

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME VI

SECOND REGULAR SESSION

House of Representatives
March 10, 1992 to March 31, 1992

Senate
January 8, 1992 to March 9, 1992

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

In Senate Chamber

Thursday

January 23, 1992

Senate called to Order by the President Pro Tem,
Nancy Randall Clark of Cumberland.

Prayer by the Honorable Donald F. Collins of
Aroostook.

SENATOR DONALD F. COLLINS: Let us be in the
spirit of prayer. Omnipotent and most merciful God,
grant that we may diligently seek, ardently desire,
prudently examine, truly know, and perfectly
accomplish those things which are pleasing unto
thee. Amen.

Reading of the Journal of Tuesday, January 21, 1992.

Out of order and under suspension of the Rules,
on motion by Senator **DUTREMBLE** of York, the following
Joint Order:

S.P. 865

ORDERED, the House concurring, that when the
House and Senate adjourn, they do so until Tuesday,
January 28, 1992, at four o'clock in the afternoon.

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

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Make Supplemental Appropriations
and Allocations for the Expenditures of State
Government for the Fiscal Years ending June 30, 1992
and June 30, 1993 and to Change Certain Provisions of
the Laws" (Emergency)

H.P. 1547 L.D. 2185

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

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

Bill "An Act Authorizing the Risk Management
Division to Provide Insurance to Certain Group Homes
for Children and for Persons with Mental Retardation"

H.P. 1542 L.D. 2175

Bill "An Act to Authorize More Accessible and
Affordable Medical Insurance for Small Employers"

H.P. 1546 L.D. 2179

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

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

Bill "An Act to Authorize the Granting of
Administrative Good Time to Those Inmates Who Are

Aggressively Pursuing High School Equivalency
Certificates or the Achievement of Functional
Literacy"

H.P. 1544 L.D. 2177

Comes from the House referred to the Joint Select
Committee on **CORRECTIONS** and **ORDERED PRINTED**.

Which was referred to the Joint Select Committee
on **CORRECTIONS** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Protect School Students from
Potential Harm"

H.P. 1541 L.D. 2174

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

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

Bill "An Act to Clarify the Requirements for
Providing Accessible Housing"

H.P. 1540 L.D. 2173

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

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

Bill "An Act Concerning the Early Establishment
of Counseling for Children in Foster Care" (Emergency)

H.P. 1543 L.D. 2176

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

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

Bill "An Act to Require Tentative Agreements to
Be Considered a Part of the Arbitration Panel's
Binding Recommendations"

H.P. 1545 L.D. 2178

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

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

COMMUNICATIONS

The Following Communication:

ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON AGING, RETIREMENT AND VETERANS

January 21, 1992

The Honorable Charles P. Pray
President of the Senate of Maine
State House
Augusta, Maine 04333
Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section
151, and with Joint Rule 38 of the 115th Maine
Legislature, the Joint Standing Committee on Aging,
Retirement and Veterans has had under consideration
the nomination of William Bullock of Orrington, for
appointment to the Maine State Retirement Board of
Trustees.

After public hearing and discussion on this
nomination, the Committee proceeded to vote on the
motion to recommend to the Senate that this
nomination be confirmed. The Committee Clerk called
the roll with the following result:

YEAS: Senators 1
 Representatives 9
 NAYS: 0
 ABSENT: 3 Sen. Clark of
 Cumberland, Sen. Webster of
 Franklin, Rep. O'Dea of Orono

Ten members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of William Bullock of Orrington, for appointment to the Maine State Retirement Board of Trustees be confirmed.

Sincerely,

S/Senator Dale McCormick S/Rep. John Jalbert
 Senate Chair House Chair

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

THE PRESIDENT PRO TEM: The Joint Standing Committee on Aging, Retirement and Veterans has recommended the nomination of William Bullock of Orrington be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on Aging, Retirement and Veterans be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 115th Legislature, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None
 NAYS: Senators BERUBE, BOST, BRANNIGAN,
 BRAWN, BUSTIN, CAHILL, CARPENTER,
 CLEVELAND, COLLINS, CONLEY, DUTREMBLE,
 EMERSON, ESTES, ESTY, FOSTER, GAUVREAU,
 GILL, GOULD, HOLLOWAY, KANY, LUDWIG,
 PEARSON, RICH, SUMMERS, THERIAULT,
 TITCOMB, VOSE, WEBSTER, THE PRESIDENT
 PRO TEM - NANCY RANDALL CLARK

ABSENT: Senators BALDACCI, MATTHEWS, MCCORMICK,
 MILLS, PRAY, TWITCHELL

No Senators having voted in the affirmative and 29 Senators having voted in the negative, with 6 Senators being absent, and none being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of William Bullock, was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

