

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

**One Hundred And Sixteenth Legislature**

OF THE

**State Of Maine**

**VOLUME II**

**FIRST REGULAR SESSION**

**House of Representatives**  
May 17, 1993 to July 14, 1993

things that have been said, one, Representative Whitcomb said that most countries in the world are using or approve this. That may be true if you count numbers but I should note that in Canada there is a ban that is continuing for another couple of years. In Europe, there is a ban that is continuing for another 18 months. So, there are countries who have very strong concerns about this.

With regard to good corporate citizens, this particular product is the subject of an intense lobbying effort at all levels. In fact, the National Dairy Board, who is very much promoting this particular product, hired a public relations firm in New York to hire people to pose as housewives to attend the Farmers' Union BGH meetings. One of the large companies that is doing this, Eli Lilly, hired Berson Marsteller, one of the country's largest public relations firms, who in fact worked for the Emir of Kuwait during the late war to create a fake citizen environmental group to monitor in both Wisconsin and Vermont local farm advocacy concern about BST. So, I think that there is not only a very strong pressure at the legislative level, but there is some questionable activity going on out in the rural areas.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Tardy of Palmyra that the House accept the Minority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 111

YEA - Aikman, Aliberti, Birney, Caron, Chonko, Daggett, DiPietro, Farnum, Foss, Greenlaw, Hillock, Hussey, Jacques, Ketterer, Kutasi, Michaud, Morrison, Paradis, P.; Plourde, Reed, G.; Reed, W.; Ricker, Stevens, A.; Strout, Swazey, Tardy, Taylor, Vigue, Whitcomb.

NAY - Adams, Ahearne, Anderson, Ault, Bailey, R.; Barth, Beam, Bennett, Bowers, Brennan, Bruno, Cameron, Carr, Carroll, Cashman, Chase, Clark, Clement, Cloutier, Clukey, Coffman, Coles, Constantine, Cote, Cross, Donnelly, Driscoll, Dutremble, L.; Farnsworth, Farren, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gray, Gwadosky, Hale, Hatch, Heeschen, Heino, Hichborn, Hoglund, Holt, Jalbert, Johnson, Joseph, Joy, Kerr, Kneeland, Kontos, Larrivee, Lemke, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Martin, H.; Melendy, Michael, Mitchell, E.; Mitchell, J.; Murphy, Nash, Nickerson, Oliver, Pendexter, Pendleton, Pfeiffer, Pineau, Pinette, Plowman, Poulin, Pouliot, Rand, Richardson, Robichaud, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Simoneau, Skoglund, Small, Spear, Stevens, K.; Sullivan, Thompson, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, True, Tufts, Walker, Wentworth, Winn, Young, Zirkilton.

ABSENT - Bailey, H.; Campbell, Carleton, Cathcart, Dexter, Dore, Erwin, Faircloth, Kilkelly, Nadeau, Norton, O'Gara, Ott, Rotondi, The Speaker.

Yes, 29; No, 107; Absent, 15; Paired, 0; Excused, 0.

29 having voted in the affirmative and 107 in the negative with 15 being absent, the Minority "Ought Not to Pass" Report was not accepted.

Subsequently, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (S-105) was read by the

Clerk.

Senate Amendment "A" (S-123) to Committee Amendment "A" (S-105) was read by the Clerk and adopted.

Committee Amendment "A" (S-105) as amended by Senate Amendment "A" (S-123) thereto was adopted and the Bill assigned for second reading Friday, May 21, 1993.

The Chair laid before the House the second item of Unfinished Business:

An Act to Ensure Integrity in Maine Government by Prohibiting Involvement of Constitutional Officers and the State Auditor in Political Action Committees (H.P. 613) (L.D. 828) (C. "A" H-242) TABLED - May 19, 1993 (Till Later Today) by Representative PARADIS of Augusta. PENDING - Passage to be Enacted.

On motion of Representative Paradis of Augusta, retabled pending passage to be enacted and specially assigned for Friday, May 21, 1993.

TABLED AND TODAY ASSIGNED

The Chair laid before the House the first tabled and today assigned matter:

HOUSE DIVIDED REPORT - Majority (7) "Ought Not to Pass" - Minority (6) "Ought to Pass" as amended by Committee Amendment "A" (H-338) - Committee on Appropriations and Financial Affairs on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide the Governor with a Line-item Veto (H.P. 948) (L.D. 1277)

TABLED - May 19, 1993 by Representative CHONKO of Topsham.

