

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

**One Hundred And Fourteenth Legislature**

OF THE

**State Of Maine**

**VOLUME I**

**FIRST REGULAR SESSION**

December 7, 1988 to May 10, 1989

Bill "An Act Relating to the Status of Nursing Professions in Maine" (H.P. 956) (L.D. 1324) (Committee on Human Resources suggested) TABLED - April 24, 1989 by Representative GWADOSKY of Fairfield.  
PENDING - Reference.

Subsequently was referred to the Committee on Human Resources, ordered printed and sent up for concurrence.

The Chair laid before the House the third tabled and today assigned matter:

Bill "An Act to Clarify Maintenance of Private Roads and Ways by Municipalities" (H.P. 271) (L.D. 383) (C. "A" H-84)

TABLED - April 24, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Engrossed. (Roll Call Ordered)

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be engrossed and specially assigned for Wednesday, April 26, 1989. (Roll Call ordered)

**BILL HELD**

Bill "An Act to Provide Funding for Homestead Land Trusts" (H.P. 933) (L.D. 1299)

- In House, Referred to the Committee Taxation. HELD at the Request of Representative GWADOSKY of Fairfield.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, is the House in possession of L.D. 1299?

The SPEAKER: The Chair would answer in the affirmative, having been held at the Representative's request.

On motion of Representative Gwadosky of Fairfield, the House reconsidered its action whereby L.D. 1299 was referred to the Committee on Taxation.

On further motion of the same Representative, was referred to the Committee on Housing and Economic Development, ordered printed and sent up for concurrence.

(At Ease)

The House was called to order by the Speaker.

(Off Record Remarks)

On motion of Representative Nadeau of Saco, Adjourned until Wednesday, April 26, 1989, at twelve o'clock noon.

STATE OF MAINE  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
FIRST REGULAR SESSION  
JOURNAL OF THE SENATE

In Senate Chamber  
Tuesday  
April 25, 1989

Senate called to Order by the President.

Prayer by the Honorable Thomas R. Perkins of Hancock.  
SENATOR PERKINS: Let us be in the spirit of prayer. Almighty God, the Father, Son and Holy Spirit, be above us to protect us, before us to guide us, beneath us to bear us up, and behind us to give us strength and courage for every task today, tomorrow and always. Amen.

Reading of the Journal of Yesterday.

Off Record Remarks

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Establish a Contingency Account for Certain Municipalities"

H.P. 912 L.D. 1278

Bill "An Act to Fund Health Care Personnel Surveys"

H.P. 913 L.D. 1279

Bill "An Act to Enable More Maine People to Become Homeowners"

H.P. 923 L.D. 1289

Bill "An Act Regarding the Removal of Hazardous Chemicals from Schools" (Emergency)

H.P. 942 L.D. 1310

Come from the House referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED.

Which were referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED, in concurrence.

Bill "An Act to Require Health Insurance Carriers to Inform Parents of Benefit and Other Information"

H.P. 928 L.D. 1294

Bill "An Act to Create a State Fund to Provide Workers' Compensation Insurance Coverage to Employers"

H.P. 952 L.D. 1320

Come from the House referred to the Committee on BANKING AND INSURANCE and ORDERED PRINTED.

Which were referred to the Committee on BANKING AND INSURANCE and ORDERED PRINTED, in concurrence.

Bill "An Act to Improve Access to Health Care and Relieve Hospital Costs Due to Charity and Bad Debt Care Which are Currently Shifted to Third-party Payors" (Emergency)

H.P. 954 L.D. 1322

Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS suggested and ORDERED PRINTED.

Comes from the House referred to the Committee on BANKING AND INSURANCE and ORDERED PRINTED.

Which was referred to the Committee on BANKING AND INSURANCE and ORDERED PRINTED, in concurrence.

Bill "An Act to Amend the Law on Home Construction Contracts"

H.P. 921 L.D. 1287

Bill "An Act to Regulate the Use of Water Glass Adhesive on Shipping Labels"

H.P. 946 L.D. 1314

Come from the House referred to the Committee on BUSINESS LEGISLATION and ORDERED PRINTED.

Which were referred to the Committee on BUSINESS LEGISLATION and ORDERED PRINTED, in concurrence.

Bill "An Act to Codify Guidelines for Home and Private Schools"

H.P. 949 L.D. 1317

Comes from the House referred to the Committee on EDUCATION and ORDERED PRINTED.

Which was referred to the Committee on EDUCATION and ORDERED PRINTED, in concurrence.

