

# MAINE STATE LEGISLATURE

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REVISED STATUTES  
OF THE  
STATE OF MAINE

1954

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1955 SUPPLEMENT

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ANNOTATED

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IN FIVE VOLUMES

VOLUME 1

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**Place in Pocket of Corresponding  
Volume of Main Set**

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THE MICHIE COMPANY  
CHARLOTTESVILLE, VIRGINIA  
1955

**Ice cream, etc., in cones and open containers.**—Dairy Queen products in cones and open disposable containers are “ordinarily sold for immediate consumption on or near the premises of the retailer” and are not “packaged” or “wrapped” within the meaning of subsection III. Fortin v. Johnson, 150 Me. 294, 110 A. (2d) 605.

As to taxability of ice cream, etc., sold in cones or open containers under subsection III as it stood before the 1953 amendment, see Fortin v. Johnson, 150 Me. 294, 110 A. (2d) 605.

**Disposable straws, spoons or containers** do not have the permanence associated with “trays, glasses, dishes or other table ware” within the meaning of the exclusion from exemption provisions of subsection

**Sec. 10-A. Tax against isolated motor vehicle transactions except sale for resale.**—The tax imposed by the provisions of this chapter shall be levied upon all isolated transactions involving the sale of motor vehicles excepting those sold for resale. (1955, c. 359, § 3.)

**Effective date.**—This section became effective July 1, 1955.

### **Sec. 18. Overpayment; refunds.**

Under this section there is no provision for a petition by the taxpayer to the state tax assessor, or for an appeal from an ad-

verse decision upon a claim or refund of taxes paid. Fortin v. Johnson, 150 Me. 294, 110 A. (2d) 605.

**Food products sold for consumption upon the premises of a drive-in theatre** are plainly “food products ordinarily sold for immediate consumption on or near” the premises within the meaning of subsection III. Cumberland Amusement Corp. v. Johnson, 150 Me. 304, 110 A. (2d) 610.

Ice cream in small covered cups, chocolate coated ice cream bars, hot dogs in individual rolls, napkins, or small cardboard open top trays, popcorn in boxes, coffee in individual cups sold at the drive-in for consumption upon the theatre premises are taxable under subsection III as amended by P. L., 1953, c. 146, § 8. Cumberland Amusement Corp. v. Johnson, 150 Me. 304, 110 A. (2d) 610.

### **Sec. 32. Petition for reconsideration of assessment.**

Cited in Fortin v. Johnson, 150 Me. 294, 110 A. (2d) 605.

### **Sec. 33. Appeal.**

**Reasons for appeal must be filed before reporting of case to law court.**—The “reasons for appeal” required by this section must be filed prior to the reporting of a case to the law court since such “reasons” are essential to a determination of the legal questions involved. Cumberland Amusement Corp. v. Johnson, 150 Me. 304, 110 A. (2d) 610.

**Whether jurisdiction depends upon the timely filing of “reasons for appeal” and “affidavit” under this section is not decided.** Cumberland Amusement Corp. v.

Johnson, 150 Me. 304, 110 A. (2d) 610.

**Appeal from refusal of state tax assessor to rebate tax payments.**—The superior court has no jurisdiction to entertain an appeal from a refusal of the state tax assessor to rebate tax payments made, and such jurisdiction does not arise from statutory provisions allowing appeals from decisions denying “reconsideration of assessments” under this section and § 32 of this chapter. Fortin v. Johnson, 150 Me. 294, 110 A. (2d) 605.

## **Chapter 18.**

### **Treasurer of State.**

#### **Sec. 1. Treasurer of state; office; bond; salary; deputy.**

The treasurer of state shall receive an annual salary of \$6,000; he shall receive no other fee, emolument or perquisite.

(1955, c. 473, § 3.)

**Effect of amendment.**—The 1955 amendment increased the annual salary of the treasurer of state from \$5,000 to \$6,000.

As only the second paragraph of this section was changed by the amendment, the rest of the section is not set out.

