

MAINE STATE LEGISLATURE

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

Volume I

First Regular Session

December 3, 2008 – May 27, 2009

Pages 1-608

(H.P. 931) (L.D. 1327) Bill "An Act To Update Department of Defense, Veterans and Emergency Management Laws" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-390)**

On motion of Representative TRINWARD of Waterville, was **REMOVED** from the First Day Consent Calendar.

The Unanimous Committee Report was **READ** and **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-390)** was **READ** by the Clerk.

On further motion of the same Representative, **TABLED** pending **ADOPTION of Committee Amendment "A" (H-390)** and later today assigned.

CONSENT CALENDAR

Second Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the Second Day:

(S.P. 268) (L.D. 693) Bill "An Act To Clarify the Status and Benefits of Employees of the Child Development Services System" (C. "A" S-189)

(S.P. 284) (L.D. 737) Bill "An Act To Require the State To Provide Bonita Rogan with Health Insurance Benefits" (C. "A" S-190)

(S.P. 305) (L.D. 791) Bill "An Act To Prohibit Furnishing a Place for Minors To Use Illegal Drugs" (C. "A" S-193)

(S.P. 509) (L.D. 1390) Resolve, Directing the State Tax Assessor To Adjust the State Valuation for the Town of Topsham (EMERGENCY) (C. "A" S-188)

(H.P. 1012) (L.D. 1460) Resolve, Regarding Legislative Review of Portions of Chapter 41: Special Restrictions on Pesticide Use, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control (EMERGENCY)

(H.P. 39) (L.D. 44) Bill "An Act To Require Transmission Lines To Be Placed Underground near Certain Facilities" (C. "A" H-369)

(H.P. 68) (L.D. 78) Resolve, Regarding Legislative Review of Portions of Chapter 182: Formula for Distribution of Funds to Child Developmental Services Regional Sites, a Major Substantive Rule of the Department of Education (EMERGENCY) (C. "B" H-374)

(H.P. 623) (L.D. 905) Resolve, To Require the State To Consult with the City of Hallowell prior to the Sale of Certain Real Property (EMERGENCY) (C. "A" H-358)

(H.P. 633) (L.D. 915) Bill "An Act To Update and Clarify Statutes Related to or Administered by the Department of Public Safety" (C. "A" H-357)

(H.P. 646) (L.D. 943) Bill "An Act To Reduce Lung Cancer Rates in Maine" (C. "A" H-365)

(H.P. 649) (L.D. 946) Bill "An Act To Reverse the Effects of Grant v. Central Maine Power, Inc. on Workers' Compensation" (C. "A" H-359)

(H.P. 694) (L.D. 1006) Bill "An Act To Create the Probate and Trust Law Advisory Commission" (C. "A" H-349)

(H.P. 711) (L.D. 1036) Bill "An Act To Amend the Education Laws Regarding the State Board of Education's Degree-granting Authority, the Appeal of a School Board's Decision To Discharge a Superintendent, the Telecommunications Education Access Fund and Certain Definitions and Programs" (C. "A" H-373)

(H.P. 745) (L.D. 1078) Bill "An Act To Strengthen Sustainable Long-term Supportive Services for Maine Citizens" (C. "A" H-351)

(H.P. 861) (L.D. 1242) Bill "An Act To Streamline the Regulatory Process for Commercial Building Construction Projects" (EMERGENCY) (C. "A" H-368)

(H.P. 936) (L.D. 1332) Bill "An Act To Continue Coverage of Oil Clean-up Costs and Improve Administration of the Ground Water Oil Clean-up Fund" (C. "A" H-360)

(H.P. 1019) (L.D. 1464) Bill "An Act To Amend Licensing, Certification and Registration Requirements for Health Care Providers and Other Facilities" (C. "A" H-364)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were **PASSED TO BE ENGROSSED as Amended** in concurrence and the House Paper was **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

(H.P. 52) (L.D. 59) Bill "An Act To Amend the Laws Governing the Confidentiality of Correctional Facility Plans" (C. "A" H-362)

On motion of Representative HASKELL of Portland, was **REMOVED** from the Second Day Consent Calendar.

The Unanimous Committee Report was **READ** and **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-362)** was **READ** by the Clerk.

On further motion of the same Representative, **TABLED** pending **ADOPTION of Committee Amendment "A" (H-362)** and later today assigned.

