

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Sixteenth Legislature

OF THE

State Of Maine

VOLUME III

FIRST REGULAR SESSION

Senate

December 2, 1992 to May 18, 1993

**STATE OF MAINE
ONE HUNDRED AND SIXTEENTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE**

In Senate Chamber
Thursday
December 3, 1992

Senate called to Order by the President.

Prayer by the Honorable Judy Paradis of Aroostook.

SENATOR JUDY PARADIS: Dear God be with us today as we continue our deliberations. Thank you for a good beginning yesterday and be with us during our tomorrows as we do the people's business. Amen.

Reading of the Journal of Wednesday, December 2, 1992.

COMMUNICATIONS

The Following Communication:

**STATE OF MAINE
OFFICE OF POLICY AND LEGAL ANALYSIS
STATE HOUSE STATION 13
AUGUSTA, MAINE 04333**

December 2, 1992

The Honorable Dennis L. Dutremble
The Honorable John L. Martin
Maine Legislature
State House
Augusta, ME 04333

Dear President Dutremble and Speaker Martin:

We are pleased to send you this copy of the final report on the Privatization of State Services, Volume I, Privatization: A Process Review and Status Report. The report is a staff study completed by the Office of Policy and Legal Analysis as authorized by the Legislative Council of the 115th Maine Legislature.

Sincerely,
S/Martha E. Freeman
Director

Which was **READ** and with Accompanying Papers
ORDERED PLACED ON FILE.

The Following Communication:

**STATE OF MAINE
OFFICE OF POLICY AND LEGAL ANALYSIS
STATE HOUSE STATION 13
AUGUSTA, MAINE 04333**

December 2, 1992

The Honorable Dennis L. Dutremble
The Honorable John L. Martin
Maine Legislature
State House
Augusta, ME 04333

Dear President Dutremble and Speaker Martin:

We are pleased to send you this copy of the final report on the Privatization of State Services, Volume II: Corrections. The report is a staff study completed by the Office of Policy and Legal Analysis as authorized by the Legislative Council of the 115th Maine Legislature.

Sincerely,
S/Martha E. Freeman
Director

Which was **READ** and with Accompanying Papers
ORDERED PLACED ON FILE.

The Following Communication:

**STATE OF MAINE
OFFICE OF POLICY AND LEGAL ANALYSIS
STATE HOUSE STATION 13
AUGUSTA, MAINE 04333**

December 2, 1992

The Honorable Dennis L. Dutremble
The Honorable John L. Martin
Maine Legislature
State House
Augusta, ME 04333

Dear President Dutremble and Speaker Martin:

We are pleased to send you this copy of the final report on Medicaid Cost Containment: Issues and Options. The report is a staff study completed by

the Office of Policy and Legal Analysis as authorized by the Legislative Council of the 115th Maine Legislature.

Sincerely,
S/Martha E. Freeman
Director

Which was **READ** and with Accompanying Papers
ORDERED PLACED ON FILE.

The Following Communication:

**STATE OF MAINE
OFFICE OF POLICY AND LEGAL ANALYSIS
STATE HOUSE STATION 13
AUGUSTA, MAINE 04333**

December 2, 1992

The Honorable Dennis L. Dutremble
The Honorable John L. Martin
Maine Legislature
State House
Augusta, ME 04333

Dear President Dutremble and Speaker Martin:

We are pleased to send you this copy of the final report on Sovereign Immunity Waivers. The report is a staff study completed by the Office of Policy and Legal Analysis as authorized by the Legislative Council of the 115th Legislature.

Sincerely,
S/Martha E. Freeman
Director

Which was **READ** and with Accompanying Papers
ORDERED PLACED ON FILE.

ORDERS OF THE DAY

Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Adjournment, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Senate Rule 29.

The Chair laid before the Senate the Tabled and Later Today Assigned (12/2/92) matter:

JOINT ORDER - regarding that the Joint Rules of the 115th Legislature be adopted as the Joint Rules of the 116th Legislature.

S.P. 11

Tabled - December 2, 1992, by Senator **BUSTIN** of Kennebec.

Pending - **PASSAGE**

(In Senate December 2, 1992, **READ.**)

Senator **ESTY** of Cumberland was granted unanimous consent to address the Senate off the Record.

Senator **CARPENTER** of York was granted unanimous consent to address the Senate off the Record.

On motion by Senator **BUSTIN** of Kennebec, Tabled until Later in Today's Session, pending **PASSAGE.**

On motion by Senator **BUSTIN** of Kennebec, **RECESED** until the sound of the bell.

After Recess

Senate called to order by the President.

