

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
Wednesday
February 17, 1993

Senate called to Order by the President, Dennis L. Dutremble of York.

Prayer by the Honorable Philip E. Harriman of Cumberland.

SENATOR PHILIP E. HARRIMAN: Mr. President, distinguished colleagues, citizens, will you join me in a prayer to your God and in doing so will you let us be mindful of Sheila Esty, mother of our esteemed colleague, Senator Don Esty. Let us pray. God we are thankful for those who have come before us, let their legacy remind us that the past is secure and the future is in our hands. As we make decisions affecting people we may not know, that creates results which are unknown help us, oh God to be humble and to trust and respect one another. We pray that you will grant us wisdom to do your will. With your guidance oh God help us to be ever mindful that this fine institution exists at the pleasure of the people we seek to serve. We ask in your name, amen.

Reading of the Journal of Tuesday, February 16, 1993.

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Continue the Maine Dairy Farm Stabilization Act"
H.P. 381 L.D. 494

Bill "An Act to Clarify the Process of Resolving Nuisance Complaints Involving Agriculture"
H.P. 386 L.D. 499

Come from the House referred to the Committee on **AGRICULTURE** and **ORDERED PRINTED**.

Which were referred to the Committee on **AGRICULTURE** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Establish a Bond Issue for Energy Conservation Measures"
H.P. 390 L.D. 503

Bill "An Act to Clarify the Management of Real Estate Leases"
H.P. 396 L.D. 509

Bill "An Act to Make Allocations from the Public Utilities Commission Regulatory Fund and the Public Utilities Commission Reimbursement Fund for the Fiscal Years Ending June 30, 1994 and June 30, 1995" (Governor's Bill) (Emergency)
H.P. 404 L.D. 517

Bill "An Act to Make Allocations for the Operating Expenditures of the Intergovernmental Telecommunications Fund of the Department of Administration for the Fiscal Years Ending June 30, 1994 and June 30, 1995" (Governor's Bill) (Emergency)
H.P. 405 L.D. 518

Come from the House referred to the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** and **ORDERED PRINTED**.

Which were referred to the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Encourage Small Businesses to Provide Health Insurance to Employees"
H.P. 391 L.D. 504

Comes from the House referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED**.

Which was referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Provide for the Popular Election of the Superintendent of Insurance"
H.P. 334 L.D. 437

Committee on **STATE & LOCAL GOVERNMENT** suggested and **ORDERED PRINTED**.

Comes from the House referred to the Committee on **BANKING & INSURANCE**.

Which was referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Provide Additional Exemptions to the Need for a Cosmetology License" H.P. 395 L.D. 508

Comes from the House referred to the Committee on **BUSINESS LEGISLATION** and **ORDERED PRINTED**.

Which was referred to the Committee on **BUSINESS LEGISLATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Centralize Licensing for Retail Businesses" H.P. 399 L.D. 512

Comes from the House referred to the Committee on **BUSINESS LEGISLATION** and **ORDERED PRINTED**.

On motion by Senator **BUSTIN** of Kennebec, referred to the Committee on **TAXATION** and **ORDERED PRINTED** in **NON-CONCURRENCE**.

Sent down for concurrence.

Bill "An Act to Extend the Probationary Period for Teachers" H.P. 384 L.D. 497

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

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

Off Record Remarks

Bill "An Act to Correct Errors and Inconsistencies in the Growth Management Laws" H.P. 388 L.D. 501

Bill "An Act to Set a Moratorium on Issuing Permits for Septic Tanks" H.P. 392 L.D. 505

Bill "An Act to Exempt Permitted Borrow Pit Operations from Municipal Shoreland Zoning Review" H.P. 393 L.D. 506

Bill "An Act to Exempt Gravel Pits with Less Than 5 Unreclaimed Acres from Regulation by the Department of Environmental Protection under the Site Location of Development Act" H.P. 406 L.D. 519

Come from the House referred to the Committee on **ENERGY & NATURAL RESOURCES** and **ORDERED PRINTED**.

Which were referred to the Committee on **ENERGY & NATURAL RESOURCES** and **ORDERED PRINTED**, in concurrence.

Bill "An Act Regarding Bow Hunting" H.P. 382 L.D. 495

Comes from the House referred to the Committee on **FISHERIES & WILDLIFE** and **ORDERED PRINTED**.

Which was referred to the Committee on **FISHERIES & WILDLIFE** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Amend the Maine Housing Authorities Act" H.P. 407 L.D. 520

Comes from the House referred to the Committee on **HOUSING & ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**.

