

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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APPENDIX

HOUSE

Monday, January 30, 1978

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Reverend Elizabeth A. Habecker of St. Ann's Episcopal Church, Windham.

Reverend HABECKER: Let us Pray. O God, the source of wisdom, whose statutes are good and gracious and whose law is truth, guide and support our Representatives in the Legislature of this State, that by just and prudent laws they may promote the well-being of all our people through Jesus Christ, Our Lord. Amen.

The members stood at attention during the playing of the National Anthem by the Gardiner High School Band.

The journal of the previous session was read and approved.

**Papers from the Senate
Reports of Committees
Divided Report**

Majority Report of the Committee on Veterans and Retirement reporting "Ought Not to Pass" on Bill "An Act to Remove the 6-month Provision in applying Cost-of-living Adjustments to Retirement Allowances of Retirees" (S. P. 621) (L. D. 1909)

Report was signed by the following members:

Mr. Collins of Knox, Mr. O'Leary of Oxford, Mr. Lovell of York — of the Senate.

Ms. Clark of Freeport, Mr. Theriault of Rumford, Mr. Austin of Bingham, Mr. Nelson of Roque Bluffs, Mr. Lougee of Island Falls, Mr. Bunker of Gouldsboro — of the House.

Minority Report of the same committee reporting "Ought to Pass" on same Bill.

Report was signed by the following members:

Mr. Laffin of Westbrook, Mr. Hickey of Augusta, Mr. Plourde of Fort Kent, Mr. MacEachern of Lincoln — of the House.

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

In the House: Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Rumford, Mr. Theriault.

Mr. THERIAULT: Mr. Speaker and Members of the House: I move that we concur with the Senate and accept the "Ought Not to Pass" Report.

The SPEAKER: The gentleman from Rumford, Mr. Theriault, moves that the House accept the Majority "Ought Not to Pass" Report in concurrence.

The Chair recognizes the gentleman from Westbrook, Mr. Laffin.

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: (L. D. 1909) affects those members of the teaching profession who retired between March 1 and August 31 by applying the cost-of-living benefits to those retirement payments 12 months earlier than it is now under the current law.

Many times in committee we wrestled with a similar problem last year, we probably always will and probably have been long before I was here, but I would like to explain to you what this does and let you, yourselves, decide.

Persons who retire before its effective date are not subject to this provision. Therefore, I feel that with the cost of living, the teachers of this state should be given consideration by the membership of this House. The six-month provision in applying cost-of-living adjustments was added in (L. D. 1705) by the committee prior to the enactment of 1075 last year. (L. D. 1075) provided for cost-of-living adjustments based on the consumer price index. It operated as follows: Each year, retiree benefits are adjusted automatically depending upon the percentage change in the consumer price index

from July 1 to June 30. I think that anyone who retires during the tacking-on period must wait for the September 2 adjustment to receive those benefits.

I think what we are dealing with, and I can understand the anxiety of many of the committee members who voted against this bill, is the cost price. Well, we don't have a cost price, we don't know for sure. I am sure that the good gentleman from Rumford, Mr. Theriault, would have some price figure on this, but I don't have it at the present time. I think there is more at stake here this morning than just an increase based upon the consumer price index, because many of our retired teachers who taught so many years ago and are retired today, inflation has truthfully and honestly just about wrecked them.

When you talk about a person living on \$120 a month, a single person, especially an elderly person, where their fuel and their utilities and even their loaf of bread costs the very same as ours, I don't think that we are giving them the consideration nor the respect nor the dignity that we should be giving those elderly people. We are not talking about young people making fifteen and eighteen thousand dollars in the school systems today, we are talking about people who never earned probably more than — and this is exaggerating — \$6,000 a year in their lifetime, and I think this is the important part of this package. The important part that we are talking about today is, should we allow dedicated men and women who have dedicated their lives and their services for education purposes of this state — that is the issue and that is what we are talking about.

I don't like to keep bringing this up on the floor of the House, but they could do so much better on welfare and give-away programs and social services, and I don't think these people want that. I think that this House, regardless of what anyone else does in this establishment, we should act on a bill that is presented to us on its own merits. What the other body does is their prerogative and what we do is ours.

In all good conscience, I cannot, this morning, let this bill go under the hammer to kill it. It would be unfair to so many retired teachers of this state who need this added income so desperately. I hope the members of this House will not support the good gentleman from Rumford, my chairman, but in turn support me this morning. It is very seldom that I ask the members of this House publicly to support me. If they don't, so be it; if they do, so be it, but this morning I am asking the members of this House to keep this bill alive. I am asking the members of this House to do something that I feel is in the best interest of people living on such a small income for retirement, and I feel that if we let this go by this morning, if this bill is allowed to die without fighting it down to the last person, then you will have done an injustice to a great many elderly people in this state; namely, retired school teachers living on a fixed income.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Hickey.

