

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION

2
3 ONE HUNDRED AND TWELFTH LEGISLATURE

4
5 Legislative Document

No. 1220

6
7 H.P. 861

House of Representatives, April 4, 1985

8 Submitted by the Department of Finance and Administration pursuant to
Joint Rule 24.

9 Referred to the Committee on Taxation. Sent up for concurrence and
ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Higgins of Portland.

11 Cosponsored by Representative Jackson of Harrison, Senator Twitchell
of Oxford and Representative Aliberti of Lewiston.

12 STATE OF MAINE

13
14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT Providing for Administrative Changes
18 in Maine Tax Law.
19

20 Be it enacted by the People of the State of Maine as
21 follows:

22 Sec. 1. 36 MRSA §111, sub-§3, as enacted by PL
23 1979, c. 378, §2, is amended to read:

24 3. Person. "Person" means an individual, firm,
25 partnership, association, society, club, corporation,
26 estate, trust, business trust, receiver, assignee or
27 any other group or combination acting as a unit, tax-
28 able entity, the State or Federal Government or any
29 political subdivision or agency of either government.

30 Sec. 2. 36 MRSA §841-B, as amended by PL 1983,
31 c. 812, §271 and c. 855, §4, is repealed and the fol-
32 lowing enacted in its place:

33 §841-B. Land Classification Appeals Board; purpose,
34 composition

1 The Land Classification Appeals Board, as estab-
2 lished by Title 5, section 12004, subsection 2, is
3 established to hear appeals from decisions of municip-
4 al tax assessors, chief assessors and the State Tax
5 Assessor acting as assessor of the unorganized terri-
6 tory relating to the Maine Tree Growth Tax Law or the
7 Farm and Open Space Tax Law. The board shall be com-
8 posed of 4 voting members: The Commissioner of Con-
9 servation or his designee; the Commissioner of Agri-
10 culture, Food and Rural Resources or his designee;
11 and 2 members, serving 4 year terms to be appointed
12 by the Governor. One of these members shall be a mun-
13 icipal officer and one shall be a forest landowner.
14 The initial appointment of the municipal officer
15 shall be for a 2-year period. In the event of the
16 death or resignation of such an appointee, the Gover-
17 nor shall make an appointment to the appeals board
18 for the unexpired term. The Commissioner of Finance
19 and Administration or his designee shall serve in an
20 advisory capacity as a nonvoting member and as chair-
21 man of the board. In the case of a tie vote, the
22 Commissioner of Finance and Administration or his
23 designee shall vote to break the tie. The landowner
24 member and the municipal officer shall be compensated
25 according to the provisions of Title 5, chapter 379.
26 All other members shall be compensated by the agency
27 they represent for actual expenses incurred in the
28 performance of their duties under this section.

29 Sec. 3. 36 MRS §1752, sub-§7-B, as enacted by
30 PL 1977, c. 477, §6, is repealed and the following
31 enacted in its place:

32 7-B. Machinery and equipment. "Machinery and
33 equipment" means machinery, equipment and parts and
34 attachments for machinery and equipment, but excludes
35 foundations for machinery and equipment and special
36 purpose buildings used to house or support machinery
37 and equipment.

38 Sec. 4. 36 MRS §1752, sub-§11, as amended by PL
39 1983, c. 859, Pt. M, §§2 and 13, is further amended
40 to read:

41 11. Retail sale or sale at retail. "Retail sale"
42 or "sale at retail" means any sale of tangible per-
43 sonal property, in the ordinary course of business,

