

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD  
OF THE  
*One Hundred and Twelfth*  
*Legislature*  
OF THE  
STATE OF MAINE

VOLUME I  
SECOND REGULAR SESSION  
January 8 - April 2, 1986

The House was called to order by the Speaker.  
Prayer by Reverend William Dalke, United Church of Christ, Congregational, North Whitefield.  
The Journal of Monday, February 24, 1986, was read and approved.  
Quorum call was held.

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PAPERS FROM THE SENATE

Bill "An Act to Amend the Regulation of the Practice of Nursing" (S.P. 816) (L.D. 2061)

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

Was referred to the Committee on Business and Commerce in concurrence.

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Bill "An Act to Increase the School Bus Purchase Limit" (S.P. 817) (L.D. 2062)

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

Was referred to the Committee on Education in concurrence.

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Bill "An Act to Protect the Public Health in Relation to Acquired Immune Deficiency Syndrome" (Emergency) (S.P. 818) (L.D. 2063)

Bill "An Act to Assure Independent Advocacy for Institutionalized Developmentally Disabled Persons" (S.P. 819) (L.D. 2064)

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

Were referred to the Committee on Human Resources in concurrence.

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Bill "An Act to Expedite the Resolution of Professional Negligence Claims, to Amend Selective Provisions of the Maine Health Security Act and to Abolish the Discovery Rule in Claims Against Health Practitioners, Health Providers and Attorneys" (S.P. 820) (L.D. 2065)

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

(The Committee on Reference of Bills had suggested reference to the Committee on Legal Affairs.)

Was referred to the Committee on Judiciary in concurrence.

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Unanimous Leave to Withdraw

Report of the Committee on Human Resources reporting "Leave to Withdraw" on Bill "An Act to Amend the Maine Certificate of Need Act to Further Simplify its Procedures" (S.P. 756) (L.D. 1920)

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

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PETITIONS, BILLS AND RESOLVES  
REQUIRING REFERENCE

Study Report  
Committee on Business and Commerce

Representative BRANNIGAN from the Committee on Business and Commerce to which was referred by the Legislative Council the Study Relative to Alternative Methods of Payment for Health Care in Maine have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill "An Act to Authorize Preferred Provider Arrangements in Maine and to Establish a Cash Reserve Requirement for Health Maintenance Organizations" (H.P. 1466) (L.D. 2068) be referred to this Committee for public hearing and printed pursuant to Joint Rule 19.

Report was read and accepted, and the bill referred to the Committee on Business and Commerce, ordered printed and sent up for concurrence.

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Study Report  
Committee on Judiciary

Representative PARADIS from the Committee on Judiciary to which was referred by the Legislative Council the Study Relative to the Insanity Defense and Related Statutes and Procedures have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill "An Act to Permit a Guilty but Mentally Ill Verdict in a Criminal Case" (H.P. 1467) (L.D. 2069) be referred to this Committee for public hearing and printed pursuant to Joint Rule 19.

Report was read and accepted, and the bill referred to the Committee on Judiciary, ordered printed and sent up for concurrence.

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ORDERS

On motion of Representative MCSWEENEY of Old Orchard Beach, the following Order:

ORDERED, that Representative Richard Ruhlin of Brewer be excused February 24, 1986 due to illness.

Was read and passed.

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REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative BROWN from the Committee on Education on Bill "An Act to Amend the Law Separating the Ogunquit Village Corporation from the Town of Wells" (H.P. 1359) (L.D. 1903) reporting "Ought Not to Pass" (Representative O'GARA of Westbrook - of the House - abstaining)

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

#### Unanimous Leave to Withdraw

Representative BRANNIGAN from the Committee on Business and Commerce on Bill "An Act to Increase Truth in Advertising" (H.P. 1344) (L.D. 1881) reporting "Leave to Withdraw"

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

#### Ought to Pass in New Draft/New Title

Representative SALSURY from the Committee on Marine Resources on Bill "An Act Relating to Lease Fees Under the Bureau of Public Lands" (H.P. 1207) (L.D. 1714) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Requiring Study of the Leasing of Submerged Public Lands for Aquaculture Operations" (H.P. 1465) (L.D. 2067)

Report was read and accepted, the New Draft read once and assigned for second reading Wednesday, February 26, 1986.

