

MAINE STATE LEGISLATURE

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STATE OF MAINE
128TH LEGISLATURE
FIRST REGULAR SESSION



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

JOINT STANDING COMMITTEE ON TAXATION

August 2017

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STATE OF MAINE

128TH LEGISLATURE
FIRST REGULAR SESSION



LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 128th 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 date for non-emergency legislation enacted in the First Regular Session of the 128th Legislature is Wednesday, November 1, 2017. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

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This bill creates an excise tax on wind energy producers for the privilege of using wind power to produce electricity from wind resources for sale or trade beginning January 1, 2018. The tax is equal to \$1 per megawatt-hour of electricity produced as measured at the point of interconnection with an electric transmission line. The tax first applies three years after the turbines producing the electricity first begin operation. The tax does not apply to the Federal Government, the State, a county or municipality in the State or any individual producing electricity from wind resources for that individual's personal use.

Revenue from the tax is transferred to a newly created Wind Energy Impact Fund to be administered by the Public Utilities Commission. The commission is required to establish a process for distribution of revenues to ratepayers in areas affected by the wind energy production that is subject to the tax.

LD 1550 An Act To Tax Sugar-sweetened Beverages To Fund Programs To ONTP
Provide Resources for Veterans and Others

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HAMANN S MILLETT R	ONTP	

This bill establishes an excise tax on sugar-sweetened beverages, including syrups and powders used to make sugar-sweetened beverages. The tax is imposed on distributors. Funds from the excise tax must be used to support the Drug Court Fund, the Veterans Fund, the Head Start Fund, the Drug Treatment Fund, the Obesity and Chronic Disease Fund, Healthy Food Access Fund, the After-school Program Fund and the Maine Drinking Water Fund.

LD 1551 An Act To Amend the Maine Tax Laws PUBLIC 211

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BICKFORD B	OTP-AM	H-463

This bill is submitted by the Department of Administrative and Financial Services and makes changes to numerous provisions of tax laws.

Part A makes the following changes to the administration of the tax laws.

1. It adds a tax information confidentiality exception to allow disclosures by the Maine Revenue Services to the Revenue Forecasting Committee in order to make available relevant tax information in support of the committee's statutory duties.
2. It amends tax lien provisions beginning August 1, 2017 to increase the State's ability to be first in line in priority ahead of certain other creditors for payment on a tax debt. The changes also clarify that the new lien provision does not affect liens related to municipal property taxes.
3. It amends the general provision for the annual calculation of the interest rate applicable to the Maine Revised Statutes, Title 36 tax underpayments and overpayments, effectively reducing the applicable interest rate.
4. It adds an exclusion to allow the public disclosure of information, except when the statute specifically designates the information as confidential.
5. It broadens an existing authorization for disclosure of confidential tax information to allow disclosures to the Department of Administrative and Financial Services, Division of Financial and Personnel Services, as well as to

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the Department of Health and Human Services, for purposes of financial accounting and revenue forecasts in order to make available relevant tax information in support of statutory duties of the Department of Administrative and Financial Services with respect to financial accounting and revenue forecasts with respect to the specific taxes.

6. It removes services from the definitions of retail sales activity and retail sales facility under the business equipment tax exemption laws to make the amended definitions match the same definitions in the business equipment tax reimbursement laws. Aligning the definitions for the two programs will eliminate confusion over eligibility for certain personal property.
7. It aligns the business equipment tax exemption laws taxpayer appeal procedures with that of those of the Maine resident homestead property tax exemption program and allows municipalities that are aggrieved by an audit determination of the bureau to appeal in the same manner as persons requesting reconsideration.
8. It adds boat clubs and associations leasing storage, mooring or docking space to the list of entities required to maintain information on watercraft related to the lease. It also adds selling as an activity triggering the information collection requirement.
9. It changes, under the business equipment tax reimbursement laws, the year upon which to calculate energy primarily for sale from the year immediately preceding the property tax year for which a claim is made to the property tax year for which a claim is made.

Part B makes the following changes to the sales tax and fuel tax laws.

1. It requires the prepaid wireless fee to be remitted in the same manner as the service provider tax.
2. It provides that diabetic supplies are exempt from sales tax only when sold for use by human beings.
3. It provides a sales tax exemption for sales of prepared food by a civic, religious or fraternal organization, including an auxiliary of such an organization, at a public or member-only event, except when alcoholic beverages are available for sale at the event or it is a private function, for up to 24 days during a calendar year.
4. It replaces the bracket system for calculating sales tax with a conventional rounding algorithm, effective January 1, 2018.
5. It provides that refunds of the gasoline tax and special fuel tax may be made to the Federal Government.

