

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Transmitted by Director of Legislative Research pursuant to joint order.

N I N E T Y - S E V E N T H L E G I S L A T U R E

Legislative Document

No. 1366

H. P. 1151

House of Representatives, March 17, 1955.

Referred to Committee on Taxation. Sent up for concurrence and 1500 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Bernier of Waterville.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-FIVE

AN ACT Providing for a State Income Tax.

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

Title I.

R. S., c. 17-A, additional. The revised statutes are hereby amended by adding thereto a new chapter to be numbered 17-A, to read as follows:

'CHAPTER 17-A.

PERSONAL INCOME TAX LAW.

Sec. 1. Title. This chapter shall be known and may be cited as the "Personal Income Tax Law."

Sec. 2. Definitions. The following definitions shall apply throughout this chapter, unless the context requires otherwise:

I. "Adjusted gross income" means the same as adjusted gross income as now defined under the Internal Revenue Code of the United States in effect August 16, 1954, with amendments to September 10, 1954 without consideration of either a capital gain or capital loss.

II. "Assessor" means the State Tax Assessor.

III. "Dependent" means any of the following persons over half of whose support for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer;

- A. A son or daughter of the taxpayer, or a descendant of either;
- B. A stepson or stepdaughter of the taxpayer;
- C. A brother, sister, stepbrother or stepsister of the taxpayer;
- D. The father or mother of the taxpayer, or an ancestor of either;
- E. A stepfather or stepmother of the taxpayer;
- F. A son or daughter of a brother or sister of the taxpayer;
- G. A brother or sister of the father or mother of the taxpayer;
- H. A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law or sister-in-law of the taxpayer.

IV. "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator or any person acting in any fiduciary capacity for any person, estate or trust.

V. "Fiscal year" means an accounting period of 12 months ending on the last day of any month other than December.

VI. "Individual" means a natural person.

VII. "Internal Revenue Code" means the Internal Revenue Code of the United States effective August 16, 1954, with amendments to September 10, 1954.

VIII. "Person" means and includes an individual, a trust, estate, partnership, company or corporation.

IX. "Resident" means and includes every individual domiciled in this State on the last day of the taxable year.

Any individual who is domiciled in this State continues to be so domiciled even though temporarily absent from the State.

Every individual who spends in the aggregate more than 182 days of the taxable year within this State or maintains a permanent place of abode within this State shall be presumed to be a resident. The presumption may be overcome by satisfactory evidence that the individual is in the State for a temporary or transitory purpose.

X. "Taxable income" means taxable income as now defined under the Internal Revenue Code of the United States in effect August 16, 1954, with amendments to September 10, 1954, but excluding income which the State is constitutionally unable to tax and also excluding capital gains and losses; and provided that, if the taxpayer so elects, "taxable income" for any taxable year means taxable income, as defined under the laws of the United States in effect for such year, with the exclusions above noted.

XI. "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed and in the case of a return made for a fractional part of a year under the provisions of

this chapter, or under regulations prescribed by the Assessor, "taxable year" means a period for which such return is made.

Sec. 3. Imposition of tax. A tax is hereby imposed upon every individual who is a resident of the State, which tax shall be levied, collected and paid annually, with respect to his taxable income as herein defined, after deducting the exemptions provided in this chapter, as follows:

If the taxable income is:	The Tax shall be:
Not over \$1,000	1½% of the taxable income
Over \$1,000 but not over \$3,000	\$15 plus 3% of excess over \$1,000
Over \$3,000 but not over \$5,000	\$75 plus 4½% of excess over \$3,000
Over \$5,000	\$165 plus 5½% of excess over \$5,000.

Sec. 4. Imposition of tax, nonresidents. A like tax is hereby imposed, which shall be levied, collected and paid annually, at the rates specified in section 3, after deducting the exemptions provided in this chapter, upon and with respect to taxable income from sources within this State, including income from all property owned and from every business, trade, profession or occupation carried on in this State by individuals not residents of the State; provided, however, that interest, dividends and gains from the sale or exchange of property shall be excluded from gross income except to the extent that such interests, dividends and gains are part of income from such business, trade, profession or occupation.

Sec. 5. Alternative tax; tables. If the taxpayer's adjusted gross income for the taxable year is less than \$5,000 and the taxpayer so elects, there shall be levied, collected and paid for such year a tax determined on the basis of tables to be prepared and furnished by the Assessor, which tax shall be substantially equivalent to the tax provided in sections 3 and 4 and in lieu thereof.

Sec. 6. Reciprocal credits. Whenever a taxpayer other than a resident of the State has become liable to the State or foreign country where he resides for a tax upon his income derived from sources within this State and subject to taxation under the provisions of section 4, the State Tax Assessor shall credit the amount of income tax payable by him under section 4, with such proportion of the tax so payable by him to the State or country where he resides, as his income subject to taxation under section 4 bears to his entire income upon which the tax so payable to such other State or country was imposed; provided that such credit shall be allowed only if the laws of such State or country

I. Grant a substantially similar credit to residents of this State subject to income tax under such laws or

II. Impose a tax upon the personal incomes of its residents derived from sources in this State and exempt from taxation the personal incomes of residents of this State. No credit shall be allowed against the amount of the tax on any income taxable under section 4, which is exempt from taxation under the laws of such other State or foreign country.

Sec. 7. Exemptions. The exemptions provided in sections 3 and 4 shall be as follows:

I. An exemption of \$1,000 for the taxpayer and if over the age of 65 years, or blind, an additional \$1,000 exemption.

II. An exemption of \$1,000 for the spouse of the taxpayer if:

A. A joint return, as hereinafter provided, is made by the taxpayer and his spouse in which case the aggregate exemption of the spouses under the provisions of this section shall be \$2,000; or

B. A separate return is made by the taxpayer, and his spouse has no gross income for the calendar year in which the taxable year of the taxpayer begins and is not the dependent of another taxpayer.

III. An exemption of \$1,000 for each dependent whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than \$1,000, but the exemption shall not be allowed in respect of a dependent who has made a joint return with his spouse, as hereinafter provided, for the taxable year beginning in such calendar year.

Sec. 8. Fiduciaries. The taxes provided under the provisions of this chapter are hereby imposed and shall be levied, collected and paid annually upon the taxable income of every fiduciary, whether or not an individual, after deducting the exemptions provided in section 9. Such taxable income shall be computed on the basis now provided under the Internal Revenue Code for the computation of taxable income of estates and trusts, but excluding income which the State is constitutionally unable to tax, and also excluding capital gains and losses and distributable net income as defined in said Code.

