

MAINE STATE LEGISLATURE

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*State Of Maine
122nd Legislature*

*First Regular Session and
First Special Session*

Bill Summaries

*Joint Standing Committee
on
Taxation*

August 2005

Members:

*Sen. Joseph C. Perry, Chair
Sen. Ethan Strimling
Sen. Jonathan T. E. Courtney*

*Rep. Richard G. Woodbury
Rep. Herbert E. Clark
Rep. Deborah J. Hutton
Rep. Raymond G. Pineau
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Rep. Harold A. Clough
Rep. H. Stedman Seavey, Jr.
Rep. Earle L. McCormick
Rep. Leonard Earl Bierman
Rep. Bruce Q. Hanley*

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Maine State Legislature

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122nd Legislature
First Regular Session and First Special Session

Summary of Legislation Considered by the Joint Standing Committees
August 2005

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing 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 organized by committees 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. A subject index for each committee is included immediately before the bill summaries for that committee, and a numerical index by LD number is included 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:

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

Please note the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is June 29, 2005; and for non-emergency legislation enacted in the First Special Session is September 17, 2005.

Joint Standing Committee on Taxation

This bill was referred jointly to the Joint Standing Committee on Health and Human Services and the Joint Standing Committee on Taxation. The committees did not vote on this bill.

See also LD 1314 and LD 1617. A \$1.00 cigarette tax increase was enacted in Part AA of Public Law 2005, chapter 457. The MaineCare Stabilization Fund was enacted in Part JJJ of Public Law 2005, chapter 457.

LD 1462

An Act To Make Minor Substantive Changes to the Tax Laws

PUBLIC 332

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WOODBURY PERRY J	OTP-AM	H-392 S-232 PERRY J

LD 1462 was submitted by the Department of Administrative and Financial Services and proposed to make the following minor substantive changes to the laws governing taxation.

1. Authorize employees of the Department of Administrative and Financial Services, Bureau of Revenue Services to represent the bureau in District Court at arraignments for violation of any criminal provision of the Maine Revised Statutes, Title 36.
2. Amend the definition of "tax" to include any amount assessed by the State Tax Assessor under Title 36.
3. Establish a civil penalty for persons who are required to file returns electronically and who fail to do so.
4. Permit disclosure of confidential tax information to the Department of Health and Human Services for purposes related to the administration and collection of the hospital tax and the service provider tax.
5. Correct the name of the state agency to which information pertaining to the quality child care investment credit may lawfully be disclosed.
6. Authorize the Bureau of Revenue Services to provide copies of pass-through entity tax returns to members, officers and certain other related parties of the entity.
7. Permit the Bureau of Revenue Services to disclose whether a person has been issued a resale certificate under the sales and use tax law.
8. Authorize the Bureau of Revenue Services to disclose to the Department of the Secretary of State, Bureau of Motor Vehicles or the Department of Inland Fisheries and Wildlife, Bureau of Administrative Services whether use tax has been paid on a vehicle or recreational vehicle.
9. Clarify the State Tax Assessor's authority to require electronic filing of payroll taxes by payroll processors and certain large employers.
10. Extend the period within which a municipality that has experienced a sudden and severe disruption in its municipal valuation may request an adjustment to its equalized valuation by about 105 days.
11. Clarify that film production qualifies as production for purposes of the sales and use tax law.

