax is imposed on the value of all tangible personal property and taxable services
33 sold at retail in this State. The rate of tax is ~~7%~~ 8.5% on the value of liquor sold in
34 licensed establishments as defined in Title 28-A, section 2, subsection 15, in accordance
35 with Title 28-A, chapter 43; ~~7%~~ 8.5% on the value of rental of living quarters in any
36 hotel, rooming house or tourist or trailer camp that is not a campground; ~~7%~~ 7% on the value
37 of rental of living quarters in a campground; ~~10%~~ 15% on the value of rental for a period
38 of less than one year of an automobile, including a loaner vehicle that is provided other
39 than to a motor vehicle dealer's service customers pursuant to a manufacturer's or
40 dealer's warranty; ~~7%~~ 8.5% on the value of prepared food; and 5% on the value of all
41 other tangible personal property and taxable services. Value is measured by the sale
42 price, except as otherwise provided. The value of rental for a period of less than one year
43 of an automobile is the total rental charged to the lessee and includes, but is not limited

1 to, maintenance and service contracts, drop-off or pick-up fees, airport surcharges,
2 mileage fees and any separately itemized charges on the rental agreement to recover the
3 owner's estimated costs of the charges imposed by government authority for title fees,
4 inspection fees, local excise tax and agent fees on all vehicles in its rental fleet registered
5 in the State. All fees must be disclosed when an estimated quote is provided to the lessee.

6 **Sec. B-30. 36 MRSA §1811, 3rd ¶**, as repealed and replaced by PL 2003, c. 510,
7 Pt. C, §12 and affected by §13, is repealed.

8 **Sec. B-31. 36 MRSA §1812, sub-§1**, as reallocated by PL 1999, c. 790, Pt. A,
9 §48, is repealed and the following enacted in its place:

10 **1. Computation.** Every retailer must add the sales tax imposed by section 1811 to
11 the sale price on all sales of tangible personal property and taxable services that are
12 subject to tax under this Part. The tax when so added is a debt of the purchaser to the
13 retailer until it is paid and is recoverable at law by the retailer from the purchaser in the
14 same manner as the sale price. When the sale price involves a fraction of a dollar, the tax
15 computation must be carried to the 3rd decimal place, then rounded down to the next
16 whole cent whenever the 3rd decimal place is one, 2, 3 or 4 and rounded up to the next
17 whole cent whenever the 3rd decimal place is 5, 6, 7, 8 or 9.

18 **Sec. B-32. 36 MRSA §1812, sub-§2**, as amended by PL 1991, c. 846, §24, is
19 further amended to read:

20 **2. Several items.** When several purchases are made together and at the same time,
21 the tax ~~must~~ may be computed on each item individually or on the total amount of the
22 several items, ~~except that purchases taxed at different rates must be separately totaled as~~
23 the retailer may elect.

24 **Sec. B-33. 36 MRSA §1817** is enacted to read:

25 **§1817. Accelerated payment of tax on leases and rentals**

26 The tax imposed by this Part on the rental or lease of tangible personal property must
27 be collected by the lessor at the time the property that is the subject of the lease is
28 delivered to the lessee or at the time the initial payment under the lease is required to be
29 made by the lessee, whichever is earlier, on the basis of the total amount of the
30 consideration to be paid by the lessee under the terms of the lease agreement. If the total
31 amount of the consideration for the lease includes amounts that are not calculated at the
32 time the lease is executed, the tax attributable to those amounts must be collected by the
33 lessor at the time those amounts are billed to the lessee. In the case of an open-end lease,
34 the tax must be collected by the lessor on the basis of the total amount to be paid during
35 the initial fixed term of the lease, and then for each subsequent renewal period as it comes
36 due. For purposes of this section, "consideration" includes, without limitation, the
37 amount of any down payment, trade-in credit or 3rd-party rebate that is applied to reduce
38 the cost of the leased property upon which the lease payments are computed. Collection
39 and remittance of the tax is the responsibility of the person that negotiates the lease
40 transaction with the lessee.