Sec. 9. Credits. For the purpose of the tax imposed under the provisions of section 8 an estate shall be allowed, in lieu of the exemptions under section 7, a credit of \$1,000 against taxable income, and a trust shall be allowed, in lieu of the exemptions under section 7, a credit of \$100 against taxable income.

Sec. 10. Charge against the estate. The tax imposed upon a fiduciary by the provisions of this chapter shall be a charge against the estate or trust.

Sec. 11. Return of taxable income. Except as otherwise provided herein, for each taxable year taxpayers shall return their taxable income for such a period and on such an accounting basis as is employed under the Internal Revenue Code.

Sec. 12. Form of returns.

I. Every resident having for the taxable year a gross income of or over and every nonresident who has gross income, excluding capital gains, from any or all of the following: property owned, a business, trade, profession or occupation carried on in this State of \$1,000 or more for the taxable year, shall make a return to the Assessor under such regulations and in such form and manner and to such extent as he may prescribe.

II. A husband and wife may make a single joint return to the Assessor for a taxable year for which such a return is filed under the laws of the United States.

III. If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer.

Sec. 13. Returns by fiduciaries. Every fiduciary subject to taxation under the provisions of this chapter shall make a return to the Assessor for any of the following individuals, estates or trusts for which he acts:

I. Every individual having a gross income for the taxable year of \$1,000 or over;

II. Every estate the gross income of which for the taxable year is \$1,000 or over;

III. Every trust the taxable income of which for the taxable year is \$100 or over, or the gross income of which for the taxable year is \$1,000 or over, regardless of the amount of distributable net income.

Sec. 14. Information returns. Each individual, partnership, corporation, joint stock company or association or insurance company, being a resident or having a place of business in this State, in whatever capacity acting, including lessees or mortgagors of personal property, fiduciaries, employers and all officers and employees of this State or of any political subdivision of this State, having the control, receipt, custody, disposal or payment of interest, other than interest coupons payable to bearer, dividends, salaries, wages, rentals, premiums, compensations, remunerations, emoluments or other fixed or determinable annual or periodical gains, profits and income amounting to \$500 or over, paid or payable during any year to any individual or fiduciary, and each such individual, partnership, corporation, joint stock company, association or insurance company paying or crediting to any individual or fiduciary any annuity or interest on deposits or funds held in trust, including taxable income from endowment policies, shall on such date or dates as the State Tax Assessor shall from time to time designate, make complete return thereof to the State Tax Assessor. Such returns shall be in substantially the same form as information returns required under the Internal Revenue Code.

Sec. 15. Withholding and payment at source.

I. Every employee, as defined under the Internal Revenue Code, with respect to income tax collected at source, making payment of wages as defined under such laws to employees, shall on and after January 1, 1956 deduct and withhold upon such wages a tax equal to: $1\frac{1}{2}\%$ of the first \$1,000 or less, 3% of the next \$2,000 or less, $4\frac{1}{2}\%$ of the next \$2,000 or less, $5\frac{1}{2}\%$ of the excess over \$5,000, by which the amount of such, less 10% thereof, paid or to be paid in the calendar year by such employer to such employee exceeds the amount of the exemptions granted to such employee under section 7 as shown by a certificate to be filed with the employer in such form and containing such information and detail as may be prescribed by the Assessor.

II. Every employer required to deduct and withhold any tax under subsection I of this section shall make return thereof to the Assessor on or before February 15 in each year and at the time of making such return shall pay such tax to the Assessor, provided, however, that the Assessor may, if he believes such

action necessary in any emergency where collection of the tax may be in jeopardy, require such employer to make such return and pay such tax at any time, or from time to time.

III. Every employer required to deduct and withhold a tax under subsection I hereof is hereby made liable for such tax and is hereby indemnified against the claims and demands of any individual, corporation or partnership for the amount of any payments made in accordance with the provisions of this section.

IV. Income upon which any tax is required to be withheld at source under this section shall be included in the return of the recipient of such income, but any amount of tax so withheld shall be credited against the amount of income tax as computed in such return.

V. At the election of the employer with respect to such employee, the employer may deduct and withhold upon the wages paid to such employee a tax determined on the basis of tables to be prepared and furnished by the Assessor, which tax shall be substantially equivalent to the tax provided in subsection I hereof, and which shall be in lieu of the tax required in such subsection.

VI. If any employer required to deduct and withhold a tax under subsection I hereof neglects or refuses to pay the same after demand, the amount, including interest after such demand, together with any costs that may accrue in addition thereto, shall be a lien in favor of the State of Maine upon all property and rights to property, whether real or personal, belonging to such employer. Such lien shall arise at the time the assessment and demand is made by the Assessor and shall continue until the liability for such sum, with interest and costs, is satisfied or becomes unenforceable. Such lien shall be valid as against any subsequent mortgagee, pledgee, purchaser or judgment creditor when notice of such lien and the sum due has been filed by the Assessor with the clerk of the town or city in which the property subject to the lien is situated, or, in the case of an unorganized township, gore or grant, in the office of the clerk of the county wherein such property is situated. In the case of any prior mortgage on real or personal property so written as to secure a present debt and also future advances by the mortgagee to the mortgagor, the lien herein provided, when notice thereof has been filed in the proper clerk's office, shall be subject to such prior mortgage unless the Assessor also notifies the mortgagee of the recording of such lien in writing, in which case any indebtedness thereafter created from mortgagor to mortgagee shall be junior to the lien herein provided for.

The Assessor shall issue and record a certificate of release of the lien if

A. The Assessor finds that the liability for the amount assessed and demanded, together with interest and costs, has been satisfied or has become unenforceable; or

B. There is furnished to the Assessor a bond with surety approved by the Assessor in a penal sum sufficient to equal the sum assessed and demanded, together with interest and costs, said bond to be conditioned upon

the payment of any judgment rendered in proceedings regularly instituted by the Assessor to enforce collection thereof at law.

The lien provided for herein may be foreclosed in the case of real estate agreeably with the provisions of law relating to foreclosure of mortgages on real estate, and in the case of personal property, agreeably with the provisions of law relating to the foreclosure of chattel mortgages.

