

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME VI

SECOND REGULAR SESSION

House of Representatives

January 3, 1996 to April 3, 1996

Senate

January 3, 1996 to March 13, 1996

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

In Senate Chamber
Wednesday
January 3, 1996

Pursuant to the Provisions of the Constitution and the laws of the State of Maine, the Senators of the One Hundred and Seventeenth Legislature were convened in the Senate Chamber at 10:00 o'clock in the morning and called to order by the President, Jeffrey H. Butland of Cumberland.

Prayer by Father Royal J. Parent, Our Lady Queen of Peace Catholic Church, Boothbay Harbor.

FATHER ROYAL J. PARENT: God, our Creator, how wonderfully You have made us. You transformed dust into Your own image. We thank You for the gifts of Your creation; things on earth, in the sky, and below the sea; things we see and do not see. We thank You for providing for us in such a way that we can share with others who are less fortunate, as the elected representatives of the people of Maine. Enlighten us with Your spirit of truth and love, Your spirit of justice and fairness for all, Your spirit of concern and consideration for all. In our deliberations today, may we be open to the views of our fellow representatives and mindful of the needs of the people we represent. We are here to do Your will and the will of Your people. May we be happy now, as we get to know You better, love You with greater sincerity, and serve You as You deserve, in anticipation of eternal joy and peace. Amen.

Pledge of Allegiance led by **SENATOR FERGUSON** of Oxford.

Off Record Remarks

The Roll being called, the following Senators answered to their name:

ROLL CALL
Senators: BEGLEY, BENOIT, BERUBE, BUSTIN, CAREY, CARPENTER, CASSIDY, CIANCHETTE, CLEVELAND, FAIRCLOTH, FERGUSON, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, KIEFFER, LAWRENCE, LORD, MICHAUD, O'DEA, PARADIS, RUHLIN, STEVENS, and the PRESIDENT, Senator BUTLAND

24 Senators having answered to the Roll, the President declared a quorum present.

Out of order and under suspension of the Rules, on motion by Senator **KIEFFER** of Aroostook, the following Senate Order:

ORDERED, that a message be conveyed to His Excellency, Governor Angus S. King, Jr., informing him that a quorum of Senators is assembled in the Senate Chamber for the consideration of such business as may come before the Senate.

S.O. 35

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

The President appointed the Senator from Aroostook, Senator **KIEFFER** to deliver the message.

Off Record Remarks

At this point the Senator from Aroostook, Senator **KIEFFER** reported that he had delivered the message with which he was charged.

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

ORDERED, that a message be conveyed to the House of Representatives informing that Body that a quorum of Senators is present for the consideration of such business as may come before the Senate.

S.O. 36

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

The President appointed the Senator from York, Senator **LAWRENCE** to deliver the message.

Off Record Remarks

Senator **PARADIS** of Aroostook was granted unanimous consent to address the Senate off the Record.

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

Senate at Ease

Senate called to order by the President.

At this point the Senator from York, Senator **LAWRENCE** reported that he had delivered the message with which he was charged.

COMMUNICATIONS

The Following Communication:
**MAINE STATE SENATE
STATE HOUSE STATION 3
AUGUSTA, MAINE 04333**

December 6, 1995

Jeffrey H. Butland
President of the Senate
117th Legislature
Dan A. Gwadosky
Speaker of the House
117th Legislature

Dear Mr. President and Mr. Speaker:

On December 6, 1995, eight bills were received by the Secretary of the Senate.

