

MAINE STATE LEGISLATURE

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CONSOLIDATED BILL "A" OF H. P. NO. 1821, L. D. NO. 955 AND
H. P. NO. 1863, L. D. No. 1029 TOGETHER WITH REVENUE
PROVISIONS.

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

Legislative Document

No. 1058

H. P. 1884

House of Representatives, April 17, 1937.

Reported by four members of the Committee on Taxation. On motion of
Mr. Ellis of Rangeley the three reports tabled pending acceptance of any
and the consolidated bills A, B and C ordered printed.

HARVEY R. PEASE, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-SEVEN

**AN ACT to Provide for Old Age Assistance, to Guarantee a Minimum
Educational Program and to Provide Revenues Therefor by Means of
Miscellaneous Taxes.**

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

TITLE I

**Sec. 1. To provide for old age assistance and to guarantee a minimum
educational program, taxes are imposed as hereinafter set forth.** The rev-
enues derived from such taxes shall be paid into the general fund of the
state treasury and expended in the following manner:

a. Such sum as may be necessary to pay the expenses of the adminis-
tration, collection and enforcement.

b. A sum not exceeding \$1,500,000 for the fiscal year ending June 30,
1938, and a sum not exceeding \$2,000,000 annually thereafter for old age
assistance in accordance with the provisions of Title II of this Act.

c. A sum not in excess of \$500,000 annually to guarantee a minimum
educational program in accordance with the provisions of Title III of this
Act.

d. The balance, if any, to be credited annually on the state tax of the several cities, towns and plantations as hereinafter provided.

e. If the taxes collected under this act for any fiscal year, after deducting such sums as may be necessary to pay the expenses of the administration, collection and enforcement of this act, shall not be sufficient to pay the maximum sums hereby appropriated for Old Age Assistance and a Minimum Educational Program, said appropriations shall be pro rated in accordance with the maximum amounts appropriated for Old Age Assistance and for a Minimum Educational Program.

f. If at any time the grant available to the State of Maine under the provisions of the Social Security Act of the United States relating to Old Age Assistance shall cease to be available to match funds provided under this act and to be distributed under the provisions of Title II hereof, the governor shall forthwith publicly so proclaim, and upon the date of such proclamation the provisions of this act providing revenue and appropriating the same shall be suspended.

TITLE II

Sec. 1. Department of health and welfare to administer old age assistance. The department of health and welfare shall administer the carrying out and enforcement of the provisions of law relating to old age assistance. It is hereby empowered to employ such assistants as may be necessary to carry out the provisions of this act, subject to the approval of the governor and council, and to coordinate their work with that of the other social welfare work of the department.

Sec. 2. Definition. The word "department" wherever hereinafter used shall be construed to mean the department of health and welfare.

Sec. 3. Old age assistance provided for. Subject to the qualifications and restrictions contained in this act, every person residing in this state shall be entitled to assistance in old age. The amount of assistance which any person shall receive shall be determined on a budgetary basis with due regard to the conditions existing in each case and in accordance with the rules and regulations made by the department. This assistance shall be sufficient, when added to all other income and support of the recipient, to provide such person with a reasonable subsistence compatible with decency and health, but not exceeding \$30 per month. No person receiving assistance under this act shall be deemed a pauper.

Sec. 4. Requisites for assistance. Old age assistance shall be granted only to an applicant who

- (a) Is 65 years of age or more ;
- (b) Has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health ;
- (c) Has resided in the state for 5 or more years within the 9 years immediately preceding application for assistance and has resided therein continuously for 1 year immediately preceding the application ;
- (d) Is not an inmate of and is not being maintained by any municipal, state, or national institution ; but an inmate of such an institution may file application for assistance under this act, and any allowance made thereon shall take effect and be paid upon his ceasing to be an inmate of such institution ;
- (e) Has no spouse able to support him ;
- (f) Has no child or children able to support him.

Sec. 5. Change of status of person assisted. If the recipient of old age assistance or his spouse becomes possessed of any property or any income in addition to the amount stated in his application, it shall be his duty immediately to notify the department of such fact.

Sec. 6. Penalty for felony by person assisted. Any recipient of old age assistance who is convicted of a felony shall be disqualified from receiving old age assistance.

Sec. 7. Funeral expenses of person assisted. On the death of a recipient, reasonable funeral expenses not exceeding \$100 shall be paid by the state if the estate of the deceased is insufficient to pay the same.

Sec. 8. Assistance may be paid to a guardian or conservator. If the recipient of assistance is, on the testimony of reputable citizens, found by the department to be incapable of taking care of himself or his money, the department after due investigation, may pay the same to a legally appointed guardian or conservator for his benefit.

Sec. 9. Inalienability of assistance. All rights to assistance shall be absolutely inalienable by any assignment, sale, execution, pledge or otherwise, and shall not pass, in case of insolvency or bankruptcy, to any trustee, assignee or creditor.

Sec. 10. Disqualification of applicant. Any applicant for old age assistance who divests himself directly or indirectly of any property for the purpose of qualifying for such assistance shall forfeit all right to receive old age assistance under this act.

