

MAINE STATE LEGISLATURE

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Legislative Record
House of Representatives
One Hundred and Twenty-Fifth Legislature
State of Maine

Daily Edition

Second Regular Session

January 4, 2012 – May 31, 2012

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ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
SECOND REGULAR SESSION
38th Legislative Day
Thursday, March 29, 2012

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

Prayer by the Honorable Peter E. Edgecomb, Caribou.

National Anthem by Dr. A. Jan Berlin, Portland.

Pledge of Allegiance.

Doctor of the day, A. Jan Berlin, M.D., Portland.

The Journal of yesterday was read and approved.

SENATE PAPERS

Bill "An Act To Create the Leased Space Reserve Fund and To Amend the Law Regarding the Issuance of Securities under the Maine Governmental Facilities Authority"

(S.P. 678) (L.D. 1904)

Came from the Senate, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed.

REFERRED to the Committee on **STATE AND LOCAL GOVERNMENT** in concurrence.

Non-Concurrent Matter

An Act To Change Document Filing Fees for County Registries of Deeds (EMERGENCY)

(H.P. 1137) (L.D. 1550)

(C. "A" H-711)

PASSED TO BE ENACTED in the House on March 27, 2012. Came from the Senate **FAILING** of **PASSAGE TO BE ENACTED** in **NON-CONCURRENCE**.

On motion of Representative MOULTON of York, the House voted to **RECEDE**.

The same Representative **PRESENTED** House Amendment "A" (H-851), which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from York, Representative Moulton.

Representative **MOULTON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As many of you may recall, in recent days this chamber did go through Enactment on the bill. There have been some questions, however, that have arisen. I would like to briefly address one in particular and that concerns the fact that registries have been accused of being profit centers for county government. Again, county government lacks the revenues, taxes if you will, that occur either at the state level or the local level. Besides the filing fees which are the subject of this amendment and bill, there are also copy fees which have been in dispute until just two days ago, as well as a revenue stream from 10 percent of the transfer tax on real estate transactions which, through the recession, have diminished over the past few years, with these reductions in revenue which the counties themselves rely on to fund not only the registry of deeds as well as the operations within the sheriff's department and also staff for the district attorney.

The counties also rely on the overlay tax which is paid for through bills given to town governments and we pay for through our property tax. Without the revenues generated through the filing fees which are directed towards the people who use the registry of deeds, it just means an increase in that overlay tax on the general property tax, and unfortunately with the cutbacks not only have county governments cut back on things like repairs and work on buildings, they have already worked and reduced the number of staff in the registries and the probate offices and it's

reached the point where the county commissioners now have to reduce staff elsewhere, and the largest cost to county government currently is through the sheriff's department and through the district attorney's department.

The county commissioners are pretty much in a hard fix. They don't want to have to hand out increasing bills or they may be limited in what they're able to do by increasing that overlay tax, and they are facing these cutbacks. I'm sure that all of you understand this. I'm offering that for your education because you in turn may be questioned by others in this building, and I personally want to express thanks for your support of the county commissioners and the registries that you have shown to date and express my appreciation. Mr. Speaker, thank you.

Subsequently, **House Amendment "A" (H-851)** was **ADOPTED**.

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-711)** and **House Amendment "A" (H-851)** in **NON-CONCURRENCE** and sent for concurrence.

COMMUNICATIONS

The Following Communication: (S.C. 799)

**MAINE SENATE
125TH LEGISLATURE
OFFICE OF THE SECRETARY**

March 28, 2012

The Honorable Robert W. Nutting

Speaker of the House

2 State House Station

Augusta, Maine 04333

Dear Speaker Nutting:

In accordance with 3 M.R.S.A. §158 and Joint Rule 506 of the 125th Maine Legislature, please be advised that the Senate today confirmed the following nominations:

Upon the recommendation of the Committee on State and Local Government, the nomination of Abigail C. Yacoben of West Bath for appointment to the State Civil Service Appeals Board.

Upon the recommendation of the Committee on State and Local Government, the nomination of Robert W. Bower, Jr. of Cumberland for appointment to the State Civil Service Appeals Board.

Sincerely,

S/Joseph G. Carleton, Jr.

Secretary of the Senate

READ and **ORDERED PLACED ON FILE**.

The Following Communication: (S.C. 800)

**MAINE SENATE
125TH LEGISLATURE
OFFICE OF THE SECRETARY**

March 28, 2012

The Honorable Heather J.R. Priest

Clerk of the House

2 State House Station

Augusta, Maine 04333

Dear Clerk Priest:

Please be advised the Senate today insisted to its previous action whereby it committed Bill "An Act To Limit Health Care Mandates" (H.P. 649) (L.D. 882) and accompanying papers to the Committee on Insurance and Financial Services, in non-concurrence.

