

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Fourteenth Legislature
OF THE
State Of Maine

VOLUME IV

FIRST SPECIAL SESSION
August 21, 1989 to August 22, 1989
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SECOND REGULAR SESSION
January 3, 1990 to March 19, 1990

**ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
22nd Legislative Day
Monday, February 26, 1990**

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

Prayer by Father Paul Pare, St. Francis de Sales Catholic Church, Waterville.

National Anthem by the Livermore Falls High School Band.

The Journal of Friday, February 23, 1990, was read and approved.

Quorum call was held.

PAPERS FROM THE SENATE

The following Communication:

Maine State Senate
Augusta, Maine 04333
February 23, 1990

The Honorable John L. Martin
Speaker of the House
114th Legislature
Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed the following:

Upon the recommendation of the Joint Standing Committee on Energy and Natural Resources:

Paul A. Fichtner, M.D. of Greenville for appointment to the Land Use Regulation Commission. Paul A. Fichtner, M.D. is replacing Paris Snow.

Thomas R. Stevens of Limestone for appointment to the Facility Siting Board.

Upon the recommendation of the Joint Standing Committee on Housing and Economic Development:

Richard Schade of Augusta for appointment to the Finance Authority of Maine. Richard Schade is replacing William Manheimer.

Upon the recommendation of the Joint Standing Committee on Judiciary:

Roland Beaudoin of Falmouth for appointment as Associate Judge of the Administrative Court.

Sincerely,
S/Joy J. O'Brien
Secretary of the Senate

Was read and ordered placed on file.

Later Today Assigned

The following Joint Order: (S.P. 933)

ORDERED, the House concurring, that Bill "An Act Regarding the Maine Vocational-Technical Institute System," H.P. 660, L.D. 902, and all its accompanying papers, be recalled from the Governor's desk to the Senate.

Came from the Senate, read and passed.

Was read.

On motion of Representative Gwadosky of Fairfield, tabled pending passage in concurrence and later today assigned.

Unanimous Ought Not To Pass

Report of the Committee on Energy and Natural Resources reporting "Ought Not to Pass" on Bill "An Act Requiring That Department of Environmental Protection and Maine Land Use Regulation Commission Orders Be in Writing" (S.P. 890) (L.D. 2266)

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

Unanimous Leave to Withdraw

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act to Facilitate Workers' Compensation Payments to Injured Workers" (S.P. 898) (L.D. 2288)

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

Divided Report

Majority Report of the Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-513) on Bill "An Act Amending the Licensure Requirements for Plumbers" (S.P. 615) (L.D. 1710)

Signed:

Senators: BALDACCI of Penobscot
HOBBINS of York
WHITMORE of Androscoggin
Representatives: TELOW of Lewiston
STEVENS of Sabattus
REED of Falmouth
SHELTRA of Biddeford
LIBBY of Kennebunk
GURNEY of Portland

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

Signed:

Representatives: CONSTANTINE of Bar Harbor
GRAHAM of Houlton
ALLEN of Washington
MARSTON of Oakland

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-513)

Reports were read.

Representative Allen of Washington moved that the House accept the Minority "Ought Not to Pass" Report.

Representative Gurney of Portland requested a roll call.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Sheltra.

Representative SHELTRA: Mr. Speaker, Ladies and Gentlemen of the House: In reference to the Minority Report, what's happening is, you aren't getting the services that you normally would.

Let me give you a little background about this bill. When we first had our hearing, it was quite evident that something had to be done in the line of licensure of plumbers. At the hearing, we went over the redraft and it was stated at that point in time that it appeared to be a good bill. As a matter of fact, we didn't have any opposition whatsoever, no opponents whatsoever. This bill is being supported by the Maine Association of Plumbing, Heating and Cooling Contractors, the Plumbing Examining Board, the Bureau of Health and Engineering, Maine Vocational-Technical Colleges, the Maine State Apprentice and Training Council and the United States Department of Labor. There was no opposition to this bill at the hearing.

Just to give you an idea what has been going on, there is a letter here from Dana C. Tuttle, a state plumbing inspector, who stated that, during the past year from January 1989 to December 1989, consumer complaints and inquiries totaled 585. Restitution to customers totaled over \$46,000. Fines imposed by court and board action \$650. When we had the bill going, there was a section out of the bill that included backup valves. I was Chairman Pro Tem at the time and I called for a meeting and it was

decided that that issue (pertaining to backup valves) was not germane to the issue. Consequently, we had a vote at that point in time and that portion of the bill was deleted from the original bill.

Also at that point in time, I talked to the President of the Association of Maine Plumbing Contractors and asked him if he would not cut the hours down from 10,000 to 8,000, that bringing it down to four years in order to comply with what had to be done. He agreed, so in the redraft that was also mentioned.

What the redraft calls for is the minimum of four years with eight hours of work in the field of plumbing installation as a trainee plumber under the employment and direct supervision of a Master Plumber and satisfactory completion of an approved 45 hour course of instruction on the current state plumbing code prior to taking the Journeyman's examination and obtaining a passing grade as determined by the board. A minimum of 4,000 hours of work in the field of plumbing, installation as a Journeyman in training under the employment and direct supervision of a Master Plumber provided that the work experience is obtained within four years of the date upon which the applicant was issued a Journeyman-in-Training license. A Journey-in-Training license shall be issued upon sworn application of that license to any person who has satisfactorily completed one academic year of instruction and who has obtained a passing grade determined by the board on a Journeyman's examination.

Last but not least, a minimum of over 8,000 hours as an apprentice in a program registered with the State and Apprentice and Planning Council and satisfactory completion of a minimum of an additional 576 hours of related classroom instruction and obtaining a passing grade as determined by the board on a Journeyman's examination. Persons qualifying under this paragraph may take the Journeyman's examination after the completion of 576 hours of instructions and 8,000 hours in an approved program.

I have to compare this to my son who just got his Journeyman's license as an electrical contractor and what happened to him was that he had the sufficient number of hours and more, he passed the course very easily but, in the interim, I think one of the reservations with the bill is that, while the apprentice is in training, he might not be able to obtain the wages that would keep him gainfully employed and this is not the case. This certainly was not the case in the situation of my son because by the time he got his Journeyman's license, he only got a raise of about a couple of dollars. So what we are talking about here is we are trying to prevent accidents from occurring and trying to do the right thing by the public.

I know you think our real estate brokers, for instance, -- we are doing everything to mandate that we are going to protect the customer and that the consumer is going to be protected all the way. I think when you get to the nuts and bolts of this bill and the whole situation, these additional educational requirements are greatly needed in a more vastly populated area, whereas perhaps in a rural area the contention is that it is awfully hard to get a plumber and, if you make it harder by making them further their education, we won't be able to obtain a plumber. This isn't the case, I really don't believe that because it has been proven time and time again that the only way that the northern part of the state as did our York County, the southern part of the state, is through population explosion. When you have population explosion, people migrate and look for greener pastures.