Pursuant to the provisions of Joint Rule 14, these bills were referred to the Joint Standing Committees on December 6, 1995 as follows:

Education and Cultural Affairs

Bill "An Act to Amend the Law as It Pertains to Payment of Rent by a Blind or Visually Impaired Individual Who Operates a Vending Facility" (S.P. 610) (L.D. 1614) (Presented by Senator **MILLS** of Somerset) (Cosponsored by Senator **KIEFFER** of Aroostook) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26)

Legal and Veteran Affairs

Bill "An Act to Allow Limited Partnerships between Brewers and Wholesalers" (S.P. 607) (L.D. 1611) (Presented by Senator **FERGUSON** of Oxford)

(Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26)

State and Local Government

Bill "An Act to Repeal the Requirement that Disbursement Warrants Receive an Affirmative Vote by Municipal Officers" (S.P. 608) (L.D. 1612) (Presented by Senator AMERO of Cumberland) (Cosponsored by Senators: ABROMSON of Cumberland, CAREY of Kennebec, CARPENTER of York, CLEVELAND of Androscoggin, GOLDTHWAIT of Hancock, HARRIMAN of Cumberland, Representatives: DUNN of Gray, HARTNETT of Freeport, MARVIN of Cape Elizabeth, REED of Falmouth, SAXL of Bangor) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26)

Bill "An Act to Amend the Piscataquis County Budget Process" (S.P. 611) (L.D. 1615) (Presented by Senator HALL of Piscataquis) (Cosponsored by Representatives: CROSS of Dover-Foxcroft, GOULD of Greenville, ROSEBUSH of East Millinocket) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26)

Bill "An Act to Establish the Penobscot County Budget Committee" (S.P. 613) (L.D. 1617) (Presented by Senator HALL of Piscataquis) (Cosponsored by Senators: CIANCHETTE of Somerset, FAIRCLOTH of Penobscot, MICHAUD of Penobscot, RUHLIN of Penobscot, Representatives: BUNKER of Kossuth Township, CROSS of Dover-Foxcroft, HICHBORN of Lagrange, LANE of Enfield, LUMBRA of Bangor, PLOWMAN of Hampden, REED of Dexter, ROSEBUSH of East Millinocket.)

Taxation

Bill "An Act to Provide Sales Tax Exemption for Generators Leased for Dairy Equipment" (S.P. 609) (L.D. 1613) (Presented by Senator LAWRENCE of York) (Cosponsored by Representatives: MARSHALL of Eliot, MURPHY of Berwick.)

Utilities and Energy

Bill "An Act Relating to Pole Attachment Rate Disputes" (S.P. 612) (L.D. 1616) (Presented by Senator CARPENTER of York) (Cosponsored by Senators: BUTLAND of Cumberland, FERGUSON of Oxford, HATHAWAY of York, KIEFFER of Aroostook, LAWRENCE of York, MICHAUD of Penobscot, O'DEA of Penobscot, PARADIS of Aroostook, Representatives: CARLETON of Wells, DONNELLY of Presque Isle, GIERINGER of Portland, GUERRETTE of Pittston, GWADOSKY of Fairfield, JACQUES of Waterville, JONES of Bar Harbor, KONTOS of Windham, LUTHER of Mexico, MURPHY of Berwick, O'NEAL of Limestone.)

Sincerely,
S/May M. Ross
Secretary of the Senate
S/Joseph W. Mayo
Clerk of the House
S.P. 614

Which was **READ** and **ORDERED PLACED ON FILE**.
Sent down for concurrence.

The Following Communication:

**MAINE STATE SENATE
STATE HOUSE STATION 3
AUGUSTA, MAINE 04333**

December 7, 1995

Jeffrey H. Butland
President of the Senate
117th Legislature
Dan A. Gwadosky
Speaker of the House
117th Legislature

Dear Mr. President and Mr. Speaker:

On December 7, 1995, one bill was received by the Secretary of the Senate.

Pursuant to the provisions of Joint Rule 14, the following bill was referred to the Joint Standing Committee on **Judiciary** on December 7, 1995:

Bill "An Act to Reform the Standard of Fiduciary Prudence" (S.P. 615) (L.D. 1618) (Presented by Senator AMERO of Cumberland) (Cosponsored by Senator: MILLS of Somerset, Representatives: CARLETON of Wells, LaFOUNTAIN of Biddeford, OTT of York, TREAT of Gardiner) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Sincerely,
S/May M. Ross
Secretary of the Senate
S/Joseph W. Mayo
Clerk of the House
S.P. 616

Which was **READ** and **ORDERED PLACED ON FILE**.
Sent down for concurrence.

