

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
19th Legislative Day
Wednesday, March 5, 1997

The House met according to adjournment and was called to order by the Speaker.

Prayer by Beverly Jean Scott, First Church of Christ, Scientist, Lincolnville.

National Anthem by the Madison High Singers.

Pledge of Allegiance.

Doctor of the day, William Bergen, D.O., Presque Isle.

The Journal of yesterday was read and approved.

SENATE PAPERS

Bill "An Act to Provide for a General Fund Bond Issue in the Amount of \$25,000,000 as the State's Share for Completion of the Interstate Highway System North to the Canadian Border" (S.P. 415) (L.D. 1336)

Bill "An Act to Fund Regional Tourism Programs" (S.P. 425) (L.D. 1373)

Came from the Senate, referred to the Committee on **Appropriations and Financial Affairs** and Ordered Printed.

Were referred to the Committee on **Appropriations and Financial Affairs** in concurrence.

Bill "An Act to Increase Mandatory Auto Insurance Limits" (S.P. 426) (L.D. 1374)

Came from the Senate, referred to the Committee on **Banking and Insurance** and Ordered Printed.

Was referred to the Committee on **Banking and Insurance** in concurrence.

Bill "An Act Requiring Disclosures by Payroll Processing Companies" (S.P. 414) (L.D. 1335)

Bill "An Act to Amend the Public Accountancy Laws" (S.P. 424) (L.D. 1345)

Resolve, Establishing a Blue Ribbon Commission to Study the Effect of Government Regulation on Small Businesses in Maine (EMERGENCY) (S.P. 422) (L.D. 1343)

Came from the Senate, referred to the Committee on **Business and Economic Development** and Ordered Printed.

Were referred to the Committee on **Business and Economic Development** in concurrence.

Bill "An Act Relating to Applied Technology in Western Washington County" (S.P. 400) (L.D. 1295)

Bill "An Act to Amend the Reimbursement Policy Pertaining to Vocational Education" (S.P. 408) (L.D. 1329)

Bill "An Act to Amend the Laws Relating to Education" (S.P. 416) (L.D. 1337)

Bill "An Act to Restructure Public Higher Education" (S.P. 417) (L.D. 1338)

Bill "An Act to Establish a Public Education Assessment Advisory Commission" (S.P. 419) (L.D. 1340)

Bill "An Act to Improve Maine's School Construction Laws" (S.P. 420) (L.D. 1341)

Came from the Senate, referred to the Committee on **Education and Cultural Affairs** and Ordered Printed.

Were referred to the Committee on **Education and Cultural Affairs** in concurrence.

Bill "An Act to Amend the Aid to Families with Dependent Children Program" (S.P. 407) (L.D. 1302)

Came from the Senate, referred to the Committee on **Health and Human Services** and Ordered Printed.

Was referred to the Committee on **Health and Human Services** in concurrence.

Bill "An Act to Amend the Maine Probate Code to Eliminate Interest on Claims of Creditors of Insolvent Estates" (S.P. 401) (L.D. 1296)

Bill "An Act to Amend the Uniform Commercial Code as it Relates to Letters of Credit and Investment Securities" (S.P. 430) (L.D. 1378)

Came from the Senate, referred to the Committee on **Judiciary** and Ordered Printed.

Were referred to the Committee on **Judiciary** in concurrence.

Bill "An Act to Increase the Number of Signatures Required for a Name to Appear on the Ballot for Certain Offices" (S.P. 405) (L.D. 1300)

Bill "An Act to Improve Procedures for Citizen Referenda and Initiatives" (S.P. 421) (L.D. 1342)

Bill "An Act to Improve the State's Democracy by Increasing Access to the Ballot and Other Election Processes" (S.P. 428) (L.D. 1376)

Came from the Senate, referred to the Committee on **Legal and Veterans Affairs** and Ordered Printed.

Were referred to the Committee on **Legal and Veterans Affairs** in concurrence.

Bill "An Act to Ensure Adequate Review of Maintenance Dredging" (S.P. 409) (L.D. 1330)

Resolve, to Establish the Council on Environmental Monitoring and Assessment (S.P. 404) (L.D. 1299)

Came from the Senate, referred to the Committee on **Natural Resources** and Ordered Printed.

Were referred to the Committee on **Natural Resources** in concurrence.

Bill "An Act Pertaining to Free Meals for Legislators during a Prayer Breakfast" (S.P. 402) (L.D. 1297)

Came from the Senate, referred to the Committee on **State and Local Government** and Ordered Printed.

