

MAINE STATE LEGISLATURE

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

VOLUME V

FIRST SPECIAL SESSION
July 11, 1991 to July 18, 1991
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FIRST CONFIRMATION SESSION
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SECOND SPECIAL SESSION
December 18, 1991 to January 7, 1992
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SECOND REGULAR SESSION
House of Representatives
January 8, 1992 to March 9, 1992

ONE HUNDRED AND FIFTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
5th Legislative Day
Thursday, January 16, 1992

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

Prayer by Reverend Russell Chase, Vassalboro United Methodist Church.

The Journal of Wednesday, January 15, 1992, was read and approved.

SENATE PAPERS

Bill "An Act Related to Hydropower Relicensing Standards" (S.P. 848) (L.D. 2159)

Came from the Senate, referred to the Committee on **Energy and Natural Resources** and Ordered Printed.

Was referred to the Committee on **Energy and Natural Resources** in concurrence.

COMMUNICATIONS

The following Communication: (S.P. 850)

115TH MAINE LEGISLATURE

January 14, 1992

Senator Dale McCormick
Representative John Jalbert
Chairpersons
Joint Standing Committee on Aging, Retirement
and Veterans
115th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has withdrawn his nomination of William J. Deering of Bangor for reappointment to the Maine State Retirement Board of Trustees.

Pursuant to Title 5, MRSA Section 17102, this nomination is currently pending before the Joint Standing Committee on Aging, Retirement and Veterans.

Sincerely,

S/Charles P. Pray
President of the Senate

S/John L. Martin
Speaker of the House

Came from the Senate, Read and Referred to the Committee on **Aging, Retirement and Veterans**.

Was Read and Referred to the Committee on **Aging, Retirement and Veterans** in concurrence.

The following Communication:

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

January 15, 1992

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

Dear Clerk Pert:

This is to inform you that the following legislators were absent at the commencing of the Second Regular Session of the 115th Maine Legislature:

Representative Nason S. Graham of Houlton, January 8 and 9 for personal reasons.

Representative Peter Hastings of Fryeburg, January 8 and 9 for personal reasons.

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:

Bill "An Act to Reduce Administrative Costs of State Government and to Clarify Previous Legislative Reductions in State Government Administration" (EMERGENCY) (H.P. 1539) (L.D. 2172) (Presented by Representative GWADOSKY of Fairfield) (Cosponsored by Representative POULIOT of Lewiston, Representative MORRISON of Bangor and Representative ALIBERTI of Lewiston) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

(The Committee on Reference of Bills had suggested reference to the Committee on **Appropriations and Financial Affairs**.)

Under suspension of the rules, without reference to committee, the bill was read once and assigned for second reading later in today's session.

Banking and Insurance

Bill "An Act Concerning the Operation of the Maine Automobile Insurance Plan" (H.P. 1534) (L.D. 2167) (Presented by Representative CARLETON of Wells) (Cosponsored by Senator BRAUN of Knox, Representative MELENDY of Rockland and Senator KANY of Kennebec)

(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 Regarding Fees Collected by the Allagash Wilderness Waterway" (H.P. 1538) (L.D. 2171) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsored by Representative JACQUES of Waterville, Representative HUGLUND of Portland and Senator TITCOMB of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed.
Sent up for Concurrence.

Human Resources

Bill "An Act to Clarify and Make Technical Changes in the Hospital Care Financing System" (H.P. 1535) (L.D. 2168) (Presented by Representative MANNING of Portland) (Submitted by the Maine Health Care Finance Commission pursuant to Joint Rule 24.)

Bill "An Act to Clarify and Improve the Procedures of the Maine Health Care Finance Commission" (H.P. 1537) (L.D. 2170) (Presented by Representative MANNING of Portland) (Submitted by the Maine Health Care Finance Commission pursuant to Joint Rule 24.)

Ordered Printed.
Sent up for Concurrence.

Judiciary

Bill "An Act to Ensure That Funds Collected from Restitution and Fines Are Deposited in Interest-bearing Accounts" (H.P. 1536) (L.D. 2169) (Presented by Representative MELENDY of Rockland) (Cosponsored by Representative CROWLEY of Stockton Springs) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed.
Sent up for Concurrence.

Labor

Bill "An Act to Clarify and Amend the Laws Regarding Independent Medical Examiners" (H.P. 1533) (L.D. 2166) (Presented by Representative RAND of Portland) (Cosponsored by Representative RUHLIN of Brewer, Representative McKEEN of Windham and Representative McHENRY of Madawaska) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed.
Sent up for Concurrence.

Reported Pursuant to Public Law

Representative FARNSWORTH for the Commission to Study Maine's Oil Spill Clean-up Preparedness, pursuant to Public Law 1991, chapter 530 ask leave to submit its findings and to report that the accompanying Bill "An Act to Amend the State's Oil Spill Prevention and Response Provisions" (H.P. 1532) (L.D. 2163) be referred to the Joint Standing Committee on **Energy and Natural Resources** for public hearing and printed pursuant to Joint Rule 18.

