

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Thirteenth Legislature

OF THE

State Of Maine

VOLUME IV

SECOND REGULAR SESSION

March 25, 1988 to May 5, 1988

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HOUSE & SENATE LEGISLATIVE SENTIMENTS

December 3, 1986 to December 6, 1988

STATE OF MAINE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
SECOND REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Wednesday
April 6, 1988

Senate called to Order by the President.

Prayer by Reverend Pat Carroll of the First Universalist Church in Bangor.

REVEREND CARROLL: May the spirit of prayer be upon this Senate as we focus our energy for a moment and quiet our minds and take a breath in the schedule of late nights and early mornings, a breath, a moment to be with our God. The spirit of life and love we give thanks for this day and invoke Thy blessings upon this assembly. May wisdom, courage and humility be present here. May listening and learning take place within these walls as we hold high the dignity and work of all persons. We pray that a vision of justice and equality, peace and understanding guide the decisions made here. And we pray that life's joy may touch this assembly that in the midst of its deliberations the blessing of life may break through and touch us all. Amen.

Reading of the Journal of Yesterday.

Off Record Remarks

Senator CLARK of Cumberland was granted unanimous consent to address the Senate off the Record.

Senator PERKINS of Hancock was granted unanimous consent to address the Senate off the Record.

On motion by Senator DUTREMBLE of York, RECESSED until the sound of the bell.

After Recess
Senate called to order by the President.

ORDERS OF THE DAY

On motion by Senator CLARK of Cumberland, the Senate removed from the SPECIAL APPROPRIATIONS TABLE the following:

An Act to Increase the Minimum Wage
H.P. 1887 L.D. 2582

Tabled - March 29, 1988, by Senator CLARK of Cumberland.

Pending - ENACTMENT
(In House, March 29, 1988, PASSED TO BE ENACTED.)
(In Senate, March 24, 1988, PASSED TO BE ENGROSSED, in concurrence.)

Which was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Ensure that a Certain Percentage of Public Housing is Handicapped Accessible"
H.P. 1869 L.D. 2558
(H "A" H-533; S "A" S-388)

In Senate, March 31, 1988, PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-388) AND HOUSE AMENDMENT "A" (H-533), in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-388) in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

COMMITTEE REPORTS

House

Ought Not to Pass

The following Ought Not to Pass Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act to Permit a Local Option Sales Tax"
H.P. 807 L.D. 1081

Bill "An Act to Require Payment for Inland Fisheries and Wildlife Wardens Out of the General Fund"

H.P. 1664 L.D. 2276

Leave to Withdraw

The following Leave to Withdraw Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act to Enhance the Provisions of Head Start Services in Maine"

H.P. 1620 L.D. 2213

Bill "An Act to Increase the Appropriation to Municipal School Districts for the Inspection and Replacement of Unsafe School Buses"

H.P. 1835 L.D. 2512

Ought to Pass As Amended

The Committee on AGRICULTURE on Bill "An Act to Provide Additional Resources to the Board of Pesticides Control"

H.P. 1514 L.D. 2067

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-619).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-619).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-619) READ and ADOPTED, in concurrence.

The Bill as Amended, LATER TODAY ASSIGNED FOR SECOND READING.

The Committee on FISHERIES AND WILDLIFE on Resolve, to Establish the Special Commission on Boating

H.P. 1785 L.D. 2446

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-618).

Comes from the House, with the Report READ and ACCEPTED and the Resolve PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-618).

Which Report was READ and ACCEPTED, in concurrence.

The Resolve READ ONCE.

Committee Amendment "A" (H-618) READ and ADOPTED, in concurrence.

The Resolve as Amended, LATER TODAY ASSIGNED FOR SECOND READING.

The Committee on JUDICIARY on Bill "An Act to Abolish the Office of Complaint Justice and Replace it with the Office of Justice of the Peace" (Emergency)

H.P. 1791 L.D. 2452

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-600).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-600).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-600) READ and ADOPTED, in concurrence.

The Bill as Amended, LATER TODAY ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on AGING, RETIREMENT AND VETERANS on Bill "An Act to Clarify the Definition of Earnable Compensation"

H.P. 1826 L.D. 2502

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-624).

Signed:

Senator:

BERUBE of Androscoggin

Representatives:

HICKEY of Augusta

PERRY of Mexico

DELLERT of Gardiner

JALBERT of Lisbon

OUTREMBLE of Biddeford

MCSWEENEY of Old Orchard Beach

HARPER of Lincoln

The Minority of the same Committee on the same subject reported that the same Ought Not to Pass.

Signed:

Senators:

CLARK of Cumberland

RANDALL of Washington

Representatives:

MATTHEWS of Caribou

RICHARD of Madison

Comes from the House the Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-624).

Which Reports were READ.

Senator BERUBE of Androscoggin moved to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, in concurrence.

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending the motion of Senator BERUBE of Androscoggin, to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, in concurrence.

Divided Report

The Majority of the Committee on MARINE RESOURCES on Resolve, Creating the Commission on Marine Research (Emergency)

H.P. 1741 L.D. 2387

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-617).

Signed:

Senators:

TUTTLE of York

ESTES of York

Representatives:

HOLT of Bath

KETOVER of Portland
CROWLEY of Stockton Springs
RICE of Stonington
SALSBURY of Bar Harbor
COLES of Harpswell
MITCHELL of Freeport
LOOK of Jonesboro
RUHLIN of Brewer

The Minority of the same Committee on the same subject reported that the same Ought Not to Pass.

Signed:

Senator:

CAHILL of Sagadahoc

Representative:

SCARPINO of St. George

Comes from the House the Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-617).

Which Reports were READ.

On motion by Senator TUTTLE of York, the Majority OUGHT TO PASS AS AMENDED Report was ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-617) READ and ADOPTED, in concurrence.

The Bill as Amended, LATER TODAY ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Improve Legislative and Public Access to the Agency Rule-making Process"

H.P. 132 L.D. 161

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Establish Greater Communication in the Rule-Making Process and to Provide Better Standards for the Adoption of Rules"

H.P. 1912 L.D. 2611

Signed:

Senators:

TUTTLE of York

BALDACCI of Penobscot

Representatives:

LACROIX of Oakland

CARROLL of Gray

BOUTILIER of Lewiston

HUSSEY of Milo

ANTHONY of South Portland

ROTONDI of Athens

The Minority of the same Committee on the same subject reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Make Changes in the Rule-Making Process"

H.P. 1913 L.D. 2612

Signed:

Senator:

GOULD of Waldo

Representatives:

STROUT of Windham

LOOK of Jonesboro

WENTWORTH of Wells

BICKFORD of Jay

Comes from the House the Majority OUGHT TO PASS IN NEW DRAFT UNDER NEW TITLE Report (H.P. 1912) (L.D. 2611) READ and ACCEPTED and the Bill in NEW DRAFT under NEW TITLE PASSED TO BE ENGROSSED.

Which Reports were READ.

Senator TUTTLE of York moved to ACCEPT the Majority OUGHT TO PASS IN NEW DRAFT under NEW TITLE Report (H.P. 1912) (L.D. 2611), in concurrence.

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending the motion of

Senator TUTTLE of York to ACCEPT the Majority OUGHT TO PASS IN NEW DRAFT under NEW TITLE Report (H.P. 1912) (L.D. 2611), in concurrence.

Divided Report

The Majority of the Committee on TAXATION on Bill "An Act to Fund a Supplemental Highway Program and to Establish a Program to Fund the Construction of Extraordinary Bridges" (Emergency)

H.P. 1799 L.D. 2463

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-588).

Signed:

Senators:

TWITCHELL of Oxford
DOW of Kennebec
SEWALL of Lincoln

Representatives:

SEAVEY of Kennebunkport
JACKSON of Harrison
WHITCOMB of Waldo
ZIRNKILTON of Mount Desert

The Minority of the same Committee on the same subject reported that the same Ought Not to Pass.

Signed:

Representatives:

MAYO of Thomaston
DUFFY of Bangor
DORE of Auburn
NADEAU of Saco
SWAZEY of Bucksport
CASHMAN of Old Town

Comes from the House the Minority OUGHT NOT TO PASS Report READ and ACCEPTED.

Which Reports were READ.

Senator TWITCHELL of Oxford moved to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report in NON-CONCURRENCE.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Kerry.

Senator KERRY: Thank you Mr. President. Mr. President, men and women of the Senate. I would rise to oppose the passage of the Majority Ought to Pass Report and move that we defeat its motion and accept the Minority Report for several reasons. Number one, with great due deference paid to the Economic Development Study Committee and with the people who have put forth a proposal to increase the gas tax in the state of Maine by five cents. First of all, I would want to say unequivocally that my constituents are overwhelmingly in opposition to an increase in the five cent gas tax, mainly because it is probably one of the most regressive taxes in the state of Maine outside of the sales tax. Secondly, because the way this is configured I think it is going to actually be double jeopardy. It will not only increase the taxes for people in southern and central Maine who utilize the Maine Turnpike, as well as our primary road system in this state, it would in effect increase the tolls on the Maine Turnpike for those who are from southern Maine and use it on a regular basis.

I would also suggest that there are other reasons why this proposal should not be adopted by the Senate. First, although I accept the long-term planning horizon of twenty years for trying to address our long-term needs of the state and I accept this from the proposal that this is not new. We have tried to address the issues in the state of Maine with regards to our highway system in the long-term because it is a prudent fashion. What I think is wrong with this specific proposal is that only one cent of the gas tax will go to address emergency

needs regarding our highways in terms of our bridges. The report that was put forth by the Transportation Department indicated that this one cent would address the bridges. If there is a need, I would suggest that we address that need first. I think everyone in this Senate would address the need. But if we are to increase the tax to Maine consumers who have been trying to conserve their energy on our highways, then I would say we are penalizing the elderly, the working people and the poor. More importantly, I would suggest that part of the responsibility, if not a great measure of the responsibility for this problem, lies with the Federal Government, who has impounded the funds that are coming to the state of Maine. Maybe what we ought to be doing is trying to address why isn't the Federal Government releasing the funds so we can address the needs of the people here in the state of Maine and with regards to our highway system.

I think it is very important that we, in this Body, recognize that the people of Maine are willing to pay the price for maintaining good, safe and responsible roads as long as there is a clear and distinct plan and rational for it. Although I believe the beginnings of a sound planning process is now taking place, I do not believe it has reached its fruition. For those of us who are from southern Maine and certainly central Maine, we have been trying to address the issue of growth management. Many of us say that it is the responsibility of one sector of this economy, that would be the developers, that would be a group of business people who are in southern Maine, that would be the builders, etc., but if you analyze the concept of growth and development in the state of Maine one of the primary factors for increasing the growth in the state of Maine and the acceleration of growth in the southern and central Maine and now it is beginning to move up the coast to central and northern Maine, is highway. The highway system itself produces a tremendous amount of growth. Within this proposal I see that York County, for example, and Cumberland County would have a tremendous impact on widening the road between Kittery and Biddeford. We addressed a proposal last year to widen the Maine Turnpike Authority. As people looked at widening the Maine Turnpike from Kittery to Biddeford and beyond, we saw a serious concern regarding economic growth and development. The small communities along that Route 1 corridor and I am certain many of the other corridors throughout the state are not aware of what the impacts are for growth and development according to an increase in the width or the size of the highway. I think it is also important, Mr. President, ladies and gentlemen of the Senate, that if this program is to be sold to the people of Maine I think the Governor of this state has to go out there and sell them and convince them that it is an integral part of his program, an integral part of his priorities. I do not believe the state Senate or the Legislature should be held totally responsible for an increase in the gas tax without the direct unambiguous and clear statement of support from the Governor. It is clear to me from newspaper reports and from discussions in this Legislature that the Governor is not taking primary responsibility for proposing a gas tax increase. We do not mind accepting the responsibility for maintaining safe, efficient and well planned roads in the state of Maine. But, I think this Legislature before we enact a five cent increase, a major increase in a tax that we just increased in 1983, that there should be a prudent, well thought out debate and discussion of its implications. I therefore would urge this Senate not to Adopt the gas

tax increase. That we are to pass anything that we are to address an emergency measure, put an amendment on this Bill for a one or two cent tax increase to address the real serious problem of bridges. If that is a problem and it hasn't been defined to me that it is a so critical issue that we have to address it this Session, but if it is a problem then I am willing and I think my constituents are willing to pay that price. We just had a bond issue to address roads and bridges, it was passed by the people of Maine, where is that money going? What happened to that money? We have had millions and millions of dollars to address a whole host of issues throughout this state regarding to our road system. Where has that money gone? Where is it going? I think we have to have a clearer definition of the problem before we tax the people of Maine. I think it is very important that this Legislature communicate that message to the Governor and to the Departments that in favor of this issue. No one is not in favor of prudent planning and responsible implementation of programs, but I think at this time it is not prudent to do so unless it is of a pure emergency measure.

