

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
128<sup>TH</sup> LEGISLATURE  
FIRST SPECIAL, SECOND REGULAR AND SECOND SPECIAL SESSIONS



Summaries of bills, adopted amendments and laws enacted or finally passed

**JOINT STANDING COMMITTEE ON TAXATION**

October 2018

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# STATE OF MAINE

128<sup>TH</sup> LEGISLATURE

FIRST SPECIAL, SECOND REGULAR AND SECOND SPECIAL SESSIONS



## LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contain summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Special, Second Regular and Second Special Sessions of the 128<sup>th</sup> Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. An appendix provides a summary of relevant session statistics.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

*CARRIED OVER*..... carried over to a subsequent session of the Legislature  
*CON RES XXX*..... chapter # of constitutional resolution passed by both houses  
*CONF CMTE UNABLE TO AGREE*..... Committee of Conference unable to agree; legislation died  
*DIED BETWEEN HOUSES*..... House & Senate disagreed; legislation died  
*DIED IN CONCURRENCE*..... defeated in each house, but on different motions; legislation died  
*DIED ON ADJOURNMENT*..... action incomplete when session ended; legislation died  
*EMERGENCY*..... enacted law takes effect sooner than 90 days after session adjournment  
*FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE*..... emergency failed to receive required 2/3 vote  
*FAILED, ENACTMENT or FINAL PASSAGE*..... failed to receive final majority vote  
*FAILED, MANDATE ENACTMENT*..... legislation proposing local mandate failed required 2/3 vote  
*HELD BY GOVERNOR*..... Governor has not signed; final disposition to be determined at subsequent session  
*LEAVE TO WITHDRAW*..... sponsor's request to withdraw legislation granted  
*NOT PROPERLY BEFORE THE BODY*..... ruled out of order by the presiding officer; legislation died  
*INDEF PP*..... indefinitely postponed; legislation died  
*ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X*... ought-not-to-pass report accepted; legislation died  
*P&S XXX*..... chapter # of enacted private & special law  
*PUBLIC XXX*..... chapter # of enacted public law  
*RESOLVE XXX*..... chapter # of finally passed resolve  
*VETO SUSTAINED*..... Legislature failed to override Governor's veto

The effective dates for non-emergency legislation enacted in the First Special, Second Regular or Second Special Sessions of the 128<sup>th</sup> Legislature are: Monday, February 5, 2018; Wednesday, August 1, 2018; and Thursday, December 13, 2018, respectively. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

**Joint Standing Committee on Taxation**

**LD 1796 An Act To Improve the Effectiveness of the New Markets Capital Investment Credit**

**PUBLIC 339**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP	

This bill was reported by the committee pursuant to the Maine Revised Statutes, Title 3, section 999, subsection 4. It implements the recommendations of the tax expenditure report of the committee and the evaluation report of the Office of Program Evaluation and Government Accountability with regard to the new markets capital investment credit by excluding from the definition of "qualified low-income community investment" a capital or equity investment if more than 5% of the investment is used to refinance costs, expenses or investments incurred or paid by the qualified active low-income community business or a party related to the qualified active low-income community business prior to the date of the qualified low-income community investment; make equity distributions from the qualified active low-income community business to its owners; acquire an existing business or enterprise in the State; or pay transaction fees. This bill excludes from the tax credit investments that are used to cover payments referred to as "same-day loans."

**Enacted Law Summary**

Public Law 2017, chapter 339 implements the recommendations of the tax expenditure report of the committee and the evaluation report of the Office of Program Evaluation and Government Accountability with regard to the new markets capital investment credit by excluding from the definition of "qualified low-income community investment" a capital or equity investment if more than 5% of the investment is used to refinance costs, expenses or investments incurred or paid by the qualified active low-income community business or a party related to the qualified active low-income community business prior to the date of the qualified low-income community investment; make equity distributions from the qualified active low-income community business to its owners; acquire an existing business or enterprise in the State; or pay transaction fees. This bill excludes from the tax credit investments that are used to cover payments referred to as "same-day loans."

