

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Eighteenth Legislature
State of Maine

Volume 1

First Regular & Special Session
December 6, 1996 to May 19, 1997

Pages 1 - 980

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE**

In Senate Chamber
Tuesday
January 7, 1997

Senate called to Order by the President, Mark W. Lawrence of York.

Prayer by Father Frank Murray of Saint Mary's Catholic Church in Bangor.

FATHER FRANK MURRAY: Let us pray. God of heaven and earth we give You praise this day. You have given us so much and You love us so dearly that our fundamental stance before You is that of praise. Together we now ask You to help us give You fitting praise. May we act responsibly in protecting the gifts that You have given us, may we work to find ways to properly share Your gifts with our brothers and sisters, and may we continue to find better ways to act more justly toward one another. Gracious God help make this session of the legislature and this noble body instruments that help accomplish Your will. May our cooperation in Your creative powers truly give you fitting praise. Be with us now and always and we make this prayer in Your name. Amen.

Pledge of Allegiance was led by Senator RUHLIN of Penobscot.

Doctor of the Day, Robert M. Haile, M.D., Scarborough.

Reading of the Journal of Wednesday, December 4, 1996.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 4

**THE SENATE OF MAINE
OFFICE OF THE PRESIDENT
3 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

December 27, 1996

Joy J. O'Brien
Secretary of the Senate
3 State House Station
Augusta, Maine 04333

Dear Secretary O'Brien,

Pursuant to the Senate Order passed on December 4, 1996 I am appointing the following seven Senators to the Committee on Senatorial Vote for the political years of 1997 and 1998:

Senator Robert E. Murray, Jr. of Penobscot,
Chair
Senator Beverly C. Daggett of Kennebec
Senator Richard J. Carey of Kennebec
Senator Anne M. Rand of Cumberland
Senator Jill M. Goldthwait of Hancock
Senator Norman K. Ferguson, Jr. of Oxford
Senator S. Peter Mills of Somerset.

Sincerely,

S/Mark W. Lawrence
President of the Senate

Which was **READ** and **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 5

**REPORT OF THE COMMITTEE ON
SENATORIAL VOTE
STATE OF MAINE**

January 2, 1997

The Honorable Mark W. Lawrence
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Lawrence,

In compliance with the Senate Order of December 4, 1996, the Committee appointed by you to examine the returns of votes for Senators for the political years 1997 and 1998, has attended to its duties and asks leave to report that the returns of votes cast, as submitted by the Secretary of State to the President of the Senate, meets with the approval of the Committee.

Sincerely,

S/Robert E. Murray, Jr.
Senatorial Vote Committee

Which was **READ** and **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 6

**JUDICIAL COMPENSATION COMMISSION
C/O 13 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0013**

December 4, 1996

The Honorable Mark W. Lawrence, President of the Senate

Dear President Lawrence:

It is our pleasure to submit to you the first report of the Judicial Compensation Commission pursuant to Title 4, chapter 35. After reviewing the broad topic of judicial compensation, we have developed a proposal to ensure that Maine can attract and retain the most highly qualified candidates to the bench.

We arrived at three fundamental conclusions which serve as the premise for making recommendations to improve various aspects of judicial compensation:

Maine's Judicial Department is a **separate and equal branch** of state government and performing a function as vital to our state as the executive and legislative branches. That stature is not reflected in the recent history of state budget appropriations to the judiciary.

Maine's judiciary has a **tradition of excellence and productivity**; however, Maine cannot rely on that tradition to take the place of an equitable compensation package for the judiciary.

Maine's judiciary has not been treated fairly with respect to their compensation:

The changes recommended by the 1984 State Compensation Commission linked a certain level of salary increases to a reduction in pension benefits. Since that time, that commitment has been breached by a retreat from the anticipated salary increases while retaining the lower pension benefits.

In light of the extremely important role of the judiciary, current compensation for judges compares unfavorably to other public sector positions in Maine and to compensation of judges in other states.

As we prepared this report, we were guided by the statutory directive from the Legislature to develop recommendations to ensure that "...the most highly qualified lawyers in this State, drawn from diverse life and professional experiences, are not deterred from serving or continuing to serve in the state judiciary and do not become demoralized during service because this directive in a manner which is affordable to the people of the State of Maine. We submit this report to you and ask that our recommendations be implemented without

delay to continue the outstanding level of service provided by members of Maine's judiciary.

Each member of the Commission has come to feel strongly about the validity and need for these reforms. We are anxious to discuss this report and look forward to doing so with you.