1 **Sec. B-34. 36 MRSA §1861**, as amended by PL 1995, c. 640, §6, is further
2 amended to read:

3 **§1861. Imposition**

4 A tax is imposed, at the ~~respective~~ rate provided in section 1811, on the storage, use
5 or other consumption in this State of tangible personal property or a taxable service, the
6 sale of which would be subject to tax under section 1764 or 1811. Every person so
7 storing, using or otherwise consuming is liable for the tax until the person has paid the tax
8 or has taken a receipt from the seller, as duly authorized by the assessor, showing that the
9 seller has collected the sales or use tax, in which case the seller is liable for it. Retailers
10 registered under section 1754-B or 1756 shall collect the tax and make remittance to the
11 assessor. The amount of the tax payable by the purchaser is that provided in the case of
12 sales taxes by section 1812. When tangible personal property is leased outside the State
13 and subsequently brought into the State, the tax due under this section is the proportion of
14 the tax otherwise due under this Part that the remaining portion of the lease bears to the
15 entire term of the lease. When tangible personal property purchased for resale is
16 withdrawn from inventory by the retailer for the retailer's own use, use tax liability
17 accrues at the date of withdrawal.

18 **Sec. B-35. 36 MRSA §1862**, as amended by PL 1987, c. 772, §24, is further
19 amended to read:

20 **§1862. Taxes paid in other jurisdictions**

21 The ~~use tax provisions of chapters 211 to 225 shall imposed by this Part does not~~
22 ~~apply with respect to the use, storage or other consumption in this State of purchases~~
23 ~~outside the State where the purchaser has paid a sales or use tax equal to or greater than~~
24 ~~the amount imposed by chapters 211 to 225 this Part in another taxing jurisdiction, the~~
25 ~~proof of payment of the tax to be according to rules made by the State Tax Assessor. If~~
26 ~~the amount of sales or use tax paid in another taxing jurisdiction is not equal to or greater~~
27 ~~than the amount of tax imposed by chapters 211 to 225 this Part, then the purchaser shall~~
28 ~~pay to the State Tax Assessor an amount sufficient to make the total amount of tax paid in~~
29 ~~the other taxing jurisdiction and in this State equal to the amount imposed by chapters~~
30 ~~211 to 225 this Part. When tangible personal property is leased outside the State and~~
31 ~~subsequently brought into the State, the credit allowed under this section may not exceed~~
32 ~~the proportion of the tax otherwise due under this Part that the period for which the~~
33 ~~property was leased in the other taxing jurisdiction bears to the entire term of the lease.~~

34 **Sec. B-36. 36 MRSA §2020** is enacted to read:

35 **§2020. Removal from the State of leased property**

36 If leased property with respect to which the tax imposed by this Part has been paid on
37 an accelerated basis is permanently removed from the State, the lessee is entitled to a
38 refund of the tax allocable to that portion of the lease that remains in effect after the
39 property has been removed from the State. A refund may not be issued unless the taxing
40 jurisdiction to which the property is removed allows a corresponding refund with respect
41 to the lease of property upon which a sales or use tax was due and has been paid in this

1 State. A refund may not be issued if the other taxing jurisdiction allows a credit to the
2 lessee for the sales or use tax paid in this State on the lease transaction. The refund must
3 be requested in accordance with the provisions of section 2011.

4 **Sec. B-37. 36 MRSA §2551, sub-§1**, as enacted by PL 2003, c. 673, Pt. V, §25
5 and affected by §29, is repealed.

6 **Sec. B-38. 36 MRSA §2552, sub-§1, ¶I**, as amended by PL 2007, c. 539, Pt.
7 DDD, §6, is further amended to read:

8 I. Community support services for persons with mental retardation or autism; and

9 **Sec. B-39. 36 MRSA §2552, sub-§1, ¶J**, as amended by PL 2007, c. 539, Pt.
10 DDD, §7 and c. 627, §67, is repealed and the following enacted in its place:

11 J. Home support services; and

12 **Sec. B-40. 36 MRSA §2552, sub-§1, ¶K**, as repealed by PL 2007, c. 539, Pt.
13 DDD, §8 and amended by c. 627, §68, is repealed.

14 **Sec. B-41. 36 MRSA §2557, sub-§33**, as enacted by PL 2007, c. 627, §74, is
15 amended to read:

16 **33. International telecommunications service.** Sales of international
17 telecommunications service to a business; and

18 **Sec. B-42. 36 MRSA §2557, sub-§34**, as enacted by PL 2007, c. 627, §75, is
19 amended to read:

20 **34. Interstate telecommunications service.** Sales of interstate telecommunications
21 service to a business.

