

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Tenth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 3, 1980 to May 1, 1981

KJ PRINTING
AUGUSTA, MAINE

STATE OF MAINE
One Hundred and Tenth Legislature
First Regular Session
JOURNAL OF THE SENATE
January 7, 1981
Senate called to order by the President.

Prayer by Father James Michaud of St. Augustine's Church of Augusta.

FATHER MICHAUD: We pray! Father, You have gifted us with the responsibility of leadership and humble service. You place in our hands the felt-needs of the people of the great State of Maine. Indindle within us, this morning, the true spirit of selfgiving, assist us to act justly and to walk humbly with You. We pray this in the name of the true servant of all, Jesus Christ, our Lord. Amen.

Reading of the Journal of yesterday.

Communications
Office of the Governor

January 5, 1981

To the President of the Senate and to the Speaker of the House of Representatives of the One Hundred and Tenth Legislature of the State of Maine:

SUBJECT: Unorganized Territory Educational and Services Tax

The following list of Municipal Cost Components is submitted in accordance with 36 M.R.S.A., Section 1604.

Forest Fire Protection	\$2,721,390
Land Use Regulation Commission	333,351
Secretary of State	2,400
Property Tax Assessment	312,112
County Reimbursement for Services	1,400,000
Education	2,386,888
Human Services - General Assistance	210,000

Total \$7,366,141

The Municipal Cost Components for 1981, computed for services and reimbursements to be rendered in FY 1982, was provided me by the Bureau of the Budget, Department of Finance and Administration, based on data it received from State agencies.

Respectfully,
S/JOSEPH E. BRENNAN
Governor
(H. P. 0088)

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

Which was Read.

On Motion by Senator McBreaity of Aroostook, Tabled for 1 Legislative Day, pending Consideration.

Senate Chamber

January 6, 1981

The Honorable Joseph Sewall
President of the Senate of Maine
State House
Augusta, Maine
Dear President Sewall:

In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 38 of the 110th Maine Legislature, the Joint Standing Committee on State Government has had under consideration the nomination of Charles P. Harriman to the position of member of the Maine Guarantee Authority.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate of the 110th Maine Legislature that this nomination be confirmed. The vote was taken by the yeas and nays. The Committee clerk called the roll with the following result:

YEAS: Senators 2
Representatives 9

NAYS: Senators 0
Representatives 0

ABSENT: Senator Gill of Cumberland, Rep. Paradis of Augusta

11 members of the Committee having voted in the affirmative and 0 in the negative, it was the vote of the Committee that the nomination of Charles P. Harriman to the position of member of the Maine Guarantee Authority be confirmed.

Sincerely,
DAVID R. AULT
Senate Chairman
JUDY C. KANY
House Chairman

Which was Read and Ordered Placed on File.

The PRESIDENT: The Joint Standing Committee on State Government has recommended that the nomination of Charles P. Harriman be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on State Government be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 38 of the 110th Legislature, the vote will be taken by the yeas and nays. A vote of YES will be in favor of overriding the recommendation of the Committee. A vote of NO will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

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

ROLL CALL

YEAS—None

NAYS—Brown, Bustin, Charette, Clark, Collins, Conley, Devoe, Dutremble, Emerson, Hichens, Kerry, McBreaity, Minkowsky, Najarian, O'Leary, Perkins, Pierce, Pray, Redmond, Shute, Sutton, Teague, Trafton, Trotzky, Usher, Violette, Wood, Sewall, J.

ABSENT—Carpenter, Gill, Huber, Sewall, C.

No Senators having voted in the affirmative and 28 Senators in the negative, with 5 Senators being absent and none being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Charles P. Harriman is confirmed.

Senator Collins of Knox was granted unanimous consent to address the Senate, Off the Record.

Senator Conley of Cumberland was granted unanimous consent to address the Senate, Off the Record.

On Motion by Senator Pierce of Kennebec, Recessed until the Sound of the Bell.

Recess

After Recess

The Senate called to order by the President.

Senate Chamber

January 6, 1981

The Honorable Joseph Sewall
President of the Senate of Maine
State House
Augusta, Maine
Dear President Sewall:

In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 38 of the 110th Maine Legislature, the Joint Standing Committee on State Government has had under consideration the nomination of David W. Bustin to the position of Commissioner of the Department of Personnel.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate of the 110th Maine Legislature that this nomination be confirmed. The vote was taken by the yeas and nays. The Committee clerk called the roll with the following result:

YEAS—Senators 1 - Violette of Aroostook, Representatives 8 - Kany, Paradis of Augusta,

Diamond of Bangor, Lisnik, McGowen, Webster, Bell, Dillenback.

NAYS—Senators 2 - Ault of Kennebec, Gill of Cumberland. Representatives 2 - Masterton, Small.

ABSENT—0

9 members of the Committee having voted in the affirmative and 4 in the negative, it was the vote of the Committee that the nomination of David W. Bustin to the position of Commissioner of the Department of Personnel be confirmed.

Sincerely,
S/DAVID R. AULT
Senate Chairman
s/JUDY C. KANY
House Chairman

Which was Read and Ordered Placed on File.

The PRESIDENT: The Joint Standing Committee on State Government has recommended that the nomination of David W. Bustin be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on State Government be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 38 of the 110th Legislature, the vote will be taken by the yeas and nays. A vote of Yes will be in favor of overriding the recommendation of the Committee. A vote of No will be in favor of sustaining the recommendation of the Committee.

The Chair recognizes the Senator from Kennebec, Senator Ault.

Senator AULT: Mr. President and Members of the Senate, yesterday the State Government Committee did question Mr. Bustin considerably about his qualifications for assuming the office as head of the Department of Personnel. The first question that was of importance to me and to the members of the committee, I believe, was when we asked the Governor's representative if the Governor was indeed going to combine the Office of Employee Relations, to which he has already appointed Mr. Bustin, and the Department of Personnel. The Governor's representative did confirm that the Governor plans to do this after Mr. Bustin is confirmed.

Other questions were asked about the fact that Mr. Bustin does believe in binding arbitration for salaries, pensions, and insurance for State employees. He is opposed to the right to strike for public employees. Other specific questions regarding his stand on agency shop, fair share, and so forth that he was asked, he refused to say where he stood because he said those items were on the negotiating table at this time.

Based on the fact that he wouldn't take specific stands on these issues and because of what I knew of his past strong pro labor record, he held many high leadership positions, for instance, in the Maine Teachers Association when that organization was changed from an association to one of the largest and strongest labor unions in the State, and because of his past record as being so pro labor, I chose to vote against his nomination.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Violette.

Senator VIOLETTE: Mr. President and Ladies and Gentlemen of the Senate, I think, quite frankly, the question before the Senate today is a question of whether or not David Bustin has the necessary qualifications to serve in the position of Commissioner of the Department of Personnel, whether or not he is capable of managing that Department. I think, whether or not an executive order to include the Office of Labor Relations within the Department of Personnel is, quite frankly, not the question here today. The question here today is whether or not David Bustin has the necessary qualifications to serve as Commissioner of the Department of Personnel. That is what we are voting on today, not an executive order.

I think, Dave Bustin has the qualifications to

serve as Commissioner of the Department of Personnel. He has served with great esteem as Commissioner of the Department of Manpower Affairs for the last two years, as commissioner of a department of some eight or nine hundred employees, making policy decisions on personnel as you would have to do within the Department of Personnel. His history of involvement in labor is a good one. I think, David Bustin has shown us that he can make that transition from one end of the table to the other in his involvement in bargaining with State employees as the chief negotiator in the bargaining last year. I think, he has shown us that he can do an excellent job. I think, quite frankly, those arguments put forward by Senator Ault concerning Mr. Bustin's qualifications and his involvement in labor over the years are, quite frankly, irrelevant to our confirming Mr. Bustin to the position as Commissioner of the Department of Personnel. So I would hope today that you would indeed vote to confirm Mr. Bustin to the position. Thank you very much.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, I've been rather interested, even though I was not able to attend the hearing yesterday of Mr. Bustin, as to the remarks made by the good Senator from Kennebec, Senator Ault. I just would like to have him clarify for the Record as to where he finds Mr. Bustin may be lacking qualifications. He has articulated his particular points of view, specifically at his union activities, and I'm just wondering if the Chairman of the State Government Committee is opposed to Mr. Bustin's nomination primarily because of his labor activities and not based upon the man's qualifications.

The thing that was interesting, a former member of the other body in a recent article in the MAINE TIMES mentioned one particular factor which I found rather interesting. It says, "Dave Bustin has been shifted from Manpower Affairs where by all reports he has done a good job." This gentleman is also a member of the same party that the good gentleman from Kennebec is affiliated with. I can't see why the two can't agree on that particular facet. I'd like to have the gentleman from Kennebec, Senator Ault, maybe articulate a little more clearly his point of view relevant to this particular issue.

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

Senator AULT: The fact that former Representative Garsoe is now writing for the MAINE TIMES has not made me any more an avid fan of that publication. I didn't even read his articles, as a matter of fact, but Mr. Bustin did mention it yesterday. Mr. Bustin freely said that he accepted the accolades for the fine job he'd done in Manpower Affairs, and as far as I know, he's done a good job, but he said that the two departments are completely different and he had no new plan or anything for the Department of Personnel. He just felt that he would be able to handle it.

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

Senator GILL: Mr. President, I too, as a member of the Committee on State Government voted against Mr. Bustin. I don't have any problem with his choice of leanings as far as being active in unions, I applaud that, but sitting on one side of the table for the greater part of his adult life, in the labor position, I don't see how a person can shift hats overnight and develop into a management man. The qualifications in the statutes do state that "the Commissioner of Personnel shall at the time of his appointment be a person thoroughly familiar with the principles and experienced in the methods and techniques of personnel administration and management." I look on this as another on-the-job training. I like Mr. Bustin, but I don't think he's the man for his job.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President and Members of the Senate, I'm rather happy that the Senator from Cumberland, Senator Gill, brought up the qualifications for the Commissioner of Personnel. Many of you are aware that Mr. Bustin has served as Commissioner of Manpower Affairs for the last couple of years and was confirmed by this body only two years ago. At that time the Senator from Cumberland, Senator Gill, voted in favor of that confirmation, and at that time felt as if he would be qualified to play a managerial role in running that department.

My concern at the hearing yesterday and the publicity which has surrounded Mr. Bustin's nomination at this time for this particular position comes I hope not as a political or personal bias against the individual himself and that we would address the qualifications. I do notice also at yesterday's hearing there was no one in opposition to Mr. Bustin's appointment though there did come from the Committee members finally four negative votes to it.

When we talk about the job qualifications of Mr. Bustin and we look at how he has run the Department of Manpower Affairs, we find very few individuals who are willing to speak out and say he's done a poor job there, that he hasn't been able to run that department. I think, the issues we must address today in this vote is exactly whether or not he has the ability to run that department. That's clear, that is the question before us, not the policy that's being directed by the Governor, the Chief Executive of this State, it's the question as to whether or not this individual can do the job and do it for the people of the State of Maine.

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

Senator CONLEY: Mr. President and Members of the Senate, I think the question before the Senate this morning is whether or not Dave Bustin is qualified to handle this position. I've known Mr. Bustin for twenty years. He lived in the city of Portland. He served the city of Portland as a public school teacher. In fact, if one looks over the life of Mr. Bustin, he has been a public servant almost his entire professional life. He came here and he served in the Legislature and did an outstanding job. He's a master politician and you know, I love master politicians, the only thing, I think, he never failed at was when he ran for Congress, but we're all politicians and, I think, that's the issue here this morning.

When he became the Head of Manpower Affairs, he came into an explosive situation that had been lying there for a period of three years, and within a matter of a very brief period of time, was able to negotiate on behalf of the State a contract for State employees that was mostly acceptable to all the employees and to the Members of the Legislature as a whole.

He's done an outstanding job through his twenty years in life of public service. For people to stand here today, in looking back on his confirmation as Commissioner of Manpower Affairs to note there was only one member of this body who voted against his confirmation, that very influential voice from the city of Bangor, whom I have the greatest respect for, Senator Trotzky, I think we would be doing the State an ill-service not to vote to confirm Mr. Bustin this morning, because to do otherwise would be nothing more than blatant political tactics.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President and Ladies and Gentlemen of the Senate, I do have some concerns, political or not, about Mr. Bustin, whom I have known for the last couple of years, and who, I think, is a fine gentleman intelligent and articulate, and whom probably I would be very proud to have working for me in my business. I am concerned that he can ad-

minister the Office of Personnel in a completely unbiased manner. I think, people of the State of Maine, especially in District 5, require that the Commissioner of Personnel, notwithstanding the chief negotiator which is a separate subject I understand, but I'm concerned about that too, I was last time although I did vote for Mr. Bustin when he was made commissioner of Manpower Affairs, and I am concerned, that we will lose the checks and balances that should be in every business situation, and that the people require as far as those administering the State of Maine and those working for the State of Maine. I really believe Mr. Bustin is going to have difficulty in maintaining his position in representing the people of the State of Maine and not the employees of the State of Maine. This really is a concern that I've wrestled with and for that reason I don't believe I can vote to support him.

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

Senator TRAFTON: Mr. President and Men and Women of the Senate, I think it's an important point that the Senator from South Paris has brought out, regarding the necessary flexibility to move from one career of the past into a new career. I think each of us in this Chamber, perhaps, has done things in our past and then have moved on to a new career. Certainly teachers have moved on to be principals, employees have moved on to be in a management capacity. What we're basically talking about is the flexibility that allows us to learn from our past experiences and make those a productive part of a new career.

When we're talking about negotiating, we have to ask ourselves, "Does the individual whom we have before us have that flexibility and those negotiating skills?" Certainly, from his past experience, we can see that he does have those negotiating skills and in this particular instance, he would be negotiating for us, much as a lawyer has the flexibility to represent both the landlord at one point and perhaps a tenant at another point in time, much as a lawyer has the ability to represent an employee on the one hand, and perhaps at another time, the employer.

I feel very strongly that David Bustin as Commissioner has the flexibility to negotiate both for an employer and an employee. In his new capacity, he would be negotiating for us, for the Executive Branch, and for the people of Maine, but let us also remember that the final decision is with us and that if in fact we feel he has not negotiated a contract which is acceptable to us, we here in this Chamber will make the final determination of whether that will receive funding. I urge you all to support Commissioner Bustin as the former Representative from Cumberland, Bill Garsoe, has said, he is a person of the highest integrity and I think that will stand him well along with all his other proven skills in his new capacity as Commissioner.

The PRESIDENT: Is the Senate ready for the question?

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

ROLL CALL

YEA—Ault, Collins, Gill, Hichens, Perkins, Pierce, Sewall, C.; Sutton, Teague, Trotzky, Sewall, J.

NAY—Brown, Bustin, Charette, Clark, Conley, Devoe, Dutremble, Emerson, Huber, Kerry, McBreairey, Minkowsky, Najarian, O'Leary, Pray, Redmond, Shute, Trafton, Usher, Violette, Wood.

ABSENT—Carpenter.

11 Senators having voted in the affirmative and 21 Senators in the negative, with 1 Senator being absent and 11 being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of David W. Bustin is confirmed.

Senate Papers

Senator PIERCE of Kennebec (Cosponsor: Representative JACQUES of Waterville) presented.

Bill, "An Act Concerning Appointments to the Maine Veterans Home Board of Trustees." (S. P. 73)

Which was referred to the Committee on Aging, Retirement and Veterans and Ordered Printed.

Sent down for concurrence.

Senator HICHENS of York (Cosponsor: Senator WOOD of York) presented, Bill, "An Act to Remove the Responsibility for Carrying Out Dog Licensing Laws from the Animal Husbandry Specialist." (S. P. 57)

(Submitted by the Department of Agriculture, Food and Rural Resources pursuant to Joint Rule 24.)

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

Sent down for concurrence.

Senator CLARK of Cumberland (Cosponsor: Senator CARPENTER of Aroostook) presented, Bill, "An Act to Amend the Manufactured Housing Act." (S. P. 63)

(Submitted by the Department of Business Regulation pursuant to Joint Rule 24.)

Senator DEVOE of Penobscot presented, Bill, "An Act to Amend the Maine Nonprofit Corporation Act." (S. P. 72)

Which were referred to the Committee on Business Legislation and Ordered Printed.

Sent down for concurrence.

Senator DEVOE of Penobscot presented, Bill, "An Act Creating Security Requirements for Pharmacy Areas." (S. P. 68)

Reference to the Committee on Business Legislation is suggested.

On Motion by Senator DEVOE of Penobscot referred to the Committee on Health and Institutional Services and Ordered Printed.

Sent down for concurrence.

Senator EMERSON of Penobscot presented, Bill, "An Act Repealing Formulas for Adjusting Below and Above Average Per Pupil Operating Costs used in Computing the State-local Allocation." (S. P. 59)

Senator PERKINS of Hancock (Cosponsors: Senator HICHENS of York, Senator SUTTON of Oxford and Senator SHUTE of Waldo) presented, Bill, "An Act Providing for a Period of Silence in Public Schools." (S. P. 70)

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

Sent down for concurrence.

Senator HICHENS of York (Cosponsor: Representative ROLDE of York) presented, Bill, "An Act to Prohibit Open Burning in Areas Determined as Urban Areas." (S. P. 58)

Which was referred to the Committee on Energy and Natural Resources and Ordered Printed.

