

MAINE STATE LEGISLATURE

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

VOLUME II

FIRST REGULAR SESSION

May 10, 1989 to June 14, 1989

Adjourned until Monday, May 22, 1989, at nine o'clock in the morning.

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

In Senate Chamber
Friday
May 19, 1989

Senate called to Order by the President.

Prayer by Father Paul Labrie of St. Andre's Catholic Church in Biddeford.

FATHER LABRIE: Eternal God, Sustainer of life and hope, be present to those men and women with Your wisdom and compassion. May their deliberations be guided by truth and justice. By their leadership, may they reflect Your concern for the well-being of our world and of each other. In their service, let peace and goodwill shine so as to offer hope and inspiration to their fellow citizens. Bless them with courage. We ask all of this in Your name, for You are God, now and for all eternity. Amen.

Reading of the Journal of Yesterday.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Facilitate Treatment of Abused and Neglected Children"

H.P. 745 L.D. 1028
(C "A" H-138)

In Senate, May 9, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-138), in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-138) AS AMENDED BY HOUSE AMENDMENT "A" (H-216), thereto in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

House Papers

Bill "An Act to Authorize a Bond Issue in the Amount of \$5,000,000 to Provide Funds for the Development of Affordable Housing"

H.P. 1204 L.D. 1674

Committee on HOUSING AND ECONOMIC DEVELOPMENT 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 Create a Game Sanctuary at Beaver Cove in Moosehead Lake"

H.P. 1206 L.D. 1676

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

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

Bill "An Act to Protect the Megunticook Watershed for the People of Lincolnville by Creating the Lincolnville Water District"

H.P. 1205 L.D. 1675

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.

COMMUNICATIONS

The Following Communication: S.P. 596
114TH MAINE LEGISLATURE
May 18, 1989

Senator Edgar E. Erwin
Representative Paul F. Jacques
Chairpersons
Joint Standing Committee on Fisheries and Wildlife
114th Legislature
Augusta, Maine 04333

Dear Chairs:
Please be advised that Governor John R. McKernan, Jr. has nominated Ogden E. Small, O.D. of Caribou for reappointment and Eugene L. Churchill of Orland for appointment to the Inland Fisheries and Wildlife Advisory Council.

Pursuant to Title 3, M.R.S.A. Section 151, these nominations will require review by the Joint Standing Committee on Fisheries and Wildlife 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 FISHERIES AND WILDLIFE.
Sent down for concurrence.

The Following Communication: S.P. 597
114TH MAINE LEGISLATURE
May 18, 1989

Senator R. Donald Twitchell
Representative Robert J. Tardy
Chairpersons
Joint Standing Committee on Agriculture
114th Legislature
Augusta, Maine 04333

Dear Chairs:
Please be advised that Governor John R. McKernan, Jr. has nominated Stephen A. Briggs of Turner, Matthew Scott of Belgrade, Kathleen F. Gensheimer, M.D. of Bath, Wallace C. Dunham of Orono, William Mook of Damariscotta, Dr. Robert M. Chute of Poland Spring, Christine C. Vito, Ph.D. of Saco and Stellos M. Tavantzis of Orono for appointments to the Commission on Biotechnology and Genetic Engineering.

Pursuant to Title 7, M.R.S.A. Section 231, these nominations will require review by the Joint Standing Committee on Agriculture 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 AGRICULTURE.
Sent down for concurrence.

The Following Communication:
DEPARTMENT OF PROFESSIONAL
AND FINANCIAL REGULATION
BUREAU OF INSURANCE
STATE HOUSE STATION 34
AUGUSTA, MAINE 04333

May 17, 1989
Honorable Charles P. Pray
President of the Senate
Augusta, Maine 04333
Dear President Pray:
Enclosed herewith is a copy of the Report of the Superintendent of Insurance on Workers' Compensation Safety Pool Activity for the Year 1988 as required by law (24-A M.R.S.A. section 2366, subsection 9).
Sincerely,
S/Joseph A. Edwards
Superintendent of Insurance
Which was READ and with Accompanying Papers ORDERED PLACED ON FILE.

The Following Communication:
MAINE EDUCATIONAL LOAN AUTHORITY
P.O. BOX 510
AUGUSTA, MAINE 04330
May 12, 1989

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

Pursuant to Chapter 417A, Subsection 11427, 20A M.R.S.A. I am forwarding to you the first annual report and financial accounting of the Maine Educational Loan Authority (MELA).

As you know, this entity was created by the Legislature and signed into law on April 28, 1988. Following that date, a brief history as follows:

Initial Authority Members Appointed	May
Authority Members Reviewed by Joint Standing Committee on Education and Confirmed by the Senate	June
Authority Officers Elected and Executive Director Appointed	June
\$35,000,000 Authority Funding Completed	July
Loan Applications and Brochures Printed and Disseminated	August
First Loans Made	September

Despite the fact that one would expect most families and students to have made their financial decisions by September, the Authority loaned approximately 6 million dollars during the 1988-89 school year. This is perhaps even more remarkable when one compares it to the PLUS loan volume of the same year of about 1.5 million dollars.

I enclose a report which indicates in great detail where the MELA funds were loaned. You will note that Maine students received money to attend schools in 29 states and the District of Columbia. However, over half of the dollars distributed went to schools right here in Maine. Sixty two percent of all borrowers were enrolled in public schools while thirty eight percent were in private ones. The average loans were \$4,284 and \$6,727 respectively.

Based on the extensive learning experience of our initial year, we have asked the Legislature to expand the program to include degree granting Maine proprietary schools, revised our brochure and simplified our application form.

The Authority recently completed its first financial audit by an independent certified public accounting firm, Peat, Marwick Main & Co. I enclose their audited financial statements for you.

We thank you for your strong and continued support and rededicate ourselves to serving education and the State of Maine.

Sincerely,

S/Richard H. Pierce
Executive Director

Which was READ and with Accompanying Papers
ORDERED PLACED ON FILE.