The following item was taken up out of order by unanimous consent:

ENACTORS

Emergency Mandate

An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2009, June 30, 2010 and June 30, 2011

(H.P. 274) (L.D. 353)

(H. "E" H-408 to C. "A" H-350)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

The **SPEAKER**: The Chair recognizes the Representative from Orono, Representative Cain.

Representative **CAIN**: Thank you, Madam Speaker. It's amazing how fast something that you've worked on for so many hours arrives on your desk in one fell swoop. I think I calculated, and I believe the Appropriations Committee has logged nearly 1,000 hours on this one document, and now it arrives not even filling a single sheet of paper on our desks. But it's important to not let this moment go by without acknowledging the work and the reality of what LD 353, as amended, really represents. Shortly after the strong vote on engrossment last evening, a colleague in the chamber said to me, well you must feel happy now. I quickly answered, no, not happy. This budget is not a budget that anyone feels happy about; however, I am proud of the work and extremely proud of the process that got us here, and that's exactly how I feel. This budget is not a document that either party will or should point to as defining their principles, priorities or agendas. I hope that we can all point to this budget and say that this is a moment where we put partisanship aside, rolled up our sleeves and got the job done, because it was the right thing to do for the great State of Maine. This is a very responsible budget. It is a reflection of the current economic

times, and, considering the recession, I am proud that this Legislature is meeting the challenge in a bipartisan, thoughtful way, by working to minimize layoffs, protect services to those who need them most, and taking every opportunity to use this crisis to look for efficiencies and opportunities for savings that will improve the quality of state government long into the future. But there is still work to be done, so we cannot pretend that this vote is a cadence to the final chord, but rather the close of one movement and the start of another round of very difficult work that begins right away.

While I may be of only a few who speak often and in great detail about this budget, I do not do it alone and many thanks are in order, Madam Speaker. First, the amazing Appropriations and Financial Affairs Committee, I can only say thank you. We have 13 members who bring their own unique perspective, experience and passions to the horseshoe every single day in our committee room. Every single member contributed significantly, worked for nearly 1,000 hours on this budget, and I can personally say that all of the members of the committee taught me something along the way, since January. Special appreciation goes to the Representative from Waterford, Representative Millett, who's years in state government number more than my age, but who has only treated me with the utmost respect and as an equal throughout this entire process, and that has made all of the difference. I also must thank my Co-Chair from the other body, the good Senator from Cumberland, Senator Diamond, whose thoughtful approach to this budget and to working as a team also made the difference. He is a cowboy, a gentleman, and a person of outstanding integrity, and it was our different but very complimentary dispositions that helped move this process along. But our team extended beyond the 13 members of the Appropriations Committee. Great thanks is due to the Commissioner of the Department of Administrative and Financial Services, Commissioner Ryan Low, and State Budget Officer, Ellen Schneider. Ryan and Ellen put in as many hours as we did and then some. I'm quite certain their families will be very excited to get them back, although, don't get you used to it, because we're going to need you just as much as we continue the work ahead. The Office of Fiscal and Program Review, particularly Maureen Dawson and Grant Pennoyer, the entire team of that office supports all of your committees, but our committee especially relies on their expertise and their experience to help navigate us through what is a very complex web of finances, policy, and blood sweat and tears that go into a budget document, and I owe them great thanks.

I'd also like to thank leadership on all sides for their willingness to let the Appropriations Committee do our work. They put a lot of trust in us and I believe we rose to that challenge and I hope exceeded expectations along the way, but we were only allowed to do that, we were only able to do that because the leadership on all sides said we trust you, and I know that I took that trust very seriously and I believe all the members of the Appropriations Committee did as well. I will thank, again, the policy committees, who I thanked yesterday but it's worth mentioning again. As one member of the press said to me this morning about last night's vote, well that was quick, and I said that's only because so many hours have already gone into this document. Every policy committee had their hands on a significant portion of it along the way, and I believe that is the reason we were able to take the final step forward with a unanimous vote from the Appropriations Committee last week, when many said it could not be done.

