

PLEASE NOTE: The Office of the Revisor of Statutes **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Public Law
124th Legislature
First Regular Session

Chapter 382
H.P. 1051 - L.D. 1495

An Act To Implement Tax Relief and Tax Reform

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

PART A

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 T, §§1 to 7, is repealed and the following enacted in its place:

§ 5111. Imposition and rate of tax

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

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 A-2. 36 MRSA §5111-A, as repealed and replaced by PL 1987, c. 819, §3, is repealed.

Sec. A-3. 36 MRSA §5111-C is enacted to read:

§ 5111-C. Income tax surcharge

For tax years beginning on or after January 1, 2010, in addition to the tax imposed pursuant to section 5111 for the taxable year, there is imposed a tax surcharge on the amount of state tax liability due for any tax year that begins on or after January 1, 2010. The tax surcharge is .35% of the Maine taxable income that exceeds \$250,000. The Maine taxable income threshold amount of \$250,000 must be indexed in accordance with chapter 841 and if the amount so indexed is not a multiple of \$50 the indexed amount must be rounded to the next lowest multiple of \$50.

Sec. A-4. 36 MRSA §5112, as enacted by P&SL 1969, c. 154, Pt. F, §1, is repealed.

Sec. A-5. 36 MRSA §5113, as repealed and replaced by PL 1983, c. 571, §19, is repealed.

Sec. A-6. 36 MRSA §5121, as amended by PL 2003, c. 390, §26, is further amended to read:

§ 5121. Maine taxable income

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

Sec. A-7. 36 MRSA §5122, sub-§2, ¶L, as amended by PL 2003, c. 705, §11 and affected by §14, is further amended to read:

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

Sec. A-8. 36 MRSA §5122, sub-§2, ¶T, as amended by PL 2005, c. 519, Pt. LLL, §1 and c. 622, §26, is further amended to read:

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

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

Sec. A-9. 36 MRSA §5124-A, as amended by PL 2009, c. 213, Pt. BBBB, §9 and affected by §17, is repealed.

Sec. A-10. 36 MRSA §5125, as amended by PL 2007, c. 539, Pt. CCC, §§9 to 11, is repealed.

Sec. A-11. 36 MRSA §5126, as amended by PL 2001, c. 583, §16, is repealed.

Sec. A-12. 36 MRSA §5160, as amended by PL 2003, c. 390, §35, is further amended to read:

§ 5160. Imposition of tax

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

Sec. A-13. 36 MRSA §5192, sub-§2, as amended by PL 1985, c. 783, §32, is repealed.

Sec. A-14. 36 MRSA §5203-B, as amended by PL 2003, c. 673, Pt. JJ, §2 and affected by §6, is repealed.

Sec. A-15. 36 MRSA §5203-C, as amended by PL 2005, c. 618, §§7 and 8 and affected by §22, is further amended to read:

§ 5203-C. State minimum tax

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

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

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

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

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

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

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

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

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

F. "Regular income tax" means:

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

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

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

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

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

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

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

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

H. "Tentative minimum tax" means:

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

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

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

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

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

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

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

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

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

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

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

~~A. Resident individuals, trusts and estates;~~

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

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

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

3. Credit for tax paid to other taxing jurisdiction. ~~A resident individual, estate or trust is allowed a credit against the tax otherwise due under this section for the amount of alternative minimum tax imposed on that individual, estate or trust for the taxable year by another state of the United States, a political subdivision of any such state, the District of Columbia or any political subdivision of a foreign country that is analogous to a state of the United States with respect to income derived from sources in that taxing jurisdiction also subject to tax under this section. The credit for any of the~~

~~specified taxing jurisdictions may not exceed the proportion of the tax otherwise due under this section that the amount of the taxpayer's tentative alternative minimum taxable income derived from sources in that taxing jurisdiction bears to the taxpayer's entire tentative alternative minimum taxable income. When a credit is claimed for alternative minimum taxes paid to both a state and a political subdivision of that state, the total credit allowable for those taxes in the aggregate may not exceed the proportion of the tax otherwise due under this section that the amount of the taxpayer's tentative alternative minimum taxable income derived from sources in the other state bears to the taxpayer's entire tentative alternative minimum taxable income.~~

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

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

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.

Sec. A-16. 36 MRSA §5204, as amended by PL 1987, c. 772, §38, is repealed.

Sec. A-17. 36 MRSA §5204-A, as amended by PL 1993, c. 395, §20, is repealed.

Sec. A-18. 36 MRSA §5216-C, sub-§1, as enacted by PL 1999, c. 475, §6 and affected by §7, is amended to read:

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

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

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

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

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

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

A resident individual is allowed a credit against the tax otherwise due under this Part, ~~excluding the tax imposed by section 5203-C,~~ for the amount of income tax imposed on that individual for the taxable year by another state of the United States, a political subdivision of any such state, the District

of Columbia or any political subdivision of a foreign country that is analogous to a state of the United States with respect to income subject to tax under this Part that is derived from sources in that taxing jurisdiction. In determining whether income is derived from sources in another jurisdiction, the assessor may not employ the law of the other jurisdiction but shall instead assume that a statute equivalent to section 5142 applies in that jurisdiction. The credit, for any of the specified taxing jurisdictions, may not exceed the proportion of the tax otherwise due under this Part, ~~excluding the tax imposed by section 5203-C~~; that the amount of the taxpayer's Maine adjusted gross income derived from sources in that taxing jurisdiction bears to the taxpayer's entire Maine adjusted gross income; except that, when a credit is claimed for taxes paid to both a state and a political subdivision of a state, the total credit allowable for those taxes does not exceed the proportion of the tax otherwise due under this Part, ~~excluding the tax imposed by section 5203-C~~; that the amount of the taxpayer's Maine adjusted gross income derived from sources in the other state bears to the taxpayer's entire Maine adjusted gross income.

