

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 Fifteenth Legislature
OF THE
State Of Maine

VOLUME I

FIRST REGULAR SESSION

House of Representatives
December 5, 1990 to May 16, 1991

ONE HUNDRED AND FIFTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
8th Legislative Day
Monday, January 14, 1991

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

Prayer by Reverend Doctor Peter Misner, Wayne-North Wayne Community Church, Wayne.
Pledge of Allegiance.

The Journal of Friday, January 11, 1991, was read and approved.

SENATE PAPERS

Bill "An Act to Enhance the Transition from Special Education Programs to Adult Services" (S.P. 73) (L.D. 129)

Came from the Senate, referred to the Committee on **Appropriations and Financial Affairs** and Ordered Printed.

Was referred to the Committee on **Appropriations and Financial Affairs** in concurrence.

Bill "An Act to Revise the Law Respecting Insurers' Dividend Distributions" (S.P. 71) (L.D. 127)

Came from the Senate, referred to the Committee on **Banking and Insurance** and Ordered Printed.

Was referred to the Committee on **Banking and Insurance** in concurrence.

Bill "An Act Concerning Federal Impact Aid for Education" (S.P. 72) (L.D. 128)

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

Was referred to the Committee on **Education** in concurrence.

Bill "An Act Relating to Archery Hunting Licenses" (S.P. 68) (L.D. 124)

Came from the Senate, referred to the Committee on **Fisheries and Wildlife** and Ordered Printed.

Was referred to the Committee on **Fisheries and Wildlife** in concurrence.

Bill "An Act to Expand the Duties of the Maine Human Rights Commission" (S.P. 69) (L.D. 125)

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

Was referred to the Committee on **Judiciary** in

concurrence.

COMMUNICATIONS

The following Communication:

DEPARTMENT OF FINANCE
STATE CLAIMS COMMISSION
STATE HOUSE STATION 49
AUGUSTA, MAINE 04333

January 9, 1991

The Honorable John L. Martin
Speaker of the House
House of Representatives
State House Station 2
Augusta, Maine 04333

RE: Report of Small Claims to Legislature

Dear Speaker Martin:

Herewith is Report of Small Claims which were received in this office during 1990 and which is being submitted to you for your information and records in accordance with Title 5 M.R.S.A., Section 1510-A, Subsection 8.

A similar report is also being submitted to the Honorable Charles P. Pray, President of the Senate, and if you or your staff should have any questions in connection with this report, please communicate with this office.

Yours very truly,

S/Ronald M. Roy
Chief Counsel

Was read and with accompanying report ordered placed on file.

**PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE**

The following Bills and Resolve 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:

Energy and Natural Resources

Bill "An Act to Regulate Further Ozone-depleting Products" (H.P. 90) (L.D. 131) (Presented by Representative GOODRIDGE of Pittsfield) (Cosponsored by Representative HEESCHEN of Wilton, Representative COLES of Harpswell and Senator TITCOMB of Cumberland)

Ordered Printed.
Sent up for Concurrence.

Judiciary

Bill "An Act to Provide for Community Service as an Alternative to Fines for Persons Convicted of Operating Under the Influence" (H.P. 94) (L.D. 135) (Presented by Representative RICHARDS of Hampden) (Cosponsored by Representative GREENLAW of Standish, Representative PLOURDE of Biddeford and Representative STEVENS of Bangor)

Ordered Printed.
Sent up for Concurrence.

Legal Affairs

Bill "An Act Concerning Purchases of Alcohol from Agency Stores" (H.P. 91) (L.D. 132) (Presented by Representative CARROLL of Southwest Harbor) (Cosponsored by Representative TAMMARO of Baileyville)

Ordered Printed.
Sent up for Concurrence.

Marine Resources

Resolve, to Establish the Commission to Study Lobster Trap Limits (EMERGENCY) (H.P. 93) (L.D. 134) (Presented by Representative MITCHELL of Freeport) (Cosponsored by Representative SWAZEY of Bucksport, Representative WENTWORTH of Arundel and Representative LOOK of Jonesboro)

Ordered Printed.
Sent up for Concurrence.

State and Local Government

Bill "An Act to Enhance the Filing of Documents in the Registry of Deeds" (H.P. 95) (L.D. 136) (Presented by Representative LOOK of Jonesboro) (Cosponsored by Representative SAVAGE of Union and Senator BRAUN of Knox)

Ordered Printed.
Sent up for Concurrence.

