

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 118

H.P. 82

House of Representatives, January 17, 1995

**RESOLUTION, Proposing an Amendment to the Constitution of Maine
to Create the Office of Lieutenant Governor.**

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative LEMKE of Westbrook.
Cosponsored by Representatives: AHEARNE of Madawaska, CAMERON of Rumford,
DESMOND of Mapleton, GERRY of Auburn, GOULD of Greenville, HATCH of
Skowhegan, KERR of Old Orchard Beach, KILKELLY of Wiscasset, LIBBY of Kennebunk,
LIBBY of Buxton, MORRISON of Bangor, MURPHY of Berwick, SIMONEAU of
Thomaston, Senators: BEGLEY of Lincoln, RAND of Cumberland.

2 **Constitutional amendment. RESOLVED:** Two thirds of each
branch of the Legislature concurring, that the following
amendment to the Constitution of Maine be proposed:

4 **Constitution, Art. V, Part First, §§3, 14 and 15** are repealed and
6 the following enacted in their place:

8 **Section 3. Election; votes to be returned to Secretary of**
State; Secretary of State to lay lists before the Senate and
10 **House of Representatives; provision in case of tie.** The meetings
for election of Governor and Lieutenant Governor must be
12 notified, held and regulated and votes received, sorted, counted
and declared and recorded, in the same manner as those for
14 Senators and Representatives; except that the names of the
candidates for the offices of Governor and Lieutenant Governor
16 must be grouped on the official ballot and the voter may cast a
single ballot for any group, which counts as a vote for each
18 candidate in that group, but the voter may not cast a vote for
only one of the candidates in the group. Copies of lists of
20 votes must be sealed and returned to the Office of the Secretary
of State in the same manner and at the same time as those for
22 Senators. The Secretary of State, on the first Wednesday after
the first Tuesday of the month of January following the election,
24 shall lay the lists returned to the Office of the Secretary of
State before the Senate and House of Representatives for
26 examination, together with the ballots cast if they so elect, and
they shall determine the number of votes duly cast for the
28 offices of Governor and Lieutenant Governor. In the case of a
choice by plurality of all of the votes returned, they shall
30 declare and publish that fact. If there is a tie between the 2
groups of persons having the largest number of votes for Governor
32 and Lieutenant Governor, the Senate and the House of
Representatives, meeting in joint session, with each member
34 having a single vote, shall elect one group of candidates for
Governor and Lieutenant Governor from those persons receiving an
36 equal number of votes. The persons elected by the Senate and the
House of Representatives are declared the Governor and Lieutenant
38 Governor.

40 **Section 14. Vacancy, how supplied; mental or physical**
disability of the Governor continuously for more than 6 months.
42 When the office of Governor becomes vacant because of the death,
resignation or removal of the Governor in office, or any other
44 cause, the Lieutenant Governor shall assume the office of
Governor for the remainder of the term of office.

46 When the offices of Governor and Lieutenant Governor become
48 vacant because of the death, resignation or removal of the
Governor and Lieutenant Governor in office, or any other cause,
50 the President of the Senate shall assume the office of Governor
until another Governor is duly qualified. When the vacancy

2 occurs more than 90 days before the date of the primary election
4 for nominating candidates to be voted for at the next biennial
6 election, the President of the Senate shall assume the office of
8 Governor until the first Wednesday after the first Tuesday of the
10 month of January following the biennial election. At the
biennial election, a Governor and Lieutenant Governor must be
elected to fill the unexpired term created by the vacancy. When
the vacancy occurs less than 90 days before the date of a primary
election, the President of the Senate shall fill the unexpired
term.

12 Whenever the offices of Governor, Lieutenant Governor and
14 President of the Senate are vacant at the same time, the Speaker
16 of the House of Representatives shall assume the office of
Governor for the same term and under the same conditions as the
President of the Senate.

18 When the offices of Governor, Lieutenant Governor, President
20 of the Senate and Speaker of the House of Representatives become
22 vacant at the same time, the person acting as Secretary of State
24 shall exercise the office of Governor and immediately shall
26 convene by proclamation the Senate and the House of
28 Representatives, which shall fill respectively the vacancies in
the offices of the President of the Senate and the Speaker of the
House of Representatives. By joint ballot, the Senate and House
of Representatives shall choose a person who shall assume the
office of Governor for the same term and under the same
conditions as the President of the Senate.

30 When a Governor in office has been continuously unable to
32 discharge the powers and duties of that office for 6 months
34 because of mental or physical disability, that office is deemed
36 vacant. The vacancy must be declared by the Supreme Judicial
38 Court upon presentment to it of a joint resolution declaring the
grounds of the vacancy, adopted by a 2/3 vote of the Senators and
Representatives in convention, and upon notice, hearing before
the court and a decision by a majority of the court that grounds
exist for declaring the office vacant.

