Testimony of Kirsten LC Figueroa, Commissioner
Department of Administrative and Financial Services

Before the Joint Standing Committees on
Appropriations and Financial Affairs
and Taxation

"An Act Making Unified Appropriations and Allocations from the General Fund and Other Funds for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2025, June 30, 2026 and June 30, 2027"

February 3, 2025

Good morning, Senator Rotundo, Representative Gattine, and members of the Joint Standing Committee on Appropriations and Financial Affairs; Senator Grohoski, Representative Cloutier and members of the Joint Standing Committee on Taxation. I am Kirsten Figueroa, the Commissioner of the Department of Administrative and Financial Services. I am here today to testify in support of the fiscal year 2026-2027 biennial budget bill, LD 210, specifically those items on today's agenda relating to tax lines and language in the Department of Administrative and Financial Services, the State Board of Property Tax Review, and the Office of the State Treasurer.

Maine – like many states, both blue and red – is facing a tight budget environment. The Mills Administration has spent months carefully developing a balanced budget proposal to preserve the programs lawmakers and Maine people support, including education, revenue sharing, public safety, higher education, and school meals, while also protecting the long-term fiscal health of Maine.

Ultimately, we took a balanced approach: one that makes some investments - including operational needs such as technology efficiencies, health and safety improvements, collective bargaining impacts, etc. - that proposes some spending cuts, and that makes some targeted revenue increases. We know these proposals are difficult and appreciate that you will consider them with an open mind.

We look forward to working with you over the coming months to enact a budget that supports our greatest asset of all: the people of Maine.

State Board of Property Tax Review

The **State Board of Property Tax Review (0357), page A-570,** is an appellate body that hears appeals of certain classes of cases involving property valuation, tax exempt status, current use land classification, municipal valuations established by the Property Tax Division of Maine Revenue Services, mine site valuations, and the State Property Tax Deferral Program.

More specifically, the Board is established to hear and determine tax abatement appeals involving nonresidential properties with an equalized valuation of $1,000,000 or more and appeals arising under: 1) the tree growth tax law (36 MRSA, §571 et seq.); 2) the farm and open space law (36 MRSA, §1101 et seq.); 3) mine site cases (as provided in 36 MRSA, §2865); 4) Working Waterfront designations (36 MRSA, §1131 et seq.); 5) municipal valuation appeals (36 MRSA, §272), and denials of applications under the State Property Tax Deferral Program (36 MRSA, §6251).

There are three new initiatives in this Program. The first two initiatives provide funding to support the centralized services including financial, human resources, and technology, provided by the Department of Administrative and Financial Services. These rates are being adjusted as a result of vendor increases, capital needs, supply chain impacts, but the primary factor is the significant collective bargaining efforts approved by the Governor and Legislature. Centralized service requests are summarized at the end of this testimony as **Appendix B.**

The first initiative, on page A-570, provides General Funds of $3,320 in each fiscal year to support the Board's share of the cost for the financial and human resources service center within the Department of Administrative and Financial Services.

Service Centers within DAFS provide centralized accounting, payroll, budgeting and human resources services to departments and agencies. Service Centers are established as an internal service fund intended to recoup their costs through billings to departments and agencies for services provided. The Service Center expenses are higher due to negotiated and benefit changes to Personal Services as well as increases in operational costs. This recoupment process results in increased billing rates to departments and agencies.

The second initiative on page A-570 provides General Funds of $9,820 in each fiscal year for statewide technology services provided by Maine IT.

MaineIT is responsible for the delivery of safe, secure, and high-performing networks and systems to State Agencies for daily performance of their missions for the citizens of Maine. IT enterprise functions benefiting all state agencies are managed through this office to ensure consistency, volume discount efficiencies, and optimum performance and throughput. MaineIT is established as an internal service fund intended to recoup their costs through billings to departments and agencies for services provided. MaineIT expenses are higher due to negotiated and benefit changes to Personal Services as well as increases in operational costs, including vendor increases, supply chain costs, and network and systems modernization and upgrades. This recoupment process results in increased billing rates to departments and agencies.

The final initiative for the Board continues one limited-period Public Service Manager II position through June 18, 2027. This position was originally established in Public Law 2021, chapter 635. At that time, the Legislature approved funding a Director and an Office Specialist I as limited period positions to address a tremendous backlog of cases at the State Board of Property Tax Review.

Decisions by the Board impact local tax issues, municipalities and petitioners, all of whom need timely decisions. The hiring worked; staff have closed almost all those cases either through settlement, stipulation, or hearing and the backlog is cleared. The Board is currently managing 2-4 cases a month. They have 5 cases scheduled for hearing or ready to be scheduled for hearing. The statute requires that parties attempt mediation before scheduling a hearing; there are 5 cases in the process of mediation.

This initiative extends the limited period Director position both to maintain the current efficiency at the Board and to participate in a legislative study, and possible subsequent implementation, of modernization and simplification changes to the board. That study is part of a Governor's bill expected later in this Session that will propose changes in this First Session to the structure and roles of the Maine Board of Tax Appeals and the MRS Taxpayer Advocate position as well as a Study to recommend legislation for possible similar changes to the State Board of Property Tax Review for consideration in the Second Session.

The Office Specialist I position at the State Board of Property Tax Review is not being continued due to reduced workload; administrative support can resume being shared with the Maine Board of Tax Appeals.

Continues one limited-period Public Service Manager II position established through PL 2021, Ch 635, through June 18, 2027. This initiative increases the General Fund Personal Services by $166,248 in fiscal year 2026 and by $167,999 in fiscal year 2027.

Department of Administrative and Financial Services

The Department of Administrative and Financial Services (DAFS) consists of ten bureaus, a handful of boards and commissions, and more than 1,200 employees serving the public and all three branches of state government.

The Department has a broad range of responsibilities. We serve as the principal fiscal advisor to Governor Mills, prepare the state budget, coordinate the financial planning and programing activities of state agencies, prepare the financial records of the state, and advise the Maine Legislature on the economic status of the state and financial statutes of state government.

Additionally, DAFS oversees all aspects of: human resources, including employee benefits, contract negotiations, recruiting, retaining, training and performance; information technology services, including cyber security, data management, application development, project management, technology infrastructure, accessibility, and network services; maintenance, repairs and capital improvements of state-owned buildings and grounds; leased space; procurement, contracting and vendor management; state postal services; surplus property; tax collection, tax law and tax policy; and fleet management.

Various internal services for state agencies are provided by the Department, including review of accounting transactions and procedures and the implementation of internal controls. We also administer the state's lottery operations, medical and adult use cannabis programs, and the sale of distilled spirits within Maine's borders. And we oversee the three state-owned landfills.

DAFS employees are respected as conscientious stewards of the State's assets: fiscal, human, physical and technical. We are valued for the professional expertise we provide that ensures State departments and agencies efficiently, effectively, and economically fulfill their important missions for the people of Maine. We lead and collaborate with open doors, open minds, and open hearts.

Now to the details. This is the biennial budget so we are meant to give a brief summary of each Program, whether or not there is a new request. For new initiatives, I will detail the need and impact. You will also see the blippie and justification from the budget document in italics that I won't be reading but is there for orientation and additional information.

Today's testimony relates to tax related initiatives as proposed in the biennial budget. The State's Tax Assessor, Jerome Gerard, and Dr. Michael Allen, the Associate Commissioner for the Office of Tax Policy, are both in attendance.

