

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

(H.P. 17) (L.D. 10) Bill "An Act to Clarify the Automatic Public Intervenor Provisions of the Solid Waste Management Laws" (EMERGENCY) (C. "A" H-4)

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

ORDERS OF THE DAY

TABLED AND TODAY ASSIGNED

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

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

- In Senate, Referred to the Committee on Human Resources.

TABLED - February 23, 1989 by Representative SWAZEY of Bucksport.

PENDING - Reference in concurrence.

Was referred to the Committee on Human Resources in concurrence.

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

SENATE PAPER

The following Joint Order: (S.P. 213)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Friday, March 3, 1989, at 10 o'clock in the morning.

Came from the Senate, read and passed.

Was read and passed in concurrence.

(Off Record Remarks)

On motion of Representative Paradis of Augusta, the House reconsidered its action whereby Bill "An Act to Ensure the Confidentiality of Emergency Medical Services Quality Assurance and Peer Review Activities" (H.P. 341) (L.D. 460) was referred to the Committee on Business Legislation.

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

On motion of Representative Melendy of Rockland, Adjourned until Friday, March 3, 1989, at ten o'clock in the morning pursuant to Joint Order (S.P. 213).

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

In Senate Chamber

Monday

February 27, 1989

Senate called to Order by the President.

Prayer by Reverend Ernest Johnson of the Old South Church in Belgrade.

REVEREND JOHNSON: Let us pray. Almighty God, amid the haste and pressure of business we deliberately turn aside to pray. We turn to Thee because we hope in Thee, we trust in Thee and we believe in Thee, for we have seen Thy hand in the way that we have come. O God, we ask Thy blessing upon the State of Maine and its people. Especially we would ask Thy blessing upon the Governor and his bride as they embark on a new life together. Also, we do ask Thy blessing upon the Maine Legislature, especially upon the State Senate. Grant that we might fulfill Your hope for each of us, that we seek justice, do deeds of mercy, walk humbly with our fellow men. And please hold each of us this day and the next ever within whispering distance of Thy love. In Jesus' name we ask. Amen.

Reading of the Journal of Thursday, February 23, 1989.

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

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

ORDERS

Joint Order

On motion by Senator DUTREMBLE of York, the following Joint Order:

S.P. 213

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Friday, March 3, 1989, at 10 o'clock in the morning.

Which was READ and PASSED.

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

On motion by Senator CLARK of Cumberland, RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Provide for the State Administration and Operation of the Androscoggin County Jail"

S.P. 160 L.D. 308

In Senate, February 22, 1989, referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED.

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

The Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act Concerning the Suspension of Driver's Licenses"

S.P. 165 L.D. 322

In Senate, February 22, 1989, referred to the Committee on JUDICIARY and ORDERED PRINTED.

Comes from the House referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED in NON-CONCURRENCE. The Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Regulate Incineration Plants"

S.P. 182 L.D. 339

In Senate, February 22, 1989, referred to the Committee on UTILITIES and ORDERED PRINTED.

Comes from the House referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED in NON-CONCURRENCE.

The Senate INSISTED.

Sent down for concurrence.

House Papers

Bill "An Act to Provide Continuity in the Retirement Laws"

H.P. 245 L.D. 357

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

Bill "An Act to Provide Access to Retirement Benefits for Former Spouses of Members of the Armed Forces"

H.P. 312 L.D. 426

Come from the House referred to the Committee on AGING, RETIREMENT AND VETERANS and ORDERED PRINTED.

Which were referred to the Committee on AGING, RETIREMENT AND VETERANS and ORDERED PRINTED, in concurrence.

Bill "An Act Concerning Violations for the Misbranding of Potatoes"

H.P. 246 L.D. 358

Bill "An Act to Amend the Maine Potato Bag Law"

H.P. 255 L.D. 367

Come from the House referred to the Committee on AGRICULTURE and ORDERED PRINTED.

Which were referred to the Committee on AGRICULTURE and ORDERED PRINTED, in concurrence.

Bill "An Act to Provide Start-up Funds for School-based Child Care"

H.P. 272 L.D. 384

Bill "An Act to Assure an Emergency Medical Services System"

H.P. 275 L.D. 387

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

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

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

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

Bill "An Act to Eliminate the Requirement that Counties Provide Facilities and Equipment to State Courts"

H.P. 289 L.D. 401

Committee on JUDICIARY suggested and ORDERED PRINTED.

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

On motion by Senator CLARK of Cumberland, referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED in NON-CONCURRENCE.

Sent down for concurrence.

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

Committee on UTILITIES suggested and ORDERED PRINTED.

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 to Include the Casco Bay Island Transit District under the Risk Management Division"

H.P. 286 L.D. 398

Bill "An Act Concerning Unfair Trade Practices in the Automobile Insurance Industry"

H.P. 309 L.D. 423

Come from the House referred to the Committee on BANKING AND INSURANCE and ORDERED PRINTED.

Which were referred to the Committee on BANKING AND INSURANCE and ORDERED PRINTED, in concurrence.

Bill "An Act to Require Mandatory Checking of Motorists' Maintenance of Financial Responsibility"

H.P. 284 L.D. 396

Committee on TRANSPORTATION suggested and ORDERED PRINTED.

Comes from the House referred to the Committee on BANKING AND INSURANCE and ORDERED PRINTED.

Which was referred to the Committee on BANKING AND INSURANCE and ORDERED PRINTED, in concurrence.

Bill "An Act to Mandate Disclosure of Rustproofing of Motor Vehicles"

H.P. 247 L.D. 359

Bill "An Act to Extend Reporting Deadlines of the Therapeutic Pharmaceutical Monitoring Panel" (Emergency)

H.P. 296 L.D. 408

Bill "An Act to Require Health and Safety Disclaimers on Television and Print Media Alcohol Advertisements"

H.P. 300 L.D. 412

Bill "An Act to Create a Fund to Assist Victims of Fraudulent Real Estate Transactions"

H.P. 313 L.D. 427

Come from the House referred to the Committee on BUSINESS LEGISLATION and ORDERED PRINTED.

Which were referred to the Committee on BUSINESS LEGISLATION and ORDERED PRINTED, in concurrence.

Bill "An Act to Allow School Districts to Waive Up to 5 Days of Kindergarten for Screening"

H.P. 243 L.D. 355

Bill "An Act to Allow a Student an Option in Biological Dissection"

H.P. 253 L.D. 365

Come from the House referred to the Committee on EDUCATION and ORDERED PRINTED.

