

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fourteenth Legislature

OF THE

State Of Maine

VOLUME III

FIRST REGULAR SESSION
June 15, 1989 to July 1, 1989
Index

(Off Record Remarks)

(At Ease)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 7 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

The following Joint Order: (S.P. 664)

ORDERED, the House concurring, that in accordance with emergency authority granted under the Revised Statutes, Title 3, section 2, the First Regular Session of the 114th Legislature shall be extended for two legislative days, in accordance with the Provisions of said section.

Came from the Senate, read and passed.

Was read.

The SPEAKER: Pursuant to Revised Statutes, Title 3, section 2, passage requires the two-thirds vote of the members present and voting. Those in favor of passage will vote yes; those opposed will vote no.

A vote of the House was taken.

109 having voted in the affirmative, 12 in the negative, the Joint Order was passed in concurrence.

On motion of Representative O'Gara of Westbrook, Adjourned until Friday, June 30, 1989, at one o'clock in the afternoon.

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

In Senate Chamber
Thursday
June 29, 1989

Senate called to Order by the President.

Prayer by the Honorable Michael D. Pearson of Penobscot.

SENATOR PEARSON: Bless this state O God we pray, keep it safe by night and day. Bless this Senate and all who serve, make them ever mindful of Thy word. Lead us always by Thy grace, until finally the people's work we all embrace. When the storms of strive arise, let us remember it is You who is wise. To my seat mate Peter Whitmore, you are the best, you could not be more. To all the rest who also serve, may you all have a summer that is just superb.

Reading of the Journal of Thursday, June 22, 1989.

COMMUNICATIONS

The Following Communication: S.P. 661
114TH MAINE LEGISLATURE
June 26, 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 has withdrawn his nomination of Daniel Parker of Westbrook for appointment to the Adaptive Equipment Loan Program Fund Board.

Pursuant to Public Law 1989, Chapter 276, this nomination is currently pending before the Joint Standing Committee on Housing and Economic Development.

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:
COMMITTEE ON HOUSING AND ECONOMIC DEVELOPMENT
ONE HUNDRED AND FOURTEENTH LEGISLATURE
June 26, 1989

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 114th Maine Legislature, the Joint Standing Committee on Housing and Economic Development has had under consideration the nomination of Raymond L. Emond, Jr. of Auburn, for appointment to the Adaptive Equipment Loan Program Fund Board.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the

motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Senators 1
Representatives 8

NAYS: 0

ABSENT: 4 Sen. Dutremble of York,
Sen. Andrews of Cumberland,
Rep. Kilkelly of Wiscasset,
Rep. Graham of Houlton

Nine members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Raymond L. Emond, Jr. of Auburn, for appointment to the Adaptive Equipment Loan Program Fund Board be confirmed.

Sincerely,

S/Dennis L. Dutremble S/Gregory G. Nadeau
Senate Chair House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on HOUSING AND ECONOMIC DEVELOPMENT has recommended the nomination of Raymond L. Emond, Jr. of Auburn, for appointment to the Adaptive Equipment Loan Program Fund Board, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on HOUSING AND ECONOMIC DEVELOPMENT be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 114th Legislature, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None
NAYS: Senators ANDREWS, BALDACCI, BERUBE,
BOST, BRANNIGAN, BRAWN, BUSTIN,
CAHILL, CARPENTER, CLARK, COLLINS,
DILLENBACK, DUTREMBLE, EMERSON,
ERWIN, ESTES, ESTY, GAUVREAU, GILL,
GOULD, HOBBS, HOLLOWAY, KANY,
LUDWIG, MATTHEWS, PEARSON, PERKINS,
RANDALL, THERIAULT, TITCOMB,
TWITCHELL, WEBSTER, WEYMOUTH,
WHITMORE, THE PRESIDENT - CHARLES P.
PRAY

ABSENT: Senators None

No Senators having voted in the affirmative and 35 Senators having voted in the negative, with No Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Raymond L. Emond, Jr., for appointment to the Adaptive Equipment Loan Program Fund Board, was CONFIRMED.

The Secretary has so informed the Speaker of the House.

The Following Communication:
COMMITTEE ON HOUSING AND ECONOMIC DEVELOPMENT
ONE HUNDRED AND FOURTEENTH LEGISLATURE
June 26, 1989

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 114th Maine

Legislature, the Joint Standing Committee on Housing and Economic Development has had under consideration the nomination of Gail Lawley of Winslow, for appointment to the Adaptive Equipment Loan Program Fund Board.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Senators 1
Representatives 8

NAYS: 0

ABSENT: 4 Sen. Dutremble of York,
Sen. Andrews of Cumberland,
Rep. Kilkelly of Wiscasset,
Rep. Graham of Houlton

Nine members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Gail Lawley of Winslow, for appointment to the Adaptive Equipment Loan Program Fund Board be confirmed.

