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34 35 L.D. 1457 (Filing No. H-565)

JUDICIARY

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HOUSE OF REPRESENTATIVES

129TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT " A" to H.P. 1069, L.D. 1457, Bill, "An Act To Make References to the Governor and Supreme Judicial Court Justices Gender Neutral"

Amend the bill by striking out the title and substituting the following:

'An Act To Make Certain References in the Maine Revised Statutes Gender-neutral'

Amend the bill by inserting after section 10 the following:

'Sec. 11. 3 MRSA §2, 2nd ¶, as amended by PL 1985, c. 166, is further amended to read:

The first regular session of the Legislature, after its convening, shall adjourn no later than the 3rd Wednesday in June and the 2nd regular session of the Legislature shall adjourn no later than the 3rd Wednesday in April. The Legislature, in case of emergency, may by a vote of 2/3 of the members of each House present and voting, extend the date for adjournment for the first or 2nd regular session by no more than 5 legislative days, and in case of further emergency, may by a vote of 2/3 of the members of each House present and voting, further extend the date for adjournment by 5 additional legislative days. The times for adjournment for the first and 2nd regular sessions may also be extended for one additional legislative day for the purpose of considering possible objections of the Governor to any bill or resolution presented to him the Governor by the Legislature under the Constitution of Maine, Article IV, Part Third, Section 2.

Sec. 12. 3 MRSA §2, 5th ¶, as amended by PL 1987, c. 402, Pt. B, §1, is further amended to read:

Each member of the Senate and House of Representatives shall <u>must</u> be reimbursed for actual regular airfare expenses from <u>his the member's</u> place of abode to Augusta for one round trip each week when the Legislature is in regular session and, when the Legislature is not in regular session, for days when meetings or daily sessions are held, <u>provided that: The as long as the</u> distance from <u>his the member's</u> place of abode to Augusta is more than 150 miles, the mileage is determined by the most reasonable direct route and reimbursement <u>will be is</u> capped at commercial flight rate.

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Sec. 13. 3 MRSA §21, as amended by PL 1967, c. 503, §1, is further amended to read:

§21. Organization

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The Secretary of the preceding Senate, at the time and place appointed for the meeting of the Legislature, shall call the Senators-elect present to order, and from the certified roll furnished him to the secretary call their names, and if a quorum respond, he the secretary shall preside until they are qualified and a President is elected. If no quorum appear he the secretary shall preside, and the Senators-elect present shall adjourn from day to day, but shall transact no business, except to go into convention to fill vacancies, until a quorum appear and are qualified and a President is elected. After the election of the President, the Senate shall proceed to elect by ballot a secretary and an assistant secretary.

In case of vacancy in the office of such secretary or his in the secretary's absence or
 the secretary's inability to perform the duties, the said secretary's assistant shall perform
 the duties shall be performed by his assistant.

16 If the Secretary of the Senate and his the secretary's assistant are absent at the time set
 17 for convening the Senate, their duties shall must be performed by the Secretary of State or
 18 his the Secretary of State's deputy.

19 Sec. 14. 3 MRSA §22, as amended by PL 1983, c. 32, Pt. I, §1, is further amended 20 to read:

21 §22. Secretary and assistant secretary; salaries and duties

The Secretary of the Senate shall perform the usual duties of the office during the 22 session of the Legislature, file and index all papers, which that have been subject to 23 adverse legislative action, and index and supervise the preparation of the permanent 24 senate journal. He The secretary shall perform the duties required of him by sections 21 25 and 23. He The secretary shall deliver to the State Archivist all papers on file in the office 26 of the Secretary of the Senate which that were considered by a session of the Legislature 27 held more than 5 years previously, and the State Archivist shall inspect said those papers 28 29 and preserve those having permanent value.

The Assistant Secretary of the Senate shall receive is entitled to a salary as provided by law and shall work under the direction of the secretary.

All fees, charges, emoluments and other receipts of whatever nature, which that may be payable to the Secretary of the Senate, the Assistant Secretary of the Senate or any employee thereof, excepting their lawful salaries and expenses properly payable to them, shall must be credited to the General Fund and no Secretary of the Senate, Assistant Secretary of the Senate or employee shall may directly or indirectly receive a private benefit or gain from the sale or distribution of any material, information or reports from the records of such Secretary of the Senate.

The President of the Senate may authorize the Secretary of the Senate and the Assistant Secretary of the Senate to serve on a full-time basis when the Legislature is not in regular or special session.

