

# 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

Index

#### **FIRST CONFIRMATION SESSION**

October 2, 1991

Index

#### **SECOND SPECIAL SESSION**

December 18, 1991 to January 7, 1992

Index

#### **SECOND REGULAR SESSION**

House of Representatives

January 8, 1992 to March 9, 1992

STATE OF MAINE  
ONE HUNDRED AND FIFTEENTH LEGISLATURE  
SECOND SPECIAL SESSION  
JOURNAL OF THE SENATE

In Senate Chamber

Tuesday

January 7, 1992

Senate called to Order by the President.

Prayer by the Honorable Nancy Randall Clark of Cumberland.

**SENATOR NANCY RANDALL CLARK:** The prayer has been adapted liberally by me, from The Best of Peter Marshall by Catherine Marshall.

Let us pray. Almighty God, give us the faith to believe that it is possible for us to live victoriously even in the midst of constrictions and crisis - even more impending fiscal crisis. Help us to see that there is something better than patient endurance or keeping a stiff upper lip. May we have the faith that goes singing in the rain and snow, knowing that all things work together as we should, for good to them that love Thee. Amen.

Reading of the Journal of Thursday, December 19, 1991.

**COMMUNICATIONS**

The Following Communication:

STATE OF MAINE  
OFFICE OF THE PRESIDENT  
AUGUSTA, MAINE 04333

December 30, 1991

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

Dear Madam Secretary:

Pursuant to the adjournment order passed in the Second Special Session, Speaker Martin and I are calling the Legislature back in session on January 7, 1992, at 10:00 a.m. for the purpose of enacting legislation regarding the redistribution of education funding.

Sincerely,

S/Charles P. Pray  
President of the Senate

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

The Following Communication:

STATE OF MAINE  
EXECUTIVE DEPARTMENT  
STATE PLANNING OFFICE  
184 STATE STREET  
AUGUSTA, MAINE 04333

December, 1991

Senate President Charles P. Pray  
Speaker of the House John L. Martin, and  
Members of the 115th Maine Legislature  
Dear President Pray, Speaker Martin, and Members of  
the Legislature:

I am pleased to submit herewith the 1991  
Governor's Report to the Legislature on Maine's use

of Exxon, Stripper Well, and Diamond Shamrock Petroleum Violation Escrow (PVE) funds, otherwise known as "oil overcharge" funds.

This report is submitted to the Legislature pursuant to Section 6 of Chapter 818 of the Public Laws of 1986, Section 5 of Chapter 533 of the Public Laws of 1987, and Chapter 119 of the Private and Special Laws of 1989. It is based on information provided by the State agencies responsible for the conduct of programs and activities funded with Exxon, Stripper Well, and Diamond Shamrock Petroleum Overcharge Funds. This report contains information on the status of each program or activity, the amounts of all unexpended balances, and outstanding obligations against those balances.

Copies of the Report are being distributed to each member of the Legislature, agencies responsible for PVE-funded programs, and other interested parties.

Sincerely,  
S/Richard H. Silkman

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

The Following Communication:

MAINE STATE LEGISLATURE  
AUGUSTA, MAINE 04333  
COMMISSION TO STUDY STATE PERMITTING  
AND REPORTING REQUIREMENTS

December 23, 1991

The Honorable Charles P. Pray  
The Honorable John L. Martin  
Maine Legislature  
State House  
Augusta, ME 04333

Dear President Pray and Speaker Martin:

The Commission on State Permitting and Reporting Requirements is pleased to submit its report to the Legislature pursuant to P.L. 1991 c. 606, Part D.

Sincerely,  
S/Dean Beaupain  
Chair

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

The Following Communication:

DEPARTMENT OF PUBLIC SAFETY  
STATE HOUSE STATION 42  
AUGUSTA, MAINE 04333

December 27, 1991

Joy J. O'Brien  
Secretary of the Senate  
State House Station 3  
Augusta, Maine 04333  
Dear Ms. O'Brien:

Please find enclosed a copy of the application submitted to the Bureau of Justice Assistance for the funding of the FY92 Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program.

The program requires that the application be submitted to the State Legislature or its designated body for review. Unless I receive further instructions, I will consider that the Department of Public Safety has fulfilled its obligation in this area.

Sincerely,  
S/John R. Atwood  
Commissioner

Which was **READ** and referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

The Following Communication:

**STATE OF MAINE  
DEPARTMENT OF AUDIT  
STATE HOUSE STATION 66  
AUGUSTA, MAINE 04333**

December 30, 1991

Senator Charles P. Pray  
President of the Senate  
State House Station 3  
Augusta, Maine 04333

Dear President Pray:

I submit herewith the Seventy-First Annual Report of the State Auditor as required by Title 5, Section 244 of the Maine Revised Statutes.

I would like to express my special appreciation to the managers and staff of the Department of Audit for their continued support of quality audits and to the officials and employees of the various state departments, courts, counties and municipalities for their cooperation with this department.

Respectfully submitted,  
S/Rodney L. Scribner, CPA  
State Auditor

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

The Following Communication:

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

January 3, 1992

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

Dear Madam Secretary:

Please be advised that pursuant to my authority under Senate Rule 36, I have removed Senator Raynold Theriault from the Joint Standing Committees on Transportation and Banking & Insurance. Pursuant to that same Senate Rule, I have appointed Senator Theriault to the Joint Standing Committee on Agriculture. He will be replacing Senator Jerome Emerson.

If you have any questions about this, please let me know.

Sincerely,  
S/Charles P. Pray  
President of the Senate

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

The Following Communication:

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

January 6, 1992

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

Dear Madam Secretary:

Please be advised that pursuant to my authority under Senate Rule 36, I have appointed Senator R. Donald Twitchell to serve as chair of the Joint Standing Committee on Transportation.

If you have any questions about this, please let me know.

Sincerely,  
S/Charles P. Pray  
President of the Senate

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

The Following Communication:

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

January 6, 1992

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

Dear Madam Secretary:

Please be advised that pursuant to my authority under Senate Rule 36, I have appointed Senator Dale McCormick to serve on the Joint Standing Committee on Banking and Insurance.

If you have any questions about this, please let me know.

Sincerely,  
S/Charles P. Pray  
President of the Senate

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

The Following Communication:

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

December 20, 1991

To The Honorable Members of the 115th Legislature:

I am returning, without my signature or approval, S.P. 80, L.D. 143, "An Act to Preserve the Integrity of the Maine State Lottery." This bill stipulates that, with certain exceptions, state employees are the only agents authorized to conduct operations of lotteries on behalf of the state.

The Maine State Lottery has traditionally utilized the services of outside vendors, and would not be operational at its current level without their assistance. While L.D. 143 was amended to avoid conflict with current private-sector vendors of the lottery, this bill would prohibit further privatization of the lottery system. In effect, it would deprive our lottery system of the management flexibility that is needed to maintain a top-of-the-line lottery system.

This is the wrong step at the wrong time. We have a duty to the people of Maine to find a way to cut costs and do more with less. This bill forecloses options and ties our hands. While it is true that, in the final analysis, L.D. 143 will not have a determinative impact on our state's budget crisis, it is a symbol of a government unwilling to recognize the need for change. The people of Maine need creativity and flexibility in government — not more rules.

As symbolism, L.D. 143 is ill chosen. As public policy, it is ill-advised. I hope you will join with me in rejecting this piece of legislation.

Sincerely,  
S/JOHN R. MCKERNAN, JR.  
Governor

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

Senate at Ease  
Senate called to order by the President.

The Accompanying Bill:  
Bill "An Act to Preserve the Integrity of the  
Maine State Lotteries"

S.P. 80 L.D. 143  
(S "B" S-443 to C "A" S-187)

On motion by Senator **CLARK** of Cumberland, Tabled  
until Later in Today's Session, pending **CONSIDERATION**.

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

Senator **CAHILL** of Sagadahoc was granted unanimous  
consent to address the Senate off the Record.

On motion by Senator **TWITCHELL** of Oxford,  
**RECESSED** until the sound of the bell.

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:

Bill "An Act to Pervse the Integrity of the  
Maine Lotteries"

S.P. 80 L.D. 143  
(S "B" S-443 to C "A" S-187)

Tabled - January 7, 1992, by Senator **CLARK** of  
Cumberland.

Pending - **CONSIDERATION**

(In Senate, January 7, 1992, Veto Message **READ**  
and **ORDERED PLACED ON FILE**.)

**THE PRESIDENT:** The Chair recognizes the Senator  
from Kennebec, Senator McCormick.

Senator **McCORMICK:** Thank you Mr. President.  
Ladies and Gentlemen of the Senate. I just briefly  
would like to make a few remarks on LD 143. I  
believe that privatizing the lottery will ultimately  
cost the state more money than leaving it the way it  
is. I am passing out some figures that prove that  
position.

If we were to privatize more portions than we  
currently do, we would be paying for that as we do  
now for the activities that are privatized. We would  
be paying a percentage of the profit of the lottery.  
Currently, I think, 2.65% of our profit goes to  
private contractors. So you can see, if you jiggle  
the numbers a little bit, if the lottery is  
profitable, which by the way it is being profitable,  
it is performing. I think number one or number two  
in all the nation, in terms of marketing and bringing  
in money and all the good things that lotteries are  
supposed to do. If it continues to perform at that  
level, when we say give away 5% of that equity to a  
private contractor, that 5% changes whether the  
lottery is poor or good. If it remains good we lose  
money, because we have on the one hand, employee  
costs which are fixed, and on the other hand we are  
paying for that by a percentage of the take of the  
profit of the lottery, which fluctuates depending on  
whether the lottery does well or not. Currently the  
lottery is doing well and therefore, if we balance

that 5% of the profits that we would be giving off to  
the salary savings, we would be saving from the  
laying off of employees, the State of Maine would  
lose. I urge you to override the veto. Thank you.

**THE PRESIDENT:** The chair recognizes the Senator  
from Oxford, Senator Mills.

Senator **MILLS:** Thank you Mr. President. Ladies  
and Gentlemen of the Senate. I just wanted to get up  
and remind the body that this Bill originally was a  
unanimous report, reported out of Legal Affairs  
Committee. It allows privatization of all the areas  
that are currently, in this state, being privatized  
by the lottery system. The concern was that many  
times in the past, the Legislature has taken the  
stand that they wanted the Maine State lottery to  
stay a Maine game. There was a lot of concern about  
outside factors from different states being involved  
in contracts in the state of Maine for the games.  
This Bill was worked on by the committee to allow  
privatization in the areas that we currently  
privatize the lottery, but to keep the game, the main  
part of the game, in the state of Maine. That is how  
the Bill was reported out. I hope that you will  
support overriding of this veto. Thank you.

**THE PRESIDENT:** The Chair recognized the Senator  
from Cumberland, Senator Summers.

Senator **SUMMERS:** Thank you Mr. President.  
Ladies and Gentlemen of the Senate. I understand the  
concerns that have been voiced here this morning. I  
think that we are skating very close to some thin ice  
when we start issuing directives on how specific  
Commissioner or Director of the Bureau can  
efficiently run that bureau.

I think, in light of these economic times, we  
certainly should not be binding the hands of an  
individual who is trying to run his department as  
economically feasible as possible. I am not  
suggesting that we run out and privatize the lottery,  
but we need to have that opportunity to look at  
that. I think we owe it, not only to the different  
bureaus, but we owe it to the people of the state to  
try and run as efficiently as possible. To bind the  
hands of the Director of the Lottery by making it  
impossible for him to pursue economically sound  
objectives, I think is being incredibly short sighted  
by the Legislature. I would strongly urge that this  
body sustain the veto of the Governor. Thank you Mr.  
President.

The President laid before the Senate the  
following:

"Shall this Bill become law notwithstanding the  
objections of the Governor?"

In accordance with Article 4, Part 3, Section 2,  
of the Constitution, the vote will be taken by the  
Yeas and Nays.

A vote of yes will be in favor of the Bill.

A vote of no will be in favor of sustaining the  
veto of the Governor.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators **BERUBE, BOST, BRANNIGAN,**  
**BUSTIN, CLARK, CLEVELAND, ESTES, ESTY,**  
**KANY, MATTHEWS, MCCORMICK, MILLS,**  
**TITCOMB, TWITCHELL, VOSE, THE PRESIDENT**  
- **CHARLES P. PRAY**

**NAYS:** Senators **BRAWN, CAHILL, CARPENTER,**  
**COLLINS, EMERSON, FOSTER, GILL, GOULD,**  
**HOLLOWAY, LUDWIG, PEARSON, RICH,**  
**SUMMERS, THERIAULT, WEBSTER**

ABSENT: Senators BALDACCI, CONLEY, DUTREMBLE, GAUVREAU

16 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 4 Senators being absent, and 16 being less than two-thirds of the membership present and voting, it was the vote of the Senate that the veto of the Governor be **SUSTAINED**.

