

# MAINE STATE LEGISLATURE

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# LEGISLATIVE RECORD

OF THE

**One Hundred And Fifteenth Legislature**

OF THE

**State Of Maine**

**VOLUME II**

**FIRST REGULAR SESSION**

House of Representatives  
May 20, 1991 to July 10, 1991

correctly. Therefore, I would suggest that be made directly to where it came from.

\_\_\_\_\_  
(At Ease)  
\_\_\_\_\_

The House was called to order by the Speaker.

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All matters having been acted upon earlier in the day requiring Senate concurrence were ordered sent forthwith to the Senate.

\_\_\_\_\_  
The following item appearing on Supplement No. 6 was taken up out of order by unanimous consent:

**FINALLY PASSED**

**Emergency Measure**

Resolve, to Ensure Operation of the Veterans' Memorial Cemetery (S.P. 775) (L.D. 1969)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 121 voted in favor of the same and 2 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

By unanimous consent, was ordered sent forthwith to the Senate.

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The following item appearing on Supplement No. 1 was taken up out of order by unanimous consent:

**PETITIONS, BILLS AND RESOLVES  
REQUIRING REFERENCE**

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1991, June 30, 1992 and June 30, 1993" (EMERGENCY) (H.P. 1379) (L.D. 1967) (Presented by Representative CHONKO of Topsham) (Cosponsored by Senator BRANNIGAN of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

(The Committee on Reference of Bills had suggested reference to the Committee on **Appropriations and Financial Affairs**.)

Under suspension of the rules and without reference to a Committee, the bill was read once and assigned for second reading later in today's session.

The following item appearing on Supplement No. 5 was taken up out of order by unanimous consent:

**PETITIONS, BILLS AND RESOLVES  
REQUIRING REFERENCE**

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government Necessary to the Proper Operations of State Government for the Period of July 1, 1991 until July 8, 1991" (EMERGENCY) (H.P. 1380) (L.D. 1970) (Presented by Representative FARNSWORTH of Hallowell) (Cosponsored by Representative HOGGLUND of Portland and Senator BUSTIN of Kennebec) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

(The Committee on Reference of Bills had suggested reference to the Committee on **Appropriations and Financial Affairs**).

Under suspension of the rules and without reference to a Committee, the bill was read once and assigned for second reading later in today's session.

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(At Ease)  
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The House was called to order by the Speaker.

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The following item appearing on Supplement No. 2 was taken up out of order by unanimous consent:

**PASSED TO BE ENACTED**

An Act Regarding Investment of State Funds in Corporations Doing Business in Northern Ireland (S.P. 446) (L.D. 1190) (S. "B" S-413)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

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The following item appearing on Supplement No. 8 was taken up out of order by unanimous consent:

**PASSED TO BE ENGROSSED**

**As Amended**

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1991, June 30, 1992 and June 30, 1993" (EMERGENCY) (H.P. 1379) (L.D. 1967)

Was reported by the Committee on **Bills in the Second Reading** and read a second time.

Representative Chonko of Topsham offered House Amendment "C" (H-741) and moved its adoption.

House Amendment "C" (H-741) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Chonko.

Representative CHONKO: Mr. Speaker, Men and Women of the House: This amendment keeps the stores at DHS office closed as of Chapter 9, in this bill here we have an error and we are closing 11 of them.

The second part of this is a technical correction found by the Revisor's Office and the third one is adding the fiscal note to the bill.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, I wish to pose a question through the Chair.

It is unclear to me, under Section P14, what is being repealed on page one of this amendment?

The SPEAKER: Representative Foss of Yarmouth has posed a question through the Chair to Representative Chonko of Topsham who may respond if she so desires.

The Chair recognizes that Representative.

Representative CHONKO: Mr. Speaker, Men and Women of the House: I honestly don't know what is being repealed, all I know is that there was an error that was found by the Revisor in the Revisor's office.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Carroll.