Transportation

Bill "An Act Concerning the Use of Headlights" (H.P. 92) (L.D. 133) (Presented by Representative TUPPER of Orrington) (Cosponsored by Representative HICHBORN of Howland, Representative SALISBURY of Ellsworth and Senator GOULD of Waldo)

Ordered Printed.
Sent up for Concurrence.

ORDERS OF THE DAY
UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, January 11, 1991, 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 item of Unfinished Business:

Bill "An Act to Offset Costs of Probation Services" (H.P. 37) (L.D. 53)
(Committee on **Judiciary** suggested)
TABLED - January 7, 1991 (Till Later Today) by Representative MAYO of Thomaston.
PENDING - Reference.

On motion of Representative Anthony of South Portland, was referred to the Joint Select Committee on **Corrections**, ordered printed, and sent up for concurrence.

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

Bill "An Act to Allow the Systems Assessment Commission to Extend Reporting Deadlines" (EMERGENCY) (S.P. 70) (L.D. 126)
TABLED - January 11, 1991 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Passage to be Engrossed.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be engrossed and later today assigned.

On motion of Representative Paradis of Augusta, the House reconsidered its action whereby Bill "An Act to Provide for Community Service as an Alternative to Fines for Persons Convicted of Operating Under the Influence" (H.P. 94) (L.D. 135) was referred to the Committee on **Judiciary**.

On further motion of the same Representative, was referred to the Committee on **Legal Affairs**, ordered printed, and sent up for concurrence.

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: Bill "An Act to Allow the Systems Assessment Commission to Extend Reporting Deadlines" (EMERGENCY) (S.P. 70) (L.D. 126) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Representative Gwadosky of Fairfield offered House Amendment "A" (H-10) and moved its adoption.
House Amendment "A" (H-10) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" (H-10) in non-concurrence and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

(At Ease to the Gong)

The House was called to order by the Speaker.

At this point, a message came from the Senate, borne by Senator CLARK of Cumberland proposing a Convention of both branches of the Legislature to be held at 3:00 p.m. in the Hall of the House for the purpose of extending to His Excellency, Governor John R. McKernan, Jr., an invitation to attend the Convention and make such communication as he may be pleased to make.

Thereupon, the House voted to concur in the proposal for a Joint Convention to be held at 3:00 p.m. and the Speaker appointed Representative GWADOSKY of Fairfield to convey this message to the Senate.

Subsequently, Representative GWADOSKY reported that he had delivered the message with which he was charged.

At this point, the Senate entered the Hall of the House and a Joint Convention was formed.

IN CONVENTION

The President of the Senate, Charles P. Pray, in the Chair.

The Convention was called to order by the Chairman.

On motion of Senator DUTREMBLE of York, it was

ORDERED, that a Committee be appointed to wait upon the Honorable members of the Governor's Cabinet, inviting them to attend the Joint Convention.

The Chairman appointed:

Senators:

BERUBE of Androscoggin
BUSTIN of Kennebec
EMERSON of Penobscot

Representatives:

JOSEPH of Waterville

HEESCHEN of Wilton
LARRIVEE of Gorham
GRAY of Sedgwick
KERR of Old Orchard Beach
ST. ONGE of Greene
WATERMAN of Buxton
LOOK of Jonesboro
NASH of Camden
SAVAGE of Union

Subsequently, Senator BERUBE, for the Committee, reported that the Committee had delivered the message with which they were charged and the Cabinet members would attend the Joint Convention forthwith.

At this point, the Chairman recognized in the gallery the Cabinet members of the Governor of the State of Maine. (Applause, the audience rising)

On motion of Senator CLARK of Cumberland, it was

ORDERED, that a Committee be appointed to wait upon His Excellency, Governor John R. McKernan, Jr., of the State of Maine and inform him that the two branches of the Legislature were in Convention assembled, reading to receive such communication as he may be pleased to make.

The Chairman appointed:

Senators:

BRANNIGAN of Cumberland
FOSTER of Hancock

Representatives:

CHONKO of Topsham
POULIOT of Lewiston
CARROLL of Gray
MICHAUD of East Millinocket
RYDELL of Brunswick
PARADIS of Frenchville
FOSS of Yarmouth
MACBRIDE of Presque Isle
REED of Falmouth
HICHBORN of Howland

Subsequently, Senator BRANNIGAN, for the Committee, reported that the Committee had delivered the message with which they were charged and the Governor was pleased to say that he would attend the Convention forthwith.

At this point, Governor John R. McKernan, Jr., entered the Convention Hall amid applause, the audience rising.