The Following Communication:
**ONE HUNDRED AND FIFTEENTH LEGISLATURE
 COMMITTEE ON FISHERIES AND WILDLIFE**
 January 22, 1992

The Honorable Charles P. Pray
 President of the Senate of Maine
 State House
 Augusta, Maine 04333
 Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 115th Maine Legislature, the Joint Standing Committee on Fisheries and Wildlife has had under consideration

the nomination of Joseph P. Robbins of Machias, for appointment to the Inland Fisheries and Wildlife Advisory Council.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Senators 2
 Representatives 9
 NAYS: 0
 ABSENT: 2 Sen. Twitchell of Oxford,
 Rep. Jacques of Waterville

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Joseph P. Robbins of Machias, for appointment to the Inland Fisheries and Wildlife Advisory Council be confirmed.

Sincerely,

S/Sen Michael D. Pearson S/Rep. Dorothy A. Rotondi
 Senate Chair House Chair

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

THE PRESIDENT PRO TEM: The Joint Standing Committee on Fisheries and Wildlife has recommended the nomination of Joseph P. Robbins of Machias be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on Fisheries and Wildlife be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 115th Legislature, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None
 NAYS: Senators BERUBE, BOST, BRANNIGAN,
 BRAWN, BUSTIN, CAHILL, CARPENTER,
 CLEVELAND, COLLINS, CONLEY, DUTREMBLE,
 EMERSON, ESTES, ESTY, FOSTER, GAUVREAU,
 GILL, GOULD, HOLLOWAY, KANY, LUDWIG,
 PEARSON, RICH, SUMMERS, THERIAULT,
 TITCOMB, VOSE, WEBSTER, THE PRESIDENT
 PRO TEM - NANCY RANDALL CLARK

ABSENT: Senators BALDACCI, MATTHEWS, MCCORMICK,
 MILLS, PRAY, TWITCHELL

No Senators having voted in the affirmative and 29 Senators having voted in the negative, with 6 Senators being absent, and none being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of Joseph P. Robbins, was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

SENATE PAPERS

Bill "An Act to Provide Consumer Information for Purchasers of Insurance"

S.P. 869 L.D. 2216

Presented by Senator **CLARK** of Cumberland
 Cosponsored by Representative **CONSTANTINE** of Bar
 Harbor and Representative **CARLETON** of Wells
 Approved for introduction by a majority of the

Legislative Council pursuant to Joint Rule 26.
Which was referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED**.
Sent down for concurrence.

Bill "An Act to Exempt Novelty Beverage Containers from the Deposit Laws"
S.P. 867 L.D. 2214
Presented by Senator **DUTREMBLE** of York
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Which was referred to the Committee on **BUSINESS LEGISLATION** and **ORDERED PRINTED**.
Sent down for concurrence.

Bill "An Act to Protect Students Appointed to Special Select Committees"
S.P. 862 L.D. 2206
Presented by Senator **ESTY** of Cumberland
Cosponsored by Representative **LEMKE** of Westbrook
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Which was referred to the Committee on **EDUCATION** and **ORDERED PRINTED**.
Sent down for concurrence.

Bill "An Act to Amend Child Labor Laws"
S.P. 866 L.D. 2213
Presented by Senator **ESTY** of Cumberland
Cosponsored by Representative **PINEAU** of Jay
Submitted by the Department of the Attorney General pursuant to Joint Rule 24.
Which was referred to the Committee on **LABOR** and **ORDERED PRINTED**.
Sent down for concurrence.

Bill "An Act Regarding Retail Liquor Sales"
S.P. 863 L.D. 2207
Presented by Senator **SUMMERS** of Cumberland
Cosponsored by Representative **PENDLETON** of Scarborough, Representative **PENDEXTER** of Scarborough and Senator **MILLS** of Oxford
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Which was referred to the Committee on **LEGAL AFFAIRS** and **ORDERED PRINTED**.
Sent down for concurrence.

Bill "An Act to Repeal the Laws Governing State Investments in Companies Doing Business in South Africa"
S.P. 868 L.D. 2215
Presented by Senator **BERUBE** of Androscoggin
Cosponsored by Senator **CAHILL** of Sagadahoc
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Which was referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**.
Sent down for concurrence.

Bill "An Act Concerning Transfer of Real Estate between Family Members"
S.P. 861 L.D. 2205
Presented by Senator **WEBSTER** of Franklin

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Bill "An Act to Amend the Laws Related to Property Tax Abatements"

S.P. 864 L.D. 2208
Presented by Senator **ESTY** of Cumberland
Cosponsored by Representative **WHITCOMB** of Waldo and Senator **BOST** of Penobscot
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Which were referred to the Committee on **TAXATION** and **ORDERED PRINTED**.
Sent down for concurrence.

