

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

Volume I

January 5, 1977 to May 25, 1977

KJ PRINTING
AUGUSTA, MAINE

HOUSE

Tuesday, January 18, 1977

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Reverend Gilbert A. Patenaude of Notre Dame DeLourdes Church, Skowhegan.

The members stood at attention during the playing of the National Anthem by Representative Stephen Gould of Old Town.

The journal of the previous session was read and approved.

Mrs. Berube of Lewiston was granted unanimous consent to address the House.

Mrs. BERUBE: Mr. Speaker, Ladies and Gentlemen of the House: In times of personal crisis and tragedy, I found that people reach out to those in need, and during my recent grief, I have discovered what I should have known right along, that people are very generous toward one another.

Although it has not eased the pain, I have found solace somehow in the words of the old saying, "I cried because I had no shoes until I saw a man who had no feet."

My two blessings are my two children — my two greatest blessings — and I pray that they can continue to walk in their father's footsteps.

To you, Mr. Speaker, for all your help, to my leaders, to all of you, old friends and new friends, somehow the word "thank you" is too small a word and inadequate to express my deep gratitude for all your cards and words of sympathy to myself and my family. But for lack of a better word, thank you very much.

Papers from the Senate

From the Senate:

Bill "An Act to Provide Staff Development Funds to Certain Private or Public Non-profit Agencies Involved with Educational Activities for Teachers" (S. P. 42) (L. D. 85)

Came from the Senate referred to the Committee on Education and ordered printed.

In the House, referred to the Committee on Education in concurrence.

Bill "An Act Concerning those Buildings which must be made Accessible to Physically Handicapped" (S. P. 41) (L. D. 84)

Bill "An Act to Require that Newly-Constructed or Reconstructed Public Buildings be made Accessible to the Physically Handicapped" (S. P. 43) (L. D. 86)

Came from the Senate referred to the Committee on Human Resources and ordered printed.

In the House, referred to the Committee on Human Resources in concurrence.

Bill "An Act to Establish the Maine Tort Claims Act" (Emergency) (S. P. 45) (L. D. 87)

Came from the Senate referred to the Committee on Judiciary and ordered printed.

In the House, referred to the Committee on Judiciary in concurrence.

Messages and Documents

The following Communication: (S. P. 44)
STATE OF MAINE

DEPARTMENT OF TRANSPORTATION
STATE OFFICE BUILDING
AUGUSTA

January 13, 1977

Governor James B. Longley and Members of the 108th Legislature

Transmitted herewith is a copy of the Highway and Bridge Improvement Program for Fiscal Years 1978 and 1979, as well as a copy of the Highway Maintenance Paving Program for the 1977 and 1978 summer seasons.

The Highway and Bridge Improvement Program for Fiscal Years 1978 and 1979 lists those projects which the Department has deter-

mined to be the priority items that should be authorized for improvement in accordance with the recommendations for financing during the next biennium. The program requires a total of \$17.9 Million of State funds to enable the matching of \$77 Million of Federal funds.

The Highway Maintenance Paving Program for the 1977 and 1978 summer seasons provides for the paving of over 1,900 miles. This proposal represents a program that involves the same approximate level of effort as during the 1975 and 1976 summer seasons.

We trust that this material will be of interest and will provide information and clarification regarding the Department's efforts to maintain and improve Maine roads.

Very truly yours,

MAINE DEPARTMENT OF TRANSPORTATION

Signed:

ROGER L. MALLAR

Commissioner

Came from the Senate read and with accompanying papers ordered placed on file.

In the House, the Communication was read and with accompanying papers ordered placed on file in concurrence.

The following Communication:

DEPARTMENT OF
EDUCATIONAL AND CULTURAL SERVICES
AUGUSTA

January 13, 1977

To: Members of the 108th Legislature
Bureau of the Budget
From: H. Sawin Millett Jr., Commissioner
Subject: Actual Education Costs for Base Year 1975-76

Pursuant to the provisions of 20 M.R.S.A. 3744 I forward herewith notification of the "actual education costs" as defined in subsection 13 of 20 M.R.S.A. 3743 for the base year 1975-76.

