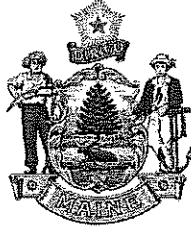


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STATE OF MAINE
ONE HUNDRED AND THIRTY-FIRST LEGISLATURE
COMMITTEE ON TAXATION

MEMORANDUM

TO: Senator Margaret Rotundo, Senate Chair
Representative Melanie Sachs, House Chair
Joint Standing Committee on Appropriations and Financial Affairs

FROM: Senator Nicole Grohoski, Senate Chair *NG*
Representative, Joseph Perry, House Chair *JP*
Joint Standing Committee on Taxation *MCC*

DATE: March 8, 2024

RE: Recommendations on the Governor’s Proposed Supplemental Budget, LD 2214

The Joint Standing Committee on Taxation met on February 29, 2024 and March 6, 2024 to review the initiatives and language in the Governor’s proposed supplemental budget under the committee’s jurisdiction. Our committee’s recommendations are summarized below. We have also completed and attached the budget report back template provided by OFPR, with a record of the committee’s votes on the relevant initiatives in Part A and the relevant language in Part H. Draft amendment language for several proposed amendments to Part H, which are described below, is also attached.

LD 2214 - Part A Initiatives

The committee voted unanimously (10-0) to support each of the 3 initiatives in Part A of the Governor’s proposed budget, LD 2214, under the committee’s jurisdiction. Please see the report back template for initiative descriptions.

LD 2214 - Part H Language

The committee voted on the language in Part H in 5 pieces, corresponding to the 5 distinct policy proposals included in Part H. Additional background on these proposals is provided in Appendices A-E attached to Commissioner Figueroa’s testimony presented at the joint public hearing of AFA and TAX on February 22, 2024. Because these 5 proposals affect interconnected and overlapping provisions of tax law, the corresponding language is woven throughout Part H (Sections H-1 through H-33) and not separable by section.

Below please find a summary chart outlining the 5 proposals in Part H, our committee’s votes and, where applicable, a summary of the committee’s proposed amendment.

LD 2214 – Part H Language: Tax Committee Report

Policy Proposal / Vote	Description (from Part H Summary)	Proposed Amendment
<p>A. Lease Stream</p> <p><u>Vote: IN as AMD (7-1)</u> IN as AMD: Grohoski, Chipman, Perry, Crockett, Matlack, Carmichael, Lavigne OUT: Quint</p>	<ul style="list-style-type: none"> • Amends Maine sales and use tax law to move from the current imposition of the sales and use tax on the lessor upfront on the full value of its rental property when purchased and used in Maine through leasing to instead requiring the lessor to collect sales tax due from the lessee on each periodic rental payment. • Provides a limited refund period and claim process for sales and use tax previously paid by qualified lessors on its rental property stock. 	<p>Amend the language in Part H to:</p> <ul style="list-style-type: none"> • Change the proposed rate of tax on the rental for less than one year by a person primarily engaged in the business of renting automobiles of a truck or van with gross vehicle weight of less than 26,000 pounds from 10% to 5.5%, and • Add language clarifying sourcing for motor vehicles, trailers, semitrailers, truck campers, aircraft and transportation equipment.
<p>B. Taxable Services</p> <p><u>Vote: IN (8-0)</u> IN: Grohoski, Chipman, Perry, Crockett, Matlack, Carmichael, Lavigne, Quint</p>	<ul style="list-style-type: none"> • Relocates the taxable services and related provisions under the service provider tax to the sales tax and its accompanying 5.5% rate; and repeals the service provider tax. 	
<p>C. Digital Streaming</p> <p><u>Vote: IN (7-1)</u> IN: Grohoski, Chipman, Perry, Crockett, Matlack, Carmichael, Lavigne OUT: Quint</p>	<ul style="list-style-type: none"> • Adds digital audio-visual and digital audio services to taxable services under the sales tax, broadening and merging with the related digital services and products previously taxed under the service provider tax, and harmonizing sales taxation of such services and products with lease stream taxation of rental payments. 	
<p>D. Medical/Mobility Equipment Exemption</p> <p><u>Vote: IN as AMD (8-0)</u> IN as AMD: Grohoski, Chipman, Perry, Crockett, Matlack, Carmichael, Lavigne, Quint</p>	<ul style="list-style-type: none"> • Provides a broader and simpler sales and use tax exemption for durable medical equipment (DME) and mobility enhancing equipment for home use. 	<p>Amend the language in Part H to:</p> <ul style="list-style-type: none"> • Provide a sales and use tax exemption for breast pumps, breast pump replacement parts, breast pump collection and storage supplies and breast pump kits sold or leased for home use.
<p>E. Nonprofit Exemption</p> <p><u>Vote: IN (7-1)</u> IN: Grohoski, Chipman, Perry, Crockett, Matlack, Carmichael, Lavigne OUT: Quint</p>	<ul style="list-style-type: none"> • Provides a sales and use tax exemption for purchases by nonprofit entities that have been determined by the United States Internal Revenue Service to be exempt from federal income taxation under Section 501(c)(3) of the Code. 	

The vote counts listed above are also recorded on the attached report back template on page 19 at “Part H Summary.” We note that two committee members communicated how they wished to be recorded on Part H after the committee’s voting deadline. Representative Hasenfus wished to be recorded as “IN” on all 5 proposals (A, B, C, D, and E), and Representative J. Libby wished to be recorded as “OUT” on proposal C regarding digital streaming.

