

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fourteenth Legislature

OF THE

State Of Maine

VOLUME I

FIRST REGULAR SESSION

December 7, 1988 to May 10, 1989

**ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
19th Legislative Day
Thursday, February 23, 1989**

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

Prayer by Monsignor Charles Murphy, St. Mary's Catholic Church, Westbrook.

The Journal of Wednesday, February 22, 1989, was read and approved.

Quorum call was held.

PAPERS FROM THE SENATE

Bill "An Act to Prohibit Persons Who have Violated the Animal Cruelty Laws from Participating in Pulling Events" (S.P. 167) (L.D. 324)

Came from the Senate, referred to the Committee on Agriculture and Ordered Printed.

Was referred to the Committee on Agriculture in concurrence.

Bill "An Act to Fund a Special Projects Coordinator for the Beginning Alcohol and Addictions Basic Education Studies Program" (S.P. 189) (L.D. 346)

Came from the Senate, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Was referred to the Committee on Appropriations and Financial Affairs in concurrence.

Bill "An Act to Insure Maintenance of Financial Responsibility by All Motorists" (S.P. 172) (L.D. 329)

Bill "An Act to Curtail Any Expansion or New Mandated Health Insurance Programs Until an Assessment Has Been Made of Current Situation" (S.P. 184) (L.D. 341)

Came from the Senate, referred to the Committee on Banking and Insurance and Ordered Printed.

Were referred to the Committee on Banking and Insurance in concurrence.

Bill "An Act to Increase the Compensation of the Board of Dental Examiners and Secretary-Treasurer of the Board" (S.P. 168) (L.D. 325)

Bill "An Act to Establish a Maine Self-service Storage Act" (S.P. 174) (L.D. 331)

Came from the Senate, referred to the Committee on Business Legislation and Ordered Printed.

Were referred to the Committee on Business Legislation in concurrence.

Bill "An Act to Increase the State Share of Education Funding and to Increase the Minimum State Allocation" (S.P. 169) (L.D. 326)

Bill "An Act to Clarify Costs Associated with the Purchase of Land by School Administrative Units" (S.P. 181) (L.D. 338)

Came from the Senate, referred to the Committee on Education and Ordered Printed.

Were referred to the Committee on Education in concurrence.

Bill "An Act to Manage Commercial and Industrial Growth on Significant Ground Water Aquifers" (S.P. 162) (L.D. 319)

Bill "An Act to Certify and Register Municipalities under the Site Location of Development Act" (S.P. 164) (L.D. 321)

Came from the Senate, referred to the Committee on Energy and Natural Resources and Ordered Printed.

Were referred to the Committee on Energy and Natural Resources in concurrence.

Bill "An Act to Allow Municipalities to Assess Impact Fees for Activities that Create or Intensify Problems for Municipalities with Respect to the Availability of Affordable Housing" (S.P. 153) (L.D. 273)

Bill "An Act Concerning Amendments to the Community Industrial Buildings Programs" (S.P. 175) (L.D. 332)

Came from the Senate, referred to the Committee on Housing and Economic Development and Ordered Printed.

Were referred to the Committee on Housing and Economic Development in concurrence.

Bill "An Act to Increase the License Fees for Hospitals and Long-term Care Facilities" (S.P. 163) (L.D. 320)

Came from the Senate, referred to the Committee on Human Resources and Ordered Printed.

Was referred to the Committee on Human Resources in concurrence.

Bill "An Act to Revise the Eligibility Requirements for Elderly Low-cost Drug Recipients" (EMERGENCY) (S.P. 183) (L.D. 340)

Came from the Senate, referred to the Committee on Human Resources and Ordered Printed.

On motion of Representative Swazey of Bucksport, tabled pending reference in concurrence and specially assigned for Monday, February 27, 1989.

Bill "An Act Concerning the Suspension of Driver's Licenses" (S.P. 165) (L.D. 322)

Came from the Senate, referred to the Committee on Judiciary and Ordered Printed.

On motion of Representative Paradis of Augusta, was referred to the Committee on Legal Affairs in non-concurrence and sent up for concurrence.

Bill "An Act to Clarify the Applicability of the Maine Tort Claims Act to the Consumer Advisory Board" (S.P. 171) (L.D. 328)

Bill "An Act to Authorize the Supreme Judicial Court to Provide a Record of Court Proceedings" (S.P. 180) (L.D. 337)

Bill "An Act to Amend the Uniform Partnership Act with Regard to Partnership Title in Real Estate" (S.P. 185) (L.D. 342)

Bill "An Act to Include Sheriffs' Deputies in the Maine Tort Claims Act" (S.P. 186) (L.D. 343)

Came from the Senate, referred to the Committee on Judiciary and Ordered Printed.

Was referred to the Committee on Judiciary in concurrence.

Bill "An Act to Require Liquor Sellers' Permits" (S.P. 151) (L.D. 271)

Bill "An Act to Amend the Liquor Laws of Maine" (S.P. 173) (L.D. 330)

Came from the Senate, referred to the Committee on Legal Affairs and Ordered Printed.

Were referred to the Committee on Legal Affairs in concurrence.

Bill "An Act to Provide for the State Administration and Operation of the Androscoggin County Jail" (S.P. 160) (L.D. 308)

Came from the Senate, referred to the Committee on State and Local Government and Ordered Printed.

On motion of Representative Joseph of Waterville, was referred to the Joint Select Committee on Corrections in non-concurrence and sent up for concurrence.

Bill "An Act to Amend the Legislative Disclosure Laws" (S.P. 170) (L.D. 327)

Bill "An Act to Strengthen the Social Worker Training and Education Requirements" (S.P. 178) (L.D. 335)

Bill "An Act to Extend the Reporting Deadline of the Commission to Implement the Computerization of Criminal History Record Information" (EMERGENCY) (S.P. 179) (L.D. 336)

Bill "An Act to Provide More Legislative Oversight of Agency Rulemaking" (S.P. 187) (L.D. 344)

Bill "An Act to Amend the Composition of Senate District 8 and Senate District 15" (S.P. 188) (L.D. 345)

Came from the Senate, referred to the Committee on State and Local Government and Ordered Printed.

Were referred to the Committee on State and Local Government in concurrence.

Bill "An Act to Provide a Sales Tax Exemption to Athletic Organizations for Children" (S.P. 159) (L.D. 307)

Came from the Senate, referred to the Committee on Taxation and Ordered Printed.

Was referred to the Committee on Taxation in concurrence.

Bill "An Act to Improve Ferry Service to Matinicus Isle" (S.P. 166) (L.D. 323)

Bill "An Act Regarding Abandoned Vehicles" (S.P. 176) (L.D. 333)

Bill "An Act to Regulate Motor Vehicle Speed in Bad Weather" (S.P. 177) (L.D. 334)

Came from the Senate, referred to the Committee on Transportation and Ordered Printed.

Were referred to the Committee on Transportation in concurrence.

Bill "An Act to Promote Conservation Purchases by Electric Utilities" (S.P. 158) (L.D. 306)

Bill "An Act to Make Changes to the Public Utilities Commission Laws" (S.P. 161) (L.D. 309)

Came from the Senate, referred to the Committee on Utilities and Ordered Printed.

Were referred to the Committee on Utilities in concurrence.

Bill "An Act to Regulate Incineration Plants" (S.P. 182) (L.D. 339)

Came from the Senate, referred to the Committee on Utilities and Ordered Printed.

On motion of Representative Clark of Millinocket, was referred to the Committee on Energy and Natural Resources in non-concurrence and sent up for concurrence.

