

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

January 3, 1979 to May 4, 1979

STATE OF MAINE
One Hundred and Ninth Legislature
JOURNAL OF THE SENATE

January 18, 1979

Senate called to order by the Secretary.

The SECRETARY: Is it the pleasure of the Senate that the Senator from Kennebec, Senator Katz, preside as President Pro-tem? It is a vote.

The Secretary would ask the Sergeant at Arms to escort the Senator from Kennebec, Senator Katz, to the rostrum, to assume the duties of President Pro-tem.

The Sergeant at Arms escorted the Senator from Kennebec, Senator Katz, to the rostrum. Where he acted as President Pro-tem.

Prayer by Reverend Perley C. Odell, United Methodist Church of Gardiner.

Reverend ODELL: A few of the words of the Prophet Isaiah, the second Isaiah. "Who has measured the waters, in the hollow of his hand and marked off the heavens with a span; closed the dust of the earth in a measure; weigh the mountains in scales. Who has directed the spirit of the Lord, or as his counsellor, has instructed him, whom did he consult for his enlightenment; who showed him the way of understanding. Have you not known: have you not heard, the Lord is the everlasting God, the creator of the ends of the earth. He does not faint nor grow weary; His understanding is unsearchable. He gives power to the faint, and to him who has no might He increases strength. Even youth shall faint and be weary and young men shall fall exhausted; but they who wait for the Lord shall renew their strength, they shall mount up with wings like eagles; they shall run and not be weary, they shall be walk and not faint."

Master of the universe we seek your blessing upon this body individually, and cooperately, and upon the people of this State. Let your presence be in their consciousness, and in all the thinking and feeling and doing there be a sense of your approval. Amen.

Reading of the Journal of yesterday.

Out of Order and Under Suspension of the Rules:

On motion by Senator Collins of Knox.

ORDERED, the House concurring, that when the House and Senate adjourn, they adjourn to Wednesday, January 24 at ten o'clock in the morning. (S. P. 69)

Which was Read and Passed forthwith
Sent down for concurrence.

On motion by Senator Collins of Knox, Recessed until the sound of the bell.

Recess

After Recess

Senate called to order by the President.

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

RESOLUTION, Proposing an Amendment to the Constitution of Maine Reducing to 18 Years the Age at which a Person may serve as a Member of the Maine Legislature. (H. P. 79) (L. D. 87)

In the House, January 11, 1979, referred to the Committee on State Government.

In the Senate, January 16, 1979, referred to the Committee on Election Laws, in non-concurrence.

Comes from the House, that Body having Adhered.

On motion by Senator Katz of Kennebec, tabled, for 1 Legislative Day, pending consideration.

House Papers

Bill, "An Act to Establish Registration of Polygraph Examiners." (H. P. 91) (L. D. 103)

Comes from the House, referred to the Committee on Business Legislation and Ordered Printed.

Which was referred to the Committee on Business Legislation and Ordered Printed, in concurrence.

Bill, "An Act to Establish the Legal Rights of Hospital Patients Without Jeopardizing their Right to Care or Treatment." (H. P. 93) (L. D. 104)

Comes from the House, referred to the Committee on Health and Institutional Services and Ordered Printed.

Which was referred to the Committee on Health and Institutional Services and Ordered Printed, in concurrence.

Bill, "An Act to Increase the Permissible State Discount to State Agency Stores to 12% under the Alcoholic Beverages Statutes." (H. P. 88) (L. D. 100)

Comes from the House, referred to the Committee on Legal Affairs and Ordered Printed.

Which was referred to the Committee on Legal Affairs and Ordered Printed, in concurrence.

Bill, "An Act to Decrease the Sales and Use Tax from 5% to 4%." (H. P. 90) (L. D. 102)

Comes from the House, referred to the Committee on Taxation and Ordered Printed.

Which was referred to the Committee on Taxation and Ordered Printed, in concurrence.

Bill, "An Act Concerning Fees for Special License Plates." (H. P. 89) (L. D. 101)

Comes from the House, referred to the Committee on Transportation and Ordered Printed.

Which was Referred to the Committee on Transportation and Ordered Printed, in concurrence.

Joint Order

ORDERED, the Senate concurring, that the Legislative Finance Officer be authorized and directed to pay each member of the Legislature prior to February 1, 1979 a \$200 allowance for constituent services as authorized in Title 3, Section 2 of the Maine Revised Statutes. (H. P. 92)

Comes from the House, Read and Passed.

Which was Read and Passed, in concurrence.

