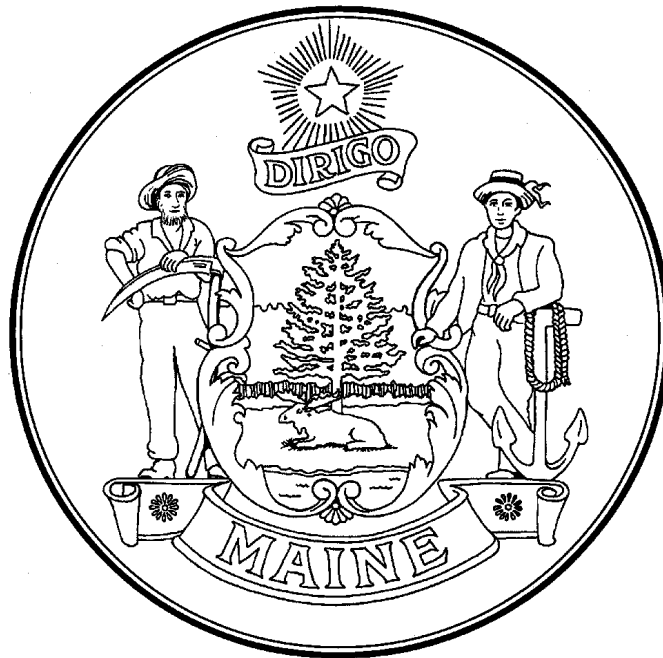


MAINE STATE LEGISLATURE

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Journal and Legislative Record
House of Representatives
One Hundred and Twenty-Eighth Legislature
State of Maine

Daily Edition

First Regular Session
beginning December 7, 2016

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Hickman, Higgins, Hogan, Hubbell, Kornfield, Kumiega, Longstaff, Luchini, Madigan C, Madigan J, Malaby, Marean, Martin J, Martin R, Mastraccio, McCrea, McCreight, McElwee, McLean, Melaragno, Monaghan, Moonen, Nadeau, O'Neil, Ordway, Parker, Perkins, Perry, Picchiotti, Pickett, Pierce T, Pouliot, Riley, Rykerson, Sanborn, Sheats, Spear, Stanley, Stearns, Stewart, Strom, Sylvester, Talbot Ross, Tepler, Terry, Tipping, Tucker, Tuell, Vachon, Wadsworth, Wallace, Warren, White, Zeigler, Madam Speaker.

NAY - Austin S, Bickford, Craig, Dillingham, Espling, Farrin, Fredette, Gerrish, Gillway, Grignon, Haggan, Hanley, Hawke, Johansen, Kinney J, Kinney M, Lockman, Lyford, Mason, O'Connor, Parry, Prescott, Reed, Sampson, Sanderson, Seavey, Sirocki, Skolfield, Stetkis, Sutton, Theriault, Timberlake, Winsor, Wood.

ABSENT - Chace, Golden, Guerin, Harvell, Hilliard, Hymanson, Jorgensen, Lawrence, Pierce J, Reckitt, Schneck, Sherman, Simmons, Turner, Ward.

Yes, 101; No, 34; Absent, 15; Excused, 1.

101 having voted in the affirmative and 34 voted in the negative, with 15 being absent and 1 excused, and accordingly the Veto was **NOT SUSTAINED** in concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

The Following Communication: (S.C. 588)
STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE

August 1, 2017

The 128th Legislature of the State of Maine
State House
Augusta, Maine

Dear Honorable Members of the 128th Legislature:

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 1170, "An Act To Reduce Youth Access to Tobacco Products."

This bill would change the legal age for purchase of tobacco products from 18- to 21-years-old. However, to avoid the true fiscal impact of the bill, it was amended to grandfather all who reach the age of 18 by July 1, 2018. This kind of legislative chicanery is not only irresponsible, but it will also contribute to a significant deficit in the next biennial budget.

The fiscally irresponsible aspect of the bill is reason enough to deserve my veto. But I am equally concerned about this attempt at "social engineering" by those who do not respect the rights and responsibilities our society vests in our citizens when they become 18. After World War II, President Eisenhower used his 1954 State of the Union Address to call for 18-year-olds to have the right to vote. Having commanded the troops in the war, he understood how unfair it was to those who had served our country and defended our liberties while being denied this fundamental right. In 1971, the 26th Amendment to the United States Constitution granted the full rights of citizenship to 18-year-olds.

