

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Twelfth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 5, 1984 - June 20, 1985

HOUSE

Wednesday, April 3, 1985

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

Prayer by Rabbi Raymond Krinsky, Beth Israel Congregation, Waterville.

Quorum called; was held.

The Journal of yesterday was read and approved.

Papers from the Senate

Bill "An Act to Amend the Maine Education Statute to Prohibit the Teaching of Alternative Lifestyles in Maine's Public Schools" (S.P. 432) (L.D. 1199)

Came from the Senate, referred to the Committee on Education and Ordered Printed.

Was referred to the Committee on Education in concurrence.

Bill "An Act to Further Protect Significant and Outstanding Rivers and to Equalize their Treatment in Organized Municipalities and Plantations" (S.P. 433) (L.D. 1200)

Came from the Senate, referred to the Committee on Energy and Natural Resources and Ordered Printed.

Was referred to the Committee on Energy and Natural Resources in concurrence.

Later Today Assigned

Bill "An Act Relating to Alcohol-related Birth Defects" (S.P. 431) (L.D. 1198)

Came from the Senate, referred to the Committee on Human Resources and Ordered Printed.

(The Committee on Reference of Bills had suggested reference to the Joint Select Committee on Alcoholism Services.)

On motion of Representative Nelson of Portland, tabled pending reference and later today assigned.

Bill "An Act to Reduce the Costs of Workers' Compensation" (S.P. 434) (L.D. 1201)

Came from the Senate, referred to the Committee on Labor and Ordered Printed.

Was referred to the Committee on Labor in concurrence.

Bill "An Act to Involve the Legislature in Establishing Equal Pay for Jobs of Comparable Worth in State Government" (S.P. 435) (L.D. 1202)

Came from the Senate, referred to the Committee on State Government and Ordered Printed.

Was referred to the Committee on State Government in concurrence.

Bill "An Act to Require Public Utilities Commission Approval of Significant Agreements and Contracts by Public Utilities" (S.P. 436) (L.D. 1203)

Came from the Senate, referred to the Committee on Utilities and Ordered Printed.

Was referred to the Committee on Utilities in concurrence.

Non-Concurrent Matter

Bill "An Act Relating to Retirement Benefits of Superior Court Employees" (H.P. 81) (L.D. 101) which was passed to be engrossed as amended by House Amendment "C" (H-52) in the House on April 1, 1985.

Came from the Senate passed to be engrossed as amended by House Amendment "C" (H-52) as amended by Senate Amendment "A" (S-38) thereto in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

An Act to Establish a Maine Rivers Grants Program (Emergency) (H.P. 100) (L.D. 125) (C. "A" H-12; H. "A" H-26) which failed of passage to be enacted in the House on April 1, 1985.

Came from the Senate passed to be engross-

ed as amended by Committee Amendment "A" (H-12) and House Amendment "A" (H-26) and Senate Amendment "B" (S-37) in non-concurrence.

The House voted to recede and concur.

Orders

On motion of Representative McSWEENEY of Old Orchard Beach, the following Order:

ORDERED, that Representative Mary Clark Webster of Cape Elizabeth be excused April 3 and 4 for personal reasons.

Was read and passed.

Reports of Committees**Unanimous Ought Not to Pass**

Representative HIGGINS from the Committee on Taxation on Bill "An Act to Repeal the Unitary Tax" (H.P. 205) (L.D. 239) reporting "Ought Not to Pass"

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Divided Report

Majority Report of the Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-53) on Bill "An Act to Establish Policies Governing Smoking in Places of Work" (H.P. 235) (L.D. 276)

Signed:

Senators:

BERUBE of Androscoggin
GILL of Cumberland

Representatives:

NELSON of Portland
BRODEUR of Auburn
MANNING of Portland
CARROLL of Gray
MELENDY of Rockland
ROLDE of York
PINES of Limestone
SEAVEY of Kennebunkport
KIMBALL of Buxton
TAYLOR of Camden

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-54) on same Bill.

Signed:

Senator:

BUSTIN of Kennebec

Reports were read.