Report was read and accepted, and the bill referred to the Committee on **Energy and Natural Resources**, ordered printed and sent up for concurrence.

ORDERS

Tabled and Assigned

On motion of Representative GWADOSKY of Fairfield, the following Joint Resolution: (H.P. 1404) (Cosponsors: Senator CLARK of Cumberland and Representative JOSEPH of Waterville)

JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO AMEND THE UNITED STATES CONSTITUTION TO REQUIRE THE FEDERAL GOVERNMENT TO FUND ANY MANDATE IMPOSED ON THE SEVERAL STATES OR THEIR POLITICAL SUBDIVISIONS

WE, your Memorialists, the Members of the One Hundred and Fifteenth Legislature of the State of Maine, now assembled in the Second Regular Session, most respectfully present and petition the Congress of the United States, as follows:

WHEREAS, the Federal Government, for the past decade, has eliminated or reduced necessary programs or mandated new programs and transferred the responsibility of funding these programs to the several states and their political subdivisions; and

WHEREAS, the several states and their political subdivisions, as a result of economic recession and the substantial costs of these programs are experiencing severe revenue shortfalls, budget deficits and significantly higher taxes to fund these programs and federal mandates; and

WHEREAS, the several states have no influence or control over monetary and fiscal policy by which this financial hardship could be relieved; and

WHEREAS, the several states, unlike the Federal Government, are required by their constitutions to balance their budgets, which further reduces their ability to fund programs previously funded by the Federal Government; and

WHEREAS, the federal practice of deferring program costs to the states is inherently unfair

because many states, when compared to other states, lack the resources and tax base to fund these programs; and

WHEREAS, many of the programs for which funding has been transferred, in whole or in part, to the states are programs designed to implement a national policy or national philosophy; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully request the Congress of the United States to propose and pass an amendment to the United States Constitution to require the Federal Government to provide the several states and their political subdivisions with sufficient funds for program costs transferred by the Federal Government to the states and their political subdivisions; and be it further

RESOLVED: That the amendment should specify that federal funding of program costs that have been transferred to the states and their political subdivisions must be provided to cover costs required by law, federal agency regulations or by a decision of the federal courts; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable George H. W. Bush, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the governor of each state, the Speaker of the Lower House and the President of the Senate in each state, and to each member of the Maine Congressional Delegation.

Was read.

On motion of Representative Gwadosky of Fairfield, tabled pending adoption and specially assigned for Tuesday, January 21, 1992.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 56 and Joint Rule 34, the following item:

Recognizing:

and in extending our sincere appreciation to the Maine Committee on Aging and its staff for the exceptional advocacy they have performed on behalf of the elderly since the committee's establishment by P&SL 1953, chapter 176. The work accomplished by the committee will be missed by all the citizens of Maine; (HLS 822) by Representative MANNING of Portland. (Cosponsors: Speaker MARTIN of Eagle Lake, Representative CONSTANTINE of Bar Harbor, Senator CONLEY of Cumberland, Senator CLARK of Cumberland, President PRAY of Penobscot)

On motion of Representative Manning of Portland, the House reconsidered its action whereby HLS 822 was passed.

Was read.

The SPEAKER: The Chair recognizes the

Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: It is with deep regret that as of five o'clock tomorrow, the Maine Committee on Aging will be gone. Over the years, many of you have relied on the committee for constituent work. The questions, the hard to deal with elderly issues will no longer be in existence. This program has been in existence since 1953. Now that we are cutting back in the Department of Human Services, I think it is going to be very difficult for the Department of Human Services to take up the slack that the Maine Committee on Aging has done since 1953, the last 40 years.

As of yesterday, we learned that one of their most important programs, the ombudsman program that looks at 10,000 nursing home beds in the State of Maine will only have one person to be an advocate for those 10,000 people.

The Legal Services for the Elderly will be handling the ombudsman program as of Monday morning, the phone number will be the same, but there will only be enough money to have one individual be the ombudsman for the whole state as required by federal law.

As one who has served on my committee for the last 12 years, I have understood the importance to have an advocacy group out there. Not only under this administration but also under the Brennan administration, there wasn't always agreement between the Committee on Aging and Michael Petit of the Department of Human Services.

They will surely be missed. You might not realize it now but you will know it before we get out of here — when you have a complaint or a question, you will turn to one of the members of our committee and ask, "Who can we talk to about this?" You could always call the Committee on Aging and they would always call you back. I am not quite sure you are going to get the same response out of the Department of Human Services and that is no reflection on them, but they told us just yesterday how busy they were.