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Sec. 15. 3 MRSA §41, as amended PL 1967, c. 503, §2, is further amended to read:

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The Clerk of the preceding House of Representatives in the same manner as provided for the Senate shall call the Representatives-elect to order and preside until they are qualified and elect a Speaker. If no quorum appear he appears, the clerk shall preside, and the Representatives-elect present shall adjourn from day to day until a quorum appear appears and are is qualified and a Speaker is elected. After the election of the Speaker, the House of Representatives shall proceed to elect by ballot a clerk and an assistant clerk. All revenues received by the document clerk in the performance of his the document clerk's duties shall must be credited to the General Fund.

In case of vacancy in the office of such the clerk, or his the clerk's absence or inability to perform the duties aforesaid, the said the clerk's assistant shall perform the duties shall be performed by his assistant.

If the Clerk of the House and his the clerk's assistant are absent at the time set for convening the House, their duties shall must be performed by the Secretary of State or his the Secretary of State's deputy.

Sec. 16. 3 MRSA §42, as amended by PL 1983, c. 32, Pt. I, §2, is further amended to read:

§42. Clerk and assistant clerk; salaries and duties

The Clerk of the House of Representatives shall perform the usual duties of his the <u>clerk's</u> office during the session of the Legislature and index the house journal. In the months of November and December next preceding the convening of the regular sessions of the Legislature, he the clerk shall keep open his the clerk's office each Wednesday and Thursday for the convenience of the public and members-elect of the Legislature. He The <u>clerk</u> shall perform the services required of him by sections 41 and 43.

The Assistant Clerk of the House of Representatives shall is entitled to receive a salary as provided by law and shall work under the direction of the clerk.

All fees, charges, emoluments and other receipts of whatever nature, which that may be payable to the Clerk of the House of Representatives, the Assistant Clerk of the House of Representatives, or any employee thereof, excepting their lawful salaries and expenses properly payable to them, shall <u>must</u> be credited to the General Fund, and no Clerk of the House of Representatives, Assistant Clerk of the House of Representatives or employee shall <u>may</u> directly or indirectly receive a private benefit or gain from the sale or distribution of any material, information or reports from the records of such Clerk of the House of Representatives.

The Speaker of the House of Representatives may authorize the Clerk of the House of Representatives and the Assistant Clerk of the House of Representatives to serve on a full-time basis when the Legislature is not in regular or special session.

Sec. 17. 3 MRSA §124 is amended to read:

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§124. Service; proof

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6 7 Service of notice of such petitions described in sections 121 and 122 may be made by any sheriff or constable, and proved by his the proper return by the sheriff or constable or by written acknowledgment of the adverse party on the petition, or, if notice is given by publication, then by the newspapers or the affidavit of the printer.

Sec. 18. 3 MRSA §162, sub-§4, as repealed and replaced by PL 1973, c. 590, §4, is amended to read:

Oaths, subpoenas and depositions. To administer oaths, issue subpoenas, 8 4. 9 compel the attendance of witnesses and the production of any papers, books, accounts, 10 documents and testimony, and to cause the deposition of witnesses, whether residing within or without the State, to be taken in the manner prescribed by law for taking 11 depositions in civil actions in the Superior Court. In case of disobedience on the part of 12 any person to comply with any subpoena issued in behalf of a committee, or on the 13 refusal of any witness to testify to any matters regarding which he the witness may be 14 15 lawfully interrogated, it shall be is the duty of the Superior Court of any county, on application of a member of a committee, to compel obedience by proceedings for 16 contempt as in the case of disobedience of the requirements of a subpoena issued from 17 such that court or a refusal to testify therein in that court. Each witness, other than a state 18 officer or employee, shall is entitled to receive for his that witness's attendance the fees 19 and mileage provided for witnesses in civil cases in courts of record, which shall must be 20 audited and paid upon the presentation of proper vouchers sworn to by such witness and 21 approved by the chairman chair of the council; 22