Sincerely,

S/John DiMatteo, Chair
S/Ival R. Cianchette,
Commission Member
S/Elaine D. Rosen,
Commission Member

Which was **READ** and with Accompanying Papers **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 7

**UNIVERSITY OF MAINE
5715 COBURN HALL
ORONO, MAINE 04469-5715**

December 12, 1996

Ms. Joy O'Brien
Secretary of the Senate
State House Station #3
Augusta, Maine 04333

Dear Ms. O'Brien:

In accordance with 1967 Public Law, Chapter 493, I am enclosing copies of the report for the 1996 Maine State Government Internship Program for members of the Senate.

I would appreciate your assistance in distributing a copy to each Senator.

If you have any questions or need more than the enclosed 40 copies, please let me know.

Again, thank you for your assistance.

Sincerely,

Kathryn H. Godwin, Ed.D.
Staff Associate and
Director
Maine State Government
Summer Internship Program

Which was **READ** and with Accompanying Papers **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 8

**MAINE TURNPIKE AUTHORITY
430 RIVERSIDE STREET
PORTLAND, MAINE 04103**

December 16, 1996

Hon. Mark Lawrence
President of the Senate
State House Station #3
Augusta, Maine 04333

Hon. Elizabeth H. Mitchell
Speaker of the House
State House Station #2
Augusta, Maine 04333

Dear Mr. President and Madam Speaker:

1995 Public Law 341 and 1996 Public Law 613 require that the Maine Turnpike Authority (MTA) complete an "evaluation of reasonable alternatives specified...to widening the Maine Turnpike to 3 lanes for each direction of travel from Exit 1 to and including Exit 6A" by December 15, 1996. In conducting the evaluation required the Authority shall provide for public participation consistent with the Sensible Transportation Policy Act.

Enclosed please find a copy of the MTA's Alternatives Study. In March of 1996, the MTA engaged an independent transportation consulting firm, Vanasse Hangen Brustlin to evaluate and complete a report on the following four alternatives already being implemented or studied: conversion to electronic toll collection, alternative mode feasibility study, Rideshare program and congestion pricing study. VHB conducted three public hearings to identify other potential alternatives to widening of the turnpike. The MTA formed a diverse Public Advisory Committee (PAC) to provide VHB with continuous public input for the investigation of alternatives.

For the past nine months, the PAC has been working closely with VHB. They have met twelve times for three to six hours per meeting and have reviewed VHB's work. With a goal of consensus, the Advisory Committee tried to come to a conclusion as to what the best scenario would be to address the capacity problems of the Maine Turnpike. The PAC did come to consensus on several items. They are: that the MTA should continue to pursue and implement programs and projects that are designed to provide cost effective alternatives to the utilization of the single occupancy vehicles in the turnpike corridor. Consensus was also reached on the recommendation that MTA should continue to collect and analyze data necessary to develop permit applications to widen from four to six lanes. It was also agreed that the MTA should continue to monitor the programs and projects it has and will initiated to help reduce the congestion of the two lane corridor. There was no consensus reached as to if and when the MTA should move forward with a widening project.

Now it is the intent of the MTA to take all the information compiled in this report, hold a public hearing on the report plus in-house workshops to help them determine if they need any other information regarding the capacity of the turnpike and its

possible solution. Not until the MTA has a good sense of the transportation needs and the public's feelings will they make a decision as to what will be done to solve the congestion on the Maine Turnpike.

Please take this report as the next milestone in the process. As always the MTA looks forward to working with you as it makes these important decisions.

Sincerely,

S/Paul E. Violette
Executive Director

Which was **READ** and with Accompanying
Papers **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 9

**STATE OF MAINE
DEPARTMENT OF AUDIT
66 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0066**

Honorable Mark W. Lawrence
President of the Senate
3 State House Station
Augusta, Maine 04333-0003

Dear President Lawrence:

We are pleased to submit the Single Audit of the State of Maine covering the fiscal year ended June 30, 1995.

The audit which covered over \$3.8 billion in expenditures, of which \$1.2 billion was for various federal programs, was conducted pursuant to Title 5 MRSA §243, subsection 1 which states, in part, that "the Department of Audit is . . . to perform a postaudit of all accounts and other financial records of the state government . . . and to report annually on this audit, and at such other times as the Legislature may require . . ." In addition, the audit was conducted to meet the requirements of the Single Audit Act of 1984, authorized under the United States Code, USC 31, Chapter 75 and the regulations established by the U.S. Office of Management and Budget Circular A-128, "Audits of State and Local Governments".

On behalf of the Department of Audit, I would like to express my gratitude to the countless number of employees throughout state government who have assisted us during the conduct of our audit and in the issuance of this report. Without their efforts and dedication it would not be possible to continue our mutual quest for improved financial reporting and accountability to the citizens of our State. As always, we will strive to provide the Governor, Legislature and the management of state government agencies with meaningful information useful in their decision making process.

We would be pleased to respond to any of your questions or comments about the 1995 Single Audit of the State of Maine.

Respectfully submitted,

S/Rodney L. Scribner, CPA
State Auditor

December 11, 1996

Which was **READ** and with Accompanying
Papers **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 10

**STATE OF MAINE
PUBLIC UTILITIES COMMISSION
18 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0018**

December 31, 1996

The Honorable Mark W. Lawrence
President
Maine State Senate
State House Station 3
Augusta, Maine 04333

The Honorable Elizabeth H. Mitchell
Speaker
Maine House of Representatives
State House Station 2
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Legislative Resolve 1995, ch. 48, we are pleased to submit to you the Maine Public Utilities Commission Report and Recommended Plan to Restructure the Electric Industry. The Resolve directed the Commission to construct a plan for the Legislature's consideration to achieve retail market competition for the purchase and sale of electric energy in Maine. We advance a recommendation to restructure the market which fundamentally challenges the historical method of delivering, purchasing and regulating the provision of electric service.

We believe that the report and recommended plan provide the Legislature with necessary background analysis and an approach to electric industry restructuring that is practical, efficient and in the public interest. The Commission is committed to assisting the Legislature in any way it can as the Legislature considers this important issue in the coming session.

Sincerely,

S/Thomas L. Welch
Chairman

S/William M. Nugent
Commissioner

S/Heather F. Hunt
Commissioner

Which was **READ** and with Accompanying
Papers **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 11

**STATE OF MAINE
DEPARTMENT OF STATE**

I, the Secretary of State of Maine, certify that according to the provisions of the Constitution and Laws of the State of Maine, the Department of the Secretary of State is the legal custodian of the Great Seal of the State of Maine which is hereunto affixed and that the paper to which this is attached is a true copy from the records of this Department.

In Testimony Whereof, I have caused the Great Seal of the State of Maine to be hereunto affixed. Given under my hand at Augusta, December 3, 1996.

S/Bill Diamond
SECRETARY OF STATE

PROCLAMATION

**Resolution, Proposing an Amendment to the Constitution of
Maine Regarding Municipal Certification of Direct Initiative
Petitions**

WHEREAS, the One Hundred and Seventeenth Legislature of the State of Maine, in the Second Regular Session, by an act entitled,

Resolution, Proposing an Amendment to the Constitution of Maine Regarding Municipal Certification of Direct Initiative Petitions

passed by a concurrent vote of both branches and approved April 3, 1996 which said resolution is known and identified as Chapter 3 of the Constitutional Resolutions of 1995, enacted said measure expressly conditioned upon the people's ratification by a referendum vote at the election held on the Tuesday following the first Monday in November, 1996, and

WHEREAS, it appears by the return of votes cast by the electors of the various cities, towns and plantations voting upon said act on November 5, 1996, and reviewed by the Governor on November 25, 1996, that a majority of said votes were in favor of this act becoming law; namely,

367,994 for, and
187,428 opposed;

NOW, THEREFORE, I, ANGUS S. KING, Jr., Governor of the State of Maine, in pursuance of the provisions of the Constitution of Maine in such case provided, declare said measure adopted, to take effect and become law thirty days after the date of this proclamation.

In Testimony whereof, I have caused the Great Seal of the State to be hereunto affixed given under my hand at Augusta this third day of December in the year One Thousand Nine Hundred and Ninety-Six.

S/Angus S. King, Jr.
Governor

S/Bill Diamond
Secretary of State

Which was **READ** and with Accompanying Papers **ORDERED PLACED ON FILE**.

SENATE PAPERS

Bill "An Act to Amend the Laws Regarding the Registration of Pickup Trucks" (Emergency)

S.P. 11 L.D. 3

Presented by Senator LIBBY of York

Which was referred to the Committee on **TRANSPORTATION** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Allow Municipalities to Enact Stricter Standards Regulating Sewer or Septic Sludge"

S.P. 10 L.D. 2

Presented by Senator LIBBY of York

Committee on **UTILITIES AND ENERGY** suggested and **ORDERED PRINTED**.

On motion by Senator **CAREY** of Kennebec, referred to the Committee on **NATURAL RESOURCES**.

Sent down for concurrence.

**Pursuant to Public Law
Family Law Advisory Commission**

The **Family Law Advisory Commission**, pursuant to Public Law 1995, chapter 694, Part A, section 16, subsection 4, asked leave to report that the accompanying Bill "An Act to Extend the Reporting Deadline for a Study by the Family Law Advisory

Commission of the Statutes and Awards and Allocations Concerning Parental Rights and Responsibilities" (Emergency)

S.P. 9 L.D. 1

Be referred to the Committee on **JUDICIARY** for Public Hearing and printed pursuant to Joint Rule 308.

Which Report was **READ** and **ACCEPTED**.

The Bill referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**, pursuant to Joint Rule 308.

Sent down for concurrence.

**Pursuant to Statutes
Judiciary**

The Joint Standing Committee on **JUDICIARY**, pursuant to M.R.S.A. Title 1, section 94 asked leave to report that the accompanying Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (Emergency)

S.P. 12 L.D. 10

Be referred to the Committee on **JUDICIARY** for Public Hearing and printed pursuant to Joint Rule 308.

Which Report was **READ** and **ACCEPTED**.

The Bill referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**, pursuant to Joint Rule 308.

Sent down for concurrence.

ORDERS OF THE DAY

Unfinished Business

The following matter in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 29.

The Chair laid before the Senate the following Tabled and Later Assigned (12/4/1996) matter:

SENATE ORDER - relative to the Rules of the Senate of the 117th being the Rules of the 118th Legislature

S.O. 3

Tabled - December 4, 1996 by Senator **PINGREE** of Knox.

Pending - **PASSAGE**

(In Senate December 4, 1996, **READ**.)

On motion by Senator **PINGREE** of Knox , **TABLED**, until Later in Today's Session, pending, **PASSAGE**.

Senator **PINGREE** of Knox was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senate at Ease

Senate called to order by the President.

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

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution: H.P. 11

JOINT RESOLUTION RECOGNIZING THE HONORABLE G. WILLIAM DIAMOND ON OCCASION OF HIS RETIREMENT AS MAINE'S 40TH SECRETARY OF STATE

WHEREAS, the Secretary of State is a constitutional officer of the State of Maine, who has the custody of the state seal and preserves all records of all official acts and proceedings of the Governor, Senate and House of Representatives of this State, and who performs other duties enjoined by the Constitution of Maine or required by law; and

WHEREAS, G. William "Bill" Diamond, the 40th Secretary of State for the State of Maine, was born in West Gardiner, Maine, earned degrees in education, served as a teacher, principal and superintendent of schools and also served as a member of the Maine State Senate and the House of Representatives; and

WHEREAS, Bill Diamond was elected as Maine's 40th Secretary of State by the 114th Maine State Legislature in 1988, reelected in 1990, 1992 and 1994, and has been instrumental in strengthening

Maine's democracy, increasing highway safety and improving the business climate of the State; and

WHEREAS, since Bill Diamond was elected Secretary of State, Maine has achieved the highest voter turnout in the nation in 2 consecutive general elections, and he has earned national recognition and respect as an outstanding leader from such groups as the National Association for the Advancement of Colored People, the National League of Women Voters and TIME Magazine; and

WHEREAS, it is the desire of the members of the Senate and the members of the House of Representatives and the citizens they represent to formally recognize the accomplishments of Secretary of State Bill Diamond on the occasion of his retirement and to express the high esteem and affection in which we hold this outstanding native of Maine; now, therefore, be it

RESOLVED: That We, the Members of the 118th Legislature now assembled in the First Regular Session, take this opportunity to honor Secretary of State Bill Diamond, to recognize his distinguished service to the people of the State of Maine over many years and to offer our congratulations and very best wishes for the future; and be it further

RESOLVED: That a suitable copy of this resolution, duly authenticated by the Secretary of State, be presented to Bill Diamond as a tangible token of our high esteem.

Comes from the House **READ** and **ADOPTED**.

Which was **READ** and **ADOPTED**, in concurrence.

Senator **AMERO** of Cumberland was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator **PINGREE** of Knox was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator **JENKINS** of Androscoggin, **ADJOURNED** until Thursday, January 9, 1997, at 10:00 in the morning.