Representative Nelson of Portland moved acceptance of the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Canton, Representative McCollister.

Representative McCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: We have, for years, seen smoking bills come through here and passed but today we clearly see a smoking bill that is truly a harassment to the smokers and to the small employer.

The bill says that you must establish a policy and if you don't, you will be fined. The policy doesn't do anything for the employers or the employees. It is truly and strictly, in my opinion, a harassment by the people who are advocating non-smoking.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Nelson.

Representative NELSON: Mr. Speaker, Men and Women of the House: I would appreciate it if you could take out your Committee Amendment "A" on the pink slip and take a look at the last page — it talks about exactly what the bill does and if you want to talk about harassment, the bill is intended to allow 70 percent of the people of the state, who do not smoke, it does not state that there would be a non-smoking policy, it only states that there should be a policy, mutually decided upon by both the employees and the employer and that that policy should be established and posted. If you are unable to come to an agreement,

then the Bureau of Health may come and have a mediator, in some way, help negotiate for that reasonable policy for all people in the work place. It does not say there is going to be no smoking in the workplace. This is a policy established mutually, a policy I might add, a committee amendment I might add, that has the endorsement of the Chamber of Commerce, small business people, the unions, — this amendment before us is what we are talking about and if you have questions regarding it, you also have on a yellow sheet the full explanation of what it does and does not do.

We are asking a reasonable approach for those people who have to work, who have to be in an environment for eight hours a day, who, for whatever reasons, might be uncomfortable, whether it is because they are wearing contact lenses and the smoke bothers them or they have asthma or they have some physical disability and they really can't go to their boss and say, I can't stand it, then you ought to leave. So for those people who have to work, they can't leave and that is what this amendment is asking us to do for the 70 percent of the people who need this and for the over 5,000 people who will die this year through sidestream smoking. We are not talking about those people who are smoking, we are talking about the rights of the person who is forced to be in a place of employment for eight hours a day who do not smoke and who find it uncomfortable.

Please, before we go any further, read the Committee Amendment "A" and if you have time, glance through the question and answer paper that is on your desk. I think it will answer your concerns.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Aliberti.

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: I rise to plead your support for the policy making non-smoking bill that has been presented by Representative Nelson. If this illustrious body can enact within itself a rule that prohibits smoking here as an example, I think we can expect other areas to do the same thing. It takes initiative. One of the leading racetracks in this state has initiated a non-smoking area, the first of its kind in the country and I think that that is creditable. Being a strictly Camel smoker for many years, I hope the people can enjoy a smoke free working place.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Willey.

Representative WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: I don't suppose there is anybody here who has any question which side of this question I am on. I am 67 years old now and I have been smoking since I was about 16 years old and I have enjoyed every single cigarette, I guess, and I am not exactly a picture of health I know but I see many around me that are even in worse condition than I am in who never smoked a bit. I guess the thing that I resent the most on the non-smoking issue is the part where people say, no, please don't smoke, and I don't smoke, but nevertheless I see those same people in the disco or a bar or whatever where the smoke is so thick that you can cut it and they are as happy as the devil there but they can't stand it in the workplace or the store or anywhere else but if it is a place of amusement, they don't have a bit of problem with it.

I don't have any problem with making rules and regulations insofar as the workplace is concerned but this goes on and on into other areas. Every year we deprive ourselves of another freedom somehow or another and I would suppose that this is just a step in that direction. It would certainly point that way because there are other bills in to affect smoking in other ways. It is certainly going to go this way—that there will be less smoking, I suppose, involved

the future than in the past and perhaps that is good. Nevertheless, I do hate the infringements on my personal life and a way of life as far as I am concerned. At this point, I am not worried too much about the workplace because I ceased working four years ago unless you consider this work here and I guess it is more of an aggravation than a job but it is a workplace and I know that — I guess all I would ask for at this point is a roll call.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and, obviously, more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I am not a believer, I have never been against big daddy government, telling everyone what to do. I am a former four pack a day smoker. I believe that something should be done but I believe it should be left to the individual towns or establishments to decide which part of their establishment should have no smoking. It is getting more and more to be a big daddy government from Augusta and Washington — they are going to be telling us what time to get up, what time to go to bed, what type of clothes to wear and I think it is about time that we left it up to the individual towns or establishments.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Carroll.