COMMUNICATIONS

The following Communication:

MAINE STATE LEGISLATURE

Augusta, Maine 04333

COMMISSION ON CHILDREN IN NEED OF SUPERVISION
AND TREATMENT

February 22, 1989

Honorable John L. Martin

Speaker of the House

114th Maine Legislature

Augusta, Maine 04333

Dear Speaker Martin:

The Commission on Children in Need of Supervision and Treatment is pleased to submit the attached report of our study pursuant to Resolves 1987, chapter 69. We hope you find this report useful.

Sincerely,

s/Dale F. Thistle, Chair

Was read and with accompanying report ordered placed on file.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

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

Aging, Retirement and Veterans

Bill "An Act to Provide Continuity in the Retirement Laws" (H.P. 245) (L.D. 357) (Presented by Representative ROLDE of York)

Bill "An Act to Provide that Medical Information in the Files of the Maine State Retirement System is not Public Information" (H.P. 263) (L.D. 375) (Presented by Representative DAGGETT of Augusta) (Cosponsored by Senator TITCOMB of Cumberland)

Bill "An Act to Provide Access to Retirement Benefits for Former Spouses of Members of the Armed Forces" (H.P. 312) (L.D. 426) (Presented by Representative MELENDY of Rockland) (Cosponsored by Representative ALLEN of Washington, Representative CROWLEY of Stockton Springs and Senator HOLLOWAY of Lincoln)

Ordered Printed.

Sent up for Concurrence.

Agriculture

Bill "An Act Concerning Violations for the Misbranding of Potatoes" (H.P. 246) (L.D. 358) (Presented by Representative TARDY of Palmyra)

Bill "An Act to Amend the Maine Potato Bag Law" (H.P. 255) (L.D. 367) (Presented by Representative TARDY of Palmyra) (Cosponsored by Representative HUSSEY of Milo, Representative PARENT of Benton and Senator PEARSON of Penobscot)

Ordered Printed.

Sent up for Concurrence.

Appropriations and Financial Affairs

Bill "An Act to Provide Start-up Funds for School-based Child Care" (H.P. 272) (L.D. 384) (Presented by Representative CLARK of Brunswick) (Cosponsored by Senator ESTES of York and Representative GREENLAW of Standish)

Bill "An Act to Assure an Emergency Medical Services System" (H.P. 275) (L.D. 387) (Presented by Representative CARROLL of Gray) (Cosponsored by Representative LISNIK of Presque Isle, Representative ROLDE of York and Senator PERKINS of Hancock)

Bill "An Act to Increase Displaced Homemakers Program Funding to Continue Rural Outreach, Employment and Training and Support Services for Maine Displaced Homemakers" (H.P. 280) (L.D. 392) (Presented by Representative LISNIK of Presque Isle) (Cosponsored by Representative FOSTER of Ellsworth)

Bill "An Act to Appropriate Current Fiscal Year Funds for Telecommunication Services Provided to Deaf and Hearing Impaired Persons" (EMERGENCY) (H.P. 283) (L.D. 395) (Presented by Representative ANTHONY of South Portland)

Ordered Printed.

Sent up for Concurrence.

Banking and Insurance

Bill "An Act to Include the Casco Bay Island Transit District under the Risk Management Division" (H.P. 286) (L.D. 398) (Presented by Representative RAND of Portland) (Cosponsored by Senator THERIAULT of Aroostook, Representative CURRAN of Westbrook and Representative HALE of Sanford)

Bill "An Act Concerning Unfair Trade Practices in the Automobile Insurance Industry" (H.P. 309) (L.D. 423) (Presented by Representative PARADIS of Augusta) (Cosponsored by Senator BERUBE of Androscoggin, Representative RYDELL of Brunswick and Senator THERIAULT of Aroostook)

Ordered Printed.

Sent up for Concurrence.

Business Legislation

Bill "An Act to Mandate Disclosure of Rustproofing of Motor Vehicles" (H.P. 247) (L.D. 359) (Presented by Representative BOUTILIER of Lewiston) (Cosponsored by Senator BALDACCI of Penobscot, Senator HOBBS of York and Representative GURNEY of Portland)

Bill "An Act to Extend Reporting Deadlines of the Therapeutic Pharmaceutical Monitoring Panel" (EMERGENCY) (H.P. 296) (L.D. 408) (Presented by Representative ALLEN of Washington) (Cosponsored by Senator BALDACCI of Penobscot)

Bill "An Act to Require Health and Safety Disclaimers on Television and Print Media Alcohol Advertisements" (H.P. 300) (L.D. 412) (Presented by Representative CATHCART of Orono) (Cosponsored by Senator BOST of Penobscot, Representative McKEEN of Windham and Senator PERKINS of Hancock)

Bill "An Act to Create a Fund to Assist Victims of Fraudulent Real Estate Transactions" (H.P. 313) (L.D. 427) (Presented by Representative ALLEN of Washington)

Ordered Printed.

Sent up for Concurrence.

Education

Bill "An Act to Allow School Districts to Waive Up to 5 Days of Kindergarten for Screening" (H.P. 243) (L.D. 355) (Presented by Representative SMALL of Bath)

Bill "An Act to Allow a Student an Option in Biological Dissection" (H.P. 253) (L.D. 365) (Presented by Representative CARROLL of Gray) (Cosponsored by Senator ESTES of York, Senator ANDREWS of Cumberland and Representative KILKELLY of Wiscasset)

Ordered Printed.

Sent up for Concurrence.

Energy and Natural Resources

Bill "An Act to Prohibit the Use of Plastic Beverage Stirrers in State Facilities" (H.P. 239) (L.D. 351) (Presented by Representative TRACY of Rome) (Cosponsored by Representative BURKE of Vassalboro, Senator KANY of Kennebec and Senator LUDWIG of Aroostook)

Bill "An Act to Provide Free Noncommercial Use of Public Reserved Lands and Lands for Maine's Future" (H.P. 310) (L.D. 424) (Presented by Representative CLARK of Millinocket) (Cosponsored by Representative DUFFY of Bangor, Representative HUSSEY of Milo and President PRAY of Penobscot)

Bill "An Act Regarding State Forest Practice Laws" (H.P. 315) (L.D. 429) (Presented by Representative MICHAUD of East Millinocket) (Cosponsored by Speaker MARTIN of Eagle Lake, Representative LORD of Waterboro and Senator PEARSON of Penobscot)

Ordered Printed.

Sent up for Concurrence.

Fisheries and Wildlife

Bill "An Act Concerning the Number of Deer which May Be Taken under the Hunting Laws" (H.P. 268) (L.D. 380) (Presented by Representative ROTONDI of Athens)

Bill "An Act to Authorize Issuance of Complimentary Hunting, Trapping and Fishing Licenses for Residents 70 Years of Age at Any Time During the Calendar Year in Which They Attain the Age of 70" (H.P. 288) (L.D. 400) (Presented by Representative STEVENSON of Unity) (Cosponsored by Representative JACQUES of Waterville, Representative FARREN of Cherryfield and Representative PARENT of Benton)

Ordered Printed.

Sent up for Concurrence.

Housing and Economic Development

Bill "An Act Concerning the Purchase of Real Estate by the State or Local Housing Authorities" (H.P. 238) (L.D. 350) (Presented by Representative PARADIS of Augusta) (Cosponsored by Representative JACQUES of Waterville, Representative NADEAU of Lewiston and Senator DUTREMBLE of York)

Bill "An Act to Include Moderate-income Households Within the Housing Opportunities for Maine Program" (H.P. 260) (L.D. 372) (Presented by Representative MILLS of Bethel) (Cosponsored by Senator ANDREWS of Cumberland, Representative NADEAU of Lewiston and Representative HEESCHEN of Wilton)

Ordered Printed.

Sent up for Concurrence.

Human Resources

Bill "An Act to Provide for Base-year Revisions for Intermediate Care Facilities for the Mentally Retarded" (H.P. 250) (L.D. 362) (Presented by Representative DELLERT of Gardiner) (Cosponsored by Representative CLARK of Brunswick, Representative McGOWAN of Canaan and Senator CAHILL of Sagadahoc)

Bill "An Act to Mandate Notification of Emergency Medical Services Personnel at Risk for Transmission of Communicable Diseases" (H.P. 270) (L.D. 382) (Presented by Representative CARROLL of Gray) (Cosponsored by Senator GAUVREAU of Androscoggin, Representative KILKELLY of Wiscasset and Representative BURKE of Vassalboro)

Bill "An Act to Allow Disclosure of Confidential Information Relevant to School Personnel Actions" (H.P. 279) (L.D. 391) (Presented by Representative SMALL of Bath) (Cosponsored by Senator PERKINS of Hancock, Senator ESTES of York and Representative

ANTHONY of South Portland) (Submitted by the Department of Human Services pursuant to Joint Rule 24.)

Bill "An Act to Reestablish the Requirement that Couples Receive a Blood Test before Obtaining a Marriage License" (H.P. 285) (L.D. 397) (Presented by Representative McCORMICK of Rockport) (Cosponsored by Representative WENTWORTH of Wells, Senator PERKINS of Hancock and Representative BOUTILIER of Lewiston)

Bill "An Act to Regulate Maternal Serum Alpha-fetoprotein Screening Programs" (H.P. 301) (L.D. 413) (Presented by Representative PENDLETON of Scarborough) (Cosponsored by Senator GILL of Cumberland, Senator BERUBE of Androscoggin and Representative BURKE of Vassalboro) (Submitted by the Department of Human Services pursuant to Joint Rule 24.)

Bill "An Act to Amend the Child and Family Services and Child Protection Act and the Law Governing Shelters for Children" (H.P. 303) (L.D. 415) (Presented by Representative PINES of Limestone) (Cosponsored by Senator WEBSTER of Franklin, Senator BRANNIGAN of Cumberland and Representative ANTHONY of South Portland) (Submitted by the Department of Human Services pursuant to Joint Rule 24.)

Ordered Printed.
Sent up for Concurrence.

Judiciary

Bill "An Act to Further Protect Child Victims of Abuse" (H.P. 261) (L.D. 373) (Presented by Representative ANTHONY of South Portland)

Bill "An Act to Amend the Law to Provide for Appeal of Civil Contempt Orders" (H.P. 281) (L.D. 393) (Presented by Representative MacBRIDE of Presque Isle) (Cosponsored by Representative COTE of Auburn)

Ordered Printed.
Sent up for Concurrence.

Appropriations and Financial Affairs

Bill "An Act to Eliminate the Requirement that Counties Provide Facilities and Equipment to State Courts" (H.P. 289) (L.D. 401) (Presented by Representative LOOK of Jonesboro) (Cosponsored by Representative ROTONDI of Athens, Senator BRANNIGAN of Cumberland and Senator GAUVREAU of Androscoggin)

(The Committee on Judiciary had been suggested.)

On motion of Representative Paradis of Augusta, was referred to the Committee on Appropriations and Financial Affairs, ordered printed, and sent up for concurrence.

Judiciary

Bill "An Act to Criminalize Marijuana" (H.P. 294) (L.D. 406) (Presented by Representative CROWLEY of Stockton Springs) (Cosponsored by Representative HOGLUND of Portland, Representative MURPHY of Berwick and Representative FARNUM of South Berwick)

Bill "An Act to Provide a Mandatory Jail Term to Persons Who Have Committed Murder but Have Been Acquitted by Reason of Insanity" (H.P. 304) (L.D. 416) (Presented by Representative CLARK of Millinocket) (Cosponsored by Representative SMITH of Island Falls, Representative STEVENS of Sabattus and Senator BRANNIGAN of Cumberland)

Bill "An Act to Confiscate Assets Garnered by Convicted Felons Through Criminal Acts" (H.P. 306) (L.D. 420) (Presented by Representative HEPBURN of Skowhegan) (Cosponsored by Representative SEAVEY of Kennebunkport)

Bill "An Act to Strengthen Grandparent Visitation Rights" (H.P. 311) (L.D. 425) (Presented by Representative NORTON of Winthrop) (BY REQUEST) (Cosponsored by Representative McSWEENEY of Old Orchard Beach, Representative AULT of Wayne and Senator CLARK of Cumberland)

Ordered Printed.
Sent up for Concurrence.

Labor

Bill "An Act to Provide for Constructive Notice of Injury for Workers' Compensation Purposes" (H.P. 236) (L.D. 348) (Presented by Representative MICHAUD of East Millinocket) (Cosponsored by Representative RUHLIN of Brewer, Representative PINEAU of Jay and Senator MATTHEWS of Kennebec)

Bill "An Act to Restrict Excessive Work Hours" (H.P. 251) (L.D. 363) (Presented by Representative McHENRY of Madawaska) (Cosponsored by Senator ESTY of Cumberland, Representative PINEAU of Jay and Representative McKEEN of Windham)

Bill "An Act to Allow Minors Under 16 to Work in Hotels" (H.P. 259) (L.D. 371) (Presented by Representative ROLDE of York)

Bill "An Act to Reduce the Potential for Violence During Labor Disputes" (H.P. 292) (L.D. 404) (Presented by Representative McHENRY of Madawaska) (Cosponsored by President PRAY of Penobscot, Speaker MARTIN of Eagle Lake and Senator ESTES of York)

Bill "An Act to Allow 15-year-olds to be Employed in Kitchen and Common Areas in Bed and Breakfast Establishments and Inns with less than 20 Rooms" (EMERGENCY) (H.P. 293) (L.D. 405) (Presented by Representative KILKELLY of Wiscasset) (Cosponsored by Representative BURKE of Vassalboro, Representative BEGLEY of Waldoboro and Representative BREWER of Boothbay Harbor)

Ordered Printed.
Sent up for Concurrence.

Legal Affairs

Bill "An Act to Amend the Laws Relating to Notaries Public" (H.P. 241) (L.D. 353) (Presented by Representative HOLT of Bath) (Cosponsored by Representative JOSEPH of Waterville)

Bill "An Act to Amend the Special Warehouse Storage Facilities Provision" (H.P. 257) (L.D. 369) (Presented by Representative MELENDY of Rockland) (Cosponsored by Representative MURPHY of Berwick, Representative OLIVER of Portland and Representative DORE of Auburn)

Bill "An Act Concerning Agency Liquor Store Pricing" (H.P. 264) (L.D. 376) (Presented by Representative MICHAUD of East Millinocket) (Cosponsored by President PRAY of Penobscot)

Bill "An Act to Amend the Law Concerning Retail Sale of Wines" (H.P. 265) (L.D. 377) (Presented by Representative SEAVEY of Kennebunkport) (Cosponsored by Representative MURPHY of Berwick and Senator DILLENBACK of Cumberland)

Resolve, Authorizing Oscar and Wandalyn Rae Thompson to Bring Suit Against the State of Maine (H.P. 266) (L.D. 378) (Presented by Representative DEXTER of Kingfield) (Cosponsored by Senator WEBSTER of Franklin)

Ordered Printed.
Sent up for Concurrence.

Judiciary

Bill "An Act to Amend the Small Claims Laws" (H.P. 267) (L.D. 379) (Presented by Representative

HANLEY of Paris) (Cosponsored by Representative PARADIS of Augusta, Representative RICHARDS of Hampden and Representative HASTINGS of Fryeburg) (The Committee on Legal Affairs had been suggested.)

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

Legal Affairs

Bill "An Act Concerning Voter Residency Requirements" (H.P. 298) (L.D. 410) (Presented by Representative MILLS of Bethel) (Cosponsored by Senator ERWIN of Oxford) (BY REQUEST)
 Ordered Printed.
 Sent up for Concurrence.

