

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Seventeenth Legislature
OF THE
State Of Maine

VOLUME V

FIRST REGULAR SESSION

Senate

June 19, 1995 to June 30, 1995

FIRST CONFIRMATION SESSION

September 14, 1995

FIRST SPECIAL SESSION

House of Representatives

November 28, 1995 to November 30, 1995

Senate

November 28, 1995 to November 30, 1995

Savage, Shiah, Simoneau, Stedman, Taylor, Thompson, Townsend, Treat, Underwood, Volenik, Waterhouse, Watson, Winn, Winsor.

ABSENT - Cloutier, Look, Plowman, Poulin, Truman, Tuttle.

Yes, 95; No, 50; Absent, 6; Excused, 0.

95 having voted in the affirmative and 50 voted in the negative, with 6 being absent, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-671). Ordered sent forthwith.

The following items were taken up out of order by unanimous consent:

ENACTORS

Emergency Measure

An Act to Implement the Recommendations of the Productivity Realization Task Force (H.P. 1150) (L.D. 1589) (H. "A" H-660, H. "B" H-663, H. "C" H-665, S. "E" S-410 and S. "F" S-411 to C. "A" H-657; H. "C" H-664; H. "E" H-668; H. "F" H-675; H. "G" H-676)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of the same and 23 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

ENACTORS

Emergency Measure

An Act to Transfer Oversight of Commercial Driver Education Programs to the Secretary of State (S.P. 477) (L.D. 1301) (S. "A" S-414 to C. "A" S-331)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 105 voted in favor of the same and 17 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTORS

Emergency Measure

An Act to Correct an Error in the Hospital Assessment Program (H.P. 1151) (L.D. 1590) (Governor's Bill) (C. "A" H-679)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 129 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

ORDERS

On motion of Representative JACQUES of Waterville, the following Joint Order: (H.P. 1167)

ORDERED, the Senate concurring, that the following specified matters be held over to any special or regular session of the 117th Legislature:

Committee: Agriculture, Conservation and Forestry

An Act to Implement the Productivity Plan of the Department of Agriculture, Food and Rural

Resources Relating to the Animal Welfare Board, the Maine Dairy Promotion Board and the Maine Dairy and Nutrition Council (EMERGENCY) (H.P. 1159) (L.D. 1593)

Committee: Legal and Veterans Affairs

An Act to Implement the Productivity Plan of the Department of Agriculture, Food and Rural Resources Relating to Harness Racing (EMERGENCY) (H.P. 1157) (L.D. 1591)

Committee: Taxation

An Act to Reduce the State Tax Valuation for the Town of Hope (EMERGENCY) (H.P. 1164) (L.D. 1597)

Was read and passed and sent up for concurrence.

By unanimous consent, L.D. 1590 and Joint Order (H.P. 1167) were ordered sent forthwith.

(AFTER MIDNIGHT)
DECEMBER 1, 1995

ENACTORS

Emergency Measure

An Act to Implement the Productivity Recommendations of the Department of Transportation and Make Adjustments to Highway Fund Allocations for Fiscal Years 1995-96 and 1996-97 (H.P. 1148) (L.D. 1587) (Governor's Bill) (C. "A" H-671)

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

Representative O'GARA of Westbrook requested a roll call on passage to be enacted.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

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

The pending question before the House is enactment. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 289

YEA - Ahearne, Bailey, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Campbell, Carleton, Carr, Chick, Chizmar, Clark, Clukey, Cross, Daggett, Damren, Davidson, Desmond, Dexter, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gerry, Gieringer, Gooley, Gould, Greenlaw, Hatch, Heino, Hichborn, Jacques, Johnson, Jones, K.; Jones, S.; Joseph, Keane, Kilkelly, Kneeland, Kontos, LaFountain, Lane, Lemaire, Lindahl, Marshall, Martin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, Nickerson, O'Neal, Ott, Paul, Peavey, Pendleton, Pouliot, Povich, Reed, W.; Rice, Richard, Richardson, Ricker, Robichaud, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Sirois, Spear, Stevens, Stone, Strout, Tripp, True, Tufts, Tyler, Vigue, Wheeler, Whitcomb, Winglass, Winn, The Speaker.

NAY - Adams, Aikman, Ault, Barth, Birney, Buck, Chartrand, Chase, Donnelly, Dunn, Gates, Green, Guerrette, Hartnett, Heeschen, Joy, Joyce, Joyner, Kerr, Labrecque, Layton, Lemke, Lemont, Libby JD; Lovett, Lumbra, Madore, Marvin, Nass, O'Gara,

Perkins, Pinkham, Poirier, Reed, G.; Savage, Shiah, Simoneau, Stedman, Taylor, Thompson, Townsend, Treat, Underwood, Volenik, Waterhouse, Watson, Winsor.

ABSENT - Cloutier, Libby JL; Look, Luther, Plowman, Poulin, Truman, Tuttle.

