

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

SENATE

Tuesday, February 1, 1977

Senate called to order by the President.
Prayer by The Reverend Richard Dyer of the Quaker Church, Winthrop Center, Maine.

REV. DYER: Lets bow our heads in prayer. Dear God, Father of law and perfect justice, enter into this place with your presence and your power, pray that these here gathered may realize you as the epitome of all that we only can attempt to be, Father of law that is liberating, rather than prohibitive of justice that is equitable and absolutely unqualified.

In this ice and tragedy pray that we may finally realize that efforts to reshape your creation are both futile and now deadly. May we preserve what precious little remains. Instill within these here gathered reverence for life in all of its many forms, placing the common man as their sole special interest. Enter into this place that they may do that which must be done, not necessarily that which is easiest to do. Pour into this place wisdom to make laws, and courage to withstand criticism and coercion. Pray that all here gathered may take to heart the disenchantment and suspicion, answering it with a reawakening commitment to integrity and to you, in the certain faith that one day, that some day Thy will be done on Earth as it is in Heaven. Amen.

Reading of the Journal of yesterday.

Papers from the House
Joint Order

An Expression of Legislative Sentiment recognizing:

WHEREAS, Lewis H. Burr of Kennebunk is retiring as postmaster after 20 years of dedicated service to both Kennebunk and the United States, (H. P. 155)

Comes from the House, Read and Passed.
Which was Read and Passed in concurrence.

Bills and Resolve received from the House requiring reference to Committee were acted upon in concurrence.

Out of Order and Under Suspension of the Rules:

On motion by Mr. Speers of Kennebec the Senate voted to consider the following:

Second Readers

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

Bill, An Act to Amend the Charter of the Baileyville Utilities District. (Emergency) (S. P. 35) (L. D. 43)

Which was Read a Second Time and Passed to be Engrossed and Sent down forthwith for concurrence.

Communications

January 27, 1977

Honorable Joseph Sewall
President of the Senate
and

Honorable John L. Martin
Speaker of the House

Dear Joe and John:

I am today transmitting to the members of the 108th Maine Legislature my program message for its first regular session.

I am most grateful for the opportunity to present our legislative program to this body and I would like to thank the members of the 108th Legislature, in advance, for its consideration.

Thank you.

Very truly yours,
JAMES B. LONGLEY
Governor
(H. P. 153)

Comes from the House Read and with accompanying papers Ordered Placed on File.

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

Department of Educational
and Cultural Services

January 27, 1977

To: Edwin Pert, Clerk of the House
May Ross, Secretary of the Senate
Otto Siebert, State Budget Office
From: H. Sawin Millett Jr., Commissioner
Re: Recommendation for 1977-78 Funding Levels for Education

Pursuant to the provisions of 20 MRSA, Section 3745, I am required to certify annually, prior to February 1, to the Legislature and to the Bureau of the Budget my recommendation for the funding levels for each of the program categories in the School Finance Act for the following fiscal year. My recommendation is also required to carry with it the approval of the State Board of Education.

The figures in the column headed State Allocation on the attached exhibit represent my certification. These recommended funding levels have also received the approval of the State Board of Education at their meeting of January 27, 1977. This total allocation, as recommended, amounts to an overall total of \$290,599,300. I am recommending that \$500,000 in Federal vocational funds be applied to the vocational education costs category thereby reducing the net total allocation request (state and local dollars) to \$290,099,300.

