

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

Legislative Document

No. 353

H.P. 274

House of Representatives, February 5, 2009

An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2010 and June 30, 2011

(EMERGENCY)

Reference to the Committee on Appropriations and Financial Affairs suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative CAIN of Orono. (GOVERNOR'S BILL)  
Cosponsored by Senator DIAMOND of Cumberland and  
Representatives: CONNOR of Kennebunk, FLOOD of Winthrop, MARTIN of Eagle Lake,  
MILLER of Somerville, MILLETT of Waterford, NUTTING of Oakland, ROBINSON of  
Raymond, ROTUNDO of Lewiston, WEBSTER of Freeport, Senators: CRAVEN of  
Androscoggin, ROSEN of Hancock.

1       **Emergency preamble.** Whereas, acts and resolves of the Legislature do not  
2       become effective until 90 days after adjournment unless enacted as emergencies; and

3       **Whereas,** the 90-day period may not terminate until after the beginning of the next  
4       fiscal year; and

5       **Whereas,** certain obligations and expenses incident to the operation of state  
6       departments and institutions will become due and payable immediately; and

7       **Whereas,** in the judgment of the Legislature, these facts create an emergency within  
8       the meaning of the Constitution of Maine and require the following legislation as  
9       immediately necessary for the preservation of the public peace, health and safety; now,  
10       therefore,

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

### PART A

12  
13       **Sec. A-1. Appropriations and allocations.** The following appropriations and  
14       allocations are made.

#### 15       ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

#### 16       Accident - Sickness - Health Insurance 0455

17       Initiative: BASELINE BUDGET

18  
19       

GENERAL FUND	2009-10	2010-11
All Other	\$810,393	\$810,393
<b>GENERAL FUND TOTAL</b>	<b>\$810,393</b>	<b>\$810,393</b>

20  
21  
22  
23       

RETIREE HEALTH INSURANCE FUND	2009-10	2010-11
All Other	\$48,400,235	\$48,400,235
<b>RETIREE HEALTH INSURANCE FUND TOTAL</b>	<b>\$48,400,235</b>	<b>\$48,400,235</b>

24  
25  
26  
27       

ACCIDENT, SICKNESS AND HEALTH	2009-10	2010-11
INSURANCE INTERNAL SERVICE FUND		
POSITIONS - LEGISLATIVE COUNCIL	14,000	14,000
Personal Services	\$970,990	\$996,153
All Other	\$953,473	\$953,473
<b>ACCIDENT, SICKNESS AND HEALTH</b>	<b>\$1,924,463</b>	<b>\$1,949,626</b>
<b>INSURANCE INTERNAL SERVICE FUND TOTAL</b>		



1 (2) "Undeveloped land" means rear acreage and unimproved nonwaterfront  
2 acreage that is not:

3 (a) Classified under the laws governing current use valuation set forth in  
4 chapter 105, subchapter 2-A, 10 or 10-A;

5 (b) A base lot; or

6 (c) Waste land.

7 (3) "Average value of undeveloped land" means the per acre undeveloped land  
8 valuations used in the state valuation then in effect, or according to the current  
9 local valuation on undeveloped land as determined for state valuation purposes,  
10 whichever is less.

11 (4) "Reduced tree growth valuation" means the difference between the average  
12 value of undeveloped land and the average value of tree growth land times the  
13 total number of acres classified as forest land under this subchapter.

14 **Sec. O-2. Application.** This Part applies to property tax years beginning on or  
15 after April 1, 2008.

