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State of Maine
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
COMMITTEE ON TAXATION

DATE: February 3, 2011

TO: Senator Richard W. Rosen, Senate Chair
Representative Patrick S. A. Flood, House Chair
Members, Joint Standing Committee on Appropriations and Financial Affairs

FROM: Senator A. David Trahan, Senate Chair
Representative L. Gary Knight, House Chair
Members, Joint Standing Committee on Taxation

RE: Taxation Committee Report back on L.D. 100

We are writing to provide the recommendations of the Joint Standing Committee on Taxation on the portions of LD 100 that were considered during a public hearing on January 26, 2011, and in our work session on February 1, 2011. Attached are the required forms for our report.

Of particular concern to the Committee is the transfer of municipal revenue sharing funds to the General Fund.

The Majority Report recommends amending 3 initiatives (Ref #508, 516 and Part N) that increase the fixed transfer of revenue sharing funds to the General Fund by \$3,875,069 for fiscal year 2010-11 and reduce the allocation in the revenue sharing accounts. The amendment reduces the amount by \$1.1 million and removes the cap of \$125,858,350. The majority report recommends including conformity (Part P) in the supplemental budget as written.

The Minority Report recommends rejecting 3 initiatives (Ref #508, 516 and Part N) that increase the fixed transfer of revenue sharing funds to the General Fund by \$3,875,069 for fiscal year 2010-11 and reduce the allocation in the revenue sharing accounts. It also recommends rejecting Part M of LD 100 to free up \$1.1 million that is proposed for transfer from the General Fund unappropriated surplus to the Budget Stabilization Fund. To make up the difference, the minority report recommends amending Part P to implement conformity with the exception of an extension related to itemized deductions. This specific area, for which nonconformity is recommended, is identified as Item #13 on Attachment A. You will find this attachment at the end of this packet.

Thank you for the opportunity to provide this information. Please let us know if you have questions or need our further assistance on these proposals.

Attachments – Budget report back forms

Committee Recommendations for Changes to Governor's Budget Proposal (Majority)					
Tax Committee Members on Majority Report: Senators Trahan, Hastings and Woodbury; Representatives Knight, Waterhouse, Bickford, Bennett, Burns, and Harmon					
LD: <u>100</u> Date of Report: <u>Feb 3, 2011</u>					
			GF/OSR Cost (Savings)		
			FY11	Vote	
Governor's GF Budget Initiatives Net Cost (Savings)			\$ 423,191		
Initiatives Rejected by Committee & Effect on Net GF Cost or Savings					
Page	Reference/ Part	Summary of Initiative			
Total Cost (Savings) From Rejected Initiatives			\$0		
Initiatives Amended by Committee & Effect on Net GF Cost or Savings					
Page	Reference/ Part	Description of Amendment (Attach Revised Initiative Description or Language)	FY 11 GF	FY 11 OSR	
TAX-3	516	Disproportionate Tax Burden Fund 0472. Municipal Revenue Sharing - related to Part N language. Amend the "Rev II" portion of \$3,875,069 transfer to General Fund (GF) from Local Government Fund, which per the amended language in Part N would be reduced by \$1.1 million.			AMEND 9-4
TAX-4	508	State - Municipal Revenue Sharing 0020. Municipal Revenue Sharing - related to Part N language. Municipal Revenue Sharing - Amend the "Rev I" portion of \$3,875,069 transfer to GF from Local Government Fund, which per the amended language in Part N would be reduced by \$1.1 million			AMEND 9-4
TAX-6 TAX - 7	Part N Language Fiscal Note (Part N, Sec 1)	Amend Part N - Revise Part N-1 to reduce the amount transferred to General Fund undedicated revenue by \$1.1 million, from \$35,270,254 to \$38,045,323, for fiscal year 2010-11. Amend Part N-2 to reflect the reduced amount from \$3,875,069 to \$2,775,069 and show that it will be distributed proportionally based on the number of months remaining in fiscal year 2010-11. The amended version of Part N strikes Part N-3, which would have transferred any additional revenue collections exceeding \$125,858,350 for fiscal year 2010-11 to GF undedicated revenue by June 30, 2011.	\$1,100,000		AMEND 9-4
Total Cost (Savings) From Amended Initiatives			\$1,100,000		
Initiatives Added by Committee & Effect on Net GF Cost or Savings					
		Summary of Initiative (Attach Full Initiative Description or Language)	FY 11 GF	FY 11 OSR	
Total Cost (Savings) From Additional Initiatives			\$0		
Total Additions to or Subtraction from Governor's Net Total			\$1,100,000		
POLICY COMMITTEE'S GF Budget Initiatives Net Cost (Savings)			\$1,523,191		

