

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

1978

Second Regular Session

January 4, 1978 — April 6, 1978

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June 14, 1978

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APPENDIX

tution. I think this measure is sort of designed to help them bridge the gap, if they aren't able to bridge the gap from where they are now to a full-fledged institution with the aid of this legislation. They just may not make it across that gap at all.

The SPEAKER: The pending question is, shall this bill become law notwithstanding the objections of the Governor? According to the Constitution, the vote will be taken by the yeas and nays. This requires a two-thirds vote of all the members present and voting. All those in favor of this bill becoming law notwithstanding the objections of the Governor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Ault, Bagley, Beaulieu, Bennett, Berube, Boudreau, A.; Brennerman, Brown, K. C.; Bustin, Carroll, Carter, F.; Churchill, Clark, Connors, Connolly, Cunningham, Curran, Davies, Dexter, Diamond, Dow, Drinkwater, Dudley, Elias, Fanlon, Flanagan, Goodwin, H.; Gould, Green, Hall, Henderson, Hickey, Higgins, Hobbins, Howe, Huber, Hughes, Hunter, Hutchings, Immonen, Jensen, Joyce, Kane, Kelleher, Kerry, Kilcoyne, Lewis, Locke, Lougee, MacEachern, Mackel, Mahany, Marshall, Martin, A.; Masterman, Masterton, Maxwell, McBreaarty, McHenry, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Norris, Peltier, Perkins, Peterson, Plourde, Post, Prescott, Raymond, Rideout, Rollins, Sewall, Shute, Silsby, Smith, Spencer, Sprowl, Strout, Stubbs, Talbot, Tarbell, Theriault, Tierney, Torrey, Tozier, Trafton, Truman Twitcheil, Valentine, Violette, Whittemore, Wilfong, Wood, Wyman, The Speaker

NAY — Aloupis, Austin, Bachrach, Benoit, Berry, Biron, Birt, Blodgett, Boudreau, P.; Bunker, Carey, Carrier, Carter, D.; Chonko, Cox, Devoe, Durgin, Dutremble, Fowlie, Garsoe, Gill, Gillis, Goodwin, K.; Gray, Greenlaw, Jackson, Jacques, Kany, Laffin, Lizotte, Lunt, Lynch, McKean, McMahon, McPherson, Moody, Morton, Najarian, Paul, Pearson, Quinn, Stover, Tarr, Teague

ABSENT — Brown, K. L.; Burns, Cote, Jalbert, LaPlante, Littlefield, Mills, Palmer, Peakes, Tyndale

Yes, 97; No, 44; Absent, 10.

The SPEAKER: Ninety-seven having voted in the affirmative and forty-four in the negative, with ten being absent, the Governor's veto is not sustained.

Sent up for concurrence.

Orders

An Expression of Legislative Sentiment (H. P. 2133) recognizing that: Mahoney High School of South Portland won the Greater Portland Junior High Track Championship on February 18, 1978

Presented by Ms. Benoit of South Portland (Cosponsors: Mr. Curran of South Portland, Mrs. Gill of South Portland, Mr. Howe of South Portland)

The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 2134) recognizing that: Pleasant Mountain Ski Area of Bridgton was established as Maine's first ski area and is now successfully completing its 40th season.

Presented by Mrs. Tarr of Bridgton.

The Order was read.

The SPEAKER: The Chair recognizes the gentlewoman from Bridgton, Mrs. Tarr.

Mrs. TARR: Mr. Speaker, Men and Women of the House: I am delighted to introduce this order for Pleasant Mountain Ski Area in Bridgton. Pleasant Mountain was the very first ski area in Maine and is now in its fortieth season.

In 1936, the first trails were cleared and the first shelter and the first rope tow were installed in 1938. In 1955, the first chair-life in Maine was put in operation at Pleasant Mountain, reaching 4,300 feet to the summit and car-

ried 72 double chairlifts.

The growth of Pleasant Mountain as a major ski area was envisioned by a small group of men who saw the fulfillment of a dream emerge into Maine's leading ski and recreational area.

Thereupon, the Order received passage and was sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 2135) recognizing that: Jane Michaud has been chosen Miss Caribou and will be competing in July in the Maine Potato Blossom Festival

Presented by Mr. McBreaarty of Caribou (Cosponsors: Mr. Peterson of Caribou, Mr. Bennett of Caribou, Mr. Smith of Mars Hill)

The Order was read.

