

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
Index

FIRST CONFIRMATION SESSION
October 30, 1989
Index

SECOND CONFIRMATION SESSION
December 12, 1989
Index

SECOND REGULAR SESSION
January 3, 1990 to March 19, 1990

814) (L.D. 1126) (H. "A" H-801 to C. "A" H-775) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Priest of Brunswick, under suspension of the rules, the House reconsidered its action whereby L.D. 1126 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-775) was adopted.

On motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby House Amendment "A" (H-801) to Committee Amendment "A" (H-775) was adopted.

On motion of the same Representative, House Amendment "A" to Committee Amendment "A" was indefinitely postponed.

The same Representative offered House Amendment "B" (H-930) to Committee Amendment "A" (H-775) and moved its adoption.

House Amendment "B" (H-930) to Committee Amendment "A" (H-775) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "B" thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "B" thereto in non-concurrence and sent up for concurrence.

On motion of Representative Priest of Brunswick, Adjourned until Friday, March 16, 1990, at twelve o'clock noon.

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

In Senate Chamber
Thursday
March 15, 1990

Senate called to Order by the President.

Prayer by Reverend Robert Hargreaves of St. Mark's Episcopal Church in Augusta.

REVEREND ROBERT HARGREAVES: Let us pray. O God, the source of all wisdom and authority, Your way is just and Your law is truth. We lift up to You the members of this Senate. Guide and support them, we pray, that in all their deliberations, in their speaking and in their listening, they may promote the well-being of all the people of this state and so serve You and discover Your will for the people of Maine, for the kingdom and the power and the glory are Yours, now and forever. Amen.

Reading of the Journal of Wednesday, March 14, 1990

Off Record Remarks

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Protect Consumer Privacy by Regulating Automated Telephone Solicitations"

H.P. 1421 L.D. 1973
(C "A" H-835; H "A" H-855)

In Senate, March 6, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-835) AND HOUSE AMENDMENT "A" (H-855), in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-835) AS AMENDED BY HOUSE AMENDMENT "B" (H-926) thereto, AND HOUSE AMENDMENT "A" (H-855) in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Non-concurrent Matter

HOUSE REPORTS - from the Committee on LEGAL AFFAIRS on Bill "An Act to Establish Mediation for Mobile Home Park Operators and Tenants"

H.P. 1595 L.D. 2212

Majority - Ought Not to Pass.

Minority - Ought to Pass as Amended by Committee Amendment "A" (H-879).

In House, March 8, 1990, the Minority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-879).

In Senate, March 13, 1990, the Majority OUGHT NOT TO PASS Report READ and ACCEPTED in NON-CONCURRENCE.

Comes from the House, that Body ADHERED.

On motion by Senator CLARK of Cumberland, the Senate ADHERED.

The Secretary has so informed the Speaker of the House.

Non-concurrent Matter

An Act to Require Disclosure of Parents' Social Security Numbers at the Time of a Child's Birth and to Amend the Provisions of the Law Concerning Disclosure of Information

S.P. 889 L.D. 2265

(C "A" S-540)

In House, March 12, 1990, Bill and Accompanying Papers INDEFINITELY POSTPONED.

In Senate, March 13, 1990, PASSED TO BE ENACTED in NON-CONCURRENCE.

Comes from the House, that Body INSISTED and ASKED FOR A COMMITTEE OF CONFERENCE.

On motion by Senator GAUVREAU of Androscoggin, the Senate INSISTED and JOINED IN A COMMITTEE OF CONFERENCE.

The Chair appointed as conferees on the part of the Senate:

Senator GAUVREAU of Androscoggin

Senator TITCOMB of Cumberland

Senator GILL of Cumberland

The Secretary has so informed the Speaker of the House.

Pursuant to Public Law

COMMISSION TO STUDY

THE CERTIFICATE OF NEED LAW

AND THE IMPACT OF COMPETITIVE MARKET FORCES
ON AMBULATORY HEALTH SERVICES

The COMMISSION TO STUDY THE CERTIFICATE OF NEED LAW AND THE IMPACT OF COMPETITIVE MARKET FORCES ON AMBULATORY HEALTH SERVICES, pursuant to Public Law 1989, Chapter 588, Part A, section 56, ask leave to submit its findings and to report that the accompanying Bill "An Act to Extend the Certificate of Need Program to All Major Medical Equipment, Raise the Threshold for Review of Certain Projects and Improve Access to Care in Nonhospital Settings"

H.P. 1765 L.D. 2433

Be referred to the Joint Standing Committee on HUMAN RESOURCES 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 HUMAN RESOURCES and ORDERED PRINTED, pursuant to Joint Rule 18.

