

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

**OF THE**

***One Hundred and Fifth  
Legislature***

**OF THE**

**STATE OF MAINE**

**Volume III**

**June 16, 1971 to June 24, 1971**

**Index**

**1st Special Session**

**January 24, 1972 to March 10, 1972**

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**KENNEBEC JOURNAL  
AUGUSTA, MAINE**

**SENATE**

Tuesday, February 8, 1972

Senate called to order by the President.

Prayer by the Rev. Herbert Reid of Fairfield.

Reading of the Journal of yesterday.

**Orders**

On motion by Mr. Johnson of Somerset,

**ORDERED**, the House concurring, that the Joint Standing Committee on State Government be directed to report out a Bill implementing the reorganization of the Department of Manpower Affairs. (S. P. 751)

Which was Read and Passed.

Sent down for concurrence.

On motion by Mr. Levine of Kennebec,

**ORDERED**, the House concurring, that the Joint Standing Committee on Public Utilities is directed to report out a bill directing the Waterville Sewerage District and the municipalities within the Kennebec Sanitary Treatment District to maintain and operate interceptor sewers and pumping stations. (S. P. 754)

Which was Read and Passed.

Sent down for concurrence.

**Committee Reports****House****Ought to Pass**

The Committee on Appropriations and Financial Affairs on, Bill, "An Act Providing Funds for County Access Road to Katahdin Iron Works." (H. P. 1514) (L. D. 1956)

Reported that the same Ought to Pass.

The Committee on Election Laws on Bill, "An Act to Clarify Party Enrollment Requirements for Filing Nomination Petitions Under the Election Laws." (H. P. 1567) (L. D. 2022)

Reported pursuant to Joint Order (H. P. 1558) that the same Ought to Pass.

Come from the House, the reports Read and Accepted and the Bills Passed to be Engrossed.

Which reports were Read and Accepted, the Bills Read Once and

Tomorrow Assigned for Second Reading.

**Ought to Pass — As Amended**

The Committee on Legal Affairs on, Resolve, in Favor of Robert D. Lust for Automobile Damage. (H. P. 1492) (L. D. 1935)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-526).

Comes from the House, the Report Read and Accepted. Committee Amendment "A" was Indefinitely Postponed and the Resolve Passed to be Engrossed.

Which report was Read and Accepted in concurrence and the Resolve Read Once.

Committee Amendment "A" was Read and, on motion by Mr. Hoffses of Knox, Indefinitely Postponed in concurrence.

Thereupon, the Resolve was Tomorrow Assigned for Second Reading.

**Second Readers**

The Committee on Bills in the Second Reading reported the following:

**House — As Amended**

Bill, "An Act Relating to Property of Cobbossee-Annabessacook Authority." (H. P. 1534) (L. D. 1977)

Which was Read a Second Time and Passed to be Engrossed, as Amended, in concurrence.

**Enactors**

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:

An Act Relating to Municipal Finance. (S. P. 700) (L. D. 1881)

(On motion by Mr. Minkowsky of Androscoggin, temporarily set aside.)

An Act Regulating Certain Vehicles and Snowmobiles in Wildlife Management Areas and Sanctuaries. (S. P. 713) (L. D. 1987)

An Act Relating to Filling Vacancies in Board of Trustees of Sanford Sewerage District. (H. P. 1501) (L. D. 1943)

An Act to Amend the Laws Pertaining to the Protection and Improvement of Air by Establishing Ambient Air Quality

Standards. (H. P. 1549) (L. D. 2008)

Which, except for the matter set aside, were Passed to be Enacted and, having been signed by the President, were by the Secretary presented to the Governor for his approval.

