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Date: (Filing No. S- )

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**STATE OF MAINE**  
**SENATE**  
**125TH LEGISLATURE**  
**FIRST REGULAR SESSION**

SENATE AMENDMENT “ ” to COMMITTEE AMENDMENT “A” to H.P. 778, L.D. 1043, Bill, “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, 2012 and June 30, 2013”

Amend the amendment in Part I in section 1 by striking out all of subsection 5-C (page 517, lines 35 to 37 and page 518, lines 1 to 7 in amendment) and inserting the following:

**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 ~~and~~ \$23,739,516 in fiscal year 2011-12 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 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.'

Amend the amendment by striking out all of Parts M to P and inserting the following:

**'PART M**

**Sec. M-1. 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

**SENATE AMENDMENT**

1 contained in the Code, Section 2210 must be disregarded. Notwithstanding any other  
2 provision of this Title to the contrary, the tax determined by this chapter for estates of  
3 decedents dying after December 31, 2009 must be determined in accordance with the  
4 law applicable to decedents dying during calendar year 2009, except that, for  
5 purposes of calculation of the amount of property that may be treated as Maine  
6 qualified terminable interest property under subsection 2-B, paragraph C, the  
7 applicable exclusion amount must be determined in accordance with the law  
8 applicable as of the decedent's actual date of death; and

9 **Sec. M-2. 36 MRSA §4062, sub-§2-B, ¶C**, as amended by PL 2005, c. 622,  
10 §16, is repealed and the following enacted in its place:

11 C. With respect to which an election is made, on a return timely filed with the  
12 assessor, to treat the property as Maine qualified terminable interest property for  
13 purposes of the tax imposed by this chapter. The amount of property with respect to  
14 which the election is made may not be less than zero or greater than the amount by  
15 which the federal applicable exclusion amount under the Code, Section 2010 exceeds  
16 the Maine exclusion amount. For the purposes of this paragraph, "federal applicable  
17 exclusion amount" does not include any deceased spousal unused exclusion amount  
18 under the Code, Section 2810.

19 **Sec. M-3. Application.** This Part applies to the estates of decedents who die after  
20 December 31, 2011.

21 **PART N**

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

24 **1-B. Single individuals and married persons filing separate returns; tax years**  
25 **from 2002 to 2012.** For tax years beginning on or after January 1, 2002 but not later than  
26 December 31, 2012, for single individuals and married persons filing separate returns:

27 If Maine Taxable income is:	The tax is:
28 Less than \$4,200	2% of the Maine taxable income
29 At least \$4,200 but less than \$8,350	\$84 plus 4.5% of the excess over \$4,200
30 At least \$8,350 but less than \$16,700	\$271 plus 7% of the excess over \$8,350
31 \$16,700 or more	\$856 plus 8.5% of the excess over \$16,700

32  
33 **Sec. N-2. 36 MRSA §5111, sub-§1-C** is enacted to read:

34 **1-C. Single individuals and married persons filing separate returns; tax years**  
35 **from 2013 to 2012.** For tax years beginning on or after January 1, 2013, for single  
36 individuals and married persons filing separate returns, the taxable income bracket  
37 amounts under subsection 1-B for tax years beginning in 2012 must be increased by 5%.  
38 By December 1, 2011, the State Tax Assessor shall calculate the taxable income bracket  
39 amounts for tax years beginning in 2013 by multiplying the bracket amounts for tax years  
40 beginning in 2012 after adjustment under section 5403 by 105% and rounding to the next  
41 lowest multiple of \$50.

