

# MAINE STATE LEGISLATURE

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# LEGISLATIVE RECORD

OF THE

## **One Hundred And Fifteenth Legislature**

OF THE

## **State Of Maine**

### **VOLUME V**

#### **FIRST SPECIAL SESSION**

July 11, 1991 to July 18, 1991

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#### **FIRST CONFIRMATION SESSION**

October 2, 1991

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#### **SECOND SPECIAL SESSION**

December 18, 1991 to January 7, 1992

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#### **SECOND REGULAR SESSION**

House of Representatives

January 8, 1992 to March 9, 1992

to the Senate.

The following items appearing on Supplement No. 9 was taken up out of order by unanimous consent:

**ENACTOR**

**Emergency Measure**

**(Later Today Assigned)**

An Act Providing 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 (H.P. 1393) (L.D. 1979)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Representative Whitcomb of Waldo, the House reconsidered its action whereby L.D. 1979 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-758) and moved its adoption.

House Amendment "A" (H-758) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I offer House Amendment "A" as a sincere, good faith attempt to break this impasse. I offer this amendment at a considerable risk. This amendment would, (and I will read from the bottom line of the Statement of Fact) "include offsetting reductions of appropriations to General Purpose Aid for local schools." Let me tell you why this is, for me, an amendment that is offered with a great deal of sincerity.

Along with many of you in this body, my school district is one that is a very high receiver of General Purpose Aid to Education. This amendment is offered with a full understanding that there is, as we have been told, only a few steps between complete agreement on all the matters of significance pending before the legislature and, therefore, the cuts imposed by this amendment would be removed. What this amendment does is it allows the budget process to continue to be approved, to be signed without new revenues. What I have suggested in this amendment that we do is, in the budget document, remove the \$300 million — actually less than that if you read the front page — in the two years it approaches \$300 million, a rough figure, that we use for General Purpose Aid for Education. It is not the intent of this legislature for this document to exist for more than a few days, the few days that are necessary, we are told, to complete the action on the other issue that seems to be so difficult for this body.

This is an attempt to get beyond the confrontation that we have had over the last two days and will continue to have if the document before us is presented in its present form.

This amendment allows both sides on this issue to retreat a little bit, to allow a document to proceed to the Executive that is a balanced budget, that brings state workers back to work, and allows us to

go on to completing the other acts before the legislature.

I hope that this body will consider this amendment in the sincerity in which it is offered. I had prepared another amendment that accomplishes the same thing, but frankly, it would be much more difficult to accomplish by the other amendment but this one is a very succinct way of saying what we intended to say. We removed the issue of taxes from the question, we pass the budget, we bring people back to work and we complete the rest of the work and proceed to negate this act once that is done. I urge acceptance of this amendment.

Representative Chonko of Topsham moved the indefinite postponement of House Amendment "A" (H-758).

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: I am rather surprised that the gentleman from Waldo offered this amendment. Quite frankly, I am glad he did, but I am surprised that he did. When I came in here today, I noticed that there were several amendments on my desk that were of the loony-tune variety. This one, I think, is probably the loony-tuniest of them all but I am glad that he offered it.

I would, before I forget Mr. Speaker, request a roll call on the pending motion to indefinitely postpone.

It seems to me, if you are willing to vote for this amendment, what you are saying is, you want to shift from a position, you don't want to hold the state hostage anymore, you want to hold the schools hostage, you want to hold education hostage. What you are saying is that you don't want to vote for \$300 million or \$274 million in tax increases at the state level but you don't mind running the risk of having \$300 million more in taxes shifted to the local level. What you are saying is, you are opposed to income tax surcharges on principle, but you don't mind a property tax increase to the tune of \$275 million, that is what you are saying. And, you say you are going to get the state working again, Representative Whitcomb, and you are going to get by this impasse with this amendment — all you are doing is changing the hostages. That is all you are doing.

If this is such a hot idea, I don't know why it didn't come out of the Appropriations Committee. After all, the budget that we have been voting on came out unanimous. After all, the tax package we have been voting on came out unanimous. After all, the tax package that we considered in the Taxation Committee was sponsored by Representative Marsano who sits in the corner with Representative Whitcomb and consistently votes against his own tax package for the past two weeks while the state is shut down. The Republican members of Appropriations in this House consistently vote against their own budget that they voted for downstairs and the members of my committee, to my shame, consistently vote against the taxes that they voted against downstairs. What happened from the time we left the second floor to the time we got to the third floor? Workers' Compensation you say? It was never mentioned downstairs. In all the deliberations on the tax package, it was not mentioned by the sponsor of the bill, Representative Marsano, it was not mentioned by Representative Butland, Representative Hepburn or Representative Murphy, it was not mentioned by anybody who was in

our room representing the Governor's Office. It was not mentioned at all.