Committee Recommendations for Changes to Governor's Budget Proposal (Minority)

Tax Committee Members on Minority Report : Representatives Berry, Pilon, Bryant and Flemings)

LD: 100 Date of Report: Feb 3, 2011

GF/OSR Cost (Savings)				
FY11	FY12			Vote

Governor's GF Budget Initiatives Net Cost (Savings) \$ 423,191

Initiatives Rejected by Committee & Effect on Net GF Cost or Savings

Page	Reference/ Part	Summary of Initiative					
TAX-3	516	Disproportionate Tax Burden Fund 0472. Municipal Revenue Sharing - related to Part N language. "Rev II" portion of \$3,875,069 transfer to General Fund (GF) from Local Government Fund					OUT 4-9
TAX-4	508	State - Municipal Revenue Sharing 0020. Municipal Revenue Sharing - related to Part N language. Municipal Revenue Sharing "Rev I" portion of \$3,875,069 transfer to GF from Local Government Fund					OUT 4-9
TAX-6 TAX - 7	Part N Language Fiscal Note (Part N, Sec 1)	Part N-1 increases the revenue sharing transfer to General Fund undedicated revenue by \$3,875,069, from \$35,270,254 to \$39,145,323, for fiscal year 2010-11. Part N-2 provides for the revenue increase to GF undedicated revenue to be proportional based on the number of months remaining in fiscal year 2010-11 following the effective date. Part N-3 requires that the State Controller transfer any additional revenue collections exceeding \$125,858,350 for fiscal year 2010-11 to GF undedicated revenue by June 30, 2011.	\$3,875,069				OUT 4-9
SLG- 10	Part M	<u>Reject</u> Part M from the budget as part of the solution to fill the funding gap of \$3,875, 069 created by the rejection of the revenue sharing transfer. Part M increases the amount to be transferred from the unappropriated surplus of the General Fund to the Maine Budget Stabilization Fund on June 30, 2011 by \$1,100,000.	(\$1,100,000)				OUT 4-9
Total Cost (Savings) From Rejected Initiatives			\$2,775,069	\$0	0.0	0.0	

Initiatives Amended by Committee & Effect on Net GF Cost or Savings

Page	Reference/ Part	Description of Amendment (Attach Revised Initiative Description or Language)	FY 11 GF	FY 11 OSR			
TAX-8	Part P - Language	AMEND Part P to update references to the IRS code in Title 36 so Maine law conforms through December 31, 2010 for tax years beginning on or after January 1, 2010, <u>except</u> add a section that will require nonconformity with one part of the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 related to the phase out of itemized deductions. This part is identified as Item #13 on Attachment A. Maine Revenue Services provided a figure of \$2,836,720 for FY 11 for revenue loss for conformity with this item.	\$ (2,836,720)				AMEND 4-9
Total Cost (Savings) From Amended Initiatives			(\$2,836,720)	\$0	0.0	0.0	

Initiatives Added by Committee & Effect on Net GF Cost or Savings

		Summary of Initiative (Attach Full Initiative Description or Language)	FY 11 GF	FY 11 OSR			
Total Cost (Savings) From Additional Initiatives			\$0	\$0	0.0	0.0	

Total Additions to or Subtraction from Governor's Net Total

POLICY COMMITTEE'S GF Budget Initiatives Net Cost (Savings) **(\$61,651)** **\$0** **0.0** **0.0**

\$361,540 **\$0**

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

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Revenue Services - Bureau of 0002

Initiative: Reduces funding for general operations at Maine Revenue Services. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

Ref. #: 3

Committee Vote: In 13-0 AFA Vote: _____

GENERAL FUND	2010-11	2011-12	2012-13
All Other	(\$218,850)	\$0	\$0
GENERAL FUND TOTAL	(\$218,850)	\$0	\$0

Justification:

Through a redesign of withholding forms and change in the threshold from \$500 to \$1,000 for sending certified mail, the department can curtail one-time spending of \$218,850.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	(\$218,850)	\$0	\$0
DEPARTMENT TOTAL - ALL FUNDS	(\$218,850)	\$0	\$0

Sec. A-44. Appropriations and allocations. The following appropriations and allocations are made.

