

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Senate Legislative Record
One Hundred and Eighteenth Legislature
State of Maine

Volume 1

First Regular & Special Session
December 6, 1996 to May 19, 1997

Pages 1 - 980

THE PRESIDENT: The pending question before the Senate is Passage to be Engrossed as Amended, in concurrence. The Chair recognizes the Senator from Cumberland, Senator Amero.

Senator **AMERO:** Thank you Mr. President. I request a Roll Call.

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

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: CAREY, CATHCART, CLEVELAND, DAGGETT, GOLDTHWAIT, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MICHAUD, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CASSIDY, FERGUSON, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MILLS, MITCHELL, SMALL

EXCUSED: Senator: HALL

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being excused, the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-15) AS AMENDED BY HOUSE AMENDMENTS "FF" (H-73); "HH" (H-75) AND "JJ" (H-82) thereto, in concurrence.**

Senator **PINGREE** of Knox moved to **RECONSIDER** whereby this Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-15) AS AMENDED BY HOUSE AMENDMENTS "FF" (H-73); "HH" (H-75) AND "JJ" (H-82) thereto.**

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

Senator **AMERO:** Thank you Mr. President. I request a Division.

A Division was had. No Senators having voted in the affirmative and 33 Senators having voted in the negative, the motion by Senator **PINGREE** of Knox, to **RECONSIDER** whereby this Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-15) AS AMENDED BY HOUSE AMENDMENTS "FF" (H-73); "HH" (H-75) AND "JJ" (H-82) thereto, in concurrence, FAILED.**

Senator **PINGREE** of Knox, was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

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

Off Record Remarks

On motion by Senator **PINGREE** of Knox, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President

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:

Emergency

An Act Making Unifies 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, 1998 and June 30, 1999

H.P. 832 L.D. 1137
(H "FF" H-73; H "HH"
H-75; H "JJ" H-82 to
C "A" H-15)

Comes from the House **FAILED OF ENACTMENT.**

On motion by Senator **PINGREE** of Knox, 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, I'm sorry to interrupt, just a point of order. This bill comes from the House having failed of enactment, is that correct?

THE PRESIDENT: The Chair would answer in the affirmative.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: CAREY, CATHCART, CLEVELAND, DAGGETT, GOLDTHWAIT, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MICHAUD, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CASSIDY, FERGUSON, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MILLS, MITCHELL, PINGREE, SMALL

EXCUSED: Senator: HALL

Senator PINGREE of Knox requested and received leave of the Senate to change her vote from YEA to NAY.

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being excused, **PASSAGE TO BE ENACTED, FAILED.**

On motion by Senator PINGREE of Knox, the Senate **RECONSIDERED** whereby **PASSAGE TO BE ENACTED, FAILED.**

Senator PINGREE of Knox moved to **RECONSIDER** whereby this Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-15) AS AMENDED BY "FF" (H-73); "HH" (H-75) and "JJ" (H-82)** thereto, in concurrence.

Senator AMERO of Cumberland rose to a **POINT OF ORDER**; the motion to reconsider having been previously made.

The Chair **RULED** the motion to **RECONSIDER** in order, intervening motions having been made and carried.

At the request of Senator BENNETT of Oxford a Division was had. 20 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator PINGREE of Knox, to **RECONSIDER PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-15) AS AMENDED BY HOUSE AMENDMENTS "FF" (H-73); "HH" (H-75) AND "JJ" (H-82)** thereto, **PREVAILED.**

Senator PINGREE of Knox, moved to **RECONSIDERED** whereby **COMMITTEE AMENDMENT "A" (H-15) AS AMENDED BY HOUSE AMENDMENTS "FF" (H-73); "HH" (H-75) AND "JJ" (H-82)** thereto, was **ADOPTED.**

At the request of Senator BENNETT of Oxford a Division was had. 20 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator PINGREE of Knox, to **RECONSIDER** whereby **COMMITTEE AMENDMENT "A" (H-15) as AMENDED BY HOUSE AMENDMENTS "FF" (H-73); "HH" (H-75) AND "JJ" (H-82)** thereto, was **ADOPTED, PREVAILED.**

Senator PINGREE of Knox moved to **SUSPEND THE RULES** for the purpose of **RECONSIDERING** whereby **HOUSE AMENDMENT "JJ" (H-82) TO COMMITTEE AMENDMENT "A" (H-15)** was **ADOPTED.**

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

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: CAREY, CATHCART, CLEVELAND, DAGGETT, GOLDTHWAIT, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MICHAUD, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CASSIDY, FERGUSON, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MILLS, MITCHELL, SMALL

EXCUSED: Senator: HALL

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator PINGREE of Knox to **SUSPEND THE RULES** to **RECONSIDER** whereby **HOUSE AMENDMENT "JJ" (H-82) to COMMITTEE AMENDMENT "A" (H-15)** was **ADOPTED, FAILED.**

On motion by Senator MICHAUD of Penobscot Senate Amendment "W" (S-66) to Committee Amendment "A" (H-15) **READ.**

THE PRESIDENT: The Senator has the floor.