- A. Elementary operating costs \$131,179,656
- B. Secondary operating costs 81,215,867
- C. Costs of special education programs operated by administrative units 8,146,596
- D. Costs of special education tuition and board, excluding medical costs 2,655,931
- E. Costs of vocational education programs 6,382,259
- F. Transportation costs
 - (1) Operating costs 15,262,961
 - (2) Purchase of buses 1,891,498
- G. Debt service costs 20,726,150
- H. Major capital costs 3,130,842
- I. Costs of unusual enrollment adjustments 200,000
- J. Cost of geographic isolation adjustments 189,134
- K. Costs of reimbursement for private school transportation 166,107
- L. State expenditures (includes portion from Uniform Property Tax)
 - (1) Special education costs for programs operated by the administrative units (prorated at 81.342%) 5,494,170
 - (2) Special education tuition and board, excluding medical costs 2,655,931
 - (3) Vocational education costs 4,613,115
- L. State expenditures (continued)
 - (4) Transportation costs
 - a. Operating costs (prorated at 97.454%) \$13,307,231
 - b. Purchase of buses 2,685,179
 - (5) Debt service costs 20,726,150
 - (6) Major capital costs 634,818
 - (7) Costs of unusual enrollment adjustments 200,000
 - (8) Costs of geographic isolation adjustments 189,134
 - (9) Costs of reimbursement for private school transportation 166,107
- M. Audit adjustments
- (No statutory provision for 1975-76) N/A
- N. Optional local appropriations with state participation N/A*

O. Optional local funds without state participation

(1) Funds raised for paragraphs A to K N/A*
(2) Special hardship waivers granted by the State Board 75,582

The above figures include all adjustments in expenditure reports through January 12, 1977 and include state and local monies only except that P. L. 874 funds are included.

*The school funding statutes in effect for the base year 1975-76 did not provide for "optional local appropriations with state participation" and "optional local funds without state participation" as such. In their place the following funds were reported as having been appropriated by local units during the base year:

	Local	State
1st Maintenance of effort	\$3,902,071	0
Local Leeway	14,192,310	\$9,034,615
2nd Maintenance of effort	2,374,450	0

NOTE: The sum of items A to H represent the total expenditures for the base year while items I to O are duplicative.

The Communication was read and ordered Placed on file in concurrence.

Petitions, Bills and Resolves

Requiring Reference

The following Bills, Resolve and Resolution were received and referred to the following Committees:

Business Legislation

Bill "An Act to Stop Illegal Beauty Culture Services in Unlicensed Salons" (H. P. 80) (Presented by Mrs. Boudreau of Portland) (Ordered Printed)
Sent up for concurrence.

Election Laws

Bill "An Act to Provide for Filing Fees in Lieu of Signatures on Nomination Petitions" (H. P. 81) (Presented by Mr. Truman of Biddeford) (Cosponsor: Mr. Bustin of Augusta) (Ordered Printed)
Sent up for concurrence.

Liquor Control

Bill "An Act Concerning Open Alcoholic Beverage Containers in Motor Vehicles" (H. P. 83) (Presented by Mr. Gray of Rockland) (Cosponsors: Mr. Marshall of Millinocket, Mr. Moody of Richmond)
Committee on Judiciary was suggested.
On motion of Mr. Palmer of Nobleboro, was referred to the Committee on Liquor Control, ordered printed and sent up for concurrence.

Local and County Government

RESOLVES, Reimbursing Certain 1976 County Taxes on Account of Insufficient Appropriation (Emergency) (H. P. 82) (Presented by Mr. Morton of Farmington) (Ordered Printed)
Sent up for concurrence.

State Government

Bill "An Act Relating to Resident State Police Troopers" (Emergency) (H. P. 84) (Presented by Mr. Greenlaw of Stonington) (Cosponsors: Mr. Spencer of Standish, Mr. Peterson of Caribou, Mr. Gould of Old Town)
RESOLUTION, Proposing an Amendment to the Constitution Reducing the Size of the House of Representatives to 132 Members and Establishing the Size of the Senate at 33 Members (H. P. 85) (Presented by Mr. Marshall of Millinocket) (Ordered Printed)
Sent up for concurrence.