**Communications
STATE OF MAINE
Senate Chamber
President's Office**

January 17, 1979

The Honorable May M. Ross
Secretary of the Senate
State House
Augusta, Maine 04333
Dear Mrs. Ross:

Pursuant to Senate Rule 32, I hereby appoint the following to serve during the 109th Legislature: Theresa Morrison as Sergeant at Arms, Paul Castonguay as Assistant Sergeant at Arms, David Young as Postmaster, Timothy Marks as Doorkeeper, Jill Healey and Jacqueline Calcagni as Pages.

Respectfully yours,

JOSEPH SEWALL

President of the Senate

Which was Read and Ordered Placed on file.

**STATE OF MAINE
House of Representatives**

January 17, 1979

Honorable May M. Ross
Secretary of the Senate
109th Legislature
Augusta, Maine
Dear Madam Secretary:

The Speaker has appointed the following members of the House to the Joint Select Committee on Correctional Institutions pursuant to Joint Order (S. P. 51):

Mr. HUGHES of Auburn, Chairman
Mr. CARTER of Winslow
Mr. FOWLIE of Rockland
Mr. CLOUTIER of South Portland
Mr. DRINKWATER of Belfast
Mr. MARSHALL of Millinocket
Mr. ROOPE of Presque Isle
Mr. STETSON of Wiscasset

Sincerely,

EDWIN H. PERT
Clerk of the House

Which was Read and Ordered Placed on file.

**THE SENATE OF MAINE
Augusta**

January 18, 1979

To the Members of the Senate
of the 109th Legislature

Pursuant to Senate Order relative to appointment of subordinate officers of the Senate, this is to inform you that the President of the Senate has appointed Janice Anderson as Secretary to the President and Linda Howe as Official Reporter of the Senate. Linda Howe has appointed June Palman as Assistant Reporter of the Senate.

The Secretary of the Senate has appointed Patricia Moreau, Marie Brotherton, Mary Hawes and Jacqueline Henry as Office Secretaries; Nettie Avore, Arden MacKenzie, and Alta Main as Senate Stenographers and Emile J. Pelletier as Assistant Postmaster.

Sincerely,

MAY M. ROSS

Secretary of the Senate

Which was Read and Ordered Placed on file.

Senate Papers

Senator Emerson of Penobscot presented, Bill, "An Act to Exclude Certain Academies from the Category of "Public School." (S. P. 66)

Reference to the Committee on Education is suggested.

On motion by Senator Emerson of Penobscot, referred to the Committee on Aging, Retirement and Veterans, and Ordered Printed.

Sent down for concurrence.

Senator Ault of Kennebec presented, Bill, "An Act to Appropriate Funds for Repair, Operation and Maintenance of Androscoggin Lake Dam." (S. P. 67)

Reference to the Committee on Public Utilities is suggested.

On motion by Senator Katz of Kennebec, referred to the Committee on Appropriations and Financial Affairs, and Ordered Printed.

Sent down for concurrence.

Senator Chapman of Sagadahoc presented, Bill, "An Act to Clarify the Duties of the Maine Insurance Advisory Board." (S. P. 65)

Reference to the Committee on State Government is suggested.

On Motion by Senator Pierce of Kennebec, referred to the Committee on Business Legislation and Ordered Printed.

Sent down for concurrence.

Senator Teague of Somerset presented, Bill, "An Act Relating to Supplement Assessments under the Taxation Statutes." (S. P. 68)

Which was referred to the Committee on Taxation and Ordered Printed.

Sent down for concurrence.

**Committee Report
Senate**

Divided Report

The Majority of the Committee on Appropriations and Financial Affairs on, Bill, "An Act to Provide for Prepayment of State Bonded Debt." (Emergency) (S. P. 5) (L. D. 5)

Reported that the same Ought Not to Pass.

Signed:
Senators:

PERKINS of Hancock
NAJARIAN of Cumberland
Representatives:

JALBERT of Lewiston
HIGGINS of Scarborough
CARTER of Winslow
KELLEHER of Bangor
CHONKO of Pejepscot
DIAMOND of Windham
PEARSON of Old Town

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-3).

Signed:

Senator:

HUBER of Cumberland

Representatives:

BOUDREAU of Waterville
MORTON of Farmington
SMITH of Mars Hill

Which were Read.

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

Senator HUBER: Mr. President, I move that we accept the minority Ought to Pass, as Amended, Report and would like to speak to my motion.

The PRESIDENT: The Senator has the floor.