I would like to introduce the final members of the Committee on Aging and they are in the audience, the Executive Director, Sheila Comerfordy, Romaine Turyn, Joan Sturmthal, Brenda Gallant, Kim Kelso, and Joyce Grondin. I would like to have them stand so we could applaud them. (applause)

I don't think the people of the State of Maine quite understand what doing away with the Committee on Aging will do. For those of you who don't know, the program that we have now called the Maine Home-based Care Act was pushed through by the Maine Committee on Aging. It has helped many, many individuals stay in their homes. Many of the people that you talk to who want to keep their mothers, fathers, brothers or sisters in the home — that Act is probably one of the most important pieces of legislation. I know it might not be important to some of you but for some of us who have to deal with social service issues, that agency is surely going to be missed.

Subsequently, was passed and sent up for concurrence.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered

sent forthwith to the Senate.

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

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative JALBERT from the Committee on Aging, Retirement and Veterans on Bill "An Act to Permit Portability of Teacher Retirement Credits" (H.P. 374) (L.D. 528) reporting **"Ought Not to Pass"**

Representative CHONKO from the Committee on Appropriations and Financial Affairs on Bill "An Act to Share Proportionately the Public Safety Costs for the Capitol Area" (H.P. 411) (L.D. 594) reporting **"Ought Not to Pass"**

Representative CHONKO from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide Funds for the Montpelier Museum in Thomaston" (H.P. 521) (L.D. 749) reporting **"Ought Not to Pass"**

Representative CHONKO from the Committee on Appropriations and Financial Affairs on Bill "An Act to Implement the Recommendations of the Maine Commission on Legal Needs" (H.P. 837) (L.D. 1203) reporting **"Ought Not to Pass"**

Representative PINEAU from the Committee on Banking and Insurance on Bill "An Act to Ensure that Health Care Insurance Policies Offer Discounts to Nonsmoking Consumers" (H.P. 651) (L.D. 925) reporting **"Ought Not to Pass"**

Representative MITCHELL from the Committee on Banking and Insurance on Bill "An Act to Provide for Increased Coverage of Mental Illness by Group Health Insurance" (H.P. 710) (L.D. 1015) reporting **"Ought Not to Pass"**

Representative ERWIN from the Committee on Banking and Insurance on Bill "An Act to Amend the Banking Laws to Allow Nonprofit Groups to Develop Affordable Housing" (H.P. 1294) (L.D. 1871) reporting **"Ought Not to Pass"**

Representative LAWRENCE from the Committee on Legal Affairs on Bill "An Act Concerning Liquor Licenses for Small Stores" (H.P. 166) (L.D. 251) reporting **"Ought Not to Pass"**

Representative CROWLEY from the Committee on Education on Bill "An Act to Provide for Direct Reimbursement of Special Education Costs" (H.P. 1292) (L.D. 1867) reporting **"Ought Not to Pass"**

Representative WATERMAN from the Committee on State and Local Government on Bill "An Act to Clarify the Definition of State Employee in the State Employee Labor Relations Laws" (H.P. 574) (L.D. 825) reporting **"Ought Not to Pass"**

Representative PARADIS from the Committee on Judiciary on Bill "An Act to Provide Funding for Sexual Abuse Victims and Offenders" (H.P. 660) (L.D. 939) reporting **"Ought Not to Pass"**

Refer to the Committee on Judiciary

Representative JALBERT from the Committee on Aging, Retirement and Veterans on Bill "An Act Relating to Distribution of Retirement Benefits in Divorce" (H.P. 711) (L.D. 1016) reporting that it be referred to the Committee on Judiciary.

Report was read and accepted and the bill referred to the Committee on Judiciary and sent up for concurrence.

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

SENATE PAPERS

The following Joint Order: (S.P. 853)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, January 21, 1992, at four o'clock in the afternoon.

Came from the Senate, read and passed.

Was read and passed in concurrence.

Unanimous Ought Not To Pass

Report of the Committee on Appropriations and Financial Affairs reporting **"Ought Not to Pass"** on Bill "An Act to Require the State to Pay Medicare Costs for Retired State Employees and Retired Teachers" (S.P. 58) (L.D. 107)

Report of the Committee on Appropriations and Financial Affairs reporting **"Ought Not to Pass"** on Bill "An Act Pertaining to Community Corrections Programs" (EMERGENCY) (S.P. 207) (L.D. 534)

Report of the Committee on Appropriations and Financial Affairs reporting **"Ought Not to Pass"** on Resolve, to Provide Additional Funding and an Extension of Time to Allow Phase 2 of the New Capitol Area Master Plan to Be Completed (EMERGENCY) (S.P. 507) (L.D. 1345)

Report of the Committee on Appropriations and Financial Affairs reporting **"Ought Not to Pass"** on Bill "An Act to Provide Fully Paid Health Insurance Benefits to Retired Teachers" (S.P. 571) (L.D. 1525)