The Secretary has so informed the Speaker of the House.

The Following Communication:

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

December 20, 1991

To The Honorable Members of the 115th Legislature:

I am returning, without my signature or approval, S.P.149, L.D. 361, "An Act to Expand the Applicability of Certain Energy Standards." This bill would impose new and costly regulations on the people of Maine at a time when less cost -- not more -- is called for.

Under present law, any single-family home constructed under the supervision of the homeowner, or under the supervision of a general contractor hired by the homeowner, is exempt from the mandatory Energy Efficient Building Performance Standards established in Chapter 214 of Title 10.

L.D. 361 repeals this exemption except for those homeowners who actually physically construct or improve their home with their own labor. In addition to imposing costly energy standards for all new homes, this bill also expands those standards for any new "conditioned space within existing homes." Under the general law, "conditioned space" includes any space in a home where heat or air conditioning is used. This means that homeowners who hire a carpenter to fix-up the entry-way, or put a family room in the basement -- or even put heat in the garage -- will have to comply with all of the rules and regulations established by the Energy Efficient Building Performance Standards.

Maine people understand that we must conserve energy. For several years, we have had laws which require developers of office buildings, and of spec homes, to meet certain standards. Up to a point, these regulations are appropriate, but we cross a line when we impose these regulations on the people of Maine in their own homes. These are tough times, and the people need a government which imposes on them less, not more.

The time has come to reduce the cost imposed by state government on the people of Maine. I hope you will show your support for reducing these costs by casting your vote to sustain my veto of L.D. 361.

Sincerely,  
S/JOHN R. MCKERNAN, JR.  
Governor

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

The Accompanying Bill:

Bill "An Act to Expand the Applicability of Certain Energy Standards"

S.P. 149 L.D. 361  
(C "A" S-34)

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

Senator **PEARSON:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. I am not an

authority on energy standards and I don't know a great deal about this particular bill, but I have had occasion to hear from somebody who does know a great deal about this particular bill. It is my impression from the information that I received that the veto message is inaccurate. Inaccurate in many of its details, not totally inaccurate, but in many of its details. I would just like to say that I think that the Governor has been ill served by whoever wrote the message. I would further like to add, if there is anybody in here who would like to table this until later in today's session to ask the Governor to instruct his staff to write a veto message that is factual.

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

Senator **TITCOMB:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. In fact the statement made by the good Senator of Penobscot is correct and the veto message is incorrect. It is incorrect in several aspects. In one particular area it makes reference to the fact that this is an expansion of the law, concerning energy standards for homes that have renovation of a room or work that is being done in a particular area of the home. There is no expansion in this bill, at all. Absolutely none.

This bill was heard by our Committee, in fact, the Committee accepted a version of the bill that was no where near as broad as what first came before us. All that this bill did was to change the way people interpret what an owner built home is. An owner built home we defined as someone who actually builds the home. It does not mean that a building should be exempted from energy standards, if the owner hires a general contractor or if the owner stands around watching someone doing the work and supervises. That is all this bill did. It does not expand the law, it does not change what was in place other than to more clearly define what an owner built home is. I think the Committee was very responsible in addressing the needs for an individual to be able to build with his own hands or her own hands, their own home. It very clearly stated, if someone is being hired to do that job, that person has the responsibility to build to standards that we had already accepted in previous legislation. This override message is incorrect. It is not based on accurate actions that took place in the Committee.

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending **CONSIDERATION**.

The Following Communication:

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

December 20, 1991

To The Honorable Members of the 115th Legislature:

I am returning, without my signature or approval, S.P. 247, L.D. 656, An Act to Reduce Duplication at the Department of Human Services.

This bill would have required the Department of Human Services' Bureau of Income Maintenance to require that a single caseworker determine eligibility for the Bureau of Income Maintenance, including Food Stamps, AFDC, Medical Assistance, ASPIRE, and Support Enforcement. This would enable

an applicant to apply for all of these programs simultaneously.

While the Department is moving toward the goal proposed in this bill, the Department's objectives for a single point of applicant entry differs slightly from that proposed in the bill.

The services delivered in ASPIRE and support enforcement are highly specialized and very distinct from eligibility determinations. Therefore, it would be inappropriate to have all staff perform these functions. In addition, requiring all staff to be trained and able to deliver these services would result in additional administrative costs associated with reclassifications, due to higher related job functions. At this time, the State of Maine cannot afford additional administrative costs.

The Department still is planning to submit a report early in the second session of the 115th Legislature which will outline steps to implement a single point of entry. The Department stands ready to work with this Legislative body in an effort to provide clients with the most efficient and comprehensive services our state can offer. However, this bill, while well intended, will only serve to unnecessarily increase administrative costs, I, therefore, respectfully request you sustain my veto.

Sincerely,  
S/JOHN R. MCKERNAN, JR.  
Governor

Which was READ and ORDERED PLACED ON FILE.

The Accompanying Bill:

Bill "An Act to Reduce Duplication at the Department of Human Services"

S.P. 247 L.D. 656  
(C "A" S-103; S "A" S-430)

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator **BUSTIN:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. I just wanted to bring to the body's attention what this bill actually does. In fact, it would draw down 9 million dollars from the Federal Government. It would assist us in being able to, and that's a key word in the piece of legislation. The original legislation went in with the word train, which would mean a very expensive proposition for the state. That would mean that every Human Services worker or every worker who had to make a determination on income eligibility or eligibility for a program, would have to be trained on that program. We changed the word from trained to able, and that means you or I would be able to call up the program on a computer. We would be able to determine whether or not a constituent met the criteria for that and be able to have that constituent do one stop shopping for Food Stamps, Aspire, any of those programs. They wouldn't have to go through five, or six, or seven, or eight different applications.

I personally have been trying to get this consolidation of effort since I have been in the Legislature, since my freshman year. This is a good bill. It should move forward, it should draw down the federal dollars. It would be a million dollars of ours and nine million federal dollars. What we had for computer services, when Central Communitative Services first came into being was the most forward and advanced system we could have, twenty years ago. Twenty years later, we have the worst in the nation, which is why the Federal Government wants to assist the state in getting the job done. That is what this

bill addresses. It addresses the one stop shopping and that's a very bad way to put it, because it isn't one stop shopping. It is enabling us to consolidate our work force, so one person can do six programs. It is just having the ability to punch a computer key and interpret that and not have to know all the regulations on the program. It is much simpler for the constituents and it is much simpler for the workers. It is something the state has to do anyway, we might as well do it now.

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

Senator **GILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The Department is already planning to implement a single entry system. This system is for your constituents and my constituents, who through the years had difficulty making applications to the various programs. This system will be implemented in 1993. The plans are already in works to do that.

The reason this bill is not needed at this time, is that it does call for some cross training of people in state government. If anyone has dealt with Aspire or Income Maintenance, or some of the Medicaid programs, you know one person does not have all the answers. There is expertise that has been developed with people within the state of Maine. We can't expect every employee of this state to be cross trained to understand every bit of the regulations in every single program. I would ask you to go along with the veto message.

The President laid before the Senate the following:

"Shall this Bill become law notwithstanding the objections of the Governor?"

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of the Bill

A vote of No will be in favor of sustaining the veto of the Governor.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators BERUBE, BOST, BRANNIGAN, BUSTIN, CLARK, CLEVELAND, ESTES, ESTY, GAUVREAU, KANY, MATTHEWS, MCCORMICK, MILLS, PEARSON, TITCOMB, VOSE, THE PRESIDENT - CHARLES P. PRAY

**NAYS:** Senators BRAWN, CAHILL, CARPENTER, COLLINS, EMERSON, FOSTER, GILL, GOULD, HOLLOWAY, LUDWIG, RICH, SUMMERS, THERIAULT, TWITCHELL, WEBSTER

**ABSENT:** Senators BALDACCI, CONLEY, DUTREMBLE

17 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 3 Senators being absent, and 17 being less than two-thirds of the membership present and voting, it was the vote of the Senate that the veto of the Governor be **SUSTAINED**.

The Secretary has so informed the Speaker of the House.

The Following Communication:

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

December 20, 1991

To The Honorable Members of the 115th Legislature:

I am returning, without my signature or approval, S.P.326, L.D. 882, "An Act to Amend the Laws Concerning Certification of Educational Personnel." This bill is flawed by its stipulation that new teachers not attain a minimum level on the National Teacher's Examination before receiving certification to teach in Maine.

Under Maine's current laws and rules, a provisional teacher certificate may only be issued to applicants who have attained at a least minimum score on the National Teachers Exam. Section 6 and Section 7 of L.D. 882 specifically eliminates this requirement:

"Section 6. It is not the intent of this Chapter to require the attainment of minimum qualifying scores by persons seeking provisional certification."

"Section 7. The score attained on the qualifying examination may not be used to deny certification."

It is undoubtedly true that the quality of education we provide to our children depends upon the quality of teachers we have in our schools. Yet, while calls for quality and reform of our educational system are now common, LD 839 eliminates even the most basic requirement that prospective teachers demonstrate a minimum level of competency before being granted certification. Ironically, LD 882 maintains the requirement that prospective teachers take the National Teachers Exam, so we will be faced with requiring prospective teachers to sit for an exam -- even though we will be prohibited from using the results as a measure of their qualification to be certified.

The people of Maine now spend nearly one billion dollars a year on K-12 education, and nearly half of the resources of state and local government are devoted to this purpose. It is not unreasonable for people to expect our system to provide a quality education to their children, nor is it unreasonable for them to insist on minimum scores on national exams as a surrogate measure of the quality of new teachers. For these reasons, I urge you to sustain my veto of L.D. 882.

Sincerely,  
S/JOHN R. MCKERNAN, JR.  
Governor

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

The Accompanying Bill:

Bill "An Act to Amend the Laws Concerning Certification of Educational Personnel" (Emergency)  
S.P. 326 L.D. 882  
(S "A" S-431 to C "A" S-253)

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Estes.

Senator **ESTES:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. I would like to take a few moments to make comments about this particular bill LD 882.

This was a bill that came out of the Education Committee in a unanimous report. It went through the Legislature in May with no objections. This bill sat on the Appropriations table, because at one point, it

did have the Certification Block Print money which would have been distributed back to the school districts rather than to the Municipal Government. The Certification Block Prints are now history, because they were taken in the Supplemental Budget before Christmas. There was no clear objection that came from either the Department or the Governor's office in regards to this bill. It was in the waning hours of the last day of this session that this bill was amended, the Appropriations note taken off, and sent to the Governor's desk. About a week later, I was surprised to find that were objections to this. There are a number of sections to the bill.

While this veto message is very specific in terms of its focus, there have been attempts to negotiate to come to an agreement, which I think we have. The Friday night we were considering the Supplemental Budget before Christmas, we had drawn up Joint Orders for both the House and Senate to recall this from the Governor's desk so the Committee could deal with the Governor's concerns and than pass out a clean and acceptable bill.

I would also say, you really have to take a look at the National Teachers Exam and question its validity as a requirement for Certification. There are three parts to the exam and you must pass all three parts to the exam. Currently it applies to new teachers, teachers who have taught outside the state of Maine and who have not taken the test within the last five years.

I would also like to draw your attention to an error in the third major paragraph that made reference to LD 839 eliminating even the most basic requirement that perspective teachers demonstrated at a minimum level of competency before being granted certification. That should be LD 882, LD839 deals with 0-5 Early Intervention Services and there is a veto message for that bill in another body in this building.

I would urge members to vote against the veto, if that is not successful, we will work with the Governors office to try to get a new bill before the Second Regular Session to enact all that is agreeable in here. I want to point out that we are not eliminating the test as a requirement for new teachers. We are simply requiring that they take the test, the test becomes part of their portfolio, which goes along with their transcripts and recommendations to the hiring superintendent for their review. This can be one determination as to whether the teacher is qualified for that particular position. For a test to be part of a certification, we felt was wrong, there was even strong feeling on the Committee that the test should be eliminated all together. We decided to keep the test as part of a composite portfolio that could be used in hiring decisions. Thank you.

The President laid before the Senate the following:

"Shall this Bill become Law notwithstanding the objections of the Governor?"

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote will be taken by the Yeas and Nays.

