

MAINE STATE LEGISLATURE

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House Legislative Record
of the
One Hundred and Eighteenth Legislature
of the
State of Maine

Volume I

First Regular Session

December 4, 1996 - March 27, 1997

First Special Session

March 27, 1997 - May 15, 1997

ONE HUNDRED AND EIGHTEENTH LEGISLATURE
FIRST REGULAR SESSION
2nd Legislative Day
Tuesday, January 7, 1997

Calling of the House to Order by the Speaker.
Prayer by Reverend Nancee Campbell, First Universalist
Church, Rockland.
National Anthem by Lawrence High School Chorus, Fairfield.
Doctor of the day, Robert M. Haile, M.D., Scarborough.

At this point the Speaker recognized the Representative from
Auburn, Representative WINGLASS, who was added to the
quorum call of the 118th Legislature, First Regular Session.

The Journal of Wednesday, December 4, 1996. was read
and approved.

COMMUNICATIONS

The following Communication: (H.C. 6)
State of Maine
Department of State

I, the Secretary of State of Maine, certify that according to
the provisions of the Constitution and Laws of the State of
Maine, the Department of the Secretary of State is the legal
custodian of the Great Seal of the State of Maine which is
hereunto affixed and that the paper to which this is attached is a
true copy from the records of this Department.

In Testimony Whereof, I have
caused the Great Seal of the State of
Maine to be hereunto affixed. Given
under my hand at Augusta, December
3, 1996.

S/BILL DIAMOND
SECRETARY OF STATE

State of Maine
Proclamation

**Resolution, Proposing an Amendment to the
Constitution of Maine Regarding Municipal Certification of
Direct Initiative Petitions**

WHEREAS, the One Hundred and Seventeenth Legislature of
the State of Maine, in the Second Regular Session, by an act
entitled,

Resolution, Proposing an Amendment
to the Constitution of Maine

Regarding Municipal Certification of Direct Initiative Petitions
passed by a concurrent vote of both branches and approved
April 3, 1996 which said resolution is known and identified as
Chapter 3 of the Constitutional Resolutions of 1995, enacted
said measure expressly conditioned upon the people's
ratification by a referendum vote at the election held on the
Tuesday following the first Monday in November, 1996, and
WHEREAS, it appears by the return of votes cast by the electors
of the various cities, towns and plantations voting upon said act
on November 5, 1996, and reviewed by the Governor on
November 25, 1996, that a majority of said votes were in favor of
this act becoming law; namely,

367,994 for, and
187,428 opposed;

NOW, THEREFORE, I, ANGUS S. KING, Jr., Governor of the
State of Maine, in pursuance of the provisions of the Constitution
of Maine in such case provided, declare said measure adopted,
to take effect and become law thirty days after the date of this
proclamation.

IN TESTIMONY WHEREOF, I have
caused the Great Seal of the State to
be hereunto affixed given under my
hand at Augusta this third day of
December in the year One Thousand
Nine Hundred and Ninety-Six.
S/ANGUS S. KING, Jr.
Governor

S/BILL DIAMOND
Secretary of State

Was read and ordered placed on file.

The following Communication: (H.C. 7)
State of Maine
Department of Audit
66 State House Station
Augusta, Maine 04333-0066
Letter of Transmittal

Honorable Elizabeth H. Mitchell
Speaker of the House of Representatives
2 State House Station
Augusta, Maine 04333-0002

Dear Speaker Mitchell:

We are pleased to submit the Single Audit of the State of Maine
covering the fiscal year ended June 30, 1995.

The audit which covered over \$3.8 billion in expenditures, of
which \$1.2 billion was for various federal programs, was
conducted pursuant to Title 5 MRSA §243, subsection 1 which
states, in part, that "the Department of Audit is . . . to perform a
postaudit of all accounts and other financial records of the state
government . . . and to report annually on this audit, and at such
other times as the Legislature may require" In addition, the
audit was conducted to meet the requirements of the Single
Audit Act of 1984, authorized under the United States Code,
USC 31, Chapter 75 and the regulations established by the U.S.
Office of Management and Budget Circular A-128, "Audits of
State and Local Governments."

