

**General Fund  
LD 1043 Change Package  
May 2011**

**Amend several sections in LD 1043 Part C as follows**

**Replace Section C-2 as follows:**

**CURRENT**

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

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

- (1) For fiscal year 2005-06, the target is 52.6%.
- (2) For fiscal year 2006-07, the target is 53.86%.
- (3) For fiscal year 2007-08, the target is 53.51%.
- (4) For fiscal year 2008-09, the target is 52.52%.
- (5) For fiscal year 2009-10, the target is 48.93%.
- (6) For fiscal year 2010-11, the target is 45.84%.
- (7) For fiscal year 2011-12 ~~and succeeding years~~, the target is ~~55%~~46.19%.
- (8) For fiscal year 2012-13 and succeeding years, the target is 55%.

**PROPOSED**

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

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

- (1) For fiscal year 2005-06, the target is 52.6%.
- (2) For fiscal year 2006-07, the target is 53.86%.
- (3) For fiscal year 2007-08, the target is 53.51%.

- (4) For fiscal year 2008-09, the target is 52.52%.
- (5) For fiscal year 2009-10, the target is 48.93%.
- (6) For fiscal year 2010-11, the target is 45.84%.
- (7) For fiscal year 2011-12 ~~and succeeding years~~, the target is ~~55%~~ 46.19%.

**Insert the following new Section C-3.**

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

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

- (1) For fiscal year 2011-12, the target is 49.11%.
- (2) For fiscal year 2012-13, the target is 52.50%.
- (3) For fiscal year 2013-14 and succeeding years, the target is 55%.

**Replace Section C-3 as follows:**

**CURRENT**

**Sec. C-3. 20-A MRSA §15671-A, sub-§2, ¶B**, as amended by PL 2011, c. 1, Pt. C, §2, is further amended to read:

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

- (1) For the 2005 property tax year, the full-value education mill rate is the

amount necessary to result in a 47.4% statewide total local share in fiscal year 2005-06.

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

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

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

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

(4-B) For the 2010 property tax year, the full-value education mill rate is the amount necessary to result in a 54.0% statewide total local share in fiscal year 2010-11.

(4-C) For the 2011 property tax year ~~and subsequent tax years~~, the full-value education mill rate is the amount necessary to result in a ~~45.0%~~ 53.81% statewide total local share in fiscal year 2011-12 ~~and after~~.

(5) For the 2012 property tax year and subsequent tax years, the full-value education mill rate is the amount necessary to result in a 45.0% statewide total local share in fiscal year 2012-13 and after.

## PROPOSED

**Sec. C-3. 20-A MRSA §15671-A, sub-§2, ¶B**, as amended by PL 2011, c. 1, Pt. C, §2, is further amended to read:

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

education mill rates must be derived according to the following schedule.

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

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

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

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

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

(4-B) For the 2010 property tax year, the full-value education mill rate is the amount necessary to result in a ~~54.0%~~ 54.16% statewide total local share in fiscal year 2010-11.

(4-C) For the 2011 property tax year ~~and subsequent tax years~~, the full-value education mill rate is the amount necessary to result in a ~~45.0%~~ 53.81% statewide total local share in fiscal year 2011-12 ~~and after~~.

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

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

(4-F) For the 2014 property tax year and subsequent tax years, the full-value education mill rate is the amount necessary to result in a 45.0% statewide total local share in fiscal year 2013-14 and after.

**Replace Section C-7 as follows:**

**CURRENT**

**Sec. C-7. Total cost of funding public education from kindergarten to grade 12.** The total cost of funding public education from kindergarten to grade 12 for fiscal year 2011-12 is as follows:

	<b>2011-12 TOTAL</b>
<b>Total Operating Allocation</b>	
Total operating allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 without transitions percentage	\$1,390,771,314
Total operating allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 with 97% transitions percentage	\$1,349,048,174
Total other subsidizable costs pursuant to the Maine Revised Statutes, Title 20-A, section 15681-A	\$413,851,257
	<hr/>
<b>Total Operating Allocation</b>	
Total operating allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 and total other subsidizable costs pursuant to Title 20-A, section 15681-A	\$1,762,899,431
<b>Total Debt Service Allocation</b>	
Total debt service allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683-A	\$104,575,834
<b>Total Adjustments and Miscellaneous Costs</b>	
Total adjustments and miscellaneous costs pursuant to the Maine Revised Statutes, Title 20-A, sections 15689 and 15689-A	\$69,991,704
	<hr/>
<b>Total Cost of Funding Public Education from Kindergarten to Grade 12</b>	

Total cost of funding public education from kindergarten to grade 12 for fiscal year 2011-12 pursuant to the Maine Revised Statutes, Title 20-A, chapter 606-B	\$1,937,466,969
--	-----------------

**PROPOSED**

**Sec. C-7. Total cost of funding public education from kindergarten to grade 12.** The total cost of funding public education from kindergarten to grade 12 for fiscal year 2011-12 is as follows:

	<b>2011-12 TOTAL</b>
<b>Total Operating Allocation</b>	
Total operating allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 without transitions percentage	\$1,390,771,314
Total operating allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 with 97% transitions percentage	\$1,349,048,174
Total other subsidizable costs pursuant to the Maine Revised Statutes, Title 20-A, section 15681-A	\$413,851,257
	<hr/>
<b>Total Operating Allocation</b>	
Total operating allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 and total other subsidizable costs pursuant to Title 20-A, section 15681-A	\$1,762,899,431
<b>Total Debt Service Allocation</b>	
Total debt service allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683-A	\$104,575,834

**Total Adjustments and Miscellaneous Costs**

Total adjustments and miscellaneous costs pursuant to the Maine Revised Statutes, Title 20-A, sections 15689 and 15689-A	\$69,991,704
--	--------------

---

**Total Cost of Funding Public Education from Kindergarten to Grade 12**

Total cost of funding public education from kindergarten to grade 12 for fiscal year 2011-12 pursuant to the Maine Revised Statutes, Title 20-A, chapter 606-B	\$1,937,466,969
Total cost of the state contribution to teacher retirement, teacher retirement health insurance and teacher retirement life insurance for fiscal year 2011-12 pursuant to the Maine Revised Statutes, Title 5, chapters 421 and 423	\$151,228,203
Adjustment pursuant to Title 20-A MRSA section 15683 subsection 2	\$41,723,140
<b>Total Cost of Funding Public Education from Kindergarten to Grade 12</b>	<b>\$2,130,418,312</b>

**Replace Section C-8 as follows:**

**CURRENT**

**Sec. C-8. Local and state contributions to total cost of funding public education from kindergarten to grade 12.** The local contribution and the state contribution appropriation provided for general purpose aid for local schools for the fiscal year beginning July 1, 2011 and ending June 30, 2012 is calculated as follows:

	<b>2011-12 LOCAL</b>	<b>2011-12 STATE</b>
<b>Local and State Contributions to the Total Cost of Funding Public Education from Kindergarten to Grade 12</b>		
Local and state contributions to the total cost of funding public education from kindergarten to	\$1,042,466,969	\$895,000,000

grade 12 pursuant to the Maine Revised Statutes, Title 20-A, section 15683 - subject to statewide distributions required by law

**PROPOSED**

**Sec. C-8. Local and state contributions to total cost of funding public education from kindergarten to grade 12.** The local contribution and the state contribution appropriation provided for general purpose aid for local schools for the fiscal year beginning July 1, 2011 and ending June 30, 2012 is calculated as follows:

	<b>2011-12 LOCAL</b>	<b>2011-12 STATE</b>
<b>Local and State Contributions to the Total Cost of Funding Public Education from Kindergarten to Grade 12</b>		
Local and state contributions to the total cost of funding public education from kindergarten to grade 12 pursuant to the Maine Revised Statutes, Title 20-A, section 15683 - subject to statewide distributions required by law	\$1,042,466,969	\$895,000,000
State contribution to the total cost of teacher retirement, teacher retirement health insurance and teacher retirement life insurance for fiscal year 2011-12 pursuant to the Maine Revised Statutes, Title 5, chapters 421 and 423.		\$151,228,203
State Contribution to the Total Cost of Funding Public Education from Kindergarten to Grade 12		\$1,046,228,203

**Renumber other sections in Part C as necessary**



**SUMMARY**  
**PART C**

This amendment revises several amounts to reflect updated appropriation levels. It also proposes to include General Fund appropriations for teacher retirement, retired teachers' health insurance and retired teachers' life insurance in the annual targets for the state share percentage of the total cost of funding public education from kindergarten to grade 12.

**Delete Part M in LD 1043 and replace with the following:**

**PART M**

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

**1. Taxpayers.** Persons subject to tax under this Title shall maintain such records as the State Tax Assessor determines necessary for the reasonable administration of this Title. Records pertaining to taxes imposed by chapters 371, ~~and 575~~ and 577 and by Part 8 must be retained as long as is required by applicable federal law and regulation. Records pertaining to the special fuel tax user returns filed pursuant to section 3209, subsection 2 and the International Fuel Tax Agreement pursuant to section 3209, subsection 1-B must be retained for 4 years. Records pertaining to all other taxes imposed by this Title must be retained for a period of at least 6 years. The records must be kept in such a manner as to ensure their security and accessibility for inspection by the assessor or any designated agent engaged in the administration of this Title.

**Sec. M-2. 36 MRSA §144, sub-§2, ¶ A** as enacted by PL 1997, c. 668, §10 is amended to read:

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

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

This chapter applies to the estates of persons who die after June 30, 1986 but before January 1, 2012.

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

**1-A. Federal credit.** "Federal credit" has the following meanings:

A. For the estates of decedents dying after December 31, 2002, "federal credit" means the maximum credit against the tax on the federal taxable estate for state death taxes determined under the Code, Section 2011 as of December 31, 2002 exclusive of the reduction of the maximum credit contained in the Code, Section 2011(b)(2); the period of limitations under the Code, Section 2011(c); and the termination provision contained in the Code, Section 2011(f). The state death tax deduction contained in the Code, Section 2058 must be disregarded. The unified credit must be determined under the Code, Section 2010 as of December 31,

2000. The termination provision contained in the Code, Section 2210 must be disregarded. Notwithstanding any other provision of this Title to the contrary, the tax determined by this chapter for estates of decedents dying after December 31, 2009 must be determined in accordance with the law applicable to decedents dying during calendar year 2009, except that for purposes of the calculation of the amount of property that may be treated as Maine qualified terminable interest property under subsection 2-B, paragraph C, the applicable exclusion amount must be determined in accordance with the law applicable as of the decedent's actual date of death; and

B. For the estates of all other decedents, "federal credit" means the maximum credit for state death taxes determined under the Code, Section 2011.

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

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

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

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

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

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

~~Proceeds from the sale of property are taxable under this section if those proceeds are included in the federal gross estate and the sale was made in contemplation of death.~~

~~A sale of property made within 6 months prior to the death of the grantor is deemed to be in contemplation of death within the meaning of this section.~~

When real or tangible personal property has been owned by a pass-through entity, the entity will be disregarded and the property will be treated as personally owned by the decedent if:

A. The entity does not actively carry on a business for the purpose of profit and gain;

B. The ownership such property in the entity was not for a valid business purpose; or

C. The property was acquired by other than a bona fide sale for full and adequate consideration, and the decedent retained a power or interest in the property which would bring the real or tangible personal property located in Maine within the decedent's federal gross estate.

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

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

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

## **CHAPTER 577**

### **MAINE ESTATE TAX**

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

This chapter applies to the estates of persons who die after December 31, 2012.

