

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Seventeenth Legislature
OF THE
State Of Maine

VOLUME V

FIRST REGULAR SESSION

Senate

June 19, 1995 to June 30, 1995

FIRST CONFIRMATION SESSION

September 14, 1995

FIRST SPECIAL SESSION

House of Representatives

November 28, 1995 to November 30, 1995

Senate

November 28, 1995 to November 30, 1995

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

Senator **BEGLEY:** Thank you, Mr. President. In reference to the constitutional amendment that we have passed this afternoon dealing with the unfunded liability, that amendment affects every citizen of the State, for every taxpayer will be responsible, somewhere along the line for paying taxes, thank goodness, if anything is needed and hopefully nothing is needed. I also would like to point out that two previous speakers have talked about the federal law. Not the federal constitution, but strictly the federal law. I have yet to have anyone point out to me a constitutional amendment of the state that deals exclusively with a small special interest group.

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

Senator **RAND:** Thank you, Mr. President, Men and Women of the Senate. In response to the good Senator from Hancock, Senator Goldthwait, I would respectfully disagree. I believe, strongly, that our national constitution and our state constitution is the vehicle by which we protect citizens from unreasonable acts of government. This is an excellent example of where a percentage of our people have been treated in a very unreasonable fashion by the state government, and proves the point to my mind that a constitutional amendment is absolutely necessary. Thank you.

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

A vote of Yes will be in favor of **FINAL PASSAGE.**

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: **BENOIT, BERUBE, BUSTIN, CAREY, CASSIDY, CLEVELAND, ESTY, FAIRCLOTH, FERGUSON, HALL, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PINGREE, RAND, SMALL**

NAYS: Senators: **ABROMSON, AMERO, BEGLEY, CARPENTER, CIANCHETTE, GOLDTHWAIT, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LORD, PENDEXTER, STEVENS, and the PRESIDENT**

ABSENT: Senator: **RUHLIN**

This being a Constitutional Amendment and having received the affirmative vote of 20 Members of the Senate, with 14 Senators having voted in the negative, and with 1 Senator being absent, and 20 being less than two-thirds of the Membership present and voting, **FAILED OF FINAL PASSAGE, in NON-CONCURRENCE.**

Sent down for concurrence.

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

Senate at Ease

Senate called to order by the President.

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

HOUSE REPORT - from the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1996 and June 30, 1997" (Emergency)

H.P. 700 L.D. 958

Report - Ought to Pass as Amended by Committee Amendment "A" (H-656).

Tabled - earlier in the day by Senator **KIEFFER** of Aroostook.

Pending - **ACCEPTANCE** of the Report.

(In House, June 30, 1995, the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-656).**)

(In Senate, earlier in the day, Report **READ.**)

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

Senator **PENDEXTER:** Thank you, Mr. President, Men and Women of the Senate. I just have to put on the Record a few comments relating to the Mental Health Consent Decree. There is language in this budget that distresses me greatly because I think it is

