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**An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2011, June 30, 2012 and June 30, 2013**

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

**Whereas,** the 90-day period may not terminate until after the beginning of the next fiscal year; and

**Whereas,** certain obligations and expenses incident to the operation of state departments and institutions will become due and payable immediately; and

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

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

**PART A**

**Sec. A-1.**

**PART B**

**Sec. B-1.**

**PART C**

**Sec. C-1. 20-A MRSA §15671, sub-§7, ¶A,** as amended by PL 2009, c. 571, Pt. E, §17, is further amended to read:

A. The base total calculated pursuant to section 15683, subsection 2 is subject to the following annual targets.

(1) For fiscal year 2005-06, the target is 84%.

(2) For fiscal year 2006-07, the target is 90%.

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(3) For fiscal year 2007-08, the target is 95%.

(4) For fiscal year 2008-09, the target is 97%.

(5) For fiscal year 2009-10, the target is 97%.

(6) For fiscal year 2010-11, the target is 97%.

(7) For fiscal year 2011-12 ~~and succeeding years~~, the target is ~~100%~~97%.

(8) For fiscal year 2012-13 and succeeding years, the target is 100%.

**Sec. C-2. 20-A MRSA §15671, sub-§7, ¶B**, as amended by PL 2011, c. 1, Pt. C, §1, is further amended to read:

B. The annual targets for the state share percentage of the statewide adjusted total cost of the components of essential programs and services are as follows.

(1) For fiscal year 2005-06, the target is 52.6%.

(2) For fiscal year 2006-07, the target is 53.86%.

(3) For fiscal year 2007-08, the target is 53.51%.

(4) For fiscal year 2008-09, the target is 52.52%.

(5) For fiscal year 2009-10, the target is 48.93%.

(6) For fiscal year 2010-11, the target is 45.84%.

(7) For fiscal year 2011-12 ~~and succeeding years~~, the target is ~~55%~~46.18%.

**Sec. C-3. 20-A MRSA §15671, sub-§7, ¶C** is enacted to read:

C. Beginning in fiscal year 2011-12, the annual targets for the state share percentage of the total cost of funding public education from kindergarten to grade 12 including the cost of the components of essential programs and services plus the state contributions to teacher retirement, retired teachers' health insurance and retired teachers' life insurance are as follows.

(1) For fiscal year 2011-12, the target is 49.60%.

(2) For fiscal year 2012-13, the target is 52.50%.

(3) For fiscal year 2013-14 and succeeding years, the target is 55%.

**Sec. C-4. 20-A MRSA §15671-A, sub-§2, ¶B**, as amended by PL 2011, c. 1, Pt. C, §2, is further amended to read:

B. For property tax years beginning on or after April 1, 2005, the commissioner shall calculate the full-value education mill rate that is required to raise the statewide total local share. The full-value education mill rate is calculated for each fiscal year by dividing the applicable statewide total local share by the applicable statewide valuation. The full-value education mill rate must decline over the period from fiscal year 2005-06 to fiscal year 2008-09 and may not exceed 9.0 mills in fiscal year 2005-06 and may not exceed 8.0 mills in fiscal year 2008-09. The full-value education mill rate must be applied according to section 15688, subsection 3-A, paragraph A to determine a municipality's local cost share expectation. Full-value education mill rates must be derived according to the following schedule.

(1) For the 2005 property tax year, the full-value education mill rate is the amount necessary to result in a 47.4% statewide total local share in fiscal year 2005-06.

(2) For the 2006 property tax year, the full-value education mill rate is the amount necessary to result in a 46.14% statewide total local share in fiscal year 2006-07.

(3) For the 2007 property tax year, the full-value education mill rate is the amount necessary to result in a ~~45.56%~~46.49% statewide total local share in fiscal year 2007-08.

(4) For the 2008 property tax year, the full-value education mill rate is the amount necessary to result in a ~~45.99%~~47.48% statewide total local share in fiscal year 2008-09.

(4-A) For the 2009 property tax year, the full-value education mill rate is the amount necessary to result in a 51.07% statewide total local share in fiscal year 2009-10.

(4-B) For the 2010 property tax year, the full-value education mill rate is the amount necessary to result in a 54.16% statewide total local share in fiscal year 2010-11.

(4-C) For the 2011 property tax year ~~and subsequent tax years~~, the full-value education mill rate is the amount necessary to result in a ~~45.0%~~53.82% statewide total local share in fiscal year 2011-12 ~~and after~~.

(5) For the 2012 property tax year, the full-value education mill rate is the amount necessary to result in a 47.74% statewide total local share in fiscal year 2012-13.

(6) For the 2013 property tax year, the full-value education mill rate is the amount necessary to result in a 47.50% statewide total local share in fiscal year 2013-14.

(7) For the 2014 property tax year and subsequent tax years, the full-value education mill rate is the amount necessary to result in a 45% statewide total local share in fiscal year 2014-15 and after.

**Sec. C-5. 20-A MRS §15689, sub-§1-A**, as amended by PL 2007, c. 240, Pt. D, §3, is repealed.

**Sec. C-6. 20-A MRS §15689-A, sub-§20** is enacted to read:

**20. Center of Excellence for At-risk Students.** The commissioner may expend and disburse funds for the Center of Excellence for At-risk Students in accordance with the provisions of chapter 227.

**Sec. C-7. Mill expectation.** The mill expectation pursuant to the Maine Revised Statutes, Title 20-A, section 15671-A for fiscal year 2011-12 is 7.50.

**Sec. C-8. Total cost of funding public education from kindergarten to grade 12.** The total cost of funding public education from kindergarten to grade 12 for fiscal year 2011-12 is as follows:

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**2011-12  
 TOTAL**

**Total Operating Allocation**

Total operating allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 without transitions percentage	\$1,390,771,314
Total operating allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 with 97% transitions percentage	\$1,349,048,174
Total other subsidizable costs pursuant to the Maine Revised Statutes, Title 20-A, section 15681-A	\$413,851,257

**Total Operating Allocation**

Total operating allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 and total other subsidizable costs pursuant to Title 20-A, section 15681-A	\$1,762,899,431
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**Total Debt Service Allocation**

Total debt service allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683-A	\$104,575,834
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**Total Adjustments and Miscellaneous Costs**

Total adjustments and miscellaneous costs pursuant to the Maine Revised Statutes, Title 20-A, sections 15689 and 15689-A	\$69,591,704
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**Total Cost of Funding Public Education from Kindergarten to Grade 12**

Total cost of funding public education from kindergarten to grade 12 for fiscal year 2011-12 pursuant to the Maine Revised Statutes, Title 20-A, chapter 606-B	\$1,937,066,969
Total cost of the state contribution to teacher retirement, teacher retirement health insurance and teacher retirement life insurance for fiscal year 2011-12 pursuant to the Maine Revised Statutes, Title 5, chapters 421 and 423	\$172,592,848
Adjustment pursuant to the Maine Revised Statutes, Title 20-A, section 15683, subsection 2	\$41,723,140
Total cost of funding public education from kindergarten to grade 12	\$2,151,382,957

**Sec. C-9. Local and state contributions to total cost of funding public education from kindergarten to grade 12.** The local contribution and the state contribution appropriation provided for general purpose aid for local schools for the fiscal year beginning July 1, 2011 and ending June 30, 2012 is calculated as follows:

	<b>2011-12 LOCAL</b>	<b>2011-12 STATE</b>
<b>Local and State Contributions to the Total Cost of Funding Public Education from Kindergarten to Grade 12</b>		
Local and state contributions to the total cost of funding public education from kindergarten to grade 12 pursuant to the Maine Revised Statutes, Title 20-A, section 15683 - subject to statewide distributions required by law	\$1,042,466,969	\$894,600,000
State contribution to the total cost of teacher retirement, teacher retirement health insurance and teacher retirement life insurance for fiscal year 2011-12 pursuant to the Maine Revised Statutes, Title 5, chapters 421 and 423		\$172,592,848
State contribution to the total cost of funding public education from kindergarten to grade 12		\$1,067,192,848

**Sec. C-10. Limit of State's obligation.** If the State's continued obligation for any individual component contained in those sections of this Part that set the total cost of funding public education from kindergarten to grade 12 and the local and state contributions for that purpose exceeds the level of funding provided for that component, any unexpended balances occurring in other programs may be applied to avoid proration of payments for any individual component. Any unexpended balances from this Part may not lapse but must be carried forward for the same purpose.

**Sec. C-11. Authorization of payments.** Those sections of this Part that set the total cost of funding public education from kindergarten to grade 12 and the local and state contributions for that purpose may not be construed to require the State to provide payments that exceed the appropriation of funds for general purpose aid for local schools for the fiscal year beginning July 1, 2011 and ending June 30, 2012.

## PART D

**Sec. D-1. Voluntary employee incentive programs.** Notwithstanding the Maine Revised Statutes, Title 5, section 903, subsections 1 and 2, the Commissioner of Administrative and Financial Services shall offer for use prior to July 1, 2013 special voluntary employee incentive programs for state employees, including a 50% workweek option, flexible position staffing and time off without pay. Employee participation in a voluntary employee incentive program is subject to the approval of the employee's appointing authority.

**Sec. D-2. Continuation of health insurance.** Notwithstanding the Maine Revised Statutes, Title 5, section 285, subsection 7 and Title 5, section 903, the State shall continue to pay health and dental insurance benefits for a state employee who applies prior to July 1, 2013 to participate in a voluntary employee incentive program under section 1 based upon the scheduled workweek in effect prior to the employee's participation in the voluntary employee incentive program.

**Sec. D-3. Continuation of group life insurance.** Notwithstanding the Maine Revised Statutes, Title 5, sections 903 and 18056 and the rules of the Maine Public Employees Retirement System, the life, accidental death and dismemberment, supplemental and dependent insurance amounts for a state employee who applies prior to July 1, 2013 to participate in a voluntary employee incentive program under section 1 are based upon the scheduled hours of the employee prior to the employee's participation in the voluntary employee incentive program.

**Sec. D-4. General Fund savings.** Notwithstanding the Maine Revised Statutes, Title 5, section 1585, the State Budget Officer shall transfer the General Fund savings resulting from the voluntary employee incentive programs under section 1 to the General Fund Compensation and Benefit Plan account in the Department of Administrative and Financial Services. The State Budget Officer shall submit to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs a report of the transferred amounts no later than January 15, 2013 for fiscal year 2011-12 and no later than January 15, 2014 for fiscal year 2012-13.

**Sec. D-5. Lapsed balances.** Notwithstanding any other provision of law, \$350,000 in fiscal year 2011-12 and \$350,000 in fiscal year 2012-13 of savings identified from the voluntary employee incentive programs in this Part lapse to the General Fund.

## PART E

**Sec. E-1. Merit increases.** Notwithstanding the Maine Revised Statutes, Title 26, section 979-D or 1285 or any other provision of law, any merit increase, regardless of funding source, scheduled to be awarded or paid between July 1, 2011 and June 30, 2013 to any person employed by the departments and agencies within the executive branch, including the constitutional officers and the Department of Audit, the legislative branch and the judicial branch may not be awarded, authorized or implemented. These savings may be replaced by other Personal Services savings by agreement of the State and the bargaining agents representing state employees.

**Sec. E-2. Longevity payments.** Notwithstanding the Maine Revised Statutes, Title 26, section 979-D or 1285 or any other provision of law, any longevity payment, regardless of funding source, scheduled to be awarded or paid between July 1, 2011 and June 30, 2013 to any person not eligible for a longevity payment on June 30, 2011 and employed by the departments and agencies within the executive branch, including the constitutional officers and the Department of Audit, the legislative branch and the judicial branch may not be awarded, authorized or implemented. Employees eligible for a longevity payment on June 30, 2011 remain eligible for a longevity payment at the rate in effect on June 30, 2011 for the period between July 1, 2011 and June 30, 2013. These savings may be replaced by other Personal Services savings by agreement of the State and the bargaining agents representing state employees.

**Sec. E-3. Calculation and transfer.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in this Part that applies against each General Fund account for all departments and agencies from savings associated with eliminating merit pay increases and longevity payments and shall transfer the amounts by financial order upon the approval of the Governor. These transfers are considered adjustments to appropriations in fiscal year 2011-12 and fiscal year 2012-13. The State Budget Officer shall provide a report of the transferred amounts to the Joint Standing Committee on Appropriations and Financial Affairs no later than October 1, 2012.

**Sec. E-4. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Executive Branch Departments and Independent Agencies - Statewide 0017**

Initiative: Deappropriates funds from eliminating longevity payments for individuals not eligible on June 30, 2011 and maintains the longevity payment level for those eligible on June 30, 2011 to the rate in effect on June 30, 2011 during the 2012-2013 biennium.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	(\$67,904)	(\$135,808)
GENERAL FUND TOTAL	(\$67,904)	(\$135,808)

**Executive Branch Departments and Independent Agencies - Statewide 0017**

Initiative: Reduces funding to reflect projected savings from eliminating merit increases for fiscal years 2011-12 and 2012-13.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	(\$3,101,710)	(\$6,333,361)
GENERAL FUND TOTAL	(\$3,101,710)	(\$6,333,361)

**ADMINISTRATIVE AND FINANCIAL SERVICES,  
 DEPARTMENT OF**

**DEPARTMENT TOTALS**

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>(\$3,169,614)</b>	<b>(\$6,469,169)</b>

**PART F**



**Sec. F-1. Attrition savings.** The attrition rate for the 2012-2013 biennium is increased from 1.6% to 5.0% for judicial branch and executive branch departments and agencies only.

## PART G

**Sec. G-1. 23 MRSA §4210-B, sub-§7,** as enacted by PL 2007, c. 677, §1, is repealed.

**Sec. G-2. 23 MRSA §4210-B, sub-§7-A** is enacted to read:

**7-A. Sales tax revenue.** Beginning July 1, 2012 and every July 1st thereafter, the State Controller shall transfer to the STAR Transportation Fund an amount, as certified by the State Tax Assessor, that is equivalent to 100% of the revenue from the tax imposed on the value of rental for a period of less than one year of an automobile pursuant to Title 36, section 1811 for the first 6 months of the prior fiscal year. Beginning on October 1, 2012 and every October 1st thereafter, the State Controller shall transfer to the STAR Transportation Fund an amount, as certified by the State Tax Assessor, that is equivalent to 100% of the revenue from the tax imposed on the value of rental for a period of less than one year of an automobile pursuant to Title 36, section 1811 for the last 6 months of the prior fiscal year. The tax amount must be based on actual sales for that fiscal year and may not consider any accruals that may be required by law.

**Sec. G-3. Effective date.** This Part takes effect June 30, 2012.

## PART H

**Sec. H-1. Department of Administrative and Financial Services; lease-purchase authorization.** Pursuant to the Maine Revised Statutes, Title 5, section 1587, the Department of Administrative and Financial Services, in cooperation with the Treasurer of State, may enter into financing arrangements in fiscal years 2011-12 and 2012-13 for the acquisition of motor vehicles for the Central Fleet Management Division. The financing agreements entered into in each fiscal year may not exceed \$6,000,000 in principal costs, and a financing arrangement may not exceed 4 years in duration. The interest rate may not exceed 6%. The annual principal and interest costs must be paid from the appropriate line category allocations in the Central Fleet Management Division account.

## PART I

**Sec. I-1. 30-A MRSA §5681, sub-§5-C,** as amended by PL 2011, c. 1, Pt. N, §1, is further amended to read:

**5-C. Transfers to General Fund.** For the months beginning on or after July 1, 2009, \$25,383,491 in fiscal year 2009-10 and, \$38,145,323 in fiscal year 2010-11, \$40,350,638 in fiscal year 2011-12 and \$44,267,343 in fiscal year 2012-13 from the total transfers pursuant to subsection 5 must be transferred to General Fund undedicated revenue. The amounts transferred to General Fund undedicated revenue each fiscal year pursuant to this subsection must be deducted from the distributions required by subsections 4-A and 4-B based on the percentage share of the transfers to the Local Government

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Fund pursuant to subsection 5. The reductions in this subsection must be allocated to each month proportionately based on the budgeted monthly transfers to the Local Government Fund as determined at the beginning of the fiscal year.

## PART J

**Sec. J-1. 36 MRSA §111, sub-§2**, as amended by PL 2001, c. 396, §1, is repealed and the following enacted in its place:

**2. Notice.** "Notice" means written notification served personally, sent by certified mail or sent by first-class mail to the last known address of the person for whom the notification is intended. A person's last known address is the person's address as reported on the person's most recently filed Maine tax return or as otherwise specified by the person in written correspondence on file with the bureau, unless the bureau determines that a different address is the most current address for the person, in which case the bureau must use that address. Notice by first-class mail is deemed to be received 3 days after the mailing, excluding Sundays and legal holidays. If the State Tax Assessor is required by a provision of this Title to give notice by certified mail and attempts to do so but the mailing is returned with the notation "unclaimed" or "refused" or a similar notation, the assessor may then give notice by sending the notification by first-class mail. In the case of a joint income tax return, notice may be a single joint notice except that, if the assessor is notified by either spouse that separate residences have been established, the assessor must mail a joint notice to each spouse. If the person for whom notification is intended is deceased or under a legal disability, and the assessor knows of the existence of a fiduciary relationship with respect to that person, notice must be sent by first-class mail to the last known address of the fiduciary.

**Sec. J-2. 36 MRSA §141, sub-§1**, as amended by PL 2009, c. 496, §3, is further amended to read:

**1. General provisions.** Except as otherwise provided by this Title, an amount of tax that a person declares on a return filed with the State Tax Assessor to be due to the State is deemed to be assessed at the time the return is filed and is payable on or before the date prescribed for filing the return, determined without regard to an extension of time granted for filing the return. When a return is filed, the assessor shall ~~cause it to be examined~~ examine it and may conduct audits or investigations to determine the correct tax liability. If the assessor determines that the amount of tax shown on the return is less than the correct amount, the assessor shall assess the tax due the State and provide notice to the taxpayer of the assessment. Except as provided in subsection 2, an assessment may not be made after 3 years from the date the return was filed or 3 years from the date the return was required to be filed, whichever is later. The assessor may make a supplemental assessment within the assessment period prescribed by this section for the same period, periods or partial periods previously assessed if the assessor determines that a previous assessment understates the tax due or otherwise is imperfect or incomplete in any material respect.

**Sec. J-3. 36 MRSA §141, sub-§2**, as amended by PL 2011, c. 1, Pt. BB, §1 and affected by §3, is further amended to read:

**2. Exceptions.** The following are exceptions to the 3-year time limit specified in subsection 1.

A. An assessment may be made within 6 years from the date the return was filed if the tax liability shown on the return, after adjustments necessary to correct any mathematical errors apparent on the face of the return, is less than 1/2 of the tax liability determined by the ~~State Tax Assessor~~ assessor. In determining whether the 50% threshold provided by this paragraph is satisfied, the assessor may not consider any portion of the understated tax liability for which the taxpayer has substantial authority supporting its position.

B. An assessment may be made at any time with respect to a time period for which a fraudulent return has been filed.

C. An assessment may be made at any time with respect to a period for which a return has become due but has not been filed. If a person who has failed to file a return does not provide to the assessor, within 60 days of receipt of notice, information that the assessor considers necessary to determine the person's tax liability for that period, the assessor may assess an estimated tax liability based upon the best information otherwise available. In any proceeding for the collection of tax for that period, that estimate is prima facie evidence of the tax liability. The 60-day period provided by this paragraph must be extended for an additional 60 days if the taxpayer requests an extension in writing prior to the expiration of the original 60-day period.

E. The time limitations for assessment specified in this section may be extended to any later date to which the ~~State Tax Assessor~~ assessor and ~~person liable for tax~~ taxpayer agree in writing.

**Sec. J-4. 36 MRSA §145**, as enacted by PL 2007, c. 627, §5, is amended to read:

### **§ 145. Declaration of jeopardy**

If the State Tax Assessor determines that the collection of any tax will be jeopardized by delay, the assessor, upon giving notice of this determination to the person liable for the tax by personal service or certified mail, may demand an immediate return with respect to any period or immediate payment of any tax declared to be in jeopardy, or both, and may terminate the current reporting period and demand an immediate return and payment with respect to that period. Notwithstanding any other provision of law, taxes declared to be in jeopardy are payable immediately, and the assessor may proceed immediately to collect those taxes by any collection method authorized by this Title. The person liable for the tax may stay collection by requesting reconsideration of the declaration of jeopardy in accordance with section 151 and depositing with the assessor, within the time period specified in section 151, 30 days from receipt of notice of the determination of jeopardy a bond or other security in the amount of the liability with respect to which the stay of collection is sought. A determination of jeopardy by the assessor is presumed to be correct, and the burden of showing otherwise is on the taxpayer.

**Sec. J-5. 36 MRSA §151, first ¶**, as amended by PL 2001, c. 583, §1, is further amended to read:

~~Any~~ A person who is subject to an assessment by the State Tax Assessor or entitled by law to receive notice of a determination of the assessor and who is aggrieved ~~as a result of~~ by that action may request in writing, within ~~30~~ 60 days after receipt of notice of the assessment or the determination, reconsideration by the assessor of the assessment or the determination. If a person who receives notice of an assessment and does not file a request for reconsideration of the assessment in writing within the specified time

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period60 days, the assessor may not reconsider the assessment pursuant to this section and no review is available in Superior Court regardless of whether the taxpayerperson subsequently makes payment and requests a refund.

**Sec. J-6. 36 MRSA §171**, as amended by PL 2001, c. 583, §3, is further amended to read:

### **§ 171.Demand letter**

**1. Taxes imposed by this Title.** If any tax imposed by this Title is not paid on or before its due date and no further administrative or judicial review of the assessment is available under section 151, the assessor, within 3 years after administrative and judicial review have been exhausted, may give the taxpayer notice of the amount to be paid, specifically designating the tax, interest and penalty due, and demand payment of that amount within 10 days of that taxpayer's receipt of notice. The notice must be given by personal service or sent by certified mail. The notice must include a warning that, upon failure of that taxpayer to pay as demanded, the assessor may proceed to collect the amount due by any collection method authorized by this Title. The notice must also describe the procedures applicable to the levy and sale of property under section 176-A, the alternatives available to the taxpayer that could forestall levy on property, including installment agreements, and the provisions of this Title relating to redemption of property and the release of the lien on property created by virtue of the levy. If the taxpayer has filed a petition for relief under the United States Bankruptcy Code, the running of the 3-year period of limitation imposed by this section is stayed until the bankruptcy case is closed or a discharge is granted, whichever occurs first.

**2. Other debts owed to State.** In the case of a fee, fine, penalty or other obligation first owed to the State on or after January 1, 1988 and authorized to be collected by the bureau, the assessor, within 3 years after the obligation is first placed with the bureau for collection, may give the taxpayer notice of the amount to be paid, including any interest and penalties provided by law, and demand payment of that amount within 10 days of that taxpayer's receipt of notice. The notice must be given by personal service or sent by certified mail. The notice must include a warning that, upon failure of that taxpayer to pay as demanded, the assessor may proceed to collect the amount due by any collection method authorized by section 175-A or 176-A. The notice must describe the procedures applicable to the levy and sale of property under section 176-A, the alternatives available to the taxpayer that could forestall levy on property, including installment agreements, and the provisions of this Title relating to redemption of property and the release of the lien on property created by virtue of the levy.

**Sec. J-7. 36 MRSA §172, first ¶**, as enacted by PL 1981, c. 364, §11, is amended to read:

If any tax liability imposed under this Title that has become final, other than ~~property tax~~, assessed and ~~deemed final~~ liability for a tax imposed under this TitlePart 2, remains unpaid in an amount exceeding \$1,000 for a period greater than 60 days after the taxpayer has received notice of ~~such~~ that finality by personal service or certified mail, and the taxpayer ~~refuses~~ fails to cooperate with the bureau in establishing and remaining in compliance with a reasonable plan for liquidating that liability, the State Tax Assessor shall certify the liability and lack of cooperation:

**Sec. J-8. 36 MRSA §175, sub-§2**, as amended by PL 2009, c. 496, §4, is further amended to read:

**2. Failure to file or pay taxes; determination to prevent renewal, reissuance or other extension of license or certificate.** If the assessor determines that a person who holds a license or certificate of authority issued by this State to conduct a profession, trade or business has ~~neglected or refused~~failed to file a return at the time required under this Title or to pay a tax liability due under this Title that has been demanded, other than taxes due pursuant to Part 2, and the person continues to fail to file or pay after at least 2 specific written notices, each giving 30 days to respond, have been sent by ~~certified mail or served by a civil officer~~first-class mail, then the assessor shall notify the person ~~in writing~~by certified mail or personal service that continued failure to file the required tax return or to pay the overdue tax liability may result in loss of the person's license or certificate of authority. If the person continues for a period in excess of 30 days from notice of possible denial of renewal or reissuance of a license or certificate of authority to fail to file or show reason why the person is not required to file or if the person continues not to pay, the assessor shall notify the person ~~in writing~~by certified mail or personal service of the assessor's determination to prevent renewal, reissuance or extension of the license or certificate of authority by the issuing agency. A review of this determination is available by requesting reconsideration under section 151, subject to appeal to the Superior Court as provided in section 151. Either by failure to proceed to the next step of appeal or by exhaustion of the steps of appeal, the determination to prevent renewal or reissuance of the license or certificate of authority becomes final unless otherwise determined on appeal. In any event, the license or certificate of authority remains in effect until all appeals have been taken to their final conclusion.

**Sec. J-9. 36 MRSA §176-A, sub-§1, ¶B-1** is enacted to read:

B-1. "Notice" means written notification served personally or sent by certified mail, except with respect to notice to a person who has consented in writing to some other means of notification.

**Sec. J-10. 36 MRSA §176-A, sub-§1, ¶D**, as enacted by PL 1989, c. 880, Pt. E, §3, is repealed.

**Sec. J-11. 36 MRSA §176-A, sub-§2, ¶E**, as amended by PL 2001, c. 583, §5, is further amended to read:

E. The effect of a levy on salary or wages payable to or received by a taxpayer is continuous from the date the levy is first made until the liability giving rise to the levy is satisfied. Except as otherwise provided by this paragraph, a levy on any other intangible personal property or rights to intangible personal property remains in effect until one year after the date that notice of levy ~~and demand~~ under subsection 3, paragraph A is ~~served on~~received by the person in possession of or liable to the taxpayer with respect to intangible personal property, including property that is first possessed or liabilities that arise after the date of ~~service~~receipt of the notice of levy ~~and demand~~. In the case of a levy upon property held by a financial institution described in subsection 3, paragraph A, the levy extends only extends to accounts in existence on the date the notice of levy ~~and demand~~ is ~~served on~~received by the financial institution, but includes deposits made or collected in those accounts after the notice of levy is ~~served~~received. A levy on intangible personal property or rights to intangible personal property, ownership of which is disputed at on the ~~time~~date that notice the levy is ~~served~~received, remains in effect until one year after the dispute is resolved by ~~competent authority~~.

**Sec. J-12. 36 MRSA §176-A, sub-§3**, as amended by PL 2005, c. 218, §6, is further amended  
to read:

**3. Surrender of property or discharge of obligation; exceptions; personal liability; penalty.** A surrender of property or discharge of obligation is governed by this subsection.

A. Except as otherwise provided in paragraph B, any person who is in possession of, or obligated with respect to, property or rights to property subject to levy upon which a levy has been made shall, upon demand of the assessor, ~~surrender any such~~the property or rights or discharge ~~any such~~the obligation to the assessor within 21 days after receipt of the notice of levy, except that part of the property or rights ~~as that is~~, at the time of the demand, subject to an attachment or execution under ~~any~~ judicial process. It is a defense to the liability imposed by this subsection that the person ~~refusing~~who fails to comply with the terms of a notice of a levy or that person's bailor has a valid claim against the delinquent taxpayer ~~accruing~~that accrued prior to ~~service~~receipt of the notice of levy or a valid security interest or lien upon the property of the taxpayer that was perfected prior to ~~service~~receipt of the notice of levy; but this defense ~~exonerates the person refusing to comply from liability~~is available only to the extent of that claim, security interest or lien.

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

B. A levy with respect to a life insurance or endowment contract is governed by this paragraph.

(1) A levy on an organization with respect to a life insurance or endowment contract issued by that organization, without necessity for the surrender of the contract document, constitutes a demand by the assessor for payment of the amount described in subparagraph (2) and the exercise of the right of the person against whom the tax is assessed to the advance of that amount. The organization shall pay over the amount no later than 90 days after ~~service~~receipt of the notice of levy. Notice must include a certification by the assessor that a copy of the notice has been mailed to the person against whom the tax is assessed at that person's last known address.

(2) A levy under this paragraph is deemed to be satisfied if the organization pays over to the assessor the amount that the organization could have advanced to the person against whom the tax is assessed on the date prescribed in subparagraph (1) for the satisfaction of the levy, increased by the amount of any advance, including contractual interest, made to the person on or after the date the organization ~~had actual~~received notice or otherwise had knowledge of the existence of the lien with respect to which the levy is made, other than an advance, including contractual interest, made automatically to maintain the contract in force under an agreement entered into before the organization ~~had any~~received such notice or had such knowledge.

(3) The satisfaction of a levy under subparagraph (2) is without prejudice to any civil action for the enforcement of any lien imposed by section 175-A with respect to the contract.

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

(1) Is liable in person and estate to the State in a sum equal to the value of the property not so surrendered, but not exceeding the amount of taxes for the collection of which the levy has been made, together with costs and interest at the rate determined pursuant to section 186 on the sum from the date of the levy. Any amount, other than costs, recovered under this paragraph must be credited against the tax liability for the collection of which the levy was made; and

(2) Without reasonable cause, is liable for a penalty equal to 50% of the amount recoverable under subparagraph (1). A part of the penalty may not be credited against the tax liability for the collection of which the levy was made.