Bureau of Revenue Services Fund (0885)

On page **A-16** is the **Bureau of Revenue Services Fund**. This is an Internal Service Fund that contains the revenue and expenditures associated with scanning, imaging and collections services performed by Maine Revenue Services (MRS) on behalf of other Maine state agencies. The expenditures within this Program are supported entirely by the agencies for whom work is performed. The annual allocation in this program is $151,720.

There are no new initiatives in this program.

County Tax Reimbursement (0263)

On page **A-21** is the **County Tax Reimbursement** program. Through this program, MRS collects motor vehicle and watercraft excise taxes from residents in the Unorganized Territory and redistributes the funds to the respective county governments to be used for services provided in the Unorganized Territory. The annual allocation for this Other Special Revenue account is $2 million.

There are no new initiatives in this program.

Elderly Tax Deferral Program (0650)

On page **A-24** is the General Fund baseline budget of $1,500,000 annually for the **Elderly Tax Deferral Program**. The program provides a loan that can cover the annual property tax bills of income-eligible Maine people who are ages 65 and older or permanently disabled who cannot afford to pay them on their own. The program requires repayment of the loan once the property is sold or becomes part of an estate. The State is required to reimburse municipalities for property tax payments deferred by taxpayers under the State Property Tax Deferral Program pursuant to Maine Revised Statutes, Title 36, section 6257.

There are no new initiatives in this program.

Homestead Property Tax Exemption Reimbursement (0886)

On page **A-27** is the baseline budget of $105,364,497 annually for the **Homestead Property Tax Exemption Reimbursement** program. The purpose of the program is to offset the effect on local property tax revenues arising from the municipal exemption of certain homestead property of qualified Maine residents. The State is required to reimburse municipalities for at least 50% of the tax revenue lost by municipalities as a result of new property tax exemptions pursuant to Article IV, Part Third, Section 23 of the Maine Constitution. For property tax years beginning on or after April 1, 2023, 76% of the taxes lost by reason of the exemption is reimbursed to the municipality.

There is one initiative in this program that reduces funding by $13,364,497 in fiscal year 2026 and $10,364,497 in fiscal year 2027. As we discussed during the Supplemental Budget (LD 209) testimony, total payments to municipalities for Homestead Property Tax Exemption reimbursements have been dropping the past couple of years, even as the reimbursement rate has been increasing. The drop in reimbursements is due to the rapid increases in the real estate market reducing the values of the homestead exemption relative to the market value of residential properties. Having said that, with the market slowing, anticipated stabilization of the reimbursement with gradual increases in future years is expected.

Homestead Example

*Imagine a town with only one property – a house with a homestead exemption. In 2020, the town does a revaluation and brings the value of the house up to market value of $1 million. Because they just did a revaluation, the town's ratio is 100%. The town always raises the same amount in taxes each year ($10,000) and so approves a mil rate of 10.26 to raise that money. The tax associated with the homestead exemption for 2020 is therefore $256 (homestead value * mil rate).*

Each year, however, the real estate market is increasing by 10%.

- *In 2021, the market value of the house increases by 10%. The town doesn't adjust any of their assessed values, so the house is still valued for assessment purposes at $1 million. However, because the market has increased, the town's ratio drops to 91% (assessed value divided by market value). The homestead exemption is required to be adjusted by the ratio, so the value of the homestead exemption drops to $22,727. The net assessed value of the single property therefore increases slightly, and the town drops their mil rate correspondingly in order to still raise the same $10,000 in tax. Because the homestead value and the mil rate both drop, the tax associated with the exemption drops as well.*

- *Same basic result in 2022: market value increases, ratio drops, homestead value drops, net assessed value increases, mil rate drops, tax associated with exemption drops.*

- *In 2023, the town decides their ratio has dropped too far and decides to do a revaluation. This brings the assessed value up to market value and the ratio up to 100%. It also brings the homestead back up to the full $25,000 in value. However, because the assessed values have been increased, the mil rate drops significantly in order to still raise the $10,000 in tax. Thus, while the homestead value increases, the mil rate drop more than offsets it, resulting in an even further reduction in the tax associated with the homestead exemption. The increased reimbursement percentage over the years is simply not enough to offset the effects of the increase in the real estate market.*

	2020	2021	2022	2023
Market Value	*$1,000,000*	*$1,100,000*	*$1,210,000*	*$1,331,000*
Certified Ratio	*100%*	*91%*	*83%*	*100%*
Assessed Value (before Homestead Reduction)	*$ 1,000,000*	*$ 1,000,000*	*$ 1,000,000*	*$ 1,331,000*
Homestead Value	*$25,000*	*$22,727*	*$20,661*	*$25,000*
Net Assessed Value	*$ 975,000*	*$ 977,273*	*$ 979,339*	*$ 1,306,000*
Mil Rate	*10.26*	*10.23*	*10.21*	*7.66*
Tax	*$10,000*	*$10,000*	*$10,000*	*$10,000*
Tax Associated with Homestead Exemption	*$ 256*	*$ 233*	*$ 211*	*$ 191*
Reimbursement Rate	*70%*	*70%*	*73%*	*76%*
State Reimbursement	*$ 179*	*$ 163*	*$ 154*	*$ 145*

Maine Board of Tax Appeals (Z146)

The **Maine Board of Tax Appeals,** page **A-34,** is an independent board within DAFS, established July 1, 2012, and not subject to the supervision of Maine Revenue Services. The board provides taxpayers with a fair system of resolving their controversies with MRS and ensures due process. As mentioned earlier, a Governor's bill expected later in this Session will propose changes in this First Session to the structure and roles of the Maine Board of Tax Appeals.

The General Fund baseline budget is $438,950 in fiscal year 2026 and $460,864 in fiscal year 2027. The budget includes 2 Appeals Officer positions and 1 part-time administrative assistant position. There is also an allocation for an Other Special Revenue Fund of $45,000 in each year.

There is one initiative in this program to support centralized services, specifically

MaineIT. *Centralized service requests are summarized at the end of this testimony as **Appendix B**.*

There is one initiative in this program increasing General Fund All Other appropriations by $5,179 in each fiscal year to support statewide technology services provided by MaineIT.

MaineIT is responsible for the delivery of safe, secure, and high-performing networks and systems to State Agencies for daily performance of their missions for the citizens of Maine. IT enterprise functions benefiting all state agencies are managed through this office to ensure consistency, volume discount efficiencies, and optimum performance and throughput. MaineIT is established as an internal service fund intended to recoup their costs through billings to departments and agencies for services provided. MaineIT expenses are higher due to negotiated and benefit changes to Personal Services as well as increases in operational costs, including vendor increases, supply chain costs, and network and systems modernization and upgrades. This recoupment process results in increased billing rates to departments and agencies.

Mandate BETE — Reimburse Municipalities (Z065)

On page **A-36** is the baseline budget of $28,000 per year for the **Mandate BETE – Reimburse Municipalities** program. The purpose of the program is to reimburse municipalities for state mandated costs related to implementation and administration of the Business Equipment Tax Exemption *as required under Article IX, Section 21 of the Maine Constitution and the Maine Revised Statutes, Title 30-A, section 5685. Reimbursement of at least 90% of the cost of additional expenditures incurred by municipalities as a result of new or expanded State programs is mandated by Article IX, Section 21 of the Maine Constitution.*

There are no new initiatives in this program.