Bill "An Act to Amend the Penalty for Violation of Natural Resource Protection Laws"

H.P. 929 L.D. 1295

Bill "An Act to Ban the Use of Polystyrene Containers"

H.P. 939 L.D. 1307

Come from the House referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED.

Which were referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED, in concurrence.

Bill "An Act to Increase the Penalties for Selling Game and Make Them Uniform"

H.P. 918 L.D. 1284

Bill "An Act to Protect Fishing Resources in Certain Ponds"

H.P. 922 L.D. 1288

Come from the House referred to the Committee on FISHERIES AND WILDLIFE and ORDERED PRINTED.

Which were referred to the Committee on FISHERIES AND WILDLIFE and ORDERED PRINTED, in concurrence.

Bill "An Act to Require Administrators of Boarding Care Facilities to Obtain Continuing Education"

H.P. 914 L.D. 1280

Bill "An Act to Prohibit Boarding Care Facility and Nursing Home Facility Personnel from Smoking"

H.P. 920 L.D. 1286

Bill "An Act to Amend the Third-party Prescription Program Act and Provide for Responsible Health Care Decisions"

H.P. 943 L.D. 1311

Bill "An Act to Institute the Orderly Development of New Medical Technology and Services"

H.P. 951 L.D. 1319

Come from the House referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED.

Which were referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED, in concurrence.

Bill "An Act for the Preservation of Affordable Rental Housing in Maine"

H.P. 948 L.D. 1316

Comes from the House referred to the Committee on HOUSING AND ECONOMIC DEVELOPMENT and ORDERED PRINTED.

Which was referred to the Committee on HOUSING AND ECONOMIC DEVELOPMENT and ORDERED PRINTED, in concurrence.

Bill "An Act to Increase the Punishment for Trafficking in Cocaine"

H.P. 924 L.D. 1290

Bill "An Act Regarding Tort Liability for Defective or Unreasonably Dangerous Goods"

H.P. 926 L.D. 1292

Bill "An Act to Clarify the Method of Taxing Costs in Civil Actions"

H.P. 937 L.D. 1305

Bill "An Act Relating to Discrimination by Licensing Agencies which Affect Employment Eligibility or Professional Status"

H.P. 945 L.D. 1313

Bill "An Act to Facilitate the Establishment and Enforcement of Child Support and Health Insurance Obligations and to Clarify the Law Concerning the Modification of Child Support Orders"

H.P. 953 L.D. 1321

Come from the House referred to the Committee on JUDICIARY and ORDERED PRINTED.

Which were referred to the Committee on JUDICIARY and ORDERED PRINTED, in concurrence.

Bill "An Act to Encourage Family Unity"

H.P. 917 L.D. 1283

Bill "An Act Regarding the Review of the Workers' Compensation Denials"

H.P. 919 L.D. 1285

Come from the House referred to the Committee on LABOR and ORDERED PRINTED.

Which were referred to the Committee on LABOR and ORDERED PRINTED, in concurrence.

Bill "An Act to Allow Municipalities to Remove Nonvoter Names from Voting Lists"

H.P. 916 L.D. 1282

Bill "An Act Concerning Payment of Law Enforcement Training Costs"

H.P. 930 L.D. 1296

Come from the House referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED.

Which were referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED, in concurrence.

Bill "An Act to Change Certain Criminal Violations to Civil Violations"

H.P. 947 L.D. 1315

Committee on JUDICIARY suggested and ORDERED PRINTED.

Comes from the House referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED.

Which was referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED, in concurrence.

Bill "An Act to Require State Agencies to Pay Contractual Agencies a Late Charge for Delinquent Payments"

H.P. 915 L.D. 1281

Bill "An Act to Amend the Municipal Limit for School Debt" (Emergency)

H.P. 927 L.D. 1293

Bill "An Act to Permit Private Educational Institutions of Higher Learning to Make Purchases through the State Purchasing Agent"

H.P. 938 L.D. 1306

Come from the House referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED.

Which were referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED, in concurrence.

Bill "An Act to Eliminate Tax Increases Attributable to the 1988 Maine Individual Income Tax Law" (Emergency)

H.P. 931 L.D. 1297

Bill "An Act to Establish a Property Tax Homestead Exemption"

H.P. 932 L.D. 1298

Bill "An Act to Increase Maine's Sales Tax, to Exempt Low-cost Articles of Clothing from Sales Tax and to Increase the State's Share of Education Funding"

H.P. 941 L.D. 1309

Come from the House referred to the Committee on TAXATION and ORDERED PRINTED.

