

MAINE STATE LEGISLATURE

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beginning at Page 1451

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1897, "An Act To Reinstate Certain Other Special Revenue Funds Allocations For the Maine Commission on Indigent Legal Services."

Unlike some states, Maine does not employ public defenders. Instead, the court appoints private attorneys for individuals below certain income thresholds in some circumstances, thus fulfilling its obligation to provide legal counsel to these individuals. Appointed attorneys electronically submit bills to the Maine Commission on Indigent Legal Services (the "Commission") and the Commission then pays those attorneys. Nearly any attorney can fill out an application and begin getting paid \$60 an hour by the State. The Commission also pays for the cost of investigators and professional witnesses.

This structure, unlike a public defender program, can provide little oversight of appointed attorneys and cannot adequately control expenditures year over year. As a result, cost overruns in the program have required numerous supplemental budget allocations since the Commission's inception. In 2011, the Commission's budget was \$11 million. In just seven years, that figure has doubled to more than \$22 million. The situation is unsustainable.

The failure to improve our system for the provision of indigent legal services represents an abdication of responsibility on the part of the Legislature. Simply making available additional funding for this program will not provide better oversight or better quality of representation, nor will it control costs. Instead, the Legislature should establish public defenders' offices to put indigent Mainers on an even playing field with Maine's District Attorneys and to provide better oversight, uniform quality of representation and cost controls to the provision of legal services for the indigent.

For these reasons, I return LD 1897 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The accompanying Bill:

An Act To Reinstate Certain Other Special Revenue Funds Allocations for the Maine Commission on Indigent Legal Services
H.P. 1330 L.D. 1897

Comes from the House with the **VETO OVERRIDDEN**, notwithstanding the objections of the Governor.

The President laid before the Senate the following: "Shall this Bill become law notwithstanding the objections of the Governor? In accordance with Article IV, Part Third, Section 2 of the Constitution, the vote will be taken by the Yeas and Nays. A vote of yes will be in favor of overriding the veto of the Governor. A vote of no will be in favor of sustaining the veto of the Governor."

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#654)

YEAS: Senators: BELLOWS, BRAKEY, BREEN, CARPENTER, CARSON, CHENETTE, CHIPMAN, COLLINS, CUSHING, CYRWAY, DAVIS, DESCHAMBAULT, DIAMOND, DILL, DION, DOW, GRATWICK, HAMPER, HILL, JACKSON, KATZ, KEIM, LANGLEY, LIBBY, MAKER, MASON, MILLETT, MIRAMANT, ROSEN, SAVIELLO, VITELLI, VOLK, WHITTEMORE, WOODSOME, PRESIDENT THIBODEAU

NAYS: Senators: None

35 Senators having voted in the affirmative and no Senator having voted in the negative, and 35 being more than two-thirds of the members present and voting, it was the vote of the Senate that the veto of the Governor be **OVERRIDDEN** and the Bill become law notwithstanding the objections of the Governor.

All matters thus acted upon were ordered sent down forthwith for concurrence.

Off Record Remarks

RECESSED until the sound of the bell.

After Recess the Senate was called to order by the President.

Off Record Remarks

Out of order and under suspension of the Rules, the Senate considered the following:

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend Maine's Medical Marijuana Law"

H.P. 1060 L.D. 1539

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-765).**

Signed:

Senators:

BRAKEY of Androscoggin
CHIPMAN of Cumberland
HAMPER of Oxford

Representatives:

HYMANSON of York
DENNO of Cumberland
HEAD of Bethel
MADIGAN of Waterville
MALABY of Hancock
McCREIGHT of Harpswell
PERRY of Calais
SANDERSON of Chelsea

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-766)**.

Signed:

Representatives:

CHACE of Durham
PARKER of South Berwick

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-765)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-765)**.

Reports **READ**.