PROPERTY TAX REVIEW, STATE BOARD OF

Property Tax Review - State Board of 0357

Initiative: Reduces funding to achieve targeted savings.

Ref. #: 449

Committee Vote: In 13-0

AFA Vote: _____

GENERAL FUND	2010-11	2011-12	2012-13
All Other	(\$803)	\$0	\$0
GENERAL FUND TOTAL	(\$803)	\$0	\$0

Justification:

This initiative reduces funding for technology expenditures in order to achieve targeted savings for this program.

PROPERTY TAX REVIEW, STATE BOARD OF

DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	(\$803)	\$0	\$0
DEPARTMENT TOTAL - ALL FUNDS	(\$803)	\$0	\$0

Sec. A-52. Appropriations and allocations.

The following appropriations and allocations are made.

TREASURER OF STATE, OFFICE OF

Disproportionate Tax Burden Fund 0472

Initiative: Provides funding to bring allocations into line with projected available resources based on the reprojected of revenue by the Revenue Forecasting Committee in December 2010.

Ref. #: 515

Committee Vote: In 13-0

AFA Vote: _____

OTHER SPECIAL REVENUE FUNDS

	2010-11	2011-12	2012-13
All Other	\$730,596	\$0	\$0
OTHER SPECIAL REVENUE FUNDS TOTAL	\$730,596	\$0	\$0

Justification:

Adjusts funding for Municipal Revenue Sharing to municipalities and for Disproportionate Tax Burden Fund based on revenue forecast approved by the Revenue Forecasting Committee in December 2010.

Disproportionate Tax Burden Fund 0472

Initiative: Reduces funding to provide for the transfer of additional revenue sharing funds to the General Fund in fiscal year 2010-11.

Ref. #: 516

Committee Vote: Amend 9-4

AFA Vote: _____

OTHER SPECIAL REVENUE FUNDS

	2010-11	2011-12	2012-13
All Other	(\$620,011)	\$0	\$0
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$620,011)	\$0	\$0

Justification:

Language proposed in Part N of this bill would increase the transfer of revenue sharing funds to the General Fund undedicated revenue by \$3,875,069 for fiscal year 2010-11. This initiative reduces the allocation in the State-Municipal Revenue Sharing account and in the Disproportionate Tax Burden Fund account that will no longer be required if the additional fund transfer is approved.

State - Municipal Revenue Sharing 0020

Initiative: Provides funding to bring allocations into line with projected available resources based on the reprojected of revenue by the Revenue Forecasting Committee in December 2010.

Ref. #: 507

Committee Vote: In 13-0

AFA Vote: _____

OTHER SPECIAL REVENUE FUNDS

	2010-11	2011-12	2012-13
All Other	\$3,835,633	\$0	\$0
OTHER SPECIAL REVENUE FUNDS TOTAL	\$3,835,633	\$0	\$0

Justification:

Adjusts funding for Municipal Revenue Sharing to municipalities and for Disproportionate Tax Burden Fund based on revenue forecast approved by the Revenue Forecasting Committee in December 2010.

State - Municipal Revenue Sharing 0020

Initiative: Reduces funding to provide for the transfer of additional revenue sharing funds to the General Fund in fiscal year 2010-11.

Ref. #: 508

Committee Vote: Amend 9-4 AFA Vote: _____

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	(\$3,255,058)	\$0	\$0
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$3,255,058)	\$0	\$0

Justification:

Language proposed in Part N of this bill would increase the transfer of revenue sharing funds to the General Fund undedicated revenue by \$3,875,069 for fiscal year 2010-11. This initiative reduces the allocation in the State-Municipal Revenue Sharing account and in the Disproportionate Tax Burden Fund account that will no longer be required if the additional fund transfer is approved.

