

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

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Legislative Document

No. 1520

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House of Representatives, May 16, 1969  
Filed by Mr. Levesque of Madawaska. Printed under House Rule 33.  
BERTHA W. JOHNSON, Clerk

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-NINE

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HOUSE AMENDMENT "A" to H. P. 448, L. D. 657, Bill, "AN ACT  
Imposing an Individual and Corporate Income Tax."

Amend said Bill by striking out all of the Emergency preamble and Emergency clause.

Further amend said Bill in section 1 by striking out all of that part designated "§ 5303" and inserting in place thereof the following (same in L. D.):

§ 5303. Allocation and apportionment of income

1. Definitions. As used in this chapter, unless the context otherwise specifies, the following words shall have the following meanings:

A. Business income. "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

B. Commercial domicile. "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

C. Compensation. "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

D. Financial organization. "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, investment company or any type of insurance company.

E. Nonbusiness income. "Nonbusiness income" means all income other than business income.

**F. Public utility.** "Public utility" means any business entity which owns or operates for public use any plant, equipment, property, franchise or license for the transmission of communications, transportation of goods or persons, or the production, storage, transmission, sale, delivery or furnishing of electricity, water, steam, oil, oil products or gas.

**G. Sales.** "Sales" means all gross receipts of the taxpayer not allocated under subsections 4 to 8.

**H. State.** "State" means any state of the United States, District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

2. **Taxable income.** Any taxpayer having income from business activity which is taxable both within and without this State, other than activity as a financial organization or public utility or the rendering of purely personal services by an individual, shall allocate and apportion his net income as provided in this chapter.

3. **Income taxable in another state.** For purposes of allocation and apportionment of income under this chapter, a taxpayer is taxable in another state if in that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax, or that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

4. **Allocation of nonbusiness income.** Rents and royalties from real or tangible personal property, capital gains, interest, dividends or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections 5 to 8.

5. **Allocation of net rents and royalties.**

**A.** Net rents and royalties from real property located in this State are allocable to this State.

**B.** Net rents and royalties from tangible personal property are allocable to this State:

(1) If and to the extent that the property is utilized in this State; or

(2) In their entirety if the taxpayer's commercial domicile is in this State and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

**C.** The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer tangible personal

property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

6. Allocation of capital gains and losses.

A. Capital gains and losses from sales of real property located in this State are allocable to this State.

B. Capital gains and losses from sales of tangible personal property are allocable to this State if:

- (1) The property had a situs in this State at the time of the sale; or
- (2) The taxpayer's commercial domicile is in this State and the taxpayer is not taxable in the state in which the property had a situs.

C. Capital gains and losses from sales of intangible personal property are allocable to this State if the taxpayer's commercial domicile is in this State.

7. Allocation of interest and dividends. Interest and dividends are allocable to this State if the taxpayer's commercial domicile is in this State.

8. Allocation of patent and copyright royalties.

A. Patent and copyright royalties are allocable to this State:

- (1) If and to the extent that the patent or copyright is utilized by the payer in this State; or
- (2) If and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this State.

B. A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

C. A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

9. Apportionment of business income. All business income shall be apportioned to this State by multiplying the income of the corporation by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is 3.

10. Property factor. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this State during the tax period and the

denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

11. Net annual rental rate. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at 8 times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

12. Average value of property. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the tax assessor may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

13. Payroll factor. The payroll factor is a fraction, the numerator of which is the total amount paid in this State during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period.

14. Payment of compensation within the State. Compensation is paid in this State if:

- A. The individual's service is performed entirely within the State; or
- B. The individual's service is performed both within and without the State, but the service performed without the State is incidental to the individual's service within the State; or
- C. Some of the service is performed in the State and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the State, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

15. Sales factor. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this State during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

16. Sales of personal property within the State. Sales of tangible personal property are in this State if:

- A. The property is delivered or shipped to a purchaser, other than the United States Government, within this State regardless of the f.o.b. point or other conditions of the sale; or
- B. The property is shipped from an office, store, warehouse, factory or other place of storage in this State and
  - (1) The purchaser is the United States Government; or
  - (2) The taxpayer is not taxable in the state of the purchaser.

