

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

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(FIRST CONFIRMATION SESSION – SECOND REGULAR SESSION)

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STATE OF MAINE
One Hundred and Eleventh Legislature
Second Regular Session
JOURNAL OF THE SENATE

Augusta, Maine
January 4, 1984

Pursuant to the provisions of the Constitution and the laws of the State of Maine, the Senators convened in the Senate Chamber at 10 o'clock in the morning and were called to order by the President.

Prayer by the Reverend Thomas Joyce of St. Mary's Catholic Church of Augusta.

REVEREND JOYCE: God, our Father, you bring us to the threshold of another year. Help us to face this responsibility with the conviction of your constant care. Almighty God, you have given us this good state for our heritage. We humbly ask you that we may always prove ourselves, a people mindful of Your favor, glad to do Your Will.

Endow with the spirit of wisdom, those to whom, in Your name, we entrust the authority of government that we may always have justice and charity. Almighty and Eternal God, grant to all of us an understanding for social justice fraternal charity.

Oh Lord grant peace in our days, peace to all our families, our state, peace among all nations. Amen.

The Roll being called, the following Senators answered to their names:

Senators: Baldacci, Brown, Bustin, Carpenter, Charette, Collins, Danton, Diamond, Dow, Dutremble, Emerson, Erwin, Gill, Hayes, Hichens, Kany, McBreairty, Minkowsky, Pearson, Perkins, Pray, Redmond, Sewall, Shute, Teague, Trafton, Twitchell, Usher, Violette, Wood, The President—Gerard P. Conley.

31 Senators having answered to the Roll, the President declared that a quorum was present.

(Off Record Remarks)

Senator Hichens of York, was granted unanimous consent to address the Senate On the Record.

SENATOR HICHENS: Thank you Mr. President. On the fourth day of January, 1984 I rise to say a few words that should have been said before.

For just in case there's someone here who maybe hasn't heard
The birthday that I'm honoring was January third.

For there is one amongst us who started a new year

The day before we have convened—and he has been right here

In these astute Senate Chambers for years numbering seventeen

And many changes, I believe, this gentleman has seen

In the sixteen years preceding, he always longed to see

The time when his Democratic party would be the majority

And this past year his dreams came true—and he has walked on air

Yet his feet are firmly planted—serving those who put him there.

I've written several verses for this person in the past

And written words like generous deeds—for many years shall last.

And I'm sure that if you take the time to search these verses out

You'll find some interesting facts you may not know about

For he has lived an active life—raised quite a family

When he discusses birth control, an expert true is he.

And he asserts that his dear wife believes in ERA

But she's hardly had the time to think about it day by day.

An issue, finally settled by the voters, set him loose

When he and I tried valiantly to save Maine's stately moose.

But together we successfully raised the drinking age

And his many accomplishments would fill page after page.

Yes, its with a note of sadness we accept the things we hear

That this veteran Senator won't run again this year.

For its true, these Senate Chambers will no longer be the same

Without his presence hereabout—or to hear folk call his name

So I stand up here this morning and ask you to join with me

In extending birthday wishes to Senator Conley.

And wish for him the very best as he goes on life's way

That the good Lord will bless him as he serves us day by day.

THE PRESIDENT: The Chair wishes to extend his thanks to the good Senator from York for his very wisely chosen words.

Out of Order and Under Suspension of the Rules, on motion by Senator PRAY of Penobscot:

ORDERED, that a message be sent to His Excellency, the Governor, informing him that a quorum of Senators is assembled in the Senate Chamber for the consideration of such business as may come before the Senate.

Which was Read and Passed.

The President appointed Senator Pray of Penobscot to deliver the message to His Excellency, the Governor.

(Off Record Remarks)

At this point, a message was received from the House of Representatives through Representative Mitchell of Vassalboro informing the Senate that a quorum was present for the consideration of such business as might come before the House.

Subsequently, Senator Pray reported that he had delivered the message with which he was charged.

Out of Order and Under Suspension of the Rules, on motion by Senator CARPENTER of Aroostook:

ORDERED, that a message be conveyed to the House of Representatives informing that Body that a quorum of Senators is present for the consideration of such business as may come before the Senate.

Which was Read and Passed.

The President appointed Senator Carpenter of Aroostook to deliver the message, the Senator then retired to the Hall of the House, and subsequently, reported that he had delivered the message with which he was charged.

Out of Order and Under Suspension of the Rules, on motion by Senator CARPENTER of Aroostook:

ORDERED, that a message be sent to the House of Representatives proposing a Convention of both branches in the Hall of the House at 11:00 for the purpose of extending to The Honorable Joseph E. Brennan, Governor of the State of Maine, an invitation to attend the Convention and make such communication as pleases him.

Which was Read and Passed.

The President appointed Senator Carpenter of Aroostook to deliver the message, the Senator then retired to the Hall of the House and

subsequently reported that he had performed the duties with which he was charged.

Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

Senate Paper

BILL, "An Act to Amend the Composition of the Judicial Council." (S. P. 656) (Presented by Senator TRAFTON of Androscoggin)

Which was referred to the Committee on Judiciary and Ordered Printed.
Sent forthwith to the Printing Department.

Out of Order and Under Suspension of the Rules, on motion of Senator PRAY of Penobscot, the Senate voted to consider the following:

At this point, a message was received from the House of Representatives through Representative Mitchell of Vassalboro concurring in the proposition for a Joint Convention, to be held in the Hall of the House at 11 o'clock for the purpose of extending to His Excellency, Governor Joseph Brennan an invitation to make such communication as pleases him.