Sincerely,

S/Dennis L. Dutremble S/Gregory G. Nadeau
Senate Chair House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on HOUSING AND ECONOMIC DEVELOPMENT has recommended the nomination of Gail Lawley of Winslow, for appointment to the Adaptive Equipment Loan Program Fund Board, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on HOUSING AND ECONOMIC DEVELOPMENT be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 114th Legislature, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None
NAYS: Senators ANDREWS, BALDACCI, BERUBE,
BOST, BRANNIGAN, BRAWN, BUSTIN,
CAHILL, CARPENTER, CLARK, COLLINS,
DILLENBACK, DUTREMBLE, EMERSON,
ERWIN, ESTES, ESTY, GAUVREAU, GILL,
GOULD, HOBBS, HOLLOWAY, KANY,
LUDWIG, MATTHEWS, PEARSON, PERKINS,
RANDALL, THERIAULT, TITCOMB,
TWITCHELL, WEBSTER, WEYMOUTH,
WHITMORE, THE PRESIDENT - CHARLES P.
PRAY

ABSENT: Senators None

No Senators having voted in the affirmative and 35 Senators having voted in the negative, with No Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Gail Lawley, for appointment to the Adaptive Equipment Loan Program Fund Board, was CONFIRMED.

The Secretary has so informed the Speaker of the House.

Senator PEARSON of Penobscot was granted unanimous consent to address the Senate on the Record.
Senator PEARSON: Thank you Mr. President. Mr. President, men and women of the Senate. I represent

among other towns, a little town of Lakeville, that just has been incorporated within the last couple of years, which finds itself still under the jurisdiction of the Land Use Regulation Commission for the purposes of planning and zoning. There is a tremendous development that is going on in that particular town and it is a town of less than thirty full-time registered voter types of people. A while ago, I introduced a piece of legislation that was passed and signed into law, which gives that town the right to impose a moratorium until they can get zoning ordinances and planning up to speed. This evening, the town of Lakeville is going to have a town meeting to decide whether or not they want to impose a moratorium.

I am getting phone calls from the various citizens of that town, selectmen included, and former selectmen, informing me that the developer of the property in Lakeville has a number of people who are working cutting wood and working in his operation. They are living in trailers that are temporary of nature and the developer is asking them to go in to register to vote so that he will be able to determine the outcome of that town meeting this evening. I find that to be deplorable. I think that is a travesty to have happen to that little town. There are now in the process of trying to find out their rights and I am, too, for them on the registering of voters in that town for the purposes of their town meeting where those people have been there all their lives. People who are just working in the woods there are being encouraged to go register to vote.

The Following Communication:
 COMMITTEE ON HOUSING AND ECONOMIC DEVELOPMENT
 ONE HUNDRED AND FOURTEENTH LEGISLATURE
 June 26, 1989

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 114th Maine Legislature, the Joint Standing Committee on Housing and Economic Development has had under consideration the nomination of Thelma H. Pray of East Lebanon, for appointment to the Adaptive Equipment Loan Program Fund Board.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS:	Senators	1
	Representatives	8
NAYS:		0
ABSENT:	4	Sen. Dutremble of York, Sen. Andrews of Cumberland, Rep. Kilkelly of Wiscasset, Rep. Graham of Houlton

Nine members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Thelma H. Pray of East Lebanon, for appointment to the Adaptive Equipment Loan Program Fund Board be confirmed.

Sincerely,
 S/Dennis L. Dutremble S/Gregory G. Nadeau
 Senate Chair House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on HOUSING AND ECONOMIC DEVELOPMENT has recommended the nomination of Thelma H. Pray of East Lebanon, for

appointment to the Adaptive Equipment Loan Program Fund Board, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on HOUSING AND ECONOMIC DEVELOPMENT be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 114th Legislature, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None
 NAYS: Senators ANDREWS, BALDACCI, BERUBE, BOST, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CARPENTER, CLARK, COLLINS, DILLENBACK, DUTREMBLE, EMERSON, ERWIN, ESTES, ESTY, GAUVREAU, GILL, GOULD, HOBBS, HOLLOWAY, KANY, LUDWIG, MATTHEWS, PEARSON, PERKINS, RANDALL, THERIAULT, TITCOMB, TWITCHELL, WEBSTER, WEYMOUTH, WHITMORE, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators None
 No Senators having voted in the affirmative and 35 Senators having voted in the negative, with No Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Thelma H. Pray, for appointment to the Adaptive Equipment Loan Program Fund Board, was CONFIRMED.

The Secretary has so informed the Speaker of the House.

The Following Communication:
 COMMITTEE ON HOUSING AND ECONOMIC DEVELOPMENT
 ONE HUNDRED AND FOURTEENTH LEGISLATURE
 June 26, 1989

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 114th Maine Legislature, the Joint Standing Committee on Housing and Economic Development has had under consideration the nomination of Arthur Redman of Augusta, for appointment to the Adaptive Equipment Loan Program Fund Board.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS:	Senators	1
	Representatives	8
NAYS:		0
ABSENT:	4	Sen. Dutremble of York, Sen. Andrews of Cumberland, Rep. Kilkelly of Wiscasset, Rep. Graham of Houlton

Nine members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Arthur Redman of Augusta, for appointment to the Adaptive Equipment Loan Program Fund Board be confirmed.