So, what happened? You got me. But, you have been successful — I heard a member of the other body earlier today say they were proud, they had their head held high. You should be proud, members of the Minority because you have done something that the Nazi's weren't able to do, you shut down state government. We couldn't do it in two world wars, but you have done it. So, consequently people are going without state services, state employees are out of work and Representative Whitcomb has the audacity to come in here tonight on July 12th and offer to change hostages if we will let him do it. Well, I won't let you do it, Representative Whitcomb, I won't vote for this. I will vote for the indefinite postponement. But, I hope every member of the Minority votes against it. I really and truly do because, as I said when I started, this is the loony-tuniest of them all. I hope you support it.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Handy.

Representative HANDY: Mr. Speaker, Members of the House: I am amazed — no, in fact, I am astounded, actually I am pretty disappointed. I am disappointed that any member of this House would offer up — no, let me rephrase that — that would mandate to our local towns, our municipalities, that they increase property taxes. Property taxes, the most regressive tax, are not based on one's ability to pay. And, coming from a former member of the Taxation Committee, one I thought would know a lot better, no. I guess I would assume that the Minority Party agrees with this and draw from that that the Chief Executive also agrees with this, otherwise I don't think he would be offering it. It would seem to me that the Education governor, the individual who is to be installed next week as the Chair of the Education Commission of the state, would love to take this to Colorado next week and show how he is the education governor, to show that he believes the towns and cities of Maine ought to fund education and not receive support from the State of Maine. Is that Maine's commitment to education? I guess maybe that is in keeping with the Chief Executive living in the White House now. It seems to be consistent.

No leadership in a general way and now I have certainly seen it — there is no leadership by the Chief Executive when it comes to education, the Education Governor.

What we will be voting on shortly is a roll call, a roll call on how you feel about education and the future of Maine's young people, Maine's people who are out of the usual realm of education, non-traditional students as they are referred to who want to go to get their GED, attend adult education classes, this is a roll call (plain and simple) on passing the biggest property tax increase this state has seen in a long, long time.

I look forward to seeing the lights of the Minority Party. I look forward to seeing the Governor take this message to Denver, Colorado, to the Education Commission of the States and let him know that, yes, he is the education governor, sure!

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Men and Women of the House: Over the years, no one has questioned my support for education and I certainly hope that you won't question it now.

I would support something that would bring movement to this situation. I have no doubt that there is a member in this House that would allow this to stand. The Minority Leader stated very clearly he didn't want it to stand, he comes from one of the poorest areas in the state. Originally, I came from probably the poorest area in the state. In no way would I want this to stand but I will tell you one thing, our challenge would be to put it back. How we put it back is as important as taking a stand to make some movement.

Someone from the newspaper asked me yesterday if I was angry and frustrated. I said, no. I am hopeful and I am concerned because I do know that this process works. I know it will work, it is just a question of when. So, I dare, having been honored by the Maine Teachers Association only the year before last as a friend of education, I have no intention of seeing this amendment stand. Neither do I have any intention of seeing the impasse that we are engaged in, stand. Therefore, I shall be putting myself, my reputation, my integrity on the line as every one of you are and I don't think we lose it on the basis of one vote but I do think if we fail to break this impasse, we will all suffer the consequences of our own inaction. With that, I will close but I did want to say those words before I vote against this proposal to indefinitely postpone.

The SPEAKER: The Chair recognizes the Representative from Stockton Springs, Representative Crowley.

Representative CROWLEY: Mr. Speaker, Men and Women of the House: As you know, we have already cut \$200 million from General Purpose Aid to our local schools. We have already cut \$40 million in deferrals of the June payment and now we are going to add \$300 million more. This is absolutely preposterous. I know you won't vote for it, you will vote to indefinitely postpone.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker I would pose a question through the Chair to Representative Whitcomb of Waldo.

It is in two parts, number one, has the Representative discussed this proposal with the Chief Executive of this state? Number two, does the Chief Executive of this state endorse this proposal?

The SPEAKER: The Representative from Fairfield, Representative Gwadosky, has posed two questions through the Chair to Representative Whitcomb of Waldo who may respond if he so desires.

The Chair recognizes the Representative.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: Yes, my proposal has been discussed with the members of the Executive Branch. I think to characterize his comments to me is that he would support any one of three initiatives that I suggested to get us beyond the impasse that we are now in with the complete realization that was stated so well by the Representative from Winthrop, that this be allowed to exist for three days or five days but no more. We have to understand that the immediate impact of this is nothing. There are no GPA checks due to go out for nearly two weeks.