#### Divided Report

Majority Report of the Committee on Business and Commerce on Bill "An Act to Permit Mobile Banking in Rural Maine" (H.P. 1219) (L.D. 1727) reporting "Ought to Pass" in New Draft (H.P. 1458) (L.D. 2055)

Signed:  
Senators: KERRY of York  
BUSTIN of Kennebec

Representatives: ALIBERTI of Lewiston  
MARTIN of Van Buren  
TELOW of Lewiston  
RYDELL of Brunswick  
STEVENS of Bangor  
ARMSTRONG of Wilton  
BRANNIGAN of Portland  
MURRAY of Bangor

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Signed:

Senator: SEWALL of Lincoln

Representatives: BAKER of Orrington  
HILLOCK of Gorham

Reports were read.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Murray.

Representative MURRAY: Mr. Speaker, Men and Women of the House: I move we accept the Majority "Ought to Pass" Report.

This bill, as the title suggests, would allow for mobile banking in certain rural areas in the State of Maine. At the hearing I believe the need for this type of expanded service was demonstrated to us through testimony from both the Bureau of Banking and several Representatives here in the legislature and from other people throughout the state. We were told that in certain rural areas in this state, to carry out banking activities, requires from up to a sixty to eighty mile round trip to engage in some of the most simple activities that you and I take for granted. We also heard testimony from the Committee on Aging that it is often very difficult for some of the elderly especially in those rural areas to find transportation available to them so that they can make the journey to do these banking activities that are necessary. So this bill attempts to address that by allowing banks to establish mobile units which would be allowed to go to certain areas in the state to carry out, not all the banking activities that may be allowed or may be available at an actual branch office, but to engage in financial counseling, certain services to small businesses in these rural areas, general teller services that we are accustomed to at banks, and basically, an enhanced banking presence that is not available in a lot of these areas. Any mobile unit that is established would have to be established for a period of four hours per day at these units and must return to that unit at least two days per week.

The new draft of the bill also requires that no mobile unit may be established within ten road miles of an already established bank and also that those banks that do presently service a particular community or area of the state would be given preference over a bank which is further away if both desired to establish this type of a mobile banking unit.

So, I believe that there are safeguards in place, there were no opponents that spoke at the hearing on this particular bill. We did receive one letter from an individual bank that did have some reservations, but I believe that this type of service would expand banking services to those areas, which presently are not covered adequately, and would be a good thing. This has the support of the Bureau of Banking here in our state.

I would hope that you would join with the majority of the Business and Commerce Committee in supporting this measure.

The SPEAKER: The Chair recognizes the Representative from Orrington, Representative Baker.

Representative BAKER: Mr. Speaker, Men and Women

of the House: It is true that there were no opponents among the banks for this particular bill. But it is also true that there were no supporters among banks for this bill in the State of Maine, either appearing at the hearing or the work session, no supporters who came from the banks themselves and testified.

My initial reaction to this bill, when it came to the committee, was that it provided a large bank an opportunity to come into a small community and, in effect, skim the deposits. I used the example in the committee hearing of perhaps somebody sitting outside of the Pinkham Lumber Company location and skimming the deposits that would be normally flowed to the local banks in the area. The committee apparently recognized some of the possibilities because they rewrote the bill. I still think that this is one of those bills that is a waste of time. I made calls after the session. I could find no banks that were interested in providing mobile banking. They pointed out to me that the cost of the unit would be in the order of \$50,000 to \$100,000 minimum and obviously, they would have to have someone riding shotgun to protect them while on the roads.

I see this as a make-work bill and not as something that lends a lot service to the folks of the State of Maine. So, I would urge you to save some money and vote against this bill.

The Speaker: The Chair will order a vote. The pending question before the House is the motion of the Representative from Bangor, Representative Murray, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

73 having voted in the affirmative and 39 in the negative, the Majority "Ought to Pass" Report was accepted, the New Draft read once and assigned for second reading, Wednesday, February 26, 1986.

#### Divided Report

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-531) on Bill "An Act to Equalize the State Tipping Minimum Wage and the Federal Tipping Minimum Wage" (H.P. 1376) (L.D. 1939)

Signed:

Senators: BLACK of Cumberland  
DUTREMBLE of York  
TUTTLE of York

Representatives: RUHLIN of Brewer  
BEAULIEU of Portland  
TAMMARO of Baileyville  
HALE of Sanford  
WILLEY of Hampden  
BEGLEY of Waldoboro  
JOSEPH of Waterville

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Signed:

Representatives: BONNEY of Falmouth  
HEPBURN of Skowhegan  
LANDER of Greenville

Reports were read.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Beaulieu.

