

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

One Hundred and Seventh Legislature

(First Special Session)

OF THE

STATE OF MAINE

1976

KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Thursday, February 5, 1976

Senate called to order by the President.
Prayer by Rabbi David Fairman, Beth Israel Synagogue, Waterville:

Today may I offer on your behalf and mine a prayer composed by the great tenth century rabbi, philosopher and physician, Moses Maimonides. Though it was composed as a physician's prayer, it can also apply well to myself and to yourself in our respective professions.

Almighty God, you have chosen me to watch over the life and health of your creatures. I am now about to apply myself to the duties of my profession. Support me, Almighty God, in these great labors, that they may benefit mankind, for without your help not even the least thing will succeed.

Inspire me with love for my art and for your creatures. Do not allow thirst for profit, ambition for renown and admiration to interfere with my profession, for these are the enemies of truth and love for mankind and they can lead me astray in the great task of attending to the welfare of your creatures.

Preserve the strength of my body and of my soul, that they ever be ready to cheerfully help and support rich and poor, good and bad, enemy as well as friend. In the sufferer let me see only the human being. Illumine my mind, that it recognizes what presents itself and that it may comprehend the absent or hidden. Let it not fail to see what is visible but do not permit it to see what it cannot see.

Should those who are wiser wish to improve and instruct me, let me gratefully follow their guidance, for vast is the extent of our art. Let me be contented in everything except in the great science of my profession. Never allow the thought to arise in me that I have attained sufficient knowledge. Give me the strength, the leisure and the ambition ever to extend my knowledge.

Almighty God, you have chosen me in your mercy to watch over the life and death of your creatures. As I now apply myself to my profession, support me in this great task so that it may be of benefit to mankind, for without your help not even the least thing will succeed.

Reading of the Journal of yesterday.

**Papers From the House
Non-concurrent Matter**

Bill, "An Act to Regulate Vehicles Transporting Combustible, Flammable or Hazardous Materials." (H. P. 1967) (L. D. 2156)

The Committee on Reference of Bills suggested that this Bill be referred to the Committee on Legal Affairs.

In the House, February 2, 1976, referred to the Committee on Legal Affairs.

In the Senate February 3, 1976, referred to the Committee on Public Utilities, in non-concurrence.

Comes from the House, referred to the Committee on Transportation, in non-concurrence.

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

Mr. CONLEY: Mr. President, Item 1-1 would certainly give a clear indication of just how efficient the Reference of Bills Committee has been on this particular item. Perhaps the proper motion to be made would be to recommit the bill to the Reference of Bills Committee, but to

expedite the session, I would now move that we recede and concur.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the Senate recede and concur with the House. Is this the pleasure of the Senate?

The motion prevailed.

**Joint Resolution
State of Maine**

In The Year Of Our Lord One Thousand Nine Hundred and Seventy-six

In Memoriam

Having Learned Of The Death Of John R. Lavers a Distinguished Citizen of Freeport

The Senate and House of Representatives of the State of Maine do hereby extend their sincere heartfelt condolences and sympathy to the bereaved family and friends of the deceased; and further

While duly assembled in session at the State Capitol in Augusta under the Constitution and Laws of the State of Maine, do herein direct that this official expression of sorrow be forthwith sent to the family of the deceased on behalf of the Legislature and the people of the State of Maine. (H. P. 1986)

Comes from the House, Read and Adopted.

Which was Read and Adopted in concurrence.

**Joint Order
State of Maine**

In The Year Of Our Lord One Thousand Nine Hundred and Seventy-six.

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Gregory J. Clukey 1975 Governor of Dirigo Boys State

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine. (H. P. 1987)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

**Joint Order
State of Maine**

In The Year Of Our Lord One Thousand Nine Hundred and Seventy-six.

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Jody A. Jabar 1975 Governor of Dirigo Girls State

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride

be sent forthwith on behalf of the Legislature and the people of the State of Maine. (H. P. 1988)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

House Papers

Bill today received from the House requiring Reference to Committee were acted upon in concurrence.

