An Act To Make Technical Changes to the Tax Laws

Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 204.

Received by the Clerk of the House on January 19, 2021. Referred to the Committee on Taxation pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Presented by Representative TERRY of Gorham.
Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 36 MRSA §191, sub-§2, ¶MMM is enacted to read:

MMM. The disclosure of information to the Finance Authority of Maine necessary for the administration of the seed capital investment tax credit in section 5216-B.

Sec. A-2. 36 MRSA §2536, first ¶, as enacted by PL 2017, c. 474, Pt. H, §1, is amended to read:

For tax years beginning on or after January 1, 2018, a person is allowed a credit against the tax otherwise due under this Part in an amount equal to the federal employer credit for paid family and medical leave allowed to that person under the Code, Section 45S as a result of wages paid to employees based in the State during the taxable year. For purposes of this section, "employees based in the State" means employees that perform more than 50% of employee-related activities for the employer at a location in the State.

Sec. A-3. 36 MRSA §5164, sub-§2, as enacted by P&SL 1969, c. 154, Pt. F, §1, is amended to read:

2. Shares of fiduciary adjustment. The respective shares of an estate or trust and its beneficiaries, including, solely for the purpose of this allocation, nonresident beneficiaries, in the fiduciary adjustment shall be in proportion to their respective shares of federal distributable net income of the estate or trust. If the estate or trust has no federal distributable net income for the taxable year, the share of each beneficiary in the fiduciary adjustment shall be in proportion to his share of the estate or trust income for such year, under local law or the terms of the instrument, which is required to be distributed currently and any other amounts of such income distributed in such year. Any balance of the fiduciary adjustment shall be allocated to the estate or trust.

Sec. A-4. 36 MRSA §5204, as amended by PL 2011, c. 548, §29, is repealed.

Sec. A-5. 36 MRSA §5204-A, as amended by PL 2011, c. 380, Pt. N, §16 and affected by §19, is repealed.

Sec. A-6. 36 MRSA §5219-UU, first ¶, as enacted by PL 2017, c. 474, Pt. H, §2, is amended to read:

For tax years beginning on or after January 1, 2018, a person is allowed a credit against the tax otherwise due under this Part in an amount equal to the federal employer credit for paid family and medical leave allowed to that person under the Code, Section 45S as a result of wages paid to employees based in the State during the taxable year. For purposes of this section, "employees based in the State" means employees that perform more than 50% of employee-related activities for the employer at a location in the State.

Sec. A-7. 36 MRSA §5220, sub-§4, ¶B, as amended by PL 2005, c. 618, §15 and affected by §22, is further amended to read:

B. Gross Both distributable net income derived from or connected with sources in this State as determined in accordance with section 5142 as if the estate or trust were a
nonresident individual and gross income of $10,000 or more, regardless of the amount of Maine taxable income; or

Sec. A-8. 36 MRSA §5221, as amended by PL 1985, c. 783, §§39 and 40, is further amended to read:

§5221. Joint returns by husband and wife spouses

1. General. A husband and wife Spouses may make a joint return with respect to the tax imposed by this Part even though one of the spouses has neither gross income nor deductions except that:

A. No A joint return shall may not be made under this part Part if the spouses are not permitted to file a joint federal income tax return.

B. If the federal income tax liability of either spouse is determined on a separate federal return, their income tax liabilities under this Part shall must be determined on separate returns.

C. Except as provided in subsection 2, if the federal income tax liabilities of husband and wife the spouses are determined on a joint federal return, they shall file a joint return under this Part and their tax liabilities shall be are joint and several.

D. If neither spouse is required to file a federal income tax return and either or both are required to file an income tax return under this Part, they may elect to file separate or joint returns and pursuant to such election their liabilities shall be are separate or joint and several.

2. Nonresidents. If both husband and wife spouses are nonresidents and one has no Maine-source income, the spouse having Maine-source income shall file a separate Maine nonresident income tax return, as a single individual, in which event his the spouse's tax liability shall be is separate; but they may elect to determine their joint taxable income as nonresidents, in which case their liabilities shall be are joint and several.

If either husband or wife one spouse is a resident and the other is a nonresident, they shall file separate Maine income tax returns as single individuals, in which event their tax liabilities shall be are separate; but they may elect to determine their joint taxable income as if both were residents and, in that case, their liabilities shall be are joint and several.