In addition to the right to vote and serve in the military, our laws provide 18-year-olds the right to marry and divorce and make decisions about medical treatment. The responsibilities to pay taxes and be tried as adults if accused of a crime also come with turning 18. I cannot support legislation that denies

the right to purchase a legal product to those who are otherwise treated as adults.

Those who advocate that this legislation would protect those under 18 from tobacco use ignore the U.S. Centers for Disease Control's surveys from 2011-2014, which provide evidence that four times as many high school students drink alcohol than smoke cigarettes. The fact that the legal age to purchase and consume alcohol is 21 everywhere in the country while the legal age to purchase tobacco is 18 in most of the country demonstrates this legislation will not achieve its stated purpose.

LD 1170 will simply increase the black market for tobacco products and push our Maine citizens between the ages of 18 to 20 into acquiring tobacco products through alternative sources.

Finally, this bill will hurt our Maine convenience and grocery stores, which will lose sales of tobacco and other products to neighboring New Hampshire. Our Maine retailers had a compliance rate of 95.52% for sales of tobacco products—the second best compliance rate in the nation, according to the FDA's inspections involving sales to minors. Clearly, our retailers are doing an outstanding job enforcing the current law. I cannot support legislation that creates a competitive disadvantage for our small business owners, particularly those near the New Hampshire border. Therefore, I return LD 1170 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,
S/Paul R. LePage
Governor

Came from the Senate, **READ** and **ORDERED PLACED ON FILE**.

READ and **ORDERED PLACED ON FILE** in concurrence.

The accompanying item An Act To Reduce Youth Access to Tobacco Products

(S.P. 391) (L.D. 1170)

(S. "B" S-306 to C. "A" S-146; S. "A" S-325)

In Senate, August 2, 2017, this Bill, having been returned by the Governor, together with objections to the same, pursuant to the provisions of the Constitution of the State of Maine, after reconsideration, the Senate proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

29 voted in favor and 5 against, and 29 being more than 2/3 of the members present and voting, accordingly it was the vote of the Senate that the Bill become law and the veto was overridden.

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

Representative **McLEAN**: Thank you, Madam Speaker. I rise this afternoon in support of overriding the Chief Executive's veto of this bill which would raise the legal age to purchase tobacco to 21 years of age. Experts tell us that 95 percent of smokers begin the habit before the age of 21. We also know that smoking is one of the leading causes of cancer and ill health. We know that no policy is going to completely solve every problem, but experts, doctors, nurses, scientists, and researchers tell us one way to reduce the number of those becoming addicted to nicotine is to raise the age at which it is legal to purchase tobacco. Reducing the number of young people addicted to nicotine will save many, if not most, people, from a lifetime of detrimental health effects, and, for some, an early death. For me the most compelling argument for this bill is its ability to reduce the incidence of cancer. My mom never

smoked, but in the fall of 2014, she was diagnosed with stage 4 colorectal cancer; one of the many cancers that can be caused by smoking. We've all been impacted by cancer in some way, some more than others. No one in this chamber would wish this disease on our worst enemy. It can be debilitating, all-consuming, life ending, expensive and sad beyond measure. My mom has gone through four surgeries, endless rounds of chemotherapy, weeks of radiation, has taken countless medications to counteract the effects of chemo and radiation, and dozens of other small but significant procedures through the nearly three years since her diagnosis. Her medical bills have soared past \$1.1 million, and my mom's story, however, is not unique. If there is public policy that research tells us will reduce the chance that thousands will become addicted to nicotine, and in turn reduce the chance one will contract cancer, and does no harm to anyone, why wouldn't we do this? Smoking is one of the leading causes of cancer and the costs are enormous. With the aid of good health insurance, world-class doctors, and innovative research in Boston, my mom is still here; but so many have needlessly succumbed to this preventable disease, a disease that formed because of an insatiable addiction developed at a young age because cigarettes were available for them to purchase. This isn't about social engineering, it's not about taking away any right, it's only about developing good sound public policy that will result in more birthdays for more people, better health for many more. This afternoon, I appeal to your common sense. I appeal to the desire of each and every one of you to eradicate this awful disease. I appeal to your desire to ensure that our young people get off on a strong healthy foot on their journey to adulthood, and I ask that you join me in overriding this veto. Thank you.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Vachon.