Which were referred to the Committee on TAXATION and ORDERED PRINTED, in concurrence.

Bill "An Act to Require the Use of Safety Belts on Maine School Buses"

H.P. 925 L.D. 1291

Resolve, to Require the Construction of a Pedestrian Walkway over Interstate 295 in Portland

H.P. 940 L.D. 1308

Resolve, to Establish a Commission to Study Town Supervision of Private Roads (Emergency)

H.P. 950 L.D. 1318

Come from the House referred to the Committee on TRANSPORTATION and ORDERED PRINTED.

Which were referred to the Committee on TRANSPORTATION and ORDERED PRINTED, in concurrence.

Bill "An Act to Promote Energy Conservation and Load Management by Electric Utilities"

H.P. 936 L.D. 1304

Bill "An Act to Allow Intervenor Funding in Public Utilities Proceedings"

H.P. 944 L.D. 1312

Bill "An Act to Govern the Formation of Water Districts"

H.P. 955 L.D. 1323

Come from the House referred to the Committee on UTILITIES and ORDERED PRINTED.

Which were referred to the Committee on UTILITIES and ORDERED PRINTED, in concurrence.

Joint Resolution

The Following Joint Resolution: H.P. 934  
JOINT RESOLUTION RECOGNIZING MAINE AMATEUR RADIO OPERATORS AND MAINE AMATEUR RADIO DAY ON JULY 15, 1989

WHEREAS, amateur radio operators provide a valuable organized pool of communications specialists in the event of an emergency or natural disaster; and

WHEREAS, amateur radio operators contribute to international understanding and world peace through their communications between nations; and

WHEREAS, amateur radio operators relay messages without charge for United States military personnel, their families, as well as others, a service which fosters good morale; and

WHEREAS, amateur radio operators use their hobby to assist charitable endeavors such as walkathons, handicapped sports, road races, parades and similar public events; and

WHEREAS, this year, 1989, is the 75th anniversary of the founding of the American Radio Relay League,

which marked the beginning of the hobby of amateur radio; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Fourteenth Legislature of the State of Maine, now assembled in the First Regular Session, take this opportunity to commend Maine's 2,500 licensed amateur radio operators and offer our support and encouragement for its dedicated efforts; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Maine Hamfest Association for use in its recognition of Maine Amateur Radio Day at the Union Fairgrounds on July 15, 1989.

Comes from the House READ and ADOPTED.

Which was READ and ADOPTED, in concurrence.

SENATE PAPERS

Bill "An Act to Increase the Percentage of State Payment for Accident and Sickness or Health Insurance for Retired Teachers" (Emergency)

S.P. 488 L.D. 1330

Presented by Senator PEARSON of Penobscot  
Cosponsored by Representative O'DEA of Orono and Senator CLARK of Cumberland

Committee on AGING, RETIREMENT AND VETERANS suggested and ORDERED PRINTED.

On motion by Senator CLARK of Cumberland, referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 for Low-income Housing"

S.P. 483 L.D. 1325

Presented by Senator GAUVREAU of Androscoggin  
Cosponsored by Representative CARROLL of Gray, Representative LEBOWITZ of Bangor and Representative HEESCHEN of Wilton

Bill "An Act to Provide Essential Mental Health Programs for Adults"

S.P. 490 L.D. 1332

Presented by Senator BUSTIN of Kennebec  
Cosponsored by President PRAY of Penobscot and Representative PEDERSON of Bangor

Which were referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Amend the Law Concerning the Collection of Fees for General Educational High School Equivalency Certificates" (Emergency)

S.P. 487 L.D. 1329

Presented by Senator COLLINS of Aroostook  
Cosponsored by Representative SMALL of Bath, Representative JOSEPH of Waterville and Representative CARTER of Winslow

Submitted by the Department of Educational and Cultural Services pursuant to Joint Rule 24.  
Resolve, to Establish a Select Study Commission to Study Educational Voucher Systems

S.P. 492 L.D. 1334

Presented by Senator BRAWN of Knox  
Cosponsored by Representative RICHARDS of Hampden, Senator GOULD of Waldo and Senator BERUBE of Androscoggin

Which were referred to the Committee on EDUCATION and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Amend the Liquor Laws Relating to Wine Tasting"

S.P. 485 L.D. 1327

Presented by Senator CAHILL of Sagadahoc  
Which was referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED.  
Sent down for concurrence.