Sincerely,

S/Joseph G. Carleton, Jr.

Secretary of the Senate

(S.P. 544) (L.D. 1645)

READ and ORDERED PLACED ON FILE.

(C. "A" S-475)

An Act To Improve Transportation in the State

(S.P. 601) (L.D. 1753)

(C. "A" S-480)

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.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 529) (L.D. 1619) Bill "An Act To Resolve Conflicts in the Implementation of the Maine Uniform Building and Energy Code" Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-486)**

(S.P. 610) (L.D. 1771) Bill "An Act To Amend Maine's Gambling Laws" Committee on **VETERANS AND LEGAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-491)**

(S.P. 618) (L.D. 1781) Bill "An Act To Restructure the National Board Certification Program for Teachers" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-488)**

(S.P. 641) (L.D. 1846) Resolve, Directing the Department of Environmental Protection To Adopt Rules Pertaining to Petroleum Storage and Gravel Pits Committee on **ENVIRONMENT AND NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-485)**

(S.P. 642) (L.D. 1848) Bill "An Act To Require Notification of Health Care Facilities That May Be Negatively Affected by a Certificate of Need Application" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-493)**

(S.P. 645) (L.D. 1850) Bill "An Act To Assist Maine's Returning Veterans" Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-492)**

(S.P. 656) (L.D. 1877) Bill "An Act To Clarify Authorized Associations of Veterinary Practice" Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-487)**

(H.P. 1326) (L.D. 1799) Bill "An Act Regarding the Collection of Fees for Prepaid Wireless Service" Committee on **ENERGY, UTILITIES AND TECHNOLOGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-846)**

(H.P. 1396) (L.D. 1893) Resolve, Regarding Legislative Review of Portions of Chapter 850: Health Plan Accountability, a Major Substantive Rule of the Department of Professional and Financial Regulation (EMERGENCY) Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-849)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the Senate Papers were **PASSED TO BE ENGROSSED as Amended** in concurrence and the House Papers were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

An Act To Protect Gasoline Marketers from Liability for Selling Federally Approved Gasoline

(S.P. 557) (L.D. 1658)

(S. "A" S-474 to C. "A" S-413)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative CURTIS of Madison, was **SET ASIDE**.

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

The following items were taken up out of order by unanimous consent:

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (10) **Ought Not to Pass** - Minority (3) **Ought to Pass as Amended by Committee Amendment "A" (H-835)** - Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Remove Inequity in Student Access to Certain Schools"

(H.P. 1379) (L.D. 1866)

TABLED - March 28, 2012 (Till Later Today) by Representative RICHARDSON of Carmel.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

Representative CAIN of Orono **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Acceptance of the Majority **Ought Not to Pass** Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 279

YEA - Beaudoin, Beaulieu, Beavers, Beck, Beliveau, Berry, Bickford, Blodgett, Boland, Briggs, Bryant, Cain, Casavant, Chapman, Chipman, Clark H, Clarke, Cornell du Houx, Dill J, Dion, Driscoll, Duchesne, Eberle, Edgcomb, Eves, Flemings, Flood, Gilbert, Goode, Graham, Harlow, Haswell, Haskell, Hayes, Herbig, Hinck, Hogan, Innes Walsh, Kaenrath, Keschl, Knapp, Kruger, Lajoie, Libby, Longstaff, Lovejoy, Luchini, MacDonald, Maker, Maloney, Martin, Mazurek, McCabe, McFadden, Monaghan-Derrig, Morrison, Moulton, Nelson, O'Brien, Peoples, Peterson, Picchiotti, Pilon, Plummer, Priest, Rankin, Richardson D, Richardson W, Rochelo, Rotundo, Russell, Sanborn, Sanderson, Shaw, Stevens, Strang Burgess, Stuckey, Theriault, Tuttle, Valentino, Wagner R, Webster, Welsh, Willette M.

NAY - Ayotte, Bennett, Black, Burns DC, Cebra, Chase, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon,

ENACTORS

Acts

An Act To Require the Maine Community College System, the University of Maine System and the Maine Maritime Academy To Report the Number of Students Enrolled in Remedial Courses

Davis, Dow, Dunphy, Espling, Fitts, Fitzpatrick, Fossel, Foster, Fredette, Gifford, Gillway, Guerin, Hamper, Hanley, Harmon, Johnson D, Johnson P, Knight, Long, Malaby, McClellan, McKane, Morissette, Nass, Newendyke, O'Connor, Olsen, Parker, Parry, Prescott, Rioux, Rosen, Sarty, Sirocki, Tilton, Timberlake, Turner, Volk, Wallace, Waterhouse, Weaver, Willette A, Winsor, Wood, Mr. Speaker.

