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

DATE: March 27, 2012

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 Jonathan T.E. Courtney, Senate Chair *JC by EC*  
 Representative L. Gary Knight, House Chair *GK*  
 Joint Standing Committee on Taxation

RE: Taxation Committee Report  
 on L.R. 2847 – Governor's 2nd Supplemental Budget

The following report from the Joint Standing Committee on Taxation highlights the initiatives or language for which there are divided reports or an amendment to the language. It proposes 7 new initiatives to be funded through the savings created by rejecting Part CCC and outlines two options for the Joint Standing Committee on Appropriations and Financial Affairs to consider in response to your request for options related to tax amnesty proposals. A summary of our advisory votes follows:

**1) Include Part BBB** – This exempts from Maine income tax active duty military pay earned outside of Maine for service performed pursuant to written orders during tax years beginning on or after January 1, 2014.

*(Vote 8-5) (In favor - Senators Courtney and Hasting, Representatives Knight, Waterhouse, Bickford, Weaver, Harmon and Bennett; Opposed - Senator Woodbury, Representatives Berry, Pilon, Flemings and Bryant)*

**2) Exclude Part RR** – This amends the pension income tax deduction raising the \$6,000 limit to \$10,000 for tax years beginning in 2014 and increasing that amount by \$5,000 for succeeding years until it reaches \$35,000 in 2019. The deduction is increased after 2019 by the annual COLA for Social Security. It is expanded to include all federally taxable pension income, annuity income and individual retirement account distributions, except pick-up contributions for which a deduction has been allowed.

*(Vote 7-6) (In favor - Senators Hastings and Woodbury, Representatives Berry, Pilon, Flemings, Bryant and Bennett; Opposed - Senator Courtney, Representatives Knight, Waterhouse, Bickford, Weaver, and Harmon)*

3) **Exclude Part CCC** – This enacts a new sales and use tax exemption for positive airway pressure equipment used in respiratory ventilation and for supplies, repair parts and replacement parts for such equipment. The Committee supports using the savings to include the new initiatives listed in #5 below.

**(Vote 13-0)** *(In favor - Senators Courtney, Hastings and Woodbury, Representatives Knight, Waterhouse, Bickford, Weaver, Berry, Pilon, Flemings and Bennett and Bryant)*

**Note** – Representative Bryant supports excluding Part CCC from the budget but does not support using revenue for additional initiatives.

4) **Amend Part DDD** – This expands the refund of sales tax on purchases of depreciable machinery and equipment used for commercial agriculture and certain other purposes to include items used in commercial wood harvesting and in the commercial production of greenhouse and nursery products. The Taxation Committee recommends AMENDING the language to include the sale of seedlings in the sales tax exemption for agricultural products. The cost for the addition of seedlings to the exemption is approximately \$15,000.

**(Vote 8-5)** *(In favor – Senators Courtney and Hastings, Representatives Knight, Waterhouse, Weaver, Harmon, Bennett; Opposed – Senator Woodbury, Representatives Berry, Pilon, Flemings and Bryant)*

Those on the minority report, with the exception of Representative Bryant, favor using the savings to provide funding for the strengthening of the educational opportunity tax credit such as proposed in LD 835. Representative Bryant supports excluding Part DDD from the budget but does not support using revenue for additional initiatives.

5) **Include new initiatives** - The Committee supports using the savings from excluding Part CCC to include the new initiatives listed below and in the attached table. The table includes projections from the most recent fiscal notes associated with the amendments.

**(Vote 12-1)** *(In favor - Senators Courtney, Hastings and Woodbury, Representatives Knight, Waterhouse, Bickford, Harmon, Weaver, Berry, Pilon, Flemings and Bennett; Opposed – Representative Bryant)*

**LD 234**      **An Act To Provide a Sales Tax Exemption to Commercial Horticulturists** - This bill as amended in Committee includes greenhouse and nursery products in the sales tax exemption contained in current law. *The Committee recommends adding seedlings to the exemption. The projected revenue loss is approximately \$15,000. This bill is currently included in Part DDD; Committee member supporting Part DDD support amending that Part and only would include this initiative should Part DDD be excluded from the budget.*

**LD 1164**      **An Act To Support Maine Farms and Alleviate Hunger** - This bill as amended in Committee provides a non-refundable income tax credit of up to \$2,500 to persons engaged in commercial agricultural production for donations of food to incorporated nonprofit organizations that provide free food to low-income persons. *The Committee recommends reducing the credit to 10% of value of donation. This will reduce the revenue loss and a new fiscal note will need to be calculated to determine the amount.*