Which were referred to the Committee on EDUCATION and ORDERED PRINTED, in concurrence.

Bill "An Act to Prohibit the Use of Plastic Beverage Stirrers in State Facilities"

H.P. 239 L.D. 351

Bill "An Act to Provide Free Noncommercial Use of Public Reserved Lands and Lands for Maine's Future"

H.P. 310 L.D. 424

Bill "An Act Regarding State Forest Practice Laws"

H.P. 315 L.D. 429

Come from the House referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED.

Which were referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED, in concurrence.

Bill "An Act Concerning the Number of Deer which May Be Taken under the Hunting Laws"

H.P. 268 L.D. 380

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

Come from the House referred to the Committee on FISHERIES AND WILDLIFE and ORDERED PRINTED.

Which were referred to the Committee on FISHERIES AND WILDLIFE and ORDERED PRINTED, in concurrence.

Bill "An Act Concerning the Purchase of Real Estate by the State or Local Housing Authorities"

H.P. 238 L.D. 350

Bill "An Act to Include Moderate-income Households Within the Housing Opportunities for Maine Program"

H.P. 260 L.D. 372

Come from the House referred to the Committee on HOUSING AND ECONOMIC DEVELOPMENT and ORDERED PRINTED.

Which were referred to the Committee on HOUSING AND ECONOMIC DEVELOPMENT and ORDERED PRINTED, in concurrence.

Bill "An Act to Provide for Base-year Revisions for Intermediate Care Facilities for the Mentally Retarded"

H.P. 250 L.D. 362

Bill "An Act to Mandate Notification of Emergency Medical Services Personnel at Risk for Transmission of Communicable Diseases"

H.P. 270 L.D. 382

Bill "An Act to Allow Disclosure of Confidential Information Relevant to School Personnel Actions"

H.P. 279 L.D. 391

Bill "An Act to Reestablish the Requirement that Couples Receive a Blood Test before Obtaining a Marriage License"

H.P. 285 L.D. 397

Bill "An Act to Regulate Maternal Serum Alpha-fetoprotein Screening Programs"

H.P. 301 L.D. 413

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

Come from the House referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED.

Which were referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED, in concurrence.

Bill "An Act to Further Protect Child Victims of Abuse"

H.P. 261 L.D. 373

Bill "An Act to Amend the Law to Provide for Appeal of Civil Contempt Orders"

H.P. 281 L.D. 393

Bill "An Act to Criminalize Marijuana"

H.P. 294 L.D. 406

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

Bill "An Act to Confiscate Assets Garnered by Convicted Felons Through Criminal Acts"

H.P. 306 L.D. 420

Bill "An Act to Strengthen Grandparent Visitation Rights"

H.P. 311 L.D. 425

Come from the House referred to the Committee on JUDICIARY and ORDERED PRINTED.

Which were referred to the Committee on JUDICIARY and ORDERED PRINTED, in concurrence.

Bill "An Act to Amend the Small Claims Laws"

H.P. 267 L.D. 379

Committee on LEGAL AFFAIRS suggested and ORDERED PRINTED.

Comes from the House referred to the Committee on JUDICIARY and ORDERED PRINTED.

Which was referred to the Committee on JUDICIARY and ORDERED PRINTED, in concurrence.

Bill "An Act to Provide for Constructive Notice of Injury for Workers' Compensation Purposes"

H.P. 236 L.D. 348

Bill "An Act to Restrict Excessive Work Hours"

H.P. 251 L.D. 363

Bill "An Act to Allow Minors Under 16 to Work in Hotels"

H.P. 259 L.D. 371

Bill "An Act to Reduce the Potential for Violence During Labor Disputes"

H.P. 292 L.D. 404

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

Come from the House referred to the Committee on LABOR and ORDERED PRINTED.

Which were referred to the Committee on LABOR and ORDERED PRINTED, in concurrence.

Bill "An Act to Amend the Laws Relating to Notaries Public"

H.P. 241 L.D. 353

Bill "An Act to Amend the Special Warehouse Storage Facilities Provision"

H.P. 257 L.D. 369

Bill "An Act Concerning Agency Liquor Store Pricing"

H.P. 264 L.D. 376

Bill "An Act to Amend the Law Concerning Retail Sale of Wines"

H.P. 265 L.D. 377

Resolve, Authorizing Oscar and Wandalyn Rae Thompson to Bring Suit Against the State of Maine

H.P. 266 L.D. 378

Bill "An Act Concerning Voter Residency Requirements"

H.P. 298 L.D. 410

Come from the House referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED.

Which were referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED, in concurrence.

Bill "An Act Concerning the Operation of Motor Vehicles on Private Lands"

H.P. 274 L.D. 386

Committee on TRANSPORTATION suggested and ORDERED PRINTED.

Comes from the House referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED.

Which was referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED, in concurrence.

Bill "An Act to Allow Municipalities to Withhold Business Licenses under Some Circumstances"

H.P. 254 L.D. 366

Bill "An Act to Improve Enforcement of Junkyard Laws"

H.P. 256 L.D. 368

Bill "An Act to Clarify Maintenance of Private Roads and Ways by Municipalities"

H.P. 271 L.D. 383

Bill "An Act Converting Baring Plantation into the Town of Baring"

H.P. 278 L.D. 390

Bill "An Act to Require 5 Commissioners in York County"

H.P. 287 L.D. 399

Bill "An Act to Allow 2 or More Municipalities to Form a Regional Planning Commission"

H.P. 290 L.D. 402

Come from the House referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED.

Which were referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED, in concurrence.

Bill "An Act to Amend the Laws on Interest on Delinquent County Taxes"

H.P. 252 L.D. 364

Comes from the House referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED.

On motion by Senator CLARK of Cumberland, referred to the Committee on TAXATION and ORDERED PRINTED in NON-CONCURRENCE.

Sent down for concurrence.

Bill "An Act to Establish a Volunteer Firefighters' Pension Fund"

H.P. 302 L.D. 414

Comes from the House referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED.

On motion by Senator CLARK of Cumberland, referred to the Committee on AGING, RETIREMENT AND VETERANS and ORDERED PRINTED in NON-CONCURRENCE.

Sent down for concurrence.