COMMITTEE REPORTS
House

Ought Not to Pass

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

The Committee on AGRICULTURE on Bill "An Act Regarding Oxen, Ponies and Draft Horses in Competitions"

H.P. 524 L.D. 709

The Committee on AGRICULTURE on Bill "An Act to Prevent Improper Delegation of Eminent Domain Powers and Unjust Taking of Property"

H.P. 635 L.D. 869

The Committee on AGRICULTURE on Bill "An Act to Revise the Law Concerning Agricultural Land and Adjacent Development"

H.P. 819 L.D. 1147

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Fund the Law Enforcement and Search and Rescue Activities of the Department of Marine Resources"

H.P. 717 L.D. 986

The Committee on FISHERIES AND WILDLIFE on Bill "An Act to Require Big Game Hunters to Obtain Written Permission Before Hunting on Private Property"

H.P. 1004 L.D. 1402

The Committee on LEGAL AFFAIRS on Bill "An Act to Provide for the Suspension of Drivers' Licenses Resulting from Conviction for Drug-related Offenses"

H.P. 742 L.D. 1025

The Committee on LEGAL AFFAIRS on Bill "An Act to Allow Municipalities to Remove Nonvoter Names from Voting Lists"

H.P. 916 L.D. 1282

The Committee on TAXATION on Bill "An Act Concerning Collection of Excise Taxes from Unorganized Territories"

H.P. 575 L.D. 779

Leave to Withdraw

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

The Committee on BANKING AND INSURANCE on Bill "An Act Concerning Unfair Trade Practices in the Automobile Insurance Industry"

H.P. 309 L.D. 423

The Committee on BANKING AND INSURANCE on Bill "An Act Concerning Automobile Insurance"

H.P. 621 L.D. 844

The Committee on EDUCATION on Bill "An Act to Provide Reimbursement to Municipalities for Most Costs of Special Education"

H.P. 740 L.D. 1023

The Committee on EDUCATION on Bill "An Act to Create a Coalition Drug Education Program"

H.P. 856 L.D. 1188

The Committee on HOUSING AND ECONOMIC DEVELOPMENT on Bill "An Act to Include Moderate-income Households Within the Housing Opportunities for Maine Program"

H.P. 260 L.D. 372

The Committee on HOUSING AND ECONOMIC DEVELOPMENT on Bill "An Act to End Homelessness in Maine"

H.P. 337 L.D. 456

The Committee on HOUSING AND ECONOMIC DEVELOPMENT on Bill "An Act to Encourage and Support the

Development of Affordable Housing Opportunities by Nonprofit Developers"

H.P. 723 L.D. 992

The Committee on JUDICIARY on Bill "An Act to Amend the Public Drinking Law to Remove the Warning Requirement"

H.P. 458 L.D. 623

The Committee on JUDICIARY on Bill "An Act Concerning Liability with Respect to Sports Officials"

H.P. 764 L.D. 1068

The Committee on JUDICIARY on Bill "An Act to Amend the Maine Bail Code with Respect to Mandatory Training as a Condition of Appointment of Bail Commissioners" (Emergency)

H.P. 1079 L.D. 1501

The Committee on LEGAL AFFAIRS on Bill "An Act to Clarify the Position and Authority of Inspectors and Fire Investigators in the Office of State Fire Marshal"

H.P. 211 L.D. 291

The Committee on LEGAL AFFAIRS on Bill "An Act to Provide for Forfeiture of Altered Radar Detectors and to Make Possession a Civil Violation"

H.P. 797 L.D. 1109

The Committee on TAXATION on Bill "An Act Concerning the Timing of Implementation of Local Property Tax Valuations" (Emergency)

H.P. 995 L.D. 1384

The Committee on TAXATION on Bill "An Act to Provide an Extension of the Filing Date for Tree Growth or Farm and Open Space Programs When a Municipality Undertakes a Revaluation of Property"

H.P. 1028 L.D. 1434

Change of Reference

The Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Clarify How State Reimbursement to Counties for Housing State Prisoners May Be Spent"

H.P. 324 L.D. 440

Reported that the same be REFERRED to the Joint Select Committee on CORRECTIONS.

Comes from the House with the Report READ and ACCEPTED and the Bill REFERRED to the Joint Select Committee on CORRECTIONS.

Which Report was READ.

On motion by Senator CLARK of Cumberland, Tabled Unassigned, pending ACCEPTANCE OF THE COMMITTEE REPORT.

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

Senator CAHILL of Sagadahoc was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

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

After Recess

Senate called to order by the President.

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

ORDERS
Joint Order

On motion by Senator CLARK of Cumberland the following Joint Order:

S.P. 599

ORDERED, the House concurring, that Bill, "An Act to Provide for the 1989 Allocations of the State Ceiling on Private Activity Bonds," S.P. 336, L.D. 897, and all its accompanying papers, be recalled from the Governor's desk to the Senate.

Which was READ and PASSED.

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

Off Record Remarks

Ought to Pass

The Committee on BUSINESS LEGISLATION on Bill "An Act Relating to the Sale of Fraternal Life Benefit Certificates and Life Insurance by Funeral Directors and Cemetery Corporations"

H.P. 601 L.D. 825

Reported that the same Ought to Pass.

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

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

The Committee on HUMAN RESOURCES on Bill "An Act to Transfer the Licensing Function from the Bureau of Mental Health to the Department of Mental Health and Mental Retardation"

H.P. 746 L.D. 1029

Reported that the same Ought to Pass.

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

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

The Committee on UTILITIES on Bill "An Act to Amend the Law Incorporating the Milo Water District"

H.P. 1101 L.D. 1534

Reported that the same Ought to Pass.

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

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass As Amended

The Joint Select Committee on CORRECTIONS on Bill "An Act to Encourage Development and Use of Private Community Corrections Programs"

H.P. 370 L.D. 501

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-207).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-207).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-207) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on EDUCATION on Resolve, Requiring the Department of Educational and Cultural Services to Study Textbooks in Schools and School Libraries of the State (Emergency)

H.P. 358 L.D. 478

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-164).

Comes from the House, with the Report READ and ACCEPTED and the Resolve and Accompanying Papers INDEFINITELY POSTPONED.

Which Report was READ.