Bill "An Act Providing Confidentiality for Public Sector Job Applicants" (Emergency)

S.P. 486 L.D. 1328

Presented by Senator CARPENTER of York  
Cosponsored by Representative MacBRIDE of Presque Isle and Representative DAGGETT of Augusta  
Submitted by the Department of Administration pursuant to Joint Rule 24.  
Which was referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED.  
Sent down for concurrence.

Bill "An Act to Return a Portion of Locally Generated Sales Taxes"

S.P. 489 L.D. 1331

Presented by Senator GILL of Cumberland  
Cosponsored by Representative MACOMBER of South Portland, Representative WENTWORTH of Wells and Senator CLARK of Cumberland  
Which was referred to the Committee on TAXATION and ORDERED PRINTED.  
Sent down for concurrence.

Bill "An Act to Change the Uniform Traffic Ticket and Suspension Procedures"

S.P. 484 L.D. 1326

Presented by Senator BRANNIGAN of Cumberland  
(See Action Later Today)

Bill "An Act to Mandate the Use of Seat Belts"

S.P. 491 L.D. 1333

Presented by Senator BRANNIGAN of Cumberland  
Cosponsored by Senator COLLINS of Aroostook, Representative WEBSTER of Cape Elizabeth and Representative ROLDE of York  
Which were referred to the Committee on TRANSPORTATION and ORDERED PRINTED.  
Sent down for concurrence.

COMMITTEE REPORTS

House

Ought Not to Pass

The following Ought Not to Pass Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

The Committee on FISHERIES AND WILDLIFE on Bill "An Act Pertaining to the Placing of Bear Bait"  
H.P. 542 L.D. 739

The Committee on FISHERIES AND WILDLIFE on Bill "An Act to Prohibit Children Aged 10 and Under from Trapping"

H.P. 566 L.D. 770

The Committee on JUDICIARY on Bill "An Act to Provide a Mandatory Jail Term to Persons Who Have Committed Murder but Have Been Acquitted by Reason of Insanity"

H.P. 304 L.D. 416

The Committee on LEGAL AFFAIRS on Bill "An Act to Amend the Law Concerning Retail Sale of Wines"  
H.P. 265 L.D. 377

The Committee on MARINE RESOURCES on Bill "An Act Requiring the State to Conduct a Test to Determine Whether Large Freshwater Salmonids can be Grown in the State's Estuarine Waters" (Emergency)  
H.P. 21 L.D. 16

The Committee on TAXATION on Bill "An Act to Eliminate the Sales Tax on Textbooks in the University of Maine System and the Maine Vocational-Technical Institute System"  
H.P. 237 L.D. 349

The Committee on TAXATION on Bill "An Act to Provide a Property Tax Exemption for Veterans over 62 Years of Age Who Served in the Allied Forces in World War II"

H.P. 387 L.D. 518

The Committee on TAXATION on Bill "An Act to Stabilize Veterans' Property Tax Exemptions"  
H.P. 455 L.D. 620

Leave to Withdraw

The following Leave to Withdraw Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

The Committee on AGRICULTURE on Bill "An Act Regarding Landowner Declaration of Farmland"  
H.P. 553 L.D. 751

The Committee on JUDICIARY on Bill "An Act to Protect Civil Litigants"

H.P. 500 L.D. 680

The Committee on JUDICIARY on Bill "An Act to Promote the Best Interests of the Child in Divorce Proceedings"

H.P. 683 L.D. 935

The Committee on LEGAL AFFAIRS on Bill "An Act Concerning Voter Residency Requirements"

H.P. 298 L.D. 410

The Committee on TAXATION on Bill "An Act to Encourage Industry to Maintain and Modernize Machinery and Equipment by Exempting from Property Taxation Machinery and Equipment in Service For 7 Years or Less"

H.P. 412 L.D. 555

The Committee on TAXATION on Bill "An Act to Provide for State and Municipal Tax Certificates"

H.P. 489 L.D. 669

The Committee on TAXATION on Bill "An Act to Correct Inequities in the Veterans Tax Exemptions"

H.P. 627 L.D. 850

Ought to Pass

The Committee on LEGAL AFFAIRS on Bill "An Act to Amend the Lobbyist Reporting Law"

H.P. 490 L.D. 670

Reported that the same Ought to Pass.  
Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.  
Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass As Amended

The Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Regulate Medical Wastes"