Sec. A-9. 36 MRSA §5228, sub-§6, as repealed and replaced by PL 1985, c. 691, §§35 and 48, is amended to read:

6. Joint estimated tax payment. If they are eligible to do so for federal tax purposes, a husband and wife spouses may jointly estimate tax as if they were one taxpayer, in which case the liability with respect to the estimated tax shall be is joint and several. If joint estimate payment is made, but husband and wife the spouses elect to determine their taxes under this chapter separately, the estimated tax for the year may be treated as the estimated tax of either husband or wife spouse, or may be divided between them, as they may elect.

Sec. A-10. Application; retroactivity. Those sections of this Part that amend the Maine Revised Statutes, Title 36, sections 2536, first paragraph and 5219-UU, first paragraph apply retroactively to tax years beginning on or after January 1, 2018.

PART B
Sec. B-1. 36 MRSA §1760, sub-§33, as corrected by RR 2019, c. 1, Pt. A, §61, is amended to read:

33. Diabetic supplies. All equipment and supplies, whether medical or otherwise, used by the purchaser in the diagnosis or treatment of human diabetes.

Sec. B-2. 36 MRSA §1760, sub-§104, as enacted by PL 2019, c. 550, §1 and reallocated by RR 2019, c. 2, Pt. A, §35, is amended to read:

104. Nonprofit youth camps. Sales occurring on or after June 16, 2020 to a nonprofit youth camp as defined in Title 22, section 2491, subsection 16 that are licensed by the Department of Health and Human Services and receive an exemption from property tax under section 652, subsection 1.

Sec. B-3. 36 MRSA §1760, sub-§105, as enacted by PL 2019, c. 551, §1 and reallocated by RR 2019, c. 2, Pt. A, §36, is amended to read:

105. Pet food assistance organization. Sales occurring on or after June 16, 2020 to an incorporated nonprofit organization organized for the purpose of providing food or other supplies intended for pets at no charge to owners of those pets.

Sec. B-4. 36 MRSA §1760, sub-§106, as enacted by PL 2019, c. 552, §1 and reallocated by RR 2019, c. 2, Pt. A, §37, is repealed and the following enacted in its place:

106. Locally organized member of nonprofit worldwide charitable organization. Sales occurring on or after June 16, 2020 to a community-based independent incorporated nonprofit member organization of a nonprofit worldwide charitable organization if the primary purpose of the community-based independent incorporated nonprofit member organization is to provide financial support using private funding to another unaffiliated nonprofit charitable organization at the community level.

Sec. B-5. 36 MRSA §2891, sub-§1-A, as enacted by PL 2007, c. 545, §5, is amended to read:

1-A. Municipally funded hospital. "Municipally funded hospital" means Mayo Regional Hospital in Dover-Foxcroft or Cary Medical Center in Caribou.

Sec. B-6. PL 2019, c. 550, §3 is repealed.

Sec. B-7. PL 2019, c. 551, §3 is repealed.

Sec. B-8. PL 2019, c. 552, §3 is repealed.

Sec. B-9. Retroactivity. Those sections of this Part that amend the Maine Revised Statutes, Title 36, section 1760, subsections 104 and 105 and that repeal and replace Title 36, section 1760, subsection 106 apply retroactively to sales occurring on or after June 16, 2020. Those sections of this Part that repeal Public Law 2019, chapter 550, section 3; Public Law 2019, chapter 551, section 3; and Public Law 2019, chapter 552, section 3 apply retroactively to October 1, 2019.

PART C

Sec. C-1. 36 MRSA §310, sub-§5 is enacted to read:
5. Confidentiality. Copies of the qualifying examination and individual examination results are confidential and are not a public record as defined in Title 1, section 402, subsection 3.

Sec. C-2. 36 MRSA §694, sub-§2, ¶C, as amended by PL 2007, c. 627, §26, is further amended to read:

C. In the case of a municipality that has one or more tax increment financing districts authorized pursuant to Title 30-A, chapter 206, subchapter 1 and effective under Title 30-A, section 5226, subsection 3 prior to April 1, 2008 or authorized pursuant to Title 30-A, former chapter 207 and effective under Title 30-A, former section 5253, subsection 1, paragraph F, prior to April 1, 2008, the applicable percentage with respect to TIF exempt business equipment is 50% plus a percentage amount equal to the percentage amount, if any, by which the municipal tax increment percentage for the tax increment financing district in which the TIF exempt business equipment is located exceeds 50%. This paragraph applies only when it will result in a greater percentage of reimbursement for the TIF exempt business equipment than would be provided under the greater of paragraph A or B and the reimbursement has been used to fund a development program pursuant to Title 30-A, section 5224.