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

§ 5218-A. Household credit

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

2. Amount of base credit. The base household credit is:

A. For single individuals, \$700;

B. For unmarried individuals or legally separated individuals who qualify as heads of households, \$1,050;

C. For individuals filing married joint returns or surviving spouses permitted to file a joint return, \$1,200; and

D. For married persons filing separate returns, \$600.

3. Additional credit. The base household credit is increased by \$250 for each person for whom the individual is entitled to claim an exemption under the Code.

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

A. For single individuals and married persons filing separate returns, \$27,500;

B. For unmarried individuals or legally separated individuals who qualify as heads of households, \$41,250; and

C. For individuals filing married joint returns or surviving spouses permitted to file a joint return, \$55,000.

5. Credit refundable. The household credit allowed under this section is refundable up to \$70 for a married joint return and \$50 for all other returns filed by an individual who is not claimed as a dependent by another individual on a return under the Code.

6. Adjustment for inflation. For tax years beginning in 2014 and thereafter, the household credit amounts under subsections 2 and 3 and the credit phaseout thresholds under subsection 4 must be adjusted annually for inflation as provided in chapter 841.

Sec. A-21. 36 MRS §5218-B is enacted to read:

§ 5218-B. Alternate calculation of household credit

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

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

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

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

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

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

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

3. Amount of base alternate household credit. The base alternate household credit is 5.5% of the individual's federal itemized deductions modified under subsection 2 plus:

A. For single individuals and married persons filing separate returns, \$400;

B. For unmarried individuals or legally separated individuals who qualify as heads of households, \$600; and

C. For individuals filing married joint returns or surviving spouses permitted to file a joint return, \$800.

4. Additional credit. The base alternate household credit, as adjusted under subsection 5, is increased by \$250 for each person for whom the individual is entitled to claim an exemption under the Code.

5. Maximum base alternate household credit. An individual's base alternate household credit may not exceed:

- A. For individuals filing as single or for married individuals filing separately, \$1,150;
- B. For individuals filing as heads of households, \$1,750; or
- C. For married individuals filing jointly, \$2,300.

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

Sec. A-22. 36 MRSA §5218-C is enacted to read:

§ 5218-C. Credit for certain charitable contributions

A credit is allowed against the tax otherwise due under this Part for certain charitable contributions. The credit equals 5% of the amount of charitable contributions claimed on a federal return, excluding deductions carried over from prior years, that exceeds \$250,000.

Sec. A-23. 36 MRSA §5218-D is enacted to read:

§ 5218-D. Elderly credit

A credit is allowed in the amount of \$60 for each taxpayer who is 65 years of age or older or \$120 for a married joint return if both spouses are 65 years of age or older. The credit is reduced by \$2 for every \$100 of adjusted gross income over \$32,000 for single filers, \$52,000 on a married joint return, \$48,000 on a head of household return and \$26,000 on a married filing separately return.

Sec. A-24. 36 MRSA §5219-A, as amended by PL 2003, c. 390, §§46 and 47, is repealed.

Sec. A-25. 36 MRSA §5219-H, sub-§2, as repealed and replaced by PL 2003, c. 673, Pt. F, §1 and affected by §2, is amended to read:

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

Sec. A-26. 36 MRSA §5219-N, as amended by PL 2003, c. 673, Pt. JJ, §5 and affected by §6, is repealed.

Sec. A-27. 36 MRSA §5219-S, sub-§4, as enacted by PL 2007, c. 693, §31, is repealed and the following enacted in its place:

4. Limitation. For tax years beginning before January 1, 2010, the credit allowed by this section may not reduce the Maine income tax to less than zero. For tax years beginning on or after January 1, 2010, the credit allowed by this section is refundable after application of all other credits under this chapter excluding the refundable portion of the income tax credit for child care expenses under section 5218, subsection 4, up to a maximum refundable amount under this section of \$150 for individuals filing married joint returns and \$125 for all other taxpayers reduced by the refundable household credit amount

determined under section 5218-A or section 5218-B. The refundable portion of the credit under this subsection is limited to the applicable ratio as determined for nonresidents and part-year residents under subsections 2 and 3.

Sec. A-28. 36 MRSA §5224-A, as amended by PL 1989, c. 596, Pt. J, §5, is further amended to read:

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

If an individual changes that individual's status as a resident individual or nonresident individual during the taxable year, the individual shall file a nonresident return pursuant to section 5220, subsection 2. That individual's tax ~~shall~~ must be computed, pursuant to section 5111, ~~subsection 4~~, as if that individual were a nonresident individual, except that the numerator of the apportionment ratio ~~shall be~~ is comprised of the individual's Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph A, for the portion of the taxable year during which that individual was a resident, plus that individual's Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph B, for the portion of the taxable year during which that individual was a nonresident. The part-year resident ~~shall~~ is also be entitled to the credit provided by section 5217-A, computed as if the individual's Maine adjusted gross income for the entire year were comprised only of that portion ~~which~~ that is attributed to the portion of the year during which that individual was a resident.

Sec. A-29. 36 MRSA §5250, sub-§2, as amended by PL 1997, c. 668, §§36 and 37, is repealed.

