

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fourteenth Legislature

OF THE

State Of Maine

VOLUME V

SECOND REGULAR SESSION

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Index

HOUSE & SENATE LEGISLATIVE SENTIMENTS

December 7, 1988 to April 14, 1990

compromise. We did reach compromise in many, many areas. The clear difference was that there was concern that the inspection procedure be complete and not be limited. In no way did the Committee want to shut down any plant because of an inspection, but if there were safety concerns, we did want to have them addressed. I would say that we were very, very close and this is a minor difference in an important Bill that, hopefully, this Legislature and this Senate can pass. Thank you.

The Chair ordered a Division. 16 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator ESTY of Cumberland to ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-1050) Report, in concurrence, PREVAILED.

The Bill READ ONCE.

Committee Amendment "B" (H-1050) READ and ADOPTED, in concurrence.

Which was, under suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended, in concurrence.

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Establish an Air Quality Increment Standard for Nitrogen Oxides"

H.P. 1778 L.D. 2445

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-1066).

Signed:

Senators:

KANY of Kennebec
ERWIN of Oxford
LUDWIG of Aroostook

Representatives:

ANDERSON of Woodland
COLES of Harpswell
LORD of Waterboro
DEXTER of Kingfield
GOULD of Greenville
MICHAUD of East Millinocket

The Minority of the same Committee on the same subject reported that the same Ought to Pass.

Signed:

Representatives:

HOGLUND of Portland
JACQUES of Waterville
MITCHELL of Freeport
SIMPSON of Casco

Comes from the House the Minority OUGHT TO PASS Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.

Which Reports were READ.

The Minority OUGHT TO PASS Report ACCEPTED, in concurrence.

Which was, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, in concurrence.

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on BANKING AND INSURANCE on Bill "An Act Requiring the Reinstatement of Health Insurance for Persons with Organic Brain Disease"

H.P. 1633 L.D. 2260

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-1049).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1049) AS AMENDED BY HOUSE AMENDMENT "A" (H-1084) thereto.

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-1049) READ.

House Amendment "A" (H-1084) to Committee Amendment "A" (H-1049) READ and ADOPTED, in concurrence.

Committee Amendment "A" (H-1049) as Amended by House Amendment "A" (H-1084) thereto, ADOPTED, in concurrence.

Which was, under suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended, in concurrence.

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Correct Errors in the Solid Waste Laws"

H.P. 1705 L.D. 2354

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-1069).

Signed:

Senator:

LUDWIG of Aroostook

Representatives:

ANDERSON of Woodland
GOULD of Greenville
LORD of Waterboro
MITCHELL of Freeport
SIMPSON of Casco
MICHAUD of East Millinocket
COLES of Harpswell
JACQUES of Waterville
DEXTER of Kingfield
HOGLUND of Portland

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "B" (H-1070).

Signed:

Senators:

KANY of Kennebec
ERWIN of Oxford

Comes from the House the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1069).

Which Reports were READ.

Senator KANY of Kennebec moved to ACCEPT the Minority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-1070) Report in NON-CONCURRENCE.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Ludwig.

Senator LUDWIG: Thank you. Mr. President, Men and Women of the Senate. I rise to ask you to oppose the pending motion. Last session, the Energy and Natural Resources Committee worked long and hard to develop a broad, well thought out and workable solution to the management of solid waste within Maine. Indeed, our efforts have received national recognition and with the creation of the Maine Waste Management Agency, we are well on our way to solving our solid waste problems. This session, our Committee modified that landmark legislation to fine

tune it and make sure it would truly work. Some of the revisions of the Majority Report are essential for the success of the law. It is the Majority Report which I ask you to accept.

Unfortunately, the Committee divided on a key issue. This is reflected in the Minority Report. Last session, during our deliberations on the solid waste law, it was our intent to limit our actions to the commonly accepted definition of solid waste, a definition which does not include hazardous waste. Several times, during our work sessions, we discussed and discarded the suggestion that we include hazardous waste in the new law creating the Waste Management Agency and the programs and funds under its jurisdiction. Since enactment of the solid waste law, the Attorney General's office has informed us that the definition of solid waste includes hazardous waste. This unfortunate misunderstanding is one that has prevailed for years but has only now come to our attention.

The expanded definition of solid waste greatly complicates how we treat the responsibility for waste management. Several examples include the following. The ban on commercial solid waste disposal facilities now extends beyond our common understanding of solid waste disposal facilities and includes hazardous waste disposal facilities as well. The Waste Management Agency's responsibility for planning, siting, providing financial and technical assistance and delivering disposal services now include hazardous waste, although it was our express intent to exclude it. The resources for both staffing and funding were not provided to the Agency for this responsibility. Existing state law includes many references to hazardous waste, its planning and siting, much of which is inconsistent with the statutes regulating solid waste. Finally, we do not yet know the full implications of this change with respect to our relationship with EPA or other states with whom we have hazardous waste disposal agreements.

I urge you to support the Majority Report for these reasons. As lawmakers we must make sure our work reflects thought and care, that our solutions reflect an understanding of the issues and that the resources are provided to assure success for our programs. None of this has occurred in this case. The Minority Report is a simple exploitation of an honest misunderstanding of the term "solid waste". I hope my fellow Senators will vote with the Majority Report which preserves our common understanding of Maine's waste management system. Thank you and once again, I hope you will join me in voting against the pending motion. Thank you, Mr. President.