**LD 1805 An Act To Amend the Maine Tax Laws**

**PUBLIC 375**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DOW D	OTP-AM OTP-AM	S-439

This bill, submitted by the Department of Administrative and Financial Services, does the following:

Part A expands the provision for sellers required to register to collect and report sales taxes to include online real property rental platforms and those engaged in the facilitation of the rental of living quarters and adds and expands definitions to facilitate administration. It restructures and reorganizes the section of law specifying the rate of sales tax;

Part B makes the following changes to the insurance premiums tax. It:

1. Limits insurance premiums tax refunds to the amount of tax paid within the three-year period immediately preceding the filing of a refund claim or audit. The provision is similar to that provided with respect to income tax refund claims; and
2. Prohibits the payment of interest on an overpayment of insurance premiums tax if the overpayment is refunded

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by the State Tax Assessor within 60 days of the taxpayer's filing of the claim with Maine Revenue Services. The provision is similar to that provided with respect to income tax refund claims;

Part C makes the following income tax changes. It:

1. Allows an income tax subtraction modification for pick-up contributions distributed to the taxpayer by the Maine Public Employees Retirement System in the form of a rollover from taxable income within three years beginning with the year of the rollover; and
2. Makes the income tax credit for homestead modifications available in the tax year during which the certification of eligibility is made. Current law ties the credit to the year during which the qualified expenditures are paid, but the credit may be claimed only once the Maine State Housing Authority certifies to the State Tax Assessor that the expenditures incurred qualify for the credit;

Part D makes the following changes to the income tax credit for major business headquarters expansions. See also LD 1903, summarized below. It:

1. Clarifies that the information regarding revenue loss attributable to the tax credit reported by the State Tax Assessor to the joint standing committee of the Legislature having jurisdiction over taxation matters is not confidential taxpayer information. It also corrects a numbering conflict created when two public laws enacted the Maine Revised Statutes, Title 36, section 191, subsection 2, paragraph DDD;
2. Clarifies that a revocation of a certificate of approval or a certificate of completion due to ceasing operations of the headquarters also applies to a certificate held by a transferee;
3. Clarifies that the credit is available only to a certified applicant who has received a certificate of completion;
4. Clarifies that the required job threshold calculation includes the tax year for which the credit is currently being claimed, in addition to the tax years for which the credit has been claimed;
5. Clarifies that the amount recovered by the State when a certificate is revoked is a tax due in the taxable year during which the certificate is revoked and is subject to the collection and enforcement provisions contained in Title 36, Part 1, including the application of applicable interest and penalties;
6. Provides that, when determining the number of employees for eligibility for the credit, employees who are shifted to a qualified applicant's headquarters from an affiliated business in the State are not counted;
7. Removes the requirement that the Commissioner of Economic and Community Development report to the joint standing committee of the Legislature having jurisdiction over taxation matters aggregate data on employment levels and qualified investment amounts of certified applicants for each year;
8. Delays the State Tax Assessor's yearly reporting requirement until December 31st and clarifies that the report is for the tax year ending during the immediately preceding calendar year;
9. Defines the term "revenue loss" for the purposes of the State Tax Assessor's yearly reporting requirement and the confidentiality exception applying to the report; and
10. Adds rule-making authority for the commissioner and the State Tax Assessor;

Part E clarifies that the amount of sales tax revenue transferred to the Multimodal Transportation Fund is calculated after a reduction for the amount transferred to the Local Government Fund is made;

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Part F aligns certain parts of the Unorganized Territory Educational and Services Tax lien foreclosure process with the municipal tax lien foreclosure process retroactively to October 1, 1935. It:

1. Authorizes the State Tax Assessor to issue a discharge of a tax lien mortgage on real estate after the prior owner's right of redemption has expired, unless the State has conveyed any interest based upon the title acquired from the affected lien;
2. Allows the State Tax Assessor to not perform certain inventory and reporting procedures with respect to real estate that is a permanent residence that has been acquired by the State through the tax lien foreclosure process; and
3. Authorizes the State Tax Assessor to convey real estate acquired by the State through the tax lien foreclosure process to the prior owner without further legislative authorization if the tax due on the real estate has been satisfied; and

Part G makes a technical clarification by repealing the provision regarding the new markets capital investment credit requiring the Commissioner of Administrative and Financial Services to enter into a memorandum of agreement. The memorandum is a nonbinding document with no substantive legal effect. See also LD 1796, summarized above.

### **Committee Amendment "B" (S-440)**

This amendment is the minority report of the committee. It removes Part A of the bill because its provisions are addressed in separate legislation (See LD 1721 summarized above). It substitutes a separate provision clarifying that the State Tax Assessor may require a bond from a taxpayer as a condition of sales tax registration whether the registration is made under the Maine Revised Statutes, Title 36, section 1754-B or 1756 or under section 1951-B, which was enacted during the First Regular Session of the 128th Legislature. The amendment also provides that a report from the State Tax Assessor to the joint standing committee of the Legislature having jurisdiction over taxation matters regarding the new major business headquarters expansion credit must separately state the amount of lost revenue attributable to credits used to reduce tax liability and the amount attributable to refundable credits. Finally, the amendment makes a technical correction to the bill preserving a necessary statutory cross-reference.