#### 16 PART P

17 **Sec. P-1. 36 MRSA §457, sub-§2,** as amended by PL 2007, c. 693, §12, is further  
18 amended to read:

19 **2. Tax imposed.** A state tax is imposed on telecommunications personal property at  
20 the rate provided in this subsection times the just value of the property. Just value and  
21 ownership of the property must be determined as of the April 1st preceding the  
22 assessment. The rate of tax is:

23 A. For assessments made in 2004, 26 mills;

24 B. For assessments made in 2005, 25 mills;

25 C. For assessments made in 2006, 24 mills;

26 D. For assessments made in 2007, 23 mills;

27 E. For assessments made in 2008, 22 mills;

28 F. For assessments made in 2009, 21 mills; and

29 G. For assessments made in 2010 and subsequent years, 20 22 mills;

30 H. For assessments made in 2011, 22 mills;

31 I. For assessments made in 2012, 21 mills; and

32 J. For assessments made in 2013 and subsequent years, 20 mills.

33 **Sec. P-2. Application.** This Part applies to assessments made on or after April 1,  
34 2010.

#### 1 PART Q

2 **Sec. Q-1. 34-A MRSA §3064-A** is enacted to read:

#### 3 **§3064-A. Transfer to private correctional institution**

4 **1. Transfer of prisoner.** The commissioner may transfer any prisoner sentenced to  
5 the department to a correctional institution operated by a private provider of correctional  
6 programs pursuant to a contract with the private provider.

7 **2. Provisions.** The rights and responsibilities that apply to prisoners transferred  
8 pursuant to the Interstate Corrections Compact apply to prisoners transferred pursuant to  
9 this section and must be incorporated into the contract with the private provider under  
10 subsection 1.

11 **3. Effect.** A prisoner confined in a correctional institution operated by a private  
12 provider pursuant to this section is at all times subject to the jurisdiction of the  
13 department and may at any time be removed from that institution for transfer to a  
14 departmental correctional facility, for transfer to another institution in which the  
15 department may have a contractual right or other right to confine prisoners, for  
16 conditional release, for discharge or for any other purpose permitted by the laws of this  
17 State. A prisoner transferred under this section:

18 A. Is subject to the term of the prisoner's original sentence as if the prisoner were  
19 servicing the sentence within the confines of a departmental correctional facility;

20 B. Becomes eligible for deductions from the term of imprisonment as provided in  
21 Title 17-A, section 1253;

22 C. Becomes eligible for furlough, work or other release programs and supervised  
23 community confinement as authorized by sections 3035 and 3036-A; and

24 D. Becomes eligible for release and discharge as provided in Title 17-A, section  
25 1254.

26 The fact of confinement pursuant to this section does not deprive any prisoner of any  
27 legal rights that the prisoner would have had if the prisoner were confined in an  
28 appropriate departmental correctional facility, including access to the courts of this State.

29 **4. Powers.** The commissioner may take any actions needed to implement this  
30 section.

#### 31 PART R

32 **Sec. R-1. Calculation and transfer; General Fund salary savings.**  
33 Notwithstanding any other provision of law, the State Budget Officer shall calculate the  
34 amount of savings in the Statewide Salary Adjustment account in Part A that applies  
35 against each General Fund account in the Executive Branch Departments and  
36 Independent Agencies - Statewide program from not granting a 4% salary increase  
37 effective January 1, 2009 to unclassified employees whose salaries are subject to the  
38 Governor's adjustment or approval. The State Budget Officer shall transfer the savings by

1 **Emergency clause.** In view of the emergency cited in the preamble, this  
2 legislation takes effect when approved, except as otherwise indicated.

3 **SUMMARY**

4 **PART A**

5 This Part makes appropriations and allocations of funds for the 2010-2011 biennium.

6 **PART B**

7 This Part makes appropriations and allocations of funds for approved reclassifications  
8 and range changes.

9 **PART C**

10 This Part does the following.

11 It specifies a mill expectation of 6.68 for fiscal year 2009-10 and the total cost of  
12 funding public education from kindergarten to grade 12, consisting of total debt service  
13 allocation, total adjustments and miscellaneous costs, and the state share percentage.

14 It authorizes the Commissioner of Education to waive the requirement for school  
15 administrative units to provide transportation for public preschool students.

16 It authorizes the Commissioner of Education to waive for the 2009-2010 school year  
17 the requirement that a school administrative unit must pay an insured value factor to a  
18 private school for tuitioned students.