Report of the Committee on Banking and Insurance reporting **"Ought Not to Pass"** on Bill "An Act to Require Insurers to Provide Insurance Coverage for Newborn Hospital Care" (S.P. 235) (L.D. 626)

Report of the Committee on Banking and Insurance reporting **"Ought Not to Pass"** on Bill

"An Act Concerning Insurance Coverage for the Diagnosis and Treatment of the Disease of Infertility" (S.P. 678) (L.D. 1800)

Report of the Committee on Education reporting "Ought Not to Pass" on Bill "An Act Concerning Federal Impact Aid for Education" (S.P. 72) (L.D. 128)

Report of the Committee on Education reporting "Ought Not to Pass" on Bill "An Act Regarding Reimbursement for Out-of-District Special Education Placements" (S.P. 671) (L.D. 1785)

Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act to Replace Certain Criminal Fines with Community Service" (S.P. 133) (L.D. 271)

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

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

SENATE PAPERS

Bill "An Act to Authorize Forest Rangers to Enforce the Rules and Laws Pertaining to the Bureau of Public Lands" (S.P. 852) (L.D. 2165)

Came from the Senate, referred to the Committee on Energy and Natural Resources and Ordered Printed.

Was referred to the Committee on Energy and Natural Resources in concurrence.

Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (EMERGENCY) (S.P. 849) (L.D. 2162)

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

Was referred to the Committee on Judiciary in concurrence.

Bill "An Act to Continue Modified Rate Regulation for Small Consumer-owned Electric Utilities" (S.P. 851) (L.D. 2164)

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

Was referred to the Committee on Utilities in concurrence.

Refer to the Committee on Fisheries and Wildlife

Report of the Committee on Appropriations and Financial Affairs on Bill "An Act to Establish a

Seasonal Permit for the Sale of Deer Hides" (S.P. 519) (L.D. 1397) reporting that it be referred to the Committee on Fisheries and Wildlife.

Came from the Senate with the report read and accepted and the bill referred to the Committee on Fisheries and Wildlife.

Report was read and accepted and the bill referred to the Committee on Fisheries and Wildlife in concurrence.

(At Ease)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 3 was taken up out of order by unanimous consent:

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Reduce Administrative Costs of State Government and to Clarify Previous Legislative Reductions in State Government Administration" (EMERGENCY) (H.P. 1539) (L.D. 2172)

Was reported by the Committee on Bills in the Second Reading and read the second time.

Representative Gwadosky of Fairfield offered House Amendment "A" (H-865) and moved its adoption.

House Amendment "A" (H-865) 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: Very briefly, I would like to explain the amendment. This is the bill that is obviously on a fast track, primarily because of the reporting deadline envisioned in the bill and I want to take a moment to explain what this bill and the amendment would do.

As you know, last night the Governor offered his version of the State of the State. He has a statutory responsibility to do that and he did so. I felt that it was unfortunate that many of his comments were unnecessarily partisan but I think it is important to rise above that and deal with the major issues that are confronting this state. I think the Governor focused on those issues. In fact, I think this legislature and the Administration have some shared common goals this session, Democrats and Republicans, and I want to repeat a couple of the sentences that the Governor referenced. I think they bear repeating and I think they are appropriate for the measure before us. I am quoting now from the Governor, "As you gather in this Second Regular Session in the 115th Legislature, I believe you have but two tasks, the first is to make our state a more hospitable place to preserve and create jobs for our citizens. The second is to continue to cut state bureaucracy and to reduce the financial burden on

Maine taxpayers."

The Governor has laid down the gauntlet regarding the issue of cutting the bureaucracy, the issue of dealing with cutting the fat. I think it is incumbent upon us now to respond to that challenge that has been advanced by the Governor.

This bill, as amended, will look familiar to many of you, it is ten or eleven pages but it is actually identical to House Amendment "000" that was not offered but was produced and on your desks earlier during the budget cycle. What this bill would require is quite simple. It would require every agency in state government, every branch of state government, to put together a plan to reduce the administrative personnel cost by 10 percent. It is very specific in terms of the definition of administrative personnel and I want to share that with you.

Administrative personnel are defined as employees whose primary functions are to manage or to administer state agencies or agency units, administer state programs or supervise employees. That is separate and distinct from those state employees who are providing direct services such as caseworkers, prison guards and mental health caseworkers so there is a clear distinction to each of the departments in terms of what they should consider administrative personnel.

If you feel like many of us have over the last year and a half here and after going through some five rounds of budget cutting, I think you are as frustrated as I am to understand and know that the top heavy bureaucracy still exists. Despite repeated attempts from the Appropriations Committee, some of the departments seem unwilling to provide the types of information that Appropriations has needed to do the type of cutting that many of us would like to see at the higher end of the bureaucracy and not at the lower end where direct services are being provided.

I have given you the definition and the breakdown. I believe that this bill would provide a systematic approach for the Appropriations Committee to be able to analyze the types of administrative costs that we can't simply can't afford any longer. Then we could channel those needed resources back into direct care services where the money belongs.