Sec. 16. Filing of returns; penalties. Returns shall be in such form and shall contain such information and detail as the Assessor may from time to time prescribe and shall be filed at his main office or at any branch office which he may establish, on or before the 15th day of the 3rd month following the close of the taxable year. In case of sickness, absence or other disability, or whenever in his judgment good cause exists, the Assessor may allow further time for filing returns. Returns shall be verified by a written declaration that they are made under the penalties of perjury. When a return is made for a corporation or partnership, the person signing such return shall be deemed to be the person subject to the pains and penalties of perjury. The Assessor shall cause to be prepared blank forms for the returns and shall cause them to be distributed throughout the State and to be furnished upon application, but failure to receive or secure the form shall not relieve a taxpayer from the obligation of making the return herein required.

Sec. 17. Additional return. When the Assessor is of the opinion that a taxpayer has failed to file a return, or to include in a return filed, either intentionally or through error, items of taxable income, he may require from such taxpayer a return, or a supplementary return, verified as provided by section 16, in such form as he shall prescribe, of all the items of income which the taxpayer received during the year for which the return is made, whether or not taxable under the provisions of this chapter. When from a supplementary return, or otherwise, the Assessor finds that any items of income, taxable under this chapter, have been omitted from the original return, he may require the items so omitted to be disclosed to him under oath by the taxpayer and added to the original return. Such supplementary return and the correction of the original return shall not relieve the taxpayer from any of the penalties to which he may be liable under any provision of this chapter. The Assessor may proceed under the provisions of section 22, whether or not he requires a return or a supplementary return under this section.

Sec. 18. Computation of tax; penalty.

I. As soon as practicable after the return is filed the Assessor shall examine it and compute the tax and the amount so computed by him shall be the tax. If the tax found due shall be greater than the amount theretofore paid, the excess shall be paid to the Assessor within 10 days after notice of the amount shall be mailed by him.

II. When in a filed return, made in good faith, the understatement of the tax is not due to any fault of the taxpayer, there shall be no penalty or additional tax added because of such understatement, but interest shall be added to the amount of the deficiency at the rate of $\frac{1}{2}$ of 1% for each month or fraction of a month.

III. When such understatement is found to be due to negligence on the part of the taxpayer, but without intent to defraud, there shall be added interest at the rate of 1% per month or fraction of a month, to the amount of such difference.

IV. When such understatement is false or fraudulent with intent to evade the tax, the tax on the additional income discovered to be taxable shall be doubled and an additional 1% per month or fraction of a month shall be added.

V. The interest provided for in this section on assessments shall in all cases be computed from the date the tax was originally due to the date of payment.

VI. If the amount of tax found due as computed shall be less than the amount theretofore paid, the excess, together with interest at the rate of $\frac{1}{2}\%$ per month or fraction thereof from the due date of the return or from the date of payment, whichever is the later date, shall be refunded upon certification by the Assessor to the State Controller.

Sec. 19. Time of payment.

I. Individual taxpayers shall on March 15 of each year furnish the Assessor with an estimate of annual income tax respecting which no Maine withholding tax is expected to be made. Each taxpayer shall include with such declaration payment of not less than $\frac{1}{4}$ of said estimated tax. Thereafter, on the 15th days of June and September the taxpayer shall pay not less than $\frac{1}{4}$ of the tax due upon said income or his revised estimate thereof. Annually on January 15 following the calendar year for which his estimate of income was made, the taxpayer, having taxable income in excess of his estimated taxable income, shall reconcile his estimates and if his income tax is in excess of the tax on his estimated taxable income by 20% or more he shall forthwith revise his estimate and pay a sufficient additional amount so that the sum of his payments will equal or exceed 80% of his total tax liability. The final quarterly payment may be made on March 15 of the year following the calendar year for which the taxes were due. Taxpayers operating on a fiscal year basis shall make similar estimates and tax payments with respect to taxes not subject to Maine withholding tax as of the 15th day of the third month after the beginning of each fiscal year and periodically thereafter so as to conform to the payments and returns required in the case of taxpayers on a calendar year. Revisions of estimates may be made and tax payments shall be made for each fiscal quarter thereafter. Filing of estimates shall not be applicable to farmers as defined by section 6073 (b), the Internal Revenue Code of the United States in effect August 16, 1954, and persons not required to file estimates shall file their returns and pay the tax on or before the 15th of the first month following the calendar or fiscal year for which the tax is due.

II. The tax may be paid with uncertified check, during such time and under such regulations as the Assessor shall prescribe, but if a check so received is not paid by the bank on which it is drawn, the taxpayer by whom such check is tendered shall remain liable for the payment of the tax and for all legal penalties, the same as if such check had not been tendered.

Sec. 20. Assessment of additional tax. When the Assessor discovers from the examination of the return or otherwise that the income of any taxpayer, or any portion thereof, has not been assessed, he may, at any time within 3 years after the time when the return was due, assess the same and give notice to the taxpayer of such assessment and such taxpayer shall thereupon have an opportunity, within 30 days, to confer with the Assessor as to the proposed assessment. The limitation of 3 years to the assessment of such tax or additional tax shall not apply to the assessment of additional taxes when the return or returns filed were fraudulent or when, with intent to defraud the State, no return was filed. After the expiration of 30 days from such notification, the Assessor shall assess the income of such taxpayer or any portion thereof which he finds has not theretofore been assessed and shall give notice to the taxpayer so assessed, of the amount of the tax and interest and penalties, if any, and the amount thereof shall be due and payable within 10 days from the date of such notice. The provisions of this chapter with respect to appeal shall apply to a tax so assessed. No additional tax amounting to less than \$1 shall be assessed.

Sec. 21. Warrant. When a tax imposed by this chapter, or a portion of such tax, is not paid within 60 days after the same becomes due, the Assessor shall issue a warrant under his hand and seal directed to the sheriff of any county of the State, commanding him to levy upon and sell the real and personal property of the taxpayer in the manner prescribed for the levy and sale of property upon execution, for the payment of the amount thereof with the added penalties, interest and the cost of executing the warrant and to return such warrant to the Assessor and pay to him the money collected by virtue thereof by a time to be therein specified, not less than 60 days from the date of the warrant. However, such taxpayer shall have the same right to redeem such property as in the case of property sold upon execution.

Sec. 22. Tax a debt; proceedings to recover; preference. The taxes, interest and penalties imposed by this chapter, from the time the same shall be due, shall be a personal debt of the taxpayer to the State of Maine, recoverable in any court of competent jurisdiction in an action at law in the name of the State of Maine, and shall have preference in any distribution of the assets of the taxpayer, whether in bankruptcy, insolvency or otherwise. The proceeds of any judgment obtained hereunder shall be paid to the Assessor.

