

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Thirteenth Legislature
OF THE
State Of Maine

VOLUME III

FIRST CONFIRMATION SESSION

August 21, 1987
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FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987
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SECOND SPECIAL SESSION

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SECOND REGULAR SESSION

January 6, 1988 to March 24, 1988

STATE OF MAINE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
SECOND REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Wednesday
January 20, 1988

Senate called to Order by the President.

Prayer by Reverend Michael Davis of the United Methodist Church in Newport.

REVEREND DAVIS: Let us pray. Everlasting God we recognize and welcome Your presence among us this morning. Be for each of us a guiding light illuminating the paths that lead us in ways which are right and just. On this morning we remember colleagues, family and friends who are in need, who are involved in situations of pain and grief, who suffer physical or emotional anguish. As our thoughts and prayers are drawn to them, may Your presence be real to them. Bring Your touch, Your healing, Your compassion to their lives and their situations. We pray for all who serve the people of this state. May Your blessing be upon them that they might fulfill their duties with wisdom and vision. Be with us all in the hours and days ahead. So be it. Amen.

Reading of the Journal of Yesterday.

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Provide Increased Funding for the Civil Air Patrol"

H.P. 1526 L.D. 2080

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.

Bill "An Act to Amend the Maine Uniform Accounting and Auditing Practices Act for Community Agencies"

H.P. 1518 L.D. 2071

Committee on STATE AND LOCAL GOVERNMENT suggested and ORDERED PRINTED.

Comes from the House referred to the Committee on AUDIT AND PROGRAM REVIEW and ORDERED PRINTED.

Which was referred to the Committee on AUDIT AND PROGRAM REVIEW and ORDERED PRINTED, in concurrence.

Bill "An Act to Increase State Aid for Education in Unrestricted Growth Municipalities"

H.P. 1532 L.D. 2086

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 Relating to the Tax Exempt Status of Anson Academy Association" (Emergency)

H.P. 1523 L.D. 2076

Committee on EDUCATION suggested and ORDERED PRINTED.

Comes from the House, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee.

Which was referred to the Committee on EDUCATION and ORDERED PRINTED in NON-CONCURRENCE.

Sent down for concurrence.

Bill "An Act Regarding Transportation of Nuclear Waste"

H.P. 1527 L.D. 2081

Comes from the House referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED.

Which was referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED, in concurrence.

Bill "An Act to Allow Deductions for Merchantability Factors in Wood Measurement"

H.P. 1534 L.D. 2088

Comes from the House referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED.

Which was referred to the Committee on LABOR and ORDERED PRINTED, in NON-CONCURRENCE.

Sent down for concurrence.

Bill "An Act to Implement Uniform Federal Lien Registration" (Emergency)

H.P. 1524 L.D. 2077

Committee on TAXATION suggested and ORDERED PRINTED.

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 to Promote Safety in the Workplace"

H.P. 1529 L.D. 2083

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

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

Bill "An Act Concerning Elected Clerks Handling Absentee Ballots"

H.P. 1530 L.D. 2084

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

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

Bill "An Act Providing for Administrative Changes in the Tax Laws"

H.P. 1535 L.D. 2089

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

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

Bill "An Act to Limit the Purchase of Land by Quasi-Municipal Districts"

H.P. 1531 L.D. 2085

Committee on STATE AND LOCAL GOVERNMENT suggested and ORDERED PRINTED.

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

Which was referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED in NON-CONCURRENCE.

Sent down for concurrence.

Bill "An Act to Abolish the Maine Turnpike Authority"

H.P. 1528 L.D. 2082

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

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

Bill "An Act to Encourage Conservation Investments by Electric Utilities"

H.P. 1533 L.D. 2087

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

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

Study Report

Committee on STATE AND LOCAL GOVERNMENT

Report of the Committee on STATE AND LOCAL GOVERNMENT to which was referred by the Legislative Council the Study Relative to Reimbursement to Political Subdivisions of State for Costs Incurred by Political Subdivisions to Implement State-Mandated Programs and Agency Rules have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill "An Act Concerning State Mandates to Local Governments"

H.P. 1536 L.D. 2090

Be referred to the Joint Standing Committee on STATE AND LOCAL GOVERNMENT for Public Hearing and printed pursuant to Joint Rule 19.