Yes, 96; No, 47; Absent, 8; Excused, 0.

96 having voted in the affirmative and 47 voted in the negative, with 8 being absent, this being an emergency measure, a two-thirds vote of all the members elected to the House necessary, the Bill failed of passage to be enacted.

On motion of Representative O'GARA of Westbrook the House reconsidered its action whereby L.D. 1587 failed of passage to be enacted.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: I frankly did not think we would be here at this position at this time of the day. I apologize for any part that I might have had in bringing us to this late hour. As you know in the last vote, we were very, very close.

I simply am appealing to you in this one last division that we have been asked for reconsideration of repealing the emergency clause. I talked to members of my committee and we cannot bring ourselves to do that. We have been standing before you for these last many hours telling you what we really believe is in the best interest of your constituents and of this state. Now I stand before you, which has been done on many occasions, and the veterans here know that stripping an emergency is not an unusual thing.

Those of you in the room that may be anticipating that I would be doing that, I want you to understand why I cannot do that. I have a very high regard for my committee as you have heard me say before. I know that my committee members would not want me to do that. I don't want to lose their support down the road. I don't want them to be in a spot of having to vote for that or against that. We are not going to do that. We are going to vote one more time. I don't really know in my heart of hearts why certain people in this body whose citizens are going to be deeply impacted by what can happen if these measures are not allowed to go forward.

Can it wait until next year? Sure it can. We will lose 1.8 million dollars in federal funds. We have a whole construction season that will be delayed once again. In my judgment the voters of the State of Maine expect us, like we have said and I have heard others say on this House floor, to come up here and make reasonable rational decisions. There are those of you who have told me as we have been talking that for the most part reasonably kind to each other. We think there are other ways that we might do this. I submit to you that we have tried desperately.

One of the people who presented one of the amendments, even told you on this House floor that the Transportation Committee has made a sincere effort of hearing everybody's proposal. We have done that. I have on many occasions been on an opposite side of you until after I have heard all of the discussion. I have never hesitated to change my vote if I heard something that really I saw no reason not to change my vote. Some of you here have said on this floor that you will not vote for this. I know

it makes it very difficult, but I am asking you to reconsider very carefully.

I have talked to some people and I still don't know why they are not voting for it other than to say there hasn't been a compromise. We worked on trying to establish a compromise in our committee. We listened to many proposals of a compromise. In our judgment and in the judgment of a lot of people, while they didn't accept the whole plan as it was, they felt that any compromise was not as good as the original proposal. I thought that was also part. Maybe I am wrong. I guess I just always thought that was part of a compromise. You listen. You attempt to compromise and you attempt to go to one side or the other and if you don't, then you drop back to what was the original plan. The original plan is what is before you now.

I am not going to talk any longer. I don't know how else to say it. I worried about this for three days. Realizing that the words that I was using would be good enough or not good enough. I have to survive with that. I urge you to support the motion to pass this proposal. Thank you.

The SPEAKER: The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, Men and Women of the House: I concur wholeheartedly with the previous speaker. I know the hour is late and I have to tell you that this morning that he is absolutely right, I think the Transportation Committee did everything they could in the last few days. I really believe that this is the right way to go. There are a lot of projects out there that I am concerned about that should go down that will be maybe not just deferred, but maybe curtailed. If there is any of you in this body at this hour that were voting against this previously, can see your way clear to come around and give us support, I know, for one, I would really appreciate it.

I have looked at this hard and long and where we tried to make the movement, it just never happened. I was one of the members of the Transportation Committee that told the Chairperson that if they took the emergency off, I, too, would vote against it. I don't want to leave this chamber and go home without passing this transportation issue. I don't know what more we can say. We have done our part. I guess the rest is up to you.

Representative JACQUES of Waterville requested a roll call on passage to be enacted.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

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

The pending question before the House is enactment. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 290

YEA - Ahearne, Bailey, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Campbell, Carleton, Carr, Chick, Chizmar, Clark, Clukey, Cross, Daggett, Damren, Davidson, Desmond, Dexter, DiPietro, Dore, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gerry, Gieringer, Gooley, Gould, Greenlaw, Hatch, Heino, Hichborn, Jacques,

Johnson, Jones, K.; Joseph, Keane, Kilkelly, Kneeland, Kontos, LaFountain, Lane, Lemaire, Lindahl, Martin, Mayo, McAtevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, Nickerson, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Pouliot, Povich, Reed, W.; Richard, Richardson, Ricker, Robichaud, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Sirois, Stevens, Stone, Strout, Thompson, Townsend, Tripp, True, Tufts, Tyler, Vigue, Wheeler, Winglass, Winn, The Speaker.