17. **Other sales.** Sales, other than sales of tangible personal property, are in this State if:

- A. The income-producing activity is performed in this State; or
- B. The income-producing activity is performed both in and outside this State and a greater proportion of the income-producing activity is performed in this State than in any other state, based on costs of performance.

18. **Taxpayer may petition.** If the allocation and apportionment provisions of this chapter do not fairly represent the extent of the taxpayer's business activity in this State, the taxpayer may petition for, or the Tax Assessor may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

- A. Separate accounting;
- B. The exclusion of any one or more of the factors;
- C. The inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this State; or
- D. The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.'

Further amend said Bill in section 1 by striking out all of that part designated "§ 5202" and inserting in place thereof the following (same in L. D.):

'§ 5202. **Tax on income of individuals, estates and trusts**

A tax is imposed for each calendar year or fiscal year ending during that calendar year upon the Maine income earned or received in that taxable year by every individual, estate and trust. The amount of this tax shall be measured by 9% of the federal income tax liability of the taxpayer for the taxable year, reduced by a percentage equal to the percentage of the taxpayer's adjusted gross income for the taxable year which is not Maine income.'

Further amend said Bill by striking out all of section 4 (same in L. D.) and inserting in place thereof the following:

'Sec. 4. **Effective date.** This Act, except Title 36, chapter 805, shall become effective as to income earned or received on and after January 1, 1970 and Title 36, chapter 805, shall become effective as to income earned or received on and after July 1, 1969.

**Sec. 5. Appropriations for necessary expenditures of government.** In order to provide for the necessary expenditures of government and for other purposes for the next two fiscal years—from July 1, 1969 to June 30, 1970 and from July 1, 1970 to June 30, 1971—the following sums or as much thereof as shall severally be found necessary, as designated in the following tabulations, are appropriated out of any moneys in the General Fund not otherwise appropriated. Upon receipt of allotments duly approved by the Governor and Council based upon work programs submitted to the State Budget Officer, the State Controller shall authorize expenditures of these appropriations

and revenues accruing thereto, together with expenditures for other purposes necessary to the conduct of State Government on the basis of such allotments and not otherwise.

Allotments for personal services, capital expenditures and amounts for all other departmental expenses shall not exceed the amounts shown in the budget document or as they may be revised by the Committee on Appropriations and Financial Affairs unless recommended by the State Budget Officer and approved by the Governor and Council.

There is hereby established within the Contingent Account a fund to be known as the Institutional Reserve Fund which is defined as a vehicle to provide relief, when need exists, and on a commodity basis only, to those institutions where actual average population in a fiscal year exceeds the basic estimates of population upon which the budget was approved and where such relief cannot be absorbed within regular legislative appropriations. The detailed breakdown of such fund shall be on file in the Budget Office. Transfers to the various institutions from this fund shall not exceed the total amount available to this account. Funds provided in this Reserve Fund are not to be transferred between Line Categories.

The figures in parentheses shown just before each dollar amount provided for Personal Services in this Act, or as adjusted by other legislative action, shall represent the total number of authorized permanent positions in such account, and the maximum number of persons employable on a permanent basis at any one time. The appropriations made for Personal Services are made with the provision that the total number of permanent positions in any account shall not be increased during either year of the biennium over the total numbers shown in parentheses and used by the Legislature in computing the total dollars to be made available for Personal Services. Savings accruing within appropriations made for permanent positions, may be used for other non-recurring personal services when recommended by the department head and the Budget Officer, and approved by the Governor and Council. Said savings shall not be used for reclassifications, range changes or special merit increases, except in emergency cases and such requests may be authorized by the Personnel Board, subject to prior approval by the State Budget Officer that an emergency does exist and that such emergency cases shall be reported to the Legislative Finance Office by the State Budget Officer with his reasons for approval.

