

# MAINE STATE LEGISLATURE

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**Legislative Record**  
**House of Representatives**  
**One Hundred and Twenty-Second Legislature**  
**State of Maine**

**Volume III**

**Second Regular Session**

April 7, 2006 - May 24, 2006

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oversight. Right now this board has no oversight if we go with Report "A," which is what we voted on last week.

What we have before us is Committee Amendment "C," which says that any rules that they make, new rules that they make, would be major substantive rules. However, any of the amendment would be routine technical. That would allow them to continue in the same way that they have. However, on any major issues, it would have to be reviewed by the committee. I would think that most of us would agree that that would be the proper way to handle this. Thank you Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Recede and Concur. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 466**

YEA - Annis, Austin, Berube, Bierman, Bishop, Bowen, Browne W, Bryant-Deschenes, Carr, Cebra, Churchill, Clark, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Dugay, Edgecomb, Emery, Fitts, Fletcher, Greeley, Hall, Hamper, Hanley B, Jackson, Jacobsen, Joy, Kaelin, Lansley, Lewin, Lindell, McKenney, McLeod, Millett, Moulton, Muse, Nass, Ott, Pinkham, Plummer, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Tardy, Trahan, Vaughan.

NAY - Adams, Ash, Babbidge, Beaudette, Blanchard, Blanchette, Bliss, Bowles, Brannigan, Brautigam, Brown R, Bryant, Burns, Cain, Campbell, Canavan, Craven, Crosby, Cummings, Daigle, Davis G, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Duprey, Eberle, Eder, Farrington, Finch, Fischer, Fisher, Flood, Gerzofsky, Glynn, Goldman, Grose, Hanley S, Harlow, Hogan, Hotham, Hutton, Jodrey, Koffman, Lerman, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McKane, Merrill, Miller, Mills, Moody, Norton, Nutting, O'Brien, Paradis, Patrick, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rector, Richardson D, Richardson E, Rines, Sampson, Saviello, Schatz, Smith N, Smith W, Sykes, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Mr. Speaker.

ABSENT - Barstow, Davis K, Faircloth, Jennings, McFadden, Moore G, Simpson, Stedman, Thomas, Woodbury.

Yes, 53; No, 88; Absent, 10; Excused, 0.

53 having voted in the affirmative and 88 voted in the negative, with 10 being absent, and accordingly the motion to **RECEDE AND CONCUR FAILED**.

Subsequently, the House voted to **ADHERE**.

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Create a Property Tax Exemption for Property Owners with Limited Personal Property Assessments

(H.P. 1446) (L.D. 2052)

(C. "A" H-877)

TABLED - April 6, 2006 (Till Later Today) by Representative CUMMINGS of Portland.

PENDING - **FINAL PASSAGE**.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Watson.

Representative **WATSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Please take a moment and pause to think about what we are doing here. This is another Constitutional Amendment. This Constitutional Amendment would provide a break from the personal property tax for those persons who have less than \$20,000 worth of personal property to report. On its fact, it looks like a nice little break, giving private individuals and to some small businesses.

It has a couple of drawbacks. I would like to point those out to you and I would like explain why I think this is a mistake. First

of all, in a town like Bath, which is a service center, many of you come from similar ones. If you have had this conversation with your assessor, I am sure you have heard the same thing that I have. In the Town of Bath we have 490 personal property tax accounts. Two hundred and ninety of which are \$20,000 or less. At the very outset, we are talking about a significant chunk of the town's personal property assessment evaluation base. We haven't told the towns that this is coming. We are doing this by Constitutional Amendment so we don't have to reimburse the towns, even the 50 percent that is normally required. We are asking the towns to take that hit. That hit is going to go to resident homeowners. It has to. It can't go anywhere else. The town may be able to tighten its belt and account for some of that cut, but ultimately that is going to be the burden for resident homeowners. All you are doing here is shifting a tax burden over.

Here is the other problem. This only applies to personal property accounts that are worth up to \$20,000. At \$20,001, the entire amount is owed. It is not an exclusion for the first \$20,000 of an account. It is an exclusion for just \$20,000 and if you have \$20,001 worth of personal property, you have to pay the entire amount.

One of the arguments advanced in favor of this is it was going to reduce the paperwork and the hassles to the small personal property owners, small business owners and the town. It doesn't because I still in my little law office where I have less than \$20,000 worth of computers and file cabinets and things like that, I am still going to have to maintain an inventory of that property in order to submit it to the town and prove that my personal property is less than \$20,000. The town is still going to have to maintain its records on its personal property accounts because it is looking for that magic \$20,001. It doesn't save any hassle on either side. It saves the taxpayer who has less than \$20,000 worth of property, whatever that small amount of personal property tax he pays. Yes, it does. As I say though, that comes out of town coffers and it is going to go right back on his home, residential personal property tax.

It doesn't save any hassle on either side, the town or the property owner because you still have to maintain your records.

