

MAINE STATE LEGISLATURE

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**STATE OF MAINE
119TH LEGISLATURE**

SECOND REGULAR SESSION

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
EDUCATION AND CULTURAL AFFAIRS**

JULY 2000

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Sen. Robert E. Murray, Jr.

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Office of Policy and Legal Analysis

13 State House Station

Augusta, ME 04333

(207)287-1670



Maine State Legislature
OFFICE OF POLICY AND LEGAL ANALYSIS

13 State House Station, Augusta, Maine 04333-0013
Telephone: (207) 287-1670
Fax: (207) 287-1275

ONE HUNDRED NINETEENTH LEGISLATURE
SECOND REGULAR SESSION

Summary Of Legislation Before The Joint Standing Committees
July 2000

We are pleased to provide this summary of bills that were considered by the Joint Standing and Select Committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this session for the Legislature and each of its joint standing and select committees.

The document is organized for convenient reference to information on bills considered by the committees. It is organized by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

CON RES XXX.....	Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE.....	Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES.....	House & Senate disagree; bill died
DIED IN CONCURRENCE.....	One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT.....	Action incomplete when session ended; bill died
EMERGENCY.....	Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE.....	Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE.....	Bill failed to get majority vote
FAILED MANDATE ENACTMENT.....	Bill imposing local mandate failed to get 2/3 vote
NOT PROPERLY BEFORE THE BODY.....	Ruled out of order by the presiding officers; bill died
INDEF PP.....	Bill Indefinitely Postponed
ONTP.....	Ought Not To Pass report accepted
OTP ND.....	Committee report Ought To Pass In New Draft
OTP ND/NT.....	Committee report Ought To Pass In New Draft/New Title
P&S XXX.....	Chapter # of enacted Private & Special Law
PUBLIC XXX.....	Chapter # of enacted Public Law
RESOLVE XXX.....	Chapter # of finally passed Resolve
UNSIGNED.....	Bill held by Governor
VETO SUSTAINED.....	Legislature failed to override Governor's Veto

Please note the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is August 11, 2000.

David E. Boulter, Director
Offices Located in the State House, Rooms 101 & 107

LD 2539

Resolve, to Make Community College Partnership Programs More Accessible and Affordable

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAWRENCE ROWE	ONTP	

LD 2539, a resolve, was referred to the Appropriations and Financial Affairs Committee and proposed to establish endowments for scholarships at the University of Maine System and Maine Technical College System. The interest from these proposed endowments would have been dedicated to scholarships for students who were enrolled in courses offered under the community college partnership and who demonstrated the requisite need for financial assistance.

LD 2540

An Act Concerning Fingerprinting and Background Checks for School Employees

**VETO
SUSTAINED**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BERUBE BRENNAN	OTP-AM A OTP-AM B OTP-AM C	S-692 S-735 MURRAY

LD 2540 is a concept draft pursuant to Joint Rule 208. It proposed to affect current law that requires teachers and other school employees in public schools or approved private schools to undergo fingerprinting and state and national criminal history record checks.

Committee Amendment "A" (S-691) is the majority report of the committee.

1. It proposed to provide payment of the full \$49 cost for all employees of public schools and approved private schools, and for all substitutes, but not subsequent costs such as the cost of obtaining court documents if required.
2. It proposed to postpone the fingerprinting requirement for certified individuals not employed in a school until they become so employed.
3. It proposed to provide a 2-year delay for contracted service providers, to allow data collection on the number of providers and to permit compliance in the remaining time frame for all employed personnel.
4. It proposed to provide a 6-month delay for substitutes to permit compliance for regular employees in the remaining time frame. It proposed to provide a 5-year phase-in for the 13,400 other individuals in the approval category to permit compliance in the remaining time frame. Since the Department of Education has not had to maintain accurate records of the number of individuals in the approval category in the past, numbers were inaccurate and there is insufficient time to complete all fingerprinting and record checks without a phase-in. This permits more stability in the number of individuals to be reviewed and processed in each year in the future.
5. It proposed to clarify that individuals employed in private schools approved for tuition purposes and for whom certification and authorization is not required prior to their being hired or placed under

contract are not subject to fingerprinting and record checks unless that school enrolls 60% or more publicly funded students.

6. It proposed to establish the procedures and grounds for denial, revocation, suspension or reinstatement of certification, authorization or approval of educational personnel and proposed to expand the authority of the Commissioner of Education to deny, revoke, suspend or reinstate the authorization or approval of educational personnel who are subject to the authorization and approval requirements under Title 20-A, chapters 501 and 502.
7. It proposed to require the Commissioner of Public Safety to reimburse those persons, schools or school districts who, between September 1, 1999 and the effective date of this Act, paid for fingerprinting and criminal history record checks.
8. It proposed to add an appropriation section, an allocation section and a fiscal note.

Committee Amendment "B" (S-692) is one of 2 minority reports. The amendment proposed to do the following.