State and Local Government

Bill "An Act to Amend the Laws on Interest on Delinquent County Taxes" (H.P. 252) (L.D. 364) (Presented by Representative ANDERSON of Woodland) (Cosponsored by Representative RIDLEY of Shapleigh, Representative FARREN of Cherryfield and Senator COLLINS of Aroostook)

Bill "An Act to Allow Municipalities to Withhold Business Licenses under Some Circumstances" (H.P. 254) (L.D. 366) (Presented by Representative McSWEENEY of Old Orchard Beach) (Cosponsored by Representative NORTON of Winthrop and Representative CONLEY of Portland)

Bill "An Act to Improve Enforcement of Junkyard Laws" (H.P. 256) (L.D. 368) (Presented by Representative TARDY of Palmyra) (Cosponsored by Representative STROUT of Corinth and Representative HUSSEY of Milo)

Ordered Printed.
 Sent up for Concurrence.

Passed to Be Engrossed

Without Reference to Committee

Bill "An Act to Delay the Effective Date of the Recodification of County and Municipal Laws" (EMERGENCY) (H.P. 305) (L.D. 419) (Presented by Representative JOSEPH of Waterville) (Cosponsored by Senator BERUBE of Androscoggin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Under suspension of the rules, without reference to any committee, the Bill was read twice, passed to be engrossed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

State and Local Government

Bill "An Act to Clarify Maintenance of Private Roads and Ways by Municipalities" (H.P. 271) (L.D. 383) (Presented by Representative CARROLL of Gray) (Cosponsored by Representative McKEEN of Windham, Representative GREENLAW of Standish and Senator DILLENBACK of Cumberland)

Bill "An Act Converting Baring Plantation into the Town of Baring" (H.P. 278) (L.D. 390) (Presented by Representative TAMMARO of Baileyville) (Cosponsored by Senator RANDALL of Washington, Representative MOHOLLAND of Princeton and Representative TOWNSEND of Eastport) (Approved by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act to Require 5 Commissioners in York County" (H.P. 287) (L.D. 399) (Presented by

Representative SHELTRA of Biddeford) (Cosponsored by Representative LORD of Waterboro, Representative NADEAU of Saco and Representative MURPHY of Berwick)

Bill "An Act to Establish a Volunteer Firefighters' Pension Fund" (H.P. 302) (L.D. 414) (Presented by Representative MITCHELL of Freeport) (Cosponsored by Senator CLARK of Cumberland, Senator GILL of Cumberland and Senator BUSTIN of Kennebec)

Bill "An Act to Allow 2 or More Municipalities to Form a Regional Planning Commission" (H.P. 290) (L.D. 402) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsored by Representative PARADIS of Frenchville and Senator THERIAULT of Aroostook)

Ordered Printed.
 Sent up for Concurrence.

Taxation

Bill "An Act to Protect Confidentiality of Private Business Transactions" (H.P. 235) (L.D. 347) (Presented by Representative STEVENS of Bangor) (Cosponsored by Representative HOGGLUND of Portland and Representative WHITCOMB of Waldo)

Bill "An Act to Eliminate the Sales Tax on Textbooks in the University of Maine System and the Maine Vocational-Technical Institute System" (H.P. 237) (L.D. 349) (Presented by Representative O'DEA of Orono) (Cosponsored by Representative CROWLEY of Stockton Springs, Senator PEARSON of Penobscot and Representative CASHMAN of Old Town)

Bill "An Act to Create a Sales Tax Exemption for Habitat For Humanity Organizations" (H.P. 240) (L.D. 352) (Presented by Representative WENTWORTH of Wells) (Cosponsored by Representative DiPIETRO of South Portland, Representative FARNUM of South Berwick and Representative MURPHY of Berwick)

Bill "An Act to Include Unorganized Territories in the Tree Growth Tax Laws" (H.P. 248) (L.D. 360) (Presented by Representative ANDERSON of Woodland) (Cosponsored by Senator LUDWIG of Aroostook, Senator COLLINS of Aroostook and Representative CLARK of Millinocket)

Bill "An Act to Exempt All Goods Sold by Scouting Organizations from Sales Tax" (H.P. 249) (L.D. 361) (Presented by Representative DUFFY of Bangor) (Cosponsored by Senator ANDREWS of Cumberland, Senator BALDACCI of Penobscot and Representative RUHLIN of Brewer)

Bill "An Act to Add Uniformity to the Veterans' Property Tax Exemption Law" (H.P. 269) (L.D. 381) (Presented by Representative NADEAU of Saco) (Cosponsored by Representative BREWER of Boothbay Harbor, Representative AULT of Wayne and Senator CLARK of Cumberland)

Bill "An Act to Provide a Property Tax Exemption to Former Members of the Merchant Marine with War-time Service" (H.P. 273) (L.D. 385) (Presented by Representative GREENLAW of Standish) (Cosponsored by Representative PARADIS of Old Town, Representative JALBERT of Lisbon and Senator ERWIN of Oxford)

Bill "An Act to Provide Sales Tax Exemptions to Centers which Provide Information and Referral Services to Deaf and Hearing Impaired Persons" (H.P. 276) (L.D. 388) (Presented by Representative ANTHONY of South Portland)

Bill "An Act to Provide a Sales Tax Exemption For State-chartered Credit Unions" (H.P. 295) (L.D. 407) (Presented by Representative MAYO of Thomaston) (Cosponsored by Representative PARADIS of Augusta, Senator BRANNIGAN of Cumberland and Senator GILL of Cumberland)

Bill "An Act to Ensure Medicare Affordability" (H.P. 291) (L.D. 403) (Presented by Representative KILKELLY of Wiscasset) (Cosponsored by Representative

BREWER of Boothbay Harbor, Representative DORE of Auburn and Senator ANDREWS of Cumberland)

Bill "An Act to Establish A Local Option County Sales Tax" (H.P. 307) (L.D. 421) (Presented by Representative KETOVER of Portland) (Cosponsored by Representative DiPIETRO of South Portland, Senator BRANNIGAN of Cumberland and Representative ROLDE of York)

Bill "An Act to Establish Municipal Land Banks to be Funded by a Real Estate Transfer Tax" (H.P. 308) (L.D. 422) (Presented by Representative MITCHELL of Freeport) (Cosponsored by Representative MAYO of Thomaston, Senator CLARK of Cumberland and Senator HOLLOWAY of Lincoln)

Bill "An Act to Clarify that Aquaculture Qualifies for the Commercial Fish Sales Tax Refund" (H.P. 314) (L.D. 428) (Presented by Representative CROWLEY of Stockton Springs) (Cosponsored by Representative TOWNSEND of Eastport, Senator PERKINS of Hancock and Senator ANDREWS of Cumberland)

Ordered Printed.
Sent up for Concurrence.

Transportation

Bill "An Act Related to Window Film Applied to Motor Vehicles" (H.P. 242) (L.D. 354) (Presented by Representative JACQUES of Waterville)

Bill "An Act to Promote Effective Identification of Minors" (H.P. 258) (L.D. 370) (Presented by Representative MacBRIDE of Presque Isle) (Cosponsored by Representative BAILEY of Farmington)

Bill "An Act to Clarify the Penalty for Violations of Pedestrian Right-of-Way in Crosswalks" (H.P. 262) (L.D. 374) (Presented by Representative SWAZEY of Bucksport) (Cosponsored by Representative CONSTANTINE of Bar Harbor, Representative HICHBORN of LaGrange and Representative MILLS of Bethel)

Bill "An Act to Require Drivers to Turn Off Auxiliary Lights" (H.P. 277) (L.D. 389) (Presented by Representative ROTONDI of Athens) (Cosponsored by Representative DUFFY of Bangor and Representative CARROLL of Gray)

Ordered Printed.
Sent up for Concurrence.

Legal Affairs

Bill "An Act Concerning the Operation of Motor Vehicles on Private Lands" (H.P. 274) (L.D. 386) (Presented by Representative McPHERSON of Eliot)

(The Committee on Transportation had been suggested.)

On motion of Representative Priest of Brunswick, was referred to the Committee on Legal Affairs, ordered printed, and sent up for concurrence.

Banking and Insurance

Bill "An Act to Require Mandatory Checking of Motorists' Maintenance of Financial Responsibility" (H.P. 284) (L.D. 396) (Presented by Representative HANDY of Lewiston) (Cosponsored by Representative STEVENS of Bangor, Representative JOSEPH of Waterville and Senator ESTES of York)

(The Committee on Transportation had been suggested.)

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

Transportation

Bill "An Act to Mandate Driver Training and the Use of Safety Belts by Police Officers" (H.P. 297) (L.D. 409) (Presented by Representative KETOVER of Portland) (Cosponsored by Representative JALBERT of Lisbon, Representative LARRIVEE of Gorham and Representative PAUL of Sanford)

Bill "An Act to Adjust the Municipal Salt and Sand Storage Facility Cost-sharing Formula" (H.P. 299) (L.D. 411) (Presented by Representative HANLEY of Paris) (Cosponsored by Senator TWITCHELL of Oxford, Senator GOULD of Waldo and Representative BAILEY of Farmington)

Ordered Printed.
Sent up for Concurrence.

Utilities

Bill "An Act to Extend the Toll Call Discount Given to Deaf, Hearing Impaired or Speech Impaired Persons" (H.P. 282) (L.D. 394) (Presented by Representative ANTHONY of South Portland)

Ordered Printed.
Sent up for Concurrence.

Appropriations and Financial Affairs

Bill "An Act to Make Additional Allocations from the Public Utilities Commission Regulatory Fund for the Fiscal Year Ending June 30, 1990" (H.P. 244) (L.D. 356) (Presented by Representative CLARK of Millinocket) (Cosponsored by Senator BOST of Penobscot, Senator CARPENTER of York and Representative STROUT of Windham) (Submitted by the Public Utilities Commission pursuant to Joint Rule 24.)

(The Committee on Utilities had been suggested.)

On motion of Representative Clark of Millinocket, was referred to the Committee on Appropriations and Financial Affairs, ordered printed, and sent up for concurrence.

(At Ease)

The House was called to order by the Speaker.

Reported Pursuant to Public Law

Representative CHONKO from the Committee on Appropriations and Financial Affairs, pursuant to Public Law 1987, chapter 816, Part KK, section 29 ask leave to submit its findings and to report that the accompanying Bill "An Act to Improve the Accountability and Allocation of Funds for Community-purchased Services" (H.P. 316) (L.D. 432) be referred to the Joint Standing Committee on Appropriations and Financial Affairs for Public Hearing and printed pursuant to Joint Rule 18.

Report was read and accepted, and the bill referred to the Committee on Appropriations and Financial Affairs, ordered printed, and sent up for concurrence.

Orders

REPORTS OF COMMITTEES

Divided Report

Later Today Assigned

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Amend the Laws Regarding Nonresident Income Tax Returns" (H.P. 15) (L.D. 7)

Signed:

Senators: ANDREWS of Cumberland
EMERSON of Penobscot
BALDACCI of Penobscot
Representatives: WHITCOMB of Waldo
TARDY of Palmyra
CASHMAN of Old Town
SWAZEY of Bucksport
DORE of Auburn
NADEAU of Saco
DUFFY of Bangor

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-3) on same Bill.

Signed:
Representatives: DiPIETRO of South Portland
JACKSON of Harrison
SEAVEY of Kennebunkport

Reports were read.

Representative Swazey of Bucksport moved that the House accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from York, Representative Rolde.

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you not to accept the Majority "Ought Not to Pass" Report. I don't want to have a prolonged debate but I do feel that we should have some explanation.

This is a bill that has gotten a great deal of publicity. There has been a good deal of confusion about it and some people have felt that this would be a bill that would only allow people from New Hampshire who work in Maine not to pay their taxes here but, of course, that is not the purpose of the bill. The bill is to deal with the so-called spousal part of it, where the spouses who worked in New Hampshire -- their income which was gained in another state was used with income gained in Maine. We shouldn't really have an explanation of why seemingly level-headed legislators from Maine would put in a bill to help people in New Hampshire not pay taxes that the State of Maine is receiving.

Let me say from the outset that I personally have no intention of running for President so that running in the New Hampshire primary was not one of my motivations. I can't speak for the other cosponsors but I suspect that they feel the same.

Basically, the reason that I and the cosponsors put in the bill was in response to two things: one was for practical problems that this particular measure was causing us on the border. For example, we have a hospital in the town of York -- hospitals all over the state and all over the country are experiencing great difficulty finding nurses, we have nurses who work at the York hospital who live in New Hampshire and some of them are under pressure to leave their jobs because of this particular spousal tax. If their spouses earn a great deal of money in New Hampshire, then they are put into a higher bracket because of the earning that they have in Maine and they can obviously find jobs wherever they want now. Some nurses are even going to Boston for a weekend and earning (in one weekend) an entire salary. We stand in danger of losing nurses and that is a particular practical problem for us in southern York County. The same thing is happening with school teachers, we also stand to lose a number of them. I am sure some of my cosponsors can give you other examples of very specific practical problems that we face.

The other reason that we put the bill in was at the request of our own constituents. When we campaigned, we found a great deal of anger at the perception of our own constituents in Maine, that

Maine in a sense was taxing income that was not earned in the State of Maine.

I realize that the perception of people on the Taxation Committee who voted to kill this bill is that that is not exactly correct, that in effect what is happening is, when people file jointly, their income is being used jointly to put them into a higher tax bracket which they feel is something different than actually taxing that income. However, the perception is still very strong in our area that this is an unfair tax.

Another point that was made during the hearing was a claim that all states do this the same way that we do it. I did not have a chance to research that to see whether that was the case but I did notice the other day an article on the front page of the New York Times saying that the State of New York apparently has just instituted a measure of this sort for people from New Jersey who work in New York but I don't know whether all states do this or plan to do this or whether that is actually true.

This bill was also an occasion for some good New Hampshire bashing -- people were attacking New Hampshire for a number of reasons. My favorite one was the fellow from up north in one of the most northern parts of Maine who was really furious about the fact that New Hampshire had raised the toll on the Interstate going to Boston from 50 cents to 75 cents. They have a cut-rate where you can buy half price tokens and I asked this fellow about that and he said, "I only go through there once a year." I go through there probably once a week and I should probably be more angry than that gentleman.

Anyway, as I said, I don't want to belabor this. They have put a price tag on this bill and I don't know if it is realistic or not but I have seen fiscal notes in the past and they are very hard to overturn. They put one on this bill, which in my mind, makes it unrealistic. I felt it was important to have this question raised when this type of tax was voted in in the Legislature several years ago. It was part of a package. We never had a chance to vote on it as a single issue. So, I would like to thank those on the committee who did support me. I do feel we should have a record on this.

Mr. Speaker, I would ask for a roll call on this particular measure.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Nadeau.

Representative NADEAU: Mr. Speaker, Members of the House: In relation to this issue, I think there have been quite a few misperceptions and the compilation of all of these have not been any great service to any one of our constituents. The perception is that Maine people or the Maine Taxation bureaucrats are taxing unfairly and unjustly the income derived in New Hampshire. That is not the issue.

I have been trying for the last three weeks to put together as much as I could some press release material to try to set the record straight, to inform people that what we, in fact, are taxing is a combined rate. We are combining the combined assets and using that entity as we would for an individual living in central Maine. The two incomes are placed simultaneously in the same bracket and applied to a rate of the married filing jointly.

