

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE

AS PUBLIC LAWS AND CONSTITUTIONAL RESOLUTIONS

at the

THIRD SPECIAL SESSION

September 15, 1988 to September 16, 1988

and the

FOURTH SPECIAL SESSION

November 28, 1988

AND

AS PRIVATE AND SPECIAL LAWS AND RESOLVES

at the

FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987

SECOND SPECIAL SESSION

October 21, 1987 to November 20, 1987

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April 7, 1987

of

GOVERNOR JOHN R. McKERNAN, JR.

to the

FIRST REGULAR SESSION

One Hundred and Thirteenth Legislature

Mr. President, Mr. Speaker, Members of the 113th Legislature, Fellow Citizens of Maine:

As many of you are well aware, I ran for Governor of this state because I believed it was possible to make Maine a better place to live, to work, and to raise a family.

In the past week, I have been reminded that that is a worthy, a necessary, and an obtainable goal. As I have traveled to parts of this state severely damaged by recent flooding, I have been deeply touched by the Maine spirit, by the members of the National Guard who rescued an entire family — including a handicapped individual — from an island in Milo, by the people of Hallowell who worked around the clock to help their neighbors and fellow shopkeepers. And I want to thank Ernie Park, Adjutant General, Dave Brown, director of the Office of Civil Emergency Preparedness, Dana Connors, Commissioner of Transportation, and all the people in their agencies for their untiring efforts of the past week.

Today I would like to note that once we have received a presidential declaration of disaster and are eligible for federal relief funds, I will be asking your support for funding — through the Rainy Day Fund — both the state and local share of matching dollars.

Recent events have reminded me — on a very basic, human level — how much can be done when we work together for the common good. And I have been convinced, once again, that there is no better place to live than Maine.

The events of the past week have strengthened my resolve to bring opportunity to all parts of this state, to give Maine people the chance to improve their lives and the lives of their neighbors.

We have already made progress. In the three months since my inauguration, our administration has worked to make that campaign promise, that vision of Maine as the Opportunity State, a reality.

We have appointed to our cabinet men and women of exceptional creativity and commitment who are working *together* to find new solutions to old problems.

With the announcement of an Economic Development Strategy Task Force, we have begun comprehensive planning for the future of this state.

We have created, with our Rapid Employment and Training Initiative, a coordinated method of responding to unexpected plant closings and layoffs.

We have announced a review of this state's tax policy, and I anticipate submitting for your consideration next year a tax reform package based upon that review.

And we have proposed a budget that includes a substantial increase in funding to the University of Maine system, as well as funds for job training, tourism promotion, and support for our farming and fishing industries.

Today, in presenting to you my legislative package, we take another significant step towards achieving greater opportunities and prosperity for all Maine citizens.

Like our previous initiatives, this legislative package is concerned — above all else — with benefiting and protecting Maine's two greatest assets: her *human* and her *natural* resources.

It is a legislative package concerned for the future of Maine, concerned with finding long-term solutions — not short cuts — to some of our most persistent problems.

And it is a legislative package that addresses the needs — and the potential — of all parts of this state.

In the weeks ahead, we will also be submitting a small number of bills that I have chosen not to discuss in any detail this morning for their scope is somewhat limited. Those bills are in addition to many legislative initiatives originating directly within the departments of the Executive Branch.

I would like to turn first, as I have been doing for the past three months, to economic development.

As you know, President Pray, Speaker Martin, and I recently announced the formation of an economic development strategy task force. Its members represent all areas and sectors of this state. Their expertise and experience will assist us in creating a “business plan” for this state, one that takes an informed and thoughtful look at where this state is, where it is going, and how we intend to get there. The task force’s recommendations, due in October, will serve as the basis for comprehensive economic development legislation next session.

In order to be prepared to implement the task force’s recommendations and in order that we might make best use of this state’s limited resources, I am proposing today the creation of a Department of Economic and Community Development.

The creation of this department is important for several reasons:

1—it will ensure that economic development is a major priority of state government

2—it will consolidate activities aimed at assisting communities in preparing and implementing comprehensive community development programs

3—it will vigorously promote one of our fastest growing, most dynamic industries — tourism

And 4—it will ensure that activities are not duplicated, that resources are not squandered

With an annual budget of over \$1 billion, a workforce of more than 12,000, and hundreds of different work sites, state government will never match the efficiency of a private enterprise. But we — as the keepers of this store — must never stop trying to make the services we provide as efficient and effective as possible. We must work to ensure that taxpayer dollars are well spent.

