

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Sixteenth Legislature

OF THE

State Of Maine

VOLUME V

SECOND REGULAR SESSION

House of Representatives
January 5, 1994 to April 14, 1994

Centers Program from the unanticipated surplus to the tune of \$2.6 million. The property tax relief fund would get the amount in excess of \$2.6 million if there was any.

What I am saying in this amendment that once these funds come in and we have a surplus over and above the programs that have been funded we would get the relief, the same as we did last year.

Neither does this impact on transfers of portions of the surplus of the Rainy Day Fund. By voting for this amendment you are saying that property tax relief is important to you and your constituents.

I would just add, finally, that if you look at the amendment it says that this amendment will have no negative effect on General Fund appropriations or revenue and a balanced budget is maintained for fiscal years 1993-94 and fiscal years 1994-95.

I urge adoption of this amendment.

Representative WHITCOMB of Waldo requested a roll call on adoption of House Amendment "D" (H-1100) to Committee Amendment "A" (H-1081).

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is adoption of House Amendment "D" (H-1100) to Committee Amendment "A" (H-1081). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 345

YEA - Adams, Ahearne, Aliberti, Anderson, Bailey, H.; Bailey, R.; Barth, Beam, Bennett, Birney, Bowers, Brennan, Carleton, Carr, Carroll, Cathcart, Chase, Clark, Clement, Cloutier, Clukey, Coffman, Coles, Cote, Cross, Daggett, Dexter, DiPietro, Donnelly, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Farnum, Farren, Fitzpatrick, Gamache, Gean, Gould, R. A.; Hale, Hatch, Heeschen, Heino, Hoglund, Hussey, Jacques, Jalbert, Johnson, Joseph, Joy, Ketterer, Kneeland, Kontos, Larrivee, Lemke, Lemont, Libby James, Lindahl, Lipman, Look, Lord, Marsh, Marshall, Martin, J.; Melendy, Michael, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Nickerson, O'Gara, Oliver, Pendleton, Pineau, Pinette, Plourde, Plowman, Poulin, Reed, W.; Richardson, Ricker, Robichaud, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Small, Spear, Stevens, A.; Stevens, K.; Strout, Sullivan, Swazey, Townsend, E.; Townsend, G.; Tracy, Treat, True, Tufts, Vigue, Walker, Wentworth.

NAY - Ault, Bruno, Cameron, Campbell, Chonko, Constantine, Foss, Gray, Greenlaw, Hichborn, Holt, Kerr, MacBride, Michaud, Norton, Ott, Paradis, P.; Pendexter, Pfeiffer, Pouliot, Reed, G.; Simoneau, Skoglund, Tardy, Taylor, Whitcomb, Young, Zirnkilton.

ABSENT - Aikman, Caron, Cashman, Hillock, Kilkelly, Kutasi, Libby Jack, Martin, H.; Nash, Rand, Simonds, Thompson, Townsend, L.; Winn, The Speaker.

Yes, 108; No, 28; Absent, 15; Paired, 0; Excused, 0.

108 having voted in the affirmative and 28 in the negative, with 15 being absent, House Amendment "D"

(H-1100) to Committee Amendment "A" (H-1081) was adopted.

The SPEAKER: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, I would pose a question through the Chair.

On page 129 of the Committee Amendment, if you have it in front of you, there is a provision in there that deals with certain suits arising from the use of motor vehicles. It seems to imply that if a state employee were using his or her own car and were involved in an accident then the person that would perhaps be involved on the other side — and it were the fault of the employees, that you could only sue to the extent of the coverage that is in that policy. As you know the many people who carry insurance to the minimum level, whether they be state employees or otherwise, it appears to say that the state then would be immune from any further suit or liability. It seems to me, if that is true, to leave a gaping hole for those people who might be injured, following such an accident — I may be reading it wrong but I would wonder where that came from? Why it is here if that is what it does?

I would ask someone to just explain — perhaps to ask who requested that G-8 be placed into the budget act? Maybe then we can find out who is responsible. Then if that is the case, if that is what I am reading, if that is to be correct I have some real concerns about protecting the average citizen on the street.

The SPEAKER: Representative Martin of Eagle Lake has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Topsham, Representative Chonko.

Representative CHONKO: Mr. Speaker, Men and Women of the House: To answer the Representative from Eagle Lake, the proposal came to us from the administration and I can't remember the exact details but I would be glad to look into it and let him know.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Rydell.