The Following Communication:

**MAINE STATE SENATE
STATE HOUSE STATION 3
AUGUSTA, MAINE 04333**

December 18, 1995

Jeffrey H. Butland
President of the Senate
117th Legislature
Dan A. Gwadosky
Speaker of the House
117th Legislature

Dear Mr. President and Mr. Speaker:

On December 18, 1995, one bill was received by the Secretary of the Senate.

Pursuant to the provisions of Joint Rule 14, the following bill was referred to the Joint Standing Committee on **Natural Resources** on December 18, 1995:

Resolve, Authorizing the Dredging of Wells Harbor and Sand Renourishment of Wells Beaches by the United States Army Corps of Engineers (S.P. 617) (L.D. 1623) (Presented by Senator LORD of York) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Sincerely,
S/May M. Ross
Secretary of the Senate
S/Joseph W. Mayo
Clerk of the House
S.P. 618

Which was **READ** and **ORDERED PLACED ON FILE**.
Sent down for concurrence.

The Following Communication:

**MAINE STATE SENATE
STATE HOUSE STATION 3
AUGUSTA, MAINE 04333**

December 20, 1995

Jeffrey H. Butland
President of the Senate
117th Legislature
Dan A. Gwadosky
Speaker of the House
117th Legislature

Dear Mr. President and Mr. Speaker:

On December 20, 1995, four bills were received by the Secretary of the Senate.

Pursuant to the provisions of Joint Rule 14, these bills were referred to the Joint Standing Committees on December 20, 1995 as follows:

Banking and Insurance

Bill "An Act to Allow the Diagnosis of Biologically-based Mental Illness by Licensed Psychologists" (EMERGENCY) (S.P. 622) (L.D. 1630) (Presented by Senator ABROMSON of Cumberland) (Cosponsored by Representative POVICH of Ellsworth and Senators: AMERO of Cumberland, BUSTIN of Kennebec, CARPENTER of York, FAIRCLOTH of Penobscot, McCORMICK of Kennebec, MILLS of Somerset, PENDEXTER of Cumberland, SMALL of Sagadahoc, Representatives: BRENNAN of Portland, CAMERON of Rumford, DORE of Auburn, KONTOS of Windham, LIBBY of Buxton) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Judiciary

Bill "An Act to Update and Clarify the Corporate Laws" (S.P. 619) (L.D. 1624) (Presented by Senator MILLS of Somerset) (Submitted by the Department of the Secretary of State pursuant to Joint Rule 24.)

Bill "An Act to Restore the Safety Defense to the Maine Human Rights Act" (EMERGENCY) (S.P. 620) (L.D. 1625) (Presented by Senator MILLS of Somerset) (Submitted by the Maine Human Rights Commission pursuant to Joint Rule 24.)

Bill "An Act to Allow Recovery by the State of Costs Incurred by the Department of the Attorney General for Making Intelligence and Investigative Information Available to the Public" (EMERGENCY) (S.P. 621) (L.D. 1626) (Presented by Senator MILLS of Somerset) (Submitted by the Department of the Attorney General pursuant to Joint Rule 24.)

Sincerely,
S/May M. Ross
Secretary of the Senate
S/Joseph W. Mayo
Clerk of the House
S.P. 623

Which was **READ** and **ORDERED PLACED ON FILE**.
Sent down for concurrence.

The Following Communication:
**MAINE STATE SENATE
STATE HOUSE STATION 3
AUGUSTA, MAINE 04333**

December 21, 1995

Jeffrey H. Butland
President of the Senate
117th Legislature
Dan A. Gwadosky
Speaker of the House
117th Legislature

Dear Mr. President and Mr. Speaker:

On December 21, 1995, one bill was received by the Secretary of the Senate.