22 **Sec. B-43. 36 MRSA §2559**, as amended by PL 2007, c. 539, Pt. DDD, §9, is
23 further amended to read:

24 **§2559. Application of revenues**

25 Revenues derived by the tax imposed by this chapter must be credited to a General
26 Fund suspense account. On or before the last day of each month, the State Controller
27 shall transfer a percentage of the revenues received by the State Tax Assessor during the
28 preceding month pursuant to the tax imposed by section 2552, subsection 1, paragraphs A
29 to F and L to the Local Government Fund as provided by Title 30-A, section 5681,
30 subsection 5. The balance remaining in the General Fund suspense account must be
31 transferred to service provider tax General Fund revenue. On or before the 15th day of
32 each month, the State Controller shall transfer all revenues received by the assessor
33 during the preceding month pursuant to the tax imposed by section 2552, subsection 1,
34 paragraphs G to J to the Medical Care Services Other Special Revenue Funds account,
35 the Other Special Revenue Funds Mental Health Services. - Community Medicaid
36 program, the Medicaid Services - Mental Retardation program and the Office of

1 Substance Abuse - Medicaid Seed program within the Department of Health and Human
2 Services.

3 **Sec. B-44. Monthly reports.** The State Tax Assessor shall provide monthly
4 reports to the Joint Standing Committee on Taxation through April 1, 2010 regarding the
5 State's activities in implementing the provisions of that Part of this Act that broaden the
6 sales tax base and increase the sales tax on prepared meals, lodging and rentals of
7 automobiles for less than one year. The report must include a plan for providing
8 information to taxpayers and the public about new sales and use tax obligations under that
9 Part, progress reports on implementation of the plan and copies of taxpayer materials and
10 informational materials that are proposed for issuance by the State Tax Assessor. The
11 State Tax Assessor shall inform the committee about implementation issues and may seek
12 the committee's advice on implementation. The committee may submit legislation to the
13 Second Regular Session of the 124th Legislature regarding implementation of that Part of
14 this Act that broadens the sales tax base and increases the sales tax on prepared meals,
15 lodging and rentals of automobiles for less than one year.

16 **Sec. B-45. Application date.** Those portions of this Part that affect the taxation
17 of leases and rentals of tangible personal property apply to leases entered into, extended
18 or renewed on or after April 1, 2010.

19 **Sec. B-46. Appropriations and allocations.** The following appropriations and
20 allocations are made.

21 **ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF**

22 **Office of Tourism 0577**

23 Initiative: Allocates funds to the Tourism Marketing Promotion Fund due to the increase
24 in certain sales tax revenue.

25	OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
26	All Other	\$0	\$1,835,868
27			
28	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$1,835,868</u>

29 **Sec. B-47. Effective date.** This Part takes effect January 1, 2010.

30 **PART C**

31 **Sec. C-1. 36 MRSA §4641, sub-§2-B** is enacted to read:

32 **2-B. Residential property.** "Residential property" means real property consisting of
33 one to 4 dwelling units, at least one of which is intended to be used as a residence by the
34 grantee.

35 **Sec. C-2. 36 MRSA §4641-A, sub-§1, ¶A-1** is enacted to read:

1 A-1. In addition to the tax imposed under paragraph A, a tax is imposed on
2 residential property with a value greater than \$500,000 at the rate of \$2.80 per \$500
3 or fractional part of \$500 of the value of the property transferred that exceeds
4 \$500,000.

5 **Sec. C-3. 36 MRSA §4641-B, sub-§3**, as enacted by PL 2001, c. 559, Pt. I, §4
6 and affected by §15, is amended to read:

7 **3. Disposition of funds.** Each register of deeds shall, on or before the 10th day of
8 each month, pay over to the State Tax Assessor 90% of the tax collected pursuant to ~~this~~
9 section 4641-A, subsection 1, paragraphs A and B and section 4641-A, subsection 2 and
10 100% of the tax collected pursuant to section 4641-A, subsection 1, paragraph A-1 during
11 the previous month. The remaining 10% of the tax collected pursuant to section 4641-A,
12 subsection 1, paragraphs A and B and section 4641-A, subsection 2 must be retained for
13 the county by the register of deeds and accounted for to the county treasurer as
14 reimbursement for services rendered by the county in collecting the tax. If the tax
15 collected is not paid over by the 10th day of the month, the State Tax Assessor may
16 impose interest pursuant to section 186.

17 **Sec. C-4. 36 MRSA §4641-B, sub-§4**, as repealed and replaced by PL 2007, c.
18 539, Pt. WW, §2, is amended to read:

19 **4. Distribution of State's share of proceeds.** The State Tax Assessor shall pay all
20 net receipts received pursuant to this section to the Treasurer of State and shall at the
21 same time provide the Treasurer of State with documentation showing the amount of
22 revenues derived from the tax imposed by section 4641-A, subsection 1, paragraphs A,
23 A-1 and B and the amount of revenues derived from the tax imposed by section 4641-A,
24 subsection 2.