Part C allows businesses subject to the Maine insurance premiums tax to be eligible for the educational opportunity tax credit, consistent with the credit allowed to taxpayers subject to the Maine income tax. The credit applies to tax years beginning on or after January 1, 2017.

Part D makes the following changes to the income tax laws.

1. It repeals the addition modification for a taxpayer's expenses for a qualified long-term disability income protection plan or qualified short-term disability protection plan in order to maintain consistency with the treatment of expenses for taxable corporations and to promote simplification.
2. It repeals the adjustment to itemized deductions for expenses included in the base for the adult dependent care credit tax.
3. It moves the due date for filing Maine financial institution franchise tax returns from the 15th day of the third month to the 15th day of the fourth month following the end of the tax year in conformity with recent federal changes to the filing due date for C corporation income tax returns. The change applies to tax years beginning on or

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after January 1, 2017.

4. It corrects a conflict created when three public laws enacted the Maine Revised Statutes, Title 36, section 5219-NN, all substantively different from each other. The conflict is corrected by repealing the versions enacted by Public Law 2015, chapter 490 and Public Law 2015, chapter 503 and enacting them as Title 36, section 5219-OO and section 5219-PP, respectively, with the following changes:

A. The employer credit for disability protection plans is limited to employees who were not covered under a disability protection plan offered by the employing unit in the tax year immediately preceding the year the employer is first eligible for the credit. The credit applies to eligible employees enrolled in a qualified disability plan after January 1, 2017; and

B. The tax credit for making a portion of an existing homestead accessible to an individual with a disability or physical hardship is clarified to specify that it applies to individuals, not businesses, making qualified expenditures, that the credit is nonrefundable and that an individual with negative federal adjusted gross income qualifies for the credit. Also, the aggregate annual cap of \$1,000,000 applicable to the credit is removed. The changes all apply to tax years beginning on or after January 1, 2017.

The version of Title 36, section 5219-NN as enacted by Public Law 2015, c. 388 regarding the Maine capital investment credit for 2015 and after remains as section 5219-NN.

5. It prohibits, for tax years beginning on or after January 1, 2017, married individuals filing separate income tax returns from claiming the property tax fairness credit. The change is consistent with a similar restriction under the sales tax fairness credit.

6. It repeals the additional extension of 30 days beyond the federal extension due date for filing Maine income tax returns for corporations and financial institutions. This change applies to tax years beginning on or after January 1, 2017.

7. It changes the date an information return, such as a Form W-2, must be filed with Maine Revenue Services from February 28th to January 31st following the calendar year to which the information return relates. The change in the due date applies to information returns filed for calendar years beginning on or after January 1, 2017.

8. It provides that court-ordered restitution obligations are afforded a priority for setoff from state income tax refunds pursuant to Title 36, section 5276-A that is just above the priority given to court fines and fees.

Part E makes the following changes with regard to Maine Revenue Services reporting requirements.

1. It repeals a requirement that the State Tax Assessor submit an annual report to the Legislature identifying the amount of public funds spent and the amount of revenues foregone as the result of economic development incentives.

2. It repeals a requirement that the State Tax Assessor submit an annual report to the Legislature on the costs incurred in creating and maintaining, and the tax revenues collected by using, the data warehouse authorized by the Maine Revised Statutes, Title 36, section 194.

3. It repeals a requirement that the State Tax Assessor submit an annual report to the Legislature regarding the consultation process required by Title 36, section 194-A and the issues involved with, and results of, each such consultation.

4. It requires that information regarding reimbursements of property taxes paid on certain business property made pursuant to Title 36, chapter 915 be added to the tax expenditure report submitted to the Legislature by the State Tax

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Assessor and changes the due date of that report from January 5th to February 15th of each odd-numbered year.

5. It changes the due date of the tax incidence report submitted to the Legislature by the State Tax Assessor from January 1st to February 15th of each odd-numbered year.
6. It specifies that the report submitted to the Legislature by the State Tax Assessor no later than February 1st annually identifying all requests for an adjustment of equalized valuation under Title 36, section 208-A pertains to the most recently completed fiscal year rather than the previous calendar year.
7. It repeals a requirement that the Commissioner of Administrative and Financial Services submit an annual report to the Legislature regarding the Mining Impact Assistance Fund.
8. It repeals a requirement that the State Tax Assessor submit an annual report to the Legislature containing information that includes a list of persons receiving reimbursement for property taxes both under the business equipment tax reimbursement program and under a tax increment financing agreement.

Committee Amendment "A" (H-463)

This amendment removes from the bill a provision requiring that a prepaid wireless fee be remitted in the same manner as the service provider tax and a provision that changes the application of the penalty in current law for a retailer knowingly charging or collecting excess sales tax.