Bill "An Act to Amend the Mars Hill Utility District"
S.P. 870 L.D. 2217
Presented by Senator **LUDWIG** of Aroostook
Cosponsored by Representative **MAHANY** of Easton
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Which was referred to the Committee on **UTILITIES** and **ORDERED PRINTED**.
Sent down for concurrence.

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

Off Record Remarks

ORDERS OF THE DAY

The President Pro Tem laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act to Reduce Administrative Costs of State Government and to Clarify Previous Legislative Reductions in State Government Administration" (Emergency)

H.P. 1539 L.D. 2172
Tabled - January 21, 1992 by Senator **DUTREMBLE** of York.

Pending - **FURTHER CONSIDERATION** (Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and **ORDERED PRINTED**.)

(In House, January 16, 1992, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-865)**, without reference to a Committee and **ORDERED PRINTED**.)

(In Senate, January 16, 1992, referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and **ORDERED PRINTED in NON-CONCURRENCE**.)

(In House, January 16, 1992, that Body **ADHERED**.)
Senator **DUTREMBLE** of York moved that the Senate **RECEDE** and **CONCUR**.

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

Senator **CAHILL:** Thank you Madam President. Ladies and Gentlemen of the Senate. Before we vote to recede and concur today, I would like to make a couple of comments about this Legislation. There has been a lot written in various newspapers about this and I think some wrong conclusions drawn. I'd like to, just for the record, make some comments.

Last week when the Senate Republicans attempted to have this Bill referred to the Committee on Appropriations and Financial Affairs, it was not

because we oppose the Legislation or the concept of the Legislation, but it was because of an amendment that was put on the Legislation that we felt took away some of the influence of the Legislation. The amendment I am referring to is H-865 and it was the feeling of a number of the members of our caucus that this amendment would not make the review or the ten percent administrative costs report back to the Appropriations Committee comprehensive. In other words, it would not include all agencies and departments within state government.

Over the weekend there was another amendment worked on and we had hoped to add that amendment on, but the Bill comes back to us in such a posture that we are not able to do anything but recede and concur in order to keep that Bill alive. I believe it is, certainly a majority or Republican Senator's wish in this Senate Chamber, to keep that Bill alive. With the understanding that another amendment is going to be offered in another place today that would hopefully correct that and hopefully would have a majority of the support of the members of the entire Legislature. With that understanding, it is my hope that everyone will go along today with the motion to recede and concur.

On motion by Senator DUTREMBLE of York, the Senate RECEDED and CONCURRED.

Under suspension of the Rules, ordered sent forthwith to the Engrossing Department.

COMMITTEE REPORTS

**House
Ought Not to Pass**

The following Ought Not to Pass Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

From the Committee on HUMAN RESOURCES Bill "An Act to Establish Minimum Standards for Special Relief for Border Hospitals"

H.P. 1125 L.D. 1650

From the Committee on MARINE RESOURCES Bill "An Act Concerning the Scallop Dragging Limit"

H.P. 494 L.D. 688

From the Committee on STATE & LOCAL GOVERNMENT RESOLUTION, Proposing an Amendment to the Constitution of Maine to Ensure State Recognition of the Rights of Victims of Crime

H.P. 992 L.D. 1441

Change of Reference

The Committee on APPROPRIATIONS & FINANCIAL AFFAIRS on Bill "An Act Concerning Railroad Personnel"

H.P. 1309 L.D. 1891

Reported that the same be REFERRED to the Committee on BUSINESS LEGISLATION.

Comes from the House with the Report READ and ACCEPTED and the Bill REFERRED to the Committee on BUSINESS LEGISLATION.

Which Report was READ and ACCEPTED, in concurrence.

The Bill REFERRED to the Committee on BUSINESS LEGISLATION, in concurrence.

**Senate
Leave to Withdraw**

The following Leave to Withdraw Report shall be placed in the Legislative Files without further

action pursuant to Rule 15 of the Joint Rules:

Reported by Senator TITCOMB for the Committee on ENERGY & NATURAL RESOURCES Bill "An Act Concerning Continuous Emission Monitoring Devices"

S.P. 817 L.D. 2016

Change of Reference

Senator FOSTER for the Committee on APPROPRIATIONS & FINANCIAL AFFAIRS on Bill "An Act to Ensure Adequate Resources for Energy Assistance Programs for Low-income Households" (Emergency)

S.P. 319 L.D. 857

Reported that the same be REFERRED to the Committee on UTILITIES.

Which Report was READ and ACCEPTED.

The Bill REFERRED to the Committee on UTILITIES.