Senate Papers

BILL, "An Act Prohibiting Release of Animals by State Humane Agents for Experimentation or Vivisection Purposes." (Approved for introduction by the Legislative Council pursuant to Joint Rule 26) (S. P. 647) (Presented by Senator HICHENS of York) (Cosponsors: Representative KILCOYNE of Gardiner, Representative GREENLAW of Standish, and Senator TWITCHELL of Oxford)

Which was referred to the Committee on Agriculture and Ordered Printed.

Sent forthwith to the Printing Department.

BILL, "An Act to Require the State to Finance a General Assistance Program for Migrant Workers." (Approved for introduction by the Legislative Council pursuant to Joint Rule 26) (S. P. 667) (Presented by Senator BROWN of Washington) (Cosponsor: Senator PERKINS of Hancock)

BILL, "An Act to Establish a Training Program to Improve Water Quality." (Approved for introduction by the Legislative Council pursuant to Joint Rule 26) (S. P. 668) (Presented by Senator NAJARIAN of Cumberland) (Cosponsor: Representative HALL of Sangerville)

Which were referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Sent forthwith to the Printing Department.

BILL, "An Act to Maintain Equality Between Home Improvement Loans and Other Consumer Credit Loans." (Approved for introduction by the Legislative Council pursuant to Joint Rule 26) (Emergency) (S. P. 648) (Presented by Senator BUSTIN of Kennebec) (Cosponsors: Representative MURRAY of Bangor and Representative SPROUL of Augusta)

BILL, "An Act to Streamline Procedures for Financial Institution Branch Changes and to Clarify What Constitutes an On-premise Satellite Facility." (Approved for introduction by the Legislative Council pursuant to Joint Rule 26) (S. P. 649) (Presented by Senator CHARETTE of Androscoggin)

Which were referred to the Committee on Business Legislation and Ordered Printed.

Sent forthwith to the Printing Department.

BILL, "An Act to Allow Municipalities to Use Outgoing Voter Check Lists." (Approved for introduction by the Legislative Council pursuant to Joint Rule 26) (S. P. 650) (Presented by Senator DANTON of York)

Which was referred to the Committee on Election Laws and Ordered Printed.

Sent forthwith to the Printing Department.

BILL, "An Act to Clarify the Maine Emergency Medical Services Treatment Act of 1982 with Respect to Transportation of Nursing Home Residents." (Approved for introduction by the Legislative Council pursuant to Joint Rule 26) (S. P. 651) (Presented by Senator BUSTIN of Kennebec) (Cosponsor: Senator GILL of Cumberland)

BILL, "An Act to Provide Funds to Assure Appropriate Placement and Service Provision to State-assisted Residents of Boarding Homes and Adult Foster Homes." (Approved for introduction by the Legislative Council pursuant to Joint Rule 26) (S. P. 669) (Presented by Senator BUSTIN of Kennebec) (Cosponsors: Representative KELLEHER of Bangor, Senator GILL of Cumberland and Representative NELSON of Portland)

Which were referred to the Committee on Health and Institutional Services and Ordered Printed.

Sent forthwith to the Printing Department.

(Off Record Remarks)

BILL, "An Act to Require that the Aid to Families with Dependent Children Program Promote Family Unity." (Approved for introduction by the Legislative Council pursuant to Joint Rule 26) (S. P. 652) (Presented by Senator CONLEY of Cumberland) (Cosponsors: Representative KELLEHER of Bangor and Senator BROWN of Washington)

Committee on Health and Institutional Services suggested.

On motion by Senator Brown of Washington referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Sent forthwith to the Printing Department.

BILL, "An Act to Amend Certain District Court Divisions and Districts." (Approved for introduction by the Legislative Council pursuant to Joint Rule 26) (S. P. 653) (Presented by Senator TRAFTON of Androscoggin)

BILL, "An Act Eliminating the Need for the Non-owner Spouse to Sign All Deeds of Conveyance." (Approved for introduction by the Legislative Council pursuant to Joint Rule 26) (S. P. 654) (Presented by Senator TRAFTON of Androscoggin) (Cosponsor: Senator COLLINS of KNOX)

BILL, "An Act to Provide for the Services of Bailiffs and other Court and Jury Officers." (Approved for introduction by the Legislative Council pursuant to Joint Rule 26) (S. P. 655) (Presented by Senator TRAFTON of Androscoggin)

BILL, "An Act to Increase the Number of Superior Court Justices and District Court Judges." (Approved for introduction by the Legislative Council pursuant to Joint Rule 26) (S. P. 657) (Presented by Senator TRAFTON of Androscoggin)

BILL, "An Act Providing for Change of Venue in Criminal Cases." (Approved for introduction by the Legislative Council pursuant to Joint Rule 26) (S. P. 658) (Presented by Senator TRAFTON of Androscoggin)

BILL, "An Act to Update the Master Correctional Services Plan." (Approved for introduction by the Legislative Council pursuant to Joint Rule 26) (S. P. 659) (Presented by Senator TRAFTON of Androscoggin)

BILL, "An Act to Replace References to Regional Presiding Justice with Chief Justice of the Superior Court." (Approved for introduction by the Legislative Council pursuant to Joint Rule 26) (S. P. 660) (Presented by Senator TRAFTON of Androscoggin)

Which were referred to the Committee on Judiciary and Ordered Printed.

Sent forthwith to the Printing Department.

BILL, "An Act to Clarify the Procedures to Appeal a Decision of the Workers' Compensation Division." (Approved for introduction by the Legislative Council pursuant to Joint Rule

26) (S. P. 661) (Presented by Senator TRAFTON of Androscoggin)

Which was referred to the Committee on Labor and Ordered Printed.