The other thing I have to say pertaining to that is what we need in the state is transportation and communication and that can be obtained by a East and West Highway which would help to develop jobs especially for our good friends up in the northern area. I really don't feel that by requiring more stringent education that you are going to prevent people from going into the plumbing trade. It has always been the case that, if a man gives a day's work, he is going to be paid for it. I wish that you would defeat the Minority Report so you could then accept the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Men and Women of the House: I urge you this morning to accept the Minority "Ought Not to Pass" Report and would like to briefly explain to you why. First of all, for those of you who have served on the Business Legislation Committee or those of you who have been here, realize that we are charged with overlooking all the licensing boards. I think one of our primary tasks, both on that committee and here in the legislature, is to strike a balance between the needs of the professions that we are licensing and the needs of the consumers whom we represent. We have to ask ourselves, especially downstairs in the committee, very tough questions about where that line ought to be drawn.

Nearly all of the time when the licensing boards come to us and ask us to make appropriate changes so they can further function better, the Business Legislation Committee and this legislature has definitely responded in a positive way to those requests.

In this case, however, the plumbers have gone above and beyond the call of duty in trying to further their own interests and, in doing so, have not in fact furthered the interests of the people that we represent. Last year, when they came to our committee, this particular provision was part of an enormous ombudsman bill from the licensing division. We said that this issue is too tough, we want it separated because it makes substantive changes that we feel would be detrimental to the consumers of this state. We asked them last year to justify why this was a health and safety issue and they looked at us like we were asking the strangest question ever to have graced their ears.

This year they came with a proposal that, not only suggested we double the hours that they require in order to become a plumber, but went beyond doubling, to 10,000 hours as a practiced plumber before they could even sit for the exam. We said, this is ridiculous, but they said in response to those assertions, "Oh, but it is a health and safety issue for the people of the state of Maine."

In view of the Minority, it is in fact not a health and safety issue but more an effort on behalf of the profession to exclude people from entering their profession. What might, you ask, is going to be the repercussions for your constituents? If they are able to find a plumber, they won't be able to afford their services.

It is interesting to note by way of the division on this particular report that it is not necessarily a partisan split but is a split between what has historically been called "the two Maine's," not necessarily north v. south but instead rural v. urban. If you will notice, those of us who thought what these people were asking for was a little bit too much either come from rural counties or rural sections of this state where we are already having an extremely difficult time finding plumbers to meet our

needs in a timely fashion. Then, when we do get them, we are paying exorbitant prices for their services.

This particular bill would require doubling the amount of hours that are currently required for a plumber to become licensed in this state. For instance, where currently it requires (and this is just one category, there are several) 4,000 hours of supervision by a Master Plumber to become a Journeyman, this bill would double that requirement to 8,000 hours. We are not talking just a little additional training, we are talking two more years of indentured servants. I have no problems with the apprenticeship programs but they have to be reasonable.

One other provision that I find totally unreasonable at this point is that, yes, you can go to a VTI school and get accredited to work as a plumber but after you have finished your 600 hours of education at a VTI, you still have to serve 8,000 hours as a trainee. I think that is absolutely absurd. Our question here today is a simple one -- do we want to further restrict the plumbing profession so that just a select few can serve in that particular profession or do we want to require those people who want to enter the profession, not to serve two years as an apprentice, but further service four years? I think what they are asking for is absolutely unnecessary, it goes way beyond what they need to. This bill could have been improved simply by saying, if you go to a VTI and you have been there for 600 hours and you have learned the profession, that if you serve a few hours as a plumber, you can become licensed but that's not what this does. You can't become a Master Plumber with this bill simply by training, it requires additional requirements. It is absolutely a question of those of you who have access to lots of people -- if you come from a large city or you come from southern Maine, then this is the bill for you. If you don't, I would suggest that you accept the Minority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Gurney.

Representative GURNEY: Mr. Speaker, Men and Women of the House: Why this legislation is needed at this time is because plumbing has become more complex and specialized in recent years necessitating better training for the plumber. All other New England states have raised their license standards to meet the education requirements. If Maine does not, reciprocity of licenses from Maine to other states will not be accepted.

A higher frequency of plumbing code violation installations is occurring which leads to health and safety hazards to the consumer.

In the last ten years, Maine and all of New England have experienced a rapid increase in new constructions to meet this need. More people have become licensed plumbers. Under the existing licensing requirements, a person can work for two years as a trainee, pass the Journeyman's exam, and then perform plumbing under the supervision of a Master Plumber. When this system was developed, the intent was that the trainee would learn from a Journeyman that has the experience and knowledge to instruct the trainee properly. Because of the influx of new construction, we have many Journeymen who have just received their license that are working with trainees. They have not yet developed the confidence or level of ability to work by themselves, let alone teach trainees. Consequently, the next generation of Journeymen have a reduced knowledge in their two years of experience.

I would like to point out also that there was no opposition to the bill at the public hearing. Those in favor of the legislation are the Maine Association of Plumbing, Heating and Cooling Contractors, the Plumbers Examining Board, the Bureau of Health and Engineering, the Maine Vocational-Technical Colleges, the Maine State Apprenticeship and Training Council and the United State Department of Labor.

This bill will help reduce consumer cost. One of the largest costs the plumber faces in the state of Maine is Workers' Compensation Insurance.

The Apprentice Training Program includes first-aid and OSHH training in the program to help instruct the apprentice how to avoid personal injury or fatality. Continued reduction in personal injury would eventually reduce Workers' Compensation costs. A properly trained plumber will install plumbing more efficiently and less expensively, thus reducing the incident rate that a consumer has to have in properly installed systems. Because plumbing involves many hazardous substances, sewage improperly disposed of or vented can result in the spread of disease. High temperature and pressure created in water heaters that can result in bursting of the devices can cause bodily harm. Cross-connections of systems can allow harmful chemicals to enter the drinking water. Insolvants, acids, solder, lead, etc. are all items that are used by the plumbing industry. Misuse of any of these items can result in harm to the safety and health of the consumer.

I urge you to vote against the pending motion so we can accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Bar Harbor, Representative Constantine.

Representative CONSTANTINE: Mr. Speaker, Ladies and Gentlemen of the House: As you know, I represent small towns. My smallest town, Steuben, has 990 people in it and to many of the people in my district, licensing represents extreme interference on the part of the state in their everyday lives. Most of us, when we go to hire people to do work for us, know a good deal about those people before we actually hire them and we certainly know how to seek recourse with them should something go wrong.

I recently went through a prolonged period of construction on my house and managed to have my well contaminated by the mason and, even though I fantasized blowing up his truck or even taking him to court or telling my sister, who can spread the word around Mount Desert Island in about 20 minutes, he simply accepted a call that there was a problem and came and fixed it, very promptly and very politely.

We also had some instances with the plumbers which were not high tech problems. For instance, I left here one night, arrived at my house to find out that the pilot had not been relit in my gas oven and gas seeped out into the house for two days. That took a little bit of attending to on my part.

I asked the plumber who had been working on my house what this would do exactly, what this increase in licensing would do for him and the reason I did this was not a single plumber in my district (and we certainly have our share of construction) asked me to support this bill. He said, "Well, the problem right now is that the restrictions in training requirements is such that I can't get good people to work for me. Often they start out as young people, they want to make this their profession, they have to do a day's work, they have to drive to Orono, they have to go to class, come home at eleven o'clock at night and be back in the shop at seven o'clock the next morning and do another day's work. Mistakes happen, they get

discouraged and they leave." He said, "It is very hard for me to get people to work for me now."