On motion of Representative AHEARNE of Madawaska, the Bill was referred to the Committee on **Legal and Veterans Affairs** in non-concurrence and sent up for concurrence.

Bill "An Act to Continue and Expand the Duties of the Productivity Realization Task Force by Creating a Permanent Productivity Realization Council" (S.P. 406) (L.D. 1301)

Came from the Senate, referred to the Committee on **State and Local Government** and Ordered Printed.

Was referred to the Committee on **State and Local Government** in concurrence.

Bill "An Act to Create Incentives for Businesses to Move to Aroostook, Piscataquis and Washington Counties" (S.P. 413) (L.D. 1334)

Bill "An Act Relating to Municipal Excise Tax Reimbursement" (EMERGENCY) (S.P. 418) (L.D. 1339)

Bill "An Act to Simplify the Individual Income Tax and Eliminate Filings with Low Returns" (S.P. 427) (L.D. 1375)

Came from the Senate, referred to the Committee on **Taxation** and Ordered Printed.

Were referred to the Committee on **Taxation** in concurrence.

Bill "An Act Regarding Restrictions Placed on Certain Motor Vehicles That Travel on a Public Way" (S.P. 403) (L.D. 1298)

Bill "An Act Regarding Show Lights on Motor Vehicles" (S.P. 410) (L.D. 1331)

Bill "An Act to Permit the Sale of Used License Plates" (S.P. 411) (L.D. 1332)

Resolve, Regarding the Posting of Certain Roads by the Department of Transportation (S.P. 412) (L.D. 1333)

Resolve, to Establish a Maine Mobility Fund Task Force (EMERGENCY) (S.P. 429) (L.D. 1377)

Came from the Senate, referred to the Committee on **Transportation** and Ordered Printed.

Were referred to the Committee on **Transportation** in concurrence.

Bill "An Act to Clarify the Jurisdiction of the Public Utilities Commission over Telecommunication Utilities' Special Rate Contracts" (S.P. 399) (L.D. 1294)

Bill "An Act to Create the Mt. Blue Standard Water District" (EMERGENCY) (S.P. 423) (L.D. 1344)

Came from the Senate, referred to the Committee on **Utilities and Energy** and Ordered Printed.

Were referred to the Committee on **Utilities and Energy** in concurrence.

Divided Report

Majority Report of the Committee on **State and Local Government** reporting "**Ought to Pass**" on Bill "An Act to Permit Municipalities to Restrict the Sale of Tobacco Products" (S.P. 72) (L.D. 211)

Signed:

Senators: NUTTING of Androscoggin
GOLDTHWAIT of Hancock

Representatives: BUMPS of China
FISK of Falmouth
BAGLEY of Machias
GERRY of Auburn
LEMKE of Westbrook
AHEARNE of Madawaska
GIERINGER of Portland
KASPRZAK of Newport
SANBORN of Alton

Minority Report of the same Committee reporting "**Ought Not to Pass**" on same Bill.

Signed:

Senator: LIBBY of York

Came from the Senate with the Majority "**Ought to Pass**" Report read and accepted and the Bill passed to be engrossed.

Was read.

On motion of Representative AHEARNE of Madawaska, the Majority "**Ought to Pass**" Report was accepted.

The Bill was read once. The Bill was assigned for second reading Tuesday, March 11, 1997.

Non-Concurrent Matter

Bill "An Act to Reduce Teenage Smoking by Increasing the Tax on Cigarettes to Fund an Advertising Campaign" (H.P. 894) (L.D. 1211) which was referred to the Committee on **Taxation** in the House on February 25, 1997.

Came from the Senate referred to the Committee on **Health and Human Services** in non-concurrence.

On motion of Representative MITCHELL of Portland, tabled pending further consideration and specially assigned for Tuesday, March 11, 1997.

Non-Concurrent Matter

Bill "An Act to Reform the Maine Tree Growth Tax Law" (H.P. 883) (L.D. 1200) which was referred to the Committee on **Taxation** in the House on February 25, 1997.

Came from the Senate referred to the Committee on **Agriculture, Conservation and Forestry** in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

Resolve, to Require the Governor to Provide for Ballast Water Management Planning (H.P. 885) (L.D. 1202) which was referred to the Committee on **Natural Resources** in the House on February 25, 1997.

