

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Eighteenth Legislature
State of Maine

Volume 2

First Special Session (Continued)
May 20, 1997 to June 20, 1997

First Confirmation Session
October 6, 1997

Second Regular Session
January 7, 1998 to March 24, 1998

Pages 981 - 1977

On motion by Senator **JENKINS** of Androscoggin, the Senate **RECEDED** and **CONCURRED**.

Non-concurrent Matter

Resolve, to Establish a Pilot Project Voucher System for Nursing Facility Level Care Reimbursement under the Medicaid Program (Emergency) S.P. 558 L.D. 1684 (C "A" S-256)

In Senate, May 20, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-256)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-256) AS AMENDED BY HOUSE AMENDMENT "A" (H-708)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **RAND** of Cumberland, the Senate **RECEDED** and **CONCURRED**.

Senate at Ease

Senate called to order by the President.

Under suspension of the Rules, all matters thus acted upon, with the exception of those matters being held, were ordered sent down forthwith for concurrence.

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act to Increase the Excise Tax on Cigarettes to Support a Tobacco Prevention and Control Program and Reduce the Individual Income Tax Burden" H.P. 1279 L.D. 1816

Reported that the same **Ought Not to Pass**.

Signed:

Senator:

DAGGETT of Kennebec

Representatives:

TRIPP of Topsham
TUTTLE, JR. of Sanford
GREEN of Monmouth
ROWE of Portland
GAGNON of Waterville
MORGAN of South Portland
LEMONT of Kittery

BUCK of Yarmouth

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-713)**.

Signed:

Senators:

RUHLIN of Penobscot
MILLS of Somerset

Representatives:

SPEAR of Nobleboro
CIANCHETTE of South Portland

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

Which Reports were **READ**.

Senator **RUHLIN** of Penobscot moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-713)** Report in **NON-CONCURRENCE**.

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

Senator **RUHLIN:** Thank you Mr. President, Senators of Maine. This particular report before you recognizes a couple of basic things. It recognizes that we have a severe problem in the State of Maine, in fact, not a life-threatening problem but a life-costing problem. We have the highest youth smoking rate in the nation. I wish I could say, "Shame on us" and it would all go away, but it doesn't work that way. This bill recognizes that if we are going to correct that situation, we need to take meaningful steps to solve that problem which is probably, without any question, the number one health problem facing the people of the State of Maine. And that is the future health of our youth. One out of every three of those youths who will become addicted to smoking will die from that addiction. Those are not pleasant things to think about. This particular bill, this particular report, addresses that problem. It addresses that problem in a fiscally forthright and direct manner. It does it in a couple of ways. It recognizes that the cost of a product will have some influence on the availability and sale of that product, especially to the lower income level people. And I can remember, and I'm sure most of us can remember, when you're young you usually don't have much money in your pocket. And that's exactly the target that we want. Those people where an additional cost to the cost of cigarettes by itself will do something, not a lot, but something to deter. And from that rise in cost, take that money and advertise to do something to undo the ads of evil which we see rampant in every store, on billboards, that you see throughout our society, that glorify cigarette smoking. We can take those moneys from that increase in taxation and correct the image that is being shown to our young, to better protect them, to better warn them of the dangers of their actions. We can do that with this report. We can do it with this bill. We can also, in a limited way, recognize that there are those in our society who will continue with their addiction throughout their life and that's unfortunate, but there is a minority and, again, that's unfortunate but it is a

minority, who can be helped to leave that addiction. It takes some of those moneys from that tax and addresses trying to relieve that addiction, help the person overcome what is generally regarded the strongest addiction to a narcotic drug that there is, and that is nicotine. So the bill does that.