Fiscal Impact of Part H and Proposed Amendments

The committee worked with Maine Revenue Services to obtain fiscal estimates of the revenue impact of the proposed amendments to Part H. The fiscal impact of Part H, as proposed in LD 2214 and with the amendments recommended in our report back is as follows:

General Fund Revenue	FY24	FY25	FY26	FY27
Part H - Governor's Proposal	\$0	\$2,860,042	\$7,428,255	\$283,288
Part H - with TAX Amendments	\$0	\$2,656,863	\$7,660,836	\$514,138
Difference		(\$203,179)	\$232,581	\$230,850

In closing, the Chairs would also like to acknowledge the testimony presented at the public hearing on LD 2214 in support of LD 1714, An Act to Create a Sustainable Funding Source for Recovery Community Centers Using a Percentage of the Adult Use Cannabis Tax Revenue. While LD 1714 was not part of the committee's votes on the supplemental budget presented in LD 2214, we note that LD 1714 was reported out OTP-A with a unanimous support of the Taxation committee in the first session, and LD 1714 emerged as the committee's top-ranked priority of the 14 bills originating in our committee carried over on the Special Appropriations Table as reported to AFA in our memorandum of February 2, 2024.

Thank you for your time and consideration of our report. Please let us know if we can provide any additional information or assistance related to the supplemental budget.

Attachments

Cc: Members, Joint Standing Committee on Appropriations and Financial Affairs
 Members, Joint Standing Committee on Taxation

Sec. A-1. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Renewable Energy Facilities Property Tax Exemption Z296

Initiative: Provides funding for an increase in the expected reimbursement to municipalities under the Renewable Energy Facilities Property Tax Exemption Program due to anticipated new projects.

Ref. #: 37

Committee Vote: **IN: 10-0**

AFA Vote: _____

GENERAL FUND	2022-23	2023-24	2024-25
All Other	\$0	\$0	\$1,500,000
GENERAL FUND TOTAL	\$0	\$0	\$1,500,000

Justification:

The purpose of the Renewable Energy Facilities Property Tax Exemption Program is to offset the effect on local property tax revenue arising from the exemption of certain solar and wind energy equipment from municipal property tax as required by Maine Revised Statutes, Title 36, chapter 105, subchapter 4. Reimbursement of at least 50% of the tax revenue lost by municipalities as a result of new property tax exemptions is mandated by Article IV, Part Third, section 23 of the Maine Constitution. The anticipated increase in reimbursements is due to the number of new renewable energy projects being planned or currently under construction.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

DEPARTMENT TOTALS	2022-23	2023-24	2024-25
GENERAL FUND	\$0	\$0	\$1,500,000
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$0	\$1,500,000

Sec. A-32. Appropriations and allocations.

The following appropriations and allocations are made.

TREASURER OF STATE, OFFICE OF

Disproportionate Tax Burden Fund 0472

Initiative: Adjusts funding to align with revenue changes approved in the December 2023 Revenue Forecast.

Ref. #: 807

Committee Vote: IN: 10-0

AFA Vote: _____

OTHER SPECIAL REVENUE FUNDS	2022-23	2023-24	2024-25
All Other	\$0	\$1,705,618	\$558,445
OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$1,705,618</u>	<u>\$558,445</u>

Justification:

This initiative will adjust funding to reflect revenue changes based on the approved December 2023 Revenue Forecast Committee report.

State - Municipal Revenue Sharing 0020

Initiative: Adjusts funding to align with revenue changes approved in the December 2023 Revenue Forecast.

Ref. #: 803

Committee Vote: IN: 10-0

AFA Vote: _____

OTHER SPECIAL REVENUE FUNDS	2022-23	2023-24	2024-25
All Other	\$0	\$6,822,474	\$2,233,785
OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$6,822,474</u>	<u>\$2,233,785</u>

Justification:

This initiative will adjust funding to reflect revenue changes based on the approved December 2023 Revenue Forecast Committee report.

TREASURER OF STATE, OFFICE OF

DEPARTMENT TOTALS	2022-23	2023-24	2024-25
OTHER SPECIAL REVENUE FUNDS	\$0	\$8,528,092	\$2,792,230
DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>\$8,528,092</u>	<u>\$2,792,230</u>

PART H

Sec. H-1. 23 MRSA §4210-B, sub-§7, as amended by PL 2023, c. 360, Pt. C, §1 is further amended to read:

7-A. Sales tax revenue. On July 1st of each year, the State Controller shall transfer to the Multimodal Transportation Fund an amount, as certified by the State Tax Assessor, that is equivalent to 100% of the revenue from the tax imposed on the value of rental of a truck or van with a gross weight of less than 26,000 pounds ~~rented from a person primarily engaged in the business of renting automobiles~~ and the value of rental for a period of less than one year of an automobile pursuant to Title 36, section 1811 for the first 6 months of the prior fiscal year after the reduction for the transfer to the Local Government Fund as described by Title 30-A, section 5681, subsection 5 and the transfer to the ATV Recreational Management Fund pursuant to Title 36, section 1820. On October 1st of each year, the State Controller shall transfer to the Multimodal Transportation Fund an amount, as certified by the State Tax Assessor, that is equivalent to 100% of the revenue from the tax imposed on the value of rental of a truck or van with a gross weight of less than 26,000 pounds ~~rented from a person primarily engaged in the business of renting automobiles~~ and the value of rental for a period of less than one year of an automobile pursuant to Title 36, section 1811 for the last 6 months of the prior fiscal year after the reduction for the transfer to the Local Government Fund as described by Title 30-A, section 5681, subsection 5 and the transfer to the ATV Recreational Management Fund pursuant to Title 36, section 1820. The tax amount must be based on actual sales for that fiscal year and may not consider any accruals that may be required by law.

Sec. H-2. 36 MRSA §182, sub-§1, as amended by PL 2007, c. 437, §2 is further amended to read:

1. Generally. The State Tax Assessor may, through the Attorney General, file an action in Superior Court applying for an order to enjoin from doing business any person who has:

- A. Failed to register with the assessor when the person is required to register by any provision of Part 3, ~~chapter 358~~ or Part 5 or by any rule adopted pursuant to this Title, as long as the assessor has provided written notice and the person continues to fail to register 15 days after receiving notice from the assessor of such failure;
- B. Failed to file with the assessor any overdue return required by Part 3, ~~chapter 358~~ or Part 5 within 15 days after receiving notice from the assessor of such failure;
- C. Failed to pay any tax required by Part 3, ~~chapter 358~~ or Part 5 when the tax is shown to be due on a return filed by that person, or that is otherwise conceded by that person to be due, or has been determined by the assessor to be due and that determination has become final;
- D. Knowingly filed a false return required by Part 3, ~~chapter 358~~ or Part 5; or

E. Failed to deduct and withhold, or truthfully account for or pay over or make returns of, income taxes in violation of the provisions of chapter 827.

Sec. H-3. 36 MRSA §1752, sub-§§1-K to 1-Q are enacted to read:

1-K. Ancillary service. “Ancillary service” means a service that is associated with or incidental to the provision of telecommunications services, including, but not limited to, detailed telecommunications billing service, directory assistance, vertical service and voicemail service.

1-L. Cable and satellite television or radio services. “Cable and satellite television or radio services” means all cable and satellite television or radio services, including the installation or use of associated equipment, for which a charge is made.

1-M. Conference bridging service. “Conference bridging service” means an ancillary service that links two or more participants in an audio or video conference call and may include the provision of a telephone number. “Conference bridging service” does not include the telecommunications services used to reach the conference bridge.

1-N. Detailed telecommunications billing service. “Detailed telecommunications billing service” means an ancillary service of separately stating information pertaining to individual calls on a customer’s billing statement.

1-O. Digital audio-visual and digital audio services. “Digital audio-visual and digital audio services” means the electronic transfer of digital audio-visual works and digital audio works to an end user with the right of less than permanent use granted by the seller, including when conditioned upon continued payment from the purchaser or a subscription.

For purposes of this subsection:

A. “End user” means a person other than a person who receives by contract a product transferred electronically for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution or exhibition of the product, in whole or in part, to another person;

B. “Permanent” means perpetual or for an indefinite or unspecified length of time;

C. “Subscription” means an agreement with a seller that grants a purchaser the right to obtain products transferred electronically, in a fixed quantity or for a fixed period of time, or both; and

D. “Transfer electronically” or “electronic transfer” means obtainment by the purchaser by means other than tangible storage media.

1-P. Digital audio-visual works. “Digital audio-visual works” means a series of related images that, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

1-Q. Digital audio works. “Digital audio works” means works that result from the fixation of a series of musical, spoken or other sounds, including ringtones. For purposes of this subsection, “ringtones” means digitized sound files that are downloaded onto a device and that may be used to alert the purchaser with respect to a communication.

Sec. H-4. 36 MRSA §1752, sub-§§2-F to 2-H are enacted to read:

2-F. Directory assistance. “Directory assistance” means an ancillary service of providing telephone number information or address information or both.

2-G. Durable medical equipment. “Durable medical equipment” means equipment, including repair and replacement parts for such equipment, that:

- A. Can withstand repeated use;
- B. Is primarily and customarily used to serve a medical purpose;
- C. Generally is not useful to a person in the absence of illness or injury; and
- D. Is not worn in or on the body.

“Durable medical equipment” does not include mobility enhancing equipment.

2-H. Fabrication services. “Fabrication services” means the production of tangible personal property for a consideration for a person who furnishes, either directly or indirectly, the materials used in that production.

Sec. H-5. 36 MRSA §1752, sub-§3-E, as repealed by PL 2003, c. 673, Pt. V, §10 and affected by §29, is amended to read:

3-E. Home service provider. “Home service provider” means the facilities-based carrier or reseller with which a customer contracts for the provision of mobile telecommunications services.

Sec. H-6. 36 MRSA §1752, sub-§4-A and 4-B are enacted to read:

4-A. International telecommunications service. “International telecommunications service” means a telecommunications service that originates or terminates in the United States and terminates or originates outside the United States, respectively. For purposes of this subsection, “United States” includes a territory or possession of the United States.

4-B. Interstate telecommunications service. “Interstate telecommunications service” means a telecommunications service that originates in one state, territory or possession of the United States and terminates in a different state, territory or possession of the United States. For purposes of this subsection, “state” includes the District of Columbia.

Sec. H-7. 36 MRSA §1752, sub-§5-D and 5-E are enacted to read:

5-D. Lease or rental. “Lease or rental” means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration and may include future options to purchase or extend. “Lease or rental” includes a sublease and subrental.

“Lease or rental” does not include:

A. Leases and contracts payable by rental or license fees for the right of possession and use when such leases and contracts are deemed by the State Tax Assessor to be in lieu of purchase;

B. A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments; or

C. Providing tangible personal property along with an operator for a fixed or indeterminate period of time, when that operator is necessary for the equipment to perform as designed and the operator does more than maintain, inspect or set up the tangible personal property.

This definition shall apply regardless if a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, the Uniform Commercial Code, or other provisions of federal, state or local law.

“Lease or rental” includes the terms “lease” and “rental” as used in this Part.

5-E. Lessor. “Lessor” means a person who leases or rents tangible personal property located in this State to another person.

Sec. H-8. 36 MRSA §1752, sub-§§6-J and 6-K are enacted to read:

6-J. Mobile telecommunications services. “Mobile telecommunications services” means commercial mobile radio service as defined in 47 Code of Federal Regulations, Section 20.3 as in effect October 1, 2015. For purposes of sourcing, “mobile telecommunications services” does not include air-ground radiotelephone service as defined in 47 Code of Federal Regulations, Section 22.99 as in effect October 1, 2015.

6-K. Mobility enhancing equipment. “Mobility enhancing equipment” means equipment, including repair and replacement parts for such equipment, that:

A. Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle;

B. Is not generally used by persons with normal mobility; and

C. Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

“Mobility enhancing equipment” does not include durable medical equipment.