Renewable Energy Facilities Property Tax Exemption (Z296)

On page **A-44** is the baseline budget of $3.722 million annually for the **Renewable Energy Facilities Property Tax Exemption** program. The purpose of the program is to offset the effect on local property tax revenue arising from the exemption of certain solar and wind energy equipment from municipal property tax as required by the Maine Revised Statutes, Title 36, chapter 105, subchapter 4 and reimburse municipalities for the state mandated costs related to implementation and administration of the program. *The State is required to reimburse municipalities for at least 50% of the tax revenue lost by municipalities as a result of new property tax exemptions pursuant to Article IV, Part Third, Section 23 of the Maine Constitution. Article IX, Section 21 of the Maine Constitution requires the State to reimburse at least 90% of the cost of additional expenditures incurred by municipalities as a result of new or expanded State programs.*

There is one initiative in this program that provides an appropriation of $2.75 million in fiscal year 2026 and $4.25 million in fiscal year 2027 to account for an increase in the number of new renewable energy projects being planned or currently under construction.

Provides funding for an increase in reimbursement to municipalities under the Renewable Energy Facilities Property Tax Exemption Program, as required by Maine Revised Statutes, Title 36, chapter 105, subchapter 4.

On pages **A-45 and A-46** is the **Bureau of Revenue Services** budget. *The baseline budget consists of a General Fund appropriation of $54,907,412 in fiscal year 2026 and $56,902,286 in fiscal year 2027; Other Special Revenue allocations of $9,463,848 in each fiscal year; and Federal Expenditures Fund allocations of $5,000,500 in each fiscal year.*

These funds enable the Bureau to serve the citizens of Maine by administering the tax laws of the State effectively and professionally while simultaneously collecting the revenues necessary to support Maine government.

The Bureau also oversees municipal property tax administration, including the assessment and collection of property and excise taxes for the Unorganized Territory. The Bureau conducts the annual State Valuation process that is used to calculate county taxes, establish municipal and school bond debt limits, and determine education funding and revenue sharing.

I'd like to take a moment to highlight a major success story. Maine Revenue Services recently completed a four-year modernization project to replace its decades-old tax administration technology. The State Tax Administration and Revenue System (STARS) project, which officially kicked off in October of 2020, completed each of the four planned rollouts on time and on budget. Approximately fifty taxes, fees, and programs were converted to the new system, allowing tax filers and tax practitioners the convenience of filing and paying online using the Maine Tax Portal. The old, outdated legacy systems have been shuttered. A key component of this transition is regular upgrades to keep the system updated and current. Approximately 25 full-time equivalent staff added the work of this project to their already full plate of responsibilities. I thank everyone involved for the dedication and effort and a job more than well done.

There are five initiatives in the Bureau of Revenue Services budget.

The first initiative provides a General Fund appropriation of $371,200 in fiscal year 2027 for annual contracted maintenance to interface with the IRS Direct File program. Direct File is a free web-based service that works on mobile phones, laptops, tablets or desktop computers. It guides taxpayers through a series of questions to prepare their federal income tax return step-by-step. The IRS estimates 170,000 Maine individual income tax filers will be eligible to use Direct File to complete their 2024 federal tax return during the 2025 tax filing season. Over the course of this year, the Bureau plans to build an interface with the IRS Direct File program. This will enable Maine taxpayers eligible to use the federal Direct File program to complete their federal income tax return and have the ability, through the Maine Tax Portal, to directly import certain federal tax information into their Maine individual income tax return, minimizing duplicative data entry.

The second and third initiatives provide funding for statewide technology services and centralized financial and human resources services. *Centralized service requests are summarized at the end of this testimony as **Appendix B**.*

Provides funding for statewide technology services provided by the Department of Administrative and Financial Services, Office of Information Technology. This initiative increases General Fund appropriations by $3,602,675 in fiscal year 2026 and by $2,706,022 in fiscal year 2027.

MaineIT is responsible for the delivery of safe, secure, and high-performing networks and systems to State Agencies for daily performance of their missions for the citizens of Maine. IT enterprise functions benefiting all state agencies are managed through this office to ensure consistency, volume discount efficiencies, and optimum performance and throughput. MaineIT is established as an internal service fund intended to recoup their costs through billings to departments and agencies for services provided. MaineIT *expenses are higher due to negotiated and benefit changes to Personal Services as well as increases in operational costs, including vendor increases, supply chain costs, and network and systems modernization and upgrades. This recoupment process results in increased billing rates to departments and agencies.*

Provides a General Fund appropriation of $54,787 in fiscal year 2026 and $81,455 in fiscal year 2027 to fund the Bureau's share of the cost of the financial and human resources service centers within the Department of Administrative and Financial Services.

Service Centers within DAFS provide centralized accounting, payroll, budgeting and human resources services to departments and agencies. Service Centers are established as an internal service fund intended to recoup their costs through billings to departments and agencies for services provided. The Service Center expenses are higher due to negotiated and benefit changes to Personal Services as well as increases in operational costs. This recoupment process results in increased billing rates to departments and agencies.

Moving to page **A-46**, the fourth initiative provides a one-time General Fund appropriation of $216,680 in fiscal year 2026 for computer programming necessary to implement the ambulance services tax, which is included in the Department of Health and Human Services language **Part TT** beginning on **Page 91** of the language document.

The final initiative provides a one-time General Fund appropriation of $113,640 in fiscal year 2026 for computer programming necessary to implement the pharmacy assessment, which is included in the Department of Health and Human Services language **Part SS** beginning on **Page 90** of the language document.

Snow Grooming Property Tax Exemption Reimbursement (Z024)

On page **A-48** is the baseline budget of $30,000 annually for the **Snow Grooming Property Tax Exemption Reimbursement** program. The purpose of this program is to reimburse municipalities for property tax revenue lost as a result of the exemption for trail grooming equipment registered with the Department of Inland Fisheries and Wildlife. The snow grooming equipment is purchased by local snowmobile clubs and used to maintain Maine's snowmobile trail system. *The State is required to reimburse municipalities for* *at least 50% of the tax revenue lost by municipalities as a result of new property tax exemptions pursuant to Article IV, Part Third, Section 23 of the Maine Constitution.*

There are no new initiatives in this program.

Tree Growth Tax Reimbursement (0261)

On page **A-52** is the baseline budget of $13.2 million annually for the **Tree Growth Tax Reimbursement** program. The purpose of this program is to help moderate municipal property tax rates for municipalities that experience reduced valuations due to the mandated use of lower current use values in place of higher ad-valorem values under the Maine Tree Growth program. The reduced valuation on forestland causes a general shift in local tax burden to non-classified property because the lower taxable valuation base produces a somewhat higher property tax rate.

Unlike other property tax reimbursement programs, the Tree Growth Tax Reimbursement program was authorized by the Constitution before the amendment mandating at least 50% reimbursement by the State of the tax revenue lost by municipalities as a result of new property tax exemptions, which means we can adjust this program differently than others. Currently, the State reimburses municipalities for revenue loss associated with the program. For tax year 2023, there were approximately 3.6 million classified acres included in more than 31,000 parcels in municipalities statewide reimbursed through the program. Although not reimbursed through this program, there are an additional 7.6 million acres of classified forestland in the Unorganized Territory.

There are no new initiatives in this program.

Unorganized Territory Education & Services Fund – Finance (0573)

On page **A-53** is the **Unorganized Territory Education & Services Fund**. This Fund disburses tax revenue assessed on Unorganized Territory properties to the counties that provide services to the Unorganized Territory. The Office of the State Auditor is the fiduciary of the Fund. The Bureau collects the revenue and makes the distributions on behalf of the State Auditor. The annual allocation in this fund is $29 million per year.