Comes from the House with the Report READ and ACCEPTED and the Bill referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED.

Which Report was READ and ACCEPTED, in concurrence.

The Bill referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED, pursuant to Joint Rule 19, in concurrence.

COMMUNICATIONS

The Following Communication: S.P. 804

COMMITTEE ON LEGAL AFFAIRS

ONE HUNDRED AND THIRTEENTH LEGISLATURE

January 14, 1988

Senator Charles P. Pray, Chairman
Legislative Council
State House
Augusta, ME 04333
Dear Senator Pray:

The Joint Standing Committee on Legal Affairs is pleased to submit the attached report of our study of Law Enforcement Training pursuant to the order of the Legislative Council.

Sincerely,

S/Sen. Judy C. Kany S/Rep. Charles R. Priest
Chair Chair

Which was READ and with Accompanying Papers ORDERED PLACED ON FILE.

Sent down for concurrence.

The Following Communication: S.P. 805

COMMITTEE ON JUDICIARY

ONE HUNDRED AND THIRTEENTH LEGISLATURE

January 19, 1988

Senator Charles P. Pray, Chairman
Legislative Council

State House
Augusta, ME 04333
Dear Senator Pray:

The Joint Standing Committee on Judiciary is pleased to submit the attached report of our study by the Subcommittee to Study Surrogate Parenting pursuant to the order of the Legislative Council. We hope you find this report a useful tool in our continuing efforts.

Sincerely,

S/Sen. Joseph C. Brannigan S/Rep. Patrick E. Paradis
Chair Chair

Which was READ and with Accompanying Papers ORDERED PLACED ON FILE.

Sent down for concurrence.

The Following Communication: S.P. 806

113TH MAINE LEGISLATURE

January 19, 1988

Senator Zachary Matthews
Representative Robert J. Tardy
Chairpersons
Joint Standing Committee on Agriculture
113th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Lawrence J. Keddy of South Windham and Raynor I. Crosman of Corinna for reappointment to the Animal Welfare Board.

Pursuant to Title 17, M.R.S.A. Section 1051, this nomination will require review by the Joint Standing Committee on Agriculture and confirmation by the Senate.

Sincerely,

S/Charles P. Pray
President of the Senate
S/John L. Martin
Speaker of the House

Which was READ and referred to the Committee on AGRICULTURE.

Sent down for concurrence.

The Following Communication:

DEPARTMENT OF ADMINISTRATION

STATE HOUSE STATION 74

AUGUSTA, MAINE 04333

January 15, 1988

The Honorable Charles P. Pray
President of the Maine Senate
The Honorable John L. Martin
Speaker of the Maine House
State House
Augusta, Maine 04333

Dear President Pray and Speaker Martin:

Pursuant to the requirements of Chapter 503 of the Public Laws of 1987, I am pleased to submit the plan and progress report regarding the provision of telecommunication devices in State buildings for the hearing and speech impaired.

The plan represents the joint efforts of the Office of Information Services of this department, the Bureau of Rehabilitation of the Department of Human Services, and the Governor Baxter School for the Deaf of the Department of Educational and Cultural Services.

The ongoing implementation of the plan significantly expands the access to State government for the hearing and speech impaired.

Sincerely,

S/Charles A. Morrison
Commissioner

Which was READ and with Accompanying Papers ORDERED PLACED ON FILE.

SENATE PAPERS

Bill "An Act to Include Drugs for Treatment of Chronic Obstructive Lung Disease in the Elderly Low-Cost Drug Program"

S.P. 800 L.D. 2101

Presented by Senator GILL of Cumberland

Cosponsored by: Speaker MARTIN of Eagle Lake, Senator BERUBE of Androscoggin, Representative PINES of Limestone

Approved for Introduction by a Majority of the Legislative Council pursuant to Joint Rule 26

Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS suggested and ORDERED PRINTED.

On motion by Senator CLARK of Cumberland, Tabled Until Later in Today's Session, pending REFERENCE.

