

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Twelfth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 5, 1984 - June 20, 1985

HOUSE

Tuesday, March 12, 1985

The Speaker resumed the Chair.

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

Prayer by Reverend Reginald Couture, Union Congregational Church, Ellsworth Falls. Quorum called; was held.

National Anthem by the Nokomis High School Band, Newport.

Reading of the Journal of Friday, March 8, 1985.

Papers from the Senate

Bill "An Act Concerning Attendance in Public Schools" (S.P. 352) (L.D. 960)

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

Was referred to the Committee on Education in concurrence.

Bill "An Act to Implement the Recommendations of the Maine Land and Water Resources Council Ground Water Review Policy Committee" (S.P. 353) (L.D. 961)

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

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

Bill "An Act to Provide for the Taking of One Spruce Partridge in the Daily Bag Limit" (S.P. 345) (L.D. 940)

Came from the Senate, referred to the Committee on Fisheries and Wildlife and Ordered Printed.

Was referred to the Committee on Fisheries and Wildlife in concurrence.

Tabled and Assigned

Bill "An Act to Provide for Contingency Needs of Intermediate Care Facilities for the Mentally Retarded" (S.P. 346) (L.D. 941)

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

On motion of Representative Carter of Winslow, tabled pending reference in concurrence and tomorrow assigned.

RESOLVE, Establishing the Maine Commission on the Role of State Government in Providing Independent Living Opportunities and Services to Disabled Persons in Maine (S.P. 355) (L.D. 963)

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

Was referred to the Committee on Human Resources in concurrence.

Bill "An Act to Provide Retraining Opportunities to Persons Whose Employment Terminates as a Result of a Plant Closing" (S.P. 354) (L.D. 962)

Bill "An Act to Amend the Workers' Compensation Act to Permit a Member in Good Faith of an Employee's Household to Collect Death Benefits under Certain Conditions" (S.P. 347) (L.D. 942)

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

Were referred to the Committee on Labor in concurrence.

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Extend the Tenure for Sheriffs from 2 Years to 4 Years (S.P. 348) (L.D. 943)

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

On motion of Representative Gwadosky of Fairfield, referred to the Committee on State Government in non-concurrence and sent up for concurrence.

Bill "An Act Making Unified Appropriations

and Allocations for the Expenditures of State Government, Highway Fund, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1986, and June 30, 1987" (Emergency) (S.P. 356) (L.D. 964)

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

Was referred to the Committee on Transportation in concurrence.

Unanimous Ought Not To Pass

Report of the Committee on Local and County Government reporting "Ought Not to Pass" on Bill "An Act to Increase the Salary for the Judge of Probate for Cumberland County" (S.P. 103) (L.D. 301) (Senator BALDACCIO of Penobscot — of the Senate — abstaining)

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

Messages and Documents

The following Communication:

STATE OF MAINE

DEPARTMENT OF HUMAN SERVICES

Augusta, Maine 04333

February 28, 1985

The Honorable John L. Martin

Speaker

Maine House of Representatives

State House

Augusta, Maine 04333

Dear Speaker Martin:

Please find enclosed a copy of the 3rd Annual Fee Review prepared by the Department's Bureau of Medical Services Staff in compliance with 22 M.R.S.A., section 3173. The primary objectives of the review were to consider, in consultation with providers and their representative associations, the cost of providing specific services, the effect of various economic factors on the adequacy of existing fee schedules, and the Department's obligation to ensure sufficient provider participation in the Medical Assistance Program.

As you will note in the attached summary, the major conclusions reached as a result of the 3rd Annual Fee Review are:

1. The Department of Human Services had fulfilled its obligation under 22 M.R.S.A., section 3173 — AN ACT Concerning Review of Fees for Providers Under the Medical Assistance Program.

2. The Department of Human Services has, as a result of the review, made some changes in fee schedules. Oral surgery fees have been increased with special attention given to orthognathic procedures. Durable Medical Equipment and Supplies percentage mark-up allowances have been increased and, with a special appropriations from the Legislature, the ambulance fee schedule has been increased. An increase in orthodontia fees is planned for the Spring of 1985, and Department of Human Services is working with the Department of Mental Health and Retardation's Bureau of Mental Health toward increasing reimbursement for Mental Health Clinic services.