#### **§ 4102. Definitions**

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

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

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

**3. Maine elective property.** "Maine elective property" means all property in which the decedent at the time of death had a qualified income interest for life and with respect to which for purposes of determining the tax imposed by this chapter or chapter 575 on the estate of a predeceased spouse of the decedent, the federal taxable estate of that predeceased spouse was decreased pursuant to subsection 6, paragraph A or chapter 575, section 4062, subsection 1-B, paragraph B. The value of Maine elective property is the value determined by the assessor in accordance with the Code as if such property were includible in the decedent's federal gross estate pursuant to the Code, Section 2044 and, in the case of estates that do not incur a federal estate tax, as if the estate had incurred a federal estate tax.

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

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

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

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

C. With respect to which an election is made, on a return filed timely with the assessor, to treat the property as Maine qualified terminable interest property for purposes of the tax imposed by this chapter. The amount of property with respect to which such election is made may not be less than zero or greater than the amount by which the federal applicable exclusion amount under the Code, section 2010 exceeds the Maine exclusion amount.

1. For purposes of this section, the federal applicable exclusion amount must not include any deceased spousal unused exclusion amount under the Code, section 2010.

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

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

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

C. Increased by, notwithstanding the Code, Section 2035, the value of all taxable gifts as defined under the Code, Section 2503 made by the decedent during the 1-year period ending on the date of the decedent's death.

**7. Nonresident.** "Nonresident" means a natural person domiciled in a jurisdiction other than Maine at the time of death.

**8. Personal representative.** "Personal representative" means the personal representative of the decedent or, if there is no personal representative appointed, qualified and acting within this State, any person who is in the actual or constructive possession of any property included in the gross estate of the decedent, any Maine elective property, or any taxable gifts made during the 1-year period ending on the date of the decedent's death.

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

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

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

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

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

<u>If Maine taxable estate is:</u>	<u>The tax is:</u>
<u>Less than \$2,000,000</u>	<u>\$0</u>
<u>At least \$2,000,000 but less than \$5,000,000</u>	<u>8% of the excess over \$2,000,000</u>
<u>At least \$5,000,000 but less than \$8,000,000</u>	<u>\$240,000 plus 10% of the excess over \$5,000,000</u>
<u>\$8,000,000 or more</u>	<u>\$540,000 plus 12% of the excess over \$8,000,000</u>

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

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

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

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

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

When real or tangible personal property has been owned by a pass-through entity, the entity will be disregarded and the property will be treated as personally owned by the decedent if:

- A. The entity does not actively carry on a business for the purpose of profit and gain;
- B. The ownership of such property in the entity was not for a valid business purpose; or
- C. The property was acquired by other than a bona fide sale for full and adequate consideration, and the decedent retained a power or interest in the property which would bring the real or tangible personal property located in Maine within the decedent's federal gross estate.

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

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

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

**2. Certification of payment.** No final account of a personal representative of an estate may be allowed by the Probate Court unless and until the personal representative has filed in the Probate Court a certificate of the assessor showing either that the amount of tax has been paid, that payment has been secured as provided in section 4109 or that no tax is due.

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

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

### **§ 4108. Tax due date; filing of return and payment of tax**

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

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

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

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



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

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

A. If the personal representative makes no election pursuant to section 4102, subsection 5, the personal representative, surviving joint tenant of real estate or any other person whose real estate might be subject to a lien for taxes pursuant to this chapter may at any time file with the assessor in the form prescribed by the assessor a statement of the value of the federal gross estate; and

B. If the personal representative makes an election pursuant to section 4102, subsection 5, the personal representative shall make such election on a timely filed return. The return must be in the form prescribed by the assessor and it must be accompanied by a copy of the federal estate tax return, if any, and other supporting documentation that the assessor may require, including documentation related to an election made pursuant to section 4102, subsection 5.

#### **§ 4109. Extension of due date for payment of tax**

The assessor may extend the time for payment of the tax or any part of the tax for a reasonable period of time not to exceed one year from the date fixed for payment and may grant successive extensions. The aggregate of extensions with respect to any estate may not exceed 10 years, unless a longer period is called for by a payment arrangement elected pursuant to section 4110. If an extension is granted, the assessor may require the taxpayer:

**1. Bond.** To give a bond to the Treasurer of State in such amount as the assessor determines necessary; or

**2. Other security.** To deposit with the Treasurer of State bonds or other negotiable obligations of governmental entities with an aggregate value sufficient to adequately secure payment of the tax.

#### **§ 4110. Extension of time for payment of estate tax when estate consists largely of interest in closely held business**

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

**2. Time and manner of election; rejection by assessor.** An election under this section may be made by attaching a payment deferral election in a form prescribed by the assessor to a timely filed Maine estate tax return, in addition to any documentation required by section 4108 and copies of all documentation required by the Internal Revenue Service and submitted in support of a federal payment deferral. Documentation submitted to the assessor must clearly indicate the amount of Maine estate tax and interest to be paid in installments; the number of separate installments; and the due date of each installment payment. The assessor may reject the election. Any election not rejected in writing by the assessor within 60 days after the election is made is considered accepted.

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

#### **§ 4111. Extension of time for filing return**

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

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

#### **§ 4112. Effect of federal determination**

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

**A.** The inclusion in the federal gross estate of any item of property or interest in property; or

**B.** The allowance of any item claimed as a deduction from the federal gross estate.

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

**3. Meaning of final determination.** For purposes of this section, a final federal determination means:

A. A decision by the United States Tax Court or a judgment, decree or other order by any court of competent jurisdiction which has become final;

B. A final disposition by the United States Secretary of the Treasury or his delegate of a claim for a refund. The disposition shall be deemed to have occurred:

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

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

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

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

E. Any assessment pursuant to a compromise entered into by the personal representative and the United States Secretary of the Treasury or his delegate.

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

### **§ 4113. Lien for taxes**

All property subject to taxes under this chapter, in whatever form of investment it may happen to be, is charged with a lien for all taxes, interest and penalties that are or may become due on that property. The lien does not attach to any real or personal

property after the property has been sold or disposed of for value by the personal representative, trustee or surviving joint tenant. Upon payment of those taxes, interest and penalties due under this chapter, or upon determination that no tax is due, the assessor shall upon request execute a discharge of the tax lien for recording in the appropriate registry or registries of deeds.

#### **§ 4114. Authority of assessor**

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

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

#### **§ 4115. Amount of tax determined**

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

#### **§ 4116. Authority to make refunds**

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

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

### **§ 4117. Appointment of personal representative on probate delay**

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

### **§ 4118. Persons liable**

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

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

### **§ 4119. Civil action by state; bond**

Personal representatives are liable to the State on their administration bonds for all taxes assessable under this chapter and interest on those taxes. Whenever no administration bond is otherwise required, and except as otherwise provided in this section, the Judge of Probate, notwithstanding any provision of Title 18-A, shall require a bond payable to the judge or the judge's successor sufficient to secure the payment of all estate taxes and interest conditioned in substance to pay all estate taxes due to the State from the estate of the deceased with interest thereon. A bond to secure the payment of estate taxes is not required when the Judge of Probate finds that any estate tax due and to become due the State is reasonably secured by the lien upon real estate as provided in this chapter or by any other adequate security. An action for the recovery of estate taxes and interest lies on either of the bonds.

**Sec. M-10. Application.** Those sections of this Part that amend Title 36, section 135, subsection 1 and Title 36, section 144, subsection 2, paragraph A apply to estates of decedents dying on or after January 1, 2013. Those items of this Part that affect Title 36,

chapter 575 apply to estates of decedents dying on or after January 1, 2011, but before January 1, 2013.

**SUMMARY**  
**PART M**

This amendment replaces a proposal to raise the Maine estate tax exclusion amount to \$2,000,000 beginning with estates of decedents dying on or after January 1, 2013. This amendment does the following: For estates of decedents dying after December 31, 2012, it changes the exemption from \$1 million to \$2 million and establishes a progressive rate structure of 8% for the taxable estate between \$2 million and \$5 million, 10% for the taxable estate between \$5 million and \$8 million, and 12% for the taxable estate exceeding \$8 million. For estates of decedents dying on or after January 1, 2011, it provides conformance with federal law with respect to the treatment of qualified terminable interest property. It also clarifies provisions related to the estates of nonresidents.

Delete Sections N-1, N-2 and N-3 in LD 1043 and replace with the following.

Renumber any non-consecutive section so as to occur consecutively:

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

**1-C. Single individuals and married persons filing separate returns; tax years beginning 2012.** For tax years beginning on or after January 1, 2012, for single individuals and married persons filing separate returns, except that for tax years beginning on or after January 1, 2013, the 8.5% rate is replaced with 7.95%:

<u>If Maine Taxable income is:</u>	<u>The tax is:</u>
<u>At least \$5,000 but less than \$19,950</u>	<u>6.5% of the excess over \$5,000</u>
<u>\$19,950 or more</u>	<u>\$972 plus 8.5% of the excess over \$19,950</u>

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

**2-C. Heads of households; tax years beginning 2012.** For tax years beginning on or after January 1, 2012, for unmarried individuals or legally separated individuals who qualify as heads of households, except that for tax years beginning on or after January 1, 2013, the 8.5% rate is replaced with 7.95%:

<u>If Maine Taxable income is:</u>	<u>The tax is:</u>
<u>At least \$7,500 but less than \$29,900</u>	<u>6.5% of the excess over \$7,500</u>
<u>\$29,900 or more</u>	<u>\$1,456 plus 8.5% of the excess over \$29,900</u>

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

**3-C. Individuals filing married joint return or surviving spouses; tax years beginning 2012.** For tax years beginning on or after January 1, 2012, for individuals filing married joint returns or surviving spouses permitted to file a joint return, except that for tax years beginning on or after January 1, 2013, the 8.5% rate is replaced with 7.95%:

<u>If Maine Taxable income is:</u>	<u>The tax is:</u>
<u>At least \$10,000 but less than \$39,900</u>	<u>6.5% of the excess over \$10,000</u>
<u>\$39,900 or more</u>	<u>\$1,944 plus 8.5% of the excess over \$39,900</u>

**Sec. N-4. 36 MRSA §5402, sub-§1-B** is amended to read:

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

**Sec. N-5. 36 MRSA §5403** as enacted by PL 1999, c. 731, Pt. T, §8 and affected by §11 is further amended to read:

Beginning in ~~2002~~ 2011, and each subsequent calendar year thereafter, on or about September 15th, the State Tax Assessor shall multiply the cost-of-living adjustment for taxable years beginning in the succeeding calendar year by the dollar amounts of the tax rate tables specified in section 5111, subsections ~~1-B 1-C, 2-B 2-C and 3-B 3-C~~. If the dollar amounts of each rate bracket, adjusted by application of the cost-of-living adjustment, are not multiples of \$50, any increase must be rounded to the next lowest multiple of \$50. If the cost-of-living adjustment for any taxable year would be less than the cost-of-living 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.~~

## **SUMMARY PART N**

The changes to Part N replace Sections N-1, N-2 and N-3 with new individual income tax rate schedules that contain 0%, 6.5% and 8.5% rate brackets for tax years beginning on or after January 1, 2012, except that the 8.5% rate bracket is reduced to 7.95% for tax years beginning on or after January 1, 2013.



**Amend LD 1043 Part O by deleting Sections O-2 and O-4 and renumber the remaining sections to occur consecutively.**

**SUMMARY**

**PART O**

This amendment removes provisions that would have resulted in conformity to federal bonus depreciation deduction amounts for tax years beginning on or after January 1, 2011.