TREASURER OF STATE, OFFICE OF

DEPARTMENT TOTALS	2010-11	2011-12	2012-13
OTHER SPECIAL REVENUE FUNDS	\$691,160	\$0	\$0
DEPARTMENT TOTAL - ALL FUNDS	\$691,160	\$0	\$0

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

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Revenue Services - Bureau of 0002

Initiative: RECLASSIFICATIONS

Ref. #: 4

Committee Vote: In 13-0 AFA Vote: _____

GENERAL FUND	2010-11	2011-12	2012-13
Personal Services	\$5,669	\$0	\$0
All Other	(\$5,669)	\$0	\$0
GENERAL FUND TOTAL	\$0	\$0	\$0

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	\$0	\$0	\$0
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$0	\$0

Amend Part N as follows

Amend
Vote 9-4

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

2 **PART N**

3 **Sec. N-1. 30-A MRSA §5681, sub-§5-C**, as amended by PL 2009, c. 571, Pt. JJ,
4 §1, is further amended to read:

5 **5-C. Transfers to General Fund.** For the months beginning on or after July 1,
6 2009, \$25,383,491 in fiscal year 2009-10 and ~~\$35,270,254~~ ^{38,045,323} ~~\$39,145,323~~ in fiscal year
7 2010-11 from the total transfers pursuant to subsection 5 must be transferred to General
8 Fund undedicated revenue. The amounts transferred to General Fund undedicated
9 revenue each fiscal year pursuant to this subsection must be deducted from the
10 distributions required by subsections 4-A and 4-B based on the percentage share of the
11 transfers to the Local Government Fund pursuant to subsection 5. The reductions in this
12 subsection must be allocated to each month proportionately based on the budgeted
13 monthly transfers to the Local Government Fund as determined at the beginning of the
14 fiscal year.

15 **Sec. N-2. Transfers to General Fund for fiscal year 2010-11.**
16 Notwithstanding the requirement in the Maine Revised Statutes, Title 30-A, section 5681,
17 subsection 5-C that amounts must be transferred to General Fund undedicated revenue on
18 a proportionate basis based on budgeted monthly transfers to the Local Government Fund
19 as determined at the beginning of fiscal year 2010-11, for fiscal year 2010-11, \$3,875,069 ^{2,775,069}
20 must be transferred on a proportional basis based on the number of months remaining in
21 fiscal year 2010-11 following the effective date of this Part.

22 ~~**Sec. N-3. Additional transfer to General Fund for fiscal year 2010-11.**~~
23 ~~Notwithstanding any other provision of law, the State Controller shall, in addition to the~~
24 ~~transfers in the Maine Revised Statutes, Title 30-A, section 5681, subsection 5-C, transfer~~
25 ~~any additional revenue collections exceeding \$125,858,350 for fiscal year 2010-11 to~~
26 ~~General Fund undedicated revenue by June 30, 2011.~~

27 **SUMMARY**

28 **PART N**

29 This Part does the following.

30 1. It increases the revenue sharing transfer to General Fund undedicated revenue by
31 \$3,875,069, from \$35,270,254 to \$39,145,323, for fiscal year 2010-11.

32 2. It provides for the revenue increase to General Fund undedicated revenue to be
33 proportional based on the number of months remaining in fiscal year 2010-11 following
34 the effective date of this Part.

35 3. It requires that the State Controller transfer any additional revenue collections
36 exceeding \$125,858,350 for fiscal year 2010-11 to General Fund undedicated revenue by
37 June 30, 2011.

Fiscal Note - Part N

	FY 2010-11	FY 2011-12	FY 2012-13	Projections FY 2013-14	Projections FY 2014-15
Revenue					
General Fund					
PART N, Section 1	2,775,069 \$3,875,069	\$0	\$0	\$0	\$0
Other Special Revenue Funds					
PART N, Section 1	(\$3,875,069) (2,775,069)	\$0	\$0	\$0	\$0

IN 9-4

IN: Trahan, Hastings, Woodbur
Knight, Waterhouse,
Bickford, Bennett, Burns
Harmon

IN as amended: Berry,
Pilon, Bryant, Flemings

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

2 PART P

3 Sec. P-1. 36 MRSA §111, sub-§1-A, as amended by PL 2009, c. 596, §1 and
4 affected by §2, is further amended to read:

5 1-A. Code. "Code" means the United States Internal Revenue Code of 1986 and
6 amendments to that Code as of ~~March 2~~ December 31, 2010.

7 Sec. P-2. Application. This Part applies to tax years beginning on or after January
8 1, 2010 and to any prior tax years as specifically provided by the United States Internal
9 Revenue Code of 1986 and amendments to that Code as of December 31, 2010.