Finally, Madam Speaker, I think it's important again to recognize that this is only the beginning of our work. It's my hope that we have set the tone and we have raised the bar on how

budgets can be done in this body and in the great institution of the State of Maine's Legislature. Bipartisanship is key, communication is key, transparency is utmost, and we tried to honor all of those things at every step of the way, every single day in the Appropriations Committee since January. It is my pledge to all of you to continue that work with that spirit, with that transparency, with that communication, with that bipartisanship as we go forward. In my opinion, it is the only way we navigate through the tough waters that we are in right now. You only need to look at the headlines of other states to see that Maine is really doing it the right way, Maine is really getting the job done and setting a standard for other states. So I'm not happy, but I am proud. I'm not excited, but I am optimistic for what lies ahead for Maine, and I believe that LD 353, as it sits before us now, after the thousands of hours of work, is the right step at the right time to help keep Maine on track and make sure that, when things do get better, we will be ready to take advantage of the growth and of stronger economic times ahead. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Waterford, Representative Millett.

Representative MILLETT: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I think our House Chair has covered everything that needs to be said, relative to both the process, the results of our work and the challenges that lie ahead. I appreciate her kind comments. I only wish she could have chosen something other than a reference to my chronological maturity, but be that as it may, I want to say back at you. Representative Cain, it's been a pleasure to work with you and your Co-Chair, the Senator from Windham, Senator Diamond, in an extremely comfortable and cooperative working relationship. I'd also like to thank the four members of my caucus on our side of the aisle: Representative Nutting, Representative Flood, Representative Robinson, and the good Senator from Bucksport, Senator Rosen.

I agree with the comments that Representative Cain has made about the challenges that lie ahead. All we need to do is look at the revenue report that was on our desk yesterday to become a little concerned at the immediate future as well as the long-term recovery that we are so uncertain about. We're nearing the end of this year with little over a month to go, and we're closing in on the revenue re-projection downward and closing in at a point that I'm seriously concerned about. Be that as it may and given all the work that has gone into this budget and the recognition of the difficult times that lie ahead, I think we are well positioned to continue our work and, should the challenges arise immediately, I believe we're qualified and capable of accepting them. So I want to thank all members of the committee, including the other five members of the Democratic membership, including the longest serving member of the House, the Senator from Eagle Lake, who has mellowed considerably over the years and was truly a joy to work with this year. Thank you all.

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

Representative TARDY: Thank you, Madam Speaker. Madam Speaker, Members of the House. Good morning. Madam Speaker, my decision to support this budget, as you know, was not made in haste. When you and I met several months ago, we agreed that the Chief Executive's proposal, as laid out in LD 353, would need thorough deliberation, that in order to best serve the people of Maine, an efficient but deliberate process would need to be undertaken, not the fast track that some people suggested. We needed to do this to create a better budget and one that could possibly get some Republican endorsement.

Madam Speaker, I'd like to thank you and the Representatives from Unity and Bowdoinham, Representatives Piotti and Berry, for your professionalism, for your good faith. I would suggest to this body that you are each skilled negotiators, who advocated passionately and vigorously for your core principles and your priorities, and you did so while, at the same time, listening to what we have to say in our core principles and our priorities. I, too, would like to thank the members of Appropriations, all members, for your service, and I'd also like to, in particular, thank the members from my caucus and my assistant, the good Representative from Madison. Service on Appropriations and leadership is a huge sacrifice. It's long hours, high stress, contention and controversy, both on a partisan basis and in an internal basis. I would just like to publicly state that my trust and confidence in the Republican members on Approps and my assistant is unequivocal. And I'd especially like to thank my good friend from Waterford, Representative Millett. I don't know what we could do in this state without your willingness to put yourself through this budget process.

Madam Speaker, budget making, in the worst recession of our time, is extraordinarily difficult, and I would respectfully suggest that this negotiated document has many flaws, makes revenue assumptions that will undoubtedly need to be revisited; it passes on many problems to the next Chief Executive, the next Legislature; puts obligations on municipalities to step up and share in the process of downsizing, rightsizing and streamlining, or additionally burden the property taxpayer; but I would suggest that this budget does begin the process. The trend towards rightsizing, that reflects the reality of our national and state economy. At over \$500 billion less, this budget is smaller than its predecessor, and I think that's one of the first times that's happened in decades. This budget has a streamlining commission that we on this side of the aisle intend to take seriously, and I would suggest, again respectfully, that that is a bipartisan confession that further cuts need to be made, that we need to make structural changes and downsize and more appropriately right size state government. The streamlining commission's goals are lofty but necessary. We've made structural changes in state employee health insurance and those were very difficult decisions to make. We've made significant structural changes in MaineCare. Did we go where we needed to go? I'd say no, but we did make positive steps toward getting our welfare system closer to the national average and moving the size of government in the right direction, and I think, importantly, this negotiated budget reduces the tax burden compared to the Chief Executive's original proposal. To the income taxpayer, the negotiated product is an improvement; to the property taxpayer the negotiated compromise is an improvement. From any partisan standpoint, there's a lot in this budget not to like, and I respect every individual member of this body right to vote yea or nay, and I think my caucus notes that, but we have heard this saying that perfect should not be the enemy of good. I think it's more appropriate, in this context, to say that good should not be the enemy of reality and necessity.