23 Sec. 19. 3 MRSA §165, sub-§7, as amended by PL 1985, c. 377, §1, is further
 24 amended to read:

7. Other subpoenas, etc. When the duties assigned to a committee so require, the 25 Legislature may grant to it the power to administer oaths, issue subpoenas, compel the 26 attendance of witnesses and the production of any papers, books, accounts, documents 27 and testimony, and to cause the deposition of witnesses, whether residing within or 28 without the State, to be taken in the manner prescribed by law for taking depositions in 29 civil actions in the Superior Court. When the Legislature grants this power to a joint 30 standing committee or joint select committee, such committee shall function functions as 31 an investigating committee and shall be is subject to the provisions of chapter 21. No 32 appropriation or allocation may be made for a specific study unless the Legislative 33 34 Council has first approved a budget adopted by the joint standing committee which that is 35 to conduct the study. No appropriation or allocation may be made for the operation of any joint select committee unless the Legislative Council has first approved a budget 36 adopted by the joint select committee. In case of disobedience on the part of any person 37 to comply with any subpoena issued in behalf of a committee, or on the refusal of any 38 39 witness to testify to any matters regarding which he the witness may be lawfully 40 interrogated, it shall be is the duty of the Superior Court of any county, on application of a member of a committee, to compel obedience by proceedings for contempt, as in the 41 case of disobedience of the requirements of a subpoena issued from such that court or a 42 43 refusal to testify therein in that court. Each witness, other than a state officer or employee, 44 who appears before a committee by its order or subpoena shall is entitled to receive for 45 his that witness's attendance the fees and mileage provided for witnesses in civil cases in

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courts of record, which shall <u>must</u> be audited and paid upon the presentation of proper vouchers sworn to by such witness and approved by the chairman chair of the committee;

Sec. 20. 3 MRSA §168, as amended by PL 1983, c. 32, Pt. H, is further amended to read:

§168. Staff assistants to legislative leadership

The President of the Senate, the Majority and Minority Floor Leaders of the Senate, the Speaker of the House of Representatives, and the Majority and Minority Floor Leaders of the House of Representatives shall each have the authority to appoint, at his <u>each legislative leader's</u> discretion, a personal staff assistant, or more than one assistant if their aggregate salary does not exceed that of the single personal staff assistant, when the Legislature is in session and at such other times as might be necessary, with the approval of the Legislative Council.

Sec. 21. 3 MRSA §173, sub-§3, as amended by PL 1985, c. 501, Pt. B, §11, is
 further amended to read:

3. Distribution, sale and exchange of law books. Copies of the Revised Statutes,
supplements thereto to the Revised Statutes and session laws shall must be delivered by
the printer to the State Law Librarian for distribution and sale in accordance with prices,
policies and procedures established by the Legislative Council. All proceeds from such
sales shall must be deposited to the credit of the General Fund.

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Copies shall <u>must</u> be sent, on an exchange basis, to the Library of Congress, secretary of the Maine State Bar Association, the Supreme Court Library of Canada and to each state or territorial library in the United States.

One copy of the laws passed by each session of the Legislature shall must be given to
 each Member thereof of the Legislature, the Secretary of the Senate, the Assistant
 Secretary of the Senate, the Clerk of the House and the Assistant Clerk of the House.

The State Law Librarian may, in his the librarian's discretion, sell surplus copies of volumes entrusted to him the librarian or use them for exchange purposes to increase the usefulness of the library. Proceeds from all sales shall must be deposited to the credit of the General Fund.

Sec. 22. 3 MRSA §224, as enacted by PL 1977, c. 605, §1, is amended to read:

32 §224. Director

The executive head of the Maine-Canadian Legislative Advisory Office shall be <u>is</u> the director, who shall be <u>is</u> appointed by the Speaker of the House and the President of the Senate with the approval of the Maine-Canadian Legislative Advisory Commission. The director shall <u>must</u> be paid a salary fixed by the Legislative Council from sums available under section 226. The director shall <u>must</u> be able to speak the French language fluently. He <u>The director</u> shall report to and be <u>is</u> subject to the direction of the Legislative Council.

Sec. 23. 3 MRSA §228, as enacted by PL 1977, c. 605, §1, is amended to read:

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§228. Duties; meetings

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The commission shall advise the director in the carrying out of his the director's powers and duties, shall assist him the director in encouraging increased cooperation between Maine and Canada, and especially between the Legislature of Maine and the legislative bodies of Canada and shall assist him the director in encouraging economic, cultural and educational exchanges between Maine and the Canadian Provinces. The commission shall meet at least 4 times in each year with the director and at such other times on the call of the chairman chair, at the request of the director or at the request of any member, as shall be necessary to carry out the duties outlined in this section.

10 Sec. 24. 3 MRSA §231, as amended by PL 1989, c. 503, Pt. B, §4, is further 11 amended to read:

§231. Commission 12

> 1. Commission. The New England and Eastern Canada Legislative Commission, as established by Title 5, section 12004-K, subsection 11, and in this chapter called the "commission," shall consist consists of 4 members from Maine, together with the same number of members appointed according to the laws of each of the other member jurisdictions.