Bill "An Act to Protect Confidentiality of Private Business Transactions"

H.P. 235 L.D. 347

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

Bill "An Act to Create a Sales Tax Exemption for Habitat For Humanity Organizations"

H.P. 240 L.D. 352

Bill "An Act to Include Unorganized Territories in the Tree Growth Tax Laws"

H.P. 248 L.D. 360

Bill "An Act to Exempt All Goods Sold by Scouting Organizations from Sales Tax"

H.P. 249 L.D. 361

Bill "An Act to Add Uniformity to the Veterans' Property Tax Exemption Law"

H.P. 269 L.D. 381

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

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

Bill "An Act to Ensure Medicare Affordability"

H.P. 291 L.D. 403

Bill "An Act to Provide a Sales Tax Exemption For State-chartered Credit Unions"

H.P. 295 L.D. 407

Bill "An Act to Establish A Local Option County Sales Tax"

H.P. 307 L.D. 421

Bill "An Act to Establish Municipal Land Banks to be Funded by a Real Estate Transfer Tax"

H.P. 308 L.D. 422

Bill "An Act to Clarify that Aquaculture Qualifies for the Commercial Fish Sales Tax Refund"

H.P. 314 L.D. 428

Come from the House referred to the Committee on TAXATION and ORDERED PRINTED.

Which were referred to the Committee on TAXATION and ORDERED PRINTED, in concurrence.

Bill "An Act Related to Window Film Applied to Motor Vehicles"

H.P. 242 L.D. 354

Bill "An Act to Promote Effective Identification of Minors"

H.P. 258 L.D. 370

Bill "An Act to Clarify the Penalty for Violations of Pedestrian Right-of-Way in Crosswalks"

H.P. 262 L.D. 374

Bill "An Act to Require Drivers to Turn Off Auxiliary Lights"

H.P. 277 L.D. 389

Bill "An Act to Mandate Driver Training and the Use of Safety Belts by Police Officers"

H.P. 297 L.D. 409

Bill "An Act to Adjust the Municipal Salt and Sand Storage Facility Cost-sharing Formula"

H.P. 299 L.D. 411

Come from the House referred to the Committee on TRANSPORTATION and ORDERED PRINTED.

Which were referred to the Committee on TRANSPORTATION and ORDERED PRINTED, in concurrence.

Bill "An Act to Extend the Toll Call Discount Given to Deaf, Hearing Impaired or Speech Impaired Persons"

H.P. 282 L.D. 394

Comes from the House referred to the Committee on UTILITIES and ORDERED PRINTED.

Which was referred to the Committee on UTILITIES and ORDERED PRINTED, in concurrence.

Pursuant to Public Law Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS 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.

Comes from the House with the Report READ and ACCEPTED and the Bill referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED, pursuant to Joint Rule 18.

Which Report was READ and ACCEPTED, in concurrence.

The Bill referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED, pursuant to Joint Rule 18, in concurrence.

COMMUNICATIONS

The Following Communication: S.P. 199
114TH MAINE LEGISLATURE
February 24, 1989

Senator Dennis L. Dutremble
Representative Gregory G. Nadeau
Chairpersons
Joint Standing Committee on Housing and Economic Development
114th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Lynn Wachtel of Winchester, Massachusetts for appointment as Commissioner of the Department of Economic and Community Development.

Pursuant to Title 534, Public Laws of 1987, this nomination will require review by the Joint Standing Committee on Housing and Economic Development and confirmation by the Senate.

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

Which was READ and referred to the Committee on HOUSING AND ECONOMIC DEVELOPMENT.
Sent down for concurrence.

The Following Communication: S.P. 200
114TH MAINE LEGISLATURE
February 24, 1989

Senator N. Paul Gauvreau
Representative Peter J. Manning
Chairpersons
Joint Standing Committee on Human Resources

114th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Jane Sheehan of Augusta for appointment as the Child Welfare Service Ombudsman.

Pursuant to Title 22, M.R.S.A. Section 5001 (Supp. 1988), this nomination will require review by the Joint Standing Committee on Human Resources and confirmation by the Senate.

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

Which was READ and referred to the Committee on HUMAN RESOURCES.

Sent down for concurrence.

The Following Communication:
STATE OF MAINE
OFFICE OF THE PRESIDENT
AUGUSTA, MAINE 04333

February 22, 1989

Honorable Joy J. O'Brien
Secretary of the Senate
State House Station #3
Augusta, Maine 04333

Dear Madam Secretary:

Pursuant to my authority under Chapter 816 of the Public Laws of Maine, 1988, I have reappointed Mr. James Coffey of Brewer to the Maine Health Policy Council.

Please let me know if you have any questions about this.

Sincerely,
S/Charles P. Pray
President of the Senate

Which was READ and ORDERED PLACED ON FILE.

SENATE PAPERS

Bill "An Act to Prohibit Discrimination Against Persons with the Human Immunodeficiency Virus for Purposes of Insurance Coverage"

S.P. 196 L.D. 444

Presented by Senator GILL of Cumberland
Cosponsored by Representative RYDELL of Brunswick, Representative ALLEN of Washington and Representative DONALD of Buxton
Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.

Which was referred to the Committee on BANKING AND INSURANCE and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Extend the Scope of the Returnable Container Law"

S.P. 197 L.D. 445

Presented by Senator BALDACCI of Penobscot
Which was referred to the Committee on BUSINESS LEGISLATION and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Change the Name of the Maine Committee on Problems of the Mentally Retarded and to Update the Definition of Mental Retardation"

S.P. 195 L.D. 443

Presented by Senator PERKINS of Hancock

Cosponsored by Senator TITCOMB of Cumberland, Representative BURKE of Vassalboro and Representative HEPBURN of Skowhegan Submitted by the Department of Mental Health and Mental Retardation pursuant to Joint Rule 24. Which was referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED. Sent down for concurrence.