Sec. 11. Claims against estate of person assisted. Upon the death of a beneficiary, the state shall have a claim against his estate, enforceable in the probate court, for all amounts paid to him under the provisions of this act. Such claim shall have priority over all unsecured claims against such estate, except (1) administrative expenses, including probate fees and taxes, and (2) expenses of the last sickness and burial expenses. The attorney general shall collect any claim which the state may have hereunder against such estate. Provided, that no such claim shall be enforced against any real estate while it is occupied as a home by the surviving spouse of the beneficiary if such spouse is eligible for old age assistance under the provisions of this act or will reach the age of eligibility within five years of the time of death of the beneficiary and does not marry again. If the state participates in federal funds for the purposes of this act, one-half of the net amount collected from the estate of the beneficiary, with respect to old age assistance furnished him, shall be promptly paid by the treasurer of state to the United States as required by the laws of the United States.

Sec. 12. Penalty for fraud. Any person who by means of a wilfully false statement or representation or by impersonation or other fraudulent devices obtains or attempts to obtain, or aids or abets any person to obtain

(a) Assistance to which he is not entitled;

(b) A larger assistance than that to which he is entitled;

(c) Payment of any forfeited instalment of assistance; and any person who knowingly buys or aids or abets in buying or in any way disposing of the property of a recipient in such a way as to constitute a fraud upon the department shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$500 or by imprisonment for not more than 11 months, or by both such fine and imprisonment.

Sec. 13. General penalty. Any person who violates any of the provisions of this act for which no penalty is specifically provided shall be punished by a fine of not more than \$500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment. If a recipient of assistance is convicted of an offense under this section, the department may cancel the assistance.

Sec. 14. Right of appeal. Any person who is denied assistance or who is not satisfied with the amount of assistance allotted to him, or is aggrieved by a decision of the department made under any provision of this act, shall have the right of appeal to the commissioner of health and welfare who shall provide the appellant with an opportunity for a fair hearing. Said commissioner or a member of the department designated and authorized by him shall hear all evidence pertinent to the matter at issue and render a

decision thereon within a reasonable period from the date of the hearing; provided, that when the evidence in the case is heard by a person other than the commissioner, the decision shall be rendered in the name of the commissioner.

Sec. 15. Administration. All monies made available under this act shall be expended under the direction of the department, and the department is empowered to direct the expenditure therefrom of such sums as may be necessary for the purposes of administration. All assistance granted under this act shall be paid monthly by the state.

Sec. 16. Acceptance of provisions of federal law. The department is hereby authorized subject to the approval of the governor and council to

(a) Apply for federal assistance under the provisions of Title I of the Federal Social Security Act (Public No. 271, 74th Congress) and acts additional thereto or amendatory thereof; and to comply with such conditions, not inconsistent with the provisions of this act, as may be required for such assistance.

(b) Make such reports in such form and containing such information as the federal government may from time to time require, and comply with such provisions as the federal government may from time to time find necessary to assure the correctness and verification of such reports.

Sec. 17. Federal grants. The treasurer of state shall be the appropriate fiscal officer of the state to receive federal grants on account of old age assistance and administration thereof, as contemplated by Title I of the Federal Social Security Act, and the state controller shall authorize expenditures therefrom as approved by the department.

Sec. 18. Appropriation. For the purpose of carrying out the provisions of this Act, there is hereby appropriated from the funds of the State the sum of \$1,500,000 for the fiscal year ending June 30, 1938 and the sum of \$2,000,000 for the fiscal year ending June 30, 1939.

Sec. 19. Saving clause. The unconstitutionality of any section or provision of this act shall not invalidate the remainder of the act.

Sec. 20. P. L., 1933, c. 267, repealed. Chapter 267 of the public laws of 1933 is hereby repealed.

TITLE III

Sec. 1. R. S., c. 19, § 22, amended. Section 22 of chapter 19 of the revised statutes is hereby amended to read as follows:

'Sec. 22. Purposes for which school fund shall be used; parent or guardian may provide text-books; second-hand books not to be purchased; penalty. Towns shall expend the entire amount of the school fund received from the state together with the amount arising from the ~~eighty cents per capita funds raised~~ as provided in section 16 of this chapter, and the funds arising from the various sources enumerated in ~~the first four lines of~~ said section, and the funds arising from the provisions of section 17 of this chapter, for the payment of teachers' wages and board, fuel, janitors' services, conveyance of scholars, and tuition and board of scholars as provided in section 2 and section 78 of this chapter and shall provide schoolbooks, apparatus, and appliances for the use of pupils in the public schools, including all free high schools, **insurance on the buildings, if any, maintenance of schoolyards and playgrounds, and incidental repairs to buildings** at the expense of said town; and shall also pay for the necessary **major** repairs of school buildings and the ~~insurance on the same, if any,~~ improvement and ~~maintenance~~ **equipment** of schoolyards and playgrounds out of a sum or sums of money raised and appropriated for that purpose, which shall be assessed like other money and shall be in addition to and independent of the amount which towns are required by law to raise, assess, and expend for the support of common schools; provided, however, that any parent or guardian of any pupil in the public schools may at his own expense procure for the separate and exclusive use of such pupil the text-books required to be used in such schools, ~~and~~. No second-hand books shall be purchased for the use of any school; whoever violates this provision shall forfeit not exceeding \$500, to be recovered in an action of debt by any school officer or person aggrieved.'