**Amend LD 1043, Part V, section V-6**

**CURRENT**

**Sec. V-6. 5 MRSA §285, sub-§7, ¶L** is enacted to read:

L. For persons who retire on or after January 1, 2012 under section 17851, subsections 1-B, 1-C, 2-B and 3 there is no contribution by the State toward the retiree's share of the premium for the standard plan identified and offered by the commission until the retiree reaches 65 years of age.

**PROPOSED**

**Sec. V-6. 5 MRSA §285, sub-§7, ¶L** is enacted to read:

L. Those persons who retire after January 1, 2012 under section 17851, subsections 1-B, 1-C, 2-B and 3 shall contribute 100% of the individual premium until such time that the retiree reaches normal retirement age.

**SUMMARY**

**V-6**

This amendment replaces the original proposal that required any state employee who retired prior to age 65 to pay 100% of the health care premium until they reach age 65 to now require an individual who retires before the individual's normal retirement age to pay 100% of the health care premium until the individual's normal retirement age is reached. It also clarifies that the change is effective for individuals who retire after January 1, 2012.

**Insert the following new section V-8 to Part V in LD 1043 as follows:**

**Renumber the remaining sections as appropriate**

**Sec. V-8. 5 MRSA §285, sub-§7, ¶N is enacted to read:**

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

**SUMMARY  
PART V**

It section clarifies that the changes proposed for state employee retiree health insurance do not apply to individuals receiving disability retirement benefits.

## Amend LD 1043 Part W, section W-3

### CURRENT

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

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

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

For a teacher who retires on or after January 1, 2012, the State shall begin paying the percentage of the retired teacher member's share pursuant to this subsection when the teacher reaches 65 years of age.

### PROPOSED

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

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

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

For a teacher who retires after July 1, 2012, the State shall begin paying the percentage of the retired teacher member's share pursuant to this subsection when the teacher reaches normal retirement age.

### SUMMARY PART W

The original proposal provided that the State would not contribute to a retired teacher's health insurance until the retiree reached age 65. With this amendment the State would begin paying the percentage of the retired teacher member's share when the teacher reaches normal retirement age. It also clarifies that the change is effective for individuals who retire after July 1, 2012.

**Amend several sections in LD 1043 Part Y as follows:**

**Replace Section Y-1**

**In Section Y-1, replace the portion of the section amended §286-B, sub-§§ 1-3 as follows:**

**CURRENT**

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

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

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

A. "Retiree health benefits" means health benefits as determined from time to time by the State Employee Health Commission pursuant to section 285.

B. "Investment trust fund" means the Retiree Health Insurance Post-employment Benefits Investment Trust Fund established under section 17432.

C. "Irrevocable trust ~~fund funds~~" means the Irrevocable Trust Fund Funds for Other Post-employment Benefits established under subsection 2. "Irrevocable trust funds" includes the state employee plan and the teacher plan.

D. "State employee plan" means the irrevocable trust fund established for eligible participants described in section 285, subsections 1-A and 11-A.

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

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

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

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

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

A. The Treasurer of State and the State Controller shall serve as trustees of the state employee plan.

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

## PROPOSED

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

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

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

A. "Retiree health benefits" means health benefits as determined from time to time by the State Employee Health Commission pursuant to section 285.

B. "Investment trust fund" means the Retiree Health Insurance Post-employment Benefits Investment Trust Fund established under section 17432.

C. "Irrevocable trust fund funds" means the Irrevocable Trust Fund Funds for Other Post-employment Benefits established under subsection 2. "Irrevocable trust funds" includes the state employee plan, the teacher plan and the first responder plan.

D. "State employee plan" means the irrevocable trust fund established for eligible participants described in section 285, subsection 1-A.

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

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

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

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

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

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

A. The Treasurer of State and the State Controller shall serve as trustees of the state employee plan.

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

### Replace Sections Y-2 and Y-3

#### CURRENT

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

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

#### PROPOSED

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

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

#### SUMMARY

The amendment creates an irrevocable trust fund for first responders under the Maine Revised Statutes, Title 5, section 286-B.



**Amend LD 1043, Part Z as follows:**

### **CURRENT**

**Sec. Z-1. Retirement incentive.** The Commissioner of Administrative and Financial Services is authorized to offer a retirement incentive program to employees who are eligible to retire and who have reached their normal retirement age on or before July 1, 2011. Employees choosing to participate in this retirement incentive program must make application for participation in the manner specified by the commissioner between July 1, 2011 and August 15, 2011, with retirements effective August 31, 2011.

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

**Sec. Z-3. Disposition of authorized positions vacated by retiring employees.** Except as provided in this section, positions vacated by employees choosing to participate in the retirement incentive program authorized in section 1 must remain vacant from September 1, 2011 to June 30, 2013. Upon approval of the State Budget Officer, a vacated position may be filled to meet the operational needs of the department as long as a different vacated position that achieves comparable savings within the same fund is identified. The State Budget Officer shall report to the Joint Standing Committee on Appropriations and Financial Affairs on the number of the employees, by program, taking advantage of the retirement incentive program by September 1, 2012.

### **PROPOSED**

**Sec. Z-1. Retirement incentive.** The Commissioner of Administrative and Financial Services is authorized to offer a retirement incentive program to employees who are eligible to retire and who have reached their normal retirement age ~~on or before July 1, 2011, other than employees who are eligible to retire under any special retirement plan.~~ Employees choosing to participate in this retirement incentive program must make application for participation in the manner specified by the commissioner ~~between July 1, 2011 and August 15, 2011, with retirements effective August 31, 2011~~ on or before November 1, 2011.

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

**Sec. Z-3. Disposition of authorized positions vacated by retiring employees.** Except as provided in this section, positions vacated by employees choosing to participate in the retirement incentive program authorized in section 1 must remain vacant ~~from September 1, 2011 to~~ through June 30, 2013. Upon approval of the State Budget Officer, a vacated position may be filled to meet the operational needs of the department as long as a different vacated position that achieves comparable savings within the same fund is identified. The State Budget Officer shall report to the Joint Standing Committee on Appropriations and Financial Affairs on the number of the employees, by program, taking advantage of the retirement incentive program by September 1, 2012.

## **SUMMARY PART Z**

This amendment does the following:

1. It clarifies that an employee who is eligible to retire under any special retirement plan is not eligible for the retirement incentive program.
2. It changes the time frames in the original bill such that employees must apply for the retirement incentive and retire on or before November 1, 2011 and that positions vacated must remain vacant through June 30, 2013.

**Amend LD 1043 Part BB-2 as follows:**

**CURRENT  
PART BB-2**

**Sec. BB-2. Transfers and adjustments to position count.** The Commissioner of Corrections shall review the current organizational structure to improve organizational efficiency and cost-effectiveness. Notwithstanding any other provision of law, the State Budget Officer shall transfer position counts and available balances by financial order upon approval of the Governor in order to achieve the purposes of this section.

**PROPOSED  
PART BB-2**

**Sec. BB-2. Transfers and adjustments to position count.** The Commissioner of Corrections shall review the current organizational structure to improve organizational efficiency and cost-effectiveness. Notwithstanding any other provision of law, the State Budget Officer shall transfer position counts and available balances by financial order upon approval of the Governor in order to achieve the purposes of this section. These transfers are considered adjustments to authorized position count, appropriations and allocations.

**SUMMARY  
PART BB**

This amendment clarifies that the transfers resulting from the Commissioner of Corrections' review of department organization structure are considers adjustments to authorized position count, appropriations and allocations.

**Amend LD 1043 Part GG as follows:**

**CURRENT  
PART GG**

**Sec. GG-1. Transfer of funds; Department of Inland Fisheries and Wildlife carrying account.** On or before August 1, 2011, the State Controller shall transfer \$30,000 from the Inland Fisheries and Wildlife Carrying Balances - General Fund account to the Enforcement Operations program, General Fund account for the purchase of 2 replacement aircraft engines. On or before August 1, 2012, the State Controller shall transfer \$30,000 from the Inland Fisheries and Wildlife Carrying Balances - General Fund account to the Enforcement Operations program, General Fund account for the purchase of 2 replacement aircraft engines.

**REVISED  
PART GG**

**Sec. GG-1. Transfer of funds; Department of Inland Fisheries and Wildlife carrying account.** On or before August 1, 2011, the State Controller shall transfer \$30,000 from the Inland Fisheries and Wildlife Carrying Balances - General Fund account to the Enforcement Operations program, General Fund account for the purchase of ~~2~~ one replacement aircraft ~~engines~~ engine. On or before August 1, 2012, the State Controller shall transfer \$30,000 from the Inland Fisheries and Wildlife Carrying Balances - General Fund account to the Enforcement Operations program, General Fund account for the purchase of ~~2~~ one replacement aircraft ~~engines~~ engine.

**Further amend PART GG by inserting the following after section GG-1:**

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

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

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

**SUMMARY  
PART GG**

The amendment to PART GG does the following:

1. It amends section GG-1 to reduce the number of aircraft engines the Department of Inland Fisheries and Wildlife can purchase each year of the biennium from 2 to one.

2. Adds Section GG-2 to authorize a one-time transfer of \$15,347 from the Inland Fisheries and Wildlife Carrying Balances – General Fund account to fund the retroactive portion of the position reclassification of one Supervisor of Licensing and Registration

3. Adds Section GG-3 to authorize a one-time transfer of \$23,622 from the Inland Fisheries and Wildlife Carrying Balances – General Fund account to fund the retroactive portion of position reclassifications of 2 Biologist II positions.

4. Adds Section GG-4 to authorize a one-time transfer to fund the payment of outstanding amount due the Department of Public safety for dispatch services.

**Amend LD 1043 Part II by striking out Part II, section 2.**

**SUMMARY  
PART II**

This amendment strikes the provision that would have allowed allocations from the Fund for a Healthy Maine to supplant General Fund appropriations.

**Amend LD 1043 Part JJ by striking out Part JJ, section 1.**

Further amend LD 1043 Part JJ by amending section JJ-2 as follows:

**CURRENT**

**1. Eligibility of applicant; duration of eligibility.** The overseer shall determine eligibility each time a person applies or reapplies for general assistance pursuant to this chapter and the ordinance adopted by the municipality in accordance with section 4305. The period of eligibility must not exceed one month. ~~At the expiration of that period the person may reapply for assistance and the person's eligibility may be redetermined.~~

**PROPOSED**

**1. Eligibility of applicant; duration of eligibility.** The overseer shall determine eligibility each time a person applies or reapplies for general assistance pursuant to this chapter and the ordinance adopted by the municipality in accordance with section 4305. An applicant who is eligible for any other federal cash program is not eligible for general assistance. The period of eligibility must not exceed one month. ~~At the expiration of that period the person may reapply for assistance and the person's eligibility may be redetermined.~~

**SUMMARY  
PART JJ**

This amendment strikes the provision that would have limited assistance under the general assistance program to once in a calendar year. It also makes individuals who are eligible for other federal cash programs ineligible to receive general assistance.

**Amend LD 1043 Part UU as follows:**

**CURRENT  
PART UU**

**Sec. UU-1. Agency rules; child care rates; Department of Health and Human Services.** The Department of Health and Human Services is directed to revise its rules in accordance in the Child Care Subsidy Policy Manual to establish state-paid child care rates at 50% of the local market-rate survey effective October 1, 2011. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

**REVISED  
PART UU**

**Sec. UU-1. Agency rules; child care rates; Department of Health and Human Services.** The Department of Health and Human Services is directed to revise its rules in accordance in the Child Care Subsidy Policy Manual to establish state-paid child care rates at ~~50%~~ the 50<sup>th</sup> percentile of the local market-rate survey effective October 1, 2011. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

**SUMMARY  
PART UU**

This amendment clarifies that the revised rules establish the child care rates at the 50<sup>th</sup> percentile of the local market-rate survey rather than at 50% of the local market-rate survey.