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

The Committee on HUMAN RESOURCES on Bill "An Act to Prohibit Smoking in Enclosed Areas on Ferries"

H.P. 176 L.D. 241

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-200).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-200).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-200) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on HUMAN RESOURCES on 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

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-201).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-201).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-201) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on HUMAN RESOURCES on Bill "An Act to Provide Needed Services Identified by the Task Force on Incapacitated and Dependent Adults, and Required by the United States Omnibus Budget Reconciliation Act of 1988"

H.P. 691 L.D. 943

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-199).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-199).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-199) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Allow Municipalities to Withhold Business Licenses under Some Circumstances"

H.P. 254 L.D. 366

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-203).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-203).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-203) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Require 5 Commissioners in York County"

H.P. 287 L.D. 399

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-204).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-204).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-204) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on STATE AND LOCAL GOVERNMENT on Resolve, Authorizing the Supreme Judicial Court Plan and Design Commission to Accept Gifts

H.P. 378 L.D. 509

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-208).

Comes from the House, with the Report READ and ACCEPTED and the Resolve PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-208).

Which Report was READ and ACCEPTED, in concurrence.

The Resolve READ ONCE.

Committee Amendment "A" (H-208) READ and ADOPTED, in concurrence.

The Resolve as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Increase the Compensation for Part-time Deputy Sheriffs"

H.P. 788 L.D. 1100

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-209).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-209).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-209) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Majority of the Committee on HUMAN RESOURCES on Bill "An Act to Amend the Laws Concerning Smoking in Public Buildings"

H.P. 439 L.D. 604

Reported that the same Ought Not to Pass.

Signed:

Senators:

GAUVREAU of Androscoggin
TITCOMB of Cumberland
RANDALL of Washington

Representatives:

MANNING of Portland
ROLDE of York
BOUTILIER of Lewiston
CLARK of Brunswick
BURKE of Vassalboro
PEDERSON of Bangor
DELLERT of Gardiner
CATHCART of Orono
HEPBURN of Skowhegan

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-202).

Signed:

Representative:

PENDLETON of Scarborough

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

Which Reports were READ.

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

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

Senator ERWIN: Thank you Mr. President. Mr. President, men and women of the Senate. In 1982, when I was running for the Senate, I promised myself that I would try to the best of my ability to represent all of my people, not some, not part, but all of them. To me, there is a small group of people who deserve to have their day in court. They deserve to be heard. I was asked to cosponsor the Bill and I readily agreed to try to give them their day in court.

There is another small group of people who have one of the best champions that they could possibly find. I am referring to the very capable Senator from Cumberland, Senator Andrews. He has taken the cause of the handicap people and he has gotten them many things that they deserve long ago. He has gotten them because he believes in their cause and he is willing to fight for them.

I think that this small group of people deserve their rights, also. Under our Constitution, all people are supposedly equal. I think all of us should examine closely and ask yourself if these people have any rights and if so what are we going to do about trying to give them the rights that I think they deserve. Some people may question whether I smoke or not. I don't. I did at one time when I was a freshman in college. I thought all young engineers should smoke and it took me about three months, but I finally managed a pipe. I quit in 1968, so I smoked for about thirty-one years. As far as the costs of this, let's go back to the handicap. I don't know what it has cost in your home town, but let's take Rumford. In the town hall, we had to put a ramp in the back side of the building and that didn't cost too much. Then we had to put an elevator in and that cost a good bit, but the people in the area are better off for it. The handicap have their pride. Before when they wanted to get into the town office, they had to either call up ahead of time and get someone to help them, or they had to get people to get there to take them there and help them. Now, they can get in with whoever drives them down.

Divided Report

I can understand the people who have lung problems and don't want to be bothered with someone smoking around them. I can understand that and I don't debate that at all. The point that I think we should seriously consider is should these people have some area where they can go and have their cigarette if they so desire, without bothering anyone else. I think they should.

Another very capable champion is the Senator from Kennebec, Senator Bustin. I have learned to respect her highly. When she gets her teeth into something she is going to win or she is going to be there fighting as long as we are here. I can't help but admire a person that has those tendencies and abilities and I respect her for that.

If we continue the policy of not letting people smoke openly, they are going to smoke anyway. You say they are not, but they are going to smoke. If I can briefly review what used to happen at the old Oxford Paper Company, now Boise Cascade, they limited the smoking areas where the workers could smoke. It was highly restricted. So what happened? If they were busy and didn't have time to go to those limited areas, they smoked anyway. Then we had more of our share of fires, whether it was caused by the smokers, we don't know, but when they used a little more common sense in getting smoking areas that were convenient for the workers, somehow the fires weren't quite that often.

How many people last summer noticed the unusual and dirty sight outside on our steps of this building? We were requiring people to go outside if they wanted to smoke. When they finished they put it out on the ground. I don't think that makes a very good impression on our visitors who are coming to see our state capitol.

I ask you to think seriously about whether we have a right to deprive a group of people of their rights. Don't we have an obligation to try to find an area that they at least can enjoy a habit that they have and still continue on with their work? They make a better worker if they do and they are a happier worker if they do. There are petitions, I am told, and I have some letters from different areas of the state being circulated to try to get the Legislature to give them the right to smoke without bothering people in a private area. Thank you.

On motion by Senator ERWIN of Oxford, 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 Androscoggin, Senator Gauvreau.

Senator GAUVREAU: Thank you Mr. President. Mr. President, men and women of the Senate. I respect and appreciate the well reasoned and articulated comments of the good Senator from Oxford, Senator Erwin. I rise today to explain the rationale of the majority position of the Joint Standing Committee on Human Resources. As you may recall, during the First Regular Session of the 113th Legislature, we adopted significant legislation which prohibits smoking of tobacco products in public buildings, with the exception that such smoking may be allowed in private areas of public buildings. For example, offices. The rationale of the Legislature, at that time, was that public buildings had a distinctive character and role in our society that individuals who present with respiratory problems or otherwise are adversely affected by the inhalation or exposure to tobacco products ought not to be discouraged from transacting routine public affairs in publicly owned properties. It was that rationale because of the distinctive character of public properties and the necessity of the citizenry in enjoying the unrestricted use of

those public properties, that we in fact ought to, in a significant way, curtail the rights of the minority, referred to by the good Senator from Oxford, Senator Erwin.

Therefore, in fact, the Legislature in 1987 decided to prohibit the use of those tobacco products in public areas of public buildings. The Human Resources Committee heard this measure again this year. The measure that was proposed would have allowed smoking in public buildings in certain designated areas. It must be stated that, aside from the sponsors, there were no other members who testified in support of that initiative. There were a wide variety of officials and individuals from the public who urged the Committee to maintain the legislation which we crafted and adopted in the preceding Legislature.