Joint Standing Committee on Taxation

12. Amend the definition of "retail sale" to provide that sales for resale are not retail sales when made to the holder of a valid resale certificate or to an out-of-state retailer that is not required to register as a seller in the State.
13. Make the distribution of natural gas a taxable service under the sales and use tax law to ensure consistency in the taxation of charges for distribution of natural gas regardless of whether they are bundled with the sale of the gas.
14. Extend the period for which a resale certificate is effective from one year to 3 years.
15. Provide that a credit for sales tax paid by a retailer on purchases for resale may be claimed on the return filed for the period in which the tax was paid, rather than on the return filed for the period in which the item was sold.
16. Decrease the period for requesting an off-road refund under the gasoline tax law from 15 months to 12 months for consistency with other similar provisions, clarify that the 1¢ reduction in the reimbursement applies to each gallon of fuel and that refund applications may be filed for other than monthly periods and eliminate convoluted and archaic language.
17. Increase the period for requesting a common carrier refund under the gasoline tax law from 9 months to 12 months for consistency with other similar provisions.
18. Increase the period for requesting a common carrier refund under the special fuel tax law from 9 months to 12 months for consistency with other similar provisions.
19. Decrease the period for requesting an off-road refund under the special fuel tax law from 15 months to 12 months for consistency with other similar provisions and clarify that the 1¢ reduction in the reimbursement applies to each gallon of fuel and that refund applications may be filed for other than monthly periods.
20. Require nonresident taxpayers to include in Maine-source income any winnings from wagering or gambling activities conducted in Maine.
21. Clarify that trusts and entities subject to the franchise tax on financial institutions are not required to withhold Maine income taxes from distributable Maine-source income of nonresident members.
22. Authorize setoff of income tax refunds against liabilities arising from redeterminations under the Maine Residents Property Tax Program.
23. Bar a refund of overpaid withheld income taxes to a pass-through entity if the overpayment results from income tax actually withheld from members of the pass-through entity and remitted to the Department of Administrative and Financial Services, Maine Revenue Services pursuant to the Maine Revised Statutes, Title 36, section 5250-B. Instead, the overpayment would be refunded directly to the individual member when that member claims a withholding credit on the member's individual income tax return.
24. Provide for accrual of interest on debts attributable to a redetermination under the Maine Residents Property Tax Program and authorize setoff of current-year benefits to recover overpayments from prior years. It would also clarify that appeals of redeterminations are governed by Title 36, section 151 and eliminates gender-specific language.

Joint Standing Committee on Taxation

25. Clarify procedures relating to denial and recovery of excessive claims attributable to fraud or negligence under the Maine Residents Property Tax Program, replaces the special 1% per month rate of interest applicable to these debts with a rate generally applicable to overdue taxes and clarify that intent is an element of the crime of filing a fraudulent claim for the claimant as well as for the preparer or the supplier of information or an assistant of those persons.
26. Clarify that compensation received after 2003 from personal services performed in the State prior to 2004 by a nonresident individual is taxable to the State only if the personal services are performed in the State for more than 10 days during the year in which the compensation is received. It further clarified that compensation received after 2003 for personal services performed after 2003 by a nonresident individual is taxable to the State only if the personal services are performed in the State for more than 10 days during the year in which the compensation was earned.

Committee Amendment "A" (H-392) proposed to make technical corrections, add new minor substantive changes to the tax laws and delete sections that were unnecessary, duplicative of changes in other bills or considered not to be minor.

Senate Amendment "A" To Committee Amendment "A" (S-232) proposed to change the timing of establishment of the rate of interest on delinquent municipal taxes by the Treasurer of State to be more consistent with current practice.

Enacted law summary

Public Law 2005, chapter 332 makes the following changes to the laws governing taxation:

1. It authorizes employees of the Department of Administrative and Financial Services, Bureau of Revenue Services to represent the bureau in District Court at arraignments for violation of any criminal provision of the Maine Revised Statutes, Title 36.
2. It amends the definition of "tax" to include any amount assessed by the State Tax Assessor under Title 36.
3. It establishes a civil penalty for persons who are required to file returns electronically and who fail to do so.
4. It permits disclosure of confidential tax information to the Department of Health and Human Services for purposes related to the administration and collection of the new hospital tax and the service provider tax.
5. It corrects the name of the state agency to which information pertaining to the quality child care investment credit may lawfully be disclosed.
6. It authorizes the Bureau of Revenue Services to provide copies of pass-through entity tax returns to members, officers and certain other related parties of the entity.
7. It permits the Bureau of Revenue Services to disclose whether a person has been issued a resale certificate under the sales and use tax law.
8. It authorizes the Bureau of Revenue Services to disclose to the Department of the Secretary of State, Bureau of Motor Vehicles or the Department of Inland Fisheries and Wildlife, Bureau of Administrative Services whether use tax has been paid on a vehicle or recreational vehicle.