**Amend LD 1043 by striking out Part WW and inserting in its place the following:**

**REVISED  
PART WW**

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

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

The Controlled Substances Prescription Monitoring Program Fund is established within the office to be used by the director of the office to fund or assist in funding the program. Any balance in the fund does not lapse but is carried forward to be expended for the same purposes in succeeding fiscal years. The fund must be deposited with and maintained and administered by the office. The office may accept funds into the fund from any source, public or private, including grants or contributions of money or other things of value, that it determines necessary to carry out the purposes of this chapter. Money received by the office to establish and maintain the program must be used for the expenses of administering this chapter. ~~No General Fund appropriation may be made available for the purposes of this chapter.~~

**SUMMARY  
PART WW**

This amendment replaces the original language that would have required licensed health care professional with authority to prescribe controlled substances to participate in the Controlled Substances Prescription Monitoring Program by providing information on dispensed controlled substances with language that eliminates the prohibition on using General Fund appropriations to support the operation of the program.

**Amend LD 1043 Part YY as follows:**

**CURRENT  
PART YY**

**Sec. YY-1. 22 MRSA §3174-M, sub-§1-B** is enacted to read:

**1-B. Payment for prescription drugs.** Notwithstanding any law to the contrary, a MaineCare member may not use cash or other personal funds to pay for a prescription drug that is covered under the MaineCare program.

**REVISED  
PART YY**

**Sec. YY-1. Substance Abuse Services Commission; convene workgroup; purchase of controlled medications; agency rules.** The Substance Abuse Services Commission is directed to convene a workgroup of stakeholders to address the issue of MaineCare recipients using cash to purchase controlled schedule II, III and IV prescription medications beyond the recipients MaineCare benefit coverage. The stakeholder group's task will be to assess the prevalence of such cash purchases and make recommendations to the Commissioner of Health and Human Services no later than December 15, 2011 for any necessary rule changes. Any rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

**Sec. YY-2. Stakeholder group; members.** The stakeholder group will be comprised of Substance Abuse Service Commission members and representatives from the prescribing and pharmacy communities, the Board of Licensure in Medicine, the Board of Pharmacy, the Department of the Attorney General, the Office of MaineCare, the Office of Substance Abuse and from the MaineCare recipient consumer community.

**SUMMARY  
PART YY**

This amendment replaces the original language that prohibited MaineCare recipients from purchasing prescription drugs using cash with the creation of a stakeholders group to look at the prevalence of the use of cash to purchase certain controlled medications and to make recommendations to the Commissioner of Health and Human Services to address the issue. It also describes the composition of the group and authorizes the adoption of routine, technical rules.

**Amend LD 1043 Part JJJ as follows**

**CURRENT  
PART JJJ**

**Sec. JJJ-1. Transfer from Other Special Revenue Funds to unappropriated surplus of the General Fund.** Notwithstanding any other provision of law, the State Controller shall transfer \$54,000,000 on June 30, 2012 from Other Special Revenue Funds to the unappropriated surplus of the General Fund. On July 1, 2012, the State Controller shall transfer \$54,000,000 from the General Fund unappropriated surplus to Other Special Revenue Funds as repayment. This transfer is considered an interfund advance.

**PROPOSED  
PART JJJ**

**Sec. JJJ-1. Transfer from Other Special Revenue Funds to unappropriated surplus of the General Fund.** Notwithstanding any other provision of law, the State Controller shall transfer \$29,000,000 on June 30, 2012 from Other Special Revenue Funds to the unappropriated surplus of the General Fund. On July 1, 2012, the State Controller shall transfer \$29,000,000 from the General Fund unappropriated surplus to Other Special Revenue Funds as repayment. This transfer is considered an interfund advance.

**SUMMARY  
PART JJJ**

This amendment reduces the amount of the interfund transfer from \$54,000,000 to \$29,000,000.

**Amend several sections in Part KKK in LD 1043 as follows:**

**Replace Section KKK-2 as follows:**

**CURRENT**

**Sec. KKK-2. Task force membership.** The task force consists of the following 11 members:

1. The Commissioner of Administrative and Financial Services or the commissioner's designee, who serves as chair of the task force;
2. Two members representing Maine for-profit businesses, appointed by the Governor;
3. Two members representing Maine not-for-profit agencies, appointed by the Governor;
4. One member representing a higher educational institution of Maine, appointed by the Governor;
5. One member of the Senate, appointed by the President of the Senate;
6. Two members of the House of Representatives appointed by the Speaker of the House of Representatives; and
7. Two members of the public at large, appointed by the Governor.

**REVISED**

**Sec. KKK-2. Task force membership.** The task force consists of the following 12 members:

1. The Commissioner of Administrative and Financial Services or the commissioner's designee, who serves as chair of the task force;
2. Two members representing Maine for-profit businesses, appointed by the Governor;
3. Two members representing Maine not-for-profit agencies, appointed by the Governor;
4. One member representing a higher educational institution of Maine, appointed by the Governor;

5. Two members of the Senate, appointed by the President of the Senate, one member representing the majority party in the Senate and one member representing the minority party in the Senate.
6. Two members of the House of Representatives appointed by the Speaker of the House of Representatives, one member representing the majority party in the House of Representatives and one member representing the minority party in the House of Representatives; and
7. Two members of the public at large, appointed by the Governor.

**Replace Section KKK-6 as follows:**

**CURRENT**

**Sec. KKK-6. Report.** The task force shall submit a report of its findings and recommendations and any necessary implementing legislation to the Second Regular Session of the 125th Legislature.

**PROPOSED**

**Sec. KKK-6. Report.** The task force shall submit a report of its findings and recommendations and any necessary implementing legislation to the joint standing committee having jurisdiction over state and local government matters in the Second Regular Session of the 125th Legislature.

**SUMMARY**

This amendment changes the membership of the task force to include two Senators instead of one Senator and ensure that the Senators and Representatives equally represent the two major parties in the Legislature. It also requires the task force to report its findings and suggested legislation to the State and Local Government Committee.

**Add the following new Part MMM to LD 1043**

**NEW PART MMM**

**Sec. MMM-1. 5 MRSA §17858-C** is enacted to read:

**17858-C. Retiring, returning to work**

**1. Restoration to service.** Any state employee or teacher, as defined in section, 17001, subsection 40 and subsection 42, having reached normal retirement age and who retires on or after July 1, 2011 may be restored to service for up to 5 years. The decision to hire a retired state employee or retired teacher under this section is at the discretion of the appointing authority. The retired state employee or retired teacher must have had a bona fide termination of employment in accordance with state and federal laws and rules and may not return to employment after retirement with the same employer for at least 30 calendar days after the termination of employment and may not return to employment before the effective date of the person's retirement.

**2. Compensation and benefits.** The compensation of the retired state employee or retired teacher who returns to service must be set at 75% of the compensation established for the position to be filled, at a step determined by the appointing authority. The retired state employee or retired teacher is not a member of the retirement system and therefore may not accrue additional creditable service. With the exception of health insurance, dental insurance and life insurance benefits, any such person is entitled to all benefits that the person was entitled to at the time of termination by collective bargaining agreements or civil service laws and rules. Health insurance benefits shall be provided under the provisions of section 286, subsection 1-A for retired state employees or Title 20-A, section 13451 for retiree teachers and life insurance benefits shall be provided under the provisions of section 18055.

**3. Contributions** The portion of the employer contribution that goes to pay the Maine Public Employees Retirement System for the unfunded liability and State Group Health Plan for retiree health care must be continued and based on the retired state employee's or retired teacher's salary.

**4. Notification requirements.** Retirement system employers are required to identify and report to the retirement system, in the manner specified by the retirement system, each individual who is a retiree who becomes an employee of the employer. State departments and agencies shall also report each retiree who becomes an employee to the Bureau of the Budget in a manner specified by the bureau. The employer shall report each such employee whenever and so long as an employee is the employer's employee.

**5. Exclusion.** The provisions of this section to not apply to retired state employees or retired teachers who are hired as substitute teachers.

**Sec. MMM-2. General Fund and Highway Fund savings; transfer to Salary Plan accounts.** Notwithstanding any provisions of law, the State Budget Officer shall calculate the amount of savings from the retiring and returning to work option that applies against each General Fund account and Highway Fund account for all executive branch departments and agencies statewide and including the Department of the Attorney General, the Department of the Secretary of State and the Department of Audit. General Fund savings amounts shall be transferred to the General Fund Compensation and Benefit Plan account in the Department of Administrative and Financial Services and Highway Fund savings shall be transferred to the Highway Fund Compensation and Benefit Plan account in the Department of Administrative Services. Such transfers shall be made by financial order upon the approval of the Governor.

### **SUMMARY PART MMM**

This Part creates a retiring and returning to work option for state employees and teachers, except substitute teachers, who have reached normal retirement age, retire on or after July 1, 2011 and return to employment with the same employer. Under this option, the retiree may be restored to service for up to 5 years and may be paid 75% of the salary of the position that the retiree is hired to fill. The retiree may not return to service for at least 30 calendar days or prior to the effective date of the individual's retirement. The employer is required to notify the Maine Public Employees Retirement System and the Bureau of the Budget of any reemployed member and must pay to the system the employer contribution that goes to pay for the unfunded liability and retiree health care. The State Budget Officer is authorized to calculate the General Fund and Highway Fund savings that result from the incentive and transfer those amounts to the respective Salary Plan accounts by financial order.

**Add the following new Part NNN to LD 1043:**

**NEW PART NNN**

**Sec. NNN-1. 1 MRSA §603** is enacted to read:

**§ 603. Electronic publication of legal notices**

Notwithstanding any other section of law, beginning July 1, 2013, a state agency may not publish in a newspaper any legal notice, legal advertising or any other matter required by law to be published in a newspaper but instead must post the notice on a publicly accessible website maintained by the State. Notices must continue to be posted according to the time frames that exist in law for newspaper publication. For the purposes of this section, “state agency” means any unit of State Government including any state board or commission but not including the Legislature, the Judicial Department, the University of Maine System, the Maine Community College System and the Maine Maritime Academy.

**Sec. NNN-2. Report to recommend exemptions.** The Secretary of State and the Commissioner of Administrative and Financial Services shall jointly examine current requirements for publication of legal notices in a newspaper and report to the Joint Standing Committee on State and Local Government. The Secretary of State and the Commissioner of Administrative and Financial Services shall contact all state agencies, including all boards and commissions but not including the Legislature, the Judicial Department, the University of Maine System, the Maine Community College System and the Maine Maritime Academy, to determine all instances of legal notice publication requirements existing in the Maine Revised Statutes and request recommendations from those agencies regarding which notices should continue to be published in a newspaper after July 1, 2013. The Secretary of State and the Commissioner of Administrative and Financial Services shall jointly submit a report based on the recommendations from the state agencies, along with any necessary implementing legislation to the Joint Standing Committee on State and Local Government by December 15, 2012, and the committee is authorized to report out legislation to enact those recommendations.

**SUMMARY**

**PART NNN**

This bill changes the requirement for public notices to be published in a newspaper. Beginning July 1, 2013, a state agency may no longer publish a legal notice, legal advertising or other matter required by law to be published in a newspaper but must instead post such notices on a publicly accessible website maintained by the State. The Secretary of State and the Commissioner of Administrative and Financial Services shall determine the instances of legal notice publication requirements, solicit recommendations from state agencies and jointly submit a report based on the recommendations from the state agencies, along with any necessary implementing legislation to the Joint Standing



Committee of State and Local Government by December 15, 2012, and the committee is authorized to report out legislation to enact those recommendations.

**Add the following new Part OOO to LD 1043**

**NEW PART OOO**

**Sec. OOO-1. 10 MRSA §1023-J, 1<sup>st</sup> ¶**, as amended by PL 2003, c. 578, §8 is further amended to read:

The Agricultural Marketing Loan Fund, referred to in this section as the "fund," is created. The fund must be deposited with and maintained by the Finance Authority of Maine. The fund must be administered by the Commissioner of Agriculture, Food and Rural Resources in accordance with Title 7, chapter 101, subchapter 1-D. All money received by the Finance Authority of Maine from any source for the development and implementation of an improved agricultural marketing loan program must be credited to the fund. Any money credited to the fund from the issuance of bonds on behalf of the State for financing loans for agricultural enterprises may be used only for the following purposes: to provide assistance to agricultural enterprises in this State for the design, construction or improvement of commodity and storage buildings and packing and marketing facilities; for the purchase, construction or renovation of buildings, equipment, docks, wharves, piers or vessels used in connection with a commercial agricultural enterprise; for the purchase of land in connection with development of new cranberry acreage; for the purchase of land for irrigation reservoirs or to provide direct access to water for irrigation; for the purchase of land necessary for the start-up of a new agricultural enterprise; for the expansion of an existing agricultural enterprise when the land acquisition is necessary to comply with land use regulations; for the development of a business plan in accordance with the provisions of Title 7, section 436-A; for improvements to pastureland, including seeding and actions to promote rotational grazing; or, if the commissioner so approves at the time of loan insurance commitment, to pledge money in the fund as security for, and to apply money in the fund to, payment of principal, interest and other amounts due on any term loans insured by the Finance Authority of Maine to an eligible dairy farmer. Repayment of these loans and interest on these loans must be credited to the fund and may be used for the purposes stated in this section or Title 7, section 436. Interest earned on money in the fund and interest earned on loans made from the fund may be used to pay the administrative costs of processing loan applications and servicing and administering the fund and loans and grants made from the fund since the inception of the program, to the extent that these costs exceed the fee for administrative costs established by Title 7, section 435, subsection 4.

**SUMMARY**

**PART OOO**

This part amends the language related to the Agricultural Marketing Loan Fund to expand the use of interest earned on loans from the fund.

**Add the following new PART PPP to LD 1043**

**NEW PART PPP**

**Sec. PPP-1. 5 MRSA §937, sub-§1, ¶F**, as amended by PL 2007, c. 1, Pt. D, § is further amended to read:

F. Director, ~~Planning and Management Information~~ Policy and Programs.

**SUMMARY**

**PART PPP**

This Part changes the position title of the Department of Education's Director, Planning and Management Information to the Director, Policy and Programs.

**Add the following new PART QQQ to LD 1043**

**NEW PART QQQ**

**Sec. QQQ-1. Elimination of vacant positions; calculation and transfer.**

Notwithstanding any provisions of law, the State Budget Officer shall calculate the savings from the elimination of vacant positions in Part A of this Act that applies against each General Fund account, Highway Fund account and all other funds accounts for all executive branch departments and agencies statewide and including the Department of the Attorney General, the Department of the Secretary of State and the Department of Audit and transfer those savings and the headcount by financial order upon the approval of the Governor. These transfers are considered adjustments to authorized position count, appropriations and allocations in fiscal years 2011-12 and 2012-13.

**SUMMARY  
PART QQQ**

This Part authorizes the State Budget Office to calculate the amount of savings that applies to each executive branch department and agency from the elimination of vacant positions and transfer the savings and related headcount by financial order upon the approval of the Governor.

**Add the following new Part RRR to LD 1043**

**NEW PART RRR**

**Sec. RRR-1. 21-A MRSA §1015, sub-§1**, as amended by PL 2009, c. 286, §2, is further amended to read:

**1. Individuals.** An individual may not make contributions to a candidate in support of the candidacy of one person aggregating ~~more than \$750 in any election for a gubernatorial candidate or~~ more than \$350 in any election for any ~~other candidate~~ other than a gubernatorial candidate. This limitation does not apply to contributions in support of a candidate by that candidate or that candidate's spouse or domestic partner. Beginning December 1, 2010, contribution limits in accordance with this subsection are adjusted every 2 years based on the Consumer Price Index as reported by the United States Department of Labor, Bureau of Labor Statistics and rounded to the nearest amount divisible by \$25. The commission shall post the current contribution limit and the amount of the next adjustment and the date that it will become effective on its publicly accessible website and include this information with any publication to be used as a guide for candidates.

**Sec. RRR-2. 21-A MRSA §1015, sub-§2**, as amended by PL 2009, c. 286, §3, is further amended to read:

**2. Committees; corporations; associations.** A political committee, political action committee, other committee, firm, partnership, corporation, association or organization may not make contributions to a candidate in support of the candidacy of one person aggregating ~~more than \$750 in any election for a gubernatorial candidate or~~ more than \$350 in any election for any ~~other candidate~~ other than a gubernatorial candidate. Beginning December 1, 2010, contribution limits in accordance with this subsection are adjusted every 2 years based on the Consumer Price Index as reported by the United States Department of Labor, Bureau of Labor Statistics and rounded to the nearest amount divisible by \$25. The commission shall post the current contribution limit and the amount of the next adjustment and the date that it will become effective on its publicly accessible website and include this information with any publication to be used as a guide for candidates.

**Sec. RRR-3. 21-A MRSA §1015, sub-§2-A**, is enacted to read:

**2-A. Gubernatorial contributions.** An individual, political committee, political action committee, other committee, firm, partnership, corporation, association or organization may not make contributions to a gubernatorial candidate in support of that candidacy aggregating more than the aggregate contribution amount allowed for a United States Senate candidate as established by the Federal Election Commission under 2 U.S.C. §441a(a)(1)(A) and increased under subsection (c), or under such successor laws as may be adopted from time-to-time.

**Sec. RRR-4. 21-A MRSA §1017, sub-§3-B, ¶A**, as amended by PL 2007, c. 443, Pt. A, §16, is further amended to read:

A. In addition to other reports required by law, any candidate for ~~Governor~~, State Senate or State House of Representatives who is not certified as a Maine Clean Election Act candidate under chapter 14 and who receives, spends or obligates more than the primary or general election distribution amounts for a Maine Clean Election Act candidate in the same race shall file by any means acceptable to the commission, within 48 hours of that event, a report with the commission detailing the candidate's total campaign contributions, including any campaign balance from a previous election, obligations and expenditures to date.

**Sec. RRR-5. 21-A MRSA §1017, sub-§3-B, ¶C**, as amended by PL 2007, c. 443, Pt. A, §16, is further amended to read:

C. A candidate who is required to file a report under paragraph A must file with the commission an updated report that reports single expenditures in the following amounts that are made after the 14th day before an election and more than 24 hours before 11:59 p.m. on the date of that election:

- (1) ~~For a candidate for Governor, a single expenditure of \$1,000;~~
- (2) For a candidate for the ~~state~~State Senate, a single expenditure of \$750; and
- (3) For a candidate for the ~~state~~State House of Representatives, a single expenditure of \$500.

A report filed pursuant to this paragraph must be filed within 24 hours of the expenditure.

**Sec. RRR-6. 21-A MRSA §1122, sub-§1**, as enacted by IB 1995, c. 1, §17, is amended to read:

**1. Certified candidate.** "Certified candidate" means a candidate running for ~~Governor~~, State Senator or State Representative who chooses to participate in the Maine Clean Election Act and who is certified as a Maine Clean Election Act candidate under section 1125, subsection 5.

**Sec. RRR-7. 21-A MRSA §1122, sub-§5**, as enacted by IB 1995, c. 1, §17, is amended to read:

**5. Nonparticipating candidate.** "Nonparticipating candidate" means a candidate running for ~~Governor~~, State Senator or State Representative who does not choose to participate in the Maine Clean Election Act and who is not seeking to be certified as a Maine Clean Election Act candidate under section 1125, subsection 5.

**Sec. RRR-8. 21-A MRSA §1122, sub-§6**, as enacted by IB 1995, c. 1, §17, is amended to read:

**6. Participating candidate.** "Participating candidate" means a candidate who is running for ~~Governor~~, State Senator or State Representative who is seeking to be certified as a Maine Clean Election Act candidate under section 1125, subsection 5.

**Sec. RRR-9. 21-A MRSA §1122, sub-§8, ¶A**, as amended by PL 2009, c. 363, §1, is repealed.

**Sec. RRR-10. 21-A MRSA §1123**, as enacted by IB 1995, c. 1, §17, is amended to read:

### **§ 1123. Alternative campaign financing option**

This chapter establishes an alternative campaign financing option available to candidates running for ~~Governor~~, State Senator and State Representative. This alternative campaign financing option is available to candidates for elections to be held beginning in the year 2000. The commission shall administer this Act and the fund. Candidates participating in the Maine Clean Election Act must also comply with all other applicable election and campaign laws and regulations.

**Sec. RRR-11. 21-A MRSA §1124, sub-§1**, as enacted by IB 1995, c. 1, §17, is amended to read:

**1. Established.** The Maine Clean Election Fund is established to finance the election campaigns of certified Maine Clean Election Act candidates running for ~~Governor~~, State Senator and State Representative and to pay administrative and enforcement costs of the commission related to this Act. The fund is a special, dedicated, nonlapsing fund and any interest generated by the fund is credited to the fund. The commission shall administer the fund.

**Sec. RRR-12. 21-A MRSA §1124, sub-§2, ¶B**, as amended by PL 2007, c. 443, Pt. B, §4 is further amended to read:

B. ~~Two million~~ One million one hundred thousand dollars of the revenues from the taxes imposed under Title 36, Parts 3 and 8 and credited to the General Fund, transferred to the fund by the State Controller on or before January 1st of each year, beginning January 1, 1999. These revenues must be offset in an equitable manner by an equivalent reduction within the administrative divisions of the legislative branch and executive branch agencies. This section may not affect the funds distributed to the Local Government Fund under Title 30-A, section 5681.

**Sec. RRR-13. 21-A MRSA §1125, sub-§2, ¶A**, as amended by PL 2009, c. 363, §2, is repealed.

**Sec. RRR-14. 21-A MRSA §1125, sub-§2-B**, as amended by PL 2009, c. 524, §14, is repealed.

**Sec. RRR-15. 21-A MRSA §1125, sub-§3, ¶A**, as amended by PL 2007, c. 240, Pt.

F, §1 and c. 443, Pt. B, §6, is repealed.

**Sec. RRR-16. 21-A MRSA §1125, sub-§5**, as amended by PL 2009, c. 190, Pt. B, §2 and c. 363, §5, is further amended to read:

**5. Certification of Maine Clean Election Act candidates.** Upon receipt of a final submittal of qualifying contributions by a participating candidate, the commission or its executive director shall determine whether the candidate has:

- A. Signed and filed a declaration of intent to participate in this Act;
- B. Submitted the appropriate number of valid qualifying contributions;
- C. Qualified as a candidate by petition or other means;
- ~~C-1. As a gubernatorial candidate, collected at least \$40,000 in seed money contributions from registered voters in the State;~~
- D. Not accepted contributions, except for seed money contributions, and otherwise complied with seed money restrictions;
- D-1. Not run for the same office as a nonparticipating candidate in a primary election in the same election year;
- D-2. Not been found to have made a material false statement in a report or other document submitted to the commission;
- D-3. Not otherwise substantially violated the provisions of this chapter or chapter 13;
- D-4. Not failed to pay any civil penalty assessed by the commission under this Title, except that a candidate has 3 business days from the date of the request for certification to pay the outstanding penalty and remain eligible for certification; and
- E. Otherwise met the requirements for participation in this Act.

