

# MAINE STATE LEGISLATURE

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**House Legislative Record**  
of the  
**One Hundred and Eighteenth Legislature**  
of the  
**State of Maine**

**Volume I**

**First Regular Session**

December 4, 1996 - March 27, 1997

**First Special Session**

March 27, 1997 - May 15, 1997

KASPRZAK of Newport  
DUTREMBLE of Biddeford

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-76) on same RESOLUTION.

Signed:

Senators: GOLDTHWAIT of Hancock  
LIBBY of York

Came from the Senate with the Majority "**Ought Not Pass**" Report read and accepted.

Was read.

On motion of Representative AHEARNE of Madawaska the Majority "**Ought Not to Pass**" Report was accepted in concurrence.

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**Non-Concurrent Matter**

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for the Direct Popular Election of Constitutional Officers (H.P. 290) (L.D. 354) on which the Majority "**Ought to Pass**" as amended Report of the Committee on **State and Local Government** was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-137) in the House on April 3, 1997.

Came from the Senate with the Minority "**Ought Not to Pass**" Report of the Committee on **State and Local Government** read and accepted in non-concurrence.

On motion of Representative AHEARNE of Madawaska, the House voted to insist.

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**Non-Concurrent Matter**

Bill "An Act to Include Nontraditional Medical Alternatives under Health Maintenance Organization and Medicaid Coverage and to Allow the Patient to Choose the Method of Treatment" (H.P. 1226) (L.D. 1738) which was referred to the Committee on **Health and Human Services** in the House on April 3, 1997.

Came from the Senate referred to the Committee on **Banking and Insurance** in non-concurrence.

The House voted to Recede and Concur.

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**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

The following Bills and Resolve were received and upon the recommendation of the Committee on Reference of Bills were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

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**Agriculture, Conservation and Forestry**

Bill "An Act to Improve Management of Maine's Forests" (H.P. 1246) (L.D. 1766) (Presented by Representative SHIAH of Bowdoinham)

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**Appropriations and Financial Affairs**

Bill "An Act to Authorize a General Fund Bond Issue to Make Necessary Improvements to the State House" (H.P. 1241) (L.D. 1761) (Presented by Speaker MITCHELL of Vassalboro) (Cosponsored by Senator MICHAUD of Penobscot and Representatives: KERR of Old Orchard Beach, KONTOS of Windham, Senators: LAWRENCE of York, PINGREE of Knox) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

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**Education and Cultural Affairs**

Bill "An Act to Amend the Structure of the University of Maine System" (H.P. 1245) (L.D. 1765) (Presented by Representative BROOKS of Winterport) (Cosponsored by Senator LIBBY of York and Representatives: BAKER of Bangor, BARTH of Bethel, BRAGDON of Bangor, LaVERDIERE of Wilton, LEMKE of Westbrook, MACK of Standish, Senator: BENNETT of Oxford)

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**Health and Human Services**

Resolve, Establishing the Task Force to Evaluate the Creation of a Centralized State Office of Advocacy Services (H.P. 1242) (L.D. 1762) (Presented by Representative ROWE of Portland)

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**State and Local Government**

Bill "An Act to Establish an Office of Regulatory Reform within the Executive Branch" (H.P. 1244) (L.D. 1764) (Presented by Representative MACK of Standish) (Cosponsored by Senator LIBBY of York and Representatives: BOLDUC of Auburn, BROOKS of Winterport, CAMPBELL of Holden, FRECHETTE of Biddeford, LANE of Enfield, LAYTON of Cherryfield, SNOWE-MELLO of Poland, TREADWELL of Carmel)

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**Taxation**

Bill "An Act to Establish the Local Option Lodging Tax" (H.P. 1243) (L.D. 1763) (Presented by Representative KERR of Old Orchard Beach) (Cosponsored by Senator MURRAY of Penobscot and Representatives: BRENNAN of Portland, BULL of Freeport, MARVIN of Cape Elizabeth, MAYO of Bath, TOWNSEND of Portland, Senators: ABROMSON of Cumberland, CAREY of Kennebec) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

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By unanimous consent, all reference matters requiring Senate concurrence having been acted upon were ordered sent forthwith.

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By unanimous consent, all matters having been acted upon were ordered sent forthwith.

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**REPORTS OF COMMITTEES**

**Divided Report**

Majority Report of the Committee on **Health and Human Services** reporting "**Ought to Pass**" on Bill "An Act to Require that Day Care Facilities for Children and Infants Be Smoke Free" (H.P. 848) (L.D. 1153)

Signed:

Senators: PARADIS of Aroostook

LONGLEY of Waldo

MITCHELL of Penobscot

Representatives: MITCHELL of Portland

BROOKS of Winterport

FULLER of Manchester

KANE of Saco

PIEH of Bremen

QUINT of Portland

LOVETT of Scarborough  
 JOYNER of Hollis  
 SNOWE-MELLO of Poland

Minority Report of the same Committee reporting "**Ought Not to Pass**" on same Bill.

Signed:

Representative: BRAGDON of Bangor  
 Was read.

Representative MITCHELL of Portland moved that the House accept the Majority "**Ought to Pass**" Report.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Bragdon.