Sec. 23. Failure to make return; penalty.

I. When a taxpayer, without intent to evade any tax imposed by this chapter shall fail to file a return of income or pay a tax, if one is due, at the time required by or under the provisions of this chapter, but shall voluntarily file a correct return of income and pay the tax due within 60 days thereafter, there shall be added to the tax an additional amount equal to 5% thereof, but in no case less than \$1, together with an additional 1% for each month or fraction of a month from the time the tax was originally due to the date of payment.

II. When a taxpayer, with intent to evade the payment of a tax, fails for a period of 60 days, to file a return of income or to pay a tax, if one is due, the Assessor may add to the tax actually found to be due a penalty not to exceed

25% of such tax. Such increased amount shall be further increased by the addition of 1% for each month or fraction of a month from the time the tax was originally due to the date of payment.

III. The Assessor shall have power, upon making a record of his reasons therefore, to waive or reduce any of the additional taxes or interest provided in subsections I and II of this section or in subsections II, III and IV of section 18.

IV. When a taxpayer fails to file a return within 60 days of the time prescribed by this chapter, a Justice of the Superior Court, upon petition of the Assessor, shall issue an order requiring such person to file a return. The order of notice upon the petition shall be returnable not later than 20 days after the filing of the petition. The petition shall be heard and determined on the return day or on such day thereafter as the court shall fix, having regard to the speediest possible determination of the case, consistent with the rights of the parties. The judgment shall include costs in favor of the prevailing party. All writs and processes issued under this section shall be issued from the clerk's office in the county where the taxpayer resides and, except as aforesaid, shall be returnable as the court shall order.

V. A person who, without fraudulent intent, fails to pay a tax or to make, render, sign or verify a return, or to supply any information, within the time required by or under the provisions of this chapter shall be fined not more than \$100.

VI. A person, officer or employee of any corporation or member or employee of any partnership, who, with intent to evade any requirement of this chapter or any lawful requirement of the Assessor hereunder, shall fail to pay a tax or to make, sign or verify a return or to supply any information required by or under the provisions of this chapter or who, with like intent, shall make, render, sign or verify any false or fraudulent information shall be fined not more than \$1,000 or be imprisoned not more than one year, or both.

VII. The certificate of the Assessor to the effect that a tax has not been paid, that a return has not been filed or that information has not been supplied as required by or under the provisions of this chapter shall be prima facie evidence that such tax has not been paid, that such return has not been filed or that such information has not been supplied.

VIII. When a taxpayer, who has failed to file a return or has filed an incorrect or insufficient return and has been notified by the Assessor of his delinquency, refuses or neglects within 20 days after such notice to file a proper return or files a fraudulent return, the Assessor shall determine the income of such taxpayer according to his best information and belief and may increase the amount so determined by a penalty not to exceed 50% of such amount. He may in his discretion allow further time for the filing of a return in such case. No assessment shall be made hereunder unless made within 3 years from the date on which a correct return should have been filed.

IX. When a taxpayer becomes aware, through Federal examination, of an increase or decrease in his taxable Maine income, he shall forthwith report

such change, with pertinent figures, to the Assessor. An assessment or refund may be made by the Assessor within 3 years after the time when the return was due or within one year of the date when notification to the Assessor by the taxpayer under this subsection takes place.

Sec. 24. Failure to make return; hearing. For cause, the Assessor may extend the time within which a taxpayer is required to file a return or report. When a return or report is not made as herein required, the Assessor is authorized to make an estimate of the taxable income of such taxpayer and of the amount of tax due under this chapter from any information in his possession. If a taxpayer fails to make a return or report, or if such return or report is unsatisfactory to the Assessor, he or his authorized representative, may examine the books and records of such taxpayer. For the purpose of making such examination, the Assessor or his duly authorized representative may examine witnesses under oath and take such testimony as may be necessary and the cost of such examination shall be added to the taxes and penalties provided herein.

Sec. 25. Revision of assessment. A taxpayer may apply to the Assessor for revision of the tax assessed against him at any time within 3 years from the time of the filing of the return. The Assessor shall grant a hearing thereon and if he shall determine that the tax is excessive or incorrect, he shall recompute the same according to the law and the facts. The Assessor shall notify the taxpayer of his determination and the State shall refund to the taxpayer the amount, if any, paid in excess of the tax found by him to be due in the manner provided in section 20. When a taxpayer has failed, without good cause, to file a return within the time prescribed by law, or has filed a fraudulent return or, having previously filed an incorrect return, has failed after notice to file a proper return, the Assessor shall add to the tax 50% of the amount for which such taxpayer is found to be properly assessed.

Sec. 26. Appeal. The determination of the Assessor upon application made by a taxpayer for revision of a tax assessed under the provisions of this chapter may be reviewed by the Superior Court within and for the county of Kennebec or the Superior Court in and for the county in which such taxpayer resides, if a resident of this State, on petition filed by the taxpayer against the Assessor. The petition shall be brought within 30 days after receipt by the taxpayer or his agent of written notice by the Assessor of his determination given as provided in section 25, shall be served on the Assessor at least 12 days before the date of hearing. Such petition shall state fully and specifically the taxpayer's reasons for appeal and only the reasons so stated shall be considered by the court. Thereupon, appropriate proceedings shall be had and the relief, if any, to which the taxpayer may be found entitled may be granted and any taxes, interest or penalties paid, found by the court to be illegally assessed, shall be ordered refunded to the taxpayer with interest at 6% per annum from the time of payment, with costs, and judgment entered accordingly.

Sec. 27. Power to examine records; hearings. The Assessor, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of the taxable income of any taxpayer, may examine or cause to be examined by any agent or representative designated by him for that purpose, any books, papers, records or memoranda of the taxpayer or of any person or

corporation in the State bearing upon the matters required to be included in the return. The Assessor or his authorized representative may require the attendance of the taxpayer or of any other person having knowledge in the premises, at any place in the county where such person resides, and may take testimony and require proof material for his information, with the power to administer oath to such person. The fees of witnesses required to attend any such hearing shall be the same as those allowed to witnesses appearing in the Superior Court but no fee shall be payable to a witness charged with tax liability.