On motion by Senator KERRY of York, supported by a Division of at least one-fifth of the Members present and voting, a Roll Call was ordered.

Off Record Remarks

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCI: Thank you Mr. President. Mr. President, men and women of the Senate. I do not intend at this time to support the Majority Ought to Pass Report for a five cent a gallon gas tax. I do not intend to support that measure because I think what has been proposed is a very ambitious program that is supposed to go on for twenty years and I think that with that kind of a program it requires a little bit more review than we have already been afforded. I, for instance, was handed for the first time today a report that had told me what was in the package that was presented. Today, here we are taking up a five cent a gallon gas tax and I had been presented a report that is suppose, if you are to believe the press accounts, to go on for twenty years. I don't think that is right and I think that our constituents deserve a little bit better review of the proposal that we are going to be saddling them with for a long time into the future. I think that needs more review. That is no question that the used tax and basing it on the gasoline is a way to take care of the roads. There is no question that roads need to be taken care of, but at the same time we talk about roads and the condition of roads, we talk about growth management, we talk about how Maine is being overrun with developers, how Maine is being overrun with tourists, how Maine is being overrun and it is no longer Maine. At the same time we develop arteries into areas of the state that have never had arteries before and opening it up for more and more development. It seems to me on the surface and maybe it can be explained that there may be some contradictions there. That needs to be reviewed. I have relatives in Dexter, Maine and they were telling me about the log trucks that are going through that part of the state because of what is going on with the railroad. There seems to be more and more tonnage on the roads, more and more log trucks because they couldn't go down the river because the Legislature in its wisdom decided that it was environmentally

unsound and then they couldn't go down the railroad tracks because the railroad tracks have been abandoned. They are going over the roads and he tells me that with the frost heaves and everything else and the tremendous amount of log trucks on the roads that they are going to be tearing up those roads and he says that a nickel a gallon isn't going to be sufficient to take care of the problems. Do we have to prioritize our concern in this administration and Legislature that railroads are very important to the life blood of a balanced transportation network in the state. Is that important? I think those are important questions and I think the Department certainly, as I passed around to members of the Senate yesterday figures about the gas tax revenues here in the state of Maine, is not a starving entity. It has gone from forty-eight million dollars in 1982 to over ninety million dollars in 1987. We have approved over seventy-one million dollars in bond issues since we passed the last gas tax. So, certainly there is not a sense of urgency at this moment where there is a crisis developing that would not allow us an opportunity to review it.

The fact of the matter is that unless there is some sort of eighth wonder of the world that this measure is not going to receive enough votes to receive to support its emergency enactment. So that it wouldn't go into effect for this construction season. So that it wouldn't have the impact this summer, so it is going to have to wait and I think it is imperative if we are to do our job that we review it a little bit more thoroughly than it has been reviewed. Frankly, all this discussion about whose tax it is, I was under the impression in the State of the State Address that the Governor had proposed it. I thought it was the Governor's Bill and then I understand from the press accounts this morning that it was implied that it wasn't his particular tax Bill. I think that doesn't do the people in the Transportation Department and the people who use the roads for commercial means any good because you have to be out there promoting this if it is a good package, not by just saying, I hope it gets done, I am not going to take the blame for the tax and I will be there to cut the ribbons when the new road is open. I think you have to be out there selling it and convincing people that it makes sense. That is not the way to go about it, it wasn't the immaculate conception that brought the Bill to us it was the Governor's Bill. Frankly, members of the Senate, I just hope that we do have that opportunity. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Collins.

Senator COLLINS: Thank you Mr. President. Mr. President, men and women of the Senate. The subject that we are debating today is rather volatile. Gasoline is a very dangerous when there is a lot of warm air exposed why strange things can happen. Mr. President, I would like to go back into ancient history a little bit and review for the benefit of the Senate at least my experience with the gasoline tax. I was a young freshman House member in 1971 and not very knowledgeable about the process and someone persuaded me to introduce a one cent increase in the gasoline tax. Mr. President and members of the Senate, I can tell you that it was a learning experience. That Bill went around and around and around and it did finally pass and I learned more about how people feel about gasoline taxes at that time than I ever have since. I understand the concerns of the people from southern Maine and northern Maine and central Maine and I understand how

rural people feel and how people who pay tolls feel and I have arrived personally at several conclusions.

First of all, I would like to tell you that there is good planning that takes place within the Department of Transportation. In 1970, or there about a planning division was created for the expressed purpose of expending road funds in a very planned manner over a period of time with dedicated funds. It seemed to me as they analyzed the various roads throughout the state, took traffic counts, were cognizant to weight levels, it seemed to me that they were operating that Department in a proper manner. So, when we suggest today that we perhaps haven't looked at this enough and that we need further planning and consideration I find it very difficult to accept that thought. In my mail I have been receiving reports on bridges and in my particular part of the state for literally months and it seems to me that we all ought to be aware of where the money is going to be spent, how it is going to be spent, the conditions of our bridges. In fact, we have a memo that I see is dated in February that indicates that there are some four hundred and one bridges that are functional obsolete or structurally deficient that are over twenty feet long. I have looked over the report with respect to the areas of the state that are going to receive attention in the next three to four years and I identified for example that in northern Maine and in Aroostook County there are some 9.4 million dollars worth of construction on highways and I know where all of those are and I know that they need attention and I know that they won't get that attention if we don't pass this gasoline tax.

It seems to me that if you want economic corridors to develop in the state of Maine and I have to remind you that northern Maine is not an overdeveloped part of the state, nor is parts of eastern Maine and that we would still like our economic corridors to have some decent roads. We have commodities that we want to ship from northern Maine, potatoes and wood products, lumber, and I think the people that I represent and I know that the people that I represent as a result of my survey in my district even though they don't like the high prices of gasoline, and I have to tell you in northern Maine you pay more for gasoline than you do in southern and central Maine because of transportation costs and other factors. In spite of that, the majority of the people that have responded to my question on this issue support an increase in the gasoline tax. I am convinced that the administration supports this endeavor. I haven't had the pleasure of reading the morning paper, but I do recall prior statements that have been made by the administration and on behalf of the administration that indicate to me that they are supportive of this increase in the gasoline tax. So, I hope that you will join me this morning in voting with the good Senator from Oxford, Senator Twitchell, to support the increase in the gasoline tax. Thank you Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Dow.

Senator DOW: Thank you Mr. President. Mr. President, men and women of the Senate. Just briefly because I don't think it will make a particle of difference one way or another what is said here today because I think the votes have all been counted as everybody knows, but just to give you a little bit of background information. The Governor brought to the Transportation Committee a five cent tax increase for gasoline. After the Committee did their work on it, they made some changes in it. We still have the five cents, but instead of four cents of it going to the

major highways, the secondary and primary highways, a half a cent of that increase is going back to the towns in the local road assistance, which makes a twenty-two percent increase to each one of those towns that get local road assistance for a one time bonus and written into the Bill is a study to study the formula so that next year we hope to be able to return the money to the towns in a more equitable fashion. Also included in the Bill is four million dollars coming from the Turnpike if, in fact, there is money enough in the Turnpike with increased tolls or with increased participation of the tolls for the highway to be able to receive four million dollars from the Turnpike. That four million dollars will go to the areas surrounding the Turnpike. Also, just for your information, there is another 1.2 million dollars included in this Bill to help at least twenty-five percent of some of the salt and sand facilities that have been put on hold on some of the towns to help pay for some of those. So that is included in the Bill.

Now, the Taxation Committee did not make any changes in it, just the Transportation Committee made those changes. There is no question in my mind that we could use the money. There is no question in my mind that if Senator Kerry of York wants to use his influence to get the twenty million dollars that the Federal Government is holding for the highway we could certainly use his support in doing that. If we have the five cents, we will still not be able to build all the roads or take care of all the roads in this state that needs taking care of, but it certainly would be a help and I urge you to support the motion. Thank you.

Off Record Remarks

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Dutremble.

Senator DUTREMBLE: Thank you Mr. President. Mr. President, men and women of the Senate. The five cent gas tax and the program put forth by the commissioner certainly is a challenging and impressive one. I have all the respect in the world for the Commissioner of Transportation. I think he is a brilliant spokesman for that department and I also believe he is a brilliant spokesman for the State of Maine. However, we are talking about the five cent gas tax here and I do want to relay to you what my concerns are. Right now I believe the gas tax is fourteen cents per gallon and I think everybody in the State of Maine who uses the roads and highways and bridges understands that there has to be a certain amount of taxes paid and I don't think anybody has any problems with that. People in my area have another problem. We also have to pay the cost of the Maine Turnpike which the good Senator from York, Senator Kerry, eluded to. I guess I have a real problem with the fact that for instance, just as an example, somebody from Biddeford traveling to Augusta has to actually pay another forty cents per gallon tax on top of what they usually pay just to get up here. If you count the cost of the toll as being the tax, which actually it is, those of us who use the Maine Turnpike have to pay a toll to start with. I am sure you remember the big discussion we had on the Maine Turnpike just last year. We were talking about widening the turnpike and possibly having a toll increase to take care of that. Those of us who use that road, if we want our road to be improved, have to pay for it through a toll. What this Bill is telling us through the gas tax is that

not only are you going to pay for the increase of the toll, but some of that money is going to be used to pay for other projects. I don't think that the tolls on the Maine Turnpike were ever intended to fund the Department of Transportation. At one point we started adding money and taking money out of the turnpike and adding it to the Department of Transportation to do the spurs along the turnpike in the different cities along the turnpike. My city was one of them - Biddeford. In 1981, we started asking for that and they said yes, we are going to do it. It is now 1988, and it is still not done. So when we have the Biddeford and Saco Bridge proposed in the gas tax, we say that is all fine and dandy, but when is it going to be? And should it be funded by money coming out of the Maine Turnpike tolls? The good Senator from Kennebec, Senator Dow, says that the money being taken out of the Maine Turnpike will stay in that area. What is going to happen to the money raised by the gas tax in that area? Is that going to stay in that area too? No matter how you cut it, money from the Maine Turnpike is being used to fund the Department of Transportation and the users of the Maine Turnpike should not be double hit just because they use the Maine Turnpike. This is why I am opposing the gas tax. From the very beginning I said that before I would even consider supporting the gas tax, that that language about the Maine Turnpike would have to be taken out. I understand that the language does say that if there is any extra money, it will be the only time they take that money away. Well if there is any extra money, return it to the people. Lower the tolls. It seems to be the reasonable thing to do and there will be extra money. The studies that have been made and are being done now show that the traffic on the Maine Turnpike is continuing to increase. So you know that the monies will be more. That four million dollars will be there. I don't think anybody doubts that. Lets just not use the Maine Turnpike to fund the Department of Transportation, and if that is what people want to do then lets get rid of the Maine Turnpike and put it in the Department of Transportation and lets everybody work on an equal part. You know that I have stood here before as a supporter of the Maine Turnpike. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Kerry.

