

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**LEGISLATIVE RECORD**

OF THE

**One Hundred And Fourteenth Legislature**

OF THE

**State Of Maine**

**VOLUME I**

**FIRST REGULAR SESSION**

December 7, 1988 to May 10, 1989

**ERRATA:**

**The header on pages 431-437  
should read "HOUSE, APRIL 6, 1989"  
instead of "HOUSE, APRIL 5, 1989".**

ROLL CALL NO. 3

YEA - Adams, Aliberti, Allen, Anthony, Ault, Bell, Boutilier, Brewer, Burke, Butland, Cahill, T.; Carroll, D.; Carroll, J.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, Dellert, Dipietro, Dore, Duffy, Dutremble, L.; Farnsworth, Farren, Foster, Gould, R. A.; Graham, Greenlaw, Gurney, Gwadosky, Hale, Handy, Heesch, Hichborn, Hickey, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, LaPointe, Larrivee, Lawrence, Libby, Lisnik, Luther, Macomber, Mahany, Manning, Marston, Martin, H.; Mayo, McGowan, McHenry, McKeen, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, Nadeau, G. R.; Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, E.; Paradis, P.; Paul, Pederson, Pendleton, Pineau, Plourde, Pouliot, Rand, Richard, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Smith, Stevens, A.; Strout, D.; Swazey, Tamaro, Tardy, Telow, Townsend, Tracy, Tupper, Walker, The Speaker.

NAY - Aikman, Anderson, Begley, Curran, Donald, Farnum, Foss, Garland, Hanley, Hepburn, Higgins, Hutchins, Jackson, Lebowitz, Look, Lord, MacBride, Marsano, McCormick, McPherson, Merrill, Parent, Pines, Reed, Richards, Seavey, Sherburne, Small, Stevenson, Strout, B.; Webster, M.; Wentworth.

ABSENT - Bailey, Conley, Dexter, Erwin, P.; Hastings, Marsh, Nadeau, G. G.; Paradis, J.; Priest, Skoglund, Stevens, P.; Whitcomb.

Yes, 107; No, 32; Absent, 12; Paired, 0; Excused, 0.

107 having voted in the affirmative and 32 in the negative with 12 being absent, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading Monday, April 10, 1989.

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

SENATE REPORT - "Ought to Pass" as amended by Committee Amendment "A" (S-23) - Committee on Transportation on Bill "An Act to Make Minor Changes in the Motor Vehicle Laws" (S.P. 75) (L.D. 65)

TABLED - April 5, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Acceptance of Committee Report.

Subsequently, the Committee Report was accepted, the Bill read once.

Committee Amendment "A" was read by the Clerk.

Representative Moholland of Princeton offered House Amendment "A" (H-53) to Committee Amendment "A" (S-23) and moved its adoption.

House Amendment "A" to Committee Amendment "A" was read by the Clerk and adopted.

Senate Amendment "A" (S-29) to Committee Amendment "A" was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" and Senate Amendment "A" thereto was adopted.

The Bill was assigned for second reading Monday, April 10, 1989.

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

Bill "An Act to Annex Township 4, Range 3 WELS to the Town of Island Falls" (H.P. 164) (L.D. 229)

- In House, Bill and Accompanying Papers Recommended to the Committee on State and Local Government on March 30, 1989.

- In Senate, Majority "Ought Not to Pass" Report of the Committee on State and Local Government read and accepted in non-concurrence.

TABLED - April 5, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Motion of Representative SMITH of Island Falls to Recede.

On motion of Representative Gwadosky of Fairfield, retabled pending the motion of Representative Smith of Island Falls that the House recede and specially assigned for Monday, April 10, 1989.

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

HOUSE DIVIDED REPORT - Majority (11) "Ought Not to Pass" - Minority (2) "Ought to Pass" as amended by Committee Amendment "A" (H-32) - Committee on Appropriations and Financial Affairs on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Allow the Governor to Veto Items Contained in Bills Appropriating Money and Retaining the Power in the Legislature to Override those Line Item Vetoes (H.P. 10) (L.D. 4)

TABLED - April 5, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Acceptance of Either Report.

Representative Carter of Winslow moved that the House accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Rockport, Representative McCormick.

Representative MCCORMICK: Mr. Speaker, Ladies and Gentlemen of the House: I would ask you to vote against the "Ought Not to Pass" motion. As some of you are already aware, my bill L.D. 4 is a Resolution proposing an amendment to the Constitution of Maine to allow the Governor to veto items contained in bills appropriating money but retaining the power in the legislature to override those line item vetoes.

This bill was recommended to the legislature in 1963 by an impartial commission to study Maine's Constitution. It was the number one item in their recommendations. Every Governor since 1963 has supported the line item veto. Even our Speaker backed the bill at one time. Forty-three other states in the United States have line item veto. A few of them have had some problems because their constitutional amendments gave the Governor too much authority over a bill. To my knowledge, no state has repealed it and it tends to prevent pork barrel items.

By allowing this proposed amendment to be voted on by the citizens of our state, we will be guaranteeing them the basic right of the people's choice. Many of my constituents requested that I propose this bill and many more have called with their support since it was introduced. This should not be a partisan issue, it should be an issue that we are proud to present to the people of the State of Maine and let them decide. I believe this is the 11th time that a line item veto has come before this body. It has been presented by both parties and defeated at one time or another by both parties. It is time that we let the people decide this issue.

I urge to vote against this motion. Mr. Speaker, when the vote is taken, I request a roll call.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: The item that we have before us, as you have heard the previous speaker tell us, it is indeed an old chestnut, one that keeps coming back, term after term. It doesn't make any difference who is in control but, strangely enough, when some of the members that graduate from the House of Representatives to the second floor, they seem to

change their position. Once they are on the second floor, it is quite the vogue to support line item vetoes but when they are in these chambers and truly want to represent their constituents, they follow the normal democratic and representative thing to do and vote against the line item veto.

The line item veto is, quite frankly, an interference in the authority of the representatives of the people. Those of you that have served here before and are serving here now are well aware of the fact that we operate under three equal branches of government, separate but equal. The legislative body has the authority to set policy; the executive branch has the authority to carry out those policies and the judicial branch has the authority to interpret the policies that comes out of this body.

Any change in its structure will change the balance of power. As a matter of fact, if this item passes, it would give the Governor, regardless of who he is, Democrat or Republican, undue influence over the legislative-making authority of this body.

You know, as Representatives of the people, you have to pay close attention to your constituents. It doesn't take too many of you to alienate before you are voted out of office. You represent slightly over 6,000, the Governor on the other hand, represents 1.2 million and he has to alienate quite a few people before he is voted out of office. Quite frankly, the only thing that I can see coming out of a line item veto would be the long arm of the Governor reaching into the policy-making body, this House and the other body, and tell some of you, "If you don't support my program, this line is coming out of the budget" and it may very well affect your backyard. Do we want the Governor to have that kind of authority, that kind of power to upset the balance?

The previous speaker also alluded to the fact that 43 states have granted their Governor the line item veto. I did some quick checking and memory searching and found that many of those states that have the line item veto are in trouble financially. They have deficits. There are seven states who do not have the line item veto. Let me read them to you: Indiana, Maine, Nevada, New Hampshire, Rhode Island and Vermont. The only one that has financial problems is New Hampshire and you all know why.

This bill is absolutely not necessary. The system is not broke and there is no need to fix it.

I would urge you to follow my light and vote "Ought Not to Pass."

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Hepburn.

Representative HEPBURN: Mr. Speaker, Members of the House: Just a couple of points I would like to make here that haven't been made. I think the most important thing to keep in mind is that, when the founding fathers were looking at the Constitution, they didn't really have any clue as to the way our budget making process would work as it does today.

The reality of it is for those of us who have been here a few times, we know what it is like and, for those of you who haven't had the opportunity to live through the last few days of a session, you will see (with great anticipation, I am sure) us getting the budget from the Appropriations Committee, it lands on our desk, we usually have to wait for it to be printed, it is late at night, there's almost never time to even thumb through it before it is time to vote. It gets rammed through usually under the hammer and occasionally there are a few words said. It is a massive document and we put tremendous faith into the Appropriations Committee to put into that budget what is right.

I think they are a tremendously hardworking committee and very dedicated legislators. This is nothing against them -- the only problem is that, just like us, they have a district to represent and they have a very, very special interest, just like I have a special interest. My special interest is District 100 which is in Skowhegan, and even though they are a very hardworking committee, there are 13 special interests on that committee and they look out for their own districts. There is only one individual in state government in Maine who is elected by all voters statewide and that individual is the Governor. For that reason, if for no other reason, it is very important that we allow that person a look at the budgets that go through this state and look at the individual lines rather than taking the whole package on an up or down deal.

I would urge you to vote against the pending motion and give the Governor of the State of Maine what 43 other Governor's in this nation have, a line item veto.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Hale.

Representative HALE: Mr. Speaker, I would like to pose a question through the Chair.

Does the Governor have a chance to go through the budget? It was my understanding that he has the opportunity to submit a budget for consideration. I think the Representative that just spoke mentioned that he didn't have a chance to look it over.

The SPEAKER: The Representative from Sanford, Representative Hale, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Presque Isle, Representative Lisnik.

Representative LISNIK: Mr. Speaker, Ladies and Gentlemen of the House: The Governor, obviously, has an opportunity to see the budget all along the process. His staff is working closely with our staff and with the Appropriations Committee. There are always threats to the committee that if a certain item is in the budget or if a certain item is not in the budget, that there may be a veto of the entire budget. I guess that is the ultimate threat.

As far as special interests, you are absolutely right, there are 13 members and 13 members, not only have their own interests at heart, they have the state's interests at heart. They have other legislators who have good ideas, good bills that need funding and they have their interests at heart as well. I assume that the Governor has their interests at heart too.