The President laid before the Senate the matter temporarily set aside by Mr. Minkowsky of Androscoggin, An Act Relating to Municipal Finance. (S. P. 700) (L. D. 1881)

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY of Androscoggin: Mr. President and Members of the Senate: A few days ago I expressed my reservations with reference to L. D. 1891, which pertained to An Act Relating to Municipal Finance, not so much with the intent of the bill, other than the fact of the broad language used in the bill, and I went to the Attorney General's Office and asked them to clarify three major points which I felt would either make the bill unconstitutional or enhance the bill and it would be no bother to anybody concerned. I would like to read the two portions of the letter from the Attorney General which more or less confirm the feelings I had on this bill previously. The letter was dated February 4th.

"Dear Senator Minkowsky:

During our conversation today you requested the following opinion of the Attorney General's Office with respect to three questions which you have raised relative to Legislative Document No. 1881.

"First you have inquired as to whether there is any limitation on the purposes for which a municipality, which has contracted for and accepted an offer or a grant of federal or state aid or both, may, by vote of its municipal officers, incur indebtedness in anticipation of the receipt of such aid. It is my opinion that, as this bill now reads, a municipality may contract for and accept federal and state aid and may incur indebtedness in anticipation of the receipt of such accepted or con-

tracted for federal or state aid 'for the purpose for which a municipality may raise or expend money' (as provided in Title 30 also note that there is no provision of the Revised Statutes). I would in this bill in its present form which specifically requires that the purpose for which indebtedness is incurred in anticipation of the receipt of a federal or state grant be the same purpose for which said grant has been contracted for or accepted by the municipality."

This is one of the major points I did want to stress, that the wording and the terminology in the bill are rather broad.

"Your third question is whether the enactment of this bill, in its present form, would be unconstitutional in view of the Home Rule Amendment to the Maine Constitution. In connection with this third question, I am enclosing with this letter a copy of an opinion which was issued on October 16, 1970 by Assistant Attorney General Charles Larouche. On page 8 of that opinion Mr. Larouche stated that:

"In summary, it appears that the Legislature (under the Home Rule Amendment) retains the exclusive broad power to create new municipal corporations. On the other hand, it appears that existing municipalities have the exclusive broad power to alter and amend their charters as to local and municipal matters. . . Finally, while the Legislature can, in effect, alter and amend an existing municipal charter as to matters of State-wide interest, the appropriate method for doing that is general legislation."

Now the emphasis that he has supplied is as follows: "When the provisions of the Home Rule Amendment, as interpreted by Mr. Larouche in his opinion, are applied to the provisions and subject matter of L. D. 1881, it is my opinion that the most that can be said at this point is that there may be a potential problem of unconstitutionality under the Home Rule Amendment. Hypothetically, if it can be said that the subject matter of this bill is local in character, and, if a municipality has in its charter any

combination of the restrictions or requirements listed below, then to that extent it would appear that the enactment of this bill, in its present form, would be an unconstitutional exercise of a power — the right to alter and amend municipal charters — by the Legislature which has been reserved by the Home Rule Amendment exclusively to the municipalities of this State."

Mr. President and Members of the Senate: I have reservations, as I have expressed to you, about this particular bill, and I certainly would appreciate if it somebody might table this bill for two days so that amendments can be attached to the bill to put it in its proper perspective.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Thereupon, on motion by Mr. Clifford of Androscoggin, tabled and specially assigned for February 10, 1972, pending Enactment.

#### Emergency

An Act to Authorize Counties to Adopt a Food Stamp or Donated Food Program. (H. P. 1460) (L. D. 1903)

An Act Increasing Borrowing Capacity of York Sewer District. (H. P. 1499) (L. D. 1941)

These being emergency measures and having received the affirmative votes of 28 members of the Senate, were Passed to be Enacted and, having been signed by the President, were by the Secretary presented to the Governor for his approval.

An Act Imposing a Tax on the Unorganized Territory Within the Maine Forestry District for Spruce Budworm Control. (H. P. 1510) (L. D. 1952)

On motion by Mr. Berry of Cumberland, tabled pending Enactment.

