

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

Index

SECOND CONFIRMATION SESSION

May 20, 1992

Index

THIRD CONFIRMATION SESSION

August 19, 1992

Index

THIRD SPECIAL SESSION

October 1, 1992 to October 6, 1992

Index

FOURTH SPECIAL SESSION

October 16, 1992

Index

FOURTH CONFIRMATION SESSION

November 19, 1992

Index

HOUSE AND SENATE LEGISLATIVE SENTIMENTS

December 5, 1990 to December 1, 1992

2763 employees; Conservations from 254 to 577; Manpower Affairs from 500+ to almost 700; Business Regulations, which is now the Department of Professional and Financial Regulations, has gone from 73 employees to 228. In fact, the Annual Report has gone from a total of 463 itself to tell us what State Government does, to a total of 844 pages; to tell us about all the programs that we have, the departments, and all the activities, the little pipedreams that have been created over a period of times that have cropped up. The difficulty is that with each one of these (same as above) comes a top-heavy bureaucratic maize that takes money away from the delivery of programs for services to the people that we all represent from the policies that we implement on behalf of the health and welfare of the citizens of this state and as we are in this difficult financial times trying to resolve the types of problems that we're facing, cutting programs, cutting individuals, talking about reducing work weeks or laying off up to 1,000 employees, we seem to have a tendency to always protect the top. As a matter of fact, not only do we protect the top, we add to them. We give them public relations people, we give them assistants, deputy commissioners, etc. This amendment here consolidates three departments, combines all of the state's economic activities under one roof, and of particular importance, consolidates all the economic and market data bases and the human expertise in the same agency, eliminating the turf-driven protectionism of key data. Labor and Professional & Financial Regulation is essentially unchanged from present law, DECD is reduced considerably from its present format by the independent economic development agencies; such as Maine World Trade, FAME, Maine Tourism, Small Business Commission, and the Maine Science & Technology Commission picks up much of what DECD functions currently are and are directed to work in close coordination with the Department. It's called efficiency and effectiveness. It's called improvement of delivery of services, as well as accountability of the delivery of these services. When the vote is taken on this, I request a roll call

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL:** Thank you, Madam President. Ladies and gentlemen of the Senate. It is obvious by the length of this amendment that this issue has been well thought out and researched. Unfortunately, I've not had a chance to look at this amendment, which has not been on our desk for a very long time and I think that certainly we should have an opportunity to look at this and analyze this, to see if this does indeed save money. This is definitely restructuring State Government. It's going a long way towards that process. The problem is, I think we should have gone through the Committee and public hearing process of that rather than present this nine-page amendment to combine 3 departments and about 15 boards and commissions. Respectfully, I'd like to have this tabled so we can look at it.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator **PRAY:** Thank you Madam President. Ladies and Gentlemen of the Senate. I obviously was to provide ample opportunities for all members to understand what the amendment is just before them. I suggest, basically, what you need to do is go back to the original bill, which you all received copies well over a month ago; I'm sure if you all sat down and read it as we all read every bill before us.

Basically, the Committee, in its wisdom through the Committee Amendment process, struck everything out after the Enacting Clause, and this re-establishes the original intent of the sponsor of the bill that of consolidation of a variety of departments. The original bill took out current 14 departments and melted them down, combining them together to create 7 departments. This is one of the departments that was in the original bill and obviously, we're all knowledgeable as to what was in the original bill. Understanding that a number of people have been busy and the accelerated time factor, perhaps there's a desire to provide Senator Cahill the opportunity to review this amendment by tabling this item.

On motion by Senator **PRAY** of Penobscot, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

On motion by Senator **CAHILL** of Sagadahoc, Tabled until Later in Today's Session, pending the motion by Senator **PRAY** of Penobscot to **ADOPT** of Senate Amendment "F" (S-715) to Committee Amendment "A" (S-680) (Roll Call Ordered).

The President Pro Tem laid before the Senate the Tabled and Later Today Assigned matter:

HOUSE REPORT - from Committee on **HUMAN RESOURCES** on Bill "An Act to Legalize Marijuana for Medicinal Purposes"

H.P. 1729 L.D. 2420

Reported the the Same Ought to Pass as Amended by Committee Amendment "A" (H-1281).

Tabled - March 26, 1992, by Senator **GOULD** of Waldo.

Pending - **ACCEPTANCE** of Committee Report

(In Senate, March 26, 1992, Report **READ**.)