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

3           **2-B. Heads of households; tax years from 2002 to 2012.** For tax years beginning  
4 on or after January 1, 2002 but not later than December 31, 2012, for unmarried  
5 individuals or legally separated individuals who qualify as heads of households:

6           If Maine Taxable income is:	The tax is:
7           Less than \$6,300	2% of the Maine taxable income
8           At least \$6,300 but less than \$12,500	\$126 plus 4.5% of the excess over \$6,300
9           At least \$12,500 but less than \$25,050	\$405 plus 7% of the excess over \$12,500
10           \$25,050 or more	\$1,284 plus 8.5% of the excess over
11	\$25,050

12  
13           **Sec. N-4. 36 MRSA §5111, sub-§2-C** is enacted to read:

14           **2-C. Heads of households; tax years beginning 2013.** For tax years beginning on  
15 or after January 1, 2013, for unmarried individuals or legally separated individuals who  
16 qualify as heads of households, the taxable income bracket amounts under subsection 2-B  
17 for tax years beginning in 2012 must be increased by 5%. By December 1, 2011, the  
18 State Tax Assessor shall calculate the taxable income bracket amounts for tax years  
19 beginning in 2013 by multiplying the bracket amounts for tax years beginning in 2012  
20 after adjustment under section 5403 by 105% and rounding to the next lowest multiple of  
21 \$50.

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

24           **3-B. Individuals filing married joint return or surviving spouses; tax years from**  
25 **2002 to 2012.** For tax years beginning on or after January 1, 2002 but not later than  
26 December 31, 2012, for individuals filing married joint returns or surviving spouses  
27 permitted to file a joint return:

28           If Maine Taxable income is:	The tax is:
29           Less than \$8,400	2% of the Maine taxable income
30           At least \$8,400 but less than \$16,700	\$168 plus 4.5% of the excess over \$8,400
31           At least \$16,700 but less than \$33,400	\$542 plus 7% of the excess over \$16,700
32           \$33,400 or more	\$1,711 plus 8.5% of the excess over
33	\$33,400

34  
35           **Sec. N-6. 36 MRSA §5111, sub-§3-C** is enacted to read:

36           **3-C. Individuals filing married joint return or surviving spouses; tax years**  
37 **beginning 2013.** For tax years beginning on or after January 1, 2013, for individuals  
38 filing married joint returns or surviving spouses permitted to file a joint return, the  
39 taxable income bracket amounts under subsection 3-B for tax years beginning in 2012  
40 must be increased by 5%. By December 1, 2011, the State Tax Assessor shall calculate  
41 the taxable income bracket amounts for tax years beginning in 2013 by multiplying the

1 bracket amounts for tax years beginning in 2012 after adjustment under section 5403 by  
2 105% and rounding to the next lowest multiple of \$50.

3 **Sec. N-7. 36 MRSA §5219-S**, as amended by PL 2009, c. 213, Pt. BBBB, §16, is  
4 further amended to read:

5 **§5219-S. Earned income credit**

6 **1. Resident taxpayer.** A resident individual is allowed a refundable credit against  
7 the tax otherwise due under this Part in the amount of ~~5%~~ 10% of the federal earned  
8 income credit for the same taxable year, ~~except that for tax years beginning in 2009 and~~  
9 ~~2010, the applicable percentage is 4%.~~

10 **2. Nonresident taxpayer.** A nonresident individual is allowed a refundable credit  
11 against the tax otherwise due under this Part in the amount of ~~5%~~ 10% of the federal  
12 earned income credit for the same taxable year, ~~except that for tax years beginning in~~  
13 ~~2009 and 2010, the applicable percentage is 4%~~, multiplied by the ratio of the individual's  
14 Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph B, to  
15 the individual's entire federal adjusted gross income, as modified by section 5122.

16 **3. Part-year resident taxpayer.** An individual who files a return as a part-year  
17 resident in accordance with section 5224-A is allowed a refundable credit against the tax  
18 otherwise due under this Part in the amount of ~~5%~~ 10% of the federal earned income  
19 credit for the same taxable year, ~~except that for tax years beginning in 2009 and 2010, the~~  
20 ~~applicable percentage is 4%~~, multiplied by a ratio, the numerator of which is the  
21 individual's Maine adjusted gross income as defined in section 5102, subsection 1-C,  
22 paragraph A for that portion of the taxable year during which the individual was a  
23 resident plus the individual's Maine adjusted gross income as defined in section 5102,  
24 subsection 1-C, paragraph B for that portion of the taxable year during which the  
25 individual was a nonresident and the denominator of which is the individual's entire  
26 federal adjusted gross income, as modified by section 5122.

