

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Twelfth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 5, 1984 - June 20, 1985

STATE OF MAINE
 One Hundred and Twelfth Legislature
 First Regular Session
 JOURNAL OF THE SENATE
 In Senate Chamber
 Wednesday
 February 20, 1985
 Senate called to order by the President.

Prayer by the Honorable Edgar E. Erwin of Oxford.

Senator ERWIN: Let us pray! Our Father, may Thy Spirit be upon us today:

Assist us to act justly and to walk humbly with Thee. Guide us in the responsibilities of leadership and service to the people of the great State of Maine. Grant us wisdom and understanding in making decisions on the issues which we face today.

May we be mindful of our limitations as we attend to the needs and concerns of those we represent. May all of us be dedicated to the sacred trust placed in us and always discharge it faithfully. May the pursuit of common aims bind the membership together in genuine and warm companionship. Let harmony and goodwill prevail. Amen.

Reading of the Journal of Yesterday.

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Make Appropriations for Needed Repairs to Historic Buildings" (H.P. 418) (L.D. 598)

Comes from the House referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and **ORDERED PRINTED**.

Which was referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and **ORDERED PRINTED**, in concurrence.

(Off Record Remarks)

Bill "An Act to Reduce the Hours Required for Master and Journeymen Electricians" (H.P. 419) (L.D. 599)

Bill "An Act Prohibiting Banks from Imposing Fees Against the Accounts of Persons over 65 Years of Age" (H.P. 420) (L.D. 600)

Bill "An Act to Contain Health Care Costs by Providing for a Study of Mandated Benefits" (H.P. 421) (L.D. 601)

Bill "An Act to Amend Permit Procedures Relative to Final Disposition of Dead Human Bodies" (H.P. 422) (L.D. 602)

Comes from the House referred to the Committee on **BUSINESS AND COMMERCE** and **ORDERED PRINTED**.

Which was referred to the Committee on **BUSINESS AND COMMERCE** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Provide a 10% Contingency in the School Construction Debt Service Limit" (H.P. 423) (L.D. 603)

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

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

Bill "An Act to Limit Ice Fishing in Class B Waters to the Period January 15th to March 14th" (H.P. 424) (L.D. 604)

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 Relating to Contracts for Children's Placement at Residential Treatment Facilities" (H.P. 425) (L.D. 605)

Comes from the House referred to the Committee on **HUMAN RESOURCES** and

ORDERED PRINTED.

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

Bill "An Act to Clarify the Definition of Spouse and to Add a Definition of Substantial Gainful Activity" (H.P. 426) (L.D. 606)

Bill "An Act to Amend the Statute of Limitations in Cases Involving Incest" (H.P. 427) (L.D. 607)

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

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

Bill "An Act to Revise the Franchise Tax on Financial Institutions" (H.P. 428) (L.D. 608)

Bill "An Act to Change Property Tax from Highest and Best Use to Current Use" (H.P. 429) (L.D. 609)

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

Which were referred to the Committee on **TAXATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Provide an Exemption from the 7-Day Loaner Plate Limitation" (H.P. 430) (L.D. 610)

Bill "An Act to Control Motorcycle Noise" (H.P. 431) (L.D. 611)

Bill "An Act Concerning Inspection of Safety Seat Belts" (H.P. 432) (L.D. 612)

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

Which were referred to the Committee on **TRANSPORTATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Provide Utility Easement by Implication" (H.P. 433) (L.D. 613)

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

On motion by Senator **VIOLETTE** of Aroostook referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

(Off Record Remarks)

Senate at Ease

The Senate called to order by the President.

COMMUNICATIONS

The Following Communication:

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333

February 15, 1985

Honorable Charles P. Pray

President of the Senate

State House Station #3

Augusta, Maine 04333

Dear President Pray:

In my recent State of the State message, I indicated my intention to address one part of my legislative package, workers compensation, in a separate speech due to the complexity of the issue. By this letter I am requesting the opportunity to address a Joint Convention of the Legislature on February 28, 1985 to present the details of my proposal to reform our workers compensation system.

I look forward to this opportunity to address this important issue.

Sincerely,

S/ JOSEPH E. BRENNAN

Governor

Which was **READ** and **ORDERED PLACED ON FILE**.

SENATE PAPERS

Bill "An Act to Provide Supported Employment for Disabled Persons" (S.P. 236) (Presented by Senator **GILL** of Cumberland) (Cosponsored by: Representative **CAHILL** of Woolwich, Representative **LISNIK** of Presque Isle, Representative **G.G. NADEAU** of Lewiston)

Bill "An Act to Appropriate the Amount of \$2,000,000 from the General Fund for the Design, Construction and Furnishing of Court Facilities" (S.P. 237) (Presented by Senator **CARPENTER** of Aroostook) (Cosponsored by: Representative **KANE** of S. Portland, Senator **CHALMERS** of Knox)

Which were referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and **ORDERED PRINTED**.