Off Record Remarks

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

JOINT ORDER - regarding that the Joint Rules of the 115th Legislature be adopted as the Joint Rules of the 116th Legislature.

S.P. 11

Tabled - December 3, 1992, by Senator **BUSTIN** of Kennebec.

Pending - **PASSAGE**

(In Senate December 2, 1992, **READ.**)

On motion by Senator **ESTY** of Cumberland, Senate Amendment "F" (S-6), **READ.**

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I apologize if I'm a bit slow here but this is the first time I have actually seen the official amendment but I was given a rough draft by the Majority Leader a little while ago and I'll go from that, assuming that it does the same thing that the amendment does. It is not specified in the amendment that minority members will be a part of this 15 member committee. I have been assured that that is not the case, that 2 minority members will be appointed to that committee and I've also been assured that I will have input in who those two minority members will be. The other issue that the minority party has with the amendment that has been put forward today, that we're currently on, is the fact that the recommendations of the fifteen member committee may report recommendations only with a majority vote, and after that all amendments to the Rules have to be passed by a two thirds vote. What this, in effect, does is say that the minority party, if these Rules were purely Republican and Democrat, and I'm sure they're not going to be, but hypothetically if they were, if the majority party wanted to present an amendment to the Rules today, they could do that with a majority vote. After this committee has been set up and established, and if we don't get any of the Rules that our party wants, we can only do it with a two thirds vote. So you can see that that puts us seemingly at a disadvantage. I know in this new spirit of cooperation that that probably will not happen, but for the record I wanted to point out that we do have a couple of concerns about this, knowing full well that this amendment can be put on today with a majority we're willing to go along with it in our new found, and I'm sincere about that, spirit of cooperation. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Esty.

Senator **ESTY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I too am very pleased that we have been able to work together to reach this kind of consensus within the Rule making process. Both the Minority Leader and myself have worked hard to make sure that we begin this new session working together and bringing all of us together. I view this amendment as being fair to all of us. I view this new committee that's being put together, which will be a bipartisan committee, as having the opportunity to do much of what each of us have talked about during our recent elections, which is improving the legislative process, streamlining the procedures to make it a better legislative process with Republicans and Democrats working together fairly. I expect and I hope that that will occur and we will insure that this process is a good working process for all of us. Thank you.

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

Senator **HANLEY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to pose a question through the Chair to the Senator from Cumberland, Senator Esty. If you could explain to me just the rationale as far as the part of the amendment which the Minority Leader brought up regarding only recommendations that had the support of the majority of the Rules panel, not minority reports of the same, would be provided. I was wondering if you could just explain the rationale behind that.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Esty.

Senator **ESTY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. When this joint, bipartisan committee look at the Rule changes, should they agree that a Rule change should be made, then it can come back to both bodies and will have the opportunity to be approved by both bodies by a simple majority. That makes a great deal of sense in as far as having the majority of that committee then recommend to us in which time we would act. Should the majority of that joint select committee of Republicans and Democrats not agree that a change should be made, then the same rule would apply that presently applies to the Rule-making process, which is that two thirds of each body would then have to approve. So, in fact, it is not being any more fair or any less fair, it simply puts it into a more deliberative, rational environment. Thank you.

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

Senator **HANLEY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd just like to address the members of the Maine Senate stating that at this point in time the Rules that we adopt we will abide by for the next two years. I feel it's very important that all members of the Maine Senate have an opportunity to participate in this process, that all proposed changes that will make both this body and the other body more cooperative and conciliatory bodies, that, in fact, we should have the input from all people and from both parties. I would like to pose a question to the Senator from Cumberland, Senator Esty, whether or not he would favor a friendly amendment to his amendment that would allow minority reports from this joint rules committee.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Esty.

Senator **ESTY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. To answer the good Senator from Oxford, Senator Hanley's question directly, I think that at this point in time what makes the most sense for the Maine Legislature is to pass what we have in front of us, act upon it and go home. In regards to the proposal that the good Senator had mentioned, regarding minority reports from this select committee, those kind of reports or those kind of suggestions could have the opportunity in either house by the same Rules that presently exist, which would be the two thirds, so that would insure the same fairness that presently exists. Thank you.

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

Senator **HANLEY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I don't want to belabor this point but I think it's important, that freshman members and veteran members of this body realize that rules, when they are first adopted, are adopted by majority vote, after the rules are adopted any further amendments to those rules require two thirds of a vote. I concur with the Senator from Cumberland that we want to have rules that allow a certain amount of fairness and equity in their presentation. If this amendment were to go through without that friendly amendment then it would basically not allow the same provisions that have been allowed for the legislature to allow amendments

to be made, minority reports, requiring only a majority vote to be accepted. It's my concern that we're voting on Rules that will determine the conduct of this body for the next two years that we don't do anything in haste and that we do take the time to think it through so that the freshmen members, those of us who are new to this Senate, also have an opportunity to deliberate this and know exactly what we are doing. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Esty.