Which was referred to the Committee on **HOUSING & ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Clarify the Disbursement of Maine Children's Trust Fund Income"
H.P. 380 L.D. 493

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

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

Bill "An Act to Require Judges to Consider the Desirability of Financial Forfeitures"
H.P. 379 L.D. 492

Bill "An Act to Prohibit the Stalking of an Individual"
H.P. 387 L.D. 500

Bill "An Act to Strengthen the State's Support Laws"
H.P. 401 L.D. 514

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

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

Bill "An Act to Transfer the Predetermination of Independent Contractor Status Responsibility in the Workers' Compensation Laws"
H.P. 385 L.D. 498

Bill "An Act Regarding the Selection of Arbitrators in Labor Disputes"
H.P. 394 L.D. 507

Come from the House referred to the Committee on **LABOR** and **ORDERED PRINTED**.

Which were referred to the Committee on **LABOR** and **ORDERED PRINTED**, in concurrence.

Bill "An Act Relating to Credit Terms for Retail Liquor Licensees"
H.P. 376 L.D. 489

Bill "An Act to Amend the Laws Governing Condominiums"
H.P. 378 L.D. 491

Bill "An Act to Amend the State Election Laws"
H.P. 402 L.D. 515

Bill "An Act to Establish a Voluntary Campaign Spending Law"
H.P. 403 L.D. 516

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

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

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Modify Terms of Office for Senators and Members of the House of Representatives
H.P. 389 L.D. 502

Come from the House referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**.

Which was referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Amend the Laws Relating to Property Tax Appeals"
H.P. 397 L.D. 510

Bill "An Act to Authorize Farmland Protection Impact Fees"
H.P. 398 L.D. 511

Bill "An Act to Expand Resources and Eligibility for Child Care Programs"

H.P. 400 L.D. 513

Come from the House referred to the Committee on **TAXATION** and **ORDERED PRINTED**.

Which were referred to the Committee on **TAXATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Increase the Penalty for Failure to Use Car Safety Seats"

H.P. 383 L.D. 496

Bill "An Act to Make Supplemental Allocations from the Highway Fund for the Fiscal Years Ending June 30, 1994 and June 30, 1995" (Governor's Bill) (Emergency)

H.P. 408 L.D. 521

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Highway Fund, for the Fiscal Years Ending June 30, 1994 and June 30, 1995" (Governor's Bill) (Emergency)

H.P. 409 L.D. 522

Come from the House referred to the Committee on **TRANSPORTATION** and **ORDERED PRINTED**.

Which were referred to the Committee on **TRANSPORTATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Repeal the Requirement for Registration of Truck Campers"

H.P. 377 L.D. 490

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

On motion by Senator **BUSTIN** of Kennebec, referred to the Committee on **TAXATION** and **ORDERED PRINTED** in **NON-CONCURRENCE**.

Sent down for concurrence.

SENATE PAPERS

Bill "An Act Concerning the Degree-granting Authority of Husson College"

S.P. 161 L.D. 526

Presented by Senator **BALDACCI** of Penobscot
Cosponsored by Senator **HARRIMAN** of Cumberland and Representatives: **CAMPBELL** of Holden, **FAIRCLOTH** of Bangor, **MORRISON** of Bangor, **NORTON** of Winthrop, **RUHLIN** of Brewer, **SAXL** of Bangor, **STEVENS** of Orono, **STROUT** of Corinth, **SULLIVAN** of Bangor, **WINN** of Glenburn

Which was referred to the Committee on **EDUCATION** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Eliminate the Necessity to License Gravel Pits"

S.P. 162 L.D. 527

Presented by Senator **WEBSTER** of Franklin

Which was referred to the Committee on **ENERGY & NATURAL RESOURCES** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Amend the Laws Concerning Immunity from Civil Liability"

S.P. 163 L.D. 528

Presented by Senator **CONLEY** of Cumberland

Which was referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Amend the Circuit Breaker Program"

S.P. 160 L.D. 525

Presented by Senator **LUTHER** of Oxford
Cosponsored by Representative **KUTASI** of Bridgton and Senators: **BEGLEY** of Lincoln, **VOSE** of Washington, Representatives: **COFFMAN** of Old Town, **ERWIN** of Rumford, **VIGUE** of Winslow

Which was referred to the Committee on **TAXATION** and **ORDERED PRINTED**.

Sent down for concurrence.