**Sec. 2. Bond.**—The condition of the treasurer's bond shall be for the faithful discharge of all the duties of his office, and that during his continuance in office he will not engage in trade or commerce, or act as broker, agent or factor for any merchant or trader; and that he, or his executors, administrators or sureties, or their executors or administrators, shall render a just and true account of all his agents' and servants' doings and transactions in the office, to the legislature, or to such committee as it appoints, on the 1st day of each regular session of the legislature, previous to the choice of a new treasurer, and at any other time when required by the legislature or the governor and council; and that he will settle and adjust said account and faithfully deliver to his successor in office or to such person as the legislature appoints, all moneys, books, property and appurtenances of said office, in his, or any of his agents' possession, and pay over all balances found due on such adjustment. Such bond, when approved as the constitution prescribes, shall be lodged in the office of the state auditor. (R. S. c. 15, § 2. 1955, c. 481, § 2.)

**Effect of amendment.**—The 1955 amendment deleted the words "and the fidelity of all persons by him entrusted with any of its concerns" following the word "office" where it first appears in this section.

**Sec. 15. Deposit of state funds; limitations.**—The treasurer may deposit the moneys, including trust funds of the state, in any of the banking institutions or trust companies or mutual savings banks organized under the laws of this state or in any national bank or banks located therein, or when there is money in the treasury which in his judgment is not needed to meet current obligations, he may, with the advice and consent of the governor and council, invest such amount as he deems advisable in bonds, notes, certificates of indebtedness or other obligations of the United States of America which mature not more than 24 months from the date of investment. The provisions of this section shall not prevent the deposit for safekeeping or custodial care of the securities of the several funds of the state in banks or safe deposit companies in this state or any other state, nor the deposit of such state funds as may be required by the terms of custodial contracts or agreements as may be hereafter negotiated in accordance with the laws of this state. All custodial contracts and agreements shall be subject to the approval of the governor and the executive council.

(1955, cc. 214, 315; c. 419, § 1.)

**Effect of amendments.**—This section was amended three times by the Public Laws of 1955. Chapter 214 substituted "24 months" for "1 year" in the first sentence. Chapter 315, which became effective on its approval, May 4, 1955, also substituted "24 months" for "1 year" in the first sentence.

and repealed c. 214. Chapter 419 rewrote the former second sentence to appear as the present second and third sentences. As only the first paragraph was changed by the amendments, the second paragraph is not set out.

**Sec. 18. Investment of permanent trust funds; exceptions; investments prorated; custody and servicing of securities.**

The treasurer of state, with the approval of the commissioner of finance and administration, the bank commissioner and the attorney general, shall have the power to enter into contracts or agreements with any national bank, trust company or safe deposit company located in New England or New York City for custodial care and servicing of the negotiable securities belonging to the permanent trust funds of this state. Such services shall consist of the safekeeping of said negotiable securities in vaults of the bank or safe deposit company, preparation of coupons for collection, the actual collection of such coupons, periodical checks of the portfolio deposited for safekeeping to determine all calls for redemption, in whole or in part, of any bonds owned by such funds, and any other fiscal service which is normally covered in a custodial contract or agreement.

The treasurer of state is hereby empowered to arrange for the payment for such trust funds, or by an agreement for a compensating deposit balance with the

bank in question, in lieu of such cash payment, or by some combination of both methods of payment. The contracting bank shall give assurance of proper internal safeguards, which are usual to such contracts, and shall furnish insurance protection satisfactory to both parties.

The treasurer of state shall be empowered to withdraw or deposit securities from or with the custodian as circumstances may require, all withdrawal orders or delivery instructions to bear the approval in writing of the bank commissioner and that of either or both the attorney general and the commissioner of finance and administration.

All contracts and agreements entered into between the treasurer of state and the custodian banks and safe deposit companies for the safekeeping or custodial care of the negotiable securities of the permanent trust funds of the state shall have the approval of the governor and the executive council. (R. S. c. 15, § 14. 1945, c. 87, § 1. 1949, c. 349, § 15. 1953, c. 265, § 6. 1955, c. 419, § 2.)

**Effect of amendment.**—The 1955 amendment added the above four paragraphs at the end of this section. As the rest of the section was not changed, only the paragraphs added by the amendment are set out.