Sent forthwith to the Printing Department.

BILL, "An Act to Amend the Liquor Laws to Permit the Sale of Beer and Wine at Outdoor Stadiums." (Approved for introduction by the Legislative Council pursuant to Joint Rule 26) (S. P. 662) (Presented by Senator DANTON of York)

Which was referred to the Committee on Legal Affairs and Ordered Printed.

Sent forthwith to the Printing Department.

BILL, "An Act to Clarify the Law Concerning Certain Appeals from Planning Board Decisions." (Approved for introduction by the Legislative Council pursuant to Joint Rule 26) (S. P. 663) (Presented by Senator TRAFTON of Androscoggin)

BILL, "An Act to Allow Plantations to Determine When to Hold Their Annual Meetings." (Approved for introduction by the Legislative Council pursuant to Joint Rule 26) (S. P. 670) (Presented by Senator McBREAIRTY of Aroostook) (Cosponsor: Representative HALL of Sangerville)

Which was referred to the Committee on Local and County Government and Ordered Printed.

Sent forthwith to the Printing Department.

BILL, "An Act Concerning Public Utility Commission Approval of Temporary Rate Changes." (Approved for introduction by the Legislative Council pursuant to Joint Rule 26) (S. P. 671) (Presented by Senator BALDACCI of Penobscot)

Which was referred to the Committee on Public Utilities and Ordered Printed.

Sent forthwith to the Printing Department.

BILL, "An Act to Grandfather Certain Existing Part-time Law Enforcement Officers from the Requirement to be Trained by the Maine Criminal Justice Academy." (Approved for introduction by the Legislative Council pursuant to Joint Rule 26) (S. P. 672) (Presented by Senator VIOLETTE of Aroostook) (Cosponsor: Representative GWADOSKY of Fairfield)

Which was referred to the Committee on State Government and Ordered Printed.

Sent forthwith to the Printing Department.

Orders

On motion by Senator BROWN of Washington:

ORDERED, that the Secretary of the Senate be authorized to invite the clergymen of Augusta, Hallowell and Gardiner to officiate as Chaplains of the Senate, or to invite clergymen from other areas of the State as requested by any member of the Senate; and be it further

ORDERED, that all clergymen acting as Chaplains of the Senate shall receive \$25.00 for each officiation. The same to be approved by the Secretary of the Senate.

Which was Read and Passed.

Joint Orders

On motion by Senator PRAY of Penobscot, the following Joint Order: (S. P. 679)

ORDERED, the House concurring, that there be paid to the members of the Senate and House, as advances on account of compensation established by statute, the amount of \$500 biweekly, the first payment to be made on January 11, 1984, according to lists certified to the State Controller by the President of the Senate and Speaker of the House, respectively.

Which was Read and Passed.

Sent down forthwith for concurrence.

On motion by Senator COLLINS of Knox, the following Joint Order: (S. P. 646)

ORDERED, the House concurring, that two

hundred seventy-five (275) copies of the Legislative Record for the session of 1983 be printed, one copy for each of the members of the Senate, House of Representatives, the Secretary of the Senate and Clerk of the House, and the remainder to be deposited with the State Law Librarian for exchange and library use; and be it further

ORDERED, that suitable index be prepared for such Legislative Record, under the direction of the Director of Legislative Research.

Which was Read and Passed.

Sent down forthwith for concurrence.

On motion by Senator GILL of Cumberland, the following Joint Order: (S. P. 664)

ORDERED, the House concurring, that the Clerk of the House and the Secretary of the Senate be authorized to furnish 100—20¢ stamps for each member of the House and Senate for the purpose of distributing various reports of the Department of State and other public documents such as they may desire to mail to the citizens of the State.

Which was Read and Passed.

Sent down forthwith for concurrence.

On motion by Senator DIAMOND of Cumberland, the following Joint Order: (S. P. 665)

ORDERED, the House concurring, that there be prepared after adjournment of the present session, by the Legislative Information Officer, a Register of all the Bills and Resolves considered by both branches of the Legislature, showing the history and final disposition of each Bill and Resolve and that there be printed 1,000 copies of the same. The Legislative Information Officer shall mail a copy of the Register to each member and officer of the Legislature and the State Law and Legislative Reference Library shall receive such number of copies as may be required.

Which was Read and Passed.

Sent down forthwith for concurrence.

On motion by Senator PERKINS of Hancock, the following Joint Order: (S. P. 666)

ORDERED, the House concurring, that the Secretary of the Senate and Clerk of the House be directed to furnish each morning to each member of the Senate and the House, a copy of two newspapers published in the State of Maine, chosen by the member during the Second Regular Session of the Legislature.

Which was Read and Passed.

Sent down forthwith for concurrence.

Communications

The Following Communication:

**State of Maine
Office of the Governor
Augusta, Maine**

December 20, 1983

Honorable Gerard P. Conley
President of the Senate
Senate Chambers
State House
Augusta, Maine 04333
Dear Senator Conley:

This is to inform you that I am today nominating Courtland D. Perry, II of Augusta, Julian Wilder Turner of Presque Isle and L. Damon Scales of Auburn for reappointment as District Court Judges.

Pursuant to Title 4 MRSA Section 157, these nominations will require review by the Joint Standing Committee on the Judiciary and confirmation by the Senate.

Thank you for your assistance in this matter.

Sincerely,
/S/ JOSEPH E. BRENNAN
Governor

Which was Read and Ordered Placed on File.