COMMITTEE REPORTS

House

Ought to Pass

The Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act Concerning the Employment of Personnel by the Department of Inland Fisheries and Wildlife" H.P. 161 L.D. 213

Reported that the same **Ought to Pass**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

The Bill **TOMORROW ASSIGNED FOR SECOND READING**.

Ought to Pass As Amended

The Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** on Bill "An Act to Make Additional Appropriations and Allocations for the Expenditures of State Government for the Fiscal Year Ending June 30, 1993" (Governor's Bill) (Emergency) H.P. 24 L.D. 27

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-21)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-21) AS AMENDED BY HOUSE AMENDMENTS "A" (H-23) AND "B" (H-25)** thereto.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-21) **READ**.

House Amendment "A" (H-23) to Committee Amendment "A" (H-21) **READ** and **ADOPTED**, in concurrence.

House Amendment "B" (H-25) to Committee Amendment "A" (H-21) **READ** and **ADOPTED**, in concurrence.

On motion by Senator **PEARSON** of Penobscot Senate Amendment "B" (S-24) to Committee Amendment "A" (H-21) **READ** and **ADOPTED**.

Committee Amendment "A" (H-21) as Amended by House Amendments "A" (H-23) and "B" (H-25) and Senate Amendment "B" (S-24) **ADOPTED** in **NON-CONCURRENCE**.

Which was, under suspension of the Rules, **READ A SECOND TIME**, and **PASSED TO BE ENGROSSED**, as Amended in **NON-CONCURRENCE**.

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

Senate at Ease

Senate called to order by the President.

ENACTORS

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

Emergency

An Act to Increase the Debt Limit of the South Berwick Sewer District

H.P. 8 L.D. 15

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with No Senators having voted in the negative, and 31 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.

ORDERS OF THE DAY

Off Record Remarks

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 Specially Assigned (2/16/93) matter:

Bill "An Act to Require Removal of Ice Fishing Shacks from Private Property" H.P. 339 L.D. 442

Tabled - February 11, 1993, by Senator **ESTY** of Cumberland.

PENDING - REFERENCE

(In House, February 11, 1993, referred to the Committee on **ENERGY & NATURAL RESOURCES** and **ORDERED PRINTED.**)

(In Senate, February 11, 1993, referred to the Committee on **ENERGY & NATURAL RESOURCES** and **ORDERED PRINTED**, in concurrence. Subsequently, **RECONSIDERED.**)

Which was referred to the Committee on **ENERGY & NATURAL RESOURCES**, in concurrence.

Senator **PEARSON** of Penobscot was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator **PINGREE** of Knox, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

On motion by Senator **PEARSON** of Penobscot, **RECESSED** until 5:30 this afternoon.

After Recess

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 Make Additional Appropriations and Allocations for the Expenditures of State Government for the Fiscal Year Ending June 30, 1993 (Governor's Bill)

H.P. 24 L.D. 27
(H "A" H-23; H "B" H-25; S "B" S-24 to C "A" H-21)

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator **PEARSON:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This is, of course, our supplemental budget. It's the first step, supposedly the first easy step, on the way to resolving the financial budget of this State. This was a very difficult budget to deal with. It was very difficult for a number of reasons, one of which was as some of the components of this budget were originally put together they were simply not doable because of legal difficulties. It was also difficult because it seemed apparent to all of the members of the Appropriations Committee that the deferment of higher ed to the tune of thirteen and a half million dollars was not acceptable because that's the way we read our caucuses. So we began the difficult job of trying to put this budget together. Each time we made a decision like that, of course, the hole became a little deeper and we began to look around for cuts. I would like to say to the Senate that those cuts were very difficult and they were difficult not only because cuts are inherently difficult but because, in my opinion, many people have not yet come to the realization that cuts are necessary in this State. Almost everybody says they understand but

when it comes to a particular item that those individuals are interested in they say but not that one. All of us, including people who are on Appropriations find it difficult to cut programs. We will not have that luxury, in my opinion, in the biennial budget. We will have to address some of the concerns that we have tried so hard to avoid these last couple of years in this particular supplemental budget.

Each one of us is going to have to give a little, and maybe give a lot when it comes to the biennial budget. We have begun a process to put together, by a large degree by suggestions made by the President of this Senate and others, to review the biennial budget within Committees. From what I have been able to see so far, which is very limited, in the Education Committee looks like it has very good possibilities for working. Each one of those Committees and each one of us as individuals are going to have to look at real cuts that are going to be controversial and difficult to make but we must make them. We must make them. I have every reason to believe that Committees, like the Education Committee given the quality of the individuals that are on that Committee in particular, will do just that. The easy days are gone, the hard days are coming and I hope that we can address ourselves to that situation. Thank you.