There has been a lot of talk about downsizing state government and the fact is that the bureaucracy, to a great extent, still remains. Those of you who have seen the Lewiston papers or the Bangor Daily News in the last couple of days have seen the listing of the some 500 positions of state employees who earn over \$50,000. Over 500 individual employees who earn over \$50,000 a year and that excludes the University of Maine System. You can imagine what would happen if you added that as well.

The Governor talked about those figures as well. He referenced in his speech — almost boasting to the point of cutting state bureaucracy in terms of what the efforts have been with the Administration. He referenced that "if our budget provisions pass, we will have reduced the number of General Fund employees in the Executive Branch by 1,204 or 15.4 percent since March of 1990."

I spent a few moments this morning talking with the Bureau of Human Resources because I was troubled with that figure of 1,200 employees because I know and I think you know that in fact we haven't laid off 1,204 since March 1, 1990. The fact is that since March 1, 1990 there has been a total of 810 state

employees in the Executive Branch who have received either layoff notices or bumping notices. Out of that 810, 280 found other positions in the Executive Branch and 530 were not reemployed. Of that 530 that were initially laid off, 287 were hired back, which leaves 243 employees or 2 percent of the total Executive Branch of the labor force in a laid off status, not 1,200, not 15 percent — 2 percent.

The second part of this bill deals with a specific position. As I said, the first part of this bill is simply a systematic approach and a process to allow us to get the information that we need to cut the bureaucracy. The second part of the bill deals with one particular position in state government and that is the Director of the Bureau of Veterans Services. Nothing exemplifies the problems that the Appropriations Committee has had in this legislature in the process that happened with this particular position, a position held by General Park as you know, who had retired and who was given this position at \$50,000. The Appropriations Committee looked at this position, took the funding away, but because they didn't reference technically Title 22 or Title V, the Administration is keeping this person in that position. How many times has the Human Resources Committee designated a position, tried to eliminate it, given it to Appropriations who tried to eliminate it time and time again, only to have it reappear mysteriously six months later under some other new federal line or some other special funds. This exemplifies the types of problems that we have had trying to cut the bureaucracy despite repeated attempts.

I don't reference this particular position to pick on this gentleman, I just give it as an example of the type of things that have been going on. The fact is, while there has been a lot of talk about cutting the bureaucracy, we haven't been in the position to do the types of cutting that I think you and I would like to do in the areas that we would like to do. This provides for a systematic approach to cutting the bureaucracy at the top where it should be cut and not at the direct care service level.

The amendment that I just offered does two things, it adds a fiscal note simply to say that the expenses will be absorbed by the various agencies to put together reports and clarifies clearly so there is no question that the legislature and the judicial departments are also subject to these same provisions and who will have to develop plans as well. That in a nutshell is what the bill does. I think it is a very strong step for us to take and if we are serious about doing what everybody has been saying we should be doing, and if you want to react and respond to the challenge that was offered to us last night by the Governor of this state to begin cutting the bureaucracy, this provides us with the information that we need to know to do it effectively and I would ask your support.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: When this original bill came flying through here without reference to committee, I certainly thought it was worth reading. Before we get into the subject of the study, I would like to also go on Record as agreeing with the sponsor that the, I believe 10 or 11 pages of the bill dealing with the position on Appropriations, does reenforce the vote of the committee. I have no quarrel with

that nor do I have any quarrel with the intent of studying administrative costs and reducing those. As you all know, all of us on our committee and this body supports reducing those costs. We have wrestled with that issue, we did reduce all salaries over \$50,000, non-union salaries that is, and we have since found that (in some cases) we have supervisors making less than those supervised because of the contract. That is an issue we will have to consider at a later time.

I was glad to see the amendment come because the two questions that came to my mind as I read the original bill was, does it include all branches of government and how do we actually define administrative costs because, within our committee, that has been a problem.

Representative Gwadosky says in his amendment that it includes the Legislative and Judicial Branches of government — my concern about the amendment is that it includes them but at a much lower standard than the Executive Branch. I would like to go over the language with you. The Executive Branch is required to present a plan which must state the total current number of administrative and non-administrative personnel and the total of administrative salaries for the agency. In addition, the plan must include a list of administrative positions and a list of non-administrative positions. With respect to each list, the positions must be displayed by job classification etcetera. When we come to the Legislative and Judicial Branches, however, we are asked to rely solely on a much vaguer plan for administrative costs. I would suggest to you that the Legislative and Judicial Branches should be held to the same standards as the Executive Branch.

I would like to take time (we could do it in a very short time this evening) to prepare an amendment that would require all branches of government to offer the same depth of information about their number of employees and their funding sources. I think it would be important information for our committee and I think it is something that we need to offer to the public. I would respectfully ask that someone table this in order to prepare that amendment.