Senator **BRAKEY** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-765)** Report, in concurrence.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **BRAKEY:** Thank you, Mr. President. I rise in support of the motion to adopt the Ought to Pass as Amended Report, the Majority Report from the Committee. It was an 11 person bi-partisan majority report with the support of all three members of the Maine Senate serving on that committee. It's a compromise proposal that seeks to simultaneously introduce both some new regulations to add some added integrity to the program to prevent diversion and to increase local control with our municipalities. There's also a proposal that seeks to put some new freedoms in place to support patient access and to allow those in the program to have some more freedom in how they develop their business model. Now I think it's effective to think of - to understand what this proposal seeks to do. I think it's effective to think of the medical cannabis program as a circle and outside of that circle you have the black market and inside of the circle you have the program. Now currently we have a very regimented program

inside of that circle of how people can operate their business, restrictions on where patients can go in order to get access to their medicine. But that circle is very porous and there - we should be honest, we've seen in the news recently that there are some bad actors operating under the guise of this program. We've seen it as the federal government has come in and, in many cases, raided the establishments of people who called themselves members of the medical cannabis program who are diverting things into the black market. This legislation seeks to draw a much sharper line around that circle with things like seed to sale tracking and more local control and an opportunity for municipalities to have some more control in some of these businesses that operate in their community to prevent diversion and make sure this program is serving who it's intended to serve.

Now I could go through all of the different proposals, all of the different items that are included in this bill. I think that many of us have explored those things in our different caucuses. Instead I just want to talk a little bit about some of the personal stories of people whose lives have been changed by this program. You know, I've served as the Senate Chair - this is my fourth year serving as the Senate Chairman for the Health and Human Services Committee and overseeing the Medical Marijuana Program, and over these four years I have met a lot of people whose lives have been positively affected by this. I'll be honest. You know, this may come as a surprise to people, when I first - years back when I first encountered the idea of medical marijuana I thought it was a joke. I'll be upfront. I thought it was a joke. I thought that it was just some clever excuse used as some stepping stone to try to get to adult use marijuana. I thought the idea of it being used as a medicine was a complete joke. But I was wrong. When I first came into the Health and Human Services Committee I met some of these patients. I met a young girl named Cyndimae Meehan who struggled with Dravet Syndrome who would have hundreds of micro-seizures every day. Every single pharmaceutical that she and her family tried to alleviate her seizures did not work. The only thing that worked was medical cannabis because of a - the CBD in the medical cannabis that reduced the severity and the number of seizures that she experienced. Because of medical cannabis she was able to have a normal childhood for a time. She was able to go to school. She was able to enjoy playing with other kids. She had never been able to experience that before. It changed her life. I have met veterans who've come back from overseas, struggling with post-traumatic stress disorder. You know, we send our soldiers off to fight on our behalf and sometimes they leave a lot of things behind over there and I have met veterans who have served our country and who have lost much, who use cannabis to help them cope with some of the horrors that they faced. I'll say this, this is something that I don't admit to - you know I don't talk about it very much publicly, but my fiancé actually is a medical cannabis patient. She's told me it's alright to share her story. She suffered with intractable pain for much of her life and I have personally seen how access to this medicine has helped her and it's helped her in so many ways. So I think that this medical cannabis program - our medical cannabis program is incredibly important and incredibly helpful for so many. I can't tell you how many times I have heard people say, 'It has given me my life back.'

Now as we're seeking to restore - to add some added integrity to this program, we're putting things in place like seed to sale tracking. Seed to sale tracking would help prevent diversion to the black market. We're giving municipalities more local

control in terms of how they regulate some of these businesses in their own localities. In fact, this proposal has been endorsed by the Maine Municipal Association. The Department will be given authority for the first time to do same day inspections without notice to certain businesses in this. But at the same time we will be giving businesses more freedom in license and how they operate. We'll be giving patients the ability to not just have to designate one single provider. You know, in the - in other markets for pharmaceuticals, for example, if a doctor recommends to you that you need a certain pharmaceutical and you get a prescription for that, you can go to CVS, you can go to Rite Aide, you can go to any place to fill that. But under the medical cannabis program, currently, you are required to designate one person, one person to be your provider and if that person runs out of stock well tough luck. You don't have that opportunity. This proposal would be giving more patient access. There are many things I could say about this. I could go on for a long time. I'm just going to say this, this is something that the Health and Human Services Committee has worked on for much of this year. Countless hours have gone into this. We had a near unanimous report, essentially a unanimous report. There's only - differences between the reports are very minor. I hope that this Body will pass this legislation. I hope that we will support this bill to restore some integrity to the program, to increase patient access, and to allow businesses to operate with - in ways that make sense. I'll leave it there. Thank you very much, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Saviello.