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

Senator **CAHILL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'm always a little bit reluctant to debate Appropriation's matters because I've always felt that that was something that was better left to the Appropriations Committee, they're the individuals with the ultimate responsibility of appropriations legislation, at least until this piece of legislation that's the way it has been. I debated this budget with myself all last night and into the early hours this morning and I just feel the need to share a few thoughts with you, I think my thoughts in large part echo what the good Senator from Penobscot, Senator Pearson has already spoken to you about. Three Friday nights ago the Appropriations Committee and a very small group of legislators worked until fairly late into the evening, I think about 9:30, and came up with a unanimous committee report. Unanimous committee reports in this legislature used to be considered pretty much gospel and were not tinkered with after they left the Committee. I remember saying to the presiding officer of this body as we were waiting for Appropriations to take the final vote that I was really concerned because I didn't see Democratic leadership from the other branch of the legislature here. And he said that made him a little nervous too but he thought we still had to go forward with this and try to get a consensus, and we did. That consensus, that unanimous committee report was not easily obtained. I remember turning to the Senator from Hancock, Senator Foster at one point and she said "What do we do?" and I said, for about the fourth time that evening, "We try one more time." It happened to be that one time that we were able to get an agreement and that report out.

I went home feeling a little uneasy but happy that we were able to get that unanimous committee report. Sure enough when we all arrived back at the State House Monday morning the erosion had already begun to the unanimous committee report. The integrity of what used to be gospel I think went down the tubes that day as the Bill proceeded to be held in the other body. The decisions we have facing this Legislature not only in the supplemental budget but in the biennial budget as well, are difficult decisions and I don't think anyone takes them lightly and I don't think anyone in this body relishes making cuts to AFDC, nursing homes and education. Some people would call us heartless because we need to make these cuts at all but the fact of the matter is that the people paying the bill can simply not afford to keep paying the bill. What we have learned is that many people who are working to pay taxes are making less money than many of our welfare recipients, and that cannot continue to go on.

The Federal Government appears to be taking away many of our options right now and I'm distressed at that because I wonder where it leaves states like the State of Maine in terms of what we're going to do to ultimately settle our financial difficulties. This supplemental budget that is before us does not make our biennial problem any easier and in fact it makes it much more difficult. It defers payments into the biennium, something that all of us agree shouldn't be done and I thought at one point we agreed that it wouldn't be done but we sort of backed off from that. Structurally it does very little to help the problem that we are currently in and it uses, and I hate to use the word gimmick but for lack of a better word it uses many money figures that I question whether or not the money is actually there or ever will materialize. No business person, if you are a business person in this legislature, no business person would ever attempt to run their own business the way we have attempted to balance this supplemental budget, but State Government is not a business, I think we're all aware of that and there's an old song that goes "You have to know when to hold them and know when to fold them". Perhaps it's time to fold them, although I say that very reluctantly today. What I would prefer tonight is that we would send this bill in its entirety back to the Appropriations Committee and have them come up with yet another unanimous committee report but I know the burden that would place on the Appropriations Committee would be terrible and they would not be able to do that and still deal with the biennial problems that lie ahead. I guess my whole purpose for speaking and the point I need to get at is I hope that this Senate is up to the task that is ahead of us because it is an awesome task and it's going to require each and every one of us to give a little and perhaps give a lot. I think that we have to do that as a group. I am encouraged by one thing, I think the level of comradery and the ability for us, at least in this body, to get along through this budget process is a light at the end of the tunnel and I appreciate the presiding officers involved in that. I think that's a big change from what I remember over the last two years in this Legislature. The task ahead of us is going to be very daunting and I think

when we come back to the legislature, perhaps next week, we should begin thinking ahead to what the biennial budget is going to mean, beginning to respond to our constituents that we don't want to make these terrible cuts to State Government either but we must in order to make the State of Maine what I've grown up with and many of you have grown up in and have grown to love an affordable place to live and raise a family. Thank you.

This being an Emergency Measure and having received the affirmative vote of 25 Members of the Senate, with 7 Senators having voted in the negative, and 25 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.

Off Record Remarks

On motion by Senator **LAWRENCE** of York, **ADJOURNED** until Thursday, February 18, 1993, at 10:00 in the morning.