

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Nineteenth Legislature
State of Maine

Volume 4

Second Regular Session (Continued)
April 14, 2000 to May 12, 2000

Second Confirmation Session
August 31, 2000

Interim Communications Appendix

Senate Legislative Sentiments

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Emergency Measure

An Act to Establish Requirements for the Removal of Directors of Certain Maine Business Corporations before the Expiration of Their Established Terms

S.P. 1089 L.D. 2693
(C "A" S-740)

Comes from the House, **FAILED ENACTMENT.**

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in **NON-CONCURRENCE.**

Emergency Resolve

Resolve, to Create the Commission to Study the Establishment of an Environmental Leadership Program

S.P. 529 L.D. 1562
(S "A" S-786 to C "A" S-516)

Comes from the House, **FAILED FINAL PASSAGE.**

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

Emergency Resolve

Resolve, Regarding Access to Marijuana for Medical Use

S.P. 1012 L.D. 2580
(S "A" S-776 to C "A" S-597)

Comes from the House, **FAILED FINAL PASSAGE.**

On motion by Senator **RAND** of Cumberland, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-597) AS AMENDED BY SENATE AMENDMENT "A" (S-776)** thereto.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-597) as Amended by Senate Amendment "A" (S-776) thereto.

On further motion by same Senator, Senate Amendment "B" (S-797) to Committee Amendment "A" (S-597) **READ** and **ADOPTED.**

Committee Amendment "A" (S-597) as Amended by Senate Amendments "A" (S-776) and "B" (S-797) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-597) AS AMENDED BY SENATE AMENDMENTS "A" (S-776) AND "B" (S-797) thereto, in **NON-CONCURRENCE.**

Sent down for concurrence.

Act

An Act to Protect and Enhance the United States Naval Shipyard in Kittery, Maine

S.P. 1031 L.D. 2611
(C "A" S-616; S "B" S-796)

An Act to Fund the Construction of Court Facilities in Maine

S.P. 1034 L.D. 2619
(C "A" S-757)

PASSED TO BE ENACTED and having been signed by the President were presented by the Secretary to the Governor for his approval.

ORDERS OF THE DAY

Unfinished Business

The following matters 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 516.

The Chair laid before the Senate the following Tabled and Later (2/8/00) Assigned matter:

SENATE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Provide Funding for Background Checks and Fingerprinting for School District Employees and Volunteers"

S.P. 951 L.D. 2490

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-474)** (12 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-475)** (1 member)

Tabled - February 8, 2000, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, February 8, 2000, Reports **READ.**)

On motion by Senator **MURRAY** of Penobscot, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-474)** Report **ACCEPTED.**

READ ONCE.

Committee Amendment "A" (S-474) **READ.**

On motion by Senator **MURRAY** of Penobscot, Senate Amendment "D" (S-801) to Committee Amendment "A" (S-474) **READ.**

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

Senator **MURRAY:** Thank you Mr. President. Men and women of the Senate, what is before the Senate now is a proposed amendment to the fingerprinting issue. As you may recall, when the veto of the previous Bill dealing with fingerprinting was sustained, we were left with current law. The problem is there are a number of items in current law that still need to be addressed. The proposal before you in Senate Amendment "D" attempts to address some of those issues.

Let me just briefly outline for you what those are and how this proposed amendment would address them. To begin with, as I suspect many of you understand, current law does not provide for a mechanism to pay for the background checks and fingerprinting that would be required. The proposal in front of you clarifies that the reimbursement will be made to those individuals who have already gone through the process and incurred an expense. Also, the amendment clarifies that into the future the cost of this background check will be borne by the State of Maine as opposed to individual employees or school districts. Also, what became very apparent with regard to the current law is that it is logistically impossible to undertake the fingerprinting and background check of all of the individuals who would necessarily be required to do so. The amendment before you proposes a phased-in period of 4 years for the actual background checks to be undertaken, where roughly one-quarter of those who would be required to undergo the fingerprinting will undergo that process in each of the next 4 years.

The other problem that the amendment before you attempts to address is part of the ongoing funding problem. But it also addresses an issue that I think was a flaw in the current requirement of the law. Let me briefly address that for you. Right now, under the current law, everyone will undergo this background check. But the law also requires that those same individuals be submitted to a national FBI background check every 5 years, even after they've gone through an initial check. In so doing, this would incur the cost of \$25 associated with submitting that background check to the FBI so that it can be undertaken. Well, the problem is the likelihood of any information being obtained from a subsequent background check is virtually nil. What we are focusing on here is only the national background check and eliminating the need for that subsequent check to occur into the future. We will still be allowed in the State of Maine to run checks within the state criminal records history, so that any conviction that may arise that occurred in the State of Maine would be discovered and would be acted upon by the Department of Education. What this Bill attempts to do is limit that subsequent check on the national level, after everyone has gone through a background check once, and eliminate the cost of doing so. That cost, ladies and gentlemen and Mr. President, is very significant. What we're talking about, on an ongoing basis into the future, is roughly a quarter of a million dollars every year to do a subsequent national background check. Quite frankly, all that could possibly produce by way of information that would not otherwise be known would be if an

individual left the State of Maine during a summer break, committed some crime in another state during that summer break, was caught in that other state, was prosecuted in that other state, and was convicted in that other state. All happening during summer break and was not sentenced to imprisonment in that other state. Under any other scenario, the information we would know about, because the individual would not be showing up back for work here in the State of Maine. That particular scenario which, in my opinion, is virtually a non-existent scenario. That's what we would be eliminating and also eliminating that quarter of a million dollar annual cost associated with doing that subsequent background check.