Bill "An Act to Improve the Quality of Care for Handicapped Children"

S.P. 802 L.D. 2103

Presented by Senator CLARK of Cumberland

Cosponsored by: Senator GILL of Cumberland, Representative THISTLE of Dover-Foxcroft, Senator GAUVREAU of Androscoggin

Approved for Introduction by a Majority of the Legislative Council pursuant to Joint Rule 26

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

Sent down for concurrence.

Bill "An Act to Provide for Limited Immunity from Civil Liability for Volunteers and Auxiliaries Contributing Time in Health Care Institutions"

S.P. 799 L.D. 2100

Presented by Senator GILL of Cumberland

Cosponsored by: Representative DELLERT of Gardiner, Representative THISTLE of Dover-Foxcroft, Speaker MARTIN of Eagle Lake

Approved for Introduction by a Majority of the Legislative Council pursuant to Joint Rule 26

Bill "An Act to Remove the Issue of Parental Rights and Responsibilities from the Divorce Monetary Settlement Process"

S.P. 801 L.D. 2102

Presented by Senator DOW of Kennebec

Cosponsored by: Representative DAVIS of Monmouth Approved for Introduction by a Majority of the Legislative Council pursuant to Joint Rule 26

Which were referred to the Committee on JUDICIARY and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Change the Definition of Wine Coolers" (Emergency)

S.P. 803 L.D. 2104

Presented by Senator BALDACCI of Penobscot

Cosponsored by: Representative TELOW of Lewiston Approved for Introduction by a Majority of the Legislative Council pursuant to Joint Rule 26

Which was referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED.

Sent down for concurrence.

Off Record Remarks

Joint Resolution

On motion by Senator KERRY of York the following Joint Resolution:

S.P. 798

JOINT RESOLUTION MAKING APPLICATION TO CONGRESS TO CALL A CONSTITUTIONAL CONVENTION TO PROPOSE AN AMENDMENT TO THE UNITED STATES CONSTITUTION TO REQUIRE THE PRESIDENT OF THE UNITED STATES TO SUBMIT A PROPOSED BALANCED BUDGET TO THE CONGRESS

AND TO REQUIRE A BALANCED FEDERAL BUDGET

WHEREAS, with each passing year, this nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues so that the public debt now exceeds hundreds of billions of dollars; and

WHEREAS, the legislative and executive branches of the Federal Government continually demonstrate an unwillingness or inability, with respect to the annual federal budget, to curtail spending to conform to available revenues; and

WHEREAS, unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor are subject to the legal public debt limit; and

WHEREAS, knowledgeable planning, fiscal prudence and plain good sense require that the budget reflect all federal spending and be in balance; and

WHEREAS, believing that fiscal irresponsibility at the federal level, with the inflation which results from this policy, is one of the greatest threats which faces our nation, we firmly believe that constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility; and

WHEREAS, under the United States Constitution, Article V, the Congress, whenever 2/3 of both Houses deem it necessary, shall propose amendments to the United States Constitution, or, on the application of the legislatures of 2/3 of the several states, shall call a convention for proposing amendments which, in either case, shall be valid to all intents and purposes, as part of the United States Constitution, when ratified by the legislatures of 3/4 of the several states, or by conventions in 3/4 of the several states, or by conventions in 3/4 thereof, as the one or the other mode of ratification may be proposed by the Congress; and

WHEREAS, we believe action on amendments to the United States Constitution concerning federal expenditures to be vital; now, therefore, be it

RESOLVED: That this body respectfully apply to the Congress of the United States to call a convention for the specific and exclusive purpose of proposing an amendment to the United States Constitution to require a balanced federal budget, except in time of declared war or when 3/5 of the elected members of each House agree; and be it further

RESOLVED: That this application by this body constitutes a continuing application in accordance with the United States Constitution, Article V, until at least 2/3 of the legislatures of the several states have made similar application pursuant to Article V, but if Congress proposes an amendment to the United States Constitution identical in subject matter to that contained in this Joint Resolution, then this application for a constitutional convention shall no longer be of any force or effect; and be it further