Madam Speaker, I don't understand this recession. I don't know when it's going to change. The common indicators aren't encouraging—bankruptcy filings, foreclosures, food stamp applications, those are all bad indicators—those are up and this recession has had a profound personal impact on me. Businesses are closing, and I believe times are going to get worse and we will be back dealing with this. I believe that we should hope for better times, and I appreciate the hope and optimism expressed yesterday and today by the good Representative from Orono, but I urge the members of this body to prepare for heavier lifting and far more difficult times. You

know, as leader, Madam Speaker, I need to look at myself and members of my caucus and answer the question is this my best effort and is this our best effort? To my constituents and the people of Maine, I have to ask that same question: is this my best effort and is this our best effort? To the employees of Moosehead Furniture, who in recent months have endured pay cuts, reduced hours, elimination of health insurance benefits, whose neighbors and relatives in nearby Guilford have lost their jobs, I have to ask is this my best effort, is this our best effort? Madam Speaker and members of the House, after thorough deliberation and much, much heartache, my answer is yes. In the absence of the ability to unilaterally make policy, but in recognition of our obligation to shape it, LD 353 has my support and I will be voting yes. Thank you.

The SPEAKER: The Chair recognizes the Representative from Unity, Representative Piotti.

Representative PIOTTI: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. Our State Constitution is fairly clear: We're required to enact a balanced budget and, in a few moments, we'll take that action, but that simple step doesn't reflect the incredible amount of work, toil that has gone into this process. So I too would like to chime in and thank the many people who have made what we're about to do possible, starting with the Chief Executive and his staff, most notably, Commissioner Low, phenomenal efforts; extending that to the members of leadership, who have put in a lot of time in good faith, not always agreeing, but certainly be willing to work together; and I extend a hand to our colleagues, the Representative from Newport, Representative Tardy; the Representative from Madison, Representative Curtis. I, too, applaud and appreciate all of your efforts and good graces through this process. I also want to thank all of you because, as the Representative from Orono, Representative Cain, mentioned, this has been truly a work of everyone in this body. The policy committees laid the foundation upon which the Appropriations Committee could do its good work. Last, but certainly not least, I need to applaud, congratulate and commend the work of the Appropriations Committee. It's become almost a cliché that we're talking about this budget as something that's not great, this budget is something that has shared pain, and those statements are all true, but I view it as us having produced about as good a product as we could in these times. That has not been easy, and, again, I applaud everyone, but particularly the Committee on Appropriations and Financial Affairs and its leadership, the Republican lead, the Representative from Waterford, Representative Millett, and our House Chair, the Representative from Orono, Representative Cain. Extraordinary work from all.

As I look around what's happening nationally and I see what's occurring in other states, we all know that the problems we're facing in these fiscal times are not our own, it is a national problem, but the mechanisms and the approach that we take to solve those problems vary, and I'm very proud of the bipartisan way we've worked together in this state, and I'm very proud of the manner in which we've tried to solve our problems. When you compare it to what's happened in other states, when you look at the number of layoffs that are occurring, when you look at the new taxes that are being proposed, I think we can be very proud in Maine that we have come to consensus. Sometimes the word compromise is a false word, it doesn't really show that good efforts have been taken but rather that people have caved in. I don't think that's the case here. I think here that compromise is consensus. I think here compromise has produced a better product. But as the Representative from Orono said, the work just begins here. As difficult as this was, this was something that we had no choice on. Our Constitution requires that we come to

resolution and, as I said, I'm proud of the resolution we have come to, but a lot of difficult work lies ahead on other matters before this body. I hope the same spirit of bipartisanship and cooperation will endure. I'm confident that it will, given what I know about the people in this chamber. I'm very proud of the work that's been done, I'm very proud with the way that Maine has dealt with this issue. Thank you all for your commitment to this state. Finally, Madam Speaker, I request a roll call.

Representative PIOTTI of Unity **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: The Chair recognizes the Representative from Ripley, Representative Thomas.