The Following Communication: (S. P. 673)

111th Maine Legislature

December 20, 1983

The Honorable Richard L. Trafton

The Honorable Barry J. Hobbins
Chairmen, Judiciary Committee
111th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Courtland D. Perry, II of Augusta, Julian Wilder Turner of Presque Isle, and L. Damon Scales of Auburn for reappointment as District Court Judges.

Pursuant to Title 4 MRSA Section 157, these nominations will require review by the Joint Standing Committee on the Judiciary and confirmation by the Senate.

Sincerely,
/S/ GERARD P. CONLEY
President of the Senate
/S/ JOHN L. MARTIN
Speaker of the House

Which was Read and referred to the Committee on Judiciary.

Sent down for concurrence.

The Following Communication:
State of Maine
Office of the Governor
Augusta, Maine
04333

December 20, 1983

Honorable Gerard P. Conley
President of the Senate
Senate Chambers
State House
Augusta, Maine 04333
Dear Senator Conley:

This is to inform you that I am today nominating David M. Cox of Bangor for appointment as a District Court Judge.

Pursuant to Title 4 MRSA Section 157, this nomination will require review by the Joint Standing Committee on the Judiciary and confirmation by the Senate.

Thank you for your assistance in this matter.

Sincerely,
/S/ JOSEPH E. BRENNAN
Governor

Which was Read and Ordered Placed on File.

The Following Communication: (S. P. 674)
111th Maine Legislature

December 20, 1983

The Honorable Richard L. Trafton
The Honorable Barry J. Hobbins
Chairmen, Judiciary Committee
111th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated David M. Cox of Bangor for appointment as a District Court Judge.

Pursuant to Title 4, M.R.S.A. Section 157, this nomination will require review by the Joint Standing Committee on the Judiciary and confirmation by the Senate.

Sincerely,
/S/ GERARD P. CONLEY
President of the Senate
/S/ JOHN L. MARTIN
Speaker of the House

Which was Read and referred to the Committee on Judiciary.

Sent down for concurrence.

The Following Communication:
State of Maine
Office of the Governor
Augusta, Maine
04333

December 20, 1983

Honorable Gerard P. Conley
President of the Senate
Senate Chambers
State House
Augusta, Maine 04333
Dear Senator Conley:

This is to inform you that I am today nominating Paul T. Pierson of Caribou for appointment as a Superior Court Justice.

Pursuant to Title 4 MRSA Section 152, this

nomination will require review by the Joint Standing Committee on the Judiciary and confirmation by the Senate.

Thank you for your assistance in this matter.

Sincerely,
/S/ JOSEPH E. BRENNAN
Governor

Which was Read and Ordered Placed on File.

The Following Communication: (S. P. 675)
111th Maine Legislature

December 20, 1983

The Honorable Richard L. Trafton
The Honorable Barry J. Hobbins
Chairmen, Judiciary Committee
111th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Paul T. Pierson of Caribou for appointment as a Superior Court Justice.

Pursuant to Title 4 MRSA Section 152, this nomination will require review by the Joint Standing Committee on the Judiciary and confirmation by the Senate.

Sincerely,
/S/ GERARD P. CONLEY
President of the Senate
/S/ JOHN L. MARTIN
Speaker of the House

Which was Read and referred to the Committee on Judiciary.

Sent down for concurrence.

The Following Communication:
State of Maine
Office of the Governor
Augusta, Maine
04333

December 29, 1983

Honorable Gerard P. Conley
President of the Senate
Senate Chambers
State House
Augusta, Maine 04333
Dear Senator Conley:

This is to inform you that I am nominating F. Davis Clark of Bangor for appointment as an Active Retired Judge of the District Court.

Pursuant to Title 4 MRSA Section 157-B, this nomination will require review by the Joint Standing Committee on the Judiciary and confirmation by the Senate.

Thank you for your assistance in this matter.

Sincerely,
/S/ JOSEPH E. BRENNAN
Governor

Which was Read and Ordered Placed on File.

The Following Communication: (S. P. 676)
111th Maine Legislature

December 29, 1983

The Honorable Richard L. Trafton
The Honorable Barry J. Hobbins
Chairmen, Judiciary Committee
111th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated F. Davis Clark of Bangor for appointment as an Active Retired Judge of the District Court.

Pursuant to Title 4 MRSA Section 157-B, this nomination will require review by the Joint Standing Committee on the Judiciary and confirmation by the Senate.

Sincerely,
/S/ GERARD P. CONLEY
President of the Senate
/S/ JOHN L. MARTIN
Speaker of the House

Which was Read and referred to the Committee on Judiciary.

Sent down for concurrence.

The Following Communication:
State of Maine
Office of the Governor

Augusta, Maine
04333

December 29, 1983

Honorable Gerard P. Conley
President of the Senate
Senate Chambers
State House
Augusta, Maine 04333
Dear Senator Conley:

This is to inform you that I am nominating Peter P. Michaud of Westbrook for appointment as a Commissioner of the Workers' Compensation Commission.

Pursuant to Title 39 MRSA Section 91, this nomination will require review by the Joint Standing Committee on the Judiciary and confirmation by the Senate.

Thank you for your assistance in this matter.

Sincerely,
/S/ JOSEPH E. BRENNAN
Governor

Which was Read and Ordered Placed on File.

The Following Communication: (S. P. 677)
111th Maine Legislature

December 29, 1983

The Honorable Richard L. Trafton
The Honorable Barry J. Hobbins
Chairmen, Judiciary Committee
111th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Peter P. Michaud of Westbrook for appointment as a Commissioner of the Workers' Compensation Commission.

Pursuant to Title 39 MRSA Section 91, this nomination will require review by the Joint Standing Committee on the Judiciary and confirmation by the Senate.