Senator **SAVIELLO:** Thank you, Mr. President. Ladies and gentlemen of the Senate, may I pose a question through the Chair, and I have a couple of them?

THE PRESIDENT: The Senator may proceed.

Senator **SAVIELLO:** Thank you, Mr. President. Ladies and gentlemen of the Senate, so my understanding, as under the recreational marijuana, there is a tax on various products as you go along and an ultimate excise tax. Is there such a tax on the 30% surplus that might be sold on the market?

THE PRESIDENT: The Senator from Franklin, Senator Saviello, has posed a question through the Chair to anyone who may wish to respond. The Chair recognizes the Senator from Androscoggin, Senator Brakey.

Senator **BRAKEY:** So to answer that question, first I'll clarify the 30% that you referenced, that's not sold on the market. That's 30% that can be wholesale between different providers. That's to help accommodate for times that there may be someone has a crop shortage and they have patients they need to serve and so they can get help making sure they have supply by going to other providers. There is not a tax currently associated with that and I will say to the one question of the different tax rates between the adult use and the medical program, you know, there is an up-front cost in the medical program to having a patient card. That cost is significant and it's hundreds of dollars, and if the concern is that people are just going to go to the medical program instead of the adult use program because the tax rates are lower, well, that up-front cost is a big barrier to entry and you would have to be a

very, very regular user of cannabis for it to make more financial sense for you to go to the medical program versus the adult use program. If you are such a regular user of cannabis that it makes financial sense, chances are you have a medical reason for why - you have a medical reason for that.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Saviello.

Senator **SAVIELLO:** Mr. President, I have another question, if I may?

THE PRESIDENT: The Senator may proceed.

Senator **SAVIELLO:** Thank you, Mr. President. My question is: is the tracking system that is identified in this bill the same as one that is required on the recreational marijuana?

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

Senator **BRAKEY:** Yes, that is modeled after much of the work that was done by the MLI Committee on their seed to sale tracking program. It would be essentially - for the most part essentially identical. We were trying - in the course of developing this in the Health and Human Services Committee we tried to see ways we could synchronize with some of the work being done by the MLI Committee as much as possible.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Saviello.

Senator **SAVIELLO:** Thank you, Mr. President. At least I'm consistent. I did the same thing to my friend, Senator Katz. Last question I have before I summarize my notes. The program for labeling, is that the same as the recreational requirement?

THE PRESIDENT: The Senator from Franklin, Senator Saviello, has posed another question through the Chair to anyone who cares to answer. The Chair recognizes the Senator from Androscoggin, Senator Brakey.

Senator **BRAKEY:** You know, I apologize. That's one I can't speak with as clear certainty, but I know that - I would imagine many of the packaging and labeling requirements would be very similar to what is in MLI but I wish I could speak with more absolute certainty on that one. But that's the best answer I can give at the moment.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Saviello.

Senator **SAVIELLO:** Thank you, Mr. President. Ladies and gentlemen of the Senate, now I rise just to kind of give you the reasons why I'm going to vote against this bill. First of all, under the recreational, as you know, there was a lot of work done on that and I was critical of that last year and feel like it's come a long way to answer some of the questions concerned. One of the things under the recreational marijuana, and I can stand to be corrected, we are requiring licensing. There's no licensing required here, just registration. So I have difficulty with that. It should be one in the same. I do appreciate the fact that it's going

to be under DAFS because of the way the recreational program got there. The second thing I have concern about is that we're allowing them, the recreational, to deduct their expenses on their taxes. We're not allowing that to happen under the medical program. I do appreciate the concept of wholesale not paying the taxes. I'm not sure, but I think that that's not the same, but I could again be wrong. I have difficulty, and I appreciate my good Senator, Senator Brakey, for suggesting that most parts will be identical. They should be exactly the same and the fact that we're not sure on the labeling gives me great concern. So I will be voting against this bill. Thank you very much, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Jackson.