I will just leave it at that. I would appreciate it very much if you would consider these things and that you support the "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Oakland, Representative Marston.

Representative MARSTON: Men and Women of the House: As you may not know, I am a lame duck. I was the first day I arrived and I am in fact a real lame duck now, so probably this is an exercise in futility.

However, I haven't bored you with things that I know a little about. I haven't attempted to persuade you to do anything but I would ask you to just take one long look at this bill. A lot of things happen around here that in theory and on paper seem marvelous. But, if you happen to have some particular expertise on a certain piece of legislation, you sit there and listen to all the reasons that we need this thing and it makes very little sense at all when it comes right down to it. This is one of those bills that, again, in theory and on paper it is wonderful, but out there folks in the real world, we could do very well without it.

If you should happen to make a mistake and not go along with the Minority "Ought Not to Pass" Report, you probably will get the opportunity to pay for that mistake when you next hire a plumber. Thank you very kindly for putting up with me.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Sheltra.

Representative SHELTRA: Mr. Speaker, Men and Women of the House: Our good Representative Allen made quite an issue of the vocational training — actually you have to separate the theory from the practical end in any business, especially in any trade. You could excel in theory and you could fail miserably on the practical application of any training that you might get.

The only thing that I can compare this to is, if your wife were pregnant, would you have a doctor for her or would you have a midwife?

I hope that you vote down the Minority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Hogland.

Representative HOGLAND: Mr. Speaker, Men and Women of the House: I have a son who is an apprentice, I have a husband who is a Master Plumber and my husband would like to keep our son an apprentice forever and my son would like to get his license. In order to get your license, you have to go four or five years as an apprentice. As an apprentice, you really have to know how to put these things together such as water bursting, relays, and all these other things — believe me, I live through it all during dinner and supper every night — but the idea is that you have to be licensed after you are done. Obviously, when you are licensed as a Journeyman, you then have to work under a Master Plumber in order to become a Master Plumber. Believe me, after five years of going to school, you ought to know something about plumbing without adding anymore to it.

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

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

The SPEAKER: The pending question before the House is the motion of Representative Allen of Washington that the House accept the Minority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Gurney.

Representative GURNEY: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Hallowell, Representative Farnsworth. If she were present and voting, she would be voting yea; I would be voting no.

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

ROLL CALL NO. 168

YEA - Adams, Allen, Anthony, Begley, Bell, Brewer, Burke, Cahill, M.; Carter, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Conley, Constantine, Crowley, Curran, Daggett, DiPietro, Dore, Erwin, P.; Farnum, Foster, Gould, R. A.; Graham, Greenlaw, Gwadnosky, Hale, Hastings, Heeschen, Hepburn, Hickey, Hogle, Holt, Hussey, Hutchins, Jacques, Joseph, Ketover, Kilkelly, Lisnik, Luther, Macomber, Mahany, Marston, Martin, H.; Mayo, McHenry, McKeen, McSweeney, Melendy, Michaud, Mills, Moholland, Murphy, Nadeau, G. G.; Nadeau, G. R.; Norton, O'Dea, Oliver, Paradis, J.; Paradis, P.; Parent, Paul, Pederson, Pineau, Priest, Rand, Richard, Richards, Ridley, Rolde, Rotondi, Rydell, Simpson, Skoglund, Smith, Stevens, P.; Strout, D.; Swazey, Tammaro, Tardy, Tracy, Walker, Wentworth, The Speaker.

NAY - Aikman, Aliberti, Anderson, Ault, Bailey, Boutillier, Butland, Carroll, D.; Carroll, J.; Cote, Dellert, Dexter, Donald, Duffy, Dutremble, L.; Farren, Foss, Garland, Handy, Hichborn, Higgins, Jalbert, Lawrence, Lebowitz, Libby, Look, Lord, MacBride, Manning, Marsano, Marsh, McCormick, McPherson, Merrill, Nutting, O'Gara, Paradis, E.; Pendleton, Pines, Plourde, Pouliot, Reed, Seavey, Sheltra, Small, Stevens, A.; Stevenson, Strout, B.; Telow, Townsend, Tupper, Webster, M.; Whitcomb.

ABSENT - Cathcart, Hanley, Jackson, LaPointe, Larrivee, McGowan, Mitchell, Ruhlin, Sherburne.

PAIRED - Farnsworth, Gurney.
Yes, 87; No, 53; Absent, 9; Paired, 2; Excused, 0.

87 having voted in the affirmative and 53 in the negative with 9 being absent and 2 having paired, the Minority "Ought Not to Pass" Report was accepted in non-concurrence and sent up for concurrence.

Non-Concurrent Matter

Resolve, to Approve the Kennebec County Commissioners' Nominations to the Kennebec County Budget Committee (EMERGENCY) (H.P. 1702) (L.D. 2351) which was read twice under suspension of the rules without reference to a committee and passed to be engrossed in the House on February 23, 1990.

Came from the Senate referred to the Committee on State and Local Government in non-concurrence.

The House voted to Insist.

COMMUNICATIONS

The following Communication:
114th MAINE LEGISLATURE
February 22, 1990

Honorable Edwin H. Pert
Clerk of the House
State House Station 2
Augusta, ME 04333

Dear Clerk Pert:

This is to notify you that pursuant to our authority under Chapter 380 of the Public Laws of 1987, we have today appointed Patricia S. Philbrook, of Augusta, and Jan L. Hitchcock, of Damariscotta, to the Cancer Prevention and Control Advisory Committee.

Sincerely,

S/Charles P. Pray S/John L. Martin
President of the Senate Speaker of the House
Was read and ordered placed on file.

The following Communication: (S.P. 928)
114TH MAINE LEGISLATURE
February 21, 1990

Senator Joseph C. Brannigan
Rep. James Mitchell
Chairpersons
Joint Standing Committee on Marine Resources
114th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated the Honorable Kenneth M. Curtis of Castine, Arthur M. Johnson of Damariscotta, Arthur J. Odlin of South Portland, James T. List of Wells, Dennis L. Taylor of Newagen, James H. Storer of Brunswick, Lawrence P. Greenlaw, Jr. of Stonington and Edward S. Gilfillan of West Boothbay for appointments as members of the Marine Research Board.

Pursuant to Public Law 1989, Chapter 529, these nominations will require review by the Joint Standing Committee on Marine Resources and confirmation by the Senate.

Sincerely,
S/Charles P. Pray
President of the Senate
S/John L. Martin
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Marine Resources.
Was Read and Referred to the Committee on Marine Resources in concurrence.

The following Communication: (S.P. 929)
114TH MAINE LEGISLATURE
February 20, 1990

Senator Joseph C. Brannigan
Rep. James Mitchell
Chairpersons
Joint Standing Committee on Marine Resources
114th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Jeffrey Howard Kaelin of Winterport for reappointment, Arthur J. Odlin of South Portland and Burton H. Blanch of Eastport for appointments as members of the Marine Resources Advisory Council.

