

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Eleventh  
Legislature***

OF THE

**STATE OF MAINE**

**SECOND REGULAR SESSION**

**January 4, 1984 to April 25, 1984**

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**FOURTH CONFIRMATION SESSION**

**(FIRST CONFIRMATION SESSION – SECOND REGULAR SESSION)**

**May 31, 1984**

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**FIFTH CONFIRMATION SESSION**

**(SECOND CONFIRMATION SESSION – SECOND REGULAR SESSION)**

**July 11, 1984**

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**THIRD SPECIAL SESSION**

**September 4, 1984 to September 11, 1984**

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STATE OF MAINE  
 One Hundred and Eleventh Legislature  
 Second Regular Session  
 JOURNAL OF THE SENATE  
 In Senate Chamber  
 Tuesday  
 February 28, 1984

Senate called to Order by the President.  
 Prayer by Rabbi Morris Bernstein of the Temple Shalom Synagogue of Auburn.

RABBI BERNSTEIN: Being a lawmaker it seems to me must put a great sense of burden on good people. All of us in life worry about being either too selfish or in the other extreme, too detached. In difficult questions which effect a million lives requiring awesome decisiveness, are we equal for the task?

Two thousand three hundred years ago, one of our greatest sages, Rabbi Hillel, said these words:

If I am not for myself, who will be for me?  
 And if I am for myself alone, what am I?  
 And if not now, when?

If I am not for myself, if I am not for my district, for Lewiston-Auburn, and Gray and Green, and Turner and Bucksfield, who will worry about them if not me?

If I don't believe in myself as an individual, as a lawmaker, how can I expect anyone else to believe in me?

If I am not for my district, who will be for my people?

If I am not a passionate advocate for the people of Maine, who will be?

And if I am for myself alone, what am I? If I am for my district alone, if I put my concerns and the particular concerns of my district above everything else, if my vision goes only to the limits of my constituency, what of the State of Maine?

And if not now, when? The most difficult decisions are sometimes the least expedient.

Rabbi Hillel charges us to be bold and creative, to take the bull by the horns, if you can't find the solution today, who will do it another day?

In the words of Deuteronomy, let me close: "Behold, I set before you this day life and prosperity, death and adversity, therefore choose life, if not now, when?" Thank you.

Reading of the Journal of Yesterday.

**PAPERS FROM THE HOUSE**  
**Non-concurrent Matter**

Bill "An Act to Require the State of Maine to Pay Late Fees on Overdue Payments" H. P. 1411 L. D. 1833

(In Senate February 16, 1984 PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-468) in concurrence.)

Comes from the House PASSED TO BE ENGROSSED as AMENDED BY COMMITTEE AMENDMENT "A" (H-468) as Amended by HOUSE AMENDMENT "A" (H-486) thereto in non-concurrence.

The Senate RECEDED and CONCURRED with the House.

**Pursuant to the Statutes**

The Committee on TAXATION, pursuant to Public Law 1981, Chapter 686, Section 2 ask leave to submit its findings and to report that the accompanying Bill "An Act to Increase the Capitalization of the Maine Capital Corporation and Reserve Capital for Investment in Maine" (H. P. 1607) (L. D. 2123) be referred to the Committee on TAXATION for public hearing and printed pursuant to Joint Rule 18.

Comes from the House with the Report READ and ACCEPTED and the Bill referred to the Committee on TAXATION and ORDERED PRINTED pursuant to Joint Rule 18.

Which Report was READ and ACCEPTED, in concurrence.

The accompanying Bill referred to the Committee on TAXATION and ORDERED PRINTED pursuant to Joint Rule 18, in concurrence.

(Off Record Remarks)

**Pursuant to the Statutes**

The Committee on TAXATION pursuant to Public Law 1981, Chapter 686, section 2 ask leave to submit its findings and to report that the accompanying Bill, "An Act to Provide More Venture Capital to Maine Business" (H. P. 1608) (L. D. 2124) be referred to the Committee on TAXATION for Public Hearing and printed pursuant to Joint Rule 18.