On behalf of the Department of Audit, I would like to express my
gratitude to the countless number of employees throughout state
government who have assisted us during the conduct of our
audit and in the issuance of this report. Without their efforts and
dedication it would not be possible to continue our mutual quest
for improved financial reporting and accountability to the citizens
of our State. As always, we will strive to provide the Governor,
Legislature and the management of state government agencies
with meaningful information useful in their decision making
process.

We would be pleased to respond to any of your questions or
comments about the 1995 Single Audit of the State of Maine.

Respectfully submitted,
S/Rodney L. Scribner, CPA
State Auditor
December 11, 1996

Was read and with accompanying report ordered placed on
file.

The following Communication: (H.C. 8)
UNIVERSITY OF MAINE
MARGARET CHASE SMITH CENTER

5715 Coburn Hall
Orono, ME 04469-5715
December 12, 1996

Mr. Joseph W. Mayo
Clerk of the House
State House Station #2
Augusta, ME 04333
Dear Clerk Mayo:

In accordance with 1967 Public Law, Chapter 493, I am enclosing copies of the report for the 1996 Maine State Government Internship Program for members of the Maine House of Representatives.

I would appreciate your assistance in distributing a copy to each Representative.

If you have any questions or need more than the enclosed 160 copies, please let me know.

Again, thank you for your assistance.

Sincerely,
S/Kathryn H. Godwin, Ed.D.
Staff Associate and
Director, Maine State Government
Summer Internship Program

Was read and with accompanying report ordered placed on file.

The following Communication: (H.C. 9)
Maine Turnpike Authority
430 Riverside Street
Portland, Maine 04103
December 16, 1996

Hon. Mark Lawrence
President of the Senate
State House Station #3
Augusta, Maine 04333
Hon. Elizabeth H. Mitchell
Speaker of the House
State House Station #2
Augusta, Maine 04333

Dear Mr. President and Madam Speaker:

1995 Public Law 341 and 1996 Public Law 613 require that the Maine Turnpike Authority (MTA) complete an "evaluation of reasonable alternatives specified...to widening the Maine Turnpike to 3 lanes for each direction of travel from Exit 1 to and including Exit 6A" by December 15, 1996. In conducting the evaluation required the Authority shall provide for public participation consistent with the Sensible Transportation Policy Act.

Enclosed please find a copy of the MTA's Alternatives Study. In March of 1996, the MTA engaged an independent transportation consulting firm, Vanasse Hangen Brustlin to evaluate and complete a report on the following four alternatives already being implemented or studied: conversion to electronic toll collection, alternative mode feasibility study, Rideshare program and congestion pricing study. VHB conducted three public hearings to identify other potential alternatives to widening of the turnpike. The MTA formed a diverse Public Advisory Committee (PAC) to provide VHB with continuous public input for the investigation of alternatives.

For the past nine months, the PAC has been working closely with VHB. They have met twelve times for three to six hours per meeting and have reviewed VHB's work. With a goal of consensus, the Advisory Committee tried to come to a conclusion as to what the best scenario would be to address the capacity problems of the Maine Turnpike. The PAC did come to consensus on several items. They are: that the MTA should

continue to pursue and implement programs and projects that are designed to provide cost effective alternatives to the utilization of the single occupancy vehicles in the turnpike corridor. Consensus was also reached on the recommendation that MTA should continue to collect and analyze data necessary to develop permit applications to widen from four to six lanes. It was also agreed that the MTA should continue to monitor the programs and projects it has and will initiated to help reduce the congestion of the two lane corridor. There was no consensus reached as to if and when the MTA should move forward with a widening project.

Now it is the intent of the MTA to take all the information compiled in this report, hold a public hearing on the report plus in-house workshops to help them determine if they need any other information regarding the capacity of the turnpike and its possible solution. Not until the MTA has a good sense of the transportation needs and the public's feelings will they make a decision as to what will be done to solve the congestion on the Maine Turnpike.

Please take this report as the next milestone in the process. As always the MTA looks forward to working with you as it makes these important decisions.