A vote of yes will be in favor of the Bill.

A vote of no will be in favor of sustaining the veto of the Governor

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.



**ROLL CALL**

**YEAS:** Senators BERUBE, BOST, BRANNIGAN, BUSTIN, CLARK, CLEVELAND, CONLEY, ESTES, ESTY, GAUVREAU, KANY, MATTHEWS, MCCORMICK, MILLS, PEARSON, TITCOMB, TWITCHELL, VOSE, THE PRESIDENT - CHARLES P. PRAY

**NAYS:** Senators BRAWN, CAHILL, CARPENTER, COLLINS, EMERSON, FOSTER, GILL, GOULD, HOLLOWAY, LUDWIG, RICH, SUMMERS, THERIAULT, WEBSTER

**ABSENT:** Senators BALDACCI, DUTREMBLE  
19 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 2 Senators being absent, and 19 being less than two-thirds of the membership present and voting, it was the vote of the Senate that the veto of the Governor be **SUSTAINED**.

The Secretary has so informed the Speaker of the House.

The Following Communication:

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

December 20, 1991

To The Honorable Members of the 115th Legislature:

I am returning, without my signature or approval, S.P. 551, L.D. 1455, RESOLVE, To conduct an Independent Review of the Department of Human Services.

The Legislature, through statute and the Joint Standing Committee on Audit and Program Review has oversight over all departments in State Government. This Committee is scheduled to do a total Department of Human Services' assessment beginning in this fiscal year. I believe each of the areas of study outlined in L.D. 1455 will be covered by this Legislative oversight.

In fact, the Audit and Program Review Committee has already conducted reviews in 1985, 1986, 1987, and 1989 in the Child Protective, Child Care and Foster Care systems; in 1989, 1990, and 1991 for the Emergency Medical Services system; and finally, in 1991 for the Support Enforcement Recovery system.

The 115th Legislature established the Commission on Governmental Restructuring to review the functions of the Department of Human Services and to make recommendations for reorganization and improvements. I support many of the recommendations this Commission made in their recent report to me.

In addition, just one month ago, the Department underwent an additional review conducted by the Joint Standing Committee on Human Services with a specific look at Child Protective Services. Moreover, the Department on its own initiative will be conducting an independent study of the Department's internal functions.

Given our present economic crisis, I believe before \$125,000 is spent on more studies, we should be funding requests to protect children at risk, or for thousands of immunizations for children, hundreds of daycare hours to low-income women, hundreds of meals-on-wheels for our elderly population, or case services for vocational rehabilitation services to the disabled. This is especially true if the department, working with this Legislative body, is ready to fund and undertake a similar study as L.D. 1455.

Therefore, I can in no way support the hiring of a consultant to do what I believe is already being done within existing resources by this Legislative body and by the Department of Human Services, in a more cost effective manner, and over direct services. I, therefore, respectfully request you sustain my veto.

Sincerely,  
S/JOHN R. MCKERNAN, JR.  
Governor

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

The Accompanying Bill:  
Resolve, to Conduct an Independent Review of the Department of Human Services

S.P. 551 L.D. 1455  
(C "A" S-240; S "A" S-422)

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator **BUSTIN:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. I rise to ask you vote against this veto, but I do it with a little bit of tongue-in-cheek because I think the Governor's message is a little bit tongue-in-cheek. I believe I heard on the news, the Department of Human Services is ordering their own review of the Child Welfare Services. This is basically what this Bill does, and what the Audit and Program Review Committee have requested. I am happy that the administration has seen fit to follow the suggestion of the Audit and Program Review Committee and are doing what they and others have finally decided needs to be done.

On principal, because it was a Bill before the Legislature, it was a legitimate issue as evidenced by the Department of Human Services now acknowledging that they need this review. I guess it is a case of who gets credit for what, I am never into those issues, but this is so blatant, that I ask you to vote against that veto. He could have supported the piece of legislation gone forward just as he's going forward now. It seems a bit ridiculous for me to even discuss the issue, but it is a point that I think needs to be taken and we really should vote against this veto and get on with reviewing this department. It is very much needed and it is something that we have needed for a long time. We have tried thousands of ways to get at this problem, I am glad that the administrators finally realize they do indeed have a problem.

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

Senator **GILL:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. I rise to ask you to sustain the veto today. We as a Legislative Body have reviewed over every Commissioner and every Bureau of Government. In fact the Audit and Review Committee have, I believe from 1985 - 1990, looked at the Department of Human Services or various aspects of the workings of that Department. Again this year, they are planning on reviewing the work of the Department of Human Services.

We have a restructuring committee that was set up to look at State Government. We have now, a report before us, telling us from a restructuring committee's point of view that brought into play a lot of people out of State Government and in State Government, about how government should be run. They have presented us with a report about Human Services and what changes should be made there. We have plenty of studies before us. If you go up in the Human Service, Human Resource Committee room,

you will see shelves and shelves of studies and reports. All you have to do is look at those reports and take them to heart. In these fiscal times, I don't think we need to spend \$125,000 more dollars to deal with this subject. I would ask you to sustain the Governors veto in this Bill.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator **BUSTIN:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. I would just like to answer my good friend and Senator from Cumberland, Senator Gill and thank her for having not sat on the Audit and Program Review Committee making determinations about what that committee is doing.

As a matter of fact, the Audit and Program Review Committee report has always been a unanimous report. This was a separate Bill. We have never had a veto. The Committee or the Committee Chairs were never approached by the Executive to tell us there was a problem with this Bill. Had there been a problem, we probably would have worked something out, as the Audit and Program Review Committee always does. What has not happened in all of those reports, and the good Senator from Cumberland, Senator Gill is absolutely correct, there have been numerous reports that will tell you the essence of the problem. Those reports have gained us nothing. Will a report, that is not an independent report, ordered by the Commissioner of Human Services, at what cost, no cost? I can't believe that, I don't think I am that naive, I hope nobody who is taking this vote is that naive. To think that a review, even made by the Department, is not going to cost you any money, of course it is going to cost you some money. It just depends where the directive is coming from. As a matter of fact, the Audit Program who have reviewed this Department and will be reviewing them again, was perfectly aware of both that past and future action that has been taken and needs to be taken by the Audit Review Committee, were fully aware that we are reviewing the Department of Human Services. We still, as a body of 13 members agreed that this Bill should go forward and that we should have an independent look at that in order to have the information to be able to do a sufficient review. That is what this Bill is all about. That is what this veto is all about. I will grant you and I will put it on the record so it will stand on the record, that you will find no change after that review by the Department of Human Services than you have before us.

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

Senator **GILL:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. We have got so many committees in the Legislature that have review over various departments. My constituents are saying what does the Legislature do? Can't the Legislature make determinations with the committee structure that they have? This just plays into those hands, those voices, because the Legislature has the opportunity through its various committee structures to review and to make recommendations and then back to pass those recommendations. If the Legislature can't do it than who can.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator **BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to pose a question to the good Senator from Cumberland, Senator

Gill, would she be willing to support with us, a study of what is going on in the Department of Human Services. Obviously every body has taken a look at this. We have gained nothing, we need to have that kind of support, if not this Bill than what? This is what I would ask. We obviously, throughout the years, had a very difficult time putting a handle on this.

I can tell you that from 7:30 this morning until 9:15, I was on the phone. I have not yet returned a call from one of the bureaucrats that I was talking to this morning on the Child Support Services. We have a very, very big problem there. You have single parents who are trying to support children and who do not get their checks on time. These are not government monies, these are the absent parent monies that simply flow through the state. I will admit to you, I was patently unsuccessful in getting something done that would make Child Support Services more responsive. I think that has something to do with the previous veto on LD 656 because we have not set the system where we can have more input into what needs to be done. I think that has, in fact has the lack of support of the administration in order to get something done. I am not just saying this administration, I am saying other administrations. I am asking what is your proposal Governor, what is your proposal those people who are voting for this veto? What would you do? I have spent hours with other Legislators trying to figure this problem out and work it out. I know that the good Senator from Cumberland, Senator Gill also has. We have submitted the Bills, we have put our names behind them, we have asked for the review, and we get nothing but a veto. We need to have some answers.

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

Senator **GILL:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. It seems to me that I recall the Audit and Review Committee is going to undertake yet another review this session of the Department of Human Services. I think they have a ample opportunity to look at those areas, that my good friend from Kennebec, Senator Bustin has indicated. That committee is a committee that spends a lot of time during the off session studying. They have a dedicated group of people who are willing to spend time looking at things. This is a perfect opportunity to bring those things to the floor of that committee, react to them, and insist things be done differently. She is right, we have worked together in a lot of different areas dealing with Human Services through the years. I applaud the efforts of the Audit and Review. It is a standing committee now, it works all the time. It has an obligation to the State of Maine. If the committee structure doesn't work, than maybe we shouldn't have the committee. I would ask her to use that process to study what she would like to study from the Department of Human Services and come back with a recommendation.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator **BUSTIN:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. I might remind the good Senator from Cumberland, Senator GILL, that I did indicate that we, the Audit and Program Review are in fact reviewing the Department of Human Services. The Department of Human Services is one of the biggest departments. Despite that and despite

the knowledge of those 13 by partisan members, understanding that in fact they are going to be reviewing Department of Human Services this time, they requested that this Bill go before the Legislature as a by partisan committee.

We knew we needed the assistance of a separate, independent, investigative group to bring us the information so we could act on that information and do the necessary changes. Anybody who works on a committee understands and knows in this Legislature, there is limited amount of time to address each and every issue. I think that we could review just the Department of Human Services this time, and not even begin to address all the issues. We are not going to be doing that, by law, by statute, we have other reviews that we must do at the same time. You have a 13 member committee with the adjunct members. They do work very, very, hard. We have a staff that is overloaded. If you give me more staff, if you just support me in having additional staff do the investigation of this particular aspect of Department of Human Services which is essentially what that Bill does than that would assist the committee in doing their job as I see the job that needs to be done. That is what we are talking about. That is what we are talking about on this Bill. I remind you this is the by partisan Bill that was sent down and is now being vetoed for the first time out of an Audit and Program Review Committee vetoed without consultation with that committee. Thank you.

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

Senator **CLARK:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. I have enjoyed and as usual learned, from the discourse shared by our two learned colleagues, the Senator from Kennebec, and the Senator from Cumberland, Bustin and Gill, respectively.

I rise only to inquire, hoping that there is a specific answer, as to the source of the money and staff time involved in the initiative which the Department of Human Services will be taking very shortly in its own internal independent review. If this is independent, will there be consultants hired? If there will be consultants hired, what is the source of the funding? It would seem to me that would be a concern of all of the Senators in the Chamber this morning. For indeed, the basis in large measure of the veto message, swirls around the potential savings in these tough economic times of approximately \$125,000. I submit to you, most respectfully, that the concern, which has not been articulated, focuses more keenly on the participation in the selection of the people who would be conducting the study as contained in LD 1455. Here we have a veto message which focuses on the needless spending of additional monies to the tune of \$125,000, yet there appears to be funds available within the department to fund an independent study. An earlier message this morning deprived this state and that department of approximately nine million dollars to provide point of entry coordination by case workers who provide programs and services and deliver those program and services to the vulnerable citizens of this state. There seems to be a contrast and an inconsistency which does not pass the straight face test. Thank you, Mr. President.

The President laid before the Senate the following:

"Shall this Bill become Law notwithstanding the objections of the Governor?"

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote will be taken by the Yeas and Nays.

A vote of yes will be in favor of the Bill.

A vote of no will be in favor of sustaining the veto of the Governor

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators BERUBE, BOST, BRANNIGAN, BUSTIN, CLARK, CLEVELAND, CONLEY, ESTES, ESTY, GAUVREAU, KANY, MATTHEWS, MCCORMICK, MILLS, PEARSON, RICH, TITCOMB, TWITCHELL, VOSE, THE PRESIDENT - CHARLES P. PRAY

**NAYS:** Senators BRAWN, CAHILL, CARPENTER, COLLINS, EMERSON, FOSTER, GILL, GOULD, HOLLOWAY, LUDWIG, SUMMERS, THERIAULT, WEBSTER

**ABSENT:** Senators BALDACCI, DUTREMBLE

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 2 Senators being absent, and 20 being less than two-thirds of the membership present and voting, it was the vote of the Senate that the veto of the Governor be **SUSTAINED**.

The Secretary has so informed the Speaker of the House.

Senate at Ease

Senate called to order by the President.

