

MAINE STATE LEGISLATURE

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*State Of Maine
121st Legislature*

First Regular Session

Bill Summaries

*Joint Standing Committee
on
Taxation*

July 2003

Members:

*Sen. Stephen S. Stanley, Chair
Sen. Ethan Strimling
Sen. Richard A. Nass*

*Rep. David G. Lemoine, Chair
Rep. Joseph C. Perry
Rep. Bernard E. McGowan
Rep. Deborah L. Simpson
Rep. Arthur L. Lerman
Rep. Edward J. Suslovic
Rep. Harold A. Clough
Rep. Jonathan T. E. Courtney
Rep. Earle L. McCormick
Rep. Joshua A. Tardy*

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Maine State Legislature



Office Of Policy And Legal Analysis Office Of Fiscal And Program Review

121st Maine Legislature First Regular Session

Summary Of Legislation Before The Joint Standing Committees

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing and joint select committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills considered by the committees. It is arranged alphabetically by committee name and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

<i>CARRIED OVER PURSUANT TO HP 1212</i>	<i>Bills carried over to the 2nd Regular Session</i>
<i>CON RES XXX</i>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i>	<i>House & Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i>	<i>One body accepts ONTP report; the other indefinitely postpones the bill</i>
<i>DIED ON ADJOURNMENT</i>	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i>	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT/FINAL PASSAGE</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</i>	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i>	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>NOT PROPERLY BEFORE THE BODY</i>	<i>Ruled out of order by the presiding officers; bill died</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed</i>
<i>ONTP</i>	<i>Ought Not To Pass report accepted</i>
<i>OTP-ND</i>	<i>Committee report Ought To Pass In New Draft</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PASSED</i>	<i>Joint Order passed in both bodies</i>
<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i>	<i>Bill held by Governor</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>

Please note that the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is September 13, 2003.

David C. Elliott, Director
Offices located in Room 215 of the Cross Office Building

LD 1523

An Act To Change the Tax Laws as They Apply to Combat Troops

PUBLIC 287

<u>Sponsor(s)</u> DAGGETT COLWELL	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-127
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LD 1523 proposed to provide an income tax return filing extension to military persons, and their spouses, stationed in a combat zone, as declared by the President of the United States. The extension would be for the time the military person was stationed in a combat zone plus an additional 6 months following the departure of the military person from the combat zone. No penalties or interest would accrue during the extension.

This bill would also provide a waiver of income taxes owed by a military person for the tax year in which that person died in a combat zone.

Committee Amendment “A” (S-127) proposed a waiver of income taxes owed by a military person who died in a combat zone or from wounds, disease or other injury received in a combat zone or similar casualty in the same manner as provided pursuant to Section 692 of the Internal Revenue Code.

Enacted law summary:

Public Law 2003, chapter 287 provides a waiver of income taxes owed by a military person who died in a combat zone or from wounds, disease or other injury received in a combat zone or similar casualty in the same manner as provided pursuant to Section 692 of the Internal Revenue Code.

LD 1571

An Act Concerning Technical Changes to the Tax Laws

PUBLIC 390

<u>Sponsor(s)</u> STANLEY LEMOINE	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-175
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LD 1571 proposed to make the following changes to the laws governing taxation.

The bill proposed to establish specific statutory authority and procedures for the State Tax Assessor to accept protective claims for refund.

The bill proposed to clarify that a taxpayer who fails to file a timely request for administrative review of a denial of a tax refund claim forfeits the right to seek review of the denial in Superior Court and that the taxpayer could not submit reiterative claims for the same refund.

The bill proposed to amend the law governing confidentiality of tax information to allow disclosure to the Department of Human Services and the Department of Behavioral and Developmental Services of information relating to the administration and collection of the hospital tax. This provision was inadvertently omitted from the supplemental appropriations bill enacted in November 2002, which imposed the new tax.

The bill proposed to allow the Department of Administrative and Financial Services, Bureau of Revenue Services to provide taxpayer information to the Department of Human Services, Office of Head Start and Child Care for purposes of certifying investments eligible for the quality child care investment credit.

The bill proposed to allow employees of the Bureau of Revenue Services to disclose certain information to the Finance Authority of Maine necessary to ensure that individual recipients are eligible to receive certain benefits under the Maine College Savings Program.