PART D

Sec. D-1. 36 MRSA §173, sub-§1, as enacted by PL 1985, c. 691, §4, is amended to read:

1. Request and issuance of warrant. If the taxpayer does not make payment as demanded pursuant to section 171, the State Tax Assessor may file in the office of the clerk of the Superior Court of any county a certificate addressed to the clerk of that court specifying the amount of tax, interest and penalty which was demanded, the name and address of the taxpayer as it appears on the records of the State Tax Assessor, the facts whereby the amount has become due, and the notice given and requesting that a warrant be issued against the taxpayer in the amount of the tax, penalty and interest set forth in the certificate and with costs. If the State Tax Assessor reasonably believes that the taxpayer may abscond within the 10-day period provided by section 171, the assessor may, without giving notice to or making demand upon the taxpayer, request immediate issuance of a warrant. Immediately upon the filing of the certificate, the clerk of the Superior Court shall issue a warrant in favor of the State against the taxpayer in the amount of tax, interest and penalty set forth in the certificate and with costs.

Sec. D-2. 36 MRSA §173, sub-§2, as enacted by PL 1985, c. 691, §4, is amended to read:

2. Effect of warrant. The warrant shall have the force and effect of an execution issued upon a judgment in a civil action for taxes and may be served in the county where the taxpayer may be found by the sheriff of that county or his the sheriff's deputies or by any agent of the State Tax Assessor authorized under section 112, subsection 6 to collect any tax imposed by this Title. In the execution of the warrant and collection of taxes pursuant to this Title, including supplementary disclosure proceedings for that purpose under Title 14, chapter 502, an agent of the State Tax Assessor shall have the powers of a sheriff and shall be entitled to collect from the debtor the same fees and charges.
permitted to a sheriff. Any such fees and charges collected by that agent shall be remitted promptly to the State.

**Sec. D-3. 36 MRSA §199-E,** as enacted by IB 2015, c. 1, §28, is repealed.

**SUMMARY**

This bill makes technical changes to the tax laws.

For changes to the income tax law, Part A:

1. Authorizes the Department of Administrative and Financial Services, Maine Revenue Services to disclose information to the Finance Authority of Maine necessary for the administration of the seed capital investment tax credit in the Maine Revised Statutes, Title 36, section 5216-B. The authority is responsible for certifying investments that are eligible for the credit;

2. Amends Title 36, section 5164, subsection 2, a provision of the Maine fiduciary income tax law, to incorporate gender-neutral terms, delete a duplicate word and make other technical textual changes;

3. Repeals the additional tax on lump-sum retirement plan distributions, which does not apply to tax years beginning after 2012;

4. Repeals the additional tax on early distributions from qualified retirement plans, which does not apply to tax years beginning after 2012;

5. Clarifies that, for both the tax imposed on insurance companies pursuant to Title 36, chapter 357 and on persons pursuant to Title 36, Part 8, for purposes of the employer credit for family and medical leave, "employees based in the State" means employees that perform more than 50% of employee-related activities for the employer at a location in Maine. This change reflects administrative practice since implementation of the credit;

6. Clarifies that a nonresident estate or trust that does not have Maine taxable income or a Maine income tax liability must nonetheless file a Maine income tax return if the estate or trust has distributable net income derived from or connected with sources in Maine and gross income of $10,000 or more. This change reflects long-standing administrative practice; and

7. Amends Title 36, sections 5221 and 5228 to incorporate gender-neutral terms.

For changes to the sales tax law, Part B:

1. Amends the diabetic supplies exemption to require use by the purchaser;

2. Includes in Title 36 the effective date of 3 sales tax exemptions enacted in the First Regular Session of the 129th Legislature that did not take effect until after the adjournment of the Second Regular Session of the 129th Legislature and repeals conflicting public law provisions;

3. Clarifies the exemption for nonprofit worldwide charitable organizations; and

4. Removes the Mayo Regional Hospital in Dover-Foxcroft from the hospital tax definition of "municipally funded hospital."

For changes to the property tax law, Part C:
1. Clarifies that the local assessor qualifying examination and individual examination results are confidential and thus not producible under a Freedom of Access Act request; and

2. Clarifies that enhanced business equipment tax exemption reimbursement only applies to tax increment financing exempt business equipment when the reimbursement is used to fund a tax increment financing development program.

For general changes to tax law, Part D:

1. Updates Title 36, section 173, concerning collection by warrant, to clarify the intent and make technical changes; and

2. Repeals a provision that required the joint standing committee of the Legislature having jurisdiction over taxation matters to report out a bill permanently eliminating corporate tax expenditures totaling $6,000,000 per biennium by February 6, 2016.