~~It is lawful for the~~The assessor ~~to may~~ collect the liability established by this paragraph by assessment and collection in the manner described in this Part.

D. Any person in possession of, or obligated with respect to, property subject to levy upon which a levy has been made, who, upon demand by the assessor, surrenders that property or rights to that property, or discharges the obligation to the assessor, or who pays a liability under paragraph C, subparagraph (1) is discharged from any obligation or liability to the delinquent taxpayer with respect to the property arising from the surrender or payment. In the case of a levy satisfied pursuant to paragraph B, the organization is discharged from any obligation or liability to any beneficiary arising from the surrender or payment.

**Sec. J-13. 36 MRSA §176-A, sub-§5, ¶D**, as enacted by PL 1989, c. 880, Pt. E, §3, is amended to read:

D. A levy upon salary and wages must specify the amount of percentage to be surrendered and delivered to the assessor by the taxpayer's employer for each pay period, consistent with the provisions of this paragraph. Salaries and wages are exempt from levy to the extent of 75% of the

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taxpayer's disposable earnings for any pay period, or an amount equal to the federal minimum hourly wage multiplied by 30, multiplied by the number of weeks in the pay period, whichever is less. A levy on salaries and wages is continuous from the date on which the notice of levy is ~~served~~received until the delinquency is discharged and applies to all pay periods commencing after ~~the~~that date ~~on which the notice of levy is served~~. The assessor shall notify the taxpayer's employer ~~immediately~~as soon as practicable upon discharge of the delinquency that the levy has been discontinued.

**Sec. J-14. 36 MRSA §176-A, sub-§6, ¶A**, as amended by PL 1999, c. 699, Pt. D, §27 and affected by §30, is further amended to read:

A. As soon as practicable after seizure of property, the assessor shall give notice ~~in writing~~ to the owner of the property, or, in the case of personal property, the possessor of the property, or leave notice at the owner's or possessor's usual place of abode or business, if any, within the State. If the owner or possessor cannot be readily located, or has no dwelling or place of business within the State, the notice may be mailed ~~to that person's last known address~~sent by first-class mail. In the case of real property, the notice must be filed in the registry of deeds in the county where the property is located. The notice must specify the sum demanded and contain:

- (1) In the case of personal property, an account of the property seized; and
- (2) In the case of real property, a description with reasonable certainty of the property seized.

In the case of levy on a motor vehicle that is the subject of a Certificate of Title issued by the Secretary of State, a copy of the notice must be filed with the Secretary of State, who shall note the levy in the records of ownership of the motor vehicle in question. In the case of levy on that type of personal property, a security interest in which may be perfected by filing in the office of the Secretary of State, a copy of the notice must be filed in the office of the Secretary of State, who shall file the notice of levy as a financing statement.

**Sec. J-15. 36 MRSA §176-A, sub-§6, ¶B**, as amended by PL 2009, c. 434, §10, is further amended to read:

B. The assessor, as soon as practicable after the seizure of property, shall cause a notice to be published in a newspaper of general circulation within the county where the seizure is made, or, if there is no such newspaper, post the notice at the city or town hall nearest the place where the seizure is made and in at least 2 other public places. In the case of real property, the notice must be ~~served~~sent by certified mail to all persons holding an interest of record, including, without limitation, recorded leases and security interest of all types, in the property as reflected at the time the notice of levy is recorded by the indices of the registry of deeds in the county where the property is located. In the case of ~~personal property that is a motor vehicle~~ subject to a certificate of title issued by the Secretary of State, notice must be ~~served~~sent by certified mail to all persons holding a security interest of record in the motor vehicle as set forth in the records of the Secretary of State. In the case of personal property that ~~may be~~is the subject of a security interest perfected by filing in the office of the Secretary of State, notice must be ~~served~~sent by certified mail to all secured parties



PUBLIC Law, Chapter 380, LD 1043, 125th Maine State Legislature  
An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2011, June 30, 2012 and June 30, 2013  
claiming an interest in the property seized as reflected at the time the notice of levy is recorded in the records maintained by the Secretary of State pursuant to Title 11. The notice must specify the property to be sold, subject to the liabilities of prior encumbrances, if any, and the time, place, manner and conditions of the sale. If levy is made without regard to the 10-day period provided in section 171, public notice of sale of the property seized may not be made within the 10-day period unless subsection 7 applies. It is a Class E crime to intentionally remove or deface the posted notice of sale prior to the scheduled sale date, unless the property has been redeemed or the sale is for some other reason canceled. The assessor or any law enforcement officer may enter onto the land if necessary to carry out the purposes of this section.

**Sec. J-16. 36 MRSA §176-A, sub-§15, ¶A**, as enacted by PL 1989, c. 880, Pt. E, §3, is amended to read:

A. Who claims an interest in property that has wrongfully been levied upon may apply to the assessor for a stay of proceedings under this section at any time before the property has been sold but within 5 days after receiving actual notice of the levy. Any action for a stay is governed by Title 5, section 11004; or

## PART K

**Sec. K-1. 36 MRSA §187-B, sub-§1**, as amended by PL 2007, c. 627, §6, is further amended to read:

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

A. If the return is filed before or within 30 days after the taxpayer receives from the assessor a formal demand that the return be filed, or if the return is not filed but the tax due is assessed by the assessor before the taxpayer 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.

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%~~\$25 or 25% of the tax due, whichever is greater. The 30-day period provided by this paragraph is must be extended for up to 120 days if the taxpayer requests an extension in writing prior to the expiration of the original 30-day period.

C. If the return is not filed and the assessor makes a determination of jeopardy pursuant to section 145, the penalty is ~~100%~~25% of the tax due.

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

**Sec. K-2. Application.** This Part takes effect October 1, 2011 and applies to penalties accruing under this section on or after October 1, 2011.

## PART L

**Sec. L-1. 36 MRSA §187-B, sub-§7**, as amended by PL 2007, c. 437, §5, is further amended to read:

**7. Reasonable cause.** ~~For reasonable cause, the State Tax Assessor~~The assessor shall waive or abate ~~or, in the case of those penalties that do not accrue automatically under subsection 6, refrain from imposing~~ any penalty imposed by subsection 1; ~~subsection, 1-A; subsection, 2; subsections, 4-A, 4-B, 5-A and~~or 5-B; or by the terms of the International Fuel Tax Agreement if grounds constituting reasonable cause are established by the taxpayer or if the assessor determines that grounds constituting reasonable cause are otherwise apparent. Reasonable cause includes, but is not limited to, the following circumstances:

- A. The failure to file or pay resulted directly from erroneous information provided by the Bureau of Revenue Services;
- B. The failure to file or pay resulted directly from the death or serious illness of the taxpayer or a member of the taxpayer's immediate family;
- C. The failure to file or pay resulted directly from a natural disaster;
- D. A return that was due monthly was filed and paid less than one month late and all of the taxpayer's returns and payments during the preceding 12 months were timely;
- E. A return that was due other than monthly was filed and paid less than one month late and all of the taxpayer's returns and payments during the preceding 3 years were timely;
- F. The taxpayer has supplied substantial authority justifying the failure to file or pay; or
- G. The amount subject to a penalty imposed by ~~subsection~~subsection 1, 2 and, 4-A; and subsection~~or 5-A~~ is de minimis when considered in relation to the amount otherwise properly paid, the reason for the failure to file or pay and the taxpayer's compliance history.

~~The~~Absent a determination by the assessor that grounds constituting reasonable cause are otherwise apparent, the burden of establishing grounds for waiver or abatement is on the taxpayer.

## PART M

**Sec. M-1. 36 MRSA §135, sub-§1**, as amended by PL 2007, c. 438, §7, is further amended to read:

**1. Taxpayers.** Persons subject to tax under this Title shall maintain such records as the State Tax Assessor determines necessary for the reasonable administration of this Title. Records pertaining to taxes imposed by chapters 371 ~~and, 575 and 577~~ and by Part 8 must be retained as long as is required by applicable federal law and regulation. Records pertaining to the special fuel tax user returns filed pursuant to section 3209, subsection 2 and the International Fuel Tax Agreement pursuant to section

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3209, subsection 1-B must be retained for 4 years. Records pertaining to all other taxes imposed by this Title must be retained for a period of at least 6 years. The records must be kept in such a manner as to ensure their security and accessibility for inspection by the assessor or any designated agent engaged in the administration of this Title.

**Sec. M-2. 36 MRSA §144, sub-§2, ¶A**, as amended by PL 2011, c. 211, §18, is further amended to read:

A. Subsection 1 does not apply in the case of premiums imposed pursuant to Title 10, section 1020, subsection 6-A, sales and use taxes imposed by Part 3, estate taxes imposed by chapter 575 or 577, income taxes imposed by Part 8 and any other tax imposed by this Title for which a specific statutory refund provision exists.

**Sec. M-3. 36 MRSA §4061**, as enacted by PL 1981, c. 451, §7, is amended to read:

### **§ 4061. Applicability of provisions**

This chapter applies to the estates of persons who die after June 30, 1986 and before January 1, 2013.

**Sec. M-4. 36 MRSA §4062, sub-§1-A, ¶A**, as amended by PL 2009, c. 213, Pt. E, §1 and affected by §6, is further amended to read:

A. For the estates of decedents dying after December 31, 2002, "federal credit" means the maximum credit against the tax on the federal taxable estate for state death taxes determined under the Code, Section 2011 as of December 31, 2002 exclusive of the reduction of the maximum credit contained in the Code, Section 2011(b)(2); the period of limitations under the Code, Section 2011(c); and the termination provision contained in the Code, Section 2011(f). The state death tax deduction contained in the Code, Section 2058 must be disregarded. The unified credit must be determined under the Code, Section 2010 as of December 31, 2000. The termination provision contained in the Code, Section 2210 must be disregarded. Notwithstanding any other provision of this Title to the contrary, the tax determined by this chapter for estates of decedents dying after December 31, 2009 must be determined in accordance with the law applicable to decedents dying during calendar year 2009, except that for purposes of calculation of the amount of property that may be treated as Maine qualified terminable interest property under subsection 2-B, paragraph C, the applicable exclusion amount must be determined in accordance with the law applicable as of the decedent's actual date of death; and

**Sec. M-5. 36 MRSA §4062, sub-§3**, as enacted by PL 1981, c. 451, §7, is amended to read:

**3. Nonresident.** "Nonresident" means a natural person domiciled in a jurisdiction other than ~~Maine~~this State at the time of ~~his~~that person's death.

**Sec. M-6. 36 MRSA §4062, sub-§6**, as enacted by PL 1981, c. 451, §7, is amended to read:

**6. Resident.** "Resident" means a natural person domiciled in this State at the time of ~~his~~that person's death.

**Sec. M-7. 36 MRSA §4064**, as amended by PL 2007, c. 466, Pt. A, §62 and affected by §63, is further amended to read:

### **§ 4064. Tax on estate of nonresident**

A tax is imposed upon the transfer of real property and tangible personal property situated in this State and held by an individual who dies prior to January 1, 2002 or after December 31, 2002 and who at the time of death was not a resident of this State. ~~When real or tangible personal property has been transferred into a trust or a limited liability company or other pass-through entity, the tax imposed by this section applies as if the trust or limited liability company or other pass-through entity did not exist and the property was personally owned by the decedent.~~ Maine property is subject to the tax imposed by this section to the extent that such property is either included in the decedent's federal gross estate or is Maine elective property. The amount of this tax is equal to that proportion of the federal credit that the value of the decedent's Maine real and tangible personal property in this State bears to the value of the decedent's federal gross estate. The share of the federal credit used to determine the amount of a nonresident individual's estate tax under this section is computed without regard to whether the specific real or tangible personal property located in the State is marital deduction property.

~~Proceeds from the sale of property are taxable under this section if those proceeds are included in the federal gross estate and the sale was made in contemplation of death. A sale of property made within 6 months prior to the death of the grantor is deemed to be in contemplation of death within the meaning of this section.~~

When real or tangible personal property is owned by a pass-through entity, the entity must be disregarded and the property must be treated as personally owned by the decedent if the entity does not actively carry on a business for the purpose of profit and gain; the ownership of the property in the entity was not for a valid business purpose; or the property was acquired by other than a bona fide sale for full and adequate consideration and the decedent retained a power with respect to or interest in the property that would bring the real or tangible personal property located in this State within the decedent's federal gross estate.

**Sec. M-8. 36 MRSA §4068, sub-§2, ¶B**, as enacted by PL 2005, c. 218, §43, is amended to read:

B. The federal gross estate, increased by the amount of adjusted taxable gifts made by the decedent after December 31, 1976 and by the aggregate amount of any specific gift tax exemption under former Code, Section 2521 used by the decedent after September 8, 1976 ~~exceeds~~ and by Maine elective property, exceeds the exclusion and related unified credit amounts specified in section 4062, subsection 1-A.

**Sec. M-9. 36 MRSA c. 577** is enacted to read:

## **CHAPTER 577**

### **MAINE ESTATE TAX AFTER 2012**

#### **§ 4101. Applicability of provisions**

## **§ 4102. Definitions**

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

**1. Adjusted federal gross estate.** "Adjusted federal gross estate" means a decedent's federal gross estate as modified by Maine qualified terminable interest property, Maine elective property and the value of all taxable gifts as defined under the Code, Section 2503 made by the decedent during the one-year period ending on the date of the decedent's death.

**2. Federal gross estate.** "Federal gross estate" means the gross estate of a decedent as determined by the assessor in accordance with the Code. The termination provision contained in the Code, Section 2210 must be disregarded.

**3. Federal taxable estate.** "Federal taxable estate" means the taxable estate of a decedent as determined using the applicable provisions of the Code as of the decedent's date of death, except that the state death tax deduction contained in the Code, Section 2058 and the termination provision contained in the Code, Section 2210 must be disregarded.

**4. Maine elective property.** "Maine elective property" means all property in which a decedent at the time of death had a qualified income interest for life and with respect to which for purposes of determining the tax imposed by this chapter or chapter 575 on the estate of a predeceased spouse of the decedent the federal taxable estate of that predeceased spouse was decreased pursuant to subsection 7, paragraph A or section 4062, subsection 1-B, paragraph B. The value of Maine elective property is the value determined by the assessor in accordance with the Code as if such property were includible in the decedent's federal gross estate pursuant to the Code, Section 2044 and, in the case of estates that do not incur a federal estate tax, as if the estate had incurred a federal estate tax.

**5. Maine exclusion amount.** "Maine exclusion amount" means \$2,000,000.

**6. Maine qualified terminable interest property.** "Maine qualified terminable interest property" means property:

A. That is eligible to be treated as qualified terminable interest property under the Code, Section 2056(b)(7);

B. For which no election allowable under the Code, Section 2056(b)(7) is made with respect to the federal estate tax; and

C. With respect to which an election is made, on a return timely filed with the assessor, to treat the property as Maine qualified terminable interest property for purposes of the tax imposed by this chapter. The amount of property with respect to which the election is made may not be less than zero or greater than the amount by which the federal applicable exclusion amount under the Code, Section

PUBLIC Law, Chapter 380, LD 1043, 125th Maine State Legislature  
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2010 exceeds the Maine exclusion amount. For the purposes of this paragraph, "federal applicable exclusion amount" does not include any deceased spousal unused exclusion amount under the Code, Section 2810.

**7. Maine taxable estate.** "Maine taxable estate" means the federal taxable estate:

A. Decreased by the value of Maine qualified terminable interest property;

B. Increased by the value of Maine elective property; and

C. Increased by, notwithstanding the Code, Section 2035, the value of all taxable gifts as defined under the Code, Section 2503 made by the decedent during the one-year period ending on the date of the decedent's death.

**8. Nonresident.** "Nonresident" means a natural person domiciled in a jurisdiction other than this State at the time of death.

**9. Personal representative.** "Personal representative" means a personal representative of a decedent or, if there is no personal representative appointed, qualified and acting within this State, any person who is in the actual or constructive possession of any property included in the federal gross estate of the decedent, any Maine elective property or any taxable gifts made during the one-year period ending on the date of the decedent's death.

**10. Resident.** "Resident" means a natural person domiciled in this State at the time of death.

**11. Transfer.** "Transfer" includes the passing of property or any interest therein, in possession or enjoyment, present or future, by inheritance, descent, devise, succession, bequest, grant, deed, bargain sale, gift or appointment in the manner described in this chapter.

**12. Value.** "Value" means, when determining value for purposes of this chapter, with respect to an estate or to property included in an estate, including Maine qualified terminable interest property, the value as determined by the assessor in accordance with the Code.

### **§ 4103. Tax on estate of resident**

**1. Imposition of tax.** A tax is imposed on the transfer of the Maine taxable estate of every person who, at the time of death, was a resident of this State. The amount of tax is determined as provided in this section.

A. If the Maine taxable estate is \$2,000,000 or less, the tax is \$0.

B. If the Maine taxable estate is more than \$2,000,000 but no more than \$5,000,000, the tax is 8% of the excess over \$2,000,000.

C. If the Maine taxable estate is more than \$5,000,000 but no more than \$8,000,000, the tax is \$240,000 plus 10% of the excess over \$5,000,000.

D. If the Maine taxable estate is more than \$8,000,000, the tax is \$540,000 plus 12% of the excess over \$8,000,000.

The amount of this tax is multiplied by a fraction, the numerator of which is the value of that portion of the decedent's adjusted federal gross estate that consists of real and tangible personal property located in this State plus the value of all intangible personal property and the denominator of which is the value of the decedent's adjusted federal gross estate.

**2. Other jurisdiction death tax credit.** A credit against the tax imposed by this section is allowed for all constitutionally valid estate, inheritance, legacy and succession taxes actually paid to another jurisdiction upon the value of real or tangible personal property owned by the decedent or subject to those taxes as a part of or in connection with the estate and located in that jurisdiction if the value of that property is also included in the value of the decedent's intangible personal property subject to taxation under this section. The credit provided by this subsection may not exceed the amount of tax otherwise due multiplied by a fraction, the numerator of which is the value of the property located in the other taxing jurisdiction subject to this credit on which tax was actually paid and the denominator of which is the value of the decedent's adjusted federal gross estate. For the purposes of this section, "another jurisdiction" means another state, the District of Columbia, a possession or territory of the United States or any political subdivision of a foreign country that is analogous to a state.

#### **§ 4104. Tax on estate of nonresident**

A tax is imposed on the Maine taxable estate of every person who, at the time of death, was a nonresident. The amount of tax equals the tax computed under section 4103, as if the nonresident were a resident, multiplied by the ratio of the value of that portion of the decedent's adjusted federal gross estate that consists of real and tangible personal property located in this State to the value of the decedent's adjusted federal gross estate.

When real or tangible personal property is owned by a pass-through entity, the entity must be disregarded and the property must be treated as personally owned by the decedent if the entity does not actively carry on a business for the purpose of profit and gain; the ownership of the property in the entity was not for a valid business purpose; or the property was acquired by other than a bona fide sale for full and adequate consideration and the decedent retained a power with respect to or interest in the property that would bring the real or tangible personal property located in this State within the decedent's adjusted federal gross estate.

#### **§ 4105. Personal representative's liability for tax**

**1. Payment of tax.** The tax imposed by this chapter must be paid by the personal representative to the extent of assets subject to the personal representative's control. The assessor may accept payment of estate taxes in works of art in accordance with Title 27, chapter 2, subchapter 2.

**2. Certification of payment.** A final account of a personal representative of an estate may not be allowed by the Probate Court unless the personal representative has filed in the Probate Court a certificate of the assessor showing either that the amount of tax has been paid, that payment has been secured as provided in section 4108 or that no tax is due.

### **§ 4106. Discharge of personal representative's personal liability**

If the personal representative makes a written application, accompanied by a copy of the final determination of the federal estate tax liability, if any, and other supporting documentation that the assessor may require, to the assessor for determination of the amount of the tax and discharge of personal liability for that tax, the assessor, as soon as possible and in any event within one year after the making of the application or, if the application is made before the return is filed, within one year after the return is filed, shall notify the personal representative of the amount of the tax and of any interest on that amount. The personal representative, on payment of that amount, is discharged from personal liability for any deficiency in tax subsequently found to be due and is entitled to a certificate of discharge.

### **§ 4107. Tax due date; filing of return and payment of tax**

**1. Date due.** Except as otherwise provided by this chapter, a return required by this section is due 9 months after the date of the decedent's death and any tax due under this chapter is due at the same time. Interest accrues on any amount of tax not paid by the due date.

**2. Return required.** The personal representative shall file a Maine estate tax return whenever:

A. The Code requires that a federal estate tax return be filed; or

B. The federal gross estate, increased by the amount of adjusted taxable gifts made by the decedent after December 31, 1976 and by the aggregate amount of any specific gift tax exemption under former Code, Section 2521 used by the decedent after September 8, 1976 exceed the Maine exclusion amount.

The return must be in the form prescribed by the assessor, and it must be accompanied by a copy of the federal estate tax return, if any, and by other supporting documentation that the assessor may require.

**3. No tax liability.** In all cases where a Maine estate tax return is not required to be filed:

A. If the personal representative makes no election pursuant to section 4102, subsection 6, paragraph C, the personal representative, surviving joint tenant of real estate or any other person whose real estate might be subject to a lien for taxes pursuant to this chapter may at any time file with the assessor in the form prescribed by the assessor a statement of the value of the federal gross estate; and



B. If the personal representative makes an election pursuant to section 4102, subsection 6, paragraph C, the personal representative shall make the election on a timely filed return. The return must be in the form prescribed by the assessor, and it must be accompanied by a copy of the federal estate tax return, if any, and other supporting documentation that the assessor may require, including documentation related to an election made pursuant to section 4102, subsection 6, paragraph C.

### **§ 4108. Extension of due date for payment of tax**

The assessor may extend the time for payment of the tax or any part of the tax for a reasonable period of time not to exceed one year from the date fixed for payment and may grant successive extensions. The aggregate of extensions with respect to any estate may not exceed 10 years, unless a longer period is called for by a payment arrangement elected pursuant to section 4109. If an extension is granted, the assessor may require the taxpayer to:

1. **Bond.** Give a bond to the Treasurer of State in an amount the assessor determines necessary; or
2. **Other security.** Deposit with the Treasurer of State bonds or other negotiable obligations of governmental entities with an aggregate value sufficient to adequately secure payment of the tax.

### **§ 4109. Extension of time for payment of estate tax when estate consists largely of interest in closely held business**

1. **Deferred payment arrangement.** If the United States Internal Revenue Service has approved a federal estate tax deferral and installment payment arrangement under the Code, Section 6166, the personal representative may elect a similar deferred payment arrangement under this section for payment of the tax imposed by this chapter, subject to acceptance by the assessor. The assessor may approve a deferral and installment arrangement under similar circumstances and on similar terms with respect to an estate of a decedent dying after December 31, 2011 that does not incur a federal estate tax.

2. **Time and manner of election; rejection by assessor.** An election under this section may be made by attaching a payment deferral election in a form prescribed by the assessor to a timely filed Maine estate tax return, in addition to any documentation required by section 4107 and copies of all documentation required by the United States Internal Revenue Service and submitted in support of a federal payment deferral. Documentation submitted to the assessor must clearly indicate the amount of Maine estate tax and interest to be paid in installments; the number of separate installments; and the due date of each installment payment. The assessor may reject the election. An election not rejected in writing by the assessor within 60 days after the election is made is considered accepted.

3. **Interest and penalties.** The amount of Maine estate tax deferred under this section is subject to interest pursuant to section 186. Interest payable on the unpaid tax attributable to a 5-year deferral period pursuant to the Code, Section 6166 must be paid annually. Interest payable on any unpaid tax attributable to any period after the 5-year deferral period must be paid annually at the same time as, and as part of, each installment payment of the tax. If any payment of principal or interest under this section is not made on or before the due date, the penalties provided by section 187-B apply.

## **§ 4110. Extension of time for filing return**

**1. General.** The assessor may grant a reasonable extension of time for filing a return required by this chapter on terms and conditions as the assessor may require as long as payment reasonably estimating the tax due has been made on or before the original payment due date. Except as provided in subsection 2, an extension for filing any return may not exceed 8 months.

**2. Federal extension.** When an extension of time is granted within which to file a federal estate tax return, the due date for filing the Maine estate tax return is automatically extended for an equivalent period, as long as payment reasonably estimating the tax due has been made on or before the original payment due date.

## **§ 4111. Effect of federal determination**

**1. Final federal determination.** Except as provided in subsection 2, a final federal determination as to any of the following issues also determines the same issue for purposes of the tax under this chapter:

- A. The inclusion in the federal gross estate of any item of property or interest in property; and
- B. The allowance of any item claimed as a deduction from the federal gross estate.

**2. State determination of certain estates.** The assessor is not bound by a final federal determination under subsection 1 if the assessor determines the issue for purposes of the tax under this chapter within one year of the date the return was filed or the date the return is due, whichever is later.

**3. Items entering computation of tax.** If there has been a final federal determination with respect to a decedent's federal estate tax, any item, but not its value, entering into the computation of the tax is deemed to have been the subject of the final federal determination, whether or not specifically adjusted thereby.

**4. Definition.** For purposes of this section, "final federal determination" means:

- A. A decision by the United States Tax Court or a judgment, decree or other order by any court of competent jurisdiction that has become final;
- B. A final disposition by the United States Secretary of the Treasury or the secretary's delegate of a claim for a refund. The disposition is deemed to have occurred:

(1) As to items of the claim that are allowed, upon allowance of a refund or upon disallowance of the claim by reason of offsetting items; and

(2) As to items of the claim that are disallowed or as to items applied by the United States Secretary of the Treasury or the secretary's delegate as an offset against the claim, upon expiration of the time for instituting suit for refund with respect to those items, unless suit is instituted before the expiration of that time, or upon filing with the assessor a written statement that suit will not be instituted;

C. A closing agreement made under the Code, Section 7121;

D. An assessment pursuant to a waiver of restrictions on assessment or a notification in writing issued by the United States Secretary of the Treasury or the secretary's delegate that the federal estate tax return has been accepted as filed, unless the personal representative notifies the assessor that a claim for refund of federal estate taxes has been or will be filed; or

E. An assessment pursuant to a compromise entered into by the personal representative and the United States Secretary of the Treasury or the secretary's delegate.

### **§ 4112. Lien for taxes**

All property subject to taxes under this chapter, in whatever form of investment it may happen to be, is charged with a lien for all taxes, interest and penalties that are or may become due on that property. The lien does not attach to any real or personal property after the property has been sold or disposed of for value by the personal representative, trustee or surviving joint tenant. Upon payment of those taxes, interest and penalties due under this chapter or upon determination that no tax is due, the assessor shall upon request execute a discharge of the tax lien for recording in the appropriate registry or registries of deeds.

### **§ 4113. Authority of State Tax Assessor**

The assessor shall collect all taxes, interest and penalties provided by chapter 7 and by this chapter and may institute proceedings of any nature necessary or desirable for that purpose, including proceedings for the removal of personal representatives and trustees who have failed to pay the taxes due from estates in their hands.

The assessor may enforce the collection of any taxes secured by bond in a civil action brought on the bond regardless of the fact that some other official may be named as obligee in the bond.

### **§ 4114. Amount of tax determined**

The assessor shall determine the amount of tax due and payable under this chapter upon any estate or part of that estate. If, after determination and certification of the full amount of the tax upon an estate or any interest in or part of an estate, the estate receives or becomes entitled to property in addition to that shown in the estate tax return filed with the assessor or the United States Internal Revenue Service changes any item increasing the estate's liability shown in the Maine estate tax return filed with the assessor, the personal representative shall within 180 days of any receipt, entitlement or change file an amended Maine estate tax return. The assessor shall determine the amount of additional tax and shall certify the amount due, including interest and penalties, to the person by whom the tax is payable.

### **§ 4115. Authority to make refunds**

**1. Refund.** A personal representative or responsible party otherwise liable for the tax imposed by this chapter may request a refund of any tax imposed by this chapter within 3 years from the date the Maine estate tax return was filed or 3 years from the date the tax was paid, whichever period expires later. A claim for refund must be submitted to the assessor in writing and must state the specific grounds upon which the claim is founded. The claimant may in writing request an informal conference regarding the claim for refund pursuant to section 151.

**2. Limitation on payment of interest.** Interest may not be paid by the assessor on an overpayment of the tax imposed by this chapter that is refunded within 60 days after the date prescribed or permitted by extension of time for filing the Maine estate tax return or within 60 days after the return is filed or within 60 days after a return requesting a refund of the overpayment is filed, whichever is later.

### **§ 4116. Appointment of personal representative on probate delay**

If, upon the death of a person leaving an estate that may be liable to pay tax under this chapter, a will is not offered for probate or an application for administration is not made within 6 months after the date of death or if the personal representative does not qualify within that period, the Probate Court, upon application by the assessor, may appoint a personal representative. Nothing may prevent the assessor from petitioning for appointment within 6 months after the date of death, if in the opinion of the assessor that action is necessary.

### **§ 4117. Persons liable**

Personal representatives, trustees, grantees or donees under nonexempt conveyances or nonexempt gifts made during the life of the grantor or donor and persons to whom beneficial interests accrue by survivorship are liable for the taxes imposed by this chapter with interest, as provided, until the taxes are paid. For purposes of this section, "nonexempt conveyances" and "nonexempt gifts" mean any transfer to a person that is includable in the federal gross estate of the decedent and with respect to which no deduction is allowed in computing the federal estate tax liability.

If the tax or any part of the tax is paid or collected out of that part of the estate passing to or in possession of any person other than the personal representative in that capacity, that person is entitled to a reimbursement out of any part of the estate still undistributed or by a just and equitable contribution by the person whose interest in the estate of the decedent would have been reduced if the tax had been paid before the distribution of the estate or whose interest in the estate is subject to an equal or prior liability for the payment of tax, debts or other charges against the estate.