Which Report was READ and ACCEPTED, in concurrence.

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

COMMUNICATIONS

The Following Communication:

STATE OF MAINE

SUPREME JUDICIAL COURT

AUGUSTA, MAINE 04330

March 9, 1990

The Honorable Charles P. Pray

Maine Senate President

State House Station #3

Augusta, Maine 04333

The Honorable John L. Martin

Speaker of the Maine House

of Representatives

State House Station #2

Augusta, Maine 04333

Dear President Pray and Speaker Martin:

In 1987 the Maine Legislature established a two-year pilot project for Indigency Screening in the Courts of Maine (34-A M.R.S.A. section 5405). As Chairman of the Advisory Committee to the project, it is my pleasure to submit the Committee's report to the Legislature in accordance with the mandate of the statute. As stated more fully in the enclosed report, the Committee evaluates the project favorably and recommends that the screening process be continued and expanded.

Sincerely yours,

S/Daniel E. Wathen

Justice

Supreme Judicial Court

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

COMMITTEE REPORTS

House

Ought to Pass

The Committee on UTILITIES on Bill "An Act to Amend the Charter of the Van Buren Water District" (Emergency)

H.P. 1734 L.D. 2393

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 AGRICULTURE on Bill "An Act to Purchase the Development Rights to Farmland"

H.P. 1545 L.D. 2130

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-911).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-911).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-911) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on AGRICULTURE on Bill "An Act to Regulate the Handling of Manure"

H.P. 1575 L.D. 2182

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-910).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-910).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-910) READ and ADOPTED, in concurrence.

Under suspension of the Rules, READ A SECOND TIME.

On motion by Senator KANY of Kennebec, Senate Amendment "A" (S-565) READ.

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

Senator KANY: Thank you. Mr. President, Members of the Senate, the amendment requires the Commissioner of Agriculture to advise the Commissioner of the Department of Environmental Protection of any complaints concerning water quality. It also allows, in the case of water quality violations, for the DEP to institute appropriate enforcement actions.

On further motion by same Senator, Senate Amendment "A" (S-565) ADOPTED.

Which was PASSED TO BE ENGROSSED, as Amended, in NON-CONCURRENCE.

Sent down for concurrence.

The Committee on BANKING AND INSURANCE on Bill "An Act to Amend the Workers' Compensation Insurance Laws"

H.P. 1565 L.D. 2171

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-904).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-904) AS AMENDED BY HOUSE AMENDMENT "A" (H-914) thereto.

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-904) READ.

House Amendment "A" (H-914) to Committee Amendment "A" (H-904) READ and ADOPTED, in concurrence.

Committee Amendment "A" (H-904) as Amended by House Amendment "A" (H-914) thereto, ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on HOUSING AND ECONOMIC DEVELOPMENT on Bill "An Act to Provide for the 1990 and 1991 Allocations of the State Ceiling on Private Activity Bonds" (Emergency)

H.P. 1642 L.D. 2275

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-902).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-902).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-902) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on EDUCATION on Bill "An Act to Institute the National Assessment of Educational Progress Program in Maine Schools"

H.P. 1722 L.D. 2381

Reported that the same Ought Not to Pass.

Signed:

Senators:

ESTES of York
BOST of Penobscot

Representatives:

O'GARA of Westbrook
KILKELLY of Wiscasset
HANDY of Lewiston
O'DEA of Orono
PARADIS of Frenchville
CROWLEY of Stockton Springs
OLIVER of Portland

The Minority of the same Committee on the same subject reported that the same Ought to Pass.

Signed:

Senator:

GILL of Cumberland

Representatives:

SMALL of Bath
NORTON of Winthrop
AULT of Wayne

Comes from the House the Majority OUGHT NOT TO PASS Report READ and ACCEPTED.

Which Reports were READ.