Comes from the House with the Report READ and ACCEPTED, and the Bill referred to the Committee on TAXATION and ORDERED PRINTED pursuant to Joint Rule 18.

Which Report was READ and ACCEPTED, in concurrence.

The Bill referred to the Committee on TAXATION and ORDERED PRINTED pursuant to Joint Rule 18 in concurrence.

**Pursuant to the Statutes**

The Committee on TAXATION Pursuant to Public Law 1981, Chapter 686, Section 2 ask Leave to Submit its findings and to report that the accompanying Bill "An Act to Repeal the Maine Capital Corporation and to Incorporate it under the General Corporation Law of the State" (H. P. 1609) (L. D. 2125) be referred to the Joint Standing Committee on TAXATION for Public Hearing and printed pursuant to Joint Rule 18.

Comes from the House with the report READ and ACCEPTED, and the Bill referred to the Committee on TAXATION and ORDERED PRINTED pursuant to Joint Rule 18.

Which report was READ and ACCEPTED, in concurrence.

The Bill referred to the Committee on TAXATION, and ORDERED PRINTED pursuant to Joint Rule 18 in concurrence.

**COMMUNICATIONS**

The Following Communication:

University of Maine  
 Patrick E. McCarthy, Chancellor  
 February 21, 1984

Senator Gerard P. Conley  
 29 Taylor Street  
 Portland, Maine 04102  
 Dear Senator Conley:

Maine law requires that the Chancellor of the University of Maine make an annual report to the Governor and the Legislature.

This year's report highlights fiscal and statistical profiles for the current operating year and provides similar analysis for historical periods. We have tried to provide the kind of information in this special section of the annual report necessary for the people of Maine to better understand their University.

Please do not hesitate to call me at anytime if you have comments or questions.

Best personal regards,  
 S/PATRICK E. MCCARTHY

Which was READ and with accompanying papers ORDERED PLACED ON FILE.

**SENATE PAPERS**

Bill "An Act to Increase the Fee for the Alcohol Education Program Conducted by the Department of Human Services" S. P. 799

Presented by Senator BUSTIN of Kennebec  
 Cosponsor: Representative ROLDE of York  
 Submitted by the Department of Human Services pursuant to Joint Rule 24

Which was referred to the Joint Select Committee on ALCOHOLISM SERVICES and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act Relating to Major Policy-influencing Positions in the Department of Human Services, Department of Mental Health and Merital Retardation, Department of Corrections and the Public Utilities Commission" S. P. 800  
 Presented by Senator CONLEY of Cumber-

land

Cosponsors: Speaker J. MARTIN of Eagle Lake, Representative P. PARADIS of Augusta  
 Submitted by the Department of Personnel pursuant to Joint Rule 24

Which was referred to the Committee on STATE GOVERNMENT and ORDERED PRINTED.

Sent down for concurrence.

**COMMITTEE REPORTS**

**House**

**Ought to Pass**

The Committee on JUDICIARY on Bill "An Act to Increase Mileage Payments to Jurors" H. P. 1434 L. D. 1879

Reported that the same Ought to Pass.

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

The Committee on JUDICIARY on Bill "An Act to Clarify the Power of the Supreme Judicial Court to Issue Rules for Probate Courts" H. P. 1468 L. D. 1920

Reported that the same Ought to Pass.

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

**Ought to Pass—As Amended**

The Committee on BUSINESS LEGISLATION on Bill "An Act to Clarify Disposition of Assets of Maine Self-Insurance Guarantee Association in the Event of Dissolution" (Emergency) H. P. 1419 L. D. 1864

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-479).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-479).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-479) was READ and ADOPTED, in concurrence.

The Bill as Amended TOMORROW ASSIGNED FOR SECOND READING.

