

MAINE STATE LEGISLATURE

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

VOLUME IV

FIRST SPECIAL SESSION
August 21, 1989 to August 22, 1989
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SECOND REGULAR SESSION
January 3, 1990 to March 19, 1990

ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
9th Legislative Day
Monday, January 22, 1990

Bill "An Act to Encourage Farming in Maine" (Emergency)

H.P. 1593 L.D. 2206

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

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

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Authorize the Issuance of a Bond Not Exceeding \$25,000,000 for the Financing of the Maine Inland Fisheries and Wildlife Acquisition Fund"

H.P. 1594 L.D. 2207

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.

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Allow Towns to Lay Pipes Under Railroad Tracks"

H.P. 1592 L.D. 2205

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.

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

PAPERS FROM THE HOUSE
Study Report

Committee on BANKING AND INSURANCE

Report of the Committee on BANKING AND INSURANCE to which was referred by the Legislative Council the Study Relative to Feasibility of a State Fund to Provide Workers' Compensation Insurance Coverage to Employers have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill "An Act to Create a State Insurance Fund"

H.P. 1591 L.D. 2203

Comes from the House with the Report READ and ACCEPTED and the Bill referred to the Committee on BANKING AND INSURANCE and ORDERED PRINTED, pursuant to Joint Rule 19.

Which Report was READ and ACCEPTED, in concurrence.

The Bill referred to the Committee on BANKING AND INSURANCE and ORDERED PRINTED, pursuant to Joint Rule 19, in concurrence.

Off Record Remarks

Senator CAHILL of Sagadahoc was granted unanimous consent to address the Senate off the Record.

On motion by Senator KANY of Kennebec ADJOURNED until Monday, January 22, 1990, at 12:00 in the afternoon.

The Speaker resumed the Chair.
The House met according to adjournment and was called to order by the Speaker.
Prayer by Reverend Ronald Chaffee, United Methodist Church of Milo and Brownville Junction.
National Anthem by Piscataquis Community High School Band.
The Journal of Friday, January 19, 1990, was read and approved.
Quorum call was held.

PAPERS FROM THE SENATE

The following Communication:

Maine State Senate
Augusta, Maine 04333

January 19, 1990

Honorable Edwin H. Pert

Clerk of the House

State House Station 2

Augusta, Maine 04333

Dear Clerk Pert:

Please be advised that the Senate today Adhered to its former action whereby it Accepted the Ought Not to Pass report of the Committee on Transportation on Bill "An Act to Provide Access to Camps" (H.P. 876) (L.D. 1219).

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

Unanimous Ought Not To Pass

Report of the Committee on Energy and Natural Resources reporting "Ought Not to Pass" on Bill "An Act to Amend Certain Provisions of the Maine Low-level Radioactive Waste Authority Act" (EMERGENCY) (S.P. 737) (L.D. 1941)

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

Non-Concurrent Matter

JOINT RESOLUTION (S.P. 847) RELATIVE TO MEMORIALIZING THE PRESIDENT AND THE CONGRESS OF THE UNITED STATES TO TAKE ACTION TO PREVENT THE CLOSING OF THE DEPARTMENT OF VETERANS AFFAIRS REGIONAL OFFICE AT TOGUS, MAINE which was Read and Indefinitely Postponed in the House on January 11, 1990.

Came from the Senate Adopted as amended by Senate Amendment "A" (S-469) in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act Regarding Preliminary Protection Orders in Child Protective Cases" (H.P. 1530) (L.D. 2115) which was referred to the Committee on Judiciary in the House on January 5, 1990.

Came from the Senate referred to the Committee on Human Resources in non-concurrence.

On motion of Representative Gwadosky of Fairfield, tabled pending further consideration and later today assigned.

(At Ease)

The House was called to order by the Speaker.

COMMUNICATIONS

The following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333

January 17, 1990

Hon. Edwin H. Pert
Clerk of the House
State House Station #2
Augusta, Maine 04333
Dear Clerk Pert:

This is to notify you that pursuant to my authority under 1 M.R.S.A., Section 1002, I am reappointing Gregory G. Cyr, of Portage, to serve on the Commission on Governmental Ethics and Election Practices. This appointment requires a two-thirds vote of concurrence by the House of Representatives.

Sincerely,
S/John L. Martin
Speaker of the House

Was read and ordered placed on file.

In accordance with Title 1, Section 1002, of the Maine Revised Statutes Annotated, a two-thirds vote of those members present and voting was required. 125 having voted in favor of same and none against, and accordingly, the nominee was confirmed.

The following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
MAJORITY OFFICE
AUGUSTA, MAINE 04333

January 17, 1990

Hon. Edwin H. Pert
Clerk of the House
State House Station 2
Augusta, Maine 04333
Dear Clerk Pert:

This is to notify you that pursuant to my authority under 1 MRSA, Section 1002, I am nominating Joseph B. Ezhaya of Waterville for appointment to the Commission on Governmental Ethics and Election Practices.