Sec. 2. R. S., c. 19, § 202, amended. Section 202 of chapter 19 of the revised statutes, as amended, is hereby further amended to read as follows:

'Sec. 202. State school fund, for maintenance and support of elementary and secondary schools, how created. A tax of $3 \frac{1}{3}$ mills on a dollar shall annually be assessed upon all the property in the state according to the value thereof and said tax shall be assessed and collected in the same manner as other state taxes and be paid into the state treasury. To the fund resulting from said tax the treasurer of state annually shall add the income from the permanent school fund, as provided by law, and a sum equal to $\frac{1}{2}$ the amount received by the state from the tax on the franchises of savings banks and on the deposits of trust and banking companies ~~as provided by law~~ **together with an appropriation of \$500,000 from the general fund of the state to be paid to towns as provided by section 210 of this chapter.**

The sum total of the amount so assessed, ~~and~~ collected **and credited from the general fund of the state** shall be designated the state school fund and after the deduction therefrom of all funds and appropriations which the treasurer of state is authorized by law to deduct, the balance shall be distributed among the several cities, towns, and plantations of the state in the manner provided for by sections 202 to 216, to be expended by said cities, towns, and plantations for the maintenance and support of elementary and secondary schools established and controlled by them.'

Sec. 3. R. S., c. 19, § 203, amended. Section 203 of chapter 19 of the revised statutes is hereby amended to read as follows:

'Sec. 203. Terms defined. For the purposes of sections 202 to 216 the following terms are defined:

The term "elementary school" shall be understood to include that part of the school organization of a town in which is offered a program of studies preceding that offered by a class A high school as defined by section 83.

The term "secondary school" shall be understood to include that part of the school organization of a town offering a program of studies as included in class A high schools or any part thereof as defined by section 83 and as arranged for by the establishment and maintenance of a free high school, a union high school, or by contract with the superintending school committee of an adjoining town or with the trustees of an academy within the town or in an adjoining town as provided for by section 92.

The term "teaching ~~positions~~ **unit**" shall be understood to mean a ~~positions~~ in elementary and secondary schools filled by a classroom teachers, ~~assistant classroom teachers~~, school principals, school nurses, supervisors, ~~assistants to assistant supervisors~~, **clerical assistant**, and a teachers of special subjects, except when any such ~~position~~ **unit** is used a a basis for payment of state aid under the provisions of the laws encouraging industrial, vocational, and physical education. or when any such position is filled by a person devoting less than half of the school day to the duties of such positions ~~together, with the expenses incident to the work of such unit~~. Provided, however, that the number of teaching ~~positions~~ **units** in a secondary school shall be reckoned in ~~such~~ ratio to the actual number of such ~~positions~~ **units** as the aggregate attendance of pupils residents of the town is to the aggregate attendance of all pupils regularly enrolled in the school and provided, further, that a teaching ~~position~~ **unit** in an elementary or a secondary school maintained for any part of the school year shall be reckoned in ~~such~~ ratio to a complete ~~position~~ **unit** as the

number of weeks which the ~~position~~ unit was maintained is to the number of weeks schools of the town were maintained.

The term "school census" shall be understood to mean the number of persons between the ages of 5 and 21 years as provided for by section 56.

The term "aggregate attendance" shall be understood to include the total number of days of attendance for any one school year of each regularly enrolled pupil resident of the town in elementary and secondary schools; provided that the attendance of each pupil present on the day preceding shall be counted for each school holiday within any school term, for each day of the school year when there is no session of school because of absence of the teacher in attendance on teachers' meetings, as provided by law, and for not more than 1 day in each term when there is no session of school because of the absence of the teacher in visiting other schools when so authorized by the superintending school committee.'

Sec. 4. R. S., c. 19, § 204, amended. Section 204 of chapter 19 of the revised statutes is hereby amended to read as follows:

'Sec. 204. State controller to report to commissioner of education July 1st; commissioner to make apportionment and report to governor and council amounts to be paid towns in December. On the 1st day of July, annually, the state ~~auditor~~ controller shall report to the ~~state~~ commissioner of education the amount of the state school fund and all deductions therefrom provided for by law, and the ~~state~~ commissioner of education shall apportion said state school fund to the several cities, towns, and plantations in the manner provided for by law and shall transmit a report of said apportionment to the governor and council. Upon approval of said report by the governor and council there shall be paid to the treasurer of said towns in December, annually, the amounts so apportioned.'