Senator MICHAUD: Thank you Mr. President, men and women of the Senate. I was hoping that I would not have to offer this amendment to you this evening. It was my intention to get a two-thirds budget. Clearly, with the vote in this Body just recently, that is impossible. This amendment does 5 things. First of all is, it takes care of the municipal mandate under the Northern Maine Juvenile Detention Center, so it's no longer a mandate, therefore, it does not need a two-thirds. It removes the emergency preamble. It removes the \$4.5 million surplus that we were going to take originally in fiscal year '96 and '97, since it's not an emergency, we cannot do that. But at the same token, unfortunately, we also have to remove the additional money that we were going to give back in revenue sharing because of the gross receipts tax. And finally, it makes clear our intent not to get \$100 a day during the special session. So I would hope that this Body would adopt Senate Amendment "W". Thank you.

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

Senator **MILLS:** Mr. President, if I may pose two questions to anyone who may be able to answer?

THE PRESIDENT: The Senator may pose his questions.

Senator **MILLS:** The first is whether the fourth provision of this amendment is not an emergency, thus requiring that the bill go into effect immediately rather than 90 days after adjournment. In other words, the provision relating to per diem compensation, is my first question? Second question is whether this amendment is within the scope of the president's letter of last week, concerning the deadline for making of amendments? Thank you.

THE PRESIDENT: The Chair would answer the second question first. This amendment is not dilatory because it moves towards adoption of the bill. The Senator from Somerset, Senator Mills poses a further question to anyone who may be able to answer. The Chair recognizes the Senator from Penobscot, Senator Michaud.

Senator **MICHAUD:** Thank you Mr. President, men and women of the Senate. Clearly, it should be an emergency in order for that final provision to go into effect. I want to make it clear that it is our intention that no legislator receive the \$100 a day. I would expect that they probably can go in and request it, however, if that is the case I would suggest that we probably ought to pass a bill later on that, if they do receive it then they'd either have to pay it back or it be deducted from their expenses in the second year. A few years ago, I believe back in the early 90's this was done, but it was done through a joint order, prohibiting that and I think probably we ought to do the joint order as well, but I'm not sure whether that will supersede the law however, it was done once before. But, I want to make it clear that it's our intention that any Special Session held to finish our business that we do not receive the \$100 per day. Mr. President, when the vote is taken I request a Roll Call.

THE PRESIDENT: A Roll Call has been ordered. The Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator **HARRIMAN:** Thank you Mr. President, good evening ladies and gentlemen of the Senate. I'd like to pose two questions, if I may Mr. President?

THE PRESIDENT: The Senator may pose his questions.

Senator **HARRIMAN:** Thank you. First, I'd like assurance, if I could from someone in the Body since I literally just received this amendment, I haven't had a chance to understand it completely. The first question dealing with the Detention Facility, I'd like to know how we are going to assure that this may not be a mandate because it says so in the document, but, I'd like assurance that in practice there's a logistical and legal matter that it's not going to be mandate? Second, I'd like to know, it appears to me Mr. President that we are not going to provide the revenue sharing money to municipalities. As I understand it, when the gross receipts tax was eliminated, money that was previously going

into that account could now go to municipal revenue sharing and I'd like to know why we're not going to do that? Thank you Mr. President.

THE PRESIDENT: The Senator from Cumberland, Senator Harriman poses two questions through the Chair to anyone who may answer. The Chair recognizes the Senator from Knox, Senator Pingree.

Senator **PINGREE:** I just wanted to briefly comment on the second question here and allow some others to answer some of the more technical things about question number one. But I'd like to say that I think that it is true that we will not be providing that revenue sharing and I think we should all look at this as one of the casualties of not being able to get a two-thirds vote earlier tonight and I'm very sorry and disappointed we weren't able to do that.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Michaud.

Senator **MICHAUD:** Thank you Mr. President, men and women of the Senate. Clearly if you look at the amendment on line 40, it says, after discretion of the sheriff a county may assume, it does not mandate that they have to assume, it's "may". And this was the language that we had staff, when I asked them to look at any municipal mandates, this was the suggested language. And I might also add to what Senator Pingree has mentioned about revenue sharing. Even though this amendment does not deal with the gross receipt tax, revenue sharing still will be receiving an increase over the last year, it's roughly another 4.7 and a 4.2% increase above and beyond the \$5.2 million that they would have received.

Senator **LIBBY** of York rose to a **POINT OF ORDER;** questioning whether Senate Amendment "W" (S-66) to Committee Amendment "A" (H-15) was properly before the body.

THE CHAIR RULED Senate Amendment "W" (S-66) to Committee Amendment "A" (H-15) **PROPERLY BEFORE THE BODY.**

Senator **LIBBY:** Thank you. I'd like to challenge the ruling of the presiding officer and I do this on the basis that when we spoke recently in the Senate, Mr. President, and you gave us a ruling on what was dilatory and what was not, the message that you gave us verbally was that anything that would move us toward a two-thirds vote for the document and now that seems to have changed. And so what I'm saying is that this is a dilatory amendment and I would challenge the ruling and ask for a Roll Call.

