

# MAINE STATE LEGISLATURE

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Senate Legislative Record

One Hundred and Twenty-Eighth Legislature

State of Maine

Daily Edition

First Special Session  
beginning October 23, 2017

beginning at Page 1382

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

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

## REPORTS OF COMMITTEES

### House

#### Divided Report

Five members of the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Bring Maine's Ranked-choice Voting Law into Constitutional Compliance"

H.P. 1137 L.D. 1646

Reported in Report "**A**" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-567)**.

Signed:

Senator:  
CARPENTER of Aroostook

Representatives:  
CASAS of Rockport  
HICKMAN of Winthrop  
MONAGHAN of Cape Elizabeth  
SCHNECK of Bangor

Four members of the same Committee on the same subject reported in Report "**B**" that the same **Ought to Pass as Amended by Committee Amendment "B" (H-568)**.

Signed:

Senator:  
COLLINS of York

Representatives:  
DILLINGHAM of Oxford  
FARRIN of Norridgewock  
HANINGTON of Lincoln

Two members of the same Committee on the same subject reported in Report "**C**" that the same **Ought Not to Pass**.

Signed:

Senator:  
MASON of Androscoggin

Representative:  
WHITE of Washburn

One member of the same Committee on the same subject reported in Report "**D**" that the same **Ought to Pass as Amended by Committee Amendment "C" (H-569)**.

Signed:

Representative:  
LUCHINI of Ellsworth

Comes from the House with Report "**A**" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-567)** READ and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-567)**.

Reports **READ**.

Senator **MASON** of Androscoggin moved the Senate **ACCEPT** Report "**B**" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-568)**, in **NON-CONCURRENCE**.

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

Senator **CARPENTER:** Mr. President, thank you. Men and women of the Senate, obviously we now have Ranked-choice Voting before us again, a referendum that was passed last November. Before I continue I'd request that somebody in support of Report "B" could explain to the Senate exactly what Report "B" will do.

**THE PRESIDENT:** The Senator from Aroostook, Senator Carpenter, has posed a question through the Chair to anyone who cares to respond. The Chair recognizes the Senator from York, Senator Collins.

Senator **COLLINS:** I rise in support of Amendment "B". Thank you, Mr. President. I am in support of Amendment "B". The committee worked diligently on this matter a couple of weeks ago and as you can see we got four reports. My position would be quite simply to move Amendment "B". This will delay the implementation of Ranked-choice Voting until December of 2021 unless the Maine Constitution is amended to allow Ranked-choice Voting. If the Maine Constitution is not amended by that time, which is quite a bit of time, the laws governing Ranked-choice Voting will be repealed. In my opinion, this is the best option in front of us here today.

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

Senator **CARPENTER:** Thank you, Mr. President. My thanks to the Senator from York, Senator Collins. We had an all-day public hearing on L.D. 1646 about ten days ago. We had dozens and dozens of Maine citizens come before the Legal and Veterans Affairs Committee and give their opinion, almost to a person, in favor of 1646, or some version thereof. None of whom would have testified in favor of any repeal of Ranked-choice Voting which, in fact, is what Committee Amendment "B" will do if, in fact, it is contingent upon the passage of a Constitutional Amendment within four years. I would suggest that acceptance of Report "B" would fly directly in the face of the 388,000 plus people of Maine who voted for Ranked-choice Voting last

November. As I've already said on the floor of the Senate last spring, I wasn't a supporter of Ranked-choice Voting. I do support the concept of it, to bring civility, or some civility, into our political process, but it's cumbersome. It's not neat. The Devil's in the details, literally, and in the implementation. I would request the Senate to oppose the pending motion and then I would, if that in fact were to be defeated, then there are other reports that I would be glad to talk about at that point. Mr. President, I request that when the vote be taken it be taken with the yeas and nays.

On motion by Senator **CARPENTER** of Aroostook, 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 York, Senator Collins.