Certification of Total
Education Costs

State and Local
Certified Funding
Levels

	State Allocation
PART A	
1. Elementary and Secondary Operating Costs	\$220,360,000
2. Special Education-costs for programs operated by the administrative units	9,032,600
	10,036,150X90%
3. Special Education-costs for tuition and board, excluding medical costs	4,314,600
	4,793,937X90%
4. Vocational Education Costs	5,680,800
	6,357,515X90%
5. Transportation Costs	15,441,600
a. Operating	17,157,323X90%
b. Purchase of Buses	2,827,400
6. Debt Service Costs	
a. Capital Outlay	763,900
b. Debt Service	27,300,000
Subtotal	<u>\$285,720,900</u>
Les: P. L. 874 Funds	<u>1,900,000</u>
Total — Part A	<u>\$283,820,900</u>
PART B	
7. Major Capital Costs	\$555,000
8. Cost of Unusual Enrollment Adjustments	600,000
9. Cost of Geographic Isolation Adjustments	305,000
10. Cost of Reimbursement for Private School Transportation	217,000
	240,026X90%
11. Audit Adjustments	71,000
12. Optional Local Appropriations with State Participation—maximum State obligation	5,030,400
Total — Part B	<u>\$8,778,400</u>
Grand Total	<u>\$290,599,300</u>

Which was Read and Ordered Placed on File.

Senate Papers

Mr. Conley of Cumberland presented, Bill, "An Act to Remove Limitations on the Amount of Group Life Insurance Which May be Issued." (S. P. 91)

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

Mr. Curtis of Penobscot presented, Bill, "An Act to Reorganize the System of Public Post-secondary Education in Maine." (S. P. 95)

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

Sent down for concurrence.

Mr. Redmond of Somerset presented, Bill, "An Act Relating to Employee Workmen's Compensation Law." (S. P. 94)

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

Sent down for concurrence.

Mrs. Cummings of Penobscot presented, Bill, "An Act to Authorize the Transfer of all Assets and Liabilities of the Newport Water District to the Town of Newport and the Dissolution of the Newport Water District." (S. P. 96)

Which was referred to the Committee on Public Utilities and Ordered Printed.

Sent down for concurrence.

Mr. Chapman of Sagadahoc presented, Bill, "An Act Relating to the Purchase of Insurance by the Maine Insurance Advisory Board." (S. P. 89)

Reference to Committee on State Government suggested.

On motion by Senator Speers of Kennebec, referred to Committee on Business Legislation and ordered printed.

Sent down for concurrence.

Mr. Carpenter of Aroostook presented, Bill, "An Act Relating to Motor Vehicle Fees Collected by the Public Utilities Commission." (S. P. 92)

Mr. Greeley of Waldo Presented, Bill, "An Act Relating to Vehicle Sizes and Weights." (Emergency) (S. P. 90)

Mr. O'Leary of Oxford (Cosponsor: Mr. Hichens of York) presented, Bill, "An Act to Provide Protection for Children Transported by Bus by Religious Organizations." (S. P. 93)

Which were referred to the Committee on Transportation and Ordered Printed.

Sent down for concurrence.

(Off record remarks)

Orders

On motion by Mr. Speers of Kennebec, WHEREAS, it appears to the Senate of the 108th Legislature that the following are important questions of law and that the occasion is a solemn one; and

WHEREAS, it is the desire of the 108th Legislature to enact legislation affecting the rates of the uniform property tax assessed in accordance with the Maine Revised Statutes Annotated, Title 36, Section 451; and

WHEREAS, there is pending before the 108th Legislature and its Committee on Taxation bills entitled: "An Act to Provide that the Uniform Property Tax Rate Shall be Established in Conformity with Statutory Limits on Educational Funding," House Paper 6, Legislative Document 16 (Exhibit A); and

"An Act to Reduce the Uniform Property tax by 1 1/4 Mills," House Paper 205 (Exhibit B); and

"An Act to Insure that the Uniform Property Tax Rate Conforms to Limits on Educational Funding Established by Statute," House Paper 66, Legislative Document 91 (Exhibit C); and

WHEREAS, there is pending before the 108th Legislature and its Committee on Appropriations and Financial Affairs the Governor's proposed budget for fiscal years 1978 and 1979, which budget includes recommendations regarding funding for educational programs, and which budget must be enacted by appropriation's legislation during the first session of the 108th Legislature; and