Representative BRAGDON: Madam Speaker, Ladies and Gentlemen of the House. I do not rise often to speak in this Chamber, but on this report I feel compelled to do so. Not only to explain my reasons for being in the minority, but to ask for your vote against the pending motion. Current state law outlaws smoking in any daycare facility, licensed or registered, in any room where children can be or are while the daycare is in operation. This bill, however, would ban smoking in any adjacent room where smoke could potentially waif into a room where children are. During the hearing I asked the Department of Human Services and they confirmed that this would indeed ban smoking in part of the house when a daycare is in operation. Essentially this bill would ban smoking for relatives or parents living upstairs above the daycare facility. It would apply to an apartment rented out located on the second floor. Ladies and gentlemen of the House, this is not about regulating daycare facilities. This is about regulating private homes. At the hearing we heard from no parent that stated that the current state law banning smoking in rooms where children is present is not effective and no one testified that this bill was necessary. Ladies and gentlemen, I believe this bill is not necessary and is overly burdensome. Madam Speaker, I request a division and when the vote is taken, I request the yeas and nays.

Representative BRAGDON of Bangor requested a roll call on the motion to accept the Majority "**Ought to Pass**" Report.

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 Portland, Representative Mitchell.

Representative MITCHELL: Madam Speaker, Ladies and Gentlemen of the House. I will try to be brief. This is 12-to-1 report. I beg to differ that this is a private home when people open their homes up for a business, especially to serve children who are particularly vulnerable to second-hand smoke. I believe we owe them the protection of making sure that that second-hand smoke is not affecting their developing lungs. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is accept the Majority "Ought to Pass" Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 84**

YEA - Ahearne, Bagley, Baker CL, Baker JL, Belanger IG, Berry DP, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bull, Bunker, Cameron, Chartrand, Chick, Chozmar, Clark, Clukey, Colwell, Cowger, Davidson, Desmond, Donnelly, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Fisk, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Gieringer, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jones SL, Joyner, Kane, Kerr, Kneeland, Kontos, LaVerdiere, Lemke, Lemont, Lindahl, Lovett, Madore, Mailhot, McElroy, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, Nickerson, O'Brien, O'Neal, Paul, Peavey, Perkins, Perry, Pieh, Pinkham RG, Plowman, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund,

Snowe-Mello, Spear, Stanley, Stevens, Tessier, Thompson, Tobin, Townsend, Tripp, Tuttle, Usher, Vedral, Vigue, Volenik, Watson, Wheeler GJ, Winglass, Winn, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Bragdon, Buck, Bumps, Campbell, Carleton, Cianchette, Cross, Foster, Jones SA, Joy, Joyce, Kasprzak, Labrecque, Lane, Layton, Lemaire, MacDougall, Mack, Marvin, McAlevey, Nass, Ott, Pendleton, Pinkham WD, Savage, Shannon, Stedman, Taylor, Treadwell, True, Underwood, Waterhouse, Wheeler EM, Winsor.

ABSENT - Dexter, Dutremble, Jones KW, Mayo, O'Neil.

Yes, 110; No, 36; Absent, 5; Excused, 0.

110 having voted in the affirmative and 36 voted in the negative, with 5 being absent, Majority "**Ought to Pass**" Report was accepted.

The Bill was read once and assigned for second reading Thursday, April 10, 1997.

**CONSENT CALENDAR**

**First Day**

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

(S.P. 123) (L.D. 402) Bill "An Act to Amend the Family Medical Leave Laws" Committee on **Labor** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-88)

(H.P. 810) (L.D. 1098) Bill "An Act to Facilitate Implementation of an Automated Hunters' and Anglers' Data Base System for Hunting and Fishing Licenses and Registrations" Committee on **Inland Fisheries and Wildlife** reporting "**Ought to Pass**"

(H.P. 830) (L.D. 1135) Resolve, Regarding Legislative Review of Chapter 374, Rules Regarding the Traffic Movement Standard of the Site Location of Development Law, a Major Substantive Rule of the Department of Environmental Protection, Bureau of Land and Water Quality (EMERGENCY) Committee on **Natural Resources** reporting "**Ought to Pass**"

(H.P. 81) (L.D. 106) Resolve, Establishing the Commission to Review the Effectiveness of Statewide Confidentiality Laws Dealing with the Care of People with Mental Illness Committee on **Health and Human Services** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-158)

(H.P. 280) (L.D. 344) Bill "An Act to Amend the Report Criteria for a Municipality's Annual Postaudit" Committee on **State and Local Government** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-159)

(H.P. 448) (L.D. 598) Bill "An Act to Create the Crime of Sexual Misconduct with a Child under 14 Years of Age" Committee on **Criminal Justice** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-156)

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, April 10, 1997 under the listing of Second Day.

**BILLS IN THE SECOND READING**

**As Amended**

Bill "An Act to Require Overtime Pay for Employees of Large Agricultural Employers" (H.P. 283) (L.D. 347) (C. "A" H-155)

Bill "An Act to Increase the Number of High-stakes Beano Games" (H.P. 426) (L.D. 576) (C. "A" H-146)

Were reported by the Committee on **Bills in the Second Reading**, read the second time, the House Papers were Passed to be Engrossed as Amended and sent up for concurrence.