

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fourteenth Legislature

OF THE

State Of Maine

VOLUME III

FIRST REGULAR SESSION
June 15, 1989 to July 1, 1989
Index

Augusta, Maine 04333
June 30, 1989

Honorable Edwin H. Pert
Clerk of the House
State House Station 2
Augusta, Maine 04333
Dear Clerk Pert:

Senate Paper 442 Legislative Document 1195, An Act to Clarify the Definition of State Employee under the State Employee Labor Relations Act, having been returned by the Governor together with his objections of the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the Senate proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, accordingly, it was the vote of the Senate that the Bill not become law and the veto was sustained.

Sincerely,
S/Joy J. O'Brien
Secretary of the Senate

Was read and ordered placed on file.

The following items appearing on Supplement No. 23 were taken up out of order by unanimous consent:

PAPER FROM THE SENATE

The following Communication:

Maine State Senate
Augusta, Maine 04333
June 30, 1989

Honorable Edwin H. Pert
Clerk of the House
State House Station 2
Augusta, Maine 04333
Dear Clerk Pert:

Senate Paper 467 Legislative Document 1252, An Act to Establish the Mental Health Advisory Committee on Medicaid, having been returned by the Governor together with his objections of the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the Senate proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, accordingly, it was the vote of the Senate that the Bill not become law and the veto was sustained.

Sincerely,
S/Joy J. O'Brien
Secretary of the Senate

Was read and ordered placed on file.

Unanimous Leave to Withdraw

Report of the Committee on Taxation reporting "Leave to Withdraw" on Bill "An Act to Relieve the Burden of Property Taxes Through Creation of the Property Tax Relief Fund" (S.P. 605) (L.D. 1699)

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

The Chair laid before the House the following matter: H.P. 408, L.D. 551, "AN ACT To Allow Recovery for Wrongful Death of an Unborn Viable Fetus." which was tabled earlier in the day and later today assigned pending further consideration.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, Men and Women of the House: At this very late hour, I shall be very brief. You have the veto message from the Governor in front of you, you can all read what the veto message says.

I was not surprised by the veto. I was certainly disappointed. I think the majority signers of the Judiciary Committee share in that disappointment because we had all worked very long and very hard in crafting a bill that we thought was very fair and addressed the issue, the issue being allowing for recovery when a Tort has been done, a wrongful act has been done against a viable fetus.

It is difficult to understand the Governor's actions at this late hour because throughout the process no one from his office contacted any member of the committee. The Majority signers signed the report "Ought to Pass" and tried to communicate their feelings, their comprehension, their misgivings about the bill and the wording that we had.

I found out about the veto late yesterday afternoon and it was confirmed to me by a member of the press, that is how I found out about the veto. I was not given the courtesy of being contacted by any member of the Governor's Office so that we could at least talk about the veto and I would at least know before the press was made aware of this.

I note the Governor's offer and I quote, "I would also support legislation that would expand the right to bring an action if the legislation restricted its use and benefits to the mother of both parents of the fetus." That was always our intention, it was in May when we debated the bill and again in June. I would invite the Governor to file legislation in the Second Regular Session if he is sincere in his veto message to us, if he truly believes that we ought to have a wrongful death act in this field, if he really empathizes with the young families in this state who have gone through what the lady from Fairfield went through just several months ago from a drunk driver. The ball is in his court.

A columnist wrote yesterday in one of our leading newspapers that it is far easier to govern with a veto than it is to propose legislation. It is easier to destruct a house than to construct a house. I think the business of legislators and Governors is to construct legislation, not to destruct legislation. I think that is why I serve in this body and am proud to be a Representative.

I thank every single member of this body who voted with us the five or six times that this bill came before the body. I know where your hearts are. I know where your feelings are. It was a tremendous battle. We sent the right message to the people in this state that we wanted to give value to these young families. We wanted to give value to a viable fetus that was struggling for its life, struggling for its constitutional rights, and I am very proud of that battle. Notwithstanding the veto of the Governor, I think that this body can be very proud of itself on this 30th of June, 1989. I know that the writing is on the wall because of what the Governor has done. I challenge him. I would like to be able to sit here seven or eight months from now and propose his bill before this body and see what he would really like to do rather than just simply return the bill without his signature. I think he has done the easiest thing and he has not chosen the road less traveled. I urge you to vote your conscience and vote to override this veto.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Anthony.

Representative ANTHONY: Mr. Speaker, Men and Women of the House: I also will be very brief.

I would like to reiterate that, while this bill was being discussed and modified extensively in committee, there was no involvement whatsoever by any representative from the Governor's office. If he had had concerns about this bill, they could have easily been accommodated during that committee process.