Sent down for concurrence.

Resolve, to Establish an Advisory Commission on Public Lands Policy and Management (Emergency) (S.P. 238) (Presented by Senator **KANY** of Kennebec) (Cosponsored by: Representative **MITCHELL** of Freeport, Speaker **J. MARTIN** of Eagle Lake, President **PRAY** of Penobscot)

Which was referred to the Committee on **ENERGY AND NATURAL RESOURCES** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Amend the Statutes with Respect to the Judicial Department" (S.P. 239) (Presented by Senator **CARPENTER** of Aroostook) (Cosponsored by: Representative **KANE** of S. Portland, Representative **PRIEST** of Brunswick)

Which was referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act Concerning an Exit Sign on Interstate Route 95 for Kennebec Valley Vocational-Technical Institute" (S.P. 240) (Presented by Senator **KANY** of Kennebec) (Cosponsored by: Representative **Jacques** of Waterville, Representative **GWADOSKY** of Fairfield Representative **McGOWAN** of Canaan)

Which was referred to the Committee on **TRANSPORTATION** and **ORDERED PRINTED**.

Sent down for concurrence.

COMMITTEE REPORTS

House

Leave to Withdraw

The following **Leave to Withdraw** reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act to Increase the Property Tax Exemption on Parsonages" (H.P. 54) (L.D. 67)

Bill "An Act to Preserve Maine's Freshwater Wetlands" (H.P. 262) (L.D. 316)

Bill "An Act to Amend the Law Relating to the Tax Exemption for Parsonages" (H.P. 89) (L.D. 109)

Bill "An Act to Allow Corrections to a Warrant after it has been Committed" (H.P. 87) (L.D. 107)

Bill "An Act Authorizing Officers of the United States Fish and Wildlife Service to have the Powers of State Game Wardens" (H.P. 83) (L.D. 103)

Senate

Ought to Pass

Senator **BROWN** from the Committee on **EDUCATION** on Bill "An Act to Amend the Law Concerning the Student Incentive Scholarship Program Under the Education Law" (S.P. 68) (L.D. 119)

Reported that the same **Ought to Pass**.

Which Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE**.

The Bill **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 Community School District Committee's Ability to Make Additional Assessments" (H.P. 40) (L.D. 46)

Bill "An Act to Clarify the Authority of the Department of Transportation to Manage and Dispose of Property" (H.P. 96) (L.D. 116)

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

ENACTORS

The Committee on Engrossed Bills reported as truly and strictly engrossed the following: An Act to Repeal the Statute Concerning Premarital Medical Examinations (H.P. 42) (L.D. 48)

An Act Amending the Charter of the Androscoggin Reservoir Company (S.P. 54) (L.D. 73)

An Act Relating to Conferring of Degrees by the Yacht Design Institute Schools (S.P. 33) (L.D. 41) (S "A" S-2)

Which were **PASSED TO BE ENACTED** and having been signed by the President, were presented by the Secretary to the Governor for his approval.

Emergency

An Act to Clarify Certain Penalty Provisions of the Marine Resources Laws (H.P. 136) (L.D. 161)

This being an emergency measure and having received the affirmative vote of 28 Members of the Senate, with No Senators having voted in negative, and 28 being more than two-thirds of the entire elected membership of the Senate was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

ORDERS OF THE DAY

The President laid before the Senate the Tabled and specially assigned matter:

Bill "An Act to Establish a Medicaid Budget Process" (S.P. 227) (L.D. 589)

Tabled—February 19, 1985, by Senator VIOLETTE of Arostook.

Pending—**REFERENCE**

(Committee on **HUMAN RESOURCES** suggested and **ORDERED PRINTED**.)

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

Senator **PEARSON:** Mr. President, I move this be referred to the Committee on Appropriations and Financial Affairs.

THE PRESIDENT: The Senator from Penobscot, Senator Pearson moves that this Bill be referred to the Committee on Appropriations and Financial Affairs.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator **BERUBE:** Mr. President, I would like to ask for a Division and after that I'd like to say where I'd like to send it.

THE PRESIDENT: The Senator has the floor.

Senator **BERUBE:** First, of all I'd like to say that I had hoped that my maiden speech on the floor would have been on a more glamorous issue, but it could develop into something very glamorous, if you sent this Bill to the Human Resources Committee.