Sec. 5. R. S., c. 19, § 205, amended. Section 205 of chapter 19 of the revised statutes, as amended, is hereby further amended to read as follows:

'Sec. 205. Deductions from state school fund. In addition to the other funds and appropriations provided for by law to be deducted from the state school fund, there shall annually be deducted the sum of \$125,000, the same to be denominated the school equalization fund and to be apportioned and distributed in the manner and for the purposes provided for by section 210. From the state school fund there shall also be apportioned such sums as may be required for payment to towns for reimbursement of tuition in secondary schools as provided for by section 206, such amount as may be required for physical education as provided in sections 181 to 183; an amount not to exceed \$150,000 to cover the obligation of the state

for industrial education under sections 163 to 168, inclusive; such amounts as may be required to cover the obligations of the state for teachers' pensions under sections 219 to 226, inclusive; such amounts as may be required to cover the obligations of the state under the teachers' retirement act under ~~paragraph 3 of section 234~~ 238; and such sums as may be required for payment to towns on account of teaching positions maintained as provided for by section 207, and such sums as may be required for apportionment to towns on the basis of the school census as provided for by section 208, ~~and the balance of said state school fund shall be apportioned and distributed to towns on the basis of aggregate attendance as provided for by section 209.~~

Sec. 6. R. S., c. 19, § 206, amended. Section 206 of chapter 19 of the revised statutes is hereby amended to read as follows:

'Sec. 206. Reimbursement to towns for tuition for pupils attending secondary schools. When any town shall have been required to pay and has paid tuition for pupils attending secondary schools, as provided by section 93, the superintendent of schools of such town shall make a return under oath to the ~~state~~ commissioner of education before the 1st day of September, annually, for the preceding school year, stating the name of each pupil for whom tuition has been paid, the amount paid by the town for each, and the name and location of the school which each has attended. Upon the approval of said return the ~~state~~ commissioner of education shall apportion to such town a sum equal to $\frac{2}{3}$ the amount thus paid by such town. Provided, further, that tuition for such pupils may be paid by towns to an amount not exceeding the average cost per pupil for the year preceding that for which the tuition is paid in the school attended by such pupil, but such payment by any town shall not exceed \$100 for any pupil for any 1 year, and reimbursement to any town for any 1 year shall not exceed \$700. Provided, further, that any town not maintaining a high school may pay tuition for any student who with parents or guardian, resides in said town and who attends an approved school of secondary grade in a town adjacent to the state of Maine in another state, when distance and transportation facilities make attendance in a Maine high school or academy inexpedient.

Provided, however, that when pupils are sent from one city, town, or plantation to another, any accounts for tuition of such pupils shall become due and payable on the 30th day of June, at the end of that school year; if such accounts be not paid on or before the 1st day of September of that year, the commissioner of education shall pay such accounts, or so much

thereof as he shall find to be rightly due, to the receiving city, town, or plantation, at the next regular annual apportionment, together with interest on such accounts at the rate of 6% annually, computed from said 1st day of September; and the commissioner of education shall charge any such payment against the apportioned fund of the sending city, town, or plantation.'

Sec. 7. R. S., c. 19, § 207, amended. Section 207 of chapter 19 of the revised statutes is hereby amended to read as follows:

'**Sec. 207. Apportionment to towns for teaching units.** On the basis of information furnished to the ~~state~~ commissioner of education by the return of educational statistics for the year ending July 1st, annually, as provided for by section 58, said ~~state~~ commissioner shall apportion to each town the sum of \$100 for each teaching ~~position unit~~, or a corresponding fractional part of \$100 for each fractional part of a teaching ~~position unit~~ maintained in the elementary and secondary schools of such town.'

Sec. 8. R. S., c. 19, § 209, repealed. Section 209 of chapter 19 of the revised statutes is hereby repealed.

Sec. 9. R. S., c. 19, § 210, amended. Section 210 of chapter 19 of the revised statutes, as amended, is hereby further amended by repealing paragraphs I, II and V; also by repealing chapter 33 of the public laws of 1935 (allocated as paragraph VI, and herein made a part of section 206); and also by changing Roman numeral III to Roman numeral I, by changing Roman numeral IV to Roman numeral II, and amending said paragraph; and by adding a new paragraph to be numbered III, so that said section, as amended, shall read as follows:

'**Sec. 210. School equalization fund, how apportioned.** The school equalization fund shall be apportioned by the commissioner of education to the towns qualified to receive aid from said fund as follows:

I. Whenever any school is closed or suspended as provided for by section 2 of this chapter and pupils attending such school have been conveyed to another school under such conditions of conveyance as may be approved by the commissioner of education, there may be apportioned to the town in which such school was maintained such amount as, added to the amount apportioned under the provisions of section 207 on account of teaching positions, will give to said town, on account of said school, the same amount as though this position had been maintained for the entire year. Provided, further, that so long as said school remains closed and satisfactory conveyance is maintained there may be apportioned the same amount as for the maintenance of a teaching position, provided, however,

that the amount so apportioned shall not exceed $\frac{1}{2}$ the cost of such conveyance.