The SPEAKER: The Chair recognizes the gentleman from Perham, Mr. McBreaarty.

Mr. McBREARTY: Mr. Speaker, we have Jane Michaud with us here today, and I would hope that you might have her stand and be recognized.

The SPEAKER: The Chair would ask Jane to please stand. She is a courier with us this morning and we welcome her here today. (Applause)

Thereupon, the Order received passage and was sent up for concurrence.

House Reports of Committees Ought to Pass in New Draft New Draft Printed

Mr. Carroll from the Committee on Transportation on Bill, "An Act Relating to the Maine Turnpike Authority" (H. P. 2062) (L. D. 2125) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Revise the Administration and Toll System of the Maine Turnpike" (H. P. 2132) (L. D. 2157)

Report was read.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Biron.

Mr. BIRON: Mr. Speaker, a point of order. Is this bill properly before us at this time where it was defeated in the last session?

The SPEAKER: The Chair would advise in the affirmative, since this is the result of a study order.

The Chair recognizes the same gentleman.

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: I move that this bill and all its accompanying papers be indefinitely postponed.

The bill that you have before you this morning is similar to the bill that came before you last year which was not accepted by this body by a large vote. Since that time, the Department of Transportation, through its director, Roger Mallar, has, in my opinion, attempted to gain legislative support for this proposal.

The problems with this bill, ladies and gentlemen, are several. One, the bill suggests that we set up barrier system along the Maine Turnpike. There is a fiscal note on this bill which says that if the State of Maine decides to go to a barrier system, it could cost us as much as \$10 million that we would have to repay to the federal government because the money that was allocated to the State of Maine when the Turnpike was first built would have to be repaid. It would cost us as little as \$2 million if the federal government grants the State of Maine an exemption.

The barrier system that is proposed, and the figures are not here in this legislation, brings in more money than is estimated will be needed to maintain the Maine Turnpike. Those who argue that additional revenues are needed argue that we will need \$5 million to maintain the turnpike. I don't disagree with that argument, however, I cannot support a piece of legislation that we have before us that does not indicate how much money the tree barrier system will bring in. From conversation I have had with people who are supposedly knowledgeable in the area, they tell me that the addi-

tional monies from the tree barrier system could be as high as \$9 million.

I am not prepared today to give the Department of Transportation any funny money so that Roger Mallar or anyone else can make determinations as to where that money will be spent. If the people of Lewiston are to pay a toll on the Turnpike, I want them only to pay a toll for the maintenance of that road, and that is the serious question that we have before us today.

I have a couple of clippings from newspapers and the headlines say, "Turnpike Toll Question Blocks Spur Construction" in reference to the Saco area. "Saco Spur Depends on Turnpike's future." Ladies and gentlemen, in my estimation, that is blackmail. If Saco needs a spur, the Department of Transportation should be building one, not depending on how we as legislators vote on the turnpike issue, and that is what is happening with this legislation. Everybody in the state is getting promised everything and there just isn't that much money. And they are trying to get support for this turnpike bill that we have before us.

No one argues that 1981 is the time that is projected when the bond issues will be paid; yet we have legislation before us now, and I wonder why. There is no need for this body or the other body to pass this legislation this year, because there is a possibility, and I say only a possibility, that federal dollars will be made available for maintenance of the Maine Turnpike. As you may know federal dollars are not available now for maintenance of the interstate system. However, federal dollars are available for the construction of the interstate system, that means that we can get 90/10 dollars.

As you may know, the interstate system has been built throughout the United States, and the time is coming where every state is facing the same problems that we are in maintenance of those roads. Now they are saying to the federal government, we need help, and there is pending legislation that would provide 90/10 dollars for the maintenance of the interstate system. Doesn't it make sense for us to wait and find out if this legislation will be passed and if these dollars will be made available instead of passing a piece of legislation today that would put a burden on my people and the people in the southern part of the state?

Under this proposal, the people of Lewiston, the municipality of Lewiston, is the only major community in the state that you have to pay a toll to go to. Enough is enough, ladies and gentlemen. Are you prepared here today to put a barrier system on 95 from Augusta to Bangor? I am sure you are not.