Sincerely,
/S/ GERARD P. CONLEY
President of the Senate
/S/ JOHN L. MARTIN
Speaker of the House

Which was Read and referred to the Committee on Judiciary.

Sent down for concurrence.

The Following Communication:
State of Maine
Office of the Governor
Augusta, Maine
04333

January 3, 1984

Honorable Gerard P. Conley
President of the Senate
Senate Chambers
State House
Augusta, Maine 04333
Dear Senator Conley:

This is to inform you that I am today nominating Sandra K. Prescott of Bucks Harbor for appointment as the Chairs of the State Health Coordinating Council.

Pursuant to Federal Law, P.L. 96-79 Section 1524 (b) (2) of the Health Planning and Resources Development Amendments, this nomination will require review by the Joint Standing Committee on Health and Institutional Services and confirmation by the Senate.

Thank you for your assistance in this matter.

/S/ JOSEPH E. BRENNAN
Governor

Which was Read and Ordered Placed on File.

The Following Communication: (S. P. 678)
111th Maine Legislature

January 3, 1984

The Honorable Beverly M. Bustin
The Honorable Merle Nelson
Chairmen, Health and Institutional Services
111th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Sandra K. Prescott of Bucks Harbor for appointment as the Chair of the State Health Coordinating Council.

Pursuant to Federal Law, P.L. 96-79 Section 1524 (b) (2) of the Health Planning and Resources Development Amendments, this nomination will require review by the Joint Standing Committee on Health and Institutional Services and confirmation by the Senate.

Sincerely,
/S/ GERARD P. CONLEY
President of the Senate
/S/ JOHN L. MARTIN
Speaker of the House

Which was Read and referred to the Committee on Health and Institutional Services.
Sent down for concurrence.

The Following Communication:
National Transportation Safety Board
Washington, D.C.
ISSUED: November 30, 1983
SAFETY RECOMMENDATION(S)
H-83-52

Forwarded to:

Honorable Joseph E. Brennan
Governor of Maine
Augusta, Maine 04333
Honorable Gerard P. Conley
President of the Senate
Augusta, Maine 04333
Honorable John L. Martin
Speaker of the House
Augusta, Maine 04333

On September 7, 1983, the National Transportation Safety Board completed a safety study of child motor vehicle passenger protection.¹ For the purpose of the study, the Safety Board conducted 3 regional public hearings and investigated 53 accidents involving infants and small children, restrained and unrestrained, in 19 States. The study highlighted the dangers to unrestrained children in accidents and noncrash incidents, such as sudden stops, and underscored the lifesaving and injury-prevention potential of child safety seats. As a result of the study, the Safety Board concluded that misuse of child safety seats is a significant problem which requires considerably increased emphasis. The study identified several provisions in child passenger protection laws which operate to exclude many infants and small children from the protection of the laws and found that virtually none of the laws is designed to foster the transition of children from safety seat use to safety belt use when child safety seats are outgrown.

The Safety Board investigated the use and crash performance of 34 child safety seats in 32 accidents, including seats of 16 different designs made by 7 different manufacturers. The investigations showed clearly, and in some cases, dramatically, that child safety seats can save lives and prevent or minimize injury to infants and small children in motor vehicle accidents. In 24 accidents investigated, 25 child safety seats provided sufficient protection to prevent or minimize injuries to infants and small children. Six of the safety seats were being used correctly at the time of the accident, including four which demonstrated excellent performance in moderate to severe crashes and two which were involved in non-crash incidents. In 18 accidents, 19 safety seats which were misused still provided sufficient protection to prevent or minimize injury to 19 children—including 9 accidents in which one or more other passengers in the same vehicle were killed or seriously injured. However, the remaining nine safety seats that were misused did not provide sufficient protection.

Although the accidents investigated were not selected to provide a statistically representative sample, the misuse involved in the accidents is generally consistent with the extensive incidence of misuse identified by the Physi-

cians for Automotive Safety in observational surveys of child safety seats in normal everyday use. The widespread incidence of safety seat misuse warrants urgent attention because, as more child passenger protection laws go into effect and safety seat use increases, the number of safety seats misused can also be expected to increase. Fortunately, safety seats are "forgiving" in the sense that, in many accidents, a safety seat will still provide protection against death or injury under some misuse conditions and, in some cases, will provide partial protection although some injury may occur. However, unless effective ways are found to combat the misuse problem, accidents involving needless fatalities and injuries to children riding in safety seats that are misused can be expected to increase.

To combat and reduce the misuse problem, improvements are needed in several areas, including the public education and the safety seat loan components of child passenger safety programs. These programs typically include information on how to use safety seats properly. Nonetheless, in some accidents involving misuse, the user failed to follow the manufacturer's instructions even after exposure to public education on the subject. The Safety Board believes that there is a need to substantially increase emphasis on the misuse problem in public education programs and to include more detailed and specific information about how various kinds of usage errors can degrade safety seat performance in crashes.

On December 7, 1982, based on the preliminary results of its initial investigations, the Safety Board issued Safety Recommendations H-82-59 and -60 to the Governors or Governors-elect of 31 States and the Mayor of the District of Columbia. Safety Recommendation H-82-59 urged the adoption of child passenger protection laws requiring the proper use of child safety seats, and Safety Recommendation H-82-60 urged the adoption of comprehensive, statewide child passenger safety programs. When the recommendations were issued, 19 States had passed child passenger protection laws requiring safety seat use. In the next 7 months, 22 more laws were enacted, bringing the nationwide total as of July 1, 1983, to 41 child passenger protection laws enacted by 40 States and the District of Columbia.² Twenty-seven laws were in effect as of July 1, 1983, and the other 14 laws were scheduled to take effect on various dates between then and July 1, 1984. The Safety Board is pleased by the prompt, responsive action taken by the Legislatures and Governors of 22 of the 32 jurisdictions to which the recommendations were addressed. Based on your action, the first recommendation to you is considered closed. While all, or virtually all, of the States are conducting child passenger safety programs, Safety Recommendation H-82-60 will remain open pending receipt of further information from each jurisdiction as to the extent of these programs.