### **§ 4118. Civil action by State; bond**

Personal representatives are liable to the State on their administration bonds for all taxes assessable under this chapter and interest on those taxes. If no administration bond is otherwise required and except as otherwise provided in this section, the judge of probate, notwithstanding any provision of Title 18-A, shall require a bond payable to the judge or the judge's successor sufficient to secure the payment of all estate taxes and interest conditioned in substance to pay all estate taxes due to the State from the estate

PUBLIC Law, Chapter 380, LD 1043, 125th Maine State Legislature  
An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2011, June 30, 2012 and June 30, 2013  
of the deceased with interest thereon. A bond to secure the payment of estate taxes is not required when the judge of probate finds that any estate tax due and to become due the State is reasonably secured by the lien upon real estate as provided in this chapter or by any other adequate security. An action for the recovery of estate taxes and interest lies on either of the bonds.

**Sec. M-10. Application.** Those sections of this Act that amend the Maine Revised Statutes, Title 36, section 4061; section 4062, subsection 1-A, paragraph A; section 4062, subsections 3 and 6; section 4064; and section 4068, subsection 2, paragraph B apply to estates of decedents dying on or after January 1, 2011 but before January 1, 2013.

## PART N

**Sec. N-1. 36 MRSa §5111, sub-§1-B,** as enacted by PL 1999, c. 731, Pt. T, §3, is amended to read:

**1-B. Single individuals and married persons filing separate returns; tax years from 2002 to 2012.** For tax years beginning on or after January 1, 2002 but not later than December 31, 2012, for single individuals and married persons filing separate returns:

If Maine Taxable income is:	The tax is:
Less than \$4,200	2% of the Maine taxable income
At least \$4,200 but less than \$8,350	\$84 plus 4.5% of the excess over \$4,200
At least \$8,350 but less than \$16,700	\$271 plus 7% of the excess over \$8,350
\$16,700 or more	\$856 plus 8.5% of the excess over \$16,700

**Sec. N-2. 36 MRSa §5111, sub-§1-C** is enacted to read:

**1-C. Single individuals and married persons filing separate returns; tax years beginning 2013.** For tax years beginning on or after January 1, 2013, for single individuals and married persons filing separate returns:

If Maine Taxable income is:	The tax is:
<u>At least \$5,000 but less than \$19,950</u>	<u>6.5% of the excess over \$5,000</u>
<u>\$19,950 or more</u>	<u>\$972 plus 7.95% of the excess over \$19,950</u>

**Sec. N-3. 36 MRSa §5111, sub-§2-B,** as enacted by PL 1999, c. 731, Pt. T, §5, is amended to read:

**2-B. Heads of households; tax years from 2002 to 2012.** For tax years beginning on or after January 1, 2002 but not later than December 31, 2012, for unmarried individuals or legally separated individuals who qualify as heads of households:

If Maine Taxable income is:	The tax is:
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PUBLIC Law, Chapter 380, LD 1043, 125th Maine State Legislature  
An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2011, June 30, 2012 and June 30, 2013

Less than \$6,300	2% of the Maine taxable income
At least \$6,300 but less than \$12,500	\$126 plus 4.5% of the excess over \$6,300
At least \$12,500 but less than \$25,050	\$405 plus 7% of the excess over \$12,500
\$25,050 or more	\$1,284 plus 8.5% of the excess over \$25,050

**Sec. N-4. 36 MRSA §5111, sub-§2-C** is enacted to read:

**2-C. Heads of households; tax years beginning 2013.** For tax years beginning on or after January 1, 2013, for unmarried individuals or legally separated individuals who qualify as heads of households:

<u>If Maine Taxable income is:</u>	<u>The tax is:</u>
<u>At least \$7,500 but less than \$29,900</u>	<u>6.5% of the excess over \$7,500</u>
<u>\$29,900 or more</u>	<u>\$1,456 plus 7.95% of the excess over \$29,900</u>

**Sec. N-5. 36 MRSA §5111, sub-§3-B**, as enacted by PL 1999, c. 731, Pt. T, §7, is amended to read:

**3-B. Individuals filing married joint return or surviving spouses; tax years from 2002 to 2012.** For tax years beginning on or after January 1, 2002 but not later than December 31, 2012, for individuals filing married joint returns or surviving spouses permitted to file a joint return:

<u>If Maine Taxable income is:</u>	<u>The tax is:</u>
<u>Less than \$8,400</u>	<u>2% of the Maine taxable income</u>
<u>At least \$8,400 but less than \$16,700</u>	<u>\$168 plus 4.5% of the excess over \$8,400</u>
<u>At least \$16,700 but less than \$33,400</u>	<u>\$542 plus 7% of the excess over \$16,700</u>
<u>\$33,400 or more</u>	<u>\$1,711 plus 8.5% of the excess over \$33,400</u>

**Sec. N-6. 36 MRSA §5111, sub-§3-C** is enacted to read:

**3-C. Individuals filing married joint return or surviving spouses; tax years beginning 2013.** For tax years beginning on or after January 1, 2013, for individuals filing married joint returns or surviving spouses permitted to file a joint return:

<u>If Maine Taxable income is:</u>	<u>The tax is:</u>
<u>At least \$10,000 but less than \$39,900</u>	<u>6.5% of the excess over \$10,000</u>
<u>\$39,900 or more</u>	<u>\$1,944 plus 7.95% of the excess over \$39,900</u>

**Sec. N-7. 36 MRSA §5124-A, first ¶**, as amended by PL 2009, c. 213, Pt. BBBB, §9 and affected by §17, is further amended to read:

The standard deduction of a resident individual is equal to the standard deduction as determined in accordance with the Code, Section 63, ~~exclusive of the Code, Section 63(e)(1)(C) and Section 63(e)(1)(E), except that for tax years beginning after 2002, the Code, Section 63(e)(2) must be applied as if the basic standard deduction is \$5,000 in the case of a joint return and a surviving spouse and \$2,500 in the case of a married individual filing a separate return.~~

**Sec. N-8. 36 MRSA §5125, sub-§3, ¶D**, as amended by PL 2007, c. 539, Pt. CCC, §9, is further amended to read:

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

**Sec. N-9. 36 MRSA §5125, sub-§3, ¶E**, as amended by PL 2007, c. 539, Pt. CCC, §10, is further amended to read:

E. Reduced by the amount attributable to any contribution that qualified for and was actually utilized as a credit under section 5216-C; and.

**Sec. N-10. 36 MRSA §5125, sub-§3, ¶F**, as enacted by PL 2007, c. 539, Pt. CCC, §11, is repealed.

**Sec. N-11. 36 MRSA §5126, first ¶**, as amended by PL 2001, c. 583, §16, is further amended to read:

For income tax years beginning on or after January 1, 1998 but before January 1, 1999, a resident individual is allowed \$2,400 for each exemption that the individual properly claims for the taxable year for federal income tax purposes, unless the taxpayer is claimed as a dependent on another return. For income tax years beginning on or after January 1, 1999 but before January 1, 2000, a resident individual is allowed \$2,750 for each exemption that the individual properly claims for the taxable year for federal income tax purposes, unless the taxpayer is claimed as a dependent on another return. For income tax years beginning on or after January 1, 2000 but before January 1, 2013, a resident individual is allowed \$2,850 for each exemption that the individual properly claims for the taxable year for federal income tax purposes, unless the taxpayer is claimed as a dependent on another return. For income tax years beginning on or after January 1, 2013, a resident individual is allowed a deduction equal to the total amount of deductions allowed for personal exemptions in accordance with the Code, Section 151.

**Sec. N-12. 36 MRSA §5203-C, sub-§2, ¶A**, as enacted by PL 2003, c. 673, Pt. JJ, §3 and affected by §6, is amended to read:

A. Resident individuals, trusts and estates. The tax imposed by this subsection does not apply to resident individuals, trusts and estates for tax years beginning on or after January 1, 2012;

**Sec. N-13. 36 MRSA §5203-C, sub-§2, ¶B**, as enacted by PL 2003, c. 673, Pt. JJ, §3 and affected by §6, is amended to read:

B. Nonresident individuals, trusts and estates with Maine-source income. The tax imposed by this subsection does not apply to nonresident individuals, trusts and estates for tax years beginning on or after January 1, 2012; and

**Sec. N-14. 36 MRSA §5203-C, sub-§4, ¶B,** as enacted by PL 2003, c. 673, Pt. JJ, §3 and affected by §6, is amended to read:

B. The credit allowable for a taxable year under this subsection is limited to the amount, if any, by which the regular income tax after application of all other credits arising under this Part exceeds the tentative minimum tax. In any year when the tax under this section does not apply, the tentative minimum tax is disregarded for purposes of calculating the credit limitation.

**Sec. N-15. 36 MRSA §5204,** as amended by PL 1987, c. 772, §38, is further amended to read:

### **§ 5204.Lump-sum retirement plan distributions**

In addition to any other tax imposed by this Part, a tax is hereby imposed for each taxable year on every taxpayer who, in accordance with the Code, Section 402(e)(1), elects to compute a separate federal tax on a lump-sum distribution from a retirement plan at the rate of 15% of the separate federal tax imposed on the distribution, except that, for tax years beginning in 2012, the rate is 7.5%. The tax under this section does not apply to tax years beginning on or after January 1, 2013.

**Sec. N-16. 36 MRSA §5204-A,** as amended by PL 1993, c. 395, §20, is further amended to read:

### **§ 5204-A.Early distribution from qualified retirement plans**

The tax imposed under this Part on any individual whose federal income tax for any taxable year is increased pursuant to the Code as a result of an early distribution from a qualified retirement plan must be increased by an amount equal to 15% of the amount by which the individual's federal income tax was increased pursuant to Section 72(t) of the Code as a result of the early distribution, except that, for tax years beginning in 2012, the rate is 7.5%. The tax under this section does not apply to tax years beginning on or after January 1, 2013.

**Sec. N-17. 36 MRSA §5402, sub-§1-B,** as enacted by PL 1999, c. 731, Pt. T, §8 and affected by §11, is amended to read:

**1-B. Cost-of-living adjustment.** The "cost-of-living adjustment" for any calendar year is the Consumer Price Index for the 12-month period ending June 30th of the preceding calendar year divided by the Consumer Price Index for the 12-month period ending June 30, ~~2004~~2010.

**Sec. N-18. 36 MRSA §5403,** as amended by PL 2009, c. 213, Pt. WWW, §1 and affected by §2, is further amended to read:

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

Beginning in 2002, and each subsequent calendar year thereafter, on or about September 15th, the State Tax Assessor shall multiply the cost-of-living adjustment for taxable years beginning in the succeeding calendar year by the dollar amounts of the tax rate tables specified in section 5111, subsections 1-B, ~~1-C~~, 2-B and, ~~2-C~~, 3-B and 3-C. If the dollar amounts of each rate bracket, adjusted by application of the cost-of-living adjustment, are not multiples of \$50, any increase must be rounded to the next lowest multiple of \$50. If the cost-of-living adjustment for any taxable year would be less than the cost-of-living



PUBLIC Law, Chapter 380, LD 1043, 125th Maine State Legislature  
An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2011, June 30, 2012 and June 30, 2013  
adjustment for the preceding calendar year, the cost-of-living adjustment is the same as for the preceding calendar year. The assessor shall incorporate such changes into the income tax forms, instructions and withholding tables for the taxable year.

~~Beginning in 2009 and each subsequent calendar year thereafter, the assessor shall reduce the cost-of-living adjustment by an amount that increases estimated noncorporate income tax revenue by \$10,500,000 for that calendar year using as a benchmark the most recent revenue projections of the Revenue Forecasting Committee established in Title 5, section 1710-E.~~

**Sec. N-19. Application.** Unless otherwise indicated, this Part applies to income tax years beginning on or after January 1, 2012.

**Sec. N-20. Effective date.** Those sections of this Part that amend the Maine Revised Statutes, Title 36, section 5124-A; section 5125, subsection 3, paragraphs D and E; section 5203-C, subsection 4, paragraph B; and section 5402, subsection 1-B and that repeal Title 36, section 5125, subsection 3, paragraph F take effect January 1, 2012.

## PART O

**Sec. O-1. 36 MRSA §5122, sub-§1, ¶N,** as amended by PL 2007, c. 240, Pt. CCC, §2 and affected by §4, is further amended to read:

N. With respect to property placed in service during the taxable year, an amount equal to the net increase in depreciation or expensing attributable to:

(1) For taxable years beginning on or after January 1, 2002 but prior to January 1, 2006, a 30% bonus depreciation deduction claimed by the taxpayer pursuant to Section 101 of the federal Job Creation and Worker Assistance Act of 2002, Public Law 107-147 with respect to property placed in service during the taxable year;

(2) For taxable years beginning on or after January 1, 2002 but prior to January 1, 2006, a 50% bonus depreciation deduction claimed by the taxpayer pursuant to Section 201 of the federal Jobs and Growth Tax Relief Reconciliation Act of 2003, Public Law 108-27 with respect to property placed in service during the taxable year; and

(3) For taxable years beginning on or after January 1, 2003 but prior to January 1, 2011, the increase in aggregate cost under Section 179 of the Code arising from amendments to the Code applicable to tax years beginning on or after January 1, 2003;

**Sec. O-2. 36 MRSA §5122, sub-§1, ¶AA,** as amended by PL 2009, c. 213, Pt. BBBB, §3, is further amended to read:

PUBLIC Law, Chapter 380, LD 1043, 125th Maine State Legislature  
An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2011, June 30, 2012 and June 30, 2013  
AA. For taxable years beginning on or after January 1, 2008 but before January 1, 2011, an amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) arising from amendments to the Code applicable to taxable years beginning on or after January 1, 2008;

**Sec. O-3. 36 MRSA §5122, sub-§1, ¶DD**, as amended by PL 2011, c. 90, Pt. H, §2 and affected by §8, is further amended to read:

DD. For any taxable year beginning in 2009, 2010 or 2011, an amount equal to the absolute value of any net operating loss carry-forward claimed for purposes of the federal income tax; and

**Sec. O-4. 36 MRSA §5122, sub-§1, ¶EE**, as enacted by PL 2011, c. 90, Pt. H, §3 and affected by §8, is amended to read:

EE. The amount claimed as a deduction in determining federal adjusted gross income that is included in the credit for wellness programs under section 5219-FF-; and

**Sec. O-5. 36 MRSA §5122, sub-§1, ¶FF** is enacted to read:

FF. For taxable years beginning in 2011 and 2012:

(1) An amount equal to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property placed in service in the State during the taxable year for which a credit is claimed under section 5219-GG; and

(2) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property for which a credit is not claimed under section 5219-GG.

**Sec. O-6. 36 MRSA §5122, sub-§2, ¶GG**, as amended by PL 2011, c. 138, §2 and affected by §4, is further amended to read:

GG. To the extent included in the taxpayer's federal adjusted gross income, the recovery of a portion of a federal standard deduction claimed in a prior year for which the taxpayer was not allowed under this Part to reduce federal adjusted gross income or Maine adjusted gross income for that year; and

**Sec. O-7. 36 MRSA §5122, sub-§2, ¶HH**, as enacted by PL 2011, c. 138, §3 and affected by §4, is amended to read:

HH. To the extent included in federal adjusted gross income, annuity payments made to the survivor of a deceased member of the military as the result of service in active or reserve components of the United States Army, Navy, Air Force, Marines or Coast Guard under a survivor benefit plan or reserve component survivor benefit plan pursuant to 10 United States Code, Chapter 73-; and

**Sec. O-8. 36 MRSA §5122, sub-§2, ¶II** is enacted to read:

II. For taxable years beginning on or after January 1, 2012, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year beginning in 2011 or 2012 for which an addition was required under subsection 1, paragraph FF, subparagraph (2) for the taxable year beginning in 2011 or 2012.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal adjusted gross income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph FF, subparagraph (2) related to property placed in service outside the State and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed for property placed in service outside the State under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph FF, subparagraph (2) for the same property.

**Sec. O-9. 36 MRSA §5200-A, sub-§1, ¶N**, as amended by PL 2007, c. 240, Pt. CCC, §3 and affected by §4, is further amended to read:

N. With respect to property placed in service during the taxable year, an amount equal to the net increase in depreciation or expensing attributable to:

(1) For taxable years beginning on or after January 1, 2002 but prior to January 1, 2006, a 30% bonus depreciation deduction claimed by the taxpayer pursuant to Section 101 of the federal Job Creation and Worker Assistance Act of 2002, Public Law 107-147 with respect to property placed in service during the taxable year;

(2) For taxable years beginning on or after January 1, 2002 but prior to January 1, 2006, a 50% bonus depreciation deduction claimed by the taxpayer pursuant to Section 201 of the federal Jobs and Growth Tax Relief Reconciliation Act of 2003, Public Law 108-27 with respect to property placed in service during the taxable year; and

(3) For taxable years beginning on or after January 1, 2003 but prior to January 1, 2011, the increase in aggregate cost under Section 179 of the Code arising from amendments to the Code applicable to tax years beginning on or after January 1, 2003;

**Sec. O-10. 36 MRSA §5200-A, sub-§1, ¶T**, as repealed and replaced by PL 2009, c. 652, Pt. A, §53, is amended to read:

T. For taxable years beginning on or after January 1, 2008 but before January 1, 2011, an amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) arising from amendments to the Code applicable to taxable years beginning on or after January 1, 2008;

**Sec. O-11. 36 MRSA §5200-A, sub-§1, ¶W**, as amended by PL 2011, c. 90, Pt. H, §5 and affected by §8, is further amended to read:

W. For tax years beginning on or after January 1, 2009 but before January 1, 2011, an amount equal to the gross income during the taxable year from the discharge of indebtedness deferred under the Code, Section 108(i); ~~and~~

**Sec. O-12. 36 MRSA §5200-A, sub-§1, ¶X**, as enacted by PL 2011, c. 90, Pt. H, §6 and affected by §8, is amended to read:

X. The amount claimed as a deduction in determining federal taxable income that is included in the credit for wellness programs under section 5219-FF-; and

**Sec. O-13. 36 MRSA §5200-A, sub-§1, ¶Y** is enacted to read:

Y. For taxable years beginning in 2011 and 2012:

(1) An amount equal to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property placed in service in the State during the taxable year for which a credit is claimed under section 5219-GG; and

(2) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property for which a credit is not claimed under section 5219-GG.

**Sec. O-14. 36 MRSA §5200-A, sub-§2, ¶T**, as repealed and replaced by PL 2009, c. 652, Pt. A, §56, is amended to read:

T. An amount equal to the value of any prior year addition modification under subsection 1, paragraph V, but only to the extent that:

(1) Maine taxable income is not reduced below zero;

(2) The taxable year is within the allowable federal period for carry-over plus the number of years that the net operating loss carry-over adjustment was not deducted as a result of the restriction with respect to tax years beginning in 2009, 2010 and 2011;

(3) The amount has not been previously used as a modification pursuant to this subsection; and

(4) The modification under this paragraph is not claimed for any tax year beginning in 2009, 2010 or 2011; and

**Sec. O-15. 36 MRSA §5200-A, sub-§2, ¶U**, as enacted by PL 2009, c. 652, Pt. A, §57 and affected by §58, is amended to read:

U. An amount equal to the gross income from discharge of indebtedness previously deferred under the Code, Section 108(i) and included in federal taxable income. The total subtraction for all years under this paragraph may not exceed the amount of the addition modification under subsection 1, paragraph W for the same indebtedness; and

**Sec. O-16. 36 MRSA §5200-A, sub-§2, ¶V** is enacted to read:

V. For taxable years beginning on or after January 1, 2012, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year beginning in 2011 or 2012 for which an addition was required under subsection 1, paragraph Y, subparagraph (2) for the taxable year beginning in 2011 or 2012.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal adjusted gross income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph Y, subparagraph (2) related to property placed in service outside the State and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed for property placed in service outside the State under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph Y, subparagraph (2) for the same property.

**Sec. O-17. 36 MRSA §5219-GG** is enacted to read:

### **§ 5219-GG. Maine capital investment credit**

**1. Credit allowed.** A taxpayer that claims a depreciation deduction under the Code, Section 168(k) for property placed in service in the State during the taxable year beginning in 2011 or 2012 is allowed a credit against the taxes imposed by this Part in an amount equal to 10% of the amount claimed for the taxable year under the Code, Section 168(k) with respect to such property, except for excluded property under subsection 2.

**2. Certain property excluded.** The following property is not eligible for the credit under this section:

A. Property owned by a public utility as defined by Title 35-A, section 102;

B. Property owned by a person that provides radio paging services as defined by Title 35-A, section 102;

C. Property owned by a person that provides mobile telecommunications services as defined by Title 35-A, section 102;

D. Property owned by a cable television company as defined by Title 30-A, section 2001;

E. Property owned by a person that provides satellite-based direct television broadcast services; and

F. Property owned by a person that provides multichannel, multipoint television distribution services.

**3. Limitations; carry-forward.** The credit allowed under subsection 1 may not reduce the tax under this Part to less than zero. Any unused portion of the credit may be carried forward to the following year or years not to exceed 20 years.

**4. Recapture.** The credit allowed under this section is subject to recapture to the extent claimed by the taxpayer if the property forming the basis of the credit is not used in the State for the entire 12-month period following the date it is placed in service in the State. If any portion of the credit is recaptured pursuant to this subsection, the income modifications under section 5122, subsection 1, paragraph FF, section 5122, subsection 2, paragraph II, section 5200-A, subsection 1, paragraph Y and section 5200-A, subsection 2, paragraph V must be amended for the tax year during which the failure occurs to reflect the recapture of the credit and the recaptured credit amount must be added to the tax due on the amended return.

**Sec. O-18. Application.** Unless otherwise specified, this Part applies to tax years beginning on or after January 1, 2011.

## **PART P**

**Sec. P-1. 36 MRSA §6207, sub-§1, ¶B,** as enacted by PL 2009, c. 213, Pt. XXX, §2, is amended to read:

B. For application periods beginning on August 1, 2009 and on, August 1, 2010, August 1, 2011 and August 1, 2012, the benefit is limited to 80% of the amount determined under paragraph A-1.

## **PART Q**

**Sec. Q-1. 10 MRSA c. 110, sub-c. 12** is enacted to read:

### **SUBCHAPTER 12**

### **MAINE NEW MARKETS CAPITAL INVESTMENT PROGRAM**

### **§ 1100-Z. Maine New Markets Capital Investment Program**

**1. Findings and intent.** The Legislature finds that encouragement of investment in qualified businesses and developments located in economically distressed areas of the State and the creation and preservation of jobs are in the public interest and promote the general welfare of the State. The Legislature further finds that the enactment of incentives as set forth in this subchapter to promote investments is necessary in order to ensure the long-term economic vitality of this State, to preserve numerous opportunities for jobs for the people of the State and to make this State more competitive in the attraction of investment capital and thus to ensure the preservation and betterment of the economy of the State for the benefit of its people. The Legislature further finds that the foregoing benefits to the State and its people far exceed the costs to the State of providing the incentives set forth in this subchapter. The Legislature further finds that the provisions of this subchapter are necessary to accomplish these objectives.

The Legislature finds that the incentives offered by the State pursuant to this subchapter are intended to induce major investments in qualified businesses and developments located in economically distressed areas of the State and that any party who accepts and reasonably relies upon these inducements in making qualified investments is entitled to the full realization of these incentives without impairment by subsequent changes in law. The Legislature finds that when determining whether a project is financially feasible an investing party must rely in good faith upon the Legislature to ensure that the promised incentives of this subchapter will be available for a period of 7 years following the date of each qualified investment and that a party's confidence in the full realization of these benefits is a critical factor in inducing the party to make the desired investment. It is the intent of this Legislature that all successor Legislatures honor the commitments held out by this subchapter.

**2. Program.** The Maine New Markets Capital Investment Program, referred to in this section as "the program," is established to encourage new investment in economically distressed areas of the State. For the purposes of this section, unless otherwise defined in this section, all terms have the same meaning as under Title 36, section 5219-GG and Section 45D of the United States Internal Revenue Code of 1986, as amended.

**3. Application for tax credits; allocation of tax credit authority.** Tax credit authority is allocated under the program as described in this subsection.

A. The authority shall provide an application form, which must be available to applicants no later than the date when the final rule implementing this section is adopted.

B. A qualified community development entity that seeks an allocation of tax credit authority shall apply to the authority. The qualified community development entity shall submit an application on a form that the authority provides. The application must include:

(1) The name, address and tax identification number of the entity and evidence of the certification of the entity as a qualified community development entity;

(2) A copy of an allocation agreement executed by the qualified community development entity, its controlling entity or other entity controlled by the same controlling entity and the Community Development Financial Institutions Fund of the United States Department of the Treasury, which includes the State in its service area;

(3) A certificate executed by an executive officer of the qualified community development entity attesting that the allocation agreement remains in effect and has not been revoked or canceled by the Community Development Financial Institutions Fund;

(4) Information regarding the amount of tax credit authority requested and the proposed use of proceeds from the issuance of the qualified equity investment or long-term debt security; and

(5) Responses to the following 5 questions, which must be answered affirmatively or negatively without explanation or elaboration, to determine qualification for participating in the program:

(a) Whether the Community Development Financial Institutions Fund has awarded multiple rounds of federal New Markets Tax Credit allocation to the qualified community development entity, its controlling entity or other entity controlled by the same controlling entity;

(b) Whether the qualified community development entity, its controlling entity or other entity controlled by the same controlling entity has participated as a qualified community development entity in a state New Markets Tax Credit program or has made an investment in this State that qualifies for federal New Markets Tax Credits;

(c) Whether the qualified community development entity, its controlling entity or other entity controlled by the same controlling entity has made an investment qualified for tax credits in a business located in a nonmetropolitan census tract;

(d) Whether the qualified community development entity, its controlling entity or other entity controlled by the same controlling entity has made an investment qualified for tax credits in a state where it did not previously have substantial operations; and

(e) Whether the qualified community development entity, its controlling entity or other entity controlled by the same controlling entity has explored potential investment opportunities in this State that would qualify under this subchapter.

Applicants answering affirmatively to 4 or more of the 5 questions must be determined to be qualified.



C. In the rule implementing this subchapter, the authority shall set a nonrefundable application fee, which must be paid to the authority at the time each application is submitted. The authority shall also set an annual report fee and establish a payment schedule along with requirements for the report pursuant to subsection 5.

D. Within 60 days of receipt of an application for tax credit authority, the authority shall either approve the application and, as part of that approval, indicate the amount of tax credit authority issued to the qualified community development entity or determine that the authority intends to deny the application. If the authority intends to deny the application, it shall inform the qualified community development entity by written notice of the grounds for the intended denial. Upon receipt of the notice of intended denial by the qualified community development entity:

(1) If the qualified community development entity provides any additional information required by the authority or otherwise completes its application within 15 days, the application must be considered complete as of the original date of submission and the authority has an additional 30 days to either approve or deny the application; or

(2) If the qualified community development entity fails to provide the information or complete its application within the 15-day period, the application is deemed denied and may be resubmitted in full with a new submission date.

E. The authority shall approve applications for tax credit authority in the order applications are received by the authority. Applications received on the same day are deemed to have been received simultaneously. For applications received on the same day and determined to be complete, the authority shall certify, consistent with remaining tax credit capacity, tax credit authority in proportionate percentages based upon the ratio of the amount of tax credit authority requested in an application to the total amount of tax credit authority requested in all applications received on the same day. If a pending request cannot be fully certified because of the limitations contained in this subchapter, the authority shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial credit. The authority shall provide written notification to each qualified community development entity of the approval of tax allocation authority and the amount of tax credit authority it was allocated.

F. Within 24 months after receipt of the notice of the allocation of tax credit authority, the qualified community development entity shall issue the qualified equity investments or long-term debt securities and receive cash in the amount of the total amount of tax credit authority that the qualified community development entity was allocated. The qualified community development entity shall provide the authority with evidence of the entity's receipt of the cash investment within 10 business days after receipt. If the qualified community development entity does not issue the qualified equity investment or long-term debt security and receive the cash purchase price within 24 months following receipt of the tax credit authority notice for any portion of its allocation, such unused allocation of tax credit authority lapses and the qualified community development entity

PUBLIC Law, Chapter 380, LD 1043, 125th Maine State Legislature  
An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2011, June 30, 2012 and June 30, 2013  
may not issue the qualified equity investments or long-term debt securities without reapplying to the authority for additional tax credit authority. Any tax credit authority that lapses reverts back to the authority and may be reissued only in accordance with the application process outlined in this section.

G. Upon receipt of notice that a qualified community development entity has issued its qualified equity investments or long-term debt securities, the authority shall certify the entity's qualified equity investments or long-term debt securities as qualified equity investments and eligible for tax credits under Title 36, section 5219-GG. The authority shall provide written notice, sent by certified mail or any other means considered feasible by the authority, of the certification to the qualified community development entity, Maine Revenue Services and the Commissioner of Administrative and Financial Services. The notice must include the names of persons eligible to claim the tax credits and their respective tax credit amounts. If the names of the persons that are eligible to claim the tax credits change due to a transfer of a qualified equity investment or a change in an allocation pursuant to this subchapter, the qualified community development entity shall notify the authority of such change.

H. On the date designated by the authority, the authority shall begin accepting applications for the full \$250,000,000 of qualified equity investments under subsection 4. An applicant may not be awarded more than 25% of the total tax credit authority available.

**4. Limit on amount of tax credits authorized.** The maximum aggregate amount of qualified equity investments for which the authority may issue tax credit authority under this section is \$250,000,000; a tax credit claim may not exceed \$20,000,000 in any one state fiscal year over the 7 years of the tax credit allowance dates as described in Title 36, section 5219-GG, subsection 1, paragraph A.