Sec. H-9. 36 MRSA §1752, sub-§7-E, as repealed by PL 2003, c. 673, Pt. V, §13 and affected by §29 is amended to read:

7-E. Place of primary use. “Place of primary use” means the street address representative of where a customer’s use of mobile telecommunications services primarily occurs, which must be either the residential street address or the primary business street address of the customer and must also be located within the licensed service area of the home service provider. For purposes of determining the place of primary use, “customer” means the person or entity that contracts with the home service provider for mobile telecommunications services or, if the end user of such services is not the contracting party, the person that is the end user of such services. The term “customer” does not include a reseller of mobile telecommunications services or a serving carrier under an agreement to serve the customer outside the home service provider’s licensed service area.

Sec. H-10. 36 MRSA §1752, sub-§7-F, as enacted by PL 2019, c. 401, Pt. B, §2 is repealed.

Sec. H-11. 36 MRSA §1752, sub-§8-C, as enacted by PL 2011, c. 655, Pt. PP, §1 and affected by §4, is repealed.

Sec. H-12. 36 MRSA §1752, sub-§9-D, as repealed by PL 2003, c. 673, Pt. V, §15 and affected by §29 is amended to read:

9-D. Reseller. “Reseller,” when used in relation to mobile telecommunications services, means a provider that purchases telecommunications services from another telecommunications service provider and then resells, uses as a component part of or integrates the purchased services into mobile telecommunications services. “Reseller” does not include a serving carrier with which a home service provider arranges for services to its customers outside the home service provider’s licensed service area.

Sec. H-13. 36 MRSA §1752, sub-§10, as amended by PL 2019, c. 401, Pt. B, §3 is further amended to read:

10. Retailer. “Retailer” means a person who makes retail sales or who is required to register by section 1754-B or who is registered under section 1756. “Retailer” includes a lessor.

Sec. H-14. 36 MRSA §1752, sub-§11, ¶B, as amended by PL 2021, c. 578, §1 is further amended to read:

B. “Retail sale” does not include:

(1) Any casual sale;

(2) Any sale by a personal representative in the settlement of an estate unless the sale is made through a retailer or the sale is made in the continuation or operation of a business;

~~(3) The sale, to a person engaged in the business of renting automobiles, of automobiles, integral parts of automobiles or accessories to automobiles, for rental or for use in an automobile rented for a period of less than one year;~~

~~(3-A) The sale, to a person primarily engaged in the business of renting automobiles, of trucks or vans with a gross vehicle weight of less than 26,000 pounds, integral parts of such vehicles or accessories for such vehicles, for rental or for use in such a vehicle rented for a period of less than one year;~~

~~(4) The sale, to a person engaged in the business of renting video media and video equipment, of video media or video equipment for rental;~~

~~(5) The sale, to a person engaged in the business of renting or leasing automobiles, of automobiles for rental or lease for one year or more;~~

(6) The sale, to a person engaged in the business of providing cable or satellite television services or satellite radio services, of associated equipment for rental or lease to subscribers in conjunction with a sale of cable or satellite television services or satellite radio services;

~~(7) The sale, to a person engaged in the business of renting furniture or audio media and audio equipment, of furniture, audio media or audio equipment for rental pursuant to a rental purchase agreement as defined in Title 9-A, section 11-105;~~

(8) The sale of loaner vehicles to a new vehicle dealer licensed as such pursuant to Title 29-A, section 953;

(9) The sale of automobile repair parts used in the performance of repair services on an automobile pursuant to an extended service contract ~~sold on or after September 20, 2007~~ that entitles the purchaser to specific benefits in the service of the automobile for a specific duration;

(10) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of tangible personal property for resale in the form of tangible personal property, except resale as a casual sale;

(11) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of a taxable service for resale, except resale as a casual sale;

(12) The sale, to a retailer that is not required to register under section 1754-B, of tangible personal property for resale outside the State in the form of tangible personal property, except resale as a casual sale;

(13) The sale, to a retailer that is not required to register under section 1754-B, of a taxable service for resale outside the State, except resale as a casual sale;

(14) The sale of repair parts used in the performance of repair services on telecommunications equipment ~~as defined in section 2551, subsection 19~~ pursuant to an extended service contract that entitles the purchaser to specific benefits in the service of the telecommunications equipment for a specific duration;

~~(15) The sale of positive airway pressure equipment and supplies and oxygen delivery equipment for rental for personal use to a person engaged in the business of renting positive airway pressure equipment and oxygen delivery equipment;~~

(16) The sale, to a person engaged in the business of renting or leasing motor homes, as defined in Title 29-A, section 101, subsection 40, or camper trailers, of motor homes or camper trailers for rental as tangible personal property but not as the rental of living quarters; ~~or~~

(17) The sale of truck repair parts used in the performance of repair services on a truck pursuant to an extended service contract that entitles the purchaser to specific benefits in the service of the truck for a specific duration; or

(18) The sale, lease or rental to a lessor who has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C of tangible personal property for lease or rental.

Sec. H-15. 36 MRSA §1752, sub-§13, as amended by PL 1981, c. 706, §20, is further amended to read:

13. Sale. “Sale” means any transfer, exchange or barter, in any manner or by any means whatsoever, for a consideration and includes leases and rentals, conditional sale contracts and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price, and contracts payable by rental or license fees for the right of possession and use, but only when such leases and contracts that are deemed by the State Tax Assessor to be in lieu of purchase. Each period for which a lease or rental payment is charged is considered a separate sale.

Sec. H-16. 36 MRSA §1752, sub-§14, as amended by PL 2021, c. 578, §2, is further amended to read:

14. Sale price. “Sale price” means the total amount of a retail sale valued in money, whether received in money or otherwise.