Based on the final results of the child passenger protection study, the Safety Board has identified a need for further improvements to reduce child passenger deaths and injuries. Currently, the 41 child passenger protection laws that have been enacted vary considerably in their provisions. However, all of the laws contain provisions which exclude many children from the protection of the laws. For example, in most States the responsibility for compliance with the law is limited to a child's parent or legal guardian, or to State residents, or the law is applicable only to motor vehicles registered in the State. In Georgia, Michigan, North Carolina, South Carolina, and Tennessee, a child is not required to be protected when being nursed in a moving vehicle, and some of these exemptions extend to when an adult is attending to a child's "personal needs." Furthermore, the laws of Arizona and New

Mexico do not permit a law enforcement officer to stop a vehicle solely for the purpose of enforcing the child passenger protection requirements.

Emphasis on the need for special protection for infants and small children may have led to an incorrect perception that safety belts do more harm than good to children in crashes. The medical evidence that is available and limited data on crash injuries to safety-belted children indicate that safety belts prevent ejection and prevent or reduce impact injuries to children from contact with interior vehicle structures. Although some safety belt-induced injuries can occur (and the risk of these appears to be significantly greater for infants), the risk is less than the risk of transporting children unrestrained. Parents and others transporting infants and small children need to be encouraged to at least use safety belts to protect child passengers who otherwise would be transported unrestrained. Safety belt options in laws provide a means of extending child passenger protection requirements to children who are not covered by existing laws as well as to children who cannot use conventional safety seats because of their size or weight.

The intent of child passenger protection laws is positive, rather than punitive. As one witness testified in the public hearings, child passenger protection laws are "education with teeth." Their purpose is to encourage the safe transportation of children, and especially to encourage families to obtain and use child safety seats to protect infants and small children properly. Consequently, most of the laws provide that the fine specified for violations either must or may be waived upon a showing that a child safety seat has been obtained. While the existence of a child passenger protection law in itself serves an educational function, the law must be enforced to be fully effective.

Proper child passenger protection for older children also remains a problem. Motor vehicle accidents are the leading cause of death for children at all ages after the early weeks of life. In 1982 alone, nearly 3,500 children from 5 years old through 17 years old were killed in traffic accidents in the United States. In passenger cars and trucks only, during the last 5 years, nearly 18,500 child passengers from 5 years old through 17 years old were killed in traffic accidents.

Therefore, as a result of its Safety Study of Child Passenger Protection Against Death, Disability, and Disfigurement in Motor Vehicle Accidents, the National Transportation Safety Board recommends that the Governor and legislative leaders of the State of Maine:

Include, as part of a statewide child passenger safety program, public information and education activities specifically aimed at combating misuse of child safety seats.
(Class II, Priority Action) (H-83-52)

The National Transportation Safety Board, which has requested that all States and territories work to overcome misuse of child seats, is an independent Federal agency with the statutory responsibility "...to promote transportation safety by conducting independent accident investigations and by formulating safety improvement recommendations" (P. L. 93-633). The Safety Board is vitally interested in any actions taken as a result of our safety recommendations. Therefore, we would appreciate a response from you regarding action taken or contemplated with respect to the recommendation in this letter.

BURNETT, Chairman, GOLDMAN, Vice Chairman, McADAMS, BURSLEY, and ENGEN, Members, concurred in this recommendation. 1/ For more detailed information, see Safety Study—"Child Passenger Protection Against Death, Disability, and Disfigurement, in Motor Vehicle Accidents" (NTSB/SS-83/01). 2/ The Governor of Pennsylvania signed a child

passenger protection law on November 1, 1983, bringing the total to 42 laws.
/S/ JIM BURNETT
Chairman
Which was Read and Ordered Placed on File.

The Following Communication:
**State of Maine
Department of
Educational and Cultural Services
State House Station 23
Augusta, Maine 04333**

December 1, 1983
TO: Members of the 111th Legislature
Bureau of the Budget
FROM: Robert E. Boose, Commissioner
SUBJECT: Actual Education Costs for Base
Year 1982-83

Pursuant to the Provisions of 20-A MRSA § 15504, I forward herewith notification of the "actual education costs" as defined in subsection 1 of 20-A MRSA § 15504 for the base year 1982-83.

A. Elementary operating costs	\$214,853,300
B. Secondary operating costs	131,815,656
C. Special education costs for programs operated by administrative units	22,809,841
D. Special education tuition and board, excluding medical costs	8,339,486
(1) Tuition and board for pupils placed by administrative units	\$6,508,811
(2) Tuition and board for State Wards and direct State placements	1,467,046
(3) Adjustments under section 15509, subsection 6	363,629
E. Vocational education costs	11,734,508
F. Transportation costs	
(1) Operating costs	30,692,086
(2) Purchase of buses	3,963,118
G. Debt service costs	
(1) Principal and Interest	28,636,842
(2) Insured Value Factor	534,276
(3) Leases	603,178
Other Major Capital Costs	1,997,258
H. Cost of unusual enrollment adjustments	352,690
I. Cost of geographic isolation adjustments	294,939
J. Cost of adjustments for small administrative units	79,694
K. Cost of reimbursement for private school transportation	232,533
M. Audit adjustments	(76,174)
N. Optional local appropriations with state participation	
(1) Local share	18,889,928
(2) State share	7,447,084
O. Optional local funds without state participation	30,848,168
P. Cost of state expenditures for teacher retirement benefits	48,443,868

The above figures include all adjustments in expenditure reports through December 1, 1983 and include state and local monies only except that Federal P. L. 874 funds are included.