II. Whenever any town through its superintendent or superintending school committee shall submit to the commissioner of education a definite plan for consolidation of schools, conveyance of pupils, housing of teachers, standardization of schools, or other projects especially worthy of encouragement, said commissioner shall investigate such plan and upon approval of the same may recommend to the governor and council the payment to such town of an amount, not exceeding \$500 in any one year, as an encouragement to such plan or project, provided, however, that the total amount available for aid under this paragraph shall not exceed ~~10% of the equalization fund.~~ **\$10,000 in any one year.**

III. Any town in which a sum equal to a tax of 12 mills upon the valuation of the town as determined by the bureau of taxation for the current year fails to produce a sufficient revenue to provide \$783 per elementary unit, \$1,305 per secondary unit and a sufficient amount to provide for necessary conveyance and to provide for secondary tuition, shall be considered eligible for equalization aid. Annually in December the commissioner of education shall issue to the governor and council a recommendation relative thereto. The governor and council shall draw a warrant in favor of the treasurer of said town for the payment from the equalization fund of an amount, the sum of which combined with other state aids as provided by law, shall equal the difference between the amount raised and expended as required by law and the proceeds of a tax of 12 mills upon the assessed valuation of the town as determined by the bureau of taxation, and which shall be expended under the direction of the superintending school committee of said town in accordance with the recommendation as made by the said commissioner, provided further:

1. No town shall be eligible to share in equalization aid unless its tax rate for all purposes for the current year shall exceed the average of rates for the state as determined by the bureau of taxation;

2. No town entitled to equalization aid under this act shall receive an annual amount in excess of \$6000 save that in any town where a tax of 12 mills upon the assessed valuation is in excess of this amount the state may pay an additional amount not exceeding the difference between the sum of \$6000 and the proceeds of a tax of 12 mills upon the assessed valuation;

Provided further, that the number of teaching units in the elementary and secondary schools to be used as a basis for equalization aid in any

town shall be the number of teaching units actually effective under similar conditions in non-equalization towns during the preceding year as determined by the commissioner of education from reports of practice throughout the state.

If in any year the approved claims of the several towns entitled to equalization aid shall be in excess of the appropriation a sufficient reduction in the amount of the allotments shall be made to bring the total amount of the grants within the limit of the appropriation. The reduction in the allotment to each town shall bear the same ratio to the approved grant to that town that the total reduction bears to the total of approved grants to all towns.

The commissioner of education with the approval of the governor and council shall have authority to administer the provisions of this act until such time as the towns affected shall have an opportunity to comply with the provisions of the law.

TITLE IV

Continuation of old age assistance provided for.

Continuation of old age assistance. A tax of 15% on the sale price is hereby imposed on the purchase of all spirituous and vinous liquors sold in the state by the state after June 30, 1937. In case the amount of the tax to be collected does not result in even cents, the tax shall be for the next higher cent. In no case shall the tax be for less than 5 cents on any bottle. All price lists of the commission shall state the amount of the tax levied on each bottle.

The Maine state liquor commission shall collect the said tax from the purchaser and pay the amounts into the state treasury.

TITLE V

Retail Store Tax Increased.

Sec. 1. P. L., 1933, c. 260, §4, amended. Section 4 of chapter 260 of the public laws of 1933 is hereby amended to read as follows:

'Sec. 4. Annual license fees. Every person, firm, partnership, association or corporation establishing, owning, operating, managing or maintaining 1 or more stores as in this act defined, within this state, under the same general management, supervision or ownership, shall pay the license fee or fees herein set forth annually, in addition to the filing fee required by section 1 of this act.

Such license fees shall be:

- (1) For each store, \$5.

Sec. 2. P. L., 1933, c. 260, additional. Chapter 260 of the public laws of 1933 is hereby amended by adding thereto a new section to be numbered 12-A, and to read as follows:

'Sec. 12-A. License tax defined. The license tax levied herein, shall not be in lieu of any special state license, occupational or corporation license tax under the laws now in force, or that may hereafter be enacted.'

TITLE VI

Amusement Tax

Sec. 1. Definitions as used in this act. "Amusement" shall mean and include all manner and forms of entertainment and amusement, theaters, opera houses, motion picture shows, vaudeville, amusement parks, athletic contests, including wrestling matches, prize fights, boxing exhibitions, football and baseball games, skating rinks, race tracks, golf courses, public bathing places, public dance halls of every kind and description and all forms of diversion, sport, recreation, shows, exhibitions, contests, displays, games, or any other and all methods of obtaining admission charges, donations, contributions or monetary charges of any character, from the general public or a limited or selected number thereof, directly or indirectly in return for other than tangible property or specific personal or professional services.

Sec. 2. Imposition of tax. There is hereby imposed, levied and assessed to be collected and paid as hereinafter provided a privilege license tax of 1 cent for each 10 cents or fractional part thereof received as admission to any amusement as hereinbefore defined, upon every person conducting such amusement or place where such amusement is conducted, whether such amusement is held or conducted in a public or private building, hotel, tent, pavillion, lot or resort enclosed or in the open; and the tax shall be imposed upon each such admission charged, donation or contribution except as herein otherwise provided.

Sec. 3. Permit required. Any person conducting any form of amusement, as hereinbefore defined, admission to which or the conduct of which requires the payment of a tax imposed by the preceding section, shall, before beginning the operation of any place or form of such amusement, make application in writing to the state tax assessor for a permit to conduct such amusement, such application to be made upon forms prescribed and furnished by said state tax assessor, and to contain all such information as may be required by him in each particular case.