Finally, the biggest problem I have with this is we are inviting people to take less care with their taxes. I don't want to say that we are inviting people to cheat on their taxes, but that is what it is. The entire tax amount is due if you have \$20,001 worth of property. What does it take to reduce your property inventory so that it is less than that amount? Can you assign some of your personal property to your spouse? Can you set up another LLC or another shadow corporation to take some of the property out of the mom-and-pop store so that you have two accounts for less than \$20,000 or maybe three accounts for less than \$20,000? We are inviting people to take advantage of the system in order to avoid this and try to take advantage of this small benefit.

It is simply not worth the potential trouble that it causes. It is not worth another, yet another, unreimbursed mandate levied on a municipality following on our well intended, but unfunded homestead that we did to them last year, this is simply a nice thing to be able to go back and tell the folks back home you passed a little tax break, but don't go on to tell them that you will see it on your homeowner's property tax bill next session. Remind them that they still have to fill out the same amount of paperwork to take advantage of it as they do now to pay the tax.

It is a Constitutional Amendment, please don't throw it out there. It is simply not a good idea. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Bowdoinham, Representative Hutton.

Representative HUTTON: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I think in my haste to try and find a way to help the small businesses in my community and in the State of Maine, I voted for this Constitutional Amendment to be put out to the voters. I really having now listened to all of what the good Representative from Bath said, I listened to my heart and realized that this is not the way to do it. There are other ways that we can help that have less unintended consequences than this bill has. I urge you to take to heart the good Representative's words and vote Ought Not to Pass.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Dudley.

Representative DUDLEY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I have enjoyed the debate this morning. I agree with what I have heard. I just want to share the impact on my community, the City of Portland, would be a property tax shift to homeowners of about a quarter of a million dollars a year. That may not seem like a lot of money in the big scheme of things. It is certainly moving in the wrong direction. The opposite direction from the progress we have made with LD 1 in our other efforts. Thank you.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Clough.

Representative CLOUGH: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would like to remind everyone that this is not just about small business. This is about every taxpayer in the state that owns personal property. It is about your yard equipment. Many tractors today that you use for grooming your yard or rototilling and all the attachments you might get can run close to \$20,000. Most communities do not tax this property right now. There are some who have decided that they are interpreting the law to say that they must tax all personal equipment and they have attempted to do this in Windham, for example, without success, I would also report. Some towns are now deciding that it is time to start taxing. At least one town that we have talked with has decided to tax carpenter's tools, electrician's tools, plumber's tools, auto mechanic's tools, in addition to personal property that you might have for your own use on your own property for yard work and garden work.

I would ask you to support this proposal. I think we will let it make sense and it will put this to rest. This is going to be a problem from now on now that some have started to do it. Mr. Speaker, would you ask the Clerk to read the report.

Representative CLOUGH of Scarborough REQUESTED that the Clerk READ the Committee Report.

The Clerk READ the Committee Report in its entirety.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. After you heard the report, don't be surprised when you see a light change up on the total board when the vote is taken. Listening to the debate here this morning and the other day really changed my mind to the point I don't think I did the right thing when I voted for the bill in the committee. Very seldom will I ever change my vote. I usually stick with it high or dry. This time, I can tell you that by listening to the debate and listening to my heart as was said by my other colleague who signed on the Majority Report also, I think I did the wrong thing and I hope you follow me when we vote today and do the right thing. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative WEBSTER: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This bill comes out of a proposal that I made to the Taxation Committee, I believe, in part, because I was trying to help small businesses in my town by providing 100 percent reimbursement for personal property under \$20,000 as well as for BETR equipment under \$100,000. The idea was to make the towns whole and to help small businesses.

Having listened to my good colleague from Bath and the others, I realize that I have stirred something up that, unfortunately, is an effort to try to create some tax relief. I think what we need is comprehensive tax reform and what we are doing is chipping at the rock. I believe what we need to do is come back and do the right thing and do the right job comprehensively. I would encourage you to follow the light of the good Representative from Bath. Thank you.

Representative CLOUGH of Scarborough REQUESTED a roll call on FINAL PASSAGE.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Watson.

Representative WATSON: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House for this second opportunity to speak. I just want to respond, briefly, to some comments by my colleague, Representative Clough. He mentioned some towns are now starting to tax personal property that might include your garden tractor. We did hear that one town had done that. I think if you followed up on that story you also found that that town very quickly decided not to.

With regard to contractor's tools, there is already an exemption for contractor's tools, tools of the trade. You just voted this morning to give one to lobstermen on their traps. This is not a problem that really can have a solution to adjust anything. We are not paying personal property tax on the tools in our garden shed. We are paying personal property tax on the cash register, the file cabinet and things like that, unless we can find a way around it. All this is doing is inviting us to find a way around it.

I continue to request that we vote to defeat this measure. Thank you.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Lerman.