Representative CARROLL: Mr. Speaker, Men and Women of the House: Looking at that section in the bill, it is a demonstration project that the Department of Human Services is going to do. It is my understanding that we had taken that out of the original document and it was something they could obtain waivers, if necessary, depending upon the demonstration project. The Department, I believe, when we talked about this decided they weren't going to be doing those demonstration projects and at this time do not need that section of law. It is on page 349 in the document.

Subsequently, House Amendment "C" (H-741) was adopted.

Representative Jacques of Waterville offered House Amendment "A" (H-738) and moved its adoption.

House Amendment "A" (H-738) was read by the Clerk and adopted.

Representative Manning of Portland offered House Amendment "B" (H-740) and moved its adoption.

House Amendment "B" (H-740) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: This repeals the language which is in the budget and puts back the language that was the original language of the committee back in 927. It also gives the authority of the commissioners of each department the ability to okay these administrative costs if they feel it is justified.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Men and Women of the House: I hesitate to ask you to vote against this amendment because it is being offered by my Chair of the Human Resources Committee and it is language that came out of the Mental Health Subcommittee on which I served. I do believe at this time that the way this amendment has been used in the budget it will cause more problems than it will solve.

This language was originally developed by the Mental Health Subcommittee of the Human Resources Committee to deal with problems that we identified

with eight fairly large Mental Health agencies that have very large budgets and that did have identified problems with their administrative costs.

When the Appropriations Committee saw this language, they then adopted it without (I think) thoroughly thinking through the consequences and applied it to every single contract that the state has, even with some very, very small agencies that may have contracts of only about \$45,000 or so. The language is really micromanaging these small agencies.

I have some real concerns with applying it beyond those very large agencies with the big budgets that get a lot of money and that do in fact have problems with how they spend their money. This language would dictate whether or not a small agency could go out and get a subscription, even if that subscription was needed to ensure that they were accredited. That is a concern that was brought to me after we had adopted the language.

I hope that you will vote against this amendment. Although the budget did put in something that would provide an escape hatch so that the commissioners of the various departments could provide exceptions, there is no standards for that and I have some concerns that hundreds of these agencies will in fact be seeking exemptions from the language and cause an administrative burden right there. I do urge that you vote against this amendment.

The SPEAKER: The Chair recognizes the Representative from Frenchville, Representative Paradis.

Representative PARADIS: Mr. Speaker, Men and Women of the House: Representative Treat is absolutely right, we did vote for this originally but we changed our minds and we lost it by one vote. When we attempted to bring it up again, we were told that we would be dividing the budget on this one issue, so we were forced to drop it at that point.

I respectfully submit that you vote for this amendment because we did try to rectify this problem when it was brought to our attention. We feel that it is not broad enough, that we should be using those standards across state government, not just some small agencies that we have already cut to shreds.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Anthony.

Representative ANTHONY: Mr. Speaker, Men and Women of the House: I rise in support of this amendment. The Joint Select Committee on Corrections also considered the problem of costs in contracts and we recommended also to the Appropriations Committee that there be some restrictions placed on contracting agencies. Rather than try to invent our own guidelines, we piggybacked on the work that we knew was going on within the Human Resources Committee and recommended that they adopt those provisions to apply to corrections contracts as well. These are fairly restrictive provisions but they do have the out, that you can get a waiver through the department head. We don't know how well they will work, it may well be that we will find that they are too restrictive and in which case we can modify them in future years but this is a start, a good effort and I think it deserves support. I would support the amendment offered by Representative Manning.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendleton.

Representative PENDLETON: Mr. Speaker, Men and Women of the House: I hope that you will support this amendment tonight. I was on the Mental Health Subcommittee, we worked long, hard hours on this language. It seems to me that the information that we received when we talked about this issue in committee was that there are some agencies that the state is contracting with that are spending more money in different pools and different areas than the state agencies are. So, we are pouring a lot of money in that is getting wasted in things that we don't allow our own state government to do. I support Representative Manning on this amendment and I hope you will vote with us.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, I would pose a question through the Chair.

On page two of the bill, Subsection M, it says "administrative costs that are greater than statewide average" — two questions actually, one, what is a statewide average for that period? Second, what is included in administrative costs? Does that include rent, telephone? For example, the Rape Crisis Help line, of which I am on the board, the telephone is a vital part of the service as well as part of the administration perhaps.