Sincerely,
 S/Dennis L. Dutremble Senate Chair
 S/Gregory G. Nadeau House Chair

Which was READ and ORDERED PLACED ON FILE.
 THE PRESIDENT: The Joint Standing Committee on HOUSING AND ECONOMIC DEVELOPMENT has recommended the nomination of Arthur Redman of Augusta, for appointment to the Adaptive Equipment Loan Program Fund Board, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on HOUSING AND ECONOMIC DEVELOPMENT be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 114th Legislature, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A vote of No will be in favor of sustaining the recommendation of the Committee.

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

ROLL CALL

YEAS: Senators None
 NAYS: Senators ANDREWS, BALDACCI, BERUBE, BOST, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CARPENTER, CLARK, COLLINS, DILLENBACK, DUTREMBLE, EMERSON, ERWIN, ESTES, ESTY, GAUVREAU, GILL, GOULD, HOBBS, HOLLOWAY, KANY, LUDWIG, MATTHEWS, PEARSON, PERKINS, RANDALL, THERIAULT, TITCOMB, TWITCHELL, WEBSTER, WEYMOUTH, WHITMORE, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators None
 No Senators having voted in the affirmative and 35 Senators having voted in the negative, with No Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Arthur Redman, for appointment to the Adaptive Equipment Loan Program Fund Board, was CONFIRMED.

The Secretary has so informed the Speaker of the House.

The Following Communication:
 COMMITTEE ON HOUSING AND ECONOMIC DEVELOPMENT
 ONE HUNDRED AND FOURTEENTH LEGISLATURE
 June 26, 1989

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 114th Maine Legislature, the Joint Standing Committee on Housing and Economic Development has had under consideration the nomination of Michael J. Levensaler of Friendship, for appointment to the Adaptive Equipment Loan Program Fund Board.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Senators 1
 Representatives 8
 NAYS: 0
 ABSENT: 4 Sen. Dutremble of York,
 Sen. Andrews of Cumberland,

Rep. Kilkelly of Wiscasset,
 Rep. Graham of Houlton

Nine members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Michael J. Levensaler of Friendship, for appointment to the Adaptive Equipment Loan Program Fund Board be confirmed.

Sincerely,
 S/Dennis L. Dutremble Senate Chair
 S/Gregory G. Nadeau House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on HOUSING AND ECONOMIC DEVELOPMENT has recommended the nomination of Michael J. Levensaler of Friendship, for appointment to the Adaptive Equipment Loan Program Fund Board, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on HOUSING AND ECONOMIC DEVELOPMENT be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 114th Legislature, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A vote of No will be in favor of sustaining the recommendation of the Committee.

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

ROLL CALL

YEAS: Senators None
 NAYS: Senators ANDREWS, BALDACCI, BERUBE, BOST, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CARPENTER, CLARK, COLLINS, DILLENBACK, DUTREMBLE, EMERSON, ERWIN, ESTES, ESTY, GAUVREAU, GILL, GOULD, HOBBS, HOLLOWAY, KANY, LUDWIG, MATTHEWS, PEARSON, PERKINS, RANDALL, THERIAULT, TITCOMB, TWITCHELL, WEBSTER, WEYMOUTH, WHITMORE, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators None
 No Senators having voted in the affirmative and 35 Senators having voted in the negative, with No Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Michael J. Levensaler, for appointment to the Adaptive Equipment Loan Program Fund Board, was CONFIRMED.

The Secretary has so informed the Speaker of the House.

The Following Communication:
 COMMITTEE ON HOUSING AND ECONOMIC DEVELOPMENT
 ONE HUNDRED AND FOURTEENTH LEGISLATURE
 June 26, 1989

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 114th Maine Legislature, the Joint Standing Committee on Housing and Economic Development has had under consideration the nomination of Roland Bracy of Portland, for appointment to the Adaptive Equipment Loan Program Fund Board.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the

LEGISLATIVE RECORD - SENATE, JUNE 29, 1989

motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Senators 1
Representatives 8

NAYS: 0

ABSENT: 4 Sen. Dutremble of York,
Sen. Andrews of Cumberland,
Rep. Kilkelly of Wiscasset,
Rep. Graham of Houlton

Nine members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Roland Bracy of Portland, for appointment to the Adaptive Equipment Loan Program Fund Board be confirmed.

Sincerely,

S/Dennis L. Dutremble Senate Chair
S/Gregory G. Nadeau House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on HOUSING AND ECONOMIC DEVELOPMENT has recommended the nomination of Roland Bracy of Portland, for appointment to the Adaptive Equipment Loan Program Fund Board, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on HOUSING AND ECONOMIC DEVELOPMENT be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 114th Legislature, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None
NAYS: Senators ANDREWS, BALDACCI, BERUBE,

BOST. BRANNIGAN, BRAWN, BUSTIN,
CAHILL, CARPENTER, CLARK, COLLINS,
DILLENBACK, DUTREMBLE, EMERSON,
ERWIN, ESTES, ESTY, GAUVREAU, GILL,
GOULD, HOBBS, HOLLOWAY, KANY,
LUDWIG, MATTHEWS, PEARSON, PERKINS,
RANDALL, THERIAULT, TITCOMB,
TWITCHELL, WEBSTER, WEYMOUTH,
WHITMORE, THE PRESIDENT - CHARLES P.
PRAY

ABSENT: Senators None

No Senators having voted in the affirmative and 35 Senators having voted in the negative, with No Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Roland Bracy, for appointment to the Adaptive Equipment Loan Program Fund Board, was CONFIRMED.