Enacted Law Summary

Public Law 2017, chapter 211 makes changes to numerous provisions of tax laws.

Part A makes the following changes to the administration of the tax laws.

1. It adds a tax information confidentiality exception to allow disclosures by the Maine Revenue Services to the Revenue Forecasting Committee in order to make available relevant tax information in support of the committee's statutory duties.
2. It amends tax lien provisions beginning August 1, 2017 to increase the State's ability to be first in line in priority ahead of certain other creditors for payment on a tax debt. The changes also clarify that the new lien provision does not affect liens related to municipal property taxes.
3. It amends the general provision for the annual calculation of the interest rate applicable to the Maine Revised Statutes, Title 36 tax underpayments and overpayments, effectively reducing the applicable interest rate.
4. It adds an exclusion to allow the public disclosure of information, except when the statute specifically designates the information as confidential.
5. It broadens an existing authorization for disclosure of confidential tax information to allow disclosures to the Department of Administrative and Financial Services, Division of Financial and Personnel Services, as well as to the Department of Health and Human Services, for purposes of financial accounting and revenue forecasts in order to make available relevant tax information in support of statutory duties of the Department of Administrative and Financial Services with respect to financial accounting and revenue forecasts with respect to the specific taxes.
6. It removes services from the definitions of retail sales activity and retail sales facility under the business equipment tax exemption laws to make the amended definitions match the same definitions in the business equipment tax reimbursement laws. Aligning the definitions for the two programs will eliminate confusion over eligibility for certain personal property.
7. It aligns the business equipment tax exemption laws taxpayer appeal procedures with that of those of the Maine

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resident homestead property tax exemption program and allows municipalities that are aggrieved by an audit determination of the bureau to appeal in the same manner as persons requesting reconsideration.

8. It adds boat clubs and associations leasing storage, mooring or docking space to the list of entities required to maintain information on watercraft related to the lease. It also adds selling as an activity triggering the information collection requirement.

9. It changes, under the business equipment tax reimbursement laws, the year upon which to calculate energy primarily for sale from the year immediately preceding the property tax year for which a claim is made to the property tax year for which a claim is made.

Part B makes the following changes to the sales tax and fuel tax laws.

1. It provides that diabetic supplies are exempt from sales tax only when sold for use by human beings.

2. It provides a sales tax exemption for sales of prepared food by a civic, religious or fraternal organization, including an auxiliary of such an organization, at a public or member-only event, except when alcoholic beverages are available for sale at the event or it is a private function, for up to 24 days during a calendar year.

3. It replaces the bracket system for calculating sales tax with a conventional rounding algorithm, effective January 1, 2018.

4. It provides that refunds of the gasoline tax and special fuel tax may be made to the Federal Government.

Part C allows businesses subject to the Maine insurance premiums tax to be eligible for the educational opportunity tax credit, consistent with the credit allowed to taxpayers subject to the Maine income tax. The credit applies to tax years beginning on or after January 1, 2017.

Part D makes the following changes to the income tax laws.

1. It repeals the addition modification for a taxpayer's expenses for a qualified long-term disability income protection plan or qualified short-term disability protection plan in order to maintain consistency with the treatment of expenses for taxable corporations and to promote simplification.

2. It repeals the adjustment to itemized deductions for expenses included in the base for the adult dependent care credit tax.

3. It moves the due date for filing Maine financial institution franchise tax returns from the 15th day of the third month to the 15th day of the fourth month following the end of the tax year in conformity with recent federal changes to the filing due date for C corporation income tax returns. The change applies to tax years beginning on or after January 1, 2017.

4. It corrects a conflict created when three public laws enacted the Maine Revised Statutes, Title 36, section 5219-NN, all substantively different from each other. The conflict is corrected by repealing the versions enacted by Public Law 2015, chapter 490 and Public Law 2015, chapter 503 and enacting them as Title 36, section 5219-OO and section 5219-PP, respectively, with the following changes:

A. The employer credit for disability protection plans is limited to employees who were not covered under a disability protection plan offered by the employing unit in the tax year immediately preceding the year the employer is first eligible for the credit. The credit applies to eligible employees enrolled in a qualified disability plan after January 1, 2017; and

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B. The tax credit for making a portion of an existing homestead accessible to an individual with a disability or physical hardship is clarified to specify that it applies to individuals, not businesses, making qualified expenditures, that the credit is nonrefundable and that an individual with negative federal adjusted gross income qualifies for the credit. Also, the aggregate annual cap of \$1,000,000 applicable to the credit is removed. The changes all apply to tax years beginning on or after January 1, 2017.