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

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to move to table this and I want to be very explicit as to the reason why.

I understand the concerns that have been addressed by Representative Foss. I have discussed them at length as I was drafting this bill. In my communications with the Bureau of Human Resources, I discussed them and one of the real realities you have to understand when you attempt to compare departments is that some are very different. You cannot compare the Maine Legislature with the Department of Human Services. There are not direct care services of individual employees of the Legislative Branch as there are in the Department of Human Services. The variety is just too difficult. When I first attempted to resolve the different types of departments and different types of job specifications, the different types of functions, I found it impossible to do so because the functions of the Maine Legislature and the Judicial Department for that matter are so uniquely different that what I did

was, and the language is very specific, "that the Legislature and the Judicial Branches shall examine their own administrative structures and each department shall prepare a plan that, at a minimum, reduces the cost of its administration by 10 percent in fiscal year 1991-1992 and fiscal year 1992-1993. The plan must provide information describing the administrative structure of the department.

I know that the Appropriations Committee has requested reams of information on the legislative budget in the last year and, to my knowledge, the information, the functions, the job descriptions and the salaries have always been provided. The Legislative Branch exceeded its cut last year that was required, unlike the Executive Branch and unlike the Judicial Branch. Twenty-one positions have been eliminated in the Legislative Branch since March of 1990, the famous figure that we are all using.

So, it is important to know that the Legislative Branch has done its job, it will continue to do its job and we will meet the goal that is before us in the upcoming budget cycle.

I respectfully disagree but not with any strenuous sense because I think it is a just question of understanding the language. Perhaps if we had a chance to look at it together, Representative Foss and I and a couple of others, we could work this out. I think that there is a real distinction and I think we know what the positions are within the Legislative Branch. There are some that are kind of more administrative than others but, for the most part, we don't have the direct care services that you do in a lot of other departments and that is why I didn't make the distinction for fear of it being so complicated that it wouldn't be worthwhile putting the time in to get it put together.

The bottom line is, and the bottom line is important to remember, that we will have a plan from the legislature, the judicial department, and from every other department and agency in state government, including the University of Maine, to be submitted to the Appropriations Committee to reduce administrative personnel costs by 10 percent. What we choose to do with that plan at that point is clearly the purview of the Appropriations Committee and other committees who will be involved in that decision. It is a systematic approach and I don't think we need to make the necessary adjustments. I respectfully disagree, I guess, with Representative Foss, I don't believe we need to make the necessary adjustments for the Judicial Department and the Legislative Department at this time because the nature and structures of the various agencies and departments are so separate.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: Probably we could have worked it out or at least some conversation would have helped but, as you all know, this came to our desks and is going through the process very quickly.

I would suggest to Representative Gwadosky that all departments and agencies are very different. The language does include, for example, the Attorney General's Department and others who could probably make the same kind of arguments the Legislative Branch could make about the uniqueness of the services there. We have also been provided with reams of information about the Executive agencies and their number of employees, funding sources and what

is and what isn't administrative and, in some cases, we have not been able to really define that.

I continue to have a serious concern about the appearance of this amendment. It seems to excuse the Legislature and the Judicial Department from the kind of scrutiny we are requiring from the other departments. I think we should be trying to cut administrative costs in all branches of government. We had many hours of debate about the administrative office of the courts, which in the last decade, has grown enormously. I think it would be very helpful to have a further analysis of that with all the numbers and all the administrative costs of the various employees of the different levels in the judicial system. I think it is important that we all stand behind cutting these kinds of costs in all branches of government.

It is clear to me that we have two standards and I don't think it is appropriate to hold one branch of government to one standard and to let the others go by without the kind of scrutiny that we are demanding of the Executive Branch. I think we should demand that scrutiny of all and I continue to believe that we should amend the bill and simply include all branches of government under the same standards and I could vote for it today.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: I won't prolong this debate. The issues are very clear. Let me say it clearly and succinctly one more time for the Record — the only branch of government that exceeded its target for cuts was the Legislative Branch of government in Special Session. The only branch. The Executive Branch of government did not and the Judicial Branch of government did not.

This is a simple piece of legislation, we do not need to make it anymore complicated than it is by dodging the main issue, do you or do you not want to investigate the reduction of bureaucratic costs in this state? If you do, you will vote for this bill; if you do not, you will vote against it.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: We are certainly in a very precarious situation speaking against an amendment that may or may not improve the original intent of the bill, the bill which the Council let through with my vote against two nights ago. The Representative from Fairfield told us at that time that he would be trying to hurry this along to help the appropriations process.

It may be improved by the amendment but it is important to note, in the Record, the different standard that we are holding the three branches of government. The Executive Department is required to reduce the cost of administrative personnel by 10 percent or show a plan how to do that. That was the original bill, which we hadn't seen in Council of course when we let the title through. The amendment shown a moment ago includes that but requires the Legislative and Judicial Departments to reduce the cost of this Administration minus the word "personnel" by 10 percent.

