

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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FIRST CONFIRMATION SESSION
October 30, 1989
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SECOND CONFIRMATION SESSION
December 12, 1989
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SECOND REGULAR SESSION
January 3, 1990 to March 19, 1990

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

In Senate Chamber
Friday
January 26, 1990

Senate called to Order by the President.

Prayer by Pastor Peter Inchcombe of the First Baptist Church in Hallowell.

PASTOR PETER INCHCOMBE: Thank you, Mr. President. As we pray this afternoon, we do want to remember the families, Vinette and Goupil, in their recent losses. Let's remember them today.

Our gracious heavenly Father, we enter into Your presence this afternoon where, mindful of all of the blessings that are showered upon us, we think of those roofs that are upon our heads, shoes on our feet and food on our table. These things, that we so often take for granted, we recognize today and say thank You. We think of these two families that have been mentioned. We ask in the precious name of Jesus Christ, our Saviour and our Lord, that these families might know comfort in their hour of loss. We thank You for the house here this afternoon, for each member that is represented, the President and we just pray for the Senate, Lord, that You would continue to guide and direct each member in a very special way. We realize that we are told and commanded to submit ourselves to the authorities over us. We pray for the President of the United States of America, Vice-President and those who rule us. We ask that God's wisdom and God's mercy and God's grace might go with them each every day. We commit ourselves afresh asking for Your wisdom upon this session this afternoon and we will thank You for all these things in the precious name of Jesus Christ, our Saviour. Amen.

Reading of the Journal of Yesterday.

Off Record Remarks

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Implement Certain Recommendations of the State Compensation Commission" (Emergency)

H.P. 1616 L.D. 2238

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 Prohibit Family Exclusion Clauses in Automobile Insurance Policies"

H.P. 1598 L.D. 2222

Bill "An Act to Provide Private Remedies for Elderly Consumers Injured by Unfair Insurance Trade Practices"

H.P. 1600 L.D. 2224

Come from the House referred to the Committee on BANKING AND INSURANCE and ORDERED PRINTED.

Which were referred to the Committee on BANKING AND INSURANCE and ORDERED PRINTED, in concurrence.

Bill "An Act Concerning the Bulk Transfer Provisions of the Uniform Commercial Code"

H.P. 1606 L.D. 2219

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

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

Bill "An Act to Require School Transportation for High School Students"

H.P. 1605 L.D. 2218

Bill "An Act to Clarify the Negotiability of Sabbatical Leave Agreements"

H.P. 1613 L.D. 2230

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

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

Bill "An Act to Clarify the Governance of Mackworth Island Public Trust Lands"

H.P. 1608 L.D. 2221

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 Concerning Investigation of Allegations by the Office of Advocacy"

H.P. 1609 L.D. 2225

Bill "An Act to Amend the Laws Governing the Military and Naval Children's Home"

H.P. 1610 L.D. 2226

Bill "An Act to Amend the Child and Family Services and Child Protection Act"

H.P. 1611 L.D. 2227

Come from the House referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED.

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

Bill "An Act to Strengthen the Drug Laws"

H.P. 1614 L.D. 2231

Bill "An Act to Increase the Penalties for Possession of Certain Controlled Substances"

H.P. 1615 L.D. 2232

Come 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 Regarding Attorney's Fees in Workers' Compensation Cases"

H.P. 1607 L.D. 2220

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 to Clarify the Tax Lien Discharge Law"

H.P. 1599 L.D. 2223

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.

COMMUNICATIONS

The Following Communication: H.P. 1612
STATE OF MAINE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
COMMITTEE ON JUDICIARY
January 23, 1990

The Honorable John L. Martin, Chair
Legislative Council
Maine Legislature
State House
Augusta, ME 04333
Dear Mr. Chair:

The Joint Standing Committee on Judiciary is pleased to submit the attached report of our study of the Jurisdiction of the District Court and the Administrative Court and the Relationship to the Jurisdiction of the Superior Court, pursuant to the order of the Legislative Council. We hope you find this report useful.

Sincerely,
S/Sen. Barry J. Hobbins S/Rep. Patrick E. Paradis
Senate Chair House Chair
Comes from the House READ and with Accompanying Papers ORDERED PLACED ON FILE.
Which was READ and with Accompanying Papers ORDERED PLACED ON FILE, in concurrence.

The Following Communication:
STATE OF MAINE
DEPARTMENT OF AUDIT
STATE HOUSE STATION 66
AUGUSTA, MAINE 04333
January 24, 1990

Senator Charles P. Pray
President of the Senate
State House Station #3
Augusta, Maine 04333
Dear President Pray:

I submit herewith the 69th Annual Report of the State Auditor for the fiscal year ended June 30, 1988 as required by Title 5, Section 244 of the Maine Revised Statutes.