H.P. 512 L.D. 692

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-90).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-90).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-90) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on JUDICIARY on Bill "An Act to Amend the Law Regarding Shoplifters"

H.P. 417 L.D. 582

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-87).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-87).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-87) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on JUDICIARY on Bill "An Act Relating to the Division of Southern York of the 10th Maine District Court"

H.P. 440 L.D. 605

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-88).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-88).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-88) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on MARINE RESOURCES on Bill "An Act to Establish an Exemption from the Seaweed Permit for Certain Noncommercial Harvesting"

H.P. 89 L.D. 124

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-91).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-91).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-91) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

#### Divided Report

The Majority of the Committee on FISHERIES AND WILDLIFE on Bill "An Act to Increase the Number of Moose Permits Issued to Residents"

H.P. 197 L.D. 277

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-65).

Signed:

Senators:

ERWIN of Oxford

GOULD of Waldo

Representatives:

JACQUES of Waterville

CLARK of Millinocket

SMITH of Island Falls

ROTONDI of Athens

DUFFY of Bangor

WALKER of Norway

GREENLAW of Standish

TRACY of Rome

The Minority of the same Committee on the same subject reported that the same Ought Not to Pass.

Signed:

Senator:

ESTY of Cumberland

Representatives:

FARREN of Cherryfield

CARROLL of Southwest Harbor

Comes from the House the Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-65).

Which Reports were READ.

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending ACCEPTANCE OF EITHER REPORT.

#### Senate

##### Ought Not to Pass

The following Ought Not to Pass Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Senator MATTHEWS for the Committee on LEGAL AFFAIRS on Bill "An Act Concerning the Suspension of Driver's Licenses"

S.P. 165 L.D. 322

##### Leave to Withdraw

The following Leave to Withdraw Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Senator BUSTIN for the Committee on BANKING AND INSURANCE on Bill "An Act to Amend the Provisions for Exclusion from Motor Vehicle Insurance"

S.P. 365 L.D. 982

##### Change of Reference

Senator BOST for the Committee on UTILITIES on Bill "An Act to Establish a Fund to Assist Towns with Small Water Systems"

S.P. 406 L.D. 1050

Reported that the same be REFERRED to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS.

Which Report was READ and ACCEPTED.

The Bill REFERRED to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS.

Sent down for concurrence.

##### Ought to Pass As Amended

Senator BOST for the Committee on EDUCATION on Bill "An Act Relating to the Establishment of Reserve Funds by School Administrative Units"

S.P. 250 L.D. 580

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-57).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-57) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

SECOND READERS

The Committee on Bills in the Second Reading reported the following:

House  
 Bill "An Act to Allow the Department of Human Services to Share Information with Support Teams for Foster Parents"

H.P. 642 L.D. 876  
 Which was READ A SECOND TIME and PASSED TO BE ENGROSSED, in concurrence.

House As Amended  
 Bill "An Act Concerning the Regulation of General Use Pesticides"

H.P. 135 L.D. 179  
 (C "A" H-77)  
 Bill "An Act to Prohibit and Provide a Penalty for Trespass by Animals"

H.P. 153 L.D. 205  
 (H "A" H-92 to C "A" H-79)

Bill "An Act to Allow Ruffling of Livestock by Charitable Organizations for Charitable Purposes"  
 H.P. 200 L.D. 280  
 (C "A" H-78)

Bill "An Act Concerning Antique Automobiles and Horseless Carriages"  
 H.P. 429 L.D. 594  
 (C "A" H-81)

Bill "An Act to Provide Consumers Notice of Restaurant Foods Containing Monosodium Glutamate"  
 H.P. 494 L.D. 674  
 (C "A" H-82)

Bill "An Act to Clarify the Motor Vehicle Law Concerning the Operation of Motorcycles"  
 H.P. 501 L.D. 681  
 (C "A" H-80)

Bill "An Act to Provide a Penalty on Delinquent Public Utilities"  
 H.P. 568 L.D. 772  
 (C "A" H-85)

Which were READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended, in concurrence.

Bill "An Act to Amend the Northern Maine General Hospital Charter to Operate Programs for Disadvantaged Individuals"

H.P. 537 L.D. 734  
 (C "A" H-83)

Which was READ A SECOND TIME.  
 On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence.

Bill "An Act to Further Define the Responsibilities of the Maine Milk Commission to Ensure a Supply of Milk to the Consumers of Maine"

H.P. 452 L.D. 617  
 (C "A" H-59)

Which was READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended, in NON-CONCURRENCE.  
 Sent down for concurrence.