### **Committee Amendment "A" (S-439)**

This amendment is the majority report of the committee and makes the following changes to the bill.

1. It removes provisions relating to the application of the sales tax to the facilitation if the rental of living quarters.
2. It provides that a report from the State Tax Assessor to the joint standing committee of the Legislature having jurisdiction over taxation matters regarding the major business headquarters expansion credit must separately state the amount of lost revenue attributable to credits used to reduce tax liability and the amount attributable to refundable credits.
3. It adds a provision clarifying that the State Tax Assessor may require a bond from a taxpayer as a condition of sales tax registration whether the registration is made under the Maine Revised Statutes, Title 36, section 1754-B or 1756 or under section Title 36, 1951-B, which was enacted during the First Regular Session of the 128th Legislature.
4. It amends provisions of the sales tax exemption for certain instrumentalities of interstate or foreign commerce to clarify the calculation of the period during which eligible property is placed in interstate or foreign commerce or intrastate commerce and other conditions of eligibility. This provision is retroactive to purchases made on or after January 1, 2012. See also LD 1734.
5. It makes a technical correction to the bill, preserving a necessary statutory cross-reference.

## *Joint Standing Committee on Taxation*

### **Enacted Law Summary**

Public Law 2017, chapter 375 was submitted by the Department of Administrative and Financial Services and makes the following changes to the tax laws.

Part A expands the provision for sellers required to register to collect and report sales taxes to include online real property rental platforms and adds and expands definitions to facilitate administration. It restructures and reorganizes the section of law specifying the rate of sales tax. The language of Part A is identical to LD 1721, which was indefinitely postponed.

Part B makes the following changes to the insurance premiums tax. It:

1. Limits insurance premiums tax refunds to the amount of tax paid within the three-year period immediately preceding the filing of a refund claim or audit. The provision is similar to that provided with respect to income tax refund claims; and
2. Prohibits the payment of interest on an overpayment of insurance premiums tax if the overpayment is refunded by the State Tax Assessor within 60 days of the taxpayer's filing of the claim with Maine Revenue Services. The provision is similar to that provided with respect to income tax refund claims.

Part C makes the following income tax changes. It:

1. Allows an income tax subtraction modification for pick-up contributions distributed to the taxpayer by the Maine Public Employees Retirement System in the form of a rollover from taxable income within three years beginning with the year of the rollover; and
2. Makes the income tax credit for homestead modifications available in the tax year during which the certification of eligibility is made. Current law ties the credit to the year during which the qualified expenditures are paid, but the credit may be claimed only once the Maine State Housing Authority certifies to the State Tax Assessor that the expenditures incurred qualify for the credit.

Part D makes the following changes to the income tax credit for major business headquarters expansions. Additional changes to this tax credit were made by LD 1903, which was enacted as Public Law 2017, chapter 405. Part D:

1. Clarifies that the information regarding revenue loss attributable to the tax credit reported by the State Tax Assessor to the joint standing committee of the Legislature having jurisdiction over taxation matters is not confidential taxpayer information. It also corrects a numbering conflict created when two public laws enacted the Maine Revised Statutes, Title 36, section 191, subsection 2, paragraph DDD;
2. Clarifies that a revocation of a certificate of approval or a certificate of completion due to ceasing operations of the headquarters also applies to a certificate held by a transferee;
3. Clarifies that the credit is available only to a certified applicant who has received a certificate of completion;
4. Clarifies that the required job threshold calculation includes the tax year for which the credit is currently being claimed, in addition to the tax years for which the credit has been claimed;
5. Clarifies that the amount recovered by the State when a certificate is revoked is a tax due in the taxable year

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during which the certificate is revoked and is subject to the collection and enforcement provisions contained in Title 36, Part 1, including the application of applicable interest and penalties;

6. Provides that, when determining the number of employees for eligibility for the credit, employees who are shifted to a qualified applicant's headquarters from an affiliated business in the State are not counted;

7. Removes the requirement that the Commissioner of Economic and Community Development report to the joint standing committee of the Legislature having jurisdiction over taxation matters aggregate data on employment levels and qualified investment amounts of certified applicants for each year;