Medicaid coverage has also been expanded to include specific services provided in free-standing Substance Abuse Treatment Facilities.

Details of these and other Medicaid fee schedule adjustments which have been made since the enactment of P.L. 1981, C. 329 are noted in Table G of the summary.

3. The Department acknowledges the existence of certain problem areas and the necessity of addressing these areas with specific fee increases. However, the Department also recognizes that such action is not feasible within existing fiscal constraints.

As indicated in the attached document, copies of the review are also being shared with representative health care provider associations and, upon request, individual providers.

Any questions or concerns you may have regarding this matter, or which might be

brought to your attention, may be directed to Donee Wyke, Director, Division of Cost Containment, Bureau of Medical Services, or to me.

Sincerely,

S/ MICHAEL R. PETIT
Commissioner

Was read and with accompanying report ordered placed on file.

The following Communication:

STATE OF MAINE

DEPARTMENT OF EDUCATIONAL
AND CULTURAL SERVICES

Augusta, ME 04333

To: Edwin H. Pert, Date: March 8, 1985
Clerk of the House

From: Robert E. Boose, Commissioner

Subject: Report of Advisory Committee on Medical Education

In accordance with the provisions of 20-A M.R.S.A., Chapter 421, it is my duty to annually report to the Legislature and to the Governor a plan which assures, to the extent practicable, that Contract students return to practice their profession within the state. It is my pleasure, therefore, to transmit herewith the **Annual Status Report** prepared by the Advisory Committee on Medical Education which summarizes the Committee's activities and recommendations for the period January, 1984 — December, 1984.

Was read and with accompanying report ordered placed on file.

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 Committee, Ordered Printed and Sent up for Concurrence:

Appropriations and Financial Affairs

Bill "An Act to Increase the Number of Revenue Agents" (H.P. 693) (Presented by Representative MANNING of Portland) (Cosponsors: Senator DUTREMBLE of York, Representative LISNIK of Presque Isle and MAYO of Thomaston)

Bill "An Act to Appropriate Funds for Emergency Medical Services in Maine" (H.P. 692) (Presented by Representative CARROLL of Gray) (Cosponsors: Senators DIAMOND of Cumberland, PERKINS of Hancock and Representative PINES of Limestone)

(Ordered Printed)

Sent up for concurrence.

Education

Bill "An Act to Require that the Educational School Year Consist of 175 Consecutive Days" (H.P. 694) (Presented by Representative BOST of Orono) (Cosponsors: Representatives O'GARA of Westbrook, CARROLL of Gray and BROWN of Gorham)

(Ordered Printed)

Sent up for concurrence.

Labor

Bill "An Act Relating to the Coordination of Benefits under the Workers' Compensation Act" (H.P. 695) (Presented by Representative RIDLEY of Shapleigh) (Cosponsors: Representatives STETSON of Damariscotta and POULIOT of Lewiston)

(Ordered Printed)

Sent up for concurrence.

Legal Affairs

Bill "An Act to Prohibit Frivolous Challenges to Absentee Ballots" (H.P. 696) (Presented by Representative STEVENS of Bangor) (Cosponsors: Representatives DUFFY of Bangor, WARREN of Scarborough and PAUL of Sanford)

(Ordered Printed)

Sent up for concurrence.

Local and County Government

Bill "An Act to Grant Municipalities the

Option of Repairing Private Roads Within Subdivisions" (H.P. 702) (Presented by Representative ROLDE of York)
(Ordered Printed)
Sent up for concurrence.

State Government

RESOLVE, Pertaining to a State Employee Health Promotion" (Emergency) (H.P. 697) (Presented by Representative MANNING of Portland) (Cosponsor: Senator GILL of Cumberland)
(Ordered Printed)
Sent up for concurrence.

Taxation

Bill "An Act Relating to Meals and Lodging Tax" (H.P. 698) (Presented by Representative HOGUND of Portland) (Cosponsors: Representative BOUTILIER of Lewiston and Senator NAJARIAN of Cumberland)
(Ordered Printed)
Sent up for concurrence.