That was the rationale that ultimately persuaded all but one member of the Joint Standing Committee on Human Resources to maintain intact the current law regarding or prohibiting, in large part, the consumption of tobacco products in public buildings. Therefore, I recommend that this Body, in fact, Accept the Majority Ought Not to Pass Report. Thank you.

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

Senator THERIAULT: Thank you Mr. President. Mr. President, men and women of the Senate. I support L.D. 604. I am one of those so-called reformed smokers. Actually, I quit ten years, ten days and twenty-five minutes ago. Let me assure you that it was not an easy task, but I have succeeded in doing it. I am telling you this because I want you to understand that I am not speaking on my own behalf, but I am speaking for some of my good constituents who have gotten in touch with me and would like me to say a few words on their behalf.

I would like to begin by saying that I feel that the laws that we have passed in this Legislature in reference to smoking are good ones. I think that we probably were the leaders, in many ways, for the rest of the nation to follow. But I also feel that we might have gone a little too far in this particular case. I am sure that all of us have seen here, in this public building, owned by all the citizens of this state, and have seen people standing outside in the middle of winter having a last cigarette before coming in here. We have had some of our people, even in public hearings, just be so fidgety because they couldn't wait to get out to have that other cigarette. What is so tragic is to have that other cigarette, they have to go outside.

What adds insult to injury is the fact that the people that work in a public building are allowed to smoke. They can smoke in their designated areas and quite often these designated areas are visible to the public. Can you imagine telling someone in a public place not to smoke while they can observe through a window someone from the staff who is smoking. I guess if I were to tell that person not to smoke I would plan my escape route before telling them.

I think that we have gone too far. I think that those people that do smoke should be given an opportunity or a place to also do so if we allow our own employees in that particular building to do so. I hope that you will support the Bill. Thank you.

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

A vote of Yes will be in favor to ACCEPT the Majority OUGHT NOT TO PASS Report.

A vote of No will be opposed.

Is the Senate ready for the question?
The Doorkeepers will secure the Chamber.
The Secretary will call the Roll.

ROLL CALL

YEAS: Senators ANDREWS, BALDACCI, BERUBE,
BOST, BRANNIGAN, BUSTIN, CARPENTER,
CLARK, DILLENBACK, DUTREMBLE,
EMERSON, ESTES, ESTY, GAUVREAU,
GILL, HOBBSINS, KANY, MATTHEWS,
PEARSON, TITCOMB, WEYMOUTH,
WHITMORE, THE PRESIDENT - CHARLES P.
PRAY
NAYS: Senators CAHILL, ERWIN, GOULD,
HOLLOWAY, LUDWIG, THERIAULT,
TWITCHELL, WEBSTER
ABSENT: Senators BRAWN, COLLINS, PERKINS,
RANDALL

23 Senators having voted in the affirmative and 8
Senators having voted in the negative, with 4
Senators being absent, the motion by Senator GAUVREAU
of Androscoggin, to ACCEPT the Majority OUGHT NOT TO
PASS Report, in concurrence, PREVAILED.

Divided Report

The Majority of the Committee on STATE AND LOCAL
GOVERNMENT on Bill "An Act Relating to Legislation of
an Emergency Nature Introduced in the 2nd Regular
Session or any Special Session"

H.P. 637 L.D. 871

Reported that the same Ought Not to Pass.

Signed:

Senators:

BERUBE of Androscoggin
ESTY of Cumberland
CARPENTER of York

Representatives:

JOSEPH of Waterville
LARRIVEE of Gorham
HEESCHEN of Wilton
DAGGETT of Augusta
ROTONDI of Athens

The Minority of the same Committee on the same
subject reported that the same Ought to Pass as
Amended by Committee Amendment "A" (H-210).

Signed:

Representatives:

WENTWORTH of Wells
BEGLEY of Waldoboro
HANLEY of Paris
MCCORMICK of Rockport

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

Which Reports were READ.

On motion by Senator BERUBE of Androscoggin, the
Majority OUGHT NOT TO PASS Report was ACCEPTED, in
concurrence.

Off Record Remarks

Senate
Ought Not to Pass

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

Senator PEARSON for the Committee on
APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act
to Fund the Maine School Science and Natural History
Enrichment Program"

S.P. 383 L.D. 1019

Leave to Withdraw

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

Senator EMERSON for the Committee on TAXATION on
Bill "An Act Regarding Federal Retiree Income Tax"
S.P. 242 L.D. 572

Change of Reference

Senator HOBBSINS for the Committee on BUSINESS
LEGISLATION on Bill "An Act to Amend the Law Relating
to Automobile Leases"

S.P. 236 L.D. 568

Reported that the same be REFERRED to the
Committee on TAXATION.

Which Report was READ and ACCEPTED.

The Bill REFERRED to the Committee on TAXATION.
Sent down for concurrence.

Ought to Pass As Amended

Senator HOBBSINS for the Committee on BUSINESS
LEGISLATION on Bill "An Act to Regulate the
Installation of Fire Sprinklers"

S.P. 237 L.D. 567

Reported that the same Ought to Pass as Amended
by Committee Amendment "A" (S-126).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-126) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND
READING.

Senator KANY for the Committee on ENERGY AND
NATURAL RESOURCES on Bill "An Act to Restrict Use of
Antifreeze or Other Toxic Agents on Lakes, Ponds and
Streams"

S.P. 499 L.D. 1373

Reported that the same Ought to Pass as Amended
by Committee Amendment "A" (S-127).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-127) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND
READING.

Divided Report

The Majority of the Committee on TAXATION on Bill
"An Act to Create the Individual Income Tax Windfall
Fund" (Emergency)

S.P. 306 L.D. 805

Reported that the same Ought to Pass as Amended
by Committee Amendment "A" (S-128).

Signed:

Senators:

ANDREWS of Cumberland
BALDACCI of Penobscot

Representatives:

NADEAU of Saco
TARDY of Palmyra
DIPIETRO of South Portland
CASHMAN of Old Town
DORE of Auburn
SWAZEY of Bucksport
DUFFY of Bangor

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

Signed:

Senator:

EMERSON of Penobscot

Representatives:

WHITCOMB of Waldo
SEAVEY of Kennebunkport
JACKSON of Harrison

Which Reports were READ.