ABSENT - Bolduc, Carey, Celli, Hunt, Kent, Kumiega, Treat.
Yes, 84; No, 59; Absent, 7; Vacant, 1; Excused, 0.

84 having voted in the affirmative and 59 voted in the negative, 1 vacancy with 7 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

Resolve, Regarding Legislative Review of Chapter 33: Regulations Governing Timeout Rooms, Therapeutic Restraints and Aversives in Public Schools and Approved Private Schools, a Major Substantive Rule of the Department of Education (EMERGENCY) (MANDATE)

(H.P. 1360) (L.D. 1838)
(C. "A" H-820)

TABLED - March 28, 2012 (Till Later Today) by Representative CURTIS of Madison.

PENDING - **FINAL PASSAGE**. (Roll Call Ordered)

The SPEAKER: A roll call has been ordered. The pending question before the House is Final Passage. All those in favor will vote yes, those opposed will vote no.

In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

ROLL CALL NO. 280

YEA - Ayotte, Beaudoin, Beaulieu, Beavers, Beck, Beliveau, Berry, Bickford, Black, Blodgett, Boland, Briggs, Bryant, Burns DC, Cain, Casavant, Chapman, Chase, Chipman, Clark H, Clark T, Clarke, Cornell du Houx, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dill J, Dion, Dow, Driscoll, Duchesne, Dunphy, Eberle, Edgecomb, Espling, Eves, Fitts, Fitzpatrick, Flemings, Flood, Fossel, Foster, Fredette, Gilbert, Gillway, Goode, Graham, Hamper, Hanley, Harlow, Haskell, Hayes, Herbig, Hinck, Hinch, Hogan, Innes Walsh, Johnson P, Kaenrath, Keschl, Knapp, Knight, Kruger, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maker, Malaby, Maloney, Martin, Mazurek, McCabe, McClellan, McFadden, Monaghan-Derrig, Morissette, Morrison, Moulton, Nass, Nelson, Newendyke, O'Brien, Olsen, Parry, Peoples, Peterson, Picchiotti, Pilon, Prescott, Priest, Rankin, Richardson D, Richardson W, Rioux, Rochelo, Rosen, Rotundo, Russell, Sanborn, Sanderson, Sarty, Shaw, Sirocki, Stevens, Strang Burgess, Stuckey, Theriault, Tilton, Timberlake, Turner, Tuttle, Valentino, Volk, Wagner R, Weaver, Webster, Welsh, Mr. Speaker.

NAY - Bennett, Cebra, Gifford, Guerin, Harmon, Harvell, Johnson D, Libby, Long, McKane, O'Connor, Parker, Plummer, Wallace, Waterhouse, Willette A, Willette M, Winsor, Wood.

ABSENT - Bolduc, Carey, Celli, Hunt, Kent, Kumiega, Treat.
Yes, 124; No, 19; Absent, 7; Vacant, 1; Excused, 0.

124 having voted in the affirmative and 19 voted in the negative, 1 vacancy with 7 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

**ENACTORS
Emergency Measure**

An Act To Improve and Ensure Adequate Funding for E-9-1-1 Services

(H.P. 1296) (L.D. 1761)
(C. "A" H-826)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act To Implement the Recommendations of the Dig Safe Work Group

(H.P. 1329) (L.D. 1803)
(C. "A" H-842)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 126 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act To Amend the Boothbay Region Water District Charter

(H.P. 1354) (L.D. 1834)
(C. "A" H-828)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 124 voted in favor of the same and 2 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Acts

An Act To Strengthen Maine's Economy through Improvements to the Educational Opportunity Tax Credit

(H.P. 632) (L.D. 835)
(H. "A" H-814 and H. "B" H-844 to C. "B" H-703)

An Act To Restore the Deer Herd in Certain Wildlife Management Districts in Maine

(H.P. 933) (L.D. 1242)
(C. "A" H-829)

An Act Related to Specialty Tiers in Prescription Medication Pricing

(H.P. 1243) (L.D. 1691)
(C. "A" H-813)

An Act To Allow Forfeiture of Maine Public Employees Retirement System Benefits for Persons Convicted of Certain Crimes

(H.P. 1351) (L.D. 1831)
(C. "A" H-838)

