

MAINE STATE LEGISLATURE

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STATE OF MAINE
123RD LEGISLATURE
SECOND REGULAR AND FIRST SPECIAL SESSIONS



Summaries of bills, adopted amendments and laws enacted or finally passed
during the Second Regular or First Special Sessions of the 123rd Maine
Legislature coming from the

JOINT STANDING COMMITTEE ON TAXATION

May 2008

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STATE OF MAINE
123RD LEGISLATURE
SECOND REGULAR & FIRST SPECIAL SESSIONS



**LEGISLATIVE DIGEST OF BILL SUMMARIES AND
ENACTED LAWS**

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the Second Regular or First Special Sessions of the 123rd Maine Legislature.

The *Digest* is arranged alphabetically by committee, and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

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>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; bill died</i>
<i>ONTP (or Accepted ONTP report)</i>	<i>Ought Not To Pass report accepted; bill died</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</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>

The effective date for non-emergency legislation enacted in the Second Regular Session (R2) is June 30, 2008. The effective date for non-emergency legislation enacted in the First Special Session (S1) is July 18, 2008.¹ The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills. Any bill summarized in this document having an LD number less than 1932 was a bill carried over from the First Regular Session of the 123rd Legislature.

¹ The session in which each law was enacted or finally passed (R2 or S1) is included in Appendix C.

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LD 2144 Resolve, Authorizing the State Tax Assessor To Convey the Interest of the State in Certain Real Estate in the Unorganized Territory

RESOLVE 185

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PERRY J	OTP-AM	S-487

This resolve authorizes the State Tax Assessor to convey the interest of the State in several parcels of real estate in the Unorganized Territory that were acquired for nonpayment of property taxes.

Committee Amendment "A" (S-487)

This amendment incorporates a fiscal note.

Enacted Law Summary

Resolve 2007, chapter 185 authorizes the State Tax Assessor to convey the interest of the State in several parcels of real estate in the Unorganized Territory that were acquired for nonpayment of property taxes.

LD 2145 An Act To Conform the Maine Tax Laws for 2007 to the United States Internal Revenue Code

DIED BETWEEN HOUSES

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PIOTTI	ONTP MAJ OTP-AM MIN	

This bill updates references to the United States Internal Revenue Code of 1986 contained in the Maine Revised Statutes, Title 36 to the United States Internal Revenue Code of 1986 as amended through December 31, 2007 for tax years beginning on or after January 1, 2007 and for any prior years as specifically provided by the United States Internal Revenue Code concerning income tax and estate tax laws.

An amended version of this bill was included in the supplemental budget bill, Public Law 2007, Chapter 539, Part CCC.

LD 2151 An Act To Make Minor Substantive Changes to the Tax Laws

PUBLIC 693

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PIOTTI	OTP-AM MAJ	H-854
PERRY J	OTP-AM MIN	S-557 STRIMLING
		S-696 PERRY J

This bill is the annual bill presented by the Bureau of Revenue Services to make minor substantive changes to the tax laws.

This bill amends statutes that affect administration of sales tax exemption and refund provisions and income tax credit provisions related to the Maine Wind Energy Act.

1. It provides that the penalties generally applicable to taxes imposed under the Maine Revised Statutes, Title 36 apply to the state tax on telecommunications personal property.
2. It allows the Department of Administrative and Financial Services, Bureau of Revenue Services to share

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otherwise confidential information with the Department of Economic and Community Development to the extent necessary for the proper administration of the Maine Employment Tax Increment Financing Program, the media production credit and the media production reimbursement.