2. Membership. The members of the commission from Maine shall be are the 2 18 Senators and the 2 members of the House of Representatives who are appointed to the 19 20 Maine-Canadian Legislative Advisory Commission pursuant to section 227.

21 3. Term. Each member of the commission from Maine shall-hold holds office from the date of his that member's appointment until the term of his that member's election to 22 23 the Legislature expires.

Compensation. Members of the commission from Maine shall be are 24 4. compensated in accordance with Title 5, chapter 379. 25

26 5. Chairs. The members of the commission from Maine shall, by majority vote, 27 select the cochairman cochairs or chairmen chairs who shall, together with a cochairman cochair selected by the members of the commission from the other member jurisdictions, 28 preside over the commission. 29

30 6. Meetings. The commission shall meet at such times and places as are mutually 31 agreed upon by the cochairmen cochairs.

32 Amend the bill by adding after section 11 the following:

33 'Sec. 12. 3 MRSA §402, sub-§§1 to 3, as enacted by PL 1975, c. 593, §3, are amended to read: 34

Chair. The "chairman chair" is the presiding officer of the investigating 35 1. committee. He The chair may be the permanent chairman chair or another member 36 37 designated as temporary chairman chair in the absence of the chairman chair.

38 2. Executive session. An "executive session" is a session at which only members of 39 the investigating committee, staff of the committee, counsel to the committee, the witness and his counsel shall may be present. 40

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3. Interested party. An "interested party" is any person who learns that he that person has been specifically identified in testimony taken before an investigating committee and who reasonably believes that he that person has been adversely affected by such testimony.

Sec. 13. 3 MRSA §429, as enacted by PL 1975, c. 593, §3, is amended to read:

§429. Release of testimony

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1. Release. The decision to release testimony and the decision as to the form and manner in which testimony shall may be released shall be is an investigating committee action. However, no testimony shall may be released without first affording the witness who gave such testimony, or his the witness's counsel, an opportunity to object to the proposed release.

A. The witness or his the witness's counsel may, by such objection, require that testimony given in open session, if it is released at all, be released in the form of a full, consecutive transcript.

B. The witness or his the witness's counsel may, by such objection, require that testimony given in executive session not be released in any form or manner whatsoever.

2. Transcript. The witness or his the witness's counsel, upon payment of the cost of preparation, shall must be given a transcript of any testimony taken. However, the witness or his the witness's counsel shall is not be entitled to obtain a transcript of the executive session testimony of other witnesses. The release of a transcript under this subsection is not the release of testimony within the meaning of subsection 1.

Sec. 14. 3 MRSA §§451 to 457, as enacted by PL 1975, c. 593, §3, are amended to read:

25 §451. Counsel

The witness may have counsel present to advise him the witness at all times. The witness or his the witness's counsel may, during the time the witness is giving testimony, object to any investigating committee action detrimental to the witness' witness's interests and is entitled to have a ruling by the chairman chair on any such objection.

§452. Questioning of adverse witnesses 30

The witness or his the witness's counsel may question adverse witnesses whose testimony is being taken in open session. However, the chairman chair of the 32 investigating committee may reasonably limit the right to so question. The chairman's chair's ruling is final, unless otherwise decided by investigating committee action. 34

35 §453. Pertinency of requested testimony

The witness or his the witness's counsel may challenge any request for his the 36 37 witness's testimony as not pertinent to the subject matter and scope of the investigation, in 38 which case the relation believed to exist between the request and the subject matter and 39 scope of the investigation shall must be explained.

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§454. Who can compel testimony

The committee chairman chair may direct compliance with any request for testimony to which objection has been made. However, the chairman's chair's direction may be overruled by investigating committee action.

5 §455. Television, films, radio

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Any decision to televise, film or broadcast testimony shall be is investigating committee action. If the witness or his the witness's counsel objects to a decision to televise, film or broadcast his the witness's testimony, his the witness's testimony shall may not be televised, filmed or broadcast.

10 §456. Statements and form of answers

11 The witness or <u>his the witness's</u> counsel may insert in the record sworn, written 12 statements of reasonable length relevant to the subject matter and scope of the 13 investigation. In giving testimony, the witness may explain <u>his the witness's</u> answers 14 briefly.

