

# MAINE STATE LEGISLATURE

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# **LEGISLATIVE RECORD**

OF THE

**One Hundred And Seventeenth Legislature**

OF THE

**State Of Maine**

## **VOLUME VII**

### **SECOND REGULAR SESSION**

**Senate**

March 14, 1996 to April 3, 1996

### **SECOND CONFIRMATION SESSION**

August 1, 1996

### **SECOND SPECIAL SESSION**

**House of Representatives**

September 5, 1996 to September 7, 1996

**Senate**

September 5, 1996 to September 7, 1996

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**HOUSE AND SENATE LEGISLATIVE SENTIMENTS**

brought a number of casinos into that state. The number of suicides that were easily attributed to gambling, some of the hidden suicides that arise when someone who is burdened with debt, \$30,000, \$40,000, \$50,000, \$60,000, wants to leave his family with something and crashes into a tree in order that his life insurance will be collectable. The increase in uncontrolled credit card debt. The great increase in bankruptcies. The increase in the number of pawn shops surrounding these casinos and gambling places. The increase in fraud for homeowners' policies when people pawn off a chainsaw, or a piece of furniture, or a TV set and then go out, in order to collect twice, they report it as stolen on their homeowners' policy. All of these immense societal costs flow as the direct and indirect result of licensing and expanding gambling operations in the state. I urge you to vote against it.

**THE PRESIDENT:** The Chair recognizes the Senator from Franklin, Senator Benoit.

Senator **BENOIT:** Thank you, Mr. President. May it please the Senate. The good Senator Lawrence has just made a comment that I must respond to. Pass it, he suggests, because people are already there doing this. I think about that, and then I think that there are people out there smoking marijuana. I guess under that thinking we ought to legalize that. How about crack cocaine? People are using crack cocaine quite often. Are we going to legalize that? I doubt it. My constituents, and I have had my arms twisted in good fashion by my constituents, and other folks, on this issue. I am going to go with my constituents. My constituents tell me that we have a quality of life in Maine that we can be proud of. A couple of weeks ago, in a debate here, I had occasion to remind you that yes, we do have a quality of life to protect. We better be about protecting it or we are going to lose it. Here's a good example right here. There is nothing positive, my constituents tell me, about enlarging gambling in this state. If you enjoy it, and many do, Atlantic City is the place for you to go down and vacation and gamble and come home. To me, happiness is Atlantic City in my rear-view mirror. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator **FERGUSON** of Oxford that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

A vote of Yes will be in favor of **ACCEPTANCE**.

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

<b>YEAS:</b>	<b>Sensors:</b>	<b>ABROMSON, BUSTIN, CAREY, CARPENTER, CIANCHETTE, FERGUSON, HANLEY, LAWRENCE, LONGLEY, LORD, MICHAUD, O'DEA, PARADIS, PENDEXTER, RUHLIN</b>
<b>NAYS:</b>	<b>Sensors:</b>	<b>AMERO, BEGLEY, BENOIT, BERUBE, CASSIDY, CLEVELAND, ESTY, GOLDTHWAIT, HALL, HARRIMAN, HATHAWAY, KIEFFER, MCCORMICK, MILLS, PINGREE, RAND, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND</b>
<b>ABSENT:</b>	<b>Senator:</b>	<b>FAIRCLOTH</b>

15 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 1 Senator being absent, the motion of Senator **FERGUSON** of Oxford to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

#### ENACTOR

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

#### Emergency

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

H.P. 1280 L.D. 1759

(H "A" H-900 to C "A" H-892)

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

Senator **HANLEY:** Thank you, Mr. President, Men and Women of the Senate. I rise this afternoon to let you know that the State of Maine has an opportunity this evening to pass a supplemental budget which, in fact, will address the needs of Maine's most needy citizens. In this supplemental budget, we have addressed all of the terms as put forward by the Mental Health and Mental Retardation Department on the Consent Decree for AMHI. With funding from within the Department, and an additional \$15 million on the part of additional funding, we are able to work with the Courtmaster, the plaintiff's counsel, and the court system to, hopefully, address this matter and to put us on the road where we are meeting the needs and not just paying lip service. Also in this supplemental budget we have spent over \$4 million additional for child protective services, to try to address the backlog of over 2400 cases of alleged child abuse which have not yet been investigated. Also, we are able to spend an additional \$13 million for our elderly in the long term care industry to deal with individuals who have Alzheimers who currently aren't eligible to receive nursing home care. On top of that, this budget includes the repeal of the gross receipts tax on nursing homes. It repeals a tax which I don't think anyone who served on the Legislature in 1991 liked in the first place, because it was a gimmick. It was a manner to raise additional funds to get the State through difficult times. This supplemental also allocates another \$675,000 for children's respite care. For those families who currently have at home children with special needs, it allows them an opportunity to get out of their house for five hours a day.