Senate As Amended  
 Bill "An Act to Improve the Early Childhood Educational Plans Grants Program"

S.P. 63 L.D. 46  
 (C "A" S-54)  
 Bill "An Act to Implement the Aroostook Band of Micmacs Settlement Act"

S.P. 152 L.D. 272  
 (C "A" S-53)

Which were READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended.  
 Sent down for concurrence.

Bill "An Act Relating to the Maine Correctional Advisory Commission" (Emergency)  
 S.P. 60 L.D. 43  
 (C "A" S-52)

Which was READ A SECOND TIME.  
 On motion by Senator BUSTIN of Kennebec, the Senate SUSPENDED THE RULES.

On further motion by same Senator, the Senate RECONSIDERED whereby it ADOPTED Committee Amendment "A" (S-52).

On further motion by same Senator, Senate Amendment "A" (S-58) to Committee Amendment "A" (S-52) READ and ADOPTED.

Committee Amendment "A" (S-52) as Amended by Senate Amendment "A" (S-58) thereto, ADOPTED.  
 Which was PASSED TO BE ENGROSSED, as Amended.  
 Sent down for concurrence.

On motion by Senator CLARK of Cumberland, the Senate RECONSIDERED whereby it referred to the Committee on TRANSPORTATION:

Bill "An Act to Change the Uniform Traffic Ticket and Suspension Procedures"  
 S.P. 484 L.D. 1326  
 On further motion by same Senator, Tabled until Later in Today's Session, pending REFERENCE.

ENACTORS

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:  
 An Act Relating to Benefits for Members of the Maine State Retirement System Who Transfer from Positions Under Special Plans to Positions Not Under Special Plans

S.P. 204 L.D. 482  
 (C "A" S-42)  
 An Act to Amend the Motor Vehicle Laws  
 S.P. 210 L.D. 488  
 (C "A" S-39)

An Act to Require Municipalities to Permit the Circulation of Petitions on Local Issues  
 S.P. 269 L.D. 697  
 (C "A" S-40)

An Act Establishing the Rights of Tenants when the Landlord Fails to Pay Utility Bills  
 S.P. 323 L.D. 860  
 Which were PASSED TO BE ENACTED and having been signed by the President, were presented by the Secretary to the Governor for his approval.

An Act to Clarify Costs Associated with the Purchase of Land by School Administrative Units  
 S.P. 181 L.D. 338  
 (C "A" S-43)

On motion by Senator PEARSON of Penobscot, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

Emergency

An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State



Government for the Fiscal Years Ending June 30, 1990 and June 30, 1991

H.P. 69 L.D. 93  
(C "A" H-89)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with No Senators having voted in negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Amend the Lake Watershed District Enabling Laws

S.P. 252 L.D. 642  
(C "A" S-41)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with No Senators having voted in negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, to Study the Development of a Farmland Preservation Program for Maine

H.P. 206 L.D. 286

On motion by Senator PEARSON of Penobscot, placed on the SPECIAL APPROPRIATIONS TABLE, pending FINAL PASSAGE.

Out of order and under suspension of the Rules, the Senate considered the following:

COMMUNICATIONS

The Following Communication:  
COMMITTEE ON BUSINESS LEGISLATION  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
April 21, 1989

The Honorable Charles P. Pray  
President of the Senate of Maine  
State House  
Augusta, Maine 04333  
Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 114th Maine Legislature, the Joint Standing Committee on Business Legislation has had under consideration the nomination of Arthur A. Dexter of Newcastle, for reappointment to the Maine Real Estate Commission.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Senators 1  
Representatives 9  
NAYS: 0

ABSENT: 3 Sen. Baldacci of Penobscot,  
Sen. Hobbins of York,  
Rep. Sheltra of Biddeford

Ten members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Arthur A. Dexter of Newcastle, for reappointment to the Maine Real Estate Commission be confirmed.

Sincerely,

S/John E. Baldacci

S/Carol M. Allen

Senate Chair

House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on BUSINESS LEGISLATION has recommended the nomination of Arthur A. Dexter of Newcastle, for reappointment to the Maine Real Estate Commission, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on BUSINESS LEGISLATION be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 114th Legislature, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

Senate at Ease

Senate called to order by the President.

At this time, the Chair noted the absence of the Senator from Cumberland, Senator ESTY, and further excused the same Senator from today's Roll Call vote.