Pursuant to Title 12, MRSA Section 6024, these nominations will require review by the Joint Standing Committee on Marine Resources and confirmation by the Senate.

Sincerely,
S/Charles P. Pray
President of the Senate
S/John L. Martin
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Marine Resources.
Was Read and Referred to the Committee on Marine Resources in concurrence.

The following Communication: (S.P. 932)
114TH MAINE LEGISLATURE
February 23, 1990

Senator Judy C. Kany
Rep. Michael H. Michaud
Chairpersons
Joint Standing Committee on Energy and Natural Resources
114th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Robert V. Withrow of Dixfield, Toby B. Hammond of Naples, Wallace H. Jeffrey of Hampden and Charles E. Hewett of South Casco for appointments as members of the Citizens' Forestry Advisory Council.

Pursuant to Title 12, MRSA Section 5101-B, these nominations will require review by the Joint Standing Committee on Energy and Natural Resources and confirmation by the Senate.

Sincerely,
S/Charles P. Pray
President of the Senate
S/John L. Martin
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Energy and Natural Resources.
Was Read and Referred to the Committee on Energy and Natural Resources in concurrence.

The following Communication:
MAINE STATE HOUSING AUTHORITY
295 WATER ST
PO BOX 2669
AUGUSTA, MAINE 04338-2669
February 23, 1990

The Honorable John L. Martin
Speaker of the House
State House Station 2
Augusta, Maine 04333
Dear Speaker Martin:

I am pleased to submit to the Legislature, and in particular to the Joint Standing Committee on Taxation, this report on the expenditures and uses of the Housing Opportunities for Maine (HOME) Fund. While this report is required every two years by 36 MRSA 4641-N, we have chosen to submit it annually in order to provide the legislature with more current information.

If you have any questions about the HOME Fund or its utilization, we would be pleased to respond.

Sincerely,
S/Thomas C. Cary
Acting Director

Was read and with accompanying report ordered placed on file.

PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE

The following Bills 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:

Energy and Natural Resources

Bill "An Act to Amend the Solid Waste Landfill Remediation and Closure Laws Administered by the Department of Environmental Protection" (EMERGENCY) (H.P. 1712) (L.D. 2363) (Presented by Representative FOSS of Yarmouth) (Cosponsored by Representative MICHAUD of East Millinocket and Representative

LARRIVEE of Gorham) (Submitted by the Department of Environmental Protection pursuant to Joint Rule 24.)

Bill "An Act to Establish Fees for Nonferrous Mining" (EMERGENCY) (H.P. 1713) (L.D. 2364) (Presented by Representative ANDERSON of Woodland) (Cosponsored by Senator LUDWIG of Aroostook and Representative DEXTER of Kingfield)

Ordered Printed.
Sent up for Concurrence.

Legal Affairs

Bill "An Act to Authorize the Maine State Lottery to Enter into an Agreement with Other States to Join the Multi-State Lottery Association, Known as Lotto*America, for the Purpose of Operating a Joint Lottery"(H.P. 1711) (L.D. 2362) (Presented by Representative MURPHY of Berwick) (Cosponsored by Representative TUPPER of Orrington, Senator CAHILL of Sagadahoc and Senator BALDACCI of Penobscot)

Ordered Printed.
Sent up for Concurrence.

ORDERS

On motion of Representative McSWEENEY of Old Orchard Beach, the following Order:

ORDERED, that Representative Linwood M. Higgins of Scarborough be excused February 14 and 16 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Alberta M. Wentworth of Wells be excused February 20 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Peggy A. Pendleton of Scarborough be excused February 20 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Jo Anne D. Lapointe of Auburn be excused February 21 and March 5 for personal reasons and February 27 for health reasons.

AND BE IT FURTHER ORDERED, that Representative James Mitchell of Freeport be excused February 26 through March 5 for legislative business.

Was read and passed.

ORDERS

On motion of Representative KILKELLY of Wiscasset, the following Joint Resolution: (H.P. 1694) (Cosponsors: Senator TITCOMB of Cumberland, Senator HOLLOWAY of Lincoln and Representative SMALL of Bath)

JOINT RESOLUTION CONCERNING THE RELEASE OF HELIUM BALLOONS

WHEREAS, the release of helium balloons into the environment poses a direct danger to Maine's ecology; and

WHEREAS, the ingestion of helium balloons has resulted in the unwarranted deaths of numerous land and sea animals; and

WHEREAS, the increasing number of grounded balloons litter our waterways and despoil the natural beauty of our beaches and shores; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Fourteenth Legislature, now assembled in the Second Regular Session, officially discourage the release of helium balloons into the atmosphere at high school graduation processions and ceremonies and all other celebrations and occasions; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Commissioner of

Educational and Cultural Services with the request that the commissioner provide a copy to each superintendent of schools in the State and to each participant in the Model State Legislature, in order that the intent of this resolution be fully communicated to the State's students and their communities.

Was read.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: How many times have all of us been at various events in which lots of balloons were released, whether it was a celebration, a science project or maybe a geography lesson in which we found out that pen pals were created from long distances? What feelings those events evoked, a blue sky filled with colors that become tiny dots in the distance and then disappear from our view.

My friends, they don't disappear from the environment. In this new decade, we as individuals and communities in the state, are discovering that many of these things that we before thought disappeared from sight and disappeared from our environment, haven't. Solid waste despoils our land and, although hidden under tons of soil, it stills poses a problem. Sewage and waste dumped into rivers and oceans significantly affects water quality. We can no longer look the other way and assume that if we can't see it that it is okay.

Balloons that are released fall back to the earth, they become dangerous when they are mistaken as food by fish, turtles and other sea animals and they become an eyesore when they litter our beaches, roadways and our waterways.

This Resolution was proposed to me by seven of Wiscasset's middle school students that are enrolled in the New Horizon's program. Their sincere concern for the environment, the land and water that we hold in stewardship for them, greatly impressed me. I am very pleased that they are able to join us today as Honorary Pages along with their teacher, Mrs. Thompson, and I appreciate your support.

Subsequently, the Joint Resolution was adopted. Sent up for concurrence.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative JACQUES from the Committee on Energy and Natural Resources on Bill "An Act to Protect Lake Water Quality" (H.P. 1657) (L.D. 2293) reporting "Ought Not to Pass"

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Unanimous Leave to Withdraw

Representative TRACY from the Committee on Banking and Insurance on Bill "An Act Concerning Tax and Insurance Escrow Accounts" (H.P. 1632) (L.D. 2259) reporting "Leave to Withdraw"

Representative ERWIN from the Committee on Banking and Insurance on Bill "An Act to Prohibit the Imposition of Percentage Fees and Application Fees on Residential Mortgages" (H.P. 1636) (L.D. 2269) reporting "Leave to Withdraw"

Representative CROWLEY from the Committee on Education on Bill "An Act to Include Income as a Measure of the Ability to Pay in the Education Funding Formula" (H.P. 1634) (L.D. 2261) reporting "Leave to Withdraw"

Representative ANTHONY from the Committee on Judiciary on Bill "An Act to Allow Grandparents to Petition the Court for Visitation Rights in Certain Limited Circumstances" (H.P. 1494) (L.D. 2067) reporting "Leave to Withdraw"

Representative PRIEST from the Committee on Legal Affairs on Resolve, Authorizing Douglas Wright to Bring a Civil Action against the State for Damages He Sustained As a Result of the Investigation, Prosecution and Trial for Unlawful Sexual Contact (H.P. 1406) (L.D. 1954) reporting "Leave to Withdraw"

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Divided Report

Majority Report of the Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-806) on Bill "An Act Concerning Geographic Isolation Grants" (H.P. 1305) (L.D. 1805)

Signed:

Senators:

ESTES of York
BOST of Penobscot
GILL of Cumberland

Representatives:

KILKELLY of Wiscasset
PARADIS of Frenchville
CROWLEY of Stockton Springs
SMALL of Bath
O'DEA of Orono
HANDY of Lewiston
OLIVER of Portland
AULT of Wayne

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

Signed:

Representatives:

NORTON of Winthrop
O'GARA of Westbrook

Reports were read.