Sec. A-30. 36 MRSA §5250, sub-§5 is enacted to read:

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

Sec. A-31. 36 MRSA §5275, sub-§1, as enacted by P&SL 1969, c. 154, §F, is amended to read:

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

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

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

Sec. A-32. 36 MRSA §5275, sub-§2, as amended by PL 1979, c. 378, §44, is repealed.

Sec. A-33. 36 MRSA §5401, as enacted by IB 1983, c. 2, §4, is amended to read:

§ 5401. Findings and purpose

Inflation erodes the value of ~~personal exemptions and deductions provisions~~ in the Maine individual income tax structure intended to moderate the impact of state and local taxes and distorts fiscal equity among taxpayers. Inflation-induced increases in individual income tax revenues result in annual collections that exceed the amounts anticipated by legislative actions establishing rates, exemptions,

deductions and other features of the Maine individual income tax. Furthermore, the income tax laws of this State, in combination with economic inflation, have caused inequitable treatment of the taxpayers because the application of inflexible, statutorily prescribed rates of tax, standard deduction and personal exemption to increasing personal incomes has resulted in increasing the taxpayer's tax liability while the taxpayers taxpayer's purchasing power has remained the same or, in some instances, has decreased. It is the purpose of this Act to correct this situation by requiring that certain components of the individual income tax structure be adjusted in order to compensate for the impact of inflation.

Sec. A-34. 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, ~~2001~~ 2012.

Sec. A-35. 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~~ 2013, 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, 2-B and 3-B base household credit amounts under section 5218-A, subsection 2, the additional credit amount under section 5218-A, subsection 3, the credit phaseout thresholds under section 5218-A, subsection 4, the refundable limits under section 5218-A, subsection 5, the base alternate household credit amounts under section 5218-B, subsection 3, the additional credit amount under section 5218-B, subsection 4 and the maximum base alternate household credit amounts under section 5218-B, subsection 5. If the dollar amounts of each rate bracket for each base household credit amount under section 5218-A, subsection 2, each base alternate household credit amount under section 5218-B, subsection 3 or each maximum base alternate household credit amount under section 5218-B, subsection 5, adjusted by application of the cost-of-living adjustment, are not multiples of \$~~50~~ \$25, any increase must be rounded to the next lowest multiple of \$~~50~~ \$25. If the dollar amounts for the additional credit under section 5218-A, subsection 3, the refundable limits under section 5218-A, subsection 5 or the additional credit under section 5218-B, subsection 4, adjusted by application of the cost-of-living adjustment, are not multiples of \$5, any increase must be rounded to the next lowest multiple of \$5. If the dollar amounts for the credit phaseout thresholds under section 5218-A, subsection 4, 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 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. A-36. Legislative intent. It is the intent of the Legislature that the household credit provided under the Maine Revised Statutes, Title 36, section 5218-A and section 5218-B is to provide relief to low-income and middle-income persons from the disproportionate cost of living in this State including the high cost of heating oil and the heavy reliance of the citizens of the State on heating oil, which is the highest in the nation; the high cost of transportation and the limited availability of public transportation; the disproportionate state and local tax burden, including the extension of sales tax to services; and the high rate of local property taxes that contribute to household costs.

Sec. A-37. Report; authority for legislation. As soon as possible but no later than November 1, 2011, the State Tax Assessor shall submit a report to the joint standing committee of the Legislature having jurisdiction over taxation matters that includes 2010 tax data and revenue projections and shows the actual impact of this Act in 2010 and the projected impact of this Act in 2011 and 2012 on revenues and tax progressivity resulting from the changes in the tax laws effected by this Act.

The committee may submit legislation to the Second Regular Session of the 125th Legislature to adjust the household credit and alternative household credit to maintain revenue neutrality and to ensure that any revenue that exceeds revenue neutrality is used to increase the household and alternative household credits. The legislation may also include changes to the Maine Residents Property Tax Program as a means of providing tax relief.

Sec. A-38. Effective date; application. This Part takes effect January 1, 2010 and applies to income tax years beginning on or after January 1, 2010.

PART B

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

2. Source of fund. ~~Beginning July 1, 2003 and every~~ Every July 1st thereafter, the State Controller shall transfer to the Tourism Marketing Promotion Fund an amount, as certified by the State Tax Assessor, that is equivalent to 5% ~~6%~~ of the 7% ~~8.5%~~ tax imposed on tangible personal property and taxable services pursuant to Title 36, section 1811, for the first 6 months of the prior fiscal year after the reduction for the transfer to the Local Government Fund as described by Title 30-A, section 5681, subsection 5. ~~Beginning on October 1, 2003 and every~~ Every October 1st thereafter, the State Controller shall transfer to the Tourism Marketing Promotion Fund an amount, as certified by the State Tax Assessor, that is equivalent to 5% ~~6%~~ of the 7% ~~8.5%~~ tax imposed on tangible personal property and taxable services pursuant to Title 36, section 1811, for the last 6 months of the prior fiscal year after the reduction for the transfer to the Local Government Fund. 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. The amount transferred from General Fund sales and use tax revenues does not affect the calculation for the transfer to the Local Government Fund.

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

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

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

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

7. Sales tax revenue. Beginning July 1, 2009 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 ~~50%~~ 40% 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 after the reduction for the transfer to the Local Government Fund under Title 30-A, section 5681, subsection 5. Beginning on October 1, 2009 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 ~~50%~~ 40% 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 after the reduction for the transfer to the Local Government Fund. 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. The amount transferred from General Fund sales and use tax revenues does not affect the calculation for the transfer to the Local Government Fund.