Representative CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: Committee Amendment "A" does just exactly what the good representative who was just speaking wants it to do. It leaves it up to the individual establishments and the employer and the employee to establish whatever policy that they can mutually agree upon. I think this is the committee amendment that we worked very hard on — some of us are not real happy with it but most of us agree that this was the best way to do it — everybody then has their say and it is a mutually agreed upon policy by all people who will be working at institutions or establishments.

The SPEAKER: The Chair recognizes the Representative from York, Representative Rolde.

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, when I first came to the legislature, which is basically our work place, I sat in Seat 26 and in Seat 25 and Seat 27 I had smokers so the smoke just kept drifting across and I lived in a complete cloud most of the time. Now we have established a policy in this body on what to do about smoking in the work place. I like that policy. It is no smoking whatsoever and when we had this bill before us, one of the opponents who came and talked against it, was a worker who had taken a day off from his job, he was a state employee, and he was opposed to the bill because he felt that the policy that the state had right now, which is a voluntary policy, was not working and he wanted to see a ban too. That is basically my position. We have worked this out with the business people, they have agreed that this is a reasonable approach to take and the only ones who apparently are opposed to it are the tobacco institutes. I urge you very strongly to support this legislation.

The SPEAKER: The pending question before the House is the motion of the Representative from Portland, Representative Nelson, that the House accept the Majority "Ought to Pass" Report.

The Chair recognizes the Representative from Cumberland, Representative Dillenback.

Representative DILLENBACK: Mr. Speaker, I wish to pair my vote with the Representative from Cape Elizabeth, Representative Webster. If she were present and voting, she would be voting yes; I would be voting no.

The SPEAKER: The pending question before the House is the motion of the Representative from Portland, Representative Nelson, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

Roll Call No. 24

YEAS:—Aliberti, Allen, Beaulieu, Begley, Bell, Bost, Bott, Bragg, Brannigan, Cahill, Carroll, Clark, Connolly, Cooper, Cote, Crouse, Crowley, Daggett, Davis, Dellert, Descoteaux, Dexter, Diamond, Drinkwater, Erwin, Farnum, Foss, Greenlaw, Gwadosky, Handy, Hayden, Hepburn, Hichborn, Hickey, Higgins, H.C.; Higgins, L.M.; Hillock, Høglund, Holloway, Jacques, Joseph, Kimball, Lawrence, Lord, MacBride, Manning, Masterman, Mayo, McGowan, McHenry, McPherson, Melendy, Michael, Michaud, Mills, Mitchell, Murphy, T.W.; Murray, Nadeau, G.G.; Nelson, Nicholson, Nickerson, O'Gara Paradis, E.J.; Paradis, P.E.; Pines, Pouliot, Priest, Racine, Randall, Reeves, Rice, Richard, Rioux, Roberts, Rolde, Seavey, Simpson, Small, Sproul, Stetson, Stevens, P.; Stevenson, Swazey, Tardy, Taylor, Telow, Vose, Warren, Wentworth, Weymouth, Whitcomb.

NAYS:—Armstrong, Baker, A.L.; Bonney, Brown, A.K.; Brown, D.N.; Callahan, Carter, Cashman, Coles, Connors, Duffy, Foster, Hale, Harper, Ingraham, Jackson, Jalbert, LaCroix, Lander, Law, Lebowitz, Lisnik, Macomber, Martin, H.C.; Matthews, McCollister, McSweeney, MoHolland, Murphy, E.M.; Parent, Paul, Perry, Ridley, Rotondi, Ruhlin, Salisbury, Scarpino, Sherburne, Smith, C.W.; Soucy, Stevens, A.G.; Strout, Tammaro, Thierault, Walker, Willey, Zirkilton.

ABSENT:—Baker, H.R.; Boutilier, Brodeur, Carrier, Chonko, Kane, Nadeau, G.R.; Rydell, Smith, C.B.; The Speaker.