The bill proposed to delete a redundant definition of the term "person" from the Sales and Use Tax Law. The same term is defined for all taxes in the general provisions of the tax laws.

The bill proposed to amend the definition of "retail sale" to clarify that sales of all kinds of video media for rental were not taxable, consistent with other statutory changes enacted in 2002.

The bill proposed to correct outdated cross-references to sections 187 and 1951, which have been repealed, and proposed to make various grammatical corrections.

The bill proposed to correct a conflict between the Maine Revised Statutes, Title 36, sections 1861-A and 1951-A regarding an individual's use tax responsibility to the State. Title 36, section 1861-A added a reporting mechanism for an individual to report and pay use tax on small purchases made outside of the State, such as through mail order or shopping trips to places outside the State. This change to Title 36, section 1861-A would allow the use tax line on the individual income tax return to be used only for reporting use tax on items with a purchase price of \$1,000 or less. Use tax on items with a purchase price of more than \$1,000 would be due and payable by the 15th of the month following the date of purchase.

The bill proposed to delete a redundant provision for abatement of sales and use taxes. The circumstances under which all taxes may be abated are set forth more fully in the general provisions of the tax laws. The bill also proposed to correct references to taxable services to reflect current law, correct a grammatical error and change gender-specific language.

The bill proposed to delete a redundant definition of the term "person" from the Gasoline Tax Act. The same term is defined for all taxes in the general provisions of the tax laws.

The bill proposed to replace outdated references to state and federal statutes governing highway common carriers. The Public Utilities Commission no longer regulates highway common carriers and the federal excise tax no longer applies to highway transportation. The bill proposed to substitute a cross-reference to the statute that imposes the current operating authority license requirement and incorporates the relevant language of the repealed federal law into Maine law. The bill also proposed to clarify the formula for computing the amount of the refunds authorized by the statute, eliminate redundant verbiage and gender-specific language.

The bill proposed to correct inappropriate references to "distributor" in the motor fuel tax laws. "Distributor" is not defined in the Maine Revised Statutes, Title 36, chapter 459 and is defined elsewhere in Title 36 to mean a different category of persons from what is intended here.

The bill proposed to correct inappropriate references to "internal combustion engine fuel" in the motor fuel tax laws. "Internal combustion engine fuel" is not defined in Title 36, chapter 459 and is defined elsewhere in Title 36 to mean a different type of fuel from what is intended here. The bill also proposed to remove superfluous verbiage and correct grammatical errors.

The bill proposed to eliminate an obsolete reference to the gasoline road tax law, which has been repealed.

The bill proposed to establish an automatic extension to file an estate tax return equivalent to the federal extension and limit the filing extension to 8 months in all other cases. These changes provide a statutory basis for policies that have been implemented administratively.

The bill proposed to standardize a reference to the federal credit for state death taxes in the estate tax law for consistency with other statutory revisions made in 2002.

The bill proposed to clarify the administrative requirements pertaining to the sale of a controlling interest in real property in the real estate transfer tax law, consistent with statutory changes enacted in 2002.

The bill proposed to simplify the recycling assistance fee law by deleting references to categories of property that are no longer subject to the fee.

The bill proposed to repeal a provision that required rulemaking by the State Tax Assessor to clarify the impact of portions of the recycling assistance fee law. Simplification of the law has obviated the need for rulemaking.

The bill proposed to clarify that the taxable income described in Title 36, section 5121 is the "Maine taxable income" referred to in section 5111.

The bill proposed to clarify that only interest from bonds of another state's government excluded from federal adjusted gross income must be added back in computing Maine adjusted gross income for a resident individual.

The bill proposed to clarify that all deductions claimed for federal income tax purposes by both individuals and corporations must be added back to Maine adjusted gross income if they were included in the taxpayer's investment credit base for the high-technology investment tax credit.

The bill proposed to clarify that only exempt government bond interest included in federal adjusted gross income could be subtracted in computing Maine adjusted gross income.

The bill proposed to delete an obsolete reference to the federal new jobs credit, which has been repealed.

The bill proposed to conform the language that permits subtraction of Maine College Savings Program distributions to that of Title 20-A, section 11479.