Any Justice of the Superior Court upon application of the Assessor may compel the attendance of witnesses and the giving of testimony before the Assessor, or his duly designated agent or representative, in the same manner, to the same extent, and subject to the same penalties as if before said court.

Sec. 28. Powers. Such employees as the Assessor may designate shall have power to administer oaths or to take acknowledgment in respect of any return or report required by this chapter or the rules and regulations of the Assessor.

Sec. 29. Confidential character of the Assessor's records. The records and files of the Assessor respecting the administration of this chapter shall be confidential and privileged, and neither the Assessor nor any employee engaged in the administration of this chapter or charged with the custody of any such records or files shall divulge or disclose any information obtained from said records or files or from any examination or inspection of the premises or property of any person. Neither the Assessor nor any employee engaged in the administration of this chapter or charged with the custody of any such records or files shall be required to produce any of them for the inspection of any person or for use in any action or proceedings except in behalf of the Assessor, in an action or proceeding under the provisions of this chapter to which the Assessor is a party, or in behalf of any party to any action or proceeding under the provisions of this chapter, when the records or files or the facts shown thereby are directly involved in any such action or proceedings. Nothing herein contained shall be construed to prevent:

I. The delivery to a taxpayer or his duly authorized representative a copy of any report or any other paper filed by him pursuant to the provisions of this chapter.

II. The publication of statistics so classified as to prevent the identification of a particular report and the items thereof.

III. The disclosure of information to duly authorized officers of the United States and of other states, districts and territories of the United States, and of the provinces and Dominion of Canada; provided, however, that such information may be given only on the written request of the duly authorized officer when the said officer's government permits the exchange of like information with the taxing officials of the State of Maine and when the said officer agrees that such information shall be used only for tax collection purposes.

Sec. 30. Rules and regulations. The Assessor may make such rules and regulations consistent with this chapter as he may deem necessary.

Sec. 31. Administration; assistants. The Assessor shall administer and enforce the provisions of this chapter, and for that purpose is authorized to employ such assistants, subject to the provisions of the personnel law, as may be necessary.

Sec. 32. Receipts credited to general fund. The Assessor shall pay over all receipts collected to the Treasurer of State daily and such receipts shall be credited to the general fund.

Sec. 33. Tax exclusive. Intangible personal property, the income of which is taxable or which is exempt under the provisions of this chapter, shall not be subject to any other form or method of taxation.

Sec. 34. Construction. When a clause, sentence, paragraph, or part of this chapter for any reason, shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of the chapter, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Sec. 35. Fiduciary's account.

I. A final account of a fiduciary shall not be allowed by the probate court unless such account shows and the judge thereof finds, that all taxes imposed by the provisions of this chapter upon such fiduciary, which have become payable, have been paid and that all taxes which may become due are secured by bond, deposit or otherwise. The certificate of the Assessor and the receipt for the amount of the tax therein certified shall be conclusive as to the payment of the tax, to the extent of such certificate.

II. On behalf of the State, for the purpose of facilitating the settlement and distribution of estates held by fiduciaries, the Assessor may agree upon the amount of taxes at any time due or to become due from such fiduciaries under the provisions of this chapter and payment in accordance with such agreement shall be full satisfaction of the taxes to which the agreement relates.

Sec. 36. Policy, construction. It is hereby declared that the purpose of this chapter, in addition to the essential purpose of raising revenue, is to conform as closely as may be to the Internal Revenue Code of the United States in order that the filing of returns may be simplified and the taxpayer's accounting burdens may be reduced.

Sec. 37. Effective date. The provisions of this chapter shall apply to income received subsequent to December 31, 1955.

Title II.

R. S., c. 17-B, additional. The revised statutes are hereby amended by adding thereto a new chapter to be numbered 17-B, to read as follows:

'CHAPTER 17-B

CORPORATE FRANCHISE TAX.

Sec. 1. Title. This chapter shall be known and may be cited as the "Corporate Income Tax Law."

Sec. 2. Definitions. For the purposes of this chapter and unless otherwise required by the context:

I. "Corporation" includes a joint stock company or association wherein interest or ownership is evidenced by certificate or other written instrument;

II. "Doing business" means any transaction or transactions in the course of its business by a corporation taxable hereunder created under the laws of this State, or by a foreign corporation qualified to do or doing business in this State;

III. "Fiscal year" means the income year ending on the last day of any month other than December;

IV. "Franchise tax" means a tax on every domestic corporation for the privilege of exercising its franchise in this State in a corporate or organized capacity, and a tax on every foreign corporation for the privilege of doing business in this State, taxable under this chapter, measured by or according to the net income of such corporation;

V. "Income year" means the calendar year or the fiscal year upon the basis of which the net income is computed under this chapter; if no fiscal year has been established, the term means the calendar year;

VI. "Taxable income" means the total taxable income for the income year, as defined under the Internal Revenue Code of the United States as existing on the effective date of this act, without deductions for losses sustained by the corporation in other years although such losses may be deductible under said Code, plus any amount allowed as a deduction under said Code as compensation for personal services rendered, or as interest, in excess of what the State Tax Assessor may determine to be reasonable;

VII. "Taxpayer" includes every manufacturing, mercantile, business or holding corporation subject to the tax imposed by this chapter;

VIII. "Tax year" means the calendar year in which the tax is payable.

Sec. 3. Franchise tax imposed. For the privilege of exercising its franchise in this State in a corporate or organized capacity, every domestic corporation, and for the privilege of doing business in this State every foreign corporation, liable to tax under this chapter shall annually pay to this State a franchise tax to be measured by its taxable income to be computed in the manner hereinafter provided at the rate of 4% upon the basis of its taxable income as herein computed, for the next preceding income year; provided, however, that the tax paid by any corporation in any year under the provisions of sections 106 to 112, inclusive, of chapter 16, shall be allowed as a credit toward any tax liability of the corporation under this chapter for the income year in which such tax was paid.

Sec. 4. Allocation of income. If the entire business of the corporation is transacted within the State, the tax imposed shall be measured by the entire taxable income of the corporation for the income year. If the entire business of the corporation is not transacted within the State and its gross income is derived from business done both within and without the State, the tax imposed

shall be measured by the taxable income of the corporation for the income year from business done within the State. Such taxable income shall be apportioned so as to allocate to the State a fair and equitable proportion of such income. Such allocation shall be made normally on the basis of the following factors, equal weighing to be given to each:

- I. The average of the value of all the real and tangible personal property
 - A. At the beginning of the income year, and
 - B. At the end of the income year

within the State, expressed as a percentage of all such property both within and without the State;

- II. The total wages, salaries and other personal service compensation paid during the income year, to employees within the State, expressed as a percentage of all such compensation paid whether within or without the State;

- III. The gross sales, or charges for services performed, within the State for the income year, expressed as a percentage of such sales or charges whether within or without the State.