Transportation

Bill "An Act Pertaining to Actions by the Board of Directors of Transit Districts" (H.P. 699) (Presented by Representative MANNING of Portland)
(Ordered Printed)
Sent up for concurrence.

Utilities

Bill "An Act Concerning Winter Termination of Water Utility Service" (H.P. 700) (Presented by Representative ROTONDI of Athens) (Cosponsors: Representatives HEPBURN of Skowhegan, RICHARD of Madison and Senator WEBSTER of Franklin)
(Ordered Printed)
Sent up for concurrence.

Orders

On motion of Representative McSWEENEY of Old Orchard Beach, the following Order:
ORDERED, that Representative Stephen M. Zirnkilton of Mount Desert be excused March 7 and 8 for personal reasons.
Was read and passed.

Reports of Committees

Unanimous Ought Not to Pass

Representative SMITH from the Committee on Fisheries and Wildlife on Bill "An Act Concerning the Fee Charges for Agents Selling Fisheries and Wildlife Licenses" (H.P. 393) (L.D. 542) reporting "Ought Not to Pass"
Was placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Unanimous Leave to Withdraw

Representative HIGGINS from the Committee on Taxation on Bill "An Act to Increase the Fee for Issuance of Tax Receipts in Unorganized Places" (H.P. 71) (L.D. 92) reporting "Leave to Withdraw"

Representative HIGGINS from the Committee on Taxation on Bill "An Act Concerning Taxpayer information" (H.P. 53) (L.D. 66) reporting "Leave to Withdraw"

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Ought to Pass in New Draft

Representative TARDY from the Committee on Agriculture on Bill "An Act Concerning Dogs Running-at-large" (H.P. 147) (L.D. 181) reporting "Ought to Pass" in New Draft (H.P. 701) (L.D. 959)

The Report was read and accepted, the New Draft read once and assigned for Second Reading tomorrow.

Divided Report

Majority Report of the Committee on Marine Resources reporting "Ought to Pass" as amend-

ed by Committee Amendment "A" (H-15) on Bill "An Act Regarding Notice of Municipal Shellfish Conservation Programs" (H.P. 45) (L.D. 51)

Signed:
Senators:

CHALMERS of Knox
SHUTE of Waldo
BROWN of Washington

Representatives:

SALSBURY of Bar Harbor
VOSE of Eastport
MANNING of Portland
RICE of Stonington
CROWLEY of Stockton Springs
CONNERS of Franklin
MITCHELL of Freeport
RUHLIN of Brewer
COLES of Harpswell

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

Representative: SCARPINO of St. George
Reports were read.

On motion of Representative Crowley of Stockton Springs, the Majority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (H-15) was read by the Clerk and adopted and the Bill assigned for Second Reading tomorrow.

Consent Calendar

First Day

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

(S.P. 46) (L.D. 63) Bill "An Act to Allow the Secretary of State to Issue License Plates for Former Prisoners of War" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-10) (H.P. 213) (L.D. 247) Bill "An Act Relating to the Adulteration of Food" Committee on Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (H-17)

(H.P. 348) (L.D. 469) Bill "An Act to Establish the Cost of the 1985 Spruce Budworm Suppression Project and to Provide Operating Funds for the Spruce Budworm Management Program" (Emergency) Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-18)
There being no objections, the above items were ordered to appear on the Consent Calendar of Wednesday, March 13, 1985 under the listing of Second Day.

Consent Calendar

Second Day

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

(S.P. 35) (L.D. 43) Bill "An Act to Ensure Consistency Between 2 State Laws Concerning Personal Care Assistance Services" (C. "A" S-7)

(H.P. 130) (L.D. 155) Bill "An Act Concerning Recordation of Interment"

(H.P. 190) (L.D. 224) Bill "An Act Concerning Deliveries of Annual Estimates for County Taxes"

(H.P. 47) (L.D. 53) Bill "An Act to Revise the License Suspension Penalties Relating to Marine Resources" (C. "A" H-16)

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

Passed to Be Engrossed

Bill "An Act to Amend the Weir Licensing Laws" (Emergency) (H.P. 677) (L.D. 939)

Was reported by the Committee on Bills in the Second Reading, read the second time, Passed to be Engrossed, and sent up for

concurrence.