Senator **JACKSON:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I'm very concerned about what seems to be happening here with this legislation. The whole debate about recreational marijuana, the one thing that I heard a lot was that there was a danger to medical marijuana and probably the biggest reason why I didn't support this version of recreational marijuana is because I've heard from the medical marijuana people that it feels like they're getting sucked in and taken over by much larger entities and here we are with a medical marijuana bill in front of us and it seems like there's real concern about passing this to keep medical marijuana on its own, working the way it has, consistently helping people that do have medical issues in the state. So I am very much in support of the Ought to Pass and hope people will continue to keep the medical marijuana project that has gone on in this state for quite a while now continuing the way it has been.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Cyrway.

Senator **CYRWAY:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I have to stand up and speak on this. You know, I kind of get it somewhat, as far as medical purposes and the oils which, to me, they should call it something else because marijuana's getting out of control here. If you look at what this is doing, it's just expanding. We just went through a whole process which the Marijuana Committee had just worked hard on and now that's going to take that right out of the picture because now what happens is if you are not satisfied with those three plants you're going to have, you just say you've got a sore thumb, get that little prescription, now you can have eight pounds. Then the other part of this is that you had made a tax structure and now it's going to go to 6% from that 20% you had and the municipalities are going to be the ones to enforce if that takes place and we had just said that this was an opt-in situation, now the marijuana medical piece is not allowing it to even opt-out. So we've really messed this all up. This is what I think marijuana does to a lot of people. So anyways, I think that - and not to even make light of it, but they put a little piece in about minors having marijuana and they have to go and get a real doctor's note, prescription, or whatever if they've got cancer or certain diseases, but they don't do it for adults. Hello. I'm just saying: why would you do it for a minor but not for an adult? It should be the same. I think doctors have certain guidelines that they do for all patients. So this is kind of like a made-up thing and it's just another excuse to use a lot of drugs. We have made this state into a drug dealing state. There are no guidelines. In fact, it even says it in this.

They are going to sell it without any rules, any rules at this point. The other part of this is: where do we - how do they enforce it? You're going to get an ordinance person, a code enforcement officer to go over and say 'Woah, you're a bad boy. We're going to do this.' I don't think so. The code enforcement officers, they have a lot they do on a lot of building projects and a lot of other things, but they're not going to be the law enforcement person going around checking on marijuana, and they certainly don't even want to go there. In fact, I was talking to one that he knew where there was some problems with a marijuana grow operation and everything and he didn't even want to step foot over there, and he could even see the house that they were building didn't even meet codes. He says, 'I'm not even going over there.' This is the reality. We can sit around these desks and say it all you want, but I'm telling you we are not even looking out for the children here. We're not looking out for their best behalf here. We are looking at just the picture of business. This is not a money issue. This is an ethics issue for our children and our future. All we're doing is throwing drugs out there and saying, 'Go for it,' and here we go. Eight pounds, I can't believe eight pounds for one person. You put that on every one of these desks here and that's a lot of money and a lot of drugs. I'm just floored to even think this is okay. I can't believe it. We're talking - it's just like saying let's throw a little heroin in there too, you know, and a little fentanyl. What the heck. Let's see how they react. It's craziness. Where is the security? Where is the safety net for our children? I don't even see any laws pertaining to their safety in a household. We can put drugs in a household and those kids are going to be accessible to it and there is nothing to stop them and there is no responsibility put on the parents for it. Where have we done that? We have not done any of that. I'm just - I just cannot picture this bill passing and really making sense of it. I just cannot see the sense of this and I know everybody works hard on these bills. There've been a lot of bills that were worked hard on too, but they don't pass sometimes. But you know what? This one is about our children and their future. That's the way I look at it. I'm the voice for them and I'm trying to speak up now because let's do it before it's too late. Thank you.