Senator HUBER: Mr. President and Members of the Senate: I will speak very briefly on this Bill, as I am sure that you are all aware, of the various aspects of it.

The original L.D. 5 presented one method of returning the \$20 million probable surplus to taxpayers and presented a mechanism, which I think, makes considerably more sense than the rebate passed in the next to last special session.

This mechanism proposed the original Bill would not only return the \$20 million, but would also avoid the interest thereon, which will otherwise be incurred by taxpayers.

As amended in this report the Bill, at this point, would defer the date of certification by the Budget Officer to March 1st after Governor Brennan has presented his budget and we have had, at least, some brief time to review it.

In effect the deferral of the date of certification to March 1st would leave all the options for use of the \$20 million surplus, and by use, I mean, returning it to the people in hopefully the most sensible manner. It would leave these options open.

I feel that there are more meaningful, and worthwhile ways of returning funds than the existing rebate, as I am sure you are all aware. If the rebate is granted, if this report is not accepted, under existing law, the rebate will be granted and I feel that all possibilities of Tax Reform for this session, are probably closed. I hope that this body will accept the minority Ought to Pass as Amended Report.

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

Senator SILVERMAN: I would like to ask for a Roll Call.

The PRESIDENT: A Roll Call has been requested.

The Senator has the floor.

Senator SILVERMAN: Mr. President and Members of this Honorable Body: Less than 3 months ago, before an election, this honorable body told the people of the State of Maine, that they were entitled to a rebate on their Property Taxes, through the Income Tax process.

Now we see the first Bill to be heard taking that away from them. It bothers me to think that before an election people running for office can go out, tell our citizens, our voters, that we will give you a rebate of \$64 or \$32. Then, less than 3 months later come into this honorable body and say we are going to take it away from you.

It makes me think that the citizens of this State are going to say; What good is the word of those that we elected to office, what good is someone's word who says something before an

election to get voted into office and then turns his back on us after the election and does just the opposite?

If we are to restore faith in our system, if we are going to get interest from the voting public, then I must say we are going to have to learn to keep our word...because when a person does not keep their word, you can not trust them. When you elect them to high office, and expect them to carry out the duties of our Governmental and State Business, you expect them to be honest and fair with you.

The Tax Department, I understand, put in a section in the recent State Tax Forms sent out allowing for a rebate. There are hundreds of citizens who have filled in this rebate form and sent it to the State. I only hope this honorable body will recognize that we are here to keep faith with the citizens of the State. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator McBreaity.

Senator McBREAIRTY: Mr. President, Honorable Members of the Senate: During the past 4 years, we have heard a great deal of talk about Fiscal Responsibility. During the recent campaign I heard a great deal of talk about Fiscal Responsibility.

I am sure that many of us were elected because we convinced the people that we were going to do what was best for the taxpayers of Maine. My reason for introducing L. D. 5 is because I strongly feel it was most fiscally responsible thing to do for all concerned.

Passage of L. D. 5 will repeal the inequitable rebate passed by the Second Special Session of the 108th Legislature and provide for more meaningful and lasting benefits to the taxpayers of Maine.

Prepayment of Bonded Debt or Payment from currently available cash on hand in lieu of issuing more bonds is a step in the right direction in regaining the 3-A bond rating for the State of Maine. Which in turn will provide for cost avoidance and limit the need for future tax increases.

During the public hearing on L. D. 2214 very few people testified in favor of the tax rebate.

During the public hearing on L. D. 5 only one testified in opposition.

During the past few weeks, I have talked with many people about the \$64. and \$32. rebate passed by the 108th Legislature. Not one person has indicated to me that he or she favored scattering \$20. million, as we are proposing to do. My constituents say if you have money do something worthwhile.

Presently the State of Maine owes \$275. million, we presently have another \$144 million worth of bonds authorized. I can already see requests coming for \$40. or \$50. million bond authorization in the near future. During the present biennium the total cost of operating Maine State Government will be nearly \$2. billion. During the Longley administration the total recommended cost of operating Maine State Government was increased \$700. million.

When you add to this the fact that many things presently are underfunded, how can anyone honestly tell the taxpayers of Maine we have a surplus. I would rather call the balance we have "Petty Cash on Hand." Passage of this Bill will save the taxpayers of Maine between \$6 and \$13 million in the next few years. I would hope that we might at least seriously consider L. D. 5 and help start the 109th Legislature and the Brennan administration out in the right direction. Thank you.

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

Senator NAJARIAN: Mr. President, Men and Women of the Senate: Along with 8 other members of the Appropriations Committee, I signed, Ought Not to Pass, on this particular Bill. I did so basically for three reasons.

As you know, this Bill proposes to use the \$20 million that is now law and scheduled to be rebated to the homeowners and renters, instead be used to prepay bonds or to be used instead of

issuing bonds that are already authorized.

I think it might be appropriate to consider what those bonds have been used for and what those that have been unissued are proposed to be used for. Through those bonds we have opted to buy for ourselves things that we would otherwise have to wait years and years to acquire through savings. Those bonds have bought us Education, Pollution Control, Transportation, and Recreation, not just for ourselves to enjoy and to use but for future generations as well. If a school building has a life of 50 or 70 years, there's no justice or justification in requiring just one generation of users to pay the full cost.

Debt Financing is as American as Capitalism and all governments, from the Federal to the smallest town, rely extensively on Debt Financing, as indeed does virtually every American business and family.

In fact, it is claimed that this country owes its prominence in the world today and its high standard of living to the principal of buy now pay later. In the case of government this makes sense, providing that, that debt does not exceed the willingness or the ability of the people to service the annual payments. There's no evidence that we have reached or exceeded that point.

A second consideration along this line is that \$20 million is to our total outstanding debt no greater an amount than \$64.00 is to the average homeowner's tax bill, at least the average tax bill in Portland. So, if you argue \$64.00 is so small as to be meaningless, so then too, is \$20 million compared to our total bonded debt.

My second reason for opposing this bill, and probably the most important one to me, is that it completely alters the intent of the 108th Legislature.

We heard some testimony at the hearing that the people are now expecting a rebate, and our creditability as a lawmaking body would be severely damaged if we reneged on that promise without good cause. I agree with that. I believe repeal would have a long lasting negative repercussions. It would be setting a bad precedent.

If this Legislature begins to overturn the law passed by the previous ones on the ground of mere bad judgment, then it seems to me that the people's faith in the stability or permanence of their government would be severely shaken. I'm sure that each of us could easily identify many Bills passed by the Legislature that we thought did not demonstrate sound judgment; but if each of us try to overturn them, no one would ever be able to turn their attention to other matters. We'd really be on a treadmill up here. There has to be objective and quantifiable reasons for us to undo, so quickly, what has become law. We often amend errors, oversights, conflicts with other laws, or when those laws create problems that could not have been anticipated. But we rarely, completely undo or substantially alter those bills without compelling reasons.

I say rarely because we have done it before and I'd rather not bring up the State Reimbursement of the Inventory Tax so early in the session but, I believe its relative. The 108th Legislature did not honor the commitment of the 106th as to fully reimburse the towns for the loss of that tax.

Now I can tell you that, because of that, my faith in the State Legislature will never be what it once was. I know that many other people throughout this State share that same cynicism. And even those who were not harmed by that move must have stopped to wonder, or should have, that if we can do it to others, we can also do it unto them.

The third and final reason for my sticking with the original bill is this: the reason why I voted for it in the first place. There are a lot of people in many communities who need property tax relief. And I'm not optimistic that the State Legislature is ever going to provide that in any meaningful or lasting way.

I believe they will probably have to eventually take the accomplishment of that upon themselves, and they will. As they have already done in Gorham and Saco in a small way, and in California in a big way.

But \$64 is at least something for those who are in living hand to mouth, and I think that if they don't get this they will get nothing. I'll take what I have and run: Not be like the dog who saw the reflection of the bone in the water, and seen the chance to have two, lost the one he had. I'll vote to keep the thirty-four sixty-two with all its faults, for the people of this State. Thank you kindly.

The PRESIDENT: Is the Senate ready for the question. A Roll Call has been requested. The Chair recognizes the Senator from Aroostook, Senator McBreairty.

Senator McBREAIRTY: I wish to pair my vote with Senator Cote. If he were here he would vote "No", and I would vote "Yes".

The PRESIDENT: The Senator from Aroostook, Senator McBreairty, requests leave of the Senate to pair his vote with the Senator from Androscoggin, Senator Cote. Who, if he were here, would vote "Nay" and the Senator from Aroostook, Senator McBreairty would vote "Yea".

Is it the pleasure of the Senate to grant this leave? It is a vote.

The PRESIDENT: Under the Constitution, in order for the Chair to order a Roll Call, it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President, may I inquire through the Chair? I've heard conflicting testimony. On the one hand, it was suggested that this Bill would retire some debts or funds from bonds that were about to be funded. On the other hand, I heard testimony that all this does is move the date back for certification. I wonder if that might be straightened out for me?