Sec. B-4. 36 MRSA §1752, sub-§1-I is enacted to read:

1-I. Administrative support operations. "Administrative support operations" means secretarial activities and supervision of administrative support staff; bookkeeping and accounting services; customer assistance activities; purchasing and receiving activities; human resources activities; and executive, tax compliance and legal support activities.

Sec. B-5. 36 MRSA §1752, sub-§1-J is enacted to read:

1-J. Amusement, entertainment and recreation services. "Amusement, entertainment and recreation services" is defined pursuant to this subsection.

A. "Amusement, entertainment and recreation services" means the following:

(1) Admission fees to entertainment venues and performances, including theaters, movies, lectures, concerts, festivals, amusement parks, water parks, fairgrounds, except for licensed agricultural fairs, race tracks, carnivals, circuses, sports activities, stadiums, amphitheaters, museums, planetariums, animal parks, petting zoos, aquariums, historical sites and convention centers;

(2) Fees charged for participation in or entry to miniature golf courses, billiard parlors, go-cart courses and paintball;

(3) Admission fees charged for exhibition shows such as auto, boat, camping, home, garden, animal and antique shows;

(4) Fees charged for scenic and sight-seeing excursions including aircraft, helicopter, balloon, blimp, watercraft, railroad, bus, trolley and wagon rides, whitewater rafting and guided recreation, but excluding scenic and sight-seeing excursions on federally navigable waters; and

(5) Entertainment services such as those provided by bands, orchestras, disc jockeys, comedians, clowns, jugglers, children's entertainers and ventriloquists.

B. "Amusement, entertainment and recreation services" does not include:

(1) Fees charged for admission to a licensed agricultural fair or charges for participation in any events or activities occurring at the fair organized by a school or incorporated nonprofit organization if all the proceeds from the event or activity are used for the charitable purposes of the school or organization;

(2) Fees charged by health clubs and fitness centers;

(3) Fees charged for lessons or training in dance, music, theater, arts and gymnastics, martial arts and other athletic pursuits; or

(4) Fees charged for admission to:

(a) Museums and aquariums operated by a governmental entity or incorporated, nonprofit organization;

(b) Concerts, dance productions, theatrical productions, sports activities or similar events or activities organized and performed by a school or incorporated, nonprofit organization, if all proceeds of the event or activity are used for the charitable purposes of that school or organization; or

(c) Festivals and special events organized by governmental entities, schools or incorporated, nonprofit organizations if all the proceeds of the festival or special event are directed to support a charitable purpose.

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

1-K. Candy. "Candy" means a preparation of sugar, honey or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops or pieces and that does not contain flour or require refrigeration.

Sec. B-7. 36 MRSA §1752, sub-§2-F is enacted to read:

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

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

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

Sec. B-9. 36 MRSA §1752, sub-§4-A is enacted to read:

4-A. Installation, repair or maintenance services. "Installation, repair or maintenance services" is defined pursuant to this subsection.

A. "Installation, repair or maintenance services" means:

(1) All services involved in the installation, repair or maintenance of jewelry, cameras, guns, musical instruments, electronic and mechanical equipment, lawn and garden equipment, computer hardware and office equipment, vehicles and appliances;

(2) Service and maintenance contracts with regard to personal property identified in subparagraph (1);

(3) Tailoring and clothing and shoe repair; and

(4) Furniture repair and restoration.

B. "Installation, repair or maintenance services" does not include:

(1) Services performed on tangible personal property used or held for use at or located at a manufacturing facility or fabrication facility, other than tangible personal property used in administrative support operations; or

(2) Services involved in the installation, repair or maintenance of computer software, special mobile equipment, aircraft, watercraft or a truck or truck tractor registered in the name of a business as a commercial motor vehicle under Title 29-A, section 504.

Sec. B-10. 36 MRSA §1752, sub-§5-D is enacted to read:

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

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

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

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

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

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

Sec. B-11. 36 MRSA §1752, sub-§8-A, as repealed and replaced by PL 2001, c. 439, Pt. TTTT, §1 and affected by §3, is amended to read:

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

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

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

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

D. Candy.

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

Sec. B-12. 36 MRSA §1752, sub-§8-C is enacted to read:

8-C. Personal property services. "Personal property services" means the following services related to personal property: dry cleaning; laundry and diaper services not including self-service laundry services; embroidery and monogramming; car washing; pressure cleaning and washing; pet services such as exercising, sitting, training, grooming and boarding for nonmedical purposes; picture framing; domestic services, including house cleaning and furniture and rug cleaning; interior decoration; meal preparation; butchering; art restoration; warehousing and storage, including rental of storage units and warehouse space, but not including warehousing and storage services provided to a business; moving services; vehicle towing; and boat mooring. "Personal property services" does not include fabrication services; installation, repair or maintenance services; services performed on tangible personal property

used or held for use at or located at a manufacturing facility or fabrication facility, other than tangible personal property used in administrative support operations; or services performed on aircraft including refurbishing of aircraft.

Sec. B-13. 36 MRSA §1752, sub-§11, as amended by PL 2007, c. 627, §42 and affected by §96 and amended by c. 693, §14, is repealed.