A. “Sale price” includes:

(1) Any consideration for services that are a part of a retail sale;

(2) All receipts, cash, credits and property of any kind or nature and any amount for which credit is allowed by the seller to the purchaser, without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, losses or any other expenses;

(3) All consideration received for the rental of living quarters in this State, including any service charge or other charge or amount required to be paid as a condition for occupancy, valued in money, whether received in money or otherwise and whether received by the owner, occupant, manager or operator of the living quarters, by a room remarketer, by a person that operates a transient rental platform or by another person on behalf of any of those persons;

(4) In the case of the lease or rental for a period of less than one year of an automobile or of a truck or van with a gross vehicle weight of less than 26,000 pounds ~~rented from a person primarily engaged in the business of renting automobiles~~, the value is the total rental charged to the lessee and includes, but is not limited to, maintenance and service contracts, drop-off or pick-up fees, airport surcharges, mileage fees and any separately itemized charges on the rental agreement to recover the owner's estimated costs of the charges imposed by government authority for title fees, inspection fees, local excise tax and agent fees on all vehicles in its rental fleet registered in the State. All fees must be disclosed when an estimated quote is provided to the lessee; and

(5) In the case of the lease or rental of an automobile for one year or more, the value is the total monthly lease payment multiplied by the number of payments in the lease or rental, the amount of equity involved in any trade-in and the value of any cash down payment. Collection and remittance of the tax is the responsibility of the person that negotiates the lease transaction with the lessee.

B. "Sale price" does not include:

(1) Discounts allowed and taken on sales;

(2) Allowances in cash or by credit made upon the return of merchandise or services pursuant to warranty;

(3) The price of property returned or services rejected by customers, when the full price is refunded either in cash or by credit;

(4) The price received for labor or services used in installing or applying or repairing the property sold or fabricated, if separately charged or stated;

(5) Any amount charged or collected, in lieu of a gratuity or tip, as a specifically stated service charge, when that amount is to be disbursed by a hotel, restaurant or other eating establishment to its employees as wages;

- (6) The amount of any tax imposed by the United States on or with respect to retail sales, whether imposed upon the retailer or the consumer, except any manufacturers', importers', alcohol or tobacco excise tax;
- (7) The cost of transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, provided that those charges are separately stated and the transportation occurs by means of common carrier, contract carrier or the United States mail;
- (8) Any amount charged or collected by a person engaged in the rental of living quarters as a forfeited room deposit or cancellation fee if the prospective occupant of the living quarters cancels the reservation on or before the scheduled date of arrival;
- (9) Any amount charged for the disposal of used tires;
- (10) Any amount charged for a paper or plastic single-use carry-out bag;
- (11) Any charge, deposit, fee or premium imposed by a law of this State;
- (12) Federal universal service support funds that are paid directly to the seller pursuant to 47 Code of Federal Regulations, Part 54;~~or~~
- (13) A paint stewardship assessment imposed pursuant to Title 38, section 2144~~;~~ or
- (14) For lease or rental payments, separately stated charges for sales of optional insurance coverage for the protection of the lessee or of the lessee's personal property, such as liability insurance, personal accident insurance, or personal effects protection.

Sec. H-17. 36 MRSA §1752, sub-§14-D, as repealed by PL 2003, c. 673, Pt. V, §17 and affected by §29, is amended to read:

14-D. Serving carrier. “Serving carrier,” when used in relation to mobile telecommunications services, means a facilities-based carrier providing mobile telecommunications services to a customer outside a home service provider’s licensed service area.

Sec. H-18. 36 MRSA §1752, sub-§17-B, as amended by PL 2021, c. 578, §3 is repealed and replaced with the following:

17-B. Taxable service. “Taxable service” means:

- A. The rental of living quarters in a hotel, rooming house or tourist or trailer camp;
- B. The transmission and distribution of electricity;

C. The sale of an extended service contract on an automobile or truck that entitles the purchaser to specific benefits in the service of the automobile or truck for a specific duration;

D. The sale of prepaid calling service;

E. Cable and satellite television or radio services;

F. Fabrication services;

G. Telecommunications services;

H. The installation, maintenance or repair of telecommunications equipment;

I. Ancillary services; and

J. Digital audio-visual and digital audio services.

Sec. H-19. 36 MRSA §1752, sub-§§17-C and 17-D are enacted to read:

17-C. Telecommunications equipment. “Telecommunications equipment” means any 2-way interactive communications device, system or process for transmitting or receiving signals and capable of exchanging audio, video, data or textual information. “Telecommunications equipment” includes all transmission media that are used or capable of being used in the provision of a 2-way interactive communications, including, without limitation, copper wire, coaxial cable and optical fiber, except those transmission media designed and primarily used to transmit electricity. “Telecommunications equipment” does not include computers, except those components of a computer used primarily and directly as a 2-way interactive communications device capable of exchanging audio, video, data or textual information.

17-D. Telecommunications services. “Telecommunications services” means the electronic transmission, conveyance or routing of voice, data, audio, video or any other information or signals to a point or between or among points. “Telecommunications services” includes transmission, conveyance or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing without regard to whether the service is referred to as “Voice over Internet Protocol” services or is classified by the Federal Communications Commission as enhanced or value added. “Telecommunications services” does not include:

A. Data processing and information services that allow data to be generated, acquired, stored, processed or retrieved and delivered by an electronic transmission to a purchaser when the purchaser’s primary purpose for the underlying transaction is to obtain the processed data or information;

B. Installation or maintenance of wiring or equipment on a customer’s premises;

C. Tangible personal property;

D. Advertising, including, but not limited to, directory advertising;

E. Billing and collection services provided to 3rd parties;

F. Internet access service;

G. Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of those services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service as defined in 47 United States Code, Section 522(6) and audio and video programming services delivered by commercial mobile radio service providers as defined in 47 Code of Federal Regulations, Section 20.3;

H. Ancillary services; or

I. Digital products delivered electronically, including, but not limited to, software, music, video, reading materials or ringtones.

Sec. H-20. 36 MRSA §1752, sub-§22-A is enacted to read:

22-A. Vertical service. “Vertical service” means an ancillary service that is offered in connection with one or more telecommunications services and offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections. “Vertical service” includes conference bridging service.