**LD 1610**      **An Act To Amend the Law Regarding the Sale of Wood Pellets and Wood - Majority Report presumes 1,000 lbs. or less in wood pellets are residential use and includes firewood** – This bill as amended in Committee changes the amount of wood pellets presumed to meet the requirement of residential use, and thus to qualify for the sales tax exemption, to 1,000 pounds rather than 200 pounds as required under current law. It also provides a presumption of residential use for cooking or heating for the purchase of wood for a person who purchases a cord of wood or less.

**LD 1653**      **An Act To Make Fisheries and Wildlife and Marine Resources Projects Eligible for Tax Increment Financing** – This bill as amended in Committee authorizes the use of tax increment financing for marine resources projects approved by the Department of Marine Resources in addition to projects approved by the Department of Inland Fisheries and Wildlife, as authorized in the original bill.

- LD 1655**     **An Act To Create a Sales Tax Exemption for the Sale and Delivery of Off-peak Electricity for Electric Thermal Storage Devices** – This bill provides a sales tax exemption for off-peak residential electricity used for water and space heating similar to exemptions provided for other forms of energy.
- LD 1693**     **An Act To Amend the Law Governing Abatements of Property Taxes for Infirmity or Poverty and the Administration of the Circuitbreaker Program** – This bill as amended in Committee provides that, for purposes of calculating eligibility for property tax abatement for reasons of poverty or infirmity, municipal officers may set off or otherwise treat as available Circuitbreaker benefits when determining a person's ability to contribute to the public charges. It prohibits a person from claiming abated property taxes when applying for Circuitbreaker benefits. *This initiative creates a reduction in revenue loss of \$41,000 in FY 2012-13 and \$50,000 in future years.*
- LD 1809**     **An Act To Apply the Sales Tax on Camper Trailers and Motor Homes Purchased for Rental in the Same Manner as on Automobiles Purchased for Rental** – This bill as amended in Committee provides that camper trailers and motor homes purchased for rental will not be subject to sales tax at the time of purchase. Instead, the rental of such a vehicle shall be considered to be a taxable service.

**6) Consider 2 options for early collection of tax receivables** – As requested, we explored options related to tax amnesty and receivables reductions as revenue raising initiatives. We are cautious about these proposals because while providing needed revenue for the budget in the short term, they may not be the best tax policy decisions. However, we have developed two options with the help of Maine Revenue Services and offer these for your consideration. We encourage the AFA Committee to consult with Maine Revenue Services on these proposals.

A) **Overtime initiative** – Maine Revenue Services employees will work evenings and weekends to collect current receivables, which could net a projected \$1,900,000 after transferring \$100,000 to the Local Government Fund. The additional administrative cost of \$230,000 is for Personal Services and All Other related to overtime.

**(Vote 10-3)** *(In favor – Senators Courtney, Hastings and Woodbury, Representatives Knight, Weaver, Berry, Pilon, Flemings and Bennett; Opposed – Representatives Waterhouse, Harmon and Bryant)*

B) **Use Tax Compliance Program** – A use tax compliance program that would provide the opportunity for individuals and businesses to take care of an existing liability with no penalty while improving future compliance with the use tax. The program will include calendar years 2006-2011. The taxpayer will pay the tax and interest (no penalties) for the 3 years with the highest tax liability and the other 3 years will be forgiven. Maine Revenue Services projects \$5,320,000 in General Fund revenue and \$330,000 in administrative cost.

**(Vote 9-4)** *(In favor – Senators Hastings and Woodbury, Representatives Knight, Weaver, Berry, Pilon, Flemings and Bennett; Opposed – Senator Courtney, Representatives Waterhouse, Harmon and Bryant)*

**7) No new provisions for internet tax collection** – Today we considered Senator Rosen's proposal to create an "affiliate nexus" provision in statute that would allow the State of Maine to require out-of-state retailers to collect Maine sales tax. The Committee would like to thank Senator Rosen for asking the policy committee to comment on the proposal. However, the majority of the members do not believe it should be part of the budget or advanced at this time.