NAY - Adams, Aikman, Ault, Birney, Buck, Chartrand, Chase, Donnelly, Gates, Green, Guerrette, Hartnett, Heeschen, Jones, S.; Joy, Joyce, Joyner, Kerr, Labrecque, Layton, Lemke, Lemont, Libby JD; Lovett, Lumbra, Madore, Marvin, Nass, Perkins, Pinkham, Poirier, Reed, G.; Rice, Savage, Shiah, Simoneau, Spear, Stedman, Taylor, Treat, Underwood, Volenik, Waterhouse, Watson, Winsor.

ABSENT - Barth, Cloutier, Libby JL; Look, Luther, Marshall, Plowman, Poulin, Truman, Tuttle, Whitcomb.

Yes, 95; No, 45; Absent, 11; Excused, 0.

95 having voted in the affirmative and 45 voted in the negative, with 11 being absent, this being an emergency measure, a two-thirds vote of all the members elected to the House necessary, the Bill failed of passage to be enacted. Ordered sent forthwith.

SENATE PAPERS

Non-Concurrent Matter

An Act to Authorize Appropriations and Allocations for the 1996-1997 Biennium and to Change Certain Provisions of the Law Necessary for the Operation of State Government (EMERGENCY) (H.P. 1160) (L.D. 1594) which was passed to be enacted in the House on November 30, 1995.

Came from the Senate failing of passage to be enacted in non-concurrence.

The House voted to Adhere. Ordered sent forthwith.

The following matter from the Senate was taken up by unanimous consent without the printed matter before the House:

SENATE PAPERS

Non-Concurrent Matter

An Act to Implement the Productivity Recommendations of the Department of Transportation and Make Adjustments to Highway Fund Allocations for Fiscal Years 1995-96 and 1996-97 (EMERGENCY) (H.P. 1148) (L.D. 1587) (Governor's Bill) (C. "A" H-671) which failed of passage to be enacted in the House on December 1, 1995.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-671) and Senate Amendment "A" (S-416) in non-concurrence.

The House voted to Recede and Concur.

Representative LIBBY of Buxton moved that the House reconsider its action whereby the House voted to Recede and Concur.

Representative MITCHELL of Vassalboro requested a division on the motion to reconsider.

The Chair ordered a division on the motion to reconsider.

A vote of the House was taken. 48 voted in favor of the same and 65 against, subsequently, the motion to reconsider did not prevail.

Ordered sent forthwith.

The following matter was taken up by unanimous consent without the printed matter before the House:

ENACTORS

An Act to Implement the Productivity Recommendations of the Department of Transportation and Make Adjustments to Highway Fund Allocations for Fiscal Years 1995-96 and 1996-97 (H.P. 1148) (L.D. 1587) (Governor's Bill) (C. "A" H-671; S. "A" S-416)

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

Representative LIBBY of Buxton requested a roll call on passage to be enacted.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

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

The pending question before the House is Enactment. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 291

YEA - Ahearne, Benedikt, Berry, Bigl, Brennan, Bunker, Cameron, Campbell, Carleton, Chick, Chizmar, Clark, Clukey, Daggett, Damren, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gerry, Gooley, Gould, Greenlaw, Hatch, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kilkelly, Kneeland, Kontos, Lane, Lemaire, Lemont, Lindahl, Marshall, Martin, Mayo, Meres, Mitchell EH; Mitchell JE; Murphy, Nadeau, Nickerson, O'Gara, O'Neal, Paul, Peavey, Pendleton, Pouliot, Poirier, Povich, Rice, Richard, Rosebush, Rowe, Samson, Saxl, M.; Sirois, Spear, Stevens, Strout, Thompson, Tripp, Tufts, Tyler, Vigue, Wheeler, Winglass, Winn, The Speaker.

NAY - Adams, Ault, Birney, Buck, Chartrand, Chase, Cross, Donnelly, Dunn, Gates, Green, Guerrette, Hartnett, Heeschen, Joy, Joyce, Kerr, Labrecque, Layton, Libby JD; Lumbra, Madore, Marvin, McAtevey, Nass, Ott, Perkins, Pinkham, Reed, G.; Robichaud, Savage, Shiah, Simoneau, Stedman, Taylor, Treat, Underwood, Volenik, Waterhouse, Watson, Winsor.

ABSENT - Aikman, Bailey, Barth, Bouffard, Carr, Cloutier, Dexter, Gamache, Gieringer, Heino, Jones, S.; Joyner, LaFountain, Lemke, Libby JL; Look, Lovett, Luther, McElroy, Morrison, Plowman, Poulin, Reed, W.; Richardson, Ricker, Saxl, J.; Stone, Townsend, True, Truman, Tuttle, Whitcomb.

Yes, 78; No, 41; Absent, 32; Excused, 0.

78 having voted in the affirmative and 41 voted in the negative, with 32 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

The following matter from the Senate was taken up by unanimous consent without the printed matter before the House:

SENATE PAPERS

Non-Concurrent Matter

An Act to Transfer Oversight of Commercial Driver Education Programs to the Secretary of State