That is why I am submitting legislation to redirect the functions of the Office of Energy Resources to departments and agencies already engaged in activities similar to those now administered by OER.

What that means is that energy planning can be most effective when incorporated into the comprehensive work of the State Planning Office; that the proposed Department of Economic and Community Development can best deliver energy services to businesses and communities; and that residential weatherization programs can be coordinated by the Division of Community Services.

The reassignment of the functions of the Office of Energy Resources is meant, in no way, to diminish the importance of programs and activities that it administers. Rather, it is intended to ensure that energy services and information are delivered as efficiently as possible.

The coordination of services that will result from these reorganizations will allow the state to make better use of its resources. This kind of coordination will be an integral part of the Job Opportunity Zones that are also part of today’s legislative package.

These zones will encourage job creation in areas of special need. Working with communities, the state will provide tax incentives for new businesses and will make available economic development services and support. In addition, businesses and schools will work together to raise the aspirations of local children and to provide local job opportunities for youth. This program — encouraging as it does partnerships between the public and private sectors — will result in benefits that far exceed its costs.

As we set up these new structures that will allow us to plan for the future, we must not ignore certain problems that have plagued us for years. One of them is our current tax policy; the other is workers' compensation.

In the next eight days most of us will spend a considerable amount of time working on our state and federal income taxes. What some of you will notice is that the federal tax code has been significantly changed. As I reported to you about a month ago, if Maine conforms with the new federal tax code, the consequence of this change will be a tax windfall of approximately \$16.5 million in FY87 and \$30.9 million in FY88.

I am submitting legislation that will conform Maine's individual and corporate income tax codes to the federal tax code, effective January 1, 1987, and will return the full tax windfall to taxpayers. On the individual income tax side, I will propose to exempt all Maine residents who are not required to file federal income tax returns from filing state income tax returns. I believe that it is inequitable and poor tax policy to require Maine citizens to pay a state income tax when the federal government has determined that their incomes are too low to have any federal income tax liability. The cost of this exemption has been estimated to be about \$3 million. The balance of the individual income tax windfall, or roughly \$10 million, will be returned to taxpayers in the form of an estimated \$9 tax credit per declared exemption. Thus, a family of 5 will receive a tax credit of approximately \$45 against any state tax liabilities. A similar type of tax refund is proposed on the corporate side where \$3.5 million of windfall will be returned.

The other piece of tax legislation that I will be submitting to you will correct a major problem in the way we currently tax telecommunications. As I have said repeatedly, it makes no sense for a state such as Maine, which is so removed from the geographic mainstream of the country, to impose a heavy tax burden on telecommunications. Yet, that is precisely what we currently have in Maine with a 7% gross receipts tax and a 5% access charge surtax on telecommunications.

In a special session of the legislature last year, the 5% access charge surtax was sunsetted as of January 1, 1988. I will propose that we complete the job by phasing out the 7% gross receipts tax and in the process make Maine's interstate telecommunication rates competitive with the rest of the country.

An entrepreneur in New Hampshire recently said: "Give me a WATS line and a Federal Express drop, and the rest of the country is mine." We do not want to discourage that same spirit in Maine.

And if we *are* to be competitive in attracting new jobs to Maine; indeed, if we are to encourage companies to remain and expand in this state, we are going to have to address the issue of workers' compensation.

When 1,000 Maine Health-Tex workers lost their jobs this winter, the company's president told me the plant closings were due, in large part, to the cost of doing business in this state, that workers' compensation was significantly greater than any other Health-Tex plant in this country and was a major factor in the company's decision to leave Maine.

I am aware that there are several workers' compensation bills before the 113th Legislature. I will be strongly opposed to any legislation that increases the staggering costs of our workers' compensation system.

As many of you know, we will have a court decision on a variety of workers' compensation issues in early May. That decision could have a significant impact on this issue. Once the court's decision is known, we must act, and act quickly, on this very serious problem. If we don't, we run the risk of losing more jobs and of jeopardizing a bright future for Maine workers.

While we are on the subject of difficult and troubling issues, I want to discuss education funding.

I strongly support the comprehensive and forward-looking Education Reforms of 1984. And I want very much to see them accomplished through a *real* state and local partnership. In reflecting upon the reforms and their estimated fiscal impact, one lesson should be clear to all of us: the State must assume a direct responsibility for paying for educational mandates at the time they are required. The State should not leave to local taxpayers and future legislatures the burden of paying the bills.