Resolve, to Correct an Error in the Service Retirement Allowances Under the State Retirement Law for Linwood A. Webber. (H. P. 1521) (L. D. 1963)

Resolve, Providing a Retirement Allowance Under the State Retirement Law for Mrs. John Howe. (H. P. 1522) (L. D. 1964)

Resolve, Providing a Minimum Service Retirement Allowance Under the State Retirement Law for Leo G. Bartlett. (H. P. 1523) (L. D. 1965)

Resolve, Providing a Minimum Service Retirement Allowance Under the State Retirement Law for Emil Arsenault. (H. P. 1524) (L. D. 1966)

(On motion by Mr. Sewall of Penobscot, the above Resolves were placed on the Special Appropriations Table.)

#### Orders of the Day

The President laid before the Senate the first tabled and specially assigned matter:

Bill, "An Act Relating to Educational Assistance for Certain Widows, Wives, Orphans and Children of Veterans and Wives and Children of Prisoners of War." (H. P. 1519) (L. D. 1961)

Tabled — February 2, 1972 by Senator Hoffses of Knox.

Pending — Passage to be Engrossed.

The PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Anderson.

Mr. ANDERSON of Hancock: Mr. President and Members of the Senate: Regarding L. D. 1961, prior to convening this morning, Mr. Garside, the Legislative Officer, and Mr. Washburn of Veterans Affairs, came to me very much disturbed. It seems there is a discrepancy of approximately \$80,000 in this bill. Mr. Washburn informed me that two of the state personnel who have the key to this error are out sick and, hopefully, they will be back by the latter part of the week. So, I am throwing myself on the mercy of this assembly and asking if one of my colleagues will move to table this until Tuesday, February 15.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Hoffses.

Thereupon, on motion by Mr. Hoffses of Knox, retabled and specially assigned for February 15, 1972, pending Passage to be Engrossed.

The President laid before the Senate the second tabled and specially assigned matter:

House Reports from Committee on Taxation on Bill, "An Act Providing for a Change in Standard Deductions in Income Tax Law." (H. P. 1547) (L. D. 2003) Majority Report, Ought to Pass; Minority Report, Ought Not to Pass.

Tabled — February 4, 1972 by Senator Berry of Cumberland.

Pending — Motion by Senator Wyman of Washington to Accept the Majority Ought to Pass Report.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN of Washington: Mr. President and Members of the Senate: The aim of this bill is: 1) To prevent Maine from collecting a higher income tax from certain people than does the federal government. 2) To prevent Maine from collecting an income tax from certain people who pay no federal tax whatsoever.

While it is easy to understand the ultimate goal of L. D. 2003, it is a bit difficult to explain. However, if it is not enacted into law, it will cost the taxpayers of Maine approximately \$2 million, and this \$2 million will come principally from the low-income people, many of whom are elderly.

The federal law has for many years permitted taxpayers the option of taking a standard deduction (a percentage of income), or of itemizing deductions. The purpose of this is to assist the taxpayer by permitting the average taxpayer to claim a reasonable deduction without itemizing. At the same time the Maine Income Tax Law was adopted, the standard deduction for both state and federal purposes was the same: namely, 10 per cent of adjusted gross income to a maximum deduction of \$1,000. The Maine law further provided that if a taxpayer took the standard deduction for federal purposes, then he must take the standard deduction for state purposes.

While the provisions of the Maine Law — namely, the allowance of a standard deduction of 10 per cent to a maximum deduction of \$1,000; and requiring use of this standard deduction if deductions are not itemized for federal purposes —

have remained unchanged, the federal law has been liberalized in the meantime; and this creates the problem with which L. D. 2003 is concerned.

This year the standard deduction for federal purposes will be 15 per cent of adjusted gross income up to a maximum deduction of \$2,000, whereas the Maine law will allow only 10 per cent up to a maximum of only \$1,000. Also the federal law now provides a minimum of \$1300 per year, whereas Maine has no minimum.

