

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

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FOURTH CONFIRMATION SESSION

(FIRST CONFIRMATION SESSION – SECOND REGULAR SESSION)

May 31, 1984

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September 4, 1984 to September 11, 1984

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HOUSE

Wednesday, January 25, 1984

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

Prayer by Father Valmont Gilbert, St. Augustine's Catholic Church, Augusta.

The Journal of Tuesday, January 24, 1984, was read and approved.

Papers from the Senate

The Senate of Maine
Augusta

The following Communication:

January 24, 1984

The Honorable John L. Martin

Speaker of the House

111th Legislature

Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Health and Institutional Services, the Governor's nomination of Sandra K. Prescott of Bucks Harbor as Chair of the Maine State Health Coordinating Council.

Sincerely,

S/JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

Bill "An Act to Make Allocations from the Health Care Finance Commission Fund for the Fiscal Year Ending June 30, 1984" (Emergency) (S. P. 720) (L. D. 1992)

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

Was referred to the Committee on Appropriations and Financial Affairs in concurrence. (Later Reconsidered)

Bill "An Act to Repeal and Replace the Regional Refuse Disposal District Enabling Act" (Emergency) (S. P. 721) (L. D. 1993)

RESOLVE, Authorizing the Town of Bingham to Dredge, Restore and Establish a Suitable Water Level for Meadow Brook Within the Town (S. P. 722) (L. D. 1994)

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

Were referred to the Committee on Energy and Natural Resources in concurrence.

Bill "An Act to Ensure Medical Coverage of Residents in Cost Reimbursement Boarding Homes" (Emergency) (S. P. 723) (L. D. 1995)

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

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

Bill "An Act Amending the Child and Family Services and Child Protection Act" (S. P. 724) (L. D. 1996)

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

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

Bill "An Act to Amend the Law Relating to Wine Franchises" (S. P. 714) (L. D. 1960)

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

Was referred to the Committee on Legal Affairs in concurrence.

Bill "An Act to Clarify the Definition of Projects Eligible for Revenue Bond Financing under the Finance Authority of Maine Act" (Emergency) (S. P. 725) (L. D. 1997)

Came from the Senate, referred to the

Committee on State Government and Ordered Printed.

Was referred to the Committee on State Government in concurrence.

Non-Concurrent Matter

Bill "An Act to Require Commercial Establishments Operating Microwave Ovens to Provide Notice to the Public" (H. P. 1492) (L. D. 1967) which was referred to the Committee on Legal Affairs in the House on January 19, 1984.

Came from the Senate referred to the Committee on Business Legislation in non-concurrence.

The House voted to recede and concur.

Communications

The following Communication: (S. P. 726)

111th Maine Legislature

January 20, 1984

The Honorable Peter W. Danton

The Honorable George A. Carroll

Chairmen, Transportation Committee

111th Legislature

Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Dana F. Connors of Presque Isle for appointment as the Commissioner of the Maine Department of Transportation.

Pursuant to Title 4 MRSA Section 152, this nomination will require review by the Joint Standing Committee on Transportation and confirmation by the Senate.

Sincerely,

S/GERARD P. CONLEY

President of the Senate

S/JOHN L. MARTIN

Speaker of the House

Came from the Senate, Read and Referred to the Committee on Transportation.

Was Read and Referred to the Committee on Transportation in concurrence.

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:

Business Legislation

Bill "An Act to Amend the Law Regarding Premium Discounts for Workers' Compensation Insurance of Small Businesses" (H. P. 1519) (L. D. 2001) (Presented by Representative Beaulieu of Portland) (Cosponsors: Representatives Perkins of Brooksville and Pouliot of Lewiston) (Approved for introduction by the Legislative Council pursuant to Joint Rule 26)

(Ordered Printed)

Sent up for concurrence.

Local and County Government

Bill "An Act Concerning the Use or Disposition of Fort Gorges in Casco Bay" (H. P. 1520) (L. D. 2002) (Presented by Representative Baker of Portland) (Approved for introduction by the Legislative Council pursuant to Joint Rule 26)

(Ordered Printed)

Sent up for concurrence.

Marine Resources

Bill "An Act to Prohibit Night Scallop Dragging within the 3-mile Limit in Washington County" (H. P. 1521) (L. D. 2003) (Presented by Representative Connors of Franklin) (Approved for introduction by the Legislative Council pursuant to Joint Rule 26)

Bill "An Act to Prohibit the Use of Paravanes in the Coastal Waters of Maine by any Vessel that is under Propulsion" (H. P. 1522) (L. D. 2004) (Presented by Representative Connors of Franklin) (Approved for introduction by the Legislative Council pursuant to Joint Rule 26)

(Ordered Printed)

Sent up for concurrence.