10 SUMMARY

11 PART P

12 This Part updates references to the United States Internal Revenue Code contained in
13 the Maine Revised Statutes, Title 36 so that they refer to the United States Internal
14 Revenue Code of 1986 as amended through December 31, 2010 for tax years beginning
15 on or after January 1, 2010 and for any prior tax years as specifically provided by the
16 United States Internal Revenue Code of 1986. The Part primarily affects the State's
17 income tax laws.

Fiscal Note - Part P

	FY 2010-11	FY 2011-12	FY 2012-13	Projections FY 2013-14	Projections FY 2014-15
Revenue					
General Fund					
PART P, Section 1	(\$4,517,913)	(\$7,924,538)	(\$32,351)	\$7,688,384	\$7,055,595
Other Special Revenue Funds					
PART P, Section 1	(\$237,785)	(\$417,081)	(\$1,703)	\$404,652	\$371,347

Note minority report is
"In as amended". Amendment
would exclude item #13 on "Attachment A"
from conformity. Language will be
provided should JSC on Appropriations and
Financial Affairs decide to pursue this option.
(See last page of packet.)

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

2 **PART BB**

3 **Sec. BB-1. 36 MRSA §141, sub-§2, ¶C**, as amended by PL 2001, c. 396, §4, is
4 further amended to read:

5 C. An assessment may be made at any time with respect to a ~~time~~ period for which a
6 return has become due but has not been filed. If ~~any~~ a person ~~failing~~ who has failed to
7 file a return ~~fails to produce~~ does not provide to the assessor, within ~~30~~ 60 days ~~after~~
8 of receipt of notice, information that the ~~State Tax Assessor believes~~ assessor
9 considers necessary to determine the person's tax liability for the that period involved,
10 the ~~State Tax Assessor~~ assessor may assess an estimated tax liability based upon the
11 best information otherwise available. In any proceeding for the collection of tax for
12 ~~the that period involved~~, that estimate constitutes is prima facie evidence of the tax
13 liability. The ~~30-day~~ 60-day period provided by this paragraph is must be extended
14 for ~~up to 90~~ an additional 60 days if the taxpayer requests an extension in writing
15 prior to the expiration of the ~~30-day~~ original 60-day period.

16 **Sec. BB-2. 36 MRSA §5276-A, sub-§2**, as amended by PL 1993, c. 395, §23, is
17 further amended to read:

18 **2. Notice and hearing.** At the time a setoff is made, the ~~State Tax Assessor~~ assessor
19 shall provide notice to the ~~individual or corporate~~ taxpayer of the setoff ~~or setoffs~~ and of
20 the taxpayer's right to request, within ~~30~~ 60 days of the taxpayer's receipt of ~~the~~ notice of
21 the setoff, a hearing before the creditor agency ~~or agencies~~. The hearing ~~or hearings are~~
22 must be held pursuant to in accordance with the provisions of the Maine Administrative
23 Procedure Act, ~~Title 5, chapter 375~~, but ~~are~~ is limited to the issues of whether the debt ~~or~~
24 ~~debts~~ became liquidated and whether any postliquidation ~~events have~~ event has affected
25 the liability.

26 **Sec. BB-3. Application.** This Part takes effect July 1, 2011.

27 **SUMMARY**

28 **PART BB**

29 This Part increases the period for providing certain information required by the
30 Department of Administrative and Financial Services, Bureau of Revenue Services and
31 for requesting a hearing before a creditor agency from 30 to 60 days.

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

2 **PART CC**

3 **Sec. CC-1. 36 MRSA §2558, sub-§2**, as enacted by PL 2003, c. 673, Pt. V, §25
4 and affected by §29, is amended to read:

5 **2. Amended return filed.** The amended return must be filed within ~~90~~ 180 days of
6 an audit finding ~~affecting that affects~~ a person's liability under this chapter or within ~~90~~
7 180 days of the ~~time date~~ that a person learns of ~~any other a~~ change or correction
8 ~~affecting its that affects that person's~~ liability under this chapter.

9 **Sec. CC-2. 36 MRSA §4075**, as amended by PL 2007, c. 693, §30, is further
10 amended to read:

11 **§4075. Amount of tax determined**

12 The State Tax Assessor shall determine the amount of tax due and payable upon any
13 estate or part of that estate. If, after determination and certification of the full amount of
14 the tax upon an estate or any interest in or part of an estate, the estate receives or becomes
15 entitled to property in addition to that shown in the estate tax return filed with the
16 assessor or the United States Internal Revenue Service changes any item increasing the
17 estate's liability shown in the Maine estate tax return filed with the assessor, the personal
18 representative shall within ~~90~~ 180 days of any receipt, entitlement or change file an
19 amended Maine estate tax return. The assessor shall determine the amount of additional
20 tax and shall certify the amount due, including interest and penalties, to the person by
21 whom the tax is payable.

22 **Sec. CC-3. 36 MRSA §5227-A, sub-§2**, as enacted by PL 2003, c. 588, §19, is
23 amended to read:

24 **2. Amended return filed.** The amended Maine return must be filed within ~~90~~ 180
25 days from the date of the final determination of the change or correction or the filing of
26 the federal amended return. For purposes of this subsection, "date of the final
27 determination" means the date on which the earliest of the following events occurs with
28 respect to a federal taxable year:

29 A. The taxpayer has made payment of an additional income tax liability resulting
30 from a federal audit, the taxpayer has not filed a petition for redetermination or claim
31 for refund for the portions of the audit for which payment was made and the time for
32 filing a petition for redetermination or refund claim has expired;

33 B. The taxpayer receives a refund from the United States Treasury that resulted from
34 a federal audit;

35 C. The taxpayer signs Form 870-AD or another Internal Revenue Service form
36 consenting to a deficiency or accepting an overassessment;

37 D. The taxpayer's time for filing a petition for redetermination with the United States
38 Tax Court expires;

1 tax return under certain circumstances from 90 days to 180 days, and clarifies that it is the
2 date of the final determination that triggers a requirement to file an amended Maine
3 income tax return.

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

2 **PART DD**

3 **Sec. DD-1. 36 MRSA §144, sub-§1**, as amended by PL 2001, c. 396, §5, is
4 further amended to read:

5 **1. Generally.** A taxpayer may request a credit or refund of any tax that is imposed
6 by this Title or administered by the State Tax Assessor within 3 years from the time date
7 the return was filed or 2 3 years from the time date the tax was paid, whichever period
8 expires later. Every claim for refund must be submitted to the State Tax Assessor
9 assessor in writing and must state the specific grounds upon which it the claim is founded
10 and the tax period for which the refund is claimed. ~~The~~ If the taxpayer may requests in
11 writing request an informal conference regarding the claim for refund, in which case the
12 claim for refund is considered deemed to be a request for reconsideration of an
13 assessment under section 151.

14 **Sec. DD-2. 36 MRSA §4075-A, sub-§1**, as amended by PL 2005, c. 622, §24, is
15 further amended to read:

16 **1. Refund.** A personal representative or responsible party otherwise liable for the
17 tax imposed by this chapter may request a refund of any tax imposed by this chapter
18 within 3 years from the time date the return was filed or 2 3 years from the time date the
19 tax was paid, whichever period expires later. Every claim for refund must be submitted
20 to the State Tax Assessor in writing and must state the specific grounds upon which it the
21 claim is founded. The claimant may in writing request an informal conference regarding
22 the claim for refund pursuant to ~~the provisions of~~ section 151.

23 **Sec. DD-3. 36 MRSA §5278**, as amended by PL 2009, c. 496, §26, is further
24 amended to read:

25 **§5278. Limitations on credit or refund**

26 **1. General.** A claim for credit or refund of an overpayment of any tax imposed by
27 this Part must be filed by the taxpayer within 3 years from the time date the return was
28 filed, whether or not the return was timely filed, or 3 years from the time date the tax was
29 paid, whichever ~~of such periods~~ period expires ~~the~~ later. A credit or refund is not allowed
30 ~~or~~ may not be made allowed after the expiration of the period of limitation prescribed in
31 this subsection ~~for the filing of a claim for credit or refund~~, unless a claim for credit or
32 refund is filed by the taxpayer within ~~such a~~ that period. For purposes of this subsection,
33 ~~any~~ a return filed before the last day prescribed for the filing of a return is considered as
34 deemed to be filed on that last day.