There is one initiative in this program that provides an allocation of $500,000 in each fiscal year for anticipated growth in county taxes and the cost of county services.

Veterans Tax Reimbursement (0407)

Also on page **A-53** is the baseline budget of $1.4 million annually for the **Veterans Tax Reimbursement** program. The purpose of this program is to diminish the effects on local property tax burdens arising from the municipal exemption provided for estates of qualified veterans and certain survivors of a deceased veteran who are eligible based on the qualifying service of that veteran. *The State is required to reimburse municipalities for at least 50% of the tax revenue lost by municipalities as a result of new property tax exemptions pursuant to Article IV, Part Third, Section 23 of the Maine Constitution.*

There are no new initiatives in this program.

Veterans' Organizations Tax Reimbursement (Z062)

On page **A-54** is the baseline budget of $50,000 annually for the **Veterans' Organizations Tax Reimbursement** program. The purpose of this program is to reimburse municipalities for the loss in property tax revenue associated with the property tax exemption granted to veterans' organizations. *The State is required to reimburse municipalities for at least 50% of the tax revenue lost by municipalities as a result of new property tax exemptions pursuant to Article IV, Part Third, Section 23 of the Maine Constitution.*

There are no new initiatives in this program.

Waste Facility Tax Reimbursement (0907)

Also on page **A-54** is the baseline budget of $16,000 annually in the **Waste Facility Tax Reimbursement** program. The purpose of this program is to reimburse municipalities for the loss in property tax revenue as a result of the exemption provided to certain waste storage facilities. These facilities are constructed solely for the storage of manure and other wastes generated by animal production. Eligible facilities must have appropriate plans filed with the Department of Agriculture, Conservation, and Forestry. *The State is required to reimburse municipalities for at least 50% of the tax revenue lost by* *municipalities as a result of new property tax exemptions pursuant to Article IV, Part Third, Section 23 of the Maine Constitution.*

There are no new initiatives in this program.

We now move to the language parts.

Part E is found on **pages 42 through 44** of the language document. This Part increases the cigarette excise tax rate by 50 mills, changing the rate per pack of 20 cigarettes from \$2.00 to \$3.00. This increase also causes the tobacco products tax rates to increase by an equivalent amount automatically under 36 M.R.S. § 4403(5). The rate of excise tax on smokeless tobacco will automatically increase from \$2.02 to \$3.03 per ounce. The rate of excise tax on all other tobacco products, other than cigarettes and smokeless tobacco, will automatically increase from 43% to 65% of the cost price.

Maine is home to the highest adult smoking rate – and the second highest youth smoking rate – in New England. Despite the well-established efficacy of cigarette taxes in reducing smoking rates, Maine has not raised its cigarette excise tax in two decades. The last time Maine raised its cigarette excise tax was in 2005, when the tax increased from \$1.00 to \$2.00. Meanwhile, every other New England state has increased their cigarette tax since 2013. Today, it is now cheaper to buy cigarettes in Maine than in nearly any other state in the Northeast. Cigarettes are a leading cause of cancer, heart disease, and stroke. More than one-third of Maine cancer deaths each year are attributable to smoking.

Governor Mills' biennial budget proposal would raise Maine's cigarette excise tax by \$1.00 per pack, in an effort to utilize a proven public health tool to reduce the leading cause of preventable death. Consistent with current law, it would also increase the excise taxes on other tobacco and smokeless tobacco products by the same percentage change in the tax rate on cigarettes.

<u>Maine's Tobacco Excise Taxes Have Proven Effective in Reducing Smoking</u>

In the late 1990s and early 2000s, Maine implemented a series of tobacco control measures, including significant increases to the cigarette excise tax. Between 1996 and 2008, adult smoking rates declined from 25 percent to 18 percent. Youth smoking rates dropped even more dramatically – from 35 percent in 1997 to 20 percent in 2003. While *smoking rates have continued to decline in Maine, they have fallen less sharply than the national average. In 2023, 14 percent of adults and 5.6 percent of high school students in Maine smoked cigarettes. Increased use of electronic cigarettes could further erode Maine's progress; estimates show that 15.6 percent of Maine high school students reported using an e-cigarette in 2023. Between 2005 and 2020 the state increased the excise tax on the cost price of other tobacco products from 16 percent to 43 percent to address the growing demand for electronic cigarettes.*

Impact on State Budget and Health Savings

Increasing Maine's cigarette and other tobacco products taxes would generate approximately $80 million in revenue to the General Fund over the biennium.

Maine's other tobacco excise tax applies to any product – as defined in statute – that is made or derived from tobacco, or that contain natural or artificial nicotine, liquids used in e-cigarettes including electronic smoking devices and chewing tobacco. Tobacco products do not include tobacco cessation products authorized for sale by the U.S. Food and Drug Administration or any product that contains adult-use or medical cannabis.

Smoking cessation correlates with health-related savings. According to the U.S. Centers for Disease Control and Prevention, Medicaid-related smoking expenditures cost Maine taxpayers $281.2 million annually. Smoking-related productivity expenses – including absenteeism and inability to work – cost the state's economy $1.5 billion each year.

Part F is found on **pages 44 through 46** of the language document. This Part changes the excise tax and sales tax rates applied to adult use cannabis and the transfers of that revenue to Adult Use Cannabis Public Health and Safety and Municipal Opt-in Fund.

The average retail price of cannabis flower has declined 56% over four years. Similarly, the wholesale price of cannabis (the purchase amount that manufacturers and retailers buy cannabis from cultivators) has also substantially declined. However, the weight-based excise tax paid by cultivators has remained the same, thus, the burden of the cannabis excise tax paid by cultivators relative to the wholesale price that cultivators receive for their product has increased significantly.

The Mills Administration is proposing a reduction of the excise tax in recognition of the fact that cannabis cultivators have appealed to the legislature the last two sessions for relief from the adult use cannabis excise tax. This Part proposes that the excise tax rate is reduced by one-third and the sales tax rate is concurrently increased from 10% to 14%. The sales tax adjustment puts Maine in similar range with other states that have cannabis sales tax.

The adult use cannabis excise tax is assessed based upon weight, at a current rate of $335 per pound of cannabis flower. This excise tax is paid by cannabis cultivators at the time that they sell their product to either a cannabis manufacturing or retail licensee.

At the outset of Maine's adult use cannabis industry in the fall of 2020, cannabis flower fetched an initial average retail price of $15.83/gram, versus $7.09/gram in December 2024. This constitutes a 56% decline in price over four years, however this decline was expected as Maine's legalized market matured and is consistent with other states.

Similarly, the wholesale price of cannabis (the purchase amount that manufacturers and retailers buy cannabis from cultivators) has also substantially declined.

Meanwhile, the weight-based excise tax paid by cultivators has remained the same, thus, the burden of the cannabis excise tax paid by cultivators relative to the wholesale price that cultivators receive for their product has increased significantly.

The Mills Administration is proposing a 1/3 reduction of the excise tax from $335/lb to $223/lb in recognition of the fact that cannabis cultivators have appealed to the legislature the last two sessions for relief from the adult use cannabis excise tax. The Administration has been supportive of a 1/3 reduction in the excise tax in each of the last two sessions and the Governor has proposed the relief in her budget.