Representative BEAULIEU: Mr. Speaker, Men and Women of the House: I move acceptance of the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Hepburn.

Representative HEPBURN: Mr. Speaker, Men and Women of the House: I would just like to go over a couple of the reasons why I voted on the minority side. This bill has to do with the minimum wage paid to waitresses and currently there is a two-tiered system whereby waitresses in large restaurants operate under federal rules and those under smaller restaurants operate under state rules. Right now, that federal minimum is \$2.01 an hour. That is what the restaurant owners or managers are required to pay their help. Our state minimum is a little bit lower than that; however, the restaurants that are regulated by state law have a lower gross income so therefore they are theoretically not able to pay as quite a large amount.

Basically, the reason that I voted against this was that I personally think that we should not be regulating how much they pay. I think that should be determined between employer and employee. I think that it just another incursion into the free market system here in the State of Maine. I hope that you would vote with the minority.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Willey.

Representative WILLEY: Mr. Speaker, Men and Women of the House: As you know Representative Beaulieu and I are frequently on different sides of labor issues. I am proud to say that this time we are both on the same side. And although I do not propose that we create another state holiday to commemorate this event, I would appreciate it if you would support the Majority Report.

The Speaker: The Chair will order a vote. The pending question before the House is the motion of the Representative from Portland, Representative Beaulieu, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

86 having voting in the affirmative and 23 in the negative, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (H-531) was read by the Clerk and adopted.

The bill was assigned for second reading, Wednesday, February 26, 1986.

#### CONSENT CALENDAR

#### FIRST DAY

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

(S.P. 673) (L.D. 1741) Bill "An Act to Clarify the Status of Vocational Education in Washington County" Committee on Education reporting "Ought to Pass"

(S.P. 700) (L.D. 1785) Bill "An Act to Provide Immunity from Civil Liability for Court Mediators" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-380)

(S.P. 718) (L.D. 1841) Bill "An Act To Create the Job Protection Act" (Emergency) Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-378)

(H.P. 1296) (L.D. 1812) Bill "An Act to Authorize the Portland School of Art to Confer Associate Degrees" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-533)

There being no objections, the above items were ordered to appear on the Consent Calendar of Wednesday, February 26, 1986 under the listing of Second Day.

#### CONSENT CALENDAR

##### SECOND DAY

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

(H.P. 1292) (L.D. 1809) Bill "An Act to Improve Whitewater Rafting" (C. "A" H-526)

(H.P. 1246) (L.D. 1756) Bill "An Act to Amend the School Construction Law" (C. "A" H-528)

(H.P. 1205) (L.D. 1712) Bill "An Act Regarding Utility Assessments" (C. "A" H-529)

(S.P. 560) (L.D. 1489) Bill "An Act Authorizing Mutual Financial Institutions to Reorganize into Mutual Holding Companies" (C. "A" S-376)

(S.P. 747) (L.D. 1911) RESOLVE, Authorizing the Sale of Certain Public Lands in Lewiston

(H.P. 859) (L.D. 1218) Bill "An Act to Amend the Medical Examiner Act and Related Provisions" (C. "A" H-530)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were Passed to be Engrossed or Passed to be Engrossed as Amended in concurrence and the House Papers were Passed to be Engrossed as Amended and sent up for concurrence.

#### PASSED TO BE ENGROSSED

Bill "An Act to Conserve Striped Bass" (H.P. 1448) (L.D. 2041)

Was reported by the Committee on Bills in the Second Reading, read the second time, Passed to be Engrossed, and sent up for concurrence.

#### As Amended

Bill "An Act Pertaining to Local Registration of Watercraft" (H.P. 1216) (L.D. 1724) (C. "A" H-522)

Was reported by the Committee on Bills in the Second Reading, read the second time, Passed to be Engrossed as Amended, and sent up for concurrence.