On motion of Representative Crowley of Stockton Springs, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (H-806) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, February 27, 1990.

Divided Report

Majority Report of the Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-807) on Bill "An Act to Provide Health Insurance Options for Public Employers and Employees" (H.P. 1351) (L.D. 1868)

Signed:

Senators:

ESTY of Cumberland
BERUBE of Androscoggin
LARRIVEE of Gorham

Representatives:

CAHILL of Mattawamkeag
ROTONDI of Athens
DAGGETT of Augusta
JOSEPH of Waterville

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

Signed:

Senator:

CARPENTER of York

Representatives:

WENTWORTH of Wells
CURRAN of Westbrook
BEGLEY of Waldoboro
HEESCHEN of Wilton
McCORMICK of Rockport

Reports were read.

Representative Joseph of Waterville moved that the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Men and Women of the House: I ask you to vote against the Majority Report and accept the Minority "Ought Not to Pass" Report.

The Health Trust established in 1983 is a self-funded, voluntary employee beneficiary association governed by the provisions of the Federal Employment Retirement Security under the federal government. Under the federal government, no member of the Trust may represent specific units in an insurance group. It must be for everyone. If we allow those who are involved in unions and other divisions, they will be naturally protecting their own people, it would be their job to do that, but it is not allowed under this system. Therefore, I ask that you vote against this bill.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Begley.

Representative BEGLEY: Mr. Speaker, Ladies and Gentlemen of the House: I am opposed to L.D. 1868 because I do not believe that we should be dictating to our municipalities that they may not take part in the Maine Municipal Health Trust unless the Trust replaces two of its trustees with municipal employees from bargaining units.

I would like to call to your attention that the Health Trust Board is already established and currently regulated by federal law. That's explained in this yellow sheet that you have here on your desks this morning.

This bill is an intrusion on employer groups in our municipalities — we would attempt to control a decision on which health plan the community should select. I do not believe that the state should take part in this process. As I already mentioned, the Maine Municipal Health Trust is already established and regulated by federal law. Therefore, I encourage you to vote against L.D. 1868 and Mr. Speaker, I request a roll call.

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

Representative McCORMICK: Mr. Speaker, Ladies and Gentlemen of the House: This bill, in my mind, is clearly another infringement on local government control. It is particularly true as it relates to an employer groups rights to determine which health plan they secure employee health benefits from. As previously stated, even more important is the fact that the Maine Municipal Employees Health Trust, which this bill is aimed at, is already federally regulated. In my mind, this is a way for unions to work their way into local government and eventually control (in some small part) how our local government wishes to operate.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: It is interesting to hear what the opponents feel about this bill. In fact, it would give those who pay for their health cost through their employer, which is any municipality or quasi-municipality organization, a voice in the control in the provisions and benefits that directly affect them.

This bill was brought to us by the Public Employee Committee of the AFL-CIO, which includes professional firefighters, the MSEA, the American Federation of Government Employees, the American Federation of State, County and Municipal Employees, the American Federation of Teachers, the American Postal Workers' Union, the American Transit Union,

the Federal Employees Metal Trades Council, the International Association of Firefighters, the International Association of Machinists, the Maine State Employees Association Service Employees International Union and the National Association of Letter Carriers. What they seek to do is have representation on the Board of Trustees of any health plan that their employer is carrying for them.

The Maine Municipal Association has distributed a letter and in that letter it states that the Trustees have a fiduciary responsibility to govern the trust for the exclusive benefit of the planned participants.

I say that, if we included at least two employees and not all management personnel on the Board of Trustees of health plans that directly affect those employees and their families, they would have that same fiduciary responsibility and best reflect what benefits they feel would be reasonable and fair for them to have on this board.

I ask you to vote for the Majority "Ought to Pass" Report.

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

Representative McCORMICK: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to point out that all of the unions that were in favor of this bill represent approximately 10 to 15 percent of the employees in population of this state. Is it fair to have all of our constituents represented by such a small majority in this state?

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

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

Does this mean if the municipalities themselves, the elected officials of the municipalities, do not make the decision on who will provide health care, whether it be Maine Municipal or any other insurance company?

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

The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: The Committee Amendment (on your desks) replaces the bill. It states that a county or municipality, a quasi-municipal organization, may not provide health insurance under its governmental health plan by forming or being a member of a group self-funded health insurance program unless the program's board of governing body includes at least two employee members. So, if the plan that is chosen by your municipality does not include two members on its Board of Trustees, your municipality could not participate in that plan.

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

Representative HALE: Mr. Speaker, Men and Women of the House: I would urge you to support the Minority Report in this particular instance. Having been a municipal official as many of you have been here, I do believe it is not our purview to say to municipalities that the employees must participate in decision-making as far as the health benefits. We delegate and relegate that when we go to the polls and vote whether we have a city form of government or we have a board of selectmen. I do not believe that having two people from municipalities that belong to unions is going to make a bit of difference. I think it may be not as unbiased as it is today so I would urge you to go with the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Men and Women of the House: I, too, am very much aware and scared of the local government losing their power or delegating their power to someone else but there is a big inequity here between the benefits that are given to all other employees, such as state employees and some teacher groups, as opposed to municipal employees in the health care field. I think this is one way that the municipal employees will now get some of the benefits that are extended to state employees.

Another committee that I am on, repeatedly, we see that people come back and want certain benefits given as part of their retirement, such as health insurance. This is one step forward and will give the municipal employees the same equity that you give to state employees. I would urge you to accept the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Members of the House: In my town, the town pays full coverage of all health benefits to the worker and their families and I think they should not be restricted to what the sponsoring group should be that's selected by them.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: Early this morning, both the Banking and Insurance Committee and Human Resources Committee dealt with the problem of uninsured. More and more people and more and more towns are going to be looking at ways to reduce their health care benefits and I would think that towns would want an employee on that board so when that employee goes back to his fellow employees and says, the reason we are going this way is because we need to do this or that. Two years ago and some of the veteran members will remember, we were all called down to the Appropriations Committee and told about the new way that Blue Cross-Blue Shield was going to handle our health insurance and it was set up because of the management-labor negotiations outside of the contract. That group of people sat down and said, what are the ways we are going to be able to cut down our health insurance costs? I think if you have employees involved in that, it is going to make it much easier to go back to (even) a non-union. Whether you belong to a union or not, there are going to be employees who are going to say, "Hey, why are we doing this this way? Why are we doing it that way?" If you have employees on that plan and they can talk to their fellow employees, I think it would make it a lot easier.