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

Ought to Pass As Amended

Senator GAUVREAU for the Committee on JUDICIARY on Bill "An Act to Require Certain Disclosures in Adoptions and to Provide Additional Protective Services for Children"

S.P. 656 L.D. 1732

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-526).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-526) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on TRANSPORTATION on Bill "An Act to Modify Weight Limits for Farm Trucks"

S.P. 189 L.D. 498

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-525).

Signed:

Senators:

TWITCHELL of Oxford

MILLS of Oxford

GOULD of Waldo

R

Representatives:

STROUT of Corinth

BOUTILIER of Lewiston

MARTIN of Van Buren

TAMMARO of Baileyville

RICKER of Lewiston

HALE of Sanford

The Minority of the same Committee on the same subject reported that the same Ought Not to Pass.

Signed:

Representatives:

MACOMBER of South

Portland

HUSSEY of Milo

SMALL of Bath

BAILEY of Farmington

Which Reports were READ.

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

Senator TITCOMB: Thank you very much Madam President. Ladies and Gentlemen of the Senate. I would just like to make a couple of very brief

comments concerning the potential implications of this piece of legislation and ask when you vote that you do think about this.

What this Bill does is increase the weight that is allowed on farm vehicles on our main roads. This seems like a Bill that someone like myself would not be overly concerned about, but as someone who is very concerned about the implications of cost we may be passing on to our towns when we are not really thinking about what we are doing. I think it is something we do need to think about. What this Bill would allow is a significant increase in waste on farm trucks. I am the first person to support farming interests. I have done it in the past and I will continue to do it in the future. This is one of only two Bills that will come to us that proposes to increase the weight on trucks. The next one that will come to us will probably be next week and it will be sand and gravel trucks. What happens when we don't have money to repair our roads and our local communities are asked to absorb the cost of those repairs at a time when our local communities and our state do not have the money to do that? I would encourage that we reject the majority report and ask you to accept the minority report which would be an Ought Not to Pass.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Arostook, Senator Theriault.

Senator THERIAULT: Thank you Madam President. Ladies and Gentlemen of the Senate. Several years ago there was a special provision put into law for loggers which would allow loggers to haul 10,000 pounds more than another individual who had a similar vehicle hauling another type of load, who would not have that privilege. The reason at the time that this was given to the loggers was that it is extremely difficult for loggers to estimate the weight that they have on their vehicles due to various reasons. The logs might be from a swamp area or might be from a hilly area, a dry area, or it might be hardwood or softwood. There were a number of reasons why we did this for loggers. The same arguments that were used back then to allow loggers to haul that extra weight applies today to farmers.

Back when the original law was changed it did not apply, because back then farmers used to haul their potatoes in barrels and they knew how much that weighed. Now farmers haul their potatoes bulk. It is very difficult for them to determine what the exact weight is. For example, potatoes that are grown on the high ground, weigh less than those that are grown in wet ground. The cleanliness of the potatoes has something to do with that. The mud on trucks that might accumulate while they are going through the fields getting their potatoes would also add to the weight. The farmer is really left with only one variable. In order to be able to carry a heavier net weight on the vehicle, they can have a more flimsy vehicle. In other words, the safer the vehicle is the heavier it is. Consequently, if they have that type of vehicle on the road they can carry less weight. The farmers are very concerned about this safety factor and do not want to put trucks on the roads that are not safe. Consequently, they have good strong trucks but this is at the cost of being able to haul a bigger weight.

It has already been said here this evening that this Bill increases the gross weight to vehicles, that is not so. What happens is, when the farm truck is registered next to a log truck, they must register

both trucks for the same amount of weight which is 75,900. Both pay the same fee for registration, both have to have the same inspection, both follow the same rules, except a farm truck can not haul as much as a logging truck even though they are registered for the same. They can haul only 6 to 6,000 pounds, whereas, a forest product truck can haul 76,000 pounds. To me this is very unfair, it is discrimination and I think we should allow our farmers the same privilege that loggers have. I urge you to allow this Bill to go on. Thank you.

On motion by Senator **DUTREMBLE** of York, Tabled 1 Legislative Day, pending **ACCEPTANCE OF EITHER REPORT.**

SECOND READERS

The Committee on Bills in the Second Reading reported the following:

Senate As Amended

Bill "An Act to Transfer Responsibility for the Regulation of Home Service Contracts from the Real Estate Commission to the Bureau of Insurance"

S.P. 688 L.D. 1829
(C "A" S-524)

Which was **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, as Amended.**

Sent down for concurrence.

ORDERS OF THE DAY

The President Pro Tem laid before the Senate the Tabled and Specially Assigned matter:

Resolve, to Revise the Charter of the Van Buren Hospital District (Emergency)

S.P. 858 L.D. 2182

Tabled - January 21, 1992 by Senator **DUTREMBLE** of York.

