

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME VII

SECOND REGULAR SESSION

Senate

March 10, 1992 to March 31, 1992

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HOUSE AND SENATE LEGISLATIVE SENTIMENTS

December 5, 1990 to December 1, 1992

STATE OF MAINE
ONE HUNDRED AND FIFTEENTH LEGISLATURE
FOURTH SPECIAL SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Friday
October 16, 1992

In Compliance with a proclamation of His Excellency, Governor JOHN R. MCKERNAN, JR., the Senators will convene in the Senate Chamber at ten o'clock in the morning.
Senate called to Order by the President.

Prayer by the Honorable Jerome A. Emerson of Penobscot.

SENATOR JEROME EMERSON: Let us be in a spirit of prayer. Heavenly Father, we pause to say thanks for this very beautiful fall season, for bountiful harvests, and the many blessings that are bestowed upon us every day of every season. Often we tend to focus on our misfortunes, and overlook our good fortunes. On the State level we wonder how solutions to our problems can be found, how people's hopes, wants, and expectations can be met, but upon consideration of worldwide problems ours pale in comparison. For this we should be thankful. As the final days of this 115th Legislature draw near and we leave this place, some of us never to return as members, we pray that some measure of good has been accomplished and that peoples lives are a little better for us having been here. And now for today, we pray that our work will be done with good judgement, fairness, and dispatch. This we ask in Christ's name. Amen.

The Secretary read the Proclamation.

State of Maine
PROCLAMATION

WHEREAS, the United States Congress enacted the Older Workers Protection Act, signed by the President, which mandates eligibility modifications for the Maine State Retirement System by October 16, 1992; and

WHEREAS, there exists a need to make changes to the laws of Maine affecting the Maine State Retirement System to eliminate discriminatory provisions, while preventing additional costs to the State and Participating Local Districts; and

WHEREAS, the 115th Legislature created the Commission to Study a Long-term Disability Program for the Maine State Retirement System Members to report back to the Second Regular Session of the 115th Legislature with findings, recommendations, and any necessary legislation; and

WHEREAS, on September 30, 1992, the Commission presented its report to the Legislative Council and the Legislative Council asked the Joint Standing Committee on Aging, Retirement, and Veterans to review the report and recommend Legislative action; and

WHEREAS, on October 9, 1992, the Joint Standing Committee on Aging, Retirement, and Veterans has recommended the unanimous adoption of the minority report; and

WHEREAS, quick action on the unanimous recommendation of the Joint Standing Committee is called for,

NOW, THEREFORE, I, John R. McKernan, Jr., Governor of the State of Maine, pursuant to Article V, Part First, Section 13, do hereby convene the 115th Legislature on Friday, the sixteenth day of October, 1992, at 10:00 a.m. in the City of Augusta.

In testimony whereof, I have caused the Great Seal of the State to be hereunto affixed GIVEN under my hand at Augusta this fourteenth day of October in the Year of our Lord One Thousand Nine Hundred and Ninety-Two.
S/JOHN R. MCKERNAN, JR.
Governor

S/G. William Diamond
Secretary of State

Which was READ and ORDERED PLACED ON FILE.

ROLL CALL

The Roll being called, the following Senators answered to their name:

Senators BALDACCI, BERUBE, BRANNIGAN, BUSTIN, CAHILL, CARPENTER, CLARK, COLLINS, EMERSON, ESTY, FOSTER, GILL, GOULD, HOLLOWAY, LUDWIG, MCCORMICK, MILLS, PEARSON, SUMMERS, THERIAULT, TITCOMB, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

25 Senators having answered to the Roll, the President declared a quorum present.

At this point, a message was received from the House of Representatives borne by Representative GWADOSKY of Fairfield, informing the Senate that a quorum was present for the consideration of such business as might come before the House.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by Senator CLARK of Cumberland, the following Senate Order:

ORDERED, that a message be sent to Governor John R. McKernan, Jr., informing him that a quorum of Senators is assembled in the Senate Chamber for the consideration of such business as may come before the Senate.

Which was READ and PASSED.

The President appointed the Senator from Cumberland, Senator CLARK to deliver the message to the Governor.

Subsequently, the Senator from Cumberland, Senator CLARK reported that she had delivered the message with which she was charged.

Out of order and under suspension of the Rules, on motion by Senator PEARSON of Penobscot, the following Senate Order:

ORDERED, that a message be sent to the House of Representatives informing that Body that a quorum of Senators is present for the consideration of such business as may come before the Senate.

Which was READ and PASSED.

The President appointed the Senator from Penobscot, Senator PEARSON to deliver the message.

Subsequently, the Senator from Penobscot, Senator **PEARSON** reported that he had delivered the message with which he was charged.

SENATE PAPERS

Bill "An Act to Amend the Disability Provisions of the Maine State Retirement Laws to Comply with the Requirements of the Older Workers Benefit Protection Act" (Emergency)

S.P. 977 L.D. 2466

Presented by Senator **COLLINS** of Aroostook (GOVERNOR'S BILL)

Cosponsored by Senator **MCCORMICK** of Kennebec and Representative **JALBERT** of Lisbon

Committee on **AGING, RETIREMENT & VETERANS** suggested and **ORDERED PRINTED**.

Which was, under suspension of the Rules, **READ ONCE**, without reference to a Committee.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator **Mccormick**.