**5. Reporting and disclosure of information.** The authority shall require annual reports of a qualified community development entity granted tax credit allocation authority pursuant to subsection 3. Reports may be shared with Maine Revenue Services and the Commissioner of Administrative and Financial Services. Notwithstanding section 975-A, the authority may disclose any information to Maine Revenue Services and the Commissioner of Administrative and Financial Services that it considers necessary for the administration of the program pursuant to this section, Title 36, section 2531 or Title 36, section 5219-GG.

**6. Report.** The authority shall report no later than January 1, 2015 to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over taxation matters on the activities of the program, including, but not limited to, the amount of private investment received and the total number of jobs created or retained.

**7. Rules.** By December 30, 2011, the authority shall adopt rules necessary to implement this section. Rules adopted pursuant to this subsection are routine technical rules under Title 5, chapter 375, subchapter 2-A.

**Sec. Q-2. 36 MRSA §191, sub-§2, ¶QQ,** as amended by PL 2011, c. 211, §20, is further amended to read:

PUBLIC Law, Chapter 380, LD 1043, 125th Maine State Legislature  
An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2011, June 30, 2012 and June 30, 2013  
QQ. The disclosure of registration, reporting and payment information to the Department of Agriculture, Food and Rural Resources necessary for the administration of Title 32, chapter 28; and

**Sec. Q-3. 36 MRSA §191, sub-§2, ¶RR**, as enacted by PL 2011, c. 211, §21, is amended to read:

RR. The disclosure to the Finance Authority of Maine of the cumulative value of eligible premiums submitted for reimbursement pursuant to Title 10, section 1020-C; and

**Sec. Q-4. 36 MRSA §191, sub-§2, ¶SS** is enacted to read:

SS. The disclosure of information to the Finance Authority of Maine necessary for the administration of the new markets capital investment credit in sections 2531 and 5219-GG and to the Commissioner of Administrative and Financial Services as necessary for the execution of the memorandum of agreement pursuant to section 5219-GG, subsection 3.

**Sec. Q-5. 36 MRSA §2531** is enacted to read:

### **§ 2531. New markets capital investment credit**

A taxpayer subject to tax under this chapter that holds a qualified equity investment certified by the Finance Authority of Maine pursuant to Title 10, section 1100-Z, subsection 3, paragraph G is allowed a credit equal to the amount determined in accordance with section 5219-GG against the tax otherwise due under this chapter. The provisions in section 5219-GG govern the allowance of the credit and limitations on the credit amount, refundability, carry-over and recapture.

**Sec. Q-6. 36 MRSA §5219-GG** is enacted to read:

### **§ 5219-GG. New markets capital investment credit**

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

A. "Applicable percentage" means 0% for each of the first 2 credit allowance dates, 7% for the 3rd credit allowance date and 8% for the next 4 credit allowance dates.

B. "Authority" means the Finance Authority of Maine.

C. "Commissioner" means the Commissioner of Administrative and Financial Services.

D. "Credit allowance date" means, with respect to any qualified equity investment, the date on which the investment is initially made and each of the 6 anniversary dates of the date thereafter.

E. "Long-term debt security" means any debt instrument issued by a qualified community development entity, at par value or a premium, with an original maturity date of at least 7 years from the date of its issuance, with no acceleration of repayment, amortization or prepayment features prior to its original maturity date. The qualified community development entity that issues the debt instrument may not make cash interest payments on the debt instrument during the period commencing with its issuance and ending on its final credit allowance date in excess of the

PUBLIC Law, Chapter 380, LD 1043, 125th Maine State Legislature  
An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2011, June 30, 2012 and June 30, 2013  
cumulative operating income, as defined in the regulations adopted pursuant to the Code, Section 45D, of the qualified community development entity for the same period prior to giving effect to interest expense on such debt instrument. This paragraph does not limit the holder's ability to accelerate payments on the debt instrument in situations when the qualified community development entity has defaulted on covenants designed to ensure compliance with this section; section 191, subsection 2, paragraph SS; section 2531; and Title 10, section 1100-Z or the Code, Section 45D.

F. "Purchase price" means the amount of the investment in the qualified community development entity for the qualified equity investment.

G. "Qualified active low-income community business" has the same meaning as in the Code, Section 45D.

H. "Qualified community development entity" has the same meaning as in the Code, Section 45D, except that the entity must have entered into or be controlled by or under common control of an entity that has entered into an allocation agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury with respect to credits authorized by the Code, Section 45D.

I. "Qualified equity investment" means any equity investment in, or long-term debt security issued by, a qualified community development entity that:

(1) Has at least 85% of its cash purchase price used by the issuer to make qualified low-income community investments in qualified active low-income community businesses located in the State by the 2nd anniversary of the initial credit allowance date;

(2) Is acquired after December 31, 2011 at its original issuance solely in exchange for cash; and

(3) Is designated by the issuer as a qualified equity investment and is certified by the authority pursuant to Title 10, section 1100-Z, subsection 3, paragraph G. "Qualified equity investment" includes any qualified equity investment that does not meet the provisions of Title 10, section 1100-Z, subsection 3, paragraph G if the investment was a qualified equity investment in the hands of a prior holder. The qualified community development entity shall keep sufficiently detailed books and records with respect to the investments made with the proceeds of the qualified equity investments to allow the direct tracing of the proceeds into qualified low-income community investments in qualified active low-income community businesses in the State.

J. "Qualified low-income community investment" means any capital or equity investment in, or loan to, any qualified active low-income community business made after the effective date of this paragraph. With respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments that may be made in the business, on a

PUBLIC Law, Chapter 380, LD 1043, 125th Maine State Legislature  
An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2011, June 30, 2012 and June 30, 2013  
collective basis with all of its affiliates, with the proceeds of qualified equity investments that have been certified under Title 10, section 1100-Z, subsection 3, paragraph G is \$10,000,000 whether made by one or several qualified community development entities.

**2. Credit allowed.** A person that holds a qualified equity investment certified by the authority pursuant to Title 10, section 1100-Z, subsection 3, paragraph G on a credit allowance date that falls within the taxable year is allowed a credit equal to the applicable percentage that applies to the credit allowance date multiplied by the purchase price paid for the qualified equity investment. Notwithstanding any other provision of law, other than the recapture provisions of subsection 7, the person, and any subsequent person, that is the holder of the credit certificate issued by the authority for a qualified equity investment is entitled, in the aggregate, to the entire 39% credit amount computed with respect to the 7 credit allowance dates. In no event may the credit amount in the aggregate exceed 39% for any single qualified equity investment certified by the authority.

**3. Memorandum of agreement.** Upon receipt of the authority's written notice of the certification of a qualified equity investment's tax credit eligibility, the commissioner shall enter into an agreement on behalf of the State with the person eligible to claim the credit pursuant to Title 10, section 1100-Z, subsection 3, paragraph G. That agreement must provide that the State shall, with the exception of recapture pursuant to subsection 7, allow the tax credit as provided for in subsection 2 and recognize that the person named as eligible for tax credit pursuant to Title 10, section 1100-Z, subsection 3, paragraph G is entitled to claim the tax credits and the respective tax credit amounts in the aggregate, to the entire 39% credit amount computed with respect to the 7 credit allowance dates.

**4. Carry-over to succeeding year.** Any unused portion of the credit may be carried over to the following taxable year or years, except that the carry-over period for unused credit amounts may not exceed 20 years.

**5. Pass-through entity; allocation of the credit.** Credits allowed pursuant to this section to a partnership, limited liability company, S corporation or other similar pass-through entity must be allocated to the partners, members, shareholders or other owners in accordance with section 5219-G or pursuant to an executed agreement among the partners, members or shareholders or other owners documenting an alternate allocation method.

**6. Credit refundable.** The credit allowed under this section is fully refundable.

**7. Recapture of credits.** The assessor may recapture all of the credit allowed under this section if:

A. Any amount of federal tax credits available with respect to a qualified equity investment that is eligible for a tax credit under this section is recaptured under the Code, Section 45D. In such case, the recapture must be proportionate to the federal recapture with respect to the qualified equity investment;

B. The qualified community development entity redeems or makes a principal repayment with respect to the qualified equity investment that generated the tax credit prior to the final credit allowance date of the qualified equity investment. In such case, the recapture must be proportionate to the amount of the redemption or repayment with respect to the qualified equity investment; or

C. The qualified community development entity fails to invest at least 85% of the purchase price of the qualified equity investment in qualified low-income community investments in qualified active low-income community businesses located in the State within 24 months of the issuance of the qualified equity investment and maintain this level of investment in qualified low-income community investments in qualified active low-income community businesses located in the State until the last credit allowance date for the qualified equity investment. For purposes of calculating the amount of qualified low-income community investments held by a qualified community development entity, an investment is considered held by the qualified community development entity even if the investment has been sold or repaid as long as the qualified community development entity reinvests an amount equal to the capital returned to or recovered from the original investment, exclusive of any profits realized, in another qualified active low-income community business in this State within 12 months of the receipt of the capital. A qualified community development entity may not be required to reinvest capital returned from qualified low-income community investments after the 6th anniversary of the issuance of the qualified equity investment, the proceeds of which were used to make the qualified low-income community investment, and the qualified low-income community investment is considered to be held by the issuer through the qualified equity investment's final credit allowance date.

The assessor shall provide written notice to the qualified community development entity of any proposed recapture of tax credits pursuant to this subsection. The qualified community development entity must be provided 90 days to cure any deficiency indicated in the authority's original recapture notice and avoid such recapture. If the entity fails or is unable to cure the deficiency within the 90-day period, the assessor shall provide the qualified community development entity and the person from whom the credit is to be recaptured with a final order of recapture. Any amount of tax credits for which a final recapture order has been issued must be recaptured from the person that actually claimed the tax credit.

**Sec. Q-7. Application.** This Part applies to tax years beginning on or after January 1, 2012.

## **PART R**

### **Sec. R-1. Calculation and transfer; General Fund; central services savings.**

Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in this Part that applies against each General Fund account for departments and agencies statewide as a result of improvements in contracting with vendors and the use of procurement cards. The State Budget Officer shall transfer the savings by financial order upon approval of the Governor. These transfers are considered adjustments to appropriations in fiscal years 2011-12 and 2012-13. The State Budget Officer shall provide the Joint Standing Committee on Appropriations and Financial Affairs a report of the transferred amounts not later than January 15, 2012.

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

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Departments and Agencies - Statewide 0016**

Initiative: Reduces funding to reflect projected savings in the procurement of goods and services.

GENERAL FUND	2011-12	2012-13
Unallocated	(\$2,000,000)	(\$2,000,000)
GENERAL FUND TOTAL	(\$2,000,000)	(\$2,000,000)

**PART S**

**Sec. S-1. 28-A MRSA §89** is enacted to read:

**§ 89. Renewal of contracts for wholesale liquor activities**

**1. Minimum requirements.** The Commissioner of Administrative and Financial Services shall enter into a competitive bidding or bargaining process to renew, replace or continue any contract awarded pursuant to section 88 for the sale, franchise, license or lease of the State's wholesale liquor activities associated with distributing and selling spirits and fortified wines sold by the State and shall award the contract at least one year before the end of the contract that is scheduled to end on June 30, 2014 and no later than June 20, 2013. The joint standing committee of the Legislature having jurisdiction over veterans and legal affairs and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs must have an opportunity to review the contract prior to its execution. A contract awarded under this subsection may not extend for more than 10 years and must require the following payments:

A. A minimum initial payment of \$20,000,000 by the entity awarded the contract, or by its financier, due at the time of the award of the contract;

B. Ten guaranteed fixed annual payments over the life of the contract that equal the balance of the contract value after the payment made pursuant to paragraph A, to be paid in equal payments, as adjusted by any applicable inflation factor, due at the beginning of each state fiscal year for which the contract is in effect; and

C. Ten annual payments, due one month after the end of each state fiscal year, that represent the contractually negotiated percentage of the profits of the previous calendar year that is due to the State.

**2. Allocation of contract payments.** The payments required pursuant to subsection 1 must be allocated in accordance with this subsection.

A. The payments under subsection 1, paragraphs A and C accrue to the General Fund.

B. The guaranteed fixed annual payments under subsection 1, paragraph B must be distributed as follows:

(1) An amount equal to 15% of the payment or the maximum amount allowed for federal matching purposes, whichever is less, must be deposited in the Department of Health and Human Services, Drinking Water Enforcement program, Other Special Revenue Funds account for the revolving loan fund for drinking water systems; and in the Department of Environmental Protection, Land and Water Quality program, Other Special Revenue Funds account for the revolving loan fund for wastewater treatment facilities;

(2) An amount equal to 20% of the payment must be deposited in the Department of Transportation, Highway and Bridge Capital program, Other Special Revenue Funds account to be used for highway preservation and rehabilitation projects;

(3) An amount equal to 35% of the payment must be deposited to the General Fund; and

(4) An amount equal to 30% of the payment, plus any amounts remaining from the distribution pursuant to subparagraph (1), must be deposited to the Maine Budget Stabilization Fund.

## **PART T**

**Sec. T-1. 3 MRSA §851, sub-§1-D** is enacted to read:

**1-D. At least 5 years creditable service on July 1, 2011.** Eligibility for retirement for a member who on July 1, 2011 had at least 5 years of creditable service is governed by subsection 1-B if the member had 10 years of creditable service or was at least 60 years of age on July 1, 1993 or by subsection 1-C if the member had less than 10 years of creditable service on July 1, 1993.

**Sec. T-2. 3 MRSA §851, sub-§1-E** is enacted to read:

**1-E. Less than 5 years creditable service on July 1, 2011.** A member who on July 1, 2011 had less than 5 years of creditable service may retire at 65 years of age or thereafter, whether or not the member is in service at retirement, as long as the member has at the time of retirement at least 5 years of creditable service. Creditable service as a member of any other retirement program of the Maine Public Employees Retirement System may be combined with creditable service as a member of the Legislative Retirement Program for the purpose of determining the completion of 5 years of creditable service.

**Sec. T-3. 3 MRSA §851, sub-§2-B,** as enacted by PL 1999, c. 756, §4, is amended to read:



**2-B. Five-year minimum creditable service requirement for eligibility to receive a service retirement benefit at applicable age; applicability.** The minimum requirement of 5 years of creditable service for eligibility to receive service retirement benefits under subsection 1-C, 1-D or 1-E applies only to:

- A. A member who was in service on October 1, 1999;
- B. Upon return to service, a member who had left service prior to October 1, 1999 with or without withdrawing that member's contributions and who on or after October 1, 1999 returned to service; or
- C. A member who was first in service on or after October 1, 1999.

For those members to whom the 5-year minimum creditable service requirement does not apply, the 10-year minimum creditable service requirement for eligibility to receive service retirement benefits remains in effect on and after October 1, 1999.

**Sec. T-4. 3 MRSA §851, sub-§2-C** is enacted to read:

**2-C. Early retirement; less than 5 years creditable service on July 1, 2011.** Any member, whether or not in service at retirement, who on July 1, 2011 had less than 5 years of creditable service and who has completed at least 25 years of creditable service may retire any time before the member's 65th birthday. Creditable service as a member of any other retirement program of the Maine Public Employees Retirement System may be combined with creditable service as a member of the Legislative Retirement Program for the purpose of determining the completion of 25 years of creditable service. The retirement allowance is determined in accordance with section 852, except that it is reduced by 6% for each year that the member's age precedes age 65.

**Sec. T-5. 4 MRSA §1351, sub-§1-B** is enacted to read:

**1-B. At least 5 years creditable service on July 1, 2011.** Eligibility for retirement for a member who on July 1, 2011 had at least 5 years of creditable service is governed by subsection 1 if the member had 10 years of creditable service on July 1, 1993 or by subsection 1-A, if the member had less than 10 years of creditable service on July 1, 1993.

**Sec. T-6. 4 MRSA §1351, sub-§1-C** is enacted to read:

**1-C. Less than 5 years creditable service on July 1, 2011.** A member who on July 1, 2011 had less than 5 years of creditable service may retire at 65 years of age or thereafter, whether or not the member is in service at retirement, as long as the member has at the time of retirement at least 5 years of creditable service.

**Sec. T-7. 4 MRSA §1351, sub-§2-A**, as enacted by PL 1999, c. 756, §7, is amended to read:

**2-A. Five-year minimum creditable service requirement for eligibility to receive a service retirement benefit at applicable age; applicability.** The minimum requirement of 5 years of creditable service for eligibility to receive service retirement benefits under subsection 1-A, 1-B or 1-C applies only to:

- A. A member who was in service on October 1, 1999;
- B. Upon return to service, a member who had left service prior to October 1, 1999 with or without withdrawing that member's contributions and on or after October 1, 1999 returned to service; or
- C. A member who was first in service on or after October 1, 1999.

For those members to whom the 5-year minimum creditable service requirement does not apply, the 10-year minimum creditable service requirement for eligibility to receive service retirement benefits remains in effect on and after October 1, 1999.

**Sec. T-8. 4 MRSA §1351, sub-§3-B** is enacted to read:

**3-B. Early retirement; less than 5 years creditable service on July 1, 2011.** Any member, whether or not in service at retirement, who on July 1, 2011 had less than 5 years of creditable service and who had completed at least 25 years of creditable service may retire any time before the member's 65th birthday. The retirement allowance is determined in accordance with section 1352, except that the benefit is reduced by 6% for each year that the member's age precedes age 65.

**Sec. T-9. 4 MRSA §1358, sub-§1**, as amended by PL 2009, c. 473, §§1 and 2, is repealed and the following enacted in its place:

**1. Cost-of-living adjustments.** Except as provided in subsection 2, paragraph A, retirement allowances under this chapter must be adjusted on the same basis as provided for members of the State Employee and Teacher Retirement Program by Title 5, section 17806.

**Sec. T-10. 5 MRSA §17806, sub-§1, ¶A**, as amended by PL 2009, c. 473, §3, is further amended to read:

A. Except as provided in paragraph A-1, whenever there is a percentage increase in the Consumer Price Index from July 1st to June 30th, the board shall automatically make an equal percentage increase in retirement benefits, beginning in September, up to a maximum annual increase of ~~4%~~3%. Effective July 1, 2011, the increase applies to that portion of the retirement benefit, up to \$20,000, which amount must be indexed in subsequent years by the same percentage adjustments granted under this paragraph.

**Sec. T-11. 5 MRSA §17806, sub-§1, ¶B**, as amended by PL 1989, c. 557, is further amended to read:

B. Whenever the annual percentage increase in the Consumer Price Index from July 1st to June 30th exceeds ~~4%~~3%, the board shall make whatever adjustments in the retirement benefits are necessary to reflect an annual increase of ~~4%~~3% and shall submit a supplemental budget request to the Governor for the additional funds that would be required to make adjustments in the retirement benefits to reflect the actual increase in the Consumer Price Index. The request ~~shall~~must include a report stating the cost of the ~~4%~~3% increase, the actual percentage increase in the Consumer Price

PUBLIC Law, Chapter 380, LD 1043, 125th Maine State Legislature  
An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2011, June 30, 2012 and June 30, 2013  
Index and the percentage adjustments granted during the previous 5 years. The board shall make an additional adjustment in the retirement benefits in the month following the appropriation only in that amount.

**Sec. T-12. 5 MRSA §17851, sub-§1-D** is enacted to read:

**1-D. Member in service at retirement; at least 5 years creditable service on July 1, 2011.** Eligibility for retirement for a member who on July 1, 2011 had at least 5 years of creditable service is governed by subsection 1-B if the member had 10 years of creditable service on July 1, 1993 or was 60 years of age and had been in service for a minimum of one year immediately before July 1, 1993 or by subsection 1-C if the member had less than 10 years of creditable service on July 1, 1993 and had not reached 60 years of age with one year of creditable service immediately before July 1, 1993. For the purpose of calculating creditable service under this subsection only, creditable service includes:

A. Creditable service available to a member that the member was eligible to purchase on June 30, 2011 and that the member does purchase in accordance with rules adopted by the board; and

B. Creditable service for which the member makes payment for certain days off without pay during fiscal year 2009-10 or fiscal year 2010-11. The amount of the required payment must be made in accordance with section 17704-B and payment may be made at any time prior to retirement.

**Sec. T-13. 5 MRSA §17851, sub-§1-E** is enacted to read:

**1-E. Member in service at retirement; fewer than 5 years creditable service on July 1, 2011.** A member who on July 1, 2011 had neither 5 years of creditable service nor had reached 62 years of age with one year of creditable service immediately before July 1, 2011 who is in service at retirement qualifies for a service retirement benefit if the member retires upon or after reaching 65 years of age.

The creditable service and age requirements of this subsection may not be increased for a member who:

A. Has been in service for a minimum of one year immediately before retirement or has at least 5 years of creditable service, which, for the purpose of determining completion of the 5-year requirement, may include creditable service as a member of the Legislative Retirement Program under Title 3, section 701, subsection 8; or

B. Meets the applicability requirements of subsection 3-A.

**Sec. T-14. 5 MRSA §17851, sub-§2-D** is enacted to read:

**2-D. Member not in service at retirement; at least 5 years creditable service on July 1, 2011.** Eligibility for retirement for a member who is not in service at retirement and who on July 1, 2011 had at least 5 years of creditable service is governed by subsection 2-B if the member had 10 years of creditable service on July 1, 1993 or by subsection 2-C if the member had less than 10 years of creditable service on July 1, 1993. For the purpose of calculating creditable service under this subsection only, creditable service includes:

A. Creditable service available to a member that the member was eligible to purchase on June 30, 2011 and that the member does purchase in accordance with rules adopted by the board; and

B. Creditable service for which the member makes payment for certain days off without pay during fiscal year 2009-10 or fiscal year 2010-11. The amount of the required payment must be made in accordance with section 17704-B and payment may be made at any time prior to retirement.

**Sec. T-15. 5 MRSA §17851, sub-§2-E** is enacted to read:

**2-E. Member not in service at retirement; fewer than 5 years creditable service on July 1, 2011.** A member who on July 1, 2011 did not have 5 years of creditable service and who is not in service at retirement qualifies for a service retirement benefit if the member retires upon or after reaching 65 years of age:

The creditable service and age requirements of this subsection may not be increased for a member who:

A. Has at least 5 years of creditable service, which, for the purpose of determining completion of the 5-year requirement, may include creditable service as a member of the Legislative Retirement Program under Title 3, section 701, subsection 8; or

B. Meets the applicability requirements of subsection 3-A.

**Sec. T-16. 5 MRSA §17851, sub-§3-A**, as amended by PL 1999, c. 756, §15, is further amended to read:

**3-A. Five-year minimum creditable service requirement for eligibility to receive a service retirement benefit at the applicable age; applicability.** The minimum requirement of 5 years of creditable service for eligibility to receive service retirement benefits under subsection 1-C, paragraph B and, subsection 2-C, paragraph B and subsections 2-D and 2-E applies only to:

A. A member who is in service on October 1, 1999;

B. Upon return to service, a member who had left service prior to October 1, 1999 with or without withdrawing that member's contributions and on or after October 1, 1999 returns to service; or

C. A member who is first in service on or after October 1, 1999.

For other members to whom subsections 1-C and, 2-C, 2-D and 2-E apply, the 10 years of creditable service requirement for eligibility to receive a service retirement benefit at the applicable age remains in effect on and after October 1, 1999.

**Sec. T-17. 5 MRSA §17852, sub-§1**, as amended by PL 2007, c. 491, §160, is further amended to read:

**1. Member in service at retirement.** The amount of the service retirement benefit for members qualified under section 17851, subsection 1-B or, 1-C, 1-D or 1-E must be computed as follows:

A. One-fiftieth of the member's average final compensation multiplied by the number of years of membership service and up to 25 years of prior service. Membership service under this paragraph does not include creditable service under the Legislative Retirement Program;

B. The total amount of the service retirement benefit of any member qualifying under section 17851, subsection 1-B ~~or~~, 1-C, 1-D or 1-E who became a member before July 1, 1947, and for whom the date of establishment of the retirement system is July 1, 1942, must be at least equal to 1/2 of the member's average final compensation, if the member has at least 20 years of total creditable service, including at least 13 years of prior service if the member retires upon or after reaching age 70; or

C. Effective October 1, 1999, for a member who, on October 1, 1999 or thereafter, meets the creditable service requirement for eligibility to receive a service retirement benefit, at the applicable age if so required, under section 17851, subsection 1-B; section 17851, subsection 1-C, paragraph A; section 17851, subsection 1-C, paragraph B; section 17851, subsection 1-D; section 17851, subsection 1-E; section 17851, subsection 2-B; section 17851, subsection 2-C, paragraph A; ~~or~~ section 17851, subsection 2-C, paragraph B; section 17851, subsection 2-D; or section 17851, subsection 2-E, the factors specified in paragraphs A and B may not be changed, alone or in combination.

**Sec. T-18. 5 MRSA §17852, sub-§2,** as amended by PL 1999, c. 489, §15, is further amended to read:

**2. Member not in service at retirement.** The amount of the service retirement benefit for members qualified under section 17851, subsection 2-B ~~or~~, 2-C, 2-D or 2-E must be computed in accordance with subsection 1.

**Sec. T-19. 5 MRSA §17852, sub-§3-B** is enacted to read:

**3-B. Member with creditable service of 25 years or more whether or not in service at retirement; fewer than 5 years of creditable service on July 1, 2011.** The amount of the service retirement benefit for members qualified under section 17851, subsection 3 is computed in accordance with subsection 1, except that the benefit is reduced by 6% for each year that the member's age precedes 65 years of age.

**Sec. T-20. 5 MRSA §17857, sub-§3-B** is enacted to read:

**3-B. Reduction of benefits; less than 5 years of creditable service on July 1, 2011.** On and after July 1, 2011, upon retirement before reaching the 65 years of age, the service retirement benefit of a member who transferred or who was restored to service subject to subsection 2 must be reduced as follows:

A. If the member transferred under the provisions of subsection 2, paragraph A:

(1) If applicable, the portion of the retirement benefit based upon creditable service earned before being transferred must be reduced in accordance with section 17852, subsection 10, paragraph C-1 or, if the member was covered under section 17851-A, the portion of the retirement benefit based upon creditable service earned before being transferred must be reduced as provided in that section; and

(2) The portion of the retirement benefit based upon creditable service earned after being transferred must be reduced in accordance with section 17852, subsection 3-B.

B. If the member was a retiree restored to service subject to subsection 2, former paragraph B:

(1) If applicable, the portion of the retirement benefit based upon creditable service earned before the member's initial retirement must be reduced in accordance with section 17852, subsection 10, paragraph C-1 or, if the member was covered under section 17851-A, the portion of the retirement benefit based upon creditable service earned before the member's initial retirement must be reduced as provided in that section; and

(2) The portion of the retirement benefit based upon creditable service earned after being restored to service must be reduced in accordance with section 17852, subsection 3-B.

C. If the member was transferred subject to subsection 2, paragraph C, the retirement benefit must be reduced in accordance with section 17852, subsection 3-B.

D. If the member was transferred subject to subsection 2, paragraph D and:

(1) If the member completes the service or service and age requirements for retirement under the special plan that the member was under previously, if applicable, the retirement benefit must be reduced in accordance with section 17852, subsection 10, paragraph C-1 or, if the member was covered under section 17851-A, the retirement benefit must be reduced as provided in that section; or

(2) If the member does not complete the service or service and age requirements for retirement under the special plan that the member was under previously, the retirement benefit must be reduced in accordance with section 17852, subsection 3-B.

This subsection applies to members who on July 1, 2011 have less than 5 years of creditable service under this Part. For the purpose of calculating creditable service under this subsection, creditable service includes: creditable service under this Part; creditable service as a member of the Legislative Retirement Program under Title 3, section 701, subsection 8; creditable service available to a member that the member was eligible to purchase on June 30, 2011 and that the member does purchase in accordance with rules adopted by the board; and creditable service for which the member

PUBLIC Law, Chapter 380, LD 1043, 125th Maine State Legislature  
An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2011, June 30, 2012 and June 30, 2013  
makes payment for certain days off without pay during fiscal year 2009-10 or fiscal year 2010-11. The amount of the required payment must be made in accordance with section 17704-B and payment may be made at any time prior to retirement.

**Sec. T-21. Cost-of-living increase to retirement benefits.** Notwithstanding any other provision of law, retirement benefits may not be adjusted to reflect any cost-of-living increase that would otherwise begin in September 2011, September 2012 or September 2013.

**Sec. T-22. Noncumulative cost-of-living adjustment retirement benefit.** No later than August 15th in 2012, 2013 and 2014, the Executive Director of the Maine Public Employees Retirement System shall notify the State Controller of the total cost of providing a payment to retirees that would otherwise have been eligible for a cost-of-living adjustment but for the operation of the suspension of the annual cost-of-living adjustments pursuant to the provisions of this Part. The benefit calculation is equal to the change in the Consumer Price Index for the year ending in June of the prior calendar year, up to a maximum of 3%, but in no case may the change be less than 0%, multiplied by the retirement benefit payments up to a maximum of \$20,000 for the one-year period ending August 31st of that calendar year, excluding any retirement benefits calculated pursuant to this section. The State Controller shall transfer the amounts calculated pursuant to this section up to the balance available in the reserve for retirement benefits established in the Maine Revised Statutes, Title 5, section 1522 no later than September 1st of each year. If the balance in the reserve for retirement benefits on that date is not sufficient to fully fund the total benefits calculated, the State Controller shall transfer the amount that is available in the reserve to the Maine Public Employees Retirement System and the executive director shall proportionally reduce the benefit calculated by this section to equal the amount of funding provided.

**Sec. T-23. Award a cost-of-living adjustment.** Notwithstanding the provisions of the Maine Revised Statutes, Title 5, section 17806, subsection 1, paragraph A-1 and any other provision of this Part, in 2011 the Board of Trustees of the Maine Public Employees Retirement System shall award a cost-of-living adjustment to retirees of the Legislative Retirement Program, the Judicial Retirement Program and the State Employee and Teacher Retirement Program equal to the amount required to achieve cost-neutrality as required in Title 5, section 17806, subsection 1, paragraph A-1 as a result of the 2009 negative Consumer Price Index. The board shall award this cost-of-living adjustment only if the Consumer Price Index is at a level sufficient to allow for the adjustment; there is no increase in member benefits; there is no additional cost to the State; and there is no increase in the plans' unfunded actuarial liability.

**Sec. T-24. Calculation and transfer of funds; retiree cost-of-living adjustment savings.** Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, the State Budget Officer shall calculate the amount of savings in this Part that applies against each account for departments and agencies statewide that have occurred as a result of updated actuarial assumptions and the changes to retirement benefits authorized in this Part. The State Budget Officer shall transfer the savings by financial order upon approval of the Governor on or before January 15, 2012. These transfers are considered adjustments to appropriations and allocations in fiscal year 2011-12 and fiscal year 2012-13.

**Sec. T-25. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Executive Branch Departments and Independent Agencies - Statewide 0017**

Initiative: Reduces funding to reflect projected savings from changes to future pension obligations.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	(\$21,257,303)	(\$22,754,814)
<b>GENERAL FUND TOTAL</b>	(\$21,257,303)	(\$22,754,814)

**Executive Branch Departments and Independent Agencies - Statewide 0017**

Initiative: Reduces funding to reflect savings from recalculating the baseline pension budget using updated actuarial assumptions.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	(\$2,502,574)	(\$4,065,180)
<b>GENERAL FUND TOTAL</b>	(\$2,502,574)	(\$4,065,180)

**ADMINISTRATIVE AND FINANCIAL SERVICES,  
 DEPARTMENT OF  
 DEPARTMENT TOTALS  
 GENERAL FUND**

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	(\$23,759,877)	(\$26,819,994)

**Sec. T-26. Effective date.** Those sections of this Part that amend the Maine Revised Statutes, Title 5, section 17806, subsection 1, paragraphs A and B take effect January 1, 2014.

**PART U**

**Sec. U-1. Design of new retirement benefit plan for state employees and teachers; working group established.** A working group, referred to in this Part as "the working group," is established to develop an implementation plan designed to close the current defined benefit retirement plan for all state employees and teachers and replace it with a retirement benefit plan, referred to in this Part as "the plan," that is supplemental to Social Security and applies to all state employees and teachers who are first hired after June 30, 2015 with no prior creditable service. The working group must be staffed within the existing resources of the Maine Public Employees Retirement System and the Department of Administrative and Financial Services.



**1. Definitions.** For purposes of this Part, the following terms have the following meanings.

A. "State employee" has the same meaning as in the Maine Revised Statutes, Title 5, section 17001, subsection 40.

B. "Teacher" has the same meaning as in the Maine Revised Statutes, Title 5, section 17001, subsection 42.

**2. Working group membership.** The working group consists of:

A. The Executive Director of the Maine Public Employees Retirement System, who serves as the chair of the working group;

B. The Commissioner of Administrative and Financial Services, or a designee of the commissioner;

C. A member appointed by the chair of the working group nominated by the Maine Education Association;

D. A member appointed by the chair of the working group nominated by the Maine School Management Association; and

E. A member appointed by the chair of the working group nominated by the Maine State Employees Association.

**3. New retirement plan.** The working group shall design a retirement plan to supplement Social Security for state employees and teachers in accordance with this subsection.

A. Every member of the plan must contribute to both Social Security and Medicare, and the employer of each member must contribute the employer's share of Social Security and Medicare.

B. Each active member of the plan must be entitled to participate in a supplemental retirement plan.

C. The supplemental retirement plan must be designed to:

(1) Attract new state employees and teachers and meet employer recruitment needs and employee needs for retirement benefit portability and retirement security;

(2) Be competitive with retirement benefit plans provided by similar employers that contribute to their employees' retirement security in addition to Social Security;

(3) Limit the State's long-term cost exposure to 2% of employee gross payroll and the employee's exposure to loss of retirement security;

(4) Provide the State with the ability to make additional retirement plan contributions in any given biennium without increasing the 2% long-term contribution ceiling;

(5) Ensure that employees and employers share plan administrative costs; and

(6) Provide financial information to assist employees in understanding how to preserve their living standards.

**4. Duties.** The working group shall consult, as needed, with experts in the retirement and investment field and shall:

- A. Determine the financial impact on the State and other public employers over time of closing the current retirement plan to new entrants and offering a new retirement plan consisting of Social Security and a supplemental retirement plan;
- B. Develop an implementation date that creates the most predictable and affordable transition from the current plan to the new plan;
- C. Identify and develop any modifications that can be made to the existing plan before it is closed to make the cost of the plan more predictable and affordable and to improve the ability of public employers to attract new employees while transitioning to the new plan; and
- D. Study the impact of options for amending the Constitution of Maine to change the 10-year period required for amortization of experience losses and the requirement that all unfunded liabilities be eliminated by 2028.

**Sec. U-2. Report.** The working group shall submit a report on the design of the plan under section 1, together with any necessary implementing legislation, to the Joint Standing Committee on Appropriations and Financial Affairs by January 1, 2012. After receipt and review of the report, the joint standing committee may report out a bill to the Second Regular Session of the 125th Legislature.

## PART V

**Sec. V-1. 5 MRSA §285, sub-§7, ¶¶I to L** are enacted to read:

I. For persons who were first employed by the State on or after July 1, 2011, the State shall pay a pro rata portion of only the retiree's share of the premiums for the standard plan identified and offered by the commission and available to the retiree, as authorized by the commission for persons who were previously eligible for this health plan pursuant to subsection 1, paragraph A and who have subsequently become eligible pursuant to subsection 1, paragraph G based on the total number of years of participation in the group health plan prior to retirement as follows.

(1) For an employee with at least 10 but less than 15 years of participation, the state portion is up to 50% of the group health plan premium.

(2) For an employee with at least 15 but less than 20 years of participation, the state portion is up to 75% of the group health plan premium.

(3) For an employee with at least 20 years of participation, the state portion is up to 100% of the group health plan premium.

(4) For an employee with less than 10 years of participation, there is no contribution by the State.

J. Those state employees that retire after January 1, 2012, or those state employees employed as teachers in the unorganized territory or the Maine Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf that retire after July 1, 2012, under the provisions of section 17851, subsections 1-B, 1-C, 2-B, 2-C and 3 shall contribute 100% of the individual premium until such time as the retiree reaches normal retirement age.

K. The total premium increase for active and retired state employee health insurance is capped at the fiscal year 2010-11 funding level for the fiscal years ending June 30, 2012 and June 30, 2013.

L. The provisions of paragraphs I and J do not apply to those individuals receiving retirement benefits under section 17907 or section 17929.

**Sec. V-2. Calculation and transfer of funds; retiree health insurance.**

Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, the State Budget Officer shall calculate the amount of savings in in section 5 that applies against each account for departments and agencies statewide that have occurred as a result of the retiree health provisions authorized in this Part. The State Budget Officer shall transfer the savings by financial order upon approval of the Governor on or before January 15, 2012. These transfers are considered adjustments to appropriations and allocations in fiscal years 2011-12 and 2012-13.

**Sec. V-3. Calculation and transfer of funds; health insurance.** Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, the State Budget Officer shall calculate the amount of savings in in section 6 that applies against each account for departments and agencies statewide that have occurred as a result of the health insurance provisions authorized in this Part. The State Budget Officer shall transfer the savings by financial order upon approval of the Governor on or before January 15, 2012. These transfers are considered adjustments to appropriations and allocations in fiscal years 2011-12 and 2012-13.

**Sec. V-4. Report.** The Executive Director of Employee Health and Benefits within the Department of Administrative and Financial Services shall report to the Joint Standing Committee on Appropriations and Financial Affairs on or before January 1, 2012 with a plan to constrain health insurance premium growth in the future.

**Sec. V-5. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Executive Branch Departments and Independent Agencies - Statewide 0017**

Initiative: Reduces funding to reflect projected savings from changes to future retiree health obligations.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	(\$5,542,429)	(\$9,157,284)
<b>GENERAL FUND TOTAL</b>	<b>(\$5,542,429)</b>	<b>(\$9,157,284)</b>

**Sec. V-6. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Executive Branch Departments and Independent Agencies - Statewide 0017**

Initiative: Reduces funding to reflect projected savings from maintaining the cost of health insurance at the fiscal year 2010-11 level.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	(\$4,591,812)	(\$9,552,949)
<b>GENERAL FUND TOTAL</b>	<b>(\$4,591,812)</b>	<b>(\$9,552,949)</b>

**Sec. V-7. Effective date.** That section of this Part that enacts the Maine Revised Statutes, Title 5, section 285, subsection 7, paragraphs I to L takes effect July 1, 2011.

**PART W**

**Sec. W-1. 20-A MRS §13451, sub-§2,** as amended by PL 2001, c. 439, Pt. PP, §1 and PL 2007, c. 58, §3, is further amended to read:

**2. Eligible for membership prior to July 1, 2011; retired teacher members.** ~~Any~~A retired teacher who receives a retirement benefit from ~~and who became eligible for membership in the Maine Public Employees State Employee and Teacher Retirement System before July 1, 2011~~ is eligible for group accident and sickness or health insurance, ~~provided that as long as~~ as long as the retired teacher has a minimum of 5 years creditable service and also meets the eligibility requirements for participation imposed by the group plan that governed the teacher last as an active teacher and participated in the plan for one year immediately prior to retirement or October 1, 1987, whichever comes last. Retired teachers may not be required to maintain a dues-paying membership in any organization as a requirement for participation in a group health insurance plan under this subsection.

**Sec. W-2. 20-A MRS §13451, sub-§2-D** is enacted to read:

**2-D. Eligible for membership on or after July 1, 2011; retired teacher members.** A retired teacher who receives a retirement benefit from and who became eligible for membership in the State Employee and Teacher Retirement System on or after July 1, 2011 is eligible for group accident and sickness or health insurance, as long as the retired teacher has a minimum of 10 years creditable service and also meets the eligibility requirement for participation imposed by the group plan that governed the teacher last as an active teacher and participated in the plan for one year immediately prior to retirement. Retired teachers may not be required to maintain a dues-paying membership in any organization as a requirement for participation in a group health insurance plan under this subsection.

**Sec. W-3. 20-A MRSA §13451, sub-§3**, as amended by PL 2005, c. 12, Pt. X, §1 and c. 457, Pt. TT, §§1 and 2, is further amended to read:

**3. Payment by State.** The State shall pay a percentage of the retired teacher members' share of this insurance according to the following schedule:

- A. Thirty percent until July 1, 2002;
- B. Thirty-five percent from July 1, 2002 to July 31, 2003;
- C. Forty percent from August 1, 2003 to December 31, 2005; and
- D. Forty-five percent after December 31, 2005.

Except for individuals receiving retirement benefits under Title 5, section 17907 or 17192, for a teacher who retires after July 1, 2012, the State shall begin paying the percentage of the retired teacher member's share pursuant to this subsection when the retiree reaches normal retirement age.

For the fiscal years ending June 30, 2012 and June 30, 2013, the State's total cost for retired teachers' health insurance premiums is capped at the fiscal year 2010-11 funding level.

**Sec. W-4. Report.** The Executive Director of the Division of Employee Health and Benefits within the Department of Administrative and Financial Services shall report to the Joint Standing Committee on Appropriations and Financial Affairs on or before January 1, 2012 with an implementation plan to bring Medicare-eligible teachers into the state retiree group health plan.

**Sec. W-5. Effective date.** This Part takes effect July 1, 2011.

## PART X

**Sec. X-1. 5 MRSA §1522** is enacted to read:

### **§ 1522. Reserve for retirement costs**

**1. Reserve for retirement benefits established.** The State Controller shall, at the close of each of the fiscal years ending June 30, 2012, June 30, 2013 and June 30, 2014, as the next priority after the transfers authorized pursuant to section 1507 and section 1511, and after all required deductions of appropriations, budgeted financial commitments and adjustments considered necessary by the State Controller have been made, transfer from the available balance in the unappropriated surplus of the General Fund up to \$15,000,000 per year to a reserve account within the General Fund established for the purpose of providing the resources to fund retirement payments for retired state employees and teachers.

**2. Transfer of unused balance in reserve account.** At the close of the fiscal year ending June 30, 2015, the State Controller shall transfer any balance remaining in the reserve account under subsection 1 to the Maine Budget Stabilization Fund established by section 1532.

**Sec. X-2. 5 MRSA §1536, sub-§1**, as amended by PL 2005, c. 519, Pt. VV, §4, is further amended to read:

**1. Fourth priority reserve.** The State Controller shall, as the 3<sup>rd</sup>4<sup>th</sup> priority after the transfers to the State Contingent Account pursuant to section 1507 and, the transfers to the Loan Insurance Reserve pursuant to section 1511 and the transfers pursuant to section 1522 at the close of each fiscal year, transfer from the unappropriated surplus of the General Fund an amount equal to the amount available from the unappropriated surplus after all required deductions of appropriations, budgeted financial commitments and adjustments considered necessary by the State Controller have been made as follows:

- A. Thirty-five percent to the stabilization fund;
- B. Twenty percent to the Retirement Allowance Fund established in section 17251;
- C. Twenty percent to the Reserve for General Fund Operating Capital;
- D. Fifteen percent to the Retiree Health Insurance Internal Service Fund established in section 1519 to be used solely for the purpose of amortizing the unfunded actuarial liability associated with future health benefits; and
- E. Ten percent to the Capital Construction and Improvements Reserve Fund established in section 1516-A.

## PART Y

**Sec. Y-1. 5 MRSA §286-B**, as amended by PL 2009, c. 213, Pt. N, §1, is further amended to read:

### **§ 286-B. Irrevocable Trust Funds for Other Post-employment Benefits**

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

- A. "Retiree health benefits" means health benefits as determined from time to time by the State Employee Health Commission pursuant to section 285.
- B. "Investment trust fund" means the Retiree Health Insurance Post-employment Benefits Investment Trust Fund established under section 17432.
- C. "Irrevocable trust fundfunds" means the Irrevocable Trust FundFunds for Other Post-employment Benefits established under subsection 2. "Irrevocable trust funds" includes the state employee plan, the teacher plan and the first responder plan.
- D. "State employee plan" means the irrevocable trust fund established for eligible participants described in section 285, subsection 1-A.

E. "Teacher plan" means the irrevocable trust fund established for eligible participants described in Title 20-A, section 13451, subsections 2, 2-A, 2-B and 2-C.

F. "First responder plan" means the irrevocable trust fund established for eligible participants described in section 285, subsection 11-A.

**2. Establishment.** ~~The Irrevocable Trust Fund~~Funds for Other Post-employment Benefits ~~is~~are established to meet the State's unfunded liability obligations for retiree health benefits. ~~The state employee plan is established for eligible participants as described in section 285, subsections subsection 1-A and 11-A who are the beneficiaries of the irrevocable trust fund and. The teacher plan is established for eligible participants, beginning July 1, 2011 for eligible participants, as described in Title 20-A, section 13451, subsections 2, 2-A, 2-B and 2-C who are the beneficiaries of the irrevocable trust fund. The first responder plan is established for eligible participants as described in section 285, subsection 11-A. Funds appropriated for the irrevocable trust fund~~funds must be held in trust and must be invested or disbursed for the exclusive purpose of providing for retiree health benefits and may not be encumbered for, or diverted to, other purposes. Funds appropriated for the irrevocable trust ~~fund~~funds may not be diverted or deappropriated by any subsequent action.

Annually, beginning with the fiscal year starting July 1, 2007, the Legislature shall appropriate funds to meet the State's obligations under any group health plan, policy or contract purchased by the State Employee Health Commission to provide retiree health benefits pursuant to section 285, subsection 5 and, if applicable, to meet the State's obligations under any self-insured group health plan pursuant to section 285, subsection 9. Unfunded liabilities may not be created except those resulting from experience losses. Unfunded liability resulting from experience losses must be retired over a period not exceeding 10 years.

Annually, beginning with the fiscal year starting July 1, 2009, the Legislature shall appropriate funds that will retire, in 30 years or less from July 1, 2007, the unfunded liability for retiree health benefits for eligible participants ~~as described in this section~~the state employee plan. The unfunded liability referred to in this section is that determined by the Department of Administrative and Financial Services, Office of the State Controller's actuaries and certified by the Commissioner of Administrative and Financial Services as of June 30, 2006.

Annually, beginning with the fiscal year starting July 1, 2011, the Legislature shall appropriate funds that will retire, in 30 years or less from July 1, 2007, the unfunded liability for retiree health benefits for eligible participants in the first responder plan. The unfunded liability referred to in this section is that determined by the Department of Administrative and Financial Services, Office of the State Controller's actuaries and certified by the Commissioner of Administrative and Financial Services as of June 30, 2006.

PUBLIC Law, Chapter 380, LD 1043, 125th Maine State Legislature  
An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2011, June 30, 2012 and June 30, 2013  
Annually, beginning with the fiscal year starting July 1, 2013, the Legislature shall appropriate funds that will retire, in 30 years or less from July 1, 2007, the unfunded liability for retiree health benefits for eligible participants in the teacher plan. The unfunded liability referred to in this section is that determined by the Department of Administrative and Financial Services, Office of the State Controller's actuaries and certified by the Commissioner of Administrative and Financial Services as of June 30, 2006.

**3. Trustees.** ~~The Treasurer of State and the State Controller shall serve as trustees of the irrevocable trust fund~~unds are as follows.

- A. The Treasurer of State and the State Controller shall serve as trustees of the state employee plan.
- B. An independent, nongovernmental entity with a physical presence in the State selected by the Treasurer of State with the advice of the State Controller and municipal, school management and education associations pursuant to the process set forth in Title 5, chapter 155 shall serve as the trustee of the teacher plan and the first responder plan.

**4. Duties of the trustees.** The trustees of the irrevocable trust ~~fund~~unds have the following duties.

- A. The trustees of the irrevocable trust ~~fund~~unds shall calculate the funds necessary to fund the state employee health insurance program, including the unfunded liability as determined in accordance with subsection 2, on an actuarially sound basis and transmit those calculations to the State Budget Officer as required by chapter 149. The Legislature shall appropriate and transfer annually those funds the trustees of the irrevocable trust ~~fund~~unds determine to be necessary under this subsection to fund the state employee health insurance program on an actuarially sound basis, including a contribution to the irrevocable trust ~~fund~~unds.
- B. The trustees of the irrevocable trust ~~fund~~unds biannually shall make, or cause to be made, valuations of the assets and liabilities of the state employee health insurance program. The trustees of the irrevocable trust ~~fund~~unds shall select an independent actuary to make annual valuations of the assets and liabilities of the state employee health insurance program on the basis of actuarial assumptions adopted by the trustees of the irrevocable trust ~~fund~~unds. The actuary may not be an officer or employee of the State. The goal of the actuarial assumptions is to achieve a fully funded state employee health insurance program.
- C. The trustees of the irrevocable trust ~~fund~~unds annually shall conduct, or cause to be conducted, an audit of the irrevocable trust ~~fund~~unds. The trustees of the irrevocable trust ~~fund~~unds shall select an independent auditor to perform the audit. The auditor may not be an officer or employee of the State.
- D. The trustees of the irrevocable trust ~~fund~~unds shall make the final decision on all matters pertaining to administration, actuarial assumptions, actuarial recommendations, funding, payout schedule and long-term time horizon for the irrevocable trust ~~fund~~unds.



**5. Investment of funds.** The trustees of the investment trust fund are responsible for the investment and reinvestment of the funds appropriated to the irrevocable trust fundfunds and transferred to the investment trust fund in accordance with the Maine Uniform Trust Code and the Maine Uniform Prudent Investor Act under Title 18-B, subject to the guidelines set for the investment trust fund in section 17435.

**6. Report to Legislature.** The trustees of the irrevocable trust fundfunds shall make a written report to the joint standing committee of the Legislature having jurisdiction over appropriations matters and the joint standing committee of the Legislature having jurisdiction over labor matters on or before March 1st of each year that contains a discussion of any areas of policy or administration of the irrevocable trust fundfunds that, in the opinion of the trustees of the irrevocable trust fundfunds, should be brought to the attention of the joint standing committees; a discussion of the progress toward meeting the goals of this section; and a review of the status of the irrevocable trust fundfunds.

**Sec. Y-2. Trust document.** The Treasurer of State and the State Controller shall work with the Attorney General to draft an irrevocable trust document to govern the receipt, control, investment and disbursement of funds placed into the teacher plan and the first responder plan under the Maine Revised Statutes, Title 5, section 286-B.

**Sec. Y-3. Trustee selection.** The Treasurer of State shall select the trustee for the teacher plan and the first responder plan under the Maine Revised Statutes, Title 5, section 286-B with the advice of representatives from the Maine Municipal Association, the Maine School Management Association, the Maine Education Association and the State Controller, using the request for proposal bidding process set forth in Title 5, chapter 155.

## PART Z

**Sec. Z-1. Retirement incentive.** The Commissioner of Administrative and Financial Services is authorized to offer a retirement incentive program to employees who are eligible to retire and who have reached their normal retirement age, but not to employees who are eligible to retire under any special retirement plan. Employees choosing to participate in this retirement incentive program must make application for participation in the manner specified by the commissioner, with retirements effective on or before November 1, 2011.

**Sec. Z-2. Calculation and transfer of funds; savings from retirement incentive program.** Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, the State Budget Officer shall calculate the amount of savings in the Statewide Retirement Incentive account in section 4 that applies against each account for departments and agencies statewide that have occurred as a result of the retirement incentive program authorized in section 1. The State Budget Officer shall transfer the savings by financial order upon approval of the Governor on or before January 15, 2012. These transfers are considered adjustments to appropriations and allocations in fiscal years 2011-12 and 2012-13.

**Sec. Z-3. Disposition of authorized positions vacated by retiring employees.** Except as provided in this section, positions vacated by employees choosing to participate in the retirement incentive program authorized in section 1 must remain vacant through June 30, 2013. Upon approval of the State Budget Officer, a vacated position may be filled to meet the operational needs of the department as long as a different vacated position that achieves comparable savings within the same fund is identified. The State Budget Officer shall report to the Joint Standing Committee on Appropriations and Financial Affairs on the number of the employees, by program, taking advantage of the retirement incentive program by September 1, 2012.

**Sec. Z-4. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Departments and Agencies - Statewide 0016**

Initiative: Reduces funding to reflect projected savings to be achieved through a retirement incentive program.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	(\$5,000,000)	(\$5,500,000)
<b>GENERAL FUND TOTAL</b>	<b>(\$5,000,000)</b>	<b>(\$5,500,000)</b>

**PART AA**

**Sec. AA-1. 34-A MRSA §1403, sub-§12** is enacted to read:

**12. Transfer of funds.** Notwithstanding Title 5, section 1585 or any other provision of law, the commissioner, upon recommendation of the State Budget Officer and approval of the Governor, is authorized to transfer by financial order All Other funding between accounts within the same fund for the purposes of paying food, heating and utility expenses.

**PART BB**

**Sec. BB-1. Transfer of funds; overtime expenses.** Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, the Department of Corrections, upon the recommendation of the State Budget Officer and approval of the Governor, is authorized to transfer, by financial order, Personal Services, All Other or Capital Expenditures funding between accounts within the same fund for the purposes of paying overtime expenses in fiscal years 2011-12 and 2012-13.

**Sec. BB-2. Transfers and adjustments to position count.** The Commissioner of Corrections shall review the current organizational structure to improve organizational efficiency and cost-effectiveness. Notwithstanding any other provision of law, the State Budget Officer shall transfer

the position counts and available balances by financial order in order to achieve the purposes of this section. In accordance with the requirements of the Maine Revised Statutes, Title 5, section 1585, a financial order describing such a transfer must be submitted by the Department of Administrative and Financial Services, Bureau of the Budget to the Office of Fiscal and Program Review 30 days before a transfer is to be implemented. In case of extraordinary emergency transfers, the 30-day prior submission requirement may be waived by vote of the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. Any transfer or adjustment pursuant to this section that would result in a program or mission change or facility closure must be reported to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters for review before the associated financial order is submitted to the Governor for approval. These transfers are considered adjustments to authorized position count, appropriations and allocations.

## PART CC

**Sec. CC-1. 20-A MRSA §19102, sub-§4** is enacted to read:

**4. Learning technology program; evaluation for implementation in grades 7 to 12.** Notwithstanding any other provision of law, the commissioner shall conduct an annual comprehensive review of the learning technology program and report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over education matters on the progress and results of the comprehensive review by February 15th annually. In conducting the comprehensive review, the commissioner shall:

- A. Through a competitive bidding process consistent with Title 5, chapter 155, subchapter 1-A contract with an education policy research institute to assess the effect of the laptop program on student performance in achieving the content standards and performance indicators established by the statewide system of learning results established in section 6209 using valid, standardized assessment measures;
- B. Identify high-need areas for improvements in students' learning and skills;
- C. Provide targeted training and professional development of teachers from the 7th to 12th grade who participate in the laptop program; and
- D. Contract with an education policy research institute to conduct a biennial audit including an evaluation of the costs, effectiveness and achievement outcomes of the learning technology program.

The commissioner, with advice from the advisory board, shall submit a report that includes findings and recommendations, including suggested legislation to revise and update chapter 606-B and this chapter, for presentation to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over education matters by January 31st annually.

## PART DD

**Sec. DD-1. 20-A MRSA §253, sub-§7**, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

**Sec. DD-2. 20-A MRSA §6401-A** is enacted to read:

### **§ 6401-A. School nurse consultant position**

**1. Establishment.** The position of school nurse consultant is established within the department. The Policy Director of Special Services within the department shall supervise the school nurse consultant.

**2. Qualifications.** The school nurse consultant must be licensed as a registered professional nurse in the State and have a master's degree in nursing or a related field and experience in school health care or community nursing.

**Sec. DD-3. 20-A MRSA §6401-B** is enacted to read:

### **§ 6401-B. Duties**

The school nurse consultant under section 6401-A shall provide statewide nursing leadership, consultation and direction for coordinated school health care programs. The school nurse consultant shall:

**1. Liaison.** Serve as a liaison and resource expert in school nursing and school health care program areas for local, regional, state and national school health care provider and policy-setting groups;

**2. Information.** Monitor, interpret, synthesize and disseminate relevant information related to school health care trends, school nursing practice, health-related policy changes, legal issues in school nursing and school health care program implementation and professional development;

**3. Staff development.** Foster and promote staff development for school nurses by planning and providing orientation, educational offerings and networking with universities and other providers of continuing education to meet identified needs; and

**4. Standards.** Gather and analyze data relevant to the school health care program and monitor standards to promote school nursing excellence and optimal health of school children.

**Sec. DD-4. 22 MRSA §1971**, as amended by PL 2009, c. 415, Pt. A, §11, is repealed.

**Sec. DD-5. 22 MRSA §1972**, as enacted by PL 1999, c. 731, Pt. QQ, §1, is repealed.

## PART EE

**Sec. EE-1. 5 MRSA §1824-A** is enacted to read:

### **§ 1824-A. Statewide Capital Equipment Fund**

**1. Fund.** The Statewide Capital Equipment Fund, referred to in this section as "the fund," is established as a program account in the General Fund within the Department of Administrative and Financial Services to provide a source of funding for the purchase of items of capital equipment that are emergency in nature and that were not funded or could not have been anticipated and included in the biennial or supplemental budget enacted pursuant to section 1666-A.

**2. Use of fund.** The fund may be used for the purchase of capital equipment, but may not be used to purchase motor vehicles, real property, information technology equipment or any single piece of equipment with a value of more than \$35,000.

**3. Nonlapsing account.** Any unexpended amounts remaining in the fund may not lapse but must be carried forward.

**4. Application for funds.** Departments and agencies seeking funding must submit a request to the Commissioner of Administrative and Financial Services upon forms provided by the Department of Administrative and Financial Services.

**5. Transfer authority.** Funds approved for equipment purchases may be transferred by financial order upon recommendation of the State Budget Officer and approval of the Governor.

## PART FF

**Sec. FF-1. Working group; development of implementing legislation.** The Commissioner of Administrative and Financial Services shall convene a working group to develop proposed legislation that transfers personnel, position counts and responsibilities from the Executive Department, State Planning Office to other departments and agencies of the State.

1. The members of the working group are:

A. The Director of the State Planning Office within the Executive Department or the director's designee;

B. The Commissioner of Labor or the commissioner's designee;

C. The Commissioner of Public Safety or the commissioner's designee;

D. The Commissioner of Defense, Veterans and Emergency Management or the commissioner's designee;

E. The Commissioner of Conservation or the commissioner's designee;

F. The Commissioner of Economic and Community Development or the commissioner's designee;

G. The Commissioner of Marine Resources or the commissioner's designee;

H. The Commissioner of Environmental Protection or the commissioner's designee;

I. One member of a local or regional governing body appointed by the President of the Senate; and

PUBLIC Law, Chapter 380, LD 1043, 125th Maine State Legislature  
An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2011, June 30, 2012 and June 30, 2013  
J. One representative of a municipal or regional governing body appointed by the Speaker of the House.

2. The Commissioner of Administrative and Financial Services shall serve as the chair of the working group.

3. The Executive Department, State Planning Office and the Department of Administrative and Financial Services, Division of Financial and Personnel Services shall provide staff assistance to the working group.

**Sec. FF-2. Report.** The working group shall submit its recommendations and any related proposed legislation to the Joint Standing Committee on Appropriations and Financial Affairs no later than December 1, 2011. The proposed legislation must include recommendations for the disposition of programs in the Executive Department, State Planning Office and a recommendation regarding the job title, duties and salary range for the Director, State Planning Office position. After receipt and review of the report, the joint standing committee may submit legislation to the Second Regular Session of the 125th Legislature to transfer duties and responsibilities from the State Planning Office to other departments and agencies of State Government.