If you look at the Bill, L.D. 589, you will see that it deals with the process "An Act to Establish a Medicaid Budget Process." It deals with the subject matter of medicaid. It deals with the planning action for medicaid. It deals with the ways to shape the medicaid program.

I feel as other enlightened people feel that it should go to the Human Resources Committee. We have heard a bill similar to this, L.D. 42, which also dealt with the processes of

social services, expenditures and revenues. So, I think this parallels that bill. It's a Bill that really belongs in Human Resources, and I would appreciate your voting against the motion before you, and perhaps then one of us can make a motion to send it to the rightful committee. Thank you, Mr. President.

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

Senator **PEARSON:** Mr. President, Men and Women of the Senate, this particular Bill, L.D. 589, the title is to "Establish a Medicaid Budget Process."

The main thrust, or the beginning of the Bill to require the Department of Human Services to prepare a budget document, which will tell where the money comes from for medicaid purposes, and where it is expended. We have asked for a list of providers in medicaid to be made available to the Maine Legislature. That particular information, if it is asked for is already available. I see no objections to requiring it done on a routine basis. I have no problem, with that particular portion of the Bill. But, if you wish to have that now, because the Appropriations Committee before has asked for that sort of information and have been given it. It's available.

It is with the last portion of the Bill that I have problems. Let me tell you, before I begin, that the Human Services portion of the Maine State Budget constitutes about 19% of the entire State Budget, using the figures from last years operable.

We anticipate that the State Budget in the next biennium, if it were to be passed as it is proposed by the Governor right now, it would be somewhere a little over \$4 billion dollars — 19% of that would be going to Human Services. Within Human Services 4.6% goes to medicaid care payments, which is a substantial amount of money.

What happens in the Appropriations Committee is, of course, that Human Services along with every other department comes in, and makes their cases on what they want to expend money for. From time-to-time, as years go by, we have different priorities — everybody in this Chamber knows right now that we're probably going to be looking at child abuse more than we used to and consequently, we may have to move money from one place to another in order to address the priorities of the day.

What this Bill proposes is to create a committee that's made up of twenty-six members; Human Service and Appropriations. First with Human Services looking over the thing, then Human Services and Appropriations coming together. Now, at first watch, I suppose that sounds like a good idea but, you take that to its logical conclusion, if we did that with every item that we deal with, we would never, ever accomplish anything. It is our unfortunate task during the process of the year with this document that you have on your desk that's so thick (the budget document) to try to put some semblance of order in it.

If you were to have a presentation on medical care only to a committee, anybody could make the case that we are underfunded. We are probably underfunded in everything that we do to the person that's interested in it. We try to bring that to a head and make some sense out of the amount of money that we have. After all, we do have a constitutional provision in this State that we can't spend any more money than we take in.

What I am saying is that this is going to cause a good deal of, it seems to me, chaos in the budget procedure if this is passed, because it does not allow any one committee to bring it all together in some kind of an order at the very end.

Several years ago, I guess it was long before I was in the Maine Legislature, there were a number of people who expressed the opinion that they did not have much of an input into the appropriations procedure. I think that was

true. So we created liaison people to come and I am pleased to say that they have been attending our hearings so far to have an input. I've discussed with the President of the Senate that I thought that there ought to be even more involvement on the part of these various committees. We are going to be working to that end, hopefully, even maybe, redesigning the room in which we have the hearings.

The Bill is clearly a fiscal affair that ought to be before the Appropriations Committee for the simple reason that it deals with how we figure out the budget.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator **BERUBE:** Thank you, and I will be brief. The last sentence of the Statement of Fact says: "the information gathered from this particular piece of legislation will be useful and critical in reviewing the medicaid budget and addressing the important policy-decisions presented to the Legislature." The budget process would go then to the Appropriations Committee which it rightfully should have and the procedures and substantive matters of the Bill would come to Human Resources. Thank you very much.

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

Senator **PEARSON:** Mr. President, Men and Women of the Senate, the previous Speaker neglected to tell you that this also calls for a public hearing of twenty-six Members of the Legislature, to decide the question of how much money should go to the medicare fund. That seems to me to be removed from the other considerations that we have to take into account in order to put together an entire budget.

THE PRESIDENT: A Division has been requested. The pending question before the Senate is the motion by Senator Pearson of Penobscot that this Bill be referred to the Joint Standing Committee on Appropriations and Financial Affairs.

Will all those Senator in favor of the motion, please rise in their places to be counted.

Will all those Senator opposed, please rise in their places to be counted.

11 Senators having voted in the affirmative, and 16 Senators having voted in the negative, the motion of Senator **PEARSON** of Penobscot to refer the Bill to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS FAILED**.

Which was referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**.