The commission or its executive director shall certify a candidate complying with the requirements of this section as a Maine Clean Election Act candidate as soon as possible after final submittal of qualifying contributions and other supporting documents required under subsection 4 but no later than 3 business days for legislative candidates ~~and 5 business days for gubernatorial candidates~~. The commission and its executive director may take additional time if further investigation is necessary to verify compliance with this Act as long as the commission notifies the candidate regarding the anticipated schedule for conclusion of the investigation.

A certified candidate must comply with all requirements of this Act after certification and



throughout the primary and general election periods. Failure to do so is a violation of this chapter.

**Sec. RRR-17. 21-A MRSA §1125, sub-§5-A, ¶G,** as amended by PL 2009, c. 363, §6, is further amended to read:

G. Knowingly made a false statement or material misrepresentation in any report or other document required to be filed under this chapter or chapter 13; or

**Sec. RRR-18. 21-A MRSA §1125, sub-§5-A, ¶H,** as amended by PL 2009, c. 363, §6, is further amended to read:

H. Otherwise substantially violated the provisions of this chapter or chapter 13; ~~or.~~

**Sec. RRR-19. 21-A MRSA §1125, sub-§5-A, ¶I,** as enacted by PL 2009, c. 363, §6, is repealed.

**Sec. RRR-20. 21-A MRSA §1125, sub-§8-A,** as enacted by PL 2009, c. 302, §17 and affected by §24, is amended to read:

**8-A. Amount of fund distribution.** By September 1, 2011, and at least every 2 years after that date, the commission shall determine the amount of funds to be distributed to participating candidates in legislative elections based on the type of election and office. In making this determination, the commission may take into consideration any relevant information, including but not limited to:

A. The range of campaign spending by candidates for that office in the 2 preceding elections;

B. The Consumer Price Index published monthly by the United States Department of Labor, Bureau of Labor Statistics and any other significant changes in the costs of campaigning such as postage or fuel; and

C. The impact of independent expenditures on the payment of matching funds.

Before making any determination, the commission shall provide notice of the determination and an opportunity to comment to the President of the Senate, the Speaker of the House of Representatives, all floor leaders, the members of the joint standing committee of the Legislature having jurisdiction over legal affairs and persons who have expressed interest in receiving notices of opportunities to comment on the commission's rules and policies. The commission shall present at a public meeting the basis for the commission's final determination.

~~For contested gubernatorial primary elections, the amount of revenues distributed is \$400,000 per candidate in a primary election. For uncontested gubernatorial primary elections the amount of revenues distributed is \$200,000. For contested and uncontested gubernatorial general elections, the amount of revenues distributed is \$600,000 per~~

candidate in the general election.

**Sec. RRR-21. 21-A MRSA §1125, sub-§9**, as repealed and replaced by PL 2009, c. 652, Pt. A, §25 and affected by §26, is amended to read:

**9. Matching funds.** When any report required under this chapter or chapter 13 shows that the sum of a candidate's expenditures or obligations, contributions and loans, or fund revenues received, whichever is greater, in conjunction with independent expenditures reported under section 1019B, exceeds the sum of an opposing certified candidate's fund revenues, in conjunction with independent expenditures, the commission shall issue immediately to the opposing certified candidate an additional amount equivalent to the difference. Matching funds for certified candidates for the Legislature are limited to 2 times the amount originally distributed under subsection 8A. ~~Matching funds for certified gubernatorial candidates in a primary election are limited to half the amount originally distributed under subsection 8A. Matching funds for certified gubernatorial candidates in a general election are limited to the amount originally distributed under subsection 8A.~~

**Sec. RRR-22. 21-A MRSA §1125, sub-§10**, as repealed and replaced by PL 2009, c. 652, Pt. A, §27 and affected by §28, is amended to read:

**10. Candidate not enrolled in a party.** An unenrolled candidate for the Legislature who submits the required number of qualifying contributions and other required documents under subsection 4 by 5:00 p.m. on April 15th preceding the primary election and who is certified is eligible for revenues from the fund in the same amounts and at the same time as an uncontested primary election candidate and a general election candidate as specified in subsections 7 and 8A. Otherwise, an unenrolled candidate for the Legislature must submit the required number of qualifying contributions and the other required documents under subsection 4 by 5:00 p.m. on June 2nd preceding the general election. If certified, the candidate is eligible for revenues from the fund in the same amounts as a general election candidate, as specified in subsection 8A. Revenues for the general election must be distributed to the candidate no later than 3 days after certification. ~~An unenrolled candidate for Governor who submits the required number of qualifying contributions and other required documents under subsections 2B and 4 by 5:00 p.m. on April 1st preceding the primary election and who is certified is eligible for revenues from the fund in the same amounts and at the same time as an uncontested primary election gubernatorial candidate and a general election gubernatorial candidate as specified in subsections 7 and 8A. Revenues for the general election must be distributed to the candidate for Governor no later than 3 days after the primary election results are certified.~~

**Sec. RRR-23. 21-A MRSA §1125, sub-§12-B**, as enacted by PL 2007, c. 443, Pt. B, §6, is repealed.

**Sec. RRR-24. 21-A MRSA §1125, sub-§13-A**, as enacted by PL 2009, c. 524, §18, is amended to read:

**13-A. Distributions not to exceed amount in fund.** The commission may not distribute revenues to certified candidates in excess of the total amount of money

deposited in the fund as set forth in section 1124. Notwithstanding any other provisions of this chapter, if the commission determines that the revenues in the fund are insufficient to meet distributions under subsection 8-A or 9, the commission may permit certified candidates to accept and spend contributions, reduced by any seed money contributions, aggregating no more than ~~\$750 per donor per election for gubernatorial candidates and~~ \$350 per donor per election for State Senate and State House candidates, up to the applicable amounts set forth in subsections 8-A and 9 according to rules adopted by the commission.

This subsection takes effect September 1, 2011.

## **SUMMARY**

### **PART RRR**

This Part does the following:

It changes the contribution limit for gubernatorial campaigns to equal the limit established by federal law for Senate campaigns.

It eliminates Maine Clean Election Act funding for gubernatorial candidates.

**Add the following new Part SSS to LD 1043**

**NEW PART SSS**

**Sec. SSS-1. Transfers to Maine Clean Election Fund.** Notwithstanding the Maine Revised Statutes, Title 21-A, section 1124, subsection 2, paragraph B, the State Controller shall transfer \$1,100,000, currently authorized to be made on or before January 1, 2013, from the General Fund to the Maine Clean Election Fund on or before September 1, 2012 in order to ensure that adequate funds will be available to the Commission on Governmental Ethics and Election Practices.

**Sec. SSS-2. Transfer of funds; Other Special Revenue Funds to General Fund unappropriated surplus.** Notwithstanding any other provision of law, the State Controller shall transfer \$1,500,000 from the Maine Clean Elections Fund to the General Fund unappropriated surplus in fiscal year 2011-12, contingent upon the adoption of Part RRR in this Act.

**SUMMARY**

**PART SSS**

This Part changes the date by which the State Controller must transfer revenues to the Maine Clean Elections Fund in fiscal year 2012-13 from on or before January 1, 2013 to on or before September 1, 2012. It also requires the State Controller to transfer \$1,500,000 from the Maine Clean Elections Fund to General Fund unappropriated surplus in fiscal year 2011-12.

**Add the following new Part TTT to LD 1043**

**NEW PART TTT**

**Sec. TTT-1. 2 MRSA §6, sub-§1**, as repealed and replaced by PL 2005, c. 397, Pt. A, §1 is amended to read:

**1. Range 91.** The salaries of the following state officials and employees are within salary range 91:

Commissioner of Transportation;  
Commissioner of Conservation;  
Commissioner of Administrative and Financial Services;  
Commissioner of Education;  
Commissioner of Environmental Protection;  
Executive Director of Dirigo Health;  
Commissioner of Public Safety;  
Commissioner of Professional and Financial Regulation;  
Commissioner of Labor;  
Commissioner of Agriculture, Food and Rural Resources;  
Commissioner of Inland Fisheries and Wildlife;  
Commissioner of Marine Resources;  
Commissioner of Corrections;  
Commissioner of Economic and Community Development;  
Commissioner of Defense, Veterans and Emergency Management; ~~and~~  
Executive Director, Workers' Compensation Board; and  
Director, Office of Policy and Management.

**Sec. TTT-2. 2 MRSA §6, sub-§3**, as repealed and replaced by PL 2005, c. 683, Pt. A, § is amended to read:

**3. Range 89.** The salaries of the following state officials and employees are within salary range 89:

Director, Bureau of General Services;  
Director, Bureau of Alcoholic Beverages and Lottery Operations;  
State Budget Officer;  
State Controller;  
Director of the Bureau of Forestry;  
~~Director, State Planning Office;~~  
Director, Energy Resources Office;  
Director of Human Resources;  
Director, Bureau of Parks and Lands; and  
Director of Econometric Research.

**SUMMARY**  
**PART TTT**

This Part reorganizes the Director, State Planning Office position to a Director, Office of Policy and Management and changes the salary range from salary range 89 to salary range 91.

**Add the following new Part UUU to LD 1043**

**NEW PART UUU**

**Sec. UUU-1. 5 MRSA §1591, sub-§2**, as enacted by PL 2005, c. 12, Pt. GGGG, §2 is amended by adding at the end the following:

B. Any balance remaining in the account of the Bureau of Medical Services appropriated for All Other line category expenditures at the end of any fiscal year to be carried forward for use in the next fiscal year.

**SUMMARY  
PART UUU**

This Part gives the Department of Health and Human Services the authority to carry forward any balances in the All Other line category in the Bureau of Medical Services General Fund account from year to year.

**Add the following new Part VVV to LD 1043**

**NEW PART VVV**

**Sec. VVV-1. Standardized room and board rates; children's private nonmedical institution services; revision of agency rules.** The Department of Health and Human Services shall revise its rules to standardize the room and board rates paid to providers of children's private nonmedical institution services. These rate changes shall maintain costs within existing resources. Notwithstanding the Maine Revised Statutes, Title 22, section 3174-Z or any other provision of law these rules are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-1.

**SUMMARY**

**PART VVV**

This Part directs the Department of Health and Human Services to standardize the room and board rates paid for children's private nonmedical institution services to stay within existing resources and to adopt routine technical rules to implement the changes.



**Add the following new Part WWW to LD 1043**

**NEW PART WWW**

**Sec. WWW-1. 2 MRSA §6, sub-§3**, as repealed and replaced by PL 2005, c. 683, Pt. A, is repealed and the following enacted in its place:

**3. Range 89.** The salaries of the following state officials and employees are within salary range 89:

- Director, Bureau of General Services;
- Director, Bureau of Alcoholic Beverages and Lottery Operations;
- State Budget Officer;
- State Controller;
- Director of the Bureau of Forestry;
- ~~Director, State Planning Office;~~
- Director, Energy Resources Office;
- Director of Human Resources;
- Director, Bureau of Parks and Lands;
- Director of Econometric Research; and
- Director of Governor's Office of Communications.

**Sec. WWW-2. 2 MRSA §10** is enacted to read:

**§ 10. Governor's Office of Communications**

**1. Office established.** The Governor's Office of Communications is established to consolidate, coordinate, and streamline communication functions. The office is administered by the Executive Department.