Mr. HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: As a signer of the minority report, I hope you will vote against the majority report and help to bring some justice into the present law.

There are many inequities in the present law which the present bill would rectify. The law requires that there be a cost-of-living adjustment once a year, in September. A person under the present law would be required to retire in February to gain the advantages of the cost-of-living index, where a person who retires in June would be required to wait over a full year to receive the cost-of-living increase in the next year.

Unfortunately, we haven't received any report on the cost of this bill, but I hope in your consideration that you will vote against the majority report.

The SPEAKER: The Chair recognizes the gentleman from Rumford, Mr. Theriault.

Mr. THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House: My friend Mr. Laffin and I have a different idea of the issues in this bill. For me, the issue in this type of bill is always the sound financial standing of our retirement system. Anything that erodes that is bad, and that is the issue as far as I am concerned.

When the cost of living index automatic increase was designed, the six-months' delay period had a definite purpose. In many systems, the use of the cost of living index automatic increase, a full year is required to lapse before the retiree is eligible for an automatic increase. The reasoning is, and the mathematics is, the person who keeps on working generally has the benefits of an increase in the wage level which comes about as inflation goes on and wages are increased. Therefore, that person, when he does retire, is blessed with a higher base for his permanent benefits, so if you give the four percent increase to the person who has just had the benefit of a wage increase, you are compounding the effect of your benefits.

For example, say that the average salary of these people is \$9,000, and I am basing this on the salaries of teachers, a \$9,000 a year average. If you were to give them an increase of four percent, that would be \$170 or \$180 a year. There are about 400 teachers retiring each year, and that would cost the State Retirement System \$68,000 a year. Each year that goes by, the increase would be there, and this is merely on the teachers. There are other members of the retirement system who would be retiring and would be taking advantage of this. Therefore, the price would be more than \$68,000. In our working session, in fact, the cost came to over a hundred thousand dollars a year. All this weakens our system, and we want to keep that system in a good financial condition. I hope you go with the "ought not to pass" report.

The SPEAKER: The Chair recognizes the gentleman from Winthrop, Mr. Bagley.

Mr. BAGLEY: Mr. Speaker, Ladies and Gentlemen of the House: I very seldom disagree with the gentleman from Rumford. It seems to me that he has a sound grasp of this whole retirement system and I have supported him almost entirely. Today, there is one phase that I am unable to agree with him on. The fact is, if teachers — it doesn't affect state employees much because they retire anytime as far as the calendar is concerned, but teachers normally end their service at the end of June. Now, if they retire at the end of June, they do not get the cost-of-living increase in September. If they retire in February, they do.

We used to have a system that took care of things like that. We had a letter of intent. All a teacher had to do was sign a letter of intent stating that he or she was planning to retire at the end of June and any increases coming within the limited time after that were applied. The teacher had to get that letter in six months before. That gave everybody a chance to know exactly how much money was going to be involved and so forth. I am afraid that if something like that isn't done, we are going to be losing teachers in February, which will disrupt the school systems to some extent. The teacher that was handling the class for the first half of the year would have to be replaced by someone else, possibly a beginner, in the middle of the year, which isn't good.

I am afraid the teachers would be retiring in order to collect that four percent in September, and as this says, they must retire six months before. So, it seems to me that in the long run we would be better off to put an amendment on this bill that would require a letter of intent if a teacher is going to retire in June, a definite statement which must be lived up to, rather than passing this thing as it is.

I hope you will accept the minority report

and then we can put an amendment on it that will take care of that letter of intent.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Rumford, Mr. Theriault, that the House accept the Majority "Ought Not to Pass" Report in concurrence. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Theriault of Rumford requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker and Members of the House: I recognize the inequities that exist between teachers and state employees. I would also go along with Mr. Bagley's suggestion for an amendment to the bill. But basically, my concern is that the legislature, over the years, has enacted piecemeal legislation that has a very adverse effect upon the State Retirement System, and if you are aware of what the actuary said some months ago, there should be some concern in this body for the retirement system.

Passing legislation without putting dollars behind it is a constant nibbling away at the solvency of the fund. Teachers who taught prior to 1942 were rewarded with a state retirement, and that has drained out of the retirement system something over \$80 million and there is more to be drained out before the program ceases.

You have to be aware of what you are doing all the time.

The SPEAKER: The Chair recognizes the gentleman from Rumford, Mr. Theriault.

Mr. THERIAULT: Mr. Speaker and Members of the House: This is not only a matter of teachers, but it was brought out by one of the speakers in opposition that there is an injustice to the old and elderly. These people that are retiring may be old, but they are not that old because generally they are retiring now at 60 and I believe they can even retire at 55. So that part of it is not an injustice to the old.

