

MAINE STATE LEGISLATURE

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

Legislative Document

No. 221

H. P. 675

House of Representatives, January 28, 1949.

Referred to Committee on Taxation. Sent up for concurrence and 1,000 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Campbell of Garland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-NINE

AN ACT Relating to Aid to Dependent Children and Providing Revenue
Therefor.

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

Sec. 1. R. S., c. 22, §§ 226-235, repealed and replaced. Sections 226 to 229, inclusive, section 229-A as enacted by section 1 of chapter 370 of the public laws of 1947, section 230 as amended by section 2 of chapter 370 of the public laws of 1947, and sections 231 to 235, inclusive, of the revised statutes are hereby repealed and the following sections to be numbered 226 to 235, inclusive, are enacted in place thereof:

‘Sec. 226. Definition. The word “aid” means money payments with respect to a dependent child or children made to the relative with whom the child is living.

Sec. 227. Requisites for aid. Aid to dependent children shall be granted under the provisions of sections 226 to 235, inclusive, with respect to any child who:

I. Is a needy child under the age of 16, or under the age of 18 if found by the department to be regularly attending school;

II. Has been deprived of parental support or care by reason of the death, continued absence from home, or the physical or mental incapacity of a parent;

III. Is living with any relative except a cousin, nephew or niece, in a place of residence maintained by one or more of such relatives as his or their own home;

IV. Has resided in the state for 1 year immediately preceding the application for such aid, or who was born within the state within 1 year immediately preceding the application, if its mother has resided in the state for 1 year immediately preceding the birth of the child.

Sec. 228. Recipient or the relative with whom the child is living not to be pauperized. The receipt of aid to dependent children shall not pauperize the recipient or the relative with whom the child is living and the receipt of general relief by such recipient or relative with whom the child is living shall not be considered to be pauper support. General relief expenses incurred by any municipality or by the state in behalf of such recipient or relative with whom the child is living, may be paid from funds made available for the relief of the poor, but shall in no other respect be treated as pauper expense. The town of settlement, or the state in non-settled cases, shall reimburse the place of residence for such general relief in the same manner as is provided by sections 24 and 28 of chapter 82.

Sec. 229. Application. Application for aid under the provisions of sections 226 to 235, inclusive, shall be made to the department on forms provided for this purpose by the department. Such applications shall be made by the relative with whom the child is living and shall contain such information as may be required by the department.

Sec. 230. Amount of aid. The amount of aid which shall be granted for any dependent child shall be determined with due regard to the resources and necessary expenditures of the family on a budgetary basis and in accordance with the rules and regulations of the department and shall be sufficient, when added to all other income and support available to the child, to provide such child with a reasonable subsistence compatible with decency and health, but not exceeding \$50 per month for such dependent child, or, if there is more than one such child in one family, then not exceeding \$50 per month for the 1st such child, \$25 per month for the 2nd such child and \$20 per month for each additional such child, plus such sums as may be necessary for extraordinary dental, surgical and medical expenses. Payments shall be made semimonthly.

Sec. 231. Payment of moneys to guardian or conservator. If the relative with whom a dependent child is living is found by the department to be incapable of handling money for the best interests of the dependent child, the department may pay the same to a legally-appointed guardian or conservator of such relative for the benefit of said dependent child.

Sec. 232. Department of health and welfare to administer funds. The department of health and welfare shall administer all funds appropriated for the purposes of sections 226 to 235, inclusive. It may grant prompt and suitable temporary aid to any dependent child when in its opinion such aid is immediately necessary. Nothing in sections 226 to 235, inclusive, shall be construed as authorizing any public official, agent or representative, in carrying out any provisions of this chapter, to take charge of any child over the objection of either the father or the mother of such child, or of the person standing in loco parentis to such child, except pursuant to a proper court order.

Sec. 233. Right of appeal. Any person who is denied aid or who is not satisfied with the amount of aid allotted to him by the department, or who is dissatisfied with a decision of the department made under any provision of sections 226 to 235, inclusive, shall have the right of appeal to the commissioner, who shall provide the appellant with reasonable notice and opportunity for a fair hearing. Said commissioner or a member of the department designated and authorized by him shall hear all evidence pertinent to the matter at issue and render a decision thereon within a reasonable period after the date of the hearing; provided that when the evidence in the case is heard by a person other than the commissioner, the decision shall be rendered in the name of the commissioner.

Sec. 234. Acceptance of provisions of federal law. The department is authorized to:

- I. Apply for federal aid under the provisions of Title IV of the federal social security act. (Public No. 271, 74th congress);
- II. Cooperate with the federal government in matters of mutual concern pertaining to aid to dependent children, including the provision of such methods of administration as are found to be necessary for the efficient operation of the plan for such aid;
- III. Make such reports in such form and containing such information as the federal government may from time to time require, and comply with such provisions as the federal government from time to time find necessary to assure the correctness and verification of such reports.

Sec. 235. Federal grants. The treasurer of state shall be the appropriate fiscal officer of the state to receive federal grants on account of aid to dependent children and administration thereof, as contemplated by Title IV of the federal social security act, and the state controller shall authorize expenditures therefrom as approved by the department.'

Sec. 2. R. S., c. 14, §§ 244-253, additional. Chapter 14 of the revised statutes is hereby amended by adding thereto 10 new sections to be numbered 244 to 253, inclusive, to read as follows:

'Sec. 244. Certain terms defined. The following words and phrases as used in sections 244 to 253, inclusive, shall have the following meanings unless the context otherwise requires:

"Person", an individual, a partnership, society, association, joint stock company, corporation and any combination of individuals, and shall include fiduciaries and receivers.

"Taxable charge", any amount including cover and other charges, for which the purchaser is charged as a total \$1 or more, charged for meals wherever served within the state, except in airplanes in flight.