The SPEAKER: Representative Coles of Harpswell has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I would assume if you have a Rape Line Crisis phone that that would be direct service versus administrative costs.

For my colleague from Arundel, I would like him to check Section 2 of the bill, his amendment is on there.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, I am afraid I didn't get all of my questions answered. I asked what is the statewide average of administrative were, if anyone knew them? I also wanted to know if it included such things as rent for the space the agency uses, telephone (other than the hot line telephone) that sort of thing?

The SPEAKER: Representative Coles of Harpswell has posed additional questions through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Men and Women of the House: If you are you talking about rent, Representative Coles, and it is rent that is direct service, yes it would be reimbursed. What we are looking for are things that are not direct service related. In a year when we have cut and cut and cut, we are looking for things that are not direct service related. And, if it is not direct service related, then we are not paying for it.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Men and Women of the House: The good Representative from Portland's answer concerns me. The agency which I am fortunate to be able to help is a very small one with a budget, as Representative Treat mentioned, of about \$45,000, two part-time people. They have one office,

not a very large office, and both administration and service occur within that office. They use the office telephones for both administrative purposes and service purposes, as well as having a hot line for the victims of sexual abuse.

It seems to me that, for example, if the statewide average was 15 percent, that the amount allowed for administrative agency like this might be as little as \$6,000 or \$7,000, that would make the agency's operations impossible because you simply can't operate an agency that small on that small amount of administration. The rent alone is going to be well over half that amount, say nothing of the portion of the Executive Director's time taking up ordinary paper work and requirements imposed by DHS.

I hope you will vote against the amendment.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Daggett.

Representative DAGGETT: Mr. Speaker, Members of the House: I hope you will join me in opposing this amendment. I also serve on the board of several small community agencies and on boards of several agencies and I think that some of the parts of this amendment would be incredibly restrictive. I am sure that most of you know that, if at any time an agency is doing things which are considered inappropriate, that those items can be written into the individual contracts for those agencies. So, there is a remedy without painting a broad brush which takes in every single agency.

Just as an example, in the amendment under Item K, it makes reference to non-clinical consultants. One of the agencies that I am involved with hires a financial person as a consultant frankly because we couldn't afford to hire one on a full-time basis. Obviously, an essential part of this agency is to have a person with financial expertise. However, it is not a clinical position and it would not be reimbursable. So, I hope you will oppose this. These agencies that are performing functions or paying salaries that are inappropriate should be dealt with through their individual contracts.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Men and Women of the House: I would just like to follow up on the questions and comments of the Representative from Harpswell, Representative Coles, who asked, what is the statewide average for administrative costs? The answer to that is we have no idea what the statewide average is because there is no consistent definition of what is administrative costs and what is not and we have not done the research to do that.

The original language that came out of the Mental Health Subcommittee had a section that would require the Department of Mental Health and Retardation to come up with a standard definition for administrative costs so that we could then take a look at that and in the next year impose that on different agencies as part of the standard state contract. That certainly is an appropriate thing to do and I hope that we will do that. The language in this budget bill will provide the opportunity to do that. The language in this amendment does not.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Richards.

Representative RICHARDS: Mr. Speaker, I would pose a question.

There is an agency in Penobscot County, a Community Health and Counseling Center located in

Bangor that recently bought the rectory and the site where St. Mary's Church used to be. It is a several million dollar building that was built there — for those that are not aware of community health and counseling centers, they service mental health needs of people and many indigent people and families. In my job as a lawyer in dealing with child protective cases and other types of cases, sometimes people are referred there for evaluation. Information that I have received is that, with this new building, they will be getting \$100,000 out of this budget and the information I have is that that building has one therapy room. As I understand it, there is only one clinical psychologist in that entire building.

One of the arguments I heard is, if these funds are not received, you are going to have a longer waiting list. I can tell you this, when you get on the waiting list at CHCS, you are never going to get there. Whether you have a waiting list or not is totally irrelevant because it takes months to be able to get treatment.