## PART GG

**Sec. GG-1. Transfer of funds; Department of Inland Fisheries and Wildlife carrying account.** On or before August 1, 2011, the State Controller shall transfer \$30,000 from the Inland Fisheries and Wildlife Carrying Balances - General Fund account to the Enforcement Operations - Inland Fisheries and Wildlife program, General Fund account for the purchase of one replacement aircraft engine. On or before August 1, 2012, the State Controller shall transfer \$30,000 from the Inland Fisheries and Wildlife Carrying Balances - General Fund account to the Enforcement Operations - Inland Fisheries and Wildlife program, General Fund account for the purchase of one replacement aircraft engine.

**Sec. GG-2. Transfer of funds; Department of Inland Fisheries and Wildlife carrying account.** On or before August 1, 2011, the State Controller shall transfer \$15,347 from the Inland Fisheries and Wildlife Carrying Balances - General Fund account to the Licensing Services - Inland Fisheries and Wildlife program, General Fund account to fund the retroactive portion of the position reclassification of one Supervisor of Licensing and Registration position.

**Sec. GG-3. Transfer of funds; Department of Inland Fisheries and Wildlife carrying account.** On or before August 1, 2011, the State Controller shall transfer \$23,622 from the Inland Fisheries and Wildlife Carrying Balances - General Fund account to the Resource Management Services - Inland Fisheries and Wildlife program, General Fund account to fund the retroactive portion of the position reclassifications of 2 Biologist II positions.

**Sec. GG-4. Transfer of funds; Department of Inland Fisheries and Wildlife carrying account.** On or before July 31, 2011, the State Controller shall transfer \$155,241 from the Inland Fisheries and Wildlife Carrying Balances - General Fund account to the Enforcement Operations - Inland Fisheries and Wildlife program, General Fund account to fund the payment of outstanding amounts due for dispatch services provided by the Department of Public Safety.

## PART HH

**Sec. HH-1. 12 MRSA §10202, sub-§9**, as amended by PL 2009, c. 213, Pt. I, §1, is further amended to read:

**9. Fiscal Stability Program.** The Fiscal Stability Program is established to ensure that the general public and hunters and anglers share the cost of the fish and wildlife conservation programs of the department. To achieve this goal, beginning with the ~~2012-2013~~2014-2015 biennial budget and for each biennial budget thereafter, the biennial budget submitted by the executive branch must include an additional General Fund appropriation of 18% in excess of the department's requested biennial budget.

## PART II

**Sec. II-1. 8 MRSA §1036, sub-§2, ¶E**, as amended by PL 2009, c. 462, Pt. H, §1, is further amended to read:

E. Ten percent of the net slot machine income must be forwarded by the board to the State Controller to be credited to the Fund for a Healthy Maine established by Title 22, section 1511 and segregated into a separate account under Title 22, section 1511, subsection 11, with the use of funds in the account restricted to the purposes described in Title 22, section 1511, subsection 6, paragraph E. For the fiscal years ending June 30, 2010, June 30, 2011 ~~and~~, June 30, 2012 ~~and~~ June 30, 2013, the amount credited annually by the State Controller to the Fund for a Healthy Maine under this paragraph may not exceed \$4,500,000 annually and any funds in excess of \$4,500,000 annually during these fiscal years must be credited as General Fund undedicated revenue;

**Sec. II-2. 22 MRSA §1560-D, sub-§10**, as enacted by PL 2007, c. 467, §3, is amended to read:

**10. Transfers of funds.** Notwithstanding any other provision of law, for fiscal years beginning on or after July 1, 2009 the State Controller shall transfer \$92,660 no later than June 30, 2010 and \$145,147 no later than June 30, 2011 from the Fund for a Healthy Maine to General Fund undedicated revenue.

~~For fiscal years beginning on or after July 1, 2011 the State Controller in consultation with the State Tax Assessor shall determine the General Fund revenue loss resulting from this section and transfer that amount at least annually from the Fund for a Healthy Maine to General Fund undedicated revenue.~~

## PART JJ

**Sec. JJ-1. Suspension of cost-of-living adjustment for judges.** Notwithstanding the Maine Revised Statutes, Title 4, section 4, subsection 2-A, a cost- of-living adjustment for the State's chief justices, chief judge, deputy chief judge, associate justices and associate judges may not be made on July 1, 2011 or July 1, 2012.

## PART KK

**Sec. KK-1. 22 MRSA §3104-A, sub-§1**, as amended by PL 2009, c. 291, §3, is repealed and the following enacted in its place:

**1. Food assistance.** The department shall provide food assistance to households that would be eligible for assistance under the federal Food Stamp Act of 1977, 7 United States Code, Section 2011 et seq. and under the federal Food and Nutrition Act of 2008 but for provisions of Sections 401, 402 and 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 that are receiving food assistance under this subsection as of July 1, 2011. Any household receiving assistance as of that date may continue to receive assistance, as long as that household remains eligible, without regard to interruptions in coverage or gaps in eligibility for service. A noncitizen legally admitted to the United States who is neither receiving assistance on July 1, 2011 nor has an application pending for assistance on July 1, 2011 that is later approved is not eligible for food assistance through a state-funded program unless that noncitizen is:

A. Elderly or disabled, as described under the laws governing supplemental security income in 42 United States Code, Sections 1381 to 1383f (2010);

B. A victim of domestic violence; or

C. Experiencing other hardship, such as time necessary to obtain proper work documentation, as defined by the department by rule. Rules adopted by the department under this paragraph are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. KK-2. 22 MRSA §3174-G, sub-§1, ¶¶E and F**, as amended by PL 2003, c. 469, Pt. A, §5 and affected by c. 673, Pt. Y, §3, are further amended to read:

E. The parent or caretaker relative of a child described in paragraph B or D when the child's family income is equal to or below 200% of the nonfarm income official poverty line, subject to adjustment by the commissioner under this paragraph. Medicaid services provided under this paragraph must be provided within the limits of the program budget. Funds appropriated for services under this paragraph must include an annual inflationary adjustment equivalent to the rate of inflation in the Medicaid program. On a quarterly basis, the commissioner shall determine the fiscal status of program expenditures under this paragraph. If the commissioner determines that expenditures will exceed the funds available to provide Medicaid coverage pursuant to this paragraph, the commissioner must adjust the income eligibility limit for new applicants to the extent necessary to operate the program within the program budget. If, after an adjustment has occurred pursuant to this paragraph, expenditures fall below the program budget, the commissioner must raise the income eligibility limit to the extent necessary to provide services to as many eligible persons as possible within the fiscal constraints of the program budget, as long as the income limit does not exceed 200% of the nonfarm income official poverty line; and

F. A person 20 to 64 years of age who is not otherwise covered under paragraphs A to E when the person's family income is below or equal to 125% of the nonfarm income official poverty line, provided that the commissioner shall adjust the maximum eligibility level in accordance with the requirements of the paragraph.



(2) If the commissioner reasonably anticipates the cost of the program to exceed the budget of the population described in this paragraph, the commissioner shall lower the maximum eligibility level to the extent necessary to provide coverage to as many persons as possible within the program budget.

(3) The commissioner shall give at least 30 days' notice of the proposed change in maximum eligibility level to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over health and human services matters; and

**Sec. KK-3. 22 MRSA §3174-G, sub-§1, ¶G** is enacted to read:

G. A person who is a noncitizen legally admitted to the United States to the extent that coverage is allowable by federal law if the person is:

(1) A woman during her pregnancy and up to 60 days following delivery; or

(2) A child under 21 years of age.

**Sec. KK-4. 22 MRSA §3762, sub-§3, ¶B**, as amended by PL 2007, c. 539, Pt. XX, §1, is further amended to read:

B. The department may use funds, insofar as resources permit, provided under and in accordance with the United States Social Security Act or state funds appropriated for this purpose or a combination of state and federal funds to provide assistance to families under this chapter. In addition to assistance for families described in this subsection, funds must be expended for the following purposes:

(1) To continue the pass-through of the first \$50 per month of current child support collections and the exclusion of the \$50 pass-through from the budget tests and benefit calculations;

(2) To provide financial ~~and medical~~ assistance to ~~certain~~ noncitizens legally admitted to the United States who are receiving assistance under this subsection as of July 1, 2011. Recipients of assistance under this subparagraph are limited to the categories of noncitizens who would be eligible for the TANF ~~or Medicaid programs~~ but for their status as aliens under PRWORA. Eligibility for the TANF ~~and Medicaid programs~~ for these categories of noncitizens must be determined using the criteria applicable to other recipients of assistance ~~from these programs;~~ from the TANF program. Any household receiving assistance as of July 1, 2011 may continue to receive assistance, as long as that household remains eligible, without regard to interruptions in coverage or gaps in eligibility for service. A noncitizen legally admitted to the United States who is neither receiving assistance on July 1, 2011 nor has an application pending for assistance on July 1, 2011 that is later approved is not eligible for financial assistance through a state-funded program unless that noncitizen is:

(a) Elderly or disabled, as described under the laws governing supplemental security income in 42 United States Code, Sections 1381 to 1383f (2010);

(b) A victim of domestic violence; or

(c) Experiencing other hardship, such as time necessary to obtain proper work documentation, as defined by the department by rule. Rules adopted by the department under this division are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A;

(3) To provide benefits to certain 2-parent families whose deprivation is based on physical or mental incapacity;

(4) To provide an assistance program for needy children, 19 to 21 years of age, who are in full-time attendance in secondary school. The program is operated for those individuals who qualify for TANF under the United States Social Security Act, except that they fail to meet the age requirement, and is also operated for the parent or caretaker relative of those individuals. Except for the age requirement, all provisions of TANF, including the standard of need and the amount of assistance, apply to the program established pursuant to this subparagraph;

(5) To provide assistance for a pregnant woman who is otherwise eligible for assistance under this chapter, except that she has no dependents under 19 years of age. An individual is eligible for the monthly benefit for one eligible person if the medically substantiated expected date of the birth of her child is not more than 90 days following the date the benefit is received;

(6) To provide a special housing allowance for TANF families whose shelter expenses for rent, mortgage or similar payments, homeowners insurance and property taxes equal or exceed 75% of their monthly income. The special housing allowance is limited to \$100 per month for each family. For purposes of this subparagraph, "monthly income" means the total of the TANF monthly benefit and all income countable under the TANF program, plus child support received by the family, excluding the \$50 pass-through payment;

(7) In determining benefit levels for TANF recipients who have earnings from employment, the department shall disregard from monthly earnings the following:

(a) One hundred and eight dollars;

(b) Fifty percent of the remaining earnings that are less than the federal poverty level; and

(c) All actual child care costs necessary for work, except that the department may limit the child care disregard to \$175 per month per child or \$200 per month per child under 2 years of age or with special needs;

(8) In cases when the TANF recipient has no child care cost, the monthly TANF benefit is the maximum payment level or the difference between the countable earnings and the standard of need established by rule adopted by the department, whichever is lower;

(9) In cases when the TANF recipient has child care costs, the department shall determine a total benefit package, including TANF cash assistance, determined in accordance with subparagraph (7) and additional child care assistance, as provided by rule, necessary to cover the TANF recipient's actual child care costs up to the maximum amount specified in section 3782-A, subsection 5. The benefit amount must be paid as provided in this subparagraph.

(a) Before the first month in which child care assistance is available to an ASPIRE-TANF recipient under this paragraph and periodically thereafter, the department shall notify the recipient of the total benefit package and the following options of the recipient: to receive the total benefit package directly; or to have the department pay the recipient's child care assistance directly to the designated child care provider for the recipient and pay the balance of the total benefit package to the recipient.

(b) If an ASPIRE-TANF recipient notifies the department that the recipient chooses to receive the child care assistance directly, the department shall pay the total benefit package to the recipient.

(c) If an ASPIRE-TANF recipient does not respond or notifies the department of the choice to have the child care assistance paid directly to the child care provider from the total benefit package, the department shall pay the child care assistance directly to the designated child care provider for the recipient. The department shall pay the balance of the total benefit package to the recipient;

(10) Child care assistance under this paragraph must be paid by the department in a prompt manner that permits an ASPIRE-TANF recipient to access child care necessary for work; and

(11) The department shall adopt rules pursuant to Title 5, chapter 375 to implement this subsection. Rules adopted pursuant to this subparagraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

## **PART LL**

**Sec. LL-1. 22 MRSA §3762, sub-§18** is enacted to read:

**18. Denial of assistance based on positive drug test.** A recipient of TANF assistance may be denied TANF assistance as described in this subsection.

A. The department may administer a drug test to a recipient of TANF assistance who has been convicted of a drug-related felony, as described in Section 115 of PRWORA, within 20 years of that person's date of conviction.

B. If a person under paragraph A tests positive for an illegal drug, the department shall notify that person that:

(1) The person's TANF assistance is subject to termination;

(2) The person is entitled to a fair hearing regarding the termination of TANF assistance; and

(3) If the person requests a fair hearing, the person shall submit to a 2nd drug test to verify the results of the first drug test.

C. The results of the 2nd drug test must be available prior to the fair hearing, if practicable. The person shall cooperate in a timely manner in submitting to the 2nd drug test. If the 2nd drug test confirms that the person is using an illegal drug, the person may avoid termination of TANF assistance by enrolling in a substance abuse treatment program appropriate to the type of illegal drug being used by that person.

D. If the department determines that, for good cause, a person is unable to enroll in a substance abuse program as required by paragraph C, the person remains eligible for TANF assistance until such time that the department determines that the person is able to enroll in a substance abuse treatment program.

E. The department shall terminate TANF assistance to a person who fails to request a fair hearing and submit to a 2nd drug test as described in paragraph B or who fails to participate in a substance abuse treatment program as required pursuant to paragraph C or D.

The department shall adopt routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A, to implement the provisions of this subsection, including determining what constitutes "good cause" under paragraph D.

## **PART MM**

**Sec. MM-1. Department of Health and Human Services; revision of agency rules; residential care; transfer of assets.** The Department of Health and Human Services shall amend its asset transfer rules in the MaineCare Eligibility Manual, chapter 332, in order to implement the option

PUBLIC Law, Chapter 380, LD 1043, 125th Maine State Legislature  
An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2011, June 30, 2012 and June 30, 2013 under the Maine Revised Statutes, Title 22, section 3174-A, which allows the imposition of a penalty for certain transfers of assets to obtain help with state-funded assistance in certain boarding home settings. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

## PART NN

### **Sec. NN-1. Dorothea Dix Psychiatric Center working group established.**

**1. Working group established; goals.** Notwithstanding Joint Rule 353, the Commissioner of Health and Human Services shall convene a working group, referred to in this section as "the working group," to develop a plan and suggest implementing legislation regarding the future role and structure of the Dorothea Dix Psychiatric Center to be effective June 30, 2012, including the transfer of personnel, position counts and other responsibilities, if applicable, to other programs within the Department of Health and Human Services. The working group shall develop a comprehensive plan that is focused on the attainment of recovery milestones, such as improved health status, increased independence, improved life satisfaction and integration into the full community, for persons with serious and persistent mental health conditions through the delivery of high-quality, efficient services.

**2. Working group membership.** The members of the working group are:

- A. One member of the Senate, appointed by the President of the Senate. When making the appointment, the President of the Senate shall give preference to members from the area served by the Dorothea Dix Psychiatric Center and members of the party having the largest number of members in the Senate;
- B. One member of the House of Representatives, appointed by the Speaker of the House. When making the appointment, the Speaker of the House shall give preference to members from the area served by the Dorothea Dix Psychiatric Center and members of the party having the 2nd largest number of members in the House;
- C. The Commissioner of Health and Human Services or the commissioner's designee;
- D. The Superintendent of the Dorothea Dix Psychiatric Center or the superintendent's designee;
- E. The Superintendent of the Riverview Psychiatric Center or the superintendent's designee;
- F. The Commissioner of Administrative and Financial Services or the commissioner's designee;
- G. One member of the staff of the Dorothea Dix Psychiatric Center selected by the Commissioner of Health and Human Services from among candidates provided by the President of the Maine State Employees Association;
- H. One member of the staff of the Dorothea Dix Psychiatric Center selected by the Commissioner of Health and Human Services from among candidates provided by the President of the American Federation of State, County and Municipal Employees, Maine branch; and
- I. The following, invited by the Commissioner of Health and Human Services to participate in the working group:

- (1) The Chief Executive Officer of Spring Harbor Hospital or the chief executive officer's designee;
- (2) The Chief Executive Officer of Acadia Hospital or the chief executive officer's designee;
- (3) Two members of the Consumer Council System of Maine, including the Executive Director of the Consumer Council System of Maine or the executive director's designee;
- (4) The Executive Director of the Disability Rights Center or the executive director's designee;
- (5) The Executive Director of the National Alliance on Mental Illness Maine or the executive director's designee;
- (6) The Chief Executive Officer of Aroostook Mental Health Services, Inc. or the chief executive officer's designee;
- (7) The Executive Director of Community Health and Counseling Services, Inc. or the executive director's designee;
- (8) The Chief Executive Officer of the Charlotte White Center or the chief executive officer's designee; and
- (9) The President of the Eastern Maine Development Corporation or the president's designee.

**3. Working group chair.** The Commissioner of Health and Human Services shall serve as the chair of the working group.

**4. Staff assistance.** The Department of Health and Human Services shall provide staff assistance to the working group.

**5. Report.** In developing recommendations and suggested implementing legislation, the working group shall develop a plan that:

- A. Establishes recovery outcomes to be tracked;
- B. Ensures that the transitional needs of patients are effectively met;
- C. Includes provision of essential community living supports for housing, vocational and nonvocational involvements and health care;
- D. Includes support for other critical community-based resources and treatment services;
- E. Focuses on integrating all health care;
- F. Ensures that adequate capacity exists locally for inpatient hospitalizations;
- G. Ensures that adequate essential community care services to support outcomes are available;
- H. Ensures that community and family education is optimized to support integration; and
- I. Ensures that the delivery of high-quality, efficient service is achieved.

The working group shall submit its plan and proposed legislation to the Commissioner of Health and Human Services, who shall report to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Health and Human Services no later than December 1, 2011.

PUBLIC Law, Chapter 380, LD 1043, 125th Maine State Legislature  
An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2011, June 30, 2012 and June 30, 2013  
After receipt and review of the plan, the committees may submit legislation to the Second Regular Session of the 125th Legislature to implement the recommendations regarding the Dorothea Dix Psychiatric Center.

## PART OO

**Sec. OO-1. Interdepartmental cooperation; Department of Health and Human Services and Department of the Attorney General.** The Department of Health and Human Services and the Department of the Attorney General shall work cooperatively to explore opportunities for increased collaboration as well as to identify short-term and long-term improvements to the fraud detection and referral process and any savings that can be realized from these improvements.

## PART PP

**Sec. PP-1. 22 MRSA §3762, sub-§15,** as enacted by PL 1997, c. 695, §1, is repealed.

**Sec. PP-2. 22 MRSA §3762, sub-§§18 and 19** are enacted to read:

**18. Lifetime limit on assistance.** Beginning January 1, 2012, a family may not receive TANF assistance for longer than 60 months except in those cases in which the department has determined that the family qualifies for an exemption or extension under rules adopted by the department. When an adult has received TANF assistance for 60 months, unless the adult has been exempted or granted an extension by the department, the family unit in which the adult is a member is ineligible for assistance. The department shall consider conditions or situations beyond the control of the adult recipient, including but not limited to a physical or mental condition that prevents the adult from obtaining or retaining gainful employment, being a victim of domestic violence, participating in good standing in an approved education program or a program that is expected to lead to gainful employment, being the caretaker relative in the household who is not the parent of the child or children in the assistance unit and who is required to remain at home to care for a dependent in the assistance unit and loss of employment by the adult following termination of TANF under this subsection.

The department shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**19. Pretermination notice process.** No later than 120 days prior to the end of a family's 60th month of receiving assistance, the department shall offer the adult recipient an opportunity to hold a meeting to review the family's case and:

A. Explain the exemption and extension criteria established in subsection 18 to the family and determine if those criteria apply to the family; and

B. Explain that any determination made pursuant to this subsection may be appealed in accordance with the hearing process established in subsection 9, paragraph B.

For a family whose assistance is to be terminated, a supervisory review by the department is required. The review must include but is not limited to an evaluation of the need for additional information to determine if cause for an exemption or extension exists. If the conclusion of the evaluation determines additional vocational, health, mental health or other information is necessary, the department shall work in collaboration with the adult recipient in the development of the information prior to the determination of status or termination.

For a family whose assistance is to be terminated pursuant to this subsection, the department shall provide information to the family regarding any other resources that may be available to help meet that family's basic needs.

**Sec. PP-3. 22 MRSA §3763, sub-§1**, as enacted by PL 1997, c. 530, Pt. A, §16, is amended to read:

**1. Family contract.** During the TANF orientation process, a representative of the department and the TANF recipient shall enter into a family contract. The family contract must state the responsibilities of the parties to the agreement including, but not limited to, cooperation in child support enforcement and determination of paternity, the requirements of the ASPIRE-TANF program and referral to parenting activities and health care services. Except as provided in section 3762, subsection 4, refusal to sign the family contract or to abide by the provisions of the contract, except for referral to parenting activities and health care services, will result in ~~sanction~~ termination of benefits under section 1-A. Failure to comply with referrals to parenting activities or health care services without good cause will result in a review and evaluation of the reason for noncompliance by the representative of the department and may result in sanctions. Written copies of the family contract and a notice of the right to a fair hearing must be given to the individual. The family contract must be amended in accordance with section 3788 when a participant enters the ASPIRE-TANF program and when participation review occurs.

Benefits that have been terminated under this subsection must be restored once the adult recipient signs a new contract under subsection 1 and complies with the provisions of the family contract.

**Sec. PP-4. 22 MRSA §3763, sub-§1-A** is enacted to read:

**1-A. Partial and full termination of benefits.** Benefits under this chapter must be terminated by the department under the provisions of subsection 1 and sections 3785 and 3785-A as follows:

- A. For a first failure to meet the conditions of a family contract, termination of benefits applies to the adult recipient;
- B. For a first failure to meet the conditions of a family contract for which termination of benefits under paragraph A lasts for longer than 90 days and for a 2nd and subsequent violation, termination of benefits applies to the adult recipient and the full family unit; and
- C. Prior to the implementation of a full family unit sanction, the department shall offer the adult recipient an opportunity to claim good cause for noncompliance as described in section 3785.



Benefits that have been terminated under this subsection must be restored once the adult recipient signs a new contract under subsection 1 and complies with the provisions of the family contract.

**Sec. PP-5. Notification.** The Department of Health and Human Services shall notify current sanctioned adult recipients no later than October 1, 2011 of the provisions of the Maine Revised Statutes, Title 22, section 3763, subsection 1-A and the ability to maintain family eligibility by complying with the family contract or providing information to substantiate an exemption by January 1, 2012. If the adult recipient is in good standing under the family contract as of January 1, 2012, previous sanctions do not apply.

**Sec. PP-6. Rename Office of Integrated Access and Support - Central Office program.** Notwithstanding any other provision of law, the Office of Integrated Access and Support - Central Office program within the Department of Health and Human Services is renamed the Office for Family Independence program.

**Sec. PP-7. Rules.** The Department of Health and Human Services shall revise its rules to impose a quit penalty on Temporary Assistance for Needy Families - Unemployed Parents participants that requires a recalculation of benefits to exclude the family member who quit employment without cause. The penalty period remains in effect until such time as the family member obtains equivalent employment.

**Sec. PP-8. Rules.** The Department of Health and Human Services may adopt rules necessary to implement the provisions of this Part. Rules adopted pursuant to this section are routine technical rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

**Sec. PP-9. Report on the impact of Temporary Assistance for Needy Families program reforms.** By November 1, 2012, the Department of Health and Human Services shall report to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Health and Human Services on the impact of the changes made to the Temporary Assistance for Needy Families program in this Part, including: the number of cases removed as a result of the 60-month limit; the number of individual sanctions imposed; the number of full-family sanctions imposed; the number of administrative hearings requested; and the number of cases for which assessment information was requested and was provided.

## PART QQ

**Sec. QQ-1. Transfer from unappropriated surplus at close of fiscal year 2011-12.** Notwithstanding any other provision of law, at the close of fiscal year 2011-12, the State Controller shall transfer up to \$25,000,000 from the unappropriated surplus of the General Fund to the Department of Health and Human Services, Medical Care - Payments to Providers account in the General Fund after all required deductions of appropriations, budgeted financial commitments and adjustments considered necessary by the State Controller have been made and as the first priority after the transfers required pursuant to the Maine Revised Statutes, Title 5, sections 1507, 1511 and 1522 and before the transfers required pursuant to Title 5, section 1536.

**Sec. QQ-2. Purpose of transfers.** Transfers made pursuant to this Part must be expended for hospital settlements.

**Sec. QQ-3. Transfer considered adjustments to appropriations.** Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, amounts transferred pursuant to this Part are considered adjustments to appropriations in fiscal year 2012-13 only. These funds may be allotted by financial order upon recommendation of the State Budget Officer and approval of the Governor.

## PART RR

**Sec. RR-1. PL 2011, c. 45, §6** is amended to read:

**Sec. 6. Appropriations and allocations.** The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS) LICENSURE OF WATER SYSTEM OPERATORS, BOARD OF**

**Water System Operators - Board of Licensure 0104**

Initiative: Deallocates funds as a result of savings from reduced costs for testing.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$10,600)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<hr/> \$0	<hr/> (\$10,600)

## PART SS

**Sec. SS-1. 22 MRSA §2681, sub-§16** is enacted to read:

**16. Fee imposed.** Beginning July 1, 2011, a fee is imposed on all enrollees in the program established under this section. The amount of the fee must be determined by rule adopted by the department to cover the administrative and other operating costs of the program. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

## PART TT

**Sec. TT-1. 4 MRSA §17, sub-§15, ¶A,** as enacted by PL 2003, c. 400, §1, is amended to read:

A. The State Court Administrator may contract for the services of qualified individuals as needed on a per diem basis to perform court security-related functions and services.

(1) For the purposes of this subsection, "qualified individuals" means municipal law enforcement officers, deputy sheriffs and other individuals who are certified pursuant to Title 25, section 2804-B or 2804-C and have successfully completed additional training in court security provided by the Maine Criminal Justice Academy or equivalent training.

(2) When under contract pursuant to this paragraph and then only for the assignment specifically contracted for, qualified individuals have the same duties and powers throughout the counties of the State as sheriffs have in their respective counties.

(3) Qualified municipal law enforcement officers and deputy sheriffs performing contractual services pursuant to this paragraph continue to be employees of the municipalities and counties in which they are deputized/employed.

(4) Qualified individuals other than municipal law enforcement officers or deputy sheriffs performing contractual services pursuant to this paragraph may not be considered employees of the State for any purpose, except that they must be treated as employees of the State for purposes of the Maine Tort Claims Act and the Maine Workers' Compensation Act of 1992. They must be paid reasonable per diem fees plus reimbursement of actual, necessary and reasonable expenses incurred in the performance of their duties, consistent with policies established by the State Court Administrator.

## PART UU

**Sec. UU-1. Agency rules; child care rates; Department of Health and Human Services.** The Department of Health and Human Services is directed to revise its rules in the Child Care Subsidy Policy Manual to establish state-paid child care rates at the 50th percentile of the most current local market rate survey. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

## PART VV

**Sec. VV-1. PL 2007, c. 240, Pt. X, §2,** as amended by PL 2009, c. 213, Pt. SSSS, §1, is further amended to read:

**Sec. X-2. Transfer of funds.** Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, until June 30, ~~2011~~2013, available balances of appropriations in MaineCare General Fund accounts may be transferred between accounts by financial order upon the recommendation of the State Budget Officer and approval of the Governor.

**Sec. VV-2. PL 2007, c. 240, Pt. X, §5,** as amended by PL 2009, c. 213, Pt. SSSS, §2, is further amended to read:

**Sec. X-5. Weekly MaineCare reporting.** Until June 30, ~~2011~~2013, the Commissioner of Health and Human Services shall issue a weekly financial summary and report on MaineCare program expenditures. The report must be submitted to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over human services matters and must be presented in a budget to actual format detailing amounts at the program level. This reporting requirement is in addition to the reporting requirements contained in the Maine Revised Statutes, Title 22, section 3174-B.

**Sec. VV-3. PL 2007, c. 240, Pt. X, §6,** as amended by PL 2009, c. 213, Pt. SSSS, §3, is further amended to read:

**Sec. X-6. Quarterly MaineCare reporting.** Until June 30, 2010, the Commissioner of Health and Human Services shall issue a quarterly financial summary and report on MaineCare program expenditures. The report must be submitted to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over health and human services matters within 14 days of certification of the quarterly CMS-64 report to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services. This report must segregate expenditures by enrollment category and type of service. From July 1, 2010 to June 30, ~~2011~~2013 the commissioner shall continue to issue a quarterly financial summary and report on MaineCare program expenditures in a format and with content equivalent to the prior year's reports and incorporating the capabilities of the new Maine integrated health management solution system. This reporting requirement is in addition to the reporting requirements contained in the Maine Revised Statutes, Title 22, section 3174-B.

**Sec. VV-4. MaineCare financial order transfer authority report.** The Commissioner of Health and Human Services shall review the effects the MaineCare financial order transfer authority authorized by Public Law 2007, chapter 240, Pt. X, section 2 has had on funding available for individual MaineCare General Fund accounts. The review must quantify the net change in funding available to each account by fiscal year as a result of the transfer authority with the goal of ultimately adjusting baseline appropriations to these programs in order to no longer require significant financial order transfers between MaineCare General Fund accounts. The commissioner shall report the findings and recommendations for adjustments to appropriations to the Joint Standing Committee on Appropriations and Financial Affairs no later than December 1, 2011.

