

MAINE STATE LEGISLATURE

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19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **MARTIN** of Aroostook to **ACCEPT** the Majority **NOT PASS** Report, **PREVAILED**.

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Joint Select Committee on **PROPERTY TAX REFORM** on Bill "An Act To Provide a Schedule of School Funding That Provides 55% State Coverage of the Cost of Essential Programs and Services over a Period of 2 Years" H.P. 225 L.D. 300

Reported that the same **Ought Not to Pass**, pursuant to Joint Order H.P. 108.

Signed:

Senators:

DAMON of Hancock
PERRY of Penobscot

Representatives:

WOODBURY of Yarmouth
LERMAN of Augusta
DUGAY of Cherryfield
STEDMAN of Hartland
NORTON of Bangor
SMITH of Monmouth
BIERMAN of Sorrento
CLOUGH of Scarborough
FLOOD of Winthrop

The Minority of the same Committee on the same subject reported that the same **Ought To Pass**, pursuant to Joint Order H.P. 108.

Signed:

Senators:

MILLS of Somerset
ROSEN of Hancock

Representatives:

DUDLEY of Portland
McCORMICK of West Gardiner

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

Senator **DAMON** of Hancock moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

On motion by Senator **MILLS** of Somerset, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Madame President, men and women of the Senate, the L.D. that lies before you is the one that the committee voted, I believe, unanimously for permission to generate a separate L.D. because there were so many of us on the committee that wanted to explore the idea of sending to you a different way of approaching the two-year ramp. In the end it turned out to be an 11 to 4 report with four of us in the minority. I want to recommend to you the minority report in these brief words. It contains three elements. It says; let's go to 55%, let's meet the obligation of the MMA referendum by going to 55% funding in two years. Let's do it on our watch, perhaps. Let's fund it and suggested it be funded with a modest expansion of the sales tax into certain amusements which generates, I believe, around \$20 million a year and fund the rest of it by increasing the sales tax by ½ penny effective in the spring of 2006, which is time enough to generate, combined with the expansion, enough money to fund that increased ramp up to 55% of EPS. As the Senator from Hancock, Senator Rosen, has pointed out, it would enable us to get the model and the formula working. One of the big painful parts of staging this implementation of the new funding system is that it was never designed to work on the three cylinders. It was designed to work with all cylinders firing at 100% funding of the model. The longer we postpone that, the more painful it is for the formula to be applied to so many of our cities and towns and in particular to the very high receiving communities; those with low property values, those that struggle the hardest to fund their schools. The longer you leave them in pain for a four-year ramp the more harm you are doing and the less equity you are achieving, and I suggest to you, the more jeopardy there is that in the next legislature and maybe under the next administration that this promise of 55% funding in the model may evaporate before our eyes. This is an avenue to get there. It has the other virtue of being a bill that would be sent out to referendum. It would say to people who want to vote on it in November 2005; 'Look, here's the rest of the way, we did ¼ of the way in the first year of our service, but you folks, in the public, can solve a problem for us. You can answer the question that was never asked of you by the MMA referendum and that is do you want to raise your taxes a little bit in order to pay for ongoing school costs at a higher level and relieve your property taxes?' Very easy question to answer and it will generate a great deal of public debate. The refreshing thing is that it gets the debate out of this institution and into the public domain. It will allow us to frame that debate for the public in an intelligent way instead of having people running around getting 50,000 signatures, trying to vote for some idiosyncratic notions at the top of the page. Here we are, who at least have a closer understanding of the problem, framing the discussion for the public, giving them some rational choices, and setting it out there so there can be a public discussion about tax policy around rational alternatives. That's what this is about. It isn't a vote to raise taxes, ladies and gentlemen of the Senate. If you vote for this, and against the

pending motion, it is a vote to say that I repose my trust in the people of Maine and I'm willing to have this idea of 55% school funding sent back out with a rational way of funding it. Let the people decide based on real choices rather than the free lunch referendum that was presented on June 8th that said don't worry about how to pay for it. It said that maybe the legislature will dream it up. We'll just tell them how much to spend and where to spend it and we won't have to worry about how to raise the dough. It gets us out of that and says to behave like adults and send some honest questions out for the people to wrestle with. That is the virtue of this bill. I recommend it to you for that reason. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Strimling.

Senator STRIMLING: Thank you, Madame President. I rise in opposition to the motion being put forward and encourage my colleagues to do the same. I encourage you to do the same because this, as opposed to the proposal that we had earlier dealing with a two-year ramp, is a responsible proposal that explains exactly how it gets paid for. I can't tell you how many people I've had come up to me, and they're not just from the city of Portland. I get e-mails from across the state. You can read it in papers. People are saying 'why won't you just solve this problem by broadening the sales tax or putting ½ cent on the sales tax and dedicating it to property tax relief.' I don't know that we even have to send this back out because I think that is what most people want to do. I'm okay with sending it back out to say I want to find out if the e-mails and the calls I've been getting will be reflected in the vote that is taken. All we are doing here today is saying to people; 'Here is an opportunity. You want it to be two years,' which we know everybody in this room has gotten calls saying they want it in two years, 'is this the way you want to do it?' I believe that the people will say, without question, 'yes, this is what we want to do.'

It is crazy that our sales base is so thin when people from other states come and dock their boats and don't have to pay a sales tax. They know our sales tax causes the fluctuation in our budget. They know that right now in the state we get under 20% of our revenue from sales tax and over 35% from property tax. They know that is out of balance. They say, 'Just fix the sales tax, put it to property tax and then we can get our economy back in the shape it needs to be in for the growth that's coming down the road.' I encourage my colleagues to reject the motion and vote to send this out for referendum. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator NUTTING: Thank you, Madame President, ladies and gentlemen of the Senate, I also rise this afternoon to stand in opposition to the pending motion. I have a bill in this session to cut down on the size of state government. We've made many cuts to the number of state employees over the last seven or eight years. I think that those are appropriate. I likewise can't even gas up my farm truck at the local store without people coming up to me and asking the same question that the Senator from Cumberland, Senator Strimling, just outlined. The fact that recreational services, pleasure yacht docking fees, are exempt from sales tax in Maine.

