

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Eleventh Legislature

OF THE

STATE OF MAINE

Volume II

FIRST REGULAR SESSION

May 16, 1983 to June 24, 1983

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department to transfer money from within line items as long as they notify the committee members, members of the legislature first.

I think this really resolves the concerns that we had and I think it addresses the problems that the executive had at the same time, and it is a continuing saga of getting the Department of Transportation's budget more in line with the way in which this legislation and the executive branch deals with budgets on the same basis as the General Fund budget, so I applaud the amendment that was drafted and I am glad to say that it is on its way.

The SPEAKER: The pending question is on passage to be enacted. This being an emergency measure, it requires a two-thirds vote of all the members elected to the House. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

109 voted in favor of same and one against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Increase Funding Allocation for the Bureau of Oil and Hazardous Materials Control for Fiscal Year 1983 (H. P. 1317) (L. D. 1746)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 107 voted in favor of same and 3 against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Passed to Be Enacted

An Act to Establish New Selection Procedures for the Maine Indian Tribal-state Commission Chairmanship (S. P. 342) (L. D. 1016) (S. "A" S-187 to C. "A" S-76)

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.

Later Today Assigned

An Act to License Home Health Care Services (S. P. 527) (L. D. 1550) (S. "A" S-202 and C. "A" S-180)

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

On motion of Mr. Diamond of Bangor, tabled pending passage to be enacted and later today assigned.

An Act Relating to Penobscot Nation Trust Land Designation (S. P. 593) (L. D. 1713) (S. "A" S-189)

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 Create the Finance Authority of Maine (S. P. 612) (L. D. 1747) (S. "A" S-200)

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

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Webster.

Mr. WEBSTER: Mr. Speaker, I would like to pose a question through the Chair. This is the legislation the Governor's Office presented which combines three departments, could somebody explain this to me?

The SPEAKER: The gentleman from Farmington, Mr. Webster, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Fairfield, Mr. Gwadosky.

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I would be happy to respond to the question.

The intent of this bill, the Finance Authority of Maine, is to combine the present lending programs that exist in the State of Maine into a

single authority, and what is being combined is the Maine Veterans' Small Business Loan Board, the Small Business Loan Board and three of the existing programs under the MGA, they would be combined under one business development finance division. We are also in this bill recommending that an expanded role be played in relation to available financial resource financing.

There is a serious problem in that the majority of natural resource financing, particularly agriculture financing, comes from the federal government and we are talking about FHA. I think the latest figures I saw were that FHA financed 52 percent of the loans that Maine farmers received last year and the national average is 11 percent. The problem is that many of these federal funds are drying up, so this bill does two things, it first combines some of the existing agencies; the other portion of the bill would be to provide for an expanded role for natural resource financing.

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Webster.

Mr. WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: I regret taking your time but I have a constituent who is concerned that he felt, and I wanted to ask this question and have it on the record, that only the efficient of the three agencies that we have that are going to be in this bill, it is my understanding that the Veterans is the only efficient operation of the three, and I am curious as to why this is necessary to combine the three of these. I am not sure I want to vote for this until I am convinced that it is a good piece of legislation.

The SPEAKER: The gentleman from Farmington, Mr. Webster, has posed an additional question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Fairfield, Mr. Gwadosky.

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: We received a great deal of testimony on this bill dealing with the individual agencies, specifically the veterans' agency. They had people at the hearing who expressed their concerns that the veterans' program, which currently is a very well run program and it is very well run because it is a simple program to administer, they were concerned that this would get put into a giant finance authority and the veterans would be lost in the shuffle.

From June 1, 1982 to May 31, 1983, the Maine Veterans Small Business Loan program, there were 19 loans made during the last year. The Small Business Loan Authority made 27 loans. When you compare this to the SBA, which provided 291 loans last year, you find that one of the problems is that the Small Business Loan Board doesn't have the numbers of staff to practically market this type of program. A lot of veterans out there don't know that this type of program is available. There are a lot of small businesses that don't know the Small Business program is available, and there is a lot of confusion about where they go to get these loans.