ORDERS

Joint Resolution

On motion by Senator LUDWIG of Aroostook (Cosponsored by: Representative SMITH of Island Falls) the following Joint Resolution:

S.P. 198

JOINT RESOLUTION COMMEMORATING THE 150TH ANNIVERSARY OF THE TOWN OF SMYRNA, MAINE

WHEREAS, the rural New England town has been recognized across America as one of the wellsprings of our nation's democratic institutions and has deservedly come to serve as a symbol of the virtues of direct citizen government, thrift, simple beauty and long-held values; and

WHEREAS, the Town of Smyrna, located in the valley of the East Branch of the Mattawamkeag River, typifies the valued qualities of the small communities of Maine; and

WHEREAS, the town was first carved out of the vast reaches of the north woods in 1830 by Nehemiah Leavitt, and as the town was incorporated on March 7, 1839 as the 344th town in the State of Maine; and

WHEREAS, the inhabitants of this Aroostook County community have since watched with quiet satisfaction as their town established and nurtured a successful agrarian economy and a manufacturing industry and take well-deserved pride in the generations of solid Maine citizens reared within their borders; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Fourteenth Legislature, now assembled in the First Regular Session, take this occasion to recognize the 150th anniversary of the Town of Smyrna, and to commend the inhabitants and officials of this town for the success which they have achieved together for more than a century and a half, and to extend to each our sincere hopes and best wishes for continued achievement over the next 150 years; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the citizens and officials of this proud community in honor of the occasion.

Which was READ and ADOPTED.

Sent down for concurrence.

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on TAXATION on Bill "An Act to Amend the Laws Regarding Nonresident Income Tax Returns"

H.P. 15 L.D. 7

Reported that the same Ought Not to Pass.

Signed:

Senators:

ANDREWS of Cumberland
BALDACCI of Penobscot
EMERSON of Penobscot

Representatives:

CASHMAN of Old Town
TARDY of Palmyra
SWAZEY of Bucksport

DORE of Auburn
NADEAU of Saco
DUFFY of Bangor
WHITCOMB of Waldo

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-3).

Signed:

Representatives:

DiPIETRO of South Portland
JACKSON of Harrison
SEAVEY of Kennebunkport

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

Which Reports were READ.

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

Senator ANDREWS: Thank you Mr. President. Mr. President, men and women of the Senate. There are two very unfortunate developments that surround this particular measure before us today. One of those unfortunate developments is the tremendous volume of misinformation and subsequent misunderstanding that has surrounded this measure and this tax policy on the books right now, with respect to our neighbors, particularly in New Hampshire. The second unfortunate element, I believe, is the tremendous pressure that has been brought to bear on some because of the editorials, public comments and other public condemnations of this Legislature and Legislatures in the past who have supported and created this particular tax policy.

If you look at the material that we found on our desks today, which is just some of the editorials that have been written, you will find a number of references to this particular Bill. I would just like to name off a couple that I saw. "It's unjust" "it's unfair shouts to the rooftops" "its a perfect example of bashing a class of people who have neither voice nor vote" "its offensive" "unprincipled" "its morally indefensible" "its a last-gasp revenue package" and my favorite "we're sticking our collective palms in out-of-state pockets there is a word for folks who do that for a living."

If you read these editorials, you would think that Jesse James wrote the law and that all of us who supported it were his accomplices. But, I want to set the record straight not only for those who have read these editorials, but also for those who still are under the assumption that we are doing, what in fact we are not doing. The law, as it exists today, is fair, is reasonable, is equitable not only for Maine people, but for people in New Hampshire. I think if more people in New Hampshire understood the rights they have under this law, we wouldn't have these moral outraged editorials that we have today, or the misunderstanding that came before our committee during public hearing.

I have distributed, and I would like to call your attention to two articles. One of them is what I call the "Facts vs. Fiction in the Spouse Tax Debate" or "Why You Can Feel Truly Comfortable in Voting For The Taxation Committee's Ought Not to Pass Report." These two fictions are very important to keep in mind and I just want to make sure that you are clear on what it is we are doing and what it is we are not doing. First of all, there is a myth out there that there is a "spouse tax" for non-residents. Every headline that I have seen refers to a "spouse tax". Ladies and gentlemen of the Senate, there is no "spouse tax" in Maine. It doesn't exist. We do not tax the income of people who live and work in New Hampshire on the income that they earned in New Hampshire. What the original Bill, L.D. 7, sought to

do was not necessary because, in fact, we don't tax that income in New Hampshire. That is fiction number one.

Fiction number two can be seen in one of these editorials; this is the one that talks about us having our collective palms in the pockets of out-of-staters. It says this, "the law for the past four years has required Maine workers to figure in all the family's earnings, even if they were made outside of Maine." That, ladies and gentlemen of the Senate, is untrue. We do not require Maine workers to figure in their spouses income, who live and work in New Hampshire, in figuring out the rate of their Maine tax. We don't do it.

I would now refer you to the flip side of that memo that I have just been describing. That is page 538, Chapter 36, in our latest statutes, which describes the non-resident tax. If you look at that section of the law, it says, "if both husband and wife are non-resident and one has a no Maine-source income, the spouse having Maine-source income shall file a separate Maine non-resident income tax return, as a single individual, in which even his tax liability shall be separate." In other words, file singly, you don't have to include the income from your spouse in New Hampshire, not one penny. But, "they may elect to determine their joint taxable income as non-residents, in which case their liabilities shall be joint and several."

We have two types of tax tables, as you are all probably aware. We have single and we have married-joint. We designed those with this purpose in mind; single people file single and we have a tax table for them based upon one income, joint people file jointly, there are two incomes. So, the rates are different. Why? Because joint has two incomes that is based on the single one. What we are saying to the people of New Hampshire is that they have a choice. They can file with one, or they can file with the other. If they decided to file singly, they don't have to include a penny of their income in New Hampshire on their income tax in Maine, not one penny. So, not only do we not tax it, we don't even base the rate on it if the taxpayer chooses not to have that rate touched.

I also want to show you something and this was a criticism brought to me by some members who I talked to. Please see the top of the page, this is the law as it applies to Maine people, to our constituents. If our constituents file a federal income tax and they file it as a married-joint return, "they shall file a return under this Part and their tax liabilities shall be joint and several." Do you see the difference? For us, if we file the federal tax return married-joint, we have to include both incomes. But, if our New Hampshire neighbor, even if they file federal married-joint, they have a choice of filing singly. That is the fact behind what we are doing now and the myth about what we are doing now. I respectfully submit to you that the problem is not with the law, the problem is with a gross misunderstanding of what it is we are doing, or not doing. I suggest that we all turn down the rhetorical heat of condemnation of this perfectly reasonable law and turn up the light of reason and facts and accept this Majority Ought Not to Pass Report. Thank you.

Senator ANDREWS of Cumberland moved to ACCEPT the Majority OUGHT NOT TO PASS Report, in concurrence.