## PART WW

**Sec. WW-1. 22 MRSA §7247,** as enacted by PL 2003, c. 483, §1, is amended to read:

### **§ 7247. Controlled Substances Prescription Monitoring Program Fund**

The Controlled Substances Prescription Monitoring Program Fund is established within the office to be used by the director of the office to fund or assist in funding the program. Any balance in the fund does not lapse but is carried forward to be expended for the same purposes in succeeding fiscal years. The fund must be deposited with and maintained and administered by the office. The office may accept funds into the fund from any source, public or private, including grants or contributions of money or other

PUBLIC Law, Chapter 380, LD 1043, 125th Maine State Legislature  
An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2011, June 30, 2012 and June 30, 2013

things of value, that it determines necessary to carry out the purposes of this chapter. Money received by the office to establish and maintain the program must be used for the expenses of administering this chapter. ~~No General Fund appropriation may be made available for the purposes of this chapter.~~

## PART XX

**Sec. XX-1. Mental health services report.** The Commissioner of Health and Human Services shall report to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Health and Human Services no later than February 1, 2012 regarding the implementation of fiscal year 2011-12 funding for mental health services for individuals not eligible for MaineCare and for housing services in order to conform to the consent decree in the case of Paul Bates, et al. v. Robert Glover, et al. and pursuant to the Court Master's June 25, 2010 update. The report must include recommendations from the Court Master pertaining to the consent decree and recommendations for funding for fiscal year 2012-13.

## PART YY

**Sec. YY-1. Substance Abuse Services Commission; convene stakeholder group; purchase of controlled medications; agency rules.** The Substance Abuse Services Commission, established in the Maine Revised Statutes, Title 5, section 12004-G, subsection 13-C, shall convene a stakeholder group consisting of Substance Abuse Service Commission members and representatives from the prescribing and pharmacy communities, the Board of Licensure in Medicine, the Maine Board of Pharmacy, the Department of the Attorney General, the Office of MaineCare Services and the Office of Substance Abuse within the Department of Health and Human Services and the MaineCare recipient consumer community. The stakeholder group shall examine the issue of MaineCare recipients using cash to purchase controlled schedule II, III and IV prescription medications beyond the recipients' MaineCare benefit coverage. The stakeholder group shall assess the prevalence of such cash purchases and make recommendations to the Commissioner of Health and Human Services no later than December 15, 2011 for any necessary rule changes. Any rules adopted by the department pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

## PART ZZ

**Sec. ZZ-1. Emergency rule-making authority; health and human services matters.** The Department of Health and Human Services is authorized to adopt emergency rules under the Maine Revised Statutes, Title 5, sections 8054 and 8073 in order to implement those provisions of this Act over which the department has subject matter jurisdiction for which specific authority has not been provided in any other Part of this Act without the necessity of demonstrating that immediate adoption is necessary to avoid a threat to public health, safety or general welfare.

## PART AAA

**Sec. AAA-1. Transfer from Employment Rehabilitation Fund.** At the close of fiscal year 2010-11, the State Controller shall transfer \$1,000,000 from the available balance in the Employment Rehabilitation Fund, Other Special Revenue Funds account within the Workers' Compensation Board to the General Fund unappropriated surplus.

## PART BBB

**Sec. BBB-1. 24-A MRSA §6914,** as amended by PL 2005, c. 400, Pt. A, §14, is further amended to read:

### **§ 6914. Intragovernmental transfer**

Starting July 1, 2004, Dirigo Health shall transfer funds, as necessary, to a special dedicated, nonlapsing revenue account administered by the agency of State Government that administers MaineCare for the purpose of providing a state match for federal Medicaid ~~dollars~~services provided to individuals eligible pursuant to Title 22, section 3174-G, subsection 1, paragraph E whose nonfarm income is greater than 150% of the nonfarm income official poverty line and is below or equal to 200% of the nonfarm income official poverty line. Dirigo Health shall annually set the amount of contribution.

Beginning January 1, 2012, Dirigo Health shall transfer funds as necessary to a special dedicated, nonlapsing revenue account administered by the agency of State Government that administers MaineCare for the purpose of providing a state match for federal Medicaid services provided to individuals eligible pursuant to Title 22, section 3174-G, subsection 1, paragraph E whose nonfarm income is greater than 133% of the nonfarm income official poverty line and is below or equal to 150% of the nonfarm income official poverty line. Dirigo Health shall annually set the amount of contribution.

**Sec. BBB-2. 24-A MRSA §6917, sub-§1,** as enacted by PL 2009, c. 359, §4 and affected by §8, is amended to read:

**1. Access payments required from health insurance carriers, 3rd-party administrators and employee benefit excess insurance carriers.** All health insurance carriers, 3rd-party administrators and employee benefit excess insurance carriers shall pay an access payment of ~~2.14%~~ on all paid claims, except claims under accidental injury, specified disease, hospital indemnity, dental, vision, disability income, long-term care, Medicare supplement or other limited benefit health insurance. The amount of the access payment is 2.14% on claims for services provided through June 30, 2011, 1.87% on claims for services provided from July 1, 2011 to June 30, 2012, 1.64% on claims for services provided from July 1, 2012 to June 30, 2013 and 1.14% on claims for services provided from July 1, 2013 to December 31, 2013. No access payment may be charged for any claims for services provided on January 1, 2014 or thereafter. The following provisions govern access payments.

A. A health insurance carrier or employee benefit excess insurance carrier may not be required to pay an access payment on policies or contracts insuring federal employees.

B. Access payments apply to claims paid beginning on or after September 1, 2009.

C. Access payments must be made monthly to Dirigo Health and are due 30 days after the end of each month and must accrue interest at 12% per annum on or after the due date, except that access payments for 3rd-party administrators for groups of 500 or fewer members may be made annually not less than 60 days after the close of the plan year.

D. Access payments received by Dirigo Health must be pooled with other revenues of the agency in the Dirigo Health Enterprise Fund established in section 6915.

**Sec. BBB-3. Planning for Affordable Care Act health insurance exchange implementation report.** The Board of Trustees of Dirigo Health and the Executive Director of Dirigo Health shall evaluate the impact of the changes in this Part and their implications on planning for the transition to and implementation of a health insurance exchange in this State pursuant to the federal Patient Protection and Affordable Care Act. The Board of Trustees of Dirigo Health shall report its findings and recommendations for implementation of such an exchange in this State to the Joint Standing Committee on Appropriations and Financial Affairs and to the Joint Standing Committee on Insurance and Financial Services no later than March 1, 2012.

## PART CCC

**Sec. CCC-1. Department of Administrative and Financial Services; lease-purchase authorization.** Pursuant to the Maine Revised Statutes, Title 5, section 1587, the Department of Administrative and Financial Services, on behalf of the Department of Public Safety, may enter into financing arrangements in fiscal years 2011-12 and 2012-13 for the acquisition of motor vehicles for the State Police. The financing arrangements entered into each fiscal year may not exceed \$2,100,000 in principal costs and a financing arrangement may not exceed 3 years in duration. The interest rate may not exceed 6% and total interest costs with respect to the financing arrangements entered into in each fiscal year may not exceed \$300,000. The annual principal and interest costs must be paid from the appropriate line category appropriations and allocations in the Department of Public Safety General Fund and Highway Fund accounts.

## PART DDD

**Sec. DDD-1. Rename Motor Vehicle Contingency Account - Building program.** Notwithstanding any other provision of law, the Motor Vehicle Contingency Account - Building program within the Department of the Secretary of State is renamed the Motor Vehicle Miscellaneous Revenue program.

## PART EEE

**Sec. EEE-1. Transfer from General Fund undedicated revenue; Callahan Mine Site Restoration, Department of Transportation.** Notwithstanding any other provision of law, the State Controller shall transfer \$500,000 by August 15, 2011 from the General Fund unappropriated

PUBLIC Law, Chapter 380, LD 1043, 125th Maine State Legislature  
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surplus to the Callahan Mine Site Restoration, Other Special Revenue Funds program within the Department of Transportation to be used to design and implement clean-up initiatives of the Callahan Mine site.

## PART FFF

**Sec. FFF-1. 36 MRSA §505, sub-§4**, as amended by PL 2005, c. 332, §12, is further amended to read:

**4. When interest collected.** The date or dates from and after which interest must accrue, which must also be the date or dates on which taxes become delinquent. The rate of interest must be specified in the vote and must apply to delinquent taxes committed during the taxable year until those taxes are paid in full. Except as provided in subsection 4-A, the maximum rate of interest must be established by the Treasurer of State and may not exceed the prime rate as published in the Wall Street Journal on the first business day of the calendar year, rounded up to the next whole percent plus 3 percentage points. The Treasurer of State shall ~~send a written notice of post~~ that rate of interest on the Treasurer of State's publicly accessible website on or before January 20th of each year to ~~the chief municipal officer of each municipality~~. The interest must be added to and become part of the taxes.

## PART GGG

**Sec. GGG-1. Transfers from available fiscal year 2010-11 Other Special Revenue Funds balances to General Fund - Professional and Financial Regulation.** At the close of fiscal year 2010-11, the State Controller shall transfer \$3,000,000 from available balances in Other Special Revenue Funds accounts within the Department of Professional and Financial Regulation to the General Fund unappropriated surplus. On or before June 30, 2011, the Commissioner of Professional and Financial Regulation shall determine from which accounts the funds will be transferred so that the sum equals \$3,000,000 and notify the State Controller and the Joint Standing Committee on Appropriations and Financial Affairs of the amounts to be transferred from each account.

**Sec. GGG-2. Transfers from available fiscal year 2012-13 Other Special Revenue Funds balances to General Fund - Professional and Financial Regulation.** At the close of fiscal year 2012-13, the State Controller shall transfer \$1,000,000 from available balances in Other Special Revenue Funds accounts within the Department of Professional and Financial Regulation to the General Fund unappropriated surplus. On or before June 30, 2013, the Commissioner of Professional and Financial Regulation shall determine from which accounts the funds will be transferred so that the sum equals \$1,000,000 and notify the State Controller and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs of the amounts to be transferred from each account.

## PART HHH

**Sec. HHH-1. 4 MRSA §28**, as enacted by PL 2009, c. 213, Pt. QQ, §2, is amended to read:



## **§ 28. Additional fee revenue dedicated**

The judicial branch may credit 4%, up to a maximum of \$300,000 per fiscal year, of fee revenue collected pursuant to administrative orders of the court to a nonlapsing Other Special Revenue Funds account to support the capital expenses of the judicial branch. If the fee revenue from the judicial branch is less than the amount budgeted as undedicated fee revenue for the General Fund, the amount credited to the Other Special Revenue Funds account during the fiscal year must be reduced by a percentage equal to the percentage by which General Fund undedicated fee revenue is under budget.

### **PART III**

**Sec. III-1. 1 MRSA §521, sub-§2**, as amended by PL 1977, c. 696, §11, is further amended to read:

**2. Dissemination.** A copy of every executive order ~~shall~~must be filed with the Legislative Council;and the Law and Legislative Reference Library, and every ~~county law library in this State~~the executive order must be posted in a conspicuous location on the State's publicly accessible website, within one week after the Governor has issued that order.

### **PART JJJ**

**Sec. JJJ-1. Transfer from Other Special Revenue Funds to unappropriated surplus of the General Fund.** Notwithstanding any other provision of law, the State Controller shall transfer \$43,000,000 on June 30, 2012 from Other Special Revenue Funds to the unappropriated surplus of the General Fund. On July 1, 2012, the State Controller shall transfer \$43,000,000 from the General Fund unappropriated surplus to Other Special Revenue Funds as repayment. This transfer is considered an interfund advance.

### **PART KKK**

**Sec. KKK-1. Streamline and Prioritize Core Government Services Task Force established.** The Commissioner of Administrative and Financial Services shall establish the Streamline and Prioritize Core Government Services Task Force, referred to in this Part as "the task force."

**Sec. KKK-2. Task force membership.** Notwithstanding Joint Rule 353, the task force consists of the following 12 members:

1. The Commissioner of Administrative and Financial Services or the commissioner's designee, who serves as chair of the task force;
2. Two members representing Maine for-profit businesses, appointed by the Governor;
3. Two members representing Maine not-for-profit agencies, appointed by the Governor;
4. One member representing a higher educational institution of Maine, appointed by the Governor;

5. Four members of the Joint Standing Committee on Appropriations and Financial Affairs jointly appointed by the committee chairs, at least one member representing the Senate and 2 members representing the party with the largest number of members in the committee from either the House of Representatives or the Senate and 2 members representing the party with the second largest number of members in the committee from either the House of Representatives or the Senate; and

6. Two members of the public at large, appointed by the Governor.

**Sec. KKK-3. Convening of task force.** The task force shall convene no later than September 1, 2011.

**Sec. KKK-4. Duties.** The task force shall undertake a comprehensive analysis of departments and agencies within the executive branch, offices of the constitutional officers, the Department of Audit and independent agencies statewide with the goals of prioritizing services provided by government agencies, consolidating functions and eliminating duplication and inefficiencies in programs, contracted personal services, state travel policies and advertising and public notice policies. In carrying out its duties, the task force shall investigate and identify major sources of administrative excess, redundancy and inefficiency and program overlap with other state, local or federal programs. The task force shall identify any positions that should be reduced, eliminated or consolidated to deliver optimum services in the most cost-effective manner, including positions in the unclassified service and major policy-influencing positions as set out in the Maine Revised Statutes, Title 5, chapter 71, and in contracted personal services. The task force shall develop recommendations designed to achieve a targeted spending reduction of a minimum of \$25,000,000 in fiscal year 2012-13. The task force may establish subcommittees and draw on experts inside and outside of State Government.

**Sec. KKK-5. Staff assistance.** The Department of Administrative and Financial Services shall provide staff assistance to the task force.

**Sec. KKK-6. Reports to the Joint Standing Committee on Appropriations and Financial Affairs.** The task force shall submit monthly progress reports to the Joint Standing Committee on Appropriations and Financial Affairs and a report of its findings and recommendations and any necessary implementing legislation to the Joint Standing Committee on Appropriations and Financial Affairs by December 15, 2011. The committee is authorized to submit legislation to the Second Regular Session of the 125th Legislature.

**Sec. KKK-7. Implementation; achievement of savings.** If, after receipt and review of the recommendations presented by the task force pursuant to section 6, the Legislature fails to enact legislation in the Second Regular Session of the 125th Legislature that achieves \$25,000,000 in savings, the Commissioner of Administrative and Financial Services shall make recommendations to the Governor regarding the achievement of the balance of these savings through the use of the temporary curtailment of allotment power specified in the Maine Revised Statutes, Title 5, section 1668, and the Governor is authorized to achieve those savings using that power. The State Budget Officer shall determine amounts in section 8 to be distributed by financial order upon approval of the Governor.

**Sec. KKK-8. Appropriations and allocations.** The following appropriations and allocations are made.

PUBLIC Law, Chapter 380, LD 1043, 125th Maine State Legislature  
An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General  
Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations  
of State Government for the Fiscal Years Ending June 30, 2011, June 30, 2012 and June 30, 2013  
**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Executive Branch Departments and Independent Agencies - Statewide 0017**

Initiative: Reduces funding to reflect savings to be identified by the Streamline and Prioritize Core Government Services Task Force.

GENERAL FUND	2011-12	2012-13
Unallocated	\$0	(\$25,000,000)
GENERAL FUND TOTAL	<hr/> \$0	<hr/> (\$25,000,000)

**PART LLL**

**Sec. LLL-1. Tax expenditures.** In accordance with the Maine Revised Statutes, Title 5, section 1666, funding is continued for each individual tax expenditure, as defined in Title 5, section 1666, reported in the budget document submitted by the Governor on February 11, 2011.

**PART MMM**

**Sec. MMM-1. 5 MRS §17859** is enacted to read:

**§ 17859. Retiring and returning to work**

**1. Restoration to service.** Any state employee or teacher who has reached normal retirement age and who retires on or after July 1, 2011 may be restored to service for up to 5 years. The decision to hire a retired state employee or retired teacher under this section is at the discretion of the appointing authority. The retired state employee or retired teacher must have had a bona fide termination of employment in accordance with state and federal laws and rules, may not return to employment after retirement with the same employer for at least 30 calendar days after the termination of employment and may not return to employment before the effective date of the person's retirement.

**2. Compensation and benefits.** The compensation and benefits of the retired state employee or retired teacher who returns to service after retirement as set out in subsection 1 is governed by this subsection.

A. The compensation of the retired state employee or retired teacher who returns to service must be set at 75% of the compensation established for the position to be filled, at a step determined by the appointing authority.

B. The retired state employee or retired teacher who returns to service under this section is not a member and therefore may not accrue additional creditable service or change the retired state employee's or retired teacher's earnable compensation for benefit calculation purposes.

C. During the period of reemployment, the retired state employee or retired teacher is not entitled to health insurance, dental insurance or life insurance benefits. The retired state employee or retired teacher is entitled to all other benefits for the reemployment position under collective bargaining agreements or civil service laws and rules. Health insurance benefits must be provided under the provisions of section 285, subsection 1-A for retired state employees or Title 20-A, section 13451 for retired teachers and life insurance benefits must be provided under the provisions of section 18055.

**3. Contributions to the Maine Public Employees Retirement System and state group health plan.** The portion of the employer contribution that goes to pay the retirement system for the unfunded liability and the state group health plan for retiree health care must be continued and based on the retired state employee's or retired teacher's compensation as provided under subsection 2 during the reemployment period.

**4. Notification requirements.** Employers under this section are required to identify and report to the retirement system, in the manner specified by the retirement system, each individual who is a retiree who becomes an employee of the employer under the option provided in this section. Departments shall also report each retiree who becomes an employee to the Bureau of the Budget in a manner specified by the bureau. The employer shall report each such employee whenever and so long as the employee is the employer's employee.

**5. Exclusion.** A retired state employee or retired teacher who is hired as a substitute teacher is not subject to the restoration to service 5-year limitation in subsection 1 or the compensation limitation in subsection 2, paragraph A.

**Sec. MMM-2. General Fund and Highway Fund savings; transfer to Salary Plan accounts.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings from the restoration to service option established in the Maine Revised Statutes, Title 5, section 17859 that applies against each General Fund account and Highway Fund account for all executive branch departments and agencies statewide, including the Department of the Attorney General, the Department of the Secretary of State and the Department of Audit. General Fund savings amounts must be transferred to the General Fund Compensation and Benefit Plan account in the Department of Administrative and Financial Services, and Highway Fund savings must be transferred to the Highway Fund Compensation and Benefit Plan account in the Department of Administrative and Financial Services. Such transfers must be made by financial order upon the approval of the Governor.

## PART NNN

**Sec. NNN-1. 5 MRSA §8052, sub-§5, ¶B,** as amended by PL 1993, c. 446, Pt. A, §19, is further amended to read:

B. A rule may not be adopted unless the adopted rule is consistent with the terms of the proposed rule, except to the extent that the agency determines that it is necessary to address concerns raised in comments about the proposed rule, or specific findings are made supporting changes to the proposed rule. The agency shall maintain a file for each rule adopted that must include, in addition to other documents required by this Act, testimony, comments, the names of persons who commented and

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the organizations they represent and information relevant to the rule and considered by the agency in connection with the formulation, proposal or adoption of a rule. If an agency determines that a rule that the agency intends to adopt is substantially different from the proposed rule, the agency shall request comments from the public concerning the changes from the proposed rule. The agency may not adopt the rule for a period of 30 days from the date comments are requested pursuant to this paragraph. Notice of the request for comments must be published by the Secretary of State in the same manner as notice for proposed or adopted rules.

**Sec. NNN-2. 5 MRSA §8056, sub-§1, ¶D,** as enacted by PL 1981, c. 524, §12, is amended to read:

D. Publish, pursuant to the procedures set forth in section 8053, subsection 56, a notice containing the following information: A statement that the rule has been adopted, its effective date, a brief description of the substance of the rule, and the address where a copy may be obtained.

**Sec. NNN-3. Secretary of State to develop and implement a plan for the website.**

The Secretary of State shall develop and implement a plan to improve the publicly accessible website used for the posting of all proposed and adopted rules to make it more user-friendly and searchable and to include archival capability. The Secretary of State shall provide a progress report to the Joint Standing Committee on State and Local Government and the Joint Standing Committee on Appropriations and Financial Affairs by January 15, 2012 on the development and implementation of the website improvements.

**Sec. NNN-4. Calculation and transfer.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in section 5 of this Part that applies against each General Fund account for all departments and agencies from savings associated with publishing adopted rule notices only on the publicly accessible website and shall transfer the amounts by financial order upon the approval of the Governor. These transfers are considered adjustments to appropriations in fiscal year 2011-12 and fiscal year 2012-13. The State Budget Officer shall provide a report of the transferred amounts to the Joint Standing Committee on Appropriations and Financial Affairs no later than October 1, 2012.

**Sec. NNN-5. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Departments and Agencies - Statewide 0016**

Initiative: Deappropriates funds to reflect savings to be realized by requiring the Secretary of State to publish adopted rule notices only on the publicly accessible website.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$116,000)	(\$116,000)
<b>GENERAL FUND TOTAL</b>	<b>(\$116,000)</b>	<b>(\$116,000)</b>

## PART OOO

**Sec. OOO-1. 10 MRSA §1023-J, first ¶**, as amended by PL 2003, c. 578, §8, is further amended to read:

The Agricultural Marketing Loan Fund, referred to in this section as the "fund," is created. The fund must be deposited with and maintained by the Finance Authority of Maine. The fund must be administered by the Commissioner of Agriculture, Food and Rural Resources in accordance with Title 7, chapter 101, subchapter 1-D. All money received by the Finance Authority of Maine from any source for the development and implementation of an improved agricultural marketing loan program must be credited to the fund. Any money credited to the fund from the issuance of bonds on behalf of the State for financing loans for agricultural enterprises may be used only for the following purposes: to provide assistance to agricultural enterprises in this State for the design, construction or improvement of commodity and storage buildings and packing and marketing facilities; for the purchase, construction or renovation of buildings, equipment, docks, wharves, piers or vessels used in connection with a commercial agricultural enterprise; for the purchase of land in connection with development of new cranberry acreage; for the purchase of land for irrigation reservoirs or to provide direct access to water for irrigation; for the purchase of land necessary for the start-up of a new agricultural enterprise; for the expansion of an existing agricultural enterprise when the land acquisition is necessary to comply with land use regulations; for the development of a business plan in accordance with the provisions of Title 7, section 436-A; for improvements to pastureland, including seeding and actions to promote rotational grazing; or, if the commissioner so approves at the time of loan insurance commitment, to pledge money in the fund as security for, and to apply money in the fund to, payment of principal, interest and other amounts due on any term loans insured by the Finance Authority of Maine to an eligible dairy farmer. Repayment of these loans and interest on these loans must be credited to the fund and may be used for the purposes stated in this section or Title 7, section 436. Interest earned on money in the fund and interest earned on loans made from the fund may be used to pay the administrative costs of processing loan applications and servicing and administering the fund and loans and grants made from the fund since the inception of the agricultural marketing loan program, to the extent that these costs exceed the fee for administrative costs established by Title 7, section 435, subsection 4.

## PART PPP

**Sec. PPP-1. 5 MRSA §937, sub-§1, ¶F**, as amended by PL 2007, c. 1, Pt. D, §1, is further amended to read:

F. Director, ~~Planning and Management Information Policy and Programs~~.

**Sec. PPP-2. 20-A MRSA §203, sub-§1, ¶F**, as amended by PL 2009, c. 571, Pt. W, §2, is further amended to read:

F. Director, ~~Planning and Management Information Policy and Programs~~.

## PART QQQ

**Sec. QQQ-1. Elimination of vacant positions; calculation and transfer.**

Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings from the elimination of vacant positions in section 2 that applies against each General Fund account, Highway Fund account and All Other Funds accounts for all executive branch departments and agencies statewide, including the Department of the Attorney General, the Department of the Secretary of State and the Department of Audit, and transfer those savings and the headcount by financial order upon the approval of the Governor. These transfers are considered adjustments to authorized position count and appropriations and allocations in fiscal years 2011-12 and 2012-13 based on a report submitted to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Transportation in May 2011.

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

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Executive Branch Departments and Independent Agencies - Statewide 0017**

Initiative: Reduces funding from the elimination of 227.267 position count representing 259 positions as a result of the review of vacant positions statewide as authorized in Public Law 2011, chapter 1, Part R, section 1. This initiative represents the General Fund share of savings from the position eliminations.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	(61.500)	(61.500)
POSITIONS - FTE COUNT	(3.808)	(3.808)
Personal Services	(\$3,749,197)	(\$3,942,484)
<b>GENERAL FUND TOTAL</b>	<b>(\$3,749,197)</b>	<b>(\$3,942,484)</b>

**PART RRR**

**Sec. RRR-1. Transfer from unappropriated surplus; Maine Budget Stabilization Fund.** Notwithstanding any other provision of law, the State Controller shall transfer \$4,000,000 during fiscal year 2011-12 from the General Fund unappropriated surplus to the Maine Budget Stabilization Fund within the Department of Administrative and Financial Services.

**Sec. RRR-2. Transfer from Unclaimed Property Fund; Maine Budget Stabilization Fund.** Notwithstanding any other provision of law, the State Controller shall transfer any amounts transferred from the Unclaimed Property Fund account in the Office of the Treasurer of State to the General Fund pursuant to the Maine Revised Statutes, Title 33, section 1964 at the close of the fiscal year ending June 30, 2011 that exceed \$2,333,420 to the Maine Budget Stabilization Fund within the Department of Administrative and Financial Services.

**PART SSS**

**Sec. SSS-1. Transfers to Maine Clean Election Fund.** Notwithstanding the Maine Revised Statutes, Title 21-A, section 1124, subsection 2, paragraph B, the State Controller shall transfer \$2,000,000, currently authorized to be transferred on or before January 1, 2013, from the General Fund to the Maine Clean Election Fund on or before September 1, 2012 in order to ensure that adequate funds will be available to the Commission on Governmental Ethics and Election Practices.

## PART TTT

**Sec. TTT-1. Transfer; Fund for a Healthy Maine; General Fund.** Notwithstanding any other provision of law, the State Controller shall transfer \$1,375,000 by June 30, 2012 and \$3,240,445 by June 30, 2013 from the Fund for a Healthy Maine, Other Special Revenue Funds account in the Department of Administrative and Financial Services to the unappropriated surplus of the General Fund.

## PART UUU

**Sec. UUU-1. 5 MRSA §1591, sub-§2, ¶A,** as amended by PL 2011, c. 1, Pt. O, §1, is further amended to read:

A. Any balance remaining in the accounts of the Department of Health and Human Services, Bureau of Elder and Adult Services appropriated for the purposes of homemaker or home-based care services at the end of any fiscal year to be carried forward for use by either program in the next fiscal year; **and**

**Sec. UUU-2. 5 MRSA §1591, sub-§2, ¶B** as enacted by PL 2011, c. 1, Pt. O, §2, is amended to read:

B. Any balance remaining in the Traumatic Brain Injury Seed program, General Fund account at the end of any fiscal year to be carried forward for use in the next fiscal year; and

**Sec. UUU-3. 5 MRSA §1591, sub-§2, ¶C** is enacted to read:

C. Any balance remaining in the General Fund account of the Department of Health and Human Services, Bureau of Medical Services appropriated for All Other line category expenditures at the end of any fiscal year to be carried forward for use in the next fiscal year.

## PART VVV

**Sec. VVV-1. Standardized room and board rates; children's private nonmedical institution services; revision of agency rules.** The Department of Health and Human Services shall revise its rules to standardize the room and board rates paid to providers of children's private nonmedical institution services. These rate changes must maintain costs within existing resources. In standardizing rates, the department shall consider room and board costs that are influenced by the acuity of the needs of the child and cost of care, the size of the private nonmedical institution and cost factors that vary by region of the State. In the process of developing standardized rates, the department shall include representatives of providers of private nonmedical institution services from across the State, from



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a variety of types of service and from small, medium and large facilities. Rules adopted pursuant to this section are major substantive rules as required by the Maine Revised Statutes, Title 22, section 3174-Z. Rules adopted pursuant to this section may not take effect prior to February 1, 2012.

## PART WWW

**Sec. WWW-1. 2 MRSA §6, sub-§3**, as repealed and replaced by PL 2005, c. 683, Pt. A, §2, is amended to read:

**3. Range 89.** The salaries of the following state officials and employees are within salary range 89:

Director, Bureau of General Services;

Director, Bureau of Alcoholic Beverages and Lottery Operations;

State Budget Officer;

State Controller;

Director of the Bureau of Forestry;

Director, State Planning Office;

Director, Energy Resources Office;

Director of Human Resources;

Director, Bureau of Parks and Lands; and

Director of Econometric Research; and

Director of the Governor's Office of Communications.

**Sec. WWW-2. 2 MRSA §10** is enacted to read:

### **§ 10. Governor's Office of Communications**

**1. Office established.** The Governor's Office of Communications, referred to in this section as "the office," is established to consolidate, coordinate and streamline communication functions in State Government. The office is administered by the Executive Department.

**2. Director.** The office is under the control and supervision of the Director of the Governor's Office of Communications. The director is appointed by the Governor and serves at the pleasure of the Governor.

**3. Coordination with departments and agencies.** The office shall provide coordinated public communication services to state departments and agencies.