1 for consumption or use, or for any purpose other than
2 for resale, except resale as a casual sale, in the
3 form of tangible personal property, any rental of
4 living quarters in any hotel, rooming house, tourist
5 or trailer camp, any rental of automobiles on a
6 short-term basis, other than rental to a person en-
7 gaged in the business of renting automobiles, the
8 sale of telephone or telegraph service and the sale
9 of extended cable television service. The term "re-
10 tail sale" or "sale at retail" includes conditional
11 sales, installment lease sales, and any other trans-
12 fer of tangible personal property when the title is
13 retained as security for the payment of the purchase
14 price and is intended to be transferred later. The
15 term "retail sale" or "sale at retail" also means
16 sale of products for internal human consumption to a
17 person for resale through coin-operated vending ma-
18 chines when sold to a retailer whose gross receipts
19 from the retail sale of tangible personal property
20 derived through sales from vending machines are more
21 than 50% of his gross receipts, which tax shall be
22 paid by the retailer to the State. The term "retail
23 sale" or "sale at retail" does not include any sale
24 by an executor or administrator in the settlement of
25 an estate, unless such sale is made through a retail-
26 er, or unless such sale is made in the continuation
27 or operation of a business; nor does the term include
28 any other isolated transaction in which any tangible
29 personal property is sold, transferred, offered for
30 sale or delivered by the owner ~~thereof~~ of the
31 property, such sale, transfer, offer for sale, or de-
32 livery not being made in the ordinary course of re-
33 peated and successive transactions of a like charac-
34 ter by such owner, such transactions being elsewhere
35 sometimes referred to as "casual sales." "Casual
36 sales" includes transactions by a civic, religious or
37 fraternal organization, which is not a registered ret-
38 ailer, at bazaars, fairs, rummage sales, picnics or
39 similar events but not exceeding 8 days in a calendar
40 year. The sale by a registered retailer of tangible
41 personal property, which that retailer has used in
42 the course of his or its business, is not a casual
43 sale and is a retail sale subject to taxation under
44 this Part, if that property is of a like character to
45 that sold in the ordinary course of repeated and suc-
46 cessive transactions. "Casual sale" shall not in-
47 clude any transaction in which tangible personal

1 property is sold, transferred or offered for sale by
2 a representative for the owner's account when such
3 representative is a registered retailer, in which
4 event such registered retailer shall have the same
5 duties respecting such sale as if he had sold on his
6 own account. "Retail sale" and "sale at retail" do
7 not include the sale of tangible personal property
8 which becomes an ingredient or component part of, or
9 which is consumed or destroyed or loses its identity
10 in the manufacture directly and primarily in the
11 production of, tangible personal property for later
12 sale or lease, other than lease for use in this
13 State, but shall include fuel and electricity but
14 shall not include electricity separately metered and
15 consumed in any electrolytic process for the manufac-
16 ture of tangible personal property for later sale,
17 nor any fuel oil or coal, the by-products from the
18 burning of which become an ingredient or component
19 part of tangible personal property for later sale.
20 "Retail sale" and "sale at retail" do not include the
21 sale, to a person engaged in the business of renting
22 automobiles, of automobiles, or integral parts
23 thereof of automobiles or accessories ~~thereto~~ to
24 automobiles, for rental or for use in an automobile
25 rented, on a short-term basis. It shall be consid-
26 ered that tangible personal property is "consumed or
27 destroyed" or "loses its identity" in such manufac-
28 ture, if it has a normal physical life expectancy of
29 less than one year as a usable item in the use to
30 which it is applied. "Retail sale" or "sale at re-
31 tail" do not include the sale of containers, boxes,
32 crates, bags, cores, twines, tapes, bindings,
33 wrappings, labels and other packing, packaging and
34 shipping materials when sold to persons for use in
35 packing, packaging or shipping tangible personal
36 property sold by them or upon which they have per-
37 formed the service of cleaning, pressing, dyeing,
38 washing, repairing or reconditioning in their regular
39 course of business and which are transferred to the
40 possession of the purchaser of such tangible personal
41 property.

42 Sec. 5. 36 MRSa §1760, sub-§31, as repealed and
43 replaced by PL 1977, c. 477, §11, is amended to
44 read:

1 31. Machinery and equipment. Sales of ~~new~~ ma-
2 chinery and equipment for use by the purchaser di-
3 rectly and primarily in the production of tangible
4 personal property, which property is intended to be
5 sold or leased ultimately for final use or consump-
6 tion.

7 Sec. 6. 36 MRSA §1760, sub-§32, as enacted by PL
8 1973, c. 580, §1, is amended to read:

9 32. Machinery and equipment for research. Sales
10 of ~~new~~ machinery and equipment for use by the pur-
11 chaser directly and exclusively in research and de-
12 velopment in the experimental and laboratory sense.
13 ~~Such~~ The research and development shall not be deemed
14 to include the ordinary testing or inspecting of ma-
15 terials or products for quality control, efficiency
16 surveys, management studies, consumer surveys, adver-
17 tising, promotions or research in connection with
18 literary, historical or similar projects.