Another part of it is, they are probably retiring at \$4,500 a year, and that is not peanuts either. I don't think that is an injustice.

I understand this business of the six months causing some disturbance in the schools, but they are all saying that there are a lot of teachers who are unemployed. Well, this is one way of putting some of them to work six months sooner; that is all it amounts to.

The SPEAKER: The Chair recognizes the gentleman from Rogues Bluff, Mr. Nelson.

Mr. NELSON: Mr. Speaker, Ladies and Gentlemen of the House: I think it is only fair to explain why I signed this bill "ought not to pass." We know that it is going to cost something, and with no fiscal note on the end of this bill, I did not want to pass something that might obligate the people in the State of Maine for quite a lot of money.

I don't think we are taking anything away from the teachers or any retired person. I can't see where it is going to take anything. We may be prolonging their getting their raise for a few months, but as far as making it a hardship on them, I don't think this is so. This is why I signed the bill "ought not to pass."

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Laffin.

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: A couple of things have been said here this morning pertaining to hardships of retired people. Well, they are not talking about people who are retired and making

large sums of money like teachers and others, as has been brought up this morning; that is not the point or the purpose of this bill at all. If the people were retiring with a large income at an early age, if that type of a bill was put before this legislature, it wouldn't get to first base, but those same people are refusing to tell you that we have people living \$120 a month. Why don't they bring that up this morning? How many of those do we have? You are not hearing that from the other side of the aisle, and I will tell you why you are not hearing it, because they don't want you to know it, that is why. They don't want you to know that we have people who are living on a small income that could make more money on welfare, give-away programs, handouts; that is why they are not telling you.

The SPEAKER: The Chair recognizes the gentleman from Rumford, Mr. Theriault.

Mr. THERIAULT: Mr. Speaker and Members of the House: I am sure that my friend, Mr. Laffin, is confused. This bill has nothing to do with those people who get \$120 a month. No matter what we do with this bill, this will not affect those people getting \$120 a month. This affects the teachers or the state employees who are retiring within six months of the increase of four percent. This would affect those teachers because they would not get the four percent if they retired within the six-month period before the increase went into effect. This is all it will affect, and those people, on the average, are going to get \$4,500 a year for their retirement. That is a lot more than \$120 a month. The \$120 a month people are not affected by this bill whatsoever, not a bit, no matter what we do with this.

The SPEAKER: The Chair recognizes the gentleman from Freeport, Ms. Clark.

Ms. CLARK: Mr. Speaker, Men and Woman of the House: I wish we would confine our remarks this morning to the effect of this bill.

At the public hearing on this measure, the Maine Superintendents Association testified that they supported this bill to alleviate any potential retirements of current personnel within their systems half way through the academic year, approximately in the month of February. They did not testify that they had experience an avalanche of early retirees among those currently employed personnel within their systems who were retiring in order to (1) gain the usual annual increase in teachers' salaries, and (2) to qualify for the six-months requirement so that they, in turn, in September, would qualify for the up to four percent cost-of-living index.

The fact of the matter remains that the school systems across the state have not yet experienced this tide of retirees in the middle of the academic year. As a matter of fact, they don't know yet whether or not it will occur and I as a teacher, in my other occupation, would suggest to you that teachers across the state will not retire in the middle of the year, thus breaking their professional faith and their contract with their local school system.

I think that his bill does challenge the integrity of the retirement system, and that is why I joined with the majority, as well as the chairman of this committee, in signing out "ought not to pass."

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

Mr. JENSEN: Mr. Speaker, I would like to pose a question to the chairman of the committee. Presently, this bill proposes to stand, I guess, an additional hundred thousand dollars or so from the retirement system without putting more money in it. I wonder if the chairman of the committee could tell me what the present unfunded liability is in the Maine State Retirement System.

The SPEAKER: The Chair recognizes the gentleman from Rumford, Mr. Theriault.

Mr. THERIAULT: Mr. Speaker and Members of the House: That is a tough question to

answer, but the way it was put to us, the entire payroll of the state is now, I think, over \$300 million a year, and our unfunded liability was twice that amount, so that would make it over \$500 million.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Rumford, Mr. Theriault, that the Majority "Ought Not to Pass" Report be accepted in concurrence. All those in favor will vote yes; Those opposed will vote no.

ROLL CALL

YEAS: Alopis, Ault, Benoit, Biron, Birt, Boudreau, A.; Boudreau, P.; Brown, K.L.; Brown, K.C.; Bunker, Carter, D.; Carter, F.; Clark, Connors, Cunningham, Davies, Devoe, Dexter, Diamond, Drinkwater, Dudley, Durtremble, Elias, Garsoe, Gill, Goodwin, H.; Green, Greenlaw, Howe, Huber, Hughes, Hutchings, Immonen, Jackson, Jensen, Kany, LaPlante, Lewis, Lizotte, Lougee, Lunt, Lynch, Mackel, Marshall, Masterton, Maxwell, McBreairey, McHenry, McMahon, McPherson, Mitchell, Moody, Morton, Nelson, M.; Nelson, N.; Palmer, Peakes, Peltier, Perkins, Peterson, Post, Quinn, Raymond, Rideout, Rollins, Sewall, Silsby, Smith, Spencer, Sprowl, Stover, Talbot, Tarbell, Theriault, Tierney, Torrey, Trafton, Valentine, Whittemore.