The Governor then addressed the Convention as follows:

Mr. President, Mr. Speaker, Members of the 115th Legislature, Fellow Citizens of Maine:

On Friday, I presented to you my budget for the State of Maine for the biennium of July 1, 1991, through June 30, 1993.

I have a constitutional obligation to present a balanced budget to this Legislature, and I have fulfilled that obligation. I want to emphasize, however, that this is a starting point and I am under no illusion that this package will not change in the coming months. But one way or another, our task is to create a state government that Maine people can afford, and I shall not settle for anything less.

Crafting any budget requires setting priorities and making tough, often unpleasant, choices. This Biennium, as Maine and the nation face a recession, our task is especially challenging. Today we begin a discussion over the structure of Maine state government and the services we should provide over the next decade.

Before I go on, I want to thank our State Budget Director, Bill Buker, and his staff in the budget office who have, literally, worked around the clock at times to move us closer to a finished product. I also want to thank our Commissioner of Finance, Sawin Millet, who has worked tirelessly over the last two months, not only in providing the revisions for the 1991 budget but also making today's Biennium budget possible as well. (applause)

We come here today, not with the luxury of funding new programs, but with the sobering responsibility of creating a state government Maine people can afford. The tone of this speech, and, in fact, of the whole legislative session, will be one of restraint and discipline.

H.L. Mencken once observed that for every complex problem, there is a simple solution and it is usually wrong. In this case, that simple but wrong solution is raising taxes. The key to solving our budget problems will be reducing spending and streamlining government, not simply raising taxes. (applause) The state can no longer be all things to all people, and now is the time to examine exactly what role state government should play in the lives of Maine people.

I have presented a budget to you that lives within our existing revenues, and I will not support a broad-based tax increase unless and until we have exhausted every opportunity for reducing the cost of state government.

Maine people are already among the most heavily taxed in the country and the most generous in providing benefits. Higher taxes will put us at a competitive disadvantage with other states and mean fewer jobs for Maine workers. In this budget, we must strike at some of the fundamental costs of government, not just the bottom line.

We cannot tax our way out of this. If we can learn any single lesson from the experiences of other states, it is that simply raising taxes doesn't work. New York, New Jersey, and Massachusetts — after raising a combined seven billion dollars in new taxes over the past two years — are still facing budget deficits totaling more than \$3 billion this year. Connecticut raised over a billion dollars in

new taxes two years ago, and yet their budget shortfall this year is one of the largest in the country. These states have learned that raising taxes without cutting spending does not solve budget problems any more than a bigger shot of heroin cures an addiction.

A tax increase is a one-time fix; it does not address the structural factors and the well-intentioned but excessively costly programs that are increasing the cost of government faster than we can pay for it. If we do not address the cost of state government, we will be back here for a tax increase every two years for the rest of the decade.

I have to confess that so far it seems to me that there has been little appetite in this Legislature for spending cuts. But let me make one thing clear — the people who pay the bill deserve a more affordable state government. If we resorted to a tax increase to fund our current services budget without making any spending reductions, it would cost every Maine man, woman, and child \$625. It would cost a Maine family of four an average of \$2500 in extra taxes for the next Biennium. In my view, Maine people cannot afford that tax bill.

Government has an insatiable appetite, and if we don't change our eating habits, we are going to be back at the table for a tax increase year after year. This graph that I have on my right shows General Fund appropriations over the last 30 years as a percentage of personal income. It does not include all other special and dedicated funds, nor does it include property taxes and other revenues raised at the local level. This graph shows that without cuts in spending, we would be reaching farther into the pockets of our taxpayers than ever before. Without spending reductions, the share of Maine income that would go to support the General Fund would increase from seven to nine percent, a level I believe would be an excessive burden on the working people of Maine. Our proposed budget would hold this percentage to roughly seven percent, a level that the people of Maine can afford.

I am fully aware that the interest groups affected by our proposals will be out in force. The pressure from those groups will be enormous between now and June. Every program cut or reduced will become a front-page story. But we need to remember that the people paying the bill go to work every day to make ends meet. They can't always show up on the Capitol steps to protest state spending, but that doesn't mean they aren't affected. Unless we make cuts in state government, the built-in growth will inevitably increase expenditures faster than revenues. We have to cut the base of government spending if we are to permanently solve our revenue problems.

I do not advocate going back to the times when we were not collecting enough in taxes to pay for basic investments in our state. But we must also recognize that we cannot continue to spend at the pace of the 1980's. Spending in the last decade was possible because of the booming economy. To keep up that level of increased spending in this decade would require tax increases people cannot afford. From Kittery to Ft. Kent, Maine people are making do with

less; it is time for us to change our life-style in Augusta, too.