19 It authorizes the Commissioner of Education to exercise flexibility for regional  
20 adjustments based on labor markets, to expend and disburse funds for the innovative  
21 schools project and to expend and disburse funds for learning through technology, data  
22 management and support services for essential programs and services, transportation  
23 administration and coordination of services for juvenile offenders.

24 **PART D**

25 This Part amends the law regarding the duties of the Commissioner of Education to  
26 require the commissioner to appoint an Education Specialist III for the supervision of  
27 agricultural education, instead of an Education Specialist II as is required in current law.  
28 It also renames the Preschool Handicapped program in the Department of Education the  
29 Child Development Services program.

30 **PART E**

31 This Part does the following.

32 It makes an adjustment to ensure that the Maine estate tax under current law will  
33 continue to be imposed for deaths occurring after calendar year 2009 with the intent of  
34 maintaining the State's estate tax revenues at current levels.

35 It amends the law to provide that the State Tax Assessor is not bound by a final  
36 federal determination if the assessor determines an issue for purposes of the estate.  
37

1 It also amends the definition of "federal gross estate" to include gifts made by a  
2 decedent 3 years prior to death, but not include gifts made prior to January 1, 2008.  
3 Transfers made as part of a bona fide sale for full and adequate consideration are not  
4 included in the definition.

5 **PART F**

6 This Part does the following.

7 It reduces the amount that must be transferred to the Maine Clean Election Fund on  
8 or before June 1, 2010 from \$2,425,000 to \$2,000,000 and it eliminates the \$2,000,000  
9 transfer on or before August 1, 2010 from General Fund undedicated revenue to the  
10 Maine Clean Election Fund.

11 It changes the date by which the State Controller must transfer revenues to the Maine  
12 Clean Election Fund in fiscal year 2010-11 from on or before January 1, 2011 to on or  
13 before September 1, 2010.

14 **PART G**

15 This Part increases license fees levied by the Department of Marine Resources.

16 **PART H**

17 This Part converts the excise tax on smokeless tobacco products from a tax equaling  
18 78% of the wholesale price to a tax based on weight at the rate of \$2.02 per ounce, but no  
19 less than \$2.02. The change is effective for purchases made on or after July 1, 2009.

20 **PART I**

21 This Part eliminates the Fiscal Stability Program, which required each biennial  
22 budget to include, beginning with the 2010-2011 biennial budget, an additional General  
23 Fund appropriation of 18% in excess of the requested biennial budget for the Department  
24 of Inland Fisheries and Wildlife.

25 **PART J**

26 This Part authorizes the Department of Administrative and Financial Services, Office  
27 of Information Technology to enter into lease-purchasing agreements in fiscal years  
28 2009-10 and 2010-11 for the acquisition of personal computers, servers, printers and  
29 other hardware and software to support end-user and infrastructure services and discloses  
30 the terms of the lease-purchasing agreements.

31 **PART K**

32 This Part renames the Division of Administrative Services program in the  
33 Department of Marine Resources the Office of the Commissioner program.

34 **PART L**

35 This Part removes reference to the Director of General Services position and adds  
36 references to the office of the commissioner in the Department of Conservation. It  
37 renames the Administrative Services - Conservation program in the Department of  
38 Conservation the Office of the Commissioner program.

39 **PART M**

40 This Part does the following.

1 It removes the requirement that a municipality must hire a certified code enforcement  
2 officer and places the certification requirement on the individual.

3 It institutes a fee for individuals seeking code enforcement office training and  
4 certification from the Executive Department, State Planning Office and removes General  
5 Fund support of such training.

6 It clarifies that the State Planning Office's rules for training and certification of code  
7 enforcement officers under the Maine Revised Statutes, Title 30-A, section 4451 are  
8 routine technical rules and removes the requirement that the office establish certification  
9 standards for humane agents and state veterinarians.