15 **§457. Privileges**

16 The witness shall <u>must</u> be given the benefit of any privilege which he <u>the witness</u> 17 could have claimed in court as a party to a civil action, provided that the committee 18 chairman <u>chair</u> may direct compliance with any request for testimony to which claim of 19 privilege has been made. However, the chairman's <u>chair's</u> direction may be overruled by 20 investigating committee action.

21 Sec. 15. 3 MRSA §473, first ¶, as enacted by PL 1975, c. 593, §3, is amended to 22 read:

No <u>A</u> witness shall <u>may not</u> be punished for contempt of an investigating committee
 unless the court finds:

Sec. 16. 3 MRSA §473, sub-§3, ¶¶B and C, as enacted by PL 1975, c. 593, §3,
 are amended to read:

B. A citation for failure to testify in response to a request for his the witness's testimony challenged as not pertinent to the subject matter and scope of the investigation, the requirements of sections 412 and 453 have been complied with and the request was pertinent as explained;

- C. A citation for failure to testify in response to a request for his the witness's testimony on grounds of privilege, the requirements of section 457 have been complied with.
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 Sec. 17. 3 MRSA §701, sub-§9, as enacted by PL 1985, c. 507, §1, is amended to

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 read:

9. Earnable compensation. "Earnable compensation" means the actual
 compensation of a Legislator. Any money paid by the State under an annuity contract for
 the future benefit of a Legislator shall be is considered part of the Legislator's earnable
 compensation. The earnable compensation of a member retired with a disability
 retirement allowance under section 853 shall be is assumed, for the purposes of

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determining benefits under this chapter, to be continued after his the Legislator's date of termination of service at the same rate as received immediately prior to that time, subject to the same percentage adjustments, if any, that may apply to the amount of retirement allowance of the beneficiary under section 858.

Sec. 18. 3 MRSA §854, as enacted by PL 1985, c. 507, §1, is amended to read:

§854. Restoration to service

If a recipient of a retirement allowance under this chapter again becomes a member of the Legislature, he the recipient may:

1. Receive allowance. Continue to receive the retirement allowance and not accrue any additional creditable service for that legislative service; or

2. Discontinue allowance. Direct, in writing, that the executive director discontinue his the recipient's retirement allowance and he shall accrue the recipient accrues additional creditable service for that legislative service.'

Amend the bill by striking out all of section 31 and inserting the following:

'Sec. 31. Maine Revised Statutes revisions. The Revisor of Statutes shall review the Maine Revised Statutes to determine where references to individuals occurring throughout the statutes need to be made gender-neutral and shall implement these revisions when updating, publishing or republishing the statutes. The Revisor of Statutes shall develop a schedule to change all such gender-specific terms to gender-neutral terms in all Titles of the Maine Revised Statutes as soon as reasonably practicable. The changes may be made through the preparation and publication of an additional annual revisor's report pursuant to the Maine Revised Statutes, Title 1, section 95 that is dedicated to the correction of gender-specific terms. The Revisor of Statutes shall include in the annual report a report on the progress in carrying out the schedule developed pursuant to this section. When correcting gender-specific references within statutory units in the additional annual revisor's report pursuant to this section. When correct means to this section, the Revisor of Statutes need not correct those statutory units to incorporate other administrative changes and corrections authorized under Title 1, section 93.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment strikes the title of the bill and directs that certain references in the Maine Revised Statutes be made gender-neutral, not just references to the Governor and the Supreme Judicial Court Justices as proposed in the bill. Specifically, this amendment makes all references in the Maine Revised Statutes, Title 3 gender-neutral and it adds a revision clause to direct the Revisor of Statutes to determine where references to individuals occurring throughout the statutes need to be made gender-neutral and to make these revisions when updating, publishing or republishing the statutes. The amendment further directs the Revisor of Statutes to develop a schedule to change all gender-specific terms to gender-neutral terms in all Titles of the Maine Revised Statutes as soon as

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COMMITTEE AMENDMENT "

reasonably practicable and to include in the annual revisor's report an update on progress in carrying out the schedule.

FISCAL NOTE REQUIRED

(See attached)

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COMMITTEE AMENDMENT

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129th MAINE LEGISLATURE

LD 1457

LR 1995(02)

An Act To Make References to the Governor and Supreme Judicial Court Justices Gender Neutral

Fiscal Note for Bill as Amended by Committee Amendment $\mathcal{A}(H-565)$ Committee: Judiciary Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Any additional costs to the Legislature are expected to be minor and can be absorbed within existing budgeted resources.