**SENATE PAPERS**

Bill "An Act to Correct An Engrossing Error in Public Law 1991, Chapter 622" (Emergency)

S.P. 823 L.D. 1991

Presented by President **PRAY** of Penobscot

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

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

Which was, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

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

**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 (12/19/91) Assigned matter:

**SENATE REPORTS** - from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Determine the Distribution Method of the Supplemental Reduction to General Purpose Aid for Local Schools for Fiscal Year 1991-92"

S.P. 789 L.D. 1986

Majority - Ought to Pass

Minority - Ought to Pass As Amended by Committee  
Amendment "A" (S-478)

Tabled - December 19, 1991, by Senator ESTES of York.

Pending - Motion of Senator BRANNIGAN of Cumberland to ACCEPT the Majority Ought to Pass Report (Division Requested)

(In Senate, December 18, 1991, Reports READ.)

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

Senator BRANNIGAN: Thank you, Mr. President. Ladies and Gentlemen of the Senate. A few days ago, a week or two ago, I spoke with you several times about issues dealing with the budget reductions that we were working on. During that time I voted for, and at times championed causes that went against my own constituents.

The budget had in it revenue sharing cuts that were born to my city officials, that will be pointed out as causing increases in taxes in my town. It will cause property tax increase. As a Senator and Representative before that who came here determined to keep property tax down, who had bills of all types before all types of committees trying to reduce property tax trying to give relief to my constituents who are heavily over burdened by property tax, my actions a few weeks ago were not in the best interest of my political career. I believe, at that time, and I believe now there were in the best interest of the state of Maine and in the long run to my own community. A budget needed to be passed and it was passed. I thank all of you for the support we gave each other in doing that.

Now, I believe, I can ask you to support the motion regarding the school funding formula that will assist my city, although cutting it, will assist it and in the long run will assist the whole state of Maine. The funding formula has always, we have felt in the so called property rich towns and cities, not served us well. We have always lost with this formula. However, on the whole with some griping we have supported it. We know funding formulas are flawed. We knew that this formula was one that did provide equity throughout our state and therefore, even though we always came out on the short end, we felt we must support it for the good of all. Now, some people want to cut our part dramatically. They want to change the rules as we see them, because we got so much money from the state as a subsidy, we feel if there is going to be cuts, that should be cut by a percentage across the board. But, No, we are told that is fair only in giving up the money. You must take it on the short end also when cuts are made. We'll give you a different approach, we'll give you all kinds of different approaches, but all of them will hurt you, some worse than others.

We cannot stand by and let that happen in my city. My city is a city of poverty. The people in our city make less than others. The medium income in our city is over a thousand dollars less than the state average medium income. Thirty Five Percent 35% of the families in our city make under \$20,000. When rents and housing are high, that's what makes us so called rich. We are not rich 35% earn under \$20,000, where rents \$300-500 a month. Where taxes are high, the cost of living in general is high. Our schools take a hit every time there is a hit anywhere. The revenue sharing hit will be taken and born by the schools to a great degree. The failure to be able to

collect taxes now will be hit. Five percent reduction in the collection of taxes, five percent reduction in schools. It's not true in SAD's in other places where the towns have to pay the SADs whether the town can collect their taxes or not. We take hit after hit after hit. We have cut our work force in the last two to three years seven percent. We have cut the state one or two percent. Our city has cut its work force in the last ten years twenty percent. That means reduction in services. We get along, we cut, we live within our means but taxes still go up. Property taxes has been the only way that this body and the other body and the Governor has allowed us to manage.

People have been saying, and I believe them, that the funding formula will rise or fall, will stand or lose, on this vote. It has taken me a while to really understand all this, it is not a threat. Is the funding formula threatened, Yes. It is threatened, it has been threatened before, but never to the degree that it will be threatened by the inverse cutting of those who are losers all the time. In my city, I'm talking personally here, I have a modest, ordinary house with seven rooms, one family home, my taxes fifteen years ago were \$900. They have gone up to \$2,000.00 and in the last year they have gone from \$2,000.00 to \$4,000.00. If I was on a fixed income I would be gone. I would take reverse mortgages. I talk about my city and I am proud to do that, but I think my city is not the only one who have been on the short end. I was proud of my city when the threat to the school formula that is most possible, a referendum which will give a per pupil allotment on what the state gives out, which means thirteen million dollars to my city. The city counselors immediately took a vote on how they felt about supporting that. 8-1 they voted no. They said that formula, even though we came out on the short end, even though it provides equity and we will support that formula. I can tell you that the support is eroding fast. I don't believe the cities who have been coming up short will continue to support this formula. They will have to look to what is best for them. I would hate to see that happen. I would like to see us all look for what is best for the state of Maine, for the majority of towns and cities. I believe that is what my motion provides today. When the money goes out, it goes out in a certain amount. If we have to take it back, we should take it back in a percentage amount. I ask you to support my motion Ought to Pass.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator McCormick.

Senator McCORMICK: Thank you, Mr. President. Ladies and Gentlemen of the Senate. I do not disagree with very much that the good Senator from Cumberland, Senator Brannigan said. I do think that we need to pay attention to the fairness of the school funding formula. Right now the school funding formula is founded on two principals; tax payer equity and pupil equity. The same amount be spent on each pupil across the state and the tax burden between rich and poor, land rich and land poor communities be equalized somehow across the state. I am sure that the good Senator from Cumberland, Senator Brannigan would agree with those two principals also. I have said to him and to others that I, who am a Senator who represents to a town all high receiving communities, that I am willing to look and tinker with the school funding formula to make it

more equitable. I don't think anyone in this Body would want to tinker with those two principals and I do not. I think there must be things that we can do to make it better. That is the long term question.

The question we have before us today is, how do we allocate the 16.1 million dollar cut that has been decided that we must allocate? Those of us from high receiving districts, make no mistake about it, what is best for us is not before you. You will find it not one paper that has been printed before this Legislature. What is best for high receiving towns is a method of distributing that cut, that I believe is most close to the school funding formula, the mill rate option. It is widely known as Option #3. Those of you who have paid attention to the many options that have come dancing before us.

What did the high receivers do? Maybe in our political naivety. Having paid attention, almost daily, to the ruminations of the Appropriations Committee and watching how hard it was for them to come to an agreement on how to allocate this school funding formula, I decided that what would be best is to try an all out effort to get a compromise and have everyone come to the middle. When I say the middle, I am talking about a spectrum that has two ends. One end which is good for the low receiving towns, a method of allocation that distributes it across the board cut 3.4% cut of the state subsidy. The other end of the spectrum, there is the mill rate option, which allocates the cut according to a formula that is based on how much a mill raises in each town. What we have before us in the minority report is a compromise that is exactly in the middle. It would allocate 50% of the 16.1 million dollar cuts according to Option #1, which is good for low receiving towns and it would allocate the other half of the cut according to Option #3, which is good for the high receiving towns. I ask you, What could be more fair than that? In the middle.

In other words when I took the step to advocate for the fifty fifty compromise, I was advocating that hurt every single one of my towns. Every single one of my towns will do better under the mill rate option than they will under the 50% option. We are going to here much talk today about how there has been no compromise. Well, wrong, there is a compromise. The fifty fifty option is a compromise. It is hurting my towns, I understand that Portland is going to be compromising as well. I think that we have before us, and I know from my good colleague from York, Senator Estes, that there is going to be an amendment, that we will have the option of supporting. We, in the Education Committee, are calling it the hardship amendment, which would be to allocate some monies to be determined to towns who receive undue hardship under which ever option of allocation we pick. I propose to you that that hardship amendment, which I support because I have been listening for five hours this weekend to my colleagues from Portland lobby me about their needs and I have come to agree that they are a special case and they do need to be helped as well as some small towns on the other end of the spectrum. I think the small and the large may need to have some help.

The head of the School Board Association of Maine, shared with me some papers yesterday. Maureen Nessen is her name. She did an analysis of the two options that are before us, the fixed rate option and the fifty fifty option, and how many towns were hurt by each option. The sole criterion for hurt was

financial hurt, which towns were hurt financially by each option. It may surprise you to know, it does not surprise me, that the option that will hurt the most towns is the straight across the board cut. 155 towns will be hurt by the straight across the board cut. 128 towns will be hurt by the fifty fifty option. That is as it should be. A compromise is not perfect. It's in the middle, it is not what either side would like ultimately. It is going to hurt people, but it is going to hurt few people. I will be voting to support the hardship amendment, but I think it has to be based under the middle. It can start at either edge. Am I standing here asking you, am I pounding the table saying I want this hardship amendment based on Option #3 which is best for all my towns, No I am not. I would also ask that others not ask that we propose and do what is only good for one set of towns. Let's compromise in the middle and put the safety net under the fifty fifty compromise.

To sum up, I think that we should all vote against the majority report, which is the straight across the board cut, so we can get on to voting in favor of the minority report, which is the fifty fifty option. In closing, might I point out that the Education Committee has ruminated over this issue three times in the last month and just yesterday came to a 9-4 vote in favor of the fifty fifty option. That, however, is not before us due to parliamentary messiness. I think it is very important that you know that so the Education Committee is on record as being 9 in favor of the fifty fifty option. Many who sit on that Education Committee are high receivers and are sacrificing to support that fifty fifty option. I have asked for a Division before. Mr. President, I ask for a Division again.

Senator **MCCORMICK** of Kennebec requested a Division.

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

Senator **PEARSON:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. Everybody else has had their chance and now here is mine. I hope I don't sound like Father Time because there are only a few people in here that can remember this. I can remember, maybe fifteen years ago, when we were debating an issue similar to this. I was a member of another Body at that time, but we had print outs that got so elaborate, we had to have them color coded. At the time, people would say hold up the yellow, goldenrod, red, green or the blue one because we had so many different options before us to try to figure out how we were going to do LD 1994, if I remember the LD number. Now, here we are again. We're on the way down economically and funding wise. It got thrust into the committee that I serve on in Appropriations at the very last minute, as time goes, along with a thousand other items that we had to consider. Frankly, I must tell you that I don't believe that we were equipped to deal with as many things as we were asked to deal with. Consequently we aren't going to have a bill today, because not only were we not equipped, the Engrossing Department was not equipped. It just became a confusing situation.

Into this situation walked the Commissioner of Education and gave us a number of different alternatives to look at. I took all my towns in my Senate district and looked at them and asked myself which one is going to be best for me? It was hard to figure out, I had big towns, small towns, and all the

rest of it. I started out in the Committee saying to myself, we went into the formula in one way, we ought to go back to it the same way. It seemed to me to make sense if you used the formula to plug in your money, you ought to use the same formula to go down on. The Commissioner of Education told us that wasn't possible. The formula does not work backwards. I can't explain to you why that is, but I did understand at the time, when she explained it. She is right it does not work that way, so we had to look at a lot of other things. It came to my attention, the fifty fifty compromise was probably as decent as any to the district I serve.

I had occasion to talk to the good Senator from Cumberland, Senator Brannigan and listen to him and I did listen. I did say to myself that I am a Senator, not just for my district, but for the whole state. I need to listen to him and I did listen to him. His description of Portland is totally accurate as far as I can understand. It is so much more dramatic than I knew it was at the time. Talked to the Senator from Hancock, Senator Foster, her situation is not as dramatic. I don't think any are as dramatic as the city of Portland. Portland has its problems and some of its problems are the problems that came from my district. I began to be more sympathetic to the Portland area. I started getting pressure from back home to never mind Portland, think about us. I do represent those people and I have to think about that. I don't want to corrupt the formula in the future. My mind has been just like being in a rubber room, going back and forth, trying to figure out where I ought to land on this issue, because I really don't know. I thought about Presque Isle, Madawaski, and more than just Old Town. We had a session here not very long ago, we were not able to resolve it, partly because of the time. The Education Committee, hopefully I thought, will now have a chance to do what we didn't do, find a way out of this that would be equitable for all and still meet the test of the Maine Constitution. The Maine Constitution says that education shall be equal throughout the state, no matter where you come from. A child shall have equal opportunities, I truly do believe that each child should have. In as much as we are able to provide for it financially. They may come from different homes, different backgrounds, and have different chances but we have the responsibility to provide as much as we can. I really don't know the answer. I was hoping the Education Committee would come up with the answer or some alternative, so the city of Portland would not lay prostrate in the state having accepted all the problems that come from Northern, Central, Southern and Western Maine into that city. Let's be honest they do go there. Portland has got hit on hard on revenue sharing, probably in an inordinate way compared to other towns in Maine. I am not elected from Portland, but I must say I understand that they have been hit hard and that is why I am disappointed that there is not some alternative that is going to be provided for us to be able to address their needs and the needs of people who live in Danforth, Chester, Burlington or wherever.