Maine is one of many states with budget problems as a result of the sudden economic downturn — at last count, 28 states are projecting shortfalls in their 1991 budgets and virtually all states are looking at budget problems during the next year.

The November report by the New England Economic Project has now projected a real decrease of 2.1 percent for the Maine economy for 1991. What does the projected downward shift in our economy from growth of 2.3 percent to a reduction of 2.1 percent mean? It translates into a loss of \$1.6 billion in income for Maine citizens in 1991. We depend on roughly seven percent of that income in taxes to fund state government; so when income is down, our revenues are down. That is the reason we now face such difficult budget choices.

During the 1992-93 Biennium, we are recommending total expenditures for All Funds to be \$6.99 billion.

Our major concern is the General Fund, which is where we face the most serious challenges. During the 1992-93 Biennium, we expect revenues of \$3.23 billion, which is made up of \$3.08 billion in base revenues and \$150.8 million in additional revenues resulting from tax conformity, delaying various tax credits, increased fees, and other revenue enhancements. We are recommending expenditures of \$3.23 billion (\$1.57 billion in FY92 and \$1.66 billion in FY93), leaving a \$300,000 balance at the end of the Biennium.

The recommended appropriations represent a 24.5 percent reduction from the amounts requested for Current Services, New and Expanded Services, and Capital Construction. It is, however, still a 2.5 percent increase over current authorized appropriations for the 1990-91 Biennium.

We face a great challenge these next six months. The decisions we make will redefine government for the 1990's. But, as an official from the National Association of State Budget Officers noted recently on National Public Radio, Governors are choosing radical approaches "that haven't been tested before because this is the sort of environment when radical approaches are not only what's called for but probably a little more widely accepted." In our case, we currently have a state government that, given the economic realities of this decade, is structured in a way that exceeds the taxpayer's ability to pay.

As I have said, our proposed budget does not include any broad-based tax increases. It identifies what services Maine people will and will not receive if we live within our existing tax revenues. Our challenge is to determine exactly which services, if any, need to be restored and whether it is worth raising additional taxes or cutting other programs in order to provide these services to the people of our state. I tell you today that I, personally, have not yet made that determination.

Given the short time we have had to reduce our proposed current services budget so drastically, I am

forming a bipartisan Budget Advisory Council to work with me to review the ramifications of our current proposal. By early spring, I intend to report back to your Appropriations Committee any amendments to our budget I believe are necessary, including whether I believe additional revenues are required in order to restore needed services otherwise reduced in this budget.

Living within our currently projected revenues has required us to make decisions that I know will be controversial. On the revenues side, fee increases are being proposed in a number of areas. In addition, several tax decreases are being postponed, including the investment tax credit and the reduction in the sales tax on energy used in manufacturing. In total, these are estimated to generate \$78 million and \$73 million in FY92 and FY93, respectively.

On the spending side, General Purpose Aid to local education has been frozen at FY91 levels for both FY92 and FY93; higher education and all other government agencies have budgets at approximately 91.4 percent of their original FY91 levels in FY92 and grow about six percent in FY93. Human Services, Mental Health and Mental Retardation, and Corrections experience less of a reduction.

Finally, the budget incorporates a number of structural changes and programmatic reforms in the state retirement system which result in savings of \$58 million and \$73 million in FY92 and FY93. Included in these reforms are changes that will improve the long-term fiscal condition of the retirement system and change the amortization schedule of unfunded liability.

Because of our revenue picture, our Part II budget will be slim. We will not be able to fund in this Biennium some parts of the AMHI Consent Decree that we previously thought we could afford. Funding this decree will be the top priority as we look for additional ways to find revenues and also when our revenue situation does finally improve.

Likewise, we have found including funding for costs of the third year of our collective bargaining agreement with our employees to be difficult. We are recommending that it be paid for through temporary lay-offs equal to the cost of the increase scheduled to take place this July 1st. In view of the budgetary impact of these additional pay raises, I am eager to join with the unions in any effort to explore alternatives and urge them to be more constructive in meeting the new realities of our budget situation.

We do have some initiatives that are within our means and essential to moving us closer to our goal of making Maine the "Opportunity State." I discussed some of these in my inaugural address. Because I am convinced of the importance of providing an opportunity for all students to succeed in school, I plan to introduce a program that will recognize parents as the first teachers of their children. We will be setting up fifteen sites throughout the state to allow early education professionals to visit those parents of children from birth to age four who want to participate and assist them in the physical, social, and intellectual development of their

children.