27 ~~**4. Limitation.** The credit allowed by this section may not reduce the Maine income~~  
28 ~~tax to less than zero.~~

29 **Sec. N-8. Adjustment of brackets.** By December 1, 2011, the State Tax  
30 Assessor shall submit legislation to the Joint Standing Committee on Taxation that places  
31 into law the bracket amounts for tax years beginning on or after January 1, 2013  
32 calculated under the Maine Revised Statutes, Title 36, section 5111, subsections 1-C, 2-C  
33 and 3-C and provides for continued adjustment of bracket amounts under Title 36, section  
34 5403. The joint standing committee is authorized to report out a bill to the Second  
35 Regular Session of the 125th Legislature that implements the adjustments to the brackets.

36 **PART O**

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

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

1 (1) For taxable years beginning on or after January 1, 2002 but prior to January  
2 1, 2006, a 30% bonus depreciation deduction claimed by the taxpayer pursuant to  
3 Section 101 of the federal Job Creation and Worker Assistance Act of 2002,  
4 Public Law 107-147 with respect to property placed in service during the taxable  
5 year;

6 (2) For taxable years beginning on or after January 1, 2002 but prior to January  
7 1, 2006, a 50% bonus depreciation deduction claimed by the taxpayer pursuant to  
8 Section 201 of the federal Jobs and Growth Tax Relief Reconciliation Act of  
9 2003, Public Law 108-27 with respect to property placed in service during the  
10 taxable year; and

11 (3) For taxable years beginning on or after January 1, 2003 but prior to January  
12 1, 2011, the increase in aggregate cost under Section 179 of the Code arising  
13 from amendments to the Code applicable to tax years beginning on or after  
14 January 1, 2003;

15 **PART P**

16 **Sec. P-1. 36 MRSA §6652, sub-§4**, as amended by PL 2009, c. 496, §28, is  
17 further amended to read:

18 **4. Reimbursement percentage.** The reimbursement under this chapter is an amount  
19 equal to the percentage specified in paragraphs A and B of taxes assessed and paid with  
20 respect to each item of eligible property, except that for claims filed for application  
21 periods that begin on August 1, 2006, August 1, 2009 ~~or~~ August 1, 2010, August 1, 2011  
22 or August 1, 2012 the reimbursement is 90% of that amount.

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

25 B. Pursuant to section 699, subsection 2, reimbursement under this chapter after the  
26 12th year for which reimbursement is made is according to the following percentages  
27 of taxes assessed and paid with respect to each item of eligible property.

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

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

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

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

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

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

35 Amend the amendment by relettering or renumbering any nonconsecutive Part letter  
36 or section number to read consecutively.

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**SUMMARY**

This amendment strikes all of Parts M to P from Committee Amendment "A" and replaces them with the following provisions.

1. It restores \$16,611,122 of the reduction to revenue sharing made in fiscal year 2011-12 and completely eliminates the reduction in fiscal year 2012-13.

2. It eliminates the changes to the estate tax proposed by Committee Amendment "A" except that it retains the change to the definition of "qualified terminable interest property" to conform to federal law.

3. It eliminates the changes to the income tax brackets and rates as proposed in Committee Amendment "A" and instead increases the tax brackets by 5% beginning with tax years beginning on or after January 1, 2013. It also increases the earned income tax credit to 10% and makes it refundable.

4. It eliminates the credit of 10% of federal bonus depreciation as proposed in Committee Amendment "A" but retains the conformity with federal law regarding so-called "Section 179" expensing, which allows businesses to claim business expense deductions for purchases to the same extent as permitted under federal income tax law.

5. It eliminates the reduction in the Circuitbreaker Program proposed in Committee Amendment "A" and amends the laws governing the Business Equipment Tax Reimbursement program to decrease the reimbursement percentage for business equipment reimbursement to 90% of the benefit for the 2012-2013 biennium.

**FISCAL NOTE REQUIRED**

**(See attached)**

SPONSORED BY: \_\_\_\_\_

(Senator DILL)

COUNTY: Cumberland