This Part also reduces the transfers of tax revenue received on the sale of adult use cannabis to the Adult Use Cannabis Public Health and Safety and Municipal Opt-in Fund from 12% to 9%. It is estimated the fund needs approximately $5 million per year to various legislatively authorized activities such as public safety personnel training, business expense tax deductions, and recovery community centers. The reduced percentage will generate the estimated $5 million.

- *Public health and safety expenses, including public safety personnel training; one-time items such as lockable safe storage bags to participating medical and adult use retailers; campaigns focused on teenagers aged 13 to 17 who were either at risk of trying cannabis or were early experimenters and young adults aged 18 to 25 who use cannabis as a coping mechanism;*
- *Municipal opt in fees until this phases out;*
- *PL 2023, c. 444 transfer estimated at $1,581,923 in FY26 and $1,780,000 in FY27 to cover the cost of the tax deductions for business expenses related to carrying on a business as a cannabis establishment or a testing facility;*
- *PL 2023, c. 683, Pt. A, §2 transfer of $150,000 annually to the Department of Economic and Community Development; and,*
- *PL 2023, c. 658 transfer of $2 million annually to the Department of Health and Human Services for operational support for recovery community centers and to provide funding for capacity building for recently established or new recovery community centers.*

Part G, found on **pages 46 through 55** of the language document impacts sales and use tax and service provider tax provisions. It contains three repeat proposals and builds on work done in the 131st Legislature. In addition to information in my testimony, we are providing attachments with additional background and comparative data.

The first component picks up where the 131st Legislature left off with narrowing the service provider tax. Public Law 2023, c. 412, Pt. XXX, repealed all the medical services subject to the service provider tax beginning, effective January 1, 2025.

The service provider tax was originally constructed such that it played an important role in federal reimbursements to institutions regarding medical service transactions. The tax as amended no longer does. What remains now is unneeded bifurcation of similar taxable transactions under both the service provider tax and the sales tax. This bifurcation trips up businesses and adds administrative burden and cost to their operations. **Part G** relocates the remaining General Fund taxable services and related provisions under the 6% service provider tax to the 5.5% sales tax and repeals the remainder of the service provider tax entirely. MRS Appendix A lists the remaining seven General Fund taxable services that are affected.

Two bills, Public Law 2023, c. 643, Pt. H and Public Law 2023, c. 673 enacted by the 131st Legislature, shifted the sales taxation of the rental of tangible personal property from an upfront tax when the property is purchased by the lessor to a tax on the subsequent "lease stream" generated from leasing that property. At the time these bills were introduced, Maine was one of two states in the nation to tax leases of tangible personal property in this manner. The change moved Maine to the norm of taxing the "lease stream" rental payments, overall reducing confusion and easing administrative burdens for lessors. Since then, the last remaining state, Illinois, has also moved to taxing the "lease stream."

The second component in this Part simplifies and brings more equitable taxation of consumer purchases of digital media as part of the relocation of similar services under the service provider tax to the sales tax, as discussed earlier. Specifically, it adds "digital audio-visual and digital audio services" to the taxable services under the sales tax, broadening and merging with the related digital services and products previously taxed under the service provider tax, and harmonizing existing sales taxation of related services with lease stream taxation of rental payments.

This change is more equitable – equalizing taxation of similar content across delivery modes, industry providers, age of consumer, and connected versus rural underserved areas. It reduces compliance confusion – not collecting when required and collecting when not required – that can befall streaming and subscription providers. It addresses sales tax base erosion as technology markets continually change over time. Further, the proposed simplified sales taxation of digital streaming, cable and satellite television, radio, and other traditional forms of audio and video media consumption is quite mainstream nationally. It is important to note, this is *not* on the frontier of sales tax digital taxation issues that are in active discussion in some other states – such as the sales taxation of digital advertising or software as a service. The charts in MRS Appendix B show the current fragmented taxation of digital products and services, which this proposal aims to rectify.

The final modernization and simplification proposal in this Part is to provide a broader and simpler sales and use tax exemption for durable medical equipment (DME), breast pumps, and mobility enhancing equipment for home use or use in a motor vehicle. A Taxation Committee public hearing and work sessions on a bill introduced in the 131st Legislature – L.D. 1184, An Act to Exempt Certain Prescribed Home Medical Supplies from Sales Tax – made clear that the ongoing work of administration, education, compliance, and legislative revision of the four current medical products exemptions has been considerable in terms of cost, confusion, and burden for all parties involved. This proposal meshes practicality with how purchases and rentals are commonly structured in the durable medical equipment field. It also provides two new broad exemptions of durable medical equipment and mobility enhancing equipment as defined in sections G-3 and G-7. MRS Appendix C lists the current partial exemptions and the broader exemption approach used by many other states. The language for the two exemptions proposed here is not created from scratch, but instead adopts language used by member states of the Streamlined Sales and Use Tax Agreement ("SSUTA"). Of the 23 Full Member SSUTA states, 21 exempt DME sold on a prescription for home use from their sales tax base.

Part H on **pages 55 through 57** of the language document establishes a phase-out of the pension deduction for nonmilitary pensions under the income tax based on the federal adjusted gross income of the taxpayer. This proposal does not impact social security or military pension income.

In the 2022 supplemental budget, the Legislature added a provision that increased the pension deduction from $10,000 to $25,000 for tax year 2023. In addition, the supplemental also increased the pension deduction by $5,000 per year after that. The tax deduction was increased further last year: from $35,000 per taxpayer to the maximum annual social security benefit that may be received by a taxpayer at the eligible retirement age as of January 1st of the tax year under the federal Social Security Act. For tax year 2024, that amount is $45,864 per taxpayer and in 2025 is $48,216. The program as is will cost the state more than $125 million in fiscal year 2025.

The budget proposal fully maintains the deduction for low- and middle-income people, which will benefit approximately 99,050 people. But, given the need to generate savings in some areas of state government, the budget proposes a phase-out that begins with income over $100,000 for single filers, $150,000 for heads of households, and $200,000 for married individuals filing jointly. The amendment adjusts these amounts for inflation in future years.

Of the 22,158 people estimated to be impacted, the anticipated tax implications range from an adjustment of $320 for people with incomes between $100,000-$150,000 (FAGI) for single filers, to an adjustment of $1,310 for people with incomes of more than half a million dollars (FAGI). This is expected to save the state approximately $21.3 million for tax year 2025.

Social security and military retirement income continue to be fully exempt from Maine income tax.

The pension deduction was created in response to the recommendations of a working group during the King Administration that focused on attracting and retaining retirees to the state. It was first applicable for tax years beginning on or after January 1, 2000, and was equal to certain pension income up to $6,000. That $6,000 cap must be reduced by the amount of social security benefits received.

For tax years beginning on or after January 1, 2014, the $6,000 cap was increased to $10,000 and the pension income was expanded to include all federally taxable pension income, annuity income and individual retirement account distributions, except pick-up contributions for which a deduction had been allowed.

In the 2022 supplemental budget, the Legislature added a provision that increased the pension deduction from $10,000 to $25,000 for tax year 2023. In addition, the supplemental also increased the pension deduction by $5,000 per year after that – so to $25,000 in tax year 2023; $30,000 in tax year 2024; and $35,000 for tax year 2025. The tax deduction was increased further last year: for tax years beginning on or after January 1, 2024, the pension income deduction was increased to the maximum annual benefit that an individual eligible to retire at the retirement age, as defined in 42 United States Code, Section 416(1), as of January 1st of the tax year may receive under the federal Social Security Act and amendments to that Act as of June 28, 2023. (L.D. 258; P.L. 2023, c. 412, Pt. ZZZ, § 2) the maximum annual benefit in 2024 was $45,864 and in 2025 is $48,216. These increases were for people of all income levels in retirement.