To provide some degree of flexibility, each department, institution or agency may apply to the Personnel Board for an exchange between job classifications, and such action may be approved if by so doing the total amount determined to be available for Personal Services, in such account, for any one year is not exceeded.

The Budget Office, during the next biennium, shall continually review with all the departments the status of their personnel with the purpose of determining that all departments are expending Personal Service moneys within the intent of the Legislature, and shall report any expenditures contrary to such intent to the Governor and Council and the Legislative Finance Officer.

The Governor and the Budget Officer when next preparing a Budget Document, may at their discretion adjust the figures in parentheses, representing numbers of employees, to reflect the number of employees which in their opinion is necessary to the proper operation of each department, institution or agency.

The Personnel Board is directed to require merit ratings on each individual who is recommended for a salary increase on a form prescribed by the board. Department heads are directed that the granting of merit increases be scrutinized and documented carefully. It is the intent of the Legislature that in instances where merit increases are not earned and warranted, they should be denied.

No State department, institution or agency shall establish new programs or expand existing programs beyond the scope of the programs already established, recognized and approved by the Legislature, until such program and the method of financing shall be submitted to the Department of Finance and Administration—Budget Office—for evaluation and recommendation to the Legislature, and until funds are made available therefor by the Legislature.

The Budget Office shall inform the Committee on Appropriations and Financial Affairs through the Legislative Finance Office of significant action recommended by it in the performance of the budget responsibilities hereby assigned.

It is further provided that the Controller is authorized to close his books as soon as practicable after the close of the fiscal years ending June 30, 1970 and June 30, 1971. Any bills presented after those dates may be paid from appropriations for the ensuing year on recommendation of the Controller if within the amounts of approved allotments.

Whenever it appears to the Commissioner of Finance and Administration that the anticipated income of the State will not be sufficient to meet the expenditures authorized by the Legislature, he shall so report to the Governor and Council and they may temporarily curtail allotments equitably so that expenditures will not exceed the anticipated income.

The Commissioner of Finance and Administration, through the State Purchasing Agent or such other agent as he may choose, shall conduct a thorough review of all types of equipment owned, leased or otherwise available to the several departments and agencies of the State, regardless of the source of supporting funds, with the intention of combining their use, providing centralized facilities, or of eliminating existing equipment and facilities, as he believes to be in the most economical, most efficient and best interests of the State.

At the end of each fiscal year of the biennium, all unencumbered appropriation balances representing state moneys, except those that carry forward as provided by law, shall be lapsed to Unappropriated Surplus as provided by the Revised Statutes of 1964, Title 5, section 1544. At the end of each fiscal year of the biennium, all encumbered appropriation balances shall be carried



forward to the next fiscal year, but in no event shall encumbered appropriation balances be carried more than once.

There shall be paid from the General Highway Fund the cost of accounting, auditing, purchasing and legal services furnished from the General Fund appropriations. This revenue shall be credited to the General Fund.

It is the intent of the Legislature that in the event matching federal funds are not available as anticipated for programs in this Act, there is no obligation to provide state funds in excess of the appropriations listed in this Act.

Personnel employed by programs partially funded by federal funds shall be considered limited appointment employees, notwithstanding the figures in parenthesis representing numbers of employees, should federal funds be withdrawn or reduced.

It is intended that the language in this section shall apply to all other appropriation measures enacted by the Legislature.

#### Sec. 6. Appropriations from General Fund.

##### SECTION A

	1969-70		1970-71
ECONOMIC DEVELOPMENT, DEPARTMENT OF			
Administration			
All Other	65,094		65,094
Provides funds to continue current level of services.			
EXECUTIVE			
Maine State Housing Authority			
Personal Services	(2) 11,500	(2)	26,000
All Other	5,200		10,000
Capital Expenditures	1,800		800
Guaranty Fund	50,000		—
Provides funds for one Executive Director and one Clerk-Stenographer with related expenses to coordinate state-wide housing programs and to provide technical assistance to local housing authorities enabling them to qualify for Federal assistance. — L. D.			
1219			
Maine Human Rights Commission			
Personal Services	(18) 75,750	(18)	101,000
All Other	40,250		57,000
Capital Expenditures	8,000		6,000

1969-70

1970-71

ECONOMIC DEVELOPMENT, DEPARTMENT OF—continued

Provides funds for the establishment of a seven-member Human Rights Commission, one Chief Investigator and necessary staff to carry out the program.— L. D. 1280 or L. D. 1384

Law Enforcement and Planning  
All Other

35,000

35,000

Provides non-Federal share of state and local grants for planning and law enforcement improvements under PL 90-351, The Omnibus Crime Control and Safe Streets Act of 1968.— L. D. 1374

FINANCE AND ADMINISTRATION, DEPARTMENT OF

Bureau of Property Taxation  
Personal Services  
All Other  
Capital Expenditures

(17)

82,595  
78,100  
94,020

(28)

209,526  
109,635  
26,070

Provides positions and funds to administer a new Bureau of Property Taxation—L. D. 1340. In addition, it is the intent of the Legislature that the following personnel and amounts be transferred from the Bureau of Taxation to the Bureau of Property Taxation: 14 positions, Personal Services \$109,905, All Other \$96,900 and Capital Expenditures \$5,980 the first year, and 14 positions, Personal Services \$113,474, All Other \$97,865 and Capital Expenditures \$8,930 the second year of the biennium.

Bureau of Taxation  
Income Tax Division  
Personal Services  
All Other  
Capital Expenditures

(19)

70,000  
369,000  
59,000

(24)

136,000  
194,000  
17,250

1969-70

1970-71

## FINANCE AND ADMINISTRATION, DEPARTMENT OF—continued

Provides positions and funds for a new division to administer the provisions of a Personal Income Tax.

## Tax Relief for the Aged

Personal Services	(9)	5,300	(9)	50,100
All Other		3,800		1,515,100
Capital Expenditures		1,300		3,500

Provides positions and funds for administration of a program of tax relief for elderly persons who own or rent their homestead. \$1,500,000 is provided in the second year of the biennium for applications filed on or after July 15, 1970. — L. D. 1325

## HEALTH AND WELFARE, DEPARTMENT OF

## Aid to Dependent Children

All Other		500,000		600,000
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Provides funds to meet full minimum budgeted needs.

## Aid to Dependent Children of Unemployed Fathers

Personal Services		—	(8)	45,000
All Other		—		100,000

Provides for a program for aid to dependent children of unemployed fathers, including a staff of caseworkers to work out of district offices determining eligibility and providing casework services and for State share of funds for assistance payments for eligible recipients, in the second year of the biennium.

## Medicaid Program

Personal Services	(28)	82,500	(30)	125,000
All Other		*709,500		3,500,000
Capital Expenditures		8,000		—

Provides a program for hospital and physician's services for medi-

1969-70

1970-71

HEALTH AND WELFARE, DEPARTMENT OF—continued

cal care of medically indigent including funds for the purchase of services, for a staff of certification workers in the district offices to determine eligibility and a clerical staff in State office to process and pay bills. The program will serve approximately 10,000 persons during the first year and 30,000 in the second year.

Food Program Support

Personal Services	—	(8)	50,000
All Other	—		50,000

Provides funds to support Donated Commodities and Food Stamp Program in the second year of the biennium.

\* Any unexpended balance shall carry to June 30, 1971.

INDIAN AFFAIRS, DEPARTMENT OF

Administration

All Other	—		60,000
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Provides additional operating funds in the second year of the biennium.

MENTAL HEALTH AND CORRECTIONS, DEPARTMENT OF

Bureau of Mental Retardation

Personal Services	(2)	27,795	(2)	29,438
All Other		(3,100)		(3,100)
Capital Expenditures		1,015		180

Provides funds in addition to funds provided in L. D. 1232 and L. D. 1483 for the Bureau of Mental Retardation.

UNIVERSITY OF MAINE

Administration

All Other	1,400,000	3,600,000
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Provides an increased grant to the University.

TOTAL SECTION A

\$3,931,419	\$10,818,593
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1969-70

1970-71

## SECTION B

## STATE EMPLOYEES

Forty Hour Workweek—Salary Plan  
Personal Services

(324)\*\$1,339,553 (324) \$ 1,204,603

Provides funds not included in L. D. 1483 to implement a forty hour workweek for General Fund employees who are working a regularly scheduled workweek exceeding forty hours concurrently with the implementation of the salary plan proposed by the State Personnel Board in September 1968 and as finally approved by the Board. No funds are provided for the proposed F step for an additional merit increase step. It is the intent of the Legislature that this appropriation be implemented under the following conditions:

- A. The State Budget Officer and the Director of Personnel shall recommend an allocation plan which shall require the approval of Governor and Council.
- B. The allocation plan shall offset the reduction in man hours due to the adoption of a forty hour workweek and such adjustments in work assignments as may be necessary to maintain and not increase the level of services authorized by the Legislature.
- C. Emergency overtime may be considered upon the certification by the department head that a situation exists which endangers personal health and safety.
- D. Special merit increases shall be considered for those em-

1969-70

1970-71

ployees affected by the implementation in such a manner that their weekly gross wages would be reduced. No such reduction is contemplated for the majority of employees, but the State Personnel Board may deny special merit increases if serious inequities would result.

- E. Unclassified employees subject to Governor and Council determination. With respect to unclassified employees whose wage rates are subject to Governor and Council determination, the Governor and Council shall grant similar and equitable treatment. With respect to employees whose wage rates are set by Governor and Council subject to the maximum established by the Legislature as in the salary plan for certain state offices, consideration will be given for similar treatment subject to the provisions of the salary plan.
- F. Unclassified employees not subject to Governor and Council determination. With respect to unclassified employees whose wage rates are not subject to determination by the Governor and Council, the authorities responsible for determining the wage rates of such employees shall grant similar and equitable treatment.
- G. Utilization by other funds. Wages of employees in departments supported by the Highway Fund, Special Revenue Funds or other funds shall not be adjusted from moneys provided for the General Fund Pay Plan, but shall be adjust-

ed from funds available to the department from other sources.

H. Effective date. Section B shall take effect as of the first pay period after the effective date of this Act.

\* Any unexpended balance to carry to June 30, 1971.

### SECTION C

	1969-70	1970-71
STATE EMPLOYEES RETIREMENT		
Unallocated	\$ 90,000	\$ 90,000
TEACHERS' RETIREMENT		
Unallocated	150,000	150,000

**Sec. 1. R. S., T. 5, § 1001, sub-§ 3, amended.** Subsection 3 of section 1001 of Title 5 of the Revised Statutes is amended to read as follows:

3. **Average final compensation.** "Average final compensation" shall mean the average annual rate of earnable compensation of a member during the 3 years of creditable service as an employee in Maine, not necessarily consecutive, in which such average annual rate of earnable compensation is highest, or during his entire period of creditable service if such period is less than 3 years.

**Sec. 2. R. S., T. 5, § 1033, sub-§§ 3-4, additional.** Section 1033 of Title 5 of the Revised Statutes is amended by adding the following new subsections:

3. **Local district to certify.** Any participating local district which is included under the retirement system shall be entitled to accept any or all of the provisions of this chapter by filing with the board of trustees a duly certified copy of the vote of the county commissioners or of the city council or such corresponding body or a record of the vote of the town voters certified by the clerk of the town meeting, setting forth in such action those provisions of this chapter which are to be accepted by the district in question, except any local participating district may elect to retain any or all of those provisions of the retirement law said district accepted at the time of the original agreement and including any changes subsequently accepted or selected by the district. Any participating local district shall be entitled to a revaluation in order to determine the cost of any provisions which may be adopted and the expenses of such revaluation shall be assessed to and paid by the participating local district.

4. **Registered mail.** The executive secretary of the retirement system shall cause to be mailed by registered mail a written notice to each participating local district, setting forth the changes as provided by this Act.

**Sec. 3. R. S., T. 5, § 1121, sub-§ 2, ¶ A, sub-¶ (1), amended.** Subparagraph (1) of paragraph A of subsection 2 of section 1121 of Title 5 of the Revised Statutes is amended to read as follows:

(1) ~~1/70~~  $1/60$  of his average final compensation multiplied by the number of years of his membership service, and

**Sec. 4. R. S., T. 5, § 1121, sub-§ 2, ¶ A, sub-¶ (3), additional.** Paragraph A of subsection 2 of section 1121 of Title 5 of the Revised Statutes is amended by adding a new subparagraph (3) to read as follows:

(3) Each person receiving a retirement allowance shall become entitled to a recomputation of benefits based upon the change in formula provided by this chapter and such amount, exclusive of retirement allowance adjustments as granted under section 1128, shall be paid. Said recomputation and payments therefor shall become effective as of the first day of the month following the effective date of this Act. Such adjustments as may have been granted under section 1128 shall not be changed, improved or impaired.

**Sec. 5. R. S., T. 5, § 1122, sub-§ 1, ¶ B, amended.** Paragraph B of subsection 1 of section 1122 of Title 5 of the Revised Statutes is amended to read as follows:

B. Upon retirement in accordance with paragraph A a member shall receive a retirement allowance determined as follows, or, if eligible, a service retirement allowance determined in accordance with section 1121, if greater: An amount equal to 90% of ~~1/70~~  $1/60$  of his average final compensation multiplied by the number of years of his creditable service, if such retirement allowance exceeds 25% of his average final compensation; otherwise an amount equal to 25% of his average final compensation, provided such allowance shall not exceed 90% of ~~1/70~~  $1/60$  of his average final compensation multiplied by the number of years which would be creditable to him were his creditable service to include the period from the time of retirement to the attainment of age 60. At the death of the member after retirement the excess, if any, of his accumulated contributions at the time of his retirement over the portion of the total retirement allowance payments, actually made to him during his lifetime, which is the actuarial equivalent of such accumulated contributions, shall be paid in a lump sum to such person, if any, as he has nominated by written designation duly acknowledged and filed with the board of trustees, otherwise his estate.

Each person receiving a retirement allowance shall become entitled to a recomputation of benefits based upon the change in formula provided by this chapter and such amount, exclusive of retirement allowance adjustments as granted under section 1128, shall be paid. Said recomputation and payments therefor shall become effective as of the first day of the month following the effective date of this Act. Such adjustments as may have been granted under section 1128 shall not be changed, improved or impaired.



**Sec. 6. R. S., T. 5, § 1094, sub-§ 13, amended.** The 3rd sentence of subsection 13 of section 1094 of Title 5 of the Revised Statutes, as enacted by chapter 497 of the public laws of 1965, is amended to read as follows:

The member shall contribute to the retirement system for each year of military service claimed ~~5% of that percentage of contribution required of active members during the period of time covered by said military service~~ applied to the earnable compensation paid such member during the first year of state employment subsequent to service in the Armed Forces; **however, 5% shall be the minimum rate of contribution. The retirement allowance shall be computed on the basis of the formula that was in effect during the period of time covered by said military service. In the event 2 or more percentages of contribution and retirement allowance were in effect during the period of military service, the greatest percentage of contribution and greatest retirement allowance shall govern.**

**Sec. 7. R. S., T. 5, § 1095, amended.** The first sentence of section 1095 of Title 5 of the Revised Statutes is amended to read as follows:

Each member shall, after July 1, 1955, make a 5% contribution of earnable compensation to the retirement system for all service rendered prior to **January 1, 1970, and shall make a 5<sup>3</sup>/<sub>4</sub>% contribution of earnable compensation to the retirement system for all service rendered on or after January 1, 1970, and which shall continue** as long as he is employed, any excess of contributions that have ever been made shall be used to increase the retirement allowance or may be refunded at point of retirement.

**Sec. 8. R. S., T. 5, § 1121, sub-§ 2, ¶ A, amended.** Paragraph A of subsection 2 of section 1121 of Title 5 of the Revised Statutes is amended to read as follows:

**A.** The total amount of the service retirement allowance of a member retired in accordance with subsection 1 shall be equal to the sum of subparagraphs (1), **(1-A)** and (2), subject to paragraphs B and C and subsection 4:

**(1)** 1/70 of his average final compensation multiplied by the number of years of his membership service rendered prior to **July 1, 1969, and**

**(1-A)** 1/60 of his average final compensation multiplied by the number of years of his membership service rendered on or after **July 1, 1969, and**

**(2)** If he has a prior service certificates in full force and effect, 1/50 of his average final compensation multiplied by the number of years, not to exceed 25, of his prior service or, if the member was formerly subject to the Revised Statutes of 1944, chapter 37, sections 212 to 241, 1/70 of his average final compensation multiplied by the number of years of his prior service, and

**(3)** Any member who has 10 or more years of creditable service at retirement shall be entitled to a minimum of \$80 per month, further any former state employee or teacher who had 10 or more years of creditable service and who is receiving a retirement allowance including such

adjustments as have been provided by section 1128, which is less than \$80 per month, shall be increased to \$80 per month as of the first day of the month following the effective date of this subsection.

**Sec. 9. R. S., T. 5, § 1122, sub-§ 1, ¶ B, amended.** Paragraph B of subsection 1 of section 1122 of Title 5 of the Revised Statutes is amended to read as follows:

**B.** Upon retirement in accordance with paragraph A a member shall receive a retirement allowance determined as follows, or, if eligible, a service retirement allowance determined in accordance with section 1121, if greater:

An amount equal to 90% of  $1/70$  of his average final compensation multiplied by the number of years of his creditable service rendered prior to July 1, 1969, plus an amount equal to 90% of  $1/60$  of his average final compensation multiplied by the number of years of his creditable service rendered on or after July 1, 1969, if such retirement allowance exceeds 25% of his average final compensation; otherwise an amount equal to 25% of his average final compensation, provided such allowance shall not exceed 90% of  $1/70$  of his average final compensation multiplied by the number of years rendered prior to July 1, 1969, plus an amount equal to 90% of  $1/60$  of his average final compensation multiplied by the number of years of his creditable service rendered on or after July 1, 1969, which would be creditable to him were his creditable service to include the period from the time of retirement to the attainment of age 60. At the death of the member after retirement the excess, if any, of his accumulated contributions at the time of his retirement over the portion of the total retirement allowance payments, actually made to him during his lifetime, which is the actuarial equivalent of such accumulated contributions, shall be paid in a lump sum to such person, if any, as he has nominated by written designation duly acknowledged and filed with the board of trustees, otherwise his estate.

## SECTION D

1970-71

### EDUCATION, DEPARTMENT OF

General Purpose Subsidies to Cities and town  
All Other

\$6,500,000

Provides funds for the distribution of \$52,000,000 in General Purpose School Aid during the second year of the biennium.

## STATEMENT OF FACTS

There is appropriated by this Act from the General Fund the sum of \$5,360,972 for 1969-70 and \$18,663,000 for 1970-71. Amendment of the personal income tax rate to equal 9% of the federal and income tax liability and effective January 1, 1970 would increase revenues to the General Fund by

\$5,400,000 for the year ending June 30, 1970 and \$19,800,000 for the year June 30, 1971. This appropriation amendment provides supplemental funds in addition to L. D. 1232, the current service budget, and L. D. 1483, the supplemental budget.