

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME V

FIRST SPECIAL SESSION

July 11, 1991 to July 18, 1991

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FIRST CONFIRMATION SESSION

October 2, 1991

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SECOND SPECIAL SESSION

December 18, 1991 to January 7, 1992

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SECOND REGULAR SESSION

House of Representatives

January 8, 1992 to March 9, 1992

snow vehicles. Under the present interpretation of the law a nonresident of Maine who enters Maine for the purpose of snowmobiling has to pay sales tax in Maine before they can use their machines. Consequentially, what is happening is the nonresidents are no longer interested into coming into Maine to snowmobile. Last year, in my part of the country, they were coming from all over because it was the only snow available east of the Mississippi. This was done unintentionally and we need to change it. For example, watercraft that enter Maine do not have to pay the sales tax if they are owned by nonresidents. As far as the revenue involved on the amendment that I am going to be offering later on, it is not quite revenue neutral, but it is negligible. Thank you.

On motion by Senator **THERIAULT** of Aroostook, Senate Amendment "B" (S-506) **READ and ADOPTED.**

On motion by Senator **MCCORMICK** of Kennebec, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED, as Amended,** without reference to a Committee in **NON-CONCURRENCE.**

The Chair laid before the Senate the Tabled and Later (12/19/91) Assigned matter:

SENATE REPORTS - from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Determine the Distribution Method of the Supplemental Reduction to General Purpose Aid for Local Schools for Fiscal Year 1991-92"

S.P. 789 L.D. 1986

Majority - **Ought to Pass**

Minority - **Ought to Pass As Amended by Committee Amendment "A" (S-478)**

Tabled - December 19, 1991, by Senator **ESTES** of York.

Pending - Motion by Senator **BRANNIGAN** of Cumberland to **ACCEPT** the Majority **Ought to Pass** Report (Division Requested)

(In Senate, December 18, 1991, Reports **READ.**)

On motion by Senator **ESTES** of York, Tabled until Later in Today's Session, pending motion of Senator **BRANNIGAN** of Cumberland to **ACCEPT** the Majority **Ought to Pass** Report (Division Requested).

Off Record Remarks

Senate at Ease

Senate called to order by the President.

On motion by Senator **MCCORMICK** of Kennebec, the Senate removed from the Later Today Assigned Table the following:

Bill "An Act to Exempt from Sales Tax Snowmobiles and All-terrain Vehicles That Are Registered Outside the State"

H.P. 1406 L.D. 1988

Tabled - December 20, 1991, by Senator **MCCORMICK** of Kennebec.

Pending - **PASSAGE TO BE ENGROSSED, as Amended,** without reference to a Committee in **NON-CONCURRENCE.**

(In House, December 18, 1991, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED,** without reference to a Committee.)

(In Senate, December 20, 1991, under suspension of the Rules, **READ TWICE,** without reference to a Committee. On motion by Senator **THERIAULT** of Aroostook, Senate Amendment "B" (S-506) **READ and ADOPTED.**)

Which was **PASSED TO BE ENGROSSED, as Amended,** without reference to a Committee and **ORDERED PRINTED** in **NON-CONCURRENCE.**

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

Off Record Remarks

On motion by Senator **MILLS** of Oxford, **RECESSED** until 10:30 in the morning.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

Bill "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government for the Fiscal Years Ending June 30, 1992 and June 30, 1993 and to Change Certain Provisions of Law" (Emergency)

H.P. 1402 L.D. 1985

(H "C" H-785; H "V" H-804; H "W" H-805; H "Y" H-807; H "BB" H-810; H "NN" H-824; "CCC" H-840; S "A" S-479; S "C" S-481; S "F" S-484; S "H" S-486; S "J" S-488; S "N" S-492; S "T" S-499; S "X" S-504; S "Y" S-505)

Tabled - December 20, 1991, by Senator **PEARSON** of Penobscot.