While the amount of state tax involved in any one instance will be small, it is reasonable to believe that taxpayer reaction to the Maine Income Tax, which will create this situation unless this bill is passed, will be substantial.

While our Taxation Department takes no position on this, it has informed me that some 395,000 taxpayers will be affected by this difference between the Maine law and the federal law. Practically all of whom are low-income people and many of whom are elderly. W. Scott Fox, Jr. of Portland, a strong proponent of the income tax law when it was passed, and still a strong proponent, appeared before the Taxation Committee in favor of this change.

Now, if this Senate really wants to do something for the elderly and the low-income people, this is an opportunity.

It has been indicated that the income tax is the fairest tax and that it is minimal; and so in the interest of fair play, I hope that this Senate will accept the Majority Ought to Pass Report of the Committee.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Fortier.

Mr. FORTIER of Oxford: Mr. President and Members of the Senate: I too am very much aware of the fact that this bill will cost at least \$1,800,000 per year, and the first year will probably be closer to \$2,500,000. I am very proud of the fact that this legislature has been conservative, and this is one of the reasons why I am proud to be a member of it. But even a decrease in the receipts of \$1,800,000 is an item which could

be for economy, and I think that the Chairman of the Taxation Committee has very well expressed to you where the money would come from: from our people who probably can least afford it.

But there is another factor to this bill which I would like to bring out. It seems to me we have written into this bill in small print something which we hope the taxpayer would probably not be aware of. For example, the law states very clearly that he can deduct taxes, interest, charitable contributions and so forth. Then it also says if he itemizes his federal report he must itemize his state report and, otherwise, if he takes the standard deduction on the federal he must take the standard deduction on the state report.

Now, we all appreciate the fact that the federal government has gone to great pains this year to encourage people to take standard deductions. This year it will be \$1500, and on the 1972 returns, which we will make the returns for next year, it will be \$2,000. Now our state return, if you take a standard deduction, is limited to \$1,000.

Let's keep in mind that when this question of income tax was brought to the voters last fall, I believe they gave us the greatest vote of confidence that probably any legislature ever got, and why? I think they were aware of the fact that the legislature strived very hard to eliminate all the bureaucratic red tape possible from this bill. At the time it was passed that was so, but today we tell you that if you took that \$1500 on your federal return your personal exemptions could be \$1300, \$1400 or \$1500 but, as far as the state is concerned, you cannot take that extra \$300, \$400 or \$500 deduction. This is where you are forcing people to pay on anywhere from \$500 to \$1000, to pay taxes on those amounts, which the state will not allow. That, I think, is the small print in the contract. This is the thing which we hope people will not see.

We should also keep in mind that in view of some of the rulings of the courts in other states concerning education, for example,

that we may very shortly be in a position where we will have to rely very heavily on the income tax for a considerable amount of the cost of education. How can we go to these people and say "We have sneaked a fast one on you, but we only want another \$100,000,000 next year on your income tax"? So I think that the psychological effect on our population is certainly worthwhile taking into consideration, and I hope you will accept this bill.

The PRESIDENT: Is it now the pleasure of the Senate to accept the Majority Ought to Pass Report of the Committee?

Thereupon, the Majority Ought to Pass Report of the Committee was Accepted, the Bill Read Once and Tomorrow Assigned for Second Reading.

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The President laid before the Senate the third tabled and specially assigned matter:

Senate Reports from the Committee on Judiciary on Bill, "An Act Increasing Membership of State Parole Board." (S. P. 696) (L. D. 1877) Majority Report, Ought Not to Pass; Minority Report, Ought to Pass.

Tabled — February 4, 1972 by Senator Carswell of Cumberland.

Pending — Acceptance of Either Report.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Carswell.

Mrs. CARSWELL of Cumberland: Mr. President and Members of the Senate: This legislation would have provided an extra member to serve on the Parole Board. The person would have experience in law, sociology, psychology, or related fields of social science. It appears to me that the original bill has been tinkered with a little bit. An amendment came over from the Department — I had an idea I was going to have the departmental support, but the amendment I saw didn't indicate that it was actually in support of the bill.