8. Delays the State Tax Assessor's yearly reporting requirement until December 31st and clarifies that the report is for the tax year ending during the immediately preceding calendar year;

9. Defines the term "revenue loss" for the purposes of the State Tax Assessor's yearly reporting requirement and the confidentiality exception applying to the report and requires reports of revenue loss due to a reduction of tax liability and due to the amount of credit refunded be stated separately; and

10. Adds rule-making authority for the commissioner and the State Tax Assessor.

Part E clarifies that the amount of sales tax revenue transferred to the Multimodal Transportation Fund is calculated after a reduction for the amount transferred to the Local Government Fund is made.

Part F aligns certain parts of the Unorganized Territory Educational and Services Tax lien foreclosure process with the municipal tax lien foreclosure process retroactively to October 1, 1935. It:

1. Authorizes the State Tax Assessor to issue a discharge of a tax lien mortgage on real estate after the prior owner's right of redemption has expired, unless the State has conveyed any interest based upon the title acquired from the affected lien;

2. Allows the State Tax Assessor to not perform certain inventory and reporting procedures with respect to real estate that is a permanent residence that has been acquired by the State through the tax lien foreclosure process; and

3. Authorizes the State Tax Assessor to convey real estate acquired by the State through the tax lien foreclosure process to the prior owner without further legislative authorization if the tax due on the real estate has been satisfied.

Part G makes a technical clarification by repealing the provision regarding the new markets capital investment credit requiring the Commissioner of Administrative and Financial Services to enter into a memorandum of agreement. The memorandum is a nonbinding document with no substantive legal effect. Additional changes to the new market capital investment credit were made by LD 1796, which was enacted as Public Law 2017, chapter 339.

Part H adds a provision clarifying that the State Tax Assessor may require a bond from a taxpayer as a condition of sales tax registration whether the registration is made under the Maine Revised Statutes, Title 36, section 1754-B or 1756 or under section Title 36, 1951-B, which was enacted during the First Regular Session of the 128th Legislature.

Part I amends provisions of the sales tax exemption for certain instrumentalities of interstate or foreign commerce to clarify the calculation of the period during which eligible property is placed in interstate or



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foreign commerce or intrastate commerce and other conditions of eligibility. This provision is retroactive to purchases made on or after January 1, 2012. The language of Part I is similar to the committee amendment to LD 1734, which was indefinitely postponed.

**LD 1862     An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2018-19**

**PUBLIC 424  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM OTP-AM	H-712 S-504    JACKSON T

This bill was reported out of committee in the Second Regular Session of the 128th Legislature and then carried over to the next special session by joint order S.P. 748.

This bill, which was submitted by the administrator of the unorganized territory pursuant to the Maine Revised Statutes, Title 36, Section 1604, establishes municipal cost components for state and county services provided to the unorganized territory that would normally be paid for by a municipality. The municipal cost components form the basis for the property tax for the unorganized territory.

**Committee Amendment "A" (H-712)**

This amendment, which is the majority report, removes the cost of funding a proposed new half-time deputy sheriff position in Aroostook County and the cost of funding the proposed construction of a bridge on a private road in Oxford County.

**Committee Amendment "B" (H-713)**

This amendment, which is the minority report, removes the cost of funding the proposed construction of a bridge on a private road in Oxford County.

**Senate Amendment "B" To Committee Amendment "A" (S-504)**

This amendment strikes from Committee Amendment "A" language that reduces by \$80,000 the municipal cost component submitted by Aroostook County to remove funding for a half-time deputy sheriff position and a vehicle; instead, this amendment reduces that municipal cost component by \$45,000 to remove only the funding for the vehicle.

This amendment also requires the administrator of Aroostook County to reimburse the fiscal administrator of the unorganized territory for the time that the half-time deputy sheriff position provides services directly to the organized municipalities in Aroostook County, as determined by the Aroostook County administrator.

**Enacted Law Summary**

Public Law 2017, chapter 424 establishes municipal cost components for state and county services provided to the unorganized territory that would normally be paid for by a municipality. The municipal cost components form the basis for the property tax for the unorganized territory. This law requires the administrator of Aroostook County to reimburse the fiscal administrator of the unorganized territory for the time that a half-time deputy sheriff position provides services directly to the organized municipalities in Aroostook County, as determined by the Aroostook County administrator.

Public Law 2017, chapter 424 was enacted as an emergency measure effective June 27, 2018.