My question is, with \$100,000 it is my understanding that money is going to go to administrative costs. Obviously it doesn't cost \$100,000 just to deal with one therapy room with a waiting list that never diminishes.

The SPEAKER: Representative Richards of Hampden has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I can't really respond to that because I don't know the circumstances. Quite frankly, the committee took a hard look at this. We did look at this in looking at the agencies, one of which is the agency you just talked about. We felt that there were some major discrepancies in there that we ought to be taking a hard look at in times of tough times. That is why we put this piece together because we knew that we had to make tough decisions on tough times and we had to make sure that the monies we were giving them were going to direct services and not going to administrative costs that were in the range of 11 to 24 percent in those eight agencies.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Duplessis.

Representative DUPLESSIS: Mr. Speaker, Men and Women of the House: I, too, served on the Mental Health Subcommittee and urge you to vote against this House Amendment. This is the exact language that we used as a subcommittee in dealing with mental health agencies. We were focusing on a piece of state government and this looks at areas on a much broader scope.

I had reservations in committee about this form of micromanaging and voiced my concerns. For example, as far as the language under D where it says "non-personnel advertising, excluding public education materials that have the approval of the department", that specifically deals with children in the school system who may need to have some mental health services. That, obviously, doesn't pertain to all agencies across state government.

So, like I said, I urge you to vote against this amendment. I think we will be doing a great disservice to the agencies that serve the state.

The SPEAKER: The Chair will order a vote. The

pending question before the House is adoption of House Amendment "B" (H-740). Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Manning of Portland requested a roll call vote.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is adoption of House Amendment "B" (H-740). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 216

YEA - Aikman, Aliberti, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Bennett, Bowers, Butland, Carleton, Carroll, D.; Carroll, J.; Cashman, Cathcart, Crowley, DiPietro, Donnelly, Duffy, Farnum, Warren, Foss, Garland, Gean, Greenlaw, Gurney, Gwadosky, Hale, Handy, Hanley, Hastings, Heino, Hepburn, Jacques, Joseph, Kerr, Kilkelly, Kutasi, LaPointe, Larrivee, Lawrence, Lebowitz, Lipman, Look, Lord, MacBride, Manning, Marsano, Marsh, McHenry, Merrill, Mitchell, E.; Murphy, Nash, O'Dea, Parent, Pendexter, Pendleton, Pfeiffer, Pineau, Pines, Plourde, Rand, Reed, G.; Reed, W.; Richards, Richardson, Ricker, Rotondi, Savage, Simpson, Skoglund, Small, Spear, Stevens, A.; Stevenson, Tardy, Tupper, Wentworth, Whitcomb.

NAY - Adams, Bell, Boutilier, Cahill, M.; Chonko, Clark, H.; Coles, Constantine, Cote, Daggett, Dore, Duplessis, Dutremble, L.; Erwin, Farnsworth, Goodridge, Gould, R. A.; Graham, Gray, Heesch, Hichborn, Hichens, Hognlund, Holt, Hussey, Ketover, Ketterer, Kontos, Lemke, Libby, Luther, Macomber, Martin, H.; Mayo, McKeen, Melendy, Michaud, Nadeau, Norton, Nutting, O'Gara, Oliver, Ott, Paradis, J.; Paradis, P.; Paul, Pouliot, Powers, Rydell, Saint Onge, Salisbury, Sheltra, Simonds, Stevens, P.; Strout, Swazey, Tammaro, Townsend, Tracy, Treat, Vigue, Waterman, The Speaker.

ABSENT - Barth, Clark, M.; Jalbert, Mahany, Mitchell, J.; Morrison, Poulin, Ruhlin.

Yes, 80; No, 63; Absent, 8; Paired, 0; Excused, 0.

80 having voted in the affirmative and 63 in the negative with 8 being absent, House Amendment "B" (H-740) was adopted.

The Bill was passed to be engrossed as amended by House Amendments "A" (H-738), "B" (H-740) and "C" (H-741) and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act Making Unified Appropriations and