**Communications
State of Maine
Office of the Governor
Augusta, Maine
04333**

February 3, 1976

The Honorable Joseph Sewall
President of the Senate

The Honorable John Martin
Speaker of the House

Dear Joe & John:

This will acknowledge receipt of your January 30th transmittal of the analysis of the State's financial condition as determined by the Appropriations Committee. Thank you for forwarding this information to us and thank you again for allowing members of my staff to be present at the meeting where this information was presented to the news media.

In response, I will repeat the following points which I believe members of my staff expressed at your meeting:

(1) We in the Executive Branch do not take issue with the approach taken by the Committee in determining the state's problems. I believe both branches must do this type of preliminary work in anticipation of solving our mutual problems.

(2) We are at issue at this point with the Committee's projected revenue shortfalls for both years of the biennium.

(3) We commend the Committee and Leadership for pointing out in the report that the \$18 million projected deficit for the first year would be reduced to some \$2½ million if:

(a) The Governor's proposals for resolving the \$8.6 million education deficit were enacted.

(b) Consideration is given to the approximately \$7 million in cost savings being realized by the Executive Branch to guard against first year revenue shortfalls.

We believe it is crucial to separate the problem in that manner and that is precisely the reason we have repeatedly said that the education deficit should be resolved before we tackle a new education funding law and a new budget for the second year.

We are reassessing the financial situation daily and will make every effort to keep the Appropriations Committee and the full Legislature informed. We hope, in a very short time, to be able to make specific budget recommendations to the Legislature.

We are deeply appreciative for the expression by Leadership that it is willing to work on an equal partnership basis with the Executive Branch to identify further cost savings, and if necessary, to identify and cut low priority programs to fund necessary services and avoid a tax increase. I think good government demands that this be done whether we are trying to avoid a tax increase, balance a

budget or whether we are simply trying to make government more fiscally responsible.

It is important for us to keep in mind that we have both a known and an unknown problem at this point. Of course, the unknown is the revenue situation. We are constantly reassessing our position in this regard and will not hesitate to make adjustments in our estimates if the situation arises.

The uncertainty of revenues makes it all the more important for us to immediately address the known problem . . . that is the education deficit for which we have offered solutions.

Very truly yours,
(Signed) JIM
James B. Longley

JBL: bh

PS: You should know that even since this letter was dictated we have again undertaken an analysis, not only of our own budget estimates but also those of the Legislature. While receipt of the corporate income tax returns on March 15th will provide us with the most accurate revenue picture, we still plan to monitor the situation on a daily basis.

Which was Read and Ordered Placed on File.

State of Maine

One Hundred and Seventh Legislature
Committee on State Government

February 2, 1976

The Honorable

Jerrold B. Speers, Chairman
Legislative Council
State House
Augusta, Maine 04333

Dear Senator Speers:

Joint Order H. P. 1781 of the 107th regular session of the Legislature directed the State Government Committee to study the Maine Revised Statutes "for the purpose of amending such statutes to conform with the proposed amendment to the Constitution abolishing the Executive Council".

I am pleased to enclose the final report of the State Government Committee entitled, "Replacing the Executive Council". The report revised and updated the committee's preliminary report, dated October 31, 1975, and includes a section-by-section analysis of the recommended statutory changes. The committee has completed drafting these changes. Because of the length of the proposed bill, a copy is not included with the report, but the completed legislative document will be printed this week.

Sincerely,

(Signed) THEODORES. CURTIS, JR.

Theodore S. Curtis, Jr., Chairman
Committee on State Government

Which was Read and with accompanying papers Ordered Placed on File.

Mr. Speers of Kennebec was granted unanimous consent to address the Senate:

Mr. SPEERS: Mr. President and Members of the Senate: I want to take this opportunity to thank the Honorable Senator Curtis from Penobscot and the other members of the Committee on State Government for the work that they have done on this very important matter. That committee has worked very long and very hard throughout the summer and throughout the fall to put together a report as a result of one of the most momentous

amendments to the Maine Constitution that has occurred in our 150 year history. That committee is to be highly commended that it has done and the report it has given the Senate.