Pending - **FURTHER CONSIDERATION**

(In House, December 19, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "C" (H-785), "V" (H-804), "W" (H-805), "Y" (H-807), "BB" (H-810), "LL" (H-821), "NN" (H-824), "WW" (H-833), "BBB" (H-839), "CCC" (H-840), "III" (H-848) AND HOUSE AMENDMENT "UU" (H-831) AS AMENDED BY HOUSE AMENDMENT "A" (H-849) thereto.)**

(In Senate, December 19, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "C" (H-785), "V" (H-804), "W" (H-805), "Y" (H-807), "BB" (H-810), "NN" (H-824), "CCC" (H-840) AND SENATE AMENDMENTS "A" (S-479), "C" (S-481), "F" (S-484), "H" (S-486), "J" (S-488), "N" (S-492), "T" (S-499), "X" (S-504), AND "Y" (S-505) in NON-CONCURRENCE.)**

(In House, December 19, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "C" (H-785), "V" (H-804), "W" (H-805), "Y" (H-807), "BB" (H-810), "NN" (H-824), "BBB" (H-839), "CCC" (H-840), "JJJ" (H-854) AND HOUSE AMENDMENT "UU" (H-831) AS AMENDED BY HOUSE AMENDMENT "A" (H-849), thereto AND SENATE AMENDMENTS "A" (S-479), "F" (S-484), "H" (S-486), "J" (S-488), "T" (S-499), "X" (S-504), "Y" (S-505) AND SENATE AMENDMENT "C" (S-481) AS AMENDED BY HOUSE AMENDMENT "A" (H-856) thereto, AND SENATE AMENDMENT "N" (S-492) AS AMENDED BY HOUSE AMENDMENTS "B" (H-855) AND "C" (H-857) thereto, in NON-CONCURRENCE.)**

On motion by Senator **BRANNIGAN** of Cumberland, the Senate **RECEDED** from **PASSAGE TO BE ENGROSSED**, as Amended.

Senate at Ease
Senate called to order by the President.

House Amendment "JJJ" (H-854) **READ** and **ADOPTED**, in concurrence.

Senate at Ease
Senate called to order by the President.

On motion by Senator **MILLS** of Oxford, the Senate **RECEDED** from **ADOPTION** of Senate Amendment "N" (S-492). House Amendment "B" (H-855) to Senate Amendment "N" (S-492) **READ**.

On motion by Senator **MILLS** of Oxford, House Amendment "B" (H-855) to Senate Amendment "N" (S-492) **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

House Amendment "C" (H-857) to Senate Amendment "N" (S-492) **READ**.

On motion by Senator **MILLS** of Oxford, House Amendment "C" (H-857) to Senate Amendment "N" (S-492) **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

On further motion by same Senator, Senate Amendment "B" (S-515) to Senate Amendment "N" (S-492) **READ** and **ADOPTED**.

Senate Amendment "N" (S-492), as Amended by Senate Amendment "B" (S-515) thereto, **ADOPTED** in **NON-CONCURRENCE**.

On motion by Senator **BOST** of Penobscot, the Senate **RECEDED** from **ADOPTION** of Senate Amendment "C" (S-481).

House Amendment "A" (H-856) to Senate Amendment "C" (S-481) **READ** and **ADOPTED**, in concurrence.

On motion by Senator **BOST** of Penobscot, Senate Amendment "A" (S-516) to Senate Amendment "C" (S-481) **READ** and **ADOPTED**.

Senate Amendment "C" (S-481), as Amended by House Amendment "A" (H-856) and Senate Amendment "A" (S-516) thereto, **ADOPTED** in **NON-CONCURRENCE**.

On motion by Senator **CLEVELAND** of Androscoggin, Senate Amendment "DD" (S-517) **READ**.

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

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Could the good Senator explain his amendment. I don't have it in front of me.

THE PRESIDENT: The Senator from Sagadahoc, Senator Cahill poses an inquiry through the Chair. The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator **CLEVELAND:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Senate Amendment "DD" is similar to the amendment I offered in regards to the moratorium on merit pay increases. Again, recognizing the opinion of the Attorney General and the possible conflict that would occur with the existing budget. The attempt here is simply to rectify any challenge to the constitutionality and at the same time to provide another million dollars in funding for the budget. This amendment simply deletes Part NN which refers to the moratorium on the merit pay increases. It is funded by taking

one-third of one percent across the board and departmental agencies exempting from those accounts general purpose aide to local schools, education in the unorganized territories, debt service, treasury, teacher retirement, aide to families with dependent children, aide to families with dependent children foster care, general assistance Maine health program, the intermediate care payments to providers, medicaid payments to provide for the Bureau of Rehabilitation, and Bureau of Rehabilitation vocational rehabilitation in that calculation. It is the same formula that was used last summer when additional money needed to be found to fund the previous budget taking exactly the same language and applying it here at one-third of one percent which the fiscal office says will provide the million dollars necessary. I have also removed from that any language in regards to travel and furniture. There is no reference to that at all. I have removed it completely from the bill. Thank you.