I see some amendments before us. I must tell you that in the budget act, when we passed the budget act, we said if we collect any more money than we know anticipated it will go to a general government fund, which will be distributed to the towns of the state of Maine whatever that amount of money is. We don't know that we are going to get any more money,

but we said if we do, it will go to general revenue sharing fund. We are going to have a proposal that will limit that to 4.5 million dollars and distribute 4.5 million dollars from general purpose aid to education to create a safety fund. I am not sure that meets the test of the Constitution. I am not sure we are going to get the money, so I'm not sure we are going to solve the problem that the good Senators from Cumberland, Senator Conley, Brannigan, and Gill have. With any kind of adjustment like that I wish that this particular problem, which is so complex, would have a different solution than what we have before us. I think people limited themselves to much to what it was the Commissioner of Education printed out for a print out, Fifty fifty of Mill rate. It seems to me there has to be something in between that. I don't know what the time constraints are on this. I don't know if this bill has to pass today or can be held over until tomorrow. I don't like the alternatives that are put before me, in either case. I may have to end up picking one or the other, which I don't think any of us should have to do. I would not want to sit in this Chamber and find out that a majority of Senators had voted against the city of Old Town just because I was the only one here. I would want to have some consideration for that, if I had a particular problem and indeed I have had considerations in the past for the city of Old Town. I don't like either alternative before us and I really can't tell you how I am going to vote. It's the old argument, do you vote for your constituents, or the good of the whole state as you see it? The dilemma is very complex for me.

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

Senator **CONLEY:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. After those remarks by the good Senator from Penobscot, Senator PEARSON, it is no surprise to me that a number of people would want to rise. I feel compelled to rise because he has actually touched upon the very issue here, from my perspective. I am not expert on the education funding formula. I respect those who have spent enough time to acquaint themselves with it so they can get up and argue from their perspective as to which way is the fairest. I think all of us here like to think of ourselves as fair, as wanting to treat people fairly and trying to do the right thing. As a member of this body you try to think of the interest of the whole state not your particular district, knowing full well you are responsible to your constituents when you go back home. I felt myself, as a member of this Body, when the Appropriations Committee brought back the unanimous report a couple of weeks ago, I very easily could have voted with others here for a different alternative. Like the good Senator from Cumberland, Senator Brannigan mentioned, much to the shegrin of my own city officials, I went with the Appropriations Committee, truly feeling in my heart, that I was doing what was best for the total interest of the state as a whole knowing my own city was going to be hurt. I felt that was the fair and right thing to do, even though there are a lot of other reasons to go down the other road. In my own heart I felt strongly the Governor would veto anything else we did and those cuts, those 13.5% cuts that would go across the board, would hurt people in the correction facilities, our elders, and a lot of mentally ill people whom we are charged with taking care of.

Basically because of that feeling and feeling this committee had done the job they were charged with, that I would go that way and suffer the consequences and that is what you should do in here. You go with what you believe is right and suffer the consequences. What the Senator from Penobscot has hit upon is what is the right thing to do here? We are looking for a better answer. Which is the right way to go? It's hard for me to get up in front of this Body and say Gee, I'm for the straight across the board cut because I think that is the fairest, when it's obvious, when you look at the figures, the communities that are hurt the most are the low receiving communities. My community is hurt terribly, under either the fifty fifty proposal or the straight mill cut. There is just now two ways about it. Either way you look at it we get clobbered pretty hard. When I get up here and say and people can draw whatever conclusion they want, Conley is in favor of straight across the board cut because that is the best for his community. I have to stand here and say Please look at me I am a member of this Body and I want to do what is right. I guess I say to you given the proposals you have given to me or the alternative that are available to me, it is going to put so much hurt on the people I represent. I have to turn to you and ask for help. It just is not fair.

We have eight thousand applications a month for welfare in my city. Eight thousand a month. Thirteen percent of our population is on welfare. We have many people who have kids, most of them have kids who deserve to get the same exact education that people in your community have. These kids and many of them are special needs kids, we attract people from other parts of the state because we have the services, that is why they are in Portland to begin with. I welcome them, because we have the services, this is where they should be. Why shouldn't a kid in my town be able to get the same education that a kid in your town gets. I am turning to you, because I feel if we ought to take a \$600,00 hit in our school system on top of a \$1,000,000 loss in revenue sharing which also feeds into our school system, the kids in our district are going to suffer terribly. I know the good Senator from Kennebec has alluded to 128 towns being hurt under the fifty fifty formula and 155 towns, by comparison, being hurt under the straight cut, I would suggest to the members of this body that those numbers do not mean much, what really matters is how much a given community suffers under a given formula. I would suggest that our town will suffer much more terribly and the kids will suffer. Given the alternatives I have to beg of you to support the straight across the board cut. I would say, just in reference to the formula itself, the formula is great when you have money. When times are good you can live with it, when times are bad that is when greed sets in. The basic notion of self preservation sets it. I guess that is why I have to ask you to look at the people who are from less fortunate means, think about how much they will lose. More of those people are in the urban area. This whole evaluation concept, the good Senator from Cumberland, Senator Summers heads the town of Old Orchard, they are probably the highest taxed town in the state for property taxes based on the valuation of their property. I don't know what does valuation mean, I wouldn't want to live there, they wouldn't have me I'm sure. That town is not a place where I would choose to live, although they have a high

valuation. The town of Enfield, with some of its own problems, has a low valuation. I might find that a nicer place to live, but they have a low valuation. How do you get the valuation in these pillars which are universally accepted. I think it is time they were questioned. I am sure they will be questioned, unless we can work out something where everybody feels like they got a fair shake. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Theriault.

Senator **THERIAULT:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. In spite of the eloquent plea that was made by the good Senator from Cumberland, Senator Brannigan, I would ask you to vote against the pending motion. I know that today the eyes of the state of Maine are upon this Chamber. We are truly, I feel, at a crossroad. The action that we finally take today will say a lot about us. I know this is difficult because we have to make a decision between our communities verses our students. I also am confident that in the end we will make the right decision.

Last July, I like all of you reluctantly voted to cut the GPA across the board. I'd like to talk a little bit about figures as to what that really translated to. I'd like to talk about one of the communities that I represent, which has a SAD in it and it is SAD 27. That cut last July amounted to \$756,000.00. We have in that particular SAD, 1550 students. On the other hand, a large community in this state was equally cut, almost the same amount, by \$735,000.00 which is just a few thousand dollars less than what we were cut. That particular district has 7500 students. In SAD 27, if we raise the mill rate by one mill, that would generate \$151,000. In this larger community, one mill rate will generate \$4.2 million. My district, though not very happy with what is happening, would feel that the fifty fifty is more fair than across the board cuts.

I know that we will be fair in our decision and I know in the end the students from rural Maine will get as good an education as those from Urban Maine. We do have an obligation to do this. I had this handout on my desk this morning, which gave the relative standing of the amount spent in the different school districts. To go back to those two communities I was talking about, this large community is spending roughly \$4900.00 per student, whereas, in the SAD 27 the amount spent there is \$3600.00 per student which is \$1300.00 less per student. I don't know why this is so, but the figures indicate that right there is quite a difference.

I have to ask you to really look beyond the expedience of the moment and to really look down the road at how history will look upon our decision here today. I know in the end we will do the right thing. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Estes.

Senator **ESTES:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. I rise, this afternoon, to urge you to support the Majority Ought to Pass report of the Appropriations Committee. I do so for several reasons. There have been a number of references to, not only the funding formula but also to printouts that are going around taking a look at the state percentage breakdown per district, taking a look at total budgets and so forth. There are a lot of figures that can be massaged until the cows come home. I don't know that they are really what this

point is all about that we will be making in this decision we make this afternoon.

I have a couple of figures that I think are really important to you and I tried to impress upon you people back before Christmas in the Special Session. \$16.1 million dollars in cuts to general purpose aid is not the total picture of cuts to education. You have to take into account that between department cuts, an estimated surplus from plus purchases account and estimated ending balance surplus in GPA, which totals about \$4.5 million, this \$7.8 million worth of additional cuts on top of the \$16.1 million. You'll also see that in LD 1886 there is a figure that is a \$17 million figure. That is because you have to also add in almost \$1 million dollars in the elimination of the home school subsidy. You also have to add to that the fact that Certification Block Grants are not going out this year, cut, gone, \$1.75 million dollars. Finally we've cut out of district placement, for the special needs students that the district can not take care of and they have to send them to some special place, like Crotchet Mountain, \$1.9 million, that's only a 13% return on the dollar for the individual district from the state but it is \$1.9 million. Add up all of those monies and you total \$27.5 million out of \$105 million in cuts that we made. Twenty five percent of the budget falls on K-12 education. Add revenue sharing on top of that, another \$12.1 million. We're up to about thirty seven percent of the budget. With a good deal of that hitting back on the local municipalities. I tried, I tried so hard to see that \$16.1 million dollar figure shrink as low as it could go and I was not successful.

People are right about the formula. The formula for funding our public education is not made for recession times. It is not made for recession times especially when we do not have a clear picture as to how high a priority K-12 education is for the state to be providing the young people. It makes it much easier for us to say that's a big chunk of money, it's forty two percent of the budget, so we can take \$16.1 million away in the middle of the fiscal year. After seventy to eighty percent of the local budgets have been committed. We take \$16.1 million away from them now. The formula we have is a good time formula. It's an allocation formula. It is also a formula that says that we will spend what we have to spend in order to provide a quality education. I support the majority report which takes a straight across the board cut. I do so for two reasons. One is that when we cut GPA in the past, this method is consistent with the way we made those reductions. Last March, we cut general purpose aid straight percentage across the board. When we took the \$70 million away from the Certified costs, cut straight across the board. People take about valuation, let me tell you as far as I am concerned, you are changing the rules in the middle of the game. When the subsidy figures for allocation were determined and the schools were notified when we had a final budget in July, millage had already been taken into consideration and now we want to go back in and add millage again. It is almost like a double dip.

People also have to remember that this funding formula that we have presently in law has not been on the books very long. When it was first implemented in FY 1986, you had communities that were screaming because their valuations were so high they were getting next to nothing. Some saw as that valuation

continued to rise because of the real estate boom, they actually lost. We have worked with the funding formula over the last five years. We have tried to fine tune it and we tried to come up with political compromises, yet trying to preserve the basic integrity and the equity in the funding formula. I have been on top of this issue for five years and the Education Committee, I really thought, was moving forward with some real positive things to make our funding formula not one of the best, but the best in the country. We got stalled because of this fiscal situation that we have been for the last two and one half years. It is interesting that we talk about equity in our debate today and fairness because our discussion began about a year ago when one of the top, if not the top, education finance experts came to Maine. He did an analysis on our formula and showed us where our weaknesses and strengths were and how we could make it an even better formula. The Superintendents Association, in what I thought was a very bold move back in May, contracted with Ogenbluk and had him come to set up a series of conferences for superintendents to discuss the equity question and come to agreement on it. I was looking forward to that report coming back to the Education Committee in this session. We also had several Bills we carried over and a number of concepts that would keep alive further improvements to the funding formula. I guess Ogenbluk is right in his analysis of Education finance. He says the study of education finance is like a Russian novel, it is long, tedious, and everyone dies in the end. I am afraid that what we are doing is having a killing effect on the education funding formula. We are putting it in real serious jeopardy.

Let me also remind you that many of the high valuation communities, low receivers, have been going through tumultuous session the last four budgets they have had to put together because of pressures from property tax groups. Communities have had to operate under tax caps, the threat of tax caps, or zero budget management. They have pared and taken a scalpel approach to come up with adequate funds that their tax payers are willing to pay to provide basic education. What is also happening is we have seen the shift in property valuation increases moving up the state. Now some of the Southern former non receivers are becoming receivers. If we accept the minority report, we are being asked to change the rules in the middle of a fiscal year.

I think it is unfortunate that we didn't successful reduce general purpose aid to say a \$9 million or \$6 million figure. It would have been much easier for us to have made this decision of how to cut. It was a mistake that we didn't take, at least, the estimated \$4.5 million that would be surplus in general purpose aid and hold that out there as a contingency fund to help those districts that are going to be the most adversely impacted.