Senate Papers Agriculture

Mr. Pray of Penobscot presented, Bill, "An Act to Establish an Experimental Blackfly Control Program." (S. P. 681)

Which was referred to the Committee on Agriculture and Ordered Printed.
Sent down for concurrence.

Committee Reports House

Ought to Pass-As Amended

The Committee on Business Legislation on, Bill, "An Act Relating to the Listing of Officers and Directors under the Nonstock Corporation Law." (H. P. 1848) (L. D. 2017)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-864).

The Committee on Veterans and Retirement on, Resolve, to Adjust the Retirement Status under the State Retirement Law of Albert W. Hallowell of Owl's Head. (H. P. 1826) (L. D. 1987)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-862).

Come from the House, the Bill and Resolve Passed to be Engrossed as Amended by Committee Amendments "A"

Which reports were Read and Accepted in concurrence and the Bill and Resolve Read Once. Committee Amendments "A" were Read and Adopted in concurrence and the Bill and Resolve, as Amended, Tomorrow Assigned for Second Reading.

The Committee on Judiciary on, Bill, "An Act Concerning the Provision of Legal Services by Third-Year Law Students." (H. P. 1842) (L. D. 2007)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-859).

Come from the House, the Bill Passed to be Engrossed as Amended by Committee Amendment "A" and House Amendment "A" (H-869).

Which report was Read and Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read and Adopted in concurrence. House Amendment "A" was Read and Adopted in concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Transportation on, Bill, "An Act Relating to Movement of Overwide Farm Equipment." (H. P. 1857) (L. D. 2025)

Reported that the same Ought to Pass.

Signed:

Senators:

GREELEY of Waldo
Cyr of Aroostook
McNALLY of Hancock

Representatives:

JENSEN of Portland
WEBBER of Belfast
FRASER of Mexico
JACQUES of Lewiston
BERRY of Madison
WINSHIP of Milo
KAUFFMAN of Kittery
ALBERT of Limestone

The Minority of the same Committee on

the same subject matter reported that the same Ought Not to Pass.

Signed:

Representative:

STROUT of Corinth

Comes from the House, the Majority report Read and Accepted and the Bill Passed to be Engrossed.

Which reports were Read.

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

Second Readers

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

House — As Amended

Bill, "An Act Concerning Brake Requirements on Certain Hauling Devices." (H. P. 1870) (L. D. 2041)

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 to Abolish the Credit and Collection Board. (H. P. 1850) (L. D. 2019)

Which was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

Orders of the Day

The President laid before the Senate the following tabled and Specially Assigned matter:

Bill, "An Act Relating to Unexpended Funds for Highway Construction on Indian Reservation at Pleasant Point and Peter Dana Point." Emergency (H. P. 1812) (L. D. 1971)

Tabled — February 4, 1976 by Senator Greeley of Waldo.

Pending — Motion of Senator Berry of Cumberland to reconsider action whereby bill was Passed to be Enacted.

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

Mr. BERRY: Mr. President and Members of the Senate: You may recall that the bill which we are dealing with in its original form was passed two years ago and appropriated \$195,000 from the General Highway Fund to construct housing roads at the Indian Reservation in Washington County. The work was estimated by the Department of Transportation, and when the contracts were let, there was about a \$45,000 excess amount left over after the contract was awarded.

The real purpose of the present bill, I believe, is to construct an additional road, which is going to amount to \$18,000, and the construction of this road will permit a parallel construction of housing at the reservation, which is thoroughly within the purview of the original bill passed by the last legislature.