Mr. Ezhaya currently is Branch Manager of the Waterville investment firm of A.G. Edwards & Sons. In addition, he serves as part-time staff judge advocate in the Maine Army National Guard.

Mr. Ezhaya has a long and distinguished history of public service in the greater Waterville area, including current membership in the Maine Chamber of Commerce and Industry and chairmanship of the Waterville area YMCA. Additionally, Mr. Ezhaya is a former city councilor and a former member of the Waterville Board of Education. He therefore has an understanding of the ethical dilemmas often faced by those in public service, such as possible conflicts of interest.

It is with a great deal of pleasure that I ask my colleagues in the House of Representatives to join me in supporting the nomination of Joseph Ezhaya to this important commission.

Sincerely,
S/Dan A. Gwadosky
House Majority Leader

Was read and ordered placed on file.

In accordance with Title 1, Section 1002, of the Maine Revised Statutes Annotated, a two-thirds vote of those members present and voting was required. 124

having voted in favor of same and none against, and accordingly, the nominee was confirmed.

The following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
HOUSE MINORITY OFFICE
AUGUSTA, MAINE 04333

January 18, 1990

The Honorable Edwin H. Pert
Clerk of the House
State House Station #2
Augusta, Maine 04333
Dear Clerk Pert:

This is to notify you that pursuant to my authority under 1 M.R.S.A., Section 1002, I am appointing Henry G. Beyers, of Cape Elizabeth, to serve on the Commission on Governmental Ethics and Election Practices. This appointment requires a two-thirds vote of concurrence by the House of Representatives.

Sincerely,
S/Mary Clark Webster
House Minority Leader

Was read and ordered placed on file.

In accordance with Title 1, Section 1002, of the Maine Revised Statutes Annotated, a two-thirds vote of those members present and voting was required. 122 having voted in favor of same and none against, and accordingly, the nominee was confirmed.

The following Communication:

DEPARTMENT OF
MENTAL HEALTH AND MENTAL RETARDATION
State House Station 40
Augusta, Maine 04333

January 18, 1990

John L. Martin
Speaker of the House
State House
Augusta, Maine 04333
Dear Speaker Martin:

It is with great pleasure that I present this report on Mental Health Services to Deaf Persons in Maine: 1990. The report is authorized within 34-B MRSA s3005 as amended in 1987, which requires the Department to submit to the Maine Legislature, and in particular the Joint Standing Committee on Human Resources, a biennial report describing service developments made thus far, and additional needs for future attention.

It is my expectation that, through continued cooperation of all parties involved, we will see refinements in the ability of Maine's mental health system to service this special population.

Sincerely,
S/Robert W. Glover, Ph.D
Commissioner
Department of Mental
Health and Mental
Retardation

Was read and with accompanying report ordered placed on file.

The following Communication: (H.P. 1604)

DEPARTMENT OF CONSERVATION
LAND USE REGULATION COMMISSION
State House Station 22
Augusta, Maine 04333

January 17, 1990

Representative John L. Martin

Speaker of the House
Maine House of Representatives
State House Station #2
Augusta, Maine 04333
Subject: Proposed Rule - Fee Schedule
Dear Speaker Martin:

Attached is a proposed Commission rule to revise the fee schedule for LURC permit applications and special services. As you may recall, the Peat Marwick Main management study in 1989 recommended that LURC revise its fee structure to bring it more in line with the actual costs of processing and those of other applicable state and local agencies. In August 1989, the Legislature enacted legislation authorizing LURC to make the fee revisions. This proposed fee schedule is consistent with that legislation and the management report and represents the first major fee revision for LURC in 17 years.

The schedule has been designed so that permits for minor construction activities are assessed a modest processing fee (minimum \$25), but those more extensive projects are assessed a proportionally greater fee.

Although we will be evaluating projected revenues resulting from the revised schedule more closely during the rule-making proceeding, we estimate increased revenues of \$60,000 to \$75,000 annually, depending upon the number of applications received; these fees are not retained by LURC but accrue to the General Fund.

The Commission will discuss this proposal on Thursday, January 18, 1990, at its monthly meeting and if they choose to proceed to rule-making, I anticipate a public hearing will be held in March.

If you have any questions or comments regarding this matter, please give me a call at 289-2631.

Sincerely,
S/David E. Boutler
Director
Maine Land Use
Regulation Commission

Was read and with accompanying papers referred to the Committee on Energy and Natural Resources and sent up for concurrence.