WHEREAS, amendments to the uniform property tax which may affect proceeds of the uniform property tax in fiscal years 1978 and 1979 must be considered before any budget for

fiscal years 1978 and 1979 can finally be enacted by appropriation's legislation; and

WHEREAS, in accordance with the provisions of the Maine Constitution, Article IV, Part Third, Section 18, there have been presented to the Legislature petitions with sufficient signatures calling for initiative legislation to repeal the uniform property tax and other laws (Exhibit D); and

WHEREAS, the Legislature is now in session and is expected to remain in session until May or June and a popular vote on such initiated legislation (Exhibit D) thus will not occur until after July 1, 1977; and

WHEREAS, the Maine Constitution, Article IV, Part Third, Section 18, has been interpreted to stay effectiveness of legislation which is construed as a substitute for initiated legislation until the initiated legislation is enacted without change or until there is a referendum on the initiated legislation and the substitute or substitutes; and

WHEREAS, the constitutionality of the provisions of Legislative Document 16 (Exhibit A) has been questioned as they relate to the initiative legislation which has been presented (Exhibit D) and as they relate to the Maine Constitution, Article IV, Part Third, Section 18; and

WHEREAS, the constitutionality of the provisions of House Paper 205 (Exhibit B) has been questioned as they relate to the provisions of the initiative legislation (Exhibit D) and as they relate to the Maine Constitution, Article IV, Part Third, Section 18; and

WHEREAS, the constitutionality of the provisions of Legislative Document 91 (Exhibit C) has been questioned as they relate to the provisions of the initiative legislation (Exhibit D) and as they relate to the Maine Constitution, Article IV, Part Third, Section 18; and

WHEREAS, it is important that the Legislature be informed as to the answers to these important and serious questions hereinafter raised; now, therefore, be it

ORDERED, that the Justices of the Supreme Judicial Court are hereby respectfully requested to give to the Senate, according to the provisions of the Maine Constitution, on its behalf, an opinion upon the following questions, to wit:

QUESTION #1:

If the bill contained in the initiative petition (Exhibit D) is either enacted by the Legislature so that it is effective after July 1, 1977, or passed by the electorate and proclaimed by the Governor so that it is effective after July 1, 1977, will the initiative measure repeal the uniform property tax for the fiscal year beginning July 1, 1977 and terminating June 30, 1978?

QUESTION #2

Will Legislative Document 16 (Exhibit A) or Legislative Document 91 (Exhibit C), if enacted with an effective date prior to July 1, 1977, alter the mill rate of the uniform property tax, (a) for the fiscal year beginning July 1, 1977 and terminating June 30, 1978 and (b) for any subsequent fiscal year?

QUESTION #3

Will House Paper 205 (Exhibit B), if enacted with an effective date prior to July 1, 1977, alter the mill rate of the uniform property tax for the year beginning July 1, 1977 and terminating June 30, 1978?

Which was read.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate, this Order deals with questions to be propounded to the Supreme Judicial Court with regard to the Uniform Tax Rate, and the powers of the Legislature.

You will recall that we did pass such an Order in the last Legislative Day, last Thursday; but since that time there have been some additional

questions; and at least one additional bill introduced into the Legislative process. So these questions would consolidate the other question, and as additional questions, and would replace the Order that was passed last Thursday.

Which was passed. Paper held.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Mr. Speers.

Mr. SPEERS: Mr. President, is the Senate in possession of Senate Order relative to opinion from Supreme Judicial Court re: to Uniform Property Tax Bills?

The PRESIDENT: The Chair would answer in the affirmative. The Senate Order having been held at the request of the Senator from Kennebec.

Mr. SPEERS: Mr. President, I request the Senate reconsider its action whereby this Order was passed.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves the Senate reconsider its action whereby the Senate passed Joint Order relative to opinion from the Supreme Judicial Court. Is this the pleasure of the Senate. It is a vote.