I would like to read a couple of things from legislating via veto that was in the state legislature in January of 1989. Wisconsin is usually the benchmark for the line item veto for whatever the reason and it says, "Looking at 542 item vetoes exercised by Wisconsin Governor's during 1975 through 1985, a University of Wisconsin political scientist, James Goseline -- they were used primarily as a tool of policy-making and partisan advantage rather than fiscal restraint." He goes on to say, "The real stimulus for the line item veto probably has more to do with the ascendancy of the legislative bodies as state fiscal policy-makers. Most state legislatures now have the resources to challenge the Governor on nearly every issue related to budget and taxation. In short, state legislature's now have the staff and the information to carry out fully their constitutional roles in the appropriations process, which is a co-equal role with the governorship." I think that is what we have to keep in mind here.

What we are talking about is really a balance. The Governor has certain prerogatives and the legislature has certain prerogatives.

As I said in caucus, the ultimate fiscal responsibility that the Governor has is his ability to control the revenue figures. We have no control over that. When we are putting together the budget, we can only respond to the figures that the Governor gives us.

Last year, there were certain things that we wanted to do that we were unable to do because, in the final analysis, the figures were not there. We walked away and a month later, the figures were there. That is how a Governor can control legislative spending or gubernatorial spending. I think that the checks and balances are there. As my good friend from Winslow said, "If it ain't broke, don't fix it."

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Hale.

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to respond to the good Representative from Skowhegan. I, too, have been here a few times.

I, too, have had to vote against my Governor's line item veto. I firmly believe that we have a responsibility as legislators and this power must not be usurped by the executive branch. I would even go further and say that I wouldn't even give it to the President of the United States.

We are elected to do a job. It may be unpleasant at times, we don't like it, but we have to do it. We will take the responsibility, not pass it on to someone else and not allow them to usurp the power of the Constitution -- that the people of the State of Maine have designated that we, as legislators, must take.

I urge you to vote with the majority.

The SPEAKER: A roll call has been requested. 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 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 pending question before the House is the motion of the Representative from Winslow, Representative Carter, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 4

YEA - Adams, Aliberti, Allen, Anthony, Bell, Boutilier, Brewer, Burke, Cahill, T.; Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, Dipietro, Dore, Duffy, Dutremble, L.; Farnsworth, Foss, Foster, Gould, R. A.; Graham, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hickey, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, LaPointe, Larrivee, Lawrence, Lisnik, Look, Lord, Luther, Macomber, Mahany, Manning, Marston, Martin, H.; Mayo, McGowan, McHenry, McKee, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, Nadeau, G. R.; Nutting, O'Dea, O'Gara, Oliver, Paradis, E.; Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Plourde, Pouliot, Rand, Richard, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Smith, Strout, D.; Swazey, Tammaro, Tardy, Telow, Townsend, Tracy, Walker, The Speaker.

NAY - Aikman, Anderson, Ault, Begley, Butland, Carroll, J.; Curran, Dellert, Dexter, Donald, Farnum, Farren, Garland, Greenlaw, Hanley, Hepburn, Higgins,

Hutchins, Jackson, Lebowitz, Libby, MacBride, Marsano, McCormick, McPherson, Merrill, Norton, Parent, Pendleton, Pines, Reed, Richards, Seavey, Sherburne, Small, Stevens, A.; Stevenson, Strout, B.; Tupper, Webster, M.; Wentworth.

ABSENT - Bailey, Conley, Erwin, P.; Hastings, Marsh, Nadeau, G. G.; Priest, Skoglund, Stevens, P.; Whitcomb.

Yes, 100; No, 41; Absent, 10; Paired, 0; Excused, 0.

100 having voted in the affirmative and 41 in the negative with 10 being absent, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

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

Bill "An Act to Expand the Types of Medication Included in the Elderly Low-cost Drug Program" (H.P. 229) (L.D. 313)

TABLED - April 5, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Engrossed.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be engrossed and specially assigned for Monday, April 10, 1989.

The Chair laid before the House the following item: Bill "An Act to Encourage the Continuation of Obstetrical Services in the Medicaid Program" (H.P. 769) (L.D. 1073) which was tabled earlier in the day and later today assigned pending reference.

(The Committee on Banking and Insurance had been suggested.)

On motion of Representative Rydell of Brunswick, was referred to the Committee on Banking and Insurance, ordered printed and sent up for concurrence.

On motion of Representative Gwadosky of Fairfield, the House reconsidered its action whereby (H.P. 104) (L.D. 141) Bill "An Act to Provide Credit for Braille Courses" (H "A" H-52) was passed to be engrossed.

On further motion of the same Representative, the House reconsidered its action whereby House Amendment "A" (H-52) was adopted.

On further motion of the same Representative, House Amendment "A" was indefinitely postponed.

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (H-44) was indefinitely postponed.

Subsequently, Committee Amendment "A" (H-44) was adopted and the Bill passed to be engrossed as amended by Committee Amendment "A" and sent up for concurrence.

(At Ease)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 1 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

The following Joint Order: (S.P. 415)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Monday, April 10, 1989, at 9 o'clock in the morning.