I want to say in the Record that there is a difference in the way that these terms are used that is important. It was clearly stated at the Legislative Council meeting that it was the intent of

the Council (the majority of the Council) not to reduce personnel in the effort to cut the budget, that there are many areas in the legislative budget that could be cut and would be cut, including our salaries which was the proposal that I offered, that avoided cutting personnel. Yes we made and passed a proposal to cut salaries of personnel but in the Council action in the budget that was just passed, we did not cut or remove people. It was clearly the intent of the majority of the people not to do that. To me that is important to state because of the difference in the words between the standard for the Legislative and Judicial Branches versus the Executive Branch.

There certainly has been a lot of attention drawn to the high salaries in state government. You can't stop anywhere without someone asking you about that, and rightly so. We certainly bear some responsibility for that. In the last budget, we did attempt to cut those salaries over \$50,000.

Just doing a little quick math, which bears correction and I would encourage you to do that, the percent of salaries that are over \$50,000 are two times more in the legislative than what they are in the Executive Branch and three times in the Judicial Branch than what they are in the Executive Branch — on a percentage basis. That works because there are so many people obviously employed on the Executive side but it bears note because, if we are preparing a summary of a different standard, we certainly ought to be looking at the cost of personnel on the legislative and the judicial side of government.

So we are in a quandry — obviously, there is not an intent to table and make it the same by the majority. The amendment is an improvement over ignoring the costs of the Judicial and Legislative Branches as the original bill does.

The matter does need to proceed. It is unfortunate that there is not an interest in making them all have to provide the same material but that is nothing new.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: Very quickly, as I try to do for everybody in the House, I want to try to help the Representative from Waldo. I think the figures he referred to were General Fund positions alone and it bears pointing out that there are almost as many non-General Fund positions in state government as there are General Fund positions in state government. So, if you add the other half of the Executive Branch of government, the special funds, the dedicated funds and all those other funds, I think you will find the percentages come out pretty even.

As to the Representative from Waldo's contention about the fact that the word "personnel" is not included in the legislative side, I would submit that that means that there is going to be more costs scrutinized under the Legislative Branch because the Executive Branch is limited to administrative personnel and our side is limited to administrative costs. As we all know, there is more to administrative costs than just personnel. So, maybe the Legislative Branch is being held (again) to a higher standard as we were in the Special Session. We held at to a higher standard than the Executive Branch because we met our target, the Executive Branch did not.

I won't waste anymore of your time.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Pouliot.

Representative POULIOT: Mr. Speaker, Ladies and Gentlemen of the House: I really didn't expect to get up this evening. I am really happy to be a cosponsor on this bill and I had a prepared speech that I was going to really look into but I said I wasn't going to go into it. I think I will just diverse myself from it.

The thing that really bothers me tonight is that I really sincerely in my heart thought that this was going to be a very short and small debate. There is one thing that I am really tired of in this legislature and that is the bickering from both sides of the aisle.

This is a bill whose time has come. Anyone of you who have been reading the papers and listening to the constituency back home, (and as they look at these extreme fat salaries, all they are saying is, please take a look at them and question them) I ask you, what is wrong with this type of legislation when we are going to do what we were sent here to do — the people's work?

It was very easy in the last session and I heard it over and over again, and you will keep hearing this repeatedly, the legislative account. If you don't want to serve your people back home or in this state, then I say, destroy the legislative account because that is the bottom line. You are out to destroy this chamber when you destroy this legislative account. If you want the lobbyists to run this state, then you keep attacking the legislative account and then we will have nothing. We are a part-time legislature — can you understand that? It is difficult — all of us don't have time to be here, the time that it really requires so we have staff to help us, you have staff and some of you use it more than others. What is there to fear by sending this bill down to its proper committee, the Appropriations Committee, so we can have the facts that we need to respond?

I say again, this is a bill whose time has come. If you feel that this bill's time has not come, then you vote against it. If you feel that this bill's time has come, then you vote for it.

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Men and Women of the House: I have a legitimate question as to what 10 percent in fiscal year 1991-1992 is supposed to mean and I would really like to have either the Representative from Fairfield or the Representative from Thomaston tell me because I am uncomfortable with it.

We have approximately four and a half months left by the time this gets here. If we are talking about a gross sum that these people are supposed to target of 10 percent of what happened in fiscal year 1991-1992, it will be a large sum which could have some serious repercussions.

I assume that a statement can be made and I hope it will be so I can continue to support this bill which will say that its 10 percent in fiscal 1991 having reference to the remainder of the fiscal year.

The SPEAKER: The Representative from Belfast, Representative Marsano, has posed a question through the Chair to the Representative from Fairfield, Representative Gwadosky, who may respond if he so desires.