However, this will leave a balance of some \$25,000, which I think is the thrust of our discussion. There is proposed here an amendment which, if the Senate is in agreement on reconsideration, would be proposed to this body for acceptance, which would provide that after the \$18,000 is spent — and that would be spent subject to the direction and approval of the Commissioner of the Department of Transportation — the balance of the

money, if not needed for the purpose of the original act, would revert to the General Highway Fund, which I think is exactly where it belongs, and I would hope that you would agree.

If this explanation finds resonance with your thoughts of good government and not spending money where we don't need to, and putting some back into the General Highway Fund where it can be used for whatever purpose the legislature feels, I would urge you to vote for reconsideration. And if this is acceptable, I think Senator Greeley would be presenting the amendment to implement it.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Cumberland, Senator Berry, that the Senate reconsider its action whereby this bill was passed to be enacted. Is this the pleasure of the Senate?

The motion prevailed.

Thereupon, on motion by Mr. Speers of Kennebec, and under suspension of the rules, the Senate voted to reconsider its action whereby the Bill was Passed to be Engrossed.

Mr. Greeley of Waldo then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-396, was Read and Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

Mr. Katz of Kennebec was granted unanimous consent to address the Senate.

Mr. KATZ: Mr. President, earlier in this session the Governor came forth with a statistic which I found particularly disturbing to me concerning the enormously heavy burden of taxes on Maine people as a percentage of per capita income. The statement received wide publicity and it indicated that perhaps Maine was somewhere in the upper two or three states with respect to the burden of taxes.

I finally got around to finding the source of that information because I was concerned that it didn't sound like anything I had ever heard before. There was an article in the Wall Street Journal which referred to a study done by the Southern Region Education Board (S.R.E.B.). The Southern Region Education Board is the southern counterpart of the New England Board of Higher Education, of which I served as chairman for three years, so I know something of the organization. S.R.E.B. proposed a very interesting approach, involving a formula, to analyze the ability of people to pay taxes as a percentage of per capita income. It is a very interesting study but it has no credibility, as far as I am concerned, with any other economist in the United States. I do not think that any state could sensibly use it for setting public policy. And I am concerned that as industrialists around the country read the publicity about the enormous burden that they could expect if an industry moved into the State of Maine, it might dissuade them from consideration of making that move.

So I went down to the law library and got what really is a bible of tax information from the Tax Foundation itself, and found out that Maine actually ranks nineteenth in the country from the viewpoint of the burden of taxes per \$1,000 of per capita income.

I also investigated where we were with respect to our spending for education. In education, we were twenty-fourth in the

nation. And this is a 1975 volume. I think it is as reputable as any figures that we can find in the United States. The difference in the figures is that down in the Southern Region Education Board they used some kind of innovative formula which they floated as an interesting approach.

I am taking the Senate's time this morning because I think it is important for you to understand that even the figure I gave you which indicates that we are nineteenth in the nation has no great validity, and let me explain to you why. Any formula which attempts to equate government spending with per capita income on the one hand includes all the money that tourists and other non-residents bring into the state. And Maine is in the unique situation where, far more than the national average, we depend upon out-of-state income. But then the formula compares that figure with the income of Maine people only, and you get a further distortion by comparing apples and pears.

I would like to quote one other statistic to you because I think it is clean and simple and easy to understand. The statistic is: State and Local Total Government Expenditures for all Education as a Percentage of Direct Expenditure for all Functions. In other words, if you take all the money that all the states spend on all the various governmental services, where does Maine rank with respect to what it is spending on education. And the latest figure that is available indicates from that point of view we are the thirty-eighth in the nation. I am very proud we are not fiftieth like we are in some categories; we are thirty-eighth.

As the debate gets underway, with the charges of wild education spending in the background, I want to read this into the record for a couple of reasons. In the first place, I don't want any industry around the United States which has any notion of moving to the State of Maine to have any misconception about the true burden of taxes in the State of Maine, because the tax climate is not all that bad. In the second place, I want you to have a clear notion as to even after all the "wild" spending for education, we are still pretty far down the list for education in the United States.

On motion by Mrs. Cummings of Penobscot,

Adjourned until 12 o'clock noon tomorrow.