3. It authorizes the State Tax Assessor to require electronic filing and payment of Competitive Skills Scholarship Fund contributions.
4. It amends the state tax on telecommunications personal property to establish mandatory reporting requirements and to clarify the penalties that may be imposed for failure to file returns and pay the tax.
5. It authorizes the State Tax Assessor to set off against revenues received credit card fees incurred by the assessor in connection with the collection of excise taxes in the unorganized territory.
6. It clarifies the administration of the sales tax exemption for and the reimbursement provisions of the Maine Wind Energy Act.
7. It imposes the requirement that if an internal combustion engine fuel distributor includes the excise tax on internal combustion engine fuel on a customer's bill it must be shown as a separate line item and identified as "Maine gasoline tax."
8. It imposes the requirement that if a special fuel supplier or retailer includes the excise tax on special fuel on a customer's bill it must be shown as a separate line item and identified as "Maine special fuel tax."
9. It establishes a credit against the tax on a resident decedent's estate for taxes paid to another jurisdiction on certain real or tangible property located in the other jurisdiction that is also taxed by Maine.
10. It makes specific the requirement that an amended Maine estate tax return must be filed if the United States Internal Revenue Service makes changes or if additional assets are discovered.
11. It clarifies that the amount of earned income credit is prorated for nonresidents and part-year residents.
12. It changes the community wind power generator credit by adding definitions and providing for apportionment of the credit.
13. It establishes a requirement for partnerships and S corporations to file amended information returns in certain circumstances.
14. It eliminates a requirement that the State Tax Assessor report to the Legislature certain information regarding applicants for reimbursement under the BETR program. The purpose of the report is to identify the extent of overlap between reimbursement for property taxes on personal property under the BETR program and under a tax increment financing agreement. This "double-dipping" has now been eliminated for new property.
15. It eliminates a requirement that information provided to the State Tax Assessor in connection with a media production tax reimbursement claim must also be provided by the applicant to the Department of Economic and Community Development and changes the reimbursement period to 90 days from the date the assessor receives the information.
16. It provides the State Tax Assessor with explicit statutory authority to use sampling techniques in conducting audits.
17. It makes the sales and use tax laws consistent with administrative practice regarding the treatment of exempt sales for resale and the issuance and use of resale certificates.
18. It provides that the State Tax Assessor has the authority to determine the Maine taxable estate and the value of the estate for estate tax purposes.

Committee Amendment "A" (H-854)

This amendment removes provisions from the bill regarding authority to use sampling techniques in conducting auditing and an unnecessary application date. The amendment also removes a provision of the bill that repealed a report to the Legislature, but changes the date of the report to permit provision of better data and revises language regarding presumptions relating to sale for resale. The amendment also makes minor changes to the municipal farm support program to facilitate administration.

Senate Amendment "B" (S-557)

This amendment provides that certain tax-exempt entities may qualify for the credit for rehabilitation of historic properties. The amendment also renumbers a section to read consecutively with existing law and corrects cross-references in the bill to reflect the renumbering of the section. The amendment also provides that the changes to the Maine Revised Statutes, Title 36, section 5219-BB are retroactive to June 30, 2008.

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Senate Amendment "F" (S-696)

This amendment restores language in current law that requires the State Tax Assessor to follow final federal determinations for certain estate tax issues, but limits that requirement by providing that for deaths occurring on or after July 1, 2008 but before January 1, 2010 the State Tax Assessor is not bound by a final federal determination if the assessor determines the issue for purposes of tax under the Maine Revised Statutes, Title 36, chapter 575 within 2 years of the date that the return was filed or the date the return is due, whichever is later.

Enacted Law Summary

Public Law 2007, chapter 693 is the annual bill presented by the Bureau of Revenue Services to make minor substantive changes to the tax laws.

1. It provides that the penalties generally applicable to taxes imposed under the Maine Revised Statutes, Title 36 apply to the state tax on telecommunications personal property.
2. It allows the Department of Administrative and Financial Services, Bureau of Revenue Services to share otherwise confidential information with the Department of Economic and Community Development to the extent necessary for the proper administration of the Maine Employment Tax Increment Financing Program, the media production credit and the media production reimbursement.
3. It authorizes the State Tax Assessor to require electronic filing and payment of Competitive Skills Scholarship Fund contributions.
4. It amends the state tax on telecommunications personal property to establish mandatory reporting requirements and to clarify the penalties that may be imposed for failure to file returns and pay the tax.
5. It authorizes the State Tax Assessor to set off against revenues received credit card fees incurred by the assessor in connection with the collection of excise taxes in the unorganized territory.
6. It clarifies the administration of the sales tax exemption for and the reimbursement provisions of the Maine Wind Energy Act.
7. It imposes the requirement that if an internal combustion engine fuel distributor includes the excise tax on internal combustion engine fuel on a customer's bill it must be shown as a separate line item and identified as "Maine gasoline tax."
8. It imposes the requirement that if a special fuel supplier or retailer includes the excise tax on special fuel on a customer's bill it must be shown as a separate line item and identified as "Maine special fuel tax."
9. It establishes a credit against the tax on a resident decedent's estate for taxes paid to another jurisdiction on certain real or tangible property located in the other jurisdiction that is also taxed by Maine.
10. It makes specific the requirement that an amended Maine estate tax return must be filed if the United States Internal Revenue Service makes changes or if additional assets are discovered.
11. It clarifies that the amount of earned income credit is prorated for nonresidents and part-year residents.
12. It changes the community wind power generator credit by adding definitions and providing for apportionment of the credit.
13. It establishes a requirement for partnerships and S corporations to file amended information returns in certain circumstances.
14. It changes the date by which the State Tax Assessor must report to the Legislature certain information regarding applicants for reimbursement under the BETR program.
15. It eliminates a requirement that information provided to the State Tax Assessor in connection with a media production tax reimbursement claim must also be provided by the applicant to the Department of Economic and Community Development and changes the reimbursement period to 90 days from the date the assessor receives the information.
17. It clarifies the sales and use tax laws regarding the treatment of exempt sales for resale and the issuance and use of resale certificates.
18. It provides that the State Tax Assessor has the authority to determine the Maine taxable estate and the value of the estate for estate tax purposes for deaths occurring between July 1, 2008 and January 1, 2010 if the assessor determines the issue within 2 years of the date the return was filed or the date the return is due, whichever is later.
19. It makes minor changes to the municipal farm support program to facilitate administration.
20. It clarifies that certain tax exempt entities may qualify for the income tax credit for rehabilitation of historic