**Sec. WWW-3. Review of statewide communications functions to improve efficiency and cost-effectiveness.** The Director of the Governor's Office of Communications, established in the Maine Revised Statutes, Title 2, section 10, shall conduct a statewide review of positions

currently responsible for communications internal and external to state departments and agencies in order to identify positions for transfer to the Governor's Office of Communications. To assist with this review, the director shall use staff resources from the Department of Administrative and Financial Services, Bureau of the Budget and Bureau of Human Resources and must be provided staff resources from personnel of other agencies. The director is authorized to identify savings and position eliminations to the General Fund and other funds from the improvements identified from the review. Notwithstanding any other provision of law, the State Budget Officer shall transfer position counts and available balances by financial order upon approval of the Governor. These transfers are considered adjustments to authorized position count, appropriations and allocations in fiscal years 2011-12 and 2012-13. The State Budget Officer shall provide the Joint Standing Committee on Appropriations and Financial Affairs a report of the transferred positions and amounts no later than October 1, 2011.

**Sec. WWW-4. Transition.** Notwithstanding any other provision of law, employees of departments or agencies within the State who were employees immediately prior to the effective date of this Part retain all their employee rights, privileges and benefits, including sick leave, vacation and seniority, provided under the Civil Service Law, collective bargaining agreements and current state personnel policies. The Department of Administrative and Financial Services, Bureau of Human Resources shall provide assistance to the affected departments and agencies and shall assist with the orderly implementation of this Part.

## PART XXX

**Sec. XXX-1. 22 MRSA §3187, last ¶,** as enacted by PL 2003, c. 684, §1, is amended to read:

Rules regarding principles of reimbursement for intermediate care facilities for the mentally retarded adopted pursuant to section 3173 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A, except that rules adopted to establish an approval process for capital expenditures to renovate or construct intermediate care facilities for the mentally retarded are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

## PART YYY

**Sec. YYY-1. Lapse available balance.** Notwithstanding any other provision of law, at the close of fiscal year 2010-11, the State Controller shall lapse \$2,800,000 from the General Purpose Aid for Local Schools General Fund account within the Department of Education representing fiscal year 2010-11 excess funding for state wards and state agency clients to the unappropriated surplus of the General Fund.

## PART ZZZ

**Sec. ZZZ-1. Implementation of recommendations of natural resources agency task force.** By February 15, 2012, the Governor shall implement recommendations of the 2008 plan developed by the natural resources agency task force appointed by the Governor to implement Public Law 2007, chapter 539, Part YY, section 2 to:

1. Execute a memorandum of understanding between the Department of Inland Fisheries and Wildlife and the Department of Conservation on a system of unified management of all state boat launch facilities under their jurisdictions;

2. Develop a plan for collocating natural resources agencies and staff currently located in various regional offices to increase communication and collaboration; and

3. Develop a plan for a rational alignment of districts for natural resources agencies to increase communication and collaboration among staff members and between agencies and the local government and citizens of those districts.

**Sec. ZZZ-2. Report.** By February 15, 2012, the Commissioner of Conservation and the Commissioner of Inland Fisheries and Wildlife shall provide a copy of the memorandum of understanding executed under section 1, subsection 1 to the Joint Standing Committee on Appropriations and Financial Affairs. By February 15, 2012, the Commissioner of Conservation, the Commissioner of Inland Fisheries and Wildlife, the Commissioner of Agriculture, Food and Rural Resources, the Commissioner of Environmental Protection and the Commissioner of Marine Resources shall provide the Joint Standing Committee on Appropriations and Financial Affairs a report on the plans developed under section 1, subsections 2 and 3.

## PART AAAA

**Sec. AAAA-1. Judicial Department to coordinate drug court efforts.** The Judicial Department shall coordinate drug court efforts within existing General Fund resources and authorized headcount. This activity was previously supported with a Fund for a Healthy Maine allocation, which was eliminated in Part A of this Act.

## PART BBBB

**Sec. BBBB-1. Transfer to General Fund; Accident, Sickness and Health Insurance Internal Service Fund.** Notwithstanding any other provision of law, the State Controller shall transfer \$1,900,000 representing the General Fund and Other Special Revenue Funds shares from the Accident, Sickness and Health Insurance Internal Service Fund in the Department of Administrative and Financial Services to the unappropriated surplus of the General Fund no later than June 30, 2012. The State Controller also shall transfer the equitable excess reserves as required by state law or federal regulations by June 30, 2012.

## PART CCCC

**Sec. CCCC-1. 36 MRS §5142, sub-§8-A,** as enacted by PL 2005, c. 332, §22 and affected by §30, is repealed.

**Sec. CCCC-2. 36 MRS §5142, sub-§8-B** is enacted to read:

**8-B. Minimum taxability threshold; exemptions.** Minimum taxability thresholds for nonresidents are governed by this subsection.

A. Compensation for personal services performed in the State as an employee is Maine-source income subject to taxation under this Part if the nonresident taxpayer is present in the State performing personal services for more than 12 days during that taxable year and directly earns or derives more than \$3,000 in gross income during the year in the State from all sources.

B. A nonresident individual who is present for business in the State on other than a systematic or regular basis, either directly or through agents or employees, has Maine-source income derived from or effectively connected with a trade or business in the State and subject to taxation under this Part only if the nonresident individual was present in the State for business more than 12 days during the taxable year and earns or derives more than \$3,000 of gross income during the taxable year from contractual or sales-related activities.

C. Performance of the following personal services for 24 days during a calendar year may not be counted toward the 12-day threshold under paragraph A:

(1) Personal services performed in connection with presenting or receiving employment-related training or education;

(2) Personal services performed in connection with a site inspection, review, analysis of management or any other supervision of a facility, affiliate or subsidiary based in the State by a representative from a company, not headquartered in the State, that owns that facility or is the parent company of the affiliate or subsidiary;

(3) Personal services performed in connection with research and development at a facility based in the State or in connection with the installation of new or upgraded equipment or systems at that facility; or

(4) Personal services performed as part of a project team working on the attraction or implementation of new investment in a facility based in the State.

**Sec. CCCC-3. 36 MRSA §5220, sub-§2,** as amended by PL 2005, c. 332, §23, is further amended to read:

**2. Nonresident individuals.** Every nonresident individual who, pursuant to this Part, has a Maine individual income tax liability for the taxable year. An individual whose only Maine-source income is compensation for personal services performed in Maine that is excluded from Maine adjusted gross income by the threshold contained in section 5142, subsection 8-A8-B is not subject to taxation under this Part and need not file a return;

**Sec. CCCC-4. Application.** This Part applies to tax years beginning on or after January 1, 2011.

## PART DDDD

**Sec. DDDD-1. 36 MRSA §1752, sub-§11-A** is enacted to read:

**11-A. Retirement facility.** "Retirement facility" means a facility that includes residential dwelling units where, on an average monthly basis, at least 80% of the residents of the facility are persons 62 years of age or older.

**Sec. DDDD-2. 36 MRSA §1760, sub-§6, ¶E**, as amended by PL 2011, c. 240, §17, is further amended to read:

E. Served by a college to its employees if the meals are purchased with debit cards issued by the college; and

**Sec. DDDD-3. 36 MRSA §1760, sub-§6, ¶F**, as amended by PL 2009, c. 211, Pt. B, §30, is further amended to read:

F. Served by youth camps licensed by the Department of Health and Human Services and defined in Title 22, section 2491, subsection 16; and

**Sec. DDDD-4. 36 MRSA §1760, sub-§6, ¶G** is enacted to read:

G. Served by a retirement facility to its residents when participation in the meal program is a condition of occupancy or the cost of the meals is included in or paid with a comprehensive fee that includes the right to reside in a residential dwelling unit and meals or other services, whether that fee is charged annually, monthly, weekly or daily.

**Sec. DDDD-5. Retroactivity.** This Part applies retroactively to tax years beginning on or after January 1, 2010.

**Sec. DDDD-6. Effective date.** This Part takes effect October 1, 2011.

## PART EEEE

**Sec. EEEE-1. 36 MRSA §2013, sub-§2**, as amended by PL 2001, c. 396, §24, is further amended to read:

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

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

**Sec. EEEE-2. 36 MRSA §2013, sub-§3**, as amended by PL 2001, c. 396, §24, is further amended to read:

**3. Purchases made free of tax with certificate.** Sales tax need not be paid on the purchase of electricity, fuel for a commercial fishing vessel 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, fuel for a commercial fishing vessel 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, fuel for a commercial fishing vessel 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 or fuel for a commercial fishing vessel must be used in qualifying activities, including support operations.

**Sec. EEEE-3. Application.** This Part applies to purchases of fuel for use in a commercial fishing vessel on or after October 1, 2011.

## PART FFFF

**Sec. FFFF-1. 36 MRSA §1760, sub-§93** is enacted to read:

**93. Plastic bags sold to redemption centers.** Sales to a local redemption center licensed under Title 32, section 1871-A of plastic bags used by the redemption center to sort, store or transport returnable beverage containers.

**Sec. FFFF-2. Retroactivity.** This Part applies retroactively to January 1, 2004.

## PART GGGG

**Sec. GGGG-1. 36 MRSA §1760, sub-§23-C, ¶C**, as amended by PL 2005, c. 618, §2 and affected by §5, is further amended to read:

C. Aircraft, if the property is an aircraft not exempted under subsection 88-A; and

**Sec. GGGG-2. 36 MRSA §1760, sub-§45, ¶A-3**, as amended by PL 2007, c. 691, §1 and affected by §2, is further amended to read:

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

**Sec. GGGG-3. 36 MRSA §1760, sub-§88-A** is enacted to read:

**88-A. Aircraft and parts.** Sales, use or leases of aircraft and sales of repair and replacement parts exclusively for use in aircraft or in the significant overhauling or rebuilding of aircraft or aircraft parts or components from July 1, 2011 to June 30, 2015.

## PART HHHH

**Sec. HHHH-1. 5 MRSA §13070-J, sub-§1, ¶D**, as amended by PL 2009, c. 337, §5, is further amended to read:

D. "Economic development incentive" means federal and state statutorily defined programs that receive state funds, dedicated revenue funds and tax expenditures as defined by section 1666 whose purposes are to create, attract or retain business entities related to business development in the State, including but not limited to:

- (1) Assistance from Maine Quality Centers under Title 20-A, chapter 431-A;
- (2) The Governor's Training Initiative Program under Title 26, chapter 25, subchapter 4;
- (3) Municipal tax increment financing under Title 30-A, chapter 206;
- (4) The jobs and investment tax credit under Title 36, section 5215;

- (5) The research expense tax credit under Title 36, section 5219-K;
- (6) Reimbursement for taxes paid on certain business property under Title 36, chapter 915;
- (7) Employment tax increment financing under Title 36, chapter 917;
- (8) The shipbuilding facility credit under Title 36, chapter 919;
- (9) The credit for seed capital investment under Title 36, section 5216-B; and
- (10) The credit for pollution-reducing boilers under Title 36, section 5219-Z.; and
- (11) The credit for Maine fishery infrastructure investment under Title 36, section 5216-D.

**Sec. HHHH-2. 12 MRSA c. 903, sub-c. 8** is enacted to read:

## **SUBCHAPTER 8**

### **MAINE FISHERY INFRASTRUCTURE TAX CREDIT PROGRAM**

#### **§ 10331. Tax credit certificates**

**1. Authorization; short title.** In order to encourage investment in and contributions to infrastructure improvements and facilities that enhance the State's fisheries, the department in coordination with the Department of Marine Resources is authorized to issue certificates of eligibility for the Maine fishery infrastructure investment tax credit permitted by Title 36, section 5216-D, subject to the requirements of this section. This program may be known and cited as "the Maine Fishery Infrastructure Tax Credit Program."

**2. Eligibility for tax credit certificate; rules.** The department in coordination with the Department of Marine Resources shall adopt rules in accordance with the Maine Administrative Procedure Act to implement the Maine Fishery Infrastructure Tax Credit Program. Rules adopted pursuant to this subsection are major substantive rules as defined by Title 5, chapter 375, subchapter 2-A. The rules must establish requirements for public fishery infrastructure project eligibility for a tax credit certificate and must include at least the following.

**A.** A tax credit certificate may be issued in an amount not more than 50% of the amount of cash actually invested in or contributed to an eligible public fishery infrastructure project in any calendar year.



**B. An eligible public fishery infrastructure project must be determined by the department in coordination with the Department of Marine Resources to have a public benefit and be:**

(1) A publicly owned infrastructure improvement or facility that enhances the State's fisheries;  
or

(2) A privately owned infrastructure improvement or facility that is publicly accessible.

**3. Credit certificate limit.** The aggregate investment or contribution eligible for tax credits under this subchapter may not exceed \$5,000,000 per project.

**4. List of projects.** The department shall develop and maintain a list of projects eligible under this subchapter and rules adopted under this subchapter. The department shall coordinate with the Department of Marine Resources in the identification of projects that benefit freshwater and saltwater fisheries.

**5. Revocation of tax credit certificate.** The department may revoke a tax credit certificate under this subchapter if any representation to the department in connection with the application for the certificate proves to have been false when made or if the applicant violates any conditions established by the department and stated in the tax credit certificate. The revocation may be in full or in part as the department determines. The department shall specify the amount of credit being revoked and send notice of the revocation to the investor or contributor and to the State Tax Assessor.

**6. Reports.** As a condition for determination of eligibility or continuation of eligibility for a tax credit certificate under this subchapter, the department may require any information or reports from the public fishery infrastructure project that it considers necessary.

**Sec. HHHH-3. 36 MRSA §5216-D** is enacted to read:

**§ 5216-D. Maine Fishery Infrastructure Investment Tax Credit Program**

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

A. "Certificate" means a tax credit certificate issued by the Department of Inland Fisheries and Wildlife pursuant to Title 12, chapter 903, subchapter 8.

B. "Investment" means an investment or contribution for which a certificate has been received.

C. "Investor" means a taxpayer that has received a certificate.

**2. Credit.** An investor is entitled to a credit against the tax otherwise due under this Part equal to the amount of the tax credit certificate issued by the Department of Inland Fisheries and Wildlife in accordance with Title 12, section 10331 and as limited by subsection 3. In the case of partnerships, limited liability companies, S corporations, nontaxable trusts and any other entities that are treated as

pass-through entities for tax purposes under the Code, but not including pass-through entities taxed under chapter 819, the individual partners, members, stockholders, beneficiaries or equity owners of such entities must be treated as the investors under this section and are allowed a credit against the tax otherwise due from them under this Part in proportion to their respective interests in those partnerships, limited liability companies, S corporations, nontaxable trusts or other pass-through entities. Except as limited or authorized by subsection 3 or 4, 25% of the credit must be taken in the taxable year the investment is made and 25% per year must be taken in each of the next 3 taxable years.

**3. Limitation.** The amount of the credit allowed under this section for any one taxable year may not exceed 50% of the tax imposed by this Part on the investor for the taxable year before application of the credit.

**4. Carry forward.** A credit under this section not taken because of the limitation in subsection 3 must be taken in the next taxable year in which the credit may be taken, and the limitation of subsection 3 also applies to the carry-forward years. In no case may this carry-forward period exceed 15 years.

**5. Recapture.** If the Department of Inland Fisheries and Wildlife revokes a certificate, there must be added to the tax imposed on the investor under this Part for the taxable year in which the revocation occurs an amount equal to the excess of the amount of credit revoked over the amount of credit not yet taken.

**6. Effect of other tax benefits.** A person may not claim a credit under this section if the person also claims a deduction for the same investment under another provision of this Part.

## PART III

**Sec. III-1. Personal Services balances authorized to carry; Department of Corrections.** Notwithstanding any other provision of law, the Department of Corrections is authorized to carry up to \$1,112,240 of fiscal year 2010-11 year-end balances in the Personal Services line category of General Fund accounts to fiscal year 2011-12 to be used for the purpose of paying the retroactive costs of the reclassifications, range changes and approved bargaining unit changes included in Part A of this Act. These balances may be transferred by financial order to the accounts from which these retroactive costs will be expended upon the recommendation of the State Budget Officer and approval of the Governor.

**Sec. III-2. Position eliminations; Department of Corrections.** No later than August 1, 2011, the Department of Corrections shall identify positions for elimination to achieve General Fund savings that are equal to or greater than the amount deappropriated from the Departmentwide - Corrections General Fund account in section 3. Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings that applies against each account in the Department of Corrections and is authorized to transfer authorized headcount and Personal Services savings by financial order upon the approval of the Governor. These transfers are considered adjustments to authorized headcount and appropriations.

**Sec. III-3. Appropriations and allocations.** The following appropriations and allocations are made.

## CORRECTIONS, DEPARTMENT OF

### Departmentwide - Corrections Z096

Initiative: Reduces funding to offset the cost of reclassifications, range changes and bargaining unit changes included in several programs in Part A.

GENERAL FUND	2011-12	2012-13
Personal Services	(\$287,739)	(\$295,926)
GENERAL FUND TOTAL	(\$287,739)	(\$295,926)

## PART JJJJ

**Sec. JJJJ-1. Transfer; Maine Budget Stabilization Fund.** Notwithstanding any other provision of law, the State Controller shall transfer \$29,700,000 from the Maine Budget Stabilization Fund in the Department of Administrative and Financial Services to General Fund unappropriated surplus by the close of fiscal year 2011-12 to offset a General Fund revenue shortfall.

## PART KKKK

**Sec. KKKK-1. Review of alternative sources of funding for emergency broadcast alerts.** The Department of Defense, Veterans and Emergency Management, Maine Emergency Management Agency, in consultation with the Commissioner of Administrative and Financial Services, shall research the potential for federal funds to fund the cost of providing emergency broadcast alerts to the citizens of the State through the Maine Public Broadcasting Network. The agency shall report its findings on available federal resources no later than January 2, 2012 to the Joint Standing Committee on Criminal Justice and Public Safety and the Joint Standing Committee on Appropriations and Financial Affairs.

## PART LLLL

**Sec. LLLL-1. 37-B MRSA §1151, sub-§8,** as enacted by PL 1997, c. 742, §2, is amended to read:

**8. Duties.** The duties of the commission are to:

A. Advise the Maine Women Veterans Coordinator and the Department of Defense, Veterans and Emergency Management on issues affecting women veterans; ~~and~~

B. ~~Serve as a liaison between women veterans and the Department of Veterans Affairs Medical and Regional Office Center at Togus.~~

**Sec. LLLL-2. 37-B MRSA §1151, sub-§§9 to 11** are enacted to read:

**9. Maine Women Veterans Coordinator.** The Director of the Bureau of Maine Veterans' Services shall contract for a Maine Women Veterans Coordinator, referred to in this section as "the coordinator." The coordinator shall serve as a liaison to the Department of Defense, Veterans and Emergency Management on behalf of women veterans. The coordinator shall represent women veterans and communicate issues related to women veterans, including issues presented by the commission, to the United States Veterans Administration and state, regional and national veterans organizations or working groups. The coordinator shall engage in activities that disseminate information to women veterans in the State regarding available federal and state services intended to serve veterans generally and women veterans specifically. The contract may include the costs of conference fees, lodging and professional membership fees for the coordinator directly related to the duties described in this subsection. The coordinator shall submit an annual report to the director as determined by the director.

**10. Fund created.** The Fund for Women Veterans is established and is administered by the Director of the Bureau of Maine Veterans' Services for the purpose of reimbursing members of the commission for expenses directly related to their duties under subsection 8, including biannual conference attendance fees and lodging fees associated with a conference. The fund may also be used to pay the contracted services of the coordinator. The fund is a dedicated, nonlapsing fund. The director shall submit a report by January 15th annually on the work of the coordinator and commission including an accounting of expenditures of the fund to the joint standing committee of the Legislature having jurisdiction over veterans affairs.

**11. Repeal.** This section is repealed June 30, 2015.

**Sec. LLLL-3. Transfer from General Fund unappropriated surplus; Bureau of Maine Veterans' Services, Fund for Women Veterans, Department of Defense, Veterans and Emergency Management.** Notwithstanding any other provision of law, the State Controller shall transfer \$20,000 by July 15, 2011 and \$12,500 by July 15, 2012 from General Fund unappropriated surplus to the Bureau of Maine Veterans' Services, Fund for Women Veterans, Other Special Revenue Funds account within the Department of Defense, Veterans and Emergency Management.

## **PART MMMM**

**Sec. MMMM-1. Calculation and transfer; General Fund; Office of Information Technology.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in this Part from a decrease in charges made to the Department of Administrative and Financial Services, Office of Information Technology for its services that applies against each General Fund account for departments and agencies statewide. The State Budget Officer shall transfer the savings by financial order upon approval of the Governor. These transfers are considered adjustments to appropriations in fiscal years 2011-12 and 2012-13. The State Budget Officer shall provide the Joint Standing Committee on Appropriations and Financial Affairs a report of the transferred amounts not later than January 15, 2012.

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

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Executive Branch Departments and Independent Agencies - Statewide 0017**

Initiative: Reduces funding to recognize savings from implementing a decrease in charges made to the Department of Administrative and Financial Services, Office of Information Technology for its services. The savings to the Office of Information Technology are freezing merit and longevity payments and changes to pension and health insurance.

GENERAL FUND	2011-12	2012-13
All Other	(\$220,938)	(\$346,148)
GENERAL FUND TOTAL	(\$220,938)	(\$346,148)

**PART NNNN**

**Sec. NNNN-1. Transfer; Other Special Revenue Funds; Office of Public Advocate; State Nuclear Safety Advisor; General Fund.** Notwithstanding any other provision of law, the State Controller shall transfer \$55,621 from available balances in the State Nuclear Safety Advisor, Other Special Revenue Funds account within the Office of the Public Advocate to the unappropriated surplus of the General Fund by June 30, 2012.

**Sec. NNNN-2. Transfer; Other Special Revenue Funds; Office of Public Advocate; Railroad Freight Services Quality Fund; General Fund.** Notwithstanding any other provision of law, the State Controller shall transfer \$20,453 from available balances in the Railroad Freight Service Quality Fund, Other Special Revenue Funds account within the Office of the Public Advocate to the unappropriated surplus of the General Fund by June 30, 2012.

**PART OOOO**

**Sec. OOOO-1. Judicial branch report on electronic filing.** The judicial branch shall develop a plan to implement electronic filing for civil docket cases. The judicial branch shall submit the plan along with an estimate of the cost to implement electronic filing in civil docket cases to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Judiciary no later than February 1, 2012.

**Sec. OOOO-2. Judicial branch report on audio broadcast.** The judicial branch shall develop a plan to provide an audio broadcast of Law Court oral arguments. The judicial branch shall submit the plan along with an estimate of the cost to implement and maintain audio broadcasts of Law Court oral arguments to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Judiciary no later than February 1, 2012.

## PART PPPP

**Sec. PPPP-1. 28-A MRSA §606, sub-§2,** as amended by PL 2005, c. 539, §6, is further amended to read:

**2. On-premises retailers must report purchases.** All persons licensed to sell liquor to be consumed on the premises shall report all liquor purchases to the alcohol bureau on forms provided in a manner determined by the alcohol bureau.

## PART QQQQ

**Sec. QQQQ-1. 3 MRSA §2, first ¶,** as amended by PL 2009, c. 213, Pt. LL, §1, is further amended to read:

Each member of the Senate and House of Representatives, beginning with the first Wednesday of December 2000 and thereafter, is entitled to \$10,815 in the first year and \$7,725 in the 2nd year of each biennium, except that if a Legislator who is a recipient of retirement benefits from the federal Social Security Administration files a written request with the Executive Director of the Legislative Council within one week after the biennium commences, the Legislator is entitled to \$9,270 in each year of the biennium. Each member of the Senate and the House of Representatives must receive a cost-of-living adjustment in annual legislative salary, except that the percentage increase may not exceed 5% in any year, and except that the percentage increase may not exceed 3% beginning with the fiscal year ending June 30, 2014. Beginning December 1, 2001, the salary for each legislative session must be adjusted each December 1st by the percentage change in the Consumer Price Index for the most recently concluded fiscal year; except that no member of the Senate or the House of Representatives may receive a cost-of-living adjustment in annual legislative salary for the Second Regular Session of the 124th Legislature, and except that no member of the Senate or the House of Representatives may receive a cost-of-living adjustment in annual legislative salary for the Second Regular Session of the 125th Legislature and the First Regular Session and the Second Regular Session of the 126th Legislature, and any percentage change in the Consumer Price Index for the fiscal years ending June 30, 2011, June 30, 2012 and June 30, 2013 may not be applied to the base salary. In addition, each Legislator is entitled to be paid for travel at each legislative session once each week at the same rate per mile to and from that Legislator's place of abode as state employees receive, the mileage to be determined by the most reasonable direct route, except that Legislators may be reimbursed for tolls paid for travel on the Maine Turnpike as long as they have a receipt for payment of the tolls, such tolls to be reimbursed when Legislators use the Maine Turnpike in traveling to and from sessions of the Legislature or in performance of duly authorized committee

PUBLIC Law, Chapter 380, LD 1043, 125th Maine State Legislature  
An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2011, June 30, 2012 and June 30, 2013  
assignments. Each Legislator is entitled to mileage on the first day of the session, and those amounts of salary and expenses at such times as the Legislature may determine during the session, and the balance at the end of the session.

**Sec. QQQQ-2. Legislative account; lapsed balances; Legislature, General Fund.**

Notwithstanding any other provision of law, \$36,677 of unencumbered balance forward in the Personal Services line category and \$65,800 in the All Other line category in the Legislature, General Fund account in the Legislature lapses to the General Fund in fiscal year 2011-12. These balances will be available as a result of reducing the length of the Second Regular Session of the 125th Legislature by one week. Additionally, \$38,102 of unencumbered balance forward in the Personal Services line category and \$65,800 in the All Other line category in the Legislature, General Fund account in the Legislature lapses to the General Fund in fiscal year 2012-13. These balances will be available as a result of reducing the length of the First Regular Session of the 126th Legislature by one week.

Notwithstanding any other provision of law, \$593,672 of unencumbered balance forward in the Personal Services line category in the Legislature, General Fund account in the Legislature lapses to the General Fund in fiscal year 2011-12. In addition, \$87,305 of unencumbered balance forward in the Personal Services line category in the Legislature, General Fund account in the Legislature lapses to the General Fund in fiscal year 2012-13. These balances will be available from health insurance savings resulting from those Legislators who decline health insurance coverage.

Notwithstanding any other provision of law, \$1,777,681 of unencumbered balance forward in the Personal Services line category in the Legislature, General Fund account in the Legislature lapses to the General Fund in fiscal year 2011-12.

Notwithstanding any other provision of law, \$192,700 of unencumbered balance forward in the Personal Services line category in the Legislature, General Fund account in the Legislature lapses to the General Fund in fiscal year 2011-12. In addition, \$526,512 of unencumbered balance forward in the Personal Services line category in the Legislature, General Fund account in the Legislature lapses to the General Fund in fiscal year 2012-13. These balances will be available as a result of implementing Personal Services cost-savings measures determined by the Legislative Council.

**Sec. QQQQ-3. Legislative account; lapsed balances; Law and Legislative Reference Library, General Fund.** Notwithstanding any other provision of law, \$76,209 of unencumbered balance forward in the Personal Services line category in the Law and Legislative Reference Library, General Fund account in the Legislature lapses to the General Fund in fiscal year 2011-12.

Notwithstanding any other provision of law, \$11,235 of unencumbered balance forward in the Personal Services line category in the Law and Legislative Reference Library, General Fund account in the Legislature lapses to the General Fund in fiscal year 2011-12. In addition, \$31,777 of unencumbered balance forward in the Personal Services line category in the Law and Legislative Reference Library, General Fund account in the Legislature lapses to the General Fund in fiscal year 2012-13. These balances will be available as a result of implementing Personal Services cost-savings measures determined by the Legislative Council.

**Sec. QQQQ-4. Legislative account; lapsed balances; Office of Program Evaluation and Government Accountability, General Fund.** Notwithstanding any other provision of law, \$164,030 of unencumbered balance forward in the Personal Services line category and \$50,000 in the All Other line category in the Office of Program Evaluation and Government Accountability, General Fund account in the Legislature lapses to the General Fund in fiscal year 2011-12.

Notwithstanding any other provision of law, \$17,440 of unencumbered balance forward in the Personal Services line category in the Office of Program Evaluation and Government Accountability, General Fund account in the Legislature lapses to the General Fund in fiscal year 2011-12. In addition, \$44,852 of unencumbered balance forward in the Personal Services line category in the Office of Program Evaluation and Government Accountability, General Fund account in the Legislature lapses to the General Fund in fiscal year 2012-13. These balances will be available as a result of implementing Personal Services cost-savings measures determined by the Legislative Council.

## PART RRRR

**Sec. RRRR-1. State Lottery Fund; reduction to expenses; transfer to General Fund.** The Director of the Bureau of Alcoholic Beverages and Lottery Operations within the Department of Administrative and Financial Services shall reduce costs of goods sold expenditures below budgeted amounts by \$350,000 in fiscal year 2011-12 and \$2,200,000 in fiscal year 2012-13 based on extending the lottery contract in fiscal year 2011-12 and from rebidding the existing contract in fiscal year 2012-13 in order to increase General Fund revenue by \$350,000 in fiscal year 2011-12 and \$2,200,000 in fiscal year 2012-13.

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

### ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

#### Lottery Operations 0023

Initiative: Allocates funds to offset deallocations in Part A that were intended to recognize savings within the costs of goods sold account, which is not allocated by the Legislature. This allocation avoids an unintended reduction to lottery operating allocations.

STATE LOTTERY FUND	2011-12	2012-13
All Other	\$350,000	\$2,200,000
STATE LOTTERY FUND TOTAL	\$350,000	\$2,200,000

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved, except as otherwise indicated.



PUBLIC Law, Chapter 380, LD 1043, 125th Maine State Legislature  
An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General  
Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations  
of State Government for the Fiscal Years Ending June 30, 2011, June 30, 2012 and June 30, 2013  
Effective June 20, 2011, unless otherwise indicated.