Senator **COLLINS:** Thank you, Mr. President. My apologies for rising again but I feel compelled to. One of the things that we haven't mentioned yet this afternoon is the fact that when Ranked-choice Voting was first considered by the Legislature in its early stages Maine's Attorney General came forward and said, quite simply, it's not Constitutional. We have a system that's been in place for nearly 200 years, when Maine became a state. Members of the Legislature, members of Congress, are elected by a plurality of the vote, not Ranked-choice Voting. I have to say that if we put in place Ranked-choice Voting it's going to be a huge expense, additional expenses to conduct these election day proceedings. That was one of the motives I had in the back of my mind was simply cost savings and doing what Maine has done for, like I said previously, nearly 200 years. So that was my reasoning behind Amendment "B", to give interested parties plenty of time to go through the normal procedure of changing Maine's Constitution, whereas a bill is submitted to the Legislature, goes to the committee of jurisdiction, there's a public hearing, a work session on the bill. If it's successful it moves on to the full Body of House and Senate. There it is deliberated. If they get a 2/3 vote from both Chambers, then it moves on to the next stage, and that is a vote by the citizens of Maine. That's how we've always amended Maine's Constitution. Quite frankly, I think we should continue doing it that same way. Thank you, Mr. President.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Thank you, Mr. President and ladies and gentlemen of the Senate. I'm rising to support Report B because of the delay that's part of this report, a significant part of this report. This is not a time for us to really focus on whether or not we agree with Ranked-choice Voting. Some of us do. Some of us don't. We've gone beyond that with the question that's before us. We tried to amend the Constitution to fix it. That didn't happen. It didn't even come close. Another choice we have is to leave it as is. That would be totally irresponsible to leave something on the books that we know is going to be unconstitutional. We could ask for a dual election. We could make dual elections, but Report B does not entertain that. You know, Maine's election history has been really one to admire. It's been smooth overall. It's been well done, and that is not by accident. It's hundreds and thousands of people around this state that work on these elections every year, not to mention the

Secretary of State, who, by the way, has eight people plus Julie Flynn. Not a big force of folks. Their job is to anticipate every possible problem. Understand every election, statewide election, is different. No two are the same. It takes special training, special planning, security for sure, volunteers. Signature gatherers are always different; and then, of course, you have the infusion of new people, new questions, unanticipated turn outs, machine failure, ballots are often different, sometimes not enough and you have to really scramble around to make all that work, and, amongst all of that, there is this enormous pressure from the entire state population to get it right. There's very little tolerance for - or room for mistakes; but mistakes happen. Errors happen. After all of that work, everyone comes together and makes it come together very, very well.

Now, now what we're going to say to them, if we don't do Report B, is, "Oh, by the way, we have a totally separate, different election system we want you to put on top of that and run that at the same time." Totally separate. Oh, and Report B also considers the fact that we have 240 towns, thereabouts, that have no electronic counting. So guess what? Those ballots are going to be hand-counted. And if you stop and think of the permutations the Secretary of State has to work out on this, if you have ten candidates, it has to be 10 times 9 times 8 times 7 times 6 times 5 times 4 times 3 times 2 times 1. Over 360 million possibilities for ten candidates.

Mr. President, ladies and gentlemen of the Senate, I really would ask you to consider Report B because it does not allow the dual, two different systems, at the same time, and given the mistakes that happen, honest mistakes - look at Long Island a short time ago. One packet, one packet of votes misplaced, and the accusations and the politicizing. All the things around that election and people who really didn't make a mistake were accused of all sorts of things. Imagine that now statewide. Let me ask you this, too. Picture, if you will, a recount of the system which Report B will give time to consider and to maybe try to work out. For us to put this mother of all nightmares on our local clerks and volunteers and ballot clerks would be unreasonable, unfair, and I would ask you to consider that carefully. If you can go to your town clerk and you can say to him or her, "Look, I know all about elections. I know all about State elections. I can answer all your questions. Don't worry about it. It's going to be good," - if you can do that, then I would suggest that we think very carefully about not supporting Report B. My concerns are the logistics, the local logistics, that go with anything but Report B. So, ladies and gentlemen and Mr. President, I would ask you, please, to consider that so that we can - if we're going to do this, we do it right. Thank you, Mr. President.