Sec. H-21. 36 MRSA §1752, sub-§23-A is enacted to read:

23-A. Voice mail service. “Voice mail service” means an ancillary service that enables the customer to store, send or receive recorded messages. “Voice mail service” does not include a vertical service that the customer may be required to have in order to use the voice mail service.

Sec. H-22. 36 MRSA §1754-B, sub-§1-B, ¶A, as repealed and replaced by PL 2021, c. 181, Pt. B, §5, is further amended to read:

A. Every person that has a substantial physical presence in this State and that makes sales of tangible personal property or taxable services in this State, including, but not limited to:

(1) Every person that makes sales of tangible personal property or taxable services, whether or not at retail, that maintains in this State any office, manufacturing facility, distribution facility, warehouse or storage facility, sales or sample room or other place of business;

(2) Every person that makes sales of tangible personal property or taxable services that does not maintain a place of business in this State but makes retail sales in this State or solicits orders, by means of one or more salespeople within this State, for retail sales within this State; and

(3) Every lessor engaged in the leasing of tangible personal property located in this State that does not maintain a place of business in this State but makes retail sales to ~~purchasers from~~ in this State;

Sec. H-23. 36 MRSA §1758, as repealed and replaced by PL 1999, c. 708, §24, is repealed.

Sec. H-24. 36 MRSA §1760, sub-§9-I is enacted to read:

9-I. Fuel used at a manufacturing facility. Ninety-five percent of the sale price of fabrication services for the production of fuel for use at a manufacturing facility.

Sec. H-25. 36 MRSA §1760, sub-§94, as amended by PL 2019, c. 401, Pt. B, §15, is repealed.

Sec. H-26. 36 MRSA §1760, sub-§§115 to 120 are enacted to read:

115. Durable medical equipment. Beginning January 1, 2025, sales of durable medical equipment that is sold or leased for home use.

116. Mobility enhancing equipment. Beginning January 1, 2025, sales of mobility enhancing equipment that is sold or leased for home use.

117. Fabrication services for resale. Beginning January 1, 2025, the production of tangible personal property through fabrication services if a sale to the consumer of that tangible personal property would be exempt or otherwise not subject to tax under this Part.

118. International telecommunications service. Beginning January 1, 2025, sales of international telecommunications service to a business for use directly in that business.

119. Interstate telecommunications service. Beginning January 1, 2025, sales of interstate telecommunications service to a business for use directly in that business.

120. Section 501(c)(3) nonprofit organizations. Beginning January 1, 2025, sales to a nonprofit organization that has been determined by the United States Internal Revenue Service to be exempt from federal income taxation under Section 501(c)(3) of the Code, if the tangible personal property or taxable services sold are to be used primarily for the purposes for which the nonprofit organization was organized.

Sec. H-27. 36 MRSA §1811, sub-§1, ¶D, as amended by PL 2021, c. 658, §286, is further amended to read:

D. For sales occurring on or after October 1, 2019 and before January 1, 2025, the rate of tax is 5.5% on the value of all tangible personal property and taxable services, except the rate of tax is:

- (1) Eight percent on the value of prepared food;
- (2) Eight percent on the value of liquor sold in licensed establishments as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43 and liquor sold for on-premises consumption by a licensed brewery, small brewery, winery, small winery, distillery or small distillery pursuant to Title 28-A, section 1355-A, subsection 2, paragraph B;
- (3) Nine percent on the value of rental of living quarters in any hotel, rooming house or tourist or trailer camp;
- (4) Ten percent on the value of rental for a period of less than one year of:
 - (a) An automobile;
 - (b) A truck or van with a gross vehicle weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles; or
 - (c) A loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty; and
- (5) Ten percent on the value of adult use cannabis, adult use cannabis products and, if sold by a person to an individual who is not a qualifying patient, cannabis and cannabis products beginning on the first day of the calendar month in which adult use cannabis and adult use cannabis products may be sold in the State by a cannabis establishment licensed to conduct retail sales pursuant to Title 28-B, chapter 1.

Sec. H-28. 36 MRSA §1811, sub-§1, ¶E is enacted to read:

E. For sales occurring on or after January 1, 2025, the rate of tax is 5.5% on the value of all tangible personal property and taxable services, except the rate of tax is:

- (1) Eight percent on the value of prepared food;
- (2) Eight percent on the value of liquor sold in licensed establishments as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43 and liquor sold for on-premises consumption by a licensed brewery, small brewery, winery,

small winery, distillery or small distillery pursuant to Title 28-A, section 1355-A, subsection 2, paragraph B;

(3) Nine percent on the value of rental of living quarters in any hotel, rooming house or tourist or trailer camp;

(4) Ten percent on the value of rental for a period of less than one year of:

(a) An automobile;

(b) A truck or van with a gross vehicle weight of less than 26,000 pounds; or

(c) A loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty; and

(5) Ten percent on the value of adult use cannabis, adult use cannabis products and, if sold by a person to an individual who is not a qualifying patient, cannabis and cannabis products.

Sec. H-29. 36 MRSA §1819, sub-§2, as amended by PL 2021, c. 181, Pt. B, §6, is further amended to read:

2. Sourcing for sales of tangible personal property and taxable services; generally.

The sale of tangible personal property or a taxable service is sourced in this State pursuant to this subsection. The provisions of this subsection do not apply to the lease or rental of tangible personal property or the sale of mobile telecommunications services.

Sec. H-30. 36 MRSA §1819, sub-§§3 and 4 are enacted to read:

3. Sourcing for leases or rentals of tangible personal property. The lease or rental of tangible personal property is sourced pursuant to this subsection.

A. For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced to this State in the same manner as a sale of tangible personal property in accordance with subsection 2. Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. For the purposes of this paragraph, "the primary property location" is an address for the property provided by the lessee that is available to the lessor from its records and maintained in the ordinary course of business, when use of this address does not constitute bad faith. The primary property location shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.

B. For a lease or rental that does not require recurring periodic payments, the payment is sourced to this State in the same manner as a sale of tangible personal property in accordance with subsection 2.