The following paper appearing on Supplement No. 2 was taken up out of order by unanimous consent:

Bill "An Act to Appropriate Funds to the

Legislative Apportionment Commission" (Emergency) (H. P. 94) (Presented by Mr. Martin of Eagle Lake)

Under suspension of the rules, the Bill was read twice, and passed to be engrossed without reference to any committee.

By unanimous consent, ordered sent forthwith to the Senate.

The following paper appearing on Supplement No. 1 was taken up out of order by unanimous consent:

Bill "An Act to Allocate Money from Title II of the Public Works Employment Act of 1976 for the Expenditure of State Government for the Fiscal Year Ending June 30, 1977. (Emergency) (S. P. 49) (L. D. 95)

Came from the Senate referred to the Committee on Appropriations and Financial Affairs and ordered printed.

In the House, referred to the Committee on Appropriations and Financial Affairs in concurrence.

Orders

An Expression of Legislative Sentiment (H. P. 86) recognizing:

The U.S.S. Elliot, in Memory of Maine Son, LCDR Arthur J. (Jack) Elliot, II, being Commissioned by the United States Navy.

Presented by Mrs. Post of Owls Head.
Was read and passed and sent up for concurrence.

A Joint Resolution (H. P. 79) in memoriam: of The Honorable Augustus C. Heanssler of Deer Isle

Presented by Mr. Greenlaw of Stonington.
The Resolution was read and adopted and sent up for concurrence.

House Reports of Committees

Divided Report

Majority Report of the Committee on Liquor Control reporting "Ought to Pass" on Bill "An Act Concerning Days on which Alcoholic Beverages may be Sold" (H. P. 16) (L. D. 25)

Report was signed by the following members:

Messrs. LOVELL of York
DANTON of York
LEVINE of Kennebec

— of the Senate.

Messrs. TWITCHELL of Norway
LIZOTTE of Biddeford
MAXWELL of Jay
RAYMOND of Lewiston
NADEAU of Sanford
MARSHALL of Millinocket
JACQUES of Lewiston
GRAY of Rockland

— of the House.

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Report was signed by the following members:

Messrs. IMMONEN of West Paris
CONNERS of Franklin

— of the House.

Reports were read.

On motion of Mr. Maxwell of Jay, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading tomorrow.

Orders of the Day

The Chair laid before the House the first tabled and today assigned matter:

House Order — Relative to Bills and Resolves Requiring Appropriation.

Tabled — January 12, 1977 by Mr. Tierney of Lisbon Falls.

Pending — Passage.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Speaker, Ladies and

Gentlemen of the House: I rise in opposition to this order, and I would like to ask, what are we trying to accomplish? Is this an ego trip on the part of this body? Is this an admission that we feel inferior to any other body in this legislature? Because I can think of no reason that would justify the possibility for confusion and a poor conduct of business than that that is made available for us here today.

If it is ego, certainly we can recognize the fact that the House does have its prerogatives. Only in this body can a measure to raise revenue be introduced. Each body has its place, and I submit that the function of leadership, as it has been practiced in the past, lends itself to an orderly disposition of the business that is represented on the Appropriations Table.

As worded, this particular rule would allow a bill to be tabled prior to engrossment. Can you visualize 50 or how many bills would end up on this table prior to engrossment, coming off at the last moment and creating an intolerable situation? Can you visualize the confusion that is going to exist if, indeed, we end up with two separate bodies attempting to bring order out of the chaos that I insist this is going to generate?

In my opinion, this order is concerned more with form than substance, and I would hope that this body would think long and carefully before we embark on a course of action as prescribed in this piece of legislation.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: My intention of introducing this order was certainly no ego trip for me or for this House or my political party. I can understand the hesitancy that Mr. Garsoe has in supporting it, because I think if I were sitting where he is, I probably would be doing the same thing, trying to confuse you, trying to misuse your good judgment on how we handle appropriations bills.

Mr. Garsoe is a former member of that very prestigious committee, he is a member of leadership, he understands the fundamentals of the operations of this House, and I think, to a minor degree, so do I.