NAYS: Bagley, Beaulieu, Bennett, Berube, Blodgett, Brennerman, Burns, Bustin, Carey, Carrier, Carroll, Chonko, Churchill, Connolly, Cote, Cox, Curran, Dow, Fenalson, Flanagan, Fowlie, Gillis, Goodwin, K.; Gould, Gray, Hall, Henderson, Hickey, Jacques, Joyce, Kane, Kelleher, Kilcoyne, Laffin, Littlefield, Locke, MacEachern, Mahany, Martin, A.; Masterman, Nadeau, Najarian, Norris, Paul, Pearson, Plourde, Prescott, Shute, Strout, Stubbs, Tarr, Tozier, Truman, Twitchell, Violette, Wood, Wyman.

ABSENT: Austin, Bachrach, Berry, Durgin, Higgins, Hobbins, Hunter, Jalbert, Kerry, McKean, Mills, Teague, Tyndale, Wilfong, The Speaker.

Yes, 79; No, 57; Absent, 14.

The SPEAKER: Seventy-nine having voted in the affirmative and fifty-seven in the negative, with fourteen being absent, the motion does prevail.

Non-Concurrent Matter

Bill, "An Act to Increase the Bonding Limit of the Maine State Housing Authority" (Emergency) (H. P. 1880) (L. D. 1934) which was passed to be engrossed as amended by House Amendment "A" (H-965) in the House January 23, 1978.

Came from the Senate passed to be engrossed as amended by Senate Amendmen "A" (S-446) in non-concurrence.

In the House: The House voted to recede and concur.

Messages and Documents

The following Communication:

State of Maine

DEPARTMENT OF EDUCATION

AND CULTURAL SERVICES

Augusta, Maine.

January 26, 1978

To: Edwin H. Pert, Clerk of the House
May M. Ross, Secretary of the Senate
Otto W. Siebert, State Budget Officer
From: H. Sawin Millett, Jr., Commissioner
Re: Certification of Education Funding Levels, 1978-79

Pursuant to the provisions of 20 M.R.S.A., section 3745, I am required to certify annually, prior to February 1st, to the Legislature and to the Bureau of the Budget my recommendation for the funding levels for each of the program categories in the School Finance Act for the following fiscal year. My recommendation is also required to carry with it the approval of the State Board of Education.

The figures in the column headed "Allocation" on the attached exhibit represent my certifica-

tion. These recommended funding levels have received the approval of the State Board of Education at its meeting of January 24, 1978. I wish to call to your attention the fact that these funding levels are being certified in accordance with present law notwithstanding the fact that statutory changes affecting the basis for funding education costs for FY 1979 may be approved during this session of the 108th Legislature.

I want to further call to your attention the fact that the State Board of Education voted at its January 24, 1978, meeting to express its concern that the State's participation in the "local leeway" program is no longer keeping pace with its original level of participation because of increases in state valuation.

CERTIFICATION OF TOTAL EDUCATION COSTS

PART A

	Allocation	
1. Elementary and Secondary Operating Costs	\$235,094,512	
2. Special Education for Programs Operated by the Administrative Units	\$11,243,829 @ 90%	10,119,446
3. Special Education tuition & board excluding Medical Costs		
a. For pupils placed by administrative units	3,932,356 @ 90%	3,539,120
b. Adjustments under section 3748, subsection 3, paragraph H		200,000
4. Vocational Education Costs	8,339,267 @ 90%	7,505,340
5. Transportation Costs		
a. Operating	19,287,895 @ 90%	17,359,106
b. Purchase of Buses		2,999,461
6. Debt Service Costs		
a. Principal & Interest		26,500,000
b. Insured Value Factor		322,227
c. Approved Leases		464,525
TOTAL - Part A		\$304,103,737

PART B

7. Cost of Unusual Enrollment Adjustments	650,000
8. Cost of Geographic Isolation	267,642
9. Cost of Adjustment for Small Administrative Units	85,000
10. Special Education tuition & board excluding Medical Costs for State wards and other pupils placed directly by the State	175,000
11. Cost of reimbursement for Private School Transportation	308,812 @ 90%
12. Audit Adjustments	50,000
13. Optional Local Appropriations with State Participation Maximum State Obligation	5,800,439
TOTAL - Part B	\$ 7,306,012
GRAND TOTAL	\$311,409,749

The Communication was read and ordered placed on file.

The following Communication: (S. P. 685)
January 26, 1978
Governor James B. Longley and Members of the 108th Legislature Pursuant to Chapter 11, Resolves, 1977, enacted by the 108th Legislature in the first regular session, these offices have completed the feasibility study as directed with reference to transferring the functions of the Motor Vehicle

Division to the Department of Transportation. Forwarded herewith are the results of our findings, along with draft legislation that would be necessary to implement these findings. (Signed)

Honorable MARKHAM L. GARTLEY
(Signed) Secretary of State
ROGER L. MALLAR, Commissioner
Department of Transportation

Came from the Senate read and with accompanying papers placed on file.

In the House, the Communication was read and with accompanying papers ordered placed on file in concurrence.

The following Communication:
UNIVERSITY OF MAINE at Orono
Division of Research and Public Services
Bureau of Public Administration
January 19, 1978

Mr. Ed Pert
Clerk of the House
State House
Augusta, Maine 04330
Dear Mr. Pert:

Enclosed please find the annual report on the operation of the State Government Internship Program as required by the Maine State Statutes, Chapter 14, paragraph 294.

(Signed) Sincerely,
KATHRYN H. GODWIN
Director

The Communication was read and with accompanying papers ordered placed on file.

**Petitions, Bills and Resolves
Requiring Reference**

The following Bills were received and, upon recommendation of the Committee on Reference of Bills, were referred to the following Committees:

Local and County Government

Bill, "An Act to Set Off a Portion of Land from the Town of Wales and Annex the Same to the Town of Sabattus" (H. P. 2058) (L. D. 2116) (Presented by Mr. LaPlante of Sabattus) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 25) (Ordered Printed)
Sent up for concurrence.

Taxation

Bill, "An Act to Improve Property Tax Statutes" (H. P. 2057) (L. D. 2115) (Presented by Mr. Hall of Sangerville) (Governor's Bill) (Ordered Printed)
Sent up for concurrence.

Study Report

Pursuant to Legislative Council

Mr. Mackel from the Committee on Taxation to which was referred the study relative to the Taxation of the Unorganized Territory have had the same under consideration, and ask leave to submit its findings and to report that the accompanying Bill, "An Act Relating to the Taxation of the Unorganized Territory" (H. P. 2059) (L. D. 2117) to be referred to this Committee for Public Hearing and printed pursuant to Joint Rule 17.

Report was read and accepted, the Bill referred to the Committee on Taxation, ordered printed and sent up for concurrence.

By unanimous consent, the previous Bills requiring reference in concurrence were ordered sent forthwith to the Senate.

Orders

An Expression of Legislative Sentiment (H. P. 2052) recognizing that

The Acadian Village — Heritage Vivant, which was organized by the Heritage Vivant and which is the only reconstructed village in Maine, has been placed on the National Register of Historic Places.

Presented by Mr. Violette of Van Buren. (Co-

sponsor: Senator Martin of Aroostook)

The Order was read.

The SPEAKER: The Chair recognizes the gentleman from Van Buren, Mr. Violette.

Mr. VIOLETTE: Mr. Speaker, Ladies and Gentlemen of the House: It gives me a great deal of pleasure today to introduce this order recognizing the Heritage Vivant and the work it has done in preserving the unique culture of the St. John Valley.

This committee has taken upon itself the duty of preserving this culture by reconstructing an Acadian village which presently consists of about 15 buildings located between the towns of Van Buren and Grand Isle, in the area commonly known as le cruches des dandies. They also have a museum site in the Town of Van Buren. This complex is the only reconstructed village in the State of Maine and as such has been recognized and placed on the National Register of Historic Places.

These people have been working very hard, and it gives me a great deal of pride to recognize them in this way.

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

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

Mr. Curran from the Committee on State Government on Bill, "An Act to Establish and Apply a Policy on the Classification of Major Policy-influencing Positions Below the Head of State Department and Agencies" (H. P. 671) (L. D. 729) reporting "Ought to Pass" in New Draft (H. P. 2051) (L. D. 2111)

Mr. Blodgett from the Committee on Natural Resources on Bill, "An Act Relating to Incinerator Particulate Emission Standard for Wood Waste Teepee Burners" (H. P. 1924) (L. D. 1985) reporting "Ought to Pass" in New Draft (H. P. 2053) (L. D. 2112)

Mr. Brenerman from the Committee on Health and Institutional Services on Bill, "An Act to Permit Portable Breath Testing Equipment" (H. P. 1920) (L. D. 1981) reporting "Ought to Pass" in New Draft under New Title Bill, "An Act to Permit Self-Contained Breath Testing Equipment" (H. P. 2054) (L. D. 2113)

Reports were read and accepted, the New Drafts read once and assigned for second reading tomorrow.

Divided Reports

Majority Report of the Committee on Veterans and Retirement reporting "Ought Not to Pass" on RESOLVE, Authorizing a Partial Disability Pension under the Maine State Retirement System to William T. Bachelder of Baldwin (H. P. 1970) (L. D. 2050)

Report was signed by the following members:

Mr. Collins of Knox, Mr. Lovell of York, Mr. O'Leary of Oxford - of the Senate.

Ms. Clark of Freeport, Mr. Hickey of Augusta, Mr. Nelson of Rogue Bluffs, Mr. Lougee of Island Falls, Mr. Bunker of Gouldsboro, Mr. Austin of Bingham, Mr. Theriault of Rumford, Mr. Plourde of Fort Kent, Mr. MacEarchern of Lincoln - of the House.

Minority Report of the same Committee reporting "Ought to Pass" on same Resolve.

Report was signed by the following member: Mr. Laffin of Westbrook - of the House.

The SPEAKER: The Chair recognizes the gentleman from Rumford, Mr. Theriault.

Mr. THERIAULT: Mr. Speaker and Members of the House: I move we accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Gentleman from Rumford, Mr. Theriault, moves we accept the Majority "Ought Not to Pass Report.

The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to briefly describe the situation that this bill was in-

tended to address and to ask your support to reverse the majority report of the committee.

The bill would authorize a state pension at 50 percent of two-thirds final compensation for a former employee of the Men's Correctional Center in Windham. This employee worked at the Men's Correctional Center in a special treatment unit for seven years, and at the end of those seven years developed a nervous condition that prevented him from being able to continue his job. He was the single person who was charged with the people in solitary confinement, the people at the Men's Correctional Center who suffered from mental retardation problems, from behavior problems, homosexuality problems. He was there for seven years working in this high security special treatment unit, and over the course of that time he developed a series of problems relating to depression, to inability to deal with the smallest kinds of irritations at home. He developed heart pains and numbness in his arms and a series of physical problems which were related to the nervous conditions that developed as a result of his employment.

He finally left the state employment in this special treatment unit as a result of these problems and at the time resigned and withdrew his money from the State Retirement System. The nervous condition that he had as he retired from state employment has combined with a whole series of physical ailments which have overtaken him, including diabetes and arthritis, so that he is now completely disabled at the age of 45. He has not been able to find employment and he can't work.

He had seven years of service with the state, and at the time he left state employment, he did not recognize that this situation was going to develop into a disability. It is a situation of a person who had seven years of state service, he had eight years of military service before that and he has no pension from any of that service to the public and his disability is now a combination of his arthritis and his emotional conditions, and this would authorize a pension based on 50 percent of his final compensation, recognizing that his disability is half due, or at least it is in part due to the condition that developed in state employment and part due to the physical problems that have developed since.

The SPEAKER: The Chair recognizes the gentleman from Rumford, Mr. Theriault.

Mr. THERIAULT: Mr. Speaker and Members of the House: This is another one of those bills that is hard to turn down. There is no doubt that Mr. Bachelder needs this help; there is no doubt that he is disabled. The question arises, is it the state responsible for his disability? I maintain that the state is not. It came out at the hearing that his disability is caused to a great degree, the greatest degree, by arthritis. That started bothering him before he came to work for the state way back in 1955. He also has diabetes which no doubt adds to his disability, and the state cannot be blamed for that.

Another matter, Mr. Bachelder made another error when he left state employment. He withdrew all his contributions, thus cutting himself off from any retirement benefits whatsoever. It may be said that he did not know what he was doing, but everyone, when they become members of the State Retirement System, gets a good telling them what the benefits are and what happens to their benefits if they withdraw their contributions. It seems to me that anyone interested in their future would make sure he knew what he was losing when he resigned his job.

The factor in my voting "ought not to pass," however, is the cost, \$31,560. Mr. Bachelder is now receiving \$200 a month from the Veterans Administration for a non-service connected disability — that is for 100 percent disability.

I hope you go along with me on the "ought not to pass" report.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the

gentleman from Rumford, Mr. Theriault, that the Majority "Ought Not to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken. 86 having voted in the affirmative and 13 having voted in the negative, the motion did prevail.

Sent up for concurrence.

Consent Calendar

First Day

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

(H. P. 1925) (L. D. 1986) Bill, "An Act to Clarify the Law Concerning the Posting of Bonds by Electric Companies with the Department of Environmental Protection for Certain Licenses or Permits" - Committee on Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-986).

No objections being noted, the above item was ordered to appear on the Consent Calendar of January 31, under listing of the Second Day.

(H. P. 1914) (L. D. 1975) Bill, "An Act Concerning Substitution of Generic Drugs by Pharmacists." Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (H-987)

On the objection of Mrs. Post of Owls Head, was removed from the Consent Calendar.