There has been reference to an amendment that you see, depending on which report is passed by both parties, I will be offering an amendment that will establish a hardship fund. I think it is critical that we do all we can do to prevent furloughs or significant programmatic or service cuts to any district, whether high receiver, low receiver, or middle receiver. This is going to be a hard decision, no question about it. It is a decision we have to make. We can not make it tomorrow or next week. It has to be made now so communities can plan



specifically how they will survive the remainder of the academic year. They have half of their school year left. Seventy to eighty percent of their budget committed. There is not much room to move. I urge you to support the Majority Ought to Pass report.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Collins.

Senator **COLLINS:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. I agree with those of you who have indicated that this is a tough decision to make. I work, however, on two premises. One premise is we must do this and do it today and two, that we have a philosophy in Maine that is supposedly captured in our financial arrangements that suggest that there ought to be an equality of opportunity for public education in Maine, no matter where you live. Since that is the basis of what I personally must establish today, I intend to vote against the pending motion and in favor of the minority report.

The good Senator from Cumberland, Senator Brannigan has described, in vivid terms, the damage that would be done to his city of Portland should the fifty fifty proposal prevail. I'd like to describe what would happen to my community in Caribou, which also is a single unit, not a member of a school administrative district and who incidently makes a per pupil contribution from local funds that is greater than the average, despite the fact we are high receivers. Let us assume that we were to pass the fixed percentage proposal. For the city of Portland reduction would be less than for the city of Caribou. The city of Caribou would have a reduction of \$208,000, Portland \$172,000.00. On the other hand, were we to do the fifty fifty proposal, we would move downward to \$130,000.00 and Portland would move upward to \$674,000.00. You can see the damage that this alternative method, the fixed percentage, would do to my community, which is perhaps 9800 people as opposed to the size and resources of the city of Portland. I don't mean to pick on the city of Portland. I think there is a legitimate concern. The proposal does as much damage to us as it does to Portland if you reverse the two.

We are a receiving area. I suspect that many communities in Northern Maine are considerably above the average, which is perhaps in the neighborhood of fifty six or fifty seven percent. I think many of our communities range from sixty five percent to seventy five percent. In spite of that, most of us make a substantial commitment for local taxes as do the urban areas. Obviously I don't see a ready solution to this. Many have pointed out that in good times the formula seems to work well and in bad times it doesn't. It seems to me I can site as many cases of difficulties as can the urban centers. For example, it is no secret that Aroostook County with the closure of Loring Air Force Base, will have an unemployment problem that won't be compared around the state. By 1994 we will lose close to ten thousand jobs in Aroostook County on top of the ones we have already lost. It seems to me, if you think there is some equity, you have to consider both situations when you vote on this issue. I would urge you to vote against the pending motion and vote for the compromise. Keep in mind that was a compromise when we said we'll take fifty percent and do that across the board. The other fifty percent we'll do in the other manner. There are those in my position who would have preferred a different type of solution

which would have provided even more funding back or less funding being taken from the high receiving communities. It is a compromise. We do need to pass a bill today and I hope you will reject this one and move to the Minority report and pass that. Thank you, Mr. President.

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

Senator **GAUVREAU:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. They say at the outset we are experiencing a debate on how to integrate reductions in our general purpose aid to the school formula is very much like watching a Boston Red Sox baseball game. One is privy to impassioned, even heroic performances, and we have certainly seen some heroic performances this afternoon in the Senate. In the end we all know you're going to lose, we all know in the end your heart will be broken. That is what happens when we reduce funding to the nation's children. No matter how you choose, Option A, B, YY, or ZZ, we know in the long run we are hurting ourselves, our nation, our state, our community and we are hurting our family.

When I arrived this morning in the Senate, I received a summation of a study which received pretty broad press play in the last fortnight published by the National Center for Children in Poverty. The report tells us that beginning in 1979 and peaking in the mid 1980's the poverty rate for young Americans increased drastically. It leveled off in the mid 1980's and stabilized there. Of all the age groups, the age group 1-6 is the poorest in our nation.

I am going to vote for the so called compromise fifty fifty which was crafted by the majority of the Education members and a minority of the Appropriation Committee members. I think it is important that we talk about the type of devastation that communities like Portland will realize. This is already going on, even if we were to vote for the least onerous of these options from the perspective of the city of Portland, that would be the straight flat cut, that community would still suffer and suffer significantly. In large part the plight of urban communities has been ignored by the Federal Government and the State because of limited financial ability in the last couple of years, likewise cannot respond to the true compelling needs of urban communities. My city of Lewiston has special needs population in the city. We have to support those populations and my city, like I suspect Portland, we have a poorly distributed tax base. We are relying disproportionately on our businesses. Our people do not have expensive properties and we have already over taxed the property tax. We all know that. If we are going to be serious about addressing some of the issues that were raised the Senator from Cumberland, Senator BRANNIGAN, we'd have to look not just at Education funding but also at Mental Health, Public Health, the Criminal Justice System, and AFDC and general Welfare. In all those areas the city of Portland is hemorrhaging. We are too. It is not simply that big, rich city down in Southern Maine, cause in fact how many children in that community are in need of Social Services. We all know as we age we're going to sustain that population throughout our life and our children will sustain that population. We have simply failed as a society to make the appropriate investment in our young children.

I don't want us to come away from this debate today being overly concerned with the different options. I want to take a broad look. I think the point has to be driven home and this is the perfect time to do it. Those of us at the state level have to work within our communities to besedge our own people and besedge those, our friends in the National Congress, that it is time that America begin to truly invest money in its own people. We are truly seeing the consequences, in my opinion, of Reganomics. We are seeing that the illusions of the 1980's, that we could somehow extricate ourselves from fairly sharing the tax burden, we are truly seeing the consequences of that.

Many studies in the 1980's have documented that the poor have grown as a cohort in our society. They have also documented that the middle class is paying a larger share of its tax burden than ever before in this country's history. It is occasions like this, where we are now asked to divy up an ever decreasing pie to poor communities, we have to ask ourselves what has gone wrong. Every person in this Chamber is serving in this Body because we want to improve our communities. We want to improve life for our families. We can't do it. We see irate letters to the editor chastising our integrity, our morays, saying those hacks up in Augusta, why can't they get it right? Put in some term limitations, send in some common sense folks and we'll get it right in a couple of years. It can't be done, because we haven't got the resources to meet the needs we are being asked to respond to. If we limit ourselves to the debate on educational finance, we truly would have missed the forest for the trees. We simply have to focus attention upon the broader issue. That is, as Americans, we have to invest in our people. This really has to be the message that comes out of this debate today, because Maine and three quarters of the states in this country are in recession. I am forty three years of age, it is simply the worst time of my life and hopefully it will never get any worse. If that is going to happen we have to rise, demand and insist that as a society, we reorder our priorities and we invest in our families and children. The issue will not be Lewiston voting against Portland or Caribou voting against Augusta, it will be Mainards and Americans rising together and saying we know what is right, we know where to spend our money, Let's just do it. Thank you, Mr. President.

**THE PRESIDENT:** The Chair recognizes the Senator from Hancock, Senator Foster.

Senator **FOSTER:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. We have tried to talk about being fair. We have tried to talk about being equitable. Let's talk about being consistent. That is what it is all about. I think the people of the state of Maine want us to be consistent.

If you are going to take money and receive money a certain way, you take and receive it the same way. I have heard the word compromise. Ladies and Gentlemen of the Senate where did they ever come up with a compromise, when in the beginning the original Option 3 was through millage. Have we ever reduced school subsidy with a millage, straight millage, no. In order to soften the blow to high receivers, we came up with millage. That was so devastating and they knew it would not pass. They said we will compromise. We'll look at Option 1, across the board. We'll add the two together and divide by two and come up with a compromise. That is not a

compromise, that still favors the towns that are high receivers.

I think the thing that concerns me the most is the fact the people of Maine do want us to be consistent in the way we do business. The harm that will come about by being inconsistent will come back to those of you who vote to do that, to haunt you. You don't have to look at the handwriting on the wall to see where the votes are going to be, when you do not treat those towns in a consistent manner. How they will vote on any referendum put up before them, because they will then understand. I believe that is what bothers me and will not haunt me in my decision today. We must be consistent. We can not make decisions with blinders on. I implore you, for the sake of your community in the future, look down the road and see that the decision you make today is the right one for your community, not only down the road but for the whole of the state of Maine. I ask you to vote for the Majority Ought to Pass report.

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

Senator **CLEVELAND:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. Happy New Year. We have begun where we left off the last year, talking once again about equity issues regarding the budget. The budget that we passed in the last Special Session has required we make this decision. It is a pleasure to be here with you today, particularly during the daylight hours. It is not frequently I get to stand up and talk when the sun is actually still out in this Chamber. It is a pleasure to be able to do so.

The issue before us today, is not simply a issue of the school funding formula, although that is important. The school funding formula is not perfect, it does create some inequities. Additionally there are burdens on a variety of different communities further exacerbated by the budget cuts we made, particularly in the reductions in municipal revenue sharing. I am pleased to see a number of folks here seem to gained the religion that local communities are having a difficult time in a variety of different ways of meeting local needs. The question before us, in which all of us seek to find an answer, is what is fair to do in a situation where we must reduce funds in the middle of a budget year to municipalities. What is right to do for those communities. This is a difficult question.

Let me approach it this way. It would seem, at first, the equitable thing to do, is to say that each community should have a reduction of that percentage. That would seem to be relatively equitable. Some of us may be able to take a look at the various calculations and see how that adds up as opposed to any other alternatives and we could decide to vote based on the mathematical calculation of how many dollars our school districts may receive or not receive. I suggest to you that is not the most equitable way to go about it. I think one must remember the reduction that we are speaking of is not simply a reduction in the subsidy, but rather what we are talking about, is a reduction in total resources available to any school district or any municipality for educational opportunity purposes to pay for education. When money is received and used and expended in the school district and municipality, it is indistinguishable between whether it is a subsidy dollar from the state or whether it is a locally raised dollar or comes from some other means. The

sources are all pooled together to provide a resource of funds to meet the educational needs and provide educational opportunities for the students in all the school districts in this state. If I have any understanding of the attempt of our school funding formula was, in some general sense to provide relatively equitable opportunities to those resources, to all children in this state because all of them are valuable.

It seems to me, as we look at the \$16.1 million reduction, we must look at it as what is the reduction as opposed to the total school budget in each municipal district? I would refer you to a chart that you had put before you, titled Based on \$16.1 Million Dollar GPA Reduction, it looks similar to a computer graph. It lists a variety of towns beginning with Kittery and ending with Bethel. I use this one because it is before you. I invite you to do some mathematics as I have done on it. If you look at the columns of percentages of fixed reductions verses the fifty fifty reduction and compare those to the first column which is the total school year budget, what you will find is a comparison of what the school districts will actually have to do. They have reduce their expenditures based on the total amount of dollars available in that budget. What you will find, if you look at the fixed percentage reduction column, is the range is between two tenths of one percent for the town of Camden, they will have to reduce their school budget by two tenths of one percent, and the highest in this example is the city of Gardiner which will be required to reduce their educational budget by 2.22 percent. A two percent variance in the effect on the resources available to the individual students in those districts. On the other hand, if you look at the fifty fifty formula and again compare it to the total education budget, which is in the first column because that is what the school boards will have to do. When they look for resources, they will not look simply to cut in the areas of where their subsidy will be received but in their total school budget. The total school budget will affect them. In the fifty fifty formula what you find is the range is 1.3% in the town of Orono and 1.75% for the town of Camden, about three tenths of one percent difference in variation from this entire list. I suggest to you if you do all the districts, they will fall pretty close to this range.

It appears to me any formula will have its defects. We ought to be asking each district to take a relative amount of reduction in proportion to their entire budget and not have a larger difference of between two tenths to two percent, because in actuality that is what will occur. If I have any understanding of our mandate under the Constitution of our responsibility. It is to provide equitable opportunity for all of our children. They all must participate fully in the economic, social, and democratic life of this society. To do that, it is essential to have a reasonable educational opportunity. The best we can do is to try to make it more equitable. Clearly, the motion before you of the majority report from the Appropriations Committee for 3.41% is one of the least equitable. It has affected districts, more importantly the effect of the resources that will be available to individual students across this state. I suggest to you that is not the option we ought to choose. We ought to

reject this option and look at other options that are more equitable once we have disposed of this matter. I would hope you would do that.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Estes.