19 Sec. 7. 36 MRSA §1760, sub-§46, as enacted by PL
20 1983, c. 851; c. 854 and c. 855, §7, is repealed and
21 the following enacted in its place:

22 46. Residential facilities for medical patients
23 and their families. Incorporated nonprofit organiza-
24 tions providing temporary residential accommodations
25 to pediatric patients suffering from critical illness
26 or disease, such as cancer, or who are accident vic-
27 tims, and adult patients with cancer, or the families
28 of the patients.

29 Sec. 8. 36 MRSA §1760, sub-§48 is enacted to
30 read:

31 48. Scheduled airlines. The sale or lease of an
32 aircraft, or replacement or repair parts of an air-
33 craft, used by a scheduled airline, based in this
34 State, and which is regularly used in the performance
35 of service under the Regulations of the Civil Aero-
36 nautics Board, Part 298. This subsection is repealed
37 on July 1, 1985.

38 Sec. 9. 36 MRSA §1760, sub-§49 is enacted to
39 read:

1 49. Community Action Agencies. Sales to Commu-
2 nity Action Agencies designated in accordance with
3 Title 5, section 3519, excepting sales, storage or
4 use in activities which are mainly commercial enter-
5 prises.

6 **Sec. 10.** 36 MRSA §3235, as amended by PL 1983,
7 c. 817, §9, is further amended to read:

8 §3235. Tax a debt; recovery; preference

9 The taxes, interest and penalties imposed by
10 chapters 7, 451, 453, 459 and ~~463~~ 463-A, from the
11 time the same shall be due, shall be personal debt of
12 the supplier, distributor, importer, motor carrier or
13 user to the State, recoverable in any court of compe-
14 tent jurisdiction in a civil action in the name of
15 the State, and shall have preference in any distribu-
16 tion of the assets of the taxpayer, whether in bank-
17 ruptcy, insolvency or otherwise. The proceeds of any
18 judgment obtained shall be paid to the State Tax As-
19 sessor.

20 **Sec. 11.** 36 MRSA, §3236, first ¶, as amended by
21 PL 1983, c. 817, §10, is further amended to read:

22 If any amount required to be paid to the State,
23 under chapter 451, 453, 459 or ~~463~~ 463-A, is not paid
24 when due, and no further review of the assessment is
25 available under section 151, the State Tax Assessor
26 may, within 3 years after administrative and judicial
27 review has been exhausted, notify the person who ac-
28 cording to the records of the State Tax Assessor is
29 liable, specifying the amount required to be paid and
30 interest and penalty due, and demanding payment with-
31 in 12 days after the sending of that notice. The no-
32 tice shall be given, as required by section 111, sub-
33 section 2, and shall warn the person that if he does
34 not make payment as demanded, the State Tax Assessor
35 may proceed to have the amount due collected by war-
36 rant as provided or may certify the amount due to the
37 Attorney General for collection and, in addition, in
38 the case of an amount due in respect to any vehicle,
39 that if he does not make payment as demanded, suspen-
40 sion of the registration certificate and plates is-
41 sued for that vehicle may result.

1 Sec. 12. 36 MRS §3238, as amended by PL 1983,
2 c. 817, §11, is further amended to read:

3 §3238. Lien of tax

4 If any amount required to be paid to the State,
5 under chapter 7, 451, 453, 459 or ~~463~~ 463-A, is not
6 paid when due, the State Tax Assessor may file in the
7 office of the registry of deeds of the county where
8 that property is located, with respect to real prop-
9 erty or fixtures and in the office in which a securi-
10 ty or financing statement or notice with respect to
11 personal property would be filed, a notice of lien
12 specifying the amount of tax, interest, penalty and
13 costs due, the name and last known address of the
14 person liable for the amount and the fact that the
15 State Tax Assessor has complied with all the provi-
16 sions of chapter 7, 451, 453, 459 or ~~463~~ 463-A in the
17 assessment of the tax. From the time of filing, the
18 amount set forth in the certificate constitutes a
19 lien upon all property of the person liable in the
20 county then owned by him or thereafter acquired by
21 him in the period before the expiration of the lien.
22 In the case of any prior mortgage on any real or per-
23 sonal property so written as to secure a present debt
24 and also future advances by the mortgage to the mort-
25 gator, the lien provided in this section, when notice
26 of it has been filed in the proper office, shall be
27 subject to the prior mortgage, unless the State Tax
28 Assessor also notifies the mortgagee of the recording
29 of the lien in writing, in which case any indebted-
30 ness thereafter created from the mortgagor to the
31 mortgagee shall be junior to the lien provided in
32 this section. The lien provided in this section has
33 the same force, effect and priority as a judgment
34 lien and shall continue for 5 years from the date of
35 filing unless sooner released or otherwise dis-
36 charged. The lien may, within the 5-year period or
37 within 5 years from the date of the last extension of
38 the lien in the manner provided in this section, be
39 extended by filing for record in the appropriate of-
40 fice a notice of extension of lien and from the time
41 of that filing, the lien shall be extended for 5
42 years unless sooner released or otherwise discharged.