Senator ESTES of York moved to ACCEPT the Majority OUGHT NOT TO PASS Report, in concurrence.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: Thank you, Mr. President. The Committee on Education, as you see, has a Divided Report here. I would like to ask you to vote in favor of the Ought to Pass Report because it allows the state of Maine to involve itself in the National Assessment of Educational Progress Program. There are presently 37 states in the country that are participating in this program and there are also 10 states that are now legislating to participate in this program. There are 3 states that are not interested at this point in time in participating and I feel that it's appropriate for the state of Maine to involve itself so we can have some idea where our students are, where the state of Maine stands in the field. There is money from the Federal government that has been allocated to deal with this program. If we don't use it, some other state is going to use it. It's not going to cost us, in the state, that much money to get involved in this program, so I think it would be prudent for us to see where we are scholastically with the other states in the country so we know how good we really are here in the state of Maine.

Senator GILL of Cumberland requested a Division.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Estes.

Senator ESTES: Thank you, Mr. President, Ladies and Gentlemen of the Senate, I urge you to support the majority Ought Not to Pass Report. This piece of legislation came to us in a very interesting way. It was originally tucked into the Department's errors and omissions bill and we asked that the Department come back with the Bill so that we could fully discuss the pros and cons of our joining in on this National Assessment testing.

As you know, the Bush administration has taken a very keen interest in education, at least, verbally. We have seen a great deal of concern about our performance in this country, particularly because of international testing, our seemingly not measuring up to students from Europe and students from the Pacific Rim.

This is in its infancy, this National Assessment Educational Progress Program. There are 37 states that have agreed to participate. It is currently going through a piloting program. The piloting program will take place over the next three years. This year, the only piloting that was done, was on an 8th grade math test. This is a 55-minute test and next year, they will be pilot testing 4th and 8th grade reading and 8th grade math. They will be continuing the piloting through 1992-93, until they put together this assessment program.

We felt that it was not prudent at this time to join on board for a number of reasons, particularly because it's going through a piloting process. Also, very interestingly enough, the NAEP Program has relied considerably on our own Maine Assessment Program to come up with the piloting testing and what may be the future program for NAEP.

There is a fiscal cost to this. This Bill would require schools to participate in the program, beginning in 1991-92. All schools would be eligible. It would be a mandate and because of the state mandate law, the state would be required to pick up 100% of any additional costs incurred by the local schools that would be participating. In addition, the Department of Education and Cultural Services would require two additional positions at approximately, an annual cost of \$75,000 beginning in

FY'92. We have heard, yesterday, from municipal officials. We heard, the day before, from education constituencies, a concern they have with the \$26 million shortfall in educational subsidies that will be going out to the local districts. I feel that it is not fiscally prudent for us to join on board at this point in time. I think this is something we should take a much closer look at next year and if it is something we can afford and something that we think is going to be beneficial to Maine, then we can make a proper assessment at that time. I urge you to support the Majority Ought Not to Pass Report. Thank you.

At the request of Senator GILL of Cumberland a Division was had. 16 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator ESTES of York, to ACCEPT the Majority OUGHT NOT TO PASS Report, in concurrence, PREVAILED.

Senate
Ought to Pass As Amended

Senator GAUVREAU for the Committee on HUMAN RESOURCES on Bill "An Act to Continue the Driver Education Evaluation Program" (Emergency)

S.P. 871 L.D. 2233

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-584).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-584) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Senator TITCOMB for the Committee on HUMAN RESOURCES on Bill "An Act to Encourage Local and Regional Health Planning and Provide Research and Technical Assistance Related to Responsibilities of the Maine Health Policy Advisory Council"

S.P. 938 L.D. 2373

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-583).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-583) 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

Bill "An Act Regarding Foreign Trade Zones"

H.P. 1662 L.D. 2302

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

House As Amended

Bill "An Act to Limit the Role of Rating Organizations in Property and Casualty Rate Making"

H.P. 1627 L.D. 2249

(C "A" H-905)

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

Senate

Resolve, Concerning Reauthorization of the \$15,000,000 Bond Issue for Sewage Treatment, Water Quality Improvement Facilities and Restoration and

Cleanup of Oil Contaminated Ground Water and Well Water (Emergency)

S.P. 941 L.D. 2379

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

Sent down for concurrence.