Senator **ESTES:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. One of the things that is becoming increasingly more clear to all of us here is we should as Legislators, have a better understanding of school funding in the state of Maine. If anything, this economic crisis we are in and the impacts of the cuts on K-12 education for this current fiscal year and for the next fiscal year behoove us to have a better understanding. I want to bring to your attention a publication you received at home last month, The Maine Townsman, an article by Joe Josephson on school funding and the fact it is being attacked by not only those who want to reduce the states share but by those who want to change the formula through referendum. In that article they make reference to a very well done document from the Department crafted by Jim Watkins from the Finance Office in the Department of Education, entitled "School Funding in Maine, A Quick and Easy Introduction" which was revised in October of 1991. It is worthwhile reading and will give you a very basic understanding. It is also interesting to note both Maine School Management and Maine Municipal Association have been sponsoring education funding workshops back in the fall to get a better understanding for municipal officials and school officials as to how the funding formula works.

Specifically, I rise because I need to make two points. The question of consistency is a very important question and raising other numbers in terms of total budget expenditures for pupil expenditures, we are really delving into an area of the unknown. We can not do an apples to apples comparison. Keep in mind the figures I gave you in terms of reductions in GPA, home schooling subsidy, Certification Block Grants, out of district placement, and revenue sharing. We do not know what the cumulative impact of those cuts are on any given municipality. An unknown. The other thing you have to keep in mind is that fact that you can not compare, in this arena, the expenditures in a high receiving district with the expenditures in a low receiving district because there are to many unknowns there. For example, the district that has a very high concentration of special education students, it isn't a straight percentage across the board as far as districts go, some districts have a heavier concentration than others. Therefore, a higher cost to that education. The same thing with low income students, the same thing with homeless students, the same thing with minorities who require additional special services that cost additional monies to those districts. Those services have to be provided because of Federal and State mandate. The simplest, easiest way to deal with the situation of cuts in this most difficult time, is to vote for the Majority report from the Appropriations Committee. After that we need to look at how to create a safety net to minimize what those cuts are going to have on any of the districts out there for the remainder of the school year. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator **KANY:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. The good Senator from

York, Senator Estes spoke about the possibility of a referendum on the finance formula. It is my understanding there is some interest in that, going to a per pupil basis. I personally would strongly oppose that solution to improvement because of the reasons that Senator Collins of Aroostook, Senator McCormick of Kennebec, and Senator Cleveland of Androscoggin mentioned because of the lack of fairness and the inability of equal opportunity for the children in that particular area to get a public education.

I was particularly struck by Senator Pearson's comments. Senator Pearson of Penobscot, who was deeply concerned as a person who feels above all when we are elected to this body we should think in terms of what is best for the state as a whole, not only our district and we should not make public policy judgements based only on figures attributable to our particular district. I appreciated his concern, because of what he had heard and learned about the population of the city of Portland. What he learned and heard, perhaps does point to the fact that our formula is not perfect. One thing, I have come to the concluding of, is lacking in the formula, is the focus on actual income levels of the people in particular segments of the state. Although property value is an indication of wealth, it is just one indication of wealth. Clearly there are other indications of wealth including income, which is truly missing in the current education finance formula.

I am sympathetic to the Cumberland Senators who spoke eloquently about their communities and their young peoples needs and Senator Pearson of Penobscot comments, worry and concern about that population. I will point out to Senator Pearson that the amendments for hardship would apply whatever decision we make. Whether we go with the alternative being pushed by the low receiving communities, whether we go with the compromise fifty fifty alternative or if we go for another alternative. Those hardship amendments could apply in any of those instances. Perhaps it is a good idea to go with a hardship amendment. Separate from that, I hope and pray, that you will think beyond the needs of your own Senate district and you will go with the compromise. Many of the communities that have low valuation and are high receiving would be deeply affected in a worse way if we do not go with that alternative. What troubles me more than anything, is I am afraid that many of those communities would not have the option of raising property taxes as Senator Theriault of Aroostook pointed, it is not an option before them. They may have to cut school days which we allowed when we passed the budget a couple of weeks ago. There will actually be lost instruction time for those children in the state and not lost instruction time for other children in communities where the valuation is higher and the income is higher. That is a noticable flaw in the funding formula. Today we are not going to change that complicated formula, but we need to do the least worse thing to the people of Maine. I believe strongly that the fifty fifty formula is the best we can get today for the people of the entire state. I urge you and Senator Pearson especially, who said his mind was still open, to go with that and keep that in mind. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator **BRANNIGAN** of Cumberland, to **ACCEPT** the Majority **OUGHT TO PASS** Report.

A Division has been requested.

Will all those in favor of the motion of Senator **BRANNIGAN** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS** Report, please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

13 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion of Senator **BRANNIGAN** of Cumberland, to **ACCEPT** the Majority **OUGHT TO PASS** Report **FAILED**.

The Minority **OUGHT TO PASS AS AMENDED** Report was **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-478) **READ** and **ADOPTED**.

Under suspension of the Rules, the Bill **READ A SECOND TIME**.

On motion by Senator **ESTES** of York, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (S-478).

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Estes.

Senator **ESTES:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I offer Senate Amendment "C" (S-524) to Committee Amendment "A" (S-478). There are two technical changes that have been recommended by the Department. The figure in the original Committee Report was 3.4% as part of the 50% of the fifty fifty plan should read 3.41%. There was also a word that has been struck out. A word titled unpaid that is inappropriate. This is just a clarification amendment.

On further motion by the same Senator, Senate Amendment "C" (S-524) to Committee Amendment "A" (S-478) **READ** and **ADOPTED**.

On motion by Senator **FOSTER** of Hancock, Senate Amendment "A" (S-519) to Committee Amendment "A" (S-478) **READ**.

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

Senator **PEARSON:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. I would request a brief explanation. I can not locate it in my book or my desk. I notice most everyone else can't either.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Under filing number (S-519) is the amendment which was proposed by the good Senator from Hancock, Senator Foster. I oppose the concept and the substance and would ask for a division on the pending motion. The amendment which is in my folder, but may not be in yours, would actually exempt from this those communities, the wealthier, highly valued communities, that are the low receivers under the current educational finance formula. I strongly oppose of the gentle ladies amendment and I hope that you vote with me in opposition to it.

Senator **KANY** of Kennebec requested a Division.

**THE PRESIDENT:** The Chair recognizes the Senator from Hancock, Senator Foster.

Senator **FOSTER:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. This amendment revises the distribution of the reduction of the general purpose aid for local schools for Fiscal Year 1991-92 by exempting those school administrative units that receive only the minimum subsidy. Why did I put this bill in? Because most of those units were more than willing to go with a percentage across the

board cut, which they thought was fair, equitable and consistent. I truly believe this is very wrong, when they do not even accept that they are going to get their minimum subsidy to go with a fifty fifty and take fifty thousand dollars away from these units that get a minimum anyway. I think it is wrong and I think this is the beginning of the backlash that you are going to find if you do not look at these towns that get nothing.

When you have someone living in a trailer in Brooklyn, Maine and someone living in a trailer somewhere else and their taxes go triple and quadruple, they get no school funding. It is wrong. I will take Brooklyn, Maine, a small community of 500 poor people. Under the 3.4 reduction, their reduction would have been \$576.00. Under this fifty fifty it is \$4,510.00 and they only get \$16,000.00 to begin with. Where are they going to come up with one quarter, they lose one quarter of their school funding. It is wrong. That is why I put that amendment on. They should be held harmless, when you've got towns like that. You have Brooksville, Maine, they only get \$19,000.00. That isn't even five percent. Under the 3.4 they could have taken care of \$650.00. We have gone fifty fifty and it is \$5,000.00, twenty five percent of their budget. It is wrong, Ladies and Gentlemen, and my amendment will hold them harmless and distribute that amount through the formula.

**THE PRESIDENT:** The Chair recognizes the Senator from Lincoln, Senator Holloway.

Senator **HOLLOWAY:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. I concur completely with what the Senator from Hancock, Senator Foster spoke about. This formula is so completely out of whack, I have to tell you that Boothbay Harbor, whom you consider to be a wealthy community, gets three percent of its funding from the state. Can you believe it and you want to cut it out. Boothbay Harbor just received a Federal Grant through FHA for their water quality system that needs to be remedied because they are income poor. They are one of the lowest incomes in the state of Maine. Yet, they are property rich. This is why it is so inequitable, I just can't wait for this to go through, because those petitions are going to be humming all over the state tomorrow. They are already distributed to some of these towns and some of the cities already have them in hand. You can bet those of us who are hurt the worst by this are going to be working on them as well. Thank you, Mr. President.

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator **FOSTER** of Hancock, to **ADOPT** Senate Amendment "A" (S-519) to Committee Amendment "A" (S-478).

A Division has been requested.

Will all those in favor of the motion of Senator **FOSTER** of Hancock to **ADOPT** Senate Amendment "A" (S-519) to Committee Amendment "A" (S-478), please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

11 Senators having voted in the affirmative and 22 Senators having voted in the negative, the motion of Senator **FOSTER** of Hancock to **ADOPT** Senate Amendment "A" (S-519) to Committee Amendment "A" (S-478) **FAILED**.

On motion by Senator **ESTES** of York, Senate Amendment "B" (S-522) to Committee Amendment "A" (S-478) **READ**.

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

Senator **PEARSON:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. As I understand this amendment, it says if money comes in it will create a fund or create a situation which \$4.5 million would go to revenue sharing and \$4.5 million would go to general purpose aid for education. If money comes in. The likelihood of that, well you can guess. Nevertheless, one never knows. I want everyone to understand that this is predicated on if money comes in. That is not likely to happen, but there is nothing wrong with having a plan for it. This plan is to give some money to each.

The original budget that we passed said it would all go, if there was a surplus, to revenue sharing. I think the reason we did that was there wasn't any Constitutional problems with that. There is not question about whether you can give it to revenue sharing or not. With general purpose aid to education you do get into whether it is equitably distributed around the state. We had no limit on the amount. I don't understand why there is a \$9 million dollar limit on this, but it doesn't matter because I don't think it will happen anyway.

The problem I have with this particular amendment, is in the attempt to give \$4.5 million dollars to general purpose aid for education, which of course is lottable, is you won't know the figure until after the Fiscal year has gone by, teachers have been laid off, programs eliminated, and we have done our final accounting which will take place sometime in July. Even if we do get money in for the next six months, over and above what we were going to have, you won't have that in your hand to give to the schools until after the Fiscal year is over. I don't see that it solves any problem with general purpose aid for education, except if some school systems wants to take the chance and borrow money in the anticipation of a surplus on a state level, it would be pretty risky. I don't think it is a bad amendment, but I also don't think it does much of anything either.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Estes.

Senator **ESTES:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. I would like to explain a little bit of the thinking behind this Bill. We had heard back before vacation of a possible surplus that was originally \$28 million dollars. Before vacation it was \$18 million dollars that would help to balance the FY 93 budget. That is a on paper surplus, agreeably and my feeling was not knowing where a reasonable amount of money would be available, to create a fund that would be a safety net to those districts most dramatically impacted by the Committee Report that we just passed with the fifty fifty cut.

I looked to see what might be available and feel that this may be creating a dollar gap in the FY 93 budget that we will be dealing when we get into the Second Regular Session to close any shortfall between projected revenues and state expenses. It is also my understanding that we will be talking about additional cuts to state government and we will be allowed to look at potential revenue sources. What I've intended to do here is to set up a fund that

would be up to \$4.5 million dollars to create this so called hardship fund. Over the next few weeks, as we begin the Second Regular Session, the Education Committee would be authorized to establish a definition of hardship and the criteria for adjusting a units foundation allocation and minimum subsidy. After consultation with the Department and with various educational constituencies that would have an interest in this fund. It may not be that this money will be available next month or not until we close the books in June, but at least we establish a fund in purpose and maybe we can come up with emergency funding as we will be considering additional supplemental spending when we deal with the FY 93 budget.

I think this is a real fairness issue. In light of the unanticipated cuts that are coming in the mid fiscal year for school districts and will cause a major disruption for some of those districts in the delivery of basic education programs and services. If we are able to get that money and districts can count on it coming in by the fourth quarter....

(Due to technical difficulties, remarks not recorded.)

Before we go to public hearings to find out how the funding of education for this current fiscal year has impacted districts and will continue to impact districts as we make these additional cuts, as well as give us a clearer picture as to what the impacts are going to be for FY 93. I think it is information we need and I urge your support for this amendment.

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

Senator **PEARSON:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. I don't know where the data collection portion on this is, but I do know that the good Senator from York, Senator Estes has said that if we have money we can save that this might go. This amendment does not say that. This amendment says any actual general fund revenues collected above budgeted general fund revenues is more money than we anticipated getting in. It isn't anything to do with cutting a program and then saving that money for education. As a matter of fact, if you did that, I would oppose the amendment. Absolutely oppose the amendment, because I don't think you should say that no matter what we find for money sources it is all going to go to my specific favorite program. Everybody should have a say in that. It just says if you collect more money it is going to go to education. I guess the question is mute anyway.