Sec. B-14. 36 MRSA §1752, sub-§11-A is enacted to read:

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

A. "Retail sale" includes:

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

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

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

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

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

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

B. "Retail sale" does not include:

(1) Any casual sale;

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

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

(4) The sale of labor and parts used in the performance of repair services under a service or maintenance contract sold on or after January 1, 2010;

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

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

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

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

(9) The sale, to a person engaged in the business of renting or leasing tangible personal property, of tangible personal property for lease or rental except for property located at a manufacturing or fabrication facility.

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

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

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

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

B. "Sale price" does not include:

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

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

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

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

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

- A. Rental of living quarters in a hotel, rooming house or tourist or trailer camp;
- B. Transmission and distribution of electricity;
- C. Rental or lease of tangible personal property;
- D. Sale of prepaid calling service;
- E. Amusement, entertainment and recreation services;
- F. Installation, repair and maintenance services;
- G. Personal property services; and
- H. Transportation and courier services.

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

20-B. Transportation and courier services. "Transportation and courier services" means in-state transportation of persons or property by limousine and courier services. For the purposes of this Part, "limousine service" means livery service hired for a specific event.

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

21. Use. "Use" includes the exercise in this State of any right or power over tangible personal property incident to its ownership, including the derivation of income, whether received in money or in the form of other benefits, by a lessor from the rental of tangible personal property property located at a manufacturing or fabrication facility located in this State.

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

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

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

Sec. B-24. 36 MRSA §1760, sub-§6, ¶E, as amended by PL 2007, c. 529, §2, is further amended to read:

E. Served by colleges to employees of the college when the meals are purchased with debit cards issued by the colleges; ~~and~~

Sec. B-25. 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. B-26. 36 MRS §1760, sub-§6, ¶G is enacted to read:

G. Served by a retirement facility to its residents when the cost of the meals is included in 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. B-27. 36 MRS §1760, sub-§32-A is enacted to read:

32-A. Services to certain machinery and equipment. Sales of taxable services performed on machinery and equipment exempt from sales tax under subsections 29 to 32 or subsection 87 or that is eligible for refund or exemption under section 2013.

Sec. B-28. 36 MRS §1760, sub-§45, as amended by PL 2007, c. 691, §1 and affected by §2, is further amended to read:

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

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

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

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

A-3. If the property is an aircraft not exempted under subsection 88 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

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

Property, other than automobiles, watercraft, snowmobiles, all-terrain vehicles and aircraft, that is required to be registered for use in this State does not qualify for this exemption unless it was registered by its present owner outside this State more than 12 months prior to its registration in this State. If property required to be registered for use in this State was not required to be registered for use outside this State, the owner must be able to document actual use of the property outside this State for more than 12 months

prior to its registration in this State. For purposes of this subsection, "use" does not include storage but means actual use of the property for a purpose consistent with its design. This exemption does not apply to leased property.

Sec. B-29. 36 MRS §1760, sub-§82-A is enacted to read:

82-A. Sales of taxable services delivered outside this State. Sales of taxable services performed on or with respect to tangible personal property located outside this State or when the property is brought into this State for performance of the services, and, following the performance of the services, the seller delivers the property to a location outside this State or to the United States Postal Service, a common carrier or a contract carrier hired by the seller for delivery to a location outside this State for use solely outside this State.

Sec. B-30. 36 MRS §1760, sub-§92 is enacted to read:

92. Certain services. Sales of services that are subject to taxation under chapter 358.

Sec. B-31. 36 MRS §1760, sub-§93 is enacted to read:

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

Sec. B-32. 36 MRS §1760, sub-§94 is enacted to read:

94. Services to affiliates. Sales of installation, repair or maintenance services made between affiliated taxpayers that are engaged in a unitary business as defined in section 5102, subsection 10-A.

Sec. B-33. 36 MRS §1760-C, as amended by PL 2007, c. 437, §11, is further amended to read:

§ 1760-C. Exempt activities

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

Sec. B-34. 36 MRSA §1763, as amended by PL 2007, c. 693, §16, is further amended to read:

§ 1763. Presumptions

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

Sec. B-35. 36 MRSA §1811, first ¶, as repealed and replaced by PL 2007, c. 627, §51 and affected by §96, is amended to read:

A tax is imposed on the value of all tangible personal property and taxable services sold at retail in this State. The rate of tax is ~~7%~~ 8.5% on the value of liquor sold in licensed establishments as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43; ~~7%~~ 8.5% on the value of rental of living quarters in any hotel, rooming house or tourist ~~or trailer~~ camp; ~~7%~~ 8.5% on the value of rental of living quarters in a trailer camp; ~~10%~~ 12.5% on the value of rental for a period of less than one year of an automobile, including a loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty; ~~7%~~ 8.5% on the value of prepared food; and 5% on the value of all other tangible personal property and taxable services. Value is measured by the sale price, except as otherwise provided. The value of rental for a period of less than one year of an automobile is the total rental charged to the lessee and includes, but is not limited to, maintenance and service contracts, drop-off or pick-up fees, airport surcharges, mileage fees and any separately itemized charges on the rental agreement to recover the owner's estimated costs of the charges imposed by government authority for title fees, inspection fees, local excise tax and agent fees on all vehicles in its rental fleet registered in the State. All fees must be disclosed when an estimated quote is provided to the lessee.