Pursuant to the provisions of Joint Rule 14, this bill was referred to the Joint Standing Committee on **Legal and Veterans Affairs** on December 21, 1995:

Bill "An Act Relating to the Sale of Alcoholic Beverages" (S.P. 624) (L.D. 1632) (Presented by Senator FERGUSON of Oxford) (Cosponsored by Representative NADEAU of Saco) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Sincerely,
S/May M. Ross
Secretary of the Senate
S/Joseph W. Mayo
Clerk of the House
S.P. 625

Which was **READ** and **ORDERED PLACED ON FILE**.
Sent down for concurrence.

Off Record Remarks

The Following Communication:
**STATE OF MAINE
DEPARTMENT OF AUDIT
STATE HOUSE STATION 66
AUGUSTA, MAINE 04333
Letter of Transmittal**

Honorable Jeffrey H. Butland
President of the Senate
3 State House Station
Augusta, Maine 04333-0003

Dear President Butland:

We are pleased to submit the Audit of the Federal Expenditures Fund and Federal Block Grants Fund for the period ending June 30, 1994. The State of Maine expended nearly \$1.2 billion for various federal programs during the state fiscal year. The objectives of the audit were:

- * To examine the financial statements for these funds and to determine if they were presented fairly and in accordance with generally accepted accounting principles.
- * To assess the state's systems and procedures for financial accounting, reporting and internal controls;
- * To assess the state's accountability for federal revenues, allowability of costs, and compliance with applicable laws and regulations including those that pertain to financial reports and claims for reimbursements; and
- * To recommend corrective actions for deficiencies noted.

Although this audit was not intended to serve as an organization-wide audit as described in the Single Audit Act of 1984 and Office and Budget (OMB) Circular A-128, "Audits of State and Local Governments," it included tests of compliance with applicable federal laws and regulations and consideration of the internal control structure. During the course of our audit we identified certain weaknesses which we have included in the reports identified below.

- * **Compliance and Internal Control:** Includes one finding that, in our opinion, represents a material weakness (page 31).
- * **Schedule of Reportable Conditions:** Includes fifteen findings that we consider to be reportable conditions (page 41).
- * **Schedule of Findings and Questioned Costs:** Includes fifty-five findings that describe deficiencies in the administration of federal programs (page 73 to 125).

This report includes responses to findings and recommendations from state management personnel (auditees) who oversee the expenditures of federal funds. We would be pleased to respond to any of your questions or comments about the 1994 Federal Funds Audit.

S/Rodney L. Scribner, CPA
 State Auditor
 November 30, 1995

S.C. 410

Which was READ and ORDERED PLACED ON FILE.

The Following Communication:

STATE OF MAINE
 SUPREME JUDICIAL COURT
 AUGUSTA, MAINE 04330

November 29, 1995

The Honorable Jeffrey H. Butland
 President of the Senate
 117th Maine Legislature
 Capitol Building - Third Floor
 Augusta, Maine 04333

Re: Maine Judicial Compensation Commission

Dear Mr. President:

The law establishing the Maine Judicial Compensation Commission required the Commission to make its biennial report "no later than December 1 of each odd-numbered year..." Because the Commission will not function until all appointments to the Commission are completed, a report for 1995 will not be forthcoming. In hindsight, it is clear that the time frame between the establishment of the Commission and the initial reporting deadline was overly ambitious. Given the inevitable difficulties of the appointment process, a different schedule will be required.

I would hope that at the special session in January, a simple amendment might be considered to establish a different reporting date. I will ask the Compensation Commission to consider such a revised schedule, and a proposed statutory change to reflect it, as an early item of business when the Commission is finally formed.

Thank you for your continued cooperation and assistance.

Sincerely,
 S/Daniel E. Wathen, Chief Justice
 Maine Supreme Judicial Court
 S.P. 629

Which was READ and ORDERED PLACED ON FILE.
 Sent down for concurrence.