Senator KERRY: Thank you Mr. President. Mr. President, men and women of the Senate. I am always edified by the logic and eloquence of debate by the good Senator from Aroostook, Senator Collins, and as I was reviewing one of the documents that I received from the Office of Policy and Legal Analysis, they presented to me a document that says "the recent history of the gasoline tax". As you might know, the recent history only goes back to 1978, and our good Senator from Aroostook, Senator Collins, referred to his ancient history of 1971. I happened to not be around at that time in the Legislature, but I appreciate the wisdom and knowledge of one with so much experience and I would defer to that. But in reviewing the statistics and figures that were presented by the good Senator from Aroostook at that time, I believe he proposed a gas tax increase from eight to nine cents, a one cent increase. That statistic, if my figuring is correct, is approximately a 12.5 percent increase in the tax. I am sure there was great debate about that. A 12.5 percent increase is a fairly substantial increase, especially since we have only experienced two, three, four and five percent increases in inflation recently.

More importantly in 1982, to 1983, we passed a tax and it was a five percent increase at that time.

But here we are proposing another five cent increase. If you analyze the statistical increase, a five cent increase in our current tax is a 35.1 percent, I believe, increase in the tax. Do we and can we justify a 35 percent increase on the tax? And more importantly, if you add the tax that we passed in 1983, should the people of Maine be responsible for experiencing a 111.1 percent increase in the tax in just these few short years? I don't believe that it is fair. I don't believe that it is just. I don't believe it is responsible. This Administration and with all due respect for Commissioner Connors, and I, along with the good Senator from York, Senator Dutremble, and everyone in this Body, believes that Commissioner Connors and the Department of Transportation is doing a good job and certainly is a responsible Department. I think the funds should be found later, maybe next year or the next session, but I cannot justify in this short time to place a one hundred and eleven percent increase in the tax for the consumers of Maine without appropriate justification and appropriate reasons. I, once again, would give due comment to the good Senator from Aroostook, Senator Collins, who I think does represent his constituents well, but we have a responsibility to our constituents as well. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator CAHILL: Thank you Mr. President. Mr. President, men and women of the Senate. The Transportation Committee had the Gas Tax before our Committee for about a month. We had a total of four work sessions dealing with this issue and I will tell you that if you have never been down to the Transportation Committee, it might be worth a trip down to watch how a work session in that Committee is run. You deal with people, a great group of people with a great many ideas and we heard every single one of those ideas brought before the Transportation Committee. We came up with a program that made everyone pretty happy, as happy as any of us can be supporting a tax increase in an election year. I know that is difficult, but I think it is time we bite the bullet and do it.

Then the bill was referred down to the Taxation Committee and that Committee dealt with this Bill for a half hour. After the Transportation Committee dealt with it for over a month, the Taxation Committee decided in a half hour that they were going to report this Bill out seven to six Ought to Pass, which leads me to believe that some members of that Committee were perhaps responding or doing some political maneuvering rather than responding to the merits of the gas tax increase.

I would like to discuss with you some of the points that the Transportation Committee worked so hard to come up with, some of the compromises. We suggest that a total of five cents be raised for a total of thirty five million dollars per year. We suggest that one cent of that total go to extraordinary bridges. The good gentlemen from York, Senator Kerry, is absolutely right. The bridges are in deplorable shape in this state and they need some assistance and they need it now. Phase I of the bridge program is the state share of the Million Dollar Bridge in Portland/South Portland, the state share of the Brunswick/Topsham Bypass, the Penobscot Bridge replacement in Bangor/Brewer, the Waterville/Winslow Bridge and to do some preliminary engineering for the Phase II of that project. In Phase II, we are talking about the Carlton Bridge or its alternative the Saco/Biddeford Bridge, the Augusta Area Bridge and the Skowhegan Bridge - the

state share. Because we will get matching money for these bridges and the money that we are talking about in the gas tax is the state share of that federal money. Three and a half cents of the nickel we suggested would help defray federal cut backs because yes ladies and gentlemen, the Department of Transportation has experienced about forty million dollars in the last two bienniums of federal cut backs and that has hurt our program. We would suggest that two cents of that three and a half cents go toward helping defray the cost of these federal cut backs and then the remainder one and a half cents would go toward highways, a regional significance such as Routes 9, 201, 302, and 26. And for those of you who would like to look further, the blue book that the Transportation Committee refers to that was passed out is where those programs are. Then the remainder would be a half cent for local municipalities. The half cent for municipalities was not in the original package, but the Transportation Committee felt very strongly that in order to get this Bill passed this year, we needed to put in some money for municipalities. We agreed on the half cent. I, personally, would liked to have seen a whole cent, but in the spirit of compromise, ladies and gentlemen, I agreed to go with the half cent.

Currently, we give municipalities 15.8 million dollars annually to the towns for road assistance. This would add 3.5 million dollars annually for a total of 19.3 million dollars going to local road assistance. The Transportation Committee recognized fully that the formula currently used to return money to local municipalities had some problems. That formula we agreed on was probably inequitable, so what we decided or what we are recommending through this Bill to do is have a bonus type situation so each municipality and every municipality that now receives state money for roadways would receive a twenty-two percent increase - a bonus which results in a twenty-two percent increase probably to be paid in January of 1989. Now this is not a one time bonus ladies and gentlemen, but in this instance will be paid one time until the Transportation Committee over the summer has a chance to review the formula of how local road assistance is distributed and comes back with a recommendation to the One Hundred and Fourteenth Legislature. But that 3.5 million dollars will go into the pot making the total of 19.3 million dollars that will be distributed annually to municipalities. Additionally, in the spirit of compromise, the good Commissioner of Transportation, Commissioner Conners, also recognized that there was a need out there for sand/salt piles. We have mandated to work with the towns and their sand/salt piles. So the Commissioner of Transportation has agreed to put 1.2 million dollars into sand/salt piles so that municipalities will also have that type of assistance, for a total ladies and gentlemen of an additional 4.7 million dollars going back to towns.

To respond to a couple of points that were raised. The good Senator from Penobscot, Senator Baldacci, said something about planning and I have to tell you that planning has always been a thorn in my side and I have always recommended to the Department of Transportation rather strongly that they get their act together and they do some long-range planning. I am delighted to see a twenty year plan. I think it is just absolutely great. I would also like to respond to the good Senator from York, Senator Kerry, when he says the gas tax is a regressive tax which it is. I submit to you, the good Senator from York, Senator Kerry, that there is nothing more regressive than bad highways and deferring maintenance of bad highways. In fact, we found out that the average

Maine motorist travels fifteen thousand miles per year and would pay a total of thirty seven dollars and fifty cents annually in gas tax increase. That same motorist, if the gas tax was not increased and we had bad roads, would pay over a hundred dollars in increased fuel consumption, delays, accidents and vehicle wear and tear. So I think when we talk about a regressive form of taxation, bad roads is the ultimate form of regression. Additionally, when I campaign and I am going to town meetings, I hear more often than anything that we need property tax relief. I think that a gas tax could really be construed as property tax relief because I remind you ladies and gentlemen, we are suggesting that 3.5 million dollars be returned to the local municipalities. That is 3.5 million dollars that those same towns are not going to have to raise through property tax. Thank you.

Off Record Remarks

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCII: Thank you Mr. President. Mr. President, men and women of the Senate. I think a couple points of clarification are in order. A document which I had sent around to Members of the Senate yesterday had gone back as far in numerical figures as 1978, but if you had read the history of the tax, it had gone back as far as 1923, but it had been written out and hadn't been put in numerically and I do apologize to the good Senator from Aroostook, if he wasn't able to decipher that. The other point that was brought out this morning was that maybe the Taxation Committee may have been a little bit more politically motivated in its report of seven to six than the Transportation Committee even though it was pointed out by a member of the Transportation Committee that they added the municipal assistance to help the passage of the bill.

I think it is important to point out also to the Members of the Senate in reviewing the proposed supplemental program that has been submitted here today, I notice with interest Presque Isle reconstruction 2.45 million dollars and Presque Isle bypass of new construction of over 3.54 million dollars. I can understand the interest of the good Senator from Aroostook, Senator Collins, as to why he thinks it is very important that the gas tax be increased over thirty percent on people driving through the State of Maine to go to work and to go back home. I know that there are problems with transportation in Presque Isle, but as far as the justifications of a Presque Isle bypass around what I think needs to have a little bit more review than the cursory review given by some members of the Transportation Committee. I am not in opposition to an increase in a tax to pay for the upkeep of the roads, but I think that the Commissioner of Transportation has provided a lot of leadership in this particular area and I think that he has been able to convince me that we ought to be able to do something to attract those federal funds for the bridge repair and also some maintenance along the roads. To his credit, I would be willing to support some sort of an increase, but I think that going to a five cent over thirty percent increase in a gas tax is hitting at the people at the wrong time. I hope you will support the Ought Not to Pass Report. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Twitchell.

Senator TWITCHELL: Thank you Mr. President. Mr. President, men and women of the Senate. I would like to make a response to my good friend from Sagadahoc, Senator Cahill. It is true that we did get the tax bill yesterday afternoon at 1:30. It is true that we did spend about a half hour on the Bill because we were told to get the Bill out by 5:00 so the House could have it. We also did spend four and a half hours at a hearing with the Joint Standing Committee on Transportation. It is not our job to tell where the money goes. It is our job to raise it and that is what we thought we were doing yesterday. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Dutremble.

Senator DUTREMBLE: Thank you Mr. President. Mr. President, men and women of the Senate. I would like to pose a question to anyone who cares to respond. My question is, if the five cent gas tax is passed and we are going to get all these bridges built with federal money, is this the same federal money that the Federal Government is now holding and refusing to allow to come down to the states so they can balance their national budget?

THE PRESIDENT: The Senator from York, Senator Dutremble, has posed a question through the Chair to any Senator who may care to respond.

The Chair recognizes the Senator from Kennebec, Senator Dow.

Senator DOW: Thank you Mr. President. Mr. President, men and women of the Senate. The Federal Government is holding back about twenty million dollars of funds that should be coming to the state. Most of those funds that they are holding do not have anything to do with these bridges that were referred to. Some of them already are on line to be taken care of and some of them we do have the funds for, some of them we don't. If we do pass this gas tax, of course it will also free up some more money for other projects including some other bridges and some other roads.

THE PRESIDENT: The pending question before the Senate is the motion of Senator TWITCHELL of Oxford, to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report. A Roll Call has been ordered.

A vote of Yes will be in favor of ACCEPTANCE

A Vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

Senator KANY of Kennebec who would have voted YEA requested and received Leave of the Senate to Pair her vote with Senator ERWIN of Oxford who would have voted NAY.