Sec. 4. Granting a permit. Upon the filing of such application, the

state tax assessor may issue to the applicant, without cost to the applicant, a permit to conduct a permanent place of amusement, if not prohibited by law, or to conduct a temporary place of amusement upon such reasonable terms and conditions as the state tax assessor may impose; the permit to be good until the 1st day of July succeeding the date of issuance, if issued for a permanent place of amusement, if not sooner revoked for reasons as hereinafter provided; but permits for the conducting of temporary places of amusement to be good only for the time and place specified therein, and to be granted only upon such reasonable terms and conditions as the state tax assessor may prescribe in each instance. The permit shall be displayed at all times in a conspicuous manner at the place where such amusement is conducted and for the time specified therein.

Sec. 5. Joint liability for tax. Where permits are obtained for conducting temporary amusements, by persons who are not the owners, lessees or custodians of the buildings, lots or places where the amusements are to be conducted, or where such temporary amusement is permitted by the owner, lessee or custodian of any place, to be conducted without the procurement of a permit as hereinbefore required, the tax imposed by this act shall be paid by the owner, lessee or custodian of such place where such temporary amusement is held or conducted, unless paid by the person conducting the amusement, and the applicant for such temporary permit shall furnish with the application therefor, the name and address of the owner, lessee or custodian of the premises upon which such amusement is to be conducted, and such owner, lessee or custodian shall be notified by the state tax assessor of the issuance of such permit, and of the joint liability for such tax.

Sec. 6. Separate permit required. A separate permit shall be required for each place where amusements are to be conducted, and where any person intends to engage in the business of conducting an itinerant form of amusement in this state, in making application for permits to conduct such amusements at different places in this state, full and complete information shall be furnished to the state tax assessor, with such application, as to places where such amusements are to be conducted, with the date and length of time to continue at each place, and in the event of any change in the original contemplated itinerary, either as to date or time of conduct at each place, the state tax assessor shall immediately be notified of such change, by the holder of the permit.

Sec. 7. Permit not transferable. No permit shall be used or transferred by or to any other person than the one to whom it was issued, and upon

the retirement from the conduct of any amusement of any person to whom a permit has been issued, such permit shall ipso facto become null and void.

Sec. 8. Penalty for operation without permit. Any person who shall operate a place of amusement or conduct an entertainment for which a permit is required before having first obtained the permit herein required and posted the same in accordance with the above provisions, shall be guilty of a misdemeanor. However, any person may operate a place of amusement for a period of 10 days, after acquiring the same, with immunity from the above provisions, providing at the time of such acquisition or immediately thereafter, he has made application for the permit required.

Sec. 9. Form of tickets prescribed. The state tax assessor shall prescribe the form of tickets to be used by all places where amusements are to be conducted subject to the tax herein imposed, wherever practicable, and said tickets shall be in such form that the tax due to this state may be readily computed. Each ticket shall show upon its face the sale price thereof and the amount of the tax thereon, and shall be numbered consecutively.

Sec. 10. Purchase of tickets to be reported and tickets approved. Any person intending to sell tickets of admission subject to the tax imposed by this act, shall, immediately after purchase of and prior to the use or sale thereof, submit to the state tax assessor a duplicate invoice of such tickets fully describing said tickets, and attach to said invoice a specimen or facsimile thereof. And any person using or selling any tickets of admission without first having submitted said invoice and description thereof to the state tax assessor as herein provided, shall be subject to all the penalties hereinafter imposed for use of improper tickets.

Sec. 11. Sale of tickets reported. Every person conducting a place of amusement where tickets are sold subject to the tax herein imposed, shall file a monthly report with the state tax assessor, on or before the 10th day of each month, showing the number of tickets sold during the preceding month, giving the serial number of the 1st and last ticket included in said report, and the value thereof. The state tax assessor shall keep a record in his office of the tickets reported as obtained for use, and of the tickets reported as sold by numbers as reported by the person conducting the place of amusement, at the beginning and end of each month.

Sec. 12. Additional information required. The state tax assessor is hereby empowered to require such additional information and reports, and to require every person operating a place of amusement subject to tax

under the provisions of this act to keep such records, as will fully disclose the amount of tax levied and imposed under the provisions hereof.

Sec. 13. Season tickets to be approved and reported. In cases where season ticket or tickets are sold, such tickets shall be in the form prescribed by the state tax assessor, and the approval thereof by the state tax assessor shall be obtained before such tickets are sold; and every such ticket shall be numbered consecutively and a report thereof made as hereinabove provided, which report shall show the total number of such tickets issued or printed and the number sold, and all such tickets shall have printed thereon the price for which they are sold and the amount of tax due thereon.

Sec. 14. Operator may collect tax. The operator of any place of amusement in this state may collect the tax imposed by section 2 of this act, in addition to the price charged for admission to any place of amusement, but under all circumstances the person conducting the amusement shall be liable for, and pay the tax imposed, regardless of the price at which any ticket may be sold, or given away, the tax to be based upon the customary charge for such admission; and where free passes are issued, the same shall be numbered and identified in such a way as to readily determine the amount of tax due on account thereof.