The Committee on BUSINESS LEGISLATION on Bill "An Act to Exempt Certain Materials that have no Insurable Value from Insurance Requirements" H. P. 1504 L. D. 1980

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-480).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-480)

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-480) was READ and ADOPTED, in concurrence.

The Bill as Amended TOMORROW ASSIGNED FOR SECOND READING.

The Committee on LABOR on Bill "An Act to Amend the Cessation of Employment Law" H. P. 1450 L. D. 1902

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-482).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO

BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-482)

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-482) was READ and ADOPTED, in concurrence.

The Bill as Amended TOMORROW ASSIGNED FOR SECOND READING.

The Committee on STATE GOVERNMENT on Resolution, Proposing an Amendment to the Constitution of Maine to Limit the Life of Authorized Bonds H. P. 1410 L. D. 1832

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-483).

Comes from the House, with the Report READ and ACCEPTED and the Resolution PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-483)

Which Report was READ and ACCEPTED, in concurrence.

The Resolve READ ONCE.

Committee Amendment "A" (H-483) was READ and ADOPTED, in concurrence.

The Resolve as Amended TOMORROW ASSIGNED FOR SECOND READING.

### SECOND READERS

The Committee on BILLS IN THE SECOND READING reported the following:

#### House

Bill "An Act to Amend the Law Regarding Premium Discounts for Workers' Compensation Insurance of Small Businesses" H. P. 1519 L. D. 2001

Bill "An Act to Exclude Business Insurance Transactions from the Insurance Premium Finance Company Act" H. P. 1527 L. D. 2007

Bill "An Act to Clarify the Adoption of Emergency Regulations" H. P. 1592 L. D. 2102

Which were READ A SECOND TIME and PASSED TO BE ENGROSSED, in concurrence.

#### House As Amended

Resolve, Authorizing the Commissioner of Marine Resources to Lease Land and Buildings in West Boothbay Harbor (Emergency) H. P. 1405 L. D. 1827 (C "A" H-473)

Bill "An Act to Authorize a School Administrative District to Reconsider the Use of the Alternative Voting Procedure for the Adoption of its School Budget" H. P. 1507 L. D. 1982 (C "A" H-477)

Bill "An Act to Include the Towns of Gilead and Upton within Vocational Region 9, Northern Oxford County" (Emergency) H. P. 1421 L. D. 1866 (C "A" H-475)

Bill "An Act to Amend the Maine Consumer Credit Code to Exempt Financing of Educational Expenses" H. P. 1460 L. D. 1912 (C "A" H-476)

Which were READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended, in concurrence.

#### Senate—As Amended

Bill "An Act to Amend Certain Rules of the Emergency Medical Services" S. P. 709 L. D. 1955 (C "A" S-290)

Which was READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended. Sent down for concurrence.

### ENACTORS

The Committee on ENGROSSED BILLS reported as truly and strictly engrossed the following:

#### Emergency Resolve

Resolve, to Authorize the Public Advocate to Intervene in Workers' Compensation Proceedings before the Superintendent of Insurance H. P. 1601 L. D. 2106

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

SENATOR DOW: Mr. President, I would like to ask a question on this L. D. 2106. I can't see

why this public advocate is needed in this case. The Superintendent of Insurance, as far as I know, does a good job and it looks to me like a duplication of effort, and I was wondering if somebody might enlighten me a little?

THE PRESIDENT: The Senator from Kennebec, Senator Dow, has posed a question through the Chair to any member of the Body who may respond if they so desire.

The Chair recognizes the Senator from Aroostook, Senator Violette.

SENATOR VIOLETTE: Mr. President and Ladies and Gentlemen of the Senate, the Committee on State Government, in answer to the gentleman's question from Kennebec, studied the area involving the Public Advocate in other areas besides its involvement in the Public Utilities Commission. The Committee, which is a sub-committee of the full committee, studied this area throughout the summer and through the fall, and held a number of work sessions and public hearings, once those deliberations had ended, they had decided that one area that the Public Advocate should be involved in was in the area of workers' compensation rate filing cases. It was the opinion of the sub-committee and of the full committee of the Committee on State Government that there was indeed a role and a function for the Public Advocate in this process.