Passed to Be Enacted Emergency Measure

An Act to Establish a Uniform Fee for Whitewater Guides Licenses (H.P. 91) (L.D. 111)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 132 voted in favor of the same and none against and accordingly, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Clarify the Enforcement of Private Septage Disposal Sites (S.P. 16) (L.D. 9)

Was 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.

An Act Relating to Radiation User Fees Under the Human Services Law (S.P. 86) (L.D. 267)

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

ON motion of Representative Brodeur of Auburn the House reconsidered its action whereby this Bill was passed to be engrossed.

The same Representative offered House Amendment "A" (H-20) and moved its adoption.

House Amendment "A" (H-20) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Brodeur.

Representative BRODEUR: Mr. Speaker, Members of the House: This is an amendment that was brought to our attention by a legislative staff person to correct a drafting error.

Whereupon, House Amendment "A" was adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" in non-concurrence and sent up for concurrence.

An Act to Amend the Law Concerning Pension Benefits for Dependents of Sheriffs (H.P. 149) (L.D. 183) (C. "A" H-9)

An Act to Allow Transmittal of Certificates of Illegitimate Births to Other Municipalities (H.P. 169) (L.D. 203)

An Act Concerning Expiration of Motor Vehicle Drivers' Licenses for Persons 65 Years of Age and Older (H.P. 209) (L.D. 243)

An Act to Make Administrative Changes in Truck Weight Tolerances (H.P. 224) (L.D. 258)

An Act to Allow Municipal Officers to Appoint Deputy Treasurers and Deputy Tax Collectors (H.P. 8) (L.D. 6)

An Act to Designate the 3rd Week in October as Maine Business Women's Week (H.P. 201) (L.D. 235) (C. "A" H-10)

An Act for the Repeal of Obsolete Provisions Providing Accidental Death Benefits (H.P. 248) (L.D. 302)

Was 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.

An Act to Deny Certain State Funds to Any Person Who Refuses to Register Under the United States Military Selective Services Act (H.P. 643) (L.D. 897)

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

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Connolly.

Representative CONNOLLY: Mr. Speaker, Members of the House: It is my intention this morning—I have no illusions whatsoever about the ultimate fate of this bill—this bill is going to pass. The two roll call votes that were taken in this body last week and the week before, I believe, showed that there was overwhelming

support for this legislation and the votes were better than two to one, I believe. However, I am going to request this morning that someone make a motion to table this bill for two days because I believe that since it appears certain that this bill is going to become law that we, in this legislature, should know exactly what we are getting ourselves into and should know from the very beginning whether or not there are any possible constitutional or legal questions with this bill.

I got caught off-guard, I thought that this bill had been held up in the other body and was going to be debated in the other body and would not be in here for enactment until probably Thursday or Friday of this week and it was not until I arrived here this morning and saw the calendar that I saw that it was up for enactment.

I am preparing a letter to the Attorney General that will be delivered this afternoon that will be asking the Attorney General whether or not this legislation, if it becomes law, violates either the U.S. Constitution or the State Constitution on certain technical grounds dealing with equal protection and self-incrimination and also asking a question whether or not this would violate the state's Human Rights Act because it is discriminatory. Even the supporters of the legislation admitted last week in debate that this legislation discriminates against young men and it also discriminates against poor people, those people who must rely on student aid in order to go to school.

The Governor has sadly given his support for the legislation and, obviously if it gets to his desk, he is going to sign it. There is no question whatsoever what this body is going to do if the vote is taken today or if it is taken two days from now or if it is taken two weeks from now, the votes are here to pass it. If we are going to pass the legislation, I think we should know exactly what we are getting ourselves into and I would ask this body, as perhaps a matter of courtesy, that they allow this bill to be tabled for two days so that we have an opportunity to get a formal opinion from the Attorney General.

The SPEAKER: The Chair recognizes the Representative from Canton, Representative McCOLLISTER.