We all know the constraints towns are under trying to deal with health insurance. Representative Wentworth just talked about her town but I would be willing to bet that many of us represent towns (I won't say mine because I think mine is the same way as Representative Wentworth's) that have health insurance policies that — maybe they pay 50 percent, maybe they pay 100 percent of the employee and nothing for the spouse or family. I think the more we get people involved and the more people understand the problems of health insurance, the better this state is going to be.

Up until a few years ago it was, let the employer do it and that was it. But in the last two or three years, everybody has been under the gun and have heard from their constituents, whether it was

business, Maine Municipal, or local towns on the problems they are having with health insurance.

I think this is one way to let the employer work with the employee and then that employee can go back to his fellow (non-union in this case maybe) employee and explain the new procedures and the reasons why they have to do this is because of the costs.

I would hope that you would go along with the Majority "Ought to Pass" Report.

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

Representative HASTINGS: Mr. Speaker, Men and Women of the House: There have been many clouds and shadows tossed about here this morning regarding this bill and amendment.

Basically, every town that I am aware of, actually has health insurance through MMA, through a group plan, for which they are simply a member. This bill and the amendment, which in effect substitutes for the bill, simply states that the directorship of the MMA health plan for which a town or county may be a member shall have two of its directors be these employees as defined under the Labor-Relations Law. It does not degrade the existing members who are directors, i.e., seven town managers (who are also employees) and are currently the directors of the MMA plan. No town to the best of my knowledge, other than perhaps a city such as Portland, has their own individual self-funded plan, the plan is all through MMA. Therefore, you are just changing the makeup of the MMA plan, directorship. It currently is made up of town employees, i.e., seven town managers. I see no reason to change it by imposing this further requirement. In fact, as the good Representative from Portland indicated, they will not be employees who will go back and report to a particular town. There will only be two in the entire state if this bill is passed. So, I would urge you to vote against the Majority Report.

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

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the good Representative from Portland and his concern about the cost of health care -- the cost of contributory health care benefits is not a new idea. I hate to date myself but 30 some years ago we were contributing to health care. It only became the sole cost to the employer when it was to the employers benefit. Once it is no longer to the employers benefit, they don't pay it. They say, "You will contribute such and such." Every employee does.

What the Representative from Fryeburg said is very true, every municipal employee to my knowledge, with the exception I believe of the city of Portland, belongs to the MMA Health Plan. The municipal officials are very, very concerned about the cost and they changed a few years ago. There are very few municipalities that are self-insured. I still say to you, as far as contributory, I know of no municipality that has a contributory plan. The taxpayers pay for it but, in order to control who they purchase it from, it must be the elected officials, the people who are in it all of the time, as we are here passing or rejecting a bill. I do not believe that it would be in the best interest of employees of municipalities. I do not believe any further erosion of bargaining responsibilities should be taken from the Board of Selectmen or the Town Council or Town Manager, whatever the case may be.

I urge you to vote against the Majority Report.

Representative Joseph of Waterville was granted permission to speak a third time.

Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: Trying not to cloud this issue, Representative Hastings is correct -- there is a 9 member board of the Maine Municipal Health Trust and, on that board, only management persons or those people who supervise other employees of their municipalities, serve on that board.

This legislation is simply asking that two employees, two persons who are directly affected by the benefits of the provisions of that health plan, be on that board in order to represent their point of view. We felt strongly that those who pay for health care be given a voice in the provisions of their health plan. Maybe all towns are presently picking up 100 percent cost of the health plan for their employees. I believe that those days are numbered. In fact, I believe that the next round of negotiations will show that a percentage of payment will be co-paid by the employee-employer.

I urge you to adopt this provision so that employees will be represented on the Board of Trustees.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Begley.

Representative BEGLEY: Mr. Speaker, Men and Women of the House: I would like to expand a little bit on what Representative Hastings and Representative Joseph have just said. I think there is definitely a philosophical difference in what people believe a town manager is. I notice that Representative Hastings said he was a town employee and that is exactly what I believe he is. I do not believe our town manager is necessarily a management position. He is in a position of following the policies of what the selectmen decide. They are the ones who make the decision.

I do not think you ought to lose sight of the fact that, if this bill is passed, we are making the decision here at this level that those selectmen will not have a choice on which health plan they can take. If this bill is passed and the Municipal Health Trust does not put two people on, then you are taking the decision away from the local, and I say we have no business being in that process.

The Maine Municipal Health Trust fund is already set, it is federally regulated and we do not have a right to be in that process.

I encourage you to vote for the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Shapleigh, Representative Ridley.

Representative RIDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I have been listening to all of this and having been trying to fathom it out as to how it would apply to some of the towns that I represent (outside of the town of Springvale) but there are a lot of towns throughout the state, such as the one I live in, the town of Shapleigh, who don't have any permanent full-time employees in the town. They all operate on a part-time basis, even the selectmen, the treasurer, the whole lot of them. We don't have any health insurance of any kind for anybody in the town. If they want it, they can get it on their own, which most of them do, they have Blue-Cross, Blue-Shield. I certainly hope that if the town ever did get to the point where they were going to entertain the idea of having some sort of a health plan later down the road, that they certainly can pick and choose what they want. I don't think we should be passing any legislation that would prohibit them in any way whatsoever. We should not limit them in any way in choosing what the municipal officers and the people of the town want. They are going to pay the bill and I certainly think they ought to be

able to have a hundred percent free choice in what they want, if they ever come to that.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Waterville, Representative Joseph, that the House accept the Majority "Ought to Pass" as amended by Committee Amendment "A" (H-807).

The SPEAKER: The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, pursuant to Joint Rule 10 and House Rule 19, I respectfully request to be excused from voting on this issue.

The SPEAKER: The Chair will grant that request. The pending question before the House is the motion of the Representative from Waterville, Representative Joseph, that the House accept the Majority "Ought to Pass" as amended by Committee Amendment "A" (H-807). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 169

YEA - Adams, Allen, Anthony, Burke, Cahill, M.; Carroll, D.; Cashman, Chonko, Clark, H.; Clark, M.; Coles, Conley, Constantine, Crowley, Daggett, Dore, Duffy, Erwin, P.; Graham, Gurney, Gwadosky, Handy, Hickey, Hoglund, Holt, Jacques, Jalbert, Joseph, Ketover, Lawrence, Luther, Mahany, Manning, Marston, Martin, H.; Mayo, McGowan, McHenry, McKeen, Michaud, Mills, Nadeau, G. R.; O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Pederson, Pineau, Priest, Rand, Rolde, Rotondi, Ruhlin, Rydell, Simpson, Skoglund, Stevens, P.; Swazey, Tamaro, Townsend, Tracy, Walker.