The reason the Maine Turnpike was built the way it was, it was built in the days when federal dollars were not available to the State of Maine and a bond issue was floated. The people in the southern part of the state made the sacrifice and have paid for that road for many years. You in the northern part of the state have had the opportunity to get a similar road, the exact same road from Augusta almost to Houlton, and you are not paying a dime for it. Do you want to sit here today and tell me that you are going to put an additional burden on my people again? We talk about fairness, ladies and gentlemen, where is that fairness?

All I am asking is that we defeat this legislation today and wait until 1981, and if you are all lucky, I won't be here. But I am telling you, we have a responsibility to the people in the southern part of the state who have been double taxed, they pay a gasoline tax like you do and that money is used to maintain the roads. But now you are saying, keep paying the gasoline tax but, in addition, pay a toll for the use of that turnpike. Well, we have done that for many years and you haven't in that part of the state. Now it is time to equalize and it is time to say all right. If there is an opportunity, and I will say to you in all honesty, if there are no federal dollars for the maintenance of that road, I will

support a plan, and I am not saying it is going to be this plan, but I will support a plan where we can raise the money in the southern part of the state ourselves for the maintenance of that road. I will do that, but we don't have to do it this year. What is the rush? I would like anybody on that committee to stand up and tell me what the rush is because there is no rush. Roger Mallar wants it, him and his bureaucrats.

I urge you to support the indefinite postponement.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Lewiston, Mr. Biron, that this Bill and all its accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

36 having voted in the affirmative and 70 having voted in the negative, the motion did not prevail.

Thereupon, the Report was accepted, the New Draft read once and assigned for second reading the next legislative day.

Divided Report

Majority Report of the Committee on Transportation reporting "Ought Not to Pass" on Bill "An Act to Provide Residents of the Islands in Casco Bay with Additional Transportation Service" (H. P. 2042) (L. D. 2107)

Report was signed by the following members:

Messrs. GREELEY of Waldo
McNALLY of Hancock
MINKOWSKY of Androscoggin
— of the Senate.

Messrs. LITTLEFIELD of Hermon
CARROLL of Limerick
JACQUES of Lewiston
BROWN of Mexico

Mrs. HUTCHINGS of Lincolnville

Messrs. STROUT of Corinth
LUNT of Presque Isle

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1072)

Report was signed by the following members:

Messrs. ELIAS of Madison
JENSEN of Portland
McKEAN of Limestone

— of the House.

Reports were read.

On motion of Mr. Jensen of Portland, the Minority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-1072) was read by the Clerk and adopted and the bill assigned for second reading the next legislative day.

Consent Calendar

First Day

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

(H. P. 2037) (L. D. 2101) Bill, "An Act to Provide Municipalities with the Authority to Establish Standards for the Installation of Wood Stoves" — Committee on Energy reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1079)

On the objection of Mr. Whittemore of Skowhegan, was removed from the Consent Calendar.

The SPEAKER: The Chair recognizes the same gentleman.

Mr. WHITTEMORE: Mr. Speaker, Ladies and Gentlemen of the House: Looking at this bill, I am wondering what it is doing. As I understand it, a community now can create an ordinance that covers this, because it says you "may," so if you may, you may do it or you may not, it is up to you. I am wondering if there is any need for this bill. I am wondering why we are going through this. I wish somebody

would answer.

The SPEAKER: The Chair recognizes the gentleman from Falmouth, Mrs. Huber.

Mrs. HUBER: Mr. Speaker and Members of the House: The gentleman is correct that we, at the moment, have the ability at the municipal level to set up an inspection program for the installation of wood stoves. The original bill merely reiterated that.

At the hearing we heard testimony from a number of people who were involved in the sale of wood stoves, users, some non-profit groups that were very interested in promoting wood as a source of heat in Maine, and also from a number of safety experts, including the State Fire Marshal and some firemen from a couple of communities.

It became apparent to those of us at the hearing that what is missing are standards. In other words, in many, many communities there is not the knowledge and there is not the information that these people felt would be extremely helpful to have. Following the hearing, in conference with the State Fire Marshal and the Office of Energy Resources, we decided to re-draft the bill, which is what you have in Committee Amendment "A" filing number 1079 to L. D. 2101. We feel that we have answered a need that is out there. This in no way obligates the community to accept these standards. It will make them available to them, and if they wish to use them in their own towns, that is very much up to the community. So we feel that we started out perhaps introducing a piece of legislation that was not necessary; now we have a piece that will be of great benefit to the state.

