

MAINE STATE LEGISLATURE

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*State Of Maine
122nd Legislature*

Second Regular Session

Bill Summaries

*Joint Standing Committee
on
Taxation*

July 2006

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Members:

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

*Rep. Richard G. Woodbury
Rep. Herbert E. Clark
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Rep. Leonard Earl Bierman
Rep. Bruce Q. Hanley*

Maine State Legislature



Office of Policy and Legal Analysis Office of Fiscal and Program Review

122nd Maine Legislature Second 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 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/billsumm.htm).

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:

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
P&S XXX.....	Chapter # of enacted Private & Special Law
PASSED.....	Joint Order passed in both bodies
PUBLIC XXX.....	Chapter # of enacted Public Law
RESOLVE XXX.....	Chapter # of finally passed Resolve
UNSIGNED (Pocket Veto).....	Bill held by Governor
VETO SUSTAINED.....	Legislature failed to override Governor's Veto

Please note that the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is August 23, 2006.

Joint Standing Committee on Taxation

LD 1749

**An Act To Clarify the Taxable Status of Processing Fees Charged
in Connection with Cancelled Lodging Reservations**

PUBLIC 675

<u>Sponsor(s)</u> COWGER KOFFMAN	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-530
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LD 1749 proposed to clarify the sales tax law to provide a sales tax exemption for processing fees or forfeited advance deposits held by an innkeeper in connection with a cancelled reservation or the failure of a guest to be present on the scheduled day of arrival.

Committee Amendment “A” (S-530) proposed to clarify the taxable status of forfeited deposits and cancellation fees for rental of living quarters under the sales tax by providing that those deposits or fees are not subject to sales tax if the rental is cancelled on or before the scheduled date of arrival. The amendment proposed to make this clarification retroactive to January 1, 2001 and to provide that a person who has paid or collected sales tax on forfeited deposits or cancellation fees would not be entitled to a refund.

Enacted law summary

Public Law 2005, chapter 675 clarifies the taxable status under the sales tax laws of forfeited deposits and cancellation fees for rental of living quarters by providing that those deposits or fees are not subject to sales tax if the rental is cancelled on or before the scheduled date of arrival. The clarification is retroactive to January 1, 2001 and provides that a person who has paid or collected sales tax on forfeited deposits or cancellation fees is not entitled to a refund.

LD 1751

An Act Concerning Technical Changes to the Tax Laws

PUBLIC 618

<u>Sponsor(s)</u> PERRY J WOODBURY	<u>Committee Report</u> OTP-AM A OTP-AM B	<u>Amendments Adopted</u> S-571
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LD 1751 is the annual bill presented by the Department of Administrative and Financial Services, Bureau of Revenue Services to make technical changes to the laws governing taxation. In addition to correcting punctuation errors, standardizing archaic language and correcting cross-references, the bill proposed to make the following changes to the laws governing taxation.

It proposed to add a definition of “manufactured housing” to the sales and use tax law. The definition being added is the one that has been applied administratively by the Department of Administrative and Financial Services, Bureau of Revenue Services.

It proposed to eliminate a sales tax exemption that is not currently being administered because the Office of the Attorney General has advised the Bureau of Revenue Services that it violates the commerce clause of the United States Constitution.

It proposed to replace the imprecise phrase “mobile and modular homes” with the defined term “manufactured housing.”

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It proposed to eliminate a superfluous cross-reference and to eliminate other redundant language.

It proposed to enact various technical changes to clarify a statute enacted in 2005 that altered the Maine income tax calculation for multistate corporations.

It proposed to clarify that the Pine Tree Development Zone tax credit may not be carried forward indefinitely to offset future income in years beyond the Pine Tree Development Zone time period. This is the interpretation being applied administratively by the Bureau of Revenue Services.

It proposed to eliminate the solid waste reduction investment tax credit, which is no longer available.

It proposed to correct a reference to the name of the state agency that certifies investments for the quality child care investment credit.

It proposed to clarify that estates and trusts must file a Maine income tax return if they owe Maine income tax, even if their Maine taxable income is zero or less. This is the interpretation being applied administratively by the Bureau of Revenue Services.

It proposed to clarify the definition of “income” for purposes of the Maine Residents Property Tax Program.

It proposed to clarify the procedure for payment of claims under the Business Equipment Tax Reimbursement program.

It proposed to clarify that Maine elective property owned by an estate of a nonresident is subject to Maine estate tax.

Committee Amendment “A” (S-571) proposed to add a provision authorizing the Maine Residents Property Tax Program to be referred to as “the Circuitbreaker Program.”

Enacted law summary

Public Law 2005, chapter 618 is the annual bill presented by the Department of Administrative Services, Bureau of Revenue Services to make technical changes to the laws governing taxation. Chapter 618 makes the following changes.

It adds a definition of “manufactured housing” to the sales and use tax law. The definition is the one that has been applied administratively by the Department of Administrative and Financial Services, Bureau of Revenue Services.

It eliminates a sales tax exemption that is not currently being administered because the Office of the Attorney General has advised the Bureau of Revenue Services that it violates the commerce clause of the United States Constitution. The section also clarifies an ambiguous cross-reference.

It replaces the imprecise phrase “mobile and modular homes” with the defined term “manufactured housing.”

It enacts various technical changes to clarify a statute enacted in 2005 that altered the Maine income tax calculation for multistate corporations.

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It clarifies that the Pine Tree Development Zone tax credit cannot be carried forward indefinitely to offset future income in years beyond the Pine Tree Development Zone time period. This is the interpretation currently being applied administratively by the Bureau of Revenue Services.

It eliminates the solid waste reduction investment tax credit, which is no longer available.

It corrects the name of the state agency that certifies investments for the quality child care investment credit.

It clarifies that estates and trusts must file a Maine income tax return if they owe Maine income tax, even if their Maine taxable income is zero or less. This is the interpretation currently being applied administratively by the Bureau of Revenue Services.

It clarifies the definition of “income” for purposes of the Maine Residents Property Tax Program.

It clarifies the procedure for payment of claims under the Business Equipment Tax Reimbursement program.

It clarifies that Maine elective property owned by an estate of a nonresident is subject to Maine estate tax.

It authorizes the Maine Residents Property Tax Program to be referred to as “the Circuitbreaker Program.”

It corrects punctuation errors, standardizes archaic language and corrects cross-references.

LD 1761

An Act To Offer Financial Institutions an Option for Payment of the Maine Franchise Tax

PUBLIC 608

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PERRY J	OTP-AM MAJ ONTP MIN	H-953 WOODBURY S-453

LD 1761 proposed an alternative tax calculation for purposes of the franchise tax for financial institutions by permitting a financial institution to choose either the current method based on Maine net income and Maine assets or the alternative method for calculating the franchise tax based on Maine assets only. The election would be irrevocable for that tax year. The bill would apply to tax years ending after December 31, 2005.

Committee Amendment “A” (S-453) proposed technical corrections to the bill.

House Amendment “A” to Committee Amendment “A” (H-953) proposed to change the application date of the bill to tax years beginning on or after January 1, 2006.

Enacted law summary

Public Law 2005, chapter 608 provides an alternative method of tax calculation for purposes of the franchise tax for financial institutions beginning with tax years beginning on or after January 1, 2006. A financial institution may elect either the current method of calculation based on Maine net income and Maine assets or the alternative method based on solely Maine assets. The election is irrevocable for the tax year for which it is chosen.