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

Senator ESTES: Thank you Mr. President. Mr. President, men and women of the Senate. First of all, I would like to thank the good Senator from

Cumberland, for pointing out some of the erroneous information that has been around now for several years and has created a difficult understanding for some people. I have been familiar with this issue since the 1986 tax year when I began receiving complaints from co-workers and family members about our change in the method of taxing non-residents who work in the state of Maine. I would like to say a couple of things right up front. Out-of-state residents who work in Maine must pay income taxes here and there is nothing wrong with that. If they earn their money in Maine, they should pay their taxes in Maine. But since the 1986 income tax year, as was pointed out, we based the non-resident tax on a rate that is based on a couples joint income, even if only one works in Maine, if they file a married-joint return. I feel the original justification for this tax policy was weak and the present arguments are not much better.

In 1985, the University of Maine system funding proposal called for more than fifteen million dollars and state revenues, at that time, were considerably leaner than they have been in recent years and looks like they will be for this current fiscal year that would be ending in June. Realizing that changing the non-resident tax law would generate several million dollars towards the University of Maine package, non-residents filing joint returns would be taxed at the same rate as Maine residents and the justification became equity. There would be a parody in the tax rates between residents and non-residents. Everybody filing a joint return would be assessed a tax rate based on total income. Well, non-resident assessment would be only on Maine earned income, it sounds equitable and the non-resident does have the choice to file single and have the tax based only on that Maine earned income.

Besides that, we are doing that, there are also many other states that are doing it this way and at the time it would raise the additional revenue that was needed. Equity as defined in Webster's: "what is fair, what is reasonable, what is correct or proper, what is morally or legally right." As to the law equity is "the application of common principles of fair dealing." Now, parody in resident and non-resident tax rates that sounds equitable, but I contend there is another side to that coin. Equity also means benefits received from taxes paid. The Maine resident taxpayer votes, he or she has a direct voice in the decisions of our Legislature, they can send their children to our University or V.T.I system at in-state tuition, they can qualify for the circuit-breaker program for homeowners or renters. They get a resident hunting or fishing license at a much less price than a non-resident license. They also can receive the many other services or benefits afforded so many Maine residents by our state government. Non-resident paying income tax in Maine is a product of the workplace. When we look at the services that they get or the benefits that they get, they really get nothing more than the millions of non-income paying tourists do.

A year ago last October, I submitted a bill before the Legislative Council to consider this issue in the Second Regular Session of the 113th Legislature. It was rejected and in July, this past summer, I announced, with the cosponsors, our intent to present this Bill before the 114th Legislature. It wasn't just the question of what was equitable or what wasn't, there were several other compelling reasons. First, what about the resentment and the ill will this policy is creating along our border with New Hampshire? I know because I only live three miles from that border. I have non-resident family,

friends and co-workers who have discussed this issue with me at length. In fact, last June while I was attending a wedding and reception in Newfields, New Hampshire, my legislative front plate was stolen and held hostage for several months because of this "spousal tax". Not only have we had the tax protest by non-residents, even up here on the State House front steps, but we have a court suit that is now pending. Another compelling reason is the effect that the tax policy is having on our labor shortage in southern Maine. New Hampshire workers are deciding it is not worth it to cross the border to work in Maine and more and more non-resident nurses, hospital and health care technical staff, teachers and administrators and service industry workers, have left their jobs in Maine or are currently looking for jobs in New Hampshire to avoid the "spousal tax". This is aggravating an already low unemployment rate in southern Maine.

A recent change of opinion by the Governor and a close vote on this Bill last Friday, demonstrates an awareness and empathy to the problems the "spousal tax" is causing. I know there are reservations that people have about passing this Bill as it is. One concern expressed is the loss of revenue. The revenue loss estimate has jumped from three million dollars up to nine million dollars. If this Bill were applied to only non-residents, the Bureau of Taxation estimates the loss would be at five million dollars. A second concern is the effect the revenue loss would have on the biennium budget, despite what appears to be another windfall, surplus year coming up. A good faith move, in my opinion, would be to postpone the effectiveness of this Bill until the 1991 tax year and to apply it only to non-residents. Just a thought, with the current budget blows that New Hampshire is facing, it may only be a matter of time before the no tax pledge is broken and they adopt their own income tax not only to raise additional revenues, but to put the "spousal tax" issue to rest. If they did that, how much more revenue would the state of Maine lose? I urge you to join me in voting against the Majority Ought Not to Pass Report, so that I might offer an amendment to the Minority Report that would resolve some of the reservations that you might have with the original proposal. Thank you.

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

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

Senator ANDREWS: Thank you Mr. President. Mr. President, men and women of the Senate. Not to belabor this issue, but I would like to respond to some of the comments of my good friend and colleague from York, Senator Estes. First of all, just to reiterate; if anyone can demonstrate this different on the floor please do, but there is no "spouse tax" in Maine and if people are fleeing Maine because of a "spouse tax" then I suggest we spend a little time and energy letting them know that there is no "spouse tax" and maybe we might be able to take care of the problem with giving them information. Also, on the comment that other states do this as well and it is creating problems along the borders of other states, we have on our desks today the New York Times article on a border war, so to speak, what they describe as a hot issue between New Jersey and New York, over the same thing. Supposedly, New York is doing the same thing to residents of New Jersey, as we are doing to residents of New Hampshire, and setting their rate on the basis of their combined income. There is a key difference here, in New York, unlike Maine, their

workers from out-of-state don't have a choice, they have to include their spouses income when calculating their rate. In Maine they don't have to do it, they can choose to file singly and they don't have to include one cent from that income from New Hampshire in calculating that rate. So, the border war in that situation is completely irrelevant to the situation that we have here in Maine.

The resentment and ill will is a problem and it is a serious one and I think that all of us take it seriously, we don't like resentment, we don't like ill will and we would like to do what we can to try to mitigate what resentment and ill will that exists on the border. But you don't do it by taking a fair law and making it unfair because a group of people over the border don't understand it. What you do is you take and spend some time and energy in letting them know what choices they have on this law. If they understand the choices, if they understand that they don't have to include their spouses income in their Maine tax, I don't think we are going to have the resentment and ill will that we are talking about. The problem of employers in the border towns, yes, they have a problem attracting good employees, all employers do, but the problem between Maine and New Hampshire is one more fundamental than a so-called "spouse tax", the problem is called Maine's income tax. No matter what we do to this Bill, the worker in Maine is going to pay an income tax and the good Senator from York, Senator Estes, said very clearly at the outset that he is not suggesting that we eliminate the income tax or eliminate the income tax for New Hampshire people on their income earned in Maine. No one is suggesting that, but as long as someone can work in Maine and have an income tax, but work in New Hampshire and have no income tax there is always going to be that tension with employers and pressure on employers.