If an individual from, let's say York, who has a spouse working in Portsmouth, wishes to file singly -- you may do this -- married but filing separately, they have that provision. No other Maine citizen has that option.

I will honestly tell you today that when I personally went in and came out of that public

hearing which was held a few weeks ago, I was sympathetic to the idea. I thought, gee, if we really are "shafting New Hampshire residents" maybe we shouldn't prolong this practice. However, I have found out in subsequent studies and asking questions and what not, this is not the case.

Therefore, I have slightly altered my feelings on this bill. Quite frankly, I don't understand why we should even be doing this. I think possibly a greater service that we can do for the citizens of southern Maine and the coastal New Hampshire towns is maybe make a greater media awareness of what exactly the perceived problem is, what exactly the real situation is. As the Representative from York mentioned a couple of moments ago, all other states do use this policy of taxing the combined assets. You have that situation in New York, New Jersey, Connecticut, any number of border states.

The situation alluded to in the New York Times was also brought to my attention — that is a slightly different thing. New York City, as you may know, has a city income tax. Their situation is and the proposal out there is that those individuals who earn money in New York City, in the Big Apple, and who live in Buffalo, would have to pay some kind of arrangement of this nature. So, it is not exactly the same issue as we are talking about today.

I would urge you to strongly consider the ten members who did sign the "Ought Not to Pass" Report on this bill.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: This piece of legislation before you has created many problems down in southern Maine, especially those of us who live right on the border. My district consists of two towns which are both right on the Salmon Falls River, Berwick and Lebanon.

When we put this in, I voted against it. I thought it was wrong morally, ethically and I thought, you just don't do those things to your neighbors, especially if you want to be a good neighbor.

We in the town of Berwick have a 40 or 50 foot bridge between us and the community of Somersworth, New Hampshire and it is almost like one community. If you didn't see the sign on the bridge, you wouldn't even know you were leaving the State of New Hampshire and entering Maine or leaving Maine and entering New Hampshire. Years back when I was involved in girl scouts, 4-H, cub scouts, we worked and we were one. We came under New Hampshire. Why, with 4-H, I don't know. Why, with girl scouts, I don't know, but we did and that is the way we worked. We met with the parents over there and we had our Christmas parade together, we had our last year's Memorial parade together. We have always got along very well.

This law has really caused a lot of animosity between the communities. People are really upset. What Representative Nadeau said is true, we do take the combined incomes — if a fellow from New Hampshire working in Maine earns \$50,000 and his wife in New Hampshire earns \$50,000, we combine that and we tax him at a rate of \$100,000. Also, if this same couple has any bank interest from savings they have, if they even happen to have a pension, we tax that. If they have a business transaction such as selling a piece of property, we also tax that. You could easily put this couple into a \$150,000 bracket if they happen to have sold a piece of property. These are not real estate agents or things like that, these are just common, ordinary people.

I have 60 percent of my people who work in New Hampshire. I never worked in the State of Maine until I came to the legislature. I had a business and it was in New Hampshire. Back in the early 1970's, New Hampshire put a non-resident income tax on those of us who worked in New Hampshire and we paid it. Then it was taken to the courts and it was declared illegal for the simple reason that New Hampshire did not tax their residents so therefore they could not tax non-residents.

At that time, the State of Maine brought a law suit against the State of New Hampshire and they got \$13 million back. My husband and I got a check for \$28. I never questioned it, I don't know why we got it or anything else, but that is the way that came down.

This bill has caused some of the problems that we have. We have a labor shortage in that area. Our unemployment rate is probably 1.5. We have teachers in our school system, SAD 50, SAD 35, those right there on the border, Kittery — and what is happening, we have teachers from New Hampshire who live in New Hampshire, they are thinking of leaving. They are good teachers and we would like to keep them. We have nurses from the hospitals, we have small businesses who have problems getting help because they will not come into Maine to work. We have businesses who their people are after them to move across the river. We have a civil engineering business in South Berwick and most of his people live in New Hampshire and they want him to move that business. We would lose more tax that way.

We tax the people when they come to Maine to work and I agree with that, I have no problem with that at all. But I do feel that this bill is unfair and that the people there have no representation, they don't vote in this state, they have nothing to say.

In our papers, we have had article after article but the one that really got me was the man from Gorham, a letter to the editor in the Portland Press Herald. Remember Gorham is 50 miles from the border, it is not a border town at all. This is the way that people are in this state because most of the people in this state are fair and honest and they want to be treated equal. It said, "Instead of being critical of New Hampshire, we might take a long hard look at our westerly neighbor to see what he is doing right. A recent issue of U.S. News and World Report indicates that a Portland resident earning \$50,000 and having a family of four pays \$5,140 a year in local and state taxes. A comparable resident of Manchester, New Hampshire pays \$2,407 for local and state taxes. In Maine, it represents 10.3 percent of income, while in New Hampshire it represents 4.8." That is a quote from the paper.

We have another editorial, this happens to be the Portland Press Herald too and they call it "greedy." This is part of the editorial: "When Maine includes those spouses incomes in determining the tax rate at which those who work in this state will be taxed, a tax into income never earned here, what is any greedier than that? Second, it is morally indefensible, Maine has long and rightly taxed out-of-state workers on their earnings here but just as long New Hampshire residents with no income tax in their own state have complained but they haven't had a leg to stand on. Money earned in Maine is and should be subject to Maine taxation. The same, unfortunately, can't be said of dollars earned by others working elsewhere and that is a result of this policy." It also goes on to say that, "Representative Rolde's bill gives lawmakers a chance to regain it, and that's right."

Here is a man here from Rochester, in fact this is the couple by the name of Stevens whose suit has been filed in their name and they are asking for a \$681 rebate, that is how much more they had to pay on their income because of a combined spousal tax. I feel that is unfair, I feel it is a black eye in the State of Maine. Most of us in this state want to pay our own way. We want to pay for our own kids' education in this state and we do not want to unfairly tax people out-of-state who have to pay for their own childrens education.

I urge you today to vote down the "Ought Not to Pass" Report so that we can go on and vote the Minority Report which is "Ought to Pass" because I think the people in this state will be proud of us if we do that.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, My Learned Colleagues of the House: The Golden Rule says, "Do unto others as you would have them do unto you." I think that is a quote that we all probably know but maybe if we went ahead and used it a lot more, not only in the state but in the nation, that the world would be a lot better off.

I ask you to put yourself in the place of those people in New Hampshire. I am not a border town, I live up in what you might call the boonies, but by golly, I think all of us ought to put ourselves in the place of those people in New Hampshire.

How would you feel if you were getting this tax? When you combine incomes from one state and another, all it is is a legal gimmick in my opinion to steal from somebody, pure and simple.

They say, well, the other states do it, we should do it. I was taught that two wrongs don't make a right. I don't care whether it is one wrong or 49 states are wrong, that doesn't make it right. I think that instead of us being a follower, it might be time for us to be a leader and repeal this tax.

It has been a long time coming. We voted for this (I may have voted for it myself because it was in a package) but that doesn't make it right. I would hope that when you get ready to push that button down that you would put yourself in the place of those people in New Hampshire and say, "Would I want this?" I think if it was happening to us, you would be just as upset and as disgruntled as those people are in New Hampshire. I hope when you do push this button, you are going to push the red one.

On motion of Representative Gwadosky of Fairfield, tabled pending the motion of Representative Swazey of Bucksport that the House accept the Majority "Ought Not to Pass" Report and later today assigned.

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

PASSED TO BE ENACTED
Emergency Measure

An Act to Delay the Effective Date of Recodification of County and Municipal Laws (H.P. 305) (L.D. 419)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House necessary. 123 having voted in favor of same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, was ordered sent forthwith to the Senate.

The following item appearing on Supplement No. 2 was taken up out of order by unanimous consent:

The Following Joint Order: (S.P. 192)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Monday, February 27, 1989, at 2 o'clock in the afternoon.