The bill proposed to define "primary recipient" for purposes of the pension income deduction. This definition is the one currently applied administratively by the Department of Administrative and Financial Services, Bureau of Revenue Services.

The bill proposed to clarify the language of Title 36, section 5124-A.

The bill proposed to clarify references to federal adjusted gross income and federal taxable income for purposes of computing itemized deductions and to add a provision specifically requiring add-back of the deduction for contributions to family development account reserve funds that is disallowed by the last sentence of Title 36, section 5216-C, subsection 1.

The bill proposed to clarify that the adjusted gross income described in Title 36, section 5142 is the Maine adjusted gross income defined in section 5102, subsection 1-C, paragraph B and taxed by section 5111, subsection 4 and that the Maine adjusted gross income of a nonresident individual includes the individual's share of income, deductions and modifications attributable to Maine-source income of a partnership or limited liability company, estate, trust or S corporation. These changes would conform to current agency practice.

The bill proposed to clarify that the taxable income of estates and trusts on which the income tax is imposed is the Maine taxable income described in Title 36, sections 5163 and 5175 and that the applicable tax rates are those provided for single individuals.

The bill proposed to clarify that the taxable income of resident estates and trusts described in Title 36, section 5163 is the Maine taxable income taxed by section 5160 and delete superfluous verbiage.

The bill proposed to clarify that bond interest from another state's government bonds excluded from federal taxable income must be added back in computing Maine taxable income of a corporation.

The bill proposed to clarify that exempt income included in federal taxable income could be subtracted in computing Maine taxable income.

The bill proposed to clarify that constitutionally exempt income included in federal taxable income could be subtracted in computing Maine taxable income.

The bill proposed to clarify that the credit for income tax paid to another taxing jurisdiction is limited to tax paid with respect to income that Maine recognizes as being derived from sources in the other taxing jurisdiction. The changes conform to current agency practice.

The bill proposed to clarify the calculation of the credit for child care expenses by part-year residents. The changes conform to current agency practice. The bill also proposed to delete superfluous verbiage.

The bill proposed to clarify the calculation of the retirement and disability credit by part-year residents. The changes conform to current agency practice.

The bill proposed to make it clear that the \$2,000 income limit for the low-income credit applies to an individual's entire taxable income as determined for resident individuals regardless of whether the taxpayer was a Maine resident for the entire year.

The bill proposed to clarify the circumstances under which a taxpayer may be granted an extension of time to file an individual or fiduciary income tax return.

The bill proposed to establish an automatic extension of time to file an individual or fiduciary income tax return equivalent to the federal extension. These changes provide a statutory basis for policies that have been implemented administratively.

The bill proposed to repeal a redundant provision relating to the collection of income tax debts owed by nonresidents. The powers granted to the State Tax Assessor by this provision are included in the general provisions of the tax laws.

The bill proposed to amend the business equipment tax reimbursement statutes to provide that business equipment tax reimbursement is available, and limited to, a successor in interest that owns eligible business property on August 1st of the year in which a claim may be made.

The bill also proposed to repeal a law that requires adoption of a rule for the elderly low-cost drug program to allow consideration of an applicant's change in income from the prior year. As of January 1, 2003, the elderly low-cost drug program is being administered by the Department of Human Services under the laws that govern the Healthy Maine Prescription Program, which determines eligibility based on the current income of the applicant. Repealing this law would allow the Bureau of Revenue Services to repeal the rule that is no longer applicable.

Committee Amendment “A” (S-175) proposed to make the following changes:

This amendment proposes to make the following changes to the bill.