I would like to express my special appreciation to the managers and staff of the Department of Audit for their continued support of quality audits and to officials and employees of the various state departments, courts, counties and municipalities for their cooperation with this department.

Respectfully submitted,
S/Rodney L. Scribner
CPA
State Auditor
Which was READ and with Accompanying Papers ORDERED PLACED ON FILE.

The Following Communication:
WHITEWATER RAFTING ADVISORY COMMITTEE
January 25, 1990

The Honorable John L. Martin
The Honorable Charles P. Pray
Maine Legislature
State House
Augusta, ME 04333

Dear Speaker Martin and President Pray:
In compliance with 12 MRSA §7369-A, sub-§3, I am herewith forwarding the annual report of the Whitewater Advisory Committee. The Committee would be pleased to discuss any aspect of this report with you or answer any questions.
As per 12 MRSA §7369-A, sub-§4, the Committee is to sunset June 30, 1990. We believe we have accomplished the mission that was intended for us.

Respectfully submitted,
S/Wilnot Robinson
Chairman

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

The Following Communication:
DEPARTMENT OF PUBLIC SAFETY
STATE HOUSE STATION 42
AUGUSTA, MAINE 04333
January 19, 1990

Joy J. O'Brien
Secretary of the Senate
State House Station #3
Augusta, ME 04333
Dear Secretary O'Brien:

Please find enclosed a copy of the application submitted to the Bureau of Justice Assistance for funding the FY 1990 Drug Control and System Improvement Formula Grant Program.
The program requires that the application be submitted to the State Legislature or its designated body for review. Unless I receive further instructions from you, I will consider that the Department of Public Safety has fulfilled its obligation in this area.

Sincerely,
S/John R. Atwood
Commissioner
Which was READ and REFERRED to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS.

SENATE PAPERS

Bill "An Act to Rehabilitate Public School Facilities Necessitated by the Removal of Hazardous Materials"

S.P. 878 L.D. 2245
Presented by Senator PERKINS of Hancock
Cosponsored by Senator ESTES of York,
Representative HIGGINS of Scarborough and
Representative MACOMBER of South Portland
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 26.
Which was referred to the Committee on EDUCATION
and ORDERED PRINTED.
Under suspension of the Rules, ordered sent down
forthwith for concurrence.

Off Record Remarks

ORDERS

Joint Resolution
On motion by Senator BERUBE of Androscoggin
(Cosponsored by: Senator CLARK of Cumberland,
Representative BEGLEY of Waldoboro, Representative
FOSS of Yarmouth) (Approved for Introduction by the
Legislative Council pursuant to Joint Rule 35) the
following Joint Resolution:

S.P. 879
JOINT RESOLUTION MEMORIALIZING THE CONGRESS
OF THE UNITED STATES TO PROVIDE FUNDING
FOR FEDERAL MANDATES
WE, your Memorialists, the Members of the One
Hundred and Fourteenth Legislature of the State of
Maine, now assembled in the Second Regular Session,
most respectfully present and petition the Congress
of the United States, as follows:
WHEREAS, the State of Maine is currently
experiencing a drastic decline in sales and other tax
revenues; and

WHEREAS, this Legislature and the people of Maine are curtailing state spending to conform to available revenues; and

WHEREAS, the imposition of new demands upon those who struggle for preservation of financial stability would be a hardship for our citizenry; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request the Congress of the United States not to pass any law or issue any federal mandate that has a fiscal impact on Maine without providing adequate funding; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State be transmitted to the Honorable George H.W. Bush, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, and to each Member of the Maine Congressional Delegation.

Which was READ.

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

Senator BERUBE: Thank you. Mr. President, Members of the Senate. You know, more often than not, mandates are sent to municipalities and the financial burden is very great upon them, whether they be municipalities receiving the mandates from we, the Legislature, or we, the State, receiving mandates from Congress. More often than not, it creates a heavy burden at both places, the municipal level and the state level, and I think we have to always take into consideration the ability of these states or municipalities to pay for this mandate because, ultimately, that cost is borne by the taxpayer and so, therefore, the message to Congress is this: If you do not put money in the till, don't pass the bill. Thank you.

Which was ADOPTED.

Sent down for concurrence.