10 **PART N**

11 This Part delays the tax credit for rehabilitation of historic properties with respect to  
12 the Kennebec Arsenal District National Historic Landmark from tax years beginning on  
13 or after January 1, 2006 but before January 1, 2010 to tax years that begin on or after  
14 January 1, 2009 but before January 1, 2013. Unused credit amounts in any one tax year  
15 may be carried forward only through tax year 2012.

16 **PART O**

17 This Part limits reimbursements to municipalities under the Maine Tree Growth Tax  
18 Law to the amount appropriated by the Legislature and distributed on a pro rata basis.

19 **PART P**

20 This Part increases the rate of tax to be imposed on telecommunications personal  
21 property for fiscal years 2009-10 to 2011-12.

22 **PART Q**

23 This Part authorizes the Department of Corrections to transfer prisoners sentenced to  
24 the department to correctional institutions operated by private providers.

25 **PART R**

26 This Part requires the State Budget Officer to calculate the savings from not granting  
27 a 4% salary increase effective January 1, 2009 to unclassified employees whose salaries  
28 are subject to the Governor's adjustment or approval. It authorizes the transfer of the  
29 savings by financial order; these transfers are considered adjustments to appropriations in  
30 fiscal years 2009-10 and 2010-11.

31 **PART S**

32 This Part amends the laws governing state-municipal revenue sharing to reduce  
33 funding to the Local Government Fund, Revenue Sharing 1, by reducing the percentage of  
34 revenues transferred from taxes from 5.2% to 4.6% for fiscal years 2009-10 and 2010-11.  
35 This Part also reduces the transfer point to the Disproportionate Tax Burden Fund by  
36 \$16,000,000 for each of those years.

37 **PART T**

38 This Part does the following.

39 It authorizes the State Budget Officer, upon recommendation of the Department of  
40 Corrections, to transfer All Other funds by financial order between accounts within the

1 same fund for the purpose of paying food, heating and utility expenses during the 2010-  
2 2011 biennium.

3 It authorizes the State Budget Officer, upon recommendation of the Department of  
4 Corrections, to transfer by financial order Personal Services, All Other and Capital  
5 Expenditures funding between accounts within the same fund for the purposes of paying  
6 departmental overtime expenses.

7 It requires the Commissioner of Corrections to review the current organizational  
8 structure to improve organizational efficiency and cost-effectiveness and it authorizes the  
9 State Budget Officer to transfer positions and available balances by financial order.

10 **PART U**

11 This Part limits the allowable benefit under the Business Equipment Tax  
12 Reimbursement, or "BETR," program to 90% of eligible property taxes paid for  
13 application periods beginning August 1, 2009 and August 1, 2010.

14 **PART V**

15 This Part limits, for fiscal years 2010-11 and 2011-12, the boarding rates charged to  
16 the Department of Corrections for the housing of 190 state prisoners to the county jails'  
17 marginal costs.

18 **PART W**

19 This Part disallows the use of the election to pay estimated tax based on the prior  
20 year's tax liability with regard to unusual event income, which is defined as the receipt of  
21 at least \$500,000 income over the prior tax year's income. The change applies to tax years  
22 beginning on or after January 1, 2009.

23 **PART X**

24 This Part requires the Department of Public Safety to notify licensees of changes in  
25 the liquor rules and regulations through postings on the department's publicly accessible  
26 website.

27 **PART Y**

28 This Part authorizes the Commissioner of Administrative and Financial Services to  
29 implement a new employee retirement incentive program designed to encourage  
30 employees who are otherwise eligible to retire to do so. It requires the State Budget  
31 Officer to calculate the savings and transfer the amounts by financial order upon approval  
32 of the Governor. It requires that the vacated positions remain vacant from August 1, 2009  
33 to June 30, 2011.

34 **PART Z**

35 This Part continues the voluntary employee incentive program during the 2010-2011  
36 biennium and recognizes the resulting savings. It provides for the lapsing of \$350,000 in  
37 savings to the General Fund in both fiscal years 2009-10 and 2010-11.

38 **PART AA**

39 This Part recognizes projected additional Personal Services savings in the Statewide  
40 Attrition account within the Department of Administrative and Financial Services for