The House, as we all know, those of us who have been here and those of us who are trying to learn procedures and methods as freshmen, we are incapable of dealing in a fair fashion with the other body. In my opinion, this puts us parity with them. In my opinion, it gives 151 of us in this House more of an opportunity in finalizing what we believe our priorities to be and how they are to be funded.

I would hope that this House would support the appropriations order and, Mr. Speaker, I would ask for the yeas and nays.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The speaker; The pending question is, shall House Order Relative to Bills and Resolves Requiring Appropriations receive passage. All those in favor of the passage will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bachrach, Beaulieu, Bennett, Berube, Biron, Blodgett, Brenerman, Burns, Bustin, Carey, Carrier, Carroll, Carter, D.; Chonko, Clark, Connolly, Cox, Curran, Diamond, Dudley, Dutremble, Elias, Flanagan, Fowlie, Gauthier, Gibbs, Goodwin, H.; Goodwin, K.; Green, Greenlaw, Hall, Henderson, Hickey, Hobbins, Howe, Hughes, Jacques, Joyce, Kany, Kelleher, Kerry, Kilcoyne, LaPlante, LeBlanc, Lizotte, Locke, MacEachern, Mahany, Martin, A.; McHenry,

Mills, Mitchell, Nadeau, Najarian, Nelson, M.; Nelson, N.; Norris, Pearson, Post, Powell, Prescott, Quinn, Raymond, Rideout, Strout, Talbot, Theriault, Tierney, Tozier, Trafton, Truman, Twitchell, Tyndale, Valentine, Wilfong, Wood, Wyman.

NAY — Aloupis, Ault, Austin, Bagley, Benoit, Berry, Birt, Boudreau, A.; Boudreau, P.; Brown, K. L.; Brown, K. C.; Bunker, Byers, Carter, F.; Churchill, Conners, Devoe, Dexter, Drinkwater, Durgin, Fenlason, Garsoe, Gill, Gillis, Gould, Gray, Huber, Hunter, Hutchings, Immonen, Jackson, Kane, Laffin, Lewis, Littlefield, Lougee, Lunt, Lynch, Mackel, Marshall, Masterman, Masterton, Maxwell, McBrearty, McKean, McMahon, Moody, Morton, Palmer, Peltier, Perkins, Peterson, Rollins, Shute, Silsby, Sprowl, Stubbs, Tarbell, Tarr, Teague, Torrey, Whitemore.

ABSENT — Cote, Davies, Dow, Higgins, Jalbert, Jensen, McPherson, Peakes, Smith, Spencer, Stover.

Yes, 77; No, 62; Absent, 11.

The SPEAKER: Seventy-seven having voted in the affirmative and sixty-two in the negative, with eleven being absent, the Order receives passage.

The Chair laid before the House the second tabled and today assigned matter:

Bill, "An Act to Authorize Use of Emergency Lights and Signals by State Liquor Inspectors" (S. P. 38) (L. D. 64) — In Senate, Referred to Committee on Transportation.

Tabled — January 13, 1977 by Mr. Tierney of Lisbon Falls.

Pending — Reference in concurrence.

Thereupon, the Bill was referred to the Committee on Transportation in concurrence.

The Chair laid before the House the third tabled and today assigned matter:

Bill, "An Act to Clarify the Right of Trust Companies to Invest Funds Held as Trustee Under Certain Retirement Plans" (Emergency) (H. P. 71) (Committee on Veterans and Retirement suggested)

Tabled — January 13, 1977 by Mr. Palmer of Nobleboro.

Pending — Reference

On motion of Mr. Palmer of Nobleboro, the Bill was referred to the Committee of Business Legislation, ordered printed and sent up for concurrence.

The Chair laid before the House the fourth tabled and today assigned matter:

House Order — Relative to a Request for a Supreme Court Ruling With Regard to the Validity of Certain Election Procedures and Certain Ballots for Representative from House District 29.

Tabled — January 13, 1977 (Pursuant to House Rule No. 40)

Pending — Passage.