The Secretary has so informed the Speaker of the House.

The Following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333

June 22, 1989

Honorable Joy J. O'Brien
Secretary of the Senate
114th Legislature
Augusta, Maine 04333
Dear Madam Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act Regarding Governmental Ethics" (H.P. 1282) (L.D. 1773):

Representative GWADOSKY of Fairfield
Representative JOSEPH of Waterville
Representative STROUT of Corinth
Sincerely,
S/Edwin H. Pert
Clerk of the House

Which was READ and ORDERED PLACED ON FILE.

The Following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333

June 22, 1989

Honorable Joy J. O'Brien
Secretary of the Senate
114th Legislature
Augusta, Maine 04333
Dear Madam Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$49,500,000 for Construction and Renovation of Correctional Facilities" (S.P. 608) (L.D. 1702) (C. "A" S-332):

Representative MAYO of Thomaston
Representative MARTIN of Eagle Lake
Representative FARREN of Cherryfield
Sincerely,
S/Edwin H. Pert
Clerk of the House

Which was READ and ORDERED PLACED ON FILE.

The Following Communication:

DEPARTMENT OF FINANCE
BUREAU OF ACCOUNTS AND CONTROL
STATE HOUSE STATION 14
AUGUSTA, MAINE 04333

John L. Martin
Speaker of the House
114th Legislature
Charles P. Pray
President of the Senate
114th Legislature
Dear Mr. Speaker and Mr. President:

In accordance with Title 5, Maine Revised Statutes Annotated, Section 1547, the accompanying Financial Report of the State of Maine is submitted for the fiscal year ended June 30, 1988.

The first section of the report consists of the General Purpose Financial Statements for all funds reported in accordance with generally accepted accounting principles. Generally accepted accounting principles for the Governmental Funds uses the modified accrual basis of accounting. Revenues are recognized when they become measurable and available as current assets. Expenditures are generally recognized when the related fund liability is incurred. Exceptions to generally accepted accounting principles in these financial statements include accumulated unpaid vacation and sick leave which has not been recorded, and interest on general long-term debt which is recognized when due.

The second section is reported as it has been in the past, based upon the budgetary and legal requirements. Please refer to Note 7 of the General Notes to the Financial Statements for the

reconciliation of the fund balances between the two sections. Comparative budgetary data and statistical information have also been included in this report to promote a better understanding of the State's finances.

Questions and comments about this report or any phase of State finances are always welcome.

Sincerely,
 S/David A. Bourne S/Victor E. Fleury
 State Controller Deputy State Controller
 Which was READ and with Accompanying Papers
 ORDERED PLACED ON FILE.

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

June 23, 1989

To The Honorable Members of the 114th Legislature:

I am returning, without my signature or approval, S.P. 100, L.D. 119, "An Act Relating to State Personnel Administration." While this bill addresses some needed changes in personnel procedures which would help both employees and management, Section 2 of the bill treats a small group of State employees most unfairly.

The original bill submitted by the Department of Administration addressed the management of registers of applicants for State positions and clarified certain compensation and benefit issues for State employees. The bill and its committee amendment were reported out of committee with a unanimous "ought to pass" report. A floor amendment was added to the bill, however, with the intent to "require legislative approval of salary range changes in job classifications or positions in the classified and unclassified services, unless provided otherwise by collective bargaining agreements." This amendment was intended to prevent the normal reclassification process to be continued for approximately 515 of the State's nearly 14,000 employees. Currently, the Legislature is involved in funding reclassifications for employees only if funds aren't otherwise available by downgrading or abolishing positions or from other appropriate revenues.

The floor amendment intended to change the current procedure for this one small group of employees who are excluded from the collective bargaining process and whose salary ranges are not already set by statute.

Clearly, these employees are in key positions in the State Government management team. They should not be treated any less well than other employees. In fact, since the implementation of collective bargaining, my predecessors and I have been concerned that these employees receive at least equitable treatment with all others.

Although the original amendment subsequently was modified, the bill, as enacted, still requires the Legislature's approval for unclassified major policy-influencing positions. Some 80 current employees are affected. The scope of the action has changed, but the principle has not. There is no justification to single out 80 employees and to treat them in a discriminatory way.

This legislation would mandate the Legislature to intrude in a random manner in the compensation of any group of employees. Many of us remember well how we welcomed the advent of a standardized job-evaluation and compensation system to enable the Legislature to be removed from what is essentially a management process. That is as it should be.

Because of the reservations and objections

outlined above, I am in opposition to L.D. 119, and respectfully urge you to sustain my veto. I would, however, welcome the opportunity to sign the legislation if Section 2 of the bill were eliminated.

Sincerely,
 S/John R. McKernan, Jr.
 Governor

Which was READ and ORDERED PLACED ON FILE.
 The Accompanying Bill:
 Bill "An Act Relating to State Personnel Administration"

S.P. 100 L.D. 119
 (S "C" S-235 to C
 "A" S-104)

The President laid before the Senate the following:

Shall this Bill become Law notwithstanding the objections of the Governor?