There has been some discussion on the supplemental budget in repealing the gross receipts tax that we are being fiscally irresponsible. The Governor of our state has, in fact, stated that this is not prudent to do at this time. My response is, we have taken action to eliminate bad tax policy; and in doing so, we have inserted \$24 million. If this supplemental passes through, we will have nearly \$25 million in the State's Rainy Day Fund. A feat that

hasn't been achieved during my decade of service here in the legislature. In talking with people who have been here longer than that, hasn't been duplicated since. We have nearly \$25 million in the Rainy Day Fund, also the circuit breaker money that the Governor had wanted to use to fund the supplemental budget, the overage, the monies that weren't taken by the people of the State of Maine in the circuit breaker program, totalling near \$5 million, we have carried that over. We have not spent that money. That \$5 million has been carried over in the circuit breaker account. All told, we have paid all of the debts of the accounts payable in our departments. They will be up to speed. We no longer have furloughs and shutdowns. We have repaired the problem areas, and still we are putting nearly \$25 million into the bank and an additional \$5 million into the circuit breaker for the next Legislature in the 118th to deal with property tax relief. Speaking of property tax relief, we have \$1.5 million in the supplemental to appropriate to our county jails, to start beginning to fund them to the level that we said we would, for the state prisoners that they house.

I would like to state on the record that it has been a privilege and an honor to serve with the thirteen members of the Appropriations Committee. I take my hat off to my colleagues in the Senate, the Senator from Lincoln, Senator Begley, and the Senator from Androscoggin, Senator Berube, for what has truly been a bipartisan effort to address the needs of Maine citizens, so that we all can go home with our heads held high, seeing that the most needy have been addressed, restoring some integrity into our budget process, not maintaining taxes on the most needy and infirm in our society, and planning for the future by placing nearly \$25 million into the Rainy Day Fund. This is something that was done in a bipartisan effort, with members of this chamber working in concert with members of the other body. I believe this supplemental budget is a budget that we can walk out of Augusta, and back into our districts, and say we heard the areas that you were concerned about, and we know the issues that we haven't addressed previously, our mentally ill, our elderly and infirm, and our children who are not being protected and who are being abused. I believe those are the neediest of Maine's citizens, and I believe we have addressed them within the resources that we had available, and still are able to put some money aside for the inevitable problems and downturns that may arise. I hope we have your support as this final supplemental is enacted. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Carey.

**Senator CAREY:** Thank you, Mr. President. As a member of Taxation, I would like to extend our thanks to the Appropriations Committee for the way they treated us with our very top priority, the removal of the excise tax on nursing homes. That money is not going to be a total loss, as a matter of fact; because the excise tax is tied, also, to restaurants; and the restaurants will be paying the 7% sales tax. So, that excise tax will not be totally rubbed out. It is only going to be replaced. The communities themselves ought to be pleased with that, in that in the income tax, they at least share with the Local Government Fund. The Local Government Fund, however, will not be sharing until 1998, so that we can be assured that we do have a balanced budget. Once

again, we tried on the Taxation Committee, to insure that the nursing home owners would relay that 7% savings that they are now going to have, by dropping their charge on the nursing home patients. We could not find a legal way to actually force them to do that. Hopefully, if anybody knows of any unscrupulous nursing home owners, I personally would like to hear about it. Thank you.

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

**Senator HATHAWAY:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I would just like to add what the good Senator from Oxford, Senator Hanley, said. I think this is a great day for this chamber. Two years ago, when I decided to run for office, I told people that I was coming here to cut taxes. Many people told me it couldn't be done. In the last two years many people have told me that I can't work with Democrats. Today, I think we see that we can all work together. I think this 7% tax on our elderly, on people who can no longer earn a living, was one of the most immoral and outrageous taxes I could ever imagine. I will be very pleased to see it be repealed today. In the last two years I have heard comments such as, "Let them go broke" about our elderly in nursing homes, in regards to this tax. I would just like to say that I do think it's a great day that we are not only cutting a tax, but we are also ending a terrible gimmick. If you remember last year, this bill was in the Taxation Committee. There was only one vote to repeal this tax, yet this Senate took the lead and overwhelmingly, with people from both sides of the aisle, voted to repeal this tax. This year, because of the Democrats on the Taxation Committee, willing to take the lead, we have this bill, under unanimous report from the Taxation Committee. As the good Senator from Kennebec, Senator Carey, said, the Appropriations Committee was kind enough to welcome our suggestions that this be included in the budget. I think it shows that we can work together and do great things. I do think, once again, that this is a great day for this chamber.