PENDING - Motion of same Representative to accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Mount Desert, Representative Zirkilton.

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will not accept the Majority "Ought Not to Pass" recommendation and will in fact go on to accept the Minority "Ought to Pass" as amended Report.

I had distributed to you an editorial which appeared in a statewide newspaper this morning which talks about some of the virtues of a line-item veto. There are in fact right now 44 states in this country which provide their Chief Executive with a line-item veto. They do so in a variety of different ways, four of those states require only a simple majority to override those line-item objections. This is what I have proposed to you here today, that our governor be given the opportunity to line-item veto appropriation bills and that all you would need is a simple majority to override his objection.

It would accomplish several things, one, it would ensure that as we go forward, the Governor would not be able to say, well, I went ahead and let that bill go by because it wasn't worth vetoing the entire thing but it had a lot of things in it that I didn't

like. That wouldn't happen anymore because from this point forward, if the people were to go ahead and approve this, the Governor would have the opportunity to single out his specific objections, return them to us for us to focus on and, if a majority of the members of this body felt that his veto should be overridden, it would be overridden but not before we had an opportunity to, just for a moment, for a few moments, focus our attention on a line that otherwise would have disappeared off from that big budget somewhere.

I am hopeful that we will be able to recognize the value of going ahead and passing something like this. As I mentioned, 44 states do have it, four of them do it by a simple majority override, another few do it by three-fifths and the overwhelming majority of them do it by two-thirds which, of course, we have for other matters.

Just to summarize the whole thing, if we went ahead and passed it, we would be creating an additional level of scrutiny, an opportunity for us to, once again, go over any problems which the Governor might see and return to us. We would not be doing away with or diminishing any of the power which the majority now enjoys because, quite frankly, you would be able to override the Governor's objection without one single Republican vote, if that is what you chose to do. I think the opportunity to make the Governor accountable politically for the budget equally as accountable as we are here is something that you will agree is worthwhile. I hope that you will give this an opportunity to go forward.

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

Representative CHONKO: Mr. Speaker, Men and Women of the House: We, in Maine, have a long tradition of negotiating each budget that goes on to enactment. If the legislature includes items that the Governor views as unnecessary, our Constitution already specifies a process whereby the bill can be vetoed. Nine states do not have a line-item veto. It is interesting to note that of those nine, four of the states are in New England, New Hampshire, Rhode Island, Vermont and Maine. Of those four New England states, all independent thinkers and do their own thing, it is important to remember that each is a part-time legislature. There is nothing really broken about the enactment process for the budget right now and I urge you to support the Majority "Ought Not to Pass" Report.

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

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

Would the Representative from Mount Desert please clarify the Constitutional and legal circumstance regarding the reality that budget appropriations are passed with a two-thirds majority of members elected? Would it be the case that if a veto override was by a simple majority of members present, how would that relate to the original legal mandate, constitutional mandate, that those appropriations be passed with a Constitutional two-thirds?

The SPEAKER: The Representative from Portland, Representative Richardson, has posed a question through the Chair to Representative Zirkilton of Mount Desert who may respond if he so desires.

The Chair recognizes that Representative.

Representative ZIRNKILTON: Mr. Speaker, Men and Women of the House: Not being an attorney I will do my best to try to answer that question. As I understand this legislation, it would in fact be an amendment to the Constitution. It certainly is not my intention to do away with the initial requirement of two-thirds to move the budget in its final form to the Governor's desk. My intention — and perhaps if you are more focused than I, you might be able to tell me whether or not I am achieving my goal — my intention is to give the Governor the opportunity to return specific portions of that budget, once passed by two-thirds of the members here, for him to return specific portions which he might find objectionable and that we then in turn would override those objections by a simple majority after the initial budget receives the two-thirds to get to him in the first place. That is my intention. Perhaps you could tell me whether or not I am achieving that in your mind.

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

Representative RICHARDSON: Mr. Speaker, Men and Women of the House: I appreciate the Representative from Mount Desert's intentions on the matter, I can understand that. But, I think this issue is a critically important issue and it relates to the fact that whether a proposed majority vote on a line-item veto for which there are a lot of cases that can be made where, out through the Constitution, can be turned into a two-thirds of elected members. I am still unsure of the answer to that question as to what will in fact happen were this Resolution to pass. I would hope that could be clarified.

The SPEAKER: The Chair recognizes the Representative from Mount Desert, Representative Zirkilton.