My wife and I try every summer to rent a place in Boothbay Harbor just to get away from the farm and rest. We have a wonderful time there. I'm really glad that Jimmy Dean, who owns the sausage company, brings his 122-foot long yacht to Boothbay Harbor a month every summer. He has a crane on the top of it that lowers a 30-foot boat into the water for day trips. He pays several thousands dollars a week in docking fees to the Town of Boothbay. Keeping that in mind, seven or eight years ago there was a \$5 million bond issue passed and paid for by the people of Maine to allow septic systems to be improved along the coast to allow more water quality monitoring along the coast. My point is that the people of Maine have invested Maine money into a clean coastline. Yet, when people come from out-of-state to use it, we're not running it as a business. We're not collecting from those that use it. For instance, pleasure yacht docking fees are subject to a sales tax in Canada of 15%. New Hampshire just raised their use tax, which is really a sales tax, on yacht docking fees to 9%. Massachusetts is 10%. Connecticut is 12% and New York varies between 12% and 15%, depending upon whether or not there is a county tax added to the state tax. Maine is at zero. We're the only state on the eastern seaboard that doesn't extend the sales tax to pleasure craft yacht docking and mooring fees. The only state. Yet we've invested Maine money in cleaning up the coast. To me, this is a very narrow sales tax base when we're struggling to fund education at the 55% level while we're giving people a tax rate that virtually no other state gives them. Again, I urge you to defeat the pending motion. I don't see how we can really conduct tax reform without at least looking at what virtually all of the states have already done. I've just outlined one example to you. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator SCHNEIDER: Thank you, Madame President, men and women of the Senate. I rise also in opposition and I want to let you know that this entire handful of messages came today are all urging support of a two-year ramp in. I, again, state that the only way I think we can do it in a responsible way is to do so by funding it with a revenue stream. I like the fact that we're asking the people their opinions and giving them an opportunity to vote on this. It should have been done to begin with. Should have been in the last 1A, in my opinion. I have over thirteen messages and several others that weren't clear to me about the two-year. Every single one of these says two-year ramp and that doesn't include any of my e-mails that I've received. I have received numerous e-mails on this. I urge you to vote in opposition. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Raye.

Senator RAYE: Thank you, Madame President. I would like to direct a question through the Chair to anybody who could answer it.

THE PRESIDENT: The Senator may pose his question.

Senator RAYE: The increase in the sales tax, is it a permanent increase or would there be a sunset provision once the ramp is paid for?

THE PRESIDENT: The Senator from Washington, Senator Raye poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** As drafted, if the people adopted it, it would put into place a ½ cent increase in the sales tax and does not have a sunset on that provision nor does the expansion of the sales tax have a sunset on it. This bill could be amended to do that at some future time, but that's not the case at present. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Perry.

Senator **PERRY:** Thank you, Madame President, men and women of the Senate. I just wanted to rise as a member of the committee. We put a lot of work into L.D. 1. We did vote unanimously to authorize this second bill to give people an opportunity to vote on a two-year ramp. The reason we did not include a two-ramp in L.D. 1 is, as nice as it sounds to get us in a two-year period, there were a lot of ramifications on the local level. There is a reason why the four-year ramp is two-fold from 84% of EPS to 100% over the four-year period as well as the ramped funding. After considering all the facts, that was the way that we felt that we could get there without impacting the local community. As much as this extra money sounds like it would be wonderful, it does create problems. I would urge you to support the pending motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Thank you, Madame President, men and women of the Senate. I rise in support of the motion of Ought Not to Pass. Raising taxes is an easy thing to do. It's convenient and it's easy. It's not the answer. I don't think we can, or should, raise taxes to give a tax break. I would urge you to take that into consideration. The second part of this question would say to us that we're suggesting the people may want this, so we're going to send it out and let them vote on it. I think tax issues are those issues we need to look straight in the eye and say yea or nay. In this case, I think raising a tax again to provide a tax relief just doesn't seem to make sense to me. Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Arostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President and members of the Senate. I was sort of leaning towards voting for this until I looked at the bill and realized that we're creating another 55% problem. You may remember that vote where people thought they were going one way. We're taxing amusement here. We're taxing pleasure aircraft, billiards, bowling, sports recreation activities, basic cable television services, basic satellite television services, theater entertainment, motion pictures, commercial amusement, site seeing, spectator sports, arcades, swimming pool installation, pool repair, and pool cleaning and maintenance. Imagine if that went out. No one's going to know what's in there. After it hits reality, if it passes, you know what they are going to say about us one more time.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Hancock, Senator Damon to Accept the Majority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#13)

YEAS: Senators: **BRENNAN, BROMLEY, CLUKEY, COURTNEY, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, NASS, PERRY, RAYE, ROTUNDO, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK**

NAYS: Senators: **ANDREWS, BARTLETT, BRYANT, COWGER, DAMON, MILLS, MITCHELL, NUTTING, ROSEN, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS**

EXCUSED: Senator: **PLOWMAN**

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **DAMON** of Hancock to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

Senate at Ease.

Senate called to order by the President.

Senator **BRENNAN** of Cumberland was granted unanimous consent to address the Senate off the Record.

Senator **DAVIS** of Piscataquis was granted unanimous consent to address the Senate off the Record.

RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

Out of order and under suspension of the Rules, the Senate considered the following: