

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Fourteenth Legislature
OF THE
State Of Maine

VOLUME IV

FIRST SPECIAL SESSION
August 21, 1989 to August 22, 1989
Index

FIRST CONFIRMATION SESSION
October 30, 1989
Index

SECOND CONFIRMATION SESSION
December 12, 1989
Index

SECOND REGULAR SESSION
January 3, 1990 to March 19, 1990

Bill "An Act to Amend the Laws Pertaining to Preadmission Assessment"

H.P. 1652 L.D. 2283

Comes from the House referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED.

Which was referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED, in concurrence.

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Provide Uniformity and Fairness after Mortgage Foreclosure"

H.P. 1650 L.D. 2283

Comes from the House referred to the Committee on JUDICIARY and ORDERED PRINTED.

Which was referred to the Committee on JUDICIARY and ORDERED PRINTED, in concurrence.

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act Concerning the Uniform Rights of the Terminally Ill Act"

H.P. 1653 L.D. 2286

Comes from the House referred to the Committee on JUDICIARY and ORDERED PRINTED.

Which was referred to the Committee on JUDICIARY and ORDERED PRINTED, in concurrence.

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Provide Authorization to Consent to Health Care"

H.P. 1658 L.D. 2294

Comes from the House referred to the Committee on JUDICIARY and ORDERED PRINTED.

Which was referred to the Committee on JUDICIARY and ORDERED PRINTED, in concurrence.

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Provide for Forfeiture of Weapons Used in Crimes Against Persons"

H.P. 1651 L.D. 2284

Comes from the House referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED.

Which was referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED, in concurrence.

Off Record Remarks

Senator WEBSTER of Franklin was granted unanimous consent to address the Senate off the Record.

The ADJOURNMENT ORDER having been returned from the House READ and PASSED, in concurrence, on motion by Senator BRANNIGAN of Cumberland, ADJOURNED until Monday, February 12, 1990, at 12:00 in the afternoon.

ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
17th Legislative Day
Monday, February 12, 1990

The House met according to adjournment and was called to order by the Speaker.

Prayer by Reverend Philip Shearman, First Parish Congregational Church, Gorham.

National Anthem by George Stevens Academy Band, Blue Hill.

The Journal of Wednesday, February 7, 1990, was read and approved.

Quorum call was held.

PAPERS FROM THE SENATE
Unanimous Leave to Withdraw

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act to Increase Funeral and Related Expense Payments under the Workers' Compensation Law" (S.P. 713) (L.D. 1890)

Report of the Committee on State and Local Government reporting "Leave to Withdraw" on Bill "An Act to Allow Kineo Township to Organize" (S.P. 835) (L.D. 2143)

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

COMMUNICATIONS

The following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333

February 6, 1990

Hon. Edwin H. Pert
Clerk of the House
State House Station #2
Augusta, Maine 04333
Dear Clerk Pert:

This is to notify you that pursuant to my authority under M.R.S.A. 20-A, Section 11002, I have today reappointed Rep. Nathaniel J. Crowley, Sr., of Stockton Springs, to serve on the New England Board of Higher Education.

Sincerely,
S/John L. Martin
Speaker of the House

Was read and ordered placed on file.

PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE

The following Bills were received and, upon the recommendation of the Committee on Reference of Bills, were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

Banking and Insurance

Bill "An Act to Amend the Maine Liability Risk Retention Act" (H.P. 1669) (L.D. 2310) (Presented by Representative GARLAND of Bangor) (Cosponsored by Senator WHITMORE of Androscoggin, Senator BRANNIGAN of Cumberland and Representative RAND of Portland) (Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.)

Ordered Printed.

Sent up for Concurrence.

Energy and Natural Resources

Bill "An Act to Amend the State's Hazardous Waste Laws to Be Consistent with the Federal Hazardous and

Solid Waste Laws" (H.P. 1671) (L.D. 2313) (Presented by Representative LORD of Waterboro) (Cosponsored by Representative COLES of Harpswell) (Submitted by the Department of Environmental Protection pursuant to Joint Rule 24.)

Ordered Printed.

Sent up for Concurrence.

Housing and Economic Development

Bill "An Act Regarding Foreign Trade Zones" (H.P. 1662) (L.D. 2302) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsored by Representative MCHENRY of Madawaska, Representative PARADIS of Frenchville and Senator THERIAULT of Aroostook) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.

Sent up for Concurrence.

Human Resources

Bill "An Act to Amend the Law on Intermediate Sanctions in Long-term Care Facilities" (H.P. 1661) (L.D. 2301) (Presented by Representative HEPBURN of Skowhegan) (Cosponsored by Senator HOLLOWAY of Lincoln and Representative CLARK of Brunswick) (Submitted by the Department of Human Services pursuant to Joint Rule 24.)

Ordered Printed.

Sent up for Concurrence.

Judiciary

Bill "An Act to Increase the Criminal Penalties for the Furnishing of and Trafficking in LSD" (H.P. 1668) (L.D. 2309) (Presented by Representative PARADIS of Augusta) (Cosponsored by Representative CAHILL of Mattawamkeag, Representative ERWIN of Rumford and Representative ROTONDI of Athens) (Submitted by the Department of the Attorney General pursuant to Joint Rule 24.)

Bill "An Act to Increase the Penalty for Vehicular Manslaughter and to Remove the Habitual Drunk Driver Offender from the Highways" (H.P. 1672) (L.D. 2314) (Presented by Representative PARADIS of Augusta) (Cosponsored by Senator BUSTIN of Kennebec, Representative NORTON of Winthrop and Representative GRAHAM of Houlton) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.

Sent up for Concurrence.

Marine Resources

Bill "An Act to Amend Certain Provisions in Marine Resources Laws" (EMERGENCY) (H.P. 1664) (L.D. 2304) (Presented by Representative HUTCHINS of Penobscot) (Cosponsored by Senator BRAWN of Knox, Senator BRANNIGAN of Cumberland and Representative MITCHELL of Freeport) (Submitted by the Department of Marine Resources pursuant to Joint Rule 24.)

Ordered Printed.

Sent up for Concurrence.

State and Local Government

Bill "An Act to Provide Legislative Oversight of Transactions Dealing with State Held Lands and Property" (H.P. 1666) (L.D. 2307) (Presented by Representative PARADIS of Old Town) (Cosponsored by Speaker MARTIN of Eagle Lake, Senator PERKINS of Hancock and Representative DEXTER of Kingfield)

(Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Bill "An Act to Deorganize Plantation E in Aroostook County" (EMERGENCY) (H.P. 1667) (L.D. 2308) (Presented by Representative MacBRIDE of Presque Isle) (Cosponsored by Senator BERUBE of Androscoggin, Senator LUDWIG of Aroostook and Speaker MARTIN of Eagle Lake) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.

Sent up for Concurrence.

Utilities

Bill "An Act to Regulate the Process by which Water Utilities Take Land" (EMERGENCY) (H.P. 1663) (L.D. 2303) (Presented by Representative BURKE of Vassalboro) (Cosponsored by Senator BUSTIN of Kennebec and Representative HOGlund of Portland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Bill "An Act Allowing the Yarmouth Water District to Acquire the Assets and Liabilities of the North Yarmouth Water District" (EMERGENCY) (H.P. 1665) (L.D. 2305) (Presented by Representative FOSS of Yarmouth) (Cosponsored by Senator DILLENBACK of Cumberland, Senator CLARK of Cumberland and Representative BUTLAND of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed.

Sent up for Concurrence.

ORDERS

On motion of Representative McSWEENEY of Old Orchard Beach, the following Order:

ORDERED, that Representative Gerard P. Conley, Jr., of Portland be excused January 30 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Jo Anne D. Lapointe of Auburn be excused February 1 and 2 for health reasons.

AND BE IT FURTHER ORDERED, that Representative John Jalbert of Lisbon be excused February 2 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Peggy A. Pendleton of Scarborough be excused February 5 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative John McSweeney of Old Orchard Beach be excused February 5 for health reasons.

AND BE IT FURTHER ORDERED, that Representative George A. Townsend of Eastport be excused February 5 for health reasons and February 13 and 16 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Peter Hastings of Fryeburg be excused February 7 for personal reasons.

Was read and passed.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative CASHMAN from the Committee on Taxation on Bill "An Act to Provide a Sales Tax Exemption for Items Sold by Nonprofit Volunteer Groups for the Benefit of Public Libraries" (H.P. 1350) (L.D. 1867) reporting "Ought Not to Pass"

Representative SIMPSON from the Committee on Energy and Natural Resources on Bill "An Act to Ensure Adequate Closure of the Landfill Operated by Downeast Disposal, Incorporated in Steuben" (H.P. 1515) (L.D. 2100) reporting "Ought Not to Pass"

Representative HANDY from the Committee on Education on Bill "An Act to Provide a Minimum Level of State Educational Funding for Schools" (H.P. 1033) (L.D. 1439) reporting "Ought Not to Pass"

Representative PLOURDE from the Committee on Legal Affairs on Resolve, Authorizing Robert Pineo of Old Orchard Beach to Bring a Civil Action against the State and the Department of Corrections (H.P. 1333) (L.D. 1850) reporting "Ought Not to Pass"

Representative LISNIK from the Committee on Appropriations and Financial Affairs on Bill "An Act Making Additional Allocations for the Expenditure of Funds Received by the State as a Result of the Federal Court Order in the Stripper Well Oil Overcharge Case" (EMERGENCY) (H.P. 1581) (L.D. 2190) reporting "Ought Not to Pass"

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Unanimous Leave to Withdraw

Representative O'DEA from the Committee on Education on Bill "An Act to Create the Youth-at-Risk Alternative Education Program" (H.P. 585) (L.D. 789) reporting "Leave to Withdraw"

Representative CASHMAN from the Committee on Taxation on Bill "An Act to Clarify Provisions of the Hallowell Water District Charter" (H.P. 1343) (L.D. 1860) reporting "Leave to Withdraw"

Representative BREWER from the Committee on Aging, Retirement and Veterans on Bill "An Act to Enable Families of Maine Veterans Eligible for Burial in the Veterans' Memorial Cemetery to Make Burial Arrangements on Weekends" (H.P. 1323) (L.D. 1825) reporting "Leave to Withdraw"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act Concerning Reimbursement to Municipalities with Certain State Facilities" (H.P. 1303) (L.D. 1804) reporting "Leave to Withdraw"

Representative PRIEST from the Committee on Legal Affairs on Bill "An Act Establishing the Rights and Obligations of Tenants Who Pay for Their Own Heating Oil" (H.P. 1489) (L.D. 2062) reporting "Leave to Withdraw"

Representative DUTREMBLE from the Committee on Aging, Retirement and Veterans on Bill "An Act to Require the State to Pay a Portion of the Health Insurance Premiums for Dependents of Retired State Employees" (H.P. 1534) (L.D. 2119) reporting "Leave to Withdraw"

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Ought to Pass in New Draft

Representative CLARK from the Committee on Fisheries and Wildlife on Bill "An Act to Improve the Organizational Structure of the Fish and Wildlife Advisory Council" (H.P. 1551) (L.D. 2149) reporting "Ought to Pass" in New Draft (EMERGENCY) (H.P. 1660) (L.D. 2300)

Report was read and accepted, the New Draft read once.

Under suspension of the rules, the New Draft was read a second time, passed to be engrossed and sent up for concurrence.

**CONSENT CALENDAR
First Day**

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(S.P. 798) (L.D. 2046) Bill "An Act to Clarify the Rule-making Authority of the Maine Historic Preservation Commission" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-491)

(S.P. 780) (L.D. 2021) Bill "An Act to Amend the Laws Implementing, Administering and Enforcing the United States Emergency Planning and Community Right-to-Know Act of 1986" (EMERGENCY) Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-489)

(S.P. 881) (L.D. 2251) Bill "An Act to Provide for Wider Production of Certain Deer for Food" Committee on Agriculture reporting "Ought to Pass"

(S.P. 814) (L.D. 2078) Bill "An Act to Prevent Retaliatory Evictions of Mobile Park Tenants" Committee on Legal Affairs reporting "Ought to Pass"

(S.P. 744) (L.D. 1948) Bill "An Act to Amend the Employee Suggestion Awards System" Committee on State and Local Government reporting "Ought to Pass"

(H.P. 1512) (L.D. 2092) Bill "An Act Concerning the Travel Information Advisory Council" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-761)

(H.P. 1400) (L.D. 1936) Bill "An Act Authorizing the Public Advocate to Initiate Proceedings on Behalf of Utility Consumers" Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-762)

(H.P. 1536) (L.D. 2121) Bill "An Act to Regulate Food Salvage Operations" Committee on Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (H-767)

(H.P. 1314) (L.D. 1816) Bill "An Act Concerning Burials in the Maine Veterans' Memorial Cemetery" Committee on Aging, Retirement and Veterans reporting "Ought to Pass"

(H.P. 1327) (L.D. 1829) Bill "An Act to Prohibit the Use of Herbicides in the Allagash Wilderness Waterway" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-768)

(H.P. 655) (L.D. 889) Bill "An Act to Improve Indoor Air Quality Through Accurate Testing and Effective Reduction of Radon Levels in Buildings" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "B" (H-769)

(H.P. 1569) (L.D. 2174) Bill "An Act to Require Notice of Charges for Use of Telephones Made Available for Public Use" Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-770)

(H.P. 1568) (L.D. 2173) Bill "An Act to Permit the Sale of Consumer Education Materials by the Attorney General" Committee on State and Local Government reporting "Ought to Pass"

There being no objections, the above items were ordered to appear on the Consent Calendar of Wednesday, February 14, 1990, under the listing of Second Day.

**CONSENT CALENDAR
Second Day**

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the Second Day:

(S.P. 852) (L.D. 2186) Bill "An Act Relating to Seat Belts and Child Safety Seats for Children under 4 Years of Age"

(H.P. 1392) (L.D. 1922) Bill "An Act to Clarify the Time Frame in Municipal Law for Changing an Elected Position to an Appointed Position"

No objections having been noted at the end of the Second Legislative Day, the Senate Paper was Passed to be Engrossed in concurrence and the House Paper was Passed to be Engrossed and sent up for concurrence.

**PASSED TO BE ENGROSSED
As Amended**

Bill "An Act to Enable the Department of Marine Resources to Issue Identification Tags for Lobster Gear" (S.P. 762) (L.D. 1987) (H. "A" H-760 to C. "A" S-486)

Bill "An Act to Provide Written Notice to Creditors Under the Maine Probate Code" (H.P. 491) (L.D. 671) (H. "A" H-765 to C. "A" H-758)

Bill "An Act Concerning Patient Access to Medical Records" (H.P. 1355) (L.D. 1872) (C. "A" H-754)

Resolve, to Set Aside Space for a Memorial for Firefighters (H.P. 1414) (L.D. 1966) (H. "A" H-764 to C. "A" H-756)

Bill "An Act to Regulate the Dumping of Dredged Materials in Maine Waters" (EMERGENCY) (H.P. 1407) (L.D. 1955) (H. "A" H-759 to C. "A" H-757)

Were reported by the Committee on Bills in the Second Reading, read the second time, the Senate Paper was Passed to be Engrossed as Amended in concurrence and the House Papers were Passed to be Engrossed as Amended and sent up for concurrence.

**ENACTOR
Emergency Measure
Tabled and Assigned**

An Act to Coordinate and Consolidate Student Financial Assistance Services under the Finance Authority of Maine (S.P. 865) (L.D. 2216) (C. "A" S-484)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Representative Gwadosky of Fairfield, tabled pending passage to be enacted and specially assigned for Wednesday, February 14, 1990.

**PASSED TO BE ENACTED
Emergency Measure**

An Act to Extend the Reporting Deadline of the Special Commission to Study the Organization of the State's Cultural Agencies and Make Other Reporting Requirement Changes (H.P. 1366) (L.D. 1883) (C. "A" H-746)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 123 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED
Emergency Measure**

An Act Related to the State Board of Substance Abuse Counselors (S.P. 699) (L.D. 1837) (C. "A" S-483)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 114 voted in favor of the same and none

against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED
Emergency Measure**

An Act Providing Conformity with the United States Internal Revenue Code Under the Maine Income Tax Law for 1989 (S.P. 809) (L.D. 2072)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED
Emergency Measure**

An Act to Clarify the Qualifications for Membership on the Citizens' Forestry Advisory Council (S.P. 857) (L.D. 2193)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 119 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED
Emergency Measure**

An Act Regarding Maine Land Use Regulation Commission Requirements (H.P. 1433) (L.D. 2001) (C. "A" H-749)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 125 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**FINALLY PASSED
Emergency Measure**

Resolve, to Study the Use of Herbicides (S.P. 700) (L.D. 1838) (C. "A" S-480)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 125 voted in favor of the same and none against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Enable Rulemaking by the Board of Examiners of Podiatrists (S.P. 777) (L.D. 2004) (C. "A" S-482)

An Act Prohibiting Chlorofluorocarbons in Automobile Air Conditioners (S.P. 786) (L.D. 2032) (C. "A" S-481)

An Act Relating to Computer Access (H.P. 462) (L.D. 627) (C. "A" H-748)

An Act to Amend Continuing Educational Requirements for Licensed Insurance Agents, Brokers and Consultants (H.P. 1452) (L.D. 2026)

An Act to Strengthen the State Forensic Service (H.P. 822) (L.D. 1150) (H. "A" H-747 to C. "A" H-744)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

PASSED TO BE ENACTED

An Act to Assure Access to Nutrition Programs for Kindergarten and Part-day Students (H.P. 882) (L.D. 1226) (H. "A" H-745 to C. "A" H-736)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

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

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: L.D. 1226, An Act to Assure Access to Nutrition Programs for Kindergarten and Part-day Students is a bill that requires schools to create breakfast programs for kindergarten kids in schools with a 40 percent or greater number of children eligible for free or reduced meals. You are probably wondering why this bill has gotten so far without me getting up and speaking on it or trying to indefinitely postpone it but I realized with a 12 to 1 report that there was probably little chance of stopping this bill or defeating it.

However, I did make a commitment to my town when we were having a property tax problem and having to deal with all the education mandates that I would not support any further mandates and that is the reason I want to be on record today as opposing this bill.

I am a hundred percent supportive of elementary school children having breakfast before school and I do not dispute the assumption that children who are fed learn better than those who are hungry. My first preference is that these children be fed at home; that being unlikely, the school may feel the need to take over this parental responsibility but I believe the decision to do this rests with the local districts and not with the legislature. There are 39 schools affected by this legislation in the short-run and my guess is that, if this passes, we will see future mandates to buy breakfast for all elementary students statewide.

I question this bill's fiscal note and how accurate it is. This legislation was amended on the House floor to reduce the price tag from \$48,570 to \$9,768. This would be the cost that the state would pay to fully fund this each year. The new fiscal note assumes that a proportion of the kindergarten students will buy meals to offset the cost of the free or reduced meals. If this assumption does not hold true and the \$9,768 does not meet the local costs for this mandated program, who will pick up the difference?

When the mandate is three years old and then gets funded by the formula, who picks up the cost not covered by the state's share? In both cases, it is your local school districts and that is what I dislike so much about mandates — they are never fully funded and they take away a local's ability to set their own priorities when budgetary times are grave.

For those of you who attended the MMA State Municipal Summit February 1st and 2nd, you may have gotten the discussion booklet and in it it said, what is a mandate? It says, "How one defines a mandate often depends on one's advantage point. A mandate is any law or regulation enacted by the federal or state government which requires municipalities to

administer a program or perform a function according to federal or state imposed standards, whether or not funds are provided to fulfill the mandates." That is the simple answer to the questions but the answer in practical terms often depend on whether you are a member of Congress, a state legislator, a bureaucrat or a municipal official. Municipal officials recognize that mandates, whether they are federal or state, usually address a legitimate need or problem. Municipal officials, however, object to one level of government passing a law that is expensive to administer and which provides neither adequate funding nor technical assistance and which substitutes its priorities for local priorities. Municipal officials objections to mandates are more than a fiscal concern over added costs — mandates require municipalities to substitute the priorities adopted by the local community with federal or state prerogatives.

While there are only 39 towns affected, some of you may be interested to know whether it is your district that will then have to put in this program and I have a list here and they are (I will just read the SAD numbers) SAD 59, which has two programs, Bridgewater, SAD 58, SAD 1, Union 104—twice, SAD 48 has four programs, Harmony, SAD 64, SAD 68, SAD 41, SAD 45, SAD 43, Biddeford, SAD 34, Portland, Union 76, Union 102, Union 102 again, Union 107, Union 60, SAD 19, SAD 5, SAD 40, SAD 53, SAD 13, SAD 31, Union 103—twice, Union 90—twice, SAD 21, Union 92 and SAD 77.

For these reasons, I would ask for a roll call upon enactment of this legislation.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Ladies and Gentlemen of the House: The bill before you, L.D. 1226, does come out of the Education Committee with a 12 to 1 report. It is specifically targeted to provide one nutritionally balanced meal per day to children that are in some of the poor communities of our state that attend school part of the day. Children in our society often attend Day Care or Head Start programs and these programs provide a much needed one or two meals a day. Children in grades one through twelve have access to meal service. Children in college have access to meal service. We have a cafeteria across the way. The only gap in meal service in this state is for children in kindergarten or attending part of the day in classrooms.

There is a strong correlation between nutrition and the ability to learn. Students, especially fast-growing five year olds, need a balanced diet to be able to take advantage of the money that we put into educational programs. There is a direct correlation between income and nutrition. A low income family struggling to provide meals on a food stamp program has 90 cents per person per meal with which to work. For those of us that have growing children, you know how difficult that can be. Many of these families do not have adequate access to juice, fresh fruit, fresh vegetables, milk or cheese and this can be very detrimental to young growing bodies.

Several weeks ago, you received a letter from Barbara Raymond, who is a school nutrition director from Unity, and I want to quote part of that letter. "As of December, 1989, there were 40 public schools in Maine having 40 percent or more enrolled students eligible for free or reduced priced meals representing 1,041 preschool and kindergarten children. They do not have access to a school

breakfast or lunch. According to the U.S. Department of Health and Human Services, one out of every four children go to school without any breakfast at all and for these 40 Maine schools, that means approximately 260 kindergarten or preschool children are starting their school day at a disadvantage because they did not eat breakfast. L.D. 1226 would fill a need to prepare these children for the school day."

This meal is not going to be disruptive to the school program. All kindergarten programs have a snack time. The meal can be served within the classroom and snack time can become nutrition education time instead of an opportunity for some kids to bring their juices in accepted boxes and their twinkies and other kids having to sit by and not have anything available to them at all. It will not change bus schedules and it will not disrupt the regular programs. It does offer many opportunities.

The cost of this legislation as amended by House Amendment "A" is \$9,768. That amount came about very logically, students pay for breakfast programs in the same way they pay for lunch programs. If they choose not to purchase the breakfast program, the cost goes down because the meal isn't provided; therefore, there will not be an increased cost if the students choose not to purchase the meal. Instead, there will be a reduction in the cost of providing it.

The state will receive \$83,400 in federal reimbursement and maybe more in some areas where there is severe need.

This is a mandate and I don't take mandates lightly. I believe that there must be an overriding issue in order for the state to require a local entity to provide a service. I also believe that this issue represents just such an important situation. Nutritious food is a necessity, not a luxury. The biggest, shiniest, fastest car will not go anywhere without fuel. The brightest, sweetest, most delightful child cannot learn, grow or prosper without adequate nutrition.

I urge you to follow my light on this bill.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Begley.

Representative BEGLEY: Mr. Speaker, Men and Women of the House: I will be voting against L.D. 1226. The superintendent of schools in my district contacted me and asked me to please vote against this bill, basically because it is a mandate. The issue of nutrition and the premise that children do better in school if they have had a breakfast is not the question, I think we all agree on that. The issue is whether we want to tell school boards that they have to provide this breakfast for the kindergarten children.

Take the district that I live in for an example -- there are five towns in this district and, as the superintendent pointed out, this bill would only cover one of the towns in that district and he feels that this will present him with real problems, now and in the future. That does not say that he is not in favor if his own school board decides to do it and to deal with it -- what he is trying to tell us is that, for us to pass a mandate up here to say that he

has to do that in that one town, is going to cause problems for him.

I will be supporting Representative Small's position and voting against this mandate.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, I would like to pose a question through the Chair.

If a child who is in kindergarten attends school and they do not (per se) have a breakfast but do have a hot lunch program and that child receives that hot lunch program before being sent home, does that fulfill the need for this statute or proposal? Or would they also have to provide a breakfast for the child when it comes to the school initially?

The SPEAKER: The Representative from Fryeburg, Representative Hastings, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Members of the House: One of the things that I would like to clarify about this legislation is that breakfast does not necessarily mean cereal, milk, and juice in the morning. For an afternoon kindergarten student, a breakfast type program means that the meal would consist of a milk product, a fruit juice or vegetable and a breakfast product so it could be a peanut butter sandwich and milk and a piece of fruit. So breakfast is a misnomer, it is the way that the federal government designates the type of meal that we are talking about. There are very few programs that I am aware of in which students have access to a lunch program with the kindergarten schedule.

The information that we have on the 40 schools is for students who do not have access to either a breakfast program or a lunch program during the day and that is my main concern.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, I would like to pose a second question through the Chair.

I am concerned about the issue of a child who comes into the school in the morning and does not have food presented to that child until eleven or eleven-thirty in the morning. Would that constitute a breakfast or must the child receive a breakfast on entering the school or shortly thereafter?

The SPEAKER: The Representative from Fryeburg, Representative Hastings, has posed an additional question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Ladies and Gentlemen of the House: I share the concern about students arriving at school and not having access to a meal until the middle of the day. However, as I said, what we are looking at is providing at least access to one meal during the day for those children. There are schools certainly that have breakfast programs and some of the kindergarten students do have access to the regular breakfast program that happens before school begins. This is to take a look at those children who do not have access to any of those programs at all.

The SPEAKER: The pending question before the House is passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 164

YEA - Adams, Aliberti, Ault, Bell, Boutilier, Brewer, Burke, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, M.; Coles, Conley, Constantine, Cote, Crowley, Daggett, Dore, Duffy,

Dutremble, L.; Erwin, P.; Farnsworth, Graham, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hickey, Hoglund, Holt, Jacques, Joseph, Ketover, Kilkelly, LaPointe, Larrivee, Lawrence, Lisnik, Luther, Macomber, Manning, Marston, Mayo, McGowan, McHenry, McKeen, McSweeney, Melendy, Mills, Mitchell, Moholland, Nadeau, G. G.; Nadeau, G. R.; Norton, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Richard, Richards, Rotondi, Rydell, Sheltra, Simpson, Stevens, P.; Strout, D.; Swazey, Tannaro, Tardy, Telow, Townsend, Tracy, Walker, The Speaker.

MAY - Aikman, Anderson, Anthony, Bailey, Begley, Butland, Carroll, J.; Clark, H.; Curran, Dellert, Dexter, Dipietro, Donald, Farnum, Farren, Foss, Foster, Garland, Gould, R. A.; Greenlaw, Hanley, Hastings, Hepburn, Higgins, Hussey, Hutchins, Jalbert, Lebowitz, Libby, Lord, MacBride, Marsano, Marsh, Martin, H.; McCormick, McPherson, Merrill, Michaud, Murphy, Nutting, Paradis, E.; Parent, Pendleton, Pines, Reed, Ridley, Seavey, Small, Smith, Stevens, A.; Stevenson, Strout, B.; Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Allen, Jackson, Look, Mahany, Rolde, Ruhlman, Sherburne, Skoglund.

Yes, 87; No, 56; Absent, 8; Paired, 0; Excused, 0.

87 having voted in the affirmative and 56 in the negative with 8 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Provide for a Comprehensive State Mental Retardation Plan (H.P. 1371) (L.D. 1902) (H. "A" H-750)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

FINALLY PASSED

Resolve, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Real Estate in Unorganized Territory (S.P. 836) (L.D. 2144)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, finally passed, signed by the Speaker and sent to the Senate.

**ORDERS OF THE DAY
UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment Wednesday, February 7, 1990, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

The Chair laid before the House the first matter of Unfinished Business:

JOINT RESOLUTION MEMORIALIZING THE GOVERNMENTS OF EASTERN EUROPEAN COUNTRIES TO CONTINUE TO SUPPORT EFFORTS FOR FREEDOM (H.P. 1659)

TABLED - February 7, 1990 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Adoption.

On motion of Representative Gwadosky of Fairfield, retabled pending adoption and specially assigned for Wednesday, February 14, 1990.

The Chair laid before the House the second matter of Unfinished Business:

An Act to Make Corrections in the Governmental Ethics Law (EMERGENCY) (H.P. 1481) (L.D. 2061)

TABLED - February 7, 1990 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, under suspension of the rules, the House reconsidered its action whereby L.D. 2061 was passed to be engrossed.

The same Representative offered House Amendment "B" (H-744) and moved its adoption.

House Amendment "B" (H-744) was read by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: The purpose of this amendment is to remove the positions in the original bill concerning reportable liabilities and thereby retaining the provisions that are in current law in regard to reportable liabilities.

Subsequently, House Amendment "B" was adopted, the Bill was passed to be engrossed as amended in non-concurrence and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

TABLED AND TODAY ASSIGNED

The Chair laid before the House the first tabled and today assigned matter:

An Act to Reform the Juvenile Criminal Justice System (S.P. 541) (L.D. 1512) (C. "A" S-479)

TABLED - February 7, 1990 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Paradis of Augusta, under suspension of the rules, the House reconsidered its action whereby L.D. 1512 was passed to be engrossed.

On motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-479) was adopted.

The same Representative offered House Amendment "A" (H-772) to Committee Amendment "A" (S-479) and moved its adoption.

House Amendment "A" (H-772) to Committee Amendment "A" (S-479) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto in non-concurrence and sent up for concurrence.

The following items appearing on Supplement No. 1 were taken up out of order by unanimous consent:

PAPERS FROM THE SENATE

Bill "An Act to Clarify the Definition of Earnable Compensation in the Maine State Retirement System Laws" (S.P. 908) (L.D. 2311)

Came from the Senate, referred to the Committee on Aging, Retirement and Veterans and Ordered Printed.

Was referred to the Committee on Aging, Retirement and Veterans in concurrence.

Bill "An Act to Promote Economic Development" (S.P. 907) (L.D. 2306)

Came from the Senate, referred to the Committee on Labor and Ordered Printed.

Was referred to the Committee on Labor in concurrence.

Study Report - Committee on State and Local Government

Report of the Committee on State and Local Government to which was referred by the Legislative Council the Study Relative to Structure of Substance Abuse Assistance & Services in the State have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill "An Act to Establish the Office of Substance Abuse" (S.P. 909) (L.D. 2312) be referred to this Committee for public hearing and printed pursuant to Joint Rule 19.

Came from the Senate with the report read and accepted and the bill referred to the Committee on State and Local Government and ordered printed.

Report was read and accepted and the bill referred to the Committee on State and Local Government and ordered printed in concurrence.

(Off Record Remarks)

The following item appearing on Supplement No. 2 was taken up out of order by unanimous consent:

**PASSED TO BE ENACTED
Emergency Measure**

An Act to Make Corrections in the Governmental Ethics Law (H.P. 1481) (L.D. 2061) (H. "B" H-774)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Representative Ketover of Portland, Adjourned until Wednesday, February 14, 1990, at twelve o'clock noon.

**STATE OF MAINE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
SECOND REGULAR SESSION
JOURNAL OF THE SENATE**

In Senate Chamber
Monday
February 12, 1990

Senate called to Order by the President.

Prayer by Reverend Jack Perkins of the First Parish Congregational Church in Gorham.

REVEREND JACK PERKINS: Let us pray. Almighty God, we praise You for men and women of the caliber of Abraham Lincoln, whose birthday we celebrate today. Guide and direct this Senate in it's work for the betterment of the people of our great state. We humbly pray to Your glory and Your honor. Amen.

Reading of the Journal of Wednesday, February 7, 1990.

Off Record Remarks

**PAPERS FROM THE HOUSE
Non-concurrent Matter**

Bill "An Act to Extend the Reporting Date of the Commission on Codification of Rules" (Emergency) S.P. 904 L.D. 2298

In Senate, February 7, 1990, referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED.

Comes from the House under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee, in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

SENATE PAPERS

Bill "An Act to Clarify the Definition of Earnable Compensation in the Maine State Retirement System Laws"

S.P. 908 L.D. 2311

Presented by Senator CLARK of Cumberland
Cosponsored by Representative DELLERT of Gardiner, Senator CAHILL of Sagadahoc and Representative CAHILL of Mattawamkeag
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Which was referred to the Committee on AGING, RETIREMENT AND VETERANS and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Promote Economic Development" S.P. 907 L.D. 2306

Presented by President PRAY of Penobscot
Cosponsored by Speaker MARTIN of Eagle Lake and Representative CLARK of Millinocket
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Which was referred to the Committee on LABOR and ORDERED PRINTED.

Sent down for concurrence.

**Study Report
Committee on STATE AND LOCAL GOVERNMENT**
Senator BERUBE for the Committee on STATE AND LOCAL GOVERNMENT to which was referred by the Legislative Council the Study Relative to Structure of Substance Abuse Assistance & Services in the State