NOTE: The sum of items A to G represents the total expenditures for the base year while items H to P are duplicative.

Which was Read and Ordered Placed on File.

The Following Communication:
**House of Representatives
State House Augusta 04333
289-2866**

November 14, 1983

Joy J. O'Brien
Secretary of the Senate
State House
Augusta, ME 04333

Dear Joy:

For your information copies of a letter and

legislation, proposed by the Penobscot Nation of the up-coming session of the Legislature is enclosed.

Best Wishes!
Sincerely,
S/JAMES G. SAPIER,
Indian Representative

Which was Read, and with Accompanying Papers, Ordered Placed on File.

October 27, 1983

Honorable Rodney S. Quinn
Secretary of State
State House Station #101
Augusta, Maine 04333
Dear Mr. Quinn:

This is to inform you that I, D. Lorraine Dana, Tribal Clerk of the Penobscot Indian Nation, was designated as the officer to certify the Nation's approval (or disapproval) of Legislation of the State of Maine affecting Indians, to the Secretary of State of the State of Maine when required to do so by the provisions of the United States Code, Title 25, Section 1725(e).

Pursuant to the above, I wish to inform you that a General Meeting was held October 24, 1983 in the Community Building at Indian Island at which three pieces of legislation were approved for submission to the Second Regular Session of the 111th Legislature, as named below:

1. An Act Relating to Penobscot Nation Trust Land Designation (1).
 2. An Act Relating to Penobscot Trust Land Designation (2).
 3. Resolve, To Authorize State of Maine Funding of the Penobscot Nation Museum.
- Copies of the above are attached.

Sincerely,
S/D. LORRAINE DANA
Tribal Clerk
Penobscot Indian Nation

Which was Read, and with Accompanying Papers, Ordered Placed on File.

The Following Communication:
**State of Maine
Executive Department
Division of Community Services
State House Station 73
Augusta, Maine 04333
(207) 289-3771**

December 16, 1983

The Honorable Gerard P. Conley
President of the Senate
State House
Augusta, Maine 04333
Dear President Conley,

In accordance with Title 22 M.R.S.A. Section 5204 (3) as amended by P. L. 1983 Chapter 482, Section 8, I am submitting to the 111th Legislature a report on Maine's Weatherization Program for the years 1981-1982 and 1982-1983.

I would be happy to answer any questions you may have concerning this report.

Sincerely,
S/JADINE R. O'BRIEN
Director

Which was Read, and with Accompanying Papers, Ordered Placed on File.

The Following Communication:
**State of Maine
Executive Department
Division of Community Services
State House Station 73
Augusta, Maine 04333
(207) 289-3771**

December 21, 1983

The Honorable Gerard P. Conley
President of the Senate
State House
Augusta, Maine 04333
Dear President Conley:

In accordance with Title 22 M.R.S.A. Section 5204 (3) as amended by P. L. 1983 Chapter 482, Section 8, I am submitting to the 111th

Legislature a report on Maine's Home Energy Assistance Program for the year 1982-83.

I would be happy to answer any questions you may have concerning this report.

Sincerely,
S/JADINE R. O'BRIEN
Director

Which was Read, and with Accompanying Papers, Ordered Placed on File.

The Following Communication:
**Bureau of Taxation
State of Maine
State Office Building
Augusta, Maine 04333**

December 13, 1983

The Honorable Gerard P. Conley
President of the Senate
Maine State Senate
State House Station #3
Augusta, Maine 04333
Dear President Conley:

The accompanying report of State-owned real estate is submitted in accordance with the provisions of Title 36, M.R.S.A. §1283.

This report includes seven properties or interests acquired through liens maturing since the last Regular Session of the Legislature. A description of each property is provided and recommendations for disposition are included.

The report shows the entire amount of outstanding tax, interest and costs that have accrued on each property. The outstanding tax is determined by calculating the total tax that is due with regard to the particular property as though it remained taxable after the State's lien matured.

Respectfully submitted,
S/R. L. HALPERIN
State Tax Assessor

Which was Read and with Accompanying Papers, Ordered Placed on File.

The Following Communication:
**Department of Energy
Washington, D.C. 20585**

December 20, 1983

The Honorable Gerard P. Conley
Maine Senate
State House
Augusta, ME 04333
Dear Mr. Conley:

The enclosure to this letter is the first volume of the most recent working draft of the Mission Plan that is being prepared to define how the Department of Energy plans to carry out the requirements of the Nuclear Waste Policy Act of 1982 (Public Law 97-425). This draft is being provided to you (and representatives of other Federal agencies, Congress, State governments, Indian tribes, utilities and nuclear industries) for review and comment in advance of the formal draft required by Section 301(b) of the Act.

The final Mission Plan will consist of two volumes. Volume I will be the plan for conducting the civilian radioactive waste management program, including discussion of the program's policy, strategy, plans, and our intended schedule. Volume II will include more detailed information to address the 11 items specifically required by Section 301 of the Act, to the degree that they are not already covered in Volume I. Only Volume I is available for review at this time. However, since Volume I contains the entire discussion of our program's policy, strategy, and plans, I believe it contains the information that you are most concerned with. Volume II is currently being prepared and will be ready in time for review with the formal draft early next year.