**2. Director.** The office is under the control and supervision of the Director of the Governor's Office of Communications, referred to in this section as "the director." The director is appointed by the Governor and serves at the pleasure of the Governor.

**3. Coordination with the departments and agencies.** The Governor's Office of Communication will provide coordinated public communication services to departments and agencies.

**Sec. WWW-3. Transition.** Notwithstanding any provision of law to the contrary the following provisions apply.

1. Employees of departments or agencies within the State who were employees immediately prior to the effective date of this Part retain all their employee rights,

privileges and benefits, including sick leave, vacation and seniority, provided under Civil Service Law, collective bargaining agreements and current State personnel policies. The Department of Administrative and Financial Services, Bureau of Human Resources shall provide assistance to the affected departments and shall assist with the orderly implementation of this subsection.

**Sec. WWW-4. Review of statewide communications functions to improve efficiency and cost-effectiveness.** The Director of the Governor's Office of Communications shall conduct a statewide review of positions currently responsible for communications internal and external to the departments and agencies in order to identify positions for transfer to the Office of Communications. To assist with this review the Director of the Governor's Office of Communications shall use staff resources from the Bureau of the Budget and the Bureau of Human Resources and must be provided staff resources from personnel of other agencies. The director is authorized to identify savings and position eliminations to the General Fund and other funds from the improvements identified from the review. Notwithstanding any other provision of law, the State Budget Officer shall transfer position counts and available balances by financial order upon approval of the Governor. These transfers are considered adjustments to authorized position count, appropriations and allocations in fiscal years 2011-12 and 2012-13. The State Budget Officer shall provide the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs a report of the transferred positions and amounts no later than September 30, 2011.

## **SUMMARY PART WWW**

This Part creates the Governor's Office of Communications within the Executive Department and authorizes the transfer of positions by financial order. It also provides the necessary transition provisions. An existing position will be transferred and reorganized to the Director of the Governor's Office of Communications position.

**Add the following new Part XXX to LD 1043**

**NEW PART XXX**

**Sec. XXX-1. 22 MRSA §3187, 3<sup>rd</sup> ¶**, as enacted by PL 2003, c. 684, §1 is amended to read:

Rules regarding principles of reimbursement for intermediate care facilities for the mentally retarded adopted pursuant to section 3173 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A, except that rules adopted to establish an approval process for capital expenditures to renovate or construct intermediate care facilities for the mentally retarded shall be routine, technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**SUMMARY**

**PART XXX**

Current statute requires that any rules regarding principles of reimbursement for intermediate care facilities for the mentally retarded that are adopted under Title 22, section 3173 are major substantive rules. This Part clarifies that rules adopted to establish an approval process for capital expenditures to renovate or construct these facilities are routine, technical rules.

**Add the following new Part YYY to LD 1043**

**NEW PART YYY**

**Sec. YYY-1. 22 MRSA §8308**, as enacted by PL 2007, c. 672, §8 is enacted to read:

**8. Repeal.** This section is repealed July 1, 2011.

**SUMMARY  
PART YYY**

This Part repeals the family child care provider union representation statutes effective July 1, 2011.

**PART ZZZ**

**Sec. ZZZ-1. 26 MRSA §2031**, as amended by PL 2009, c. 213, Pt. JJJ, §1 is repealed.

**SUMMARY  
PART ZZZ**

This Part repeals the Governor's Training Initiative Program.

**Add the following new Part AAAA to LD 1043**

**NEW PART AAAA**

**Sec. AAAA-1. Maine Community College System; payments to the Maine State Employees Retirement System; unfunded actuarial liability.** Notwithstanding any provisions of law, effective July 1, 2012, unfunded actuarial liability payments made by the Maine Community College System to the Maine Public Employees Retirement System shall be calculated only on the basis of the salaries of Maine Community College System employees who are members of the Maine Public Employees Retirement System.

**SUMMARY  
PART AAAA**

This Part clarifies that effective July 1, 2012, the unfunded actuarial liability payment made by the Maine Community College System (MCCS) to the Maine Public Employees Retirement System (MainePERS) is calculated based on the salaries of only those MCCS employees who are members of MainePERS.

**Add the following new Part BBBB to LD 1043**

**NEW PART BBBB**

**Sec. BBBB-1. 25 MRSA §2399, 2<sup>nd</sup> ¶**, as amended by PL 1997, c. 728, §22 is further amended to read:

Every fire insurance company or association that does business or collects premiums or assessments in the State shall pay to the State Tax Assessor, in addition to the taxes now imposed by law to be paid by those companies or associations, 1.4% of the gross direct premiums for fire risks written in the State, less the amount of all direct return premiums thereon and all dividends paid to policyholders on direct fire premiums. That tax must be paid as provided for insurance premium taxes as specified in Title 36, section 2521-A, except that the tax prescribed by this section must be paid on an estimated basis at the end of each month starting July 31, 1998, with each installment equal to at least 1/12 of the estimated total tax to be paid for the current calendar year. The State Tax Assessor shall pay over all receipts from that tax to the Treasurer of State daily. Of these funds ~~75.7%~~ 85% must be used to defray the expenses incurred by the Commissioner of Public Safety in administering all fire preventive and investigative laws and rules and in educating the public in fire safety and is appropriated for those purposes and to carry out the administration and duties of the Office of the State Fire Marshal. Of these funds ~~24.3%~~ 15% must be used to defray the expenses of the fire training and education program as established in Title 20-A, chapter 319.

**SUMMARY**

**PART BBBB**

This Part amends the distribution of the portion of the fire premium tax that is used to defray expenses incurred by the Department of Public Safety and the fire training and education program.

**Add the following new Part CCCC to LD 1043**

**PART CCCC**

**Sec. CCCC-1. 36 MRSA §5142, sub-§8-A**, as enacted by PL 2005, c. 332, §22 and affected by §30, is repealed.

**Sec. CCCC-2. 36 MRSA §5142, sub-§8-B** is enacted to read:

**8-B. Minimum taxability threshold; exemptions.** Minimum taxability thresholds for nonresidents are governed by this subsection.

A. Compensation for personal services performed in the State as an employee is Maine-source income subject to taxation under this Part if the nonresident taxpayer is present in the State performing personal services for more than 12 days during that taxable year and directly earns or derives more than \$3,000 in gross income during the year in the State from all sources.

B. A nonresident individual who is present for business in the State on other than a systematic or regular basis, either directly or through agents or employees, has Maine source income derived from or effectively connected with a trade or business in the State and subject to taxation under this Part only if the nonresident individual was present in the State for business more than 12 days during the taxable year and earns or derives more than \$3,000 of gross income during the taxable year from contractual or sales-related activities.

C. Performance of the following personal services for 24 days during a calendar year may not be counted toward the 12-day threshold under paragraph A:

(1) Personal services performed in connection with presenting or receiving employment-related training or education;

(2) Personal services performed in connection with a site inspection, review, analysis of management or any other supervision of a facility, affiliate or subsidiary based in the State by a representative from a company, not headquartered in the State, that owns that facility or is the parent company of the affiliate or subsidiary;

(3) Personal services performed in connection with research and development at a facility based in the State or in connection with the installation of new or upgraded equipment or systems at that facility; or

(4) Personal services performed as part of a project team working on the attraction or implementation of new investment in a facility based in the State.



**Sec. CCCC-3. 36 MRSA §5220, sub-§2**, as amended by PL 2005, c. 332, §23, is further amended to read:

**2. Nonresident individuals.** Every nonresident individual who, pursuant to this Part, has a Maine individual income tax liability for the taxable year. An individual whose only Maine-source income is ~~compensation for personal services performed in Maine that~~ is excluded from Maine adjusted gross income by the threshold contained in section 5142, subsection ~~8A-8-B~~ is not subject to taxation under this Part and need not file a return;

**Sec. CCCC-4. Application.** This Act applies to tax years beginning on or after January 1, 2011.

## SUMMARY

### PART CCCC

This Part provides new minimum taxability thresholds for nonresidents. The new thresholds permit greater income-earning activity by nonresidents in the State before Maine income tax liability is triggered. The bill also excludes from the determination of taxability in the State up to 24 days of personal services related to certain training, management functions, equipment upgrades and new investment.

**Add the following new Part DDDD to LD 1043**

**PART DDDD**

**Sec. DDDD-1. 36 MRSA §1752, sub-§11-A** is enacted to read:

**11-A. Retirement facility.** "Retirement facility" means a facility that includes residential dwelling units where, on an average monthly basis, at least 80% of the residents of the facility are persons 62 years of age or older.

**Sec. DDDD-2. 36 MRSA §1760, sub-§6, ¶E,** as amended by PL 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. DDDD-3. 36 MRSA §1760, sub-§6, ¶F,** as amended by PL 2009, c. 211, Pt. B, §30, is further amended to read:

F. Served by youth camps licensed by the Department of Health and Human Services and defined in Title 22, section 2491, subsection 16-; ~~and~~

**Sec. DDDD-4. 36 MRSA §1760, sub-§6, ¶G** is enacted to read:

G. Served by a retirement facility to its residents when 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. DDDD-5. Retroactivity.** This Part applies retroactively to tax periods beginning on or after January 1, 2010.

**Sec. DDDD-6. Effective date.** This Part takes effect October 1, 2011.

**SUMMARY**

**PART DDDD**

This Part exempts from the sales tax meals provided to residents of full-service retirement facilities and applies the exemption retroactively to tax periods beginning on or after January 1, 2010. This Part includes an effective date of October 1, 2011.

**Add the following new Part EEEE to LD 1043**

**PART EEEE**

**Sec. EEEE-1. 36 MRSA §2013, sub-§2**, as amended by PL 2001, c. 396, §24, is further amended to read:

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

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

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

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

**Sec. EEEE-2. 36 MRSA §2013, sub-§3**, as amended by PL 2001, c. 396, §24, is further amended to read:

**3. Purchases made free of tax with certificate.** Sales tax need not be paid on the purchase of electricity, fuel for a commercial fishing vessel or ~~of~~ a single item of machinery or equipment if the purchaser has obtained a certificate from the assessor stating that the purchaser is engaged in commercial agricultural production, commercial fishing or commercial aquacultural production and authorizing the purchaser to purchase electricity, fuel for a commercial fishing vessel or depreciable machinery and equipment without paying Maine sales tax. The seller is required to obtain a copy of the certificate together with an affidavit as prescribed by the assessor, to be maintained in the seller's records, attesting to the qualification of the purchase for exemption pursuant to this section. In order to qualify for this exemption, the electricity, fuel for a commercial

fishing vessel or depreciable machinery or equipment must be used directly in commercial agricultural production, commercial fishing or commercial aquacultural production. In order to qualify for this exemption, the electricity or fuel for a commercial fishing vessel must be used in qualifying activities, including support operations.

**Sec. EEEE-3. Application.** This Part applies to purchases of fuel for use in a commercial fishing vessel on or after October 1, 2011.

## **SUMMARY**

### **PART EEEE**

This bill requires the refund of sales tax on purchases of fuel for use in a commercial fishing vessel and permits the issuance of a certificate permitting the purchases of such fuel without paying sales tax if the purchaser obtains a certificate verifying eligibility from the State Tax Assessor. The bill includes an effective date of October 1, 2011.

**Add the following new Part FFFF to LD 1043**

**PART FFFF**

**Sec. FFFF-1. 36 MRSA §1760, sub-§92** is enacted to read:

**92. Plastic bags sold to redemption centers.** Sales to a local redemption center licensed under Title 32, section 1871-A of plastic bags used by the redemption center to sort, store or transport returnable beverage containers.