**(Vote 5-3)** *(In favor of rejecting – Senator Courtney, Representatives Knight, Weaver, Bennett, Waterhouse, and Harmon; Opposed: Representatives Berry, Pilon, and Bryant)*

Thank you for the opportunity to provide this input. We look forward to scheduling time to meet with you to discuss our recommendations and the above proposals.

JOINT STANDING COMMITTEE ON TAXATION - Review of LR 2847 - Governor's Second Supplemental Budget						
Page	Reference/ Part	Summary of Initiative Revenue Services - Bureau of 0002	Positions	FY 2012-13	NOTES	Vote
TAX-1	A-4	Transfers one Space Management Specialist position from the Revenue Services - Bureau of program to the Buildings & Grounds Operations program. (See page A-1 in the BUILDINGS & GROUNDS OPERATIONS 0080 program for "in" transfer.)	-1	(\$74,165)		IN 13-0
TAX-2	A-4	Reduces funding for database storage for the Maine Revenue Integrated Tax System as a result of a reduced storage requirement for user acceptance testing.		(\$120,000)		IN 13-0
TAX-3	A-4	Eliminates one Office Assistant II position in the Revenue Services - Bureau of program resulting from internal reorganization efforts by the bureau.	-1	(\$60,065)		IN 13-0
TAX-4	A-4	Reduces funding through the conversion of 3 physical servers to virtual servers in the Revenue Services - Bureau of program.		(\$20,236)		IN 13-0
TAX-5	A-4	Reduces All Other funding as a result of the repeal of the annual pass-through entity information return filing requirement.		(\$42,000)		IN 13-0
TAX-6	A-4	Eliminates one Office Assistant II position and related All Other costs as a result of discontinuing the printing and mailing of a sales tax form related to vehicle and equipment sales transactions.	-1	(\$64,148)		IN 13-0
TAX-7	A-4	Provides funding necessary for computer changes as a result of the addition of commercial wood harvesting and horticulture as a sales tax exemption category. (See language Part DDD.)		\$5,000	<i>In - Senators Courtney and Hastings, Representatives Knight, Waterhouse, Harmon, Weaver, Bickford and Bennett;</i> <i>Out - Senator Woodbury, Representatives Berry, Pilon, Flemings and Bryant</i>	IN 8-5
TAX-8	A-4	<b>TOTAL GENERAL FUNDS</b>	<b>-3</b>	<b>(\$357,614)</b>		
LANGUAGE SECTIONS					NOTES	Vote
TAX-9	Part I	Part I creates a new Associate Commissioner for Tax Policy position reporting directly to the Commissioner of DAFS and eliminates the Director of Econometric Research position. It includes the Association Commissioner on the Revenue Forecasting Committee instead of the State Tax Assessor and identifies the new duties of the position. It makes technical clarification.				IN 13-0
TAX-9-A	Part L	This proposed legislation repeals a new requirement in the consensus revenue forecasting process to forecast revenue from the Pine Tree Development Zone (PTDZ) program. This provision requires the Revenue Forecasting Committee (RFC) to exclude revenue that accrues from the PTDZ program from the revenue forecast and that all revenue accruing from the PTDZ program is set aside in a separate fund to pay the benefits. This requirement effectively requires the Consensus Economic Forecasting Commission (CEFC) to develop a separate economic forecast so that the RFC can forecast the revenue to be set aside in the separate fund. The CEFC has not yet been able to implement this separate forecast to meet this requirement.				IN 13-0
TAX-10	Part PP	Part PP requires the State Controller to transfer \$450,000 from the Bureau of Revenue Services Fund, Internal Service Fund account to GF unappropriated surplus by June 30, 2012.				IN 13-0
TAX-11	Part QQ	Part QQ repeals the filing requirement of information returns by pass-through entities (partnerships/ S corporations). It amends the definition of "taxpayer" to include pass-through entities in order to provide the State Tax Assessor the ability to audit a pass-through entity even if the entity does not have a Maine filing requirement. This is needed in cases where the owners of an entity have a Maine filing obligation. It makes technical changes and applies to tax years beginning on or after January 1, 2012.				IN 13-0
TAX-12	Part UU	Part UU lapses \$55,798 from the unencumbered balance of the Veterans Tax Reimbursement General Fund account and \$5,766 from the unencumbered balance in the Veterans Organizations Tax Reimbursement General Fund account in DAFS to the General Fund in fiscal year 2011-12.				IN 13-0