1. It proposed to define relevant terms.
2. It proposed to clarify that the provisions of the Maine Revised Statutes, Title 20-A, chapter 211, subchapter III regarding criminal history record checks do not apply to a person who has already obtained certification or authorization under Title 20-A, chapter 501 or 502, unless and until that person is seeking employment with another school administrative unit or private school in this State.
3. It proposed to clarify that the criminal history record check provisions apply to initial applicants for any educational personnel position who hold an educational credential from another state and who are seeking employment with a school administrative unit in this State.
4. It proposed to allow the Department of Education to treat a person whose credential or approval has lapsed for more than 2 years beyond the renewal date as an initial applicant for the purposes of the criminal history record check provisions.
5. It proposed to designate the Department of Public Safety as the authorized agency for the purpose of reporting, receiving and disseminating state and federal criminal history records through the national criminal history background check system. A superintendent may request through the Department of Education that the Department of Public Safety obtain a criminal history record check from the Federal Bureau of Investigation.
6. It proposed to direct the Department of Education to obtain criminal history record information containing a record of conviction data from the Maine Criminal Justice Information System for an applicant. Upon the request of a superintendent, the Department of Education would have provided conviction data to the superintendent.
7. It proposed to direct the Department of Education to request that the Department of Public Safety obtain a criminal history record check from the Federal Bureau of Investigation. The Department of Public Safety would have obtained the criminal history record check from the Federal Bureau of Investigation and would have provided the state and federal criminal history records to the Department of Education. Upon the request of a superintendent, the Department of Education would have reviewed

the state and federal criminal history records and would have communicated its determination concerning the approval or disapproval of the applicant to the superintendent.

8. It proposed to require the State to reimburse individuals or schools who had paid for fingerprinting and criminal history record checks from September 1, 1999 to August 1, 2000.
9. It proposed to establish the procedures and grounds for denial, revocation, suspension or nonrenewal of certification, authorization or approval of educational personnel. It proposed to expand the authority of the Commissioner of Education to deny, revoke, suspend or not renew the authorization or approval of educational personnel who are subject to the authorization and approval requirements under Title 20-A, chapters 501 and 502.
10. It proposed to require that fingerprints taken from educational personnel who would have been grandfathered by this Act must be removed from the files of the bureau.
11. It proposed to add an effective date of August 1, 2000 for the new criminal history record check process.
12. It proposed to make cross-reference corrections.
13. It proposed to add an appropriation section, an allocation section and a fiscal note.

Committee Amendment "C" (S-693) is one of 2 minority reports of the Joint Standing Committee on Education and Cultural Affairs. This amendment proposed to repeal the requirement that school employees be subjected to criminal history records checks as part of their initial application or renewal application to be certified, authorized or approved by the Department of Education. It further proposed to repeal all references to criminal history records checks in the Maine Revised Statutes, Title 20-A, including the approval category established for the purpose of conducting criminal history records checks for educational personnel not subject to certification and authorization requirements under chapters 501 and 502. The amendment also proposed to repeal all references to criminal history records checks for educational personnel in Title 25.

Senate Amendment "A" to Committee Amendment "B" (S-735) proposed to maintain the discretion of a school superintendent to request criminal history record checks for applicants as in Committee Amendment "B," but would have specified that if a superintendent required a criminal history record check for an employee who is certified, authorized or approved and employed in another school administrative unit or private school and who subsequently applied for employment in that superintendent's school administrative unit or private school, then criminal history record checks must be obtained for all applicants to that school administrative unit whom the superintendent would have determined are candidates to whom the superintendent intended to extend an offer of employment.

The amendment proposed to change the date on which fingerprinting, conducting of criminal history record checks and forwarding of the results by the Department of Public Safety, State Bureau of Identification would have begun.

This amendment further proposed to clarify that it would have been the Department of Public Safety that obtained criminal history record checks and that criminal history record checks must have included a check of the criminal history record information maintained by the Maine Criminal Justice Information System and by the Federal Bureau of Investigation.

The amendment also proposed to specify that the Department of Education would have indicated to the school superintendent approval for an applicant, unless the applicant was subject to denial, revocation, suspension or nonrenewal under the Department of Education standards.

While Committee Amendment "B" as amended by Senate Amendment "A" was passed to be enacted by both bodies and sent to the Governor for approval, the Governor vetoed the bill and the Legislature failed to override the veto. Please also see LD 2490 regarding fingerprinting and criminal history record checks for educational personnel.

LD 2546 **Resolve, to Ensure Equity to High School Athletes Participating in Skiing** **ONTP**

<u>Sponsor(s)</u> NUTTING J		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 2546 proposed to extend the 1999-2000 high school downhill and cross-country skiing season until March 19, 2000. Under the current rules adopted by the Maine Principals' Association, the governing body for high school sports, the 1999-2000 high school downhill and cross-country skiing season is scheduled to end February 26, 2000; and competitions and the coaching of student athletes are prohibited beyond February 26, 2000.

LD 2549 **An Act to Implement Recommendations Concerning Protection of Indian Archaeological Sites** **PUBLIC 748**

<u>Sponsor(s)</u> SOCTOMAH		<u>Committee Report</u> OTP		<u>Amendments Adopted</u> S-763 MICHAUD
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LD 2549 proposed increased protection for archaeological sites by amending the laws governing these sites in the following ways. It proposed:

1. To amend the definition of an archaeological site on state-controlled land to include a site judged eligible for listing on the National Register of Historic Places by the Maine Historic Preservation Commission and approved by the appropriate land managing agency director or local governing body. Current law requires the site to be listed on the National Register of Historic Places.
2. To make the unlawful excavation of a protected archaeological site a Class E crime for which a fine of not less than \$250 must be adjudged. To provide that the court may order the defendant to pay an amount equal to the reasonable cost of a proper archaeological excavation had the area that was unlawfully excavated been properly excavated. Current law provides that unlawful excavation is a civil violation for which a forfeiture of not less than \$50 must be adjudged.
3. To provide that an emergency archaeological site designation may be made for a period not to exceed 10 years and that the Director of the Maine Historic Preservation Commission and the landowner shall specify in writing the area that is the subject of such a designation.