The Doorkeepers will secure the Chamber.  
The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None  
NAYS: Senators ANDREWS, BALDACCI, BERUBE, BOST, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CARPENTER, CLARK, COLLINS, DILLENBACK, DUTREMBLE, EMERSON, ERWIN, ESTES, GAUVREAU, GOULD, HOBBS, HOLLOWAY, KANY, LUDWIG, MATTHEWS, PEARSON, PERKINS, RANDALL, THERIAULT, TITCOMB, TWITCHELL, WEBSTER, WEYMOUTH, WHITMORE, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senator GILL  
EXCUSED: Senator ESTY

No Senators having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being absent, and 1 Senator having been excused, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Arthur A. Dexter, for reappointment to the Maine Real Estate Commission, was CONFIRMED.

The Secretary has so informed the Speaker of the House.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Specially Assigned matter:

SENATE REPORTS - from the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Change the Process of Selecting the Commissioner of Educational and Cultural Services"

S.P. 205 L.D. 483

Majority - Ought Not to Pass  
Minority - Ought to Pass

Tabled - April 24, 1989, by Senator CLARK of Cumberland.

Pending - ACCEPTANCE OF EITHER REPORT  
(In Senate, April 24, 1989, Reports READ.)  
Senator BERUBE of Androscoggin moved to ACCEPT the Majority OUGHT NOT TO PASS Report.  
Senator ESTES of York requested a Division.

THE PRESIDENT: The Chair recognizes the same Senator.

Senator ESTES: Thank you Mr. President. Mr. President, men and women of the Senate. This Bill would call for a change in the method of choosing the Commissioner of Education. This Bill went rather quickly through the State and Local Government Committee, having had only one work session and it had been my understanding that there would be consideration for a possible amendment to the Bill. However, the Report got out much quicker than anyone expected and we are faced here today with L.D. 483 in its original form.

You probably have seen or heard a lot about this in the press, because the editorial boards have done a lot of lambasting of this Bill over the last couple of months. Having judged it a bad Bill, calling it a "dreadful idea that would turn that sensible" - meaning our current process of selection - "plan on its head" and urging very strongly that the Legislature reject this one. I believe that our current sensible plan has not worked in the best interest of public education over the last ten years.

I would like to give you just a little history if you would bear with me. It was back in 1948 that the present State Board was set up and it was responsible for appointing the Commissioner of Education. At that time, most states either elected or appointed the Commissioner by the Governor, either the Commissioner was elected at large or appointed by the Governor. It has been interesting to note that where Maine changed to an appointment by the Governor, more and more states went and changed back to a method where the State Board of Education did the actual choosing. What is also interesting is if we go back to 1956, when Dr. Warren Hill occupied the position as Commissioner of Education he remained in that position for a period of seven years providing great continuity to public education in this state and particularly to the Department. He was followed by William Logan, who was appointed in 1964, and served until 1970. Then in 1971, Dr. Carroll McGray was chosen by the State Board and it was during his term of office that the method was changed to the Governor appointing. At that time, Commissioner McGray did not have much problem with that change in method, however, upon the election of Governor Longley the Commissioner was not reappointed and we had what began a series of Commissioners appointed by various Governors.

That period of seventeen years, we sought three full Commissioners and only two acting Commissioners upon the retirement of a previous Commissioner. Yet in the last fifteen years, we have had almost a revolving door effect, with five full Commissioners and two acting Commissioners. The method has gone through a number of changes. We had the State Board doing the actual choosing from 1948 until 1974. In 1975, the Governor appointed and that was changed by the Legislature where the Governor was obligated to choose from a list of three candidates proposed by the State Board. Again, that was changed back in 1983 to the Governor doing the straight appointment with the Senate doing the confirmation.

Now, the consistency of leadership in the Department of Educational and Cultural Services has almost been a revolving door form of leadership with seven different persons serving as Commissioner or acting Commissioner since 1979. The situation becomes more acute when one thinks of the number of positions in the Department that serve at the pleasure of the Commissioner. The experience of turnover has been great and recruitment of the best people for these jobs has suffered, especially when

one realizes that their jobs may end at any point. The implementation of education reform policies since 1984, I believe, has been disconcerted and frustrating and we must now carefully review and assess its successes and failures before we venture too far with a second wave of reform.