#### PASSED TO BE ENACTED

An Act to Allow Municipal Officers to Delegate their Authority to License Catered Off-premise Functions (H.P. 1189) (L.D. 1686) (C. "A" H-507)

An Act to Clarify the Authority of Municipal Officers to Temporarily Restrict Vehicle Passage over Certain Highways (H.P. 1203) (L.D. 1710) (C. "A" H-510)

An Act to Clarify the Surety Bonding Process for Contractors (H.P. 1253) (L.D. 1763) (C. "A" H-505)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

The SPEAKER: The Chair recognizes the Representative from Mt. Desert, Representative Zirkilton.

Representative ZIRNKILTON: Mr. Speaker, Men and Women of the House: I move we reconsider our action whereby An Act to Change Martin Luther King Day from a Special Observance Day to a State Holiday (H.P. 1335) (L.D. 1872) (S."A"S-377 to C."A"H-500) was passed to be engrossed.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Diamond.

Representative DIAMOND: Mr. Speaker, Men and Women of the House: I hope that this body will not reconsider its action of yesterday. We debated this issue for almost three hours and I think that it was pretty clear what position individual members of this body were taking at that time. I would hate to have us go through a similar debate this morning. I ask that on the motion to reconsider a Division be taken.

The SPEAKER: The Chair recognizes the Representative from Mt. Desert, Representative Zirkilton.

Representative ZIRNKILTON: Mr. Speaker, Men and Women of the House: I hope that you will vote to reconsider our action whereby the bill was passed to be engrossed, not because you agree or disagree with the bill itself, but merely so you will allow me the opportunity to at least talk about the amendment which is on your desk. If you don't agree with the amendment, you certainly then have opportunity to pass the bill on.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Mt. Desert, Representative Zirkilton, that the House reconsider its action whereby L.D. 1872 was passed to be engrossed. Those in favor will vote yes; those opposed will vote no.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Connolly.

Representative CONNOLLY: Mr. Speaker, I would like to pose a parliamentary question. As I understand the position that we are in, the motion that prevailed yesterday was the motion to recede and concur, which engrossed the bill. The gentleman who made the motion to reconsider was not on the prevailing side, I believe and therefore, would not be in a position to make a motion to reconsider. Is that correct?

At this point, the Speaker questioned the Representative from Mt. Desert, Representative Zirkilton, as to how he had cast his vote on the motion to recede and concur on L.D. 1872.

Representative ZIRNKILTON: I voted in the negative.

The SPEAKER: Representative Zirkilton's motion to reconsider is out of order.

The pending question is enactment.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Bott.

Representative BOTT: Mr. Speaker, Men and Women of the House: Having voted on the prevailing side yesterday, I would like to make the motion that we reconsider our action whereby L.D. 1872 was passed to be engrossed.

Representative Diamond of Bangor requested a roll call.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and, obviously, more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion of the Representative from Orono, Representative Bott, that the House reconsider its action whereby L.D. 1872 was passed to be engrossed. Those in favor will vote yes; those opposed will vote no.

62 having voted in the affirmative and 68 in the negative with 21 absent, the motion did not prevail.

(See Roll Call No. 242)

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Higgins.

Representative HIGGINS: Mr. Speaker, Men and Women of the House: I would like to pose a question to the Chair if I might, on whether or not this bill has a fiscal note on it, and if it does not, would it be in violation of Joint Rule 21?

(At Ease)

The SPEAKER: The Chair would advise the Representative from Scarborough, Representative Higgins, that the fiscal note reviewed by the Office

of Fiscal and Program Review does requires a fiscal note and the bill does contain the fiscal note.

Subsequently, the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith to the Senate.

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(Off Record Remarks)

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Representative Aliberti of Lewiston was granted unanimous consent to address the House:

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: I would like to address the House in honor of Donia J. Girard, who was a former mayor of Lewiston, who served as a member of the Senate in the 102nd and 103rd Maine Legislature.

I would especially honor him today for what, in his adversity, he has done for me personally. I visited him many Friday's, had coffee with him, lunch with him, and never once were you aware of his adversity in which he had the loss of both limbs. He made my day every time I went there. Maybe I was selfish because he just reflected to me something that I wanted to be and he encouraged me to be.

At this time, I would hope that the Speaker would adjourn today in his honor on behalf of the Lewiston delegation.

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On motion of Representative Aliberti of Lewiston, Adjourned until February 26, 1986 at eight-thirty in the morning, in memory of Donia J. Girard.

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