43 Sec. 13. 36 MRS §4365-A is enacted to read:

1 §4365-A. Rate of tax after September 30, 1985

2 Cigarettes which have been stamped at the rate of
3 10 mills for each cigarette which are held for resale
4 by any person after September 30, 1985, shall be sub-
5 ject to tax at the rate of 14 mills for each ciga-
6 rette.

7 Any person holding cigarettes for resale shall be
8 liable for the difference between the 14 mills for
9 each cigarette tax rate and the 10 mills for each
10 cigarette tax rate in effect prior to October 1,
11 1985. Payment shall be made to the State Tax Asses-
12 sor before November 15, 1985, and it shall be accom-
13 panied by forms prescribed by the State Tax Assessor.

14 Sec. 14. 36 MRSA §5215, sub-§2, ¶D, as enacted
15 by PL 1977, c. 722, is amended to read:

16 D. "Successor-taxpayer" means any taxpayer which
17 has acquired within 4 years of its taxable year
18 end ~~in 1978~~ the organization, trade or business,
19 or 50% or more of the assets thereof, of another
20 taxpayer which, at the time of the acquisition,
21 was an employing unit.

22 Sec. 15. 36 MRSA §5215, sub-§3, ¶B, as enacted
23 by PL 1977, c. 722, is amended to read:

24 B. With a new jobs credit base which increases
25 by at least ~~§1,200,000~~ \$1,400,000 for the taxable
26 year of the qualified federal credit and is at-
27 tributable to the operation of property consid-
28 ered to be a qualified investment. The ~~§1,200,000~~
29 \$1,400,000 is to be adjusted proportionally for
30 any change in Title 26, section 1043, subsection
31 2 wages from ~~§6,000~~ \$7,000.

32 Sec. 16. 36 MRSA §5215, sub-§7, as enacted by PL
33 1981, c. 364, §69, is amended to read:

34 7. Legislative findings. The Legislature finds
35 the encouragement of the growth of major industry in
36 the State to be in the public interest and for the
37 promotion of the general welfare of the people of the
38 State; and that the use of investment tax credits to
39 encourage industry to make substantial capital in-

1 vestments in the State is necessary to promote the
2 purpose of the Legislature of encouraging the growth
3 of industry; and that the Legislature further finds
4 that the selecting of limits of \$5,000,000 in quali-
5 fied investment in the State and an increase of a new
6 job credit base of ~~\$1,200,000~~ \$1,400,000 for a tax-
7 able year are reasonable qualifying criteria for the
8 application of an investment tax credit and will best
9 promote substantial capital investment in the State.

10 Sec. 17. 36 MRSA §5220, first ¶, as enacted by
11 P&SL 1969, c. 154, §F, §1, is amended to read:

12 An income tax return or franchise tax return with
13 respect to the tax imposed by this Part shall be made
14 by the following:

15 Sec. 18. 36 MRSA §5220, sub-§5, as repealed and
16 replaced by PL 1983, c. 571, §24, is amended to
17 read:

18 5. Certain taxable corporations and taxable en-
19 tities. Every taxable corporation or taxable entity
20 which is required to file a federal income tax re-
21 turn. A taxable corporation or a taxable entity
22 which is a member of an affiliated group and which is
23 engaged in a unitary business with one or more other
24 members of that affiliated group shall file a com-
25 bined report, containing such information as the
26 State Tax Assessor may designate by rule, for each
27 such unitary business. Neither the income nor the
28 property, payroll and sales of a member corporation
29 which is not required to file a federal income tax
30 return shall be included in the combined report. The
31 State Tax Assessor may, in his discretion, allow 2 or
32 more taxable corporations or taxable entities which
33 are members of an affiliated group to file a consoli-
34 dated return.

35 Sec. 19. 36 MRSA §5222, sub-§5, as enacted by
36 P&SL 1969, c. 154, §F, §1, is amended to read:

37 5. Corporations and taxable entities. The income
38 tax return of a taxable corporation or a taxable
39 entity shall be made and filed by an officer thereof
40 of the corporation or entity.