We left the Veterans Small Business Loan Board intact as far as the total outstanding bonds that they can have at any one time. We have increased the amount of money that veterans can ask for from \$30,000 to \$100,000. We have also specifically put into the bill — by the way, we have also kept the present board of the Maine Veterans Small Business Board and they are going to be available as an advisory board for these veterans' programs.

We have also put into the bill that one of the staff members that works for the FAME has to be a veteran and has to be responsible for receiving requests from any veteran that comes in requesting a loan. I believe we tried to be very sensitive to the concerns of the veterans because they were concerned, and I believe that raising the limit from \$30,000 to \$100,000, plus the other safeguards that we put in the

bill will allow more veterans to get loans than we have had in the past.

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

An Act to Revise the Truancy Laws (H. P. 877) (L. D. 1131) (H. "A" H-385 to S. "A" S-191; H. "C" H-264; C. "A" H-213)

An Act to Require Interdepartmental Coordination of Social Services Planning (H. P. 1255) (L. D. 1668) (H. "B" H-383 to H. "A" H-347)

Were 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.

By unanimous consent, all matters acted on requiring Senate concurrence were ordered sent forthwith.

An Act to Extend the Time for Acquiring those Areas which have been Designated Potential Passamaquoddy Indian Territory (H. P. 1291) (L. D. 1712) (S. "A" S-188)

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

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Gauvreau.

Mr. GAUVREAU: Mr. Speaker, Men and Women of the House: I will be very brief. L. D. 1712 affords the Passamaquoddy Tribe Nation two additional years, until January 1, 1985, in which to purchase or negotiate for the acquisition of additional properties which were originally contemplated in the now famous Indian Land Claim Settlement. I believe the period of time afforded to the Indian Nation is too conservative. For that reason, I plan to oppose this bill and I ask that the vote be taken by the yeas and nays.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Ms. Benoit.

Ms. BENOIT: Mr. Speaker, Men and Women of the House: I am not exactly sure of what Mr. Gauvreau said but I do know that this bill is an agreement between the Tribe and the Governor. It is not here without that agreement. Then, in addition to that agreement, it was also approved by the Judiciary Committee unanimously, so I would urge you not to vote against the enactment.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mrs. Martin.

Mrs. MARTIN: Mr. Speaker and Members of the House: I would like someone to table this for one legislative day.

The SPEAKER: The Chair recognizes the gentleman from Saco, Mr. Hobbins.

Mr. HOBBS: Mr. Speaker, Men and Women of the House: I don't think it is appropriate to rehash the merits or demerits of the whole Indian Land Claims issue. That issue has been decided, it was not decided in a court of law. There was an agreement signed by the State of Maine and the two tribes involved.

As you probably know, two legislative sessions ago there was a Joint Select Committee on Indian Land Claims established. That committee worked long and hard to come up with a palatable resolution of this matter. The full legislature voted and that issue has been decided.

The matters concerning the Indian Land Claims issue has come down to about 10 or 12 bills that were considered by the Judiciary Committee, I think there were nine bills in all. Most of the bills were basically consistent with

the intention of the Indian Land Claims case; however, some of them were felt by the committee to go too far and those bills were amended.

I think it is important for us to all realize that this bill does not do anything that is inconsistent with the original agreement. It has the full support of the Judiciary Committee. If you have looked at our report, you can see that there aren't many times when our committee agrees on issues, but this is one of the issues which we all agreed on. It is not inconsistent with the settlement proposal, which all of you probably know about, and it is my hope that we can pass this bill. It has the support of all the Judiciary Committee, it has the support of the Governor's Office, who negotiated the settlement on behalf of the State of Maine, and reluctantly, I understand, it has the support of the two nations involved. I urge you to support the bill.

The SPEAKER: The Chair recognizes the gentleman from the Penobscot Tribe, Mr. Sappier.