**JOINT STANDING COMMITTEE ON TAXATION - Review of LR 2847 - Governor's Second Supplemental Budget**

LANGUAGE SECTIONS w/ Revenue Adjustments			GF cost (savings) FY 11-12	GF cost (savings) FY 12-13	GF cost (savings) FY 13-14	GF cost (savings) FY 14-15	Notes	Vote
TAX-13	Part BBB	Part BBB exempts from Maine income tax active duty military pay earned outside of Maine for service performed pursuant to written orders during tax years beginning on or after January 1, 2014.	\$0	\$0	(\$780,000)	(\$1,972,000)	In - Sen Courtney, Sen Hastings, Rep Knight, Rep Waterhouse, Rep Bickford, Rep Weaver, Rep Harmon, Rep Bennett Out - Sen Woodbury, Rep Berry, Rep Pilon, Rep Flemings, Rep Bryant	IN 8-5
TAX-14	Part RR	Part RR amends the pension income tax deduction raising the \$6,000 limit to \$10,000 for tax years beginning in 2014 and increasing that amount by \$5,000 for succeeding years until it reaches \$35,000 in 2019. The deduction is increased after 2019 by the annual COLA for Social Security. It is expanded to include all federally taxable pension income, annuity income and individual retirement account distributions, except pick-up contributions for which a deduction has been allowed.	\$0	\$0	\$ (7,578,000)	\$ (28,640,000)	Out - Sen Woodbury, Sen Hastings, Rep Berry, Rep Pilon, Rep Flemings, Rep Bryant, Rep Bennett In - Sen Courtney, Rep Knight, Rep Waterhouse, Rep Bickford, Rep Weaver, Rep Harmon	OUT 7-6
TAX-15	Part CCC	Part CCC enacts new sales and use tax exemptions for positive airway pressure equipment used in respiratory ventilation and for supplies, repair parts and replacement parts for such equipment.	(\$112,850)	(\$261,000)	\$ (269,613)	\$ (279,319)		OUT 13-0
TAX-16	Part DDD	Part DDD expands the refund of sales tax on purchases of depreciable machinery and equipment used for commercial agriculture and certain other purposes, to include items used in commercial wood harvesting and in the commercial production of greenhouse and nursery products. <i>Amend to add seedlings - increases revenue loss by \$15,000.</i>	\$0	(\$368,000)	\$ (837,850)	\$ (859,166)	In - Senators Courtney and Hastings, Representatives Knight, Waterhouse, Harmon, Weaver, Bickford and Bennett; Out - Senator Woodbury, Representatives Berry, Pilon, Flemings and Bryant	IN as Amended 8-5
<b>Governor's GF Budget Initiatives Total Net Cost (Savings)</b>			<b>(\$112,850)</b>	<b>(\$986,614)</b>	<b>(\$9,465,463)</b>	<b>(\$31,750,485)</b>		
NEW INITIATIVES			GF cost (savings) FY 11-12	GF cost (savings) FY 12-13	GF cost (savings) FY 13-14	GF cost (savings) FY 14-15	Notes	VOTE
TAX-17	LD 234	<b>An Act To Provide a Sales Tax Exemption to Commercial Horticulturists - Amend to add seedlings - increases revenue loss by \$15,000 - Note this is Part of DDD</b>	\$0	\$9,500	\$9,785	\$10,079	In - Sen Woodbury, Reps Berry, Pilon, Flemings for this initiative instead of Part DDD ; Sens Courtney & Hastings, Reps Knight, Waterhouse, Bickford, Harmon, Weaver and Bennett support this if DDD is not included in the budget with the seedlings amendment. Opposed - Rep Bryant	NEW 12-1
TAX-18	LD 1164	<b>An Act To Support Maine Farms and Alleviate Hunger- Amend to reduce credit to 10% of value of donation - revenue loss is reduced, but needs to be calculated</b>	\$0	\$817,000	\$2,726,500	\$2,726,500	In - Sen Woodbury, Courtney & Hastings, Reps Knight, Waterhouse, Bickford, Harmon, Weaver, Bennett Berry, Pilon, and Flemings Opposed - Rep Bryant	NEW 12-1
TAX-19	LD 1610	<b>An Act To Amend the Law Regarding the Sale of Wood Pellets and Wood - Majority Report presumes 1,000 lbs. or less in wood pellets are residential use and includes firewood</b>	\$4,750	\$19,760	\$20,550	\$21,372	In - Sen Woodbury, Courtney & Hastings, Reps Knight, Waterhouse, Bickford, Harmon, Weaver, Bennett Berry, Pilon, and Flemings Opposed - Rep Bryant	NEW 12-1
TAX-20	LD 1653	<b>An Act To Make Fisheries and Wildlife and Marine Resources Projects Eligible for Tax Increment Financing</b>		\$7,000			In - Sen Woodbury, Courtney & Hastings, Reps Knight, Waterhouse, Bickford, Harmon, Weaver, Bennett Berry, Pilon, and Flemings Opposed - Rep Bryant	NEW 12-1