Pending - **REFERENCE**

(Committee on **LEGAL AFFAIRS** suggested and **ORDERED PRINTED.**)

On motion by Senator **DUTREMBLE** of York, Tabled 1 Legislative Day, pending **REFERENCE.**

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

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on **STATE & LOCAL GOVERNMENT** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Provide State Funding of any Mandate Imposed on Municipalities

S.P. 42 L.D. 66

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "B" (S-527).**

Signed:

Senators:

BERUBE of Androscoggin

EMERSON of Penobscot

Representatives:

NASH of Camden

LOOK of Jonesboro

KERR of Old Orchard Beach

SAVAGE of Union

GRAY of Sedgwick

WATERMAN of Buxton

KILKELLY of Wiscasset

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass.**

Signed:
Senator:
BUSTIN of Kennebec
Representatives:
HEESCHEN of Wilton
JOSEPH of Waterville
LARRIVEE of Gorham

Which Reports were **READ**.
On motion by Senator **DUTREMBLE** of York, Tabled
Unassigned, pending **ACCEPTANCE OF EITHER REPORT**.

Divided Report

The Majority of the Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act to Create a State Municipalities Investment Pool"

S.P. 516 L.D. 1377

Reported that the same **Ought to Pass as Amended**
by **Committee Amendment "A" (S-528)**.

Signed:
Senators:
BERUBE of Androscoggin
BUSTIN of Kennebec
Representatives:
LARRIVEE of Gorham
HEESCHEN of Wilton
KILKELLY of Wiscasset
WATERMAN of Buxton
KERR of Old Orchard Beach
GRAY of Sedgwick
JOSEPH of Waterville

The Minority of the same Committee on the same
subject reported that the same **Ought Not to Pass**.

Signed:
Senator:
EMERSON of Penobscot
Representatives:
NASH of Camden
LOOK of Jonesboro
SAVAGE of Union

Which Reports were **READ**.
On motion by Senator **DUTREMBLE** of York, Tabled 1
Legislative Day, pending **ACCEPTANCE OF EITHER REPORT**.

Senator **CONLEY** of Cumberland was granted
unanimous consent to address the Senate on the Record.

Senator **CONLEY**: Thank you Madam President.
Ladies and Gentlemen of the Senate. I don't take
lightly to having things photocopied and handing them
out for people to read. You probably won't find many
things in this Chamber handed out at the courtesy of
Senator Conley, it is just not something I do very
often. In reading my local newspaper last weekend,
an article which I assumed appeared in most of yours,
I had photocopied and handed out this article about
DEEP. The reason I had that handed out is because I
now know, now that I have seen this in print, any
doubt I ever had that the bureaucracy is spending
most of their days laughing at us, has been totally
extinguished. If there is any doubt in anybody else's
mind, that the people in this state don't think we
can control the bureaucracy around here then this
article ought to extinguish that.

I am sure people here remember the debate we had
last session regarding the DEEP program and the
problems which our constituents were having with that
program. If it was just me, I could see they would
say there's that bomb thrower from Portland, he's
having troubles I understand that. When people like

Senator Bost, Senator Foster, and others around this
Chamber from different districts, get the same
complaints, all of a sudden people start to get the
message there's a problem out there. What happened
here is last year we told DEEP, listen you're bilking
people out of money by sending them to counseling
when they don't need it. You're holding up their
licenses and people are making money off of people's
drinking problems. We don't want that. We think you
should do something about that. Because they didn't
do anything about it, we finally had to pass a law to
make them give their license back, you are not going
to be able to refer them to this counseling anymore.
What do they do in response to our passing a law
during this last budget crisis? During the
Appropriations process, which was bad enough, they
sneak in there and now they have managed to get a law
passed, which if you read this article it's pretty
frightening I would suggest. People who are
convicted, first time OUI offenders who have a test
between .08 and .15, they used to have to go to the
DEEP program take four classes, convince someone they
didn't have a drinking problem and they could get
back on the road. Well what do they do now, they
still pay their \$105 though God forbid we wouldn't
give the money to them, they get a questionnaire back
in the mail. In that questionnaire you fill it out
and you can confess to having the biggest drinking
problem that anyone in the state would ever have and
you still get your license back with a letter saying
we think you have a problem, you might want to think
about getting some counselling, but you still get
your license back.

If you are at that .15 cut off, it's an arbitrary
number, and anybody who knows anything about these
tests will tell you its arbitrary, you are
automatically referred to the weekend program where
you have a chance to sit around in a circle, hold
hands with other people who have tested .15 and
above, and talk about your drinking problem. For
that privilege you pay \$500 or something in that
ballpark. We have removed mandatory jail because of
the economic crisis and the Maine Times, a fine
newspaper in this state, has done an article on how
we ought to consider our position on that. I may not
agree with them, I may not agree with people who
believe in mandatory sentencing, but what we have
done and given to this DEEP program is beyond
belief. I intend, after now having read this
article, to put a Bill before the Counsel, to abolish
them because they can't do anything right. I welcome
anybody who would join me in supporting that effort.

