

**TESTIMONY OF
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DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES**

Before the Joint Standing Committee on Taxation
Hearing Date: *February 8, 2024*

LD 2028 – “*An Act to Amend Certain State Tax Laws*”

Senator Grohoski, Representative Perry, and members of the Taxation Committee – good afternoon, my name is Daniel D’Alessandro, Associate Tax Policy Counsel for the Office of Tax Policy, Maine Revenue Services. I am testifying at the request of the Administration in Support of LD 2028, “An Act to Amend Certain State Tax Laws.”

LD 2028 is legislation submitted by the Department of Administrative and Financial Services. As you know, Maine Revenue Services prepares one or more bills each year that propose changes to various existing provisions of Maine law, primarily in Title 36. The Department has also submitted LD 2023, “An Act to Make Technical Changes to Maine's Tax Laws.”

The difference between these bills is the nature of the recommendations. Whereas LD 2023 contains technical changes with little or no fiscal impact, the “Act to Amend” makes various minor, but substantive, improvements and clarifications consistent with existing tax administration and other tax-related Executive Department functions.

You should have available to you a chart prepared by MRS that breaks down each provision of the bill and matches it with the corresponding paragraph from the bill’s summary section. This side-by-side chart provides a brief explanation of each provision of the bill.

The Administration is proposing a Committee Amendment to remove section C-4, relating to estimated filing payment requirements for the insurance premiums tax – this provision was under discussion, but was not intended to be included in this legislation.

In addition, the amendment updates the background investigation requirements for MRS employees and contractors. Current law requires a background investigation be performed on all MRS employees and contractors at the time of hire, and at least once every 10 years thereafter. These background investigations are one of the requirements required by the Internal Revenue Services for the protection of confidential federal tax information, or FTI, and are one of the steps MRS takes to protect both Maine and federal tax information.

The Internal Revenue Service recently updated their security guidelines for state and local agencies to require background investigations be performed, at minimum, at least every five years. MRS must meet these guidelines in order to maintain its access to FTI. MRS uses FTI regularly in its enforcement of Maine's tax laws, and loss of access would severely hamper our ability to effectively administer the State taxes.

I would also draw your attention to Section B-5 of the bill which proposes to align the Title 36 Tobacco Products Tax definition of "tobacco products" subject to tax more closely with the Title 22, Retail Tobacco Licensing Program, definition by adding products that contain nicotine to the Title 36 definition.

The Administration looks forward to working with the Committee on the bill; representatives from MRS will be here for the Work Session to provide additional information and respond in detail to the Committee's questions.

Summary Chart for "131st 2nd - Act to Amend - Legislative Language"

LD 2028	Summary
Be it enacted by the People of the State of Maine as follows:	
Sec. A-1. 36 MRSA §6252-A, sub-§6	Part A clarifies the circumstances under which a taxpayer who has delinquent taxes on multiple residential properties is disqualified from the homestead property tax deferral program.
Sec. B-1. 5 MRSA §13090-K, sub-§2	Removes the Tourism Marketing Promotion Fund, the Multimodal Transportation Fund and the ATV Recreational Management Fund transfers from revenue subject to transfer to the Passamaquoddy Sales Tax Fund, the Penobscot Sales Tax Fund and the Maliseet Sales Tax Fund, thereby preventing more than 100% of the revenue from being transferred out of the General Fund.
Sec. B-2. 23 MRSA §4210-B, sub-§7-A	
Sec. B-3. 36 MRSA §1820, first ¶	
Sec. B-4. 36 MRSA §1820, 2nd ¶	
Sec. B-5. 36 MRSA §4401, sub-§9	Clarifies the tobacco products tax definition of "tobacco products" as including any product that contains nicotine.
Sec. C-1. 5 MRSA §13083-S-1, sub-§1, ¶D-1	Updates the calculation of payments made to the Brunswick Naval Air Station Job Increment Financing Fund for businesses that are also part of the Maine Employment Tax Increment Financing Program to correspond with recent law changes switching the employment tax increment financing base from withholding to a percentage of incremental gross wages; and
Sec. C-2. 5 MRSA §13083-S-1, sub-§3, ¶D	
Sec. C-3. 5 MRSA §13083-S-1, sub-§5	
Sec. C-4. 36 MRSA §2521-A	Generally aligns the insurance premiums tax estimated tax payment due dates and amounts with those of the corporate income tax and makes other nonsubstantive changes to clarify the law.
Sec. D-1. 36 MRSA §194-D, sub-§2	Increases the frequency of background investigations employees and contractors of Maine Revenue Services must receive from at least once every 10 years to at least once every 5 years to comply with federal requirements on the protection of confidential federal taxpayer information.

MAINE REVENUE SERVICES
LD 2028, “An Act to Amend Certain State Tax Laws”
Proposed Committee Amendment
Hearing Date: February 8, 2024

Amend the bill as follows:

Strike Section C-4 on page 3.

Add the following new Part D:

Part D

Sec. D-1. 36 MRSA §194-D, sub-§2, is amended to read:

2. Background investigation requirements. The assessor shall perform background investigations for affected persons in accordance with this subsection.

A. As part of the process of evaluating an affected person, except for a current employee of the bureau, for employment with the bureau, a background investigation must be conducted before an offer of employment is extended.

B. A background investigation for an affected person assigned to provide services to the bureau under an identified contract must be conducted before that affected person begins providing services to the bureau, and at least once every ~~10~~ 5 years, as long as the affected person continues providing services to the bureau.

C. As part of the process of evaluating an affected person for continued employment with the bureau, a background investigation must be conducted at least once every ~~10~~ 5 years. If an affected person has not been subject to a background investigation within ~~10~~ 5 years prior to the effective date of this section, a background investigation must be conducted within one year of the effective date of this section.

D. A background investigation for an employee or contractor of another state agency must be conducted before that affected person is provided access, or the substantial possibility of access, to federal tax information obtained from the bureau, and at least once every ~~10~~ 5 years, as long as the affected person continues to have such access. However, if the assessor determines that the affected person has been subject to a background investigation that satisfies the background investigation standards established by the United States Internal Revenue Service regarding access to federal tax information within the past ~~10~~ 5 years, no further investigation is required under this subsection for the ~~10~~ 5-year period commencing at the time of the background investigation.

The background investigation must include fingerprinting and obtaining national criminal history record information from the Federal Bureau of Investigation and must satisfy the background investigation standards established by the United States Internal Revenue Service regarding access to federal tax information.

Renumber or reletter any nonconsecutive section to be consecutive.

SUMMARY

This amendment repeals section C-4 of the bill relating to estimated filing payment requirements for the insurance premiums tax and increases the frequency of background investigations employees and contractors of Maine Revenue Services must receive from at least once every 10 years to at least once every 5 years to comply with federal requirements on the protection of confidential federal taxpayer information.