The following Communication: (S.P. 863)
114TH MAINE LEGISLATURE
January 16, 1990

Senator Georgette B. Berube
Rep. Ruth Joseph
Chairpersons
Joint Standing Committee on State & Local Government
114th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Franklin C. Leavitt, Jr. of Topsham for reappointment as a member of the Civil Service Appeals Board.

Pursuant to Title 5 M.R.S.A., Section 7081, this nomination will require review by the Joint Standing Committee on State & Local Government and confirmation by the Senate.

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

Came from the Senate, Read and Referred to the Committee on State and Local Government.

Was Read and Referred to the Committee on State and Local Government in concurrence.

The following Communication: (S.P. 864)
114TH MAINE LEGISLATURE
January 18, 1990

Senator Barry J. Hobbins
Rep. Patrick E. Paradis
Chairpersons
Joint Standing Committee on Judiciary
114th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Reginald E. Burleigh of Caribou for appointment as a member of the Workers' Compensation Commission.

Pursuant to Title 39, MRSA Section 91, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

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

Came from the Senate, Read and Referred to the Committee on Judiciary.

Was Read and Referred to the Committee on Judiciary in concurrence.

PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE

Study Report - Committee
on Energy and Natural Resources

Representative MITCHELL from the Committee on Energy and Natural Resources to which was referred by the Legislative Council the Study Relative to Redesign of BEP Structure have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill "An Act to Clarify the Role of the Board of Environmental Protection" (H.P. 1602) (L.D. 2214) be referred to this Committee for public hearing and printed pursuant to Joint Rule 19.

Report was read and accepted, and the bill referred to the Committee on Energy and Natural Resources, ordered printed and sent up for concurrence.

Study Report - Committee
on State and Local Government

Representative JOSEPH from the Committee on State and Local Government to which was referred by the Legislative Council the Study Relative to Redistribution of County Functions have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill "An Act to Reform County Government" (H.P. 1603) (L.D. 2215) be referred to this Committee for public hearing and printed pursuant to Joint Rule 19.

Report was read and accepted, and the bill referred to the Committee on State and Local Government, ordered printed and sent up for concurrence.

Reported Pursuant to Private and Special Law

Representative PRIEST for the Commission on Manufactured Housing pursuant to Private and Special Law 1987, chapter 139, ask leave to submit its findings and to report that the accompanying Bill "An Act to Establish Mediation for Mobile Home Park Operators and Tenants" (H.P. 1595) (L.D. 2212) be referred to the Joint Standing Committee on Legal

Affairs for Public Hearing and printed pursuant to Joint Rule 18.

Report was read and accepted, and the bill referred to the Committee on Legal Affairs, ordered printed and sent up for concurrence.

Reported Pursuant to Private and Special Law Representative SHELTRA for the Commission on Manufactured Housing, pursuant to Private and Special Law 1987, chapter 139 ask leave to submit its findings and to report that the accompanying Bill "An Act to Improve Drinking Water Quality in Mobile Home Parks" (H.P. 1601) (L.D. 2213) be referred to the Joint Standing Committee on Legal Affairs for Public Hearing and printed pursuant to Joint Rule 18.

Report was read and accepted, and the bill referred to the Committee on Legal Affairs, ordered printed and sent up for concurrence.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative WENTWORTH from the Committee on State and Local Government on Bill "An Act Modifying the Territory of the Northport Village Corporation" (EMERGENCY) (H.P. 1376) (L.D. 1907) reporting "Ought Not to Pass"

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Unanimous Leave to Withdraw

Representative STEVENS from the Committee on Judiciary on Bill "An Act to Provide Additional Information to People with Small Claims Actions" (H.P. 1442) (L.D. 2011) reporting "Leave to Withdraw"

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

CONSENT CALENDAR

First Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(H.P. 1422) (L.D. 1974) Bill "An Act to Clarify the Status of Court Mediators, Court Appointed Special Advocates and Bail Commissioners with Respect to Civil Liability" Committee on Judiciary reporting "Ought to Pass"

(H.P. 1331) (L.D. 1848) Bill "An Act Relating to the Designation of Beneficiaries by Members of the Maine State Retirement System" Committee on Aging, Retirement and Veterans reporting "Ought to Pass"

(H.P. 1341) (L.D. 1858) Bill "An Act to Integrate Relief Provided by the Maine Residents Property Tax Program with Poverty Abatements" Committee on Taxation reporting "Ought to Pass"

(H.P. 1148) (L.D. 1591) Bill "An Act Relating to the Status of Nursing Professions in Maine" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-734)

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, January 25, 1990, under the listing of Second Day.