I appreciate the attempt to enthuse a little bit of fire in the statements that have been made this evening. I have attempted very seriously not to do that. I don't care personally if there is not

acceptance as it appears there isn't from the other side of the aisle or if people vote for this or not. Obviously, if it is not accepted by the Majority Party, it goes nowhere, the impasse continues, the budget document before us does not become law and we continue this effort, if you call it that. It was an honest attempt to get beyond the point where we are now. If the statements of some of the speaker's indicate a party position, so be it. I think this is a motion that can work if parties want it to work. It allows both sides to recede a little, it puts state employees back to work and allows the components of the other issue to be put together and it gets us doing something else this summer other than looking at each other and glaring about our differences.

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

Representative MACOMBER: Mr. Speaker, Men and Women of the House: I think my only question would be — and I pose it to either Representative Whitcomb or Representative Norton — they talk about putting the money back and I believe they do that in good faith. I guess my problem would be, is this another thing that we put back only when we have solved the Workers' Compensation question?

The SPEAKER: Representative Macomber of South Portland has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, the answer is that that is the intent of the legislation, yes.

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

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: The prior speaker did clearly define the link between taxes and Workers' Compensation that has been behind the scenes with us for days now. The good Representative from Waldo did share his idea for this amendment with me and I respectfully am going to oppose it and I will tell you why. We have spent weeks and months protecting GPA as much as we could. We all were reluctant to flat-fund GPA and it is well-known that I am not a large receiver but I believe strongly in equal access to education. We wanted to repay that, I resented that higher education was repaid, the deferral amount in this budget, GPA was not. When we talked earlier about other potential cuts in GPA, I resisted those also.

However, I do also commend the Representative from Waldo for trying to move us off the dime. I think this amendment is an ultimate act of good faith to believe that this legislature would sincerely work toward reforming the Workers' Compensation and to allow the taxes to pass, that is what the issue is. But, I am not going to vote for this because I fear that this legislature will not resolve the Workers' Compensation issue and thereby the taxes won't go into effect to overturn this action and it will be a massive, massive destructive act to cut this kind of money from General Purpose Aid.

There have been comments made for several days now that some of us broke faith with agreements. I spoke long and often with the chairs and members of my committee and it was very clear that my vote for taxes was always dependent on the offsetting cut reduction and the cost of Workers' Compensation. I

made that clear throughout the budget negotiations and worked sincerely to put together a budget that would spend those taxes with the understanding that Workers' Compensation cuts would also occur.

Last Saturday, I voted for a budget when we set up a rational strategy that was supposed to produce results by Wednesday, those results were not there, still nothing has materialized on Workers' Compensation Reform and, while I am not going to vote for this amendment, I do commend the Representative from Waldo for trying to move us ahead.

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

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

I would address the question to Representative Whitcomb of Waldo. Several members of his caucus were quoted in the papers as saying they wouldn't vote, even if they were satisfied on Workers' Compensation, for any budget that had any new taxes in it. Does this mean that if we were to adopt this proposal that those very same members would refuse to vote to restore the GPA because it would involve raising taxes?

The SPEAKER: Representative Coles of Harpswell has posed a question through the Chair to Representative Whitcomb of Waldo who may respond if he so desires.

The Chair recognizes that Representative.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: The question, as I understand it, is whether some people of our caucus are ever going to support a budget with new taxes in it no matter what shape it is in — several of those individuals have told me that the answer to that question is that they will never vote for new taxes. I don't know whether there have been some preliminary votes that might indicate that there are other members of the other caucus who are never going to vote for a budget with new taxes. So, I think the answer to your question is that there are some members of the Republican caucus who do not support the budget that has been crafted because it includes new revenues, irregardless of this amendment.

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

Representative COLES: Mr. Speaker, Men and Women of the House: My understanding of the spirit in which Representative Whitcomb has offered his amendment is he is trying to re-establish the good faith that existed, the fragile good faith that existed up to midnight on Wednesday. I also understand that it was not Republican votes cast in this chamber that shattered that good faith, that broke apart the trust that was leading (most of us believed) to a satisfactory or at least a successful conclusion of our business. I have to second the comments of Representative Foss of Yarmouth — to have that good faith shattered, I am not willing to stake it on something as important as this.