Taxation

Bill "An Act to Create a Watercraft User Fee" (Emergency) (H. P. 1523) (Presented by Representative Scarpino of St. George) (Approved for introduction by the Legislative Council pursuant to Joint Rule 26)

(Ordered Printed)

Sent up for concurrence.

Orders

On motion of Representative Rolde of York, the following Joint Order: (H. P. 1524)

WHEREAS, the Legislature has enacted "AN ACT Promoting Alcoholism Prevention, Education, Treatment and Research; and

WHEREAS, this Act eliminated the language in previous statutes which said that there should be one office to operate state alcohol abuse services; and

WHEREAS, the Act also established an Alcoholism Prevention, Education, Treatment and Research Fund which in large part derives its funds from the premium on spirits and fortified wines; and

WHEREAS, the Legislature is given the power to make allocations from the fund to any public or private agency or person; and

WHEREAS, the Commissioner of Corrections, the Commissioner of Educational and Cultural Services, the Commissioner of Human Services and the Commissioner of Mental Health and Mental Retardation are directed to prepare and submit a report to the Legislature on alcoholism prevention, education, treatment and research, including their specific recommendations regarding allocations from the fund; and

WHEREAS, the Legislature must afford appropriate opportunity to members of the public to express their concerns or proposals for allocations from the fund; and

WHEREAS, this process has been undertaken; now, therefore, be it

ORDERED, the Senate concurring, that the Joint Select Committee on Alcoholism Services which was reestablished during the First Regular Session of the 111th Legislature shall be continued during the Second Regular Session of the 111th Legislature and that the committee shall consist of the same membership as served on the committee during the First Regular Session; and be it further

ORDERED, that the Joint Select Committee on Alcoholism Services continue to review the plan submitted by the Commissioner of Corrections, the Commissioner of Educational and Cultural Services, the Commissioner of Human Services and the Commissioner of Mental Health and Retardation and report out any legislation appropriate to the plan and the purpose of the Act; and be it further

ORDERED, that the Committee afford an appropriate opportunity to members of the public to comment on the plan and make recommendations regarding allocations from the fund.

Was read and passed and sent up for concurrence.

Consent Calendar**Second Day**

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the Second Day:

Later Today Assigned

(H. P. 1394) (L. D. 1817) Bill "An Act to Make Necessary Technical Corrections to the Financial Institution Conversion Process" (C. "A" H-452)

On motion of Representative Ketover of Portland was removed from the Second Day Consent Calendar.

Report was read and adopted. Bill read once. Committee Amendment "A" was read by the Clerk.

On motion of Representative Ketover of Port-

land, tabled pending adoption of Committee Amendment "A" and later today assigned.

(H. P. 1446) (L. D. 1898) Bill "An Act Facilitating Maine's Participation in the National Central Registration Depository" (Emergency)

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

Passed to Be Enacted Emergency Measure

An Act Concerning the Rate of Return on Investment Factor Under the Railroad Excise Tax (H. P. 1288) (L. D. 1708) (H. "A" H-449)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Representative Joseph.

Mrs. JOSEPH: Mr. Speaker, Men and Women of the House: As we vote to pass this bill, there seems to me to be more questions than there are answers.

In Waterville, there are 300 or more employees of Maine Central Railroad doing heavy engine repair work. In Massachusetts, I am aware that Governor Dukakis awarded Maine Central Railroad and the Mellon Company \$9 million to build a heavy engine repair shop. In New York State, it is my understanding that New York has awarded the Mellon Railroad group \$20 million. Of course here in Maine we cannot afford to do that, and we cannot compete with those particular states.

My question and concern is, what assurances do we have here in the State of Maine that our Maine people will still be employed by Maine Central Railroad? There are many other questions when we are thinking about passing this particular piece of legislation. What is the long-term policy of Maine Central Railroad?

I am also aware that there are 9 or 10 other railroads affected by this piece of legislation, but my concern, because of Waterville employees, is Maine Central Railroad.

My concern as I vote in favor of this bill, and in good faith, will Maine Central Railroad in fact honor their commitment to employ Maine people, especially Waterville people? Will they in good conscience recognize the human aspect of 300 employees out of a population of 18,000 without jobs? Will they be willing to fulfill the commitment to employ Maine people to service their Maine railroad system?

As in any good business deal, what are we going to get in return from Maine Central Railroad if we pass this piece of legislation? Perhaps we should consider amending this bill to say that any railroad doing business in Maine will be eligible for a tax break concerning freightcar leasing as long as Maine people are employed by the said railroad. It is just one of those questions that concerns me, and I would like to know, are we going to continue to give Maine Central Railroad or any other railroad this exemption if they are doing business in Maine and not hiring Maine people?