1. Remove the provision that established specific statutory authority and procedures for the State Tax Assessor to accept protective claims for refund.
2. Remove the provision that clarified that a taxpayer who fails to file a timely request for administrative review of a denial of a tax refund claim forfeits the right to seek review of the denial in Superior Court and that the taxpayer can not submit reiterative claims for the same refund.
3. Provide confidentiality protection to information provided to the State Tax Assessor and used for preparing legislation or legislative analysis.
4. Clarify that the sales tax exemption for motor vehicles leased to nonresidents does not apply to short-term rentals of automobiles to nonresidents. This change corrects an apparent oversight in the drafting of statutory changes enacted in 2002.
5. Remove a provision designed to correct a conflict between the Maine Revised Statutes, Title 36, sections 1861-A and 1951-A regarding an individual's use tax responsibility to the State because the correction is being made in LD 1470.
6. Remove a provision regarding administrative requirements pertaining to the sale of a controlling interest in real property in the real estate transfer tax law because that change is being made in LD 1470.
7. Limit the requirement to add back net operating losses that have been carried back to previous years for federal income tax purposes to tax years beginning before January 1, 2002, consistent with other recent changes in Maine's treatment of federal net operating loss deductions.
8. Eliminate the provision allowing a negative modification amount attributable to subtraction of a state income tax refund to be carried back to prior years. The negative modification will still be available in carry-forward years. This change is consistent with statutory changes made in 2002 disallowing the use of federal net operating loss carry-backs.
9. Remove a definition of "primary recipient" for purposes of the pension income deduction because the change is being made in LD 1470.
10. Remove provisions designed to clarify the language of Title 36, section 5124-A because they are no longer needed.
11. Remove a provision designed to clarify that the credit for income tax paid to another taxing jurisdiction is limited to tax paid with respect to income that Maine recognizes as being derived from sources in the other taxing jurisdiction because the change is being made in LD 1470.
12. Remove a provision designed to clarify the calculation of the credit for child care expenses by part-year residents because the change is being made in LD 1470.

13. Remove a provision that amends the business equipment tax reimbursement statutes to provide that business equipment tax reimbursement is available, and limited to, a successor in interest that owns eligible business property on August 1st of the year in which a claim may be made because the change is being made in LD 1470.

Enacted Law Summary:

Public Law 2003, chapter 390 makes technical changes to the tax laws. Some provisions of the original bill were moved to LD 1470, the “minor substantive changes bill.”

1. It permits the disclosure of certain tax-related information to the Finance Authority of Maine, in the administration of the Maine College Savings Program, and to the Office of Head Start and Child Care, in the administration of the tax credits for investments in quality child care.
2. It provides confidentiality protection to information provided to the State Tax Assessor and used for preparing legislation or legislative analysis.
3. It deletes a redundant definition of the term "person" from the Sales and Use Tax Law. The same term is defined for all taxes in the general provisions of the tax laws.
4. It clarifies the definition of "retail sale" to clarify that sales of all kinds of video media for rental were not taxable, consistent with other statutory changes enacted in 2002.
5. It clarifies that the sales tax exemption for motor vehicles leased to nonresidents does not apply to short-term rentals of automobiles to nonresidents. This change corrects an apparent oversight in the drafting of statutory changes enacted in 2002.
6. It deletes a redundant definition of the term "person" from the Gasoline Tax Act. The same term is defined for all taxes in the general provisions of the tax laws.
7. It replaces outdated references to state and federal statutes governing highway common carriers. The Public Utilities Commission no longer regulates highway common carriers and the federal excise tax no longer applies to highway transportation. This chapter substitutes a cross-reference to the statute that imposes the current operating authority license requirement and incorporates the relevant language of the repealed federal law into Maine law. This chapter also clarifies the formula for computing the amount of the refunds authorized by the statute and eliminates redundant verbiage and gender-specific language.
8. It corrects inappropriate references to "distributor" in the motor fuel tax laws. "Distributor" is not defined in the Maine Revised Statutes, Title 36, chapter 459 and is defined elsewhere in Title 36 to mean a different category of persons from what is intended here.
9. It corrects inappropriate references to "internal combustion engine fuel" in the motor fuel tax laws. "Internal combustion engine fuel" is not defined in Title 36, chapter 459 and is defined elsewhere in Title 36 to mean a different type of fuel from what is intended here. This chapter also removes superfluous verbiage and correct grammatical errors.
10. It standardizes a reference to the federal credit for state death taxes in the estate tax law for consistency with other statutory revisions made in 2002.