**JOINT STANDING COMMITTEE ON TAXATION - Review of LR 2847 - Governor's Second Supplemental Budget**

NEW INITIATIVES (continued)			FY 11-12	FY 12-13	FY 13-14	FY 14-15	Notes	VOTE
TAX-21	LD 1655	An Act To Create a Sales Tax Exemption for the Sale and Delivery of Off-peak Electricity for Electric Thermal Storage Devices	\$2,090	\$8,455	\$8,540	\$8,625	In - Sen Woodbury, Courtney & Hastings, Reps Knight, Waterhouse, Bickford, Harmon, Weaver, Bennett Berry, Pilon, and Flemings Opposed - Rep Bryant	NEW 12-1
TAX-22	LD 1693	An Act To Amend the Law Governing Abatements of Property Taxes for Infirmary or Poverty and the Administration of the Circuitbreaker Program		(\$41,000)	(\$50,000)	(\$50,000)	In - Sen Woodbury, Courtney & Hastings, Reps Knight, Waterhouse, Bickford, Harmon, Weaver, Bennett Berry, Pilon, and Flemings Opposed - Rep Bryant	NEW 12-1
TAX-23	LD 1809	An Act To Apply the Sales Tax on Camper Trailers and Motor Homes Purchased for Rental in the Same Manner as on Automobiles Purchased for Rental		\$55,465	\$111,824	\$100,641	In - Sen Woodbury, Courtney & Hastings, Reps Knight, Waterhouse, Bickford, Harmon, Weaver, Bennett Berry, Pilon, and Flemings Opposed - Rep Bryant	NEW 12-1

*Note: Revenue loss is shown as a positive number.*

## PART DDD

Amend Part DDD by striking part DDD-1 and replacing it with the following:

**Sec. DDD-1. 36 MRSA §1760, sub-§7-B**, as amended by PL 2009, c. 422, §1, is further amended to read:

**7-B. Products used in commercial agricultural and ~~silvicultural~~ crop production.** Sales of seed, seedlings, fertilizers, defoliants and pesticides, including, but not limited to, rodenticides, insecticides, fungicides and weed killers, for use in the commercial agricultural production as defined in section 2013 of an agricultural or silvicultural crop.

## SUMMARY PART DDD

This amendment adds seedlings to the sales tax exemption in Part DDD, which expands the scope of Title 36, Section 2013 to include items used in commercial wood harvesting and in the commercial production of greenhouse and nursery products.

**OVERTIME INITIATIVE LEGISLATION TESTIMONY**  
**March 22, 2012**

Tax receivables levels continue to climb at a moderate but steady pace. Currently receivables have reached approximately \$275,000,000. Based on improved discovery techniques, the identification of individual income tax under-reporters and non-filers is driving receivables higher. An overtime project, similar to those run in 2002, 2004, and 2007-2010, would generate additional revenue in FY 2013. Our projection for additional gross revenue for a full overtime project is \$2,000,000. This is in line with the results we found in prior years. After transferring \$100,000 to the Local Government Fund, the net revenue to the General Fund would be \$1,900,000. The total administrative cost would be \$230,000, which includes personal services of \$210,000 and "all other" costs of \$20,000.



Sec. \_\_\_\_\_. The following appropriations and allocations are made to carry out the purposes of this [Part].

Administrative and Financial Services, Department of  
Maine Revenue Services, Bureau of 0002

**Initiative:** Provide Personal Services money to initiate an overtime project to enhance revenue discovery and revenue collections. The project will raise annual gross revenue of \$2,000,000 from Income Tax and Sales and Use Tax sources.