Representative **VACHON**: Thank you, Madam Speaker, Ladies and Gentlemen of the House. In the midst of the Maine opioid crisis, I rise to ask this body to override, and to comprehensively connect the dots. We have a public health crisis. People are addicted to deadly substances and they are dying. We need to pull out all the stops, embrace new medical discoveries, apply the learning, and adopt policy to reflect changing times. Nicotine is a highly addictive drug. The younger the nicotine user, the greater the susceptibility to addiction and risk for developing more enhanced illicit drug-seeking behaviors. It is worth noting that most heroin and cocaine users are also cigarette smokers. In most adolescent cases, the younger you are exposed to nicotine, the greater your risk to impaired attention and memory, learning problems, loss of self-control, anxiety. Nicotine is a gateway to illegal drug use. We've come a long way from, "We've come a long way, baby." Back in the day, smoking was glamorous. Today, it is not. Tobacco has proven that what we don't know did hurt. It is why we have a huge tobacco settlement. In debating this bill, I've heard the argument: if an 18-year-old can go to war they should be allowed to smoke. Consider this: they cannot legally drink until age 21, for good and tested reasons. There is a correlation. Back in the 1970s, nearly every state lowered the legal drinking age to 18. By the mid-70s, 60 percent of all traffic fatalities were alcohol-related. Per the National Institute of Health, two-thirds of the auto accidents involved people age 16 to 20. This was deemed a public health crisis. When the law was changed back to 21, drunk driving accidents dropped by 50 percent. This shows that policy matters. Policy is a response to a public health crisis. The best policy utilizes new information and medical advances. We cannot sit idle when

new information has come to bear. There has been groundbreaking, advanced information on adolescent neurodevelopment, revealing a better understanding of adolescent health and intervention response. This new information refutes the argument that 18-year-olds should not smoke. We should pay attention to what has become known. Adolescents are particularly vulnerable to addictive effects of nicotine because their brains are still developing until age 25. During adolescence, young adulthood, nicotine negatively affects critical brain development in the following areas, responsible decision-making, impulse control, sensation seeking, susceptibility to peer pressure, impaired attention and memory, problems with learning, self-control, and anxiety. Nicotine exposure during adolescence can cause long-term structural changes that not only disrupt the formation of brain circuits, but impact attention and learning that lead to increased susceptibility to addiction. Per the U.S. Surgeon General, nicotine and e-cigarettes, and other tobacco products, affect the development of the brain's reward system, priming the adolescent brain for addiction to other drugs, such as cocaine and methamphetamine. A 2010 study which examined the effects of smoking and depression on pain severity and opioid use found that smoking was independently associated with greater opioid use. Smoking during adolescence increases the risk of developing psychiatric disorders and cognitive impairment later in life. I have no doubt that our 18-year-olds who commit to serve our country have the best physical stamina and energy to serve our country well. We need to honor and protect their brain development. We learned this in the mid-70s when we raised the legal drinking age from 18 back to 21. We now know that nicotine is an addictive gateway to illicit drug use. We are amid a health crisis with our opioid epidemic. It would be a terrible shame to fail to advance policy that takes proactive preventative steps to improve the health and well-being of our adolescent youth. What we now know about the adolescent brain suggests that access to tobacco should be aligned with alcohol. It's time to raise the age to 21, and I hope you will follow my light to override the veto. Thank you.

The SPEAKER: The Chair recognizes the Representative from Standish, Representative Ordway.

Representative **ORDWAY**: Thank you, Madam Speaker. I will once again remind this House that we trust the wisdom of 18-year-olds to vote for us. Why would we not trust that they make this decision not to smoke?

The SPEAKER: The Chair recognizes the Representative from Newport, Representative Fredette.