Senator **BUSTIN** of Kennebec was granted unanimous
consent to address the Senate on the Record.

Senator **BUSTIN**: Thank you Madam President.
Ladies and Gentlemen of the Senate. I rise, not
particularly to defend or to support the position of
the good Senator from Cumberland, Senator Conley, but
to do some kind of an explanation and in some ways to
support his arguments on the fee question. Right now
up in Audit and Program Review, we are reviewing
DEEP, only now it is called STOP. It has something
to do with treatment of OUI program. I don't like
the acronym at all, it doesn't make any sense to me,
but that is what it is called. That is for that
second offender program or what we call the WHIP
program and it is close to \$500. The reason they cut
out the first offender program is they found it

really wasn't cost effective. It wasn't doing what they thought it should do. You could catch as many people into treatment with putting all the ones that are 1.5 and above into the weekend program. There is a technical problem about that and I think you really ought to listen because you are going to hear more about it later on in the session. It has to do with whether you use the measurement tool of .15 or you use the measurement tool of a nationally accredited test that would find out whether, in fact, you were in trouble with alcohol even if you were under .15. The problem with that is you do catch a lot of others and it cost a lot more. There are lots of problems going on here. The biggest one, and I frankly am probably chapping at the bit because I just lost a position up in the Sub Committee and Audit, that wanted to take those fees for the second offender program, which by the way are \$108 more than it costs to run the program and that \$108 more is in fact sliding back over into the new office of Substance Abuse which I have to admit to you I help set up with LD 175 a year or so ago. I don't think that is appropriate. I agree with the good Senator from Cumberland, Senator Conley that in fact we should be having those fees, if you will, dedicated but not dedicated. We have language in the statute, for instance in Fisheries and Wildlife, that says all fees generated shall go to the program it is generated for and if you don't use it, it goes back to the general fund. It's not dedicated but it is general fund monies, nonetheless you get the level of funding that you raise. I think that is the important question that is being raised here. If you are charging people almost \$500 to attend a weekend program in order to get their license back, then you ought to use that money to run that program and not slide it over to run a program that those fees were never designed to run and never had been able to accessed before except we moved the DEEP program into the Office of Substance Abuse. I believe Senator Conley is correct in what he says about the fees. I don't agree with him with the first and second offender program. I think we can do as much for the second offender program if we use the national assessment tool.

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

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

Senator **PEARSON**: Thank you Madam President. Ladies and Gentlemen of the Senate. A number of years ago in another place in this building, I along with a number of other people here, from time to time and since I have also been in this Chamber, have seen things come across our desk we thought were wasteful. Usually in the form of excessive amount of mail or envelopes. For example, today I got this envelope with this in it and we have complained about that on a number of occasions. That is not anything unusual for us to do. We have cautioned the Department of Education. We have cautioned the Department of Environmental Protection not to overdo this mailing and circulating of things in inappropriate envelopes and duplicate copies here and to the home. I say that, because I want to introduce something that makes me a little angry.

I used to live in Old Town, I now live in Enfield and also serve in this Chamber. Sometimes if mailing lists are not cleaned up, I get it in Old Town, I get it in Enfield, and I get it here in the Chamber. In the Appropriations Committee from time to time, and I suspect probably every other committee in this Legislature, people have brought this subject up. Why is there so much of this printed material going around when we have a budget crisis? That particular subject was brought up by the good Senator from Hancock, Senator Foster in Appropriations and a number of other people in Appropriations to the University of Maine.

I am an alumni of University of Maine. Most of what I get, I get as an alumni and then I get another copy as a Legislator. I get it in Old Town, Enfield, in the State House, and I get it as an alumni. To that end, the University of Maine Board of Trustees and Administration has been asked a number of times to watch their mailings it cost a lot of money.

I'd like to read you a memo dated December 17, 1991 to Vice Presidents and other people at the University level from John Hitt the interim President at Orono. It says Chancellor Woodbury has requested we suspend the mailing or other distribution of all printed materials to Legislators. Apparently, the arrival of even the best, most well conceived and informative brochure or newsletter on occasions rath indignation at our waste of resources during this budget crisis. Until further notice let's not send any printed materials to Legislators, unless of course, they request them. Please notify the units reporting to you on this request. Thank you for your cooperation.