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote will be taken by the Yeas and Nays.

A vote of yes will be in favor of the Bill.

A vote of no will be in favor of sustaining the veto of the Governor

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, WEYMOUTH, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators BRAWN, CAHILL, CARPENTER, COLLINS, DILLENBACK, EMERSON, GILL, GOULD, HOLLOWAY, LUDWIG, PERKINS, RANDALL, TWITCHELL, WEBSTER, WHITMORE

ABSENT: Senators None
 20 Senators having voted in the affirmative and 15 Senators having voted in the negative, with No Senators being absent, and 20 being less than two-thirds of the Membership present and voting, the Veto was SUSTAINED.

The Secretary has so informed the Speaker of the House.

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

June 27, 1989

To the Honorable Members of the 114th Legislature:

I am returning, without my signature or approval, S.P. 544 - L.D. 1515, "An Act Amending the Law Governing the Maine Committee on Aging." While I do not object to Sections 2 & 3 of this bill, I have strong objections to Section 1. This provision directs the Governor to avoid appointing members who have an interest in entities which provide elderly services. This is a direct encroachment on Executive appointment authority, and does not enhance the role of the Maine Committee on Aging.

This past year the Maine Committee on Aging twice rejected legislative efforts, by votes of 8-1 and 6-1, to change the composition of the Committee. After Section 1 was added to this bill, the Committee again opposed this change and has urged a veto of the entire bill. I would like to quote from correspondence from the Chair of the Maine Committee on Aging: "Our Committee operates on the basis on

consensus and believes that actions and recommendations of the Committee reflect that consensus and that members are responsible, objective and dedicated individuals who seek to serve Maine's older population."

I agree wholeheartedly with the Chair. I feel strongly that the provision attempts to encroach on Executive appointment authority and raises concerns about what constitutes appropriate public policy regarding the interest of the elderly.

This legislation would prohibit the appointment of anyone who provides elderly services, specifically nursing homes and elderly home health services. This action would run counter to the original intent of the law which created this Committee. That law provides that members of this group shall include "current leaders of the State's elderly from a number of fields, such as income, health, housing and community and social services, and who have proven experience in private, public and voluntary organizations on the state, regional and community level...." The law further requires the Committee to serve as an advocate and ombudsman for Maine's elderly. Providers of elderly services, including nursing homes and elderly home health services, are a vital part of Maine's elderly community. Those who operate facilities have invaluable expertise to offer and perspectives to share with the elderly community.

Because of my objections outlined herein, I am in opposition to L.D. 1515 and respectfully urge you to sustain my veto. I would, however, welcome the opportunity to support this legislation as originally drafted, and would sign this bill if Section 1 is eliminated.

Sincerely,
S/John R. McKernan, Jr.
Governor

Which was READ and ORDERED PLACED ON FILE.

The Accompanying Bill:

Bill "An Act Amending the Law Governing the Maine Committee on Aging"

S.P. 544 L.D. 1515
(H "A" H-561 to C
"A" S-251)

THE PRESIDENT: The pending question before the Senate is: Shall this Bill become Law notwithstanding the objections of the Governor?

The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Thank you Mr. President. Mr. President, men and women of the Senate. It is, indeed, a lovely summer morning and L.D. 1515, in veto message form, is no surprise to many of us. A brief review of the Legislative history might be in order and I invite you, if you wish or are so inclined, to read the veto message. L.D. 1515 was introduced to provide the Maine Committee on Aging with the ability to charge nominal costs for large bulk numbers of their publications and to enhance the coffers of that Committee to at least cover some of these costs. These nominal costs in no way would cover the development and the printing of these publications, but would anticipate the receipt of approximately five hundred dollars annually to provide further funds, if nothing other than postage, to mail these bulk requests of their materials out across the state. As you remember from an earlier debate on this measure, well perhaps you remember, I introduced at the public hearing on L.D. 1515, for I was the prime sponsor of this measure, another Bill which I had presented to the Legislative Council for introduction as an after deadline Bill.

The Legislative Council gave me the following direction: To find a vehicle to which I could attach

my proposed measure and present it at the time of public hearing, which is exactly what I proceeded to do. The attachment to L.D. 1515 is what has generated the gubernatorial veto before us this morning. The Governor's message is explicit. He does not take issue with sections two and three of the Bill, but he does have strong objections to section one. Section one, more namely, provides that the Governor avoid appointing members who have an interest in entities which provide elderly services and so forth. I feel sure that you remember that as the result of some contention to the adoption of Senate Amendment "A" S-268) to Committee Amendment "A" that this Legislature adopted, I removed using this vehicle that original contentious section, which would have changed the appointment process and allowed the Presiding Officers of this Legislature to nominate six of the fifteen members, including the two members representing the House of Representatives and the Senate, to the Maine Committee on Aging. I struck that out to avoid any reef as this little vehicle sailed through the Legislative process.