The Following Communication:

DEPARTMENT OF EDUCATION
 23 State House Station
 Augusta, Maine 04333

November 30, 1995

TO: Members of the 117th Legislature
 FROM: S/Wayne L. Mowatt, Ed.D., Commissioner
 SUBJECT: Actual Education Costs for Base Year 1994-95
 Pursuant to the Provisions of 20-A MRSA section 15604, I am providing notification of the "actual education costs" as defined in subsection 1, of 20-A MRSA section 15604 for the base year 1994-95.

A. Operating costs	
(1) Elementary	\$549,128,442
(2) Secondary	283,489,802
B. Special education costs for programs operated by administrative units	110,857,296
C. Special education tuition and board excluding medical costs	30,091,519

(1) Tuition and board for pupils placed by administrative units	\$13,082,087
(2) Tuition and board for State Wards and special education pupils placed directly by the State	5,547,377
(3) Adjustments under section 15612, subsection 6 (Special Education Hardship grants)	0
(4) Cost to the state for state agency clients (section 15613 subsection 5)	9,788,055
(5) Adjustments under section 15612, subsection 11 (Out-of-District Placement Adjustment)	1,674,000
D. Vocational education costs	22,676,968
E. Transportation operating costs	58,513,467
F. Bus Purchases	
(1) Purchase of Buses-Regular Approvals	4,342,303
G. Debt Service Costs	
(1) Principal and Interest	64,484,527
(2) Insured Value Factor	2,022,516
(3) Leased (approved)	5,245,660
(4) Other major capital costs	1,268,927
H. Cost of reimbursement for private school services	201,000
I. Cost of state expenditure for teacher retirement benefits	128,591,206
J. Early childhood educational programs	228,901

These expenditures are from state and local monies only, except that Federal P.L. 81-874 (Impact Aid) funds are included.

S.C. 411

Which was READ and ORDERED PLACED ON FILE.

The Following Communication:

TASK FORCE
 ON
 ALCOHOLIC BEVERAGE SALES
 State House Station 8
 Augusta, Maine 04333

December 1, 1995

The Honorable Jeffrey H. Butland
 President of the Senate
 117th Maine Legislature
 Capitol Building - Third Floor
 Augusta, Maine 04333
 Dear President Butland:

The Task Force on Alcoholic Beverages, established by Resolves of 1995, Chapter 54, is pleased to submit to you for distribution copies of its report and recommended legislation.

The members of the Task Force appreciate the opportunity to be involved in the consideration of the important issue of privatization of the sale of alcoholic beverages. We look forward to following the progress of the legislation. Thank you.

Sincerely
S/Peter G. Hastings
Task Force Chair
S.C. 412

Which was **READ** and with Accompanying Report referred to the Committee on **LEGAL AND VETERANS AFFAIRS**.

The Following Communication:
**STUDY COMMISSION ON PROPERTY RIGHTS
AND THE PUBLIC HEALTH, SAFETY AND WELFARE**
December 27, 1995

The Honorable Jeffrey H. Butland
The Honorable Dan A. Gwadosky
Maine Legislature
State House
Augusta, ME 04333

Dear President Butland and Speaker Gwadosky:

This letter is to inform you that the Study Commission On Property Rights And The Public Health, Safety And Welfare has submitted its report to the Second Regular Session of the 117th Legislature and to the Joint Standing Committee on Judiciary, pursuant to Resolves of 1995, chapter 45.

Sincerely,
S/Senator S. Peter Mills
Chair
S.C. 413

Which was **READ** and with Accompanying Report referred to the Committee on **JUDICIARY**.