Mr. SAPIER: Mr. Speaker and Members of the House: The bills that were introduced to the legislature concerning both Penobscot and Passamaquoddy requested 10 years for the extension of acquiring land to be placed in trust designation. The only opponent we had to the legislation was the Governor's Office, and we had a series of meetings over the last few months.

The Tribal State Commission became involved in the decision that was made by the tribal representatives to the Tribal State Commission and reported to the Governor's Office, it was five years and no land. After the work session with the Judiciary Committee and the recommendation received from the Tribal State Commission and the two tribes, the bill that finally came out of Judiciary was L. D. 1712, the Bill you see today, which is two years and no land, no new land to be designated.

The tribes at this time are in support of the two years but we would like to consider new legislation coming in, as it is not emergency legislation, we have already lost five months of this year, plus three more months due to the 90 day enactment, and it would only give us one year and three months. Perhaps in the upcoming session we could submit something to extend this time line and work out a better agreement with the Governor.

The SPEAKER: A roll call has been ordered. The pending question is on passage to be enacted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Allen, Anderson, Andrews, Armstrong, Baker, Beaulieu, Bell, Benoit, Bonney, Bost, Bott, Brannigan, Brodeur, Brown, A.K.; Cahill, Callahan, Carrier, Carroll, D.P.; Carroll, G.A.; Cashman, Clark, Connors, Cooper, Cote, Cox, Crouse, Crowley, Curtis, Daggett, Davis, Day, Dexter, Diamond, Dillenback, Drinkwater, Erwin, Foster, Greenlaw, Gwadosky, Hall, Handy, Hickey, Higgins, H.C.; Higgins, L.M.; Hobbins, Holloway, Ingraham, Jackson, Jacques, Jalbert, Joseph, Joyce, Kane, Kelly, Ketover, Kiesman, Kilcoyne, LaPlante, Lebowitz, Lehoux, Lewis, Lisnik, Livesay, Locke, MacBride, MacEachern, Manning, Martin, A.C.; Martin, H.C.; Masterman, Masterton, Matthews, K.L.; Maybury, McCollister, McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, E.M.; Murray, Nadeau, Norton, Paradis, E.J.; Paradis, P.E.; Parent, Paul, Perkins, Perry, Pouliot, Randall, Reeves, J.W.; Richard, Roberts, Roderick, Rolde, Salisbury, Scarpino, Sherburne, Small, Smith, C.B.; Soucy, Sproul, Stevens, Stover, Strout, Swazey, Tammara, Telow, Theriault, Thompson, Vose, Walker, Webster, Wentworth, Weymouth, Zirnklilton, The Speaker.

NAY—Ainsworth, Carter, Conary, Connolly,

Gauvreau, Matthews, Z.E.; Mayo, Ridley, Smith, C.W.; Tuttle.

ABSENT—Brown, D.N.; Brown, K.L.; Chonko, Dudley, Hayden, Kelleher, Macomber, Mahany, McPherson, Murphy, T.W.; Nelson, Pines, Racine, Reeves, P.; Rotondi, Seavey, Soule, Stevenson, Willey.

Yes, 122; No, 10; Absent, 19.

The SPEAKER: One hundred twenty-two having voted in the affirmative and ten in the negative, with nineteen being absent, the motion does prevail.

Signed by the Speaker and sent to the Senate.

The following papers appearing on Supplement No. 2 were taken up out of order by unanimous consent:

Ought to Pass in New Draft

Report of the Joint Select Committee on Whitewater Rafting on Bill "An Act to Regulate Commercial Whitewater Rafting (Emergency)" (S. P. 479) (L. D. 1454) reporting "Ought to Pass" in New Draft (Emergency) (S. P. 625) (L. D. 1763)

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed.

In the House, the Report was read and accepted in concurrence and the New Draft read once. Under suspension of the Rules, the New Draft was read the second time and passed to be engrossed in concurrence.