**Sec. FFFF-2. Retroactivity.** This Part applies retroactively to January 1, 2004.

**SUMMARY**

**PART FFFF**

This Part exempts from sales tax plastic bags used by redemption centers to sort, store or transport returnable beverage containers. The bill includes a retroactive date of January 1, 2004.

Add the following new Part GGGG to LD 1043

## PART GGGG

Sec. GGGG-1. 36 MRSA §2020 is enacted to read:

### §2020. Refund of sales tax on purchases of parts and supplies for windjammers

**1. Definition.** For purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Parts and supplies" means any products used directly and primarily for the operation, repair or maintenance of a windjammer, including, but not limited to, sails, rope, wood, rigging, masts, paints, varnishes, undersealers, engines and pumps, and lubricants and fuel.

B. "Windjammer" means a United States Coast Guard certified sailing vessel based in the State of traditional construction and designed to a historic standard that is used primarily for providing overnight passenger cruises along the Maine coast for a fee.

**2. Refund authorized.** The State Tax Assessor shall refund to a person that purchases parts and supplies for use in the operation, repair or maintenance of a windjammer the amount of sales tax paid with respect to those parts and supplies upon the person's presenting evidence that the purchase is eligible for a refund under this section. The refund claim must be submitted on a form prescribed by the assessor and must be accompanied by a copy or copies of that portion of the purchaser's most recent filing under the Code indicating that the purchaser is engaged in the operation of a windjammer and such additional information as the assessor may require. An application for a refund under this subsection must be filed with the assessor within 36 months of the date of purchase.

**3. Purchases made free of tax with certificate.** Sales tax need not be paid on the purchase of parts and supplies for use in the operation, repair or maintenance of a windjammer if the purchaser has obtained a certificate from the assessor stating that the purchaser is engaged in the operation of a windjammer and authorizing the purchaser to purchase parts and supplies for use in the operation, repair and maintenance of a windjammer without paying Maine sales tax. The seller shall obtain a copy of the certificate together with an affidavit as prescribed by the assessor, to be maintained in the seller's records, attesting to the qualification of purchases for exemption pursuant to this section.

**4. Audit.** The assessor may audit a claim for refund filed under subsection 2 or the use of a certificate issued under subsection 3. If the assessor determines that the amount of the claimed refund is incorrect or that the certificate has been used

inappropriately, the assessor may issue an assessment within 3 years from the date of purchase or the date the claim was filed, whichever is later, or at any time if a fraudulent claim was filed. The claimant may seek reconsideration of the assessment pursuant to section 151.

**5. Payment of claims.** The assessor shall pay the approved amount to qualified applicants under this section within 30 days after receipt of a properly completed claim. Interest is not allowed on any payment made to a claimant pursuant to this section.

## **SUMMARY**

### **PART GGGG**

This Part authorizes a sales tax refund or exemption certificate for purchases of parts and supplies used for the operation, repair or maintenance of a windjammer that is used to carry cargo or passengers for a fee.

**Add the following new Part HHHH to LD 1043**

**PART HHHH**

**Sec. HHHH-1. 5 MRSA §13070-J, sub-§1, ¶D**, as amended by PL 2009, c. 337, §5, is further amended to read:

D. "Economic development incentive" means federal and state statutorily defined programs that receive state funds, dedicated revenue funds and tax expenditures as defined by section 1666 whose purposes are to create, attract or retain business entities related to business development in the State, including but not limited to:

- (1) Assistance from Maine Quality Centers under Title 20-A, chapter 431-A;
- (2) The Governor's Training Initiative Program under Title 26, chapter 25, subchapter 4;
- (3) Municipal tax increment financing under Title 30-A, chapter 206;
- (4) The jobs and investment tax credit under Title 36, section 5215;
- (5) The research expense tax credit under Title 36, section 5219-K;
- (6) Reimbursement for taxes paid on certain business property under Title 36, chapter 915;
- (7) Employment tax increment financing under Title 36, chapter 917;
- (8) The shipbuilding facility credit under Title 36, chapter 919;
- (9) The credit for seed capital investment under Title 36, section 5216-B; ~~and~~
- (10) The credit for pollution-reducing boilers under Title 36, section 5219-Z; and
- (11) The credit for Maine fishery infrastructure investment under Title 36, section 5216-D.

**Sec. HHHH-2. 12 MRSA c. 903, sub-c. 8** is enacted to read:



## SUBCHAPTER 8

### MAINE FISHERY INFRASTRUCTURE TAX CREDIT PROGRAM

#### § 10331. Tax credit certificates

**1. Authorization; short title.** In order to encourage investment in and contributions to infrastructure improvements and facilities that enhance the State's fisheries, the department in coordination with the Department of Marine Resources is authorized to issue certificates of eligibility for the Maine fishery infrastructure investment tax credit permitted by Title 36, section 5216D, subject to the requirements of this section. This program may be known and cited as "the Maine Fishery Infrastructure Tax Credit Program."

**2. Eligibility for tax credit certificate; rules.** The department in coordination with the Department of Marine Resources shall adopt rules in accordance with the Maine Administrative Procedure Act to implement the Maine Fishery Infrastructure Tax Credit Program. Rules adopted pursuant to this subsection are major substantive rules as defined by Title 5, chapter 375, subchapter 2A. The rules must establish requirements for public fishery infrastructure project eligibility for a tax credit certificate and must include at least the following.

A. A tax credit certificate may be issued in an amount not more than 50% of the amount of cash actually invested in or contributed to an eligible public fishery infrastructure project in any calendar year.

B. An eligible public fishery infrastructure projects must be determined by the department in coordination with the Department of Marine Resources to have a public benefit and be:

(1) A publicly owned infrastructure improvement or facility that enhances the State's fisheries; or

(2) A privately owned infrastructure improvement or facility that is publicly accessible.

**3. Credit certificate limit.** The aggregate investment or contribution eligible for tax credits under this subchapter may not exceed \$5,000,000 per project.

**4. List of projects.** The department shall develop and maintain a list of projects eligible under this subchapter and rules adopted under this subchapter. The department shall coordinate with the Department of Marine Resources in the identification of projects that benefit freshwater and saltwater fisheries.

**5. Revocation of tax credit certificate.** The department may revoke a tax credit

certificate under this subchapter if any representation to the department in connection with the application for the certificate proves to have been false when made or if the applicant violates any conditions established by the department and stated in the tax credit certificate. The revocation may be in full or in part as the department determines. The department shall specify the amount of credit being revoked and send notice of the revocation to the investor or contributor and to the State Tax Assessor.

6. Reports. As a condition for determination of eligibility or continuation of eligibility for a tax credit certificate under this subchapter, the department may require any information or reports from the public fishery infrastructure project that it considers necessary.

**Sec. HHHH-3. 36 MRS §5216-D** is enacted to read:

**§ 5216-D. Maine Fishery Infrastructure Investment Tax Credit Program**

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

A. "Certificate" means a tax credit certificate issued by the Department of Inland Fisheries and Wildlife pursuant to Title 12, chapter 903, subchapter 8.

B. "Investment" means an investment or contribution for which a certificate has been received.

C. "Investor" means a taxpayer that has received a certificate.

2. Credit. An investor is entitled to a credit against the tax otherwise due under this Part equal to the amount of the tax credit certificate issued by the Department of Inland Fisheries and Wildlife in accordance with Title 12, section 10331 and as limited by subsection 3. In the case of partnerships, limited liability companies, S corporations, nontaxable trusts and any other entities that are treated as pass-through entities for tax purposes under the Code, but not including pass-through entities taxed under chapter 819, the individual partners, members, stockholders, beneficiaries or equity owners of such entities must be treated as the investors under this section and are allowed a credit against the tax otherwise due from them under this Part in proportion to their respective interests in those partnerships, limited liability companies, S corporations, nontaxable trusts or other pass-through entities. Except as limited or authorized by subsection 3 or 4, 25% of the credit must be taken in the taxable year the investment is made and 25% per year must be taken in each of the next 3 taxable years.

3. Limitation. The amount of the credit allowed under this section for any one taxable year may not exceed 50% of the tax imposed by this Part on the investor for the taxable year before application of the credit.

4. Carry forward. A credit under this section not taken because of the limitation in subsection 3 must be taken in the next taxable year in which the credit may be taken, and

the limitation of subsection 3 also applies to the carry-forward years. In no case may this carry-forward period exceed 15 years.

**5. Recapture.** If the Department of Inland Fisheries and Wildlife revokes a certificate, there must be added to the tax imposed on the investor under this Part for the taxable year in which the revocation occurs an amount equal to the excess of the amount of credit revoked over the amount of credit not yet taken.

**6. Effect of other tax benefits.** A person may not claim a credit under this section if the person also claims a deduction for the same investment under another provision of this Part.

## **SUMMARY**

### **PART HHHH**

This Part provides an income tax credit for investment in or contributions to eligible public fishery infrastructure projects in the State. Eligible projects must be certified by the Department of Inland Fisheries and Wildlife, which is required to adopt rules for determination of eligibility. Tax certificates may be issued for up to \$5,000,000 per project. Credits must be taken in increments of 25% over 4 years and may not exceed 50% of the total tax imposed on the investor for the taxable year before application of the credit. Unused credits may be carried forward for up to 15 years. The credit applies to both freshwater and saltwater fisheries. The provisions require the Department of Inland Fisheries and Wildlife to coordinate with the Department of Marine Resources in the certification of eligible projects.

**Add the following new Part III to LD 1043**

**NEW PART III**

**Sec. III-1. Personal Services balances authorized to carry; Department of Corrections.** Notwithstanding any other provision of law, the Department of Corrections is authorized to carry up to \$1,112,240 of fiscal year 2010-11 year end balances in the Personal Services line category of General Fund accounts to fiscal year 2011-12 to be used for the purpose of paying the retroactive costs of the reclassifications, range changes and approved bargaining unit changes included in Part A of this Act. These balances may be transferred by financial order to the accounts from which these retroactive costs will be expended upon the recommendation of the State Budget Officer and approval of the Governor.

**Sec. III-2. Position eliminations; Department of Corrections.** No later than August 1, 2011, the Department of Corrections shall identify positions for elimination to achieve General Fund savings that are equal to or greater than the amount deappropriated from the Departmentwide – Corrections General Fund account in Part A of this Act. Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings that applies against each account in the Department of Corrections and is authorized to transfer authorized headcount and Personal Services savings by financial order upon the approval of the Governor. These transfers are considered adjustments to authorized headcount and appropriations.

**SUMMARY  
PART III**

This Part authorizes year end Personal Services balances in the Department of Corrections to carry from fiscal year 2010-11 to fiscal year 2011-12 to be used for the retroactive costs of reclassifications, range changes and bargaining unit changes. It also requires the department to identify positions for elimination that have a value equal to or greater than the amounts deappropriated from the Departmentwide – Corrections General Fund account in Part A of the bill. The State Budget Office is authorized to make the transfers and adjustments to authorized headcount and appropriations upon the approval of the Governor.

**Add the following new Part JJJJ to LD 1043**

**NEW PART JJJJ**

**Sec. JJJJ-1. Transfer; Maine Budget Stabilization Fund.** Notwithstanding any other provision of law, the State Controller shall transfer \$29,700,000 from the Maine Budget Stabilization Fund in the Department of Administrative and Financial Services to General Fund unappropriated surplus by the close of fiscal year 2011-12 to offset a General Fund revenue shortfall.

**SUMMARY  
PART JJJJ**

This Part authorizes the State Controller to transfer \$29,700,000 from the Maine Budget Stabilization Fund to General Fund unappropriated surplus by the close of fiscal year 2011-12.