We have established that income tax in 1969, proposed by a Democratic Governor, endorsed by a Republican controlled Legislature and supported by the people in Maine in a referendum statewide. It is a fair reasonable tax.

Finally, with regard to Senator Estes' license plate, I suggest we pitch in and get some bolts to bolt down that license plate a little more securely so he can freely and with piece of mind go into New Hampshire and park anywhere he wants. Thank you.

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

Senator BALDACCII: Thank you Mr. President. Mr. President, men and women of the Senate. Reading the Report with all three Senators on the same side on this particular issue, is in itself probably something that will be very unique this session on any issue that comes before the Taxation Committee. As a member of the Committee, we sat there and we listened to the concerns that these people had about paying this particular fee to the state of Maine. When the issue was discussed and these non-residents, that live outside of Maine, were using their outside Maine income and putting themselves in a bracket and then discounting that income that was earned and only being taxed on what they earned in the state of Maine. They were upset that we were putting it together and putting them in a different bracket. There are many people here in the state of Maine that work outside of the state of Maine. We still take the income that they earn outside of the state of Maine together with what is earned in Maine and the resident has to pay that higher rate also. What is being asked for today is what I feel to be a unfairness to the Maine resident because they are still stuck with the system that they have to pay

those taxes on income that is earned outside of the state. While if this Bill ever went through, the non-resident would not have to. That was the first thing.

The second thing is that I hope there is as much energy and enthusiasm around this Chamber when it comes to our own Maine income tax system and worrying about how the Maine income tax person is being drawn and quartered when it comes to filing their income taxes. Also, the concern that they have about the income taxes that the Maine residents are paying. I hope we are as concerned about them as most people seem to be about the people in New Hampshire. I say that our obligation, what we were sworn to do here in this Chamber, is to watch out for the people in Maine and straighten that out first. That ought to be our priority. The Governor and his people are meeting to explain to our Committee and drawing up concerns that each of the different Departments have with the state of New Hampshire. I think it would be pre-emptive for us to act on this legislation in a supportive fashion when we are still in the development stages of that. I think it would be bad for us to move forward. I would allow the Executive Branch to draw up those concerns in different areas. We have the lobster sizes, we have firecracker laws that aren't appropriate, we have a whole host of other problems and I think it is important that we give that an opportunity. I would hope that you would support the Majority on the Committee. Thank you.

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

Senator COLLINS: Thank you Mr. President. Mr. President, men and women of the Senate. I feel a little bit like the person who goes to a public hearing and is neither for nor against the bill. I guess I am that way because I am a little bit confused by the experts that we have in the Chamber today. I do thank the good Senator from Cumberland for his words and explanations and the Senator from York, Senator Estes, and the Senator from Penobscot, Senator Baldacci, who suggests that our problem is the Maine taxpayer, the one that is not fairing very well under the present law and I guess I am inclined to agree with him. I am a little bit at loss to understand how all of the very bright people in the state of New Hampshire, given the election that they apparently have according to the law to choose to file a single as opposed to a joint return, would elect to file the return that costs them the most money. I am a little confused as to why the Attorney General of the state of New Hampshire has brought a suit to recover \$681.00 in taxes for a gentlemen by the name of Stevens because "the 'spousal tax' forced him to combine his wife's income with his own when determining his income tax bracket." I guess I am at the point where somebody has to be right and somebody has to be wrong and I really don't know what the situation is. I am further concerned by the amount of loss of revenue that is suggested by the Bill. As I understand it, and I called the Bureau of Taxation this afternoon just before the session, and I asked them if the nine million dollars loss of revenue that is suggested is your current estimate and the response was that it was. I have heard some other numbers here today that seem to suggest that it might be lower than that. I think that I am confused and I would be happy if someone would straighten this out so that we would know precisely what the Bill does and doesn't do and what the law in its present form does and doesn't do. Thank you Mr. President.

THE PRESIDENT: The Chair would respond to the second part and advise the members that there is a fiscal note on L.D. 7, as required by the Joint

Rules. The fiscal note is 9.1 million dollars for the 1990-1991 fiscal year.

The Chair recognizes the Senator from Cumberland, Senator Andrews.

Senator ANDREWS: Thank you Mr. President. Mr. President, men and women of the Senate. I would be glad to attempt to answer the good Senator from Aroostook, Senator Collins', questions, although I am not an expert by any means, Senator, and I don't pretend to be. But, your question about why the New Hampshire resident is perhaps paying more than he or she should, why they are choosing the wrong category, is probably because many of them don't realize that there is a choice. We heard some testimony before our Committee that one of the key factors in this was the great confusion that exists among those Maine workers who live in New Hampshire about the tax. I think that one of the steps that we might be able to take wouldn't cost us five or nine million dollars, but simply to direct the Bureau of Taxation to be more clear, perhaps a special mailing or a special piece of information to those New Hampshire residents to make them clear of what the law is. If you have any doubts about what I am saying and I thought perhaps there would be somebody in the Chamber who would, I brought the law. Senator, you are an attorney and I brought this with perhaps someone with your mind in mind. It says very clearly and if you read this differently than I do then I will defer it to your expertise in the law. But as I read it, it says very clearly that non-residents can file singly, residents cannot if they file a federal married-joint return. That is the law, this is on the books, it went on at the time that we changed the law that is in question right now and did so out of fairness. Something that I would argue, and let me just make this perfectly clear, is that there are some people, and they have a point, who argue that we go a little bit too far with this, that we allow one to choose and the other to choose and perhaps we are not being as fair as we should be to our own residents. Be that as it may, that is not before us. Let me just conclude, Senator, by referring to what you referred to on this article which says that this poor gentleman from New Hampshire who works in Maine is complaining "because the 'spousal tax' forced him to combine his wife's income with his own." Well there is no "spousal tax" and as you read the law you will see that no one forced him to combine his wife's income with his own. If he did, he is simply confused.

