

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

1978

Second Regular Session

January 4, 1978 — April 6, 1978

INDEX

Senate Confirmation Session

June 14, 1978

INDEX

First Special Session

September 6, 1978 — September 15, 1978

INDEX

Second Special Session

October 18, 1978

INDEX

Third Special Session

December 6, 1978

INDEX

APPENDIX

the Senator that the matter before the Senate is House Paper 2096, L. D. 2139, Act Relating to Appropriating Funds for Certain Municipal Governments.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I would urge the Senate to vote override the Governor's veto. This deals with the pay in communities, SAD's, and it is my understanding that the only way that the communities could be refunded on this Bill is if there is a surplus of a million dollars within the Department of Education. I think that there are going to be a lot of these small communities hurt because of the passage of the Education Financing Law, and I think that this amendment that we have before us during the special session, was a way of trying to soften the blow to some of these small communities. I would urge the Senate to vote to override.

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

Mr. MERRILL: Mr. President, I note that in the Chamber there is still the absence of some Senators here. I hope that they will be present by the time that the vote is taken.

Mr. President and Members of the Senate, I think that this is an important piece of Legislation. It is admittedly a bandaid to take care of a serious problem until it can be dealt with in a more complete and thorough manner. And I would note as pointed out in the veto message that the Bill creating another special commission on educational finance has become Law, with the signature of the Governor, and I would like to say just one thing specifically in regards to the message of the Governor on this Bill. I watched the Governor during the week in which he had to consider the tax relief measure and I noted that he complained rather bitterly that some of the tax relief was made contingent on funds being available and pointed out that that had not been done with regards to most of the appropriations measures. That seemed to me to be a criticism with some legitimacy, however it is totally inconsistent with the position that he has taken within his veto message with regard to this Bill today. Because it will be noted by all members of the Senate and public present that none of this money, none of this million dollars is spent unless it is available in surplus in the Educational Account. This seems to me to be an approach completely consistent with the Governor's statements with regards to the tax bill about spending measures. This is obviously not an on going expenditure. It is obvious from the debate that has taken place here. It is obvious from the type of measure that it is. And I feel that funding it if and when a surplus is available in the Education Account is a very prudent way to proceed, and it is a way that is consistent with the Governor's desires.

So I would hope that the Senate would be consistent with its previous positions. I would hope that all Senators present in the State House would vote. Certainly their absence should be noted if it turns out that way, and I would sincerely hope that the Senate would override this veto today, it means a lot to a lot of people, and if what we do here today out of some sense of vindictiveness because the vote on repeal of the Uniform Property Tax did not go the way that many of us would like to have seen it gone, has the effect of tearing apart some of the School Administrative Districts, I think that we will be undoing some of the really important things that have happened in regards to education around this State in the last 20 to 25 years. And I think that it is incumbent upon us, the State, who has nurtured and brought about these School Administrative Districts and then change the rules of the game several times in regards to how we fund education to help do what we can this year to hold them together until the Educational Finance Commission which is authorized by the Legislation, intro-

duced by the Senator from Kennebec, Senator Katz, is able to deal with this in a more thorough manner.

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is: Shall this Bill become a law notwithstanding the objections of the Governor?

According to the Constitution, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of the Bill.

A vote of No will be in favor of sustaining the veto of the Governor.

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Collins, S.; Conley, Danton, Farley, Greeley, Levine, Mangan, Martin, McNally, Merrill, Minkowsky, O'Leary, Pray, Redmond, Snowe, Speers, Usher, Wyman.

NAY — Chapman, Cummings, Curtis, Hewes, Huber, Jackson, Katz, Pierce, Trotzky, Sewall.

ABSENT — Collins, D.; Hichens, Lovell, Morrell.

19 Senators having voted in the affirmative and 10 Senators in the negative, with 4 Senators being absent and 19 being less than two-thirds of the membership present, the veto of the Governor is sustained.

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

Mr. MERRILL: Mr. President, inquiry to the Chair. Am I correct in assuming that I voted on the prevailing side?

The PRESIDENT: That is affirmative.