In the other Body, an Amendment was attached, under filing number H-561, which was debated briefly in the other Chamber and then debated when we moved to Recede and Concur in this Chamber. That, indeed, is the focus of this veto message. I think it is appropriate, particularly on this day when the Committee of Conference is meeting, as it did and as it will in all of our free time today, on the State Government ethics Bill, that we focus on what we have before us today. Suffice it to say, that the issue which is now contentious and which resulted in a gubernatorial veto, says only that beginning October 1, 1989, the Governor shall make every effort to avoid appointing persons who own or who have ownership interest in or who manage entities that provide elderly services. It does not preclude the Governor's judgement, but it encourages that Chief Executive to make every effort to avoid. For purpose of this section, elderly services is defined. At my request, the Maine Committee on Aging dedicated loyal, effective staff, which has been without justification or substantiation unwarrantly maligned by certain current members of the Maine Committee on Aging for even speaking to or responding to the request of two members of that same Committee, who happen to represent the Senate appointee, namely me, and the House of Representatives appointee, a Representative from the Augusta area. At my request, specifically my request, on June 28, 1989, having had a preview of the Governor's veto message, I called the Maine Committee on Aging and requested information on committee membership and the ombudsman's program. I read into the Record the following: "In response to your request for the information regarding former members of the Maine Committee on Aging, who had connections with health care agencies or nursing homes, there was one in the history of this Committee, prior to those who are currently seated, his name is David Fenton, who was an administrator of a home health agency and he served on the Maine Committee on Aging from 1976-1979. To our knowledge, no others with such connections have been appointed to the Committee." In response to my second inquiry, the response is as follows; for it is the long term care ombudsman's program which monitors the quality of life of Maine's most vulnerable, elderly citizens that concerns me and which prompted me to support the Amendment which was attached in the other Body, as well as to avoid the appearance of a conflict of interest. "With regard to the long term care ombudsman's program during fiscal year 1988, five hundred and twelve

complaints against nursing homes were filed with the program. This represents eighty-four percent of our total complaints." That is in response to my inquiry and this information is available to any member of the Legislature upon request.

In consideration to the heavy agenda issues before us and because this is a lovely June morning, and we are back here in Augusta, and because we have the major issues more precisely the budget, that must be resolved in this time period before us, I will attempt to keep my remarks as brief as possible in response to this gubernatorial veto.

But, I do feel compelled to rise based on the data provided and that I shared with you from the memo and from the innocent, sincere, and nonpartisan attempt to assure the citizens of this state that conflicts of interest will not permeate that policy-making body, called the Maine Committee on Aging. I must rise and speak out as I seldom do on what is an issue of principle in this gubernatorial veto of L.D. 1515 before us this morning. The point, that is woefully evident by our Governor's veto, is that our Governor still does not understand that one of the fundamental foundations of good government is the avoidance of conflicts of interest by those we entrust with making policy, or directing programs intended to benefit or protect our citizens. In short, we, as Legislators, should not have people or even allow people of clear vested interest in positions where they are, or potentially can, influence programs that could possibly enrich their business interests, or afford them a special advantage or privilege over their competition.

We have reviewed the Legislative history of L.D. 1515, and so plan and simply we now understand, or at least I do and I hope you do, what the Governor's focus is in his veto message and what is intended with the passage through both Chambers of L.D. 1515. Frankly, that is what this veto message and the amendment from the other Body is all about; avoiding the appearance of a conflict of interest. For the Bill, in its Enacted version, would simply preclude the appointment of those who could possibly or potentially or even allegedly profit on elderly services to a government body that is suppose to watch over the well-being of our older residents and not the industry serving them. That simple principle, however, I submit, continues to allude the Governor. You would think that after all the furor this past year in our federal congress over government ethics, and specifically conflicts of interest, that our Governor would be sensitized to the issue of conflict or potential conflict and that the message would have been received. Evidentially, the receive button is not working. You would also think that after all the debate that has filled the Halls of our own State House, and more particularly this Senate Chamber, over ethics this session, just last week, that our Governor would show a glimmer of recognition about what is at stake here in this little nonsubstantive measure. Again, he doesn't. You would think that after being rebuffed after this Senate Body on a couple of confirmations in recent history, in which the question of the appearance of a conflict of interest was keenly involved, the message would finally sink in on the second floor. Still, our Governor doesn't get the message.

On this day, this morning, we now have one last chance to send that message, but to do so we must deliver it with a resounding chorus of votes to override the veto before us. If in attempting to highlight or even dramatize my point this morning, I have raised some partisan hackles, I extend to you my sincere apology, for this is not a partisan issue,

and I feel fully confident that Republicans and Democrats alike embrace integrity and ethics in government. The issue is one of safe guarding our elderly citizens from those who might profiteer on their special needs by abusing the public trust. But even larger than that, it is an issue of good government, of sustaining the confidence of Maine citizens in their government that is free of conflicts of interest and potential influence peddling. Some of you, I feel sure, are aware that members of the Maine Committee on Aging voted to direct their staff to write letters or a letter to the Governor urging that our Governor veto this message and the staff on the Maine Committee on Aging complied and, indeed, it is a fine letter.