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

The House voted to Recede and Concur.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

The following Bills and Resolves 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:

Agriculture, Conservation and Forestry

Resolve, to Establish the Maine Council on Sustainable Silviculture (H.P. 1003) (L.D. 1395) (Presented by Representative VOLENIK of Brooklin) (Cosponsored by Representatives: BULL of Freeport, SHIAH of Bowdoinham, Senator: RAND of Cumberland)

Banking and Insurance

Resolve, to Review Health Insurance Benefits Mandated by the State (H.P. 994) (L.D. 1386) (Presented by Representative WATERHOUSE of Bridgton) (Cosponsored by Senator CAREY of Kennebec and Representatives: BRUNO of Raymond, CAMPBELL of Holden, CARLETON of Wells, VIGUE of Winslow)

Criminal Justice

Bill "An Act to Provide for Shock Incarceration of Juveniles" (H.P. 1004) (L.D. 1396) (Presented by Representative WATERHOUSE of Bridgton) (Cosponsored by Representative UNDERWOOD of Oxford and Senator BENOIT of Franklin and

Representatives: BUCK of Yarmouth, CLUKEY of Houlton, O'NEAL of Limestone, WHEELER of Bridgewater)

Education and Cultural Affairs

Bill "An Act to Establish a State Residential Treatment Center for Certain Students" (H.P. 1002) (L.D. 1394) (Presented by Representative CHARTRAND of Rockland) (Cosponsored by Senator KILKELLY of Lincoln and Representatives: BRUNO of Raymond, COWGER of Hallowell, LEMKE of Westbrook, McKEE of Wayne, SAXL of Bangor, TOWNSEND of Portland, WINGLASS of Auburn)

Judiciary

Bill "An Act to Require the Release of the Results of an HIV Test to an Emergency Services Worker Who Was Possibly Exposed" (H.P. 1000) (L.D. 1392) (Presented by Representative WATERHOUSE of Bridgton) (Cosponsored by Senator CAREY of Kennebec and Representatives: MUSE of South Portland, THOMPSON of Naples, TUTTLE of Sanford)

Labor

Bill "An Act Amending the Compensation for Members of the Panel of Mediators" (H.P. 1001) (L.D. 1393) (Presented by Representative HATCH of Skowhegan) (Cosponsored by Senator MILLS of Somerset and Representative: PENDLETON of Scarborough, Senator: CATHCART of Penobscot) (Submitted by the Department of Labor pursuant to Joint Rule 204.)

Legal and Veterans Affairs

Bill "An Act to Allow Partially Consumed Bottles of Wine to be Taken from Restaurants" (H.P. 997) (L.D. 1389) (Presented by Representative SAXL of Portland) (Cosponsored by Senator DAGGETT of Kennebec and Representatives: BRAGDON of Bangor, FISHER of Brewer, PLOWMAN of Hampden, TRUE of Fryeburg, TUTTLE of Sanford, WATERHOUSE of Bridgton, Senator: MITCHELL of Penobscot)

Bill "An Act to Protect the Voting Rights of Stalking Victims" (H.P. 998) (L.D. 1390) (Presented by Representative SAXL of Portland) (Cosponsored by Senator KILKELLY of Lincoln and Representatives: BAGLEY of Machias, BAKER of Bangor, FULLER of Manchester, KANE of Saco, SAXL of Bangor, TUTTLE of Sanford, WINN of Glenburn) (Submitted by the Secretary of State pursuant to Joint Rule 204.)

Marine Resources

Resolve, Directing the Commissioner of Marine Resources to Request the Secretary of the United States Department of Commerce to Amend the United States Coast and Geodetic Survey (H.P. 996) (L.D. 1388) (Presented by Representative SKOGLUND of St. George) (Cosponsored by Senator PENDLETON of Cumberland)

State and Local Government

Bill "An Act to Reestablish the State Compensation Commission" (H.P. 999) (L.D. 1391) (Presented by Representative TUTTLE of Sanford) (Cosponsored by Senator DAGGETT of Kennebec and Representatives: AHEARNE of Madawaska, CAMPBELL of Holden, KERR of Old Orchard Beach, KONTOS of Windham, MITCHELL of Vassalboro, ROWE of Portland, TRUE of Fryeburg, Senator: LAWRENCE of York)

Resolve, to Authorize the Lincoln County Commissioners to Borrow Not More Than \$600,000 to Build the Lincoln County Communications Center (EMERGENCY) (H.P. 995) (L.D. 1387) (Presented by Representative SPEAR of Nobleboro) (Cosponsored by Representatives: HONEY of Boothbay, PIEH of Bremen)

Taxation

Bill "An Act to Encourage the Development of High-technology Industry in the State" (EMERGENCY) (H.P. 1005) (L.D. 1397) (Presented by Representative DONNELLY of Presque Isle) (Cosponsored by Senator HARRIMAN of Cumberland and Senators: JENKINS of Androscoggin, PINGREE of Knox)

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

ORDERS

On motion of Representative GAMACHE of Lewiston, the following Order: (H.O. 16)

ORDERED, that Representative Joseph D. Driscoll of Calais be excused February 24 through 26 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Albert P. Gamache of Lewiston be excused February 20 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative F. Thomas Gieringer, Jr., of Portland be excused February 27 for health reasons.