going against, or setting, public policy that I can't agree. If I am not here in July 1997, those of you who are, I hope will look back in the Record and say Senator Pendexter told us so. We have an opportunity today to not continue in the same vein that we have been doing, at least in the last five years since I have been here. There is language in this present L.D. that now takes state workers, as we are downsizing our institutions at Pineland, AMHI, and BAMHI, and moving these state workers into the community. That's not what I call privatization. We talk about how it's important to keep continuity of care for some of these people, and I can probably buy that for some of the MR population, but I can't buy it for the MH population. So now we are setting little regional districts, little authorities, more bureaucracy, and we are going to have scenarios where there are now going to be public state employees working in non-profit scenarios alongside people who have totally different pay scales, totally different benefits, and I think that is poor public policy. We all talk about we have to fund the consent decree and the court master says this is okay. That's all well and good, the court master is not going to say no to anything that brings in any money, but we need to look beyond the money, we in the legislature are the ones who are supposed to be setting public policy, not a lawyer sitting on a court who really doesn't understand the mental health arena. That distresses me greatly. So now we are going to use state workers salaries to draw down federal money. Here we go again. The proverbial umbilical cord to Washington D.C. We are talking about \$4 million, I'm told, yet the language is very loose. It doesn't say how many jobs are going to be transferred. It's all up to the Commissioner of the Department. Guess what? This all sunsets in July 1997. I want to know how two years from now we are going to give up \$4 million and we are going to say we have to cut these state worker jobs. I have been around here long enough to say that doesn't happen. I am putting these comments on the Record because it is important to say we should not be continuing to depend on federal funds over and over and over. If we need to move these state workers, or these care takers, to continue the continuum of care for some of these people, I don't see why they have to be state employees. They can be working as private employees. I think it's a chance, right now, and I have lost my battle, and I will give it up, but I am just saying to you, and I am putting it on the Record, that this was the time and the opportunity to finally say that we are going to do some responsible things, we are not going to do gimmicky and whatever you want to call it so that we can get more money from Washington. I don't believe that in two years we are going to give it up. It's not going to happen. I don't think we should start. So, I'll be voting against this budget because I am fundamentally against the language in that provision. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Ferguson.

Senator **FERGUSON:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I wish to point out and state for the Record that the provision in the budget establishing the reimbursement for taxes paid on business equipment and property is the most significant economic development tool in the budget.

I am pleased the program has received its initial funding. This program will send a message that the Maine Legislature is trying to address the perception that Maine does not welcome business. We all know that perception is out there and it is real. Perceptions take a long time to change. Passing and funding this program will help to address Maine's negative business image. The Taxation Committee heard from many businesses and worked hard to draft a fair proposal which begins the reimbursement program. We addressed various issues and found a willingness to give on other business related acts programs. The investment tax credit, specifically, a taxpayer receiving 100% reimbursement under this program for all eligible equipment will not be able to claim, under statute, Title 36, section 52 19E, for that year the equipment to which the reimbursement relates. By addressing the ITC program in this manner, it also was our intention that the amount of State income tax credit that would be available for taxpayers will be used each fiscal year for the reimbursement program. Our economy needs this incentive. I urge all to support L.D. 958. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you, Mr. President, Men and Women of the Senate. Just some brief comments on this document. The first comment is that this is the fourth budget document that has come out of the Appropriations Committee. The fourth unanimous budget out of the Appropriations Committee. In my previous ten years, I cannot remember that having happened, and for that I, once again, give credit to my fellow colleagues on the Appropriations Committee. But, as members stated on the Record yesterday, they had concerns about L.D. 706, I, too, have concerns about this budget even though I voted in favor of it. I rise this afternoon to echo the concerns of the good Senator from Cumberland, Senator Pendexter, because I believe we will be saying, two years from now, she was right, how are we going to deal with the loss of the federal dollars. I would also point out, and just for the Record, as far as sometimes the rhetoric gets heated up, not only in this Chamber, but in the House and on the second floor, but I think it is time for us to put that aside and not just use various incidents for its own political gain. That could have been done in this budget, but the Appropriations Committee wanted to work with the Executive Officer of this state, because, as the good Senator from Oxford, Senator Ferguson, pointed out, the personal property tax is an integral part of promoting economic growth and economic development in our state. I applaud the work done by the Taxation Committee, and the Governor for his initiative to bring this matter forward. I am concerned, however, in the mechanism we use to fund the personal property tax. We took nearly \$2.3 million from the Capital Reserve Account, as brought forward by the Governor's office. I realize on June 29, at ten p.m., your options for finding revenues are limited, but I think it is important that we know the priorities that we set and some of the concessions and sacrifices you have to make in drafting a budget. The Governor made a sacrifice in bringing this method forward, to take \$2.3 million from the Capital Reserve Account to fund the personal