1 Sec. 20. 36 MRSA §5227, as enacted by P&SL 1969,
2 c. 154, §6, is amended to read:

3 §5227. Time and place for filing returns and paying
4 tax

5 The income tax return or franchise tax return re-
6 quired by this Part shall be filed on or before the
7 date a federal income tax return (without regard to
8 extension) is due to be filed. A taxpayer required to
9 make and file a return under this Part shall, without
10 assessment, notice or demand, pay any tax due thereon
11 to the assessor on or before the date fixed for fil-
12 ing such return (determined without regard to any ex-
13 tension of time for filing the return). The assessor
14 shall prescribe by regulation the place for filing
15 any return, declaration, statement or other document
16 required pursuant to this Part and for the payment of
17 any tax.

18 Sec. 21. 36 MRSA §5228, sub-§1, as amended by PL
19 1979, c. 615, §6, is further amended to read:

20 1. Requirement of declaration; individual; cor-
21 porations and taxable entities. Every resident and
22 nonresident individual shall make a declaration of
23 his estimated tax for the taxable year, in such form
24 as the assessor may prescribe if his adjusted gross
25 income, in the case of a nonresident from sources
26 within this State, other than from wages on which tax
27 is withheld under this Part, can reasonably be ex-
28 pected to exceed \$2,000 plus the sum of the personal
29 exemptions to which he is entitled.

30 Notwithstanding this subsection, no declaration is
31 required of an individual if the estimated tax as de-
32 fined in subsection 2 can reasonably be expected to
33 be less than the amount of the estimated tax for
34 which no declaration of estimated tax is required to
35 be filed under the Internal Revenue Code of 1954,
36 section 6015, as amended.

37 For all taxable corporations or taxable entities
38 whose taxable year ends on or after January 1, 1976,
39 a declaration of its estimated tax for the taxable
40 year must be filed by the corporation if its Maine
41 taxable income is expected to exceed \$800 for that

1 taxable year.

2 Sec. 22. 36 MRSA §5251, as amended by PL 1981,
3 c. 371, §2, is further amended to read:

4 §5251. Information statement

5 Every ~~employer~~ person required to deduct and
6 withhold tax under this Part, or who would have been
7 required so to deduct and withhold tax if an employee
8 had claimed no more than one withholding exemption,
9 shall furnish to each such person in respect to the
10 items of income subject to withholding paid by such
11 ~~employer~~ person to such person during the calendar
12 year on or before February 15th of the succeeding
13 year, or, in the case of an employee who is termi-
14 nated before the close of such calendar year, within
15 30 days from the date on which the last payment of
16 wages is made, a written statement as prescribed by
17 the assessor showing the amount of wages paid by the
18 employer to the employee, or in the case of withhold-
19 ing pursuant to section 5255-B the total items of in-
20 come which were subject to withholding, the amount
21 deducted and withheld as tax, and such other informa-
22 tion as the assessor shall prescribe.

23 Sec. 23. 36 MRSA §5253, as amended by PL 1981,
24 c. 364, §§71 and 72, is further amended to read:

25 §5253. Employer's quarterly return and payment of
26 tax withheld

27 1. General. Every ~~employer~~ person required to
28 deduct and withhold tax under this part shall, for
29 each calendar quarter, on or before the last day of
30 the month following the close of such calendar quar-
31 ter, file a withholding return as prescribed by the
32 assessor and pay over to the assessor or to a deposi-
33 tary designated by the assessor, the taxes so re-
34 quired to be deducted and withheld. The State Tax
35 Assessor may, by rule, require or permit the filing
36 of returns and paying over of taxes withheld on other
37 than a quarterly basis.

38 2. Deposit in trust for assessor. Whenever any
39 ~~employer~~ person fails to collect, truthfully account
40 for, pay over the tax, or make returns of the tax as

1 required by this section, the assessor may serve a
2 notice requiring such ~~employer~~ person to collect the
3 taxes which became collectible after service of such
4 notice, to deposit such taxes in a bank approved by
5 the assessor, in a separate account, in trust for and
6 payable to the assessor, and to keep the amount of
7 such tax in such account until paid over to the as-
8 sessor. Such notice shall remain in effect until a
9 notice of cancellation is served by the assessor.