40 **Section 15. Temporary mental or physical disability of**
42 **Governor.** When the Governor is unable to discharge the powers
44 and duties of that office because of mental or physical
46 disability, the Lieutenant Governor or, if that office is vacant,
48 the President of the Senate or, if that office is vacant, the
Speaker of the House of Representatives shall exercise the powers
and duties of the office of Governor until the Governor is again
able to discharge the powers and duties of that office, or until
the office of Governor is declared vacant or until another
Governor is duly qualified.

50

2 When the Governor is unable to discharge the powers and
3 duties of that office, the Governor may certify that inability to
4 the Chief Justice of the Supreme Judicial Court, who shall
5 certify that the Lieutenant Governor or, if that office is
6 vacant, the President of the Senate or, if that office is vacant,
7 the Speaker of the House of Representatives shall exercise the
8 powers and duties of the office of Governor until the Governor
9 certifies to the Chief Justice that the Governor is able to
10 discharge the powers and duties of that office and the Chief
11 Justice notifies the officer who has been exercising the powers
12 and duties of the office of Governor of that fact.

13
14 When the Secretary of State has reason to believe that the
15 Governor is unable to discharge the duties of that office, the
16 Secretary of State may certify that inability to the Supreme
17 Judicial Court, declaring the reason for that belief. After
18 notice to the Governor, a hearing before the court and a decision
19 by a majority of the court that the Governor is unable to
20 discharge the duties of the office of Governor, the court shall
21 notify the Lieutenant Governor or, if that office is vacant, the
22 President of the Senate or, if that office is vacant, the Speaker
23 of the House of Representatives of that inability and that
24 officer shall exercise the functions, powers and duties of the
25 office of Governor until the Secretary of State or the Governor
26 certifies to the court that the Governor is able to discharge the
27 duties of the office of Governor and the court decides, after
28 notice to the Governor and a hearing before the court, that the
29 Governor is able to discharge the duties of that office and
30 notifies the officer who has been exercising the powers and
31 duties of the office of Governor of that fact.

32 When either the President of the Senate or the Speaker of
33 the House of Representatives exercises the office of Governor,
34 the officer is entitled only to the compensation of the Governor
35 and the officer's duties as President or Speaker are suspended.
36 The Senate or the House of Representatives shall fill the vacancy
37 resulting from the suspension until the officer ceases to
38 exercise the office of Governor.

39 **Constitution, Art. V, Part First, §§16 to 19** are enacted to read:

40
41 **Section 16. Qualifications for Lieutenant Governor.** The
42 Lieutenant Governor, at the commencement of the Lieutenant
43 Governor's term, must be at least 30 years of age; must be a
44 citizen of the United States for at least 15 years and a resident
45 of the State for 5 years; and, at the time of election and during
46 the term for which elected, be a resident of the State.

2 Section 17. Disqualifications for Lieutenant Governor. A
3 person holding an office or place under the United States, this
4 State or any other power may not assume or exercise the office of
5 Lieutenant Governor, except as provided by this Constitution.

6 Section 18. Compensation of Lieutenant Governor. At stated
7 times the Lieutenant Governor is entitled to receive a
8 compensation, which may not be increased or diminished during the
9 Lieutenant Governor's continuance in office.

10 Section 19. Duties of Lieutenant Governor. The Lieutenant
11 Governor shall assist the Governor in carrying out the duties and
12 responsibilities of Governor.

13 ; and be it further

14
15 **Constitutional referendum procedure; form of question; effective**
16 **18 date. Resolved:** That the municipal officers of this State shall
17 notify the inhabitants of their respective cities, towns and
18 plantations to meet, in the manner prescribed by law for holding
19 a statewide election, at the next statewide election in the month
20 of November following passage of this resolution, to vote upon
21 the ratification of the amendment proposed in this resolution by
22 voting upon the following question:
23

24 "Do you favor amending the Constitution of Maine to provide
25 for the election of Governor and Lieutenant Governor by a
26 single vote, the Lieutenant Governor to assist the Governor
27 in the responsibilities and duties of that office and to
28 succeed the Governor in the event of a vacancy in the office
29 of Governor?"
30

31 The legal voters of each city, town and plantation shall
32 vote by ballot on this question and designate their choice by a
33 cross or check mark placed within the corresponding square below
34 the word "Yes" or "No." The ballots must be received, sorted,
35 counted and declared in open ward, town and plantation meetings
36 and returns made to the Secretary of State in the same manner as
37 votes for members of the Legislature. The Governor shall review
38 the returns and, if it appears that a majority of the legal votes
39 are cast in favor of the amendment, the Governor shall proclaim
40 that fact without delay and the amendment becomes part of the
41 Constitution on the date of the proclamation; and be it further
42

43 **Secretary of State shall prepare ballots. Resolved:** That the
44 Secretary of State shall prepare and furnish to each city, town
45 and plantation all ballots, returns and copies of this resolution
46 necessary to carry out the purpose of this referendum.
47
48
49
50

STATEMENT OF FACT

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4 This constitutional resolution establishes the office of
Lieutenant Governor. The Lieutenant Governor is elected with the
Governor on the same ballot and assists the Governor with the
6 responsibilities and duties of the office of Governor. The
Lieutenant Governor succeeds the Governor in the event the office
8 of Governor is vacant.