Sec. 15. Operator not to loan tickets. No operator of a place of amusement shall sell, loan or provide admission tickets to any other operator of a place of amusement or for any other place of amusement if operated by him except upon the written consent of the state tax assessor granted upon his application therefor.

Sec. 16. Collection of tickets. As each patron is admitted to a place of amusement his ticket shall be collected and immediately torn in 2 parts, approximately through the center, the $\frac{1}{2}$ given to the patron, and the other $\frac{1}{2}$ retained by the ticket taker; and when season tickets or tickets issued for 2 or more performances, are used, the ticket taker shall punch or mark the tickets in such a way as to indicate the performance for which it is used and may return same to the holder.

Sec. 17. Penalty for using tickets not authorized. If any person conducting a place of amusement for which a tax is imposed by this act, shall use tickets of any form other than prescribed by the state tax assessor, and which have not been reported to said state tax assessor before use, by filing duplicate invoice of purchase, or shall fail to make report of tickets sold and pay the tax thereon, when due, or make a false statement or incorrect invoice, or shall refuse the state tax assessor or his

authorized agent or representative permission to inspect his books and records for the purpose of determining the amount of tax due, there shall be added to the amount of tax, due, as a penalty for the violation of the act, 100% of the amount of such tax, which shall immediately be due and payable, and in addition thereto, such person shall be guilty of a misdemeanor and punishable therefor, as well as liable for the tax and 100% penalty.

Sec. 18. Revocation of permit; notice; appeal. In addition to the other penalties provided by this act, the state tax assessor may revoke the permit of any person failing to comply with any and all of the requirements of this act, or any rule or regulation promulgated hereunder. When any permit is revoked, the state tax assessor shall send by registered mail to the person holding same, formal written notice of such revocation, and such person shall have the right at any time within 10 days from the date of mailing of such notice, to appeal to the state tax assessor praying for a review and revision of such revocation upon such grounds as the taxpayer may deem proper to base such appeal; and upon the filing of such appeal, the state tax assessor shall promptly fix a date for the hearing thereof, as soon as practicable, and shall notify all parties in writing of the time and place of such hearing. If upon such hearing the state tax assessor shall decline to rescind its act of revocation of the permit, the person aggrieved may, within 10 days of the date of such hearing appeal to the circuit court of the county where such place of amusement was conducted; such appeal shall be taken in the form of objections and exceptions to the order of the state tax assessor, which shall be accompanied by the records of the state tax assessor, and a transcript of the testimony before said state tax assessor, in the case, which shall constitute the record in the circuit court. The appeal shall be granted by the state tax assessor upon the filing of a bond by the appellant, with sufficient sureties in a penal sum sufficient to cover all taxes and penalties in arrear, and all taxes to accrue pending a final hearing, and all costs; and the circuit judge shall hear the appeal in vacation on written demand of the party appealing, after the said party shall have given 5 days' notice in writing to all parties concerned.

Sec. 19. Penalty for re-use of tickets. Any person who alters, restores, or otherwise prepares in any manner whatsoever, any admission tickets with intent to use or cause to be used by any person at a place of amusement or in the conduct of an amusement liable to taxes under this act; after such ticket has already been so used, or knowingly or wilfully buys, sells, offers for sale, or gives away any such restored or altered ticket,

to any person for use, or knowingly uses the same, or has in his or its possession any altered or restored ticket which has been previously used for the purpose for which it was originally intended; or any person who prepares, buys, sells, offers for sale, or has in his possession any counterfeit ticket, or ticket other than that reported to the tax assessor as required by section 10 hereof, shall be guilty of a felony, and upon conviction, shall be punished by a fine of not more than \$1000, or by imprisonment for not more than 5 years, or by both such fine and imprisonment, in the discretion of the court.

Sec. 20. Time for reporting and payment of tax. The tax imposed upon persons conducting permanent places of amusement and entertainment shall be due and payable monthly, between the 1st and 10th day of the month immediately succeeding the monthly period during which taxes have accrued, and persons liable for such tax shall, between the 1st and 10th day of each succeeding month make a true and correct return to the tax assessor, in such form as said tax assessor may prescribe, showing the number of and prices of admissions sold, and the donations and contributions received during the preceding month, and remit with said return the tax due. Persons conducting temporary or itinerant amusements or entertainments, shall report promptly and make remittance of all taxes due, immediately after each performance or entertainment, where only one performance or entertainment is conducted at one place in one day; and in the event that more than one performance or entertainment is conducted at one place in one day, the report and remittance shall be made at the conclusion of the last performance conducted on such day. Where performances or entertainments are conducted at the same place for a period of more than one day, but less than 30 days, the report and payment of taxes shall be made immediately after the termination of such period; and in case of failure of any person to make a true and correct report and remittance in accordance with the provisions hereinbefore contained, the state tax assessor may make the same upon the best information obtainable, and assess the tax thereon, and add a penalty of 10% and notify the taxpayer in such manner as he may deem proper under the circumstances.

Sec. 21. Right of state tax assessor to make personal demand. In case of a person conducting other than a permanent place of amusement or entertainment, the tax assessor may, through his duly appointed and qualified agent or representative, make personal demand upon the taxpayer liable for such taxes, and require a report and payment thereof immediately upon the termination of any performance or entertainment, after

which the tax shall become due under the provisions of this section, and upon failure of such taxpayer to make a proper report and pay the taxes due, such agent or representative may proceed in attachment against such taxpayer, and the failure or refusal of such taxpayer to make report and pay the tax upon demand, shall be deemed sufficient ground for such attachment and seizure of any property of the taxpayer available.

Sec. 22. State tax assessor to make return for delinquent. In case of a person conducting a permanent place of amusement or entertainment, who shall fail to make a proper return and pay the tax when due, the tax assessor may notify such taxpayer by mail of the fact that a return has been made, and a penalty of 10% of the tax imposed. If the tax and penalty be not paid within 10 days from the date of mailing of such notice, the tax assessor may proceed to collect said taxes and penalties through the proper officers, as other privilege taxes are collected, and said taxes and penalties shall be deemed a debt due to this state and collectible as such.

Sec. 23. Errors corrected by tax assessor. That the tax assessor shall correct errors in returns, refund or re-assess where errors occur, and upon notice from the tax assessor the taxpayer shall pay the re-assessment within 10 days, and if not then paid the tax assessor shall declare the tax due, add a penalty of 10% to the amount assessed, give notice of same and if such tax and penalty is not paid to the tax assessor on or before the 10th day after mailing such notice, the tax assessor shall proceed to collect the same as provided in the preceding section hereof. The taxpayer shall have the right of appeal from such assessment as in cases of revocation of permit.

Sec. 24. Bond required of delinquent taxpayers. If any taxes or penalties imposed by this act shall remain due and unpaid for a period of 10 days, after notification by the state tax assessor of delinquency, and assessment of penalty, the person responsible for the payment of such taxes and penalties, either or both, shall as a condition for the privilege of further operating such place of amusement, or any other place of amusement, pay such delinquent taxes and penalties thereon and be required to furnish a good and sufficient bond to be executed by a surety company authorized to do business in this state, in a sufficient amount to insure payment of all future taxes, the amount of which bond shall be determined by the tax assessor. Said bond shall be conditioned, for the payment of all taxes and penalties that may be lawfully assessed against the taxpayer, and shall continue in force so long as such taxpayer shall operate his place or places of amusement, and in case such taxpayer shall operate more than one place of amusement, the bond shall be given in sufficient amount to insure the

payment of future taxes and penalties for the privileges of operating all of said places of amusement; and said bond may be decreased if such should be found by the tax assessor to be unreasonable, and said assessor may require additional bond or bonds if for any reason a bond should be forfeited or become insufficient to secure the payment of the tax and penalties.

Sec. 25. Tax assessor may restrain operation without permit. Should any person attempt to operate a place of amusement without obtaining a permit, or continue the operation or conduct of any place of amusement or entertainment, after forfeiting the right to so continue, as provided herein, without complying with the provisions of this section as to payment of delinquent taxes and penalties, and execution of the bond required, then the tax assessor may restrain such person from the conduct of such place of amusement or entertainment, by applying to the proper court having jurisdiction of the person or place of amusement or entertainment for a restraining order to prohibit the continuance of such place, or the conduct of such amusement or entertainment, until the terms of this act are fully complied with.

Sec. 26. Exemptions. No tax shall be levied or collected upon any admissions charged at any place of amusement operated solely for the benefit of any religious, or charitable organization where the proceeds of such admissions do not inure to any one or more individuals; nor shall such tax apply to admissions charged at any athletic games or contests between high schools or grammar schools; nor to admissions to county, state or community fairs, or entertainments presented in community homes or houses which are publicly owned and controlled and the proceeds of which do not inure to any individual or individuals. The exemptions allowed in this section shall not apply to athletic games or contests between universities or colleges, nor to amusements in which professional performers or promoters are employed, or compensated out of the proceeds of such admissions received.

Sec. 27. Fraudulent returns. Any person who shall, knowingly submit any false or fraudulent return or statement of admissions required under this act shall be guilty of a misdemeanor.

Sec. 28. State tax assessor to administer. The administration of this act is hereby vested in the state tax assessor, who shall from time to time promulgate such reasonable rules and regulations not inconsistent with the provisions of this act for making returns and for the ascertainment, assessment and collection of the taxes imposed hereunder, and in the enforce-

ment of this act the said tax assessor may act through and by his duly authorized agents.

TITLE VII

Head Tax

Head tax imposed. A tax of \$4 to be known as the "head tax" shall be assessed on each person resident in the state, 21 years of age and over which shall be assessed, collected and paid as poll taxes are assessed, collected and paid.

Annually on or before December 1, of each year the treasurers of the several cities, towns and plantations shall pay to the treasurer of state 95% of the tax collected under the provisions of this title.

Saving clause. If for any reason any section, paragraph, provision, clause, or part of this act shall be held unconstitutional or invalid, that section shall not affect or destroy any other section, paragraph, provision, clause, or part of this act not in and of itself invalid, but the remaining portions hereof shall be and remain in full force without regard to that so invalidated.