Additionally, I have several concerns with the present school funding law — including the problems of "lag time" and the wisdom of regarding state valuation as the basis for determining "ability to pay." I have asked the tax policy study committee to look at these issues.

Our analysis indicates that the estimated cost of the 1984 mandates can be broken down into three categories: 1) the transfer of a state function — teacher and administrator certification — to the local level, 2) costs associated with the minimum teacher salary legislation, and 3) various program, student service, and staffing requirements that are reimbursed on a two-year time-lag basis.

Since the certification costs represent a transfer of that responsibility from the State to the local level, we are prepared to assume the cost of helping school systems meet this requirement. We will be recommending the distribution of approximately \$2 million to local school systems on a per teacher and administrator basis in fiscal year 1988.

With regard to the estimated costs of teacher salary minimums, Commissioner Bither and I believe that previous Legislatures intended that the appropriations authorized in the present biennium and the \$27 million included for each year in our Part I biennial budget would be adequate to meet the salary mandates.

Our analysis of the remaining category of mandates has resulted in a decision to assist local school systems in meeting projected cost increases in two ways. First, we believe that it was *not* the intent of the 1984 Reform Act that school systems be required to hire certified guidance counselors to meet the "guidance and counseling" component. I have urged Commissioner Bither to propose a change in the existing rule that would allow school systems to use a variety of alternatives. This amendment would reduce the estimated cost of new programs and related services by approximately \$2.5 million.

Finally, we are prepared to provide on an "up-front" basis additional state support of the remaining \$7.8 million of mandates at the present 55% state share level. This commitment will require an additional \$4.3 million in new spending that will be distributed through the existing funding formula.

In summary, we are committed to finding an additional \$6.3 million to support the effect of past education mandates. We intend to do so notwithstanding the very real pressures now competing for scarce resources. I have asked Finance Commissioner Jean Mattimore to work with all department heads to identify ways to fund this commitment. This process is now underway. We are examining a variety of options, including a partial freeze on FY 1987 quarterly allotment reserves. We pledge to work closely with Legislative and Appropriations Committee leaders on this important task of resource identification during the next month. By mid-May, we will have a clear picture of the actual resources available.

I would like, now, to turn to the bond package we are recommending today. It includes nine projects for a total of \$57.8 million. This figure is a fiscally prudent one. It will allow us to maintain our very favorable credit rating and will assure a healthy reserve margin should we need, for unforeseen reasons, to increase the bonded indebtedness of the state.

Included in this package are dollars for the repair and reconstruction of our highway and bridge system and for runways at many of our smaller airports; dollars to address acute environmental needs related to groundwater quality and to the quality of our rivers and streams; dollars for the detection and removal of asbestos in our schools and state facilities; dollars to reconstruct the pier at the Maine Maritime Academy; for miscellaneous capital improvement projects for State-owned facilities; and for the acquisition of public lands of statewide significance.

The last item, the \$5 million for public lands acquisition, is especially important to me. In 1941 Percival Baxter said of the mountain he spent much of his life working to preserve:

The works of man are short lived. Monuments decay, buildings crumble, and wealth vanishes, but Katahdin in its massive grandeur will forever remain the mountain of the people of Maine . . . It will stand as an inspiration to the men and women of this state.

Baxter State Park is indeed inspiration for this public lands acquisition. That marvelous gift reminds us of the need to act while we still can to preserve forever some of this state's remarkable natural resources.

The \$5 million bond issue I am proposing to you this session is a first installment on what I see as a ten-year plan to ensure our children their natural heritage.

This bond package includes in it a number of projects that will protect, as I said earlier, our two greatest assets — our human and our natural resources.

The point of any economic development activity is, after all, an improved quality of life for the citizens — all the citizens — of this state. Economic development — with its strategies and tax incentives and public/private-sector partnerships — is intended, above all else, to ensure that the children of Eastport can prosper in their hometown, that a single mother in Presque Isle is able to find satisfying work and satisfactory child care, that choosing to live in a beautiful, but rural, part of the state does not have to mean choosing to subsist on undependable seasonal employment.

In addition to the economic development legislation I am introducing today, I am proposing a number of bills that are concerned in other ways with our quality of life. They are bills that address a variety of issues, but all of them are intended to keep Maine a special place.

The first is a comprehensive package to attack the flow of drugs into this state. We have begun, by increasing funding to our drug education programs, to attack the demand for drugs. We must now work to decrease the supply.

One of these bills will create a series of regional drug task forces to coordinate the efforts of local, county, state, and federal law enforcement officials.