Senator **MCCORMICK:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I just want to take a short minute to help us all understand what this Bill does in the absence of the good Senator from Aroostook, Senator **Collins**. First of all, we're complying with a federal mandate, the Older Worker's Benefit Protection Act, which says that we must remove any age discriminatory requirements from our pension system and we have two. The first one is that when people are on disability benefits, at ten years after their normal retirement age they automatically drop, quite a precipitous drop, to their retirement benefit. So that is now illegal. Second is that if a worker decides to work past their normal retirement age they cannot, under our present system, get disability benefits if they are disabled while they are working. In other words, if you're hurt while you're over 62, you have to go straight to retirement benefits and that is discriminatory under the present law.

This comes to you as a unanimous report from the Aging, Retirement and Veterans Committee. If we do not pass this Bill it will cost us \$6.4 million when you combine the \$4.4 million cost to the state and the \$2 million cost to the participating local districts. I will just add that we basically accepted the minority report of the study committee on disability. That solution to this problem says that there will be an election after October 16, which is today, and we're passing this just in the nick of time, that all present employees will be able to elect whether to stay in the present set of rules or go to the new set of rules proposed by the Bill that is before you. That set of rules is that anyone currently receiving benefits will continue to receive them at the 66 2/3 level of their salary. When the retirement benefit rises to meet that they will move onto their retirement benefit. Any new person hired after this date will, if they are hurt on the job, be compensated at 59% of their salary and they will move to their retirement level of benefit whenever their 59% of wages meets their retirement benefit. In other words that could be when they are 70, it could be when they are 80, but there is no definite age to that. All present employees will get to have an election as to whether to choose the present system or the new system.

The Committee added an amendment because we were concerned whether this \$6.4 million price tag was

accurate. Our amendment says that we are asking the Maine State Retirement System to compare their actuarial estimate, which is this \$6.4 million figure, with the actual number of people retiring and the actual cost. We are asking for that report next February and we want to compare those two to make sure that we are doing the right thing. There is a sunset on this Bill of next July, which will then just require us to review that report. That's the Bill, thank you.

Which was, under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

Which was, under suspension of the Rules, ordered sent down forthwith for concurrence.

Senate at Ease

Senate called to order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

ORDERS

Joint Order

On motion by Senator **CLARK** of Cumberland the following Joint Order:

S.P. 978

ORDERED, the House concurring, notwithstanding Joint Rule 25, that cloture for newly elected legislators in the First Regular Session of the 116th Legislature is 4 p.m. on December 18, 1992.

Which was **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator **Clark**.

Senator **CLARK:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This order represents a change in the Joint Rules which is necessitated by the fact that cloture would fall, this year, on Christmas. The Legislative Council has recommended that that date be advanced to December 18, 1992 at 4:00 p.m.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator **Pearson**.

Senator **PEARSON:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to inquire as to why it's been advanced to December 18.

THE PRESIDENT: The Senator from Penobscot, Senator **Pearson** has posed a question through the Chair. The Chair would advise the Senator to add seven days to the 18th and he would find that it would fall on the Senator's birthday, which would be December 25 and we don't want to have staff in here on Christmas Day.

Which was **PASSED**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

Senate at Ease

Senate called to order by the President.

On motion by Senator **BUSTIN** of Kennebec, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reports as truly and strictly engrossed the following:

Emergency

An Act to Amend the Disability Provisions of the Maine State Retirement Laws to Comply with the Requirements of the Older Workers Benefit Protection Act

S.P. 977 L.D. 2466

This being an Emergency Measure and having received the affirmative vote of 25 Members of the Senate, with No Senators having voted in the negative, and 25 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

The Chair noted the presence of the Senator from Kennebec, Senator **MATTHEWS**, the Senator from York, Senator **ESTES**, the Senator from Androscoggin, Senator **GAUVREAU**, and the Senator from Androscoggin, Senator **CLEVELAND**.

Out of order and under suspension of the Rules, the Senate considered the following:

ORDERS

On motion by Senator **KANY** of Kennebec, the following Senate Order:

ORDERED, that a message be sent to the House of Representatives informing that Body that the Senate has transacted all business which has come before it and is ready to Adjourn Without Day.

Which was **READ** and **PASSED**.

The Chair appointed the Senate from Kennebec, Senator **KANY**, to deliver the message. The Assistant Sergeant-At-Arms escorted the Senator to the House of Representatives.

Subsequently, Senator **KANY** of Kennebec reported she had delivered the message with which she was charged.

On motion by Senator **CLARK** of Cumberland, the following Senate Order:

ORDERED, that a message be sent to Governor John R. McKernan, Jr., informing him that the Senate has transacted all business which has come before it and is ready to Adjourn Without Day.

Which was **READ** and **PASSED**.

The Chair appointed the Senate from Cumberland, Senator **CLARK**, to deliver the message. The Assistant Sergeant-At-Arms escorted the Senator to the Governor.

Subsequently, Senator **CLARK** of Cumberland reported she had delivered the message with which she was charged.

Senate at Ease

Senate called to order by the President.

At this point, a message was received from the House of Representatives, borne by Representative **GWADOSKY** of Fairfield, informing the Senate that the

House had transacted all business before it and was ready to Adjourn, Without Day.

Off Record Remarks

Senator **BUSTIN** of Kennebec was granted unanimous consent to address the Senate off the Record.

Senator **KANY** of Kennebec was granted unanimous consent to address the Senate off the Record.

On motion by Senator **EMERSON** of Penobscot at 11:57 a.m. on Friday, October 16, 1992, the Honorable **CHARLES P. PRAY**, President of the Senate, declared the Fourth Special Session of the 115th Legislature, **ADJOURNED SINE DIE**.