Representative McCOLLISTER: Mr. Speaker, I move that this be tabled for two legislative days.

Representative Kane of South Portland requested a roll call.

The SPEAKER: For the Chair to order a roll, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

Obviously, more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion of the Representative from Canton, Representative McCollister, that this bill be tabled for two legislative days. Those in favor will vote yes; those opposed will vote no.

ROLL CALL No. 8

YEAS:—Allen, Baker, H.R.; Beaulieu, Bost, Bott, Brannigan, Brodeau, Brown, A.K.; Carroll, Carter, Cashman, Chonko, Clark, Coles, Connolly, Cooper, Cote, Crouse, Crowley, Diamond, Duffy, Foster, Gwadosky, Hale, Handy, Hayden, Hoglund, Joseph, Kane, Lacroix, Lisnik, Martin, H.C.; Mayo, McCollister, McHenry, McPherson, Melendy, Michael, Michaud, Mills, Mitchell, Moholland, Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, O'Gara, Paradis, P.E.; Paul, Priest, Randall, Reeves, Rolde, Ruhlin, Rydell, Simpson, Smith, C.W.; Soucy, Sproul, Stevens, P.; Theriault, Vose, Warren

NAYS:—Aliberti, Armstrong, Baker, A.L.; Begley, Bell, Bonney, Bragg, Brown, D.N.;

Cahill, Callahan, Carrier, Conners, Daggett, Dellert, Descoteaux, Dexter, Dillenback, Drinkwater, Erwin, Farnum, Foss, Greenlaw, Harper, Hepburn, Hichborn, Hickey, Higgins, L.M.; Hillock, Holloway, Ingraham, Jackson, Jacques, Jalbert, Kimball, Lander, Law, Lawrence, Lebowitz, Lord, MacBride, Macomber, Manning, Masterman, Matthews, McSweeney, Murphy, E.M.; Murphy, T.W.; Nicholson, Nickerson, Paradis, E.J.; Parent, Perry, Pines, Pouliot, Racine, Rice, Richard, Ridley, Roberts, Rotondi, Salisbury, Scarpino, Small, Smith, C.B.; Stetson, Stevens, A.G.; Stevenson, Strout, Swazey, Tammara, Tardy, Telow, Walker, Webster, Wentworth, Weymouth, Whitcomb, Willey,

ABSENT:—Boutilier, Davis, Higgins, H.C.; McGowan, Rioux, Seavey, Sherburne, Taylor, Zirkilton, The Speaker

Sixty-three having voted in the affirmative and seventy-eight in the negative with ten absent, the motion did not prevail.

Subsequently, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Clarify the Procedure for Preparing Ballots for Municipal Elections (H.P. 64) (L.D. 82)

Was 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.

Orders of the Day Tabled and Assigned

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

Bill "An Act Pertaining to Law Enforcement Officers and Public Office Holding" (Emergency) (H.P. 467) (L.D. 616) (S. "A" S-8)

TABLED—March 7, 1985 by Representative DIAMOND of Bangor.

PENDING—Ruling of the Chair.

On motion of Representative Diamond of Bangor, retabled pending a ruling of the Chair and tomorrow assigned.

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

Bill "An Act Providing for Repair, Maintenance and Operation of State-owned Dam on Dead River, Androscoggin County" (H.P. 680) (Committee on Energy and Natural Resources suggested.)

TABLED—March 8, 1985 by Representative CARTER of Winslow.

PENDING—Reference.

On motion of Representative Carter of Winslow, referred to the Committee on Appropriations and Financial Affairs, Ordered Printed and Sent up for concurrence.

The following item appearing on Supplemental No. 1 was taken up out of order by unanimous consent:

Recalled from Legislative Files

(Pursuant to Joint Order — House Paper 655)

Bill "An Act Pertaining to the Observance of Veterans Day" (H.P. 200) (L.D. 234)

On motion of Representative Diamond of Bangor, recommitted to the Committee on State Government and sent up for concurrence.

(Off Record Remarks)

On motion of Representative Smith of Mars Hill,

Adjourned until ten o'clock tomorrow morning.