In special cases where, in the judgment of the State Tax Assessor, such application of the above factors does not result in fair and equitable allocation to the State, such taxable income shall be allocated in accordance with rules and regulations prescribed by the State Tax Assessor.

Sec. 5. Capital gains and losses. For the purpose of ascertaining gain or loss from the sale or other disposition of property, real, personal or mixed, acquired before January 1, 1956, the taxpayer may, if it so elects, in lieu of the adjusted basis prescribed by said Code, use the fair market value of such property as of January 1, 1956, adjusted for the period subsequent to January 1, 1956. In all other respects the gain or loss on the sale or other disposition of property shall be ascertained as prescribed by said Code.

Sec. 6. Consolidation. When a corporation taxable hereunder shall acquire either directly, indirectly or by merger or consolidation the major portion of the actively employed assets or the franchises of another corporation or of corporations exercising a franchise or doing any business in this State during any year, or shall merge or consolidate with another corporation, it shall file a report within 60 days and include therein a statement showing its own taxable income and the consolidated taxable income of all such corporations for the preceding calendar or fiscal year to the extent that all such income has not been used or included in measuring the franchise tax to this State.

Sec. 7. Returns. Returns shall be in such form, and shall contain such information and detail, as the State Tax Assessor may from time to time prescribe, and shall be filed at his main office or at any branch office which he may establish, on or before the 15th day of the fourth month next after the close of the preceding income year. In case of sickness, absence or other disability, or whenever in his judgment good cause exists, the State Tax Assessor may allow further time for filing returns. Returns shall be verified by written declarations that the statements therein are made subject to the pains and penalties of per-

jury. The person signing such a return shall be deemed to be the person subject to the pains and penalties of perjury. The State Tax Assessor shall cause to be prepared blank forms for the returns and shall cause them to be distributed throughout the State and to be furnished upon application, but failure to receive or secure the form shall not relieve a taxpayer from the obligation of making the return herein required.

Sec. 8. Penalty. A corporation which fails to make any return or report required by this chapter shall be liable to a penalty of 25% of the tax, to be added thereto and assessed and collected in the manner provided for the assessment and collection of taxes under section 3, or in a civil action for debt to be brought by the State Tax Assessor; and an officer of any such corporation who makes a fraudulent return or statement with intent to defeat or evade the payment of the taxes prescribed by this chapter, shall be liable to a penalty of not more than \$1,000, to be collected in the same manner.

Sec. 9. Payment of tax. Taxes levied under the provisions of this chapter shall be paid to the State Tax Assessor at the time the return is filed under the provisions of section 7.

If the time for filing the return is extended, under the provisions of section 7, or if the tax is not paid when due, in either case, interest of $\frac{1}{2}\%$ per month or fraction thereof from the original due date of the return shall be added to and become part of the tax. The State Tax Assessor shall pay over all receipts from such tax to the Treasurer of State daily and such receipts shall be credited to the general fund.

Sec. 10. Delinquent taxes. All taxes due under the provisions of this chapter may be collected by an action of debt brought by the State Tax Assessor. In the event of failure to pay upon the final determination of tax liability by any court, the State Tax Assessor shall so certify to the Secretary of State, who shall suspend the taxpayer's charter or revoke its license to do business in this State.

Sec. 11. Revision of tax by State Tax Assessor. When the State Tax Assessor discovers from the examination of the return or otherwise that the net income of any taxpayer, or any portion thereof, has not been correctly stated on the return, he may, at any time within 3 years after the time when the return was due, correct the same and give notice to the taxpayer of such correction, and such taxpayer shall thereupon have an opportunity, within 30 days, to confer with the State Tax Assessor as to the proposed correction. The limitation of 3 years to the correction of such return shall not apply to the correction of fraudulent returns. After the expiration of 30 days from such notification, the State Tax Assessor shall assess the taxpayer for such additional tax as he finds due on the basis of such corrected return and shall give notice to the taxpayer so assessed, of the amount of the tax and interest and penalties, if any, and the amount thereof shall be due and payable within 10 days from the date of such notice. The provisions of section 13 with respect to appeal shall apply to a tax so assessed. No additional tax amounting to less than \$1 shall be assessed.

Sec. 12. Revision of tax at request of taxpayer. A taxpayer may apply to the State Tax Assessor for revision of the tax assessed against him at any

time within 2 years from the time of the filing of the return. The State Tax Assessor shall grant a hearing thereon and if, upon such hearing, he shall determine that the tax is excessive or incorrect, he shall resettle the same according to the law and the facts and adjust the computation of the tax accordingly. The State Tax Assessor shall notify the taxpayer of his determination and the State shall refund to the taxpayer the amount, if any, paid in excess of the tax found by him to be due. When the taxpayer has failed, without good cause, to file a return within the time prescribed by law, or has filed a fraudulent return or, having previously filed an incorrect return, has failed, after notice, to file a proper return, the State Tax Assessor shall add to the tax 25% of the amount for which the taxpayer is found to be properly assessed.

Sec. 13. Appeal. The determination of the State Tax Assessor upon any application made by a taxpayer for revision of any tax assessed under the provisions of this chapter may be appealed from to the Superior Court in and for Kennebec county, on petition filed by the taxpayer against the State Tax Assessor. The petition shall be filed within 90 days after receipt by the taxpayer or his agent of written notice by the State Tax Assessor of his determination given as provided in section 11. Thereupon, appropriate proceedings shall be had and the relief, if any, to which the taxpayer may be found entitled may be granted and any taxes, interest or penalties paid, found by the court to be illegally assessed, shall be ordered refunded to the taxpayer with costs, and judgment entered accordingly.

Sec. 14. Exemptions. The following corporations shall be exempt from the taxes imposed by this chapter:

I. Railroad, express, telephone and telegraph, corporations, parlor car companies, insurance, surety and guaranty companies, mutual or otherwise; including life, fire and marine insurance corporations.