The SPEAKER: The Chair recognizes the gentleman from Bangor, Representative Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I have sponsored this bill over the past several years. It has been before the Taxation Committee, and I am sure the Taxation Committee members know the bill if not as good as I do, better than I do.

I can appreciate the concerns raised by the Representative from Waterville in regards to the operation of the yard of Maine Central Railroad, but this is a tax mechanism, in all honesty, that really isn't a fair tax. For some reason we decided to sunset it this last session, meaning you, the members of this body; however, the Finance Office felt that through the Governor's Office perhaps we would be better off if we put a sunset on it. I don't necessarily

disagree with that, and I don't disagree with Mrs. Joseph's arguments, but I don't think that we should be in a position in this House to try to set down certain arrangements in regards to a tax which is unfair.

I can appreciate the concerns she has for jobs, because I will tell you in this House something, that we had a yard in Bangor operated by Maine Central Railroad and that yard no longer exists. If anyone had a right to holler, I think it would be myself, who is the prime sponsor of this bill, and those of us up in that general Bangor area.

I don't think you can confuse the issue by trying to compare what the long range plans are with Maine Central Railroad. I do hope they stay in Maine, but that doesn't subtract us from the fact that the tax mechanism dealing with leased cars of railroads is entirely fair. That is one reason why this bill has come out of the Taxation Committee over the years unanimous, because there is an inequity and obviously that committee realizes it.

I can appreciate Mrs. Joseph's concerns, but I don't think we should wallow in that particular element of argument in regards to this particular tax.

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Representative Racine.

Mr. RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question. Is there a fiscal note attached to this bill? If so, what is it?

The SPEAKER: The Chair would advise the gentleman from Biddeford, Mr. Racine, and members of the House that there was a fiscal note added when the bill was enacted during the last legislature and went to the Governor. All the fiscal note does this time is remove any requirements that there would be a loss of revenue after two years since this particular amendment now sunsets the bill for the remainder of this fiscal year.

The Chair recognizes the gentleman from Winslow, Mr. Matthews.

Mr. MATTHEWS: Mr. Speaker and Members of the House: I won't take very much of your time. I would like to just say to the Representative from Bangor, Mr. Kelleher, that I agree with what you are saying, and to members of the Taxation Committee, I understand the problem. The only thing that I would like to mention here today on the floor and publicly for the record—my disagreement with the whole process has been the way that Mr. Mellon, Mr. Fink, and the corporation has handled this situation.

I have had numerous people in my district that worked and are employed by the railroad contact me for the last three or four weeks. Unfortunately, I will relate to you today that I think they were used as pawns in a game that was played out by the members of the corporation to get some of the things passed and some measures supported here by our legislature. That is what I am in serious disagreement with here today, the method used by the corporation to try to manipulate employees.

I understand and I sympathize with the members of the Taxation Committee and I appreciate the job that they did.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Kane.

Mr. KANE: Mr. Speaker, Ladies and Gentlemen of the House: This bill, for those who are confused about it, and it is confusing, all this bill does, as the Speaker suggested, is to extend for two years what we have been doing for the last several years. The bill that was passed last time would have extended this tax treatment ad infinitum. The Governor's Office thought that maybe that could turn out to be unwise in a couple of years, and I retrospectively concur in their judgment.

My perspectives on this bill are two, and that is the first one. The second one is that there is a yard in Bangor that is not what it used to be,

there is a yard in South Portland that is not what it used to be, and I happen to be one of those people who used to be one of the section hands in South Portland, and everyone that I was hired with is so far down on the roster now they'll never ever see a job with the railroad again unless there is a possibility that we can do something about it.

I think the gentledady from Waterville is right, that Massachusetts has apparently made things awfully attractive to Guilford Transportation, has provided them with millions of dollars in order to build a new roundhouse.

I would urge you to vote for this bill, but I think further I would like to suggest that there are some of us in this House, whether from Bangor, Waterville or South Portland, who are concerned about what is going to happen with the rest of the railroad jobs and whether or not we can get some of those jobs, among the best jobs in the state, back to Maine. We should probably try to discover why the Maine Central Railroad and Guilford Transportation find Massachusetts so attractive and whether or not there is something we can do about it. But that is sort of by the way; I urge you to vote for the enactment of this bill.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Manning.

Mr. MANNING: Mr. Speaker, Ladies and Gentlemen of the House: As one of the cosponsors from Portland for the last three years on this bill, I would just like to set the record straight. This bill really will only deal with one particular railroad, and that is the Maine Central. The reason why this bill is in is because years past, this past legislature, set up another tax mechanism that gave other railroads benefits that the Maine Central could not obtain.