PAIRED:—Dillenback—Webster.

92 having voted in the affirmative and 47 in the negative with 10 being absent and 2 paired, the Majority "Ought to Pass" Report was accepted and the bill read once.

Committee Amendment "A" (H-53) was read by the Clerk and adopted and the Bill assigned for Second Reading tomorrow.

Consent Calendar

First Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(S.P. 133) (L.D. 372) Bill "An Act to Provide for Licensing of Companies Who Apply Pesticides as Custom or Commercial Applicators" Committee on Agriculture reporting "Ought to Pass"

(S.P. 111) (L.D. 326) Bill "An Act to Require the Employer to Pay for Eye Examinations Under a Company Mandated Eyeglass Safety Program for Eyeglass Wearers" Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-36)

(S.P. 168) (L.D. 436) RESOLVE, Regarding a Study of the Personnel Law Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-35)

(H.P. 316) (L.D. 405) Bill "An Act to Make Permanent the Special Fuel Tax Act" (Emergency) Committee on Taxation reporting "Ought to Pass"

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, April 4, 1985 under the listing of Second Day.

Passed to Be Engrossed

Tabled and Assigned

Bill "An Act Concerning the Distribution of

Atlantic Salmon Smolts and the Conservation of Atlantic Salmon" (Emergency) (H.P. 836) (L.D. 1180)

Was reported by the Committee on Bills in the Second Reading and read the second time.

On motion of Representative Vose of Eastport, tabled pending passage to be engrossed and tomorrow assigned.

Orders of the Day

The Chair laid before the House the first tabled and today assigned matter:

HOUSE DIVIDED REPORT — Majority (7) "Ought Not to Pass" — Minority (6) "Ought to Pass" as amended by Committee Amendment "A" (H-44) — Committee on Education on Bill "An Act to Provide Teacher Professional Time During the School Day" (H.P. 158) (L.D. 192)

TABLED—April 2, 1985 by Representative BROWN of Gorham.

PENDING—Motion of same Representative to accept the Majority "Ought not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Brown.

Representative BROWN: Mr. Speaker, Ladies and Gentlemen of the House: L.D. 192, as amended, mandates that every public school teacher shall be guaranteed no less than 30 minutes a day for professional planning time. I am not against professional planning time but what this does is that it takes away the local control, the local bargaining part of the process. It is not our business to interfere in this.

This legislative would require most school administrative units to hire additional personnel. The Department of Educational and Cultural Services has conservatively estimated the cost to municipalities at \$3.3 million annually. This amount would translate into an increase in general purpose aid to local schools to at least \$2.5 million in fiscal year 1988. This is a serious intrusion on local control. The scheduling of class periods and the assignment of teachers to inspect students is a matter for local determination. This bill would cause major scheduling problems particularly in small schools with few teachers.

We have all committed ourselves to education reform. Why not give it a chance to work?

I urge the Majority "Ought Not to Pass" Report to pass and when the vote is taken, I would ask for a roll call.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Small.

Representative SMALL: Mr. Speaker, Men and Women of the House: As education committee members and as legislators, we should ask ourselves with every piece of legislation, how will this affect the children in our schools? Is this in their best interest? How will this affect local control of our schools? Will this erode more power from the cities and towns and local taxpayers? How will we pay for this legislation? Will its passage mean another more necessary program will have to be cut? After answering these questions, I am opposing this legislation for three reasons. First, the 30 minute break will be taking the teacher out of the classroom and take valuable learning time away from the student. All of the recent studies, including the Governor's Select Commission on Education, agree that we need more time on tasks, not less. Second, the legislation is a local issue, not a state issue. This can be negotiated by collective bargaining, I repeat it can be negotiated already at the local level and its benefits or adverse effects are best calculated by the local boards and individual school principals. Third, the cost of the legislation will run into millions of dollars. We have estimates by the Department of Finance of \$3.2 million. When asked to revise that because they thought it was too high, they said it has gone as high as \$6 million although they are not using that figure. There is no definite figure on what this will cost but