Senator GAUVREAU of Androscoggin who would have voted YEA requested and received Leave of the Senate to Pair his vote with Senator BRANNIGAN of Cumberland who would have voted NAY.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators BLACK, BRAWN, CAHILL, COLLINS, DILLENBACK, DOW, EMERSON, GILL, GOULD, LUDWIG, MAYBURY, PERKINS, RANDALL, SEWALL, THERIAULT, TWITCHELL, WHITMORE

NAYS: Senators ANDREWS, BALDACCI, BERUBE, BUSTIN, CLARK, DUTREMBLE, ESTES, KERRY, MATTHEWS, PEARSON, TUTTLE, USHER, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators None

PAIRED: Senators BRANNIGAN, ERWIN, GAUVREAU, KANY

17 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 4

Senators having paired their votes, and No Senators being absent, the motion by Senator TWITCHELL of Oxford, to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report in NON-CONCURRENCE, PREVAILED.

The Bill READ ONCE.

Committee Amendment "A" (H-588) READ and ADOPTED.

On motion by Senator PEARSON of Penobscot, the Senate RECONSIDERED whereby it ADOPTED Committee Amendment "A" (H-588).

On further motion by same Senator, Senate Amendment "B" (S-417) to Committee Amendment "A" (H-588) READ and ADOPTED.

Committee Amendment "A" (H-588) as Amended by Senate Amendment "B" (S-417) thereto, ADOPTED.

Under suspension of the Rules, READ A SECOND TIME.

Senate at Ease

Senate called to order by the President.

Which was PASSED TO BE ENGROSSED, as Amended in NON-CONCURRENCE.

Senator CAHILL of Sagadahoc Objected to the Rules being Suspended for the purpose of sending this paper down forthwith for concurrence.

SECOND READERS

The Committee on Bills in the Second Reading reported the following:

House As Amended

Bill "An Act Relating to the Maine Uniform Transfers to Minors Act"

H.P. 642 L.D. 865

(C "A" H-602)

Bill "An Act to Amend the Maine Juvenile Code to Expand Notice Provisions"

H.P. 1486 L.D. 2020

(C "A" H-603)

Bill "An Act to Amend Property Tax Exemptions"

H.P. 1657 L.D. 2267

(C "A" H-586)

Bill "An Act to Extend and Strengthen the State's Mandatory Shoreland Zoning Laws"

H.P. 1731 L.D. 2374

(C "A" H-597)

Bill "An Act to Improve Supervision of Prison Furloughs"

H.P. 1736 L.D. 2381

(C "A" H-609)

Resolve, Authorizing the Bureau of Health to Conduct a Time-Trend Study of Leukemia Incidence in Maine

H.P. 1769 L.D. 2422

(C "A" H-598)

Resolve, Establishing the Advisory Committee on Education and Critical Issues for State Decision Making

H.P. 1776 L.D. 2429

(C "A" H-589)

Bill "An Act to Make Supplemental Allocations from the Highway Fund for the Fiscal Years Ending June 30, 1988, and June 30, 1989" (Emergency)

H.P. 1788 L.D. 2449

(C "A" H-584)

Bill "An Act to Amend Maine's Domestic Relations Laws"

H.P. 1801 L.D. 2465

(C "A" H-601)

Bill "An Act to Clarify the Obligations of Distributors, Dealers and Redemption Centers"

H.P. 1806 L.D. 2472

(C "A" H-605)

Resolve, Reimbursing Certain Municipalities on Account of Taxes Lost Due to Lands being Classified under the Maine Tree Growth Tax Law (Emergency)
H.P. 1814 L.D. 2482
(C "A" H-608)

Which were READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended, in concurrence.

Bill "An Act to Allow Greater Departmental Input Under Certificate of Need Provisions" (Emergency)
H.P. 1503 L.D. 2053
(C "A" H-599)

Which was READ A SECOND TIME.

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence.

Bill "An Act to Ban Disposable Styrofoam Food and Drink Containers from Public Cafeterias"
H.P. 1592 L.D. 2178
(C "A" H-604)

Which was READ A SECOND TIME.

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence.

Bill "An Act to Prohibit the Sale of Polystyrene Foam Products Containing Chlorofluorocarbons"
H.P. 1797 L.D. 2461
(C "A" H-596)

Which was READ A SECOND TIME.

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence.

Senate As Amended

Bill "An Act to Provide Emergency Shelter Services to Homeless Youth" (Emergency)
S.P. 760 L.D. 2023
(C "A" S-409)

Bill "An Act Relating to the State Health Insurance Program and the Bureau of State Employee Health"
S.P. 937 L.D. 2470
(C "A" S-403)

Resolve, to Appropriate Funds to the AIDS Lodging House, Inc.
S.P. 965 L.D. 2560
(C "A" S-410)

Which were READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended.
Sent down for concurrence.

Bill "An Act Concerning Membership on the Maine Blueberry Commission"
S.P. 921 L.D. 2412
(C "A" S-405)

Which was READ A SECOND TIME.

Senator MATTHEWS of Kennebec moved the INDEFINITE POSTPONEMENT of the Bill and Accompanying Papers.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Matthews.

Senator MATTHEWS: Thank you Mr. President. Mr. President, men and women of the Senate. As I mentioned in this Chamber last night my opposition to this study, I still stand by that opposition today and I won't go over the same old ground. There is no need in my estimation to study this issue. The issue was clear, the hearing was held, if there is a

concern about this issue from the people who feel strongly about it then next session another bill could be introduced.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Black.

Senator BLACK: Thank you Mr. President. Mr. President, men and women of the Senate. I oppose the motion. The Committee, due to the testimony, had felt that the Blueberry Commission was not perhaps in spirit with working together and we would like to know a little bit more about it. We felt that an on-site study was the answer. There is a lot of blueberry growers, very few people are advertising for selling blueberries and perhaps a little diplomacy is what they need, but I think the industry is a lot of income for Washington County and I don't think that we should just because we can't get our own way that perhaps we ought to listen to the Committee.

Senator BLACK of Cumberland requested a Division.

Off Record Remarks

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Matthews.

Senator MATTHEWS: Thank you Mr. President. Mr. President, men and women of the Senate. We have had a long lengthy morning, but I want to respond to the good Senator from Cumberland, Senator Black, to make it quite clear in this Body that whenever I get up and am in the enviable position or unenviable position of opposing my good colleague in this Chamber I always shutter and quake in my shoes because of his experience and knowledge and has been an asset to the Agriculture Committee. I am not taking this issue lightly or for any other reason other than the fact that I believe the study is not necessary and I hope my good colleague from Cumberland will accept that in his heart. That is the reason I am opposing this Bill. I come back to the issue that the good Senator from Cumberland has just made that the Commission seems to be doing very well, well if you believe that then obviously that is further reinforcement that this study is not necessary.

If there is an issue as I believe there is that deals with a specific problem of the composition of the Commission, that can be dealt with, but if all is running fairly and smoothly, ladies and gentlemen, then in the interest of good government and the interest of protecting the taxpayers who pay the bills, this study is unnecessary. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Randall.

Senator RANDALL: Thank you Mr. President. Mr. President, men and women of the Senate. As this debate has continued on the Blueberry Bill, I must share with you the fact that over the last year I have been in discussion with the people in the industry for periods of time, in discussion which hopefully more people around the state will become aware of Maine's wild blueberry industry. I am sure that those of us who live in the areas that produce the wild blueberry would welcome additional interest from the Agriculture Committee. I know there are a variety of agricultural products that the Committee has focused studies on in other years. I would be hopeful that there would be a way clear rather than indefinitely postponing this legislation today that this Body make the way clear for further scrutiny to resolve problems which have been brought to the attention of the Agriculture Committee and receive

the support of so many members of that Committee. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator MATTHEWS of Kennebec, to INDEFINITELY POSTPONE the Bill and Accompanying Papers.

A Division has been requested.

Will all those Senators in favor of the motion of Senator MATTHEWS of Kennebec, to INDEFINITELY POSTPONE the Bill and Accompanying Papers, please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

6 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion of Senator MATTHEWS of Kennebec, to INDEFINITELY POSTPONE the Bill and Accompanying Papers, FAILED.

Which was PASSED TO BE ENGROSSED, as Amended.

Sent down for concurrence.

Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (Emergency) S.P. 950 L.D. 2521 (C "A" S-404)

Which was READ A SECOND TIME.

On motion by Senator USHER of Cumberland, the Senate RECONSIDERED whereby it ADOPTED Committee Amendment "A" (S-404).

On further motion by same Senator, Senate Amendment "A" (S-412) to Committee Amendment "A" (S-404) READ.

Senate at Ease

Senate called to order by the President.

On further motion by same Senator, Tabled until Later in Today's Session, pending the ADOPTION of Senate Amendment "A" (S-412) to Committee Amendment "A" (S-404).

ENACTORS

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:

An Act to Require Legislative Confirmation of Members of the Maine Human Rights Commission H.P. 1716 L.D. 2355

Which was PASSED TO BE ENACTED and having been signed by the President, were presented by the Secretary to the Governor for his approval.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act to Establish a Permit to Operate a Railroad"

H.P. 1752 L.D. 2401

Tabled - April 5, 1988, by Senator DUTREMBLE of York.

Pending - ADOPTION OF COMMITTEE AMENDMENT "A" (H-590), in concurrence.

(In Senate, April 5, 1988, Committee Amendment "A" (H-590) READ.)

(In House, April 5, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-590).)

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending the ADOPTION of Committee Amendment "A" (H-590), in concurrence.

The Chair laid before the Senate the Tabled and Specially Assigned matter:

An Act to Exempt Law Enforcement Personnel from Having to Pay Ferry Tolls

H.P. 1823 L.D. 2498

Tabled - April 5, 1988, by Senator CLARK of Cumberland.

Pending - ENACTMENT (In Senate, March 31, 1988, PASSED TO BE ENGROSSED, in concurrence.)

(In House, April 5, 1988, PASSED TO BE ENACTED.)

On motion by Senator TUTTLE of York, the Senate SUSPENDED THE RULES.

On further motion by same Senator, the Senate RECONSIDERED whereby the Bill was PASSED TO BE ENGROSSED.

On further motion by same Senator, Senate Amendment "A" (S-415) READ.

THE PRESIDENT: The Chair recognizes the same Senator.

Senator TUTTLE: Thank you Mr. President. What I am doing here is that it was found that we needed a fiscal note, so I am attaching it to the Bill. It is the unanimous report from the Committee on State and Local Government. The amendment just offers a fiscal note.

On further motion by same Senator, Senate Amendment "A" (S-415) ADOPTED.

Which was PASSED TO BE ENGROSSED, as Amended in NON-CONCURRENCE.

Sent down for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on AGRICULTURE on Bill "An Act to Require Farms to Post Notice of Pesticides Used"

S.P. 930 L.D. 2441

Reported that the same Ought Not to Pass.

Signed:

Senators:

TWITCHELL of Oxford

BLACK of Cumberland

Representatives:

MAHANY of Easton

TARDY of Palmyra

ALIBERTI of Lewiston

GLIDDEN of Houlton

PINES of Limestone

SHERBURNE of Dexter

HUSSEY of Milo

PARENT of Benton

NUTTING of Leeds

BRAGG of Sidney

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-413).

Signed:

Senator:

MATTHEWS of Kennebec

Which Reports were READ.

On motion by Senator MATTHEWS of Kennebec, Tabled until Later in Today's Session, pending ACCEPTANCE OF EITHER REPORT.

Out of order and under suspension of the Rules, the Senate considered the following:

COMMITTEE REPORTS

Senate
Ought Not to Pass

The following Ought Not to Pass Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act to Encourage Certain Health Professionals to Practice in Maine"
S.P. 811 L.D. 2125

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

On motion by Senator THERIAULT of Aroostook, RECESSED until 5:00 this evening.

After Recess
Senate called to order by the President.

Off Record Remarks

Senator CLARK of Cumberland was granted unanimous consent to address the Senate off the Record.