On motion of Mr. Tierney of Lisbon Falls, retabled pending passage and tomorrow assigned.

Mr. Garsoe of Cumberland was granted unanimous consent to address the House.

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: I am in a bit of a quandary. I don't want to cry before I am hurt, but I must share with you a concern growing out of the action we have just taken. If there was ever a matter that we should deal with in an expeditious manner, it is the one we just tabled.

I understand that there was some debate in the Democrat caucus today relative to the disposition of this piece of work, and I want you to know of my rising concern of the matter, which I see, that is beginning to handle this very delicate question.

I am serving gladly and proudly and with the cream of my colleagues in this body on the

Election Commission. We started on a basis that we were going to have to see evidence to overturn a commission report before we would go against it. In other words, we would have to have proof brought into us as to why those commission reports should not be accepted.

If I could just briefly take you back to why this commission was set up, it was set up to remove from this political arena the types of decisions that I fear we are verging into right now — to select a committee of citizens of this state, and I am peripherally aware of the great concern that our leaders took in choosing this commission, the fine people whose attention to their duty and whose decisions and considerations would be beyond reproach, because I am human enough so that if a question comes in here and it affects a Republican colleague and there is an honest difference of opinion as to how that question should go, I will quite likely favor my Republican colleague and I won't criticize anyone who says the same things — it is human nature. So, we set up this commission to remove us from this possibility and I am seeing, in this delay, a crack in that fine effort.

I am not really aware, except by hearsay, as to why this delay was deemed necessary, but I want you to know that in carrying out our duties as an Election Commission, we advanced every opportunity for the antagonists, the opponents, to give us the reasons why we should go against the commission report, a full opportunity to be heard, and this is really the second go around and no allegations; in fact, they specifically agreed no allegation of impropriety at the polls other than this technical mistake that we are asking the courts about, no allegation of any impropriety or any undue influence or any damage to the franchise of anyone in that ward was advanced. Now, to find it tabled because someone has, at this hour, begun to raise questions that were not uncovered at our hearing, gives rise to the concern that I want to share with you here today.

There have been allegations, unfounded, that the Democrats might be playing games. In my caucus, I have opposed that outlook, because I just can't believe it is going to happen. We have too much at stake here to let any question of partisan impropriety creep in. But I have just got to say that until we approach this and get this question resolved, those concerns of mine are mounting.

Mr. Carey of Waterville was granted unanimous consent to address the House.

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: I would address some remarks to the Assistant Minority Leader, Mr. Garsoe, and point out to him that in our very own caucus we showed the very same concern that he has just spoken about. There has been a very serious question raised. The gentleman has asked that we go back to a committee meeting to discuss that allegation. Some of us who have talked to that gentleman are more than glad to do that, but we have pointed out that sooner or later, and I would hope sooner than later, this House will make a decision to seat the person who belongs in that seat or else turn the election back over to the people who make the choice.

I am somewhat amused, I could be even more amused if it was not so serious, that the very same gentleman, Mr. Garsoe, is the one, when we were debating the Davis-Ault matter, in our efforts to try to speed up that matter and to go to the Supreme Court for an opinion, decided that the best way to go would be to force some cost on Mr. Davis and go the route of the courts. So, he is somewhat inconsistent in his remarks in the two cases, and I thought the House might be interested in that.

On motion of Mr. Talbot of Portland, the

House reconsidered its action of January 13 whereby Bill "An Act to Provide Accessible Polling Places for the Physically Handicapped and the Elderly," House Paper 68, was referred to the Committee on Human Resources.

On further motion of the same gentleman, the Bill was referred to the Committee on Election Laws, ordered printed and sent up for concurrence.

The SPEAKER: The Chair would make additional committee changes. On the Committee on Election Laws, the Chair would remove the name of the gentleman from Westbrook, Mr. Carrier and place on Election Laws the gentleman from Lewiston, Mr. Raymond. And to the Committee on Human Resources, the Chair would appoint the gentlewoman from Waterville, Mrs. Kany.

(Off Record Remarks)

On motion of Mr. Gould of Old Town,
Adjourned until four o'clock tomorrow afternoon.