The budget proposal fully maintains the deduction for low- and middle-income people, which will benefit approximately 99,050 people. This is expected to cost the state approximately $104.5 million for tax year 2025.

Given the need to generate savings in some areas of state government, the budget proposes to reduce the amount of the retirement income deduction for people who have *more income in retirement, beginning with taxpayers who make more than $100,000 (FAGI) for single filers, phasing out the deduction entirely at $200,000. For joint filers the phase out begins with taxpayers who make more than $200,000 (FAGI), phasing out completely at $300,000 (FAGI).*

Of the 22,158 people estimated to be impacted, the anticipated tax implications range from an adjustment of $320 for people with incomes between $100,000-$150,000 (FAGI) for single filers, to an adjustment of $1,310 for people with incomes of more than half a million dollars (FAGI). This is expected to save the state approximately $21.3 million for tax year 2025.

Social security and military retirement income continues to be fully exempt from Maine income tax.

Part I on **page 57** of the language document is standard language that recurs biennially and is submitted to recognize the various tax expenditures that are included in Maine law.

Tax expenditures are defined in Title 5, section 199-A of the Maine Revised Statutes as any provision of state law that results in the reduction of tax revenue due to special exclusions, exemptions, deductions, credits, preferential rates or deferral of tax liability. The Maine State Tax Expenditure Report, which is prepared biennially, is available online at https://www.maine.gov/revenue/taxes/tax-policy-office. As required by statute, the latest report will be available on February 15, 2025.

ATTACHED ADDITIONAL BACKGROUND DOCUMENTS:
1. *MRS Appendix "A" – Repeal Service Provider Tax; Relocate Selected Provisions*
2. *MRS Appendix "B" – "Digital Streaming" – Simplify and Equalize Taxation of Consumer Purchases of Digital Media and Services*
3. *MRS Appendix "C" – Broad Durable Medical Equipment Exemption*

Leaving Maine Revenue Services but staying with tax items.

Office of the Treasurer of the State

The Municipal Revenue Sharing program, which exists to stabilize the municipal property tax burden and to aid in financing municipal services, is divided into two programs.

The State Municipal Revenue Sharing (I) program and the Disproportionate Tax Burden (II) Fund. The Office of the Treasurer of the State processes both Revenue Sharing I and II payments. The monthly revenue sharing pool is funded by a transfer of a percentage of sales, service provider, personal and corporate income tax receipts. Municipalities receive funds according to a set formula that relies on state valuation, tax assessment and population.

Disproportionate Tax Burden Fund (0472)

The **Disproportionate Tax Burden Fund**, more commonly known as Revenue Sharing II, can be found on page **A-630** of the budget document. There is one initiative in this program to reflect the December 2024 Revenue Forecast. *The adjustment increases the allocation by $3,364,282 in fiscal year 2026 and $4,593,420 in fiscal year 2027. This will result in total allocation of $59,515,223 in fiscal year 2026 and $60,744,361 in fiscal year 2027.*

State – Municipal Revenue Sharing (0020)

The **State – Municipal Revenue Sharing** program, also known as Revenue Sharing I, is on page **A-633**. *The baseline budget of $208,603,769 represents the budgetary authorization for revenue sharing at 5%.* There is one initiative in this program to reflect the December 2024 Revenue Forecast.

The adjustment increases the allocation by $7,704,200 in fiscal year 2026 and $14,052,406 in fiscal year 2027. This will result in total allocation of $216,307,969 in fiscal year 2026 and $222,656,175 in fiscal year 2027.

The total allocation for municipal revenue sharing, the combination of these two accounts, will be $275,823,192 in fiscal year 2026 and $283,400,536 in fiscal year 2027.

Maliseet Sales Tax Fund (N952)

On page **A-631** is the **Maliseet Sales Tax Fund** program. The Fund is established as an Other Special Revenue account to be administered by the Treasurer of State for the purpose of returning sales tax revenue to the Houlton Band of Maliseet Indians as required by the Maine Revised Statutes, Title 36, chapter 213, section 1815. The annual allocation in this program is $37,000 per year.

There are no new initiatives in this program.

Passamaquoddy Sales Tax Fund (0915)

On page **A-632** is the **Passamaquoddy Sales Tax Fund** program. The Fund is established as an Other Special Revenue account to be administered by the Treasurer of State for the purpose of returning sales tax revenue to the Passamaquoddy Tribe as required by the Maine Revised Statutes, Title 36, chapter 213, section 1815. The annual allocation in this program is $17,607 per year.

There are no new initiatives in this program.

Penobscot Sales Tax Fund (Z360)

On page **A-632** is the **Penobscot Sales Tax Fund** program. The Fund is established as an Other Special Revenue account to be administered by the Treasurer of State for the purpose of returning sales tax revenue to the Passamaquoddy Tribe as required by the Maine Revised Statutes, Title 36, chapter 213, section 1815. The annual allocation in this program is $5,500 per year.

There are no new initiatives in this program.

This concludes my testimony. Thank you.

APPENDIX A: Reclasses/Reorgs/Range Changes

Civil Service Rules require the Director of the Bureau of Human Resources to maintain the classification plan and establish the processes and procedures with which to do so. There is a long-standing process in place to evaluate proper classification of positions and determine through a functional job analysis whether a position meets the requirements for reclassification, including any pay adjustment. The State's collective bargaining unit agreements include negotiated language related to this process. Actions may include changing classification or keeping the same classification, but changing pay range (usually referenced in blippie as range change). Requests may be employee initiated (usually referred to as reclass) or management initiated (usually referred to as reorganization). Approved employee-initiated actions include a retroactive pay component back to the date the request was signed. Reclass/reorg/range change initiatives in Part A of the budget are necessary to fund these approved actions, which is required before the action can be processed and paid. Reclass initiatives in Part B are self-funded.

Page	Program	Fund	FY26 Amount	FY27 Amount
NONE				

APPENDIX B: Centralized Services

The Department of Administrative and Financial Services (DAFS) develops, delivers, and maintains centralized government systems that support the financial, human resource, physical and technological infrastructure of state government. The services are billed to agencies through Internal Service Funds

All components of an internal service fund, including staff, All Other and capital, are included in Internal Service Fund budgeting. Personal Services increases the result of collective bargaining, or any other Personal Services action, as well as increases to All Other costs for various reasons, including vendor increases or supply chain costs, etc. impact these budgets. Internal Service Funds are meant to recover the costs of providing the service. DAFS bills agencies for these services and the agencies pay the bills with All Other funds.

In this biennial budget, DAFS has adjusted these rates for all of the reasons outlined above, but primarily the result of significant collective bargaining efforts approved by the Governor and Legislature. Agency All Other funds are not increased in the baseline to reflect the increased costs of the Internal Service Funds, so statewide all agencies will include initiatives for additional All Other to cover these services.

<u>DAFS Centralized Services Internal Service Funds include:</u>

- Service Centers within DAFS provide centralized accounting, payroll, budgeting and human resources services to departments and agencies.