Senate As Amended

Bill "An Act Regarding Resource Protection Zones within Shoreland Zoning Areas"

S.P. 765 L.D. 1990

(C "A" S-582)

Bill "An Act to Clarify the Definition of Earnable Compensation in the Maine State Retirement System Laws"

S.P. 908 L.D. 2311

(C "A" S-581)

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 Clarify Definitions and Provisions of Marine Resources Laws

S.P. 821 L.D. 2097

(H "A" H-894; C "A"

S-517)

An Act to Clarify the Maine Juvenile Code

S.P. 823 L.D. 2099

(C "A" S-550)

An Act to Amend the Operating-under-the-influence Laws

H.P. 1535 L.D. 2120

(C "A" H-834)

An Act Addressing Consecutive Terms of Imprisonment Involving Probation

S.P. 902 L.D. 2296

(S "A" S-559)

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

An Act to Revise the Medical Examiner Act

H.P. 905 L.D. 1262

(H "A" H-885 to C "B"

H-788)

On motion by Senator PEARSON of Penobscot, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

Emergency

An Act to Protect Public Health by Prohibiting Smoking on Public Transportation Buses

H.P. 1462 L.D. 2039

(S "A" S-566 to C "A"

H-817)

This being an Emergency Measure and having received the affirmative vote of 26 Members of the Senate, with 4 Senators having voted in negative, and 26 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.

Emergency

An Act to Coordinate and Consolidate Student Financial Assistance Services under the Finance Authority of Maine

S.P. 865 L.D. 2216
(C "A" S-484)

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

Senator BOST: Thank you. Mr. President, Men and Women of the Senate, as you are all aware, it has been a long time getting to this point. But the Bill before us will finally bring about the much talked about and much written about "one-stop shopping" source of financial aid under the Finance Authority of Maine. Today parents and students will be able to breathe a little easier knowing that this important legislation has finally been enacted into law. A promise has been kept and I believe that that's good news for everyone.

Among those who I believe deserve thanks for their efforts, on behalf of students and their families, are those who contributed their time and expertise on the Student Financial Aid Transition Advisory Committee as well as the members of the Education Committee, who spent many hours crafting a realistic alternative to the initial legislation.

Maine must do everything it can to encourage our young people to take full advantage of every educational opportunity available to them. To accomplish this, we have an obligation to begin working with children in their earliest years of schooling, letting them know that if they want to continue their education beyond high school, that that is an opportunity which will be available. We must also begin working with parents when their children are infants to ensure that financial planning for college begins as soon as possible.

One area that the Transition Advisory Committee, of which I was privileged to serve as Chair, is still investigating is the college saving plan, better known as SEED. While this program has not been viable up to now, I'm hopeful that FAME will find ways to make such a savings plan work.

Furthermore, a financial partnership with Maine's business community must also be established. William Haggett and BIW are assuming a lead role in fundraising campaigns which have been initiated by the University of Maine and by Maine Maritime Academy. I hope that the Finance Authority of Maine will follow that model and utilize their business and banking contacts to find new scholarship and financial aid opportunities and resources for Maine people for continuing their education.

Lastly, FAME must find a way to make a loan of last resort a reality. This will not be an easy task, but it is important that we do all we can to make available the resources necessary for students who are looking to continue their education. Can we promise every student in Maine a college education? I'm not certain that we can. But I do hope, and I believe, that we can do better than we have up to this point. In a year when the budget news has been bleak, important programs are being cut across the board and the economy is still in a slump, we now have at least some good news to take home. Thank you very much.

On motion by Senator PEARSON of Penobscot, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

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

Off Record Remarks

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Today Assigned matter:

HOUSE REPORTS - from the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Annex Township 4, Range 3 WELS to the Town of Island Falls"

H.P. 164 L.D. 229

Majority - Ought Not to Pass.

Minority - Ought to Pass.

Tabled - March 14, 1990, by Senator CLARK of Cumberland.

Pending - FURTHER CONSIDERATION

(In House, March 30, 1989, Reports READ and the Bill and Accompanying Papers RECOMMENDED to the Committee on STATE AND LOCAL GOVERNMENT.)

(In Senate, April 3, 1989, the Majority OUGHT NOT TO PASS Report READ and ACCEPTED in NON-CONCURRENCE.)

(In House, March 13, 1990, the Minority OUGHT TO PASS Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-915) in NON-CONCURRENCE.)

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

Off Record Remarks

On motion by Senator THERIAULT of Aroostook ADJOURNED until Friday, March 16, 1990 at 12:00 in the afternoon.