"Taxpayer", any person making a taxable charge.

Sec. 245. Tax upon charges for meals. There is hereby levied and there shall be collected and paid a tax equivalent to 5% of the amount charged for all meals, including cover and other charges, if any, for which the purchaser is charged as a total \$1 or more, wherever served within the state, except in airplanes in flight. The state tax assessor shall prescribe the method of determining the portion of an entire charge which is applicable to meals in the event that such entire charge is in part for meals and in part for lodging or any other item or service. The excise shall be paid by the taxpayer to the state tax assessor at the time and in the manner hereinafter provided.

Sec. 246. Registration; identification certificate; penalty for failure to register. Every taxpayer shall register with the state tax assessor and pay to him the sum of \$1, upon receipt of which the state tax assessor shall issue a numbered identification certificate in such form as he may determine, attesting that such registration has been made. The certificate so issued shall remain in effect so long as the taxpayer is engaged in the business of serving meals to the public and has complied with the provisions of sections 244 to 253, inclusive. No taxpayer shall on and after October 1st, 1949, engage in serving meals to the public without such registration certificate. Viola-

tion of any provision of this section shall be punishable by a fine of not less than \$200, nor more than \$500.

Sec. 247. Taxpayer to keep records. Every taxpayer shall keep such records of taxable charges and in such form as the state tax assessor may require. Such records shall be offered for inspection and examination at any time upon demand by the state tax assessor or his duly authorized agent or employee and shall be preserved for a period of 3 years; provided, that the state tax assessor may consent to their destruction within that period or may require that they be kept longer.

Sec. 248. Returns. Every taxpayer shall file with the state tax assessor a return of his taxable charges for each calendar month. Every such return shall be filed within 10 days after the expiration of the period covered thereby; provided, that the state tax assessor may extend the time for filing. The form of return hereunder shall be prescribed by the state tax assessor and shall contain such information as he may deem necessary for the proper administration of sections 244 to 253, inclusive.

Sec. 249. Payment of tax; penalty; bond of taxpayer. At the time of the filing of any return required under the provisions of section 248 the taxpayer shall pay to the state tax assessor the excise imposed by sections 244 to 253, inclusive, for the period covered by such return. The excise for the period for which a return is required to be filed shall be due and payable on the date determined for the filing of the return for such period, without regard to whether the return is filed or whether the return which is filed correctly shows the amount of tax due. A taxpayer failing to pay the excise assessed by the state tax assessor under the provisions of sections 244 to 253, inclusive, shall pay interest at the rate of 6% per year from the time when such excise was payable until paid, if such payment is made before the commencement of proceedings for the recovery thereof, and 12% if made after the commencement thereof. The state tax assessor may enforce the collection of this excise by an action of debt in the name of the state. Any taxpayer shall file with the state tax assessor, if so required by him at any time, a bond, running to the state, in a penal sum determined, and in a form approved, by the state tax assessor, executed by such taxpayer and by a surety company authorized to do business in the state as surety, and conditioned upon the payment of any excise or penalties due or which may become due from such taxpayer under the provisions of sections 244 to 253, inclusive.

The state tax assessor may allow to the taxpayer an amount, which may be paid without any appropriation, in the form of abatement by reason of

bad debts and such other causes as the state tax assessor may deem sufficient.

Sec. 250. State tax assessor to determine amount of tax in case of failure to file original or corrected return; appeal. If a taxpayer, having failed to file a return, or having filed an incorrect or insufficient return, without reasonable excuse fails to file within 20 days after the receipt of notice by him from the state tax assessor of his delinquency, a correct and sufficient return and to pay the tax therein shown to be due and interest thereon as provided in section 249, the state tax assessor, at any time within 3 years from the date when the return should have been filed, shall determine the amount due and give written notice of the amount so determined to the taxpayer. The amount so determined shall be payable forthwith and shall bear interest at the rate of 6% per year from the date when the original correct return should have been filed to the date of payment. The taxpayer, within 30 days after the receipt of such notice of the amount so determined, may appeal from the decision of the state tax assessor to the superior court, whose decision shall be final. Such appeal shall be filed in the office of the clerk of said court in the county where such taxpayer is doing business, and shall be heard and determined at the next term thereof held after said appeal is filed. Notice and hearing of such appeal shall be given and held in the manner provided by section 43 of chapter 81. The decision of the court upon such appeal shall be certified by the clerk to the said state tax assessor. The taxpayer shall be reimbursed by the state for any overpayment of tax determined by the decision of the superior court, with interest at the rate of 6% per year from the time of payment.

Sec. 251. Penalty for failure to file return. A taxpayer who fails to file a return required by sections 244 to 253, inclusive, when due shall forfeit to the state and shall pay to the state tax assessor on demand the sum of \$5 for each day of delay after written notice by the state tax assessor of such failure. The state tax assessor may remit the whole or any part of said penalty. Such penalty may be recovered by an action of debt in the name of the state.

Sec. 252. Penalty for violation of any provision of sections 244 to 253, inclusive. A taxpayer who violates any provision of sections 244 to 253, inclusive, for which no other penalty is provided, or who files a false return, shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than 1 year, or by both such fine and imprisonment.

Sec. 253. Sums received to be paid to treasurer of state. All sums received under the provisions of sections 244 to 253, inclusive, as excise, pen-

alties or forfeitures, interest, costs of suit and fines shall be paid to the treasurer of state daily and credited to the general fund. Provided, however, that there shall always be available for aid to dependent children state moneys in an amount not less than the revenue derived from the tax upon charges for meals.'

Sec. 3. Effective date. No tax imposed by the provisions of this act shall be levied prior to October 1, 1949 and the provisions of this act shall become effective on that date.