GENERAL FUND	2012-13	2013-14	2014-15
Legislative Count	(0.000)	(0.00)	(0.00)
Personal Services	\$210,000	0	0
All Other	\$20,000	0	0
General Fund Total	\$230,000	0	0

**Fiscal Note**

REVENUE	2012-13	2013-14	2014-15
General Fund	\$1,900,000	(475,000)	(237,500)
Local Government Fund	\$ 100,000	(25,000)	(12,500)
Total	\$2,000,000	(500,000)	(250,000)

Fiscal Note assumption: LGF is calculated at 5.0%.

## Use Tax Compliance Program

- Use Tax Compliance Program goals: **(1)** Educate Mainers on the nature of the use tax. Improves future compliance and makes the whole system more fair. **(2)** Opportunity for individuals and businesses to take care of existing liability with no penalties.
- Program period: July 1, 2012 through November 30 2012. Covers purchases over last six calendar years (2006-2011). All prior use tax liability is eliminated. Payment of the tax and interest (no penalties) would be required for the three calendar years with the highest use tax liability; use tax liability, including interest and late charges, for the three “low years” will be forgiven.

## 2012 Use Tax Compliance Program

### Sec. 1 Program established

The 2012 Maine Use Tax Compliance Program, referred to in this chapter as "the program," is established to encourage delinquent taxpayers to comply with the provisions of chapter 215, to enable the State Tax Assessor to identify and collect previously unreported use tax and to improve compliance with the State's use tax laws. The program applies to use tax liabilities incurred by a person prior to January 1, 2012.

### Sec. 2 Definitions

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

1. **Lookback period.** "Lookback period" means the period from January 1, 2006 to December 31, 2011.

2. **Program period.** "Program period" means the period from July 1, 2012 to November 30, 2012.

### Sec. 3 Administration; conditions for participation

The State Tax Assessor shall administer the program. Participation in the program is conditioned upon each participating taxpayer's agreement to forgo the right to protest or pursue an administrative or judicial proceeding with regard to use taxes paid under the program. A participating taxpayer that timely submits the special use tax return as required by subsection 2 with no material misrepresentations or material omissions and that timely makes the use tax payment or payments required by subsections 3 is absolved from further liability for use taxes incurred prior to January 1, 2012 and is also absolved from liability for criminal prosecution and civil penalties related to those taxes. The following conditions apply to the program.

1. **Limited to unknown liabilities.** The program is limited to unknown liabilities only. For purposes of this subsection, an "unknown liability" is a use tax liability that has not been assessed at the time the special use tax return described in section 4 is received by the assessor.

2. **Return filed and tax liability reported.** A participating taxpayer must properly complete and file with the assessor, before the end of the program period, a special use tax return as described in section 4 reporting all previously unreported and unpaid State of Maine use tax liabilities incurred by the taxpayer during the lookback period.

3. Tax paid; 3 high years. A participating taxpayer must pay in full, by the end of the program period, the use tax liability incurred by the taxpayer during the 3 calendar years of the lookback period with the highest use tax liability as reported on the special use tax return described in section 4. A participating taxpayer must agree to forgo the right to seek a refund of, or file a petition for reconsideration with respect to, the tax paid with the return.

#### **Sec. 4 Program return**

The State Tax Assessor shall prepare and make available special use tax returns for taxpayers who wish to participate in the program. The return must be signed by the taxpayer under penalty of perjury. The return and associated program guidelines prepared by the assessor are not rules within the meaning of that term in the Maine Administrative Procedure Act. The assessor shall deny any special use tax return that is inconsistent with the provisions of this chapter or that is filed after the conclusion of the program period.

#### **Sec. 5 Undisclosed and future use tax liabilities; other settlements**

Nothing in this chapter may be construed to prohibit the State Tax Assessor from instituting civil or criminal proceedings, including but not limited to an audit, against any taxpayer with respect to any amount of use tax incurred during or after the lookback period that is not disclosed on either the special use tax return filed by the taxpayer in connection with the program or another return filed by the taxpayer with the assessor. Nothing in this chapter may be construed to limit a taxpayer's right to protest or pursue an administrative or judicial proceeding with regard to an assessment of such undisclosed taxes. Notwithstanding any other provision of law, the assessor may, prior to July 1, 2012, compromise an unknown use tax liability on terms substantially equal to the terms set forth in this chapter, and in such a case the taxpayer is absolved from liability for criminal prosecution and civil penalties related to those taxes.