C. This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

4. Sourcing for mobile telecommunications services. The sale of mobile telecommunications services is sourced in this state pursuant to this subsection.

A. Mobile telecommunications services provided to a customer whose place of primary use is located in this State, the charges for which are billed by or for the customer's home service provider, are deemed to be provided at the customer's place of primary use. A home service provider is responsible for obtaining and maintaining a record of a customer's place of primary use. Subject to paragraph B and if the home service provider's reliance on the information provided by its customer is in good faith, the home service provider:

(1) May rely on the applicable residential or business street address supplied by the home service provider's customer; and

(2) May not be held liable for any additional taxes under this Part based on a different determination of the place of primary use.

B. If the assessor determines that the address used by a home service provider as a customer's place of primary use does not meet the definition provided by section 1752, subsection 7-E, the assessor shall notify the customer in writing of that determination and provide the customer an opportunity to demonstrate that that address is the customer's place of primary use. If the customer fails to demonstrate to the assessor's satisfaction within 30 days from the time it receives notice from the assessor, or within another time period as the assessor may allow, that the address in question is the customer's place of primary use, the assessor shall provide the home service provider with the proper address to be used as the customer's place of primary use. The home service provider shall begin using the address provided by the assessor as the customer's place of primary use within 30 days from the date it receives notice of the assessor's determination.

C. A home service provider is entitled to the hold harmless protections provided by the federal Mobile Telecommunications Sourcing Act, Public Law 106-252, Section 1, 114 Stat. 2, (2000).

D. Notwithstanding any other provision of this Part, otherwise nontaxable charges that are aggregated with and not separately stated from taxable mobile telecommunications charges are subject to taxation unless the home service provider can, to the satisfaction of the assessor, reasonably identify such charges from books and records kept in the regular course of its business. A customer may not rely upon the nontaxability of bundled services

unless the customer's home service provider separately states the otherwise nontaxable services or the home service provider elects, after receiving written notice from the customer in the form required by the provider, to provide verifiable data based upon the home service provider's books and records that are kept in the regular course of business and that reasonably identify the nontaxable charges.

Sec. H-31. 36 MRSA §2022 is enacted to read:

§2022. Refund of use tax on purchases of qualifying retail lease or rental property

1. Definitions. For purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. “Qualified lessor” means a person who:

(1) Paid Maine sales or use tax on the purchase of qualifying lease or rental property on or after January 1, 2023 and before January 1, 2025; and

(2) Collected and remitted Maine sales tax on the lease or rental of qualifying lease or rental property on or after January 1, 2025.

B. “Qualifying lease or rental property” means tangible personal property:

(1) That was part of a taxable lease or rental transaction on or after January 1, 2025 for which the qualified lessor of the property collected and remitted Maine sales tax to the State; and

(2) Upon which the qualified lessor paid Maine sales or use tax on or after January 1, 2023 and before January 1, 2025.

2. Refund authorized. The State Tax Assessor shall refund the tax imposed pursuant to this Part and paid by a qualified lessor on the purchase of qualifying lease or rental property on or after January 1, 2023 and before January 1, 2025. The amount of the refund for qualifying lease or rental property is limited to the sales tax collected and remitted to the State by the qualified lessor on qualifying lease or rental property on or after January 1, 2025 and before January 1, 2027.

3. Procedure and limitation. A qualified lessor may request a refund on qualifying lease or rental property by submitting a claim for refund on a form prescribed by the assessor. A qualified lessor must file one claim for all qualifying lease or rental property and must file the claim on or after January 1, 2027 and before March 31, 2027.

4. Audit. The assessor may audit a claim for refund filed under this section. If the assessor determines that the amount of refund is incorrect, the assessor may issue an assessment within 3 years from the date the claim was filed or at any time if a fraudulent claim was filed. The claimant may seek reconsideration of the assessment pursuant to section 151.

Sec. H-32. 36 MRSA, c. 358 is repealed.

Sec. H-33. Application. This Part applies to sales of tangible personal property and taxable services on or after January 1, 2025. For the purposes of lease or rental payments, each period for which a lease or rental payment is charged is considered a separate sale.

PART H SUMMARY

TAX COMMITTEE VOTES

This Part makes the following changes to the sales and use tax and service provider tax provisions:

- IN as AMD: 7-1** • Amends Maine sales and use tax law to move from the current imposition of and use tax on the lessor upfront on the full value of its rental property when purchased and used in Maine through leasing to instead requiring the lessor to collect sales tax due from the lessee on each periodic rental payment.
- Provides a limited refund period and claim process for sales and use tax previously paid by qualified lessors on its rental property stock.
- IN: 8-0** • Relocates the taxable services and related provisions under the service provider tax to the sales tax and its accompanying 5.5% rate; and repeals the service provider tax.
- IN: 7-1** • Adds digital audio-visual and digital audio services to taxable services under the sales tax, broadening and merging with the related digital services and products previously taxed under the service provider tax, and harmonizing sales taxation of such services and products with lease stream taxation of rental payments.
- IN as AMD: 8-0** • Provides a broader and simpler sales and use tax exemption for durable medical equipment (DME) and mobility enhancing equipment for home use.
- IN: 7-1** • Provides a sales and use tax exemption for purchases by nonprofit entities that have been determined by the United States Internal Revenue Service to be exempt from federal income taxation under Section 501(c)(3) of the Code.