The Committee further amended the legislation to allowing what would have first been proposed as a three-year life of the Public Advocate to be involved in the rate filings of workers' comp cases with substantive powers in a number of areas. What in fact has come out of the Committee is a substantially altered and amended piece of legislation, actually, it is a new Bill. It basically only allows the Public Advocate to enter this one time into the current pending rate filing which has been, which is filing by one entity for some one-hundred and sixty-seven different companies, the total affect of some thirty million dollars.

The impact is that basically the Public Advocate will serve as a consultant in our opinion. The Superintendent of Insurance has a rather interesting function. He not only has to preserve the solvency of the insurance companies, themselves, but must also do what he feels is in the best interest of those businesses that are paying these fees. He serves both as, in a sense, as judge and jury. It was the feeling of the Committee in that there was, indeed, a role this time for the Public Advocate in this and only this, current rate filing. It's been, and so that is simply the reason why the Committee unanimously voted to include the Public Advocate in this rate filing and only for this rate filing. It does not see this as duplication. It has also supported in its recommendation of the Committee report, increasing the staff of the Superintendent of the Insurance Division, the feeling that he presently lacks sufficient staff. But we do not see this as duplication, Senator Dow. Thank you.

Mr. President, I have a few comments for the Record, Mr. President. The Bill authorizes the Public Advocate to retain experts to assist in the analysis of the current rate filing and to testify at the hearing before the Superintendent of Insurance.

Secondly, because of the short time frame involved and because of the emergency nature of this legislation, several factors normally included in this type of legislation were omitted. Firstly, there are no standards or criteria that have been imposed to guide the Public Advocate and who he hires as an expert.

Secondly, there are no expert qualifications set forth in the legislation for the person or persons who will assist the Public Advocate.

Thirdly, the normal bid procedure followed by administrative agencies to insure that competent people are retained in a consulting capacity has not been put into this Bill because of the time frame involved. For example, the Bureau of Insurance will hire a consulting actu-

ary to assist in this rate filing but must go through the bid process. The reasons the Committee did not place these requirements in the Bill are two-fold: First, is a one-time intervention. Secondly, the Public Advocate, Paul Fritzsche, has told the Committee the person with whom he was negotiating was a Fellow of the Casualty Actuarial Society and that he would not seek out the services of someone who is not in that Society because such a person would suffer from a lack of credibility as an expert. This is a reasonable requirement to insure competence of the expert use by the Public Advocate and is of the type of qualification which would have been included in this Bill, along with the bid procedure requirements if more time were available to the Committee. Thank you.

On motion by Senator NAJARIAN of Cumberland, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Brown.

SENATOR BROWN: Mr. President, am I out of order by still addressing this particular issue that's been placed on Appropriations Table?

THE PRESIDENT: The Chair would state that the Bill is presently on the Appropriations Table.

SENATOR BROWN: Thank you Mr. President.

#### Senate at Ease

The Senate called to order by the President.

On motion by Senator NAJARIAN of Cumberland the Senate voted to remove from the Special Appropriations Table:

Resolve, to Authorize the Public Advocate to Intervene in Workers' Compensation Proceedings before the Superintendent of Insurance H. P. 1601 L. D. 2106

Tabled earlier in today's session, on motion by Senator NAJARIAN of Cumberland.

Pending—ENACTMENT.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Brown.

SENATOR BROWN: Thank you, Mr. President and Ladies and Gentlemen. I was a little bit confused as we were talking about this issue a moment ago by the comments by the good Senator from Aroostook, Senator Violette, and I have some reservations about this particular matter that's before us.