#### **ADMINISTRATIVE COSTS**

	FY 2013
Advertising	\$300,000
Printing and Postage	<u>\$ 30,000</u>
Total	\$330,000

#### **FISCAL NOTE**

	FY 2013
General Fund	\$5,320,000
Local Government Fund*	<u>\$ 280,000</u>
Total	\$5,600,000

\* LGF: 5.0%

## **SUMMARY**

This [Part] establishes the 2012 Use tax Compliance Program to run July 1, 2012 through November 30, 2012 to facilitate the discovery and recovery of unreported use tax. The program provides for the waiver of penalties if the tax and interest are paid during the initiative period, and would absolve participating taxpayers meeting the conditions of the program from further liability for use taxes incurred prior to January 1, 2012 and absolve such taxpayers from liability for criminal prosecution and civil penalties related to those taxes.

SENATE

JONATHAN COURTNEY, District 3, Chair  
DAVID R. HASTINGS, District 13  
RICHARD G. WOODBURY, District 11

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HOUSE

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O.F.P.  
2012 MAR 28 10:21 AM

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

DATE: March 27, 2012

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

FROM: Representative Seth A. Berry *SB v-1 ec*  
Joint Standing Committee on Taxation

RE: **Democratic Comments on Governor's Supplemental Budget Proposal  
Part RR - Pension Tax Proposal<sup>1</sup>**

While respecting our committee colleagues who voted differently, we consider it irresponsible to pass new measures costing hundreds of millions of dollars, while paying nothing now. In addition, we wish to avoid further shift, both to local taxpayers and to middle- and lower-income households. After first keeping our existing promises, we must wisely target and budget for any new obligations.

Due to recently passed and recently proposed tax changes, the State faces major existing and potential increases to the structural gap. Specifically:

Existing increases:

- In January 2013, the cost of tax changes in last June's two-year budget nearly triples, from the \$150 million we are still struggling to pay for, to over \$400 million.
- Due to recent revenue projections for the next two-year cycle, we face \$90 million in additional income tax losses -- despite promises of the opposite effect due to migration.

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<sup>1</sup> Note: Sen. Woodbury, Sen Hastings and Rep. Bennett also joined a tripartisan vote against Part RR, but these comments do not necessarily reflect their reasons for doing so.

Potential new increases:

- Passage of L.D. 849, now before the Legislature, will dramatically but unpredictably compound the gap. Had it been in effect for the past six years, even *after* legislative preemptions of surplus, L.D. 849 would by now have caused the loss of \$140 million per biennium. In the long run, L.D. 849 cuts income tax revenue almost in half, causing unfunded biennial cuts of \$1.2 billion in today's dollars.
- The Governor's pension tax proposal, Part RR, will cost \$36 million in the budget starting in January and will quickly balloon to cost another \$210 million in the two-year budget starting in seven years. None of this cost is funded.

Any measure adding to the structural gap tends also increases the shift to property taxes. In the current biennium alone, over \$110 of the \$150 million in state tax reductions are paid for by shifting the burden to local taxpayers. If this trend continues, two of every three dollars in new state "tax cuts" will be borne by local taxpayers.

This shift makes our tax code less fair, and revenues less stable. It does not help Maine taxpayers or Maine's economy, but hurts both.

The only other way to avoid the tax shift is to cut important education, infrastructure, and safety net investments. To reduce aid to K-12 education, to increase tuition at Maine Community Colleges, or to eliminate Drugs for the Elderly is both morally and economically unacceptable. No choice of this kind is a good one.

Before taking on new tax spending - however tempting in an ideal world - the State should first meet its obligation to property taxpayers by funding 55% of K-12 education costs, as mandated by voters in 2004, as well as its statutory obligations to fund 5% of revenue with towns and cities, and to fully fund Property Tax and Rent Reductions.

If new tax reductions could be found responsibly at this time, the minority would prioritize restoration of the Maine Property Tax and Rent Reduction program, cut by 20% in the current biennial budget. Restoring just \$11 million in FY 2013 would immediately and responsibly help seniors living on a fixed income - including those not fortunate enough to receive pension income - as well as other Maine residents struggling to stay in their homes.

After honoring current commitments, the State should someday also consider an extension of the Earned Income Tax Credit for those over 65, who are often forced to work into retirement age both without pensions and without the same EITC tax benefit as all other Mainers.

We thank the Appropriations Committee for its hard work, and will be pleased to help you create a fair, fiscally responsible tax budget in whatever way we can.