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

**Senator PENDEXTER:** Thank you, Mr. President, Men and Women of the Senate. I, too, am pleased to be voting for this budget; and I commend the Appropriations Committee for bringing to us a unanimous decision. Chairing the Human Resources Committee is probably just as challenging as the Appropriations Committee, so we realize the hard work one has to do to get a unanimous report. Those of us on the Human Resources Committee did work very well, bipartisanship, on the long term care. I just want to spend a few minutes to just share with you, because we won't be discussing it in any other arena, that of the \$13 million in the budget, that there is something in there for everybody. We had appropriated \$2.8 million for home-based care. We also have added significant amounts for homemaker services and to help the people who want to stay at home and who are able to stay at home. We have also appropriated the ability for 75 new low-income elderly assisted-living units. There again, this is an excellent alternative for us to have in the community. We have also staffed the Ombudsman Office, and we have extended her jurisdiction to cover all arenas of long-term care, and not just nursing homes. We feel, as we are branching out in

all these new settings, we certainly do want our consumers to have a vehicle with which to let us know if there are problems. The adult family care homes, I know, are a concern for some of you. What we did was we capped how many would be able to be created at this point. We put a cap at twenty private and twenty public. There will be some reporting back to the Committee just to see how those are working out. I'm pleased to say that we were able to address some of the Alzheimers problems that, of course, Med94 has brought upon us. Med94 is a good tool. It does work effectively, but the problem has been that we didn't have the good alternatives to offer. As we continue to work on developing new alternatives, I am happy to say that we have been able to fund further adult day-care scenarios and also apply more money to respite care for those folks who are taking care of their Alzheimer family member at home. We have also tried to help the nursing homes by what we would call tweaking Med94. That does add an additional assessment tool to the already existing form, which does take into account some cognitive problems, which, hopefully, we will pick up about 300 more persons which we haven't been able to qualify for nursing homes. Also, lastly, we have given \$3 million to encourage nursing homes to transfer their nursing home beds to residential types of settings. Hopefully, when we come back, and we look at the long-term care setting in another two years, we can say yes, we are getting there and we are developing good alternatives. So, that's the good news.

The bad news, however, for me, having spent a whole lot of energy and time on the Productivity Task Force, it distresses me to find out that there are 134 new positions in this budget. Ninety-four are general fund, five are federal and forty-one are special revenue. I have to ask myself, why do we go through all this? I don't really know what the answer is; but I guess I would say that we are continuing to expand state government, everyday we are here. I think we need to start thinking about the programs we fund and the way we deliver services. You know, we cut state government; and then we build it up again. I don't understand it. So, for me, that is the bad news in the budget; and I hope that we can continue to look at how we restructure state government. I learned a lot on the Productivity Task Force. It was a great experience for me to be able to see every department in state government. There is a lot of room to perform better services, to redefine what types of businesses we, as state government, ought to be in the business of doing; and we need to continue that task. So, I look forward to, hopefully, some more budgets whereby we will continue to better define how we deliver services. Thank you.

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

Senator **HARRIMAN:** Thank you, Mr. President. Good evening, Ladies and Gentlemen of the Senate. I am very proud to stand here today and tell you that for as long as the citizens of Senate District 23 have given me the honor of sitting in this seat, I am voting for my very first budget. I want to congratulate the Appropriations Committee, the Governor, this Senate, for the collegial way in which we have finally accomplished what I think we should have set out to do many months ago. But, that is behind us. I think we have restored the confidence of the public in our ability to prioritize. Those

priorities always have been, for me, taking care of the needs of our mentally ill and our retarded, our elderly, and our children in harm's way. We have done that with compassion. We have also done something even more important. We have kept a promise that some of us have made to repeal this unfair gross receipts tax. We can go home and tell the folks who are paying their own way in a nursing home that we have taken away this unfair burden that we have placed on them. More importantly, what we are saying to the folks who are just behind them in life's journey, that we recognize the value of you planning for your own long-term care needs, and we respect you and we are going to help you. I think we have done a tremendous job. Thank you.

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with No Senator having voted in the negative, and 28 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

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

**ENACTORS**

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:

An Act to Clarify Definitions Under the Laws Concerning Games of Chance

S.P. 479 L.D. 1303  
(C "A" S-517)

Senator **LAWRENCE** of York moved that the Bill and Accompanying Papers be **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Stevens.

Senator **STEVENS:** Thank you, Mr. President, Men and Women of the Senate. I hope you will vote against the motion and vote to pass L.D. 1303. Thank you.

On motion by Senator **LAWRENCE** of York, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Mr. President, Men and Women of the Senate. You may recall that this is the bill that makes a minor change in defining what a game of chance is within our regulatory statutes on games, gaming and gambling. It is an important but small change and I would urge you to vote against the pending motion. This is the same bill that we discussed several days ago. I am satisfied that the passage of this bill will not have any adverse impact on fraternal organizations, American Legion halls, and other groups, who have special licenses that authorize them to employ games of chance, no matter how you define the term. Under the old law, or under this new law, or any other way, they have licenses to do what they want to do; and passage of this law will in no way adversely impact how they behave, what goes on in the Elks lodge. This has no impact on them.