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

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. It is my understanding that there is another amendment that will be coming along that addresses the issue of the million dollar hole in the merit pay. I would request that you vote against this amendment and I would request a division.

Senator **CAHILL** of Sagadahoc requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **CLEVELAND** of Androscoggin, to **ADOPT** Senate Amendment "DD" (S-517).

A Division has been requested.

Will all those in favor of the motion by Senator **CLEVELAND** of Androscoggin to **ADOPT** Senate Amendment "DD" (S-517), please rise in their places and remain standing until counted.

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

17 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **CLEVELAND** of Androscoggin to **ADOPT** Senate Amendment "DD" (S-517), **PREVAILED**.

Senate at Ease
Senate called to order by the President.

Senator **ESTES** of York moved that the Senate **RECEDE** from **INDEFINITE POSTPONEMENT** of House Amendment "UU" (H-831) as Amended by House Amendment "A" (H-849), thereto in **NON-CONCURRENCE**.

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

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

Senator **ESTES:** Thank you Mr. President. Ladies and Gentlemen of the Senate. As we are well into our third day of this Special Session to deal with the matter of closing the FY 92 budget. I can't help but think of the frustration, the tension and the anger we have all gone through in the last year. In fact, this last year we have really operated in a crisis mode. I like in our actions of the last twelve months to the unraveling of the fabric of Maine's society. We are doing it in a very piece meal fashion. I don't see the rhyme or the reason. I see us picking at the threads here and there with no plan and no strategy of priorities. Instead it is this

thread can go and then we can pick that one and that one. What we are doing is tattering and tearing the fabric of our society. With no plan and no clear set of priorities we will soon have nothing but a pile of strings that are disconnected and meaningless. I ask you where are our priorities as a legislator, as a legislature, as a government of the State of Maine? Are they our children? Are they the elderly? Are they the sick, poor or the environment or a quality of life? I see us over the last year sliding down a steep hill by the seat of our pants nearly out of control. Ladies and Gentlemen we have had this fiscal crisis for 2 1/2 years. It goes back to June of 1989 when we made our first round of cuts to the tune of sixty million dollars. You will remember coming in two years ago and looking at was identified by the Pete Marwick study as a sixty-five million dollar shortfall in December which turned out in February to be two hundred and ten million dollars. Then a year ago last November we had no problem, then we had a problem. Into December and January and we cut one hundred and seventy million in March. Then another seventy-six million in May and then we death with this current biennium budget to the tune of one point two million dollars worth of cuts. Well here we are in December and we are going back at it. I heard yesterday in the debate that took place in this chamber with many interpretations about what good government was. What responsibility is? What are our priorities? We also talked about the inpowerment that needs to take place to the committees of jurisdiction in this budgetary process. Ladies and Gentlemen we have an opportunity here to do something and to do something very positive. I am afraid that if we take the unanimous report coming from the Appropriations Committee that we are going to be going back in and we are going to be fixing and fixing and fixing and fixing for the next three months. House Amendment "UU" as amended offers us an opportunity to bank the cuts that we can all agree on. We are talking about forty-one point eight million dollars and out of the discussions that have transpired out of the last two and a half days and the amendments that have come forth have been many very interesting ideas of how we can save a few hundred thousand here and a million there. We have been talking with constituencies who are saying now that maybe we can take a hit, but not quite as big. Maybe we can make the sacrifice. I maintain to you ladies and gentlemen of the Senate that we have to ask ourselves a question. The question is could this budget it is a glass and is it more than half full with a fifty-three million dollars in cuts that we could agree to in House Amendment "UU" or is almost half empty. If it is more than half full, then over the next month we can add responsibly to the cut by taking a look at what has been offered to us until it is full and it is balanced and balanced properly. Otherwise what we will be doing is balancing the budget on paper now and yes it might be full now, but when we come to the Second Regular Session we will find ourselves having to take some out and add some more as needed and take a little bit more out and we will play that game for three months. This is the earliest in the 2 1/2 years of budgetary crisis that we have faced. This is the earliest that we have seized the tiger by the tail. Last year it wasn't until March and we didn't finally resolve the FY 91 budget until May. Two years ago it was in April. Ladies and Gentlemen we have an opportunity to end