(In House, March 26, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1281).**)

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator **CONLEY:** Thank you Madam President. Ladies and Gentlemen of the Senate. Since we last tabled this bill, I have consulted with the Attorney General's Office. The Attorney General has looked at this bill and is not opposed to it on policy ground. I just spoke with Charlie Leadbetter, an Assistant Attorney General in the office, who is looking at some technical changes that would have to be made if this bill got to Second Reading. What I would say about this bill to the body is that the title might alarm some people but I can assure you that the Committee looked at this bill carefully, we had a series of cancer patients who appeared in front of us and told us some pretty horrifying tales about the problems they were having getting adequate treatment for side effects from chemotherapy. As a matter of fact, Representative Larrivee's own daughter came in before the Committee. Representative Larrivee is the prime sponsor of this measure and she has recovered from a serious bout with cancer. Her testimony, some of the most testimony I've heard here in my five years, where she went into details about the drugs which she was prescribed by her physicians for nausea--none of which really worked--all of which were incredibly expensive. She talked about the horror which she and her family had to go through so that she could obtain marijuana which was the only thing that allowed her to eat, put on weight and to relieve the nausea from which she suffered. That

kind of story was repeated by a number of people. I think the the Committee was very sensitive to not wanting to open up a hole whereby people who do not have illnesses, would take advantage of whatever legal benefit we could create for those people who suffer from the side effects of chemotherapy when they come down with cancer. We worked carefully to close those loopholes. The questions were raised by the good Senator from Waldo, Senator Gould, are certainly concerns which we have and which is why we went to the Attorney General to make sure that this bill was drafted in such a way to close any loopholes. We feel that they are; the Judiciary Committee had an opportunity to look at this. I know that the good Senator from Androscoggin has been on the phone with Assistant Attorney General Leadbetter himself. I am hopeful he will put on the record his own conversation with the Assistant Attorney General as well as the deliberations which they had.

This bill has come about as a result of really a lot of political machination that have gone on in Washington whereby the FDA has withdrawn totally from any therapeutic programs that were being tested to allow people to experiment with marijuana to alleviate side effects of chemotherapy—it has really gone by the wayside—the only thing we could come up with, with the help of counsel, was to create a defense. And that's all it is, a defense. If a prosecutor still decides somebody with possession of marijuana they can bring that charge forward under this bill then have to convince the jury that, "my doctor has diagnose me as having cancer, I have been getting treatment with chemotherapy, and it's because of my condition that I have marijuana or that my parent, or a close loved one, got it for me". That is exactly the situation we're trying to deal with—we believe that the bill does do that and we're hopeful that this body will support it.

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

Senator **GAUVREAU:** Thank you Madam President. Ladies and Gentlemen of the Senate. As was alluded to by our colleague from Cumberland, Senator Conley, the Joint Standing Committee on Judiciary, had an opportunity to review the legislation before us to determine its technical structure, given the fact that this legislation would amend our Criminal Codes, Title 17-A.

The Committee on Judiciary did made some technical recommendations. Our task was not to review the policy but the technical input of the language and I did a few moments ago have a discussion with Deputy Attorney General Leadbetter who is recommending further technical changes to the bill. But the Attorney General's Office does not have major reservations at all about this bill, and I understand this legislation is now—after we go through the amendment process shortly—I think, the legislation will be in technically fine form to go on to legislative fruition. Thank you, Madam President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Matthews.

Senator **MATTHEWS:** Thank you, Madam President. Ladies and Gentlemen of the Senate. I'd like to pose a question through the Chair. The question for the members of the Human Resources Committee or anyone in the Chamber, I'd d like to know if there are a number of states that do this presently and was part of the research of the Committee on why Maine should join other states.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator **CONLEY:** Thank you, Madam President. In answer to question from the good Senator from Kennebec, I am not aware of any state that has any statute designed such as this. The idea for this statute came out of a Florida case in which a judge allowed a medical use defense as it was developed through the testimony of the individual involved in that particular case. I can get a copy of that case, actually it's in the other body, which I will be happy to show to anyone who would be interested.

Which Report was **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-1281) **READ** and **ADOPTED**, in concurrence.

Which was, under suspension of the Rules, **READ A SECOND TIME**.

On motion by Senator **GILL** of Cumberland, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

The President Pro Tem laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act Concerning the Bureau of Intergovernmental Drug Enforcement" (Emergency)
H.P. 1629 L.D. 2292
(H"A" H-1186 to C"A"
H-1106)

Tabled - March 26, 1992, by Senator **DUTREMBLE** of York.

Pending - Motion by Senator **BERUBE** of Androscoggin to **RECEDE** and **CONCUR**

(In House, March 25, 1992, **PASSED TO BE ENACTED**.)
(In Senate, March 25, 1992, **FAILED OF ENACTMENT** in **NON-CONCURRENCE**.)

(In House, March 26, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1106) AS AMENDED BY HOUSE AMENDMENT "A" (H-1186) thereto, AND HOUSE AMENDMENT "A" (H-1282) in NON-CONCURRENCE**.)

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL:** Thank you Madam President. Ladies and Gentlemen of the Senate. According to my notes I thought there was a question asked on whether or not this Bill required two-thirds because it did include the confirmation hearing process in that. I would like to have that clarified. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator **BERUBE:** Thank you Madam President. Ladies and Gentlemen of the Senate. I was shown a copy of the ruling of the Attorney General. The actual opinion is that if there is an emergency enactor on a Bill, it must be two-thirds of the Body to pass it. If an emergency clause has been stripped off the Bill, it is two-thirds of those present and voting when it is to create a new Department that calls for legislative confirmation. Without the emergency it is two-thirds of those present and voting not two-thirds of the elected body. Thank you.

On motion by Senator **BERUBE** of Androscoggin, the Senate **RECEDED** and **CONCURRED**.

Under suspension of the Rules, ordered sent forthwith to the Engrossing Department.