Senator **ESTY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I appreciate your indulgence to only briefly comment one more time in particular for the new members of this body. By not having to make a decision regarding all of the Joint Rules since, for many of you, this is your first or second day in this chamber, and by having a committee that you will either serve on or have your peers be serving on, it will give you a few more weeks to consider, I think will be very fair to those new members in this body and give you an opportunity to consider some of this information that many of us have received in the past few days. So I think that's very important and a well taken point and I'm pleased by that. Thank you.

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

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. To my good friend the Senator from Oxford, Senator Hanley, and I would address him because I sat in that chair last session and particularly in the first few weeks sat there shaking my head and you probably will see me doing a lot of that over here too as well, but I want to address the issue of Rules. Having been here for a few sessions in both bodies, like yourself, first I want to assure you that in this body the Rules are followed and you'll be pleased to see that. Secondly, I want to tell you this, that as you well know when we came here in previous sessions the Rules were just adopted. Myself and probably many others never even knew that Rules were adopted and what we've gone through here in the past couple of days I think is very different than what has gone on in the past. I think it's a tribute to this body, to both bodies, and to the institution in general. Your point about having minority reports be allowed out of this new joint standing committee is one that is well taken. I think to look at the backdrop against which we've been discussing all of these Rule changes, how it is new, very new, to all of us here, should be something that you look at carefully and rely on as we go forward from this point. It's not that your idea is being rejected here, I think what the good Majority Leader is trying to say is that really we can't take up all ideas right at this time. But by leaving this window open, for a majority vote on changes in the Rules until a later time, your idea can be debated, too. I know that the Minority Leader has talked about majority rule being around for awhile and how that may put the minority at a disadvantage, in fact it's interesting to note that we as a majority talked about the disadvantages for us to have a majority vote being open and not having the two thirds which has been the Rule for all sessions in the past, and about how leadership could be disrupted and thereby have Chairs disrupted, the potential for that type of stuff. Everybody is taking a risk here and I think maybe we can just rely on each others good faith to go forward from this point until there is a closure on when the Rules can

be changed. I encourage you to pursue your changes, I know you will and I wish you luck. Thank you.

On motion by Senator **ESTY** of Cumberland, Senate Amendment "F" (S-6) **ADOPTED.**

Subsequently, the Joint Order was **PASSED, As Amended.**

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

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

COMMUNICATIONS

The Following Communication:

**STATE OF MAINE
OFFICE OF THE PRESIDENT
AUGUSTA, MAINE 04333**

December 3, 1992

Honorable Joy J. O'Brien
Secretary of the Senate
State House Station #3
Augusta, ME 04333

Dear Secretary O'Brien:

Pursuant to the Senate Order passed on December 2, 1992, I have appointed the following members to the Committee on Senatorial Vote:

Senator Bonnie L. Titcomb of Cumberland, Chair
Senator Mark W. Lawrence of York
Senator Richard J. Carey of Kennebec
Senator Joseph C. Brannigan of Cumberland
Senator Rochelle M. Pingree of Knox
Senator Margaret Ludwig of Aroostook
Senator David L. Carpenter of York.

Please let me know if you have any questions about these appointments.

Sincerely,

S/Dennis L. Dutremble
President of the Senate

Which was **READ** and **ORDERED PLACED ON FILE.**

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

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency

An Act Relating to Compulsory Insurance Limits for Vehicles that Transport Passengers for Hire
S.P. 9 L.D. 2

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with No Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency

An Act to Approve Award of Federal Block Grant Money
S.P. 10 L.D. 3

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with No Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

ORDERS

Joint Order

On motion by Senator **BUSTIN** of Kennebec, the following Joint Order:
S.P. 12

ORDERED, the House concurring, that when the House and Senate adjourn, they do so to the call of the President of the Senate and the Speaker of the House when there is need to conduct legislative business.

Which was **READ** and **PASSED**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Later Today Assigned (12/2/92) matter:

SENATE ORDER - regarding the Senate Rules of the 115th Legislature be adopted as the Senate Rules of the 116th Legislature.

Tabled - December 2, 1992, by Senator **BUSTIN** of Kennebec.

PENDING - **PASSAGE**

(In Senate, December 2, 1992, **READ**.)