It also does one other thing that is unique to itself. It addresses a problem that we have in the State of Maine that's called the imbalance of our property tax system. As you went door-to-door in your campaigns, I'm sure you heard the citizens of this state tell you that they are bowing under the very heavy yoke of an improperly applied, out-of-balance property tax system, especially in the larger communities where, in major communities, you have as much as 50 or 55% of the properties tax-exempt, where you have mil rates that are nearly confiscatory in nature in the amount that a person has to pay in their property taxes, where, because of various actions and reactions due to economic events of our time, we have gone from a 36% dependence on the property tax as a part of our overall taxing system to a 44%. That is a heavy burden to place on the property owners of this state. This particular proposal, this bill would propose to, not cure that problem, but take a meaningful step toward addressing that property tax imbalance within the State of Maine. I know when you look at things that have a lot of sales appeal, a lot of aura, perhaps, speaking of property tax relief is not the most glamorous thing you can speak of. But I assure you it is sorely needed and it will be sorely appreciated. With that in mind, keeping in mind that we have an opportunity here tonight that we may not be able to duplicate in this session, to take a step, a real step in protecting our youth from the very evils of nicotine. Do not let this moment of opportunity leave us. Do not be misled by the siren song of another alternative that may or probably won't develop. At least keep this opportunity for us to make that choice for our citizens to help improve their health. Let us go forward and do that together as Senators of the State of Maine and let us do it tonight. Thank you.

Senator **MILLS** of Somerset moved to **TABLE 1** Legislative Day, pending the motion by Senator **RUHLIN** of Penobscot to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-713)** Report in **NON-CONCURRENCE**.

On motion by Senator **RAND** of Cumberland, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: **ABROMSON, AMERO, BENNETT, BUTLAND, GOLDTHWAIT, HALL, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MICHAUD, MILLS, MITCHELL, NUTTING, RUHLIN, SMALL**

NAYS: Senators: **BENOIT, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MURRAY, O'GARA, PARADIS, PENDLETON, PINGREE, RAND,**

TREAT, THE PRESIDENT - MARK W. LAWRENCE

16 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion by Senator **MILLS** of Somerset to **TABLE 1** Legislative Day, pending the motion by Senator **RUHLIN** of Penobscot to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-713)** Report in **NON-CONCURRENCE, FAILED**.

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator **HALL:** Thank you Mr. President, ladies and gentlemen. It seems to me that if we were so bent on programs to keep our young people from smoking and to help those that are now smoking, why don't we use some of the excise tax that's on cigarettes now? I am opposed to raising the tax any further. And for the other part of this, maybe it does to you, but it sure doesn't make sense to me to raise taxes to reduce taxes. I don't see any net result. I think it still puts us number four in the nation and I don't know if some people here want to be number one in that category also, but if you keep raising taxes, you're going to make it sooner or later. Please vote against this motion. Thank you.

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

Senator **RUHLIN:** Thank you Mr. President. A couple of points I really want to respond to from the good Senator from Piscataquis, and there seems to be confusion. "Why raise one tax to change another tax?" Well, let me tell you something. When you've got an imbalance in your tax system that is severe, that is pronounced, that is renowned if you will, the way that you do it is take the tax that's not so burdensome and use it to reduce the one that is burdensome. So if you want to talk about tax burdens, and Maine does have an inordinately high tax burden, the most regressive of which, the hardest one to bear is the property tax. If you, as the Legislature, want to address that tax burden problem, what you do is look at it intelligently, apply an attempt to put it back into balance and the way that you put it back into balance is you give direct property tax relief. You apply a tax to accomplish a hoped-for societal goal and you take those moneys and you apply them directly to where your tax system problem is. Simple Economics 101, that's how it's done. That's how you lower your overall tax burden and I hope you will note that and note that this is a fiscally responsible approach, trying to accomplish the first goal. Let's not lose sight of that, the first goal of helping to deter our youth from smoking. The secondary goal, and it's only secondary, is to address the imbalance of the property tax system. I hope you'll, therefore, vote for the Ought to Pass as amended report. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Benoit.