RESOLVED: That this application and request be void, rescinded and of no effect in the event that such convention not be limited to such specific and exclusive purpose; and be it further

RESOLVED: That this body propose that the legislatures of each of the several states comprising the United States apply to the Congress requesting

the enactment of an appropriate amendment to the United States Constitution; or requiring the Congress to call a constitutional convention for proposing such amendment to the United States Constitution; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the United States Secretary of State and to the Secretary of the Senate and presiding officers of both houses of the legislature of each of the several states in the nation, the Speaker and the Clerk of the United States House of Representatives, the President and the Secretary of the United States Senate and to each member of the Maine Congressional delegation.

Which was READ.

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day pending ADOPTION.

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 Concerning the Workers' Compensation Rate-setting Authority of the Superintendent of Insurance"

H.P. 475 L.D. 642

Bill "An Act to Establish an Appropriate Penalty for Overcharging Premiums on Workers' Compensation Insurance" (Emergency)

H.P. 841 L.D. 1132

Bill "An Act to Strengthen Rate-making Provisions for Workers' Compensation Insurance"

H.P. 1012 L.D. 1365

Bill "An Act to Establish an Insurance Commission"

H.P. 1145 L.D. 1556

Bill "An Act to Clarify the Offense of Driving under the Influence of Illegal Drugs"

H.P. 1188 L.D. 1618

SECOND READERS

The Committee on Bills in the Second Reading reported the following:

Senate As Amended

Bill "An Act to Correct the Implementation of the New Corporate Filing Fees" (Emergency)

S.P. 748 L.D. 2007

(C "A" S-308)

Which was READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended.

Sent down for concurrence.

ORDERS OF THE DAY

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

Bill "An Act to Include Drugs for Treatment of Chronic Obstructive Lung Disease in the Elderly Low-Cost Drug Program"

S.P. 800 L.D. 2101

Tabled - January 20, 1988, by Senator CLARK of Cumberland.

Pending - REFERENCE

(Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS suggested and ORDERED PRINTED.)

On further motion by same Senator, Tabled 1 Legislative Day pending REFERENCE.

Senator CLARK of Cumberland was granted unanimous consent to address the Senate off the Record.

Senator PERKINS of Hancock was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator MATTHEWS of Kennebec was granted unanimous consent to address the Senate off the Record.

Senator GAUVREAU of Androscoggin was granted unanimous consent to address the Senate on the Record.

Senator GAUVREAU: Thank you Mr. President and men and women of the Senate. You might have noticed on your calendar this morning the Subcommittee of the Judiciary Committee on surrogate parenting is today submitting it's final report to the Legislature.

If you have a chance to peruse the study you will see that we are recommending at this time that no legislation be offered and I rise to indicate that the committee is certainly aware of the very sensitive and controversial area dealing with surrogate parenting. We feel that legislation will have to be forthcoming. There is a significant study being undertaken by the American Bar Association. At present, we expect it will be recommending legislation for the State to consider next fall.

I would point out that all of the members of the subcommittee and many members of the Judiciary Committee actually will take a somewhat more conservative approach than is being contemplated at the national level. The debate has been traditional whether we should adopt regulatory legislation and allow commercial surrogacy to proceed or whether we should adopt some sort of outright prohibition on commercial surrogacy. It is my view that probably due to constitutional rights regarding the right to pro-create, states do not have the inherent authority to absolutely preclude any type of surrogacy whatsoever. I had hoped we would have been able to adopt legislation which would have prohibited commercial surrogacy which would have allowed what I would call a voluntary surrogacy arrangement to proceed. I think the Supreme Court will give us some guidance, hopefully in the legislation coming out or the case coming out of the State of New Jersey and I mention this to you and beg your indulgence this morning.

I know that you might be asked questions by various members in your districts. We are trying to deal with this very sensitive issue and it appears right now that we will have a court case that will give us some guidance going into next year. I would expect us to have legislation before you next year. Thank you.

Off Record Remarks

On motion by Senator BUSTIN of Kennebec, ADJOURNED until Thursday, January 21, 1988, at 10:00 in the morning.