NAY - Aikman, Aliberti, Anderson, Ault, Bailey, Begley, Bell, Boutillier, Brewer, Butland, Carroll, J.; Cote, Curran, Dellert, Dexter, DiPietro, Donald, Dutremble, L.; Farnum, Farren, Foss, Foster, Garland, Gould, R. A.; Greenlaw, Hale, Hastings, Heeschen, Hepburn, Hichborn, Higgins, Hussey, Hutchins, Kilkelly, Lebowitz, Libby, Lisnik, Look, Lord, MacBride, Macomber, Marsano, Marsh, McCormick, McPherson, McSweeney, Melendy, Merrill, Murphy, Norton, Nutting, Paradis, E.; Parent, Paul, Pendleton, Pines, Plourde, Pouliot, Reed, Richard, Richards, Ridley, Seavey, Sheltra, Small, Smith, Stevens, A.; Stevenson, Strout, B.; Tardy, Telow, Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Carter, Cathcart, Farnsworth, Hanley, Jackson, LaPointe, Larrivee, Mitchell, Moholland, Nadeau, G. G.; Sherburne, The Speaker.

EXCUSED - Strout, D..

Yes, 63; No, 75; Absent, 12; Paired, 0; Excused, 1.

63 having voted in the affirmative and 75 in the negative with 12 being absent and 1 excused, the motion did not prevail.

Subsequently, the Minority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act Concerning Reimbursement to Municipalities for Property Taxes Lost Due to the Classification of Property in Farmland and Open Space Programs" (EMERGENCY) (H.P. 1491) (L.D. 2064)

Signed:
Senators:

ANDREWS of Cumberland
BALDACCI of Penobscot
EMERSON of Penobscot
CASHMAN of Old Town
SWAZEY of Bucksport
NADEAU of Saco
DUFFY of Bangor
TARDY of Palmyra
DiPIETRO of South Portland
JACKSON of Harrison
SEAVEY of Kennebunkport
WHITCOMB of Waldo

Representatives:

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-810) on same Bill.

Signed:
Representative: DORE of Auburn
Reports were read.

Representative Cashman of Old Town moved that the House accept the Majority "Ought Not to Pass" Report.

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: I would move that we accept the Minority "Ought to Pass" Report.

Twelve to one reports are no pleasure. I only have two reasons for voting against the rest of the committee on this bill and they are as follows: when the Farmland and Open Space Program was initiated, the Maine Municipal Association indicated that it did not need tax relief. The problem is that some municipalities have a lot more residents who filed for Farmland and Open Space than who filed for Tree Growth and we reimburse municipalities where residents file for Tree Growth so in the interest of fairness to the municipalities, particularly Auburn, -- we have residents who categorize their land as Farm and Open Space -- it would relieve the tax burden on the town.

My second reason is that, at that time when this bill was passed, it was not anticipated but revenue sharing on the part of the state would be cut back and because revenue sharing has been cut back on the part of the state, this "Ought to Pass" Report has a fiscal note of only \$250,000 and it would relieve some of the property tax burden on municipalities whose residents sometimes file for Farmland and Open Space.

Subsequently, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought to Pass" on Bill "An Act to Ensure that Mobile Home Park Operators are Informed of Habitability Problems" (H.P. 1560) (L.D. 2166)

Signed:
Senators:

BALDACCI of Penobscot
MATTHEWS of Kennebec
DILLENBACK of Cumberland
PRIEST of Brunswick
BEGLEY of Waldoboro
LAWRENCE of Kittery
LAPOINTE of Auburn
PAUL of Sanford
PLOURDE of Biddeford
MURPHY of Berwick
TUPPER of Orrington

Representatives:

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

Signed:
Representatives: JALBERT of Lisbon

STEVENS of Sabattus

Reports were read.

On motion of Representative Priest of Brunswick, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading Tuesday, February 27, 1990.

CONSENT CALENDAR

First Day

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

(H.P. 1624) (L.D. 2246) Bill "An Act to Ensure the Effective Use of Grants in the Office of the State Archivist" Committee on State and Local Government reporting "Ought to Pass"

(H.P. 1353) (L.D. 1870) Bill "An Act to Clarify the Succession of Estates under the Maine Probate Code" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-816)

(S.P. 703) (L.D. 1841) Bill "An Act Relating to the Town of York School District" (EMERGENCY) Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (S-514)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, February 27, 1990, under the listing of Second Day.

(H.P. 1462) (L.D. 2039) Bill "An Act to Protect Public Health by Prohibiting Smoking on Public Transportation Buses" (EMERGENCY) Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-817)

On motion of Representative Pederson of Bangor, was removed from the Consent Calendar, First Day.

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

Committee Amendment "A" (H-817) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, February 27, 1990.

CONSENT CALENDAR

Second Day

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

(S.P. 843) (L.D. 2162) Bill "An Act to Prohibit Motor Vehicle Insurers from Adjusting Personal Insurance Rates of Law Enforcement Officers"

(S.P. 757) (L.D. 1982) Bill "An Act to Preserve the Natural Values of Public Water Utility Lands" (C. "A" S-507)

(S.P. 181) (L.D. 338) Bill "An Act to Clarify Costs Associated with the Purchase of Land by School Administrative Units" (C. "B" S-509)

(H.P. 1546) (L.D. 2131) Bill "An Act to Amend the Laws Relating to the Maine Committee on Aging" (C. "A" H-808)

(H.P. 1474) (L.D. 2059) Bill "An Act to Amend the Fuel Adjustment Clause" (C. "A" H-809)

(H.P. 1589) (L.D. 2201) Bill "An Act to Create the Maine Coast Environmental Trust Fund" (C. "A" H-811)

(H.P. 1537) (L.D. 2122) Bill "An Act to Establish the Advisory Board on Rights of Children in Need of Treatment" (C. "A" H-812)

(H.P. 250) (L.D. 362) Bill "An Act to Provide for Base-year Revisions for Intermediate Care Facilities for the Mentally Retarded" (C. "A" H-813)

(H.P. 1470) (L.D. 2055) Bill "An Act to Increase Awareness of Fetal Alcohol Syndrome and the Effects of Alcohol and Drugs on Fetuses" (C. "A" H-814)

(H.P. 1562) (L.D. 2168) Bill "An Act Regarding Mobile Home Safety Standards" (C. "A" H-815)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were Passed to be Engrossed or Passed to be Engrossed as Amended in concurrence and the House Papers were Passed to be Engrossed as Amended and sent up for concurrence.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Amend the Definition of Dealer Under the Used Car Information Laws" (S.P. 717) (L.D. 1892) (C. "A" S-505)

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

On motion of Representative Allen of Washington, the House reconsidered its action whereby Committee Amendment "A" (S-505) was adopted.

The same Representative offered House Amendment "A" (H-824) to Committee Amendment "A" (S-505) and moved its adoption.

House Amendment "A" (H-824) to Committee Amendment "A" (S-505) was read by the Clerk and adopted.

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

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

Bill "An Act to Provide for Increased Penalties for Land Use Violations within Certain Resource Protection Zones" (H.P. 1329) (L.D. 1846) (C. "A" H-803)

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

On motion of Representative Michaud of East Millinocket, tabled pending passage to be engrossed and specially assigned for Tuesday, February 27, 1990.