Sent down for concurrence.

Senator HICHENS of York presented, Bill, "An Act to Prohibit Hunting of Bear with Bait." (S. P. 64)

Which was referred to the Committee on Fisheries and Wildlife and Ordered Printed.

Sent down for concurrence.

Senator HICHENS of York presented, Bill, "An Act Concerning Eye Enucleation under the Anatomical Gift Act." (S. P. 54)

Senator CLARK of Cumberland, (Cosponsors: Senator WOOD of York, Senator KERRY of York and Senator GILL of Cumberland) presented, Bill, "An Act Concerning the Assignment of Rights of Recovery." (S. P. 71)

(Submitted by the Department of Human Services pursuant to Joint rule 24.)

Which were referred to the Committee on Health and Institutional Services and Ordered Printed.

Sent down for concurrence.

Senator USHER of Cumberland (Cosponsors: Senator KERRY of York, Senator DEVOE of Penobscot and Representative HIGGINS of Scarborough) presented, Bill, "An Act to Include Money in the Law Regarding the Forfeiture of Property Used or Intended for Use in Violation of the Criminal Law Relating to Drugs." (Emergency) (S. P. 55)

(Submitted by the Department of Public Safety pursuant to Joint Rule 24.)

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

Sent down for concurrence.

Senator DUTREMBLE of York (Cosponsor: Representative TUTTLE of Sanford) presented, Bill, "An Act Relating to the Period for Establishing Employer Contribution Rates under the Employment Security Law." (S. P. 61)

(Submitted by the Department of Manpower Affairs pursuant to Joint Rule 24.)

Senator DUTREMBLE of York (Cosponsor: Representative TUTTLE of Sanford) presented, Bill "An Act Relating to the Special Administrative Expense Fund and Errors in Benefit Payments under the Employment Security Law." (S. P. 62)

(Submitted by the Department of Manpower Affairs pursuant to Joint Rule 24.)

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

Sent down for concurrence.

Senator HICHENS of York (Cosponsors: Representative MURPHY of Kennebec and Representative TUTTLE of Sanford) presented, Bill, "An Act to Revise the Public Drinking Law." (S. P. 66)

Which was referred to the Committee on Legal Affairs and Ordered Printed.

Sent down for concurrence.

Senator EMERSON of Penobscot presented, Bill, "An Act to Repeal County Home Rule." (S. P. 60)

Senator NAJARIAN of Cumberland presented, Bill, "An Act to Increase the Percentage Retained for the County by the Register of Deeds on Real Estate Transfers." (S. P. 67)

Which were referred to the Committee on Local and County Government and Ordered Printed.

Sent down for concurrence.

Senator USHER of Cumberland (Cosponsor: Senator EMERSON of Penobscot) presented, Bill, "An Act Relating to the Organization of the Department of Transportation." (S. P. 56)

(Submitted by the Department of Transportation pursuant to Joint Rule 24.)

Which was referred to the Committee on State Government and Ordered Printed.

Sent down for concurrence.

Senator HICHENS of York (Cosponsor: Senator GILL of Cumberland) presented, Bill, "An Act to Encourage the Operation of Vending Facilities in Private Buildings by the Blind." (S. P. 65)

Senator DEVOE of Penobscot presented, Bill, "An Act to Require Certain Notification in the Case of Tax Liens and Mortgages." (S. P. 69)

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

Sent down for concurrence.

Orders of the Day

The President laid before the Senate, the first Tabled and specially assigned matter.

Bill, "An Act to Relieve Public Housing Authorities from Excessive Utility Charges." (S.

P. 48) (L. D. 57)

Tabled—January 6, 1981 by Senator TROTZKY of Penobscot

Pending—Motion of Senator CONLEY of Cumberland to Refer to Committee on State Government.

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

Senator CONLEY: Mr. President, I request leave of the Senate to withdraw my motion.

The PRESIDENT: Senator Conley of Cumberland, now requests Leave of the Senate to Withdraw his Motion that this Bill be referred to the Committee on State Government.

Is it the pleasure of the Senator to grant this leave?

It is a vote.

On Motion by Senator COLLINS of Knox, referred to the Committee on Public Utilities and Ordered Printed.

Sent down for concurrence.

On motion by Senator PIERCE of Kennebec, Adjourned until 10 o'clock tomorrow morning.