Thereupon, the Report was read and accepted and the Bill read once.

Committee Amendment "A" (H-987) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

(S. P. 617) (L. D. 1905) Bill, "An Act to Enable the Purchase and Administering of Barbiturates for the Euthanasia of Pets and Animals." Committee on Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (S $\frac{1}{2}$ 445)

(S. P. 620) (L. D. 1908) Bill, "An Act to Clarify the Definition of Residence for Purposes of the Inland Fisheries and Wildlife Laws" (Emergency) Committee on Fisheries and Wildlife reporting "Ought to Pass".

No objections being noted, the above items were ordered to appear on the Consent Calendar of Tuesday, January 31, under the listing of the Second Day.

Consent Calendar

Second Day

In accordance with House Rule 49 the following items appeared on the Consent Calendar for the Second Day:

(H. P. 1858) (L. D. 1925) Bill "An Act to Permit Persons Other Than Arborists to Take Down Trees by Topping or Sections" (Emergency) (C. "A" H-981)

On the objection of Mrs. Najarian of Portland, was removed from the Consent Calendar.

Thereupon, the Report was read and accepted, and the Bill read once.

Committee Amendment "A" (H-981) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

(H. P. 1930) (L. D. 2003) Bill "An Act to Allow the Town of Otisfield to Meet its Obligations to Cumberland County for Existing Bonded Indebtedness Through a Lump Sum Payment" (Emergency)

On the objection of Mrs. Tarr of Bridgton, was removed from the Consent Calendar.

Thereupon, the Report was read and accepted, the Bill read once and assigned for second reading tomorrow.

(H. P. 1907) (L. D. 1968) Bill "An Act to Reorganize Certain Boards and Commissions and to Affiliate Certain Boards and Commis-

sions with Departments of Maine State Government" (C. "A" H-982)

No objections having been noted at the end of the Second Legislative Day, the House Paper was passed to be engrossed and sent up for concurrence.

Passed to Be Engrossed

Amended Bill

Bill "An Act to Exempt Special Mobile Equipment from the Motor Vehicle Title Statutes" (H. P. 1901) (L. D. 1962) (C. "A" H-980)

Was reported by the Committee on Bills in the Second Reading and read the second time.

On motion of Mr. McPherson of Eliot, the House reconsidered its action whereby Committee Amendment "A" (H-980) was adopted.

The same gentleman offered House Amendment "A" to Committee Amendment "A" (H-983) and moved its adoption.

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

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

The Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto and sent up for concurrence.

Passed to Be Enacted

"An Act to Amend the Maine Tort Claims Act" (S. P. 624) (L. D. 1941) (C. "A" S-439)

"An Act to Clarify the Statute Relating to Attorneys so that Nonattorneys may Appear in Small Claims Court on Behalf of Corporations" (H. P. 1918) (L. D. 1979) (C. "A" H-972)

"An Act to Empower Administrative Hearing Officers to Sign Fair Hearing Decisions" (H. P. 1945) (L. D. 2024)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

RESOLVE, Authorizing the Sale by the Department of Mental Health and Corrections of a Certain Parcel of Land Adjacent to the State Prison in Thomaston to Allan L. Robbins and Verla W. Robbins (H. P. 1926) (L. D. 1987) (C. "A" H-967)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the gentleman from Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: I have a couple of questions and I hope that somebody from the committee can answer them.

As I came in this morning and read the L. D., I was asked by someone in the Thomaston area to ask these questions so that I might be able to convey them back to him.

It seems that in 1965 this land was taken by eminent domain. One of the questions here pertains to this, that if this was taken by eminent domain and you read in the Statement of Fact which says that there was an informal agreement that the Robbins would have a life estate in the land and barn subject to this Resolve, one of the questions that I pose is, if there was an informal agreement back in 1965, for what reason was it taken by eminent domain? One of the other questions is that back when it was taken by eminent domain, was there any fee paid to the Robbins at this time, and if so, how much?

The other question is that with the amendment, if this passes, the way I read it, no one else, if they were interested, would be able to purchase this land.

I am not going to get all up tight over this, but I would like to have someone answer these questions.

The SPEAKER: The gentleman from Corinth, Mr. Strout has posed a series of questions through the Chair to anyone who may respond if they so desire.

The Chair recognizes the gentleman from Portland, Mr. Curran.

Mr. CURRAN: Mr. Speaker, Ladies and Gentlemen of the House: The particular L. D. that we are talking about here, it is my understanding that when the property was taken by eminent domain, there was some reimbursement — how much, I don't remember.