10 Sec. 24. 36 MRSA §5254, as amended by PL 1981,
11 c. 371, §4, is further amended to read:

12 §5254. Liability for withheld taxes

13 Every ~~employer~~ person required to deduct and
14 withhold tax under this Part is hereby made liable
15 for such tax. For purposes of assessment and collec-
16 tion, any amount required to be withheld and paid
17 over to the assessor, and any additions to tax, pen-
18 alties and interest with respect thereto, shall be
19 considered the tax of ~~the employer~~ that person. Any
20 amount of tax actually deducted and withheld under
21 this Part shall be held to be a special fund in trust
22 for the assessor. No person ~~shall~~ may have any right
23 of action against ~~an employer~~ a person in respect to
24 any money deducted and withheld and paid over to the
25 assessor in compliance or in intended compliance with
26 this Part.

27 Sec. 25. 36 MRSA §5255, as enacted by P&SL 1969,
28 c. 154, §F, is amended to read:

29 §5255. Failure to withhold

30 If ~~an employer~~ a person fails to deduct and with-
31 hold tax as required, and thereafter the tax against
32 which such tax may be credited is paid, the tax so
33 required to be deducted and withheld shall not be
34 collected from the ~~employer~~ person, but the ~~employer~~
35 person shall not be relieved from liability for any
36 additions to tax penalties or interest otherwise ap-
37 plicable in respect to such failure to deduct and
38 withhold.

39 Sec. 26. 36 MRSA §5255-A, first ¶, as enacted by
40 PL 1971, c. 61, §10, is amended to read:

1 Section 3 revises the definition of new machinery
2 and equipment to define machinery and equipment.
3 Thus, used equipment and all parts would be included
4 in the definition of machinery and equipment.

5 Section 4 narrows the definition of consumed and
6 destroyed items to those used directly and primarily
7 in production rather than the former concept of use
8 in manufacture. This limits the exemption of those
9 items to those consumed, destroyed or losing their
10 identity primarily in production.

11 Section 5 amends the exemption of new machinery
12 and equipment used in production to eliminate the re-
13 striction of new, thus, new and used machinery and
14 equipment qualifies.

15 Section 6 amends the exemption of new machinery
16 and equipment used in research to eliminate the re-
17 striction of new, thus, new and used machinery and
18 equipment qualifies.

19 Collectively, sections 3 to 6 expand the exemp-
20 tions for machinery and equipment used directly and
21 primarily in the production of tangible personal
22 property or research to include all parts, including
23 repair and replacement parts, and used machinery and
24 equipment. Additionally, the exclusion for tangible
25 personal property consumed or destroyed in manufac-
26 ture is narrowed to include only that used directly
27 and primarily in production.

28 Sections 7, 8 and 9 correct 3 substantially dif-
29 ferent provisions enacted by Public Laws 1983, which
30 all had the same subsection number.

31 Section 9 addresses a recent change in the activ-
32 ities of community action agencies. Community action
33 agencies are expanding their services to include com-
34 mercial contracting services. This bill limits their
35 sales tax exemption to purchase which are noncommer-
36 cial.

37 Sections 10, 11 and 12 correct a reference to
38 chapter 463 which was repealed and replaced by chap-
39 ter 463-A.

1 Section 13 clarifies that all cigarettes sold on
2 or after October 1, 1985, are subject to the sched-
3 uled increase effective on that date including those
4 held in inventory by retailers and distributors.

5 Sections 14, 15 and 16 update requirements of the
6 jobs and investment tax credit.

7 Sections 17, 18, 19, 20 and 21 insure that tax-
8 able entities as defined in the bank franchise tax
9 are subject to the same requirements for filing, com-
10 bined reporting and estimate tax paying as are other
11 corporations.

12 Sections 22 to 27 increase the scope of the state
13 income tax withholding system to approximate the fed-
14 eral withholding system. Presently, the State's
15 withholding is limited to wages and certain payments
16 to nonresident aliens.

17 Federal withholding has been expanded to encom-
18 pass taxable payments from pensions, annuities and
19 certain deferred income, backup withholding on cer-
20 tain interest and dividend payments and certain gam-
21 bling winnings. This bill subjects these items to
22 the state withholding also.

23 If the item of income is subject to flat rate
24 federal withholding, it would be subject to a 5%
25 state withholding. Similarly, if federal withhold-
26 ing on the item of income is based on an estimate of
27 taxable income, the state approach is based on esti-
28 mated taxable income.

29 Withholding only applies to items of income which
30 are subject to the state income tax.

31

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