this Special Session this afternoon and to go home to our constituents and say that we tried. That our Appropriations Committee did a tremendous job under extremely difficult circumstances. We have more than we have to do not only for this fiscal year, but for the next fiscal year. We are going to do that job and we are going to do it responsibly and then when we come back here in January we will have changed the process, but we will have clearer idea a consensus of what our priorities are for this state and for its people. I urge you people to vote in favor of this motion to recede. Thank you.

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

Senator **BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I urge you to reconsider and vote on House Amendment "UU" again because actually by voting now we are voting on amendment "UU" that we made a major stand on yesterday. It was a major breakthrough I think in getting this process moving toward a solution. Yes, we can go home this afternoon. We can go home this afternoon with a budget. With a budget put together tailored from what was given to us from the administration. The budget that is the best that we can do under the circumstances. Certainly even the cuts that are in House Amendment "UU", I wish they would have landed on a better set of cuts, but with this amendment that we are discussing even the cuts there are painful, but we need to go beyond we have gone beyond I don't think I can add anything to what I said yesterday about the dire straits we are in. What we have to face in January. We must have a budget. This budget the 92 budget put back together as best we can. We must make up the one hundred and four million. We must not put off the pain. We must not give people the false hope that we can do this in a less painful way and then go on and do another one hundred and fifty million for 93. There is just no way to go about this in any partial form now. We must do the full journey now and then we must go on from there. I believe that if we hold firm to the very strong vote that we had against this partial budget that we had yesterday that we go back and send it out. We have done our job. We let the other body do their job and I believe that in the end that we will have the budget that we need and we can go home tonight feeling that we have done the best job we can with the material that we have to work with. We can come back refreshed to face another tremendously grueling session in January. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator ESTES of York that the Senate **RECEDE** from **INDEFINITE POSTPONEMENT** of House Amendment "UU" (H-831) as Amended by House Amendment "A" (H-849), thereto in **NON-CONCURRENCE**.

A Division has been requested.

Will all those in favor of the motion of Senator ESTES of York that the Senate **RECEDE** from **INDEFINITE POSTPONEMENT** of House Amendment "UU" (H-831) as Amended by House Amendment "A" (H-849) thereto, please rise in their places and remain standing until counted.

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

7 Senators having voted in the affirmative and 25 Senators having voted in the negative, the motion of Senator ESTES of York that the Senate **RECEDE** from **INDEFINITE POSTPONEMENT** of House Amendment "UU" (H-831) as Amended by House Amendment "A" (H-849) thereto, **FAILED**.

The Chair moved that the Bill be **PASSED TO BE ENGROSSED**, as Amended in **NON-CONCURRENCE**.

Senator **BUSTIN** of Kennebec requested a Division.

THE PRESIDENT: The pending question before the Senate is **PASSAGE TO BE ENGROSSED**, as Amended in **NON-CONCURRENCE**.

A Division has been requested.

Will all those in favor of **PASSAGE TO BE ENGROSSED**, as Amended in **NON-CONCURRENCE**, please rise in their places and remain standing until counted.

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

22 Senators having voted in the affirmative and 10 Senators having voted in the negative, the Bill was **PASSED TO BE ENGROSSED**, as Amended in **NON-CONCURRENCE**.