As to whether or not someone else can go after this piece of land, the answer there would be no. It is being sold to Allan Robbins and the reason that it was being sold, a lot of the consideration is the location of this particular barn and what we are talking here is a barn that is located adjacent to Mr. Robbins' driveway to his property and it would be of no use except to that particular individual, and the committee felt that it would be proper, for fair market value, to allow him to buy this piece of land. The department, the warden and everyone else concerned has endorsed it and the committee felt that it was a just and proper way to proceed.

Thereupon, the Resolve was finally passed, signed by the Speaker and sent to the Senate.

RESOLVE, Authorizing the Director of the Bureau of Public Lands to Lease the Right to Lay and Maintain a Certain Right-of-Way for Forty Years (H. P. 1960) (L. D. 2043) (C. "A" H-968)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, the Resolve was finally passed, signed by the Speaker and sent to the Senate.

By unanimous consent, the preceding enactments were ordered sent forthwith to the Senate.

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

Bill "An Act to Restore Notice to Policyholders of Right to a Hearing upon Nonrenewal of their Automobile Insurance Policy" (S. P. 613) (L. D. 1901)

Tabled — January 27, 1978 by Mr. Palmer of Nobleboro.

Pending — Passage to be Engrossed.

Mr. CONNERS of Franklin offered House Amendment "A" (H-985) was and moved its adoption.

House Amendment "A" (H-985) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Franklin, Mr. Conners.

Mr. CONNERS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to read the last part of this: "In addition, no policy may be cancelled within 30 days of the date that the insured has been notified by certified mail, with return receipt requested, that the policy be cancelled." This amendment provides that no automobile insurance policy may be cancelled within 30 days of date of notification by certified mail, with return receipt requested, that the policy is being cancelled. I have had some opposition to this and I have had some in favor of it.

Over the years, a number of people have found that they have been driving without the proper insurance, having it cancelled without due notice. This amendment will provide that notification of cancellation be done by certified mail with return receipt. The cost of certified mail is somewhere between 20 and 30 cents. If a policyholder refuses to accept this mail, it is so noted on the mail and returned to the sender to put on file within the insurance office. If a policyholder has moved and left no forwarding address, this mail will be so noted on the mail and then put on file with the company for future reference.

I would think that at this low cost of 20 to 30 cents, this could protect the insurance agent and also assist in case there is any suit brought on an undue cancellation of his policy.

The SPEAKER: The Chair recognizes the gentlewoman from Freeport, Ms. Clark.

Ms. CLARK: Mr. Speaker, Men and Women of the House: I move the indefinite postponement of this amendment.

The concept embodied in this amendment is one difficult to resist. For people whose automobile insurance is to be cancelled, I believe, do have a right to receive adequate notice. Certified mail has many ramifications, not only to the insuree but to the insurer.

The fact that the notice of cancellation has been sent by certified mail does not constitute notification if the person who is to receive that notification refuses it or provides no forwarding address. That is a deterrent to the insurance cost as well as the administration of insurance within our local agencies, and some of them are not too big and some are not too small.

The fact that is embodied in this amendment has been hanging around the Committee on Business Legislation for the past six years. Conceptionally, I guess I think it is a pretty good idea, but administratively it just doesn't work, and experience and good business practice in the field supports the indefinite postponement of this amendment rather than the neat idea of making sure that everybody whose insurance is to be cancelled is notified. Experience says that those whose insurance policies are to be cancelled generally are those who will do whatever they can to avoid proper notification, and that way, the insurer has to continue the insurance.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Hickey.

Mr. HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: I would recommend that certified mail was a very proper vehicle to use and a very adequate medium of notification to the patron. Certified mail is automatically classified as first-class mail. A person with first class mail, if they have moved their residence, their moving residence has to be recorded for two years in the post office, so it seems very logical to assume that this medium of handling would be very proper.

The SPEAKER: The Chair recognizes the gentleman from Dexter, Mr. Peakes.

Mr. PEAKES: Mr. Speaker, Ladies and Gentlemen of the House: We had a lot of discussion on this in committee, and although it seems to be a good idea, the public would ultimately bear the expense of persons who were avoiding their certified mail since the insurance companies would have to keep these people insured and the cost would be passed on to the public. At present, the insurance companies are required to file a proof of mailing to the last known address of the insured, and this seems to be a better and more workable arrangement.

I recommend the indefinite postponement.

The SPEAKER: The Chair will order a vote. The pending question before the House is on the motion of the gentlewoman from Freeport, Ms. Clark, that House Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

57 having voted in the affirmative and 37 in the negative, the motion did prevail.

Thereupon, the Bill was passed to be engrossed in concurrence.

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

Passed to be Enacted

"An Act Relating to Certificate of Need" (S. P. 652) (L. D. 2013) (S. "B" S-433)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 125 voted in favor of same and five against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forth-

with to the Senate.

(Off Record Remarks)

On motion of Mr. Blodgett of Waldoboro, Adjourned until nine-thirty tomorrow morning.