Senator **LIBBY** of York appealed the **RULING OF THE CHAIR.**

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

THE PRESIDENT: The pending question is: "Shall the Ruling of the Chair be Sustained?"

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: CAREY, CATHCART, CLEVELAND, DAGGETT, GOLDTHWAIT, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MICHAUD, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CASSIDY, FERGUSON, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MILLS, MITCHELL, SMALL

EXCUSED: Senator: HALL

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being excused, THE RULING OF THE CHAIR was **SUSTAINED**.

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

Senator **HARRIMAN:** Thank you very much Mr. President, good evening ladies and gentlemen of the Senate. I appreciated the explanation from my good friend from Penobscot, Senator Michaud on the Juvenile Detention and I will assume that if a county sheriff decides to assume responsibility for detention, that it's permissible, but if they don't, the State will then bear the cost? If that's incorrect I certainly would appreciate testimony to the same. And Secondly, Mr. President I would simply say, in all due respect to my good friend from Knox, Senator Pingree that the comments that we are debating in this amendment, the statements we are debating in this amendment clearly states that this amendment generates new, new general fund revenue, approaching \$5.8 million for over the biennium for money that should be going to revenue sharing for municipalities. To me that is money that should be going to municipalities that the government is saying, we need more than the towns do. Thank you Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Michaud.

Senator **MICHAUD:** Thank you Mr. President, men and women of the Senate. To elaborate on the first part about municipal mandate. It's up to the Fiscal Program Review Office, it's their responsibility to let the legislature know whether this is a municipal mandate. And, they were the ones who had drafted this language and they said that with this language that it is not a municipal mandate. And just to further reiterate, the good Senator's concern about the additional money into revenue sharing, the \$5.2 million, I would like to see that go. However, in order for us to do it, we needed a two-thirds vote and we were denied the two-thirds vote on the budget, so therefore, we had to remove that.

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

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: CAREY, CATHCART, CLEVELAND, DAGGETT, GOLDTHWAIT, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MICHAUD, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CASSIDY, FERGUSON, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MILLS, MITCHELL, SMALL

EXCUSED: Senator: HALL

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senators being excused, the motion by Senator **MICHAUD** of Penobscot, to **ADOPT** Senate Amendment "W" (S-66) to Committee Amendment "A" (H-15), **PREVAILED**.

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

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: CAREY, CATHCART, CLEVELAND, DAGGETT, GOLDTHWAIT, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MICHAUD, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CASSIDY, FERGUSON, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MILLS, MITCHELL, SMALL

EXCUSED: Senator: HALL

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senators being excused, **COMMITTEE AMENDMENT "A" (H-15) AS AMENDED BY HOUSE AMENDMENTS "FF" (H-73); "HH" (H-75); "JJ" (H-82) AND SENATE AMENDMENT "W" (S-66) thereto, ADOPTED in NON-CONCURRENCE.**

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

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: CAREY, CATHCART, CLEVELAND, DAGGETT, GOLDTHWAIT, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MICHAUD, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CASSIDY, FERGUSON, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MILLS, MITCHELL, SMALL

EXCUSED: Senator: HALL

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senators being excused, the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-15) AS AMENDED BY HOUSE AMENDMENTS "FF" (H-73); "HH" (H-75); "JJ" (H-82) AND SENATE AMENDMENT "W" (S-66) thereto, in NON-CONCURRENCE.**

Senator **PINGREE** of Knox, moved that this item be sent forthwith for concurrence.

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

Senator **PINGREE** of Knox, moved to **RECONSIDER** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-15) AS AMENDED BY HOUSE AMENDMENTS "FF" (H-73); "HH" (H-75); "JJ" (H-82) AND SENATE AMENDMENT "W" (S-66) thereto, in NON-CONCURRENCE.**

The Chair ordered a Division. 14 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion by Senator **PINGREE** of Knox, to **RECONSIDER** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-15) AS AMENDED BY HOUSE AMENDMENTS "FF" (H-73); "HH" (H-75); "JJ" (H-82) AND SENATE AMENDMENT "W" (S-66) thereto, in NON-CONCURRENCE, FAILED.**

Sent down for concurrence.

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

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Give an Antlerless Deer Permit to a Person Who Kills 5 or More Coyotes" S.P. 63 L.D. 182

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-65).**

Signed:

Senators:
KILKELLY of Lincoln
HALL of Piscataquis

Representatives:
PAUL of Sanford
CHICK of Lebanon
UNDERWOOD of Oxford
TRUE of Fryeburg
USHER of Westbrook
GOODWIN of Pembroke
CROSS of Dover-Foxcroft

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass.**

Signed:

Senator:
RUHLIN of Penobscot

Representatives:
CLARK of Millinocket
DUNLAP of Old Town
PERKINS of Penobscot

Which Reports were **READ.**

Senator **KILKELLY** of Lincoln moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-65) Report.**

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-65) Report.**

Divided Report