35 **2. Limit on amount of claim or refund.** If the claim is filed by the taxpayer during
36 the ~~3-year~~ period prescribed in subsection 1, the amount of the credit or refund may not
37 exceed the portion of the tax that was paid within the 3 years immediately preceding the
38 filing of the claim plus the period of any extension of time for filing the return. If ~~no~~ a
39 claim is not filed, any credit or refund allowed upon an audit of the taxpayer may not

1 exceed the amount that would be allowable under this subsection, if a claim had been
2 filed by the taxpayer on the date the credit or refund is allowed.

3 **3. Extension of time by agreement.** If an agreement for an extension of the period
4 for assessment of income taxes is made within the period prescribed in subsection 1 ~~for~~
5 ~~the filing of a claim for credit or refund,~~ the period for filing a claim for credit or refund
6 or for making allowing a credit or refund if ~~no~~ a claim is not filed, ~~shall~~ may not expire
7 ~~prior to~~ earlier than 6 months after the expiration of the period ~~within~~ during which an
8 assessment may be made pursuant to the agreement or any extension ~~thereof~~ of the
9 agreement. The amount of ~~such~~ the credit or refund ~~shall~~ may not exceed the sum of the
10 portion of the tax paid after the execution of the agreement and before the filing of the
11 claim or the making of the credit or refund, ~~as the case may be, plus~~ and the portion of the
12 tax paid within the period ~~which~~ that would be applicable under subsection 1 if a claim
13 had been filed on the date the agreement was executed.

14 **4. Notice of change or correction.** If a taxpayer is required by section 5227-A to
15 file an amended Maine return, a claim for credit or refund of any resulting overpayment
16 of the tax must be filed by the taxpayer within ~~2~~ 3 years from the ~~time~~ date the filing of
17 the amended return was required. The claim for credit or refund is limited to issues
18 included in the federal amendment or adjustment and the amount of the credit or refund
19 may not exceed the amount of the reduction in tax attributable to the federal amendment
20 or adjustment. This subsection does not affect the time within which or the amount for
21 which a claim for credit or refund may be filed apart from this subsection.

22 **5. Special rules.** The following rules ~~shall~~ apply to claims for credit or refund
23 pursuant to this section:

24 A. If the claim for credit or refund relates to an overpayment of tax on account of
25 the deductibility by the taxpayer of a debt as a debt ~~which~~ that became worthless or a
26 loss from worthlessness of a security or the effect that the deductibility of a debt or of
27 a loss has on the application to the taxpayer of a carry-over, the claim may be made,
28 ~~under regulations prescribed by the assessor,~~ within 7 years from the date prescribed
29 by law for filing the return for the year with respect to which the claim is made; and

30 B. If the claim for credit or refund relates to an overpayment attributable to a net
31 operating loss carry-back arising from a tax year beginning before January 1, 2002 or
32 a credit carry-back, the claim may be made, under rules adopted by the assessor,
33 within the period that ends with the 15th day of the 40th month following the end of
34 the taxable year of the net operating loss or the unused credit that resulted in the
35 carry-back or the period prescribed in subsection 3 in respect of that taxable year,
36 whichever expires later. With respect to any portion of a credit carry-back from a
37 taxable year that is attributable to a net operating loss carry-back or a capital loss
38 carry-back from a subsequent taxable year, the period within which the claim may be
39 made ends with the 15th day of the 40th month following the end of the subsequent
40 taxable year or the period prescribed in subsection 3 in respect of that taxable year,
41 whichever expires later.

42 **Sec. DD-4. Effective date.** This Part takes effect July 1, 2011.

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SUMMARY

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PART DD

3

This Part extends the period during which certain tax refunds may be requested to 3

4

years from the date of filing or payment, whichever is later.

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

2 **PART EE**

3 **Sec. EE-1. 36 MRSA §4074**, as amended by PL 1991, c. 846, §35, is further
4 amended to read:

5 **§4074. Authority of State Tax Assessor**

6 The State Tax Assessor shall collect all taxes, interest and penalties provided by
7 chapter 7 and by this chapter and may institute proceedings of any nature necessary or
8 desirable for that purpose, including ~~such~~ proceedings ~~as may be necessary or desirable~~
9 for the removal of personal representatives and trustees who have failed to pay the taxes
10 due from estates in their hands.