One of the things that really got me interested in it was, it gave a Canadian railroad a much bigger tax benefit than it did our own railroad here in the State of Maine.

In talking with some of the employees at the management level at Maine Central within the last three or four days, this particular bill will not give them one bit of break this year because of their tax revenues—on their revenues. This only kicks in when their revenues hit a certain point and, unfortunately, this isn't going to help them this year but maybe down the road it will help them.

I would hope that we would pass this bill today.

The SPEAKER: The pending question is on passage to be enacted. This being an emergency measure, it requires a two-thirds vote of all the members elected to the House. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

128 having voted in the affirmative and none in the negative, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Orders of the Day

On motion of Representative Carter of Winslow, the House reconsidered its action of earlier in the day whereby Bill "An Act to Make Allocations from the Health Care Finance Commission Fund for the Fiscal Year Ending June 30, 1984" (Emergency) (S. P. 720) (L. D. 1992) was referred to the Committee on Appropriations and Financial Affairs in concurrence.

Under suspension of the rules, the Bill was read twice.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, I would pose a question through the Chair to the Chairman of the Committee. Perhaps he could inform us as to the rationale and the necessity of passing this bill today.

The SPEAKER: The gentleman from Scarborough, Mr. Higgins, has posed a question

through the Chair to the gentleman from Winslow, Mr. Carter, who may answer if he so desires, and the Chair recognizes that gentleman.

Mr. CARTER: Mr. Speaker, in answer to the question, when we passed the Hospital Cost Containment Bill, we did not make the allocation. We should have made the allocation then but we didn't. All this does is make the allocation until the end of this fiscal year. There's another bill coming down which will make the allocation for the next fiscal year.

Thereupon, the Bill was passed to be engrossed without reference to any committee in non-concurrence and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Michael.

Mr. MICHAEL: Mr. Speaker, is the House in possession of L. D. 901?

The SPEAKER: The Chair would answer in the affirmative. An Act to Extend and Amend the Statute entitled Purchase of Foodstuffs from Maine Concerns (H. P. 710) (L. D. 901) is in the possession of the House, having been recalled from the Governor's desk.

On motion of Representative Michael of Auburn, under suspension of the rules the House reconsidered its action whereby the Bill was passed to be enacted.

On further motion of the same gentleman, under suspension of the rules the House reconsidered its action whereby the Bill was passed to be engrossed.

The same gentleman offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-451) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Michael.

Mr. MICHAEL: Mr. Speaker, Ladies and Gentlemen of the House: This amendment is to an LD which we passed last year which extended a law that had been on the books for about five years. This bill was held up by the Governor's Office so that they could make some minor adjustments that they thought would improve the bill.

The main concern that the Governor's Office had was in one section of the bill where it requires that state institutions purchase locally grown products when they are available in the same quantity and quality. That process may not have allowed for, in fact did not allow for competitive bidding. This amendment allows for competitive bidding in that process. It also requires that the coordinator, which this bill creates, to be a liason between the farms and the producers and the distributors and the state institutions, which is the real meat of the bill, set up a meeting once a year, sort of a brainstorming meeting between the producers and the people that would like to purchase, the purchasing agents in the institutions and discover ways that they could support each other.

There is no appropriation for this bill, the money already having been appropriated last session.

Thereupon, House Amendment "B" was adopted.

The Bill was passed to be engrossed as amended by Senate Amendment "A" (S-231), Committee Amendment "A" (H-254) and House Amendment "B" (H-451) in non-concurrence and sent up for concurrence.

The Chair laid before the House the first tabled and today assigned matter:

An Act to Provide for Reapportionment of County Commissioner Districts (H. P. 1487) (L. D. 1950)

Tabled—January 24, 1984 by Representative Kelleher of Bangor.

Pending—Passage to be Enacted.

On motion of Representative Kelleher of Bangor, retabled pending passage to be enacted and tomorrow assigned.

The Chair laid before the House the following matter:

Bill "An Act to Make Necessary Technical Corrections to the Financial Institution Conversion Process" (H. P. 1394) (L. D. 1817) which was tabled and later today assigned pending adoption of Committee Amendment "A" (H-452)

Representative Ketover of Portland offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-454) was read by the Clerk and adopted.

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

The Bill was assigned for second reading tomorrow.

At this point, the Speaker announced the presence of Representative Beaulieu of Portland in the hall of the House, effective yesterday, January 24, who was absent on the organizational roll call.

(Off Record Remarks)

On motion of Representative Tuttle of Sanford,

Adjourned until ten o'clock tomorrow morning.