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: I cannot directly answer that but I certainly can tell you that the language in the bill is specific and states that only a majority of the members would be required to override the Governor's objections. I don't see how anyone could interpret that any other way. If it says majority, it does not mean two-thirds.

If I may briefly respond to Representative Chonko's concerns, I would agree with you, that we, like many of our other New England states, are in fact independent and today we demonstrated an independence within our New England caucus as well. For example, the other day New Hampshire rejected it, the seat belt bill, today, this morning, this House enacted it — mandatory seat belt legislation.

It seems as though we sometimes use what all the other states are doing if it serves our purpose and we talk about our independence from those states if that serves our purpose as well.

The budget situation in this state briefly is as follows: in 1982, General Fund expenditures were \$638,597,000; in 1992, it was \$1,533,844,000. Inflation from 1982 to 1992 cumulatively based on the CPI was 67 percent. If we were to only add inflation during that ten year period, we would have had a General Fund budget in 1992 of \$1,054,000,000 so we are spending somewhere in the vicinity just shy of a half a billion dollars a year more than inflation. Many of you will be able to come up with a variety of different reasons as to why this is the case. But, I would suggest to you that the delicate compromise

that exists on the Appropriations Committee between both Democrats and Republicans and eventually whatever coalition is put together here to garner the necessary 101 votes to move it forward sometimes does not necessarily serve us at our best if our goal is to make sure that spending efficiently is our greatest concern.

I think the same problem has happened in Washington, the gridlock that they have had, in my opinion ignorant as it may be, in the past was a Republican President with a Democrat Congress and, instead of one of them or the other giving, they both got what they wanted. The end result is that we are all going to get it because we are going to have to pay for it, a \$4 trillion dollar debt accumulated by a presidency which was concerned with building up defenses, a Congress which was concerned with not making that effort at the cost of the programs they were concerned about, so they both got what they wanted. The end result was excessive spending that we cannot afford.

I would hope that if we could pass a little simple measure, a little simple thing which doesn't take away any of the control this legislative body now enjoys, any of the control that you as a majority now enjoy, and if this little thing might result in us focusing on small items, which some might say that we don't need to spend money on, if the Governor sent it back and said, we don't need to spend money on this line, we will then have the opportunity to look at it. If a majority, a simple majority of the members of this body say, yes, we do need to spend money on that and this is why, it would then move forward despite the Governor's objections. What in this could anyone find so offensive? What in this could anyone say diminishes the power of this legislative body? I simply don't understand, but I welcome any thoughts that you wish to express on it.

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 am trying to understand this amendment. It says that the Governor may disapprove any item or items. Does this mean the whole line or may it be any part of any line?

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

The Chair recognizes that Representative.

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: As I mentioned to you earlier, different states have a variety of ways they approach it. Some allow only that line, some allow parts of the line, some in fact allow the Governor to not only take up parts of the language, but indeed reword the language, put in amounts that are greater or lesser than what was originally proposed.

What I have asked for is that we allow the Governor the opportunity to take out the line and in fact propose a lesser amount if he chooses to. He might say, for example, that I don't think we should be spending this amount, but instead this lesser amount.

I am not sure whether or not that specifically answers your question but it is my attempt at it.

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

Representative COLES: Mr. Speaker, Men and Women

of the House: I would take that to mean in fact any part of the line may be vetoed even though it isn't specified either way in this amendment.

It goes on to say that if he replaces an item, he may not decrease the total amount appropriated or allocated. I don't understand how he can then propose under this amendment a lesser amount as just suggested by the Representative from Mount Desert. Could he explain that please?

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

The Chair recognizes that Representative.

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for not being more clear to the Representative. The Governor would not be able to go ahead and ask for an additional amount over and above that line to be spent. At the same time, if there was a deappropriation in there, he would not be able to propose that the deappropriation be a lesser amount than is proposed because in fact that would then require an additional expenditure. Is that somewhat clear?

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

Representative COLES: Mr. Speaker, Men and Women of the House: I thank the Representative for clearing that point up.

Another question would be, if the Governor vetoes an item in one area, can he then replace it with spending on any other area he wishes to propose?

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

The Chair recognizes that Representative.

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: I apologize, but could the Representative restate his question?

Representative COLES: Mr. Speaker, Men and Women of the House: If for example the Governor vetoes the appropriation to the area biologists in the Department of Marine Resources, can you take that same money and use it to subsidize the elderly low-cost drug program?

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

The Chair recognizes that Representative.

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: I understand the Representative's question now and the answer is no. The Governor would not be able to propose to take the savings that he is proposing in one line and then propose to increase spending in another area. He would simply be able to propose a lesser amount, if he chose to or no amount at all.

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

Representative COLES: Mr. Speaker, Men and Women of the House: I guess I still don't understand that point. It says the Governor shall specify distinct item or items that are revised but doesn't appear to place any restrictions and a part or parts of a legislative document but doesn't appear to place any restriction on taking money from one area and specifying a revision in another area?

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

The Chair recognizes that Representative.

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: The Representative is correct, but the amended version in the Minority Report does make that very clear. If the Representative has had an opportunity to view that amendment, I believe that that will answer his concerns.

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

Representative COLES: Mr. Speaker, Men and Women of the House: I would like to pose another question through the Chair. If I understand this correctly, the Governor may veto a sum item and propose some replacement? If the legislature fails to act, for example because it is out of session, regardless of the proposed replacement, it becomes a law without any legislative review whatsoever. Is that a correct understanding?

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

The Chair recognizes that Representative.

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Speaker, if I may impose upon you for a moment, I think you might be able to better answer that question.

The SPEAKER: The Chair would respond to the question in this fashion. The Chair had no intention of supporting the bill so I didn't read it. I have no idea where it appears in the Constitution. If it appears in the same place as the veto presently appears, if it were vetoed after the legislature adjourns and was not returned within the ten days, then it would be a pocket veto and would remain that way until the legislature convened. If it were at the end of the session and the legislature were not to reconvene, pursuant to present Constitutional requirements, the veto stands and there is no way to reconsider it at the end of the two year session.

The Chair recognizes the Representative from Mount Desert, Representative Zirkilton.

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: What I am hearing, and rightfully so, are a lot of questions regarding the technical parts of this particular piece of legislation. What I am not hearing is philosophical objections that are with a great amount of merit, in my opinion.

I think that if there is a willingness on the part of the members of this body to go ahead and work this thing out, then I am sure that we can find a way to address those technical concerns. If there is someone in this body who is interested in doing that, perhaps they would be willing to table it and let some of us go ahead and try and address those concerns that have been addressed.

Representative Kerr of Old Orchard Beach moved that L.D. 1277 be tabled one legislative day.

Subsequently, the same Representative withdrew his motion to table one legislative day.

On motion of the same Representative, tabled pending the motion of Representative Chonko of Topsham that the House accept the Minority "Ought Not to Pass" Report and later today assigned.

The Chair laid before the House the second tabled and today assigned matter:

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Create a Unicameral Legislature (H.P. 768) (L.D. 1035) (C. "A" H-277)  
TABLED - May 19, 1993 by Representative O'GARA of Westbrook.  
PENDING - Passage to be Engrossed.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be engrossed and specially assigned for Friday, May 21, 1993.

The Chair laid before the House the third tabled and today assigned matter:

SENATE DIVIDED REPORT - Majority (11) "Ought to Pass" as amended by Committee Amendment "A" (S-141) - Minority (2) "Ought Not to Pass" - Committee on State and Local Government on Bill "An Act to Impose Term Limits on Presiding Officers of the Legislature" (S.P. 167) (L.D. 559)  
- In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-141)  
TABLED - May 19, 1993 by Representative PARADIS of Augusta.  
PENDING - Motion of Representative JOSEPH of Waterville to accept the Minority "Ought Not to Pass" Report.

On motion of Representative Gwadosky of Fairfield, retabled pending the motion of Representative Joseph of Waterville that the House accept the Minority "Ought Not to Pass" Report and specially assigned for Friday, May 21, 1993.

The Chair laid before the House the fifth tabled and today assigned matter:

HOUSE DIVIDED REPORT - Majority (6) "Ought Not to Pass" - Minority (5) "Ought to Pass" as amended by Committee Amendment "A" (H-307) - Committee on Legal Affairs on Bill "An Act to Change the Time of the State Primary" (H.P. 488) (L.D. 646)  
TABLED - May 19, 1993 by Representative GWADOSKY of Fairfield.  
PENDING - Motion of Representative GRAY of Sedgwick to reconsider acceptance of the Majority "Ought Not to Pass" Report.

Subsequently, the House reconsidered its action whereby the Majority "Ought Not to Pass" Report was accepted.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: This bill was dealt with rather quickly a couple of days ago here and there wasn't much debate. I would just like to make a few remarks on the June primary. The reason that Maine has a