Sent down for concurrence.

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

COMMUNICATION

The Following Communication:
**MAINE STATE LEGISLATURE
COMMITTEE ON AGING, RETIREMENT
AND VETERANS**

February 19, 1985

The Honorable Charles P. Pray
President of the Senate of Maine
State House

Augusta, Maine 04333

Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 112th Maine Legislature, the Joint Standing Committee on Aging, Retirement and Veterans has had under consideration the nomination of Gerald M. Tabenken of Bangor, as a member of the Board of Trustees of the Maine State Retirement System.

After public hearing and discussion on this nomination. The Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS:Senators	3
Representatives	9
NAYS:	0

ABSENT: 1 (Rep. Perry of Mexico)
 Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Gerald M. Tabenken of Bangor, as a member of the Board of Trustees of the Maine State Retirement System be confirmed.

Sincerely,
 S/ N. PAUL GAUVREAU
 Senate Chair
 S/ DANIEL B. HICKEY
 House Chair

Which was **READ** and **ORDERED PLACED ON FILE**.

THE PRESIDENT: The Joint Standing Committee on **AGING, RETIREMENT AND VETERANS** has recommended that the nomination of **Gerald M. Tabenken** of Bangor be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on **AGING, RETIREMENT AND VETERANS** be overridden?" In accordance with 3 M.R.S.A., Chapter 6, section 151 and with Joint Rule 38 of the 112th Legislature, the vote will be taken by the yeas and nays. A vote of Yes will be in favor of overriding the recommendation of the Committee. A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.
 The Secretary will call the Roll.

ROLL CALL

YEAS:—Senators, None

NAYS:—Senators, Andrews, Berube, Black, Brown, Bustin, Carpenter, Chalmers, Clark, Danton, Dow, Dutremble, Emerson, Erwin, Hichens, Kany, Matthews, Maybury, McBreairty, Pearson, Perkins, Sewall, Stover, Tuttle, Twitchell, Usher, Violette, Webster, The President—Charles P. Pray

ABSENT:—Senators, Baldacci, Diamond, Gauvreau, Gill, Najarian, Shute, Trafton

No Senators having voted in the affirmative and 28 Senators having voted in the negative, with 7 Senators being absent, and None being less than two-thirds of the membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Gerald M. Tabenken** was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

BILL HELD

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

Senator **CARPENTER:** Mr. President, is the Senate in possession of L.D. 593?

THE PRESIDENT: The Chair would answer in the affirmative:

Bill "An Act Requiring Treatment and Rehabilitation as a Condition for License Restoration when Convicted of Alcohol or Drug Related Vehicular Homicide" (S.P. 231) (L.D. 593)

(In Senate February 19, 1985, referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**.)

On motion by Senator **CARPENTER** of Aroostook, the Senate **RECONSIDERED** its action whereby it was referred to the Committee on **JUDICIARY**.

On further motion by the same Senator, referred to the Committee on **LEGAL AFFAIRS**.

Sent down for concurrence.

Senator **HICHENS:** of York was granted unanimous consent to address the Senate On the Record.

Senator **HICHENS:** Thank you, Mr. President.

Birthdays are coming thick and fast — and

ere we know they have gone past.
 And almost was the case today — when one had almost slipped away.
 Before I noticed on my sheet — that there is one whom we should greet
 And to him best wishes should extend — before the session here doth end.
 This gentlemen who joined our ranks first time this session, merits thanks
 For efforts in the sessions gone — where he took part and acted on
 The bills presented across the hall in the House, and gave his all
 As Member of Legal Affairs — He's one of those of us who dares
 To stand for what he thinks is right — and its been proved that in the sight
 Of his electorate he's tops — for in his race he pulled no stops,
 And won himself s Senate seat. He's truly a hard man to beat.
 The oldest Member in our ranks — He sure deserves a vote of thanks
 For his faithful duty here — and as he starts another year
 May we echo over and over — Happy Birthday Courtney Stover.

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

COMMITTEE REPORTS

House

Change of Reference

The Committee on **LOCAL AND COUNTY GOVERNMENT** on Bill "An Act Relating to the Number of Voting Booths Required in Maine Elections" (Emergency) (H.P. 133) (L.D. 158)

Reported that the same be **REFERRED** to the **Committee on LEGAL AFFAIRS**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **LEGAL AFFAIRS**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **REFERRED** to the Committee on **LEGAL AFFAIRS**, in concurrence.

(Off Record Remarks)

Senator **PEARSON** of Penobscot was granted unanimous consent to address the Senate Off the Record.

On motion by Senator **CLARK** of Cumberland, **ADJOURNED** until 10 o'clock tomorrow morning.