Senator ANDREWS of Cumberland moved to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.

Senator EMERSON of Penobscot requested a Division.

On motion by Senator CLARK of Cumberland, 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. I would just like to clarify any questions there may be about this piece of legislation before we vote on it. This Bill deals directly with a problem and an issue that I think everyone in this Chamber is familiar with. One that manifested itself last year with the set aside of revenue that was determined to be over-collected as a result of the 1986 Tax Act and a program that sent checks back to the people of the State of Maine who, in fact, were over-collected as a result of that Act. I have had, as many of you have had, calls, letters and visits, during the tax session which concluded on April 15, from hundreds if not thousands of Maine people who were concerned that even though we made the changes that we made last year that they were paying more in their income tax as they filed this spring than they did last year, even though their income didn't go up. They were saying to us that, if you are going to increase my income tax say it in a straightforward, direct way. We are collecting more revenue because we are increasing your income tax. But, if you are not increasing your income tax, and my income hasn't gone up, why is it that I am paying more this year than I did last year? Sometimes that was to the tune of hundreds and hundreds of dollars, putting people in a very tight bind back in April.

We did a couple of things. We asked the Bureau of Taxation to make special arrangements for those taxpayers to allow them to pay that extra amount in time. We asked them to change some of tax tables and we also decided to ask the Council to create a study program to look and see if we did our job last year when we attempted to return all the money that came to us as a result of this windfall. Well, the Committee action was taken on that study, the study has come forward in an initial document that was given to us this past week. The document concluded that yes, indeed, the State of Maine has over-collected revenues from individual taxpayers across the state as a direct result of that 1986 Federal Tax program. We over-collected to a significant degree. We are looking at those numbers, we are analyzing those numbers and the final dollar amount for those over-collections will be forthcoming from our analysis of those reports. What was significant in those reports, in terms of the effect on Maine taxpayers, is that two hundred and eighteen thousand taxpayers, according to this study, paid more money last year than they should have. ("as a result of this windfall") If you look at the breakdown of those figures, fifty-five percent of those in the income range of twenty to thirty thousand dollars, according to this study, paid more money than they should have to the state. The next category of taxpayers made between thirty and fifty thousand dollars a year and they claim in this report that seventy percent of them paid more money than they should have as a result of over-collections.

A majority of the Committee, and I know many in this Chamber, made a pledge last year that if we

over-collect as a result of that windfall then we will not consider that money ours. It doesn't belong to us. The Taxation Committee talked it over and we said the only way we will consider that money ours is if we say in a straightforward, direct way that we are increasing your income tax to capture that revenue. Until we are willing to do that, we have a commitment of returning that money to the taxpayers in one form or another, but not considering that over-collected revenue ours.

What we have done in this Bill is simple and straightforward. We simply take that piece of our revenue picture, the money collected from individual taxpayers in this state, and we take the money that is over-collected above and beyond what was budgeted, and we separate it. We put it in a separate account and we hold that account. What we do with that account will depend upon our final review and analysis of this study that shows that we have over-collected as a result of that study. If we decide, after all the facts are in and we are all agreed to at least what the facts are, that we are going to take that money and spend it for anything, property tax relief, invest it in programs that we think are needed, we have the option of doing that, but only if we do it in a straightforward manner, above board, by passing legislation that takes that money from that surplus account. That is what this does, it is a straightforward Bill that establishes a special account to take responsibility for the over-collections as a result of that 1986 Tax Act. I hope that when you vote on this Bill, that you will vote for those two hundred and eighteen thousand taxpayers who paid more than they should have and vote Ought to Pass on this Bill. Thank you.

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

Senator DILLENBACK: Thank you Mr. President. Mr. President, men and women of the Senate. I am not too familiar with this, but it seems to me that there were a few references in his speech that bothered me a little bit. The major reference is that we will decide what we will do with that money. There is only one place that money should be sent and that is back to the people who overpaid. That money shouldn't go for any other use. The Governor has made a statement that the money should go back to the people who overpaid. I don't believe that we should put this into a fund that might be used for tax reduction, property taxes or anything else. The people who paid that money should get that money back. Thank you.

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. I just want to be absolutely clear that the reason that we are setting this money aside is for that very purpose. What we are saying is that we recognize that the Legislature can do what it wants to do, in terms of what we do with what money that has come in. What we are saying is that we want to make absolutely certain that if we decide to do anything else with that money, aside from sending it right back to the people where it belongs, we are going to have to do it in a straightforward, clear manner. We are going to have to take it from that windfall account, as opposed to having it kind of folded into all other revenues.

Our intention is clearly stated in the legislation that, "this windfall fund is established and shall be maintained for the sole purpose of mitigating the impact of over-collections of individual income taxes by the state." That is our purpose and that is our intention. As I said, at

least the majority of our Committee and I know many people in this Chamber, made a commitment last year that if we collected money that we shouldn't have, as a result of that windfall, that the money doesn't belong to us. That is what we maintain. This Bill is going to make it awfully difficult for anyone to do anything else but return that money. If they do, they are going to have to do it in a way in which everybody can see. In a clear, straightforward, and direct manner.

A little parenthetic history lesson if you look at the budget figures that we received over the past year, some interesting things happened. Back in December of 1988, the report that we received said that our individual income tax collections were up twenty million, two hundred and eighty-two thousand dollars in surplus revenue. Some of that was over-collected, some of that was surplus. The next month, if you look at the same figure on individual income tax, you will see that we are suddenly in the red. We have a minus five million, four hundred and seventy-two thousand dollars. With the waving of a magic wand that excess of twenty million dollars vanished and we had minus 5.4 million dollars. It was done by simply changing the revenue projections. The revenue projection figures went up, we said we should be collecting more midway through the budget year, and suddenly that surplus vanished to nothing. Now, based upon the latest figures, based upon that adjustment, we have over-collected, that is, we have a surplus of ten million plus dollars.

If we had made no change in the budget projections back in December, that individual income tax account would show a surplus of 57.5 million dollars. What we want to make certain is that kind of waving of the magic wand and the disappearing of money doesn't happen again. That if any changes are made, from here on in with the overall projected budget, that the figures that we are collecting in that individual income tax line will stay constant and we will know exactly how much money we are dealing with in surplus as a result of the individual income tax line. From that money, once we assess the over-collection, return that money where it belongs. It doesn't belong with the State of Maine. Thank you.