CONSENT CALENDAR Second Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the Second Day:

(H.P. 1475) (L.D. 2060) Resolve, to Permit the Maine Veterans' Home to Place a Sign on U.S. Route 1 (EMERGENCY)

(H.P. 691) (L.D. 943) Bill "An Act to Provide Needed Services Identified by the Task Force on Incapacitated and Dependent Adults, and Required by the United States Omnibus Budget Reconciliation Act of 1988" (C. "B" H-733)

No objections having been noted at the end of the Second Legislative Day, the House Papers were Passed to be Engrossed or Passed to be Engrossed as Amended and sent up for concurrence.

ORDERS OF THE DAY TABLED AND TODAY ASSIGNED

The Chair laid before the House the first tabled and today assigned matter:

Resolve, Directing the Department of Environmental Protection to Establish a Clearinghouse for Information on Pollution Research, Control and Abatement (H.P. 1584) (L.D. 2196)

(Committee on Appropriations and Financial Affairs suggested)

TABLED - January 19, 1990 by Representative CARTER of Winslow.

PENDING - Reference.

Subsequently, was referred to the Committee on Appropriations and Financial Affairs, ordered printed, and sent up for concurrence.

The following items appearing on Supplement No. 1 were taken up out of order by unanimous consent:

PAPERS FROM THE SENATE

The following Joint Order: (S.P. 866)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Thursday, January 25, 1990, at 6 o'clock in the evening.

Came from the Senate, read and passed.

Was read and passed in concurrence.

Reported Pursuant to Public Law

Report of the Committee on Education, pursuant to Public Law 1989, Chapter 559 ask leave to submit its findings and to report that the accompanying Bill "An Act to Coordinate and Consolidate Student Financial Assistance Services under the Finance Authority of Maine" (EMERGENCY) (S.P. 865) (L.D. 2216) be referred to the Joint Standing Committee on Education for public hearing and printed pursuant to Joint Rule 18.

Came from the Senate with the report read and accepted and the bill referred to the Committee on Education and ordered printed.

Report was read and accepted and the bill referred to the Committee on Education and ordered printed in concurrence.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

(At Ease)

The House was called to order by the Speaker.

LEGISLATIVE RECORD - SENATE, JANUARY 22, 1990

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 56 and Joint Rule 34, the following item:

In Memory of:

Francis "Mac" McKenzie, a Newport volunteer fireman for 31 years, who on January 19, 1990, lost his life in a tragic accident while answering a call for the emergency rescue vehicle; (HLS 1030) by Representative TARDY of Palmyra. (Cosponsor: Senator EMERSON of Penobscot)

On motion of Representative Tardy of Palmyra, was removed from the Special Sentiment Calendar.

Was read and adopted and sent up for concurrence.

On motion of Representative Tardy of Palmyra, Adjourned until Thursday, January 25, 1990, at six o'clock in the evening pursuant to Joint Order (S.P. 866) and in memory of Francis "Mac" McKenzie.

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

In Senate Chamber

Monday

January 22, 1990

Senate called to Order by the President.

Prayer by Reverend Ronald Fast of the First Assembly of God in Fryeburg.

REVEREND RONALD FAST: Looking at the scriptures this afternoon, the psalmist wrote, "Enter into His gates with thanksgiving, and into His courts with praise. Give thanks to Him, bless His name, for He is good. The Lord whose kindness endures forever, and His faithfulness to all generations."

The new testament writer tells us that we are to dismiss all anxiety from our minds, present our needs to God in every form of prayer in a petition full of gratitude.

In reading from our own Constitution and by-laws in our Preamble, it tells us that being grateful hearts to the Sovereign Ruler of the universe, affords us the opportunities favorable to the design in imploring His aid and direction in accomplishment, and to agree to form ourselves into a free and independent state.

As we look to the Lord in prayer today, remembering that we come into the Lord's presence with grateful heart for what He has already done, and asking Him for His wisdom and guidance for the future, not only for tomorrow and next year, but for future generations.

Father, we come to You in prayer today, we come with grateful hearts. We thank You for the freedoms that we enjoy, and we thank You, personally, for these men and women, Lord, who have committed themselves, and sacrificed themselves, to serve their country, and to serve this great state. We pray, Father, that as they gather here today, that You would give them wisdom and guidance to make the very important decisions that, Lord, will not only affect this generation, but, will affect future generations. We thank You for that wisdom and guidance. For confident as we do come to You in prayer, asking for that confidence, Your word assures us that those that ask for wisdom shall receive it. We thank You for it. In Jesus' name, Amen.

Reading of the Journal of Friday, January 19, 1990.

Out of order and under suspension of the Rules, on motion by Senator DUTREMBLE of York, the following Joint Order:

S.P. 866

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Thursday, January 25, 1990, at 6 o'clock in the evening.

Which was READ and PASSED.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act Making Additional Allocations for the Expenditure of Funds Received by the State as a Result of the Federal Court Order in the Stripper Well Oil Overcharge Case" (Emergency)

H.P. 1581 L.D. 2190