Representative **FREDETTE**: Thank you, Madam Speaker, Ladies and Gentlemen of the House. I have a 19-year-old son, and he doesn't smoke, and I'm glad he doesn't smoke, but that's his choice. What I believe in is liberty in this country. We fight for liberty, so that people can make choices, free choices amongst themselves, how they live and what they do; and we recognize there are limitations on that in society. And so, I certainly am not here to advocate that anyone under the age of 21 should be smoking, or someone who is 50 should be smoking. My father smoked two and a half packs a day until he was 50 years old and then quit, and is now 78 years old and has not smoked since. But that was his choice. That was his decision. What troubles me today is, is that we are now picking an arbitrary number, 21. Well, why not 25? Why not 45? Why not 70, or why not simply outlaw tobacco? If we all know it's bad then it's bad for everybody. What troubles me is that, as an attorney, I recognize that in the law, 18 is a very important critical age, because when you turn 18 years of age,

for example, in the State of Maine, you can be charged as an adult with a crime. Prior to that, you are charged, most likely, as a juvenile. Also recognize that when you turn 18 years old, you can choose to get married; pretty big life decision. You can also join the military, be sent to foreign lands. Maybe you get sent to Afghanistan or Iraq and while you're over there, you can have a smoke, but you're 19 years old and you come back home to Maine, you can't walk in a buy a pack of cigarettes. Then there's the reality that Maine now has become a state where smoking marijuana is going to be okay. So, I can now take my kids on a camping trip to East Grand Lake in Danforth. Bring the kids along three, five and seven, we're all going to go to the campground, and I'm going to sit at the campground with my young'uns, and I'm going to have ten tents around me, all smoking pot. But that's okay. So, do I think that it's good policy for us to advocate for people to smoke cigarettes? Absolutely not. We should be discouraging people to the extent that we can with information and advisements and what not, and warnings. They should be able to have that information and make that choice. But until we start really recognizing that, you know, we pick these arbitrary numbers, someone can be 21 but you can't be 18 to do this and do that, I just don't think we're sending very good clear message from this body. And so I will be voting to sustain the Chief Executive's veto, but I will be doing it based on the policy that I believe in, which is liberty for individuals to make their own choice when they get to turn 18 years of age. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from East Machias, Representative Tuell.

Representative **TUELL**: Thank you, Madam Speaker. I hadn't planned to speak originally, but I will be voting to override the Chief Executive's veto. And we have a lot of talk about things that are illegal at 18 and things that are illegal at 21, and ironically enough, earlier this session we codified into law the fact it's illegal to have marijuana, to buy marijuana until you're 21, and I think we did that for a very good reason. If we fail to pass this bill today, the drum beat of those who are obsessed with marijuana in this state will be ever-increasing to lower that age to 18. It may not come next year, it may not come two years from now, but it's coming and we want to be ready for it, and we're giving them the argument, queued up right on a tee, right in front of us here today. So, thank you, Madam Speaker.

The SPEAKER: There are four people in the queue. The Chair recognizes the Representative from Portland, Representative Sanborn.

Representative **SANBORN**: Thank you, Madam Speaker. I had not planned to speak today either, but as the owner of a company that makes and sells alcohol, I thought it was really critical that that not go unstated, that the drinking age in the State of Maine is 21. The marijuana age in the State of the Maine is 21; and cigarettes are a lot more like alcohol and marijuana than they are like voting, or enlisting, or marrying, and so, I am going to vote to override and I urge you to consider that argument. Thank you.

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

Representative **HARLOW**: Thank you, Madam Speaker. Ladies and Gentlemen of the House, I will be voting to override this veto, because based on my experience of sitting in a chemo chair as a non-smoker and hearing people in that room cough, and asking my chemo nurse was that person sick, am I going to get that flu because my immune system was down, and she said no, what you're hearing now is lung cancer.

That's a cough from lung cancer. So, while this may be an arbitrary number, I feel like if we can save one person from going through the experience of sitting in a chemo chair because of smoking, then I will be voting for this. Thank you.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Sirocki.

Representative **SIROCKI**: Thank you, Madam Speaker. I think the good Representative from Newport expressed it well, the confusion that seems to be a message that's part of this bill. It's my understanding that in the State of Maine it is not only illegal to purchase alcohol until you're 21, but also to drink it. I believe that is the same with marijuana, but my understanding of this bill is that it simply prohibits the purchase of tobacco products but not the smoking; and I'd like to know if that is true, if I may pose that question through the Chair. Does this bill prohibit the actual smoking of the product or just the purchase of it? Thank you.