**Amendment to “A. Lease Stream” Provisions in Part H
Taxation Committee Vote: (7-1)**

Amend the bill in section H-1, which amends 23 MRSA §4210-B, sub-§7-A, by making the following changes to sub-§7-A:

7-A. Sales tax revenue. On July 1st of each year, the State Controller shall transfer to the Multimodal Transportation Fund an amount, as certified by the State Tax Assessor, that is equivalent to 100% of the revenue from the tax imposed on ~~the value of rental of a truck or van with a gross weight of less than 26,000 pounds~~ rented from a person primarily engaged in the business of renting automobiles ~~and~~ the value of rental for a period of less than one year of an automobile pursuant to Title 36, section 1811 for the first 6 months of the prior fiscal year after the reduction for the transfer to the Local Government Fund as described by Title 30-A, section 5681, subsection 5 and the transfer to the ATV Recreational Management Fund pursuant to Title 36, section 1820. On October 1st of each year, the State Controller shall transfer to the Multimodal Transportation Fund an amount, as certified by the State Tax Assessor, that is equivalent to 100% of the revenue from the tax imposed on ~~the value of rental of a truck or van with a gross weight of less than 26,000 pounds~~ rented from a person primarily engaged in the business of renting automobiles ~~and~~ the value of rental for a period of less than one year of an automobile pursuant to Title 36, section 1811 for the last 6 months of the prior fiscal year after the reduction for the transfer to the Local Government Fund as described by Title 30-A, section 5681, subsection 5 and the transfer to the ATV Recreational Management Fund pursuant to Title 36, section 1820. The tax amount must be based on actual sales for that fiscal year and may not consider any accruals that may be required by law.

Further amend the bill in section H-16, which amends §1752, sub-§14, by making the following changes to Paragraph A, subparagraph (4):

(4) In the case of the lease or rental for a period of less than one year of an automobile ~~or of a truck or van with a gross vehicle weight of less than 26,000 pounds~~ rented from a person primarily engaged in the business of renting automobiles, the value is the total rental charged to the lessee and includes, but is not limited to, maintenance and service contracts, drop-off or pick-up fees, airport surcharges, mileage fees and any separately itemized charges on the rental agreement to recover the owner’s estimated costs of the charges imposed by government authority for title fees, inspection fees, local excise tax and agent fees on all vehicles in its rental fleet registered in the State. All fees must be disclosed when an estimated quote is provided to the lessee; and

Further amend the bill in section H-28, which enacts §1811, sub-§1, paragraph E, by making the following changes to subparagraph (4):

(4) Ten percent on the value of rental for a period of less than one year of:

(a) An automobile; **or**

~~**(b) A truck or van with a gross vehicle weight of less than 26,000 pounds; or**~~

~~**(e)**~~ **(b)** A loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty; and

Further amend the bill in section H-30, which enacts 36 MRSA §1819, sub-§§3 and 4, by amending sub-§3, add new sub-§4 and sub-§5, and renumber previous sub-§4 as sub-§6

3. Sourcing for leases or rentals of tangible personal property. The lease or rental of tangible personal property, *other than property identified in subsection 4 or subsection 5*, is sourced pursuant to this subsection.

A. For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced to this State in the same manner as a sale of tangible personal property in accordance with subsection 2. Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. For the purposes of this paragraph, "the primary property location" is an address for the property provided by the lessee that is available to the lessor from its records and maintained in the ordinary course of business, when use of this address does not constitute bad faith. The primary property location shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.

B. For a lease or rental that does not require recurring periodic payments, the payment is sourced to this State in the same manner as a sale of tangible personal property in accordance with subsection 2.

C. This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

4. Motor vehicles, trailers, semitrailers, truck campers or aircraft. The lease or rental of motor vehicles, trailers, semitrailers, truck campers or aircraft that do not qualify as transportation equipment, as defined in subsection 5, shall be sourced as follows:

A. For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this

address does not constitute bad faith. This location shall not be altered by intermittent use at different locations.

B. For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a sale in accordance with the provisions of subsection 2.

C. This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

5. Transportation equipment. The sale, including lease or rental of transportation equipment shall be sourced the same as a sale in accordance with the provisions of subsection 2, notwithstanding the exclusion of lease or rental in subsection 2. "Transportation equipment" means any of the following:

A. Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce.

B. Trucks and truck tractors with a gross vehicle weight rating of 10,001 pounds or greater, trailers, semitrailers, or passenger buses that are:

(1) Registered through the International Registration Plan; and

(2) Operated under authority of a carrier authorized and certificated by the U.S. Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.

C. Aircraft that are operated by air carriers authorized and certificated by the U.S. Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce.

D. Containers designed for use on and component parts attached or secured on the items set forth in paragraphs A through C.

Re-number §1819 sub-§4 (Sourcing for mobile telecommunications services) as sub-§6 with no change to language in LD 2144 as presented.

SUMMARY

This amendment repeals the language imposing a 10% sales tax rate on the rental of a truck or van with a gross vehicle weight of less than 26,000 pounds thereby applying the general 5.5% rate to said vehicles. The amendment also enacts sales and use tax agreement sourcing provisions for the lease or rental of motor vehicles, trailers, semitrailers, or aircraft and for the sale of transportation equipment.

**Amendment to “D. Medical/Mobility Equipment Exemption” Provisions in Part H
Taxation Committee Vote: (8-0)**

Amend the bill in section H-3, which enacts 36 MRSA §1752, sub-§§1-K to 1-Q, by add the following new subsection 1-R at the end:

1-R. Breast pump. “Breast pump” means an electronically or manually controlled pump device used to express milk from a human breast during lactation, including any external power supply unit packaged and sold with the pump device at the time of sale to power the pump device.

Further amend the bill in section H-26, which enacts §1760, sub-§§115 to 120, by striking subsection 115 and replacing it with the following:

115. Durable medical equipment. Beginning January 1, 2025, sales of:

A. Durable medical equipment that is sold or leased for home use; and

B. Breast pumps, breast pump replacement parts, breast pump collection and storage supplies and breast pump kits sold or leased for home use. For the purposes of this paragraph, “breast pump collection and storage supplies” means tangible personal property to be used in conjunction with a breast pump to collect milk expressed from a human breast and to store collected milk until it is ready for consumption.

SUMMARY

The amendment also enacts a definition of “breast pump” and amends the exemption for durable medical equipment to include the sale of breast pumps, breast pump replacement parts, breast pump collection and storage supplies and breast pump kits sold for home use.