

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 1761

H.P. 1266

House of Representatives, June 16, 1989

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script, reading "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative PRIEST of Brunswick.

Cosponsored by Senator CLARK of Cumberland, Representative RYDELL of Brunswick and Representative CLARK of Brunswick.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-NINE

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An Act Transferring Concurrent Legislative Jurisdiction over  
Brunswick Naval Air Station.

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1       **Be it enacted by the People of the State of Maine as follows:**

3               **Sec. 1. Brunswick Naval Air Station; approval of transfer of**  
4 **legislative jurisdiction.** The United States Department of the Navy  
5 having filed with the Governor by letter dated May 10, 1989, its  
6 notice of intention to both acquire concurrent legislative  
7 jurisdiction from the State of Maine over all areas of Brunswick  
8 Naval Air Station in which the United States presently holds a  
9 proprietary interest and to relinquish to the State of Maine that  
10 measure of its exclusive legislative jurisdiction over areas of  
11 Brunswick Naval Air Station in which the United States presently  
12 holds exclusive legislative jurisdiction necessary to establish  
13 concurrent legislative jurisdiction between the State of Maine  
14 and the United States, pursuant to the Maine Revised Statutes,  
15 Title 1, section 8, the State of Maine hereby approves the  
16 transfers of legislative jurisdiction as proposed in the notice  
17 of intention.

19               **Sec. 2. Brunswick Naval Air Station; description of land.** The  
20 existing land so affected is the Brunswick Naval Air Station,  
21 inclusive of all land within the present boundaries of that  
22 station in the Towns of Brunswick and Topsham in Cumberland  
23 County.

25               **Sec. 3. Brunswick Naval Air Station; concurrent legislative**  
26 **jurisdiction.** This Act confers concurrent legislative jurisdiction  
27 between the State of Maine and the United States over all lands  
28 currently comprising Brunswick Naval Air Station as of the date  
29 of recordation of both this Act and the notice of intention.

31

33                               **STATEMENT OF FACT**

35               This bill is designed to establish concurrent legislative  
36 jurisdiction between the State and the United States over all  
37 lands currently owned by the United States comprising the  
38 Brunswick Naval Air Station in the Towns of Brunswick and Topsham  
39 in Cumberland County.

41               At present, the United States has title to approximately  
42 3,317.17 acres of land comprising the Brunswick Naval Air Station  
43 located in the Towns of Brunswick and Topsham. The United States  
44 Department of the Navy operates, administers and maintains the  
45 Brunswick Naval Air Station. The United States exercises  
46 exclusive legislative jurisdiction over approximately 1,486 acres  
47 of the Brunswick Naval Air Station and holds a proprietary  
48 interest in approximately 1,830 acres.

49  
51               The exercise of exclusive legislative jurisdiction over  
certain of these lands means the Federal Government has received

1 all the legislative authority of the State with no reservation  
2 made to the State except the right to serve civil and criminal  
3 process resulting from activities which occurred off the land  
4 involved. In those areas where the Federal Government has  
5 exclusive legislative jurisdiction, law enforcement must be  
6 provided by the United States. Maine law does not apply and the  
7 Maine courts do not have jurisdiction over offenses committed on  
8 the land.

9  
10 The exercise of proprietary jurisdiction over the remaining  
11 parcels of land means the Federal Government has acquired some  
12 right or title to these lands, but has not obtained any measure  
13 of Maine's legislative authority. The Federal Government holds  
14 these lands in much the same way as a private landowner holds  
15 land within Maine, although the Federal Government has the right  
16 to perform the functions delegated to it by the United States  
17 Constitution without state interference.

18 As a general proposition, Maine laws are enforced by state  
19 law enforcement personnel and state courts. Federal law  
20 enforcement personnel and federal courts may enforce laws  
21 consistent with the authority granted to the Federal Government  
22 by the United States Constitution. In areas of proprietary  
23 jurisdiction, the Federal Government does not have available to  
24 it the Assimilative Crimes Act, United States Code, Title 18,  
25 Section 13. Under the Assimilative Crimes Act, certain state  
26 criminal laws are adopted by reference and become a part of the  
27 federal criminal laws and, as such, are applicable to areas under  
28 exclusive or concurrent jurisdiction of the United States.  
29 Because of the unavailability of the Assimilative Crimes Act,  
30 federal law enforcement personnel have no specific authority to  
31 enforce Maine's criminal laws in areas of proprietary legislative  
32 jurisdiction. Consequently, state and local law enforcement  
33 officers must expend their resources to police these areas.

34  
35 Establishment of uniform concurrent jurisdiction at the  
36 Brunswick Naval Air Station will resolve concerns about the  
37 authority of the Naval Air Station security police and will  
38 eliminate disparate treatment for crimes of a similar nature  
39 because they will no longer take place in areas of differing  
40 jurisdictions.

41  
42 While the State presently treats civilian occupants of  
43 exclusive federal land within the Brunswick Naval Air Station as  
44 state citizens and residents for civil law purposes, there are no  
45 specific state laws authorizing or requiring this treatment.  
46 Establishment of concurrent legislative jurisdiction eliminates  
47 any future uncertainty as to these occupants' status vis-a-vis  
48 Maine civil law.

49  
50 Through this bill, the United States and the State of Maine  
51 will jointly hold and exercise all the rights accorded a  
52 sovereign with the broad qualification that the authority is held  
53

1 concurrently. Both state and federal officials may enforce their  
2 respective laws, with the obvious qualifier that the State's  
3 authority to enforce laws is limited by the supremacy clause of  
4 the United States Constitution, which precludes state laws which  
5 interfere with federal functions.

7 By transmitting its notice of intention to effect  
8 jurisdictional transfers, the Federal Government has triggered  
9 the operation of the Maine Revised Statutes, Title 1, section 8.  
10 This bill is designed to effectuate those jurisdictional  
11 transfers.