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

Sec. B-37. 36 MRSA §1812, sub-§1, as reallocated by PL 1999, c. 790, Pt. A, §48, is repealed and the following enacted in its place:

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

Sec. B-38. 36 MRSA §1812, sub-§2, as amended by PL 1991, c. 846, §24, is further amended to read:

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

Sec. B-39. 36 MRSA §1817 is enacted to read:

§ 1817. Accelerated payment of tax on leases and rentals

Except as provided in section 1818, the tax imposed by this Part on the rental or lease of tangible personal property must be collected by the lessor at the time the property that is the subject of the lease is delivered to the lessee or at the time the initial payment under the lease is required to be made by the lessee, whichever is earlier, on the basis of the total amount of the consideration to be paid by the lessee under the terms of the lease agreement. If the total amount of the consideration for the lease includes amounts that are not calculated at the time the lease is executed, the tax attributable to those amounts must be collected by the lessor at the time those amounts are billed to the lessee. In the case of an open-end lease, the tax must be collected by the lessor on the basis of the total amount to be paid during the initial fixed term of the lease, and then for each subsequent renewal period as it comes due. For purposes of this section, "consideration" includes, without limitation, the amount of any down payment, trade-in credit or 3rd-party rebate that is applied to reduce the cost of the leased property upon which the lease payments are computed. This section does not apply to a lease associated with a sale and leaseback transaction when that sale and leaseback occurs within 90 days of the lessee's original purchase of the equipment.

Sec. B-40. 36 MRSA §1818 is enacted to read:

§ 1818. Leases and rentals of manufacturing or fabrication facility property

With regard to property located at a manufacturing or fabrication facility, the tax imposed by this Part must be paid by the lessor based on the acquisition cost of the machinery or equipment. Lease or rental payments by the lessee or renter are not subject to tax under this Part.

Sec. B-41. 36 MRSA §1861, as amended by PL 1995, c. 640, §6, is further amended to read:

§ 1861. Imposition

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

Sec. B-42. 36 MRSA §1862, as amended by PL 1987, c. 772, §24, is further amended to read:

§ 1862. Taxes paid in other jurisdictions

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

Sec. B-43. 36 MRSA §2020 is enacted to read:

§ 2020. Removal from the State of leased property

If leased property with respect to which the tax imposed by this Part has been paid on an accelerated basis is permanently removed from the State, the lessee is entitled to a refund of the tax allocable to that portion of the lease that remains in effect after the property has been removed from the State. A refund may not be issued unless the taxing jurisdiction to which the property is removed allows a corresponding refund or does not impose tax on any portion of the lease of property that remains after the property is removed from that taxing jurisdiction. A refund may not be issued if the other taxing jurisdiction allows a credit to the lessee for the sales or use tax paid in this State on the lease transaction. The refund must be requested in accordance with the provisions of section 2011.

Sec. B-44. 36 MRSA §2021 is enacted to read:

§ 2021. Early termination of lease

If a lease on property with respect to which the tax imposed by this Part has been paid on an accelerated basis is terminated by the lessee before the expiration of the lease term, the lessee is entitled to a refund of the tax allocable to that portion of the remaining lease payments. A refund may not be issued if the early termination is the result of an option to purchase the leased property or the lease has been terminated due to nonpayment.

Sec. B-45. 36 MRSA §2551, sub-§1, as enacted by PL 2003, c. 673, Pt. V, §25 and affected by §29, is repealed.

Sec. B-46. 36 MRSA §2557, sub-§33, as enacted by PL 2007, c. 627, §74, is amended to read:

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

Sec. B-47. 36 MRSA §2557, sub-§34, as enacted by PL 2007, c. 627, §75, is amended to read:

34. Interstate telecommunications service. Sales of interstate telecommunications service to a business.

Sec. B-48. 36 MRSA c. 720 is enacted to read:

CHAPTER 720

AIRPORT TRANSPORTATION FEE

§ 4851. Airport transportation fee imposed

A fee of \$1 per passenger is imposed on a taxicab operator or a limousine operator, not subject to sales tax under Part 3, for each conveyance originating from or terminating at a commercial airport.

§ 4852. Administration

The fee imposed by this chapter is administered as provided in chapter 7 and Part 3, with the fee imposed pursuant to this chapter to be considered as imposed under Part 3.

Sec. B-49. Rules. The State Tax Assessor, no later than November 1, 2009, shall develop informational bulletins for affected businesses describing in detail the sales tax changes contained in this Part. When developing this information the State Tax Assessor shall consult with and be guided by the Joint Standing Committee on Taxation. The State Tax Assessor shall concurrently adopt major substantive rules to implement the changes contained in this Part pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A. Major substantive rules must be proposed in time to be considered by the Legislature during the Second Regular Session of the 124th Legislature.

Sec. B-50. Monthly reports. The State Tax Assessor shall provide monthly reports to the Joint Standing Committee on Taxation through April 1, 2010 regarding the State's activities in implementing the provisions of this Part that broaden the sales tax base and increase the sales tax on prepared meals, lodging and rentals of automobiles for less than one year. The report must include:

1. Information for taxpayers. A plan for providing information to taxpayers and the public about new sales and use tax obligations under this Part;

2. Implementation progress. Progress reports on implementation of the plan and copies of taxpayer materials and informational materials that are proposed for issuance by the assessor; and

3. Materials. Copies of proposed bulletins and taxpayer guidance materials.

The assessor shall inform the committee about implementation issues and shall seek the committee's advice on implementation and proposed rules. The committee may submit legislation to the Second Regular Session of the 124th Legislature regarding implementation of the provisions of this Part that broaden the sales tax base and increase the sales tax on prepared meals, lodging and rentals of automobiles for less than one year.