Came from the Senate, read and passed.

Was read and passed in concurrence.

At this point, the Chair appointed Representative Michaud of East Millinocket to act as Speaker pro tem.

The House was called to order by the Speaker pro tem.

The Chair laid before the House the following matter: Bill, An Act to Amend the Laws regarding Nonresident Income Tax Returns" (H.P. 15) (L.D. 7) which was tabled earlier in the day and later today assigned pending the motion of Representative Swazey of Bucksport that the House accept the Majority "Ought Not to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brunswick, Representative Clark.

Representative CLARK: Mr. Speaker, may I pose a question through the Chair? My question is to anyone on the Taxation Committee or perhaps someone in the area of the Air Force Base -- I would like to know how we tax spouses of military personnel where Maine is not their home of record?

The SPEAKER PRO TEM: Representative Clark of Brunswick has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Members of the House: Amateur tax advice in response, it would depend upon where the income was earned by that particular individual. If they earned income in Maine, they would pay tax on it in Maine. If they worked out of state, they would not and if the husband declared a residency other than Maine, that is my understanding of that particular provision.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brunswick, Representative Clark.

Representative CLARK: Mr. Speaker, Members of the House: May I pose another question which would perhaps clarify this? My question assumes that the non-military spouse works in the State of Maine -- my question is, do we tax that non-military spouse taking into account the military spouses income if they do not pay income tax in this state because their home of record is in another state?

The SPEAKER PRO TEM: Representative Clark of Brunswick has posed another question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: The answer is yes.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker and Members of the House: First of all, greetings from the township of Fryeburg, where the corn grows tall and we have a nice fair that we invite you to recreate at each Fall.

However, I am not rising really in jest and to those of you whom I may have offended by any humor, I apologize -- for today, I speak to you about what is

morally right and what is fair. I speak to you in opposition to the pending motion to amend the amended Bill L.D. 7, Majority Report. I speak to join the whole state and not divide it for the present tax law is economically unfair. It creates an unlevel playing field if you understand the economics of the tax.

What it basically does is allow those people in New Hampshire to entice Maine people to work there and they do not have to pay a tax to New Hampshire and therefore, they are able to work over there without penalty. Whereas if we were to have a New Hampshire person come and work for us in Maine, they would have to pay a tax which is higher by rate if in fact they are married and have a spouse that also pays a federal tax. That is, they add the two taxes together as Representative Rolde has explained to you. It really means that approximately four percent of one's income is taxed in Maine because of this adverse law.

My own secretary, who lives in New Hampshire, pays \$686 additional tax because she lives in New Hampshire, works in Maine, and her husband lives in New Hampshire. That is fact. That does not create a level playing field among different employees.

Secondly, when this law was passed, the federal law then allowed a deduction on your federal income tax of 60 percent of all capital gains. Any of you who are familiar at all with taxes, there was a capital gain deduction of 60 percent of all capital gains; therefore, when you added your income up, you only took 40 percent of those which were capital gains. So if one had a gain in New Hampshire of \$100,000, an income of \$20,000, an income in Maine by a spouse of \$20,000, their total reportable income would be \$80,000 in Maine. Now the law, unchanged by Maine but changed by the federal law, means that that same couple in Maine has a \$140,000 taxable income in Maine. The law was never changed in Maine after the federal tax law came into being.

Lastly, I ask you to look at the way this bill has progressed through the various committees -- it started out, I understand, in the papers and it was told to me as approximately a \$3.3 million dollar fiscal note. The next thing I read in the paper, it had jumped to \$5 million. The next thing I saw was that the Governor's had gotten together and this bill would not be vetoed by our administration if, in fact, it passed the House. Suddenly, the fiscal note jumped to \$9 million -- to me, that tells me something -- as young as I am in this body, I can understand there are different ways to kill different things and when fiscal notes keep rising from \$3 to \$5 to \$9 million, when our tax withholding system is askew as we have found it to be, I question seriously how reliable those fiscal notes really are. Nobody has really ever challenged that fiscal note except to say... "hey, it is \$9 million." That is what is printed on the bill.

For me, I don't think I would bet my bottom dollar on the validity of that fiscal note -- in fact, I don't even think I would bet yesterday's underwear on it. I think we have to look at what is right and what is wrong. That comes down to the final point of this bill. I can't tell you what this bill is going to cost Maine, it certainly is going to cost us something because, as I said, my secretary will pay \$686 more in Maine this year. I can tell you how this bill will strengthen Maine, its businesses and its people, all of Maine, all of its people, north and south, coastal and mountain. I think, if one can paraphrase, consider the writings of John Donne -- "no person is an island and part of itself; every person is a continent, a part of the

main. If a quad be washed away by sea, Maine is the less." Every person's loss diminishes us because we are involved in the life and breath of Maine so I ask you to be patient with our future, be eastern in your foresight, look not for today but the \$9 million that the fiscal note represents by guesstimate. I ask you instead, good people, to choose the right side of the issue and not choose it only by dollars so do not toll the bell on this particular bill. Please vote for the Minority Report and against that motion which is on the floor. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Men and Women of the House: First, I must respond in great amazement to the remarks from the Representative from Fryeburg and I kind of share his opinion because that fiscal note, like revenue estimates and other things, was prepared by the Department of Finance in the Executive Branch of government. That fiscal note, which was prepared by the state tax assessor, is not the issue here today.

The issue that is before us today is fundamental fairness. We have heard a lot about "the poor New Hampshire residents" but lets talk a little bit about the people that we represent, Maine residents. My wife and I both work, we both have incomes, our income is put together and the rate that we pay our tax is assessed based upon our joint incomes. We are talking about a bill here today that would give a New Hampshire resident an advantage over a Maine resident, something a Maine resident doesn't enjoy. If a Maine resident works in New Hampshire, this bill doesn't help them. We are not helping the Maine resident who works in Massachusetts or any place else. Let's not forget as well that we are talking about a bill that affects non-residents, not just New Hampshire residents, it affects people from Oklahoma and Canada. We are not taxing the income out-of-state, we are simply setting the rate based upon a fundamental principle of our tax system, which is the ability to pay.

We also provide something that no other state provides in our tax laws, it is a little help to people from out of state, we didn't exactly whack them completely. We allow them the election, unlike other states, to file single in Maine and married on their federal return. No other states does that, we do that for them. In many cases, a New Hampshire resident will pay less tax making that election, any non-resident would in many cases.

It is very interesting to me to hear the comments about being a good neighbor and it was also very interesting to hear about the commuter tax -- I had forgotten about that -- the tax that was imposed by the good people of the state of New Hampshire on Maine residents who worked in New Hampshire. There was a repeal by the New Hampshire Legislature, it was declared unconstitutional by the courts. We could talk about liquor, about tolls, about lobsters, we could talk about all kinds of things that the good people of the state of New Hampshire do to us.

Let's talk about what we are going to do and how we are going to be fair with Maine people. Let's talk about the ability to pay. While I am on my feet, I might like to point out that a bill that I've introduced would solve this problem for you people that care about it. In some ways, it will give us a system similar to the State of Vermont which people from New Hampshire don't seem to object to in Maine and maybe we ought to pass that bill and we could take care of this problem fairly for everybody, not just non-residents. Again, I am very surprised by the remarks from the Representative from Fryeburg

concerning our state tax assessor but that is not the issue.

The issue is fairness, the issue is taking care of Mainer's and treating everybody equally.

The SPEAKER PRO TEM: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from South Berwick, Representative Farnham.

Representative FARNHAM: Mr. Speaker, Ladies and Gentlemen of the House: Some of what I will say will be a repeat but I will try to be brief.