The Following Communication:
**THE MAINE SENATE
OFFICE OF THE PRESIDENT**
December 28, 1995

The Honorable May M. Ross
Secretary of the Senate
State House Station #3
Augusta, ME 04333

Dear Madam Secretary:

Please be advised I have made the following appointments:

Persons with Disabilities Access Commission; Pursuant to Resolve 1993, Chapter 73, as amended by Public Law 1995, Chapter 393:

Kim Wallace of Augusta

Commission on the Economic Impact of Time-Limited Aid to Families with Dependent Children; Pursuant to Public Law 1995, Chapter 418, Part D:

Representative Glenys P. Lovett of Scarborough

Nina T. McKee of Scarborough

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

Sincerely,
S/Jeffrey H. Butland
President of the Senate
S.C. 414

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

The Following Communication:
PRODUCTIVITY REALIZATION TASK FORCE

Memorandum

DATE: January 2, 1996

TO: Senator Jeffrey H. Butland,
President of the Senate

FROM: S/Linwood Bell, Chair,
Productivity Realization Task Force

RE: December Report

Pursuant to Public Law 1995, chapter 99, Part D, Section D-3[3], we are pleased to provide you with a copy of the Productivity Realization Task Force's December report to the Governor. Please feel free to contact the Productivity Realization Task Force office for additional copies at State House Station 78, telephone 624-7881, or e-mail.

S.C. 415

Which was **READ** and with Accompanying Report referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and the Committee on **STATE AND LOCAL GOVERNMENT**.

The Following Communication:
117TH MAINE LEGISLATURE
January 2, 1996

Senator S. Peter Mills
Representative Sharon Treat
Chairpersons
Joint Standing Committee on Judiciary
117th Legislature
Augusta, Maine 04333

Dear Senator Mills and Representative Treat:

Please be advised that Governor Angus S. King, Jr. has nominated Christine Foster of Portland for appointment as Judge of the Maine District Court.

Pursuant to Title 4, MRSA Section 157, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,
S/Jeffrey H. Butland
President of the Senate
S/Dan A. Gwadosky
Speaker of the House
S.P. 630

Which was **READ** and referred to the Committee on **JUDICIARY**.

Sent down for concurrence.

SENATE PAPERS

Bill "An Act to Clarify Professional Liability"
S.P. 627 L.D. 1634

Presented by Senator **MILLS** of Somerset
Submitted by the Department of the Secretary of State pursuant to Joint Rule 24.

Reference to the Committee on **JUDICIARY** suggested and **ORDERED PRINTED**.

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

Sent down for concurrence.

Bill "An Act to Clarify the Laws Governing the Calculation of Interest on Decrees under the Workers' Compensation Laws"

S.P. 626 L.D. 1633

Presented by Senator **MILLS** of Somerset
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on **LABOR** suggested and
ORDERED PRINTED.

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

Sent down for concurrence.

On motion by Senator **LAWRENCE** of York, **ADJOURNED**
until Thursday, January 4, 1996, at 9:30 o'clock in
the morning.

Bill "An Act to Amend the Law Concerning Tobacco
Use by Juveniles"

S.P. 628 L.D. 1635

Presented by Senator **MILLS** of Somerset
Submitted by the Judicial Department pursuant to
Joint Rule 24.

Reference to the Committee on **LEGAL AND VETERANS**
AFFAIRS suggested and **ORDERED PRINTED.**

Which was referred to the Committee on **LEGAL AND**
VETERANS AFFAIRS and **ORDERED PRINTED.**

Sent down for concurrence.

The Chair noted the presence of Senator **AMERO** of
Cumberland, Senator **HATHAWAY** of York, and Senator
McCORMICK of Kennebec.

At this point, a message was received from the
House of Representatives, borne by Representative
JACQUES of Waterville, informing the Senate that a
quorum was present for the consideration of such
business as might come before the House.

The Chair noted the presence of Senator **LONGLEY**
of Waldo.

Off Record Remarks

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

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

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

Off Record Remarks

Senator **CAREY** of Kennebec was granted unanimous
consent to address the Senate off the Record.

Off Record Remarks

Under suspension of the Rules, all matters thus
acted on were sent forthwith.

Off Record Remarks