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

Senator ESTES: Thank you Mr. President. Mr. President, men and women of the Senate. Also in response to the question from the good Senator from Aroostook, Senator Collins, I might shed a little more light and less confusion on this subject. If you were to look at the 1986 and the 1987 tax form that non-residents had to follow, the directions were really not clear, they were not explicit. I am happy to say that this tax year there is a little bit more of a distinction as to the option that they might have. I think a basic rule of thumb that you can use if you were a non-resident and filing would be to take a look at what the percentage of what your Maine earned income was to the total household income. Generally, those individuals who are earning considerably less than fifty percent of their earnings in the state of Maine would be wise to file a single return. Those who are earning considerably more than fifty percent of their total earnings in the state of Maine would be wise to file a joint return. In the case of Mr. Stevens, who is the

individual that has agreed to be the test case in New Hampshire, in his situation the higher percent of his total family income was earned in Maine so it would be more advantageous to file a joint return. However, if he was to file the way that they used to file prior to 1986, he would see a significant difference in what that tax would be.

I also may have thrown some confusion in terms of the figures. The figures on what the effect of this Bill would have, have been confusing to me, we heard since last July the figure of 3.2 million dollars, right up until after the hearing and at the first work session the Bureau of Taxation came in with a fiscal note on what the impact would be and in looking at non-resident taxpayers there was a 5.3 million dollar effect. If you add part-time residents, and I think that was a confusing thing because for tax purposes you are either a resident or you are a non-resident, but we have some individuals who are residents of Maine, but only live here part of the year. That would be an additional 3.7 million dollars. It was not the intent of the original sponsors that any resident, whether they were part-time or full-time, of Maine would be exempt from paying taxes, it would only be applied to non-residents where we would basically go back to the taxation policy prior to the 1986 tax year. The reason for me belaboring this debate or for even entering into the fray today was to perhaps buy some time and consider a possible change to the law if this Majority Ought Not to Pass Report were defeated and the Minority Report was to be considered. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator ANDREWS of Cumberland to ACCEPT the Majority OUGHT NOT TO PASS Report, in concurrence.

A vote of Yes will be in favor of ACCEPTANCE.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators ANDREWS, BALDACCI, BOST, BRANNIGAN, BRAWN, CLARK, COLLINS, DILLENBACK, DUTREMBLE, ERWIN, ESTY, GAUVREAU, GILL, GOULD, HOBBS, KANY, LUDWIG, MATTHEWS, PEARSON, PERKINS, RANDALL, THERIAULT, TITCOMB, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators BERUBE, BUSTIN, CAHILL, CARPENTER, ESTES, HOLLOWAY, TWITCHELL, WEBSTER, WEYMOUTH

ABSENT: Senators EMERSON, WHITMORE

24 Senators having voted in the affirmative and 9 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator ANDREWS of Cumberland, to ACCEPT the Majority OUGHT NOT TO PASS Report, PREVAILED.

SECOND READERS

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

Senate

Bill "An Act to Amend the Membership of the Advisory Council to the Department of Marine Resources" (Emergency)

H.P. 105 L.D. 142

Which was READ A SECOND TIME and PASSED TO BE ENGROSSED, in concurrence.

ORDERS OF THE DAY

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

RESOLUTION, Proposing an Amendment to the Constitution of Maine Requiring Successful Gubernatorial Candidates to Receive More than 50 Percent of the Votes Duly Cast

H.P. 233 L.D. 317

Tabled - February 23, 1989, by Senator CLARK of Cumberland.

Pending -REFERENCE

(Committee on STATE AND LOCAL GOVERNMENT suggested and ORDERED PRINTED.)

(In House, February 22, 1989, referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED.)

(In Senate, February 23, 1989, referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED, in concurrence. Subsequently RECONSIDERED reference.)

Which was referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED, in concurrence.

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

SENATE PAPERS

Bill "An Act to Allow Certain Former State Employees to be Eligible for State Health Insurance"

S.P. 202 L.D. 480

Presented by Senator CAHILL of Sagadahoc Cosponsored by Representative STEVENSON of Unity and Representative HICKEY of Augusta

Bill "An Act Relating to Benefits for Members of the Maine State Retirement System Who Transfer from Positions Under Special Plans to Positions Not Under Special Plans"

S.P. 204 L.D. 482

Presented by Senator BUSTIN of Kennebec Cosponsored by Senator COLLINS of Aroostook, Representative RUHLIN of Brewer and Representative PINES of Limestone

Which were referred to the Committee on AGING, RETIREMENT AND VETERANS and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Provide for Alternative Site Programs for Operating-under-the-influence Offenders"

S.P. 212 L.D. 490

Presented by Senator BUSTIN of Kennebec Cosponsored by Senator MATTHEWS of Kennebec, Representative BURKE of Vassalboro and Representative MELENDY of Rockland

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

Sent down for concurrence.

Bill "An Act to Amend the Maine Insurance Code"

S.P. 203 L.D. 481

Presented by Senator THERIAULT of Aroostook Bill "An Act Related to Medical Liability Insurance"

S.P. 209 L.D. 487

Presented by President PRAY of Penobscot Cosponsored by Speaker MARTIN of Eagle Lake, Senator PEARSON of Penobscot and Senator GAUVREAU of Androscoggin

Which were referred to the Committee on BANKING AND INSURANCE and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Require Pricing Disclosures on Vans and Pickup Trucks"

S.P. 208 L.D. 486

Presented by Senator BRANNIGAN of Cumberland
 Cosponsored by Senator WHITMORE of Androscoggin and Representative GURNEY of Portland
 Which was referred to the Committee on BUSINESS LEGISLATION and ORDERED PRINTED.
 Sent down for concurrence.

Bill "An Act Concerning Bear Hunting with Dogs"

S.P. 211 L.D. 489

Presented by Senator LUDWIG of Aroostook
 Cosponsored by Representative JACQUES of Waterville
 (BY REQUEST)
 Which was referred to the Committee on FISHERIES AND WILDLIFE and ORDERED PRINTED.
 Sent down for concurrence.

Bill "An Act to Clarify the Law Regarding Immunity of Nonprofit Organization Directors, Officers and Volunteers"

S.P. 201 L.D. 479

Presented by Senator CAHILL of Sagadahoc
 Cosponsored by Representative MacBRIDE of Presque Isle and Representative PEDERSON of Bangor
 Submitted by the Department of Mental Health and Mental Retardation pursuant to Joint Rule 24.
 Which was referred to the Committee on JUDICIARY and ORDERED PRINTED.
 Sent down for concurrence.

Bill "An Act Concerning Removal and Replacement of Candidates on Election Ballots"

S.P. 207 L.D. 485

Presented by Senator THERIAULT of Aroostook
 Cosponsored by Representative TAMMARIO of Baileyville and Representative MARTIN of Van Buren
 Which was referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED.
 Sent down for concurrence.