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properties.

LD 2154 An Act Concerning Technical Changes to the Tax Laws

PUBLIC 627

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PERRY J	OTP-AM	S-508 S-550 PERRY J

This bill is the annual bill presented by the Bureau of Revenue Services to make technical corrections to the tax laws including repealing superfluous or redundant definitions and effective dates, updating references to the Internal Revenue Code and correcting grammar, punctuation and internal cross-references. In addition, this bill also:

1. Clarifies the effect of a determination by the State Tax Assessor that collection of a tax will be jeopardized by delay;
2. Relocates a provision relating to service charges imposed by municipalities for municipal services provided with respect to certain tax-exempt property that is inappropriately located in a statute providing exemptions for property of certain institutions and organizations;
3. Replaces the imprecise term "camp trailer" with the defined term "camper trailer";
4. Corrects a conflict created by Public Law 2007, chapters 425 and 438, which affected the same provision of law, by incorporating changes made by both laws;
5. Eliminates certain defunct organizations from a list of exempt institutions and organizations;
6. Eliminates a reference to the Commissioner of Finance, an office that no longer exists;
7. Clarifies the computation of "property tax revenue lost" for purposes of determining the reimbursement to municipalities with respect to the business equipment tax exemption;
8. Amends the excise tax law to reflect the fact that licensing of common carriers has been transferred from the Public Utilities Commission to the Department of Transportation;
9. Clarifies certain requirements relating to payment of excise taxes on aircraft;
10. Clarifies that the same definition of "automobile" applies throughout the sales and use tax law and relocates the definition of "loaner vehicle" to the definitions section;
11. Clarifies that repair parts used in the performance of repair services under certain extended warranty contracts are not deemed to be "sold" for purposes of the sales and use tax law;
12. Clarifies requirements relating to payment of use tax on property registered for use in this State;
13. Clarifies requirements relating to furnishing of bonds by certain taxpayers;
14. Clarifies that the sales tax exemption for property delivered outside the State does not apply to subsequent use of the property in the State. The proposed change reflects current Maine Revenue Services administrative policy;
15. Restores a trade-in credit that was inadvertently repealed by legislation enacted in the First Regular Session of the 123rd Legislature;
16. Clarifies the responsibilities of a surplus lines producer under the insurance company tax law. The proposed changes reflect current Maine Revenue Services administrative policy;
17. Clarifies that the annual return filed by risk retention groups is to be filed with the State Tax Assessor rather than the Treasurer of State and that the due date of the return is March 15th rather than March 1st. The proposed changes make the requirements similar to those for other insurance taxes and reflect current Maine Revenue Services administrative policy;
18. Corrects a conflict created by Public Law 2007, chapters 427 and 437, which affected the same provision of law, by incorporating changes made by both laws;
19. Amends provisions of the service provider tax law relating to telecommunications services to reflect current telecommunications technology;
20. Clarifies the meaning of "international flight" for purposes of exempting certain fuel used in international flights from the gasoline tax;
21. Clarifies provisions of the special fuel tax law by adding definitions;
22. Corrects a conflict created by Public Law 2007, chapters 410 and 444, which affected the same provision of law, by incorporating changes made by both laws;