Representative LERMAN: Thank you Mr. Speaker. Mr. Speaker, Women and Men of the House. When we first came into session a year and a half ago, we came here with the idea of providing property tax relief to homeowners. We put together a joint select committee and worked hard and I think we should be proud to have passed LD 1. I think the benefits of LD 1 will be appreciated more and more over time. What this does is it basically shifts taxes to homeowners and really will counterbalance the little progress that we have made to provide homeowners with some property tax relief. There is no where to go. There is so few options in terms of how to raise the money it needs to provide the services that we expect of it. Any shift from personal property tax is going to end up being paid for by homeowners. I believe we need to take another look at it. I am a big fan of getting rid of the personal property tax, but this is not the way to do it. I urge you to vote against this motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Kaelin.

Representative KAELIN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am rising because I just received a letter today from one of my towns, not

about this bill, but about a related bill. I hope I can talk about those two bills, 2052 and 2056 together, just for a moment. This small town in Waldo County, I have spread sheets from OFPR about BETR payments. I don't have enough information to really analyze what the effect on the property taxes would be if this passes. The good Representative from Bath, Representative Watson makes a good point. In a small rural town, probably a large majority of any small businesses that would be taxed with the personal property tax probably are under \$20,000. I have no idea what that impact would be. This letter from the selectmen in Waldo asks me for specific impact projections on their share of the county budget, their share of the school budget, what happens if long-term reimbursement promises aren't made. I know if we go to the Constitution and make this change, the reimbursement issue becomes mute.

As much as I would like to support this today, I don't think I have enough information to analyze what the impact on the property taxes in one of the small rural communities that I represent would be. Even though I would like to see the tax burden go down overall here, I think I am convinced that this may have an impact on the property taxes, the homes in these small rural communities that I, as one member of this body, just simply can't analyze today. For that reason, unfortunately, I am going to have to vote against this. It is such a complex issue that I am going to have to go downstairs to OFPR and spend I don't know how much time to analyze this stuff. I can't vote for this today as much as I would like to. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Tuttle.

Representative TUTTLE: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative TUTTLE: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Did the Maine Municipal Association take a position on this bill and what is the fiscal note?

The SPEAKER: The Representative from Sanford, Representative Tuttle has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bath, Representative Watson.

Representative WATSON: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In answer to that question, the Maine Municipal Association has taken a stand on this issue and that is in opposition to it. They have been joined by the Maine Service Centers Coalition, which earlier yesterday, I believe, distributed a green sheet of information about this particular bill. Maine Revenue Services couldn't give us a fiscal estimate on it because it varies from town to town. The amount of personal property that is in the evaluation is impossible to tell what this is going to cost, unless someone else in the Taxation Committee had heard data that I missed. I believe that is the case. Thank you Mr. Speaker.

Representative CLARK of Millinocket moved that the RESOLUTION and all accompanying papers be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONED** the RESOLUTION and all accompanying papers.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of the Resolution and all accompanying papers. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 467**

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Bowen, Brannigan, Brautigam, Browne W, Bryant, Burns, Cain, Campbell, Canavan, Clark, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Greeley, Grose, Hanley S, Harlow, Hogan, Hutton, Jodrey, Kaelin, Koffman, Lerman, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Millett, Moody, Muse, Nass, Norton, O'Brien, Paradis, Patrick, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rector, Rines, Sampson, Saviello, Schatz, Smith W, Tardy, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowles, Brown R, Bryant-Deschenes, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgcomb, Emery, Fitts, Fletcher, Flood, Glynn, Hall, Hamper, Hanley B, Hotham, Jackson, Jacobsen, Joy, Lansley, Lewin, Lindell, Lundeen, Marean, McCormick, McKane, McKenney, McLeod, Moulton, Nutting, Ott, Pinkham, Plummer, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Smith N, Sykes, Trahan, Vaughan.

ABSENT - Faircloth, Jennings, McFadden, Mills, Moore G, Simpson, Stedman, Thomas, Woodbury.

Yes, 81; No, 61; Absent, 9; Excused, 0.

81 having voted in the affirmative and 61 voted in the negative, with 9 being absent, and accordingly the RESOLUTION and all accompanying papers were **INDEFINITELY POSTPONED** and sent for concurrence.

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**SENATE PAPERS**  
**Non-Concurrent Matter**

Bill "An Act To Allow Small Businesses To Participate in Liquor Sales"

(H.P. 1260) (L.D. 1820)

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-821) AS AMENDED BY HOUSE AMENDMENT "A" (H-854)** thereto in the House on March 29, 2006.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-821) AS AMENDED BY SENATE AMENDMENT "A" (S-560)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

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**REPORTS OF COMMITTEE**  
**Divided Report**

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-934)** on Bill "An Act To Strengthen and Improve Review Procedures in the Certificate of Need Program"

(H.P. 1254) (L.D. 1814)

Signed:

Senators:

MAYO of Sagadahoc  
MARTIN of Aroostook  
ROSEN of Hancock

Representatives:

PINGREE of North Haven  
WALCOTT of Lewiston  
GROSE of Woolwich