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

Senator HUBER: Mr. President and Members of the Senate: The original Bill as represented by Senator McBreairty did specify the mechanism of avoiding additional Bonded Indebtedness or recurring existing Bonded Indebtedness. As amended, this bill leaves the rebate enacted by the Special Session on the books. It simply defers the date of certification by the Budget Officer from January 20th, which is this Saturday, to March 1st which is probably about two weeks after the new Governor has presented his budget to this Legislature. It does not, as amended, repeal the rebate; it does leave the various options for what some of us may feel are more sensible ways of returning the money, such as Real Property Tax Reform, or perhaps adjustment of the Personal Income Tax, which has actually been producing these surpluses, retirement of bonded debt and I'm sure that there are many other options. During the Special Session in the last Legislature, I pointed out that we were essentially operating blind. We did not have the budgetary information that I felt we needed to make this kind of decision.

Moving back of this date would at least allow the new Governor to complete his budget and to submit it to the Legislature for the initial review.

There may be unforeseen requests, unforeseen emergency, requests from the various departments which we don't know about at this time, and which the Governor may not know about at this time. I would like to repeat, the amended Bill would not repeal the rebate. It would defer the date of certification, and it

would leave the various options for true tax reform opened to this Legislature.

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

Senator CONLEY: Mr. President and Members of the Senate: It is my understanding, the law that was passed in the last Session, particularly after listening to the good Senator from Cumberland, Senator Huber, that the Budget Officer must certify by January 20 as to whether or not there is a \$20 million surplus, to be able to send back as a rebate to the taxpayers. It's obvious to me that, if we're going to pass a Statute, it would have to be enacted today to defer the January 20th date. That may give somebody the opportunity of a "copout" by voting for this Bill today, or voting against it, one or the other. But it does seem to me that the intent of the Legislature in the last Session, whether it was for political reasons or whether or not it was, in fact, their true feeling to give the taxpayers a rebate; they voted for it. My heart inclines to agree with the good Senator from Cumberland, Senator Huber, that we, no doubt, could put that \$20 million to work in other areas. I think we are going to have fiscal problems though this session. But on the other hand, I have to think back to the time that this bill was before us, with all due respect to the good Senator from Cumberland, Senator Huber. He voted against the bill at that time but the Legislature overwhelmingly passed the law. The governor signed it into law and I think we should obey that and honor that commitment made at that time.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is a motion by the Senator from Cumberland, Senator Huber, that the Senate accept the Minority Ought to Pass, as amended, report of the Committee.

A Yes vote will be in favor of accepting the Minority Ought to Pass report of the Committee.

A Nay vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Carpenter, Devoe, Emerson, Huber, Katz, Sewall.

NAY — Chapman, Collins, Conley, Farley, Gill, Hichens, Lovell, Martin, Minkowsky, Najarian, O'Leary, Perkins, Pierce, Pray, Shute, Silverman, Sutton, Teague, Trafton, Trotzky, Usher.

ABSENTEES — Clark, Danton, Redmond.

A Roll Call was had.

6 Senators having voted in the affirmative and 22 Senators in the negative, with 2 Senators pairing their votes and 3 Senators being absent the motion to accept the Minority Ought to Pass Report does not prevail.

Thereupon, the Majority Ought Not to Pass Report of the Committee was accepted.

Sent down for concurrence.

On motion by Senator Pierce of Kennebec, Recessed until the sound of the bell.

Recess

After Recess

The Senate called to order by the President. Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

Paper From The House

Non-concurrent Matter

Joint Order, S. P. 69 concerning House and Senate adjournment.

In the Senate, January 18, Read and Passed.

Comes from the House, Read and Passed as amended by House Amendment "A" (H-9) in non-concurrence.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that the Senate Recede and Concur with the House. Is this the

pleasure of the Senate?

The motion prevailed.

Orders of the Day

On motion by Senator Katz of Kennebec, the Senate voted to take from the table:

RESOLUTION, Proposing an Amendment to the Constitution of Maine Reducing to 21 Years the Age at which a Person may serve as a State Senator. (H. P. 86) (L. D. 97)

Tabled—January 17, 1979 by Senator Katz of Kennebec

Pending—Reference

On motion by Senator Pierce of Kennebec, retabbed and tomorrow assigned.

The Adjournment Order, having been returned from the House, Read and Passed, in concurrence.

On motion by Senator Pierce of Kennebec.

Adjourned until Tuesday, January 23, 1979 at 10 o'clock in the morning.