property tax. I think he did that with some amount of courage because he exposed himself to criticism that he had foisted upon other members of this chamber that we weren't addressing the capital needs of our state. I think in the final analysis the Governor said we have to set priorities and one of the priorities has to be promoting economic growth, promoting economic development, providing reasons for businesses to expand, locate, relocate to this great State. I think that's all of our wishes. I think that is one of the main reasons why most of us ran for this chamber, to take a proactive position in economic growth and development. But when you take a proactive position something else has to give. Just as in other budget documents things had to give, in the budget before us the Capital Reserve Account had to give. I just want to state on the Record the Governor and his staff have made it clear that they will take the projected surplus at the close of this fiscal year, in a scant five and one half hours, as this fiscal year closes, to replenish the Capital Reserve Account. We agree with the good Governor that it is important to protect the infrastructure we currently have and to not put it in jeopardy. Those are the concerns I raise. Although I may not have been successful on the separate motions down in Appropriations, in the final analysis I took a look at the budget, I took a look at the compromises that have been made in the other chamber and in this chamber and on the second floor, and I said yes, this isn't everything that the Senator from Oxford wants, nor is it the way the Senator from Oxford would fund it, but our legislative process has worked its way through and I have had my say and my opportunity to discuss those issues and those matters that I didn't feel was most appropriate to be placed in this document. I will close this evening by stating that when I first came to the Maine Legislature as an idealistic young country boy from Oxford County, at the age of 23, full of piss and vinegar, thinking that I could turn this place on its ear, because I saw the world in black and white, and that if I could only convince the rest of the legislature that the world was black and white, the way I saw it, we could really move this place forward. I have learned a lot in the last ten years. I have learned that the legislative process can be respected when all members treat each other with respect and dignity and the common courtesy that all of us, as individuals, deserve. I must be candid, at times, in past legislatures, I thought it was sometimes lacking. As the good Senator from Franklin, Senator Benoit, said the other day, I think this is a legislative apex for me, to see the restoration of faith in the legislative process and to see that it can work when allowed to, and that we can operate in an environment of candor, of humor, and of principle. I appreciate the kind words that the members shared, not only for me, but for the other members of the Appropriations Committee. We thank you for that and we look forward to working with you in the Second Session. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY:** Thank you, Mr. President, Colleagues in the Senate. I would like to add this, ending on an upnote, and say that I think, at this point, I will be voting for this portion of the budget, but to also say thank you to all of us for

all of the hard work we have been doing. Also, in this specific debate, thank you for the reminder about the importance of, as the Senator from Cumberland said, thinking, and never stopping to think about the umbilical cord connection we have with the federal government. We were designed to be connected, and we were designed to be independent. I think, especially in these times, when some major realignment is happening across the nation, that we can't be reminded enough the importance of protecting people in our state, and all states, and local governments and citizens, so that we not bankrupt state and local areas while we pay off the debts in the federal area. I think it's an important piece to be reminded about that and we can't be concerned enough, in my opinion. Also, in terms of the idea from the Governor's office that we have all picked up and run with on personal property tax and encouraging telling the business community that we hear what you are saying and we are trying to help. I think that's a nice upnote to end on too. I guess a general thank you for leading the way and helping us end on an upnote. Thank you.

THE PRESIDENT: The pending question before the Senate is **ACCEPTANCE** of the Committee Report, in concurrence.

The Chair ordered a Division.

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

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

30 Senators having voted in the affirmative and 3 Senators having voted in the negative, **ACCEPTANCE** of the Committee Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-656) **READ**.

On motion by Senator **SMALL** of Sagadahoc, Senate Amendment "A" (S-398) to Committee Amendment "A" (H-656) **READ**.

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

Senator **BEGLEY:** Thank you, Mr. President. Regretfully, I will move to Indefinitely Postpone this amendment, on the point of view of the Committee having decided, in some fashion, not to amend. Please, consider my vote only one.

Senator **BEGLEY** of Lincoln moved that the Senate **INDEFINITELY POSTPONE** Senate Amendment "A" (S-398) to Committee Amendment "A" (H-656).