Sec. B-51. Application date. Those portions of this Part that affect the taxation of leases and rentals of tangible personal property apply to leases entered into, extended or renewed on or after April 1, 2010.

Sec. B-52. Effective date. This Part takes effect January 1, 2010, except that the 12.5% sales and use tax on short-term automobile rentals imposed pursuant to the Maine Revised Statutes, Title 36, section 1811, first paragraph takes effect October 1, 2009.

PART C

Sec. C-1. 36 MRS §6201, sub-§5, as amended by PL 1995, c. 368, Pt. CCC, §7 and affected by §11, is further amended to read:

5. Homestead. "Homestead" means the dwelling owned or rented by the claimant or held in a revocable living trust for the benefit of the claimant and occupied by the claimant and the claimant's dependents as a home, and may consist of a part of a multidwelling or multipurpose building and a part of the land, ~~up to 10 acres~~, upon which it is built. "Owned" includes a vendee in possession under a land contract and of one or more joint tenants or tenants in common.

Sec. C-2. 36 MRS §6201, sub-§7, as enacted by PL 1987, c. 516, §§3 and 6, is amended to read:

7. Household income. "Household income" means all income received by all persons of a household in a calendar year while members of the household, excluding the income of members of the household for whom the claimant under this chapter is entitled to claim an exemption as a dependent under Part 8 for the year for which relief is requested.

Sec. C-3. 36 MRS §6201, sub-§9, as repealed and replaced by PL 2007, c. 438, §113, is amended to read:

9. Income. "Income" means Maine adjusted gross income determined in accordance with Part 8, modified as provided by this subsection.

A. Maine adjusted gross income must be increased by the following amounts, to the extent not included in Maine adjusted gross income:

- (1) Contributions, including catch-up contributions, to any pension, annuity or retirement plan, including contributions to an individual retirement account under Section 408 of the Code, a simplified employee pension plan, a salary reduction simplified employee pension plan, a savings incentive match plan for employees plan and a deferred compensation plan under Section 457 of the Code and cash or deferred arrangements under Section 401 of the Code and qualified, or "Keogh," accounts;
- ~~(2) Nontaxable contributions to a flexible spending arrangement under Section 125 of the Code;~~
- ~~(3) Amounts excluded from gross income under Section 129 of the Code;~~
- (4) Distributions from a ROTH IRA;
- (5) Capital gains;
- (6) The absolute value of the amount of trade or business loss, net operating loss carry-over, capital loss, rental loss, farm loss, partnership or S Corporation loss included in Maine adjusted gross income;

~~(7) Inheritance;~~

~~(8) Life insurance proceeds paid on death of an insured;~~

~~(9) Nontaxable lawsuit rewards resulting from lawsuits for actions such as slander, libel and pain and suffering, excluding reimbursements such as medical and legal expenses associated with the case;~~

(10) Support money;

~~(11) Nontaxable strike benefits;~~

(12) The gross amount of any pension or annuity, including railroad retirement benefits;

(13) All payments received under the federal Social Security Act and state unemployment insurance laws;

(14) Veterans' disability pensions;

(15) Nontaxable interest received from the Federal Government or any of its agencies or instrumentalities;

(16) Interest or dividends on obligations or securities of this State and its political subdivisions and authorities;

(17) Workers' compensation and the gross amount of "loss of time" insurance; ~~and~~

(18) Cash public assistance and relief, but not including relief granted under this chapter; and

(19) The total nontaxable portion of the following items of income, determined as if a federal income tax return were required, but only if the total of all of the following income items exceeds \$5,000:

(a) Jury duty payments;

(b) Awards;

(c) Lawsuit awards resulting from lawsuits for actions such as slander, libel and pain and suffering, excluding reimbursements such as medical and legal expenses associated with the case;

(d) Strike benefits; and

(e) Life insurance proceeds paid on death of an insured.

B. Maine adjusted gross income must be decreased by the following amounts, to the extent included in Maine adjusted gross income:

(1) ~~The first \$5,000 of proceeds from a life insurance policy, whether paid in a lump sum or in the form of an annuity;~~

(2) A rollover from an individual retirement account, pension or annuity fund or plan to an individual retirement account, pension or annuity fund or plan;

(3) Gifts from nongovernmental sources; and

(4) Surplus foods or other relief in kind supplied by a governmental agency.

Sec. C-4. 36 MRSA §6203-A, as amended by PL 2009, c. 213, Pt. S, §14 and affected by §16, is repealed and the following enacted in its place:

§ 6203-A. Procedure for reimbursement

1. Application periods beginning August 1, 2009 and August 1, 2010. For application periods beginning August 1, 2009 and August 1, 2010, at least monthly on or before the last day of the month, the State Tax Assessor shall determine the benefit for each claimant under this chapter and certify the amount to the State Controller to be transferred to the so-called circuit breaker reserve established, maintained and administered by the State Controller from General Fund undedicated revenue. At least monthly, the assessor shall pay the certified amounts to each approved applicant qualifying for the benefit under this chapter. Interest may not be allowed on any payment made to a claimant pursuant to this chapter.

2. Application periods beginning during or after January 2011; applications filed January 1st to June 30th. For application periods beginning during or after January 2011 and with respect to applications filed prior to July 1st, the State Tax Assessor shall determine the benefit for each claimant under this chapter and certify the amount to the State Controller at any time after June 30th, but no later than July 15th, to be transferred to the so-called circuit breaker reserve established, maintained and administered by the State Controller from General Fund undedicated revenue. No later than August 1st, the assessor shall pay the certified amounts to each approved applicant qualifying for the benefit under this chapter. Interest may not be allowed on any payment made to a claimant pursuant to this chapter.

