

MAINE STATE LEGISLATURE

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STATE OF MAINE
129TH LEGISLATURE
FIRST SPECIAL AND SECOND REGULAR SESSIONS



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

JOINT STANDING COMMITTEE ON TAXATION

November 2020

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STATE OF MAINE

129TH 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 129th 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 129th Legislature is Thursday, September 19, 2019. 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

joint order, S.P. 788.

LD 2011 An Act To Update Certain Provisions in the Income Tax and Service Provider Tax Laws

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TIPPING R	OTP-AM OTP-AM	

This bill is submitted by the Department of Administrative and Financial Services, Maine Revenue Services. This bill makes the following changes to the income tax and service provider tax laws.

Part A updates, clarifies and simplifies the service provider tax law regarding consumer purchases of digital media by equalizing the tax treatment between the various modes of purchase for sales occurring on or after October 1, 2020.

Part B clarifies and simplifies the corporate income tax law by establishing clearly defined, objective nexus thresholds as a practical structure for the current general "economic nexus" standard. These so-called factor presence thresholds clarify the minimum thresholds that, when exceeded by a corporation, subject that corporation to the Maine corporate income tax. In addition, the new thresholds create a safe harbor for corporations with little activity within the State that nonetheless have nexus under current law due to a small, but greater than de minimis, physical presence in the State. The new thresholds are \$250,000 of property, \$250,000 in payroll or \$500,000 in sales in Maine, or 25% of total property, payroll or sales in Maine, as determined under the Maine Revised Statutes, Title 36, chapter 821. The thresholds apply to tax years beginning on or after January 1, 2021.

Part C updates the individual income tax law by extending and aligning inflation indexing provisions in two respects. First, the bill indexes the recently enacted dependent exemption tax credit for inflation. Second, the bill aligns inflation indexing for the lowest income tax brackets and the highest income tax brackets by allowing an additional one-year inflation adjustment for the highest income tax bracket, indexing the dollar amounts to the same inflation benchmark, the Chained Consumer Price Index for the 12-month period ending June 30, 2015. These changes apply to tax years beginning on or after January 1, 2021.

Part D updates and simplifies Maine income tax law by conforming the Maine income tax with the federal net operating loss limitation. This Part applies retroactively to tax years beginning on or after January 1, 2018.

Committee Amendment "A" (H-767)

This amendment is the majority report of the committee. This amendment amends provisions of the bill relating to the taxation of digital audio-visual and digital audio services. The amendment clarifies the corporate income tax nexus provisions of the bill by referring to "nexus" instead of "substantial nexus." The amendment also exempts from the sales and use tax and from the service provider tax sales to a nonprofit organization that has been determined by the United States Internal Revenue Service to be exempt from income taxation under Section 501(c)(3) of the federal Internal Revenue Code of 1986 if the property or services sold are to be used primarily for the purposes for which the nonprofit organization was organized. The amendment requires the Department of Administrative and Financial Services, Bureau of Revenue Services, Office of Tax Policy to review sales tax and service provider tax exemptions to identify provisions that should be repealed or amended because they are duplicative or otherwise unnecessary and to submit legislation repealing or modifying those exemptions. The amendment also adds an appropriations and allocations section.

Committee Amendment "B" (H-768)

This amendment is the minority report of the committee. This amendment strikes provisions of the bill relating to

Joint Standing Committee on Taxation

the taxation of digital audio-visual and digital audio services. The amendment clarifies the corporate income tax nexus provisions of the bill by referring to "nexus" instead of "substantial nexus." The amendment also exempts from the sales and use tax and from the service provider tax sales to a nonprofit organization that has been determined by the United States Internal Revenue Service to be exempt from income taxation under Section 501(c)(3) of the federal Internal Revenue Code of 1986 if the property or services sold are to be used primarily for the purposes for which the nonprofit organization was organized. The amendment requires the Department of Administrative and Financial Services, Bureau of Revenue Services, Office of Tax Policy to review sales tax and service provider tax exemptions to identify provisions that should be repealed or amended because they are duplicative or otherwise unnecessary and to submit legislation repealing or modifying those exemptions. The amendment also adds an appropriations and allocations section.

This bill was carried over in the House pending acceptance of either committee report to any special session of the 129th Legislature by joint order, S.P. 788.

LD 2012 *Resolve, Authorizing the State Tax Assessor To Convey the Interest of the State in Certain Real Estate in the Unorganized Territory* RESOLVE 119

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TIPPING R	OTP-AM	H-694

This resolve is submitted by the Department of Administrative and Financial Services, Maine Revenue Services. 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 by the State through foreclosure for nonpayment of property taxes.

Committee Amendment "A" (H-694)

This amendment changes the list of matured tax liens to correct the tax liability amounts of one property, to remove two properties and add one property.

Enacted Law Summary

Resolve 2019, chapter 119 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 by the State through foreclosure for nonpayment of property taxes.

LD 2045 *An Act Relating to the Valuation of Certain Retail Property* CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TIPPING R JACKSON T		

This bill provides that, for property tax purposes, retail sales facilities in excess of 20,000 square feet must be valued based on their current use compared to similar properties in their retail market segment or, if vacant, according to their highest and best use.

This bill, which had not yet been voted by the committee, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.