This is what is happening in South Berwick -- two teachers have already resigned as of June because of these taxes -- two excellent teachers. We can't replace them very easily. We have an engineering firm, which Representative Murphy spoke about, their employees are petitioning the owner to move about four miles away to be in New Hampshire so they can have a better tax problem. This engineering firm hires about 12 engineers or better at \$50,000 a year. We hate to lose them.

We have a local dentist who lost his dental technician. He is having a terrible time trying to replace her. We have a high income town -- rents and homes are too high for the ordinary person to move in now. In fact, our taxes are going to go up over a million dollars this coming year.

Over 50 percent of the people living in South Berwick, North Berwick and part of Wells work in New Hampshire. There is a rumor going around in New Hampshire now that they want to start a campaign that only those people who live in New Hampshire should work in New Hampshire. This isn't good.

There is another feeling going on in both New Hampshire and South Berwick -- taxation without representation. The people in New Hampshire paying Maine taxes can't vote here, they can't get the ordinary fishing license, they can't get the ordinary hunting license but still they have to pay the taxes. I hate to see this come about -- another Boston Tea Party. Let's vote this thing down.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Auburn, Representative Dore.

Representative DORE: Mr. Speaker, Men and Women of the House: Two things, real briefly -- we only tax on income earned in Maine and I think some people maybe didn't get that today. We tax at a rate that is reflective of your total family income but we tax on income earned in Maine. Your rate may be higher because your total family income, including your out-of-state spouses income, is a higher income but the income that you will pay taxes on is the Maine income. If you earn \$20,000 and your spouse works out of state and earns \$20,000, you are going to pay taxes on the \$20,000 earned in Maine but you are going to be taxed on a rate reflected of a total income of \$40,000.

The second thing I want to say is that I am aware that there is an employment crisis in southern Maine and I have heard a lot about it, particular before our committee during the Taxation hearings. I think when you have a shortage of teachers and a shortage of nurses, maybe you ought to look at some of the other crises that you are having such as a housing crisis because there are places in Maine where we have nurses and teachers who are going without jobs

and maybe we ought to look at providing some housing alternatives so those people could come down and work in the parts of Maine who are desperate for employees during the week. That is not a tax problem and I don't think you should solve it with a tax solution. Forty-five states do it this way, I don't think we are doing anything wrong.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Kennebunkport, Representative Seavey.

Representative SEAVEY: Mr. Speaker, Men and Women of the House: I want to make a couple of brief remarks to my good friend from Thomaston about his sentiments on fairness. I think if those are his sentiments on fairness, I am very pleased to have him in the legislature instead of in the judicial branch of government.

I think in terms of fairness, it reminds me of going down the pike -- I get on the pike in Biddeford, get my ticket and get off in Augusta and pay it -- it's like charging me the entire length of the pike from York to Augusta. It is like going into a store and buying a quart of milk but because there's only a gallon of milk available, then they decide to charge us for a gallon of milk because that is what is fair and that's what is available.

I am not sure how each of you stand on taxation this year but I have always stood for fairness in taxation, no matter what the circumstances are. I am going to vote no on the pending motion and I hope you do as well.

At this point, the Speaker resumed the Chair.

The SPEAKER: The pending question before the House is the motion of Representative Swazey of Bucksport that the House accept the Majority "Ought Not to Pass" Report.

The Chair recognizes the Representative from Brunswick, Representative Clark.

Representative CLARK: Mr. Speaker, I request permission to pair my vote with the Representative from Orono, Representative Cathcart. If she were present and voting, she would be voting yea; I would be voting nay.

The SPEAKER: The pending question before the House is the motion of Representative Swazey of Bucksport that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 1

YEA - Adams, Aliberti, Anthony, Bell, Burke, Cahill, T.; Carroll, D.; Carter, Clark, H.; Coles, Conley, Constantine, Cote, Crowley, Curran, Daggett, Dore, Duffy, Erwin, P.; Farnsworth, Graham, Greenlaw, Gurney, Gwadosky, Hale, Heeschen, Hoglund, Hussey, Jacques, Jalbert, Ketover, Kilkelly, Larrivee, Lebowitz, Lisnik, MacBride, Mahany, Manning, Marsano, Marston, Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mitchell, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Dea, O'Gara, Paradis, J.; Paradis, P.; Pederson, Pineau, Pouliot, Priest, Rand, Richard, Rotondi, Ruhlín, Rydell, Simpson, Skoglund, Swazey, Tardy, Telow, Townsend, Walker, Whitcomb, The Speaker.

NAY - Anderson, Ault, Bailey, Begley, Brewer, Butland, Carroll, J.; Chonko, Dexter, Dipietro, Donald, Dutremble, L.; Farnum, Farren, Foss, Foster, Garland, Gould, R. A.; Handy, Hanley, Hastings, Hepburn, Hichborn, Hickey, Higgins, Holt, Hutchins, Joseph, Lawrence, Libby, Look, Lord, Luther, Macomber, Martin, H.; McCormick, McPherson, Merrill, Moholland, Murphy, Norton, Oliver, Parent, Pendleton,

Pines, Plourde, Reed, Richards, Rolde, Seavey, Sheltra, Sherburne, Small, Smith, Stevens, A.; Stevenson, Strout, D.; Tammaro, Tracy, Tupper, Webster, M.; Wentworth.

ABSENT - Aikman, Allen, Boutilier, Cashman, Dellert, Jackson, LaPointe, Marsh, McKeen, Mills, Paradis, E.; Paul, Ridley, Stevens, P.; Strout, B..

PAIRED - Cathcart, Clark, M.
Yes, 72; No, 62; Absent, 15; Paired, 2; Excused, 0.

72 having voted in the affirmative and 62 in the negative with 15 being absent and 2 paired, the motion did prevail. Sent up for concurrence.

CONSENT CALENDAR

First Day

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

(H.P. 17) (L.D. 10) Bill "An Act to Clarify the Automatic Public Intervenor Provisions of the Solid Waste Management Laws" (EMERGENCY) Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-4)

(H.P. 14) (L.D. 6) Resolve, to Provide for a Commemorative Motor Vehicle License Plate to Celebrate the Sesquicentennial of Aroostook County (Emergency) Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-5)

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, February 27, 1989, under the listing of Second Day.

(Off Record Remarks)

On motion of Representative Dutremble of Biddeford,

Adjourned until Monday, February 27, 1989, at two o'clock in the afternoon pursuant to Joint Order (S.P. 192).

STATE OF MAINE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Thursday
February 23, 1989

Senate called to Order by the President.

Prayer by Reverend Russell Peppe of the United Methodist Church in Auburn.

REVEREND PEPPE: Let us pray. Merciful Spirit, these are those who have been chosen to lead, therefore, we would pray that they would be lead by a vision of all things good, true, and excellent. And, these are those who have been elected to serve and, therefore, we would pray that they would in turn be served by Your spirit directing their designs. As we know, none of us can do everything that we would wish, then let us do what is possible and as all things possible are yet not desirable, then teach us what is right. This prayer we make for Your name sake, that Your people may be blessed and Your creation glorified. Amen.

Reading of the Journal of Yesterday.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by Senator DUTREMBLE of York, the following Joint Order:

S.P. 192

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Monday, February 27, 1989, at 2 o'clock in the afternoon.

Which was READ and PASSED.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Provide for Continued Group Health Insurance Coverage to Certain Injured Employees"

S.P. 142 L.D. 262

In Senate, February 21, 1989, referred to the Committee on BANKING AND INSURANCE and ORDERED PRINTED.

Comes from the House referred to the Committee on LABOR and ORDERED PRINTED in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

House Papers

Bill "An Act to Assist Municipalities with Respect to Harbor Improvements"

H.P. 234 L.D. 318

Comes from the House referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED.

Which was referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED, in concurrence.

Bill "An Act Relating to Confidentiality of Investigative Records of Boards and Commissions"

H.P. 232 L.D. 316