3. Application periods beginning during or after January 2011; applications filed after June 30th. For application periods beginning during or after January 2011 and with respect to applications filed after June 30th but prior to the following November 15th, plus any time granted to file, at least monthly on or before the last day of the month, the State Tax Assessor shall determine the benefit for each claimant under this chapter and certify the amount to the State Controller to be transferred to the so-called circuit breaker reserve established, maintained and administered by the State Controller from General Fund undedicated revenue. At least monthly, the assessor shall pay the certified amounts to each approved applicant qualifying for the benefit under this chapter. Interest may not be allowed on any payment made to a claimant pursuant to this chapter.

Sec. C-5. 36 MRSA §6204, as amended by PL 2005, c. 2, Pt. E, §3 and affected by §§7 and 8, is repealed and the following enacted in its place:

§ 6204. Filing date

1. Application period beginning August 1, 2009. For the application period beginning August 1, 2009, a claim may not be paid unless the claim is filed with the bureau on or after August 1, 2009 and on or before May 31, 2010.

2. Application period beginning August 1, 2010. For the application period beginning August 1, 2010, a claim may not be paid unless the claim is filed with the bureau on or after August 1, 2010 and on or before November 30, 2010.

3. Application periods beginning on or after January 1, 2011. For application periods beginning on or after January 1, 2011, a claim may not be paid unless the claim is filed with the bureau during or after January and on or before the following November 15th.

Sec. C-6. 36 MRSA §6207, sub-§1, ¶A-1, as amended by PL 2009, c. 213, Pt. XXX, §1, is further amended to read:

A-1. Fifty percent of that portion of the benefit base that exceeds 4% but does not exceed 8% of income plus 100% of that portion of the benefit base that exceeds 8% of income ~~to a maximum payment of \$2,000; and~~ and calculated according to tables established by the State Tax Assessor.

(1) Tables established by the assessor must be based on the benefit formula set forth in this subsection and include benefit base brackets in increments of \$100 and household income brackets in increments of \$1,000.

(2) The maximum benefit under this subsection is limited to \$2,000;

Sec. C-7. 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, the benefit is limited to 80% of the amount determined under paragraph A-1; and

Sec. C-8. 36 MRSA §6207, sub-§1, ¶C is enacted to read:

C. For application periods beginning on or after January 1, 2011, the benefit is limited to 88% of the amount determined under paragraph A-1.

Sec. C-9. 36 MRSA §6210, last ¶, as amended by PL 2005, c. 218, §59, is further amended to read:

The assessor shall include ~~a checkoff to request an~~ the application form and instructions for the Maine Residents Property Tax Program ~~on~~ with the individual income tax form. The assessor shall also provide a paperless option for filing an application for the Maine Residents Property Tax Program.

Sec. C-10. Report. By January 15, 2012, the State Tax Assessor shall submit a report to the joint standing committee of the Legislature having jurisdiction over taxation matters providing information comparing the annual cost of the Maine Residents Property Tax Program from 2005 to 2011, including the number of applicants for benefits under the Maine Residents Property Tax Program and the average benefits provided, and providing projections for the same information for 2012 to 2015. The report must identify the extent of increased participation in and benefit cost of the Maine Residents Property Tax Program as the result of coordination of the program with the income tax. The committee may submit legislation related to the report to the Second Regular Session of the 125th Legislature.

Sec. C-11. Application. Unless otherwise specified and except for that section of this Part that amends the Maine Revised Statutes, Title 36, section 6210, this Part applies to application filed with respect to program application periods of the Maine Residents Property Tax Program beginning on or after August 1, 2010. That section of this Part that amends Title 36, section 6210 applies to application filed with respect to program application periods of the Maine Residents Property Tax Program beginning during or after January 2011.

PART D

Sec. D-1. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Revenue Services - Bureau of 0002

Initiative: Provides funding for 5 Tax Examiner positions and one Senior Tax Examiner position beginning October 1, 2010 to implement the individual income tax and rent and property refund tax law changes.

GENERAL FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	0.000	6.000
Personal Services	\$0	\$340,479
All Other	\$0	\$697,768
GENERAL FUND TOTAL	\$0	\$1,038,247

Revenue Services - Bureau of 0002

Initiative: Provides funding for one Account Associate II position, one Tax Examiner position and 3 Revenue Agent positions beginning October 1, 2009 to implement the sales and use tax law changes.

GENERAL FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	5.000	5.000
Personal Services	\$235,211	\$332,242
All Other	\$287,862	\$140,602
GENERAL FUND TOTAL	\$523,073	\$472,844

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF DEPARTMENT TOTALS	2009-10	2010-11
GENERAL FUND	\$523,073	\$1,511,091
DEPARTMENT TOTAL - ALL FUNDS	\$523,073	\$1,511,091

ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF

Office of Tourism 0577

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

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	\$0	\$2,861,638
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$2,861,638

ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF DEPARTMENT TOTALS	2009-10	2010-11
OTHER SPECIAL REVENUE FUNDS	\$0	\$2,861,638
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$2,861,638

SECTION TOTALS	2009-10	2010-11
GENERAL FUND	\$523,073	\$1,511,091
OTHER SPECIAL REVENUE FUNDS	\$0	\$2,861,638
SECTION TOTAL - ALL FUNDS	\$523,073	\$4,372,729

See title page for effective date, unless otherwise indicated.