II. Corporations organized for religious, charitable, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private stockholder or individual member;

III. Chambers of commerce or boards of trade not organized for profit, no part of the net earnings of which inures to the benefit of any private stockholder or individual member;

IV. Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Sec. 15. Rules and regulations. The State Tax Assessor shall be charged with the duty of administering and enforcing all the provisions of this chapter, and is authorized and empowered to adopt, prescribe and from time to time alter and amend and to enforce reasonable rules, orders and regulations for the purpose of carrying out the provisions thereof. The State Tax Assessor may require by order or subpoena, the production at any time and place he may designate, of any books, papers, accounts or other information necessary to the carrying out of the provisions thereof. All reports and returns shall be upon standard forms adopted by the State Tax Assessor with no more detailed information relating to the taxpayer's business than is necessary to enable the State Tax Assessor to administer fully the provisions of this chapter.

Sec. 16. Validating provisions. Nothing in the provisions of this chapter shall be construed to repeal any of the provisions of Chapter 16 of the Revised Statutes. If any clause, sentence, paragraph or part of this chapter shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of said sections, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Sec. 17. Effective date. The Tax imposed by this chapter shall be measured by income reported for each income year beginning on or after January 1, 1956.'

Title III.

Sec. 1. R. S., c. 16, § 115, amended. The 1st sentence of section 115 of chapter 16 of the revised statutes is hereby amended to read as follows:

'Every corporation, person or association operating any railroad in the State under lease or otherwise shall pay to the State Tax Assessor, for the use of the State, an annual excise tax for the privilege of exercising its franchises and the franchises of its leased roads in the State, which, with the tax provided for in section 4 of chapter 92, is in place of all taxes upon such railroad and its property ~~and stock.~~'

Sec. 2. R. S., c. 16, § 127, amended. The first paragraph of section 127 of chapter 16 of the revised statutes is hereby amended to read as follows:

'Every corporation, association or person operating in whole or in part a telephone or telegraph line within the State for tolls or other compensation shall pay to the State Tax Assessor, for the use of the State, an annual excise tax for the privilege of conducting such business within the State, which tax, with the tax provided for in section 132, is in place of all taxes upon the property of such corporation, association or person employed in such business ~~and of all taxes upon the shares of the capital stock of any such corporation.~~'

Sec. 3. R. S., c. 16, § 132, amended. Section 132 of chapter 16 of the revised statutes is hereby amended to read as follows:

'**Sec. 132. Tax to be in lieu of all taxes.** The excise tax collected under the provisions of the 7 preceding sections shall be in lieu of all taxes upon any corporation therein designated, ~~upon its shares of capital stock~~ and its property; provided, however, that the land and buildings thereon owned by such corporation, association or person shall be taxed in the municipality in which the same are situated. The assessment of taxes on such land and buildings shall be legal, whether assessed as resident or nonresident property.'

Sec. 4. R. S., c. 16, § 153, amended. Section 153 of chapter 16 of the revised statutes is hereby amended to read as follows:

'**Sec. 153. Failure to make returns and pay tax; authority of State Tax Assessor to examine books.** If any corporation, company, association or person fails to make the returns required by sections 123, 125 and 134 ~~and 154~~, the State Tax Assessor shall make an assessment of a State tax upon such corpora-

tion, company, association or person on such valuation, or on such gross receipts thereof, as the case may be, as he thinks just, with such evidence as he may obtain, and such assessment shall be final. The State Tax Assessor or his duly authorized agent shall have access to the books of any corporation, company, association or person required to make returns under the provisions of sections 123, 134, 142, 143; 145 and 146 and ~~154~~, to ascertain if the required returns are correctly made. If any corporation, company, association or person fails to pay the taxes required or imposed by sections 115, 122, 127 and 133 and ~~155~~, the State Tax Assessor shall forthwith commence an action of debt, in the name of the State, for the recovery of the same with interest at the rate of 10% a year. In addition to other remedies for the collection of State taxes upon any corporation, such taxes with interest at the rate of 10% a year may be recovered by an action of debt in the name of the State.'

Sec. 5. R. S., c. 16, §§ 154-157, repealed. Sections 154 to 157, inclusive, of chapter 16 of the revised statutes are hereby repealed.

Sec. 6. R. S., c. 59, § 3, repealed. Section 3 of chapter 59 of the revised statutes is hereby repealed.

Sec. 7. R. S., c. 92, § 5, amended. Section 5 of chapter 92 of the revised statutes is hereby amended to read as follows:

'**Sec. 5. Personal estate includes.** Personal estate for the purposes of taxation ~~includes all~~ shall include only tangible, physical goods, chattels ~~moneys~~ and effects, wheresoever they are; and all vessels at home or abroad; ~~all obligations for money or other property; money at interest and debts due the persons to be taxed more than they are owing; all public stocks and securities; all shares in moneyed and other corporations within or without the state, except as otherwise provided by law; all annuities payable to the person to be taxed when the capital of such annuity is not taxed in this state; and all other property included in the last preceding state valuation for the purposes of taxation.~~

Sec. 8. R. S., c. 92, § 6, sub-§§ II, XV, repealed. Subsections II and XV of section 6 of chapter 92 of the revised statutes are hereby repealed.

Sec. 9. R. S., c. 92, § 6, sub-§ XII, amended. Subsection XII of section 6 of chapter 92 of the revised statutes is hereby amended to read as follows:

'**XII.** The aqueducts, pipes and conduits of any corporation supplying a town with water are exempt from taxation, when such town takes water therefrom for the extinguishment of fires without charge; but this exemption does not include therein ~~the capital stock of such corporation~~ any reservoir or grounds occupied for the same or any property, real or personal, owned by such company or corporation other than as hereinabove enumerated.'

Sec. 10. R. S., c. 92, § 14, sub-§ III, amended. Subsection III of section 14 of chapter 92 of the revised statutes is hereby amended to read as follows:

'**III.** Machinery employed in any branch of manufacture, goods manufactured or unmanufactured and real estate belonging to any corporation, except when otherwise expressly provided, shall be assessed to such corporation in

the town or place where they are situated or employed; ~~and in assessing stockholders for their shares in any such corporation, their proportional part of the assessed value of such machinery, goods and real estate shall be deducted from the value of such shares.~~

Sec. 11. R. S., c. 92, § 14, sub- § XI, repealed. Subsection XI of section 14 of chapter 92 of the revised statutes is hereby repealed.

Sec. 12. R. S., c. 92, § 15, repealed. Section 15 of chapter 92 of the revised statutes is hereby repealed.