Representative **THOMAS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. A few weeks ago, I went to a town meeting in Ripley, and we went over our budget line by line. We had people who live on some of our gravel roads, who can't get to their houses in the spring. We didn't have the money we needed to fix that road so that they could get in and out. We've got paving projects that we had to do, we couldn't do them. Still, we're probably looking at a 20 or 25 percent property tax increase when the bills come out later this year, in large part due to school consolidation. Jail consolidation, Madam Speaker, has cost Somerset County thousands and thousands of dollars in extra property taxes. We squeezed that budget for everything there was. There's not extra spending in our town budget. I talked to a business owner this morning and they have taken one paycheck since the first of the year, and they're wondering how are we going to pay our property taxes, and I wonder too, and this budget is going to push \$140 million more onto the property taxpayers of the State of Maine. I'm sorry, Madam Speaker. I can't push that much onto the property taxes. I'm going to push my red light. Thank you.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Passage to be Enacted. All those in favor will vote yes, those opposed will vote no.

In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

ROLL CALL NO. 120

YEA - Adams, Beaudette, Beaudoin, Beck, Berry, Bickford, Blanchard, Blodgett, Boland, Bolduc, Briggs, Browne W, Bryant, Burns, Butterfield, Cain, Campbell, Carey, Casavant, Cebra, Ceilli, Clark H, Cleary, Cohen, Connor, Cornell du Houx, Cotta, Cray, Crockett P, Curtis, Cushing, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Eves, Finch, Fitts, Flaherty, Flemings, Flood, Fossel, Gilbert, Giles, Goode, Greeley, Hanley, Harlow, Harvell, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kaenrath, Kruger, Lajoie, Langley, Legg, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, Miller, Millett, Morrison, Nelson, Nutting, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Piotti, Priest, Rankin, Richardson D, Robinson, Rosen, Rotundo, Sanborn, Schatz, Shaw, Sirois, Smith, Stevens, Strang Burgess, Stuckey, Sutherland, Tardy, Theriault, Thibodeau, Tilton, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Weaver, Webster, Welsh, Wheeler, Willette, Wright, Madam Speaker.

NAY - Austin, Ayotte, Chase, Clark T, Crafts, Davis, Edgcomb, Fletcher, Gifford, Hamper, Johnson, Joy, Knapp, Knight, Lewin, McFadden, McKane, McLeod, Nass, Pinkham, Plummer, Prescott, Richardson W, Sarty, Saviello, Thomas.

ABSENT - Beaulieu, Crockett J, Kent, Pratt, Russell, Sykes.

Yes, 119; No, 26; Absent, 6; Excused, 0.

119 having voted in the affirmative and 26 voted in the negative, with 6 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

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

BILLS IN THE SECOND READING

House

Bill "An Act To Require State-owned Solid Waste Disposal Facilities To Demonstrate a Public Benefit"

(H.P. 518) (L.D. 759)

Bill "An Act to Amend Mercury Standards for Air Emission Sources"

(H.P. 1035) (L.D. 1482)

House as Amended

Bill "An Act To Clarify Standards by Which Game Wardens May Stop All-terrain Vehicles"

(H.P. 244) (L.D. 308)

(C. "A" H-354)

Bill "An Act To Reimburse Debra Bilodeau for Her Expenses Incurred in Connection with Her Petition for Appointment as a Foster Parent"

(H.P. 275) (L.D. 368)

(C. "A" H-347)

Resolve, To Conduct an Updated Study of the Feasibility of Establishing a Single-payor Health Care System in the State

(H.P. 690) (L.D. 1002)

(C. "A" H-353)

Bill "An Act To Establish a Model Dating Violence Prevention Policy"

(H.P. 760) (L.D. 1105)

(C. "A" H-323)

Bill "An Act To Clarify the Municipal Jurisdiction of a Portion of Saco Bay"

(H.P. 774) (L.D. 1119)

(C. "A" H-375)

Bill "An Act Relating to Industrial Hemp"

(H.P. 798) (L.D. 1159)

(C. "A" H-356)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the House Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

The following items were taken up out of order by unanimous consent:

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (9) **Ought to Pass as Amended by Committee Amendment "A" (H-273)** - Minority (4) **Ought Not to Pass** - Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Require State Employees To Pay 15% of Their Health Insurance Costs"

(H.P. 305) (L.D. 417)

TABLED - May 14, 2009 (Till Later Today) by Representative PIOTTI of Unity.

PENDING - ACCEPTANCE OF EITHER REPORT.