Non-Concurrent Matter

Bill "An Act to Establish the Medical Radiation Health and Safety Act" (H. P. 904) (L. D. 1183) which was passed to be engrossed as amended by Committee Amendment "A" (H-389) in the House on June 14, 1983.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-389) as amended by Senate Amendment "A" (S-207) thereto in non-concurrence.

In the House: On motion of Mr. Manning of Portland, the House voted to recede and concur.

By unanimous consent, all matters acted upon requiring Senate concurrence were ordered sent forthwith.

On motion of Mr. Vose of Eastport, Recessed until two-thirty in the afternoon.

After Recess

2:30 P.M.

The House was called to order by the Speaker.

The following papers appearing on Supplement No. 3 were taken up out of order by unanimous consent:

Ought to Pass in New Draft

Report of the Committee on Health and Institutional Services on Bill "An Act to Revise the General Assistance Laws" (S. P. 144) (L. D. 554) reporting "Ought to Pass" in New Draft (S. P. 626) (L. D. 1764)

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed as amended by Senate Amendment "A" (S-212)

In the House, the Report was read and accepted in concurrence and the New Draft read once.

Under suspension of the rules, the New Draft was given its Second Reading.

Senate Amendment "A" (S-212) was read and adopted in concurrence, and the New Draft passed to be engrossed as amended in concurrence.

Ought to Pass in New Draft/New Title

Report of the Committee on Taxation on Bill "An Act to Clarify the Definition of Casual Sales under the Sales Tax Law" (S. P. 261) (L. D. 806)

reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Change the Treatment of Certain Sales Under the Sales Tax Laws" (S. P. 627) (L. D. 1766)

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed.

In the House, the Report was read and accepted in concurrence and the New Draft read once.

Under suspension of the rules, the New Draft was given its second reading and passed to be engrossed in concurrence.

Non-Concurrent Matter

An Act Relating to Training Penobscot Law Enforcement Officers (S. P. 81) (L. D. 192) (S. "A" S-186) which was passed to be enacted in the House on June 14, 1983.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-186) as amended by Senate Amendment "A" (S-211) thereto in non-concurrence.

In the House: The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Amend the Habitual Offender Law" (H. P. 956) (L. D. 1237)

— In House, Bill and accompanying papers recommitted to the Committee on Judiciary in non-concurrence on May 11, 1983.

— In Senate, passed to be engrossed as amended by Senate Amendment "A" (S-209) in non-concurrence.

In the House: The House voted to recede and concur.

The Chair laid before the House the following matter:

Bill "An Act to Establish and Amend the Air Emission and Open-burning Standards" (H. P. 1259) (L. D. 1680) which was tabled and later today assigned pending further consideration.

(In House, passed to be engrossed as amended by Committee Amendment "A" (H-340) as amended by House Amendment "B" (H-368) thereto on June 8. In Senate, passed to be engrossed as amended by Committee Amendment "A" (H-340) as amended by Senate Amendment "A" (S-196) thereto in non-concurrence)

The SPEAKER: The Chair recognizes the gentleman from Sangerville, Mr. Hall.

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: I move to recede and concur.

I would like to read into the record, if I may, in regards to the amendment.

The Senate Amendment removes that portion of House Amendment "B" which clarified the intent of the legislature on the issue of the new air emission standards included in this bill. I am convinced that current state and federal law is absolutely clear and that the amendment is unnecessary, section 590 of our Air Quality Laws and DEP regulations already define "best practical treatment" to require a case-by-case analysis for each license application in order to determine the appropriate level of technology to control air pollution. This case-by-case review may require tougher emission limitations than those contained in this bill. It should be understood that the emission limitations contained in this bill are the minimum required for new sources of air pollution and that the technological standards may require more.

Thereupon, the House voted to recede and concur.

By unanimous consent, ordered sent forthwith to Engrossing.

On motion of Mrs. Mitchell of Vassalboro, the following item was removed from the Unassigned Table:

Resolution, Proposing an Amendment to the Constitution of Maine to Provide that the State may Enact Property Tax Exemptions Relating