Mr. MERRILL: Mr. President, I would move reconsideration whereby the override on this Bill failed.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, now moves that the Senate reconsider its action whereby the veto of the Governor was sustained.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: I request that when the vote is taken it be taken by the yeas and nays.

The PRESIDENT: A Roll Call has been requested. In order for the Chair to order a Roll Call it must be the expressed desire of one-fifth of those Senators present and voting.

On Motion of Mr. Merrill of Cumberland, Tabled until later in Today's Session.

Office Of The Governor

April 5, 1978

To the Honorable Members of the Senate and House of Representatives, 108th Maine Legislature

I am returning today without my signature and approval H. P. 1969, L. D. 2049, An Act to Provide for Refunding of Municipal Claims under the Maine Tree Growth Tax Law.

I cannot allow this bill to become law for the following reasons:

(1) It is my understanding that the bill may not even be necessary, or appropriate, if the stumpage value component of the Tree Growth Tax Formula were to be accurately assessed. I am told that there is currently substantial doubt that the stumpage value which is utilized to determine how much municipalities will be reimbursed is reflective of the actual stumpage value of the property. Obviously, the state should not be in a position of subsidizing the Tree Growth Tax formula to the extent that the formula is inaccurate and misleading.

(2) Anytime the state is subsidizing the tax responsibility of one particular group, the other groups and taxpayers are in effect paying for that subsidy, i.e. their tax burden is increased. I believe we have a very serious responsibility to ensure that the other taxpayers of Maine are not being asked to unfairly subsidize or assume the responsibility that belongs to those treated specially under the law. Again, the Tree Growth Tax formula should be exam-

ined very closely to make sure that those responsible for paying are in fact paying their fair share.

(3) The method utilized to reimburse the communities under this bill in in our opinion questionable, both in terms of fiscal management and in terms of reflecting the true cost of reimbursement. First, those communities that choose the 11¢ per acre reimbursement will be reimbursed by December 15th of this calendar year. Yet, those who choose to be reimbursed under the existing formula will be paid at a later date depending upon the actions of the 109th Legislature, and the cost for this later reimbursement is an additional \$175,000 not reflected in the fiscal note on this bill. In other words, the total cost will be \$500,000. Secondly, it is my understanding that if the Tree Growth Tax formula were to be adjusted to reflect accurate stumpage value, it is possible that the municipalities would in fact receive at least a minimum 11¢ per acre. If that is the objective. I am advised it can be done by improving the formula and the integrity of our reimbursement system.

(4) Also included in this bill is a section unrelated to the Tree Growth Tax Law which would remove the Towns of Medway and Carrabasset Valley from the Maine Forestry District effective January 1, 1979. I have been advised that this aspect of the bill would result in a loss of General Fund revenues of some \$33,000. I must question the appropriateness of including this provision in the Tree Growth Tax legislation as well as the justification and fairness of such selective treatment for these two Towns.

In summary, while I too am sympathetic with the goal of ensuring that the Tree Growth Tax treats the municipalities fairly and equitably, I believe that the approach mandated by this bill does not address the problem, but only delays and perhaps makes it more difficult for the Legislature to address the problem. It would appear to me that the next session of the Legislature could devote more time to study the real issues and the entire payment method as well as the accuracy of the existing formula. The resolution of these questions is of importance to the integrity of our taxing system, and to all the taxpayers of Maine who are subsidizing the Tree Growth Tax.

For these reasons, I respectfully request that you sustain my veto of this measure. (H. P. 2338)

Very truly yours,

Signed:

JAMES B. LONGLEY

Comes from the House, Read and Ordered Placed on File.

Which was Read and Ordered Placed on File in concurrence.

The Accompanying Bill, "An Act to Provide for Refunding of Municipal Claims under the Maine Tree Growth Tax Law." (H. P. 1969) (L. D. 2049)

Comes from the House, with the following endorsement."

In the House, April 6, 1978, this Bill, having been returned by the Governor, together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration, the House proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

133 voted in favor and 10 against, and accordingly it was the vote of the House that the Bill become a law, notwithstanding the objection of the Governor, since two-thirds of the members of the House so voted.