Senator PERKINS of Hancock was granted unanimous consent to address the Senate off the Record.

On motion by Senator BERUBE of Androscoggin, RECESSED until the sound of the bell.

After Recess
Senate called to order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE
Non-concurrent Matter

HOUSE REPORTS - from the Committee on TAXATION on Bill "An Act Enabling Municipalities to Establish Municipal Investment and Land Banks Funded by a Local Option Real Estate Transfer Tax"

H.P. 1762 L.D. 2415

Majority - Ought Not to Pass.

Minority - Ought to Pass as Amended by Committee Amendment "A" (H-587).

In House, April 4, 1988, the Minority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-587).

In Senate, April 5, 1988, the Majority OUGHT NOT TO PASS Report READ and ACCEPTED in NON-CONCURRENCE.

Comes from the House, that Body INSISTED and ASKED FOR COMMITTEE OF CONFERENCE.

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending FURTHER CONSIDERATION.

Non-concurrent Matter

Bill "An Act to Promote Greater Workplace Safety"

S.P. 936 L.D. 2469

(C "A" S-396)

In Senate, April 4, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-396).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-396) AS AMENDED BY HOUSE AMENDMENT "B" (H-620), thereto in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Provide for Payment of Contributions by Employers Under the Maine State Retirement System"

S.P. 977 L.D. 2595

In Senate, March 29, 1988, PASSED TO BE ENGROSSED. Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-627) in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Extend a Sunset Provision in the Civil Service Law"

S.P. 980 L.D. 2605

In Senate, March 31, 1988, PASSED TO BE ENGROSSED. Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-629) in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Pursuant to Public Law
Committee on LABOR

The Committee on LABOR, pursuant to Public Law 1987, Chapter 559, Part B, section 53 ask leave to submit its findings and to report that the accompanying Bill "An Act to Amend the Rehabilitation System under the Workers' Compensation Act" (Emergency)

H.P. 1915 L.D. 2614

Be referred to the Joint Standing Committee on LABOR for Public Hearing and printed pursuant to Joint Rule 18.

Comes from the House with the Report READ and the Bill PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-614), without reference to a Committee.

Which Report was READ and ACCEPTED, in concurrence.

Under suspension of the Rules, the Bill READ ONCE, without reference to a Committee.

House Amendment "A" (H-623) READ and ADOPTED, in concurrence.

Under suspension of the Rules, READ A SECOND TIME.

On motion by Senator DUTREMBLE of York, Senate Amendment "A" (S-416) READ and ADOPTED.

Which was PASSED TO BE ENGROSSED, as Amended, in NON-CONCURRENCE.

Sent down for concurrence.

SENATE PAPERS

Bill "An Act to Implement Emergency Recommendations from the Task Force on Incapacitated and Dependent Adults"

S.P. 990

Presented by Senator CLARK of Cumberland
Cosponsored by: Representative PINES of Limestone, Senator GILL of Cumberland, Representative ANTHONY of South Portland
Approved for Introduction by a Majority of the Legislative Council pursuant to Joint Rule 27
Which was referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED.

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

COMMITTEE REPORTS

House

Ought to Pass

The Committee on STATE AND LOCAL GOVERNMENT on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Lincoln County for the Year 1988 (Emergency)

H.P. 1920 L.D. 2619

Reported that the same Ought to Pass, pursuant to Joint Order H.P. 1489.

Comes from the House with the Report READ and ACCEPTED and the Resolve PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

Under suspension of the Rules, the Resolve READ TWICE and PASSED TO BE ENGROSSED, in concurrence.

Ought to Pass As Amended

The Committee on AGRICULTURE on Bill "An Act to Establish Guidelines for Genetic Engineering Experimentation"

H.P. 1727 L.D. 2370

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-583).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-583) AS AMENDED BY HOUSE AMENDMENT "A" (H-626), thereto.

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-583) READ.

House Amendment "A" (H-626) to Committee Amendment "A" (H-583) READ and ADOPTED, in concurrence.

Committee Amendment "A" (H-583) as Amended by House Amendment "A" (H-626) thereto, ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on FISHERIES AND WILDLIFE on Resolve, to Reconstitute the Commission to Review the Laws Relating to Registered Maine Guides (Emergency)

H.P. 1673 L.D. 2292

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-610).

Comes from the House, with the Report READ and ACCEPTED and the Resolve PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-610).

Which Report was READ and ACCEPTED, in concurrence.

The Resolve READ ONCE.

Committee Amendment "A" (H-610) READ and ADOPTED, in concurrence.

The Resolve as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on FISHERIES AND WILDLIFE on Bill "An Act to Make Changes in the Laws Concerning Licensed Maine Guides and Related Laws" (Emergency)

H.P. 1767 L.D. 2420

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-611).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-611).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-611) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on LEGAL AFFAIRS on Bill "An Act to Clarify Reporting Requirements under the Campaign Finance Laws"

H.P. 1549 L.D. 2109

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-607).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-623).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-607) READ and ADOPTED, in NON-CONCURRENCE.

House Amendment "A" (H-623) READ and ADOPTED, in concurrence.

Under suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended in NON-CONCURRENCE.

The Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Establish On-Site Day Care at the Capitol Complex"

H.P. 1678 L.D. 2307

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-625).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-625).

Which Report was READ.

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending ACCEPTANCE of the Report.

The Committee on TRANSPORTATION on Bill "An Act to Give the Commissioner of Transportation Power to Condemn Existing Rail Lines for Transfer to Safe, Reliable and Efficient Rail Operators"

H.P. 1701 L.D. 2338

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-616).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-616).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-616) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on TRANSPORTATION on Bill "An Act Relating to 6-Axle Vehicles Carrying General Commodities"

H.P. 1919 L.D. 2618

Reported that the same Ought to Pass.

Signed:

Senators:

DOW of Kennebec

THERIAULT of Aroostook

CAHILL of Sagadahoc

Representatives:

MACOMBER of South Portland

SALSBURY of Bar Harbor
MOHOLLAND of Princeton
MCPHERSON of Eliot
STROUT of Corinth
CALLAHAN of Mechanic Falls
MILLS of Bethel
SOUCY of Kittery
POULIOT of Lewiston

The Minority of the same Committee on the same subject reported that the same Ought Not to Pass.

Signed:

Representative:

REEVES of Pittston

Comes from the House the Majority OUGHT TO PASS Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.

Which Reports were READ.

On motion by Senator DOW of Kennebec, the Majority OUGHT TO PASS Report was ACCEPTED, in concurrence.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

SECOND READERS

The Committee on Bills in the Second Reading reported the following:

House As Amended

Bill "An Act to Provide Additional Resources to the Board of Pesticides Control"

H.P. 1514 L.D. 2067
(C "A" H-619)

Resolve, Creating the Commission on Marine Research (Emergency)

H.P. 1741 L.D. 2387
(C "A" H-617)

Resolve, to Establish the Special Commission on Boating

H.P. 1785 L.D. 2446
(C "A" H-618)

Bill "An Act to Abolish the Office of Complaint Justice and Replace it with the Office of Justice of the Peace" (Emergency)

H.P. 1791 L.D. 2452
(C "A" H-600)

Which were READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended, in concurrence.

ENACTORS

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:

An Act to Require Supervisory Auditors to Obtain Professional Certification within 3 Years

H.P. 1594 L.D. 2180
(H "A" H-559 to H "A" H-519)

On motion by Senator PEARSON of Penobscot, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

An Act to Enhance Enforcement of the Handicapped Parking Laws

S.P. 974 L.D. 2587
(S "A" S-389)

On motion by Senator PEARSON of Penobscot, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

Out of order and under suspension of the Rules, the Senate considered the following:

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator USHER for the Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act Concerning the Storage, Use and Transportation of Hazardous Chemicals" (Emergency)

S.P. 939 L.D. 2477

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-418).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-418) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Out of order and under suspension of the Rules, the Senate considered the following:

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on TAXATION on Bill "An Act to Improve Services for Maine's Elderly"

S.P. 943 L.D. 2490

Reported that the same Ought Not to Pass.

Signed:

Senator:

SEWALL of Lincoln

Representatives:

NADEAU of Saco

CASHMAN of Old Town

ZIRNKILTON of Mount Desert

WHITCOMB of Waldo

MAYO of Thomaston

SWAZEY of Bucksport

DORE of Auburn

SEAVEY of Kennebunkport

JACKSON of Harrison

The Minority of the same Committee on the same subject reported that the same Ought to Pass.

Signed:

Senators:

TWITCHELL of Oxford

DOW of Kennebec

Representative:

DUFFY of Bangor

Which Reports were READ.

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending ACCEPTANCE OF EITHER REPORT.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on AGING, RETIREMENT AND VETERANS on Bill "An Act to Clarify the Definition of Earnable Compensation"

H.P. 1826 L.D. 2502

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-624)

Minority - Ought Not to Pass

Tabled - April 6, 1988 by Senator CLARK of Cumberland.

Pending - Motion of Senator BERUBE of Androscoggin to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, in concurrence.

(In Senate, April 6, 1988, Reports READ.)

(In House, April 5, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-624).)

On motion by Senator BERUBE of Androscoggin, the Majority OUGHT TO PASS AS AMENDED Report was ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-624) READ and ADOPTED, in concurrence.

Under suspension of the Rules, READ A SECOND TIME. On motion by Senator CLARK of Cumberland, Senate Amendment "A" (S-420) READ.

Senate at Ease

Senate called to order by the President.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator PEARSON: Thank you Mr. President. Mr. President, men and women of the Senate. I am not clear on this even yet and it bothers me. As I understand what has happened is that persons who are getting ready to retire are given bonuses before they are ready to retire. For example it might work this way, superintendent of schools comes into the school board and says to the school board, I am getting through in two more years and you know you give me a travel expense and that is non-taxable, but I would like to have you take that travel expense and put that into my salary. Because that will mean that when I get ready to retire I will get a higher retirement. He contacts Joe Friendly on the board and says to Joe, you know I wouldn't mind if you gave me an extra five or ten thousand dollars either, so-called golden parachute. What happens is that contract is negotiated and he is given the extra money when he gets out and gets a higher retirement. That wouldn't be too bad except for the fact that is going to have an effect on the Retirement System for a long time. That doesn't just happen with administrators, but I think they are the bulk of it because they have the contact with the people that can make the difference, the school board or the S.A.D. board or whatever. But some teachers have also been told, if you tell us a couple of years before you get through we will give you a bonus of five hundred or seven hundred and fifty dollars a year and that will make a little difference in your retirement. Some of them in some school systems, and I understand that it happened in Portland, that wanted to have a reduction enforced to get people out, gave them an incentive to get out by giving them an increase in the last year which would increase their retirement. Now what happens to that, as I understand it, is that the Retirement System will pay for that forever, because it is based on your highest three years of income. Senator Clark seems to be saying in her amendment that those people who negotiated that contract, especially teachers I think she feels, in good faith and believed that their retirement was going to be based on that and now they are going back with an interpretation of the rules and they are lowering the amount of money people get in their retirement check from what they understood they were going to get in the beginning. That is unfortunate, I don't think that should happen. But, the problem I have with it is while I know it is going to effect some of these retired teachers who live from hand to mouth, check to check, who have been given a small bonus, superintendents and principals have been doing this for years and school boards have been going along with it. They also do that at the University of Maine Board of Trustees, or they used to until they became such a bad publicity thing. So, I am in a dilemma, I think they should be given the same check they were told they were going to get when they were first pensioned. But this extends it to 1991 which is exacerbating the problem