I plan to vote for it, because I think it stands to have, possibly, stands to have some relief for the employers and possibly other people that are involved and concerned about workers' comp in my part of the world, but I am very much concerned about the lack of guidelines that seems to exist for this person and, again, I just wanted that placed on the Record, also, Mr. President. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Violette.

SENATOR VIOLETTE: Mr. President, Ladies and Gentlemen of the Senate, just to try to allay some of those concerns of the good Senator from Washington, Senator Brown, the Committee was concerned, obviously, with the concerns expressed by the good Senator and it is for those reasons that I have placed these comments on the Record, Senator Brown, but the time frame involved is such that it would not allow the Public Advocate to retain such an individual because this is a pending rate case and actually, there is little, there is little time left for this individual to come on-board and to prepare and to be involved in the rate filing. And in addition, the Committee placed within, for guidance, an advisory committee to be appointed by the Governor to assist the Public Advocate both from the business and the labor sectors in our State to assist this individual. So I trust that because of the urgency of the matter, as well as, these two aspects that it will deal with your concerns, Senator.

This being an emergency measure and hav-

ing received the affirmative vote of 25 Members of the Senate, with 5 Senators having voted in negative was FINALLY PASSED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Senator NAJARIAN of Cumberland was granted unanimous consent to address the Senate, On the record.

SENATOR NAJARIAN: Mr. President and members of the Senate. I would appreciate it in the future whenever there is an emergency bill that's more of an emergency than the hundreds of other emergency bills we have that somebody would please speak to me in advance so I know what's going on and we avoid the kind of fiasco we just went through. Thank you.

#### **Senate at Ease**

The Senate called to order by the President.

Out of order and under suspension of the rules, the Senate voted to consider the following:

#### **PAPERS FROM THE HOUSE**

##### **House Papers**

Bill "An Act to Limit the Speed of Motor Vehicles Operating on Maine Bodies of Water to 15 Miles Per Hour" H. P. 1605 L. D. 2130

Committee on TRANSPORTATION suggested Comes from the House referred to the Committee on FISHERIES AND WILDLIFE and ORDERED PRINTED.

Which was referred to the Committee on FISHERIES AND WILDLIFE and ORDERED PRINTED, in concurrence.

Bill "An Act to Amend the Waiting Period Between Recording Intentions of Marriage and Receipt of a Marriage License" H. P. 1602 L. D. 2127

Comes from the House referred to the Committee on JUDICIARY and ORDERED PRINTED.

Which was referred to the Committee on JUDICIARY and ORDERED PRINTED, in concurrence.

Bill "An Act Amending the Charter of the Telephone Workers Credit Union of Maine" H. P. 1603 L. D. 2128

Comes from the House referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED.

On motion by Senator PRAY of Penobscot, referred to the Committee on BUSINESS LEGISLATION and ORDERED PRINTED, in non-concurrence.

Sent down for concurrence.

Bill "An Act to Amend the Provisions for Clam Regulation in the Unorganized Territories" (Emergency) H. P. 1604 L. D. 2129

Comes from the House referred to the Committee on MARINE RESOURCES and ORDERED PRINTED.

Which was referred to the Committee on MARINE RESOURCES and ORDERED PRINTED, in concurrence.

#### **ENACTORS**

The Committee on ENGROSSED BILLS reported as truly and strictly engrossed the following:

##### **Emergency**

AN ACT Concerning Implementation of the Boat Excise Tax H. P. 1610 L. D. 2122

This being an emergency measure and having received the affirmative vote of 30 Members of the Senate, with No Senators having voted in the negative was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Senator PRAY of Penobscot moved the Senate RECONSIDER its action whereby it

Passed to be Enacted:

Resolve, to Authorize the Public Advocate to Intervene in Workers' Compensation Proceedings before the Superintendent of Insurance H. P. 1601 L. D. 2106

A viva voce vote being had the motion to RECONSIDER, FAILED.

On motion by Senator McBreairty of Aroostook, Adjourned until 9:30 a.m. tomorrow morning in memory of Harold Bragdon.