The Bill in its original form would promote, I believe, a more consistent and effective leadership for public education policy implementation. I would also like to note that the general purpose aid that has been proposed in the Governor's budget amounts to about four hundred and eighty million dollars and if we add in teacher retirement and the costs of running the Department, this takes up approximately forty percent of the Governor's budget over the next biennium. Under law, the Commissioner and the State Board of Education each have defined responsibilities, these responsibilities are not separate and unique, but are, in fact, complimentary and in close association. This does lead to potential conflict as the State Board needs the assistance of the Commissioner and the Department to carry out its responsibilities. The decisions of the State Board affect what the Commissioner can or cannot do and if they do not work together, education suffers.

The Governor appointing his own Commissioner does not assure that the Commissioner would have access to the Governor or that education would have a strong voice or advocate. In Maine, all other educational institutions are lead by a person who is appointed by a Board of Trustees. The Chancellor of the University of Maine System and the Executive Director of the V.T.I. System are selected by their respective Board of Trustees, who in turn have been appointed by the Governor. The Executives and their Boards work together in their important task, even our local school boards, elected by the people, select their own superintendents.

The Bill in its original form would have the Commissioner appointed by the State Board with input from the Governor. The Commissioner would have a three year contract with annual review of his or her performance. The Governor not only has adequate input in the appointment process, but he also has an opportunity to influence the direction of education through his appointments of the State Board members as he does with the University System and the V.T.I. Trustees.

Maine is only one of seven states that have the Commissioner of Education appointed by the Governor. Seventeen states elect their Commissioner at large. Twenty-six states, including all the other New England states, have their Commissioner of Education appointed by the State Board using a method similar to that proposed in L.D. 483.

The responsibility for public education is an enormous charge to state government and an enormous financial commitment. As we are looking to a second wave of education reform and as we continue to increase our commitment to fund public education, this Bill or an amended version, has a greater potential to provide consistent and effective leadership for education in Maine with the accountability that the public and our children deserve. I urge you to defeat the motion to Accept the Majority Ought Not to Pass Report, so that I might offer an amendment that, I think, would be much more acceptable to members of this Body. Thank you.

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending the motion of Senator BERUBE of Androscoggin, to ACCEPT the Majority OUGHT NOT TO PASS Report. (Division Requested)

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Change the Uniform Traffic Ticket and Suspension Procedures"

S.P. 484 L.D. 1326

Tabled - April 25, 1989, by Senator CLARK of Cumberland.

Pending - REFERENCE

(In Senate, April 25, 1989, referred to the Committee on TRANSPORTATION and ORDERED PRINTED. Subsequently, RECONSIDERED REFERENCE.)

On motion by Senator CLARK of Cumberland, referred to the Committee on JUDICIARY and ORDERED PRINTED.

Sent down for concurrence.

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Off Record Remarks

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On motion by Senator PEARSON of Penobscot, ADJOURNED until Wednesday, April 26, 1989, at 12:00 in the afternoon.

ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE  
FIRST REGULAR SESSION

50th Legislative Day

Wednesday, April 26, 1989

The House met according to adjournment and was called to order by the Speaker.

Prayer by Reverend Steven Notis, Brown Memorial United Methodist Church, Clinton.

The Journal of Tuesday, April 25, 1989, was read and approved.

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PAPERS FROM THE SENATE

The following Communication:

Maine State Senate

Augusta, Maine 04333

April 25, 1989

The Honorable John L. Martin

Speaker of the House

114th Legislature

Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Business Legislation, the Governor's nomination of Arthur A. Dexter of Newcastle for reappointment to the Maine Real Estate Commission.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

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Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 for Low-income Housing" (S.P. 483) (L.D. 1325)

Bill "An Act to Provide Essential Mental Health Programs for Adults" (S.P. 490) (L.D. 1332)

Came from the Senate, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Were referred to the Committee on Appropriations and Financial Affairs in concurrence.

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Bill "An Act to Increase the Percentage of State Payment for Accident and Sickness or Health Insurance for Retired Teachers" (EMERGENCY) (S.P. 488) (L.D. 1330)

Came from the Senate, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

(The Committee on Reference of Bills had suggested reference to the Committee on Aging, Retirement and Veterans.)

Was referred to the Committee on Appropriations and Financial Affairs in concurrence.

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Bill "An Act to Amend the Law Concerning the Collection of Fees for General Educational High School Equivalency Certificates" (EMERGENCY) (S.P. 487) (L.D. 1329)

Resolve, to Establish a Select Study Commission to Study Educational Voucher Systems (S.P. 492) (L.D. 1334)

Came from the Senate, referred to the Committee on Education and Ordered Printed.

Were referred to the Committee on Education in concurrence.

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