

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**  
OF THE  
**One Hundred And Sixteenth Legislature**  
OF THE  
**State Of Maine**

**VOLUME VI**

**SECOND REGULAR SESSION**

**Senate**  
January 5, 1994 to April 6, 1994

Report - Ought to Pass as Amended by Committee Amendment "A" (S-478)

Tabled - March 24, 1994, by Senator ESTY of Cumberland.

Pending - ACCEPTANCE OF REPORT

(In Senate, March 22, 1994, Report READ and ACCEPTED. Subsequently, RECONSIDERED.)

On motion by Senator ESTY of Cumberland, Tabled until Later in Today's Session, pending ACCEPTANCE OF REPORT.

The Chair laid before the Senate the Tabled and Today Assigned matter:

Bill "An Act Related to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Act" (Emergency)

H.P. 1368 L.D. 1851  
(H "A" H-817 to C  
"A" H-801)

Tabled - March 24, 1994, by Senator ESTY of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence

(In Senate, March 22, 1994, READ A SECOND TIME.)

(In House, March 9, 1994, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-801) AS AMENDED BY HOUSE AMENDMENT "A" (H-817) thereto.)

On motion by Senator CLEVELAND of Androscoggin, Senate Amendment "A" (S-506) READ.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator CLEVELAND: Thank you Mr. President, Ladies and Gentlemen of the Senate. Let me just take a moment to explain to the members of the Senate what this amendment is. This amendment came to the Committee on Audit and Program Review after we had reported out the bill that is before you. It came to us from the Board of Osteopathic Licensure and the Attorney General's office. It has been reviewed by the Audit and Program Review Committee and unanimously supported. In essence what the bill does is establish a professional review board for the Board of Osteopathic Licensure. This is a similar board that currently exists under the Board of Registration of Medicine, it is the same kind. Apparently there was an oversight that it wasn't specifically authorized for the Osteopathic doctors as well. What the Board does is provide the process by which doctors who are either addicted to a drug or to alcohol go through a process in which they can deal responsibly with that for the protection of the public as well as for the health of the doctor. It has been used in the Board of Licensure of Medicine, it is the same procedure and the Attorney General felt we ought to make it clearly authorized for this Board to use as well. Thank you.

Senate Amendment "A" (S-506) ADOPTED.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator CLEVELAND: Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to take a moment to just talk about the bill to give you a summary of the bill as amended. This represents approximately eight months work from the Audit and Program Review Committee so I would like to take just a minute or two to summarize it for you. It is a fairly lengthy bill and I think a fairly comprehensive piece of work that makes many improvements to our regulatory boards. This bill represents a review of 14 agencies, eight of them are professional regulatory boards and five are commissions or councils. This work was done by the Audit and Program Review Committee between January and July of 1993 at a public hearing and comes before you now for your adoption. You will note that I have distributed for you a summary of the Joint Standing Committee on Audit and Program Review which outlines some of what the recommendations are. They include 119 various recommendations to improve the operation and efficiency of these boards. The boards that were reviewed include the Chiropractic Examination, the Osteopathic Examination and Registration, the Board of Dental Examiners, Nursing Home Administrators, the State Board of Nursing, the State Board of Optometry, the State Board of Registration of Medicine, the Board of Examiners of Podiatrists, the Maine Indian Tribal Trust Commission, the Maine Medical Laboratory Commission, the Governor's Committee on Appointment of People with Disabilities, the Maine Board of Children's Trust Fund and the Maine Development Disabilities Council. Under those recommendations they were grouped in a variety of ways. What we have tried to do is improve the operation of the boards, improving their efficiency and effectiveness, insure that all of the boards were operating within the intent of the legislature, that they had the adequate resources to conduct their activities and correct any deficiencies and lack of consistencies with the board that existed and have kind of been put together by piecemeal. Let me just give you out of all of these 119, just a little sense of some of the recommendations that we think will improve their operations. One is that it requires notification of all appointments that are coming up three months before the expiration date, so hopefully the Executive branch can make the appointments in a timely manner. Secondly, it requires that all of the boards provide consumer brochures, available at the place where consumers meet with the professionals so that consumers will have some sense of how to proceed if they have any concerns. It standardizes the appointment process, the staggering of terms. It requires that all of the boards comply with the Freedom of Access law and it clarifies that the sole role of the boards are for the protection and benefit of the public health. Let me just state that again, because I think it is extremely important that the purpose of these boards are clear. It clarifies that the professional regulatory boards protect the public health and welfare. That a board is created by the legislature for no other reason and that the value of the board is measured solely on its success in carrying out this particular mission.