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

Senator KANY: Thank you. Mr. President, Members of the Senate, I hope you vote in favor of the Minority Ought to Pass Report. The single difference is, as described by the good Senator from Aroostook, Senator Ludwig, that hazardous waste facilities would continue to be prohibited to be commercial hazardous waste disposal facilities.

Our current law, that we enacted last year, prohibits the development of new commercial hazardous waste disposal facilities. In that definition is contained, both incinerators and landfills. In other words, no new commercial incinerator or landfill for solid waste of any kind, whether it be special waste, biomedical waste, hazardous waste, municipal waste, can be developed in the state of Maine. The Minority Report, consisting of the two Senators right here, seeks to keep and continue that definition.

The reason the Legislature, last year, chose to prohibit new commercial disposal facilities for solid

waste was that we then could control our waste stream. We have seen too many companies or corporations or entities, in the past, dissolve and leave landfills unattended, unmonitored, uncared for for future generations. That was one of the reasons why we chose to ban future commercial incinerators with their accompanying ash landfills and other landfills.

The second reason was, if the facilities are publicly owned, the public can choose its customers and thereby choose not to have out of state customers. In other words, it is the legal way for us to basically just take care of our own waste that we generate and not out of state waste, or out of country waste.

If you go along with the other report, instead of the one the good Senator from Oxford, Senator Erwin, and I are offering, you would be inviting privately owned, commercial incinerators with their accompanying ash landfills and landfills for hazardous waste. There would be no legal way the state of Maine could prohibit out of state hazardous waste from entering this state. I urge you to go along with the pending motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Ludwig.

Senator LUDWIG: Thank you. Mr. President, Men and Women of the Senate, I am aware that with two Senators on one side of a Report, I am at a disadvantage, but I am also a great believer in the Committee system. I do assure you that the other members of the Committee were vehement in their opposition to having hazardous waste handled locally. We do have a very good system right now by which our hazardous waste is shipped out of state. At an 11-2 report I hope you will give good consideration to what the Majority wanted in this particular case. I urge you to oppose the pending motion.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator GAUVREAU: Thank you. Mr. President, Men and Women of the Senate, I stand before you tonight somewhat confused regarding this legislation. My community, along with other communities in Augusta and elsewhere in the state, have encountered some difficulties securing DEP approval for landfill expansions. This has been a point of significant concern to people in the Lewiston community. I understand that the Joint Standing Committee on Energy and Natural Resources was asked to address the concern of my community and other communities, specifically dealing with the siting criteria on landfill expansions. It was my understanding that there would be a waiver or exemption language included in L.D. 2354, which would address the concerns of my community. My question to anybody on the Committee who may care to respond is, is the language which addresses the concerns of the City of Lewiston in the Majority, the Minority or both reports?

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

Senator KANY: Thank you. Mr. President, Members of the Senate, the language that the good Senator from Androscoggin County, Senator Gauvreau, mentioned is in both reports.

On motion by Senator KANY of Kennebec, the Minority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-1070) Report ACCEPTED in NON-CONCURRENCE.

The Bill READ ONCE.

Committee Amendment "B" (H-1070) READ.

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending ADOPTION OF COMMITTEE AMENDMENT "B" (H-1070).

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

House

Divided Report

The Majority of the Committee on LABOR on Bill "An Act Concerning the State Minimum Wage"

H.P. 1646 L.D. 2279

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-1046).

Signed:

Senators:

ESTY of Cumberland
MATTHEWS of Kennebec

Representatives:

LUTHER of Mexico
MCKEEN of Windham
PINEAU of Jay
TAMMARO of Baileyville
RAND of Portland
MCHENRY of Madawaska
RUHLIN of Brewer

The Minority of the same Committee on the same subject reported that the same Ought Not to Pass.

Signed:

Representatives:

MCCORMICK of Rockport
BUTLAND of Cumberland
REED of Falmouth

Comes from the House the Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1046).

Which Reports were READ.

The Minority OUGHT NOT TO PASS Report ACCEPTED in NON-CONCURRENCE.

Sent down for concurrence.

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on BANKING AND INSURANCE on Bill "An Act to Strengthen Oversight of Medical Malpractice Insurance and Stabilize Premiums"

H.P. 1730 L.D. 2389

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-1060).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1060).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-1060) READ and ADOPTED, in concurrence.

Which was, under suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended, in concurrence.

The Committee on JUDICIARY on Bill "An Act Concerning Living Wills"

H.P. 1497 L.D. 2074

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-1059).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1059).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-1059) READ and ADOPTED, in concurrence.

Which was, under suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED, in concurrence.

Under suspension of the Rules, all matters thus acted upon, with the exception of those matters being held, were ordered sent down forthwith for concurrence.

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on JUDICIARY on Bill "An Act to Increase the Penalty for Vehicular Manslaughter and to Remove the Habitual Drunk Driver Offender from the Highways"

H.P. 1672 L.D. 2314

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-1061).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1061).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-1061) READ and ADOPTED, in concurrence.

Which was, under suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended, in concurrence.

The Committee on JUDICIARY on Bill "An Act to Reduce the Use of Marijuana and to Make Related Amendments to the Drug Laws"

H.P. 1721 L.D. 2377

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-1057).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1057).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-1057) READ and ADOPTED, in concurrence.

Which was, under suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended, in concurrence.

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on JUDICIARY on Bill "An Act to Clarify the Laws on Manslaughter in the Workplace" (Emergency)

H.P. 1758 L.D. 2423

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-1058).