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

Senator **SMALL:** Thank you, Mr. President, Men and Women of the Senate. As I was about to explain, this Senate Amendment was intended to be incorporated with the language in the funding formula, but when this got put into the budget, I guess the powers that be that put together the budget, thought that this was

not appropriate to be in the budget document, and now we are in the second budget bill. Basically, what it does is take provisions from the Rosser report that came to us. We had, not only a new funding formula proposed, but also recommendations on governance. It takes three parts of those recommendations and puts them out to the State Board for further study and a report back to the legislature next December. The three areas are to establish and maintain a five-year plan for education, the other one is to review the organizational structure of school administrative units, to identify current cooperative agreements between schools and administrative units, and to look for ways that schools can consolidate their administrations and provide more cooperative agreements so that they can get bulk purchases on the products that they buy for their schools, other ways of cost-saving measures. Then it further studies, beginning in March 1996, what will be implementation for the funding of essential programs and essential services. We talk a lot about that when we talk about the funding formula, how are we going to guarantee that every student in the state had what we consider to be essential services. We all talked about wanting to provide those, but nobody could actually define what we considered essential programs and essential services for students. So, the State Board will continue their work on this to try and define those so that next year, when we come back, we can look at those and try to guarantee that every student in the state in every system has the dollars that are necessary to provide an essential program for their students. That's what these are, they are basically work for the State Board to do over the summer interim. Thank you.

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

Senator **HATHAWAY:** Thank you, Mr. President. I would like to pose some questions through the Chair, if I may. I would like to, if we could at this time, I understand that perhaps we are going to study this further, but I would like to know, are we, at this time, receiving funds from Goals 2000 for this study? Has there been any mandates attached to this money if we are receiving money for this study from Goals 2000? What is our position, at this time, on outcome-based education? Have we yet adopted national standards, as proposed by Goals 2000? When exactly, and what exactly, will we be discussing this?

THE PRESIDENT: The Senator from York, Senator Hathaway, has posed a series of questions through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Sagadahoc, Senator Small.

Senator **SMALL:** Thank you, Mr. President, Men and Women of the Senate. Yes, we are receiving, I believe we did get a grant from the federal government, to work on the Goals 2000. Just for the Record, let me read these eight federal goals for Goals 2000 Educate America Act, that we hear so much about. There seems to be some fear of what these goals will mean to our local education. Let me read these and anybody who has any questions about these individual goals, I would be happy to discuss it with them. The first goal, all children in America will come to school ready to learn. Two, the highschool

graduation rate will increase to at least 90%. Three, American students will leave grades four, eight, and twelve, having demonstrated competency over challenging subject matter, including english, math, science, arts, foreign language, history and geography, civics and government, and economics. Four, the nations teaching force will have access to programs for the continued improvement of their professional skills and the opportunity to acquire the knowledge and skills needed to instruct and prepare all American students for the next century. Five, U.S. students will be first in the world in math and science achievement. Six, every American will be literate and will possess the knowledge and skills necessary to compete in a global economy. Seven, every school in America will be free of drugs, alcohol, and violence, and will offer a disciplined environment, conducive to learning. Eight, every school will promote partnerships that will increase parental involvement and participation in promoting the social, emotional, and academic growth of children. Those goals, I don't have any problem with, and I would be very comfortable in having the State Board work on strategies that will promote these goals in Maine. We must remember that Maine has a long tradition of local control. Not only do we not accept mandates from the federal government on our curriculum, we don't even accept them from the state government on our curriculum. One thing we have always been very cognizant of, when we are in the Education Committee, if we want our locals to do something, we ask them to do it by incentives, we don't tell them that this will be their curriculum. I think it is very important for us to set high standards at the state level, and to set up programs whereby we can assess and test the children to see if they have reached those standards, but how the locals are going to implement those programs will always, at least as long as I am here, be a matter of local control. Thank you.

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

Senator **LORD:** Thank you, Mr. President. I would like to pose a question. Is there anything in there that says that a student must achieve a certain level in a grade before he is going to be passed on to the next grade?

THE PRESIDENT: The Senator from York, Senator Lord, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Sagadahoc, Senator Small.