AND BE IT FURTHER ORDERED, that Representative June C. Meres of Norridgewock be excused February 25 for health reasons.

Was read and passed.

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on **Inland Fisheries and Wildlife** reporting "**Ought Not to Pass**" on Bill "An Act to Change the Dates of the Moose Hunting Season" (H.P. 198) (L.D. 251)

Signed:

Senators: KILKELLY of Lincoln
RUHLIN of Penobscot
HALL of Piscataquis

Representatives: PAUL of Sanford
CHICK of Lebanon
TRUE of Fryeburg
USHER of Westbrook
CROSS of Dover-Foxcroft
PERKINS of Penobscot
UNDERWOOD of Oxford
GOODWIN of Pembroke

Minority Report of the same Committee reporting "**Ought to Pass**" on same Bill.

Signed:

Representatives: CLARK of Millinocket
DUNLAP of Old Town

Was read.

Representative PAUL of Sanford moved that the House accept the Majority "**Ought Not to Pass**" Report.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Madam Speaker, Ladies and Gentlemen of the House. I rise in front of you today to object to the Majority "Ought Not to Pass" Report. We had a serious discussion in committee about this bill. First of all, the state biologists say that the time in September is the most time where the moose herd is in its prime condition. Second, the warden service says that this time is the best time for the warden service because they are less busy, restricted with bird and duck season. Third, the bow hunters would prefer the moose hunt before October. According to SAM, 69 percent to 31 percent overwhelmingly prefer the moose hunt to be in the last six days of September. Fifth, only the commercial interests are opposed to the last six days of September. Madam Speaker, I request a division.

Representative CLARK of Millinocket requested a division on the motion to accept the Majority "**Ought Not to Pass**" Report.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Paul.

Representative PAUL: Madam Speaker, Ladies and Gentlemen of the House. Many times in the past legislative sessions the Fisheries and Wildlife Committee was presented with proposals to change dates of the annual moose hunt. Some are to take place earlier and others as late as the last week in October. For a good many years, the Commissioner of Inland Fisheries and Wildlife has routinely set the date and it has worked very well. The department, personnel and biologists play an important role to make this happen. Guesswork and whims do not come to play in their decisions. I believe this Legislature has to ask themselves, should the Legislature be in the business of setting dates for many various seasons for hunting and fishing? I believe not. This should be left with the department. The last week in September could not come at a worse time. It is a time when many tourists, not to mention the natives that live in this state venture out to enjoy the fall seasons. These people fan out all over the wonderful State of Maine to marvel at its beauty of wood, mountains and waters. They come camera in hand to record what nature has to offer and to reminisce during the winter months of what they did. Hopefully, to return the following year. September, based on previous years, is usually a very warm month and the chances of losing a whole animal due to the warm weather is great, especially, if there doesn't happen to be a processing truck nearby. I hope you will support the "Ought Not to Pass" report and vote with me on this one. Everything is working well. Let's leave well enough alone. Thank you very much.

The SPEAKER: A division has been ordered. The pending question before the House is acceptance of the Majority "Ought Not to Pass" Report. All those in favor will vote yes, those opposed will vote no.

A vote of the House was taken. 98 voted in favor of the same and 23 against, subsequently, the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

Divided Report

Majority Report of the Committee on **Banking and Insurance** reporting "**Ought to Pass**" on Bill "An Act to Ensure Responsible Coordination of Medical Care under Managed Care" (H.P. 401) (L.D. 546)

Signed:

Senators: LaFOUNTAIN of York
MURRAY of Penobscot

Representatives: MAYO of Bath
SAXL of Bangor
PERRY of Bangor
DAVIDSON of Brunswick
WINN of Glenburn
O'NEIL of Saco
BRUNO of Raymond
STANLEY of Medway

Minority Report of the same Committee reporting "**Ought Not to Pass**" on same Bill.

Signed:

Senator: ABROMSON of Cumberland
Representatives: CARLETON of Wells
JONES of Pittsfield

Was read.