An Act To Implement the Recommendations of the Office of Program Evaluation and Government Accountability and the Government Oversight Committee Regarding Quasi-independent State Entities

(H.P. 1364) (L.D. 1843)
(C. "A" H-831)

An Act To Provide a More Comprehensive Ban on the Possession of Synthetic Hallucinogenic Drugs
(H.P. 1370) (L.D. 1852)
(C. "A" H-833)

An Act Regarding the Fund for a Healthy Maine's Prevention, Education and Treatment Activities Concerning Unhealthy Weight and Obesity
(H.P. 1373) (L.D. 1855)
(C. "A" H-830)

An Act To Provide Transparency in Electricity Pricing for Maine Ratepayers
(H.P. 1387) (L.D. 1875)
(C. "A" H-827)

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.

Resolves

Resolve, Directing the Department of Health and Human Services To Submit an Application for a Waiver from the United States Department of Agriculture
(H.P. 1336) (L.D. 1812)
(C. "A" H-817)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

An Act To Promote School Attendance and Increase School Achievement
(S.P. 473) (L.D. 1503)
(H. "B" H-756 to C. "B" S-378)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative WOOD of Sabattus, was **SET ASIDE**.

The SPEAKER: The Chair recognizes the Representative from Sabattus, Representative Wood.

Representative **WOOD**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. If you read this bill, there is an unfunded mandate that we're going to be putting on our school districts for counseling and stuff, that it's basically unlimited. That's why I hope you oppose this vote, this bill.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Passage to be Enacted. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 281

YEA - Ayotte, Beaudoin, Beaulieu, Beavers, Beck, Beliveau, Berry, Bickford, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Carey, Casavant, Chapman, Chipman, Clark H, Clarke, Cornell du Houx, Crockett, Curtis, Cushing, Dill J, Dion, Driscoll, Duchesne, Eberle, Edgecomb, Eves, Fitts, Flemings, Flood, Fossel, Fredette, Gilbert, Goode, Graham, Hanley, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Innes Walsh, Kaenrath, Keschl, Kruger, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maker, Maloney, Martin, Mazurek, McCabe, McFadden, Monaghan-Derrig, Morrison, Moulton, Nass, O'Brien, Peoples, Peterson, Picchiotti, Pilon, Priest, Rankin, Richardson D, Rochelo, Rosen, Rotundo, Russell, Sanborn, Shaw, Stevens,

Strang Burgess, Stuckey, Theriault, Tilton, Tuttle, Valentino, Volk, Wagner R, Weaver, Webster, Welsh, Winsor.

NAY - Bennett, Black, Burns DC, Cebra, Chase, Clark T, Cotta, Crafts, Cray, Damon, Davis, Dow, Dunphy, Espling, Fitzpatrick, Foster, Gifford, Gillway, Guerin, Hamper, Harmon, Harvell, Johnson D, Johnson P, Knapp, Knight, Libby, Long, Malaby, McClellan, McKane, Morissette, Newendyke, O'Connor, Olsen, Parker, Parry, Plummer, Prescott, Richardson W, Rioux, Sanderson, Sarty, Sirocki, Timberlake, Turner, Wallace, Waterhouse, Willette A, Willette M, Wood.

ABSENT - Celli, Hunt, Kent, Kumiega, Nelson, Treat, Mr. Speaker.

Yes, 92; No, 51; Absent, 7; Vacant, 1; Excused, 0.

92 having voted in the affirmative and 51 voted in the negative, 1 vacancy with 7 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 643) (L.D. 1849) Bill "An Act To Protect Native Landlocked Salmon Fisheries in Schoodic and Seboeis Lakes from Invasive Fish Species" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-496)**

(S.P. 672) (L.D. 1896) Bill "An Act To Provide a Temporary Registration Plate to Certain Members of the Armed Forces" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-498)**

(H.P. 1377) (L.D. 1859) Bill "An Act To Protect Firearm Ownership during Times of Emergency" (EMERGENCY) Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass**

(H.P. 1342) (L.D. 1820) Bill "An Act To Implement Recommendations To Provide Additional Flexibility for Funding Infrastructure Improvements for Water Utilities" Committee on **ENERGY, UTILITIES AND TECHNOLOGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-852)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the Senate Papers were **PASSED TO BE ENGROSSED as Amended** in concurrence and the House Papers were **PASSED TO BE ENGROSSED or PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

On motion of Representative CAIN of Orono, the House adjourned at 11:23 a.m., until 10:00 a.m., Friday, March 30, 2012.