(H.P. 1411) (L.D. 1963) Bill "An Act Requiring the State to Pay a Portion of the Health Insurance Premium for Dependents of Retired State Employees" (C. "A" H-804)

Was reported by the Committee on Bills in the Second Reading, read the second time, the House Paper was Passed to be Engrossed as Amended and sent up for concurrence.

PASSED TO BE ENACTED

Emergency Measure

An Act Related to the Systems Assessment Commission (S.P. 701) (L.D. 1839) (S. "A" S-497 to C. "A" S-485 and S. "A" S-490)

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 being necessary, a total was taken. 124 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Regulate the Dumping of Dredged Materials in Maine Waters (H.P. 1407) (L.D. 1955) (H. "A" H-759 to C. "A" H-757)

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 being necessary, a total was taken. 129 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTOR
Emergency Measure
Tabled and Assigned

An Act to Improve the Organizational Structure of the Fish and Wildlife Advisory Council (H.P. 1660) (L.D. 2300)

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

On motion of Representative Jacques of Waterville, tabled pending passage to be enacted and specially assigned for Tuesday, February 27, 1990.

ENACTOR
Emergency Measure
Tabled and Assigned

An Act Related to the State Board of Substance Abuse Counselors (S.P. 699) (L.D. 1837) (C. "A" S-483 and S. "A" S-506)

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

On motion of Representative Allen of Washington, tabled pending passage to be enacted and specially assigned for Tuesday, February 27, 1990.

PASSED TO BE ENACTED
Emergency Measure

An Act to Amend the Laws Implementing, Administering and Enforcing the United States Emergency Planning and Community Right-to-Know Act of 1986 (S.P. 780) (L.D. 2021) (C. "A" S-489)

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 being necessary, a total was taken. 124 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED
Emergency Measure

An Act to Prohibit the Use of Herbicides in the Allagash Wilderness Waterway (H.P. 1327) (L.D. 1829) (C. "A" H-768)

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 being necessary, a total was taken. 124 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Clarify and Expand the Provisions of the Law Creating the Jail Industries Authority (S.P. 783) (L.D. 2024) (C. "A" S-495)

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

ENACTOR
Tabled and Assigned

An Act to Allow State Employees and Teachers to Buy Back Time Spent in Certain Programs (S.P. 787) (L.D. 2033) (C. "A" S-496)

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

On motion of Representative Gwadosky of Fairfield, tabled pending passage to be enacted and specially assigned for Tuesday, February 27, 1990.

PASSED TO BE ENACTED

An Act Regarding Evictions from Mobile Home Parks (S.P. 815) (L.D. 2079)

An Act to Assure Access to Nutrition Programs for Kindergarten and Part-day Students (H.P. 882) (L.D. 1226) (H. "B" H-781 to C. "A" H-736)

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

ENACTOR
Tabled and Assigned

An Act Concerning Patient Access to Medical Records (H.P. 1355) (L.D. 1872) (C. "A" H-754)

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

On motion of Representative Manning of Portland, tabled pending passage to be enacted and specially assigned for Tuesday, February 27, 1990.

PASSED TO BE ENACTED

An Act Authorizing the Public Advocate to Initiate Proceedings on Behalf of Utility Consumers (H.P. 1400) (L.D. 1936) (C. "A" H-762)

An Act to Permit the Sale of Consumer Education Materials by the Attorney General (H.P. 1568) (L.D. 2173)

An Act to Require Notice of Charges for Use of Telephones Made Available for Public Use (H.P. 1569) (L.D. 2174) (C. "A" H-770)

An Act Concerning Out-of-state Service for Members of the Maine State Retirement System (S.P. 268) (L.D. 696) (C. "A" S-494)

An Act to Prevent Burdensome Collection Practices when Collecting Consumer Debts (S.P. 792) (L.D. 2043) (C. "A" S-492)

An Act to Authorize Maine School Administrative District Number 61 to Enter into a Land Exchange with S. D. Warren Company (S.P. 808) (L.D. 2071) (C. "A" S-493)

An Act Concerning the Maine Probate Code (H.P. 491) (L.D. 671) (H. "A" H-765 to C. "A" H-758)

An Act Relating to the Designation of Beneficiaries by Members of the Maine State Retirement System (H.P. 1331) (L.D. 1848) (S. "A" S-504)

An Act to Clarify the Time Frame in Municipal Law for Changing an Elected Position to an Appointed Position (H.P. 1392) (L.D. 1922)

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

FINALLY PASSED

Resolve, to Set Aside Space for a Memorial for Firefighters (H.P. 1414) (L.D. 1966) (H. "A" H-764 to C. "A" H-756)

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

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: Bill "An Act Regarding the Maine Vocational-Technical Institute System," H.P. 660, L.D. 902, and all its accompanying papers, be recalled from the Governor's desk to the Senate (came from the Senate, read and passed) which was tabled earlier in the day and later today assigned pending passage in concurrence.

On motion of Representative Crowley of Stockton Springs, the House voted to indefinitely postpone L.D. 902 and all accompanying papers in non-concurrence and sent up for concurrence.

(Off Record Remarks)

On motion of Representative Crowley of Stockton Springs,

Adjourned until Tuesday, February 27, 1990, at eight-thirty in the morning.

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

In Senate Chamber

Monday

February 26, 1990

Senate called to Order by the President.

Prayer by Reverend Victor Stanley of the First Baptist Church in Gardiner.

REVEREND VICTOR STANLEY: Let us pray. Gracious God, as the sun shines through these windows, bringing warmth and brightness to our lives on this cold winter day, so may Your love break through the business and confusion of our lives, bringing an atmosphere of peace and a sense of direction. The many tasks that are before us will undoubtedly lead us into various levels of division, so we seek Your love as a beginning, ending and constant unifying force in our lives. Because of the presence of Your love, we are able to care. Because we care, we go to work on the task of building a better world. So we humbly ask that You will shower Your love upon us and all the people of our great state. Amen.

Reading of the Journal of Friday, February 23, 1990.

COMMUNICATIONS

The Following Communication:
MAINE STATE HOUSING AUTHORITY
295 WATER ST
PO BOX 2669
AUGUSTA, MAINE 04338

February 23, 1990

The Honorable Charles P. Pray
President of the Senate
State House Station 3
Augusta, Maine 04333
Dear President Pray:

I am pleased to submit to the Legislature, and in particular to the Joint Standing Committee on Taxation, this report on the expenditures and uses of the Housing Opportunities for Maine (HOME) Fund. While this report is required every two years by 36 MRSA 4641-N, we have chosen to submit it annually in order to provide the legislature with more current information.

If you have any questions about the HOME Fund or its utilization, we would be pleased to respond.

Sincerely,
S/Thomas C. Cary
Acting Director

Which was READ and, with Accompanying Papers, referred to the Committee on TAXATION.

SENATE PAPERS

Pursuant to Resolves

Committee on BUSINESS LEGISLATION

Senator BALDACCI for the Committee on BUSINESS LEGISLATION, pursuant to Resolves 1989, Chapter 39, ask leave to submit its findings and to report that the accompanying Bill "An Act to Provide for the Licensing and Certification of Real Estate Appraisers and to Create a Board of Real Estate Appraisers" (Emergency)

S.P. 934 L.D. 2365

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