On motion of Representative SAXL of Bangor, the Majority "**Ought to Pass**" Report was accepted.

The Bill was read once. The Bill was assigned for second reading Tuesday, March 11, 1997.

CONSENT CALENDAR

Second Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the Second Day:

(S.P. 60) (L.D. 170) Bill "An Act to Allow Members of Cooperatives to Vote by Proxy"

(S.P. 163) (L.D. 492) Bill "An Act to Adjust the Residency Requirement for District Court Judges to Include the Counties in Which They Reside"

(S.P. 204) (L.D. 663) Bill "An Act to Permit the State Court Administrator to Accept Funds from the Federal Government and Private Sources"

(H.P. 180) (L.D. 235) Bill "An Act to Require the Courts to Accept Civil Orders of Arrest on Any Day Court is in Session"

(H.P. 421) (L.D. 571) Bill "An Act to Clarify the Effect of Failure to Provide Notice of Filing of a Judgment Lien"

(H.P. 526) (L.D. 717) Bill "An Act to Expand the Methods of Service of Disclosure Subpoenas"

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

BILLS IN THE SECOND READING

Bill "An Act to Correct Certain Errors and Inconsistencies in Marine Resources Laws" (H.P. 395) (L.D. 540)

Was reported by the Committee on **Bills in the Second Reading**, read the second time.

On motion of Representative GOODWIN of Pembroke, tabled pending passage to be engrossed and later today assigned.

ENACTORS

An Act to Change How the Mileage Allowance is Determined for Sheriffs and Deputies (S.P. 68) (L.D. 207)

An Act to Terminate Spousal Support upon the Death of the Payee (H.P. 187) (L.D. 240)

Were reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

TABLED AND TODAY ASSIGNED

The Chair laid before the House the following items which were Tabled and Today Assigned:

Bill "An Act to Fully Fund Local Education with Income and Sales Tax Revenues" (H.P. 975) (L.D. 1355)

(Committee on **Taxation** suggested)

TABLED - March 4, 1997 by Representative TRIPP of Topsham.

PENDING - Reference.

On motion of Representative TRIPP of Topsham, the Bill was referred to the Committee on **Education and Cultural Affairs**, ordered printed and sent up for concurrence.

Expression of Legislative Sentiment recognizing Lawrence R. Gordon Jr. (HLS 145)

TABLED - March 4, 1997 by Representative RINES of Wiscasset.

PENDING - Passage.

Subsequently, was passed and sent up for concurrence.

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

The following items were taken up out of order by unanimous consent:

SENATE PAPERS

The following Joint Order: (S.P. 432)

ORDERED, the House concurring, that when the House and Senate Adjourn they do so until Tuesday, March 11, 1997, at 10:00 o'clock in the morning.

Came from the Senate, read and passed.

Was read and passed in concurrence.

Bill "An Act to Promote Parity in the Regulation of Insurance Sales by Federally and State-chartered Financial Institutions" (EMERGENCY) (S.P. 439) (L.D. 1385)

Came from the Senate, referred to the Committee on **Banking and Insurance** and Ordered Printed.

Was referred to the Committee on **Banking and Insurance** in concurrence.

Bill "An Act to Clarify and Facilitate Transfers of Health Care Facility Capacity" (S.P. 434) (L.D. 1380)

Bill "An Act to Provide Training in Sudden Infant Death Syndrome to Emergency Response Personnel" (S.P. 435) (L.D. 1381)

Came from the Senate, referred to the Committee on **Health and Human Services** and Ordered Printed.

Were referred to the Committee on **Health and Human Services** in concurrence.

Bill "An Act to Reform Procedure in Multiparty Lawsuits" (S.P. 438) (L.D. 1384)

Came from the Senate, referred to the Committee on **Judiciary** and Ordered Printed.

Was referred to the Committee on **Judiciary** in concurrence.

Bill "An Act to Provide Part-time State and Participating Local District Employees with the Option of Joining the Maine State Retirement System" (S.P. 437) (L.D. 1383)

Came from the Senate, referred to the Committee on **Labor** and Ordered Printed.

Was referred to the Committee on **Labor** in concurrence.

Bill "An Act to Place Conditions on the Investment of Municipal Funds in Mutual Funds" (S.P. 433) (L.D. 1379)

Came from the Senate, referred to the Committee on **State and Local Government** and Ordered Printed.

Was referred to the Committee on **State and Local Government** in concurrence.

On motion of Representative VEDRAL of Buxton, the House adjourned at 11:00 a.m., pursuant to the Joint Order (S.P. 432).