COMMITTEE REPORTS

House

Ought Not to Pass

The following Ought Not to Pass Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

The Joint Select Committee on CORRECTIONS on Bill "An Act to Encourage Development and Use of Private Community Corrections Programs"

H.P. 370 L.D. 501

The Committee on TAXATION on Bill "An Act to Exempt Sickness Benefits from Income Taxation"

H.P. 1378 L.D. 1909

The Committee on TAXATION on Bill "An Act to Clarify the Tax-exempt Status of Equipment Leased to Hospitals"

H.P. 1393 L.D. 1923

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:

The Committee on AGRICULTURE on Resolve, Regarding Harness Racing (Emergency)

H.P. 1548 L.D. 2147

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Continue the Percent for Art Program"

H.P. 1502 L.D. 2082

The Committee on FISHERIES AND WILDLIFE on Bill "An Act Concerning the Composition of the Advisory

Council to the Department of Inland Fisheries and Wildlife"

H.P. 1436 L.D. 2006

Ought to Pass

The Committee on AGING, RETIREMENT AND VETERANS on Bill "An Act Relating to the Designation of Beneficiaries by Members of the Maine State Retirement System"

H.P. 1331 L.D. 1848

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 Status of Court Mediators, Court Appointed Special Advocates and Bail Commissioners with Respect to Civil Liability"

H.P. 1422 L.D. 1974

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 TAXATION on Bill "An Act to Integrate Relief Provided by the Maine Residents Property Tax Program with Poverty Abatements"

H.P. 1341 L.D. 1858

Reports 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 HUMAN RESOURCES on Bill "An Act Relating to the Status of Nursing Professions in Maine"

H.P. 1148 L.D. 1591

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-734).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-734).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-734) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Senate
Ought to Pass

Senator PRAY for the Committee on UTILITIES on Bill "An Act to Increase the Debt Limit of the Stonington Water Company" (Emergency)

S.P. 824 L.D. 2132

Reported that the same Ought to Pass.

Which Report was READ and ACCEPTED.

The Bill READ ONCE.
The Bill TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass As Amended
Senator HOBBS for the Committee on JUDICIARY on
Bill "An Act to Reform the Juvenile Criminal Justice
System"

S.P. 541 L.D. 1512
Reported that the same Ought to Pass as Amended
by Committee Amendment "A" (S-479).
Which Report was READ and ACCEPTED.
The Bill READ ONCE.
Committee Amendment "A" (S-479) READ and ADOPTED.
The Bill as Amended, TOMORROW ASSIGNED FOR SECOND
READING.

Senator HOBBS for the Committee on JUDICIARY on
Bill "An Act Concerning the Commission to Implement
the Computerization of Criminal History Record
Information"

S.P. 832 L.D. 2140
Reported that the same Ought to Pass as Amended
by Committee Amendment "A" (S-478).
Which Report was READ and ACCEPTED.
The Bill READ ONCE.
Committee Amendment "A" (S-478) READ and ADOPTED.
The Bill as Amended, TOMORROW ASSIGNED FOR SECOND
READING.

SECOND READERS

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

House
Resolve, to Permit the Maine Veterans' Home to
Place a Sign on U.S. Route 1 (Emergency)
H.P. 1475 L.D. 2060
Which was READ A SECOND TIME and PASSED TO BE
ENGROSSED, in concurrence.

House As Amended
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"
H.P. 691 L.D. 943
(C "B" H-733)
Which was READ A SECOND TIME and PASSED TO BE
ENGROSSED, as Amended, in concurrence.

Senate
Bill "An Act to Correct Errors in the Affordable
Housing Bond Issue" (Emergency)
S.P. 732 L.D. 1931
Which was READ A SECOND TIME and PASSED TO BE
ENGROSSED.
Sent down for concurrence.

Senate As Amended
Bill "An Act to Amend the Charter of the Castine
Water District" (Emergency)
S.P. 702 L.D. 1840
(C "A" S-474)
Bill "An Act to Revise the Asbestos Certification
Law"
S.P. 718 L.D. 1893
(C "A" S-473)
Bill "An Act to Amend the Motor Vehicle Title
Laws"

S.P. 731 L.D. 1930
(C "A" S-475)

Resolve, to Extend the Deadline of the Blue
Ribbon Task Force to Promote Equity of Opportunity
for Women in the Public School System (Emergency)
S.P. 748 L.D. 1952
(C "A" S-472)

Resolve, to Create the International Lakeland
Trail
S.P. 756 L.D. 1981
(C "A" S-476)

Which were 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:

An Act to Create a Standard for Respiratory
Rescue Personnel Who Are State Employees

H.P. 645 L.D. 879
An Act to Ensure That Unwilling Sellers Are
Provided Fair Treatment in the Land for Maine's
Future Process

S.P. 739 L.D. 1943

Senate at Ease
Senate called to order by the President.

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 Amend the Charter of the Hallowell
Water District

H.P. 1348 L.D. 1865
This being an Emergency Measure and having
received the affirmative vote of 25 Members of the
Senate, with No Senators having voted in negative,
and 25 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.

Off Record Remarks

On motion by Senator TITCOMB of Cumberland,
ADJOURNED until Monday, January 29, 1990, at 12:00 in
the afternoon.