as far as the retirement liability is concerned. If we don't do it we will break the contract, so there is a dilemma here and I would ask the Senator from Cumberland, Senator Clark, if my characterization is correct and if there is any way out of this dilemma.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator BERUBE: Thank you Mr. President. Mr. President, men and women of the Senate. The Bill before us is a clarification of the term earnable compensation and Senator Pearson, from Penobscot, has explained a little bit about the Bill. If this Bill is not passed and earnable compensation is included as part the total amount of money that is calculated to be part of the retirement fund, the unfunded liability of the State Retirement System fund will increase by approximately one hundred and thirty million dollars. Further, we have absolutely no way of knowing how many people would come out and apply for the new retirement rate if this is not passed. The Senator from Cumberland, offers an amendment and she has some valid concerns certainly. If she included in her amendment the date at which the Maine State Retirement System Board in August of 1987, on that day they clarified and defined the term earnable compensation so that anything subsequent to that date would not come under this earnable compensation. So it would really cover the people which she seeks to assist, but even with that we have no idea how many people would come under this plan. Failure to pass this if only teachers apply will cost the General Fund 8.5 million dollars, failure to pass this Bill. So there are many ramifications, I do not seek to quarrel with my leader, however, I thought I would rise and clarify it a little bit. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Thank you Mr. President. Mr. President, men and women of the Senate. I offered Senate Amendment "A" (S-402) to L.D. 2502 in all sincerity for it addressed my negative signature on the Committee jacket on L.D. 2502. Currently there are negotiated agreements between local school units and teachers associations. The duration of which in the worst case scenario would expire on September 1, 1991, negotiated agreements usually cover periods of one to two or three years. In those negotiated agreements, teachers are not privileged to individually bargain for their salaries, but must abide by the provision adopted, not only by the teachers association, by ratified by the local school governing board, the S.A.D. Board of Directors of the local school committee. There are a few teachers who serve in our schools who, for example, are a spouse, most of them are female and their husbands already receive health insurance and other fringe benefits. The local negotiated agreement provides that for those teachers who do not receive the fringe benefits they may accept the value of those benefits in cash, in lieu of taking the fringe benefit and that is acceptable, it has been agreed to by the school committee and it is agreed to by the ratification by the Teachers Association. It becomes part of the salary that is paid to the teacher on which taxes are paid and, in most instances that I know of, they also pay their 6.5 retirement contribution to the System.

The Board of Trustees of the Maine Retirement System last summer adopted the narrower definition of earnable compensation and what has happened in practice is that for those few teachers, and it does include administrators, who are part and parcel of this practice, who have already retired, they files are being reviewed and their retirement allowance is being decreased accordingly, based on the recently

adopted definition of earnable compensation. Senate Amendment "A" (S-404) to the Bill simply provides for a transition based on the worst case scenario some collective bargaining agreements will expire in September 1, 1988 and from that point on in the negotiating process that practice that I had alluded to will cease. The Retirement System will not know how many teachers participate in that process and I don't know and that information was not privy and nobody seems to know. The fact of the matter is that an agreement was reached under which an individual depended or based their retirement decision and now retroactively the retirement allowance upon which these individuals trusted when they made their decision to retire is being reduced and ladies and gentlemen of the Senate, that is inappropriate and unfair. It is truly unjust. The retirement benefits for teachers is low enough as it is.

My attempt in offering Senate Amendment "A" (S-404) is to grandparent in for the duration of the longest collective bargaining agreement, because teachers can't change their salary agreements once that has been ratified until September 1, 1991, when in between now and passage of this Bill and that date as contracts expire, this practice will cease if it existed at all in local school units. That seems perfectly acceptable, it is acceptable to me, because that was my only concern. People depending on that, that is what they knew they were getting for a salary, now they will probably take the fringe benefit. The fiscal note to which the distinguished Senate Chair of our Committee, the Senator from Androscoggin, Senator Berube, has alluded is the very worst case scenario if every teacher in the state of Maine indulged in this practice. Obviously we don't, I don't, most teachers don't, but you shouldn't be able to go back retroactively and readjust a retirement benefit that the local school administrative unit has agreed to. I have no problem with implementing the narrower definition of earnable compensation prospectively, but to interject the ratification date by the Board of Trustees of this definition of earnable compensation back at the end of last summer, negates the agreement under which those teachers and probably more administrators are practicing for this school year. Which is why this entire issue is currently before the Superior Court of our state. This Bill while it has been suggested by, as I understand it, the Assistant Attorney General who works for the Retirement System, that this would have no effect on the court case. We asked that question during the public hearing on this Bill and I would submit that it has considerable impact on that pending court case before our Superior Court. It would, in fact, render the case mute. The plaintiff's in the court case, as I remember and I have my folder from the hearing before me, are those who are covered by collective bargaining agreements in effect prior to August 1, 1987. So having adopted the narrower definition of earnable compensation the Retirement System seeks to implement it retroactively and it impacts negatively on those people who are already retired. How would you like to expect to receive eight hundred and seventy-five dollars a month as your retirement allowance after twenty-seven years of teaching and then found out that an adjustment downward is going to be made because of a definition of earnable compensation that was adopted in 1987, prior or after you had retired? Teachers do not have the same flexibility as administrators relative to their annual contractual salaries. They are restrained or contained within the articles of the collective bargaining agreement and it seems to me that one, L.D. 2502 accepts the new definition of

earnable compensation. Two, if we adopt Committee Amendment "A" (S-420) we would then have an opportunity to phase it in, impacting on only those teachers prospectively as their negotiated contracts, which govern their salaries and their fringe benefit package, expire.

How this effects administrators I know not, but I do know that administrators have a great deal more flexibility and leeway relative to their annual contracts and that I do submit that the Maine School Administration, an association which has its building across the road on Sewall Street, will have sent out by this date, right now, already, a hot line to administrators across the state that this practice which is contained in L.D. 2502 or alluded to in L.D. 2502 shall cease at the end of their current contracts. You can do that with administrators you can't do that with teachers. That is why I offer this amendment, which makes L.D. 2502 then acceptable to me and as I understand it the rest of those who signed Ought Not to Pass.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator PEARSON: Thank you Mr. President. Mr. President, men and women of the Senate. I still remain confused. I guess what I am looking for is a way to not take back from those teachers who are living on small retirements, money that they felt was going to be given to them. I have no sympathy or very little for superintendents and principals whose salaries were jacked up ten or fifteen thousand dollars in the very end in order to do this. There is a difference. I don't know how to constitutionally or legally differentiate between the two. But it seems to me that it is unfair both to teachers and to the Retirement System for that practice to have ever gone on and to be allowed to continue even for one minute more than it is. Senator Clark makes the case that while these are negotiated agreements and I must say even maybe as a teacher I understand that. They negotiated as a group, there will be no change in my salary ever as a bonus, but administrators have so much more access to that legislative body that determines their salary and over and over and over again they have been given big huge amounts all of a sudden right at the end to inflate what they are going to get for retirement and that causes a drain on the Retirement System of unfunded liability. I don't think that is right. I don't know how to tackle it and I still remain confused. If I were to say I would like to request a Division on this amendment, I don't even know how I would vote on this amendment. I am simply perplexed, I remain perplexed, it doesn't seem to me that the issue that I am interested is being addressed. If nobody feels the same I won't cause any more of a fracas, but that is the way I feel.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator BERUBE: Thank you Mr. President. Mr. President, men and women of the Senate. Just to add a little more information. These negotiated agreements so-called between the school boards and the teachers and the superintendents, they know very well that it is the state that is going to pick up the tab for this bonus and yet the state is not there at the negotiating table. Also, I would like to add and I have mentioned the cost of the actuacy of the Maine State Retirement System estimates how it will impact the Retirement System as well as the cost to the General Fund, but there is another cost also that will be in excess of two percent, actually it is 2.06 percent of teachers salaries. That spells out to about eight and a half million dollars. Maybe the

school boards are taking advantage of the fact that the state is going to pick up the cost of this bonus system and maybe the Bill is the way to go, at least that is how I perceived and believe.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Thank you Mr. President. Mr. President, men and women of the Senate. I apologize for extending this debate but I would address my remarks particularly to the good Senator from Penobscot, Senator Pearson. My amendment addresses the transition phase in for teachers, it does not address the concern relative to administrators that he expressed. I believe in my earlier remarks I assured the members of this Body that administrators across the state, if they haven't already, will be by the time this Bill ever sees the Governor's signature, will be notified adequately and emphatically that the less than desirable practice of, if you will, padding their remaining few years will terminate, or shall cease. I accept the assurance of the Maine School Management Association that if it hasn't already occurred that it will occur posthaste. That those practices will no longer occur. I seek only again to assure the good Senator Chair of this Committee that the actuarial figures that have been tendered to our hard working Committee are based on an incident of including cash in lieu of fringe benefits and retirement enticements, if you will, for every single teacher in the Retirement System and that just isn't true. That actuarial figure has to include all fourteen thousand plus teachers and all fourteen thousand teachers don't participate in that process. I don't know one in my own system who does. The Retirement System testified that they didn't know how many exercised this practice, that is how they devise the fiscal note. The fiscal note is without standing creditability because here I stand as a practicing classroom teacher on leave of absence for Legislative Service without pay or fringe who doesn't participate in that process and I could because as a Legislator I am part of the State Health Care package, not my local school systems. If I were taking cash in lieu of fringe I would be the first to tell you that the practice would cease as a result of the adoption of this and the expiration of the negotiated comprehensive contract under which I operate.

I would like to make it all better but I do think that L.D. 2502 as amended by the proposed Senate Amendment is eminently more fair than the original version of the Bill which would seek to implement this retroactively to the detriment to those who are laboring under a contractual agreement today. Thank you Mr. President.

On further motion by same Senator, Senate Amendment "A" (S-420) ADOPTED.

Which was PASSED TO BE ENGROSSED, as Amended in NON-CONCURRENCE.

Sent down for concurrence.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Improve Legislative and Public Access to the Agency Rule-making Process"

H.P. 132 L.D. 161

Majority - Ought to Pass in New Draft under New Title Bill "An Act to Establish Greater Communication in the Rule-Making Process and to Provide Better Standards for the Adoption of Rules"

H.P. 1912 L.D. 2611

Minority - Ought to Pass in New Draft under New Title Bill "An Act to Make Changes in the Rule-Making Process"

H.P. 1913 L.D. 2612

Tabled - April 6, 1988, by Senator CLARK of Cumberland.

Pending - Motion of Senator TUTTLE of York to ACCEPT the Majority OUGHT TO PASS IN NEW DRAFT UNDER NEW TITLE (H.P. 1912) (L.D. 2611) Report, in concurrence.

(In Senate, April 6, 1988, Reports READ.)

(In House, April 4, 1988, PASSED TO BE ENGROSSED.)

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Gould.

Senator GOULD: Thank you Mr. President. Mr. President, men and women of the Senate. L.D. 2611, the Majority Report, "An Act to Establish Greater Communication in the Rule-Making Process and to Provide Better Standards for the Adoption of Rules," should be defeated in favor of the L.D. 2612, the Minority Report, "An Act to Make Changes in the Rule-Making Process." There are problems with the Majority Report. The Secretary of State would supervise compliance with administrative procedure act for every single agency and for every single rule, three hundred to four hundred a year. It is beyond the capacity of the Secretary of State's office to play such a role without an enormous increase in resources. They perform primarily clerical tasks at present, serving as a recipient for rules and filing them by the date they are received. There should be a fiscal note for at least one attorney and related support staff in the Secretary of State's office. The Governor is accountable for those agencies which are directly under his authority and in October the Governor issued an Executive order to improve these agencies compliance with rule-making. It doesn't make sense to inject the Secretary of State's office into the relationship between the Governor and his Departments.