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 the motion of Representative Chonko of Topsham that House Amendment "A" (H-758) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 236

YEA - Adams, Aikman, Aliberti, Anthony, Bailey, R.; Barth, Bell, Bennett, Boutilier, Bowers, Butland, Carroll, D.; Cashman, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Crowley, Daggett, DiPietro, Donnelly, Dore, Duffy, Duplessis, Dutremble, L.; Erwin, Farnsworth, Farnum, Foss, Garland, Gean, Goodridge, Gould, R. A.; Graham, Gray, Gurney, Gwadosky, Hale, Handy, Hanley, Heeschen, Heino, Hichborn, Hoglund, Holt, Hussey, Jacques, Joseph, Ketterer, Kontos, LaPointe, Larrivee, Lawrence, Lemke, MacBride, Macomber, Mahany, Manning, Marsh, Mayo, McHenry, McKeen, Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Nash, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pfeiffer, Pineau, Plourde, Pouliot, Powers, Rand, Reed, W.; Richardson, Ricker, Rotondi, Ruhlin, Saint Onge, Salisbury, Savage, Sheltra, Simonds, Simpson, Skoglund, Small, Spear, Stevens, A.; Stevens, P.; Strout, Swazey, Tamaro, Townsend, Tracy, Treat, Vigue, Waterman, Wentworth, The Speaker.

NAY - Bailey, H.; Carleton, Lebowitz, Lipman, Look, Marsano, Merrill, Norton, Ott, Parent, Pendleton, Pines, Reed, G.; Whitcomb.

ABSENT - Anderson, Ault, Cahill, M.; Carroll, J.; Cathcart, Cote, Farren, Greenlaw, Hastings, Hepburn, Hichens, Jalbert, Kerr, Ketover, Kilkelly, Kutasi, Libby, Lord, Luther, Martin, H.; Nutting, Pendexter, Poulin, Richards, Rydell, Stevenson, Tardy, Tupper.

Yes, 109; No, 14; Absent, 28; Paired, 0; Excused, 0.

109 having voted in the affirmative and 14 in the negative with 28 absent, the motion did prevail.

Subsequently, L.D. 1979 was passed to be engrossed.

Representative Mayo of Thomaston requested a roll call vote on enactment.

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 passage to be enacted. Those in favor will vote yes; those opposed will vote no.

The Chair recognizes the Representative from Township 27, Representative Bailey.

Representative BAILEY: Mr. Speaker, pursuant to House Rule 7, I wish to pair my vote with Representative Ault of Wayne. If she were present and voting, she would be voting yea; I would be voting nay.

The SPEAKER: The pending question before the House is passage to be enacted. This being an emergency measure, a two-thirds vote of all the members elected to the House is necessary. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 237

YEA - Adams, Aliberti, Anthony, Bell, Boutilier, Carroll, D.; Cashman, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Crowley, Daggett, DiPietro, Dore, Duffy, Dutremble, L.; Erwin, Farnsworth, Gean, Goodridge, Gould, R. A.; Graham, Gray, Gurney, Hale, Handy, Heeschen, Hichborn, Hoglund, Holt, Hussey, Jacques, Joseph, Ketterer, Kontos, LaPointe, Larrivee, Lawrence, Lemke, Lipman, Macomber, Mahany, Manning, Marsh, Mayo, McHenry, McKeen, Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pfeiffer, Pineau, Plourde, Pouliot, Powers, Rand, Richardson, Ricker, Rotondi, Ruhlin, Saint Onge, Sheltra, Simonds, Simpson, Skoglund, Stevens, P.; Strout, Swazey, Tamaro, Townsend, Tracy, Treat, Vigue, Waterman, Wentworth, The Speaker.

NAY - Aikman, Bailey, R.; Barth, Bennett, Bowers, Butland, Carleton, Donnelly, Duplessis, Farnum, Foss, Garland, Gwadosky, Hanley, Heino, Lebowitz, Look, MacBride, Marsano, Merrill, Murphy, Nash, Ott, Parent, Pendleton, Pines, Reed, G.; Reed, W.; Salisbury, Savage, Small, Spear, Stevens, A.; Whitcomb.

ABSENT - Anderson, Cahill, M.; Carroll, J.; Cathcart, Cote, Farren, Greenlaw, Hastings, Hepburn, Hichens, Jalbert, Kerr, Ketover, Kilkelly, Kutasi, Libby, Lord, Luther, Martin, H.; Pendexter, Poulin, Richards, Rydell, Stevenson, Tardy, Tupper.

PAIRED - Ault, Bailey, H..  
Yes, 89; No, 34; Absent, 26; Paired, 2; Excused, 0.

89 having voted in the affirmative and 34 in the negative with 26 being absent and 2 having paired, the Bill failed of enactment.

Representative Gwadosky of Fairfield, having voted on the prevailing side, moved that the House reconsider its action whereby L.D. 1979 failed of enactment.

On further motion of the same Representative, tabled pending his motion that the House reconsider its action whereby L.D. 1979 failed of enactment and later today assigned.

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(At Ease)

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