The version of Title 36, section 5219-NN as enacted by Public Law 2015, c. 388 regarding the Maine capital investment credit for 2015 and after remains as section 5219-NN.

5. It prohibits, for tax years beginning on or after January 1, 2017, married individuals filing separate income tax returns from claiming the property tax fairness credit. The change is consistent with a similar restriction under the sales tax fairness credit.
6. It repeals the additional extension of 30 days beyond the federal extension due date for filing Maine income tax returns for corporations and financial institutions. This change applies to tax years beginning on or after January 1, 2017.
7. It changes the date an information return, such as a Form W-2, must be filed with Maine Revenue Services from February 28th to January 31st following the calendar year to which the information return relates. The change in the due date applies to information returns filed for calendar years beginning on or after January 1, 2017.
8. It provides that court-ordered restitution obligations are afforded a priority for setoff from state income tax refunds pursuant to Title 36, section 5276-A that is just above the priority given to court fines and fees.

Part E makes the following changes with regard to Maine Revenue Services reporting requirements.

1. It repeals a requirement that the State Tax Assessor submit an annual report to the Legislature identifying the amount of public funds spent and the amount of revenues foregone as the result of economic development incentives.
2. It repeals a requirement that the State Tax Assessor submit an annual report to the Legislature on the costs incurred in creating and maintaining, and the tax revenues collected by using, the data warehouse authorized by the Maine Revised Statutes, Title 36, section 194.
3. It repeals a requirement that the State Tax Assessor submit an annual report to the Legislature regarding the consultation process required by Title 36, section 194-A and the issues involved with, and results of, each such consultation.
4. It requires that information regarding reimbursements of property taxes paid on certain business property made pursuant to Title 36, chapter 915 be added to the tax expenditure report submitted to the Legislature by the State Tax Assessor and changes the due date of that report from January 5th to February 15th of each odd-numbered year.
5. It changes the due date of the tax incidence report submitted to the Legislature by the State Tax Assessor from January 1st to February 15th of each odd-numbered year.
6. It specifies that the report submitted to the Legislature by the State Tax Assessor no later than February 1st annually identifying all requests for an adjustment of equalized valuation under Title 36, section 208-A pertains to the most recently completed fiscal year rather than the previous calendar year.
7. It repeals a requirement that the Commissioner of Administrative and Financial Services submit an annual report to the Legislature regarding the Mining Impact Assistance Fund.

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8. It repeals a requirement that the State Tax Assessor submit an annual report to the Legislature containing information that includes a list of persons receiving reimbursement for property taxes both under the business equipment tax reimbursement program and under a tax increment financing agreement.

LD 1565 An Act To Ensure the Effectiveness of Tax Increment Financing

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WARD K VOLK A		

This bill is submitted by the Department of Economic and Community Development. This bill provides that beginning with tax increment financing development programs approved by DECD on or after April 1, 2018, at least 80% of the area within the district must be designated for development by an entity engaged in a qualified business activity that is directly related to financial services, manufacturing or targeted technologies.

This bill was carried over to any special or regular session of the 128th Legislature by joint order, H.P. 1138.

LD 1570 An Act To Make Technical Changes to Maine's Tax Laws

PUBLIC 170

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HILLIARD G	OTP-AM	H-384

This bill makes technical changes to correct and update cross-references, correct clerical errors, resolve statutory numbering conflicts, improve syntax and repeal unnecessary and expired language. In addition, this bill does the following.

1. It requires a person filing a statement of appeal with the Board of Tax Appeals or a petition for review with the Superior Court to serve the statement or petition by certified mail, return receipt requested, upon the Attorney General and the Department of Administrative and Financial Services, Bureau of Revenue Services.
2. It restricts the disclosure and use of confidential information provided by the bureau to persons, agencies and organizations for the purposes specified in the exemptions to Maine's confidentiality statute.
3. It removes the requirement that the bureau publish a list of certified assessors that the bureau maintains. Instead, the bureau is required to provide the list to municipalities upon request.
4. It changes the due date for the annual distribution to municipalities for revenue lost under the Maine Tree Growth Tax Law from August 1st to October 15th.
5. It clarifies that certain property of institutions and organizations that is exempt from property taxes under the Maine Revised Statutes, Title 36, section 652 is not exempt under the business equipment tax exemption program.
6. It clarifies that the report due under the business equipment tax exemption program is due on April 1st, which, under current law, is automatically extended to May 1st if the report is not received by April 1st. It also requires a request for further extension to be submitted to the assessor of the taxing jurisdiction before the commitment of taxes.
7. It makes minor changes to the language requiring the municipal tax collector to certify the delinquency between July 1st and July 15th in the same year the taxpayer applies for the reimbursement.