

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 1608

H. P. 1281

House of Representatives, June 23, 1969

Reported by Report "A" (5 members) of the Committee on Appropriations and Financial Affairs, acting in accordance with Joint Order (H. P. 1278).
Printed under Joint Rules No. 18.

BERTHA W. JOHNSON, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT Making Supplemental Appropriations for the Expenditures of State Government and for Other Purposes for the Fiscal Years Ending June 30, 1970 and June 30, 1971 and Raising Revenue for Funding Thereof.

Emergency preamble. Whereas, Acts and resolves passed by the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the said 90-day period will not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of departments and institutions will become due and payable on or immediately after July 1, 1969; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

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. 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, and also providing that certification is made, in writing, by the department head and the Budget Officer that such action will not result in an increase request for Personal Services moneys from the next Legislature.

The Budget Office, during the next biennium, shall continually review with all 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 parentheses 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.

GENERAL FUND

APPROPRIATIONS FROM GENERAL FUND

Section A

Department	1969-70	1970-71
ADJUTANT GENERAL		
Military Fund		
Personal Services	(28) \$ 130,739	(28) \$ 139,932
All Other	200	200
Capital Expenditures	800	—
Provides funds for maintenance staff at the former Dow AFB plus one man at the Bangor Army Air Unit. Increased undedicated revenue will result estimated at \$126,230 in the first year and \$135,094 in the second year		
ARTS AND THE HUMANITIES, COMMISSION ON THE		
Administration		
Personal Services	(1) 8,500	(1) 9,000
All Other	1,200	1,300
Provides one Community Program Director and related expense		
National Foundation for the Arts and Humanities		
All Other	10,000	20,000
Provides matching funds under a 1:1 Federal matching program		
Total Commission on the Arts and Humanities	19,700	30,300

Department	1969-70	1970-71
ATTORNEY GENERAL		
Administration		
Personal Services	10,000	11,000
Provides salary increases for Ass't Attorneys General		
BAXTER STATE PARK AUTHORITY		
Administration		
Personal Services	(1) 4,680	4,985
All Other	900	1,000
Capital Expenditures	2,750	—
Provides for one Assistant Camp-ground Ranger (15 weeks per year) at Chimney Pond, increases one Ranger from 23 to 52 weeks per year and also provides \$2,000 for mountain rescue equipment and \$750 for one snowmobile		
CHIEF MEDICAL EXAMINER, OFFICE OF		
Administration		
Personal Services	(1) 4,342	(1) 4,653
All Other	3,000	2,940
Capital Expenditures	762	300
Provides funds for one Clerk Stenographer II to meet additional workload. All Other provides funds for contractual services of a Medical Examiner and other operating expenses		
DEBT RETIREMENT		
General Funds Bonds		
All Other	—	1,000,000
Provides funds for retirement of new bonds		
ECONOMIC DEVELOPMENT, DEPARTMENT OF		
Administration		
Personal Services	(7) 39,290	(7) 41,491
Capital Expenditures	10,000	—
Provides funds and personnel count for seven positions presently employed as limited personnel. \$10,000 for 16MM audio-visual equipment adequate for producing professional quality film and TV material		

Department		1969-70		1970-71
EDUCATION, DEPARTMENT OF				
Administration				
Personal Services		1,144		1,458
Provides for reclassification expense of Chief Accountant to Director of Finance, Accountant III to Assistant Director of Finance				
Vocational Education Administration				
Personal Services	(1)	5,096	(1)	5,596
All Other		1,325		1,325
Capital Expenditures		808		—
Provides for one Education Specialist II. State funds are matched by Federal funds on a 1:1 basis				
Vocational Rehabilitation				
Personal Services	(10)	2,000	(10)	2,500
All Other		38,000		18,000
Provides funds for ten limited positions to become permanent. The Federal matching ratio is 4:1 and some programs are 100% Federal funds				
Schooling of Indian Children				
Personal Services	(4)	25,267	(4)	26,631
All Other		6,500		8,000
Provides for one Supervisor of Indian Education plus three teachers to initiate a kindergarten program on each reservation. The Supervisor will replace three part-time agents presently employed. All Other includes matching funds for general evening schools and adult basic education on the Indian reservations				
General Purpose Subsidies to Cities and Towns				
All Other		274,350		7,575,000
Provides for increasing the per pupil allowance				
Industrial Education Subsidies				
All Other		3,000		3,000
Provides state funds to match federal funds (9:1 ratio) for an adult teacher training program at				

Department		1969-70		1970-71
EDUCATION, DEPARTMENT OF—continued				
Gorham State College of the University of Maine				
Matching Funds—Adult Basic Education				
All Other		10,000		10,000
Provides matching funds for a 9:1 Federal matching program				
School of Practical Nursing—Waterville				
Personal Services	(1½)	6,595	(1½)	6,895
Capital Expenditures		340		—
Provides additional instructors. Matched by Federal funds on a 1:1 basis				
School of Practical Nursing—Southern Maine				
Personal Services	(1½)	7,391	(1½)	7,844
Capital Expenditures		600		—
Provides one part-time Nursing Instructor and one Clerk Typist II				
Southern Maine Vocational Technical Institute				
Personal Services	(7)	58,837	(7)	57,742
All Other		8,000		22,000
Capital Expenditures		17,408		18,000
Provides one Director of the Evening School, one Master and one Chief Engineer for ship, one Instructor (Physical Education), one Accountant II and two Instructors for additional courses, \$5,000 each year for kitchen equipment for new dormitory and funds required for additional courses				
Central Maine Vocational Technical Institute				
Personal Services	(2)	26,371	(4)	46,525
All Other		7,100		11,700
Capital Expenditures		10,000		6,530
Provides for one Clerk Typist, one Custodian and one Related Subjects Instructor in the second year one instructor (Process Control) and funds for a part-time Physical Education Instructor. Also provides \$16,200 to be				

Department	1969-70	1970-71
EDUCATION, DEPARTMENT OF—continued		
<p>transferred in the first year and \$22,500 in the second year for additional evening instruction. Estimated increased undedicated revenue is \$12,000 each year. Capital includes funds for overhead door</p>		
Eastern Maine Vocational Technical Institute		
Personal Services	(4) 36,200	(4) 37,850
All Other	10,000	15,000
Capital Expenditures	20,000	
<p>Provides for student labor, two Related Subjects Instructors and one Electronics Instructor and one Drafting Instructor. All Other includes funds for the library, operational expense of the Electronics course and related expense. Estimated increased undedicated revenue is \$16,000 each year</p>		
Northern Maine Vocational Technical Institute		
Personal Services	(1) 6,800	(1) 7,300
<p>Provides one Nursing Instructor</p>		
New England Higher Education Compact		
All Other	12,500	25,000
<p>Provides grants of \$2,500 each per year for five students in the first year and ten students in the second year to receive training at Tufts Dental School</p>		
Total Department of Education	595,632	7,913,896
EDUCATION—TEACHERS' GROUP LIFE INSURANCE		
Unallocated	—	8,000
EXECUTIVE DEPARTMENT		
Blaine House		
All Other	5,000	—
<p>Provides funds to purchase approximately 1,000 copies of a his-</p>		