The Chair recognizes that Representative.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: The answer is yes. I agree with the characterization from the Representative from Belfast, Representative Marsano, and once again, I share my comments with my seatmate, the Representative from Thomaston, Representative Mayo, that I never envisioned creating this type of uproar over this amendment.

This amendment is simply a process to get the information to Appropriations. Appropriations then, working with other committees, will make a determination of what is appropriate and what is inappropriate. All this means to do is to allow a systematic approach, a systematic review, of information from each department but it does force the departments to provide that information, nothing more, nothing less.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Aliberti.

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: You may be wondering why little old me is on this bill. I have no qualms about being on this bill. I solicited the honor of being a part of this bill for the simple reason that, if you recall, I introduced an amendment at the last budget fracas we had here for 5 percent, but it was not all inclusive. I said to you, in all sincerity, that I would make an attempt to come back with the necessary information that would be supportive in this direction.

The 10 percent makes me even happier because I had the opportunity of attending a conference, not paid for from legislative funds, in the Mid-west not too long ago. The communities that rose above the difficulties of addressing budgetary concerns were those communities that dedicated themselves to cutting one area, administrative costs. They showed by the records that by so doing they were able to come out of their budget quandry and be accountable again. Sixteen areas of the country were able to reduce their costs from the usual 40 percent, which we have at this time, to 15 or 16 percent.

With all due respect to the opposition and their reason for opposing this bill, I cannot believe that you are against the principle of cutting administrative costs. I cannot believe that.

One little area of concern here and one little area of concern there — little areas of concern — our major concern is to address those areas that need to be addressed, the dollar areas. The dollar areas are quite evident in the administrative costs — definition.

Speaking of definitions, I had a great deal of difficulty as the good Representative from Yarmouth brought out addressing, what are administrative costs? I solicited the support of several agencies of state government and, in so doing, found it even more difficult to absolutely say, this is administrative and this isn't. Rest assured, this is a start that will answer all those questions and I urge you to support the concept.

Representative Tracy of Rome requested a roll call.

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 pending question before the House is adoption of House Amendment "A" (H-865). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 286

YEA - Adams, Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Boutilier, Bowers, Butland, Cahill, M.; Carleton, Carroll, D.; Carroll, J.; Cathcart, Chonko, Clark, M.; Cote, Crowley, Daggett, DiPietro, Donnelly, Dore, Duffy, Duplessis, Dutremble, L.; Erwin, Farnsworth, Farnum, Farren, Foss, Garland, Gean, Goodridge, Gould, R. A.; Gray, Greenlaw, Gwadosky, Handy, Hanley, Heesch, Heino, Hepburn, Hichborn, Hichens, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Kilkelly, Kontos, Kutasi, Larrivee, Lawrence, Lebowitz, Lemke, Libby, Look, Lord, Luther, MacBride, Mahany, Manning, Marsano, Marsh, Martin, H.; Mayo, McHenry, McKeen, Melendy, Merrill, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Nash, Norton, Nutting, O'Dea, O'Gara, Oliver, Ott, Paradis, J.; Paradis, P.; Parent, Paul, Pendexter, Pendleton, Pfeiffer, Pineau, Pines, Plourde, Poulin, Pouliot, Powers, Rand, Reed, G.; Reed, W.; Richards, Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Salisbury, Savage, Sheltra, Simonds, Simpson, Skoglund, Small, Spear, Stevens, A.; Stevens, P.; Stevenson, Strout, Swazey, Tamaro, Tracy, Treat, Tupper, Vigue, Waterman, Wentworth, Whitcomb, The Speaker.

ABSENT - Anthony, Cashman, Clark, H.; Coles, Constantine, Graham, Gurney, Hale, Hastings, Ketterer, Lipman, Macomber, Tardy, Townsend.

Yes, 137; No, 0; Absent, 14; Paired, 0; Excused, 0.

137 having voted in the affirmative and 0 in the negative with 14 being absent, House Amendment "A" (H-865) was adopted.

The bill was passed to be engrossed as amended by House Amendment "A" (H-865) and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The following item appearing on Supplement No. 5 was taken up out of order by unanimous consent:

SENATE PAPER

Non-Concurrent Matter

Bill "An Act to Reduce Administrative Costs of State Government and to Clarify Previous Legislative Reductions in State Government Administration" (EMERGENCY) (H.P. 1539) (L.D. 2172) which was read twice under suspension of the rules and without reference to any committee and passed to be engrossed as amended by House Amendment "A" (H-865) in the House on January 16, 1992.

Came from the Senate, referred to the Committee on Appropriations and Financial Affairs in

non-concurrence.

The House voted to Adhere.

By unanimous consent, ordered sent forthwith to the Senate.

(Off Record Remarks)

On motion of Representative Anderson of Woodland, Adjourned at 5:50 p.m. until Tuesday, January 21, 1992, at four o'clock in the afternoon pursuant to Joint Order (S.P. 853).