On motion by Senator **CLEVELAND** of Androscoggin, Senate Amendment "A" (S-9) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator **CLEVELAND:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd simply like to summarize what this amendment does. What it does is extend until January 25, 1993, the opportunity for any member of this body, by a majority vote, to amend the Senate Rules. Thank you.

On further motion by same Senator, Senate Amendment "A" (S-9) **ADOPTED**.

Subsequently, the Senate Order was **PASSED, As Amended**.

Off Record Remarks

On motion by Senator **VOSE** of Washington, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

Off Record Remarks

Senate at Ease

Senate called to order by the President.

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

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency

An Act to Clarify the Tax-exempt Borrowing Authority of the University of Maine System
S.P. 8 L.D. 1

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator **HARRIMAN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. It's my understanding that the money used in this transaction will indeed be used to retire outstanding bond indebtedness?

THE PRESIDENT: The Senator from Cumberland, Senator Harriman, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator **PEARSON:** Thank you Mr. President, Ladies and Gentlemen of the Senate. It's been some time since I've been briefed on this but it's my understanding that this will relieve the State of the responsibility of a certain number of millions of dollars of bonded indebtedness that the State now carries on its General Fund obligations and will become part of University obligations and will consequently, on our ledger sheet, put us in a position where bonding houses will be more favorably disposed to keep us in a higher bond rating than we would otherwise be. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator **HARRIMAN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I want to make sure I'm clear on this. The receipt of the money from the University will be used to retire State bond indebtedness, no other reasons?

THE PRESIDENT: The Senator from Cumberland, Senator Harriman, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator **PEARSON:** Thank you Mr. President, Ladies and Gentlemen of the Senate. That's my understanding. Thank you.

This being an Emergency Measure and having received the affirmative vote of 22 Members of the Senate, with 9 Senators having voted in the negative, and 22 being less than two-thirds of the entire elected Membership of the Senate, **FAILED ENACTMENT** in **NON-CONCURRENCE**.

On motion by Senator **CAHILL** of Sagadahoc, the Senate **RECONSIDERED** its action whereby this Bill **FAILED ENACTMENT** in **NON-CONCURRENCE**.

On further motion by same Senator, Tabled until Later in Today's Session, pending **ENACTMENT**.

Senate at Ease

Senate called to order by the President.

On motion by Senator **ESTY** of Cumberland, **RECESSED** until 5:05 p.m.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Emergency

An Act to Clarify the Tax-exempt Borrowing Authority of the University of Maine System.
S.P. 8 L.D. 1

Tabled - December 3, 1992 by Senator **CAHILL** of Sagadahoc.

Pending - **ENACTMENT**

(In House, December 3, 1992, **PASSED TO BE ENACTED**.)

(In Senate, December 3, 1992, **FAILED ENACTMENT** in **NON-CONCURRENCE**. Subsequently, **RECONSIDERED**.)

This being an Emergency Measure and having received the affirmative vote of 24 Members of the Senate, with 7 Senators having voted in the negative, and 24 being two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED**

and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Which was **READ** and **ORDERED PLACED ON FILE**.

Sent down for concurrence.

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

Off Record Remarks

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order: H.P. 4

ORDERED, the Senate concurring, that a Joint Select Committee on Corrections be established. The select committee shall consist of 3 members from the Senate, to be appointed by the President of the Senate, and 10 members from the House of Representatives, to be appointed by the Speaker of the House of Representatives. The select committee shall review all legislation relating to corrections and report its findings, recommendations and any appropriate legislation to the Legislature.

Comes from the House **READ** and **PASSED**.

Which was **READ** and **PASSED**, in concurrence.

The **ADJOURNMENT ORDER** having been returned from the House **READ** and **PASSED**, in concurrence, on motion by Senator **CONLEY** of Cumberland, **ADJOURNED** until the call of the President of the Senate and the Speaker of the House when there is need to conduct legislative business.

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

COMMUNICATIONS

The Following Communication: S.P. 13

**THE MAINE SENATE
116th Legislature**

December 2, 1992

The Honorable Joy J. O'Brien
Secretary of the Senate
116th Maine Legislature
Augusta, Maine 04333

Dear Madam Secretary:

Pursuant to my authority under Article IV, Part Third, Section 1-A of the Constitution of Maine, I have appointed Senator Jane A. Amero of Cumberland and Senator Dana C. Hanley of Oxford to serve on the Apportionment Commission.

Please don't hesitate to contact me should you have any questions.

Sincerely,

S/Pamela L. Cahill
Senate Minority Leader