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

Senator EMERSON: Thank you Mr. President. Mr. President, men and women of the Senate. Let me assure you that those of us who signed the Minority Report fully intend to return the over-collection to the people who paid those. We assume that the Governor will come up with a program and we would want to back that program. Thank you.

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

Senator PEARSON: Thank you Mr. President. Mr. President, men and women of the Senate. I intend to vote for this Bill, but I want to make something clear to everybody in here. When the Senator from Cumberland, Senator Andrews, referred to waving the magic wand and in December the revenues all changed, I am sure that he wasn't trying to imply it, but I don't want to leave anyone with any doubts. That is a typical thing to do. That has been done every since I have been in the Legislature and December revenues have been changed in order to fund what we call the supplemental budget. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Webster.

Senator WEBSTER: Thank you Mr. President. Mr. President, men and women of the Senate. During the brief stay I have had here in the Maine Legislature I have seen some meaningful legislation, this is not

among them. I have listened to the debate here today and I have read the Bill myself and I can see absolutely no reason to have this kind of Bill before the Legislature. What I wonder is why the good members of the Appropriations Committee and the good members of the Taxation Committee and all the people who are involved in the revenues and the amount of money that is coming in and where it is being spent, they need a separate, independent fund to do anything. It seems to me that we, here in the Legislature, can decide how much money we have available, how much money that has come in that we didn't deserve and be able to decide how we are going to be able to get that back to the taxpayers. I am concerned that this is something that it isn't.

I have made a commitment to the people who I represent and I think many Legislators have that we are going to give the money back to the people who paid it as best we can. What I don't understand is why we need this legislation. I trust the good Chairman of the Appropriations Committee and I trust the good Chairman of the Taxation Committee and I trust the Governor's Office and all the people involved to decide and come to an agreement as to how much money we have collected - that we shouldn't have. I don't see any reason, and I am not sure I understand, why we need to set up a separate account somewhere. I am hopeful and I think we all agree that something has to be done so that we no longer have this over-collection problem. So, we establish a fund, this year, for this month, and the next month and then we are going to disband it later. I am not sure why we need this Bill. I think we can decide how much money we have that doesn't belong to us and give it back to the people. This fund, as far as I am concerned, is unnecessary and I would ask you to vote against this Bill.

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

Senator BALDACCI: Thank you Mr. President. Mr. President, men and women of the Senate. The good Senator from Cumberland and myself are again on the same side of an issue on the Taxation Committee and it deals with income taxes this time. I don't usually like to disagree with the good Senator from Penobscot, Senator Emerson, on these issues, but in this particular case it is something that really unnerved me. I don't know if it effected other members of this Body and the Legislature, but we were running up a surplus of ninety-six million dollars over the revenue estimates that had been established by the different departments. Then with a magic wand, or something that has been done anyway, it was wiped out. All of a sudden we had to start off from scratch again and we didn't know which gage to use to make a determination as to whether we were over-collecting or whether there was a boom in the economy, but those revenue estimates were changed. I don't care whether they have been changed before, and before, and before, or whether they will be changed again, and again, and again. The fact of the matter is that it got too hot in the kitchen and they couldn't stand having the revenue estimates being overrun by so much that they were changed. I wouldn't have a problem with that if it didn't impact the overall process, but it did, because it got melded into the Governor's overall budget and before you knew it there were programs attached to it, there were things going on with it and all of a sudden that surplus was there, then it wasn't there anymore. That really upset me and I don't mean to be a conservative on matters like this, but it did bother me that the money was there and then it wasn't there. That is what this Bill is all about. It is

just saying that if it has been targeted in that particular area and there is an over-collection, that the money go into that. I think this really is a good government Bill, if, in fact, there are over-collections then they will go into it, but I don't think that it is right on a cold, dark, winter night to turn the lights out and before you know it, it is the middle of summer again and you are starting in all over again.

I don't think that is right and that is what we are talking about in this particular issue. We are talking about good government and that money belongs to the people, it should be segregated, it doesn't belong melded in with the overall budget. That is what this is really hitting at and I just can't understand why anyone would be opposed to something like that. Thank you.

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

Senator CLARK: Thank you Mr. President. Mr. President, men and women of the Senate. A question has been posed and the question, to refresh your memory, is "why do we need a separate, independent fund to do anything?" While the issue here is not one of trust among the various parts of the Executive and Legislative Branches of government, I am glad that L.D. 805 provides us with an opportunity to reaffirm that trust. Even more importantly, to provide reassurance for the citizens of this state that, that which has been over-collected will, indeed, be placed in reserve to be returned to them, despite the many demands for it, despite sometimes our tendencies to remove portions of money that have been over-collected and divert them to other needy issues. Simply reassurance. If the citizens of this state, who have spoken ever so eloquently in our legislative surveys and questionnaires and in the thousands of letters to the editor and to Legislators in this session of the Legislature, would rate government and the parties of that government, the administration and its legislature, on our previous actions regarding the return of the windfall over-collections in the last eighteen months, I submit to all of us here this afternoon that we would not receive on our report card from the citizens of the state an A, or a B, or even a C, and frankly, members of the Senate, we would be lucky if we received a D. This fund in needed, it is not only good government, but it recognizes that there is a problem that we did over-collect and we are, by accepting this report, keeping faith with not only those who sent us here to do a job, but with all the taxpayers of this state. Thank you Mr. President.

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

Senator MATTHEWS: Thank you Mr. President. Mr. President, men and women of the Senate. I intend to support the Majority Report and I applaud the Senator from Cumberland and the Senators from Penobscot for their work on the Taxation Committee. I think this is the most important issue of the session. I have heard from a number of taxpayers and percentage wise, with all due respect to the Governor's Office, a lot more taxpayers have been negatively impacted than sixty thousand now that we have the true report here and I think it is very, very important that we pass this Bill. It should be unanimous out of this Senate Chamber, both Democrats and Republicans. This is a good government Bill. I remember the first call I got from one of my constituents that said, "you know, it was bad enough that the state kept over-collecting on taxes and the problem kept being pushed along by the Bureau of Taxation and others, but to get the state income tax

form and to read on that form, please do it right so we can send you a nice refund, really added insult to injury." I applaud this Bill and the citizens of this state and the taxpayers applaud this Bill and I hope we will support it.