Signed:

EDWIN H. PERT

Clerk of the House

The PRESIDENT: The pending question before the Senate is:

Shall this Bill become a law notwithstanding the objections of the Governor?

According to the Constitution, the vote will

be taken by the Yeas and Nays.

The Chair would ask leave of the Senate to be allowed to refrain from voting on this issue because of the appearance of an apparent conflict of interest. Is it the pleasure of the Senate to grant this leave? It is a vote.

A vote of yes will be in favor of the Bill.

A vote of no will be in favor of sustaining the veto of the Governor.

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Chapman, Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Hewes, Jackson, Katz, Levine, Mangan, Martin, McNally, Merrill, Minkowsky, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Trotzky, Usher, Wyman.

NAY — None.

ABSENT — Collins, D.; Hichens, Huber, Lovell, Morrell.

27 Senators having voted in the affirmative and no Senators in the negative, with 5 Senators being absent, and 1 Senator being excused, and 27 being more than two-thirds of the membership present, it is the vote of the Senate that this Bill become a law notwithstanding the objections of the Governor, and the Secretary will present the Bill to the Secretary of State.

Office of the Governor

April 5, 1978

To the Honorable Members of the House of Representatives and Senate of the Maine 108th Legislature:

I am returning without my signature and approval H. P. 1912, L. D. 1973, "An Act to Expand the Elderly Low Cost Drug Program."

As you know I have strongly supported the existing elderly low cost drug program. However, I cannot accept L. D. 1973 for the following reasons:

1. I am advised that the appropriation for this bill is entirely inadequate to meet the additional costs which the bill would create. Although the Department of Human Services informed the Committee on Health and Institutional Services that the estimated cost of increasing the existing program as mandated by this legislation would be approximately \$2 million a year, the bill only provides for \$700,000 of funding. There are approximately 40,000 elderly individuals covered under the existing low cost drug program and medicaid, and I am told that this legislation could lead to 53,000 elderly individuals being eligible for coverage, and this figure does not include the population group between the ages of 62 and 64 who would also be eligible.

2. The existing low cost drug program has been one of my own priorities because I believe that we have an obligation to help those who do not have the resources to purchase such essential medication. Those who are currently eligible are individuals with the greatest need and the least ability to pay. L. D. 1973 proposes to expand coverage to individuals with greater ability to pay. Although I appreciate that there may be others in need of at least some assistance, it is unclear to me if this legislation goes beyond the original concept based on the ability to pay and, if so, how far?

3. It is my understanding that if we attempt to serve all those who would be made eligible by this legislation, we could run out of money and would have to suspend benefits or would have to stop paying for drugs which currently can be purchased under the existing program. I cannot accept the risk of possibly having to terminate or suspend all or part of our current effort, especially since it provides essential relief to those elderly who are least able to pay and who have the greatest need for help.

4. Personally, I believe it would be unfair an unjust for State government to offer hope in terms of an expanded program, if, in fact, we cannot deliver with the resources allocated by the bill. It would be a cruel irony to enact legislation which I am sure is supported by humani-

tarian concerns when the impact of that legislation could cause all or part of the program to be terminated, or existing benefits to be suspended, because of insufficient funding.

State government suffers from enough credibility problems without taking the risk of turning a necessary and responsible effort into a set of false promises because of unrealistic and unsatisfactory funding.

For these reasons, I respectfully ask that you sustain my veto of this measure.

Very truly yours,

Signed:

JAMES B. LONGLEY

H. P. 2339

Comes from the House, Read and Ordered Placed on File.

Which was Read and Ordered Placed on File in concurrence.

The accompanying Bill, "An Act to Expand the Elderly Low Cost Drug Program." (H. P. 1912) (L. D. 1973)

Comes from the House with the following endorsement:

In the House, April 6, 1978, this Bill, having been returned by the Governor, together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration, the House proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

145 voted in favor and 2 against, and accordingly it was the vote of the House that the Bill become a law, notwithstanding the objection of the Governor, since two-thirds of the members of the House so voted.

Signed:

EDWIN H. PERT

Clerk of the House

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Snowe.

Mrs. SNOWE: Mr. President and Members of the Senate: The Governor has vetoed this Bill stating that the funding is insufficient to cover the increased number of persons eligible and that it would be unfair for the State to expand a program which might have to be curtailed or suspended injuring those persons who currently receive assistance under the program.

The original Legislative intent of L. D. 1973, was to provide low cost drugs to those who fell within the income guide lines of property tax and rent refund program. No administrative funds were appropriated so the Department of Human Services chose to give low cost drugs charges only to older people actually receiving refunds. Older people in boarding homes, those who cannot afford their own homes, and so live with others, and those whose refunds would be less than \$5.00 do not receive refunds and therefore cannot get low cost drugs even though they are income eligible. These are the poorer of the eligibles.

L. D. 1973 clarifies original Legislative intent by making all older people with incomes of less than \$5,000, and \$6,000, eligible for the low cost drugs. As the program exists it discriminates against income eligibles simply because they do not get refunds. While the Department may need to cut back on numbers of drugs now offered in the program, L. D. 1973 will meet the Legislative promise that all Maines low income can receive low cost drugs and will end the discrimination currently existing in those programs. I urge you to vote to override the Governor's veto.

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

Mr. CONLEY: Mr. President and Members of the Senate: Again I believe this is one of the most worthy projects that we have within the operations of State Government. It is my understanding that even up to today, that there was someone checking the budget out and found that there is an additional \$150,000, yet to be spent in the current service budget, and I

would urge again that the Senate override this veto.

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

Mr. SPEERS: Mr. President, this Bill presents a question of the criteria that is suppose to be used with regard to those who would be eligible for the benefits under this particular program. As it currently exists the criteria is whether or not the individuals are receiving some benefit under the rent relief, home owners and rent relief act, and not as to what the income level of the individual happens to be. This Bill would change that criteria to make it evident that it is the intention of this Legislature that the criteria for eligibility to participate in this program is the income or the level of income of the individual rather than whether or not that individual happens to own a home or to pay rent.

I would urge this body to override the veto.

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is: Shall this Bill become a law notwithstanding the objections of the Governor?

According to the Constitution, the vote will be taken by the Yeas and Nays.

A vote of yes will be in favor of the Bill.

A vote of no will be in favor of sustaining the veto of the Governor.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Chapman, Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Hewes, Huber, Jackson, Katz, Levine, Mangan, Martin, McNally, Merrill, Minkowsky, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Trotzky, Usher, Wyman Sewall.

ABSENT — Collins, D.; Hichens, Lovell, Morrell.

29 Senators having voted in the affirmative and No Senators in the negative, with 4 Senators being absent and 29 being more than two-thirds of the membership present. It is the vote of the Senate that this Bill become a law notwithstanding the objections of the Governor, and the Secretary will present the Bill to the Secretary of State.

Office of the Governor

April 5, 1978

To the Honorable Members of the House of Representatives and Senate of the Maine 108th Legislature:

I am returning without my signature and approval H. P. 1915, L. D. 1976, An Act to Allow Intermediate Care Facilities to be reimbursed under the Medically Needy Program.

I cannot allow this bill to become law for the following reasons:

1. I am advised that this legislation is seriously underfunded. Simply stated, if this act were to become law, the problem would create a deficit. Once the program has been implemented, there is no way to stop it. The department would have no choice but to meet what would be a statutory obligation, even though there was no money to pay the bill. Obviously, this approach would be fiscally irresponsible and totally unacceptable.

It should be noted that the Department of Human Services provided the legislative committee and the Legislative Finance Office with the estimate that approximately \$95,000 is necessary to fund this program for every 100 people that would be eligible. The number of eligible individuals was estimated at 500. The true general fund costs would be approximately \$475,000. The appropriation for this bill is only \$250,000. These facts speak for themselves.

2. In addition, I am also concerned if there is any chance that this program could lead to further abuse of medicaid to the extent that relatives and families who are now voluntarily