Due to the limited time available before the April 7, 1984, date specified in the Act for submittal for the formal draft Mission Plan, we request that we receive your comments on the draft enclosed with this letter by no later than January 31, 1984. Please submit your com-

ments in writing to Mr. Charles R. Head, Acting Director, Operations Division, Office of Civilian Radioactive Waste Management. If you have any questions, please do not hesitate to call me (202-252-6850) or Mr. Head (202-252-2838).

Sincerely,
S/ROBERT L. MORGAN
Acting Director
Office of Civilian Radioactive
Waste Management

Which was Read, and with Accompanying Papers, Ordered Placed on File.

(2-20) The Following Communication:
State of Maine
Supreme Judicial Court
Portland, Maine 04112

December 30, 1983

The Honorable Gerard P. Conley
President of the Senate
State House
Augusta, ME 04333
The Honorable John L. Martin
Speaker of the House
State House
Augusta, ME 04333

Dear Mr. President and Mr. Speaker:

On behalf of myself and my colleagues of the Supreme Judicial Court, I am pleased to report back to the Legislature pursuant to section 2 of P.L. 1983, chapter 412, "AN ACT to Authorize the Supreme Judicial Court to Provide for Collective Bargaining for Judicial Department Employees."

At the First Regular Session of the 111th Legislature, chapter 412 was enacted and was approved by the Governor on June 7, 1983, to authorize the Supreme Judicial Court to propose appropriate procedures for defining and implementing the collective bargaining rights of Judicial Department employees. By the same legislation, the Supreme Judicial Court was authorized to appoint an advisory committee, which was to include representation of public sector management and public sector bargaining agents and was to provide for expression of views of Judicial Department employees. The proposed procedures were to be reported back to the Legislature by the start of the Second Regular Session of the 111th Legislature.

Pursuant to chapter 412, the Supreme Judicial Court promptly appointed an Advisory Committee on Judicial Employees Collective Bargaining, consisting of the following five members: Professor James W. Carignan, Lewiston, Dean of Students of Bates College; Donald F. Fontaine, Esq., Portland; George A. Hunter, Augusta, of the Maine Municipal Association; Charles J. O'Leary, Brewer, of the Maine AFL-CIO; and Gerald E. Rudman, Esq., Bangor. Dean Carignan was designated as Chairman of the Committee and Professor David D. Gregory of the University of Maine School of Law was asked to serve as Reporter to the Advisory Committee.

After several public hearings at various locations within the state and a number of working sessions, the Advisory Committee submitted to the Supreme Judicial Court its recommendations for a system of collective bargaining for judicial employees. In its basic structure, the Committee's proposal envisions parallel action by the Legislature and the Supreme Judicial Court. The Committee recommended that the Court promulgate an administrative order and that the Legislature enact statutory provisions essentially paralleling and supplementing the order.

The members of the Supreme Judicial Court have met twice with the Advisory Committee or its representatives and have carefully reviewed their recommendations. As a result of our consideration of the Committee's recommendations, we are prepared to adopt unanimously the proposed administrative order to be effective contemporaneously with the effective date of the proposed statute, when

enacted. In order to preclude possible misinterpretation of our action in accepting the Committee's recommendations, however, we should make two additional observations.

The first concerns the separation of judges from the bargaining process. Pursuant to article VI of the Constitution of Maine and 4 M.R.S.A., §1, the Supreme Judicial Court has general administrative and supervisory authority over the Judicial Department. By statute the Chief Justice of the Supreme Judicial Court serves as the head of the Judicial Department. Nothing contained in the proposed administrative order should be construed to suggest that this Court or the Chief Justice is permitted to abandon those constitutional and statutory responsibilities.

The second observation concerns the effect of our approval of the Committee's recommendation. We members of the Supreme Judicial Court, in the exercise of our administrative and supervisory authority, cannot determine in advance what decision may be reached in an actual litigated case when the Law Court's authority as an appellate court is invoked. If a constitutional question concerning, for example, the separation of powers doctrine should be presented to the Law Court, that question must be decided by that Court upon the basis of applicable law, applied to the facts of the particular case, without regard for the fact that the Law Court may be reviewing action taken by us in discharge of our administrative responsibilities.

The above observations do not detract from the value of the assistance we have received from the Advisory Committee. We are all much indebted to the Committee members and the Reporter, who are all persons of experience in public employee labor relations, for the dedicated and expeditious discharge of their task.

We transmit to you herewith the Committee's submission to us, which consists of the following:

1. Introduction by the Advisory Committee.
2. Proposed Administrative Order of the Supreme Judicial Court, entitled "Judicial Employee Labor Relations," with Comment by the Advisory Committee.
3. Proposed statute entitled "Judicial Employees Labor Relations Act," with Comments by the Advisory Committee.

We report the Committee's proposals to the Legislature with the recommendation that they be favorably considered at this Second Regular Session.

With all best wishes for the New Year,

Sincerely,
S/VINCENT L. McKUSICK
Which was Read and Ordered Placed on File.

Orders of the Day

(Senate at Ease)

The Senate called to order by the President.

On motion by Senator Pray of Penobscot Recessed until the sound of the Bell.

(Recess)

(After Recess)

The Senate called to Order by the President.

At this point the Senate retired to the Hall of the House, where a Joint Convention was formed.

(For proceedings of Joint Convention, see House Report.)

AFTER JOINT CONVENTION IN SENATE

The Senate called to order by the President.

On motion by Senator Carpenter of Aroostook, Adjourned until 10 o'clock tomorrow morning.