Let me conclude by saying a few words about a particular board that had been renewed for only one year, the other boards we have reviewed renewed their existence for a ten year period, except for the Maine Laboratory Board of Registration, which we have

eliminated since they haven't met in five years. It was assumed they weren't critically needed to continue. The board that gave the Committee particular difficulty and concern was the Board of Optometry. That board in an affiliated board, that is it exists outside of the professional financial regulation umbrella and operates its own board with its own structure. There were a number of things that gave us concern and therefore we did not feel comfortable in continuing their existence for more than one year to ensure that they come back to the legislature to see that their operation is consistent with legislative intent. Let me just mention a few of them. One of the concerns that we had was that the board was in defiance of compliance with State law. State law, since 1985, requires that they have a presence in the Augusta area. After being formally notified in writing on at least two separate occasions they continued not to have a presence here and their presence was in Belfast. They were the only board in the State who were in that position. They continue to deny that they couldn't understand the law, they do have a presence here now. They had no listed phone number for at least two or three years in the directory, creating a significant obstacle for any consumer who might want to try to contact them. There was not adequate notification of meetings so that those who might have interest might be able to attend those meetings. They frequently held meetings in hotel rooms of the Optometrists and felt those were public meetings that the public could reasonably expect to attend, sitting on the double beds of the Ramada Inn. Not a usual practice for a public board carrying out public policy. I'm not sure how many of you would attend a meeting in an Optometrist's room at the Ramada Inn but it wouldn't be my first inclination that that was open to my attendance. They also hadn't complied to the notification of a consumer brochure. Frankly, at least to some of us, it seems fairly clear that they didn't have an absolutely clear understanding of their role as representatives of consumers, as opposed to representatives of the trade organization. For all of those reasons the Committee voted not to extend them for more than one year to ensure their adequate compliance and to ensure that we had no more Ramada Inn meetings on double beds. I wish for your support on this Bill. Thank you.

Which was **PASSED TO BE ENGROSSED, As Amended** in **NON-CONCURRENCE**.

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

The Chair laid before the Senate the Tabled and Today Assigned matter:

SENATE REPORTS - from the Committee on **BUSINESS LEGISLATION** on Bill "An Act to Increase Access to Primary Care by Redefining the Practice of Advanced Nursing"

S.P. 390 L.D. 1185

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-454)**

Minority - **Ought Not to Pass**

Tabled - March 24, 1994, by Senator **ESTY** of Cumberland.

Pending - Motion by Senator **CIANCHETTE** of Somerset to **ACCEPT** the Majority **Ought to Pass as Amended Report**

(In Senate, March 22, 1994, Reports **READ**.)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending the motion by Senator **CIANCHETTE** of Somerset to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED Report**.

The Chair laid before the Senate the Tabled and Today Assigned matter:

Bill "An Act to Amend the Public Smoking Laws"  
S.P. 724 L.D. 1945  
(C "A" S-488)

Tabled - March 24, 1994, by Senator **ESTY** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**

(In Senate, March 23, 1994, **READ A SECOND TIME**.)

Which was **PASSED TO BE ENGROSSED, As Amended**.

Sent down for concurrence.

Off Record Remarks

Senator **CAHILL** of Sagadahoc was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.