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

Senator **BRANNIGAN:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. My understanding is that this would form a hardship fund out of what we consider to be a hardship fund. We had intended, I believe, to relieve some of the hardships of revenue sharing has caused. This is dipping into that fund. I was hoping to be supportive of a hardship fund whichever way this went, especially if it went the way I felt was the best way to go. I knew there were two or three possibilities of ways that the hardship fund would have been formed. My understanding is that this hardship fund will be formed out of money that we hope might be put aside to help towns and cities that have been hard hit by revenue sharing cuts. That is not something I want to support. If there were some other way of putting

a hardship fund together, then I would be supportive. I have to vote against this and hope the rest of us do also.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **ESTES** of York to **ADOPT** Senate Amendment "B" (S-522) to Committee Amendment "A" (S-478).

The Chair ordered a Division.

Will all those in favor of the motion by Senator **ESTES** of York to **ADOPT** Senate Amendment "B" (S-522) to Committee Amendment "A" (S-478), please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

25 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion by Senator **ESTES** of York to **ADOPT** Senate Amendment "B" (S-522) to Committee Amendment "A" (S-478), **PREVAILED**.

Committee Amendment "A" (S-478) as Amended by Senate Amendments "B" (S-522) and "C" (S-524) thereto, **ADOPTED**.

Which was, **PASSED TO BE ENGROSSED**, as Amended.

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

On motion by Senator **ESTES** of York, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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

**COMMUNICATIONS**

The Following Communication:

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
AUGUSTA 04333**

January 7, 1992

Honorable Joy J. O'Brien  
Secretary of the Senate  
115th Legislature  
Augusta, Maine 04333  
Dear Madam Secretary:

House Paper 1184, Legislative Document 1727, Resolve, to Study the Feasibility of a Statewide Health Insurance Program (EMERGENCY), having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Resolve become a law notwithstanding the objections of the Governor?'

Seventy-three voted in favor and forty-nine against, and accordingly it was the vote of the House that the Resolve not become a law and the veto was sustained.

Respectfully,  
S/Edwin H. Pert  
Clerk of the House

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 to Correct An Engrossing Error in Public Law 1991, Chapter 622

S.P. 823 L.D. 1991

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with No Senators having voted in the negative, and 30 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:

**COMMUNICATIONS**

The Following Communication:

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
AUGUSTA 04333**

January 7, 1992

Honorable Joy J. O'Brien  
Secretary of the Senate  
115th Legislature  
Augusta, Maine 04333  
Dear Madam Secretary:

House Paper 588, Legislative Document 839, AN ACT to Ensure Early Intervention Services to Eligible Special Needs Children from 3 to 5 Years of Age, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

Fifty-eight voted in favor and eighty-three against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Respectfully,  
S/Edwin H. Pert  
Clerk of the House

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

The Following Communication:

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
AUGUSTA 04333**

January 7, 1992

Honorable Joy J. O'Brien  
Secretary of the Senate  
115th Legislature  
Augusta, Maine 04333  
Dear Madam Secretary:

House Paper 258, Legislative Document 349, AN ACT to Protect the Public from Unsafe Industrial and Commercial Facilities, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

Eighty-seven voted in favor and fifty-one against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Respectfully,  
S/Edwin H. Pert  
Clerk of the House

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

The Following Communication:

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
AUGUSTA 04333**

January 7, 1992

Honorable Joy J. O'Brien  
Secretary of the Senate  
115th Legislature  
Augusta, Maine 04333  
Dear Madam Secretary:

House Paper 1174, Legislative Document 1715, AN ACT to Establish State Selective Purchasing Standards, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

Eighty-nine voted in favor and fifty-four against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Respectfully,  
S/Edwin H. Pert  
Clerk of the House

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

The Following Communication:

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
AUGUSTA 04333**

January 7, 1992

Honorable Joy J. O'Brien  
Secretary of the Senate  
115th Legislature  
Augusta, Maine 04333  
Dear Madam Secretary:

House Paper 1304, Legislative Document 1886, AN ACT to Repeal the Laws Allowing the State to Participate in Lotto\*America, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

Twelve voted in favor and one hundred twenty-nine against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Respectfully,  
S/Edwin H. Pert  
Clerk of the House

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:

An Act to Determine the Distribution Method of the Supplemental Reduction to General Purpose Aid for Local Schools for Fiscal Year 1991-92

S.P. 789 L.D. 1986  
(S "B" S-522; S "C" S-523 to C "A" S-478)

Which was **PASSED TO BE ENACTED.**  
(See action later today)

**ORDERS OF THE DAY**

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

Bill "An Act to Expand the Eligibility of Certain Energy Standards"

S.P. 149 L.D. 361  
(C "A" S-34)

Tabled - January 7, 1992, by Senator **CLARK** of Cumberland

Pending - **CONSIDERATION**

(In Senate, January 7, 1992, Veto Message **READ** and **PLACED ON FILE.**

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

Senator **CAHILL:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. There were some questions raised earlier in the day about whether or not this veto message was correct. I spent a considerable amount of time, today, with a number of people, mostly lawyers, to try to go over the Bill and find out if there was an error in the veto message. Everyone that I have talked to seems to agree that at the very least the existing law and the Bill that is being vetoed are in conflict and very confusing. Although I am not a lawyer, these are the times I am glad I am not a lawyer. From my layperson's perspective, the reason I believe this veto should continue is the existing language that is in the engrossed copy of LD 361. This amends the current language to include a single family, owner built home. It is exempt from the section of the law that says certain energy standards must be adhered to. If you build your own home and do physically all the labor, you are exempt from these minimum energy standards, but if you subcontract, then you have to comply with these energy standards. For me, that in itself is enough to veto this Legislation or to sustain the veto of the Legislation.

I believe, in today's economy when people are doing their best to survive, to be restrictive and say that a residential house when your own money is being used, needs to comply to certain energy standards. I think this is government going one more step to far into people's personal affairs. For example, if a family decides they have \$30,000.00 to build a house, they may choose not to complete that house. They may choose to have a kitchen, bathroom and one or two bedrooms, very minimal living space until they can afford to spend more money to build that house. This Bill would be very difficult for a lot of people that wish to build their houses in stages or steps. While the veto message may be confusing to some, I believe it can be interpreted in several different ways. The various attorneys I have talked to, one interpreted it one way and the other interpreted the other, they

do agree that it is open to individual interpretation. For these reasons I would ask you to sustain the veto of the Governor.

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

Senator **TITCOMB:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. I would concur, to say the least, it is a confusing message. I would extend my message that we already have in place energy standards for building. Those energy standards, and the Bills that brought them forward, were heard before a Committee. They were voted on by these two Body's. They were enacted into the law. Those things are in place now.

Indeed it is an interpretation whether or not this expands on that law or whether it does not. The interpretation that I have received from the legal counsel I sought today said it did not expand. It is that argument that will not be resolved today. My question to you, would be first of all, do you believe that energy standards are appropriate? Somewhere in the past the Legislature have felt they are appropriate. Secondly, you have determine for yourself what a owner built home is. If the owner built home is that person who has \$30,000.00, and I can assure you if you have \$30,000.00 to build a home and you are going to build a kitchen, livingroom, and bathroom you are going to spend it all building it yourself. You won't have the money to contract out so you won't have to abide by building standards. If you are going to define a person as building his or her own home as someone who stands around and supervises a professional construction crew, then your dictionary looks different than mine. We were very discreet in determining that a self built home was a person that built it him or herself. Anything beyond that was done through a professional building trade where existing already accepted energy standards should applied by. I would ask you to please override the Governor's veto.

The President laid before the Senate the following:

"Shall this Bill become Law notwithstanding the objections of the Governor?"

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of the Bill.

A vote of No will be in favor of sustaining the veto of the Governor.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators **BALDACCI, BERUBE, BOST, BRANNIGAN, CLARK, CLEVELAND, CONLEY, DUTREMBLE, ESTES, ESTY, GAUVREAU, MATTHEWS, MCCORMICK, MILLS, PEARSON, TITCOMB, TWITCHELL, VOSE, THE PRESIDENT - CHARLES P. PRAY**

**NAYS:** Senators **CAHILL, CARPENTER, COLLINS, EMERSON, FOSTER, GILL, GOULD, HOLLOWAY, LUDWIG, RICH, SUMMERS, THERIAULT, WEBSTER**

**ABSENT:** Senators **BRAWN, BUSTIN, KANY**



19 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 3 Senators being absent, and 19 being less than two-thirds of the membership present and voting, it was the vote of the Senate that the veto of the Governor be **SUSTAINED**.

The Secretary has so informed the Speaker of the House.

Senator **DUTREMBLE** of York, having voted on the prevailing side, moved that the Senate **RECONSIDER** its action whereby it **PASSED TO BE ENACTED**:

An Act to Determine the Distribution Method of the Supplemental Reduction to General Purpose Aid for Local Schools for Fiscal Year 1991-92

S.P. 789 L.D. 1986  
(S "B" S-522; S "C"  
S-523 to C "A"  
S-478)

The same Senator requested a Division.

On motion by Senator **FOSTER** of Hancock, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

Senate at Ease  
Senate called to order by the President.

**THE PRESIDENT:** The pending question before the Senate is **ENACTMENT**.

A vote of Yes will be in favor of **ENACTMENT**.

A vote of No will be opposed.

Is the Senate ready for the question?

Senator **CAHILL** of Sagadahoc who would have voted **NAY** requested and received Leave of the Senate to pair her vote with Senator **KANY** of Kennebec who would have voted **YEA**.

Senator **GILL** of Cumberland who have voted **NAY** requested and received Leave of the Senate to pair her vote with Senator **BUSTIN** of Kennebec who would have voted **YEA**.

The President who would have voted **YEA** requested and received Leave of the Senate to pair his vote with Senator **BRAWN** of Knox who would have voted **NAY**.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators **BERUBE**, **BOST**, **CARPENTER**, **CLEVELAND**, **COLLINS**, **EMERSON**, **GAUVREAU**, **GOULD**, **LUDWIG**, **MATTHEWS**, **MCCORMICK**, **MILLS**, **PEARSON**, **THERIAULT**, **TITCOMB**, **TWITCHELL**, **VOSE**, **WEBSTER**

**NAYS:** Senators **BALDACCI**, **BRANNIGAN**, **CLARK**, **CONLEY**, **DUTREMBLE**, **ESTES**, **ESTY**, **FOSTER**, **HOLLOWAY**, **RICH**, **SUMMERS**

**ABSENT:** Senators None

18 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 6 Senators having paired their votes and No Senators being absent, the Bill 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:

**COMMUNICATIONS**

The Following Communication:

**STATE OF MAINE**  
**HOUSE OF REPRESENTATIVES**  
**AUGUSTA 04333**

January 7, 1992

Honorable Joy J. O'Brien  
Secretary of the Senate  
115th Legislature  
Augusta, Maine 04333

Dear Madam Secretary:

House Paper 1210, Legislative Document 1768, AN ACT to Reduce the Administrative Cost of State Government by Abolishing the Division of Community Services and Transferring its Essential Functions, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

Eighty-nine voted in favor and fifty-seven against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Respectfully,  
S/Edwin H. Pert  
Clerk of the House

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

At this point, a message was received from the House of Representatives, borne by Representative **MAYO** of Thomaston, informing the Senate that the House had transacted all business before it and was ready to Adjourn, Without Day.

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

**ORDERS**

On motion by Senator **DUTREMBLE** of York the following Order:

**ORDERED**, that a message be sent to the House of Representatives informing that Body that the Senate has transacted all business which has come before it and is ready to Adjourn Without Day.

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

Subsequently, Senator **DUTREMBLE** of York reported he had delivered the message with which he was charged.

On motion by Senator **CLARK** of Cumberland the following Order:

**ORDERED**, that a message be sent to Governor John R. McKernan, Jr., informing him that the Senate has transacted all business which has come before it and is ready to Adjourn Without Day.

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

Subsequently, Senator **CLARK** of Cumberland reported she had delivered the message with which she was charged.

Off Record Remarks

On motion by Senator **EMERSON** of Penobscot at 5:52 p.m. on Tuesday, January 7, 1992, the Honorable **CHARLES P. PRAY**, President of the Senate, declared the Second Special Session of the 115th Legislature, **ADJOURNED SINE DIE.**