I'd like to say to them, You just don't get it. You just don't get it. We are saying to you we would prefer it if you would look over what you send out to eliminate waste. They are saying in their letter to their people, don't send it to Legislators so they won't know. That's shameful, they can do better than that.

Senate at Ease
Senate called to order by the President Pro Tem.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Authorize the Construction of Two Veterans' Homes in Eastern and Western Maine" (Emergency)

H.P. 1553 L.D. 2191

Bill "An Act Related to Ordinary Death Benefits under the Maine State Retirement System as It Affects Terminally Ill Members"

H.P. 1554 L.D. 2192

Comes from the House referred to the Committee on **AGING, RETIREMENT & VETERANS** and **ORDERED PRINTED**.

Which were referred to the Committee on **AGING, RETIREMENT & VETERANS** and **ORDERED PRINTED**, in concurrence.

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Establish a Controlled Medication Program in the Harness Racing Industry"

H.P. 1548 L.D. 2186

Bill "An Act to Permit Pari-mutual Pools"

H.P. 1549 L.D. 2187

Bill "An Act to Strengthen the Maine Weights and Measures Law"

H.P. 1558 L.D. 2196

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

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

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Create the Maine Budget and Economic Stabilization Fund"

H.P. 1564 L.D. 2202

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

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

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Ensure Complete Recovery for Injuries to Children"

H.P. 1551 L.D. 2189

Bill "An Act to Revise the Basis for Semiannual Assessment on Financial Institutions"

H.P. 1557 L.D. 2195

Bill "An Act to Improve Disclosures of Automated Teller Machine Transactions"

H.P. 1559 L.D. 2197

Bill "An Act to Amend the Laws Concerning Continuity of Health Insurance"

H.P. 1565 L.D. 2203

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

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

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Regulate Home Repair by Transient Contractors"

H.P. 1566 L.D. 2204

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

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

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Discourage Illegal Dumping of Waste"

H.P. 1560 L.D. 2198

Bill "An Act to Strengthen Compliance with Land Use Laws in the Unorganized Territories"

H.P. 1563 L.D. 2201

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

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

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Institute a Pheasant Stamp Program for Cumberland and York Counties"

H.P. 1555 L.D. 2193

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

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

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Correct an Omission from the Recodification of Title 30" (Emergency)

H.P. 1568 L.D. 2210

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

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

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Define Conflict of Interest for Probate Judges"

H.P. 1552 L.D. 2190

Bill "An Act to Clarify the Law Regarding the Power of Sale Foreclosure Laws"

H.P. 1556 L.D. 2194

Bill "An Act Concerning Juvenile Offenders"

H.P. 1567 L.D. 2209

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

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

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Prevent the Poaching of Aquaculture Products" (Emergency)

H.P. 1562 L.D. 2200

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

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

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Extend the Reporting Date of the Commission to Study State Permitting and Reporting Requirements" (Emergency)
H.P. 1550 L.D. 2188

Bill "An Act to Clarify Responsibility for Workers' Compensation Coverage for Town Forest Fire Wardens and Laborers Hired for Forest Fire-fighting Activities" (Emergency)
H.P. 1561 L.D. 2199

Bill "An Act to Amend the State's Unclaimed Property Act"
H.P. 1569 L.D. 2211

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

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

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Amend the Laws Governing the State Claims Commission"
H.P. 1570 L.D. 2212

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

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

Senate at Ease

Senate called to order by the President Pro Tem.

Senator **GAUVREAU** of Androscoggin was granted unanimous consent to address the Senate on the Record.

Senator **GAUVREAU**: Thank you Madam President. Ladies and Gentlemen of the Senate. The brief and spirited colloquy which preceded the last few items of Senate business has prompted me to rise this afternoon. As you recall our friend and colleague from Cumberland, Senator Conley, spoke with great compassion and emotion about the apparent inanities of mandating participation in another counseling program for all first time OUI offenders. He made reference to an article which appeared in this weeks edition of the Maine Times and was circulated to all of us. I happen to peruse the article to determine it's content and there are some comments which are set forth in the article which I would like to respond to.

The article was written by Christine Kukka who is in fact a journalist whom I know and respect. We all know that there are occasions when journalist innocently misrepresent the comments of a certain individual and that may have occurred in this situation. I certainly hope it has occurred and would be willing to give the person the benefit of the doubt. Miss Kukka, in her article in the Maine Times this week, interviewed an Earl Simpson. I don't know this gentlemen, but apparently he is an official with the Office of Substance Abuse, which I understand is associated with the DEEP program, which