I think if you read the papers this winter, you will find more and more often that woodstove related fires are happening and that it would be very beneficial to have standards.

The SPEAKER: The Chair recognizes the gentleman from Bridgton, Mrs. Tarr.

Mrs. TARR: Mr. Speaker, I would like to pose a question to the Speaker. In view of the fact that public hearings should be held and the regulations would have to be typed up so they could be available, would this need a fiscal note?

The SPEAKER: The Chair would advise the gentleman from Bridgton, Mrs. Tarr, that the department has not made available the need in a memo form, which is normally the process that is used, to provide for the need for additional staffing. If the department should require that that be the fact, that amendment, of course, could be added at second reading, the proper time to amend the bill.

The Chair recognizes the gentleman from Orono, Mr. Davies.

Mr. DAVIES: Mr. Speaker and Members of the House: In further answer to Mrs. Tarr, since the proposed standards that we would make available to municipalities who might want to adopt them for their own or use them as the basis for adopting additional standards, there is no mandate. We are not requiring anybody to use these, we are simply making them available, so there would be no need for any public hearings on any standards that might be promulgated, and the Fire Marshal's Office has already notified us that they are in the process of working on this and it will cost no additional money because their people will be able to do it within their own time frame. So I don't think there is any need for a fiscal note on this.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker, Ladies and Gentlemen of the House: In the interest of local control, I now move that this bill and all its accompanying papers be indefinitely postponed.

The SPEAKER: The gentleman from Lincoln, Mr. MacEachern, moves that this bill and all its accompanying papers be indefinitely postponed.

The Chair recognizes the gentlewoman from Falmouth, Mrs. Huber.

Mrs. HUBER: Mr. Speaker and Members of the House: I guess I have to give you a little more history than I have, in the interest of local control. One reason this bill is before you is because there was another bill that was also introduced in this session which would have allowed state level inspection of wood stove installations. This very clearly, at the bottom of the page you will see the municipalities are specifically — we make reference to their home rule powers under Title 30, Section 2152. And very much the intent of this draft is to make sure that in the statute it is the intent of the legislature that the inspection of installation of wood stoves, if it is desired at the municipal level, is done by the municipal officials and not by anybody coming out of Augusta.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the gentlewoman, we now have that authority locally to inspect anything that we want to inspect locally, and I don't think there is any necessity of any legislation coming out of this body to go back and tell people in my town or in the gentlewoman's town that they must or they should or they may or whatever. I think this is unnecessary legislation and I urge you to vote for indefinite postponement.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Howe.

Mr. HOWE: Mr. Speaker and Members of the House: This legislation is not here because we feel we need to give municipalities the authority to do that. The gentleman from Lincoln is quite correct, they have that authority.

What the committee understands: a number of local fire department officials to be asking for is some expert technical guidance on how to do a proper inspection, what kind of problems to look for. The City of South Portland wouldn't have that kind of problem. We have got full-time fire officials, captains, lieutenants and chiefs and deputy chiefs and all that sort of thing, but a number of local fire departments are strictly volunteer. These people know how to put out fires and they do a good job of it, but they apparently do not have the time and resources to develop this kind of information, guidelines, inspection standards that they are asking for, and all we are trying to do is to set down somewhere something that they can come to look at and which they may or may not adopt in their local towns and cities.

The SPEAKER: The Chair recognizes the gentleman from Orono, Mr. Davies.

Mr. DAVIES: Mr. Speaker and Members of the House: I would suggest to my good friend Mr. MacEachern from Lincoln that he take out the pink committee amendment, filing number 1079, and read through it. As he points out, we are very concerned with local control, and as he also pointed out, the municipalities do not need any additional authority to do this.

What we are trying to do is we are trying to make local control feasible. Local control requires some information, some knowledge. If localities are going to exercise good decisions on whatever matters it might be, they need to have good information to begin with. What we are trying to do with this is to make available some of this good information on some of the proper standards for installation of a wood stove, so in case a municipality does decide that there is a problem, would like to do something, they do not have to spend a lot of their money trying to come up with reinventing the wheel.

We have people who are knowledgeable on this subject, who have the time and the interest in putting this together and they would like to make this information available to municipalities, but unless we can authorize them to do so, make these standards available to any town who would like to use them, then those towns