Representative RYDELL: Mr. Speaker, Men and Women of the House: While the language here may be a little bit confusing, it is intended to mean that when the person, the employee's, liability insurance is inadequate and does not provide the coverage that would be necessary, that the governmental entity would remain responsible for any further liability. So that first it is the employees liability coverage but we recognize that there are some employees who might carry only the minimum and since the state does not cover the cost of insurance for these employees they may not be able to afford more than that but the State would remain liable for any additional necessary coverage.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Men and Women of the House: To try to answer why this is here, originally the way it used to work is the individual was responsible for X-amount of dollars. After that if there is any additional cost then the state would be liable for the additional cost. There was a court case that reversed that and said the state is primarily responsible, first. What this language is supposed to do is put it back the way it

was before that court case overturned the way it was initially ran by the state.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: I hadn't seen that language until just now in the budget but that subject matter came before the Judiciary Committee, and, it is true there was a court case, but it was not clear to me that the average employee was aware that their own insurance was the primary coverage for any accident while they were using a private vehicle in the course of state employment. To put that back, to me, may well be a major change in the minds of most employees. It was our impression, in Judiciary, as I recall, that if the state expects or asks an employee to use their own vehicle in the course of their work that the state should be responsible for that.

The SPEAKER: The Chair recognizes the Representative from Palmyra, Representative Tardy.

Representative TARDY: Mr. Speaker, Men and Women of the House: Just a statement for the Record regarding the appropriation on page four, for the Potato Quality Control Program, the industry wants us to make it perfectly clear that this appropriation is to subsidize the program in general and is not pointed specifically at the — for example, the Maine Bag Program. Our intent is to maintain a state federal inspection service without increasing the cost of inspection to the packers, processors and others who use that service.

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

Representative COLES: Mr. Speaker, I would pose a question. On the same page, 130, there is a repealer, Section G-9, which appears to repeal the protection governmental employees have against liability suits. I was wondering if someone might explain the reasoning for repeating this section of law?

The SPEAKER: Representative Coles of Harpswell has posed a question through the Chair to any member who may respond if they so desire.

On motion of Representative JACQUES of Waterville, tabled pending adoption of Committee Amendment "A" (H-1081) as amended by House Amendment "D" (H-1100) and later today assigned.

The following items were taken up out of order by unanimous consent:

REPORTS OF COMMITTEES

Ought to Pass Pursuant to Statutes

Representative ERWIN from the Committee on Audit & Program Review on Bill "An Act Regarding State Government Evaluation and Justification" (EMERGENCY) (H.P. 1485) (L.D. 2011) reporting "Ought to Pass" Pursuant to the Maine Revised Statutes, Title 3, chapter 33.

Report was read and accepted. The bill read once. Under suspension of the rules the Bill was given its second reading without reference to the Committee on Bills in the Second Reading.

Under further suspension of the rules, the Bill

was passed to be engrossed and sent up for concurrence. Ordered sent forthwith.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

ENACTORS

Emergency Measure

An Act to Revise the Laws of Maine to Incorporate the Office of Rehabilitation Services within the Department of Education (H.P. 1431) (L.D. 1956) (Governor's Bill) (H. "C" H-1092 to C. "A" H-909)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Establish an Ambient Water Toxics Program (H.P. 1080) (L.D. 1446) (H. "A" H-1091 to C. "A" H-1072)

An Act to Clarify the Licensing Authority of the Department of Public Safety (S.P. 614) (L.D. 1712) (H. "A" H-933, H. "B" H-1056 and H. "C" H-1093 to C. "A" S-518)

An Act to Strengthen the Coordinated Delivery of Substance Abuse Services in the State (S.P. 655) (L.D. 1824) (C. "A" S-508)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

SENATE PAPERS

Non-Concurrent Matter

An Act to Ensure Proper Funding of the Department of Environmental Protection (H.P. 1385) (L.D. 1884) (H. "A" H-1088, H. "B" H-1089 and H. "C" H-1090 to C. "A" H-1076) which was passed to be Enacted in the House on April 11, 1994.

Came from the Senate with the Bill and accompanying papers indefinitely postponed in non-concurrence.

Representative MARTIN of Eagle Lake moved that the House Insist.

The SPEAKER: The Chair recognizes the