Senator **SMALL:** Thank you, Mr. President. There is nothing in the study that really outlines anything more than that the State Board will study this and will come back with recommendations. Again, we will set standards, and we will have testing and assessment set up so that we can determine whether or not that student has mastered the skills that are in that grade, and then it will be up to the locals. At some point, I think we are going to have to say at fourth grade, if you haven't mastered what you need to know there, before you are moved on you have to master those skills and be developed to that level. That doesn't mean that you may not be passed into the fifth grade, but certainly you still have to be working on those skills and levels. We have to stop

thinking of school as only a twelve-year cycle and when you are all done with the twelve years you are all educated, because not everyone learns as quickly as others. For some it may take more than twelve years, for some it may take less. Education really has to be based on that individual student and not just on nine months of the year and you will be passed on to the next grade after you complete nine months. It really has to be more on what you know and what you have learned. Thank you.

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

Senator **HATHAWAY:** Thank you, Mr. President. I would just like to respond to those comments because I am sure that the good Senator, being so well versed in education, and having done such a fine job, is also aware that this money does not come from Goals 2000 without strings attached. I hope that she is familiar with the national standards set forth by Goals 2000, that they mandate that we use it to accept this money, particularly the national standards that they recommend in history, which I hope that we will have an opportunity to debate on this floor at some time. I hope that she understands that there is a great concern among many parents in this State about Goals 2000, and I would ask once more, if I could, what opportunity will we have at a later date to discuss this?

THE PRESIDENT: The Senator from York, Senator Hathaway, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Sagadahoc, Senator Small.

Senator **SMALL:** Thank you, Mr. President. First of all, before anything is mandated, I would assume this legislature would have to have another vote on it. Second of all, if anybody has followed any of my voting record, not only this year but for the past seventeen years, they would realize that I take mandates very seriously. I don't think you could count on a half of one hand the number of mandates that I have supported out of here. As I said, I support incentives for school districts. I support setting goals and then let the school districts come up with how they are going to achieve those, but I certainly would not be party to mandating a curriculum to a local school district. That's just not something that I could sign on to. As far as the funding goes, let me just read this. Title 3 of Goals 2000 provides funds to states through a two-step sequence. First, Maine has been awarded \$495,000 to develop a State plan for systemic reform of education, including a plan for integrating technology into education, and to award competitive grants to local school districts in three areas specified in Title 3. Second, once our State plan has been completed, and approved by the U.S. Department of Education, Maine will receive \$2.5 million, 90% to be awarded through a competitive grant process to local school districts in the same three grant areas with the same local requirements. Again, there is nothing that says we have to take this money. There is nothing to say that local communities have to participate. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **BEGLEY** of Lincoln that the Senate **INDEFINITELY POSTPONE** Senate Amendment "A" (S-398) to Committee Amendment "A" (H-656).

The Chair ordered a Division.

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

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

11 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion of Senator **BEGLEY** of Lincoln to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-398) to Committee Amendment "A" (H-656), **FAILED**.

On motion by Senator **SMALL** of Sagadahoc, Senate Amendment "A" (S-398) to Committee Amendment "A" (H-656) **ADOPTED**.

THE PRESIDENT: The pending question before the Senate is the **ADOPTION** of Committee Amendment "A" (H-656), as Amended by Senate Amendment "A" (S-398), thereto, in **NON-CONCURRENCE**.

Senator **PENDEXTER** of Cumberland requested a Division.

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

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

19 Senators having voted in the affirmative and 9 Senators having voted in the negative, Committee Amendment "A" (H-656), as Amended by Senate Amendment "A" (S-398), thereto, **ADOPTED**, in **NON-CONCURRENCE**.

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

Which was **PASSED TO BE ENGROSSED**, As Amended, in **NON-CONCURRENCE**.

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

Senate at Ease

Senate called to order by the President.

The Chair laid before the Senate the following Tabled and Unassigned matter:

An Act to Appropriate Funds for the Expansion and Renovation of the Norway Armory (EMERGENCY)
 H.P. 270 L.D. 372
 (C "A" H-24)

Tabled - April 11, 1995, on Motion by Senator **KIEFFER** of Aroostook.