The SPEAKER: The Representative from Scarborough, Representative Sirocki, has posed a question through the Chair to anyone who might answer. The Chair recognizes the Representative from Presque Isle, Representative Stewart.

Representative **STEWART**: Thank you, Madam Chair, Ladies and Gentlemen of the House. I'm not rising to answer the question. I'm rising because I voted in favor of this bill the first go around, and I'm wondering if perhaps that was because I have an undeveloped brain. In all reality though, I think it's fair to say that, if we're going to be going down this path about having a discussion of whether or not your brain is fully developed means that you can be making decisions or not, if that's the case, then why not raise the voting age to 25? Why not raise the drinking age to 25? Why not raise the age that you can run for public office to 25? We don't do those things. We don't think that's a reasonable standard, so why would we think that this would be a reasonable standard either? I have read the bill. I don't see it written anywhere in there that you can't consume any tobacco products at 18, so I'm concerned that at that point all that we would actually be doing is creating a black market whereby the price of this product would go up unreasonably and people would not necessarily be any better off for it. So, with that, I hope my colleagues will follow my light. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Nadeau.

Representative **NADEAU**: Thank you, Madam Speaker. My father, at the age of 18, joined the Marines, where he first started smoking a pack a day, Camels, no filter. At 70, he developed colorectal cancer. Needless to say, he is no longer with us after a five-year battle. If our decision today to make the age of obtaining tobacco the same as the drinking age, I will think we have done our very best job to our ability. Please override the Chief Executive's veto. Thank you.

The SPEAKER: The Chair recognizes the Representative from Weld, Representative Skolfield.

Representative **SKOLFIELD**: Thank you, Madam Speaker, Ladies and Gentlemen of the House. The answer to Representative Sirocki's question, I believe, is it's the purchase of the product, not the use of the product, so folks who are between the ages of 18 and 21 would not be able to purchase the product. Some 50 some-odd years ago, 52 I think, I started smoking on a regular basis. I was snitching cigarettes from my dad's drawer at probably 14, but at 16 I started smoking pretty openly. And I did that for about 10 years, until my second son was born, and I decided that that was not a good environment to bring children up in, smoking cigarettes. My wife at the time had asthma. And so for 10 years of my life

I smoked, and the fascination for cigarettes left me when I started seeing friends and fellow co-workers and people in my life becoming very sick, and very intolerant, and cancer, and all these things happening; and when I look back on it, the people of my generation smoked and we smoked a lot. The Marlboro Man made you want to smoke. There have been other references to commercials of that time, and young people in this state... I was probably pretty brain-dead until I was 26 years old, so talking about raising the age to that may have some merit. But also, if we're talking about the military, if you're good enough to carry a gun you can smoke a cigarette. I suppose that's true. I suspect we'd be better served if we raised the age to entering the military to about 45 or 50, and then people would have a lot of life experiences and maybe we'd be better served with having an older military than we do now. But I am going to vote to override this measure. Thank you.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Longstaff.

Representative **LONGSTAFF**: Thank you, Madam Speaker. I'm not convinced very much by some of the arguments I've heard. I joined the Maine National Guard when I was still in high school. I was sworn in for active duty in the U.S. Marine Corps when I was 17 years old and we were still actively engaged in war in Korea. I suggest to you that the decision to enter the armed forces is not the same thing as deciding whether or not you're going to smoke tobacco. Most of the young men and women that I know join the military because they want to serve their country, and because they want to make better lives for themselves. That's not the same thing as choosing whether or not to smoke. Furthermore, I spent three years of my Marine Corps service as the U.S. Marine Corps Training Station at Paris Island. I know, and many of you know, what that training involves. The decisions that these young men and women make when they are prepared to go into combat are not the same decisions they make with their friends when they're deciding whether or not to buy a pack of cigarettes. The decisions that they make, after very strict and rigorous training, they are decisions that they make when they are under a command structure that enables them to function as part of a team, not as an individual. And so, I think, no, I don't want to make the comparison between choosing to smoke with the decisions that our young men and women make when they choose to serve their country. It's not the same thing. I don't want to suggest that what they do when they are prepared to go off to war is the same thing as decisions that they make when they are hanging around after school and not in a command structure. I think that moving this up, as this bill proposes, is the right thing to do for our young men, our young women, and I am going to vote to override this veto. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Hickman.