Mr. SPEERS: Mr. President, I now move that this Order be indefinitely postponed.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that this Senate Order relative to Uniform Property Tax Bills be indefinitely postponed. Is this the pleasure of the Senate. It is a vote.

Committee Reports House

Ought to Pass

The Committee on Local and County Government on, Bill, "An Act Relating to Removal of County Buildings." (H. P. 9) (L. D. 19)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed as Amended by House Amendment "A" (Filing No. H-2)

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

Ought to Pass in New Draft

The Committee on Local and County Government on, Resolve, Providing for Purchase of Copies of History of Newfield. (H. P. 14) (L. D. 23)

Reported that the same Ought to Pass in New Draft in New Title: "An Act Appropriating Funds for the Purchase of Copies of the History of Newfield" (H. P. 137) (L. D. 138)

Comes from the House, the Bill, in New Draft, Passed to be Engrossed.

Which Report was Read and Accepted in concurrence, and the Bill, in New Draft, Read Once and Tomorrow Assigned for Second Reading.

Senate

Ought to Pass

Mr. Collins for the Committee on State Government on, Bill, "An Act Relating to Transfer of Unexpended Appropriations of State Funds." (S. P. 6) (L. D. 11)

Reported that the same Ought to Pass.

Which Report was Read and Accepted and the Bill Read Once and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Legal Affairs on, Bill, An Act Exempting Homeowner Occupied Dwellings Built Before January 1, 1974 from Certain Safety Glazing Requirements. (S. P. 30) (L. D. 42)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-4).

Signed:

Senators:

CURTIS of Penobscot

CUMMINGS of Penobscot
CARPENTER of Aroostook

Representatives:

DURGIN of Kittery
GOULD of Old Town
MOODY of Richmond
COTE of Lewiston
DUDLEY of Enfield

The Minority of the same Committee on the same subject matter reported that the same Ought Not to Pass.

Representatives:

BURNS of North Anson
SHUTE of Stockton Springs
JOYCE of Portland
CARRIER of Westbrook
BIRON of Lewiston

Which reports were read and Majority report was accepted and the bill read once.

Committee Amendment A read and adopted. The bill as amended tomorrow assigned.

Second Readers

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

Senate

Bill, An Act to Revise the Charter of the Aroostook-Prestile Treatment District. (S. P. 37) (L. D. 45)

Which was Read a Second Time, and Passed to be engrossed.

Sent down for concurrence.

Orders of the Day

The President laid before the Senate: Joint Order — relative to Committee on Local and County Government reporting out a Resolve for Laying of County Taxes for the Years 1977 and 1978.

Tabled — January 27, 1977 by Senator Speers of Kennebec

Pending — Passage.

Mr. JACKSON: Mr. President.

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

Mr. JACKSON: Present Senate Amendment A to Joint House Paper, House Paper No. 138 under filing number S-5 and move its passage. Senate Amendment A read and adopted.

The Joint Order as amended passed in non-concurrence.

Sent down for concurrence.

The PRESIDENT: Chair would announce that due to a funeral, the funeral of Representative Powell tomorrow, held in northern Aroostook, to which many people are going, there will be no session of either the Senate or the House tomorrow. However, committees are expected to carry out their advertised hearings, and it is understood there will be enough people for the committees to carry out their hearings.

Mr. LEVINE: Mr. President.

The PRESIDENT: Chair recognizes the Senator from Kennebec, Senator Levine.

Mr. LEVINE: I have attempted to speak personally with each of the Senators here and have been unable to in reference to my vote on L. D. 162. Title: "An Act to Establish the Maine Tort Claims Act." I voted on that bill in the manner in which I did for a moral reason. I found no provision in that Act to limit attorneys' fees. While realizing that we do have a chance to amend this Act in the very near future, I wanted to go on record now as saying that I wish there would be an amendment to limit attorneys' fees in these circumstances. Thank you.

On Motion of Mr. Huber of Cumberland, Adjourned until 3:00 p.m. Thursday afternoon.