Department	1969-70	1970-71
EXECUTIVE DEPARTMENT—continued		
<p>tory of the Blaine House in connection with the Sesquicentennial program</p>		
State Planning Office		
Personal Services	(2) 16,374	(2) 17,517
All Other	7,000	7,300
Capital Expenditures	1,400	—
<p>Provides one Planning Coordinator and one Clerk Typist III and related expenses for expanded planning programs</p>		
Urban Planning Fund		
All Other	25,000	50,000
<p>Provides matching funds for increased regional planning program in cooperation with the Department of Housing and Urban Development and the Economic Development Administration</p>		
Interstate Agency Assessments		
All Other	55,700	63,700
<p>Provides an additional \$11,700 each year for Maine's share of the cost of operating the New England River Basins Commission. Provides Maine's share of the cost of operating the New England Regional Commission (\$44,000 first year, \$52,000 second year) which was formerly paid by the Federal Government</p>		
Total Executive Department	110,474	138,517

FINANCE AND ADMINISTRATION, DEPARTMENT OF

Bureau of Public Improvements		
Repairs and Minor Improvements		
All Other	130,000	650,000
<p>Provides funds for the repair program, additional 520,000 for 69-70 to be funded from surplus</p>		

Department	1969-70	1970-71
FINANCE AND ADMINISTRATION, DEPARTMENT OF—continued		
Central Mail Room		
Unallocated	5,000	—
Provides for increased working capital as a result of postal rate increases and increased volume		
Departmental Supplies		
Unallocated	9,000	—
Provides for increased working capital as a result of increased volume and prices		
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Total Department of Finance and Administration	144,000	650,000
FORESTRY, DEPARTMENT OF		
Forest Fire Control—Organized Towns		
Personal Services	(2) 3,664	(2) 3,893
All Other	500	500
Provides two Forest Rangers II (one at Enfield, one at Holden) from 36 weeks per year to 52 weeks per year		
Permits on Great Ponds		
All Other	500	400
Provides funds to supplement the \$10 fee provided by Chapter 487, P. L. 1965, which requires hearings and other expense prior to the granting of a permit		
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Total Forestry Department	4,664	4,793
HEALTH AND WELFARE, DEPARTMENT OF		
Bureau of Health Administration		
All Other	27,500	27,500
Capital Expenditures	500	—
Provides for a Health Planner and Statistician on contractual basis		
Administration		
Personal Services	(7) 54,824	(7) 55,612
Bureau of Social Welfare		

Department	1969-70	1970-71
HEALTH AND WELFARE, DEPARTMENT OF—continued		
All Other	13,700	13,700
Capital Expenditures	1,673	1,673
Provides additional state office staff to meet Federal standards for staffing medical care programs. Provides also for funds to assist communities in the development of services for older persons and funds to assist in the development of local agencies providing homemaker services		
Child Welfare Services		
All Other	340,000	420,000
Provides funds for a small increase in board and care payments		
Eye Care and Special Services		
Personal Services	(6) 7,380	(6) 8,979
All Other	10,000	16,405
Capital Expenditures	1,600	1,000
Provides additional staff as recommended by the National Foundation for the Blind. Staff includes caseworkers and education and mobility specialists. New staff will work out of Portland, Augusta and Bangor offices providing services in areas covered by those offices. Includes two unfunded positions		
Work Incentive Program		
All Other	300,000	400,000
Provides a program for employment services for welfare recipients as required by the Federal Government. Provides also for earned income exemptions for welfare recipients as required by the Federal Government effective July 1, 1969, and for the State share of administrative expenses for work training and placement programs to be operated for welfare recipients by the Employment Security Commission		

Department	1969-70	1970-71
HEALTH AND WELFARE, DEPARTMENT OF—continued		
Aid to Dependent Children		
All Other	528,000	472,000
Provides for caseload increase		
Aid to Aged, Blind or Disabled		
All Other	300,000	300,000
Provides \$100,000 for boarding home increase and \$200,000 for nursing home increase		
Removal of Town Share of Aid to Dependent Children		
All Other	726,000	1,355,000
Provides funds for removal of requirement that cities and towns share 18 per cent of cost of ADC ADC for settled cases. Effective 1/1/70		
Drug and Dental Program		
Personal Services	(8) 19,874	(10) 40,068
All Other	221,749	414,140
Capital Expenditures	2,197	721
Provides a program for purchase of prescription drugs and dental care for welfare recipients eligible for Title 19 assistance. Provides funds for vendor payments and funds for a State office clerical staff for processing and payment of bills. Effective 1/1/70		
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Total Department of Health and Welfare	2,554,997	3,526,798
INDIAN AFFAIRS, DEPARTMENT OF		
Administration		
All Other	50,000	—
Capital Expenditures	97,400	—
Provides additional operating funds and funds to complete Indian schools authorized by the 103rd Legislature		
INTEREST ON BONDS		
General Fund Bonds		
All Other	145,500	2,354,500

Department		1969-70		1970-71
INTEREST ON BONDS—continued				
Provides funds for interest on new Bond Issues				
LABOR AND INDUSTRY, DEPARTMENT OF				
Administration				
Personal Services	(1)	9,000	(1)	9,500
All Other		3,000		3,000
Capital Expenditures		378		—
Provides one Apprenticeship Promoter and improves State Apprenticeship programs				
MAINE MARITIME ACADEMY				
All Other		150,800		160,300
Provides an increased grant to the Maine Maritime Academy				
MENTAL HEALTH AND CORRECTIONS, DEPARTMENT OF				
Administrative				
Administration				
Personal Services	(1)	545,443	(1)	572,341
Provides one Assistant to Director of Mental Health who shall be Director of Bureau of Mental Retardation. Also provides funds for range changes for psychologists and physical and occupational therapists. Provides \$473,515 in 1969-70 and \$497,191 in 1970-71 to be made available to the respective institutions on approval of the Governor and Council for payment of a one-step increase to certain institutional employees. Any balance remaining in this account on June 30, 1970 shall not lapse, but shall be carried forward to be expended for the same purpose during the fiscal year ending June 30, 1971				
Probation and Parole				
Personal Services	(8)	34,802	(8)	36,904
All Other		13,000		13,000
Capital Expenditures		1,500		340
Provides funds for 44-hour week and additional Probation-Parole				

Department		1969-70		1970-71
MENTAL HEALTH AND CORRECTIONS, DEPARTMENT OF—continued				
Officers, one Clerk-Stenographer to relieve the extremely heavy workload and improve the supervision and management of the parolees, funds for travel, rent and other supporting services				
Community Mental Health Services				
All Other		50,000		65,000
Provides funds to increase the number and size of grants-in-aid to Community Mental Health Services				
Institutions				
Augusta State Hospital				
Personal Services	(23)	159,849	(23)	176,592
All Other		32,344		32,394
Capital Expenditures		30,145		40,170
Provides funds for 40 hour week and laundry equipment and replacement of worn-out equipment				
Bangor State Hospital				
Personal Services	(19)	147,496	(19)	153,702
All Other		12,465		12,465
Capital Expenditures		31,500		26,000
Provides funds for a 40 hour week and new equipment and vehicles				
Pineland Hospital and Training Center				
Personal Services	(24)	193,481	(24)	204,575
All Other		18,727		18,827
Capital Expenditures		33,527		2,440
Provides funds for a 40 hour week and 5 firemen and a small library fund matchable by 90% Federal assistance and annual tuberculosis examinations for all patients; and related equipment				
Governor Baxter School for the Deaf				
Personal Services	(18)	46,311	(18)	48,891
All Other		3,855		3,855

Department		1969-70		1970-71
MENTAL HEALTH AND CORRECTIONS, DEPARTMENT OF—continued				
Capital Expenditures		31,500		5,280
Provides one teacher and funds for a 40 hour week plus a Business Manager to meet the requirements of the increasing size of the student body and responsibilities of managing the staff; funds to replace three vehicles, including a sixteen year old bus, and additional headsets and hearing equipment				
Boys Training Center				
Personal Services	(18)	41,377	(18)	43,446
All Other		4,188		4,188
Provides funds for 44-hour week and medical professional service				
Stevens School				
Personal Services	(13)	84,554	(13)	89,928
All Other		2,566		2,566
Provides funds for 44-hour week and essential additional staff for emergency and night coverage; seasonal help and reclassify House Parent positions to Training School Counselors I and II				
Women's Correctional Center				
Personal Services	(4)	8,454	(4)	8,877
All Other		2,151		2,151
Capital Expenditures		5,000		—
Provides funds for 44-hour week and additional operating funds, also funds for 2 new vehicles				
Men's Correctional Center				
Personal Services	(23)	114,837	(23)	121,558
All Other		16,200		8,349
Capital Expenditures		12,500		500
Provides funds for 44-hour week and additional staff to meet national standards of cov-				

Department	1969-70	1970-71
MENTAL HEALTH AND CORRECTIONS, DEPARTMENT OF—continued		
erage for Security Safety Measures and institute vocational training programs to improve rehabilitation of individuals in the center; funds for uniforms for the staff and improved dental, medical and surgical care, along with related equipment including essential emergency lighting		
State Prison		
Personal Services	(30) 119,055	(30) 125,756
All Other	14,218	8,089
Capital Expenditures	10,400	—
Provides funds for 44-hour week and additional staff to meet national standards of coverage for Security Safety Measures; funds to operate the Medium Security Building and housing facilities now at the farm; funds for uniforms, improved quality of food, winter clothing and recreational supplies for inmates and funds for purchase of fire hydrants and a truck		
Overtime Payroll		
Personal Services	*200,000	100,000
Provides funds for time and a half payment for Correctional and Mental Institutions during the transition period of changes from 48 and 44 hour work weeks to 44-hour and 40-hour work weeks		
* Any unexpended balance to carry to June 30, 1971		
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Total Department of Mental Health and Corrections	2,021,445	1,928,184
MUSEUM COMMISSION		
Personal Services	(2) 22,000	—
All Other	24,000	—

Department		1969-70		1970-71
MUSEUM COMMISSION—continued				
Capital Expenditures		2,900		—
Provides additional staff, exhibit material and basic exhibit equipment				
PARK AND RECREATION COMMISSION				
Administration				
Personal Services	(3)	19,691	(5)	64,174
All Other		3,524		9,429
Capital Expenditures		24,960		—
Provides one Community Recreation Specialist to assist communities in planning recreation projects; one Engineering Technician and one Clerk-Stenographer to supplement the present administrative, planning and design responsibilities of the department; two Park Supervisors and seasonal personnel with essential capital equipment for the rapidly expanding park system. New park facilities will add \$39,000 in undedicated revenue in the second year of the biennium				
POLICE, STATE				
General Fund Share of Costs—25%				
Unallocated		3,500		7,010
Provides funds to install necessary computer terminals for immediate 24-hour access to driver license, court and motor vehicle registration files; funds to provide equipment to make State Police teletypewriter network compatible to the National Crime Information Center computer terminal				
PORT AUTHORITY				
Ferry Service				
Unallocated		8,000		8,000
Provides increased funds for relief crew				

Department	1969-70		1970-71	
PUBLIC UTILITIES COMMISSION				
Administration				
Personal Services	(2)	20,000	(2)	21,000
All Other		3,000		3,000
Provides one Utility Engineer I and one Utility Accountant and related travel expense				
RUNNING HORSE RACING COMMISSION				
Administration				
Personal Services		7,144		7,385
All Other		5,105		5,105
Provides one additional team of one policeman and one inspector during the racing season and additional expense for new 22-day meet				
SEA AND SHORE FISHERIES, DEPARTMENT OF				
Administration				
Personal Services	(2)	13,144	(2)	14,039
All Other		5,000		5,500
Capital Expenditures		10,875		2,875
Provides funds to replace the generating plant on the "Guardian" and funds for ten portable two-way radios. Provides one Marine Resources Scientist I (Wetlands Control) and one Marine Resources Specialist (Wetlands Control). Provides funds for travel and other expense				
Development of Anadromous Fisheries				
All Other		30,000		30,000
Provides additional matching funds for research and fishway construction under a federal program with a 1:1 matching ratio				
		59,019		
Total Department of Sea and Shore Fisheries			52,414	
SECRETARY OF STATE				
Administration				
Personal Services	(2)	7,541	(2)	7,873

Increased Mileage Allowance

Department	1969-70	1970-71
SECRETARY OF STATE—continued		
Capital Expenditures	888	—
Provides funds for one Clerk-Stenographer II (52 weeks) and one Clerk-Stenographer II (30 weeks.) Also provides funds to re-classify two positions		
STATE EMPLOYEES		
Salary Plan		
Personal Services	*2,475,000	2,671,000
* Any unexpended balance to carry to June 30, 1971		
All Other	110,000	110,000
Provides funds to increase the mileage allowance to ten cents per mile for state employees and officials		
Group Life Insurance		
Unallocated	—	8,000
Provides additional administration costs for group life insurance under the Maine Retirement System		
Total State Employees	2,585,000	2,789,000
STATE EMPLOYEES' SUGGESTION AWARDS BOARD		
Personal Services	(1) 3,991	(1) 4,190
All Other	5,950	10,900
Capital Expenditures	640	60
Provides one Clerk Typist II to perform clerical services for this program. All Other includes \$5,000 in the first year and \$10,000 in the second year for cash awards to be made to state employees who submit suggestions which result in cost reduction, increased safety, or other benefits to the state		
SUPREME JUDICIAL AND SUPERIOR COURTS		
Administration		
Personal Services	(1) 8,250	(1) 11,000

Department	1969-70	1970-71
SUPREME JUDICIAL AND SUPERIOR COURTS—continued		
Provide for one additional Court Reporter to meet increased workload		
UNIVERSITY OF MAINE		
Administration		
All Other	3,200,000	3,500,000
Provides an increased grant to the University		
TRIGOM		
All Other	50,000	50,000
Provides funds for the Consortium of Education Institutions		
	3,250,000	3,550,000
VETERANS SERVICES, DEPARTMENT OF		
War Veterans Services		
Personal Services	325	351
All Other	2,000	—
Provides funds to prepare informational material for distribution to veterans regarding their benefits. Also provides a salary adjustment to a reemployed employee		
World War Assistance		
All Other	20,000	20,000
Provides funds for increased assistance allowances		
Veterans Memorial Cemetery		
Capital Expenditures	12,000	—
Provides funds for equipment to maintain and operate the new cemetery		
	34,325	20,351
WATER AND AIR ENVIRONMENTAL IMPROVEMENT COMMISSION		
Administration		
Personal Services	(6) 58,625	(9) 85,000
All Other	43,000	20,000

Department	1969-70	1970-71
WATER AND AIR ENVIRONMENTAL IMPROVEMENT COMMISSION—continued		
Capital Expenditures	29,235	19,400
Provides an Executive Director and expanded technical and clerical staff to provide for increased workload and step up the attack on water and air pollution in Maine in accordance with the recommendations of the Committee on Pollution Abatement. \$25,000 for pollution study		
CONSTRUCTION RESERVE FUND		
Capital Expenditures	(100,000)	—
Removes appropriation included in Part I Budget. Now included as part of Contingent Account		
EXECUTIVE DEPARTMENT		
Promotion of Maine		
All Other	(10,000)	(10,000)
Removes appropriation included in Part I Budget. Now included as part of Contingent Account		
MENTAL HEALTH AND CORRECTIONS, DEPARTMENT OF		
Institutional Reserve Fund		
All Other	(66,266)	(66,265)
Removes appropriation included in Part I Budget. Now included as part of Contingent Account.		
Total—All Appropriations	\$12,168,475	\$24,553,315

Amounting to \$12,168,475 for the fiscal year ending June 30, 1970 and \$24,553,315 for the fiscal year ending June 30, 1971.

SECTION B

Sec. 1. P. & S. L., 1967, c. 191, Section B, amended. That portion of the Act under the caption “Veterans Services” and for the project listed below shall be amended to provide that the appropriation therefor shall not lapse but shall remain a carrying account until June 30, 1971.

Maine Veterans Memorial Cemetery	\$ 147,200
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Sec. 2. P. & S. L., 1967, c. 191, Section B, amended. That portion of the Act under the caption “Education, Department of” and for the project listed

below shall be amended to provide that the appropriation therefor shall not lapse but shall remain a carrying account until June 30, 1971.

Indian Schools—Classroom Addition Peter Dana Point \$ 19,700

Sec. 3. P. & S. L., 1967, c. 191, Section B, amended. That portion of the Act under the caption “State Park and Recreation Commission” and for the projects listed below shall be amended to provide that the appropriation therefor shall not lapse but shall remain a carrying account until June 30, 1971.

General Improvements—Sebago	\$ 53,300
Completion of Previously Authorized Projects—Various	105,400
Popham Beach	112,000

Sec. 4. P. & S. L., 1965, c. 189 amended. Chapter 189 of the Private and Special Laws of 1965 is amended by adding at the end a new sentence to read as follows:

The unexpended balance of the State appropriation shall lapse June 30, 1969.

Sec. 5. P. & S. L., 1965, c. 285, amended. Chapter 285 of the Private and Special Laws of 1965 is amended by adding at the end a new sentence to read as follows:

The unexpended balance of the State appropriation shall lapse June 30, 1969.

Sec. 6. P. & S. L., 1969, c. 5, amended. Chapter 5 of the private and special laws of 1969 is amended by inserting after the 2nd sentence, a new sentence, to read as follows:

The unexpended balance remaining at June 30, 1969 shall not lapse but shall remain a continuing carrying account until June 30, 1971.

SECTION C

Each department, board, commission or other state agency having special revenue accounts shall not use such funds for reclassifications, range changes or special merit increases beyond those stated in their original budget submitted to the Legislature.

SECTION D

Sec. 1. R. S., T. 36, § 1811, amended. The first sentence of section 1811 of Title 36 of the Revised Statutes, as repealed and replaced by section 92 of chapter 544 of the public laws of 1967 and as amended by section 2 of chapter 295 of the public laws of 1969, is further amended to read as follows:

A tax is imposed at the rate of ~~5%~~ 6% on the value of all tangible personal property and telephone and telegraph service sold at retail in this State, and upon the rental charged for living quarters in hotels, rooming houses, tourist or trailer camps, measured by the sale price, except as in chapters 211 to 225 provided.

Sec. 2. R. S., T. 36, § 1812, amended. The first 2 paragraphs of section 1812 of Title 36 of the Revised Statutes, as last repealed and replaced by section 3 of chapter 295 of the public laws of 1969, are repealed and the following enacted in place thereof:

Every retailer shall add the sales tax imposed by chapters 211 to 225, or the average equivalent of said tax, to his sale price, except as otherwise provided, and when added the tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid and shall be recoverable at law in the same manner as the purchase price. When the sale price shall involve a fraction of a dollar, the tax shall be added to the sale price upon the following schedules:

\$0.01 to \$0.10, inclusive	0¢
.11 to .17, inclusive	1¢
.18 to .34, inclusive	2¢
.35 to .50, inclusive	3¢
.51 to .67, inclusive	4¢
.68 to .84, inclusive	5¢
.85 to .99, inclusive	6¢

When the sale price exceeds 99¢, the tax to be added to the price shall be 6¢ for each whole dollar, plus the amount indicated above for each fractional part of a dollar.

Sec. 3. R. S., T. 36, § 1861, amended. The first sentence of section 1861 of Title 36 of the Revised Statutes, as last amended by section 4 of chapter 295 of the public laws of 1969, is further amended to read as follows:

A tax is imposed on the storage, use or other consumption in this State of tangible personal property, purchased at retail sale, at the rate of ~~5%~~ 6% of the sale price.

Sec. 4. Effective date. Sales and use tax liability accruing after June 30, 1969 shall be computed on the bases of the rates imposed by sections 1, 2 and 3. Retail sales and purchases made after June 30, 1969, including retail sales and purchases made pursuant to contracts entered into prior thereto and telephone and telegraph charges first billed on and after July 1, 1969, shall be subject to the taxes imposed by sections 1, 2 and 3.

SECTION E

R. S., T. 36, § 2623, amended. The first sentence of section 2623 of Title 36 of the Revised Statutes is amended to read as follows:

Every corporation, person or association operating any railroad in the State under lease or otherwise shall pay to the State Tax Assessor, for the use of the State, an annual excise tax for the privilege of exercising its franchises and the franchises of its leased roads in the State, which, with the tax provided for in section 561, is in place of all taxes upon ~~such railroad and its~~ the property of such railroad.

SECTION F

Sec. 1. R. S., T. 36, Part 8, additional. Title 36 of the Revised Statutes is amended by adding a new part 8, to read as follows:

PART 8
CORPORATE INCOME TAX
CHAPTER 801
DEFINITIONS; GENERAL PROVISIONS

§ 5101. Definitions

The following definitions shall apply throughout this part unless the context requires otherwise:

1. **Assessor.** "Assessor" means the State Tax Assessor.
2. **Corporation.** "Corporation" means any business entity subject to income taxation as a corporation under the laws of the United States, including a corporation having an election in effect under subchapter S of the Internal Revenue Code, but excepting corporations subject to tax under sections 2511 to 2522.
3. **Fiscal year.** "Fiscal year" means an accounting period of 12 months ending on the last day of any month except December, or an accounting period of more or less than 12 months, which period is employed as the fiscal year of the taxpayer for the United States income tax purposes.
4. **Laws of the United States.** "Laws of the United States" means, for any taxable year, the statutes of the United States relating to federal income taxes effective for the taxable year, whether enacted before or after the effective date of this part.
5. **Maine net income.** "Maine net income" means, for any taxable year and for any corporate taxpayer, the taxable income of the taxpayer for that taxable year under the laws of the United States, allocated or apportioned to this State under section 5203, excluding:
 - A. Income which under laws of the United States is exempt from taxation by states;
 - B. A deduction for tax imposed by this part or the equivalent taxing statute of another state;
 - C. A deduction for dividends received from or paid to domestic or foreign corporations unless such corporations are affiliated, under Internal Revenue Code, section 1504a, and the paying corporation is subject to taxation under this part with an allocation or apportionment to this State under section 5203 of at least 50% of taxable income under the laws of the United States for that taxable year in which the dividend is paid.

In the case of affiliated corporations under Internal Revenue Code, Section 1504 (a), which file their federal returns on a consolidated basis as a group, the corporate taxpayer shall be deemed to be all the affiliated corporations as a group, if the group so elects, in which case taxable income shall be deemed to be consolidated taxable income of the group.

6. **Tax or tax liability.** "Tax" or "tax liability" is the liability for all amounts owing by a taxpayer to the State of Maine under this part.

7. **Taxable corporation.** "Taxable corporation" means, for any taxable year, a corporation which, at any time during that taxable year received any income allocable or apportionable to this State under section 5203. In the case of affiliated corporations under Internal Revenue Code, Section 1504(a) which file their federal returns on a consolidated basis as a group and which have made the election provided for in subsection 5 the group shall be deemed to be the taxable corporation.

8. **Taxable year.** "Taxable year" means the taxpayer's fiscal year, with respect to which a tax is imposed under this part, and, in the case of a return filed with respect to a fractional part of a year, the period with respect to which the return is filed.

9. **Taxpayer.** "Taxpayer" means a corporation obligated to file a return with or pay or remit any amount to this State under this part.

§ 5102. Administration

The assessor shall administer and enforce this part and pay over all receipts collected to the Treasurer of State promptly and such receipts shall be credited to the General Fund.

§ 5103. Regulations

The assessor may adopt, prescribe and from time to time alter and amend and enforce reasonable rules, orders and regulations for the purpose of implementing this part.

§ 5104. Abatement of tax liabilities

The assessor is authorized to abate the unpaid portion of the assessment of any tax or any liability in respect thereof, which is excessive in amount, or is assessed after the expiration of the period of limitations properly applicable thereto, or is erroneously or illegally assessed.

§ 5105. Secrecy of records

1. **Disclosure of information prohibited.** Except in accordance with a judicial order, or as otherwise provided by law, the assessor, his deputy, agent, designated officer or employee, and any person who at any time served or acted as assessor, his deputy, agent, designated officer or employee, shall not divulge or make known in any manner the amount of income or any other particulars with respect to a taxpayer's income set forth or disclosed in any report, information or return required or obtained under this part. Nothing herein shall be construed to prohibit:

A. The publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or of particular taxpayers.

B. The inspection by the Attorney General or his duly authorized representative of such report, information or return of or concerning a taxpayer who shall bring action to set aside or review the tax liability with which such report, information or return is concerned, or against whom an action

or proceeding has been or is intended to be instituted to recover such tax liability.

C. The review by any person of any report, information or return solely in connection with the processing of such report, information or return, or in connection with the audit of the books, records and accounts of the Bureau of Taxation, who shall, for the purposes of this section, be deemed to be an employee of the assessor with respect to such processing or audit. Reports, information and returns shall be preserved for 6 years and thereafter until the assessor orders them to be destroyed.

2. Penalty. A person who violates subsection 1 shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and if the offender is an officer or employee of this State, he shall in addition be dismissed from office and be incapable of holding any public office for a period of 5 years thereafter.

3. Information to governmental officers. Notwithstanding this section, the assessor may permit the Commissioner of Internal Revenue of the United States, or the proper officer of any other state imposing an income tax upon the income of corporations subject to taxation under this part, or the authorized representative of such person, to inspect the reports, information and returns of or respecting any corporation, or the assessor may furnish to any of those persons or his authorized representative an abstract thereof. That permission shall be granted to the Commissioner of Internal Revenue or to an officer of another state, however, only if the statutes of the United States or of the other state, as the case may be, grant substantially similar privileges to the proper officer of this State charged with the administration of this part, and, further, only if the Commissioner of Internal Revenue or the officer of another state is subject to statutes of the United States or of the other state, as the case may be, which provide for the secrecy of records in terms substantially similar to those provided for under this section.

§ 5106. Publication of statistics

The assessor may from time to time prepare and publish statistics reasonably available with respect to the operation of this part including amounts collected, classification of taxpayers, tax liabilities and such other facts as he considers pertinent.

§ 5107. Allocation of overpayments

Any overpayment received by the assessor from any taxpayer with respect to a tax liability of the taxpayer may be credited to any outstanding liability under this Title owned by the taxpayer making the overpayment. In such case, the payment shall be applied, first, to the amount of any interest; next to the amount of any penalty; next to the amount of any fee; next to the amount of any unpaid tax.

§ 5108. Reciprocal enforcement of tax liabilities

1. Collection by Attorney General. At the request of the assessor, the Attorney General may bring suit in the name of this State, in the appropriate court of any other state to collect any tax legally due this State.

2. **Reciprocity.** The courts of this State shall recognize and enforce liabilities for taxes lawfully imposed by any other state which extends a like comity to this State, and the duly authorized officer of that state may sue for the collection of such a tax in the courts of this State. A certificate by the Secretary of State of the other state that an officer suing for the collection of such a tax is duly authorized to collect it shall be conclusive proof of this authority.

3. **Definitions.** For the purposes of this section, the words "tax" and "taxes" include interest, fees and penalties due under any taxing statute, and liability for the interest, fees and penalties due under a taxing statute of another state shall be recognized and enforced by the courts of this State to the same extent that the laws of the other state permit the enforcement in its courts of liability for the interest, fees and penalties due under a taxing statute of this State.

§ 5109. Inconsistent provisions

Notwithstanding any provision of the statutes of this State to the contrary, no corporation, and no item of income, shall be exempt from taxation under this part unless the corporation, or item of income, as the case may be, is expressly exempted from taxation by this part.

§ 5110. Purpose

1. **Conformity with United States Internal Revenue Code.** This part is intended to conform the Maine Corporate Income Tax Law with the United States Internal Revenue Code, except as otherwise expressly provided, in order to simplify the taxpayer's filing of returns, reduce the taxpayer's accounting burdens, and facilitate the collection and administration of these taxes.

CHAPTER 803 DETERMINATION OF TAX

§ 5201. Name of tax

The tax imposed by this chapter shall be known as the "Maine Corporate Income Tax."

§ 5202. Tax on income of corporations

A tax is imposed upon the income earned or received for each taxable year by every taxable corporation, in addition to all other taxes, as follows:

2% of the Maine net income of the corporation.

§ 5203. Allocation and apportionment of income

1. As used in this section, unless the context otherwise requires:

A. "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 constitutes integral parts of the taxpayer's regular trade or business operations.

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

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

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

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

F. "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. Any taxpayer having income from business activity which is taxable both within and without this State shall allocate and apportion his net income as provided in this section. Any taxpayer having income solely from business activity taxable within this State shall allocate or apportion his entire net income to this State.

3. For purposes of allocation and apportionment of income under this section, 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. 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 subsection 5 to 8.

5.

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.

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

8.

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. All business income shall be apportioned to this State by multiplying the income 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. 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. 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. 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. 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. 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. 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 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 the purchaser is the United States Government or the taxpayer is not taxable in the state of the purchaser.

17. 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. If the allocation and apportionment provisions of this section 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.

§ 5204. Franchise tax on banking corporations and loan associations

A tax is imposed for each calendar year or fiscal year ending during that calendar year upon the franchise or privilege of doing business in this State of every corporation which is a bank, savings bank, savings institution, trust company, and every savings and loan association, or loan and building association, that has a business location in this State. The tax is 6% of the taxable income of the corporation or association for that taxable year under the laws of the United States, reduced by the amount of the tax payable by the corporation or association for the taxable year under section 5202.

For purposes of chapters 805, 807, 809 and 811, the tax imposed under this section shall be a part of the tax imposed under section 5202.

§ 5205. Alternative tax computation

Any corporation required to file a return under this part may elect to waive the provisions of sections 5202 and 5203, and to pay tax at the rate of 1% of gross sales within this State, provided that

- A. The corporation did not own or rent any real estate or tangible personal property in this State during the taxable year; and
- B. The only activity of the corporation in this State during the taxable year consisted of sales; and
- C. The gross sales of the corporation within this State during the taxable year did not exceed \$100,000.

CHAPTER 805 RETURNS

§ 5301. Returns by corporations

Every corporation which is a taxable corporation, for any taxable year, shall file a Maine corporate income tax return for that taxable year on or before the date a United State income tax return is required to be filed for that year by that corporation under the laws of the United States.

§ 5302. Additional returns

When the assessor is of the opinion that a taxpayer has failed to file any return required by this part, or to include in any return so filed, either in-

tentionally or through error, information by which the taxpayer's tax liability may correctly be determined, the assessor may, by written notice to the taxpayer, require that the taxpayer file that return, or an additional supplementary return containing such information, verified as provided in section 5306, in such form as the assessor shall prescribe. The filing of that return shall not relieve the taxpayer from any of the penalties to which he may be liable under this part.

§ 5303. Failure to file a return

1. Court order. Upon the failure of a taxpayer to file any return required under this part within 15 days of the date of a notice to the taxpayer under section 5302, the assessor may apply to a Justice of the Superior Court of Kennebec County, and upon the complaint of the assessor the justice shall issue an order requiring any principal officer of the corporate taxpayer to file a proper return in accordance with this part, upon pain of contempt. The court shall forthwith fix a time and place for hearing and cause 20 days' notice thereof to be given the taxpayer, having regard to the speediest possible determination of the case consistent with the rights of the parties.

2. Deficiency assessment. Upon the failure of a taxpayer to file any return required under this part within 15 days of the date of a notice to the taxpayer under section 5302, whether or not a complaint has been or will be filed under subsection 1, the assessor may compute the tax liability of the taxpayer with respect to which the return was required to be filed, according to the assessor's best information and belief. Upon that computation, the assessor shall notify the taxpayer of his deficiency with respect to the payment of that tax liability, and may assess any penalty or interest with respect thereto, under section 5501.

§ 5304. Examination of records and witnesses

The assessor, for the purpose of ascertaining the correctness of any return or for the purpose of making a determination of the tax liability of any taxpayer, may examine or cause to be examined by any agent or representative designated by him for that purpose, any books, paper, records or memoranda of the taxpayer bearing upon the matters required to be included in any return. The assessor or such officers as he may designate may require the attendance of the taxpayer or of any other person having knowledge in the premises, at any place in the county where the taxpayer or person resides or has a place of business, or in Kennebec County if the taxpayer is a corporation not having a place of business in this State, and may take testimony and require proof material for his information, and may administer oaths or take acknowledgement in respect of any return or other information required by this part or the rules, regulations and decisions of the assessor.

§ 5305. Supplemental information; changes in federal tax liability or taxable income.

1. Notification by taxpayer. If, after the time for filing any return required by this chapter, the taxpayer

A. Becomes aware of any information which makes that return false, inaccurate or incomplete;

B. Is notified of any final determination by the United States that his taxable income under the laws of the United States is other than the amount stated in the return;

C. Files an amended return under the laws of the United States; the taxpayer shall, within 90 days of receipt of that information or notification of that determination or filing that amended return or as otherwise required by the assessor, notify the assessor thereof, and of such particulars as may be relevant to the amount of any tax liability of the taxpayer under this part.

2. Penalties. Any notice required to be given to the assessor under this section shall be considered to be a return for purposes of this part, and a taxpayer required to file any such return shall be subject, with respect thereto, to the provisions of this part including, without limitation, the provisions governing penalties for failure to file a return, except as those provisions conflict with the express provisions of this section.

§ 5306. Form and verification of returns

The returns required to be filed under this part shall be in such form and manner as the assessor prescribes in order to assure payment of the taxes imposed by this part and shall be filed at the main office of the Bureau of Taxation. Those returns shall be verified by written declarations that the statements therein are made subject to the pains and penalties of perjury. When a return is made by a corporation, the person signing it shall be considered to be the person who is subject to the pains and penalties of perjury. The assessor shall cause to be prepared blank forms for the returns and shall cause them to be distributed throughout the State and to be furnished upon application, but failure to secure or receive such a form shall not relieve a taxpayer from the obligation of filing any return herein required.

§ 5307. Extension of time for filing of returns

The assessor may extend the time within which a taxpayer is required to file a return. If the extension results in extension of the time for the payment of the tax liability with respect to which the return is filed, the taxpayer shall pay, at the date that tax liability is paid, without assessment or demand, an amount of interest computed at the rate of $\frac{1}{2}\%$ per month on that tax liability from the time when the tax liability was originally required to be paid to the time of payment.

§ 5308. Failure to file tax returns

In case of failure to file any return required under this part on the date prescribed therefor, determined with regard to any extension of time for filing, there shall be added to the amount required to be shown as tax on such return 5% of the amount of such tax if the failure is not for more than one month, with an additional 5% for each additional month or fraction thereof during which such failure continues, not exceeding 25% in the aggregate. For purposes of this section, the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return.

CHAPTER 807
PAYMENT OF INCOME TAXES

§ 5401. Payment by corporations

The income tax liability imposed by this part shall be discharged in 2 equal installments, the first installment to be discharged on or before the date on which the return of the corporation for the taxable year is required to be filed, and the 2nd installment shall be discharged not later than 3 months after the date on which the return of the corporation for the taxable year is required to be filed.

§ 5402. Method of payment

All tax liabilities imposed by this part may be paid with uncertified check, unless the assessor otherwise prescribes, but if a check so received is not honored by the bank on which it is drawn, the taxpayer shall remain liable for the payment of the tax and for all lawful penalties and interest, in the same manner as if the check had not been tendered.

§ 5403. Failure to pay tax

1. Deficiency due to negligence. If any part of a deficiency is due to negligence or intentional disregard of rules and regulations, but without intent to defraud, there shall be added to the tax an amount equal to 5% of the deficiency.

2. Fraud. If any part of a deficiency is due to fraud, there shall be added to the tax an amount equal to 50% of the deficiency. This amount shall be in lieu of any amount determined under subsection 1.

3. Determination of deficiency. For purposes of subsections 1 and 2 related to deficiencies due to negligence or fraud, the amount shown as the tax by the taxpayer upon his return shall be taken into account in determining the amount of the deficiency only if such return was filed on or before the last day prescribed for the filing of such return, determined with regard to any extension of time for such filing.

CHAPTER 809
DEFICIENCIES, ASSESSMENTS, REFUNDS AND APPEALS

§ 5501. Notice of deficiencies; assessment of penalties and interest

If the assessor finds that any taxpayer has failed to discharge in full the amount of any tax liability incurred under this part, or that a penalty or interest should be assessed under it, the assessor shall notify the taxpayer of the deficiency or assess the penalty or interest, as the case may be, by registered mail, unless the assessment concerns solely the assessment of interest.

§ 5502. Time limitations on notices of deficiency and assessments of penalties and interest

1. General limitation. The assessor may notify a taxpayer of a deficiency with respect to the payment of any tax liability, or assess a penalty or inter-

est with respect thereto, in accordance with section 5501, at any time within 3 years after the date that tax liability was originally required to be paid under this part.

2. Exceptions. Notwithstanding subsection 1 :

A. If the taxpayer fails to file a proper return with respect to any tax liability at the time prescribed for its filing, the notification or assessment may be made at any time before the end of 3 years after the taxpayer files such a return ;

B. If the deficiency is caused by reason of fraud or the willful intent of the taxpayer to defeat or evade this part, the notification or assessment may be made at any time ;

C. If the notice of deficiency or assessment is founded upon an assertion or determination by the United States that the taxable income, or income tax liability, of the taxpayer under the laws of the United States is greater than the amount of the taxable income or income tax liability reported on any return of the taxpayer filed under the laws of the United States, the notification or assessment under section 5501 may be made within the time prescribed under subsection 1, or at any time before the expiration of 6 months after the date the assessor is notified, in writing, by the taxpayer or by the United States of the federal assertion or determination, whichever period is the later to expire ;

D. If the taxpayer and the assessor agree, the notification or assessment may be made at any time before the date so agreed upon.

§ 5503. Determination of deficiency, penalty or interest

Upon receipt of a notice of deficiency or assessment of penalty or interest under section 5501, the taxpayer may, within 30 days after the date of the notice or assessment, petition the assessor in writing for a determination of that deficiency or assessment. The assessor shall thereafter grant a hearing upon the matter and notify the taxpayer in writing of his determination concerning the deficiency, penalty or interest.

§ 5504. Refunds ; petitions for refunds

1. Petition ; notification. At any time within 3 years after the date a return is required to be filed under this part, or 6 months after a refund was received from the United States with respect to an income tax liability, whichever is later, a taxpayer may petition the assessor for the refund of all or any part of the amount of tax paid with respect to the return. The assessor may grant a hearing with respect to such petition. The failure of the assessor to notify the taxpayer of his determination of the claim within 6 months, unless the period is extended by agreement of the assessor and the taxpayer, shall be considered to be a notification to the taxpayer of the assessor's denial of the claim. The notification shall be considered to have been given on the date of the expiration of the 6-month period, or the extension thereof.

2. Refund. If the assessor determines, on a petition for refund or otherwise, that a taxpayer has paid an amount of tax under this part which, as of

the date of the determination, exceeds the amount of tax liability owing from the taxpayer to the State, with respect to the current and all preceding taxable years, under any provision of this part, the assessor shall forthwith refund the excess amount to the taxpayer together with interest at the rate of $\frac{1}{2}\%$ per month. That interest shall be computed from the date of the excess payment, or from the date the return was due with respect to which the excess payment was made, whichever is the later date.

§ 5505. Procedure for hearings by assessor ; appeals

1. Procedure. Any hearing granted by the assessor under section 5503 or 5504 shall be subject to, and governed by, such reasonable conditions, procedures and rules of evidence as the assessor shall prescribe.

2. Appeal. A taxpayer may appeal a determination by the assessor concerning a notice of deficiency, an assessment of penalty or interest, or a claim to refund, to the Superior Court of the county in which the taxpayer has a place of business, or if he does not have a regular place of business in the State, to the Superior Court of Kennebec County. The appellant shall, when such appeal is taken, file an affidavit stating his reasons of appeal and serve a copy thereof on the assessor, and in the hearing of the appeal shall be confined to the reasons of appeal set forth in such affidavit. Jurisdiction is granted to the Superior Court to hear and determine such appeals and to enter such orders and decrees as the nature of the case may require. The decision on all questions of fact shall be final. An appeal may be taken to the law court as in other actions. Decisions shall be certified forthwith by the clerk of courts to the assessor.

§ 5506. Payment and collection of deficiencies and assessments ; jeopardy notices

1. When collectible ; stay of collection. Upon notification to a taxpayer of any deficiency, and upon assessment against the taxpayer of any penalty or interest, under section 5501, the amount of the assessment shall be payable forthwith and the amount of the deficiency and assessment shall be collectible by the assessor 30 days after the date of the notification or assessment. The collection by the assessor of the deficiency, penalty or interest shall be stayed :

A. If the taxpayer files a petition for determination by the assessor in accordance with section 5503, collection shall be stayed until 30 days after the notification of the taxpayer of the determination ;

B. If within 30 days of the notification of determination the taxpayer files a notice of appeal under section 5505, subsection 2, collection shall be stayed pending judgment of the court upon the appeal ;

C. Under such further circumstances and upon such terms as the assessor prescribes.

2. Jeopardy collection. Notwithstanding subsection 1, the assessor, if he believes the collection from a taxpayer of any deficiency, penalty or interest to be in jeopardy, may demand, in writing, that the taxpayer pay the deficiency, penalty or interest forthwith. The demand may be concurrently with,

or after, the notice of deficiency or the assessment of penalty or interest given to the taxpayer under section 5501. The amount of deficiency, penalty or interest shall be collectible by the assessor on the date of the demand, unless the taxpayer files with the assessor security satisfactory to the assessor in an amount equal to the deficiency, penalty or interest sought to be collected, for such amount as finally may be determined. In the event that it is finally determined that the taxpayer was not liable for the amount of the deficiency, penalty or interest referred to in any demand under this subsection the assessor shall reimburse the taxpayer, promptly upon such determination, for the reasonable cost to the taxpayer of any bond obtained by him for the purpose of this section.

§ 5507. Remedy exclusive; determination final

1. Exclusive remedies. The exclusive remedy of a taxpayer with respect to the refund of moneys paid in connection with a return filed under this part shall be the petition for refund provided under section 5504, and the appeal from an adverse determination of the petition for refund provided under section 5505. The exclusive remedy of a taxpayer with respect to a notification of deficiency or assessment of penalty of interest under section 5501 shall be the petition for determination of the deficiency or assessment provided under section 5503, and the appeal from an adverse determination of deficiency or assessment provided under section 5505.

2. Finality. Upon the failure of a taxpayer to petition in accordance with section 5503 from a notice of deficiency or assessment under section 5501, or to appeal in accordance with section 5505 from a determination of a deficiency or assessment of tax liability under section 5503, the taxpayer shall be bound by the terms of the notification, assessment or determination, as the case may be. The taxpayer shall not thereafter contest, either directly or indirectly, the tax liability as therein set forth, in any proceeding including, without limitation, a proceeding upon a claim of refund of all or any part of any payment made with respect to the tax liability, or a proceeding for the enforcement or collection of all or any part of the tax liability.

§ 5508. Determination of taxable income and income tax liability under the laws of the United States

For purposes of this part, a taxpayer's taxable income under the laws of the United States shall be determined by reference to the judicial decisions and administrative ruling of the United States.

1. Determination by the United States. A determination by the United States which establishes the amount of a taxpayer's taxable income under the laws of the United States for any taxable year shall be binding on the taxpayer and the State in calculating the taxpayer's liability to Maine under this part. For purposes of this section, "determination by the United States" means:

A. A decision by the tax court of the United States or a judgment, decree or other order by any United States court of competent jurisdiction which has become final;

- B. A closing agreement under section 7121 of the Internal Revenue Code of 1954;
- C. An agreement executed under section 1313(a)(4) of the Internal Revenue Code of 1954.
2. Prima facie evidence of federal tax liability. For any taxable year, the payment to the United States by any taxpayer of an aggregate amount of income tax, whether by withholding or otherwise, whether under a claim of deficiency, demand or otherwise, and whether under protest or otherwise, shall be prima facie evidence, for purposes of this part, that aggregate amount, less any refunds received by the taxpayer from the United States with respect to his income tax payments for that year, constitutes the income tax liability of the taxpayer for that taxable year under the laws of the United States, and that the items of income, deductions, exemptions and credits with respect to which the income tax liability was calculated are the items of income, deductions, exemptions and credits of the taxpayer for that taxable year under the laws of the United States.
3. Affidavit of District Director of Internal Revenue. For purposes of this section, the affidavit of any United States District Director of Internal Revenue that a taxpayer has paid a specified aggregate amount of income tax, has received a specified amount of refund with respect to his income tax payments, or has paid any amount of tax calculated with respect to specified items of income, deductions, exemptions or credits, shall be prima facie evidence of the truth of those matters set forth in the affidavit.

CHAPTER 811

ENFORCEMENT AND COLLECTION

§ 5601. Tax a debt to the State

Any tax liability imposed by this part becomes, from the time the tax liability is due and payable, a debt of the taxpayer to the State.

§ 5602. Action to collect taxes; limitation

Action may be brought by the Attorney General in the name of the State of Maine to recover the amount of the taxes, interest and penalties of any taxpayer, recoverable in any court of competent jurisdiction, if the action is brought within 6 years after the date the tax liability was collectible under section 5506. Claims of the State for sums under this part shall have preference in any distribution of the assets of the taxpayer, whether in bankruptcy, insolvency or otherwise. The proceeds of any judgment shall be paid to the assessor.

§ 5603. Levy for nonpayment

When all or any portion of a tax liability imposed by this part is not paid within 60 days after it becomes collectible under section 5506, the assessor may issue his warrant to the sheriff of any county of this State commanding him to levy upon and sell the real and personal property of the taxpayer in the manner prescribed for the levy and sale of property upon execution, for the payment of the amount thereof with the added penalties, interest and the

cost of executing the warrant, and to return such warrant to the assessor and pay to him the money collected thereunder within the time specified in the warrant. Such taxpayer shall have the same right to redeem such property as in the case of property sold upon execution.

§ 5604. Liability for failure or delinquency

An officer or employee of any corporation who, with intent to evade any requirement of this part or any lawful requirement of the assessor hereunder, fails to pay or remit a tax liability when due or to make, sign, verify or file a return when required to do so, or to supply any information required by or under this part or who, with like intent, makes, renders, signs, verifies or files any false or fraudulent return or information, shall be fined not more than \$1,000 or be imprisoned not more than one year, or by both.

§ 5605. Tax liability as property lien

1. Creation and effect of lien. If any corporation required to pay or remit any tax liability under this part neglects or refuses to pay it in accordance with this part after notification or assessment thereof under section 5501, the aggregate amount of the tax liability then due and owing, together with any costs that may accrue in addition thereto, shall be a lien in favor of this State upon all property and rights to property, whether real or personal, belonging to the corporation. The lien shall arise at the time the notification or assessment is made by the assessor and shall continue until the aggregate tax liability with costs satisfied in full or becomes unenforceable by reason of lapse of time. The lien shall be valid as against any subsequent mortgagee, pledgee, purchaser or judgment creditor when notice of the lien and the sum due has been filed by the assessor in the registry of deeds of the county where such property is located with respect to real property or fixtures and in the office in which a security or financing statement or notice with respect to personal property would be filed. In the case of any prior mortgage on any real or personal property so written as to secure a present debt and also future advances by the mortgagee to the mortgagor, the lien herein provided, when notice thereof has been filed in the proper office, shall be subject to the prior mortgage unless the assessor also notifies the mortgagee of the recording of the lien in writing, in which case any indebtedness thereafter created from the mortgagor to the mortgagee shall be junior to the lien herein provided for.

2. Release of lien. The assessor shall issue to the taxpayer a certificate of release of the lien if:

A. The assessor finds that the liability for the amount demanded, together with costs, has been satisfied or has become unenforceable by reason of lapse of time;

B. There is furnished to the assessor a bond with surety approved by the assessor in a sum sufficient to equal the amount demanded, together with costs, the bond to be conditioned upon payment of any judgment rendered in proceedings regularly instituted by the assessor to enforce collection thereof at law or of any amount agreed upon in writing by the assessor to constitute the full amount of the liability;

C. The assessor determines at any time that the interest of this State in the property has no value.

3. Enforcement of lien. The lien provided for by this section may be enforced at any time after the tax liability with respect to which the lien arose becomes collectible under section 5506 by a civil action brought by the Attorney General in the name of the State of Maine in the Superior Court of the county in which the property is located to subject any property, of whatever nature, of the taxpayer, or in which he has any right, title or interest, to the payment of such tax or liability. The court shall, after the parties have been only notified of the action, proceed to adjudicate all matters involved therein and finally determine the merits of all claims to and liens upon the property, and, in all cases where a claim or interest of the State of Maine therein is established, may decree a sale of such property, by the proper officer of the court, and a distribution of the proceeds of such sale according to the findings of the court. If the property is sold to satisfy a lien held by the State of Maine, the State of Maine may bid at the sale such sum, not exceeding the amount of such lien with expenses of sale, as the assessor directs.

Sec. 2. Computation of tax for first taxable year. All corporations subject to this Act may elect to compute their tax for the first taxable year of less than 12 months in accordance with either of the following methods:

A. The tax may be computed as if this Act had been effective on the first day of the taxpayer's annual accounting period and the amount so computed shall be multiplied by a fraction, the numerator of which is the number of months in the taxpayer's first taxable year, and the denominator of which is 12;

B. The tax may be computed by determining the taxable income in the first taxable year, in accordance with an accounting method, satisfactory to the Assessor, which reflects the actual taxable income attributable to the period.

Sec. 3. Effective date. Section F of this Act shall become effective as to income on and after January 1, 1969.

Emergency clause. In view of the emergency cited in the preamble, sections A, B, C and E of this Act shall take effect July 1, 1969.