Furthermore, the vote on whether or not to send that letter was overwhelming, but one of those who led the charge on this strategy to request that the Governor veto this message was none other than Mr. Cyr of Aroostook, himself an owner and administrator of the Aroostook Home Care Agency Incorporated. I do submit to you that it is my knowledge and my recognition that both he and the other gentleman who are currently members of the Maine Committee on Aging have been and can continue to be very helpful to many other Committee members because of the knowledge that they possess and that they present to the Committee in their deliberation. But, it is also my understanding that it may considered appropriate that still more owners or administrators of major elderly health care facilities be appointed to that Committee. Should that be the case, which was the genesis of the Amendment originating in the other Body, then, in fact, I submit to you, as well as to the Governor's office downstairs, that we may be in violation of the Older American Act of 1965 as Amended through December 31, 1988. Which states that, "the state agency will insure that no individual involved in the designation of the long term care ombudsmen whether by appointment or otherwise, or the designation of the head of any subdivision of the office is subject to a conflict of interest. Insure that no office employee, or other representative of the office is subject to a conflict of interest and insure that mechanisms are in place to identify and remedy any such or other similar conflicts. The state agency will insure that adequate legal counsel is available to the office for advice and consultation and that legal representation is provided to any representative of the office against whom suit or other legal action complaints is brought in connection with the performance of such representatives official duties. And, insure that the office has the ability to pursue administrative legal and other appropriate remedies on behalf of residents of long term care facilities." This is all in planning and operating the ombudsman's program a major segment of the Maine Committee on Aging.

That causes me concern to the extent that I discussed this with the Maine Committee on Aging's representative in the office of the Attorney General, that I have informally, as a result of this veto, requested an investigation as to the appropriateness and any alleged conflict of interest of the members of that Committee, for we must avoid, in so far as possible, any direct conflict of interest appearance of any of us who serve on behalf of Maine's older citizens. I will continue to talk on this issue. I will continue to monitor it, I invite you to share my concerns and help me and others to address it constructively. I will request an examination of our compliance with the federal regulations with the Department of Justice to verify and insure our compliance with so as not to jeopardize federal funds

that serve and support the function of that Committee with reference to the Older American Act of 1965, as Amended through December 31, 1988.

I do believe and I honestly believe that the Governor agrees that we should always, always, do whatever we can to insure that the integrity and the advocacy of an advocate group, like the Maine Committee on Aging, be protected from even the smallest shadow of a conflict of interest, in this day of ethics and noted apparent conflicts of interest and a host of other governmental levels.

I am realistic to the extent that I recognize that this veto this morning will not be overridden, but will be sustained. I have heard my respected colleagues on the other side of the aisle say more than once that they can count. Well, so, too can, I. But, I submit to you this morning that there will be another day and that in light of the interests of the older citizens of this state, in light of the integrity and to avoid the appearance of a conflict of interest, that we do consider overriding this gubernatorial veto this morning. If we can't get the message to the Governor by that kind of action, maybe at least we can send one to the voters of this state, noted among those voters, our older citizens, that their elected Senators of Maine will not tolerate lowering the standards of public service and will do whatever they must to avoid conflicts of interest in policy-making bodies of our state. It is vital that we do so. It is essential that we do so, and we should hold that Body to no higher or lower, but equal standing with that which we would accept ourselves. Thank you Mr. President.

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 think it is fair to say that the Governor recognizes conflicts of interest, probably evidenced by the fact that this Senate passed landmark legislation dealing with governmental ethics when we last met. I think it is also fair to say that the Governor of the State of Maine will avoid using legislation to settle a flap that apparently are a couple of personality conflicts among members of the Committee on Aging and the staff. I am not certainly going to clutter up the Record with specifics of the Bill, I don't think that is appropriate, but the Bill, as the good Senator from Cumberland, Senator Clark, said does direct the Governor about appointing persons who own or manage entities that provide elderly services, particularly nursing homes and elderly health home services. What that does is encroach on the executive appointment authority of the Governor, but more importantly it is not good and it is not proper public policy. The number of Maine elderly needing long term care is on the rise in this state and certainly it makes sense to me that representatives of such major facets of elderly care, and specifically I am talking about nursing homes and home health care facilities, be represented on a board that specifically deals with elderly care issues.

We have heard about the letter that was sent to the Governor from the Chairman, Margaret Russell, on the Committee on Aging and while some of it is in the veto message, I guess I would like to share that letter with you. It was dated June 21 to the Governor. "The Maine Committee on Aging request that you veto legislation which alters the current method of appointment of members to the Committee.

The Committee addressed the issue at the March meeting of the full Committee and voted eight to one against it. At the June meeting, the Committee voted six to one, with two abstentions specifically against

supporting L.D. 1515 as Amended. Our Committee operates on the basis of consensus and believes that actions and recommendations of the Committee reflect that consensus and that members are responsible, objective and dedicated individuals who seek to serve Maine's older population." Sincerely, Margaret Russell, Chair, Maine Committee on Aging.