As Senator Anderson mentioned earlier about one of the pension bills, about these large appropriations that seem to appear all of

a sudden, well, we had a appropriation on this bill, along with an amendment, increasing the membership to five. We had an appropriation, I think it was about \$2,000 then about \$12,000 and now this \$1600. I feel that we are in special session and have some very controversial bills to debate about yet, so I would perhaps prefer to take this matter to a regular session where we can really debate it.

It just seems to me that it takes about twelve people, a jury, to put somebody in, let's say, a state prison or some such place and, as it is now, at times where are two members sitting on the Parole Board. There are three as a total, but at times when the Director of Corrections has to be attending to other business that leaves two making decisions as to whether or not a man should get his freedom and be rehabilitated and returned as a productive member of society. I just feel that this has to be straightened out sooner or later, but I don't propose to get into a big debate over it and sent it back and forth between both branches.

I do feel that the Judiciary Committee has treated the bill fairly, and I think it has probably presented somewhat of a problem to them too, so I now move that the majority report be accepted.

The PRESIDENT: The Senator from Cumberland, Senator Carswell, moves that the Senate accept the Majority Ought Not to Pass Report of the Committee on Bill, "An Act Increasing Membership of State Parole Board." Is this the pleasure of the Senate?

The motion prevailed.

Sent down for concurrence.

The President laid before the Senate the fourth tabled and specially assigned matter:

Bill, "An Act Relating to Loans to Candidates for Practice of Osteopathic Medicine in Maine." (H. P. 1476) (L. D. 1919)

Tabled — February 4, 1972 by Senator Katz of Kennebec.

Pending — Enactment.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Hoffses.

Mr. HOFFSES of Knox: Mr. President and Members of the Senate: Senator Katz discussed this matter with me yesterday and, in view of the fact that he said he would not be present today, he was in favor of the pending question. I so move that this bill be enacted.

Thereupon, this being an emergency measure and having received the affirmative vote of 29 members of the Senate was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

The President laid before the Senate the fifth tabled and specially assigned matter:

Joint Order — Relative to Dept. of Audit make investigation of Activities and funds expended for hospital improvement program at Pineland Hospital. (S. P. 750)

Tabled — February 7, 1972 by Senator Violette of Aroostook.

Pending — Passage.

:On motion by Mr. Violette of Aroostook, retabled and Tomorrow Assigned, pending Passage.

The President laid before the Senate the sixth tabled and specially assigned matter:

Bill, "An Act Relating to Speed of Motor Vehicles on Expressway Systems." (H. P. 1513) (L. D. 1955)

Tabled — February 7, 1972 by Senator Schulten of Sagadahoc.

Pending — Passage to be Engrossed.

On motion by Mr. Schulten of Sagadahoc, and under suspension of the rules, the Senate voted to reconsider its action whereby Committee Amendment "A" was Adopted.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. SCHULTEN of Sagadahoc: Mr. President, to clarify certain ambiguities of wordage in the bill, I offer Senate Amendment "A" to Committee Amendment "A" and urge its adoption.

Senate Amendment "A", Filing No. S-335, to Committee Amendment "A" was Read and Adopted. Committee Amendment "A", as Amended by Senate Amendment "A" thereto was Adopted in non-

concurrence and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the seventh tabled and specially assigned matter:

Bill, "An Act to Create a Crime Laboratory." (S. P. 688) (L. D. 1869)

Tabled — February 7, 1972 by Senator Hoffses of Knox.

Pending — Passage to be Engrossed.

On motion by Mr. Tanous of Penobscot, retabled and Tomorrow Assigned, pending Passage to be Engrossed.

On motion by Mr. Hoffses of Knox,

Adjourned until 9:30 o'clock tomorrow morning.