THE PRESIDENT: The pending question before the Senate is Acceptance of the Ought to Pass as Amended by Committee Amendment "A" Report. A roll call has been ordered. Is the Senate ready for the question? If you are in favor of that report you will be voting yes. If you are opposed you will be voting no. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#655)

YEAS: Senators: BELLOWS, BRAKEY, BREEN, CARSON, CHENETTE, CHIPMAN, CUSHING, DESCHAMBAULT, DIAMOND, DILL, DION, GRATWICK, HAMPER, HILL, JACKSON, KATZ, KEIM, LANGLEY, LIBBY, MAKER, MILLETT, MIRAMANT, VITELLI, VOLK, WOODSOME

NAYS: Senators: CARPENTER, COLLINS, CYRWAY,
DAVIS, DOW, MASON, ROSEN,
SAVIELLO, WHITTEMORE, PRESIDENT
THIBODEAU

25 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **BRAKEY** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-765)** Report, in concurrence, **PREVAILED**.

Bill **READ ONCE**.

Committee Amendment "A" (H-765) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, Bill **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-765)**, in concurrence.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later Assigned (4/9/18) matter:

SENATE REPORT - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Maine Medical Use of Marijuana Act"

S.P. 84 L.D. 238

Report - **Ought to Pass as Amended by Committee Amendment "A" (S-443)**

Tabled - April 9, 2018 by Senator **VOLK** of Cumberland

Pending - **ACCEPTANCE OF REPORT**

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

Senator **BRAKEY:** I appreciate it, Mr. President. Some people have just been asking me what this is and I just want to say, very briefly, what this bill is. This bill is much more limited in scope than the legislation we just passed. This is particularly around licensing of manufacturers in the industry. That's contained in the larger bill. This is very limited in scope but, potentially, a very important piece of legislation as well. This simply puts in place some rules and requirements around what would need to be in place for people to be able to, outside of being a caregiver, outside of being a dispensary, to be able to participate in the medical cannabis program as a manufacturer, similar to and parallel to what's been put in place in the bill that we passed earlier this session. Thank you, Mr. President.

Report **ACCEPTED**.

Bill **READ ONCE**.

Committee Amendment "A" (S-443) **READ** and **ADOPTED**.

Under suspension of the Rules, Bill **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Sent down for concurrence.

Senate at Ease.

The Senate was called to order by the President.

The Chair laid before the Senate the following Tabled and Later Assigned (3/28/18) matter:

An Act To Require Education and Training Regarding Harassment for Legislators, Legislative Staff and Lobbyists
S.P. 695 L.D. 1842
(C "A" S-387)

Tabled - March 28, 2018 by Senator **LIBBY** of Androscoggin

Pending - **ENACTMENT**

(In House, **PASSED TO BE ENACTED**.)

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

Senator **LIBBY:** Thank you, Mr. President. Men and women of Senate, I rise in support of the motion before us, which is Enactment. I appreciate the work of the State and Local Government Committee in taking this issue on, taking it seriously, and producing a unanimous bill that requires all Legislators, staff, and lobbyists to go through sexual harassment prevention training. This was done in a unanimous fashion and codifies the Joint Rule that we adopted earlier in the session. So we have, I think, made some real progress in moving this issue forward. Thank you, Mr. President.

On motion by Senator **LIBBY** of Androscoggin, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-387)**.

On further motion by same Senator, Senate Amendment "A" (S-484) **READ**.

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

Senator **LIBBY:** Thank you, Mr. President. Men and women of the Senate, the amendment on your desk makes an adjustment to this unanimous report. It has to do with the lobby requirement. The amendment requires that lobbyists submit certification of completion of harassment training to the Ethics Commission. The Ethics Commission is where lobbyists go to register annually. They do it on line. This simply says that lobbyists must complete