we discussed earlier this afternoon. Mr. Simpson is disappointed with the actions of this Legislature last month in eliminating mandatory jail sentences for offenders with blood alcohol content under .15 on a first offender basis. Certainly he has an absolute right to express his conviction, but what concerns me is a quote which is set forth in the article, and I'll read the quote in it's entirety. These statements are attributed to Mr. Simpson by Miss Kukka. "There are police, lawyers, and judges who are alcoholics and for whom a certain level of unhealthy drinking is tolerable. We mandated jail terms to take that subjectivity out of sentencing and now it is returning." I do have some comments about that quotation, in my capacity as the Senate Chair on the Judiciary Committee. As you know the Committee on Judiciary does hold confirmation hearings on every judge and justice in our system. If in fact, a state official has concerns that a jurist does have a substance abuse problem which is impairing his or her capacity to administer justice in our state, then it seems to be incumbent on that individual to make a timely report to the Office of the Governor and to the Legislature and particularly to the Chairs of the Joint Standing Committee on Judiciary, so we can take whatever appropriate remedial action that might be warranted. It does concern me also, that there seems to be in our society a growing tendency to intolerance. A tendency of some people that they have to impose their particular views and values on the rest of us. Certainly every single person in this Chamber is fully aware of the problems of drunk driving. Maine has very strict statutes, as well it should to deal with the situation. What I am concerned about is what I think is an over reaction in some quarters to the action this body took last month eliminating mandatory jail sentences for first time OUI offenders who do not have any other exacerbating factors in their record which would warrant imposing a jail sentence. There seems to be an assumption that the Judges and Justices who sit in our courts are incompetent of assessing the facts before them, hearing the complaints of citizens, hearing the complaints of prosecuting attorneys and making reasonable sentences. I suspect strongly that there will be very few cases when we don't have jail sentences imposed for OUI's. Although it is not mandatory, the courts still have that tool available to them and given the seriousness of the conduct of OUI I expect you will still see, in the great majority of cases, jail sentences being rendered. I must confess to being very concerned when I read comments such as are attributed to Mr. Simpson. In fairness to him, he may not have made these comments and I recognize that. If in fact he did make that comment, it seems to be incumbent upon him to have made those comments also this Legislature and to our Governor for appropriate action against those Judges and Justices whom he characterized as alcoholics. Thank you Madam President.

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

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Reduce Administrative Costs of State Government and to Clarify Previous Legislative

Reductions in State Government Administration" (Emergency)

H.P. 1539 L.D. 2172 (H "A" H-865)

In Senate, January 23, 1992, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-865), in concurrence.

Comes from the House, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-865) AS AMENDED BY HOUSE AMENDMENT "C" (H-872) thereto, in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Under suspension of the Rules, ordered sent forthwith to the Engrossing Department.

Senate at Ease

Senate called to order by the President Pro Tem.

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 Reduce Administrative Costs of State Government and to Clarify Previous Legislative Reductions in State Government Administration

H.P. 1539 L.D. 2172 (H "C" H-872 to H "A" H-865)

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

Senator CAHILL: Thank you Madam President. Ladies and Gentlemen of the Senate. This Bill comes back from the other body with an amendment attached to it which is acceptable and in my opinion corrects inequities that were in the Bill last week. Just for the record I would like to read what the Bill does. It requires that all Departments and Agencies of State Government, including without limitation, each Department and Agency in the Executive Branch, the Legislative and Judicial Departments, the Office of the Secretary of State, the Office of the Attorney General, the Office of the Treasurer of State, the Office of the State Auditor, Finance Authority of Maine, Maine State Housing Authority, all independent agencies and institutions of higher education, prepare a plan that a minimum reduces the cost of administrative personnel by ten percent in the Fiscal Year 1991-92. The plans must be submitted to the Appropriations Committee by February 10, 1992. Just to show that we support this measure, but we enthusiastically support this measure I request the Yeas and Nays.

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

THE PRESIDENT PRO TEM: 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?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators BERUBE, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CARPENTER, CLEVELAND, COLLINS, DUTREMBLE, EMERSON, ESTES, ESTY, FOSTER, GAUVREAU, GILL, GOULD, HOLLOWAY, KANY, LUDWIG, PEARSON, RICH, SUMMERS, THERIAULT, TITCOMB, VOSE, WEBSTER, THE PRESIDENT PRO TEM - NANCY RANDALL CLARK

NAYS: Senators None

ABSENT: Senators BALDACCI, BOST, CONLEY, MATTHEWS, MCCORMICK, MILLS, PRAY, TWITCHELL

This being and Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with No Senators having voted in the negative, with 8 Senators being absent, and 27 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 Pro Tem, was presented by the Secretary to the Governor for his approval.

The ADJOURNMENT ORDER having been returned from the House READ and PASSED, in concurrence, on motion by Senator BRANNIGAN of Cumberland, ADJOURNED until Tuesday, January 28, 1992, at 4:00 in the afternoon.