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9. It clarifies the State Tax Assessor's authority to require electronic filing of payroll taxes by payroll processors and certain large employers.
10. It extends the period within which a municipality that has experienced a sudden and severe disruption in its municipal valuation may request an adjustment to its equalized valuation. This will give municipal officials requesting an adjustment due to sudden and severe disruption the same filing period as that provided under current law for filing an appeal on the equalized valuation or minimum assessing standards.
11. It changes the basis for establishment of the maximum interest rate that may be charged by municipalities on overdue property taxes from the highest conventional rate on commercial unsecured loans to the prime interest rate plus 3 percentage points.
12. It clarifies that film production qualifies as production for purposes of the sales and use tax and the service provider tax.
13. It provides that a credit for sales tax paid by a retailer on purchases for resale may be claimed on the return filed for the period in which the tax was paid, rather than on the return filed for the period in which the item was sold. If the credit exceeds tax liability, the retailer may receive a refund or carry the credit forward.
14. It decreases the period for requesting an off-road refund under the gasoline tax law from 15 months to 12 months for consistency with similar provisions, clarifies that the 1¢ reduction in the reimbursement applies to each gallon of fuel and that refund applications may be filed for other than monthly periods.
15. It increases the period for requesting a common carrier refund under the gasoline tax or the special fuel tax from 9 months to 12 months for consistency with similar provisions.
16. It decreases the period for requesting an off-road refund under the special fuel tax law from 15 months to 12 months for consistency with other provisions and clarifies that the 1¢ reduction in the reimbursement applies to each gallon of fuel and that refund applications may be filed for other than monthly periods.
17. It requires nonresident taxpayers to include in Maine-source income any winnings from wagering or gambling activities conducted in Maine including 3rd party payments.
18. It clarifies that trusts and entities subject to the franchise tax on financial institutions are not required to withhold Maine income taxes from distributable Maine-source income of nonresident members.
19. It authorizes setoff of income tax refunds against liabilities arising from redeterminations under the Maine Residents Property Tax Program.
20. It bars a refund of overpaid withheld income taxes to a pass-through entity if the overpayment results from income tax actually withheld from members of the pass-through entity and remitted to the Department of Administrative and Financial Services, Maine Revenue Services pursuant to the Maine Revised Statutes, Title 36, section 5250-B. Instead, the overpayment is refunded directly to the individual member when that member claims a withholding credit on the member's individual income tax return.
21. It provides for accrual of interest on debts attributable to a redetermination under the Maine Residents Property Tax Program and authorizes setoff of current-year benefits to recover overpayments from prior years. It also clarifies that appeals of redeterminations are governed by Title 36, section 151 and eliminates gender-specific language.

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22. It clarifies procedures relating to denial and recovery of excessive claims attributable to fraud or negligence under the Maine Residents Property Tax Program, replaces the special 1% per month rate of interest applicable to these debts with a rate generally applicable to overdue taxes and clarifies that intent is an element of the crime of filing a fraudulent claim for the claimant as well as for the preparer or the supplier of information or an assistant of those persons.
23. It clarifies that compensation received after 2003 from personal services performed in the State prior to 2004 by a nonresident individual is taxable to the State only if the personal services are performed in the State for more than 10 days during the year in which the compensation is received. It further clarifies that compensation received after 2003 for personal services performed after 2003 by a nonresident individual is taxable to the State only if the personal services are performed in the State for more than 10 days during the year in which the compensation was earned.

LD 1520 **An Act To Provide Reimbursement for Road Maintenance to Property Owners in the Unorganized Territory** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUPLESSIE BRYANT B	ONTP	

LD 1520 is a concept draft that proposed to provide reimbursement for road maintenance to property owners in the unorganized territory. To be eligible for reimbursement, a property owner must be a member of an organized road association that has a road maintenance plan, that maintains at least 4 miles of road and that permits year-round recreational access to the public over roads maintained by the association, including access to boat launches and snowmobile trails. This reimbursement would be at a per mile rate and based upon how many miles of road an association maintains. A portion of the property taxes paid by these property owners would be used to provide this reimbursement.

LD 1534 **An Act To Encourage the Production of Biodiesel from Forest Products, Agricultural Products and Waste Vegetable Oil** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
THOMPSON BRYANT B	ONTP	

LD 1534 proposed to allow a municipality to refund a portion of the property tax on personal property paid by a taxpayer who produces fuel derived from forest products, agricultural products or waste vegetable oil that is from within the State and produced in the State. It also proposed to exempt that fuel from the gasoline tax. These provisions would be repealed December 31, 2012.