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

Senator CAHILL: Thank you Mr. President. Mr. President, men and women of the Senate. I will be very brief today. It seems to me that we are debating an issue that everyone here agrees on and that is that the windfall revenue should be returned to the taxpayers of the state. In fact, since we have the excess in windfall money, that money has been returned to the taxpayers of this state. I feel that there has been an implication that by readjusting revenue estimates, something illegal or unethical, at the very least, has been done, when, in fact, our revenue estimates have changed. For example, our sales tax revenues are down dramatically during this quarter.

The Legislative Council has agreed and hired a Tax Consultant, Peat Marwick, to look over the state's tax policy to prevent future over-collections from happening. That data has been compiled and is being put into a form that everyone in the Legislature will, hopefully, be able to understand. Because I certainly do not understand it, currently. I think it is premature of us to enact legislation that could possibly preempt something that the tax consultants have found out. Perhaps even more, because we all agree that we should return the windfall, that rather than putting legislation on the books, maybe a resolve, saying that this Senate is committed to returning the windfall to the people, to reaffirm that we are committed to returning that windfall. I think when we do return the windfall it is imperative that the windfall be returned proportionately to the way it was paid.

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. Just to respond to some of the comments among my colleagues in this debate. First of all, the Senator from Sagadahoc, Senator Cahill, the first point she made was that we have returned all of the windfall money. The fact of the matter is we haven't returned all of that windfall money, there are a lot of dollars still coming in. The point that this Bill preempts something, to me, is incorrect as well, because we have been collecting windfall tax money from individual taxpayers and we continue to over-collect from the taxpayers. You could have a question about the level and degree and numbers of that Peat Marwick study, but I haven't found anybody yet who disagrees that we continue and will continue onto the next year and the year after to over-collect from the citizens of this state unless something is done. So, we are not preempting anything, it has happened, it is happening now, and it will happen unless change is made.

The issue of why we are going to do this: I don't know about you, but my taxpayers, in my district, are not only frustrated, but they are confused about our tax system. I have never seen a time when our tax system has lacked the credibility to the degree that it lacks credibility right now with the citizens out there. There is confusion, frustration, and anger about our tax system. On the confusion point, the figure that I gave you in my initial presentation of a surplus collection in that individual account of 57.5 million dollars. If you, as a Legislator, were to look at the monthly figure

that you receive, you wouldn't see that, you would see ten million dollars. The only way you see this is because I sat in my Committee and poured over the past records, got out my calculator and added it up.

This Bill eliminates that confusion for us as Legislators and for our constituents as taxpayers. We say up front and straightforward that this is the additional money coming into this account and we are going to set that money aside to make certain that it goes exactly where it should go. So, we are talking about eradicating confusion and being straightforward in our tax policy. We are talking about giving us accurate information on which to base our decisions and we are talking about a step to return credibility to this system. It is not the only step we have to take. The Taxation Committee is reviewing our entire income tax structure to make changes this session so that these over-collections stop once and for all. We are reviewing our capacity to project revenues so that we no longer are tied up and hamstrung by a lack of accurate information on which to base our decisions regarding tax policy and fiscal policy. What we have to do, if our tax system is going to work, if government is going to work, is we have to return credibility to our state tax system.

We all represent constituents that have a variety of relationships with state government. Some by fishing licenses, some receive welfare benefits, some participate in education programs, but the most pervasive connection to all of our citizens is the Bureau of Taxation. There is an ad on television and radio for a major company that says, "reach out and touch someone." Well our tax system reaches out and touches everyone in this state and, unfortunately, that system has been reaching out and touching a bit too much. Unless we return credibility to our tax system it is going to be hard for us to advance the cause of a credible and fair state government in all of its aspects. I say let us be clear and straightforward with this revenue account and let us do the job that we are sent here to do and meet the pledge that we made for ourselves. Return that windfall money in a straightforward and clear manner. We can do that and we can take that first step by passing this Bill. Thank you.

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

Senator PEARSON: Thank you Mr. President. Mr. President, men and women of the Senate. As I understand the Senator from Cumberland, Senator Andrews, who has just mentioned reach out and touch someone and we had over-touched, that what will happen, eventually, is that this fund that is being set up, and a Bill will come back into the legislative process to decide how that money is to go back out.

As I understand it there were middle income people who were hit harder than lower and upper incomes and that question is yet to be decided and will be voted on by everybody. I see the Chairman nodding his head and I would think that would be satisfactory to everybody because this sets up the mechanism that goes back out to people that will be established later and we will all have a chance to speak on it at that point.

THE PRESIDENT: The pending question before the Senate is the motion by Senator ANDREWS of Cumberland to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.

A vote of Yes will be in favor to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators ANDREWS, BALDACCI, BERUBE, BOST, BRANNIGAN, BUSTIN, CLARK, DUTREMBLE, ERWIN, ESTES, ESTY, GAUVREAU, HOBBS, KANY, MATTHEWS, PEARSON, THERIAULT, TITCOMB, TWITCHELL, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators CAHILL, CARPENTER, DILLENBACK, EMERSON, GILL, GOULD, HOLLOWAY, LUDWIG, WEBSTER, WEYMOUTH, WHITMORE

ABSENT: Senators BRAWN, COLLINS, PERKINS, RANDALL

20 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 4 Senators being absent, the motion by Senator ANDREWS of Cumberland, to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, PREVAILED.

The Bill READ ONCE.