Bill "An Act to Change the Process of Selecting the Commissioner of Educational and Cultural Services"

S.P. 205 L.D. 483

Presented by Senator ESTES of York
 Cosponsored by Representative HANDY of Lewiston and Representative PARADIS of Frenchville
 Which was referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED.
 Sent down for concurrence.

Bill "An Act to Provide a Sales Tax Exemption to Child Abuse and Neglect Councils"

S.P. 206 L.D. 484

Presented by Senator GOULD of Waldo
 Cosponsored by Senator ANDREWS of Cumberland, Representative WHITCOMB of Waldo and Representative DiPIETRO of South Portland
 Which was referred to the Committee on TAXATION and ORDERED PRINTED.
 Sent down for concurrence.

Bill "An Act to Amend the Motor Vehicle Laws"

S.P. 210 L.D. 488

Presented by Senator THERIAULT of Aroostook

Cosponsored by Senator TWITCHELL of Oxford, Representative MACCOMBER of South Portland and Representative McPHERSON of Eliot
 Which was referred to the Committee on TRANSPORTATION and ORDERED PRINTED.
 Sent down for concurrence.

Senator MATTHEWS of Kennebec was granted unanimous consent to address the Senate on the Record.

Senator MATTHEWS: Thank you Mr. President. Mr. President, men and women of the Senate. I would just like to bring you up to speed on a situation which my Committee, Legal Affairs, has been looking at. We had an information hearing and work session this morning on the issue of a study that was authorized, without any Legislative involvement or involvement by others that should have been involved, by the Commissioner of the Department of Finance, Jean Mattimore. Commissioner Mattimore graciously came to our Committee this morning to explain why she acted solely on her own in asking the companies of L.L. Bean and Hannaford Brothers to do a study on the issue of state agency liquor stores versus state stores. We had a number of concerns, obviously, as a Legislature. The Committee on Legal Affairs deals with issues of liquor pricing and all the issues that surround those questions. Also, I think as a Committee we had some concerns about the process. Basically, Hannaford Brothers was asked to do the study by Commissioner Mattimore. Hannaford Brothers said they would do it for free, as we heard from the good Senator from Penobscot, Senator Baldacci, "nothing is free".

The Legislature was not represented in anyway on the study panel. The Legislature was not consulted about the composition of this study. No one with respect to the Maine State Liquor Commission, nor the Director of Alcoholic Beverages, knew anything about the study. No one from the public was included. Ladies and gentlemen of the Senate, I am sure that there was no malicious attempt to circumvent the system that you and I believe in and the system that Commissioner Mattimore believes in. But, it raises some questions about public policy, it raises some questions about the process and it certainly was important for the members of the Legal Affairs Committee.

The Chairman of the Liquor Commission, Mr. Gibbons, when asked about the Bean-Hannaford study, said, "we in the Maine Liquor Commission didn't know it had been authorized. We knew nothing about it. When we finally heard something was going on we said its okay. We didn't raise too many concerns about it." But, they knew nothing about it. No one knew anything about the study that was going on. Director Marcotte, who has to deal with the issues on a daily basis, was not consulted. Again, nor was the Maine State Liquor Commission.

Ladies and gentlemen, there were some recommendations made by the study, recommendations about doing away with agency stores. Recommendations about moving the state ever closer to an open market system. Those are getting into the public domain, getting into the issues that are important, that they get discussed in a public fashion by the Legislature. We are a controlled state. So, I rise just to bring you to speed on the morning work session the Legal Affairs Committee held. I appreciate the fact that the Commissioner came and shared her concerns with us. Also, I appreciate the fact that the Liquor Commission and Director Marcotte were in attendance this morning.

I would hope that in the future that when

attempts are made to initiate studies that are dealing in the public domain and in the policy making domain, that it happen with the involvement of the Legislature and the people of the state of Maine. Thank you.

The ADJOURNMENT ORDER having been returned from the House READ and PASSED, in concurrence, on motion by Senator DUTREMBLE of York, ADJOURNED until Friday, March 3, 1989, at 10:00 in the morning.

ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
21st Legislative Day
Friday, March 3, 1989

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

Prayer by Reverend Vladimir Strejcek, Winthrop Friends-Quaker Church.

The Journal of Monday, February 27, 1989, was read and approved.

Quorum call was held.

PAPERS FROM THE SENATE

The following Joint Resolution: (S.P. 198)
JOINT RESOLUTION COMMEMORATING THE 150TH ANNIVERSARY
OF THE TOWN OF SMYRNA, MAINE

WHEREAS, the rural New England town has been recognized across America as one of the wellsprings of our nation's democratic institutions and has deservedly come to serve as a symbol of the virtues of direct citizen government, thrift, simple beauty and long-held values; and

WHEREAS, the Town of Smyrna, located in the valley of the East Branch of the Mattawamkeag River, typifies the valued qualities of the small communities of Maine; and

WHEREAS, the town was first carved out of the vast reaches of the north woods in 1830 by Nehemiah Leavitt, and as the town was incorporated on March 7, 1839 as the 344th town in the State of Maine; and

WHEREAS, the inhabitants of this Aroostook County community have since watched with quiet satisfaction as their town established and nurtured a successful agrarian economy and a manufacturing industry and take well-deserved pride in the generations of solid Maine citizens reared within their borders; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Fourteenth Legislature, now assembled in the First Regular Session, take this occasion to recognize the 150th anniversary of the Town of Smyrna, and to commend the inhabitants and officials of this town for the success which they have achieved together for more than a century and a half, and to extend to each our sincere hopes and best wishes for continued achievement over the next 150 years; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the citizens and officials of this proud community in honor of the occasion.

Came from the Senate, read and adopted.

Was read and adopted in concurrence.

Bill "An Act to Allow Certain Former State Employees to be Eligible for State Health Insurance" (S.P. 202) (L.D. 480)

Bill "An Act Relating to Benefits for Members of the Maine State Retirement System Who Transfer from Positions Under Special Plans to Positions Not Under Special Plans" (S.P. 204) (L.D. 482)

Came from the Senate, referred to the Committee on Aging, Retirement and Veterans and Ordered Printed.

Were referred to the Committee on Aging, Retirement and Veterans in concurrence.

Bill "An Act to Provide for Alternative Site Programs for Operating-under-the-influence Offenders" (S.P. 212) (L.D. 490)