11 The ~~State Tax Assessor~~ assessor may enforce the collection of ~~any~~ taxes secured by
12 bond in a civil action brought on the bond regardless of the fact that ~~some other~~ another
13 official may be named as obligee in the bond.

14 ~~If any overpayment of tax imposed by this chapter is refunded within 3 months after~~
15 ~~the date last prescribed, or permitted by extension of time, for filing the return of that tax~~
16 ~~or within 3 months after the return is filed or within 3 months after a return requesting a~~
17 ~~refund of the overpayment is filed, whichever is later, no interest may be paid by the State~~
18 ~~Tax Assessor.~~

19 **Sec. EE-2. 36 MRSA §4075-A, sub-§2**, as enacted by PL 1995, c. 281, §23, is
20 amended to read:

21 **2. Limitation on payment of interest.** ~~Notwithstanding subsection 1, if any Interest~~
22 ~~may not be paid by the assessor on an overpayment of the tax imposed by this chapter~~
23 ~~that is refunded within 3 months 60 days after the date prescribed or permitted by~~
24 ~~extension of time for filing the return of that tax or within 3 months 60 days after the~~
25 ~~return is filed or within 3 months 60 days after a return requesting a refund of the~~
26 ~~overpayment is filed, whichever is later, no interest may be paid by the assessor.~~

27 **Sec. EE-3. 36 MRSA §5279**, as amended by PL 1991, c. 546, §37, is further
28 amended to read:

29 **§5279. Interest on overpayment**

30 **1. General.** Interest, at the rate determined pursuant to section 186, ~~shall~~ must be
31 paid ~~upon~~ on any refund of an overpayment ~~in respect~~ of the tax imposed by this Part
32 from the date the return requesting a refund of the overpayment was filed or the date the
33 payment was made, whichever is later. ~~No interest shall be allowed or paid if the amount~~
34 ~~thereof is less than \$1.~~

35 **2. Date of return or payment.** For purposes of this section:

* Complete handout available
in Taxation Committee Room or contact analyst.

Item #11: Health insurance benefits for retirees. For tax years beginning on or after January 1, 2013, the amount otherwise allowable as a deduction for retiree prescription drug expenses is reduced by the amount of the excludable subsidy payments received.

Revenue Impact:	FY '11	FY '12	FY '13
	\$0	\$0	\$506,630

Note: The fiscal year 2013 revenue increase is only for a partial fiscal year. A full fiscal-year impact will be around \$1,000,000 per year.

PRESERVATION OF ACCESS TO CARE FOR MEDICAL BENEFICIARIES AND PENSION RELIEF ACT OF 2010 (PL 111-192)

Item #12: Underfunded pension plans. This allows amortization of shortfalls over 9 or 15 years instead of the current 7-year schedule. Net experience losses for multi-employer plans may be amortized over 30 years, rather than 15. Nonconformity will require statutory changes. Taxpayers will have to maintain two separate amortization schedules for underfunded pension plans. A very large positive revenue impact may result, because the State of Maine would no longer provide tax preferences for pension plans that take advantage of the relaxed funding rules. Administration of nonconformity will be enormously complicated.

Revenue Impact:	FY '11	FY '12	FY '13
	\$*	\$*	\$*

* Conformity would generate a positive revenue impact in FY 2011- 2013 that could possibly exceed \$1,000,000. It is very difficult to estimate the revenue benefit from conformity. Any revenue effect is temporary; revenue that the State gains up front will be lost in future years. The bureau cannot give an exact estimate due to the level of uncertainty.

TAX RELIEF, UNEMPLOYMENT INSURANCE REAUTHORIZATION AND JOB CREATION ACT OF 2010 (PL 111-312)

THE FOLLOWING ARE ITEMS THAT MAINE LAW PREVIOUSLY CONFORMED TO AND WILL CONTINUE TO CONFORM TO WITH DATE CHANGE IN THE DEFINITION OF CODE IN 36 MRSA § 111(1-A):

Item #13: Itemized deductions. Extends beyond 2010 the repeal of the overall limitation on the phaseout for itemized deductions. IRC §68(a). Sunsets 12/31/12. Maine itemized deductions are based on the federal itemized deduction amount with certain state adjustments.

Revenue Impact:	FY '11	FY '12	FY '13
	(\$2,836,720)	(\$7,265,352)	(\$4,515,409)

Minority Report
Do not conform