At the other end of the system, we intend to reduce the drop-out rate by expanding our Jobs for Maine's Graduates program to help many more of our at-risk youth with the critical school-to-work transition.

And to be sure the door to higher education is open to all students regardless of their families' situation, I am proposing, once again, a state-guaranteed "Loan of Last Resort", which will make higher education a possibility for all students, regardless of their family income.

In order to better prepare us for future economic downturns, I am again proposing that the cap on the Rainy Day Fund be increased from its current \$25 million to four percent of the previous year's General Fund revenues, or approximately \$60 million.

And we are proposing that individuals or corporations who contribute to the Government Efficiency Commission we propose to form jointly with the Legislature be allowed to take a tax credit spread over three years in an amount of 70 percent of their contribution.

I believe this commission is our best hope of making structural changes in government in a thoughtful and reasonable way; and I look forward to working with you in the Legislative branch, members of the business community, and the public at large.

Finally, next month we will be submitting legislation which will suggest legislative and regulatory changes which will enhance our state's competitiveness and our ability to create a better environment for job creation in our state. As we have seen from the current economic downturn, the best long-term decisions we can make for the people of our state are those that will enhance job opportunities throughout Maine.

In conclusion, I remind you that many states share our fiscal difficulties, but I believe we can distinguish ourselves from the crowd by acting quickly and decisively to balance our budget by restructuring government in a way that Maine people can afford and a way that enhances our state's competitiveness.

Those are daunting challenges, but I pledge to work with you to do what is right for Maine. I am convinced that if you join me in putting aside our partisan differences, we will succeed. Thank you. (applause)

At this point, the Governor withdrew amid applause, the audience rising.

The purpose for which the Convention was assembled having been accomplished, the Chairman declared the same dissolved and the Senate retired to its Chamber, amid applause, the audience rising.

The House was called to order by the Speaker.

Representative Treat of Gardiner was granted unanimous consent to address the House:

Representative TREAT: Mr. Speaker, Men and Women of the House: I have been contacted, along with several other legislators, to present some kind of a Resolution that would be sent to Congress concerning what is happening in the Middle East. Basically this message has come to me from a number of constituents, including veterans who are anxious that a message be sent favoring peace, favoring negotiations. A number of other legislators have been working with me to present a Resolution to this body and, unfortunately, we were unable to go through all the hoops that you need to do to get it presented to you and voted on in time to be presented to Washington and to Congress before they debated and voted on this important issue over the weekend.

Nevertheless, we continue to feel that it is important to give legislators here in Maine an opportunity to express their views to our Congress people in Washington and particularly to President Bush, who at this time has a very momentous decision in his hands and is basically viewing a January 15th deadline for the withdrawal of Iraqi troops from Kuwait. Therefore, after today's session, a number of us will be faxing a petition to the President and to Congress. I would like to invite any legislators here who wish to sign that petition to do so. There will be a copy in the Speaker's office. You can sign it before we fax it to the President in Washington.

I would like to read the petition so everyone is aware of what it says and again to encourage as many of you as possible to sign on to it. The petition reads as follows:

LEGISLATIVE PETITION

January 14, 1991

Whereas, We the legislators of the State of Maine, do support the men and women serving in the United States forces, and in all the multi-national forces now allied to restrain aggression in the Middle East, in the operation known as "Desert Shield"; and

Whereas, We do denounce and deplore unwarranted aggression against innocent people and sovereign territory; and

Whereas, The United Nations also denounces such aggression and has with near unanimity endorsed economic sanctions against the nation of Iraq for its seizure of a sovereign state and its assault upon its innocent citizens; and

Whereas, In Addition to those sanctions nearly one-million armed forces of both sides now stand poised on the brink of a war that would undoubtedly be most tragic, cruel, and costly in both lives and treasures of the nations of the world; and

Whereas, We commend the U.S. Congress for debating fully and fairly their responsibilities under the War Powers Act of 1973, ever mindful of its

role as representatives of the American people;

Therefore, We as legislators of Maine do persist in support of the continuation of sanctions and the exercise of any and all diplomatic options available that may be made to avert armed conflict.

(At Ease to the Gong)

The House was called to order by the Speaker.

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

SENATE PAPERS

The following Joint Order: (S.P. 76)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Thursday, January 17, 1991, at 9 o'clock in the morning.

Came from the Senate, read and passed.

Was read and passed in concurrence.

On motion of Representative Tracy of Rome, Adjourned at 3:50 p.m. until Thursday, January 17, 1991, at nine o'clock in the morning pursuant to Joint Order (S.P. 76).