Another problem, it requires supervision of independent board and commission rule-making by Commissioner of Professional and Financial Regulations. It is inappropriate to have the Commissioner supervise compliance with the law by independent boards and commissions. If we have a problem with rule-making by independent professional boards then we should look at the authorizing statues and the Business Legislation Committee should examine these issues. There should be a fiscal note of thirty-eight thousand dollars if this provision is kept. It is estimated by the Department of Professional and Financial Regulation that it would require at least one additional attorney.

Another problem, it requires an additional comment period and elaborate fact sheets for any agency and any rule regardless of their size of impact. This L.D. 2611, the Majority Report, tries to address the problems that some businesses have with some agencies by changing the law that effects all agencies and all rules. These are extremely broad provisions which make no distinctions among the kinds of agencies that are impacted or the importance of the rules. The L.D. 2611 fiscal note states merely that departments and agencies of state government will incur some costs, but they cannot be determined. A preliminary survey of only seventeen agencies show that they will incur costs totaling over two hundred thousand dollars, while agencies should absorb some of these costs, there should be a fiscal note for at least a significant portion of that amount.

The Minority Report, L.D. 2612, should be accepted. The Minority Report contains the same

additional rule-making requirements for additional public comment periods, regulatory agenda, fact sheets and performance standards, but L.D. 2612 makes them applicable only where appropriate for certain agencies or certain rules instead of making them global. It has a smaller fiscal note for expenses of a commission of codification of rules. Costs to agencies will be vastly smaller, the change in the rule-making in the Minority Report are similar to Executive orders in 1986 and 1987, so agencies have already begun to phase in additional responsibilities over a long period of time without existing resource. It does not require Secretary of State oversight, that the Commissioners review rule-making compliance of independent boards.

If the Majority Report, L.D. 2611, is passed it should be amended to include a much larger fiscal note. Thank you Mr. President.

Senator GOULD of Waldo requested a Roll Call.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Tuttle.

Senator TUTTLE: Thank you Mr. President. Mr. President, men and women of the Senate. I am supporting the Majority Report of the Committee on State and Local Government. The Committee on State and Local Government reported out two reports on L.D. 161, which had been introduced in the First Regular Session and reported out L.D. 1651. L.D. 1651 was held over from the Second Regular Session last year. L.D. 1651, which incorporated three Bills dealing with the rule-making process including provisions by the Select Committee on Economic Development, sought to make the rule-making process more responsible to the needs and the concerns of the general public. This goal is achieved through greater communication between state agencies, the Legislature and the general public.

The Majority Report of L.D. 2611 differs from the Minority Report as has been stated earlier. L.D. 2612 differs in several significant respects. In the first case, the Majority Report requires an expanded fact sheet giving more information about all proposed rules. This fact sheet would replace the copy that is currently sent to Legislators. The fact sheet will contain a description of the rules and a description of the economic impact of the rule, including effects that cannot be quantified in monetary terms. The Minority Report proposed to provide an expanded fact sheet only for existing rules and those with an impact of one million dollars or more. The result of that in my opinion is that the Minority Report will be a very few expanded fact sheets if any and will be issued by agencies as a result.

The second area of difference between the Majority and the Minority Reports relate to oversight of rule-making. The Majority Report provides for oversight by the Secretary of State, who will assist agencies to write clear and easily understood rules. This is something that we talk about year after year and after working in Committee for a year and a half, I hope that you will support the Majority Report. The Minority Report does not provide for any oversight of the rule-making process, thus there will be no mechanism by which agencies can be monitored and assisted with respect to the proposal of adoption of rules. The third area of difference between the Majority and Minority Reports concerns oversight of Professional and Occupational Licensing Boards in relation to rule-making, since these boards are substantially autonomous with respect to state government there is almost no monitoring over boards and the rule-making. Since these boards are composed of persons with certain vested interests, who make

decisions that effect the entire state, the Majority Report proposes that the Commissioner of Professional and Financial Regulation review all newly proposed rules of these boards. In 1985, the forty licensing boards adopted roughly seventy rules, the Commissioner of Professional and Financial Regulation was required only to review the rules and is not empowered to veto rules. The Commissioner will report his or her findings to the Legislature which can change the law of the Board if necessary to ensure that the Board acts in the public's best interest. The Minority Report does not provide for any type of oversight like this.

The majority of the Committee has endorsed a creation of a Commission to investigate the means by which rules of the state agencies may be codified. This codification commission will review various alternatives and recommend the alternative is the most reasonable for the state of Maine. From our study Committee and from our research we found that most states have a published code of rules and most states are doing what the Majority Report is reporting to do. It is for that reason that I hope you will support the Majority Report of the Committee.

At the request of Senator BALDACCI of Penobscot, the Report was READ.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCI: Thank you Mr. President. Mr. President, men and women of the Senate. Very clearly the majority of the Committee supports the effort to get more information on the fact sheets that the different agencies and boards and commissioners are promulgating. You have all received those fact sheets, there is not enough information about what the agencies are proposing to do, the majority of the Committee is proposing a more expanding fact sheet. The Minority of the Committee in its report set a threshold of a million dollars or more if it had that kind of impact. The fact of the matter is anybody can play games to determine whether it is a million dollars or not to fall under those guidelines and in the Minority Report there is no supervision for making sure that those agencies adhere to that. So if you are for good government, if you are for knowledge and you want knowledge of what these different agencies and boards and commissions are doing, and you want them to be more responsible then you will be supporting the majority position on the Committee on State and Local Government. Thank you Mr. President.

On motion by Senator GOULD of Waldo, supported by a Division of at least one-fifth of the Members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion of Senator TUTTLE of York to ACCEPT the Majority OUGHT TO PASS IN NEW DRAFT under NEW TITLE (H.P. 1912) (L.D. 2611) Report.

A vote of Yes will be in favor of ACCEPTANCE.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators ANDREWS, BALDACCI, BERUBE, BRANNIGAN, BUSTIN, CLARK, DOW, DUTREMBLE, ESTES, GAUVREAU, KERRY, MATTHEWS, PEARSON, THERIAULT, TUTTLE, USHER, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators BLACK, BRAWN, CAHILL, COLLINS, DILLENBACK, EMERSON, GILL,

GOULD, LUDWIG, MAYBURY,
PERKINS,
RANDALL, SEWALL,
TWITCHELL, USHER,
WHITMORE

ABSENT: Senators ERWIN, KANY

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator TUTTLE of York. to ACCEPT the Majority OUGHT TO PASS IN NEW DRAFT under NEW TITLE (H.P. 1912) (L.D. 2611) Report, in concurrence, PREVAILED.

The Bill in NEW DRAFT under NEW TITLE (H.P. 1912) (L.D. 1912) READ ONCE.

The Bill in NEW DRAFT under NEW TITLE (H.P. 1912) (L.D. 1912), TOMORROW ASSIGNED FOR SECOND READING.

Off Record Remarks

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Allow Greater Departmental Input Under Certificate of Need Provisions" (Emergency) H.P. 1503 L.D. 2053 (C "A" H-599)

Tabled - April 6, 1988, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence

(In Senate, April 6, 1988, READ A SECOND TIME.)

(In House, April 5, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-599).)

Which was PASSED TO BE ENGROSSED, as Amended, in concurrence.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Ban Disposable Styrofoam Food and Drink Containers from Public Cafeterias" H.P. 1592 L.D. 2178 (C "A" H-604)

Tabled - April 6, 1988, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence

(In Senate, April 6, 1988, READ A SECOND TIME.)

(In House, April 5, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-604).)

Which was PASSED TO BE ENGROSSED, as Amended, in concurrence.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Prohibit the Sale of Polystyrene Foam Products Containing Chlorofluorocarbons" H.P. 1797 L.D. 2461 (C "A" H-596)

Tabled - April 6, 1988, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence

(In Senate, April 6, 1988, READ A SECOND TIME.)

(In House, April 5, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-596).)

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence.

Off Record Remarks

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (Emergency) S.P. 950 L.D. 2521 (C "A" S-404)

Tabled - April 6, 1988, by Senator USHER of Cumberland.

Pending - ADOPTION OF SENATE AMENDMENT "A" (S-412) TO COMMITTEE AMENDMENT "A" (S-404) thereto, in NON-CONCURRENCE

(In Senate, April 6, 1988, READ A SECOND TIME.)

Senator USHER of Cumberland requested and received Leave of the Senate to withdraw his motion to ADOPT Senate Amendment "A" (S-412).

Committee Amendment "A" (S-404) was ADOPTED.

Which was PASSED TO BE ENGROSSED.

Sent down for concurrence.

THE PRESIDENT: In reference to the action of the Senate on April 4, 1988, whereby it INSISTED AND JOINED IN A COMMITTEE OF CONFERENCE on Bill, "An Act to Establish the Strategic Training for Accelerated Reemployment Program" (Emergency) (S.P. 946) (L.D. 2494)

The Chair appointed as conferees on the part of the Senate:

Senator CLARK of Cumberland

Senator ANDREWS of Cumberland

Senator WEBSTER of Franklin

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Establish a Permit to Operate a Railroad" H.P. 1752 L.D. 2401

Tabled - April 5, 1988, by Senator CLARK of Cumberland.

Pending - ADOPTION OF COMMITTEE AMENDMENT "A" H-590, in concurrence.

(In Senate, April 5, 1988, Committee Amendment "A" (H-590) READ.)

(In House, April 5, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-590).)

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending ADOPTION of Committee Amendment "A" (H-590), in concurrence.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

SENATE REPORTS - from the Committee on AGRICULTURE on Bill "An Act to Require Farms to Post Notice of Pesticides Used" S.P. 930 L.D. 2441

Majority - Ought Not to Pass

Minority - Ought to Pass as Amended by Committee Amendment "A" (S-413)

Tabled - April 6, 1988, by Senator MATTHEWS of Kennebec.

Pending - ACCEPTANCE OF EITHER REPORT

(In Senate, April 6, 1988, Reports READ.)

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Matthews.

Senator MATTHEWS: Thank you Mr. President. Mr. President, men and women of the Senate. I know the hour is late, but this issue I believe is very important. As I mentioned briefly on the floor it is a tough situation to oppose my good friend, the Senator from Cumberland, Senator Black, and my other

good colleague the Senator from Oxford, Senator Twitchell, but I do so because I believe the issue merits some discussion and I believe that my position is right. Ladies and gentlemen of the Senate, I want to tell you a little bit about my amendment and a little bit about this issue. Ladies and gentlemen of the Senate, we had a lengthy hearing on this issue, "An Act to Require Farms to Post Notice of Pesticides Used," it stemmed from an incident involving a citizen of our state, a young pregnant woman and her husband that were unfortunately exposed to Plictran back in the fall of 1987. It just so happened that when our Bill was heard, a few weeks back, that the husband came to the Committee and testified that afternoon in favor of this Bill. Ladies and gentlemen, that particular gentleman had been up for about twenty-four hours because that very morning, I believe it was about eight o'clock, his wife gave birth to a very healthy baby, thank the Lord. That was an important issue to that gentleman and to that mother of the child. They really went through, you know what, and that was unfortunate, ladies and gentlemen, and I believe is at the heart of this issue. I remember listening to that prolonged debate in the hearing and one thing stands clear and stands out in my mind from that public hearing that afternoon. That was the remark made by the a gentleman from our state who opposed the Bill, he came down to represent the farmers and the agricultural interests and I will never forget what that gentleman said to that young father. He said, "you should be ashamed of yourself for bringing this Bill before this Committee. It is legislation like this that does no one any good." Ladies and gentlemen, I will tell you my blood was about to boil, that is an important issue and that gentleman had very right and the citizens of this state have every right to use this Legislature, their Legislature, to redress problems that effect them. That was only one out of many opponents that day and I know his views did not represent in any way, shape or form the vast majority of farmers out there. Pesticide use is a complex and complicated issue. Ladies and gentlemen, we passed, as a Legislature, a few years back the right to know law, for employees across this state and employers that they had the right to know what chemicals they were being exposed to. I think the consumers of this state have rights also, the right to know what chemicals they are being exposed to.

The good Senator from Kennebec, Senator Bustin, the sponsor of this legislation, brought forward L.D. 2441, there wasn't too much support in Committee for that Bill, the concept everyone supported by the mechanics were a problem. I sat down with the legal assistant afterwards and I said, we have an issue here, it is not an issue that is going to go away when we dispose of this Bill, it will be back. Ladies and gentlemen, I think it is important for the Legislature to think beyond the edge of our nose. I put forward this amendment and I would like to read a little bit about what my amendment would do. "Notification, pick your own harvest, the owner or operator of any farm that allows a pick your own harvesting shall provide notice to potential pickers of any use or application of a pesticide. Notification shall be made before the picking begins. Guidelines, the Board of Pesticides Control shall adopt rules pursuant to the A.P.A. establishing procedures for the notification of every person who engages in pick your own harvest of the use of applications of pesticides. A. The rules may include notification requirements which differ by commodity or commodity group. B. Include provisions

for oral or written notification or both, and C. provide for the development by the Board of Pesticides Control a written materials describing the pesticides most likely to have been used, how much time must lapse between the last application of a particular pesticide and harvesting. Recommended precautions to limit the exposure of a given pesticide to pregnant women, children or other highly sensitive individuals and other relevant information."

Ladies and gentlemen, I sympathize with farmers across the state in these types of operations that feel that putting up a sign or more than one sign around their business might be detrimental to their business. But, ladies and gentlemen, the public has a right to know. Rather than kill the Bill, the Board of Pesticides Control and the Department of Agriculture is charged by the citizens of this state to do what is right for not only the growing producers of our foods, but also the consuming public. Let me read a little bit from what the Department said, Mr. Peter Mosher testified before our Committee, "the Department supports maintaining a safe and wholesome food supply for the people of Maine and responsible for educating the public on how our food is produced. In addition, the Department also supports the continue existence of agricultural businesses that provide safe, fresh and nutritious food for the people of Maine. The L.D. addresses the issue of employee and consumers right to know of the use of pesticides in food production. The Department is supportive of the principle for the employee and the consumers right to know." Ladies and gentlemen, my amendment takes employees out of it because we have already got a law that protects the employees. It seems to me to be very inconsistent though that there is no such protection for the consumer. Support for the concept, but not support for the Bill. Ladies and gentlemen, I believe folks in Maine can sit down as rational people and hammer out a compromise that works for the benefit of everybody and that is what my amendment does. It is a good amendment and it can be done. The head of the Board of Pesticides Control told me that he could do this, could implement some rules and regulations, that is what we pay them for. That is what he has been charged to do in the Department.

The attempt of the Legislature to provide the consumers of this state with information about chemicals. Ladies and gentlemen, it is going to happen, we know it is going to happen are we going to wait for another crisis and Lord knows what to happen before we get on board with this issue? Members of my Committee told me privately, Zack, we support this issue, the concept, we support the concept, what is being attempted is right, I don't envy being on the other side of a twelve to one report, but the issue is important. Ladies and gentlemen, let's give this amendment a chance, let's give this issue another day, another hearing, let's uphold the bureaucracy that we pay for and the taxpayers pay for, the Board of Pesticides Control to provide this information to the consuming public and let's pass this amendment. Thank you.

Senator MATTHEWS of Kennebec moved to ACCEPT the Minority OUGHT TO PASS AS AMENDED Report.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Black.

Senator BLACK: Thank you Mr. President. Mr. President, men and women of the Senate. I am not going to be lengthy tonight, I am not going to ask to have the Committee Report read, I am not going to divulge into the intricacies of the Pesticides Law, the Federal one. We are charged with enforcing the educational part of new laws coming into force with

the Department of Labor and the Pesticides Control Board and Extension Service and everybody else. I would like to see the fiscal note that is going to go onto this amendment that he is talking about. But, this is a bad Bill, the Committee was obviously twelve to one on the report.

Senator BLACK of Cumberland requested a Division.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator BUSTIN: Thank you Mr. President. Mr. President, men and women of the Senate. I hesitate to get up because I think the good Senator from Kennebec, Senator Matthews, has done an excellent job, but in the interest of my constituent who came to me and pleaded with me to do something about this for this was a very traumatic experience for him. He is a new father, his wife had been exposed to Plictran in the first two months of her pregnancy, they finally had put in the news that Plictran could be detrimental and may cause mental retardation to fetus' of pregnant women. Further than that the orchardists themselves had been apprized of the danger of this. but the Department of Agriculture had failed, I repeat failed, to notify the public. It was only when the news media got a hold of it that we learned anything about it. It was only then when these people knew that it was on those apples and that they had to worry some about it. All we are asking for with, the good Senator from Kennebec, Senator Matthew's amendment, a report is that you give some kind of information to the people who are going to be picking their own fruits or vegetables. That is all we are asking. What we heard in that Committee hearing was, "but there is enough information now so people should be aware when they go into orchards of what is on those apples." Well I am sorry, but these people did not, I have never even heard the word Plictran myself until it came out in the news media. Further than that, when that issue came before me by that constituent sitting in my office in my home, it was during one of our Special Sessions. I, what I consider myself a good case worker, went directly to the Department of Agriculture. They pleaded with me not to put the Bill in, in that Special Session, I had brought it to leadership, leadership knew about it, because they feared that it would effect economically their harvest that season. I did not put it in that time and asked that the Department support me in putting that Bill in, in January. I did not get that support until I put some pressure on. I do not consider that the Department of Agriculture, specifically with Plictran, acted in the best interest of the public. I think that it is not much to ask that we at least give the information to these consumers through a Bill such as Senator Matthew's. I think they already have a setup for giving information within the Department and I think that is what Senator Matthew's report speaks to. Whatever the cost, it could not cost as much as what I saw before me from that young father who was so worried that he was going to be producing a mentally retarded youngster, because of some knowledge that he did not have. That is unbearable for me, it was unbearable for him and should be unbearable for you. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Matthews.

Senator MATTHEWS: Thank you Mr. President. Mr. President, men and women of the Senate. Throughout the entire remarks of the Department, they did not oppose what the concept and the essence of this Bill was trying to do and my amendment will do. The only opposition from the Department was that notification could not be done and should not be done without

education. I believe the Department is right. My amendment will allow the Department and the Board to use education, utilize education, just what the Department is saying, to provide information to the consuming public. Information that will talk about the proper handling of vegetables and fruits that have been sprayed with pesticides. The kinds of things that some say we should know about, but that is not always the case. Ladies and gentlemen, it was a radical departure of history to provide employees of our country with the right to know about chemicals and substances in the workplace. Employers said, don't do this, it will hurt our business, there is no problem out there. We knew in our hearts that was not the case, that people do have the right to know. That is what the issue is here and most if not ninety-nine and nine tenths of the farmers out there I am sure use every method at their disposal to make this Bill work. It is not going to be burdensome, it is going to an education to the public. There are useful ways of using pesticides, they are important to our society to feed our public, but ladies and gentlemen, pesticides if not handled properly and not used properly as we all know are dangerous. The chemical companies, if we wait for the chemical companies to provide the consuming public with education, we know we will wait until you all know when. It is up to good government, concerned government to do that job. Ladies and gentlemen, let's give our system a chance to work, this is a good issue.

On motion by Senator BUSTIN of Kennebec, supported by a Division of at least one-fifth of the Members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion of Senator MATTHEWS of Kennebec to ACCEPT the Minority OUGHT TO PASS AS AMENDED Report.

A vote of Yes will be in favor of ACCEPTANCE.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

Senator TWITCHELL of Oxford who would have voted NAY requested and received Leave of the Senate to pair his vote with Senator ERWIN of Oxford who would have voted YEA.

Senator DUTREMBLE of York who would have voted NAY requested and received Leave of the Senate to pair his vote with Senator KANY of Kennebec who would have voted YEA.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators ANDREWS, BALDACCI, BRANNIGAN, BUSTIN, CLARK, GAUVREAU, KERRY, MATTHEWS, TUTTLE, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators BERUBE, BLACK, BROWN, CAHILL, COLLINS, DILLENBACK, DOW, EMERSON, ESTES, GILL, GOULD, LUDWIG, MAYBURY, PEARSON, PERKINS, RANDALL, SEWALL, THERIAULT, USHER, WEBSTER, WHITMORE

ABSENT: Senators None

PAIRED: Senators DUTREMBLE, ERWIN, KANY, TWITCHELL

10 Senators having voted in the affirmative and 21 Senator having voted in the negative, with 4 Senators having paired their votes and No Senators being absent, the motion of Senator MATTHEWS of Kennebec, to ACCEPT the Minority OUGHT TO PASS AS AMENDED Report, FAILED.

The Majority OUGHT NOT TO PASS Report was ACCEPTED.

Sent down for concurrence.

On motion by Senator CLARK of Cumberland, ADJOURNED until Thursday, April 7, 1988, at 8:30 in the morning.

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act to Prohibit the Establishment of Docking Condominiums on Tidewaters, Lakes and Great Ponds"

H.P. 1671 L.D. 2289
(C "A" H-585)

Tabled - April 5, 1988, by Senator USHER of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence.

(In Senate, April 5, 1988, READ A SECOND TIME.)

(In House, April 4, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-585).)

On motion by Senator CLARK of Cumberland, Tabled 2 Legislative Days, pending PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence.

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act to Extend the Uses of the Potato Marketing Improvement Fund"

H.P. 1745 L.D. 2391
(C "A" H-569)

Tabled - April 5, 1988, by Senator CLARK of Cumberland.

Pending - ENACTMENT

(In Senate, March 31, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-569), in concurrence.)

(In House, April 5, 1988, PASSED TO BE ENACTED.)

On motion by Senator MATTHEWS of Kennebec, the Senate SUSPENDED THE RULES.

On further motion by same Senator, the Senate RECONSIDERED whereby the Bill was PASSED TO BE ENGROSSED AS AMENDED.

On further motion by same Senator, the Senate SUSPENDED THE RULES.

On further motion by same Senator, the Senate RECONSIDERED whereby it ADOPTED Committee Amendment "A" (H-569), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-419) to Committee Amendment "A" (H-569) READ.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Matthews.

Senator MATTHEWS: Thank you Mr. President. Mr. President, men and women of the Senate. This is a technical amendment and I will read from the statement of fact, "the amendment reformats the allocation section to make it conform with standard practice. It also changes the sunset date of the Bill from 1991 to 1990." Thank you.

On further motion by same Senator, Senate Amendment "A" (S-419) to Committee Amendment "A" (H-569) ADOPTED.

Committee Amendment "A" (H-569) as Amended by Senate Amendment "A" (S-419) thereto, ADOPTED in NON-CONCURRENCE.

Which was PASSED TO BE ENGROSSED, as Amended in NON-CONCURRENCE.

Sent down for concurrence.

Off Record Remarks

Senator BALDACCI of Penobscot, moved to ADJOURN until Thursday, April 7, 1988, at 9:00 in the morning.