Senator **BENOIT:** Thank you Mr. President, may it please the Senate. I'm not going to talk a whole lot about sending our cigarette business over to New Hampshire and down to Massachusetts such as an argument that I've heard by raising the tax on cigarettes. But I echo the good Senator from

Piscataquis, Senator Hall's, comment. You know, we're in the top 10 on tax burden for our citizens and it depends on when you look at the figures, whether we're 8th or 9th, 6th or 7th, and I think it's really a shame. Here we are, talking about raising a tax so that we can further put a tax burden on our citizens and move us closer, as he points out, to number one. There are some in the State House who have that dreaded legislative malady, taxitis, who won't be satisfied, I guess, until we are number one and that bothers me. For after all, the warnings about cigarettes are on the very packages that our young people hold in their hands. The ads that we see in the newspapers have the warnings and the ads for cigarettes in magazines have warnings as well. I would ask you to consider the consumption of marijuana in Maine, with our young people, is at an all-time high. Marijuana is illegal, still, it's at an all-time high, so if illegality doesn't do the trick, how will a few more pennies do the trick? So I would urge you to vote against the pending report because it just isn't going to work as we intend it to and we will be, all the while, working towards number one in this state for tax burden on our citizens. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Daggett.

Senator **DAGGETT:** Thank you Mr. President, members of the Senate. I would ask you to oppose the motion on the floor. In response to some other comments that have come before me, it is not that I oppose a tax on cigarettes. I think that there is significant reason today to consider raising the tax on cigarettes and I would submit to you that this is not the vehicle to do that. The issue before us, in my opinion, is a public health issue. We're talking about smoking and the devastating effects on the health of the public. While I would, at some other time, be happy to get into a discussion of tax policy in the State of Maine, which I feel has been grossly misrepresented in a number of accounts, I would suggest to you that we need to focus on the health of our citizens. The question has been put to you earlier about why raise one tax to lower another? There are countless reasons to readjust taxes and to spread tax burden out. However, this bill does not do that. This does not spread the tax burden out. If it were a question of realigning tax structure then I think we have to look to some different type of vehicle, but when we're looking at the health of our citizens and our children and a way to address that health, there is a good linkage between raising a tax and addressing health issues. So for those reasons, I encourage you to vote against the motion on the floor so that we can accept the Ought Not to Pass report and move to make an appropriate linkage between cigarette taxes and the health of all of the people of the State of Maine. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Ferguson.

Senator **FERGUSON:** Thank you very much, Mr. President, ladies and gentlemen of the Senate. I've been looking at the amendment before us, H-713, and on this amendment it reads, "Replaces the increase in the property exemption amount in the bill with a new program of property tax relief for certain municipalities." Now it looks like we're being asked to buy a pig in a poke here. "Certain municipalities." Who are those municipalities? I certainly can't support any piece of legislation with language such as this in it, and I would urge all the members

of the Senate to vote against the pending motion. Thank you Mr. President.

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

Senator **MILLS:** Thank you Mr. President and men and women of the Senate. The "certain municipalities" are very clearly identified at the top of page 2 of the bill under the paragraph called "Program Distribution." The money that is allocated to this element of the revenue-sharing program would be spent purely in proportion to the amount by which a town's mil rate or tax burden exceeds 10 mils. So that the money that is spent from the General Fund, to relieve high property tax rates, would be targeted to those communities that indeed have a high property tax rate. If you were one of the few communities in the state that actually has a tax burden of less than 10 mils, and there aren't very many, then there would be zero participation. For those whose mil rates are just above 10 mils at 11 or 12, for instance, the participation or the new revenue coming to those communities would be very small. For those whose mil rates are up at 20 and 22 and 25 mils, the weight or the largest portion of the distribution would fall to those communities whether they be Caribou, Portland, Bangor or where have you. The interesting thing about the proposal is that it makes targeted use of our valuable General Fund revenue in a way that directly impacts high property tax rates and does not squander that money by distributing it to communities whose property taxes are well below what anybody would regard as a problem. Thank you.

On motion by Senator **HARRIMAN** of Cumberland, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: ABROMSON, CATHCART, GOLDTHWAIT, HARRIMAN, MICHAUD, MILLS, MURRAY, NUTTING, RUHLIN, SMALL

NAYS: Senators: AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, CLEVELAND, DAGGETT, FERGUSON, HALL, JENKINS, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MITCHELL, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE

10 Senators having voted in the affirmative and 25 Senators having voted in the negative, the motion by Senator **RUHLIN** of Penobscot to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-713)** Report in **NON-CONCURRENCE, FAILED**.

On motion by Senator **DAGGETT** of Kennebec, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.