### **Sec. 19. Disposal of moneys and securities; custody and servicing of securities.**

The treasurer of state, with the approval of the commissioner of finance and administration, the bank commissioner and the commissioner of education, shall have the power to enter into a contract or agreement with any national bank, trust company or safe deposit company located in New England or New York City for custodial care and servicing of the negotiable securities belonging to any trust fund created from funds derived or that may be derived from the sale and lease of lands reserved for public uses. Such services shall consist of the safekeeping of said negotiable securities in the vaults of the bank or safe deposit company, preparation of coupons for collection, the actual collection of such coupons, periodical checks of the portfolio deposited for safekeeping to determine all calls for redemption, in whole or in part, of any bonds owned by such funds, and any other fiscal service which is normally covered in a custodial contract or agreement.

The treasurer of state is hereby empowered to arrange for the payment for such services, either by cash payments to be charged pro rata to the income of such trust funds, or by an agreement for a compensating deposit balance with the bank in question, in lieu of such cash payment, or by some combination of both methods of payment. The contracting bank shall give assurance of proper internal safeguards which are usual to such contracts, and shall furnish insurance protection satisfactory to both parties.

The treasurer of state shall be empowered to withdraw or deposit securities from or with the custodian as circumstances may require, all withdrawal orders or delivery instructions to bear the approval in writing of the bank commissioner and that of either or both the commissioner of education and the commissioner of finance and administration.

All contracts and agreements entered into between the treasurer of state and custodian banks and safe deposit companies selected for the safekeeping or custodial care of the negotiable securities referred to in this section shall have the approval of the governor and the executive council. (1947, c. 55, § 1. 1953, c. 265, § 6. 1955, c. 419, § 3.)

**Effect of amendment.**—The 1955 amendment added the above four paragraphs at the end of this section. As the rest of the section was not changed, only the paragraphs added by the amendment are set out.

### **Sec. 22. Investment of sinking funds; custody and servicing of securities.**

The treasurer of state, with the approval of the governor and the bank commissioner, shall have the power to enter into a contract or agreement with any national bank, trust company or safe deposit company located in New England

or New York City for custodial care and the servicing of the negotiable securities belonging to any sinking fund of the state. Such services shall consist of the safekeeping of said negotiable securities in the vaults of the bank or safe deposit company, preparation of coupons for collection, the actual collection of such coupons, periodical checks of the portfolio deposited for safekeeping to determine all calls for redemption, in whole or in part, of any bonds owned by such funds, and any other fiscal service which is normally covered in a custodial contract or agreement.

The treasurer of state is hereby empowered to arrange for the payment for such services, either by cash payments to be charged pro rata to the income of such sinking funds, or by an agreement for a compensating deposit balance with the bank in question, in lieu of such cash payment, or by some combination of both methods of payment. The contracting bank shall give assurance of proper internal safeguards which are usual to such contracts, and shall furnish insurance protection satisfactory to both parties.

The treasurer of state shall be empowered to withdraw or deposit securities from or with the custodian as circumstances may require, all withdrawal orders or delivery instructions to bear the approval in writing of the bank commissioner and that of either or both the governor and the commissioner of finance and administration.

All contracts and agreements entered into between the treasurer of state and custodian banks and safe deposit companies selected for the safekeeping or custodial care of the negotiable securities referred to in this section shall have the approval of the governor and the executive council. (R. S. c. 15, § 15. 1949, c. 129. 1955, c. 419, § 4.)

**Effect of amendment.**—The 1955 amendment added the above four paragraphs at the end of this section. As the rest of the section was not changed, only the paragraphs added by the amendment are set out.