Sec. 13. R. S., c. 92, § 18, amended. Section 18 of chapter 92 of the revised statutes is hereby amended to read as follows:

'Sec. 18. Stock of companies invested in other stock. When an insurance or other incorporated company is required by law to invest its capital stock or any part thereof in the stock of a bank or other corporation in the State for the security of the public, such investments shall not be liable to taxation ~~except to the stockholders of the company so investing as making a part of the value of their shares in the capital stock of said company.~~

Sec. 14. R. S., c. 92, § 19, repealed. Section 19 of chapter 92 of the revised statutes is hereby repealed.

Sec. 15. R. S., c. 92, § 20, amended. Section 20 of chapter 92 of the revised statutes is hereby amended to read as follows:

'Sec. 20. Mortgaged personal property; loan secured by deed. When personal property is mortgaged or pledged, it shall for purposes of taxation be deemed the property of the party who has it in possession and it may be distrained for the tax thereon. ~~Money or personal~~ **Personal** property, loaned or passed into the hands or possession of another by any person residing in the State, secured by an absolute deed of real estate, shall be taxed to the grantee, as in case of a mortgage, although the land is taxed to the grantor or other person in possession.'

Sec. 16. R. S., c. 92, § 25, amended. Section 25 of chapter 92 of the revised statutes is hereby amended to read as follows:

'Sec. 25. Property of manufacturing, mining and smelting corporations, and of stock raising corporations. The buildings, lands and other property of manufacturing, mining and smelting corporations, not exempt from taxation, and all stock used in factories shall be taxed to the corporation, or to the person having possession of its property or stock, in the town or place where the buildings and lands are situated and where the property is kept, or where the stock is manufactured; and the buildings and lands and other property of agricultural and stock raising corporations shall be taxed to the corporation, or to the person having possession of its property, in the town where the buildings and lands are situated and where the personal property is kept; and there shall be a lien for 1 year on such property and stock for payment of such tax; and it may be sold for payment thereof as in other cases; ~~and shares of the capital stock of such corporations shall not be taxed to their owners.~~

Sec. 17. R. S., c. 92, § 26, amended. Section 26 of chapter 92 of the revised statutes is hereby amended to read as follows:

'Sec. 26. Property of corporations organized for dealing in real estate; lien. The buildings, lands and all other property, real and personal, ~~including all reserve funds, accumulations and undivided profits~~ of corporations organized for the purpose of buying, selling and leasing real estate, shall be taxed to the corporation or the persons having possession of such property in the place where such land and other property are situated, and there shall be a lien for 1 year on such property for the payment of such tax and the same may be sold for payment thereof as in other cases; ~~and shares of the capital stock of such corporations shall not be taxed to the owners thereof.'~~

Title IV.

Sec. 1. R. S., c. 17, § 3, amended. The 2nd paragraph of section 3 of chapter 17 of the revised statutes is hereby amended to read as follows:

'The tax imposed upon the sale and distribution of gas ~~water~~ or electricity by any public utility, the rates for which sale and distribution are established by the Public Utilities Commission, shall be added to the rates so established. No tax shall be imposed upon the sale or use of electrical energy ~~or water stored for the purpose of generating electricity~~ when the sale is to or by a wholly owned subsidiary by or to its parent corporation.'

Sec. 2. R. S., c. 17, § 10, sub-§ III, amended. The 2nd paragraph of subsection III of section 10 of chapter 17 of the revised statutes is hereby amended to read as follows:

'"Food products" shall not include spirituous, malt or vinous liquors; soft drinks, sodas or beverages such as are ordinarily dispensed at bars or soda fountains or in connection therewith; medicines, tonics, vitamins and preparations in liquid, powdered, granular, tablet, capsule, lozenge or pill form, sold as dietary supplements or adjuncts, except when sold on the prescription of a physician; ~~water, including mineral bottled and carbonated waters and ice.~~ "Food products" also shall not include meals served on or off the premises of the retailer; or drinks or food furnished, prepared or served for consumption at tables, chairs or counters, or from trays, glasses, dishes or other tableware provided by the retailer.'

Sec. 3. R. S., c. 17, § 10, sub-§ IX, repealed and replaced. Subsection IX of section 10 of chapter 17 of the revised statutes is hereby repealed and the following enacted in place thereof:

'IX. Fuel and electricity. Fuel and electricity when bought for use in homes, hotels and apartment houses, and other buildings used solely for human habitation and sleeping. When fuel is purchased for a use herein exempted and also for a taxable use, the proportion of the fuel to be exempted shall be estimated. The Assessor shall provide by regulation how such estimates may be made and given effect. Electricity purchased for a use herein exempted and also for a taxable use shall not be exempted unless the electricity for such exempt use is separately metered.'

Sec. 4. R. S., c. 17, § 10, sub-§ XX, additional. Section 10 of chapter 17 of the revised statutes is hereby amended by adding thereto a new subsection to be numbered XX, to read as follows:

'XX. Water. Sales of water.'

Sec. 5. R. S., c. 17, § 10, sub-§ XXI, additional. Section 10 of chapter 17 of the revised statutes is hereby amended by adding thereto a new subsection to be numbered XXI, to read as follows:

'XXI. Clothing and shoes. Sales of clothing for human beings as defined herein. "Clothing" means inner and outer garments, except those designed for a particular sport, intended exclusively for decency or protection or both, shoes and certain accessories hereinafter listed. By way of partial illustration, "clothing" includes suits, hats, socks, gloves, mittens, underwear, coats and shirts; sleeping garments and dressing gowns; dresses and stockings; orthopedic corsets, foundation garments and orthopedic stockings; infant's blankets, clothes, diapers and snow suits; dungarees, overalls and work gloves; aprons and coveralls; and work uniforms such as policemen's, firemen's and elevator operators'. By way of partial illustration, "shoes" include slippers, boots, galoshes, rubbers and work shoes as well as ordinary shoes. "Accessories" include only kerchiefs, neckties and cloth handkerchiefs. "Clothing" does not include hair fittings and ornaments, shirt studs, pins, collar buttons, clips, cuff links, wrist watches, bracelets and earrings; wallets, billfolds and handbags; fur neck pieces and other fur items worn as accessories; special sports wear such as football helmets and uniforms, baseball gloves and uniforms, bathing suits and caps and other items which are not "clothing" as above defined. "Shoes" do not include laces, soles or other parts of shoes sold separately and do not include special sport shoes, such as track shoes and golf shoes.'