Representative **HICKMAN**: Thank you, Madam Speaker. May I pose a question through the Chair for anyone to answer?

The SPEAKER: The Representative may proceed.

Representative **HICKMAN**: Thank you. Right now, in Maine, is there any civil or criminal penalty for a person under the age of 21 who gets caught drinking alcohol?

The SPEAKER: The Representative from Winthrop, Representative Hickman has posed a question through the Chair, if there is anyone who wishes to answer.

After reconsideration, the House proceeded to vote on the question, 'Shall this Bill become a law notwithstanding the objections of the Governor?' A roll call was taken.

The SPEAKER: The pending question before the House is 'Shall this Bill become a law notwithstanding the objections of the Governor?' All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 463V

YEA - Ackley, Alley, Austin B, Babbidge, Bailey, Bates, Battle, Beebe-Center, Berry, Bickford, Black, Blume, Bradstreet, Brooks, Bryant, Cardone, Chapman, Collings, Cooper, Corey, Daughtry, DeChant, Denno, Doore, Duchesne, Dunphy, Farnsworth, Fay, Fecteau, Foley, Frey, Fuller, Gattine, Gillway, Ginzler, Grant, Grohman, Haggan, Hamann, Handy, Harlow, Herbig, Herrick, Hickman, Hogan, Hubbell, Kornfield, Kumiega, Longstaff, Luchini, Lyford, Madigan C, Madigan J, Marean, Martin J, Martin R, Mastraccio, McCrea, McCreight, McElwee, McLean, Melaragno, Monaghan, Moonen, Nadeau, O'Neil, Parker, Perry, Pierce T, Pouliot, Rykerson, Sanborn, Seavey, Sheats, Skolfield, Spear, Stanley, Stearns, Sylvester, Talbot Ross, Tepler, Terry, Tipping, Tucker, Tuell, Vachon, Wallace, Warren, Zeigler, Madam Speaker.

NAY - Austin S, Campbell, Casas, Cebra, Craig, Dillingham, Espling, Farrin, Fredette, Gerrish, Grignon, Hanington, Hanley, Harrington, Hawke, Head, Johansen, Kinney J, Kinney M, Lockman, Malaby, Mason, O'Connor, Ordway, Parry, Perkins, Picchiotti, Pickett, Prescott, Reed, Riley, Sampson, Sanderson, Sirocki, Stetkis, Stewart, Strom, Sutton, Theriault, Timberlake, Wadsworth, White, Winsor, Wood.

ABSENT - Chace, Golden, Guerin, Harvell, Higgins, Hilliard, Hymanson, Jorgensen, Lawrence, Pierce J, Reckitt, Schneck, Sherman, Simmons, Turner, Ward.

Yes, 90; No, 44; Absent, 16; Excused, 1.

90 having voted in the affirmative and 44 voted in the negative, with 16 being absent and 1 excused, and accordingly the Veto was **NOT SUSTAINED** in concurrence.

The Following Communication: (S.C. 589)

**STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE**

August 1, 2017

The 128th Legislature of the State of Maine

State House

Augusta, Maine

Dear Honorable Members of the 128th Legislature:

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 1260, "Resolve, To Establish the Commission to Create a Plan to Enhance the Efficiency and Effectiveness of the Probate Court System."

This bill establishes a commission to overhaul our probate court system, which was repealed by the people of Maine in 1967, and create a more efficient and effective court system. The commission is directed to focus on meaningful access to justice, promote judicial responsibility, adherence to the code of judicial responsibility and provide for qualified judges and professional staff. All of these conditions are currently being met by each and every probate court in the State of Maine. The probate judges and staff have continued to deliver exceptional service to the people of Maine.

Counties provide the funding for salaries of probate judges and staff, office space, court space, equipment and office supplies. The commission is comprised of 13 members. Only two members of the commission will represent the "interest of the