In his veto message, the Governor expresses that he "shares a deep sympathy for those who experience the tragedy of the wrongful death of a fetus." If that had been truly so, he could have contributed to the crafting of an acceptable proposal which would redress the wrongful loss of a viable fetus.

I am very disappointed in this veto coming as it does, completely without warning or efforts to express concern during the legislative process. I would second the expression of my Committee Chair to encourage the Governor's office to participate in presenting an acceptable proposal during the Second Regular Session.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Webster.

Representative WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: I take some pleasure in debating this bill this evening because it is not a partisan issue. It is an issue where there were men and women in both parties who voted in favor of this bill and men and women in both parties who voted against this bill when it was before us. It does happen to be a veto that I support the Governor's position on. I think he has written a very articulate veto message to you but one sentence I would draw your attention to because it is one I think for me is the essence of why I am going to vote to sustain this veto. It says, "Finally, because the bill confers a legal personality on a fetus for purposes of wrongful death actions, it greatly expands the opportunities for applying this legal status to other circumstances." That is, I think, a section of the proposed law that sets an undesirable precedent for us to have. So, I hope you will vote to sustain this veto.

After reconsideration, the pending question before the House is, "Shall this Bill become a law notwithstanding the objections of the Governor?" Pursuant to the Constitution, the vote will be taken by the yeas and nays. This requires a two-thirds vote of all the members present and voting. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 152V

YEA - Aliberti, Anthony, Boutilier, Brewer, Cahill, M.; Cashman, Clark, H.; Cote, Dexter, DiPietro, Duffy, Dutremble, L.; Erwin, P.; Gould, R. A.; Gwadosky, Hale, Hickey, Hutchins, Jacques, Jalbert, LaPointe, Luther, Macomber, Manning, Marston, Martin, H.; Mayo, McCormick, McGowan, McSweeney, Melendy, Michaud, Moholland, Murphy, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Dea, O'Gara, Paradis, P.; Parent, Paul, Pineau, Plourde, Pouliot, Richard, Richards, Ridley, Rotondi, Seavey, Sheltra, Smith, Strout, D.; Tamaro, Tracy, Walker, The Speaker.

NAY - Adams, Aikman, Allen, Bailey, Begley, Bell, Burke, Butland, Carroll, D.; Carroll, J.; Cathcart, Chonko, Clark, M.; Coles, Curran, Daggett, Dellert, Donald, Dore, Farnsworth, Farnum, Farren, Foss, Foster, Garland, Graham, Greenlaw, Gurney, Handy, Hanley, Hastings, Heeschen, Hepburn, Hichborn, Higgins, Hoglund, Holt, Jackson, Joseph, Ketover,

Kilkelly, Larrivee, Lawrence, Lebowitz, Libby, Lisnik, Look, Lord, MacBride, Mahany, Marsano, Marsh, McKeen, McPherson, Merrill, Mills, Mitchell, Norton, Oliver, Paradis, E.; Pederson, Pendleton, Pines, Priest, Rand, Reed, Rolde, Rydell, Sherburne, Simpson, Skoglund, Small, Stevens, A.; Stevens, P.; Stevenson, Strout, B.; Swazey, Telow, Townsend, Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Anderson, Ault, Carter, Conley, Constantine, Crowley, Hussey, McHenry, Paradis, J.; Ruhlin, Tardy.

Yes, 57; No, 83; Absent, 11; Paired, 0; Excused, 0.

57 having voted in the affirmative and 83 in the negative with 11 being absent, the veto was sustained.

The following items appearing on Supplement No. 20 were taken up out of order by unanimous consent:

COMMUNICATIONS

The following Communication:

STATE OF MAINE

ONE HUNDRED AND FOURTEENTH LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT

June 22, 1989

The Honorable John L. Martin

Speaker of the House

114th Legislature

Dear Speaker Martin:

We are pleased to report that all business which was placed before the Committee on State and Local Government during the First Regular Session of the 114th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	147
Unanimous reports	124
Leave to Withdraw	32
Ought to Pass	13
Ought Not to Pass	21
Ought to Pass as Amended	38
Ought to Pass in New Draft	1
Pursuant to Joint Order	17
Re-refer to another Committee	2
Divided reports	22
Carry Over	1

Respectfully submitted,
S/Georgette B. Berube S/Ruth Joseph
Senate Chair House Chair
Was read and ordered placed on file.

CONSENT CALENDAR

First Day

In accordance with House Rule 49, the following item appeared on the Consent Calendar for the First Day:

(H.P. 1219) (L.D. 1691) Bill "An Act to Reimburse the Department of Inland Fisheries and Wildlife for Search and Rescue Operations" Committee on Appropriations and Financial Affairs reporting "Ought to Pass"

Under suspension of the rules, Second Day Consent Calendar notification was given and the House Paper was passed to be engrossed and sent up for concurrence.

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