11. It updates the recycling assistance fee law by deleting references to categories of property that are no longer subject to the fee.
12. It clarifies that the taxable income described in Title 36, section 5121 is the "Maine taxable income" referred to in section 5111.
13. It clarifies that only interest from bonds of another state's government excluded from federal adjusted gross income must be added back in computing Maine adjusted gross income for a resident individual.
14. It clarifies that all deductions claimed for federal income tax purposes must be added back to Maine adjusted gross income if they were included in the taxpayer's investment credit base for the high-technology investment tax credit.
15. It clarifies that only exempt government bond interest included in federal adjusted gross income could be subtracted in computing Maine adjusted gross income.
16. It deletes an obsolete reference to the federal new jobs credit, which has been repealed.
17. It limits the requirement to add back net operating losses that have been carried back to previous years for federal income tax purposes to tax years beginning before January 1, 2002, consistent with other recent changes in Maine's treatment of federal net operating loss deductions.
18. It conforms the language that permits subtraction from income of Maine College Savings Program distributions to that of Title 20-A, section 11479.
19. It clarifies references to federal adjusted gross income and federal taxable income for purposes of computing itemized deductions and to add a provision specifically requiring add-back of the deduction for contributions to family development account reserve funds that is disallowed by the last sentence of Title 36, section 5216-C, subsection 1.
20. It clarifies that the taxable income of estates and trusts on which the tax is imposed is the Maine taxable income described in Title 36, sections 5163 and 5175 and that the applicable tax rates are those provided for single individuals.
21. It clarifies that the taxable income of resident estates and trusts described in Title 36, section 5163 is the Maine taxable income taxed by section 5160 and delete superfluous verbiage.
22. It clarifies that the taxable income of nonresident estates and trusts described in Title 36, section 5175 is the Maine taxable income taxed by section 5160 and to correct grammatical errors.
23. It clarifies that bond interest from another state's government bonds excluded from federal taxable income must be added back in computing Maine taxable income of a corporation.
24. It clarifies that all deductions claimed for federal income tax purposes must be added back to the extent they are included in the taxpayer's investment credit base for the high-technology investment tax credit.
25. It clarifies the calculation of the retirement and disability credit by part-year residents. The changes conform to current agency practice.

26. It clarifies that the \$2,000 income limit for the low-income credit applies to an individual's entire taxable income as determined for resident individuals regardless of whether the taxpayer was a Maine resident for the entire year.
27. It clarifies the circumstances under which a taxpayer may be granted an extension of time to file an individual or fiduciary income tax return.
28. It establishes an automatic extension of time to file an individual or fiduciary income tax return equivalent to the federal extension. These changes provide a statutory basis for policies that have been implemented administratively.
29. It repeals a redundant provision relating to the collection of income tax debts owed by nonresidents. The powers granted to the State Tax Assessor by this provision are included in the general provisions of the tax laws.
30. It repeals a law that requires adoption of a rule for the elderly low-cost drug program to allow consideration of an applicant's change in income from the prior year. As of January 1, 2003, the elderly low-cost drug program is being administered by the Department of Human Services under the laws that govern the Healthy Maine Prescription Program, which determines eligibility based on the current income of the applicant. Repealing this law allows the Bureau of Revenue Services to repeal the rule that is no longer applicable.

LD 1575

An Act To Assist Brascan, the Successor to Great Northern Paper, in Paying the Property Taxes Due to the Towns of Millinocket and East Millinocket

**P&S 8
EMERGENCY**

Sponsor(s)
STANLEY
LEMOINE

Committee Report
OTP-AM

Amendments Adopted
S-44

LD 1575 proposed to provide for a loan from the Finance Authority of Maine to Brascan Corporation to enable the corporation to pay Millinocket and East Millinocket property taxes incurred when the property was owned by Great Northern Paper, Inc., with repayment of the loan from BETR payments, and to ensure that Brascan receives the BETR payments with respect to property taxes it will pay. Great Northern Paper, Inc., which was in bankruptcy, had not paid property taxes in the amount of \$4.4 million to Millinocket and \$3.4 million to East Millinocket for the 2002-03 property tax year. The assets in the Great Northern bankruptcy estate would not have been sufficient to cover those taxes. Brascan Corporation, which agreed to purchase the Millinocket and East Millinocket mills, agreed to pay the unpaid property taxes, in part through application of business equipment tax reimbursement, or "BETR," program reimbursements and tax increment financing payments. Under current law, the BETR payments would not be received until at least August 2004, which would delay payment of taxes until then.

Committee Amendment "A" (S-44) proposed to move funds appropriated for the Business Equipment Tax Reimbursement program from fiscal year 2004-05 to fiscal year 2003-04 to provide the funds necessary to make the reimbursement required by the bill in fiscal year 2003-04.