25 A. The Treasurer of State shall credit 1/2 of the revenues derived from the tax
26 imposed by section 4641-A, subsection 1, paragraphs A and B to the General Fund
27 and shall monthly pay the remaining 1/2 of such revenues to the Maine State Housing
28 Authority, which shall deposit the funds in the Housing Opportunities for Maine
29 Fund created in Title 30-A, section 4853, except that:

30 (1) In fiscal year 2003-04, fiscal year 2004-05 and fiscal year 2005-06,
31 \$7,500,000 of the remaining 1/2 of those revenues must be transferred to the
32 General Fund before any payments are made to the Maine State Housing
33 Authority;

34 (2) In fiscal year 2006-07, \$7,687,067 of the remaining 1/2 of those revenues
35 must be transferred to the General Fund before any payments are made to the
36 Maine State Housing Authority;

37 (3) In fiscal year 2007-08 and fiscal year 2008-09, \$5,000,000 of the remaining
38 1/2 of those revenues must be transferred to the General Fund before any
39 payments are made to the Maine State Housing Authority;

40 (4) In fiscal year 2008-09, \$90,000 of the remaining 1/2 of those revenues must
41 be transferred to the General Fund before any payments are made to the Maine
42 State Housing Authority;

- 1 (5) In fiscal year 2009-10, \$3,320,000 of the remaining 1/2 of those revenues
2 must be transferred to the General Fund before any payments are made to the
3 Maine State Housing Authority;
- 4 (6) In fiscal year 2010-11, \$3,720,000 of the remaining 1/2 of those revenues
5 must be transferred to the General Fund before any payments are made to the
6 Maine State Housing Authority;
- 7 (7) In fiscal year 2011-12, \$3,830,000 of the remaining 1/2 of those revenues
8 must be transferred to the General Fund before any payments are made to the
9 Maine State Housing Authority;
- 10 (8) In fiscal year 2012-13, \$3,950,000 of the remaining 1/2 of those revenues
11 must be transferred to the General Fund before any payments are made to the
12 Maine State Housing Authority; and
- 13 (9) In fiscal year 2008-09, \$2,972,414 of the remaining 1/2 of those revenues
14 must be transferred to the General Fund before any payments are made to the
15 Maine State Housing Authority.

16 B. Neither the Governor nor the Legislature may divert the revenues payable to the
17 Housing Opportunities for Maine Fund to any other fund or for any other use. Any
18 proposal to enact or amend a law to allow distribution of less than 1/2 of the revenues
19 derived from the tax imposed by section 4641-A, subsection 1 to the Housing
20 Opportunities for Maine Fund, as adjusted under paragraph A, must be submitted to
21 the Legislative Council and to the joint standing committee of the Legislature having
22 jurisdiction over affordable housing matters at least 30 days prior to any vote or
23 public hearing on the proposal.

24 C. The Treasurer of State shall credit to the General Fund all of the revenues derived
25 from the tax imposed by section 4641-A, subsection 1, paragraph A-1 and section
26 4641-A, subsection 2.

27 **Sec. C-5. Effective date.** This Part takes effect October 1, 2009.

28 **SUMMARY**

29 This bill reforms the State's tax structure and reduces the burden of taxes on residents
30 of the State. The bill contains the following provisions.

31 Part A makes fundamental changes to simplify and reduce the burden of the State's
32 income tax and create an income tax that is intended to be more beneficial to investment
33 and economic growth in the State. The current structure of 4 tax brackets, personal
34 exemptions and deductions is replaced by a flat rate of 6.5% on all taxable income. The
35 progressivity of the current income tax is maintained through a household credit that
36 alleviates the impact of the 6.5% rate on low-income and middle-income households.
37 The alternative minimum tax on individuals is abolished.

38 Part B broadens the sales tax base by including certain services, including certain
39 amusement, entertainment and recreation services; installation, repair and maintenance
40 services; personal property services; transportation and courier services; and long

1 distance telephone service. Part B also changes the point of imposition of sales tax
2 related to leased property from the sale of that property to the leasing business to the lease
3 payments by the consumer. Part B also increases the sales tax on prepared food and
4 lodging to 8.5% and the sales tax on rentals of automobiles of less than one year to 15%.

5 Part C changes the real estate transfer tax by providing that residences with a value
6 greater than \$500,000 will be taxed at 1% on the value of the residence that exceeds
7 \$500,000 with the full increase accruing to the General Fund.