- MaineIT is responsible for the delivery of safe, secure, and high-performing networks and systems to State Agencies for daily performance of their missions for the citizens of Maine. IT enterprise functions benefitting all state agencies are managed through this office to ensure consistency, volume discount efficiencies, and optimum performance and throughput.

- Central Fleet Management (CFM) within DAFS centrally procures, distributes and disposes of passenger and light truck vehicles. CFM handles many aspects of vehicle service including writing vehicle specifications, ordering vehicles, providing drivers with maintenance schedules, service assistance, fueling resources, insurance protection, and accident information processing.

- The Division of Risk Management within DAFS provides high quality insurance, loss control and claims services to all state agencies, the State's higher education institutions and some quasi-state agencies at the lowest possible cost.

- The Division of Leased Space manages leases encompassing office, warehouse, garage, storage, tower, classroom, mixed-use, and training spaces.

- Central Services within DAFS provides a wide range of mail services, including interoffice mail, as well as disposition of state surplus materials and equipment no longer needed by the state agency that purchased them. This group also manages federal surplus property.

State Board of Property Tax Review

Page	Program	Service	Fund	FY26 Amt	FY27 Amt
A-570	0357	Service Centers	GF	3,320	3,320
A-570	0357	MaineIT	GF	9,820	9,820

Department of Administrative and Financial Services

Page	Program	Service	Fund	FY26 Amt	FY27 Amt
A-45	0002	MaineIT	GF	3,602,675	2,706,022
A-45	0002	Service Centers	GF	54,787	81,455

Maine Board of Tax Appeals

Page	Program	Service	Fund	FY26 Amt	FY27 Amt
A-34	Z146	MaineIT	GF	5,179	5,179

APPENDIX C: Allocation Adjustments

Adjusts funding to align with revenue projections from the December 1, 2024 Revenue Forecast Committee forecast.

Office of Treasurer of State

Page	Program	FY26 Amt	FY27 Amt
A-630	0472	3,364,282	4,593,420
A-633	0020	7,704,200	14,052,406

ATTACHED ADDITIONAL BACKGROUND DOCUMENTS
PREPARED BY MAINE REVENUE SERVICES
JANUARY 15, 2025

Appendix "A" – Repeal Service Provider Tax; Relocate Selected Provisions
Appendix "B" – "Digital Streaming" – Simplify and Equalize Taxation of Consumer Purchases of Digital Media and Services
Appendix "C" – Broad Durable Medical Equipment Exemption

Appendix "A"
Repeal Service Provider Tax (SPT); Relocate Selected Provisions

The service provider tax, as narrowed in Public Law 2023, chapter 412, Part XXX, is comprised of the following taxable services effective January 1, 2025:

Service Provider Tax:
A. Cable and satellite television or radio services;
B. Fabrication services;
C. Rental of video media and video equipment;
D. Rental of furniture, audio media and audio equipment pursuant to a rental-purchase agreement as defined in Title 9A, section 11-105;
E. Telecommunications services;
F. The installation, maintenance or repair of telecommunications equipment;
G. Ancillary services.

The budget language document simply brings paragraphs A, B, E, F, and G back over to the sales tax wholesale, listing them as taxable services under the sales tax and similarly bringing over the definitions of those terms.

Paragraphs C and D above are dropped as superfluous because of the shift to taxing the lease stream on such rentals, as enacted in Public Law 2023, chapter 643, Part H.

A new taxable service is listed Section G-18 of the bill at paragraph J:

J. Digital audio-visual and digital audio services.

This new section harmonizes the current inequitable mix of taxation of digital goods and services, as more fully explained in Appendix "B."

The SPT, enacted in 2003, was constructed in a manner such that the cost of the tax on medical services paid by private nonmedical institutions (PNMIs) tax would be recognized as a federally reimbursable cost. There were federal statutory and regulatory parameters for a state tax to be recognized as valid for such reimbursement, and the Maine SPT was constructed accordingly, bringing over to the new tax various services that at the time, were taxable under the sales tax. This federal reimbursement reason for the SPT no longer exists as of January 1, 2025, because of the enactment last Session, of Public Law 2023, chapter 412, Part XXX repealing the medical services[1] portion of the SPT. Following January 1, 2025, only the nonmedical services will be subject to the SPT.

Other than ancillary services[2], which is a service that is associated with or incidental to the provision of telecommunications services already taxable under the SPT, no other nonmedical services were added to the SPT since its enactment in 2003.

The language document for the Budget proposes to move these remaining services back to the sales tax effective on January 1, 2026. No operative provisions would remain under the SPT, and hence the language document repeals the SPT effective January 1, 2026.

The repeal of the SPT brings the following additional benefits:

- Lessens reporting burden on taxpayers.
- Lessens taxpayer and customer confusion and inadvertent compliance error.
- Eliminates the administration costs of a separate tax type.
- Mitigates possible ITFA[3] concerns regarding claims of impermissible differential taxation.

The fiscal estimate is approximately -$3.5 million per year when fully phased in.

Appendix "B"

"Digital Streaming" – Simplify and Equalize Taxation of Consumer Purchases of Digital Media and Services

Under current Maine law, sales or service provider tax is imposed on the following:

- Cable or satellite television or radio services (SPT)
- Online sale and rental of music, books, other audio content, but only when digitally downloadable, but not video media (Sales Tax)
- Sale and rental of DVDs and other physical forms of video media (SPT)

Competing delivery platforms delivering the same content – e.g., the same movie, song, game, etc. – by subscription streaming services *may or may not be currently taxable,* depending on the form and downloadability of the content.

The two tables below compare the various ways digital and audio content are consumed and the way they are currently taxed in split fashion in Maine under the sales and service

[1] Private nonmedical institution services; community support services for persons with mental health diagnoses; community support services for persons with intellectual disabilities or autism; home support services; and group residential services for persons with brain injuries.
[2] Enacted by P.L. 2007, c. 627, §69.
[3] ITFA is the acronym for the federal Internet Tax Freedom Act. See 47 U.S.C. §151, note, and Pub. L. 105-277.

provider taxes. Table 1 represents taxability under the sales and service provider tax laws prior to January 1, 2025, the date when taxing the "lease stream" went into effect. Table 2 represents taxability under the sales and service provider tax laws today.

Table 1. Taxability of Video and Audio Content before January 1, 2025

	Sales Tax - § 1811				Service Provider Tax - § 2552				
	Sale of Tangible Personal Property ("TPP") - § 1752(17):				*Sale of SPT Services:*			***Online Digital Streaming:*** *(temporary access, contingent on future payments)*	
	Physical TPP:		***Product transferred electronically:***						
	Purchase	*Lease or rental*	*Purchase (permanent access, not conditional on future payment)*	*Lease or rental (temporary access, contingent on future payment)*	*Cable & Satellite Industries*	*Rental of Video Media*	*Audio Media & Audio Equipment Rent-to-own Purchase Agreement*	*Rental, available once*	*Subscription*
Video Media	**Taxable** (DVDs)	**Not Taxable** (Taxable Under SPT)	**Taxable** (Permanent access to a downloadable movie)	**Not Taxable** (Rental of a product transferred electronically not taxable)	**Taxable** (Cable or satellite TV)	**Taxable** (renting a physical DVD)	**N/A**	**Not Taxable, Sales or SPT**	**Not Taxable, Sales or SPT**
Audio Media	**Taxable** (CD)	**Not Taxable** (Rental of TPP audio taxable service)	**Taxable** (Permanent access to a downloadable song, audiobook)	**Not Taxable** (Rental of a product transferred electronically not taxable)	**Taxable** (Satellite radio)	**N/A**	**Taxable** (Rental-purchase agreement of audio media or audio equipment)	**Not Taxable, Sales or SPT**	**Not Taxable, Sales or SPT**

Under the Sales and Use Tax Law, a "product transferred electronically" means a digital product transferred to the purchaser electronically, the sale of which in nondigital form would be subject to the sales tax as a sale of tangible personal property[4]. The rental of video media and video equipment, and the rental of audio media and audio equipment pursuant to a rental-purchase agreement, were excluded from the definition of "lease or rental" in the shift to "lease stream" taxation, as those rental transactions are subject to the service provider tax[5]. The Service Provider Tax Law does not tax products transferred

[4] 36 M.R.S. § 1752(9-E), P.L. 2013, c. 368, Pt. N.
[5] 36 M.R.S. § 1752(5-D), P.L. 2023, c. 643, Pt. H and P.L. 2023, c. 673.

electronically, and the rental of or temporary access to digital video media remains untaxable because the shift to lease stream did not extend to the service provider tax.