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

Off Record Remarks

On motion by Senator **DUTREMBLE** of York, **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:

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government for the Fiscal Years Ending June 30, 1992 and June 30, 1993 and to Change Certain Provisions of Law" (Emergency)

H.P. 1402 L.D. 1985
H "C" H-785, H "V"
H-804, H "W" H-805, H
"Y" H-807, H "BB"
H-810, H "NN" H-824,
"CCC" H-840, H "JJJ"
H-854, S "A" S-479, S
"F" S-484, S "H" S-486,
S "J" S-488, S "T"
S-499, S "X" S-504, S
"Y" S-505, S "DD"
S-517, S "A" S-516;
H "A" H-856 to S "C"
S-481, S "B" S-515
to S "N" S-492)

In House, December 19, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "C" (H-785), "V" (H-804), "W" (H-805), "Y" (H-807), "BB" (H-810), "LL" (H-821), "NN" (H-824), "WW" (H-833), "BBB" (H-839), "CCC" (H-840), "III" (H-848) AND HOUSE AMENDMENT "UU" (H-831) AS AMENDED BY HOUSE AMENDMENT "A" (H-849)**, thereto.

In Senate, December 19, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "C" (H-785), "V" (H-804), "W" (H-805), "Y" (H-807), "BB" (H-810), "NN" (H-824), "CCC" (H-840) AND SENATE AMENDMENTS "A" (S-479), "C" (S-481), "F" (S-484), "H" (S-486), "J" (S-488), "N" (S-492), "T" (S-499), "X" (S-504), AND "Y" (S-505) in NON-CONCURRENCE**.

In House, December 19, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "C" (H-785), "V" (H-804), "W" (H-805), "Y" (H-807), "BB" (H-810), "NN" (H-824), "BBB" (H-839), "CCC" (H-840), "JJJ" (H-854) AND HOUSE AMENDMENT "UU" (H-831) AS AMENDED BY HOUSE AMENDMENT "A" (H-849) thereto, AND SENATE AMENDMENTS "A" (S-479), "F" (S-484), "H" (S-486), "J" (S-488), "T" (S-499), "X" (S-504), "Y" (S-505) AND SENATE AMENDMENT "C" (S-481) AS AMENDED BY HOUSE AMENDMENT "A" (H-856) thereto, AND SENATE AMENDMENT "N" (S-492) AS AMENDED BY HOUSE AMENDMENTS "B" (H-855) AND "C" (H-857) thereto, in NON-CONCURRENCE**.

In Senate, December 20, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "C" (H-785), "V" (H-804), "W" (H-805), "Y" (H-807), "BB" (H-810), "NN" (H-824), "CCC" (H-840), "JJJ" (H-854) AND SENATE AMENDMENTS "A" (S-479), "F" (S-484), "H" (S-486), "J" (S-488), "T" (S-499), "X" (S-504), "Y" (S-505), "DD" (S-517) AND SENATE AMENDMENT "C" (S-481) AS AMENDED BY HOUSE AMENDMENT "A" (H-856) AND SENATE AMENDMENT "A" (S-516), thereto, AND SENATE AMENDMENT "N" (S-492) AS AMENDED BY SENATE AMENDMENT "B" (S-515) thereto, in NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED AND ASKED FOR A COMMITTEE OF CONFERENCE**.

On motion by Senator **BOST** of Penobscot, the Senate **RECEDED** from **PASSAGE TO BE ENGROSSED**, as Amended.

On further motion by same Senator, the Senate **RECEDED** from **ADOPTION** of Senate Amendment "C" (S-481) as Amended by House Amendment "A" (H-856) and Senate Amendment "A" (S-516) thereto.

On further motion by same Senator, the Senate **RECEDED** from **ADOPTION** of House Amendment "A" (H-856) to Senate Amendment "C" (S-481).

On further motion by same Senator, House Amendment "A" (H-856) to Senate Amendment "C" (S-481) **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

On further motion by same Senator, Senate Amendment "B" (S-520) to Senate Amendment "C" (S-481) **READ** and **ADOPTED**.

THE PRESIDENT: The Chair recognizes that same Senator.

Senator **BOST:** Thank you Mr. President. Ladies and Gentlemen of the Senate. By brief way of explanation the reason that this amendment is before you because a technical conflict between an amendment that was offered by the Senator from Androscoggin, Senator Cleveland and the amendment which I offered before this body, Senate Amendment "C" yesterday. This takes care of that technical problem. It also incorporates the House Amendment which was added yesterday to this amendment. Very simply. Thank you.

Senate Amendment "C" (S-481) as Amended by Senate Amendments "A" (S-516) and "B" (S-520) thereto, **ADOPTED** in **NON-CONCURRENCE**.

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

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