I would urge you to join with me in supporting the pending amendment to this measure that addresses a number of the issues that I raised previously which I think, in my opinion at least, are important issues that need to be resolved in order for this program to go forward. For all these reasons I would ask you to vote "yes" on the pending motion.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY:** Thank you Mr. President. May I pose a question through the Chair?

THE PRESIDENT: The Senator may pose her question.

Senator **LONGLEY:** To anyone, probably the Senator from Penobscot, my question concerns the cost. Yesterday a constituent was speaking to me, asking me why was it that a fingerprinting process costs \$50. My question is, why? Secondly, what does that \$50 cover? Thirdly, were there attempts to bring down that cost? I guess its 3 questions if I may.

THE PRESIDENT: The Senator from Waldo, Senator Longley poses a series of questions through the Chair to anyone who may be able to answer. The Chair recognizes the Senator from Penobscot, Senator Murray.

Senator **MURRAY:** Thank you Mr. President. Men and women of the Senate, the costs are fairly fixed with regard to what's associated with this. The \$49 cost, which is the cost of doing this initially, is basically broken into 2 categories. Roughly half of that is the cost that's imposed by the FBI in doing the national background check and that is a fixed cost. The remainder of the cost is associated with cost involved with actually taking the prints, establishing the mechanism necessary to both take those prints and maintain those records into the future. Obviously, once the prints are taken for a first time, that part of the cost goes away. However, what doesn't go away is every time you knock on the door of the FBI to say, "Run this background check," we are going to be assessed the \$24 or \$25 fee associated with that. That is what I hope to eliminate into the future for these subsequent checks. Quite frankly, right now that ongoing cost is not met in the budget. The budget that was approved included enough money to do the version that was enacted by this legislature and vetoed. If we, in fact, go into the future without amending this Bill as suggested by the pending amendment, there is a structural gap created because it's not funded into the future which, in my opinion, also creates a problem which we ought to attempt to address now.

Senator **GOLDTHWAIT** of Hancock requested a Division.

On motion by Senator **AMERO** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **MURRAY** of Penobscot to **ADOPT** Senate Amendment "D" (S-801) to Committee Amendment "A" (S-474). (Division Requested)

The Chair laid before the Senate the following Tabled and Later (3/14/00) Assigned matter:

Bill "An Act to Appropriate Matching Funds for the Study of Nondefense Uses of the Portsmouth Naval Shipyard"
S.P. 1020 L.D. 2589

Tabled - March 14, 2000, by Senator **PINGREE** of Knox.

Pending - motion by same Senator to **INDEFINITELY POSTPONE** Bill and accompanying papers

(Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** suggested and ordered printed.)

On motion by Senator **PINGREE** of Knox, Bill and accompanying papers **INDEFINITELY POSTPONED**.

Sent down for concurrence.

Senate at Ease.

Senate called to order by the President.

The Chair laid before the Senate the following Tabled and Later (4/28/00) Assigned matter:

Emergency Resolve

Resolve, to Create a Commission to Study and Establish Moral Policies Regarding Foreign Investments and Foreign Purchasing by the State

H.P. 1755 L.D. 2461
(S "D" S-790 to C "A" H-870)

Tabled - April 28, 2000, by Senator **PINGREE** of Knox.

Pending - **FINAL PASSAGE**, in **NON-CONCURRENCE**

(In Senate, April 27, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-870) AS AMENDED BY SENATE AMENDMENT "D" (S-790)** thereto, in **NON-CONCURRENCE**.)

(In House, April 28, 2000, **FAILED FINAL PASSAGE**.)

On motion by Senator **KILKELLY** of Lincoln, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-870) AS AMENDED BY SENATE AMENDMENT "D" (S-790)** thereto, in **NON-CONCURRENCE**.

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-870) as Amended by Senate Amendment "D" (S-790) thereto.

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Senate Amendment "D" (S-790) to Committee Amendment "A" (H-870).

On further motion by same Senator, Senate Amendment "E" (S-800) to Committee Amendment "A" (H-870) **READ** and **ADOPTED**.

On further motion by same Senator, Senate Amendment "D" (S-790) to Committee Amendment "A" (H-870) **INDEFINITELY POSTPONED**.

Committee Amendment "A" (H-870) as Amended by Senate Amendment "E" (S-800) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-870) AS AMENDED BY SENATE AMENDMENT "E" (S-800) thereto, in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (4/28/00) Assigned matter:

Emergency Resolve

Resolve, to Establish the Commission to Study Ownership Patterns in Maine

H.P. 1809 L.D. 2535
(S "A" S-775 to C "A" H-932)

Tabled - April 28, 2000, by Senator **PINGREE** of Knox.

Pending - motion by same Senator to **RECONSIDER** whereby Resolve **FAILED FINAL PASSAGE**, in **NON-CONCURRENCE**

(In House, April 27, 2000, **FINALLY PASSED**.)

(In Senate, April 28, 2000, **FAILED FINAL PASSAGE**, in **NON-CONCURRENCE**.)