The rental of audio media is only taxable under the service provider tax when rented pursuant to a rental-purchase agreement. The rental or lease of audio media *not* pursuant to a rental-purchase agreement – e.g., a CD or audiobook –is a taxable lease or rental subject to the sales tax. If the audio media is sold, leased or rented in digital form and may be downloaded to the consumer's device, where access to the downloaded media is contingent upon continued or future payments, the sale, lease or rental would be of a "product transferred electronically" and subject to sales tax. A subscription to a digital audio streaming platform that allows temporary downloadability, therefore, is a lease or rental of a product transferred electronically subject to sales tax. Streaming platforms that do not allow downloadability are not subject to sales tax.

Table 2. Taxability of Video and Audio Content on or after January 1, 2025

	Sales Tax - § 1811				Service Provider Tax - § 2552				
	Sale of Tangible Personal Property ("TPP") - § 1752(17):				***Sale of SPT Services:***			***Online Digital Streaming:***	
	Physical TPP:		***Product transferred electronically:***						
	Purchase	*Lease or rental*	*Purchase (permanent access, not contingent on future payment)*	*Lease or rental (temporary access, contingent on future payment)*	*Cable & Satellite Industries*	*Rental of Video Media*	*Audio Media & Audio Equipment Rent-to-own Purchase Agreement*	*Rental, available once*	*Subscription*
Video Media	**Taxable** (DVDs)	**Not Taxable** (Taxable under SPT)	**Taxable** (Permanent access to a downloadable movie)	**Not Taxable** (Rental of a product transferred electronically not taxable)	**Taxable** (Cable or satellite TV)	**Taxable** (renting a physical DVD)	**N/A**	**Not Taxable, Sales or SPT**	**Not Taxable, Sales or SPT**
Audio Media	**Taxable** (CD)	**Taxable** (Rental of an audiobook on CDs)	**Taxable** (Permanent access to a downloadable song, audiobook)	**Taxable** (Rental of a downloadable digital audiobook that is not pursuant to rental-purchase agreement)	**Taxable** (Satellite radio)	**N/A**	**Taxable** (Rental-purchase agreement of audio media or audio equipment)	**Not Taxable, Sales or SPT**	**Not Taxable, Sales or SPT**

As you can see, Maine taxes the purchase and rental of video content in a variety of forms, but still not in its latest iteration – digital streaming. Likewise, Maine taxes the purchase of audio content in a variety of forms (and the rental in certain situations), but not in its latest iteration – digital streaming, unless there is an ability to download content, in which case it would be considered a lease or rental subject to sales tax. In other words, the tax code is treating the new streaming platforms more favorably than similar older distribution models.

Part G of the Budget would align the taxation of these various forms of consumption of essentially the same content by taxing digital audio and video content, regardless of the method in which it is consumed, by applying the sales tax to the sale of digital audio-visual and digital audio services.

The new taxable service is listed in Section G-18 of the bill at paragraph J:

J. Digital audio-visual and digital audio services.

This new section harmonizes the current inequitable mix of taxation of digital goods and services by equalizing the tax treatment across the different forms of audio, video, and digital media consumption, including cable and satellite television and radio, DVD sales and rentals, etc. Further, it addresses sales tax base erosion as technology markets continually change over time. This category of taxable services is used by many other states – using common definitions and sourcing provisions, which is efficient for businesses and tax administration alike. Because there is still some variation from state to state in the specifics of how sales tax is imposed on such transaction, an exact comparison count is not possible. But in broad terms, among states with a sales tax, 26 states apply sales tax (or equivalent) to such digital services and 19 states do not.

This proposal is quite mainstream nationally. It is important to note that the proposal here is not the kind of sales tax digital taxation issues that are in active discussion in some other states – such as sales taxation of digital advertising or software as a service.

Not only is the proposed addition a mainstream sales tax modernization proposal, in terms of tax policy, it is more importantly a more equitable application of sales tax, not favoring particular industry sectors, modes of sale, and served vs. underserved broadband connection areas.

The fiscal estimate is approximately + $13 million per year when fully phased in.

Appendix "C"
Broad Durable Medical Equipment ("DME") Exemption

Part G of the Budget would enact two broad exemptions related to medical equipment:

116. Durable medical equipment. Beginning January 1, 2026, sales of:

A. Durable medical equipment for home use; and

B. Breast pumps for home use.

117. Mobility enhancing equipment. Beginning January 1, 2026, sales of mobility enhancing equipment for home use or use in a motor vehicle.

Definitions for these terms are provided at Section G-3 and Section G-7.

Maine currently has four sales tax exemptions applicable to some categories of medical equipment:

- §1760, sub-§5-A. Prosthetic or orthotic devices
- §1760, sub-§33. Diabetic supplies
- §1760, sub-§94. Positive airway pressure and oxygen delivery equipment and supplies
- §1760, sub-§95. Sales of certain adaptive equipment.

In contrast to these four narrow exemptions for medical equipment, any human medicine sold on a doctor's prescription is exempt from sales tax.[6]

The ongoing work of administration, education, compliance, and legislative revision of the four medical products exemptions has been considerable in terms of cost, confusion, and burden for all parties involved. Taxation Committee public hearing and work sessions on a bill introduced in the 131st Legislature – L.D. 1184, An Act to Exempt Certain Prescribed Home Medical Supplies from Sales Tax – delved into the application of the current medical equipment sales tax exemptions and considerations of broadening the exemptions in various ways: home use, or not; insurance paid, or not; Medicare or Medicaid reimbursed, or not. The Department brought to the Committee's attention the various approaches used in other States of a broad medical equipment exemption.

The Budget proposes to broaden and simplify the current exemptions by enacting a broad exemption for sales and rentals of "durable medical equipment," and to do so in the manner used by many other states – lessening the cost, confusion, and burden for all parties involved. The language for the two exemptions proposed here is not created from scratch, but instead adopts language used by member states of the Streamlined Sales and Use Tax Agreement ("SSUTA"). Of the 23 Full Member SSUTA states, 21 exempt DME sold on a prescription for home use from their sales tax base.

[6] 36 M.R.S. § 1760(5).

Finally, the shift to lease stream taxation enacted during the 131st Legislature (see P.L. 2023, c. 643, Pt. H and P.L. 2023, c. 673) meshes practically with how purchases and rentals are commonly structured in this field.

The fiscal estimate is approximately -$800,000 per year when fully phased in.