Because the good Senator from Cumberland, Senator Clark, serves on that Committee, I am suggesting that perhaps that it be she that gets the message and I would urge you support in sustaining Governor McKernan's veto. 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. The Senator from Sagadahoc, Senator Cahill, has suggested that there is some friction between the current members of the Maine Committee on Aging and the staff which has served effectively and loyally for many years on a truly nonpartisan basis. I am aware of no conflict. I was not present at the March meeting, frequently I am absent more often than I am present for the meetings occur when one, I am teaching school in Freeport, or two, there is a Legislative session and priorities are such that Senators find themselves in this Chamber rather than away from the State House at various Committee meetings. It is important to note that there were abstentions and if it is good public policy and it is good government and it is not in conflict of interest that two current members of the board represent deliverers of health care for Maine's older citizens, then I wonder why, under previous administrations, there was an obvious void within the membership over the years of those same people, as attested in my earlier remarks.

I think it is appropriate that the message from that Committee be read into the Record for I had already alluded to it, saying that it was a fine letter and it did represent the actions and I endorsed those actions in the normal operations of that Committee. It is important that you note that when we were considering amending, through a separate measure, the appointment process to the Maine Committee on Aging it was not with a nine to six, as was ultimately accepted by the Joint Standing Committee on Aging, Retirement and Veterans. By the way, there were some obvious absences at that meeting, not the least among them the Senator from Sagadahoc, Senator Cahill. That recommendation was accepted by that Committee under the rules that we operated. That was a unanimous report. At that time, not all members of our Committee were present, as a matter of fact, four were absent and at this time, when these votes were taken with fifteen members on the Maine Committee on Aging, we can see that also six members were absent on one day and six members were absent on the other. The vote may have been different had those who espoused a new appointment process, been able to be present for it was, as I submitted earlier to you, the leadership of a current member of the Maine Committee on Aging that convinced, at the time, that membership present to vote in this manner and there was no one present to speak on the position that I espouse before you.

There is no malign intent to encroach upon gubernatorial appointment process and I do wish that the sensitivity or height defensiveness would not crop up as it so frequently does. There was a sincere attempt and it was sincere to contain the focus or the field of the gubernatorial appointments to narrow that focus, but refrain from dictating to our Chief Executive. It is in that light that the Amendment was accepted, it is in that light that a

stronger Amendment was equally accepted but ultimately removed to avoid contention. The section which has resulted in this gubernatorial veto reflects what was perceived to be an honest compromise to narrow the focus so that the majority of the Maine Committee on Aging continue to represent a broad cross section, a spectrum of people whose interests will truly be representative of all of Maine's older citizens. I have already acknowledged that the two health care providers have made significant contributions to the operations of that Committee, but I also submit for your consideration that there is an alleged blatant conflict of interest which reference to their participation in the policy and implementation of the ombudsman's program, eighty-four percent of the complaints that were submitted last year, having originated from the same kinds of institutions that they are associated with. That if I were voting on an issue in this Chamber and that was my role and my source of revenue and my career and professional status and an issue of that nature came before us in this Chamber, I know that I would rise and request leave of the Senate to refrain from voting on not only our Joint Rule, but more precisely the appearance of a conflict of interest. Frankly, that doesn't occur on that Committee to date.

That is precisely the origination of this amendment which has resulted in the gubernatorial veto. My button is on receive and there will be another day and we will try in another way, and in another measure which is perhaps more acceptable to His Excellency, our Governor, to address this issue. I extend to you my sincere appreciation for your attention and let's vote.

THE PRESIDENT: The pending question before the Senate is: "Shall this Bill become Law not withstanding the objections of the Governor?"

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote will be taken by the Yeas and Nays.

A vote of yes will be in favor of the Bill.

A vote of no will be in favor of sustaining the veto of the Governor.

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, HOBBSINS, KANY, MATTHEWS, PEARSON, THERIAULT, TITCOMB, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators BRAWN, CAHILL, CARPENTER, COLLINS, DILLENBACK, EMERSON, GILL, GOULD, HOLLOWAY, LUDWIG, PERKINS, RANDALL, TWITCHELL, WEBSTER, WEYMOUTH, WHITMORE

ABSENT: Senators None

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, with No Senators being absent, and 19 being less than two-thirds of the Membership present and voting, the Veto was SUSTAINED.

On motion by Senator KANY of Kennebec, the Senate RECONSIDERED whereby the veto was SUSTAINED.

THE PRESIDENT: The Chair recognizes the same Senator.

Senator KANY: Thank you Mr. President. Mr. President, men and women of the Senate. I had a question about the duties and responsibilities of the Maine Committee on Aging and I had written a note to someone I thought might have the answer. On responsibilities, I asked if all of their duties were

of an advisory nature and if so, then I would vote with the Governor. If there were other responsibilities that were of a decision-making nature, then I had planned to vote yes to override the Governor's veto.

I just received back a note after the vote saying that there are some decision-making responsibilities. So, therefore, I would like to go on Record as being in favor of overriding the Governor's veto.

THE PRESIDENT: The pending question before the Senate is: "Shall this Bill become Law not withstanding the objections of the Governor?"

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote will be taken by the Yeas and Nays.

A vote of yes will be in favor of the Bill.

A vote of no will be in favor of sustaining the veto of the Governor.

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, HOBBSINS, KANY, MATTHEWS, PEARSON, THERIAULT, TITCOMB, TWITCHELL, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators BRAWN, CAHILL, CARPENTER, COLLