

MAINE STATE LEGISLATURE

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

Legislative Document

No. 62

H. P. 207

House of Representatives, January 21, 1937.

Referred to Committee on Taxation. Sent up for concurrence and 1000 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Donahue of Biddeford.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-SEVEN

**AN ACT to Provide Old Age Pensions, to Raise Revenue and for Other
Purposes.**

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

TITLE I.

Sec. 1. For the purpose of the payment of an old age pension to aged persons qualified to receive the benefits set forth in this act, there is hereby appropriated for the next two years, the sum of \$200,000 per year, from the general funds, in addition to any and all amounts of revenue collected from a state income tax, the sum of \$700,000 set aside and payable from the profits from sales by the state liquor stores, and from the taxes imposed by the revenue measures designated for the payment of said pensions. The state controller shall credit said revenues to the "Old Age Pension Fund", and the diversion or temporary use of any part of said fund for any other purpose is expressly prohibited. Any and all grants of funds received from the treasury of the United States for the payment of old age assistance shall be administered in accordance with the provisions of the Social Security Act.

Sec. 2. The department of health and welfare shall supervise the administration of the provisions of law relating to old age pensions, which shall be in effect in all the political subdivisions of the state. Said department shall:

(a) Grant to any applicant the right to a fair hearing, after an appeal from any ruling of a local old age pension board.

(b) Promulgated only such rules or regulations which shall provide for the selection, tenure of office, and compensation of the personnel in accordance with existing law, subject to the approval of the Governor and Council.

(c) Enforce compliance by any local old age pension board of any duties imposed by this act.

(d) Make such reports in such form and containing such information, as the Social Security Board may from time to time require, and comply with such provisions as said board may from time to time find necessary to assure the correctness and verification of such reports.

(e) Account to the Social Security Board for one half of any amount collected from the estate of any recipient of old age assistance furnished to him, provided however, this duty shall not apply to any amounts recovered from any such estate where the payments were made exclusively from state funds.

Sec. 3. The municipal officers of the cities, and the overseer or overseers of the poor, in towns and plantations, are hereby designated as local old age pension boards, who shall, subject to the direction, supervision and control of the Department of Health and Welfare, comply with the provisions of this act. This duty is hereby declared to be mandatory and not directory.

Sec. 4. Whenever an application is made to a local old age pension board for a pension, the local board directly or through an agent shall promptly make an investigation, and after hearing the applicant if he so requests, shall pass upon the application. Upon approval, the application, with a copy of the birth certificate or other proper evidence of the date of birth, shall be immediately forwarded to the Department of Health and Welfare for approval. If an applicant is dissatisfied with the decision of the local board, he may appeal within 60 days to the Department of Health and Welfare, and he shall be entitled to a fair hearing.

Sec. 5. An old age pension shall be granted only to an applicant who

(a) Is 65 years of age or more

(b) Has resided in the state for a period of 5 years during the 9 years immediately preceding the application for an old age pension, and has resided therein continuously for 1 year immediately preceding the application.

(c) Is a citizen of the United States.

Sec. 6. If the recipient of a pension is incapable of taking care of himself or his money, upon the appointment of a guardian, the monthly instalments may be paid to said guardian.

Sec. 7. All rights to a pension shall be absolutely inalienable by any assignment, sale, execution, pledge or otherwise, and shall not pass, in case of insolvency or bankruptcy to any trustee, assignee or creditors.

Sec. 8. Any person who violates any provisions of this act, shall be punished by a fine of not more than \$500, or by imprisonment for more than 1 year, or both such fine and imprisonment.

TITLE II.

Taxation of Incomes

Sec. 1. Income of the classes described in subsections (a), (b), (c) and (e) received by any inhabitant of the state during the preceding calendar year, shall be taxed at the rate of 1% per annum, where net income less than \$5000, and 6% in excess of \$5000.

(a) Interest upon bonds, notes, money at interest and all debts due to the person to be taxed, except from:

First, deposits in any savings bank or trust company chartered by the state of Maine, and deposits in any bank in any other state which exempts from taxation to its inhabitants similar deposits, and interest and dividends thereon, owned by such inhabitants in banks in this state.

Second, bonds, notes and certificates of indebtedness of the United States and such bonds, notes and certificates of indebtedness of the state and of political subdivisions thereof as are exempted from taxation by existing law.

Third, loans secured exclusively by duly recorded mortgages of real estate, taxable as real estate, situated in the state, to an amount not exceeding the assessed value of the mortgaged real estate less all prior mortgages.

(b) Dividends, other than stock dividends paid in new stock of the company issuing the same, on shares in all corporations and joint stock companies organized under the laws of any state or nation other than this

state, except banks which are subject to taxation in this state, and except such foreign corporations as are subject to a tax upon their franchises payable to the state.

(c) Dividends, other than stock dividends paid in new stock of the partnership, association or trust issuing the same, on shares in partnerships, associations, or trusts, the beneficial interest in which is represented by transferable shares, except dividends on shares of the following:

First, partnerships, associations or trusts, which file with the commissioner the agreement hereinafter provided for, and the property of which consists exclusively of one or more of the following specified kinds of property, to wit: real estate wherever situated and supplies therefor and receipts therefrom; property the income of which, if any, would be taxable under this section if owned by an inhabitant of the state; shares in partnerships, associations or trusts, dividends on which are exempt from taxation under this section.

Second, partnerships, associations or trusts, the beneficial interest in which is represented by transferable shares, which file such agreement and furnish satisfactory proof to the commissioner that two thirds, at least, of their taxable property is taxed within the state and that the remainder, if taxable, is taxed where situated.

(d) Partnerships, associations or trusts, the dividends on shares of which are exempt from taxation under this section, shall pay to the commissioner annually a tax of 6% of the income derived from their property, so far as such income would be taxable under this section if received by an inhabitant of the state.

(e) Dividends on shares of any partnership, association or trust, of the classes designated in paragraphs 1st and 2nd of subsection (c), shall be subject to taxation under this section unless the trustees or managers thereof file with the commissioner, in such form as he determine its agreement to pay to the state annually the tax imposed by subsection (d) and any tax imposed by section 5. In case of any breach of the terms of any such agreement, the same shall be enforced by information in equity brought by the attorney general at the relation of the commissioner in the supreme judicial court. This remedy shall be in addition to all other means of collection provided for by this chapter, and to the penalties hereinafter imposed.

(f) For the purposes of this chapter any securities of the classes designated in this section, held in pledge, or on margin or otherwise, by an agent or broker as security for a debt of his principal, whether standing in the

name of the principal or any other person, shall be deemed to be the property of the principal, and the income arising therefrom shall be included in the total income of the principal under this section.

(g) No distribution of capital, whether in liquidation or otherwise, shall be taxable as income under this section; but accumulated profits shall not be regarded as capital under this provision.

Sec. 2. From the income taxable under the preceding section, the taxpayer may, under the conditions prescribed in this section and section 7, receive a deduction on account of interest paid by him during the year on debts of the following classes:

(a) Debts, except those secured by mortgage or pledge of real estate or tangible personal property, owed by persons engaged in the business of buying, selling or otherwise dealing in tangible personal property, provided that such business, if it includes other classes of dealings, does not include buying, selling, improving or otherwise dealing in or with real estate or buying, selling, manufacturing or otherwise dealing in or with tangible personal property other than gold bullion.

(b) Debts owed by other persons, except debts secured by such mortgage or pledge and debts on account of which the taxpayer is entitled to claim a deduction under sections 5 and 6.

Said deductions shall be allowed, in respect of interest on any debt belonging to class (b) above enumerated arising from loans or open accounts directly or indirectly secured by tangible personal property, only to an amount not exceeding 80% of the income returned by the taxpayer for taxation under section 1 on account of intangible personal property which secured such loans or open accounts.

Persons described in paragraph (a) of this section may, if the deductions allowed by subsection (a), (b), (c), (d), (e) and (f) of section 6 exceed the total income taxable under subsections (b) and (c) of section 5, deduct from their taxable interest and dividends, after deducting the aforesaid interest deduction, an amount of such excess which bears the same proportion to the total excess as their income taxable under section 1 bears to their total net income as determined under section 3.

Sec. 3. The deduction to be allowed under the preceding section shall be determined in the following manner:

A taxpayer claiming the benefit thereof shall file with the commissioner or the income tax assessor of his district a return, in such form as the commissioner prescribes, of his entire income from all sources, together

with such other information as said commissioner deems necessary for the determination of the amount of this deduction. The commissioner may, in lieu of such return, accept a sworn duplicate of the annual return of income made under the federal income tax law. He may also, in any case where he deems it necessary, require the taxpayer to file such a sworn duplicate.

From said return and information the commissioner or the income tax assessor shall determine the amount of interest paid during the year by the taxpayer on debts of class (a) or (b) enumerated in the preceding section, for which deduction is authorized by said section, which interest, for the purposes of this section, shall be called the net interest. He shall also determine the total net income of the taxpayer exclusive of income taxable under section 5, as such total net income would be if no deduction were made for interest paid during the year. The taxpayer may deduct from his income taxable under section 1 an amount of interest paid by him during the year which shall bear the same proportion to the net interest paid as his income taxable under section 1 bears to his total net income as above determined.

Sec. 4. A partnership, association or trust, the beneficial interest in which is represented by transferable shares, paying to the estate a tax upon income subject to taxation under section 1, as provided in section (d) thereof, may receive the deduction authorized by section 2 on the same terms as an individual inhabitant.

Sec. 5. Income of the following classes received by any inhabitant of the state during the preceding calendar year shall be taxed as follows:

(a) Income from an annuity shall be taxed at the rate of $1\frac{1}{2}\%$ per annum. The income of property held in trust shall not be exempted from taxation under section 1 nor shall payments to beneficiaries be taxed under this section, because of the fact that the whole or any part of the payments to the beneficiaries is in the form of an annuity.

(b) The excess over \$2000 of the income, as defined in section 6, derived from professions, employments, trade or business shall be taxed at the rate of $1\frac{1}{2}\%$ per annum. In determining such income the rental value of living quarters furnished any individual as part of his compensation shall be included. The wages and salaries of employees and officers of the United States government, so far as the taxation of such wages and salaries is constitutionally prohibited, shall not be taxed.

(c) The excess of the gains over the losses received by the taxpayer from purchases or sales of intangible personal property, whether or not said taxpayer is engaged in the business of dealing in such property, shall be taxed at the rate of 3% per annum. When shares of new stock of the company, or of a partnership, association or trust the beneficial interest in which is represented by transferable shares, issuing the same received as a stock dividend, or shares of stock which were the basis of such stock dividend are sold, the basis of determination of the gain or loss shall be the cost, when acquired by purchase, or value when acquired by gift, of the stock which was the basis of such stock dividend, apportioned over the old and the new shares held after the receipt of such stock dividend, except that when the new stock received as a dividend has been taxed, to the seller as a dividend, the cost of such new stock when sold shall be the value at which such stock was taxed. For the purpose of this subsection, the cost of rights to subscribe to corporate securities and similar rights issued by unincorporated associations shall be taken as zero, except that when acquired by actual purchase in the open market the amount actually paid therefor shall be taken as their cost. Any trustee or other fiduciary may charge any taxes paid under this subsection against principal in any accounting which he makes as such fiduciary. If, in any exchange of shares upon the reorganization of 1 or more corporations or of 1 or more partnerships, associations or trusts, the beneficial interest in which is represented by transferable shares, the new shares received in exchange for the shares surrendered represent the same interest in the same assets, no gain or loss shall be deemed to accrue from the transaction until a sale or further exchange of such new shares is made.

(d) Income of the classes enumerated in subsections (a), (b), and (c) received by any partnership, association or trust, the beneficial interests in which are represented by transferable shares shall be taxed under this section, unless the dividends on the transferable shares issued by such partnership, association or trust are taxable under section 1.

Sec. 6. Income taxable under subsection (b) of section 5 shall be the gross income from the profession, employment, trade or business, in the year for which the income is computed, not including income exempt from taxation under this chapter or taxable hereunder otherwise than under said subsection (b), but including gains from the sale of capital assets, other than intangible personal property, employed therein; less the following deductions:

(a) Expenses paid within the year in the profession, employment, trade or business, including the cost of ordinary repairs but not including personal or family expenses; provided, that premiums paid for use and occupancy insurance, or rent insurance, shall not be deducted as part of such expenses.

(b) A reasonable allowance for depreciation and obsolescence of property within such year, and for depletion within the year of wasting assets owned by the person taxed and used in the profession, employment, trade or business; provided, that with the approval of the commissioner a taxpayer may, in lieu of the aforesaid allowance for depreciation and obsolescence, be allowed to deduct actual expenses of replacement of capital and extraordinary repairs, and with such approval may in any year defer such deductions in whole or in part to 1 or more subsequent years.

(c) All taxes paid within the year to the United States or any other nation, or to any state, county, city, town or district, in respect of the profession, employment, trade or business, or the property held or used in connection therewith, but not including assessments for betterments.

(d) Interest paid within the year on indebtedness of the person taxed incurred in connection with his profession, employment, trade or business; but no interest allowed as a deduction under section 2 shall also be allowed under this section.

(e) Losses from the sale within the year of capital assets other than intangible personal property, and losses of capital assets other than stock in trade sustained within the year by fire, theft or other casualty, or amounts paid within the year on account of claims in law or equity incurred in connection with the profession, employment, trade or business, when such losses or amounts paid are not compensated for by insurance or otherwise.

(f) The amount of any debts receivable arising from the conduct of the profession, employment, trade or business subsequent to December 31, 1935, determined by the person taxed to be worthless and actually charged off during the year; but no debts receivable shall be so charged off and deducted, unless they have previously been included as income in a return made under this chapter.

(g) An amount equal to 5% of the assessed value, less the amount of all mortgages thereon, of the stock in trade and other tangible property, real and personal, owned by the person taxed and used or employed in the profession, employment, trade or business within the state, on the day as of which such property is assessed in the year for which the income is computed; but this deduction shall be allowed only from gross income, as defined in this section, exclusive of gains from the sale of capital assets.

(h) The sum of \$1000 for a husband or wife with whom the taxpayer lives, and the sum of \$250 for each child under the age of 18, or parent entirely dependent on the taxpayer for support. The aforesaid deduction shall not be allowed to both husband and wife, but may be allowed to either as they shall mutually agree, or shall be prorated between them in proportion to the net income of each in excess of \$2500.

Sec. 7. Persons who customarily estimate their income and expenditure on a basis other than their actual cash receipts and disbursements may, with the approval of the commissioner, compute upon a similar basis their income taxable under this chapter. Persons who customarily estimate their income and expenditure on the basis of an established fiscal year instead of the calendar year, may, with the approval of the commissioner and subject to such rules and regulations as he may establish, return their income taxable under this chapter on the basis of such fiscal year.

In determining gains or losses realized from the sale of capital assets, the basis of determination in case of property owned on January 1, 1937, shall be the value on that date or the cost thereof, whichever is higher, and in case of property acquired by purchase thereafter, except as otherwise expressly provided, the cost thereof. If the property other than stock dividends in new stock of the company issuing the same and rights to subscribe to securities was acquired by gift, the basis of determination of the gain or loss shall be the value on the date when it was so acquired.

In the case of real or tangible personal property the foregoing basis shall be diminished by the amount of depreciation allowable to the taxpayer under the provisions of this chapter, and in the case of intangible personal property the foregoing basis shall be diminished by any amounts received in distribution of capital.

Sec. 8. The following income shall be exempt from the taxes imposed by this chapter :

(a) One thousand dollars in all of income taxable under section 1 and under subsection (a) of section 5, received by a person whose total income from all sources does not exceed \$1000 during the year ; but said exemption shall not be given to any married person if the combined incomes of both husband and wife from all sources exceed \$2500 ; provided, however, that no tax shall be exacted upon any income taxable under said section 1 and said subsection (a) which shall reduce the total income of the taxpayer, if unmarried, below \$1000, or which shall reduce the combined income of husband and wife below \$2500.

- (b) Income received by corporations, except as provided in section 14.
- (c) Income received from land.
- (d) Such part of the income received by trustees or other fiduciaries as is payable to or accumulated for persons not inhabitants of the state.

Sec. 9. The estates of deceased persons who last dwelt in the state shall be subject to the taxes imposed by this chapter upon all income received by such persons during their lifetime, if assessed within the time limited by section 37.

The income received by the estates of such deceased persons shall be subject to all the taxes imposed by this chapter to the extent that the persons to whom such income is payable, or for whose benefit it is accumulated are inhabitants of the state; and such income shall include as and when received by the executor or administrator all income taxable under section 1 of this chapter which would have been taxable to the decedent if he had survived to receive it, and the taxes upon such rules of probate accounting, may be charged against principal in any accounting made by the executor or administrator. All taxes under this section shall be assessed to the executor or administrator and before the appointment of an executor or administrator said taxes may be assessed in general terms to the estate of the deceased and the executor or administrator subsequently appointed shall be liable for the taxes so assessed as though they were assessed to him. No person shall be taxed under this chapter for income received from any executor or administrator which income has itself been taxed under this section.

Sec. 10. The income received by estates held in trust by trustees or other fiduciaries under the will of a person who died an inhabitant of the state or under a trust created by a person who was either at the time of the creation of the trust or at any time during the year for which the income is computed an inhabitant of the state, any one of which trustees or other fiduciaries is an inhabitant of the state or has derived his appointment from a court of the state shall be subject to the taxes imposed by this chapter to the extent that the persons to whom the income from the trust is payable or for whose benefit it is accumulated are inhabitants of the state. Income so received and accumulated for unborn or unascertained persons or persons with uncertain interests shall be taxed as if accumulated for the benefit of a known inhabitant of the state to the following extent:

- (1) Where all or any one of the trustees or other fiduciaries have derived their appointment from a court of the state or are required to account

to a court of the state, the whole amount of income thus accumulated shall be taxed.

(2) Where all of the trustees or other fiduciaries are inhabitants of the state, the whole amount of income thus accumulated shall be taxed.

(3) Where any one or more of the trustees is an inhabitant of the state the proportion of the income accumulated for unborn or unascertained persons or persons with uncertain interests shall be taxed which is represented by the ratio of trustees who are inhabitants of the state to the total number of trustees. For the purposes of this section and of section 9 income shall be deemed to be accumulated for unborn or unascertained persons or persons with uncertain interests when thus accumulated by estates, by trustees or other fiduciaries, who are subject to the provisions of this section or of section 9, for the benefit of any future interest other than a remainder presently vested in a person or persons in being not subject to be divested by the happening of any contingency expressly mentioned in the instrument creating the trust.

No person shall be taxed under this chapter for income received from any trustee or other fiduciary which income has itself been taxed under this section.

The trustees may deduct from the income taxable under section 1 a proper amount for the amortization, according to any approved method, of premiums paid upon bonds owned by the estate, the income of which is taxable under said section 1.

In the computation of the tax, the trustees, in addition to the deduction on account of interest paid, allowed under section 2, shall be entitled to the following deductions from income taxable under section 1, and under paragraphs (a) and (c) of section 5, before the taxable income of the beneficiaries shall finally be determined:

(a) Such proportion of the following items as the amounts of income taxable under section 1 and subsections (a) and (c) of section 5 together bear to the total income received by the trustee from all sources, exclusive of income taxable under subsection (b) of section 5; (1) amounts paid within the year for rental of safe deposit boxes; and (2) amounts paid within the year for premiums on surety bonds, of the trustees.

(b) The compensation actually paid during the year to the trustees upon such income taxable under section 1 as is payable to or accumulated for inhabitants of the state, or for unborn or unascertained persons or persons with uncertain interests, to an amount not exceeding 6% of such taxable income.

Sec. 11. Any inhabitant of the state who receives income from 1 or more trustees or other fiduciaries who are not subject to taxation under this chapter, shall be subject to the taxes imposed by this chapter upon such income according to the nature of the income received by such trustees or other fiduciaries, and shall include such income in a return as required by section 22.

Sec. 12. A trustee may, at the request of any beneficiary, claim the benefit of the exemption provided by subsection (a) of section 8 for each person to whom the income from the trust is payable, or for whose benefit it is accumulated, and an inhabitant of this state receiving income from 1 or more trustees, none of whom is an inhabitant of this state or has derived his appointment from a court of this state, may also claim the benefit of such exemption; provided, that the commissioner is satisfied by an affidavit from the beneficiary claiming exemption, or for whose benefit the same is claimed, or otherwise, that such beneficiary is not allowed in all trusts or estates under which he may be a beneficiary, and on account of all income on which he is liable to taxation under this chapter, more than the total amount of exemption to which he is entitled under said subsection (a).

Sec. 13. Sections 10 to 12, inclusive, shall, so far as apt, apply to executors, administrators, guardians, conservators, trustees in bankruptcy, receivers and assignees for the benefit of creditors, to the income received by them and to their beneficiaries, except that clauses (a) and (b) of section 10 authorizing certain deductions shall apply to trustees only. All such fiduciaries and their successors in office shall be personally liable for all taxes due under this chapter from them or from their predecessors in office to the value of all property in their hands as such fiduciaries at the time of distribution as provided in section 25.

Sec. 14. Corporations acting as trustee or in any other fiduciary capacity shall, with respect to the income received by them in that capacity shall, with respect to the income received by them in that capacity, be subject to this chapter in the same manner and under the same conditions as individual inhabitants of the state acting in similar capacities, except that no such corporation shall be taxed on account of any property the income of which would be taxable under section 1 if received by an individual inhabitant, or on account of the income derived from such property, if such property is held by such corporation as mortgagee or pledgee to secure the payment of bonds, notes or other evidences of indebtedness the interest

on which is taxable under section 1 to such individual inhabitants of the state as receive it, or the principal of which is exempt from taxation under laws other than this chapter.

Sec. 15. Every corporation liable to taxation under the preceding section shall make the returns, and be subject to the penalties, prescribed by this chapter.

Sec. 16. For the purpose of facilitating the settlement and distribution of estates held by trustees and the other fiduciaries named in section 13, the commissioner, with the approval of the attorney general, may on behalf of the state agree on the amount of taxes at any time due or to become due from such estates under this chapter, and payment in accordance with such agreement shall be full satisfaction of the taxes to which the agreement relates.

Sec. 17. Partnerships having a usual place of business in the state, any member of which is an inhabitant thereof, shall be subject to the taxes imposed by this chapter. If any of the members of the partnership are not inhabitants of the state, only so much of the income thereof as is proportionate to the aggregate interest of the partners who are inhabitants of the state in the profits of the partnership shall be taxed. The tax shall be assessed on such a partnership by the name under which it does business, and the partners shall not be taxed with respect to the income derived by them from such a partnership.

Sec. 18. A partnership, in computing its taxable income, may deduct at the request of any partner the whole or any part of the amount of the exemptions to which such partner may be entitled under sections 5 and 8 and of the deduction for family to which he may be entitled under clause (h) of section 6; provided the commissioner is satisfied by an affidavit from the partner for whose benefit any such exemption or deduction is claimed, or otherwise, that such partner is not allowed, in all partnerships in which he may be a partner and on account of all income on which he is liable to taxation under this chapter, more than the total amount of such exemptions and deductions to which he is entitled. Each amount so deducted shall be set forth in the return of the partnership, and the partner requesting the same shall be allowed no further exemption or deduction on account thereof. The commissioner, in his discretion may excuse a partnership which has a place of business in the state from filing a return under this chapter, if its principal place of business is not within the state,

and in such case may require the partners who are inhabitants of the state to include in their individual returns their shares of the partnership income, and may assess to each partner individually a tax on his share.

Sec. 19. An inhabitant of the state who is a member of a partnership having no usual place of business in the state, who receives income from such partnership derived from such a source that it would be taxable if received directly by such partner, shall as to such income be subject to the taxes imposed by this chapter.

Sec. 20. The provisions of this chapter in respect to the filing of returns, and the assessment, and collection of taxes, and to notices concerning the same, shall apply to partnerships subject to taxation under this chapter.

Sec. 21. Sections 17 to 20, inclusive, shall not apply to partnerships, associations or trusts, the beneficial interest in which is represented by transferable shares, and nothing in said sections shall affect other provisions of this chapter so far as the same relate to such partnerships, associations or trusts, the beneficial interest in which is represented by transferable shares.

Sec. 22. Every individual inhabitant of the state, including every partnership, association or trust, whose annual income from all sources exceeds \$2000 shall annually make a return of his entire income, except income derived (a) from real estate, (b) from dividends exempt from taxation under section 1, (c) from interest upon bonds or other obligations of the United States, (d) from interest upon such bonds, notes and certificates of indebtedness of the state and political subdivisions thereof, (e) from loans secured exclusively by duly recorded mortgage of real estate, taxable as real estate, situated in the state, to an amount not exceeding the assessed value of the mortgaged real estate less the amount of all prior mortgages, and (f) from wages or salaries received from the United States. Every other individual inhabitant, including every partnership, association or trust, who receives income taxable under section I or subsection (a) or (c) of section 5 shall make an annual return of such taxable income.

Sec. 23. Every executor, administrator, trustee, guardian, conservator, trustee in bankruptcy, assignee for the benefit of creditors and receiver, other than a receiver of a domestic corporation, and every other person receiving income taxable under this chapter, shall make an annual return of his taxable income as provided in this chapter.

Sec. 24. Returns under the 2 preceding sections shall be on oath or accompanied by a written declaration that they are made under the penalties of perjury, and shall be filed with the income tax assessor for the district where the taxpayer resides or has his principal place of business or, at the option of the taxpayer, with the commissioner, shall be made in such form as the commissioner prescribes, and shall contain such further information as he deems pertinent. Except as otherwise provided in this chapter, the return shall be made on or before March 1st in each year and shall relate to the income received during the year ending on Decembr 31st preceding.

Sec. 25. Every individual who while an inhabitant of the state, and every executor, administrator, trustee or other fiduciary who while such an inhabitant or while acting under an appointment derived from a court of the state, has received any income taxable under this chapter, and the estate of every deceased inhabitant of the state, shall be subject to the taxes imposed by this chapter. Every such individual or fiduciary shall file a return under section 22 or 23 if he has in the preceding year received any such income, and an executor or administrator shall file a return under said section 23 if his decedent received any such income not returned by the decedent as to which a tax under this chapter may still be assessed within the time limited by section 37. If a person has been appointed executor or administrator after January 1st in any year, the return of such income received by his decedent but not returned by him shall be due and shall be filed within 90 days after the date of such appointment.

Every such individual intending to remove his domicile from the state, and every such fiduciary intending to make final distribution of an estate or trust, before the end of any year shall file immediately prior to such removal or distribution a return under said section 22 or 23 of all such income received by him and by his decedent during said year and prior to such removal or distribution, and the taxes thereon shall become due and payable forthwith.

Sec. 26. The commissioner of taxation shall prepare blanks for the returns required by sections 22 and 23 and shall cause them to be distributed throughout the state; but no person shall be excused from making the return by failure of the state to send or give one of the blanks to him.

Sec. 27. The commissioner shall annually give seasonable notice of the requirements of sections 22 to 25, inclusive, by posting or in any other suitable manner, not later than January 15th, in every town in the state.

Sec. 28. If the commissioner shall, from information derived from the return or otherwise, be of opinion that any person whose income is taxable under this chapter may have failed to file a return, or to include in a return filed, either intentionally or through error, all the sources of his taxable income, he may require from such person a return or a supplementary return on oath, in such form in each individual instance as the commissioner prescribes, of all the sources from which the taxpayer received any income, whether or not taxable under this chapter in the year for which the return was made. If from a supplementary return or otherwise the commissioner finds that any sources of taxable income have been omitted from the original return, he may require the amount of income from such source of taxable income so omitted to be disclosed to him on oath of the person liable for the tax, and added to the original return. Such supplementary return and the correction of the original return shall not relieve the person making the same from any of the penalties to which he may be liable under any provision of this chapter. The commissioner may proceed under any provision of sections 30 and 35 to 37, inclusive, whether or not he requires a return or a supplementary return under this section.

Sec. 29. In case of sickness, absence or other disability, the commissioner may allow further time for filing any return required by this chapter.

Sec. 30. In order to verify any return made pursuant to this chapter the commissioner may, within 2 years after September 1st of the year in which such return was due, direct by special authorization a deputy or other agent to verify the return; and for the purpose of such verification the books and papers of the person shall be open to the examining officer, or shall be produced for the purpose upon a summons, which the commissioner, or the examining officer, may issue. The person making the return may be examined by such officer on oath.

Sec. 31. If any person fails to file, on or before May 1st of any year, a return required by this chapter, any justice of the supreme judicial or the superior court, on petition of the commissioner or the income tax assessor for the county where such person is required to file the return, or of any 10 taxable inhabitants of the state, shall issue a writ of mandamus requiring such person to file the return. The order of notice on the petition shall be returnable not later than 10 days after the filing thereof. The petition shall be heard and determined on the return day or on such day thereafter as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights

of the parties. The judgment shall include costs in favor of the prevailing party. All writs and processes may be issued from the clerk's office in any county, and, except as aforesaid, shall be returnable as the court orders.

Sec. 32. Returns shall be open to the inspection of the commissioner, and his deputies, assistants and clerks when acting under his authority, and the income tax assessors, and their deputies, assistants and clerks when acting under their authority. The books, accounts and other records in the hands of the commissioner, except returns, shall be open to the inspection of the state auditor, and his deputies, assistants and clerks when acting under his authority for the purpose of auditing the accounts of the commissioner. Said returns shall be preserved for 2 years, and thereafter until the commissioner orders them destroyed. The commissioner shall, on request of any inhabitant of the state, state whether or not any designated person has filed an income tax return for the current or any prior year.

Sec. 33. Every employer, being an inhabitant of the state or having a place of business therein, shall file annually with the commissioner a return in such form as he shall from time to time prescribe, giving the names and addresses of all regular employees residing in the state to whom said employer has paid wages, salary or other compensation in excess of the sum of \$2,000 during the preceding calendar year, and may give the amount paid to each. In any individual case, upon request of the commissioner, the exact wages, salary or other compensation shall be stated.

Every corporation and every partnership, association or trust the beneficial interest in which is represented by transferable shares, doing business in the state, unless the dividends paid on its shares are exempt from taxation under section 1, shall annually file with the commissioner in such form as he shall from time to time prescribe, a complete list of the names and addresses of its shareholders, as of record on December 31 of the preceding year, or on any other date satisfactory to the commissioner, or, in its discretion, of such shareholders as are residents of the state, together with the number and class of shares held by each shareholder and the rate of dividends paid on each class of stock for such preceding year.

Every corporation, partnership, association or trust doing business in the state shall report annually to the commissioner, in such form as he shall from time to time prescribe, the names and addresses of all residents of the state to whom it has paid interest during the preceding calendar year on its bonds, notes or other evidences of indebtedness, and to whom

it has paid any annuities, except, however, interest coupons payable to bearer, and income exempt from taxation under this chapter. In any individual case, any such corporation, partnership, association or trust shall, upon request of the commissioner, state the respective amounts of interest and annuities so paid by it to any person during any calendar year.

Every trustee or other fiduciary who is an inhabitant of or has derived his appointment from a court of the state and who in such capacity receives income which, if received by an individual inhabitant of the state, would be taxable under this chapter, but which is not so taxable to such trustee or fiduciary, shall file with the commissioner for each calendar year during which he has distributed to such an inhabitant any such income not previously returned, and upon final distribution of the estate or trust in case any such income is distributed as aforesaid, a return in such form as the commissioner may from time to time prescribe, giving the name and residence of every such inhabitant and the amount and kind of income so distributed to him which is taxable under this chapter.

The returns, lists and reports required by this section shall be made on or before March 1st in each year; but the commissioner may authorize them to be made at any other date and in connection with any other reports or returns that said individuals, partnerships, associations, trusts and corporations may be required to file with him.

Sec. 34. If any person who has failed to file a return, or has filed an incorrect or insufficient return, and has been notified by the commissioner of his delinquency, refuses or neglects within 20 days after receiving such notice to file a proper return, or if any person files a fraudulent return, the commissioner shall determine the income of such person, taxable under this chapter, according to his best information and belief, and assess the same at not more than double the amount so determined.

Sec. 35. When used in this section and sections 36 to 56, inclusive, the following terms shall have the following meanings:

1. "Domestic business corporations," every mercantile or manufacturing corporation organized under or subject to the revised statutes.

2. "Foreign corporations," every corporation, association or organization established, organized or chartered under laws other than those of the state, for purposes for which domestic business corporations may be organized, which has a usual place of business in this state, or is engaged here, permanently or temporarily, in the construction, erection, alteration or repair of a building, bridge, railroad, railway or structure of any kind.

3. "Corporate excess," in the case of a domestic business corporation,

except as hereinafter provided, the fair value of its capital stock on the last day of the taxable year as defined in paragraph numbered 6 of this section, less the value of the following on such date:

(a) The works, structures, real estate, motor vehicles, machinery, poles, underground conduits, wires and pipes owned by it within the state subject to local taxation, except such part of said real estate as represents the interest of a mortgagee.

(b) Securities, the income of which, if any, if received by a natural person resident in this state, would not be liable to taxation, except shares in national banks and voluntary associations, trusts and partnerships.

(c) Its real estate, machinery, merchandise and other tangible property situated in another state or country, except such part thereof as represents the interest of a mortgagee.

4. "Corporate excess employed within the state" by a foreign corporation, except as hereinafter provided, such proportion of the fair value of its capital stock on the last day of the taxable year as defined in paragraph numbered 6 of this section, as the value of the assets, both real and personal, employed in any business within the state on that date, bears to the value of the total assets of the corporation on said date, less the value of the following on such date:

(a) Works, structures, real estate, motor vehicles, machinery, poles, underground conduits, wires and pipes owned by it within the state subject to local taxation, except such part of said real estate as represents the interest of a mortgagee.

(b) Securities held in the state, the income of which, if any, if received by a natural person resident therein, would not be liable to taxation, except shares in national banks, voluntary associations, trusts and partnerships. In determining the proportion of assets employed within the state, the commissioner may include such bank deposits in other states as are employed principally in the conduct of the business in the state.

5. "Net income," the gross income from all sources, without exclusion, for the taxable year, less the deductions, other than losses sustained by the corporation in other fiscal or calendar years and other than dividends, allowable by the federal revenue act applicable for said taxable year.

6. "Taxable year," the fiscal or calendar year for which the corporation was required to make its last return to the federal government due prior to April 1st of the year in which the tax is to be assessed, or, if such return was for a fractional period, a full year, including and ending with such fractional period.

Sec. 36. In determining the corporate excess of a domestic business corporation, or the corporate excess employed within the state by a foreign corporation, the surplus and undivided profits shall be included in estimating the value of the capital stock, and there shall not be deducted the value of shares in national banks and in voluntary associations, trusts and partnerships, nor of other securities the income of which, if owned by a natural person resident in this state, would be liable to taxation, nor shall there be deducted the value of any shares of stock of the corporation itself owned directly or indirectly by it or for its benefit; and the commissioner, in determining for the purposes of taxation the value of the corporate excess of, or corporate excess employed within the state by, any such corporation, shall not take into consideration any debts of the corporation unless he is satisfied that no part of such debts was incurred for the purpose of reducing the amount of taxes to be paid by it, and, in the case of a corporation which is a subsidiary of another corporation or closely affiliated therewith by stock ownership, that such debts represent only the fair value of the property or services given therefor.

Sec. 37. Except as otherwise provided in section 39, every domestic business corporation shall pay annually an excise equal to the sum of the following, provided, that every such corporation shall pay annually a total excise not less in amount than $1/20$ of 1% of the fair value of its capital stock on the day fixed for determination of the value of its corporate excess:

(1) An amount equal to \$5 per thousand upon the value of its corporate excess.

(2) An amount equal to $2\frac{1}{2}\%$ of its net income determined to be taxable in accordance with the provisions of this chapter.

Liability for such excise shall be incurred by corporate existence at any time within the taxable year, or, in case the corporation has not established a taxable year, upon April 1st of the year in which the excise is to be assessed.

Sec. 38. The net income of a domestic business corporation which is a subsidiary of another corporation or closely affiliated therewith by stock ownership shall be determined by eliminating all payments to the parent corporation or affiliated corporations in excess of fair value, and by including fair compensation to such domestic business corporation for all commodities sold to or services performed for the parent corporation or affiliated corporations. For the purposes of determining such net income, the commissioner may, in the absence of satisfactory evidence to

the contrary, presume that an apportionment by reasonable rules of the consolidated net income of corporations participating in the filing of a consolidated return of net income to the federal government fairly reflects the net income taxable under this chapter, or may otherwise equitably determine such net income by reasonable rules of apportionment of the combined income of the subsidiary, its parent and affiliates or any part thereof.

Sec. 39. If 2 or more domestic business corporations participated in the filing of a consolidated return of income to the federal government, the tax under paragraph (2) of section 37 may, at their option, be assessed upon their combined net income, which tax shall be assessed to all said corporations and collected from any one or more of them.

Sec. 40. Every domestic business corporation shall, on or before the 10th day of April, make a return sworn to by its treasurer or assistant treasurer, or in their absence or incapacity by any other principal officer, in such form as the commissioner prescribes, giving such information as the commissioner requires for the determination of the tax imposed by this chapter.

Sec. 41. Any final determination of the federal net income made pursuant to the provisions of the federal law under which such net income is found to differ from the net income originally reported to the federal government shall be reported by the corporation to the commissioner within 70 days of receipt by it of notice of such final determination, with a statement of the reasons for the difference, in such detail as the commissioner may require. If from such report or upon investigation it appears that the tax with respect to income imposed by this chapter has not been fully assessed, the commissioner shall within 6 months of the receipt of such report, or within 6 months of discovery of such a determination, if unreported, assesses the deficiency, with interest at the rate of 6% from October 20 of the year in which the original return of income of the corporation was due to be filed, and the tax so assessed shall be payable within 30 days from the date of notice to the corporation of such assessment.

Sec. 42. The commissioner shall determine, in the manner provided in this and the following section, the part of the net income of a domestic business corporation derived from business carried on within the state. The following classes of income shall be allocated as follows:

(a) Interest and dividends included in net income as defined in section 35 of this chapter shall be allocated to this state.

(b) Gains realized from the sale of capital assets, if such assets consist of intangible property or if they consist of real estate or tangible personal property situated in the state shall be allocated to this state.

(c) Gains received from the sale of capital assets, if such assets, consist of real estate or tangible personal property situated outside of the state, shall not be allocated in any part to this state.

Sec. 43. Income of the classes described in the preceding section having been allocated, the remainder of the net income as defined in section 35 shall be allocated as follows:

1. If the corporation carries on no business outside the state, the whole of such remainder shall be allocated to this state.

2. If the corporation carries on any business outside the state, the remainder shall be divided into three equal parts:

(a) Of $\frac{1}{3}$, such portions shall be attributed to business carried on within the state as shall be found by multiplying said $\frac{1}{3}$ by a fraction whose numerator is the value of the corporation's tangible property situated within the state and whose denominator is the value of all the corporation's tangible property wherever situated.

(b) Of another $\frac{1}{3}$, such portion shall be attributed to business carried on within the state as shall be found by multiplying said $\frac{1}{3}$ by a fraction whose numerator is the expenditure of the corporation for wages, salaries, commissions or other compensation to its employees, and assignable to this state as hereinafter provided, and whose denominator is the total expenditure of the corporation for wages, salaries or other compensation to all its employees.

(c) Of the remaining $\frac{1}{3}$, such portion shall be attributed to business carried on within the state as shall be found by multiplying said $\frac{1}{3}$ by a fraction whose numerator is the amount of the corporation's gross receipts from business assignable to this state as hereinafter provided, and whose denominator is the amount of the corporation's gross receipts from all of its business.

3. In a case where only 2 of the foregoing 3 rules are applicable, the said remainder of net income of the corporation shall be divided into 2 equal parts only, each of which shall be apportioned in accordance with 1 of the remaining 2 rules. If only 1 of the 3 rules is applicable, the part of the net income received from business carried on within the state shall be determined solely by that rule.

4. The value of the corporation's tangible property for the purposes of this section shall be the average value of such property during the taxable year.

5. The amount assignable to this state of expenditure of the corporation for wages, salaries, commissions or other compensation to its employees shall be such expenditure for the taxable year as represents the compensation of employees not chiefly situated at, connected with or sent out from the premises for the transaction of business owned or rented by the corporation outside of the state.

6. The amount of the state's gross receipts from business assignable to this state shall be the amount of its gross receipts for the taxable year from (a) sales, except those negotiated or effected in behalf of the corporation by agents or agencies chiefly situated at, connected with or sent out from premises for the transaction of business owned or rented by the corporation outside the state and sales otherwise determined by the commissioner to be attributable to business conducted on such premises, (b) rentals or royalties from property situated, or for the use of patents, within the state.

7. If the corporation maintains an office, warehouse or other place of business in a state other than this state for the purpose of reducing its tax under this chapter, the commissioner shall, in determining the amount of its gross receipts from business assignable to this state, include therein the gross receipts from sales attributed by the corporation to the business conducted at such place of business in another state.

8. In case of consolidated returns of net income, the commissioner shall allocate such income, so far as practicable, in accordance with the above rules.

9. A rule shall not be deemed to be inapplicable merely because all the tangible property or the expenditure of a corporation for wages, salaries, commissions or other compensation, or gross receipts of the corporation, are found to be situated, incurred, or received without the state.

10. A domestic corporation shall be deemed to carry on business outside this state within the meaning of this section only when activities in another state or country give such state or country jurisdiction to tax the corporation in respect to such activities.

Sec. 44. Except as otherwise provided herein, every foreign corporation shall pay annually, with respect to the carrying on or doing of business by it within the state, an excise equal to the sum of the following, provided that every such corporation shall pay annually a total excise not less in amount than $1/20$ of 1% of such proportion of the fair value of its capital stock as the assets, both real and personal, employed in any business within the state bear to the total assets of the corporation employed in business on said date:

(1) An amount equal to \$5 per thousand upon the value of the corporate excess employed by it within the state.

(2) An amount equal to $2\frac{1}{2}\%$ of its net income determined to be taxable in accordance with the provisions of this chapter.

If 2 or more foreign corporations doing business in this state participated in the filing of a consolidated return of income to the federal government, the tax under paragraph (2) above may, at their option, be assessed upon their combined net income, in which case the tax shall be assessed to all said corporations and collected from any one or more of them.

Liability for such excise shall be incurred by corporate activity within the state at any time within the taxable year, or, in case the corporation has not established a taxable year, upon April 1st of the year in which the excise is to be assessed.

Sec. 45. Every foreign corporation shall make returns as provided in sections 40 and 41; and all provisions of said sections shall apply to such corporations.

Sec. 46. The commissioner shall, except as otherwise provided in section 47, determine in the manner provided in this section the part of the net income of a foreign corporation derived from business carried on within the state.

The following classes of income shall be allocated as follows:

(a) Gains realized from the sale of capital assets, if such assets consist of real estate or tangible personal property situated in the state, shall be allocated to this state.

(b) Interest received from any corporation organized under the laws of the state, or from any association, partnership or trust having transferable shares and having its principal place of business in the state, or from any inhabitant of the state, except interest received on deposits in trust companies or in national banks doing business in the state, shall be allocated to this state.

(c) Gains realized from the sale of capital assets other than those named in paragraph (a) above shall not be allocated in any part to this state.

(d) Interest other than that described in paragraph (b) above and dividends shall not be allocated in any part to this state.

Income of the foregoing classes having thus been allocated, the remainder of the net income as defined in section 35 shall be allocated as follows:

If a foreign corporation carries on no business outside this state, the remainder of the net income shall be allocated as provided in paragraphs 2 to 9, inclusive, of section 43.

Sec. 47. Upon application by a foreign corporation carrying on part of its business outside the state, on or before the time when its return under this chapter is due to be filed, the commissioner shall determine its income derived from business carried on within the state by a method other than that set forth in the preceding section, provided it shall appear that the method so set forth in the preceding section, provided it shall appear that the method so set forth is not reasonably adapted to approximate, in the case of the applying corporation, the income so derived. A foreign corporation which so applies, and every such corporation which is foreign to the United States and which is required to return to the federal government only income from sources within the United States, shall on or before May 10th file with the commissioner, under oath of its treasurer, a statement in such detail as the commissioner shall require, showing the amount of its annual net income derived from business carried on within the state and such other information as the commissioner may require with reference thereto, and the commissioner shall by reasonable methods determine the amount of the net income received from business carried on within the state. The amount thus determined shall be the net income taxable under this chapter and the foregoing determination shall be in lieu of the determination required by the preceding section. If a foreign corporation in any year applies to the commissioner to have its income derived from business carried on within the state determined by a method other than that set forth in the preceding section and the commissioner makes such determination, the commissioner may, in his discretion, with respect to any year during the 2 year period following the year for which such application was made, require similar information from such corporation if it shall appear that the allocating method set forth in the preceding section is not reasonably adapted to approximate for the pertinent year the income derived from business carried on within the state and may, by reasonable methods, determine such income in the same manner as if the corporation had applied to have its income so determined.

Sec. 48. After determining the amount of tax due from any foreign corporation under paragraph (2) of section 44, the commissioner shall then credit the corporation with a sum equal to 5% of the dividends paid by it, during the previous calendar year, to inhabitants of this state, and the amount then remaining due shall be the amount of tax to be levied upon the corporation under said paragraph; provided, that if more than $\frac{1}{2}$ of the capital stock of any such corporation is owned by another foreign corporation not subject to taxation under sections 35 to 55, inclusive, but has stockholders who are inhabitants of this state and are subject to taxation

upon their income under section 1 of this chapter, such corporation, upon filing with the commissioner such information as he shall deem necessary for the purpose, shall be credited with a sum equal to 5% of such a proportion of its total dividends as will prevent double taxation of the income of the corporation and of the dividends of such other foreign corporation actually taxed to inhabitants of this state.

Sec. 49. The commissioner shall determine, from the returns required by this chapter and from any other available information, the net income derived from business carried on within the state and the corporate excess of every domestic business corporation, and the net income derived from business carried on within the state of, and the corporate excess employed within the state by, every foreign corporation, and shall assess thereon the tax provided for in this chapter. Except as otherwise provided in this chapter, the part of said tax which is based upon the value of the corporate excess, or corporate excess employed within the state, shall be assessed and collected in the same manner and with the same powers as provided in this chapter for the taxation of corporate franchises, and shall be subject to the other administrative provisions thereof. He shall not determine the income of any such corporation, which has filed a return within the time prescribed by law, to be in excess of the income shown by such return, without notifying the corporation and giving it an opportunity to explain the apparent incorrectness of the return. For the purpose of verifying any such return, the commissioner may, within 2 years after September 1st of the year in which such return was due, examine personally or by deputy or agent the books and papers of the corporation, which shall be open to such officer for verification.

Sec. 50. If the commissioner discovers from the verification of a return, or otherwise, that the full amount of any tax due under sections 35 to 55, inclusive, has not been assessed, he may, at any time within two years after September 1st of the year in which such assessment should have been made, assess the same, with interest at 6% from October 20th of said year, first giving notice to the corporation to be assessed of his intention; and a representative of the corporation shall thereupon have an opportunity, within 10 days from the notification the commissioner shall assess the amount of the tax remaining due to the state, and shall give notice to the corporation so assessed. Any tax so assessed shall be payable to the commissioner 14 days after the date of the notice.

Sec. 51. If no return, or an incorrect or insufficient return, has been filed, and the corporation so in default refuses or neglects after notice to

file a proper return, or if a fraudulent return has been filed, the commissioner shall determine the income of the corporation according to his best information and belief, and shall assess the same at double the amount so determined, which additional tax shall be in addition to the other penalties provided for by this chapter.

Sec. 52. The commissioner shall make from time to time such reasonable rules and regulations, consistent with this chapter, as he may deem necessary for carrying out their provisions.

Sec. 53. The commissioner shall annually, as soon as may be after the first Monday of August, give notice to the treasurer of each corporation of the amount of any tax levied upon it under sections 35 to 55, inclusive, of the date upon which such amount is payable and of the time within which the corporation may apply for a correction of the tax; but failure to receive said notice shall not affect the validity of the tax. Such taxes shall be payable to the commissioner within 30 days after the date of said notice, but not before October 20th. In the collection of all taxes under said sections 35 to 55, inclusive, the commissioner shall have all the remedies provided by law for the collection of other taxes upon corporations.

Sec. 54. If a corporation fails to file the returns required by sections 40, 41 and 45 when they are due, there shall be added to and become a part of the tax, as an additional tax, the sum of \$5 for every day during which the corporation is in default; but the commissioner may abate any such additional tax in whole or in part.

Sec. 55. If any return required by section 40, 41 or 45 contains a false statement which is known or, by the exercise of reasonable care might have been known to the officer making it to be false, such officer and the corporation shall be liable for the amount of tax thereby lost to the state, and in addition to a penalty of not less than \$500 nor more than \$5000.

Sec. 56. All taxes received by the income tax assessors shall be accounted for and turned over to the State Treasurer as often as once in each week, and shall be specifically appropriated for the payment of Old Age Pensions, and the controller shall credit said amounts to the Old Age Pension Fund.

Sec. 57. If any part, subdivision or section of this chapter shall be declared unconstitutional, the validity of its remaining provisions shall not be affected thereby.

Sec. 58. If any person required to file a return under this chapter fails to file the return within the time prescribed therein, the sum of \$5 for every day during which such person is in default shall be added to, and become part of the tax, as an additional tax; but the commissioner may, in his discretion, abate any such additional tax in whole or in part.

Sec. 59. Whoever files a fraudulent return, and whoever, having failed to file a return or having filed an incorrect or insufficient return without reasonable excuse fails to file a return within 20 days after receiving notice from the commissioner of his delinquency, shall be punished by a fine of not less than \$100 nor more than \$10,000, or by imprisonment for not more than 1 year, or both, and shall forfeit his right to hold public office anywhere within the state for such period, not exceeding 5 years, as the court determines.

TITLE III.

Revenue From Small Loan Agencies

Sec. 1. For the purpose of raising money for the payment of old age pensions, all sums of money above the amount of revenue received from small loan agencies during the past fiscal year, be and hereby is appropriated for that purpose, and shall be used exclusively for the payment of old age pensions.

Sec. 2. The 1st 3 sentences of section 143 of chapter 57 of the revised statutes is hereby amended to read as follows:

'Sec. 143. No person, copartnership, or corporation shall engage in the business of making any loan of money, credit, goods, or choses in action in the amount of or to the value of \$300, or less, whether secured or unsecured, and charge, contract for, or receive a greater rate of interest than 6% per annum therefor, without first obtaining a license from the bank commissioner. Application for such license shall be in writing and shall contain the full name and address, both of residence and place of business, of the applicant, and if the applicant is a copartnership, of every member thereof, or if a corporation, of every officer thereof; also the county and municipality, with street and number, if any, where the business is to be conducted. Every such applicant, at the time of making such application, shall pay to the bank commissioner an annual license fee as follows: if no loans have been made or if the average amount of loans outstanding during the preceding year ending November 30, has not exceeded \$20,000, a fee of \$500, and for every additional \$50,000, or fraction thereof, an additional fee of \$500.'

Sec. 3. Section 150 of chapter 57 of the revised statutes is hereby amended to read as follows:

'Sec. 150. Every person, copartnership, and corporation licensed hereunder may loan any sum of money, goods, or choses in action not exceeding in amount or value the sum of \$300, and may charge, contract for and receive thereon interest at a rate not to exceed 3% per month on unpaid balances, provided however, the licensee shall pay to the state treasurer a sum of money monthly equal to 75% of all interest collected in excess of 1½% of any unpaid balances. The state controller shall credit said receipts to the old age pension fund. No person shall owe any licensee at any time more than \$300 for principal.'

Sec. 4. The 1st sentence of section 155 of chapter 57 of the revised statutes is hereby amended to read as follows:

'Sec. 155. No person, copartnership, or corporation except as authorized by sections 143 to 161 shall, directly or indirectly, charge, contract for, or receive any interest or consideration greater than 6% per annum upon the loan, use, or forbearance of money, goods, or choses in action, or upon the loan, use, or sale on credit, of an amount or value of \$300 or less.'

TITLE IV.

An Act to Provide Ports of Entry for Inspection and Registration of Motor Vehicles

Sec. 1. In order to facilitate the enforcement of existing laws of this state concerning "motor vehicles," to provide revenue for the payment of old age pensions, and to promote the safety and welfare of the public, the preservation and maintenance of the public highways, and the integrity of the regulation of motor carriers, and more equally to distribute the payment of registration fees, licenses, gross ton mileage taxes, and other charges imposed by law upon motor carriers of passengers and property for compensation, it is hereby declared necessary to provide for the establishments of registration stations of ports of entry into the state of Maine upon certain main highways entering the state, through which every such motor carrier of passengers or property for compensation shall enter the state, register, be inspected, and secure permission and authority to proceed into or across the state upon its public highways.

Sec. 2. There is hereby created a board, to be known as the "port of entry board" which shall be composed of the chairman of the state highway commission, the chairman of the public utilities commission, and the sec-

retary of state. Said board is invested with power to make all needful rules and regulations, to secure proper and efficient enforcement of this act and the other laws of the state of Maine, in relation to motor carriers of passengers and property for hire not inconsistent with or in derogation of the powers, duties, and responsibilities placed by existing statutes upon any other state official.

Sec. 3. The port of entry board shall designate a sufficient number of the main highways entering this state to reasonably meet the needs and requirements of persons, firms, and corporations operating motor vehicles for the transportation of passengers and property for compensation who enter this state from points beyond its boundaries, and shall establish on each of said designated highways, at a point not more than 15 miles from the state line, a registration office or port of entry where inspections and registrations service shall be maintained. The port of entry board is hereby authorized and empowered to appoint such deputies, agents, and employees as it deems necessary properly to conduct and manage the affairs of such registration offices, and to give service at such registration offices and ports of entry reasonably necessary to meet the needs and requirements of all persons required to register and receive inspection thereat.

Sec. 4. Every motor carrier who shall transport any passengers or property into this state by means of the public highways of this state must enter the state on a highway designated as herebefore provided, and shall without delay stop at the registration office or port of entry established on such highway, and register, and submit to inspection: Provided, however, that the provisions of this act shall not apply to motor carriers of passengers on regular routes between any city of this state and an adjoining city of a neighboring state where the operations are not conducted outside the limits of the city in this state and are a part of the general street railroad transportation system in said cities, or to ambulances or funeral hearses; provided, further, that trucks used exclusively in delivering newspapers directly from the publishers thereof to distributors, or hauling United States mail, shall be issued monthly clearance certificates which shall permit such trucks to pass without delay through ports of entry upon the filing of a manifest of each trip. The driver of the motor vehicle shall immediately make out and deliver to the inspector at such port of entry a card showing the name of the owner of the vehicle, the name of the forwarding or other company in whose service said vehicle is being driven, the date, the state in which said vehicle is licensed, the license number, the state in which said vehicle has been granted a motor carrier permit, if any, and number of such permit, the motor number, and

the serial number of the vehicle, and a description of such vehicle, whether automobile, truck, trailer, semitrailer, tractor, motor bus, or other type of motor-driven vehicle, the point of origin of the shipment, the ultimate destination of the shipment, the gross load weight of vehicle and cargo, and the rated tonnage indicated, the number of taxable miles to be traveled within the state, the number of exempt miles to be traveled within the state, and the nature, amount, and coverage of all public liability or other insurance carried upon said vehicle or the cargo thereon. The driver of said vehicle shall likewise declare upon said registration card the name and number of the highway or highways which he intends to use within the state, and the place where he intends to leave the state. Said card shall be signed by the operator or driver and filed with the person in charge of said registration station. The driver or operator of said vehicle shall likewise deposit with the person in charge of said registration station or port of entry, a full, true and correct copy of his manifest, which shall show the precise nature and character of the cargo, and the weight thereof, and shall be certified as a true and correct copy of the original manifest by the issuer thereof; provided, however, every motor carrier of property and persons for compensation operating in this state and duly authorized to operate as such by the state public utilities commission and who is not delinquent in taxes and who has fully complied with all of the laws of this state relating to motor carriers, and the rules and regulations of the public utilities commission, shall not be compelled to file a copy of his manifest except upon authority and direction of the state public utilities commission.

The person in charge of such registration station or port of entry shall verify the information contained upon said card and manifest, and shall check the license, permit, motor, and serial numbers, weight, and description of the vehicles. Such person shall likewise inspect said vehicle and ascertain whether the same is in safe and roadworthy condition, properly equipped with all lights, brakes, and other appliances required by any statute of this state, in such condition as to be safe for operation upon the public highways of this state.

The person in charge of said port of entry or registration station shall likewise satisfy himself as to the nature and character of the cargo, of the weight thereof, and is authorized to do any and all things necessary to obtain full and complete information in respect thereto, and if in doubt as to the declared weight may proceed to weigh the same before issuing any clearing certificate for such motor vehicle.

Sec. 5. No such motor vehicle transporting passengers or property for compensation, shall be allowed to proceed from such port of entry into

the state of Maine upon the highways thereof, until and unless it has been duly registered and inspected at such port of entry or registration office, and a clearance certificate issued therefor.

If such motor vehicle shall not be registered or licensed in this state, and shall not have a license or permit from the Maine public utilities commission, and shall not have made a deposit, or paid gross ton mileage tax to the state of Maine, but shall be duly registered and licensed as a motor carrier of passengers or property under the laws of some other state, and shall have been granted a carrier's permit under the laws of some other state (if such carrier's permit is required by the laws of the state in which said motor vehicle is licensed), and the owner or proprietor or driver thereof shall, upon the registration card declare that said motor vehicle is not making and has not made regular trips into the state of Maine for the transportation of passengers or property, and does not desire registration of such vehicle in the state of Maine, nor a carrier's permit within said state, a special permit for the purpose of one particular trip only into the state, may be issued by the person in charge of said registration station or port of entry, to the driver of said motor vehicle under the following terms and conditions, and upon the payment of the fee therefor shown in the following schedule:

A. Said vehicle must be duly registered and licensed under the laws of some one of the several states, and carry proper license tags from that state showing the true rated ton capacity thereof.

B. Said vehicle must be duly marked, tagged, or otherwise designated as having received a proper carrier's permit, with the permit number as required by the law of the state in which it is licensed.

C. Said vehicle must be in a safe and roadworthy condition and duly equipped and provided with all appliances and equipment required by the laws of the state of Maine, properly loaded, not overloaded, and of the size, dimensions, load distribution, and other specifications required by the statutes of this state.

D. Said vehicle shall be properly covered by liability insurance issued in some insurance company or association authorized to transact business in the state of Maine, with coverage for its operation within the state of Maine of not less than \$5,000 for any one person, or less than \$10,000 for all persons who may sustain injuries or be damaged in any one contingency or accident covered by such insurance policy.

E. The insured under said policy of liability insurance, and the owner, proprietor, and driver of said vehicle, and/or the firm, person, or corporation in whose service the same is being operated, shall by sending said motor vehicle into the state of Maine and making application for such

special permit, irrevocably appoint and constitute the secretary of state of the state of Maine, process agent for him, it, or them, upon whom service of summons may be made in any action filed in the proper court of the state of Maine, in the same manner as service is made upon foreign corporations in the state of Maine by serving process upon the secretary of state. The supplying of information required upon the registration card and hereinbefore provided, and such additional information as may be required by the port of entry board.

F. And the payment by the driver of said vehicle for such special permit for passage over the highways of the state of Maine to the destination in the state of Maine declared upon said registration card, or to the state line of the state of Maine at which point said vehicle shall leave the state if traveling through the state, as follows, to wit:

Gross weight of vehicle and cargo not exceeding fifteen thousand (15,000) pounds, one and one-half ($1\frac{1}{2}$) cents per mile from port of entry station to point of destination or place of leaving the state.

Gross ton weight of vehicle and cargo exceeding fifteen thousand (15,000) pounds, and not exceeding twenty-five thousand (25,000) pounds, at two (2) cents per mile from port of entry station to point of destination or place of leaving the state.

Gross ton weight of vehicle and cargo exceeding twenty-five thousand (25,000) pounds at three (3) cents per mile from port of entry station to point of destination or place of leaving the state.

Upon compliance with the foregoing conditions and payment of the fee therefor as above set forth, the person in charge of said registration station or port of entry, shall issue to the driver of said vehicle, special permit or clearance certificate to go from said port of entry to the destination declared, and to return from said destination, if within the state of Maine, to the point of entrance. Said clearance certificate shall be of distinctive color prescribed by the port of entry board, and shall contain a large letter S indicating special, and shall show such date as the port of entry board shall prescribe including the serial number of such special permit, all of which shall be numbered serially, the date, the port of entry from which issued, the destination to which issued, and the amount paid therefor, together with the license or tag number of said motor vehicle.

Sec. 6. Clearance certificates issued under this act shall be in the form of stickers in such size and form as may be prescribed by the port of entry board, so that they can readily be fastened to the windshield of the motor vehicle, and they must remain upon the windshield of the motor vehicle for identification purposes, until the trip for which they are issued has been

completed. They shall be of such design, color and printing as to be readily identified, and the design, color, and printing may be changed from time to time by the port of entry board.

Sec. 7. The driving of any motor vehicle as herein defined into this state in the transportation of passengers or property, without the same first being registered and inspected at a registration station or port of entry, and without there being displayed upon the windshield thereof a clearance certificate or special permit, is hereby prohibited, declared unlawful. Any violation of this act shall constitute a misdemeanor cognizable in any county in the state in which such driving takes place or in which the driver of such vehicle shall be apprehended, and shall be punishable by a fine not exceeding \$100 or imprisonment not exceeding 30 days, or both, plus the payment of the proper amount for a special permit from the place where such vehicle entered the state to its destination within the state or to the place where it proposes to leave the state, and the vehicle and cargo may be held by the arresting officer or the department of registrations and inspections, or the state highway department, or any police department, or sheriff's office, having jurisdiction, until such fine, special permit fee, and costs are paid, and the offending driver may be required by the court imposing such sentence, to return to the port of entry through which he should have passed and there comply with all the provisions of this act with which he should have complied in the first place by the terms hereof. All special permit fees collected as a part of the sentence under any arrest and conviction hereunder, shall not be regarded as fines, but as fees to be paid over to the state treasurer by the court into which the same is paid, as though paid at a registration office or port of entry.

Sec. 8. All moneys collected for special permits or otherwise by the inspector in charge of any registration office or port of entry, shall be reported and paid over to the state treasurer, and the state controller shall credit such funds to the Old Age Pension fund.

TITLE V.

Taxation of Games of Skill and Slot Machines

Sec. 1. For the purpose of raising money for the payment of old age pensions, all sums of money above the costs of collection of the revenue derived from the licensing of games of skill and slot machines, is hereby appropriated for that purpose, and shall be used exclusively for the payment of old age pensions.

Sec. 2. Section 1 of chapter 82 of the public laws of 1935, is hereby amended to read as follows:

'Sec. 1. Terms defined. "Games of skill" shall mean any slot machine, or contrivance which releases balls or other objects subject to the controls of the slot machine or contrivance, upon the insertion of a coin, disc or token, the play of which machine or contrivance is in some measure dependent on the skill of the player. It shall also include the game of beano, or like games of chance.

A "slot machine" shall mean any machine used for gambling wherein no skill of the player is involved.

The word "dealer" or "distributor" shall mean any person, firm or corporation that is engaged in the business of buying, selling, exchanging, leasing, letting, hiring, or placing for use any game of skill or slot machine within the meaning of this act, within the state. The word "keeper" as used in this act, shall mean any lessee or tenant of any premises where said games of skill or slot machines are kept for operation or play, directly or indirectly, by the public, or by any person or persons other than the keeper.'

Sec. 3. Section 2 of chapter 82 of the public laws of 1935, is hereby amended to read as follows:

'Sec. 2. Every person, firm or corporation engaged in the business of buying, selling, exchanging, leasing, letting, hiring, or placing for use any game of skill or slot machine in the state, shall first file with the state tax assessor an application for a distributor's license, accompanied with a fee of \$500, which license, if granted, shall expire annually on the 30th day of June. Every keeper of each and every game of skill or slot machine, before permitting the use of such contrivance, shall first file with the state tax assessor an application for a keeper's license, accompanied with a fee of \$100, which license, if granted, shall expire annually on the 30th day of June. In case of failure to comply with the provisions of this act and rules and regulations made by the state tax assessor, he may revoke a distributor's or keeper's license without refund of license fee.'

Sec. 4. Section 4 of chapter 82 of the public laws of 1935, is hereby amended to read as follows:

'Sec. 4. No person, firm or corporation shall have in his possession any game of skill or slot machine, unless licensed in accordance with section 2 of this act. The provisions of chapter 136 of the revised statutes as amended, shall not apply to the possession or operation of any duly licensed

game of skill or slot machine, and said chapter is further amended by striking out therefrom the words "slot machine" wherever they appear.'

Sec. 5. Section 5 of chapter 82 of the public laws of 1935, is hereby amended to read as follows:

'**Sec. 5.** Said license when issued shall be exhibited on the specific game of skill or slot machine for which it was issued, and said license shall not be transferred from one machine to another.'

Sec. 6. The last sentence of section 8 of chapter 82 of the public laws of 1935, is hereby amended to read as follows:

'All monies collected under the provisions of this act, less the expenses incurred for administration, shall be paid into the state treasury monthly by said bureau, and shall be added to and shall constitute part of the old age pension fund.'

TITLE VI.

An Act Relating to the Sale of Intoxicating Liquor

Sec. 1. Section 12 of chapter 300 of the public laws of 1933 as amended by chapter 24 of the public laws of 1935, is hereby amended to read as follows:

'**Sec. 12.** The fiscal year for the operation of said stores shall close each year upon the 30th day of June beginning in the year 1935; and the annual net profits from the operation of said stores shall be determined as of that date. The amount of said annual net profits shall be determined by the commission, subject to audit by the state controller, and when so determined and audited, \$700,000 of that amount shall be used exclusively for the payment of old age pensions, and shall be credited to the old age pension account.'

TITLE VII.

AN ACT Relating to Licenses for Retail Stores.

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

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

Such license fees shall be:

- (1) For 1 store, \$5.
- (2) Upon each store in excess of 1 store, not exceeding 5 stores, \$20.
- (3) Upon each store in excess of 5 stores but not exceeding 10 stores, \$30.
- (4) Upon each store in excess of 10 stores but not exceeding 15 stores, \$60.
- (5) Upon each store in excess of 15 stores but not exceeding 25 stores \$75.
- (6) Upon each store in excess of 25 stores, \$100.'

Sec. 2. Section 7 of chapter 260 of the public laws of 1933, is hereby amended to read as follows:

'The term store as used in this act shall mean and include any store or stores, shop, mercantile establishment, office, warehouse, depot, business stand or station or other place where trade or business is carried on, where goods, wares and merchandise of any kind are sold at retail.'

Sec. 3. Section 9 of chapter 260 of the public laws of 1933, is hereby amended to read as follows:

'**Sec. 9.** Any and all expenses incurred by said bureau in the administration of this act shall be paid out of the funds accruing from the fees imposed by and collected under the provisions of this act. All money collected, exclusive of said expenses shall be paid into the state treasury monthly, and shall be added to and constitute part of the Old Age Pension Fund.'

TITLE VIII.

AN ACT Relating to Horse Racing for Trotters and Pacers and Creating a State Racing Commission.

Sec. 1. The last 2 sentences of section 16 of chapter 130 of the public laws of 1935, are amended to read as follows:

'Commissions on such pools shall in no event and at no track exceed 15% and the odd cents of all redistribution to be made on all mutuel contributions exceeding a sum equal to the next lowest multiple of 5. Said maximum shall include the 8½% tax hereinafter prescribed.'

Sec. 2. Section 17 of chapter 130 of the public laws of 1935, are amended to read as follows:

'**Sec. 17.** Each person, association or corporation licensed to conduct a race or race meet under this act shall pay to the treasurer of the state for

the use of the state a sum equal to $8\frac{1}{2}\%$ of the total contributions to all pari mutuel pools conducted or made at any race or race meet licensed under this act. The state controller shall credit 80% of said receipts to the fund for payment of old age pensions, and said fund shall be used exclusively for that purpose.'

TITLE IX.

AN ACT Providing for Taxation of Hotels and Roadside Camps.

Sec. 1. For the purpose of raising money for the payment of Old Age Pensions, every keeper of a summer hotel, and keeper of roadside camps, shall on the 1st day of July of each year, pay to the treasurer of the state of Maine, a tax of \$1 for every hotel room of hotels containing 25 rooms or less, for every additional room from 25 to 50, a tax of \$2 per room, and for every room in excess of 50 rooms, a tax of \$3 dollars per room, and for every single camp, a tax of \$5, and for every camp containing more than 1 room, an additional tax of \$5 for each room. This tax is imposed for the privilege of conducting a hotel or roadside camp business. All money received in payment for said privilege is hereby appropriated for the purpose of the payment of old age pensions, and the controller shall credit all receipts to the Old Age Pension fund.