**THE PRESIDENT:** The Chair recognizes the Senator from Knox, Senator Miramant.

Senator **MIRAMANT:** Thank you, Mr. President. Men and women of the Senate, I admire that the former Secretary of State has strong feelings for the process and understands it well, but I'd like to remind him that he took on challenges and met them and that the current Secretary of State has said that they will meet this challenge. We don't stand here and listen to arguments that say, "You know, this would be hard." Civil rights, would be hard to change things. Different laws. I won't go into all of them, but we listen to the merits of changing them and then we meet the challenge of changing them. We meet it monetarily. We meet it with labor that's necessary to do it. That's what we do. So when

we consider something we should consider: does the department that has to deal with it think that it can be done. That's what we've heard, that it can be. I know the election clerks in Knox County can deal with it. They rise to any challenge that they are faced with. The example of Long Island is pointed out. It's something that happened when we didn't have Ranked-choice Voting. This is not something to ignore. Citizen's referendum. Enough people spoke that we need to be listening to that and I haven't heard any of the agencies involved say that it would be impossible to do, just that it would be hard, and these are the kind of people that stay in our state government and rise to the top - the people who can meet challenges and do over and over and over. You call Secretary of State Dunlap, you know that and you've all talked to him. So thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Breen.

Senator **BREEN:** Thank you, Mr. President. I just have a slight correction of the record. A mistake that happened in the 2014 election did not happen on Long Island. It happened in a recount. Everything went very smoothly on Long Island and the error happened in the recount here in Augusta. I want to make sure that's on the record. Thank you.

**THE PRESIDENT:** So noted. The pending question before the Senate is Acceptance of Report "B", in non-concurrence. If you are in favor of accepting Report "B" 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 (#473)

YEAS: Senators: BRAKEY, COLLINS, CUSHING, CYRWAY, DAVIS, DIAMOND, DOW, HAMPER, HILL, KATZ, KEIM, LANGLEY, MAKER, MASON, ROSEN, VOLK, WHITTEMORE, WOODSOME, PRESIDENT THIBODEAU

NAYS: Senators: BELLOWS, BREEN, CARPENTER, CARSON, CHENETTE, CHIPMAN, DESCHAMBAULT, DILL, DION, GRATWICK, JACKSON, LIBBY, MILLETT, MIRAMANT, SAVIELLO, VITELLI

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **MASON** of Androscoggin to **ACCEPT** Report "B" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-568)**, in **NON-CONCURRENCE, PREVAILED.**

Bill **READ ONCE.**

Committee Amendment "B" (H-568) **READ** and **ADOPTED.**

Under suspension of the Rules, Bill **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-568)**, in **NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

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Off Record Remarks

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**RECESSED** until the sound of the bell.

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

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

#### PAPERS FROM THE HOUSE

##### House Paper

Bill "An Act To Delay Further the Implementation of Certain Portions of the Marijuana Legalization Act" (EMERGENCY) H.P. 1140 L.D. 1651

Joint Select Committee on **MARIJUANA LEGALIZATION IMPLEMENTATION** suggested and ordered printed.

Comes from the House with the Bill and accompanying papers **INDEFINITELY POSTPONED.**

Senator **KATZ** of Kennebec moved the Bill and accompanying papers be **INDEFINITELY POSTPONED**, in concurrence.

On motion by Senator **DAVIS** of Piscataquis, 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 Kennebec, Senator Cyrway.

Senator **CYRWAY:** Thank you, Mr. President. I just wanted to see if there's anyone who had a clarification on this moratorium?

**THE PRESIDENT:** The Senator from Kennebec, Senator Cyrway, is seeking clarification on the moratorium that is in L.D. 1651. The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator **KATZ:** Thank you, Mr. President. Men and women of the Senate, the answer to your question - to the question from the good Senator from Kennebec is I don't know what this moratorium means. I don't - I've read it. It refers to L.D. 88, which was a separate bill passed by this Body some months ago. If we were to pass this moratorium I don't know if it means we've got a moratorium on rulemaking starting or if it's a moratorium on the promulgation of rules or if it's a moratorium on the beginning of licensing or the granting of licensing. It is unclear, at least to