Another will require mandatory sentencing for those convicted of trafficking near schools and campuses, . . . for those selling to minors, . . . and for repeat offenders.

Finally, I will be asking for legislative approval to implement a state forfeiture statute that will provide a mechanism for the state to seize assets of convicted drug traffickers.

These three bills, taken together, will give Maine one of the most comprehensive drug enforcement plans in the country.

They will send a clear message that this state will not tolerate drug trade.

I am also submitting legislation that will create a network of child care resource and referral centers throughout Maine. The bill will also increase the availability of subsidized slots for low-income, working parents. Just as my drug initiatives reflect my deep concern for the safety and well-being of our children, so too does this bill.

In 1960, women made up 35 percent of Maine's workforce; by 1980 that figure had risen to 48 percent. Both members of more than half of all marriages in this state bring home a pay check, and studies show that 50 percent of worker absenteeism is due to problems with child care. For the sake of our children and our workers, we can no longer deny these realities.

Finally, I want to turn to a number of bills that are concerned with our environment . . . and our safety.

As Governor of this state, I am ultimately responsible for the health and safety of Maine citizens. I take that charge seriously, and because I do, I am proposing this morning that we initiate on-site monitoring at the Maine Yankee nuclear power plant. This bill will assign to the plant a nuclear engineer who will monitor safety standards and report directly to me. This bill will make Maine one of only two states in the country that have gone so far as to mandate legislatively state monitoring of a federally licensed plant.

I am also concerned for the quality of our water supply. In November, the citizens of Maine approved a \$3 million bond issue to fund the clean-up caused by leaking underground storage tanks. In doing so, they sent a clear message to all of us — contaminated water supplies are of serious and primary concern. The \$3 million is a start, but it is not enough if we are to repair or decommission potentially dangerous tanks *before* they pollute the water supply.

That is why I am proposing legislation that calls for the phased removal — according to age and location — of all unprotected steel tanks over 15 years of age.

In order to assist businesses and individuals in undertaking this vigorous replacement program, I propose that the state provide assistance in the form of loan guarantees or direct loans — the money for which will be raised initially by the \$1 million bond issue that is part of today's bond package.

I have been talking this morning about Maine's future, about economic development, and about the critical need to plan ahead for a better tomorrow. As Maine grows, there is an increasing fear that development will reduce public access to our natural resources; that development will destroy our open spaces, critical habitats, and the rural character of the state.

I am convinced that these are real concerns. I am also convinced that the solutions to many of these concerns do not lie in Augusta. Rather, I believe that land use planning is most effective when it is performed at the local level and reflects a community's character and vision.

The proper role for state government is, first, to ensure that resources of statewide significance, such as our coastline, our rivers, and our inland lakes, are managed to serve *all* of the citizens of Maine; and, second, to assist, not direct, communities as they fashion balanced growth strategies, comprehensive plans, and the legal framework to implement them.

In this regard, I am proposing legislation to extend and strengthen the Site Location Act for certain development on or around our most critical natural resources.

This legislation will also require that the Board of Environmental Protection consider the cumulative impacts of development projects upon the environment, the public infrastructure which will service these projects, and the public's access to our natural resources.

In addition, I will be asking you to extend our present Shoreland Zoning program to these same areas. I do so in order to ensure that development within these areas is subject to municipal zoning and land use controls that reflect the thoughtful and prudent use of these critical resources.

These bills represent important and much needed changes in two tools the State and municipalities currently employ to manage growth. But they are not enough. Over the next year, the State Planning Office, the Department of Environmental Protection, and what we hope will be the Department of Economic and Community Development will review other options available to state and local governments for managing growth pressures.

We will also continue to provide the technical assistance municipalities need to ensure that their visions for their future will become their realities.

For that, after all, is the concern of all of the legislation which I am submitting to you today — Maine's future.

If we are to prosper; if, as we grow, we are to retain the beauty of our environment; if we are to improve the quality of life for all Maine people, then we need to begin, today, to plan for that bright future.

We need to find ways to get the most out of the resources available to this state.

We need to encourage and foster a spirit of neighbor helping neighbor, as my administration has done in requesting funding for an office of volunteer services.

We need to forge new partnerships between state government and local municipalities.

And we need, all of us in this chamber today, to vow to work together for the good of the people we represent.

Government cannot — should not — do it all, but we can do much to help Maine people build a better life for themselves. We must never forget that that is our charge. And we must never stop working towards that end.

Thank you.