Committee Amendment "A" (S-128) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

SECOND READERS

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

House

Bill "An Act to Amend the Charter of Hebron Academy" (Emergency)

H.P. 983 L.D. 1361

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

House As Amended

Bill "An Act to Clarify Parties Which May Petition the Board of Environmental Protection for a Water Level Hearing"

H.P. 426 L.D. 591

(C "A" H-193)

Resolve, Establishing a Commission to Study the Level of Care of Maine's Elderly Citizens

H.P. 550 L.D. 747

(H "A" H-215 to C "A" H-183)

Bill "An Act Concerning the Regulatory Authority of the Department of Marine Resources"

H.P. 604 L.D. 828

(C "A" H-196)

Bill "An Act To Amend the Growth Management Laws" (Emergency)

H.P. 631 L.D. 854

(C "A" H-192)

Bill "An Act Concerning the Reporting of Alleged Child Abuse"

H.P. 638 L.D. 872

(C "A" H-189)

Bill "An Act to Ensure that the Department of Environmental Protection Receives Adequate Technical Assistance from Natural Resource Review Agencies"

H.P. 649 L.D. 883

(C "A" H-194)

Bill "An Act to Require Periodic Reports on the Percentage of the Gasoline Tax That Is Due to Boating Use"

H.P. 669 L.D. 917

(C "A" H-195)

Bill "An Act to Require the Department of Human Services to Set Child Welfare Fee-for-service Rates Based on Yearly Negotiations with Private Nonprofit Community Residential Treatment Providers"

H.P. 744 L.D. 1027
(C "A" H-188)

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

Bill "An Act to Reclassify Surface Waters of the State"

H.P. 747 L.D. 1030
(C "A" H-191)

Which was READ A SECOND TIME.

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

Bill "An Act to Restrict Smoking in Enclosed Shopping Malls"

H.P. 751 L.D. 1055
(C "A" H-190)

Which was READ A SECOND TIME.

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

Senate

Bill "An Act to Establish a Supreme Judicial Court Sentence Review Mechanism Relative to Sentences Involving Terms of Imprisonment of One Year or More"

S.P. 61 L.D. 44

Bill "An Act to Maintain Legal Services for Low-income Citizens" (Emergency)

S.P. 449 L.D. 1211

Which were READ A SECOND TIME and PASSED TO BE ENGROSSED.

Sent down for concurrence.

Senate As Amended

Bill "An Act to Increase Safety on Maine Roads and Protect the General Welfare"

S.P. 311 L.D. 816
(C "A" S-124)

Which was READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended.

Sent down for concurrence.

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

Senator TWITCHELL: Thank you Mr. President, having voted on the prevailing side, I now move reconsideration and I would urge you to vote against my motion.

A Viva Voce Vote being had, the motion of Senator TWITCHELL of Oxford to RECONSIDER PASSAGE TO BE ENGROSSED AS AMENDED, FAILED.

ENACTORS

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

An Act to Allow Insurers to Underwrite Mass Marketed Property and Casualty Insurance Plans

S.P. 47 L.D. 14
(C "A" S-105)

An Act to Make Changes to the Human Resource Development Council in Order to Conform with the United States Economic Dislocation and Worker Adjustment Assistance Act of 1988

S.P. 101 L.D. 120
(C "A" S-84; H "A" H-187)

An Act Relating to the Disclosure of Information Concerning Used Motor Vehicles at the Time of Sale or Transfer

H.P. 903 L.D. 1260
(C "A" H-165)

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

Emergency Resolve

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Aroostook County for the Year 1989

H.P. 1194 L.D. 1661

This being an Emergency Measure and having received the affirmative vote of 23 Members of the Senate, with No Senators having voted in negative, and 23 being less than two-thirds of the entire elected Membership of the Senate, the Bill FAILED OF FINAL PASSAGE in NON-CONCURRENCE.

Sent down for concurrence.

(See Action Later Today)

ORDERS OF THE DAY

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

An Act to Require Parental Consent to a Minor's Abortion

H.P. 457 L.D. 622
(C "A" H-127)

Tabled - May 18, 1989, by Senator PEARSON of Penobscot.

Pending - ENACTMENT

(In House, May 15, 1989, PASSED TO BE ENACTED.)

(In Senate, May 9, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-127), in concurrence.)

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

Off Record Remarks

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

COMMUNICATIONS

The Following Communication: S.P. 598
114TH MAINE LEGISLATURE
May 18, 1989

Senator R. Donald Twitchell
Representative Robert J. Tardy
Chairpersons
Joint Standing Committee on Agriculture
114th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated David Maass of Winslow for appointment to the Commission on Biotechnology and Genetic Engineering.

Pursuant to Title 7, M.R.S.A. Section 231, this nomination will require review by the Joint Standing Committee on Agriculture 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 AGRICULTURE.
Sent down for concurrence.

Off Record Remarks

On motion by Senator WEBSTER of Franklin, the Senate RECONSIDERED whereby it FAILED TO FINALLY PASS: Resolve, for Laying of the County Taxes and Authorizing Expenditures of Aroostook County for the Year 1989

H.P. 1194 L.D. 1661

(In House, May 18, 1989, PASSED TO BE ENACTED.)

(In Senate, May 16, 1989, PASSED TO BE ENGROSSED, in concurrence.)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with No Senators having voted in negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was FINALLY PASSED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Off Record Remarks

On motion by Senator BALDACCI of Penobscot, ADJOURNED until Monday, May 22, 1989, at 9:00 in the morning.

ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
67th Legislative Day
Monday, May 22, 1989

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

Prayer by Reverend John Furey, Abundant Life Church, Augusta.

National Anthem by the Penquis Valley High School Band, Milo.

The Journal of Friday, May 19, 1989, was read and approved.

Quorum call was held.

PAPERS FROM THE SENATE

Unanimous Ought Not To Pass

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Fund the Maine School Science and Natural History Enrichment Program" (S.P. 383) (L.D. 1019)

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 Taxation reporting "Leave to Withdraw" on Bill "An Act Regarding Federal Retiree Income Tax" (S.P. 242) (L.D. 572)

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

Refer to the Committee on Taxation

Report of the Committee on Business Legislation on Bill "An Act to Amend the Law Relating to Automobile Leases" (S.P. 238) (L.D. 568) reporting that it be referred to the Committee on Taxation.

Came from the Senate with the report read and accepted and the Bill referred to the Committee on Taxation.

Report was read and accepted and the Bill referred to the Committee on Taxation in concurrence.

COMMUNICATIONS

The following Communication: (S.P. 596)
114TH MAINE LEGISLATURE
May 18, 1989

Senator Edgar E. Erwin
Representative Paul F. Jacques
Chairpersons
Joint Standing Committee on Fisheries and Wildlife
114th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Ogden E. Small, O.D. of Caribou for reappointment and Eugene L. Churchill of Orland for appointment to the Inland Fisheries and Wildlife Advisory Council.

Pursuant to Title 3, M.R.S.A. Section 151, these nominations will require review by the Joint Standing Committee on Fisheries and Wildlife and confirmation by the Senate.

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