**Sec. 31. Funds of examining boards.**—All money received by the treasurer of state from the board of registration in medicine, the board of examiners in physical therapy, the board of examiners of psychologists, the board of registration of nurses, the board of examiners of applicants for admission to the bar, the board of accountancy, the board of veterinary examiners, the board of osteopathic examination and registration, the board of examiners of funeral directors and embalmers, the state board of registration and examination in optometry, the board of dental examiners, the state board of registration for professional engineers, the state board of architects, the electricians' examining board, the oil burnermen's licensing board, the state board of barbers and hairdressers, the examiners of podiatrists, the board of chiropractic examination and registration and the board of commissioners of pharmacy shall constitute a fund, which shall be a continuous carrying account for the payment of the compensation and expenses of the members, the expenses of the board and for executing the provisions of law relating to each board respectively, and so much thereof as may be required is appropriated for said purposes. The secretary of each board shall also be reimbursed for all expenditures for books, stationery, printing and other necessary expenses actually incurred in the discharge of his duties. All such payments shall be made from the respective funds held in the state treasury as aforesaid, after the approval of the state controller; but in no event shall such payments exceed the amounts received by the treasurer of state from the treasurer of each respective board, except that in the discretion of the chief justice of the supreme judicial court, and with his written approval, any excess in the compensation and expenses of members of the board of examiners of applicants for admission to the bar over the receipts of said board shall be paid and met by transfers of sufficient funds from the appropriations for the supreme judicial and superior courts. Any balance remaining to the credit of any board at the end of any year shall be carried forward to the next year. (1955, c. 271, § 2; c. 352, § 2.)

**Effect of amendments.**—The first 1955 amendment inserted the words "the board of examiners in physical therapy" near the beginning of the first sentence, and the

second 1955 amendment, which did not refer to the first amendment and did not incorporate the change made by it, inserted the words "the oil burnermen's licensing board" near the middle of the first sen-

tence. Both amendments have been given effect in the first paragraph of the section as set out above. As the second paragraph was not changed by the amendments, it is not set out.

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## Chapter 19.

### Department of Audit.

**Sec. 1. State auditor; salary.**—The state auditor shall be the head of the department of audit, as heretofore established. He shall be a certified public accountant or shall have had satisfactory experience as an auditor of public accounts. He shall be elected by the legislature by a joint ballot of the senators and representatives in convention and shall hold office for a term of 4 years or until his successor is elected and qualified. He shall exercise such powers and perform such duties as are set forth in the subsequent sections of this chapter. In case the office of state auditor shall become vacant during a period when the legislature is not in session, the appointment of a person to fill such vacancy shall be made immediately by the president of the senate or if that office be vacant, by the speaker of the house, said person to hold office until such time as the legislature shall meet in regular or special session, and either confirm the appointment of said person or choose another person to fill the office during the unexpired term. He shall receive an annual salary of \$8,000. (R. S. c. 16, § 1. 1947, c. 405. 1951, c. 412, § 4. 1955, c. 473, § 4.)

**Effect of amendment.**—The 1955 amendment increased the annual salary of the state auditor from \$7,000 to \$8,000.

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## Chapter 20.

### Attorney General.

**Sec. 1. Duties; salary; fees.**—The attorney general shall appear for the state, the secretary of state, the treasurer of state, the bank commissioner, the insurance commissioner, the head of any other state department and the state boards and commissions in all suits and other civil proceedings in which the state is a party or interested, or in which the official acts and doings of said officers are called in question, in all the courts of the state; and in such suits and proceedings before any other tribunal when requested by the governor or by the legislature or either branch thereof. All such suits and proceedings shall be prosecuted or defended by him or under his direction. Writs, summonses or other processes served upon such officers shall forthwith be transmitted by them to him. All legal services required by such officers, boards and commissions in matters relating to their official duties shall be rendered by the attorney general or under his direction. Said officers, boards and commissions shall not act at the expense of the state as counsel in any suit or proceedings in which the state is interested. The attorney general shall have an office in the state capitol and shall receive an annual salary of \$8,000 in full for all services and in lieu of all fees. He shall receive his actual expenses incurred in the performance of his official duties while away from his home. During his term of service, he shall not be an officer or director of any corporation engaged in business for profit within the state of Maine. (1955, c. 473, § 5.)

**Effect of amendment.**—The 1955 amendment increased the annual salary of the attorney general from \$7,000 to \$8,000. As

only the first paragraph was changed by the amendment, the rest of the section is not set out.