Sincerely,
S/Paul E. Violette
Executive Director

Was read and with accompanying report ordered placed on file.

The following Communication: (H.C. 10)
JUDICIAL COMPENSATION COMMISSION
c/o 13 State House Station
Augusta, Maine 04333-0013
December 4, 1996

The Honorable Elizabeth H. Mitchell, Speaker of the House
Dear Speaker Mitchell:

It is our pleasure to submit to you the first report of the Judicial Compensation Commission pursuant to Title 4, chapter 35. After reviewing the broad topic of judicial compensation, we have developed a proposal to ensure that Maine can attract and retain the most highly qualified candidates to the bench.

We arrived at three fundamental conclusions which serve as the premise for making recommendations to improve various aspects of judicial compensation:

- * Maine's Judicial Department is a **separate and equal branch** of state government and performing a function as vital to our state as the executive and legislative branches. That stature is not reflected in the recent history of state budget appropriations to the judiciary.
- * Maine's judiciary has a **tradition of excellence and productivity**; however, Maine cannot rely on that tradition to take the place of an equitable compensation package for the judiciary.
- * Maine's judiciary has not been treated fairly with respect to their compensation:
 - * The changes recommended by the 1984 State Compensation Commission linked a certain level of salary increases to a reduction in pension benefits. Since that time, that commitment has been breached by a retreat from the anticipated salary increases while retaining the lower pension benefits.

* In light of the extremely important role of the judiciary, current compensation for judges compares unfavorably to other public sector positions in Maine and to compensation of judges in other states.

As we prepared this report, we were guided by the statutory directive from the Legislature to develop recommendations to ensure that "...the most highly qualified lawyers in this State, drawn from diverse life and professional experiences, are not deterred from serving or continuing to serve in the state judiciary and do not become demoralized during service because of [inadequate] compensation levels...." The recommendations in this report are designed to fulfill this directive in a manner which is affordable to the people of the State of Maine. We submit this report to you and ask that our recommendations be implemented without delay to continue the outstanding level of service provided by members of Maine's judiciary.

Each member of the Commission has come to feel strongly about the validity and need for these reforms. We are anxious to discuss this report and look forward to doing so with you.

Sincerely,
S/John DiMatteo, Chair
S/Ival R. Cianchette, Commission Member
S/Elaine D. Rosen, Commission Member

Was read and with accompanying report ordered placed on file.

The following Communication: (H.C. 11)
STATE OF MAINE
PUBLIC UTILITIES COMMISSION
18 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0018
December 31, 1996

The Honorable Mark W. Lawrence
President
Maine State Senate
State House Station 3
Augusta, Maine 04333
The Honorable Elizabeth H. Mitchell
Speaker
Maine House of Representatives
State House Station 2
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:
Pursuant to Legislative Resolve 1995, ch. 48, we are pleased to submit to you the Maine Public Utilities Commission Report and Recommended Plan to Restructure the Electric Industry. The Resolve directed the Commission to construct a plan for the Legislature's consideration to achieve retail market competition for the purchase and sale of electric energy in Maine. We advance a recommendation to restructure the market which fundamentally challenges the historical method of delivering, purchasing and regulating the provision of electric service.

We believe that the report and recommended plan provide the Legislature with necessary background analysis and an approach to electric industry restructuring that is practical, efficient and in the public interest. The Commission is committed to assisting the Legislature in any way it can as the Legislature considers this important issue in the coming session.

Sincerely,
S/Thomas L. Welch
Chairman
S/William M. Nugent
Commissioner

S/Heather F. Hunt
Commissioner

Was read and with accompanying report ordered placed on file.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

The following Bills were received and upon the recommendation of the Committee on Reference of Bills, were referred to the following Committees, Ordered Printed and Sent up for Concurrence.

Judiciary

Bill "An Act to Preserve the Life of Viable Fetuses" (H.P. 7) (L.D. 4) (Presented by Representative AHEARNE of Madawaska) (Cosponsored by Senator PARADIS of Aroostook and Representatives: DESMOND of Mapleton, DRISCOLL of Calais, JOY of Crystal, LANE of Enfield, MERES of Norridgewock, SIROIS of Caribou, WATERHOUSE of Bridgton, Senator: CASSIDY of Washington)

Legal and Veterans Affairs

Bill "An Act to Amend the Election Laws Concerning Vacancies in the Office of State Representative" (H.P. 8) (L.D. 5) (Presented by Representative MAYO (Cosponsored by Senator LIBBY of York and Representatives: BUCK of Yarmouth, BUMPS of China, CARLETON of Wells, HONEY of Boothbay, KNEELAND of Easton, McALEVEY of Waterboro, PINKHAM of Brunswick, SPEAR of Nobleboro)

Bill "An Act to Allow the Town of Old Orchard Beach to Operate High-stakes Beano" (H.P. 10) (L.D. 7) (Presented by Representative KERR of Old Orchard Beach)

State and Local Government

Bill "An Act to Allow County Commissioners to Serve on the Maine Land Use Regulation Commission" (EMERGENCY) (H.P. 9) (L.D. 6) (Presented by Representative DEXTER of Kingfield)

Reported Pursuant to Statutes

Representative POVICH for the Criminal Law Advisory Commission under the Maine Revised Statutes, Title 17-A, section 1354, subsection 2 asks leave to submit its findings and to report that the accompanying Bill "An Act to Amend the Criminal Code Concerning the Crime of Assault on an Officer" (H.P. 13) (L.D. 9) be referred to the Joint Standing Committee on **Criminal Justice** for Public Hearing and printed pursuant to Joint Rule 218.

Report was read and accepted, and the Bill referred to the Committee on **Criminal Justice**, ordered printed and sent up for concurrence.

Reported Pursuant to Statutes

Representative THOMPSON for the Criminal Law Advisory Commission under the Maine Revised Statutes, Title 17-A, section 1354, subsection 2 asks leave to submit its findings and to report that the accompanying Bill "An Act to Amend the Laws Specifying When an Indictment in a Criminal Case Is Not

Required" (H.P. 12) (L.D. 8) be referred to the Joint Standing Committee on **Judiciary** for Public Hearing and printed pursuant to Joint Rule 218.

Report was read and accepted, and the Bill referred to the Committee on **Judiciary**, ordered printed and sent up for concurrence.

ORDERS

On motion of Representative KONTOS of Windham, the following Joint Resolution: (H.P. 11) (Cosponsored by President LAWRENCE of York, Speaker MITCHELL of Vassalboro, and Representatives: BRUNO of Raymond, DONNELLY of Presque Isle, SAXL of Portland, Senators: AMERO of Cumberland, BUTLAND of Cumberland, PINGREE of Knox, RAND of Cumberland)

JOINT RESOLUTION RECOGNIZING THE HONORABLE G. WILLIAM DIAMOND ON THE OCCASION OF HIS RETIREMENT AS MAINE'S 40TH SECRETARY OF STATE

WHEREAS, the Secretary of State is a constitutional officer of the State of Maine, who has the custody of the state seal and preserves all records of all official acts and proceedings of the Governor, Senate and House of Representatives of this State, and who performs other duties enjoined by the Constitution of Maine or required by law; and

WHEREAS, G. William "Bill" Diamond, the 40th Secretary of State for the State of Maine, was born in West Gardiner, Maine, earned degrees in education, served as a teacher, principal and superintendent of schools and also served as a member of the Maine State Senate and the House of Representatives; and

WHEREAS, Bill Diamond was elected as Maine's 40th Secretary of State by the 114th Maine State Legislature in 1988, reelected in 1990, 1992 and 1994, and has been instrumental in strengthening Maine's democracy, increasing highway safety and improving the business climate of the State; and

WHEREAS, since Bill Diamond was elected Secretary of State, Maine has achieved the highest voter turnout in the nation in 2 consecutive general elections, and he has earned national recognition and respect as an outstanding leader from such groups as the National Association for the Advancement of Colored People, the National League of Women Voters and TIME Magazine; and

WHEREAS, it is the desire of the members of the Senate and the members of the House of Representatives and the citizens they represent to formally recognize the accomplishments of Secretary of State Bill Diamond on the occasion of his retirement and to express the high esteem and affection in which we hold this outstanding native of Maine; now, therefore, be it

RESOLVED: That We, the Members of the 118th Legislature now assembled in the First Regular Session, take this opportunity to honor Secretary of State Bill Diamond, to recognize his distinguished service to the people of the State of Maine over many years and to offer our congratulations and very best wishes for the future; and be it further

RESOLVED: That a suitable copy of this resolution, duly authenticated by the Secretary of State, be presented to Bill Diamond as a tangible token of our high esteem.

On motion of Representative KONTOS of Windham, tabled pending adoption and later today assigned.

On motion of Representative KONTOS of Windham, the following Joint Order (H.P. 5):

Ordered, the Senate concurring, that Joint Rule 208 be amended as follows:

Rule 208. Requirements for Drafting.

A request for a bill or resolve filed with the Revisor of Statutes is considered complete when the request is properly titled and accompanied by sufficient instructions, information and data required for its preparation. Drafts prepared by an outside source must be filed in final form by the appropriate cloture date.

When directed by the sponsor, the Revisor of Statutes shall prepare a bill or resolve in concept form. The bill or resolve shall contain only an enacting clause and a summary of the proposed legislation and shall not be fully drafted by the Revisor of Statutes. The bill or resolve prepared in this form shall be printed and referred to a committee in the same manner as other legislation and may be reported by that committee in the same manner as other legislation. This method of drafting legislation is not allowed for legislation submitted by the Governor, by agencies or departments of state government, by study commissions, or pursuant to statute. Any request for a bill or resolve submitted after cloture must state if it is a request for a concept draft. Any committee amendment must be germane to the detailed summary of the concept draft. This paragraph of Joint Rule 208 shall have a sunset date of March 1, 1997. This sunset date may be extended by a majority vote of both branches of the Legislature.

Was read and passed and sent up for concurrence.

The Chair laid before the House the following item which was tabled earlier in today's session:

Joint Resolution recognizing the Honorable G. William Diamond on the occasion of his retirement as Maine's 40th Secretary of State (H.P. 11) which was tabled by Representative KONTOS of Windham pending adoption.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Madam Speaker, Men and Women of the House. This resolution is a meager attempt to salute 20 years of public service. If you think back with me for a minute to 1976, that was the year Bill Diamond was first elected to this body. I know what I was doing 20 years ago, maybe you want to think about what you were doing 20 years ago, but I was pleased, at that time, to be one of his constituents. His family and my family have known each other that long. Our daughters are friends. Jane is the treasurer of my campaign committee. Our lives have been integrated all that time in Windham. You know him because of his work as Secretary of State. Others of you may have been here when he was a Senator. Others of you may have remembered vaguely when he served in this body. All of which he has done with great style, tremendous dedication and unceasing integrity. You know about the programs that Bill has initiated under his tenure as Secretary of State. You have probably each, at some time or another, called him for help, either with election laws, voter registration or license plates and know how important it is that that office is run efficiently and that it is managed smoothly and professionally and that you have access to it.

This is a bittersweet moment for me. It was Bill who asked me to run for office. Bill, who sat in my living room and said that I would really like to do this, then coerced my husband to work on me afterwards to make sure we would get some agreement. To me, Bill has always epitomized the best of public servants. He has tremendous respect for the Legislature as an institution. He always demonstrated a generous spirit toward his colleagues, his constituents and his staff. He has an ever abiding attention to children, particularly school children. He

believes in the principles of good government. He sees it as an active vibrant process. He always uses humor and goodwill to get the job done. He has unfailing affection for his wife Jane and his daughters Kristin and Karen. What we share above all probably is tremendous pride in our hometown of Windham. Bill has been my mentor, my inspiration and a good friend. I know you will join me on this day in saying thank you to him for a job well done and to extend to him our warmest wishes for joy, peace and personal satisfaction as you begin this next chapter. We thank you Bill.

Subsequently, was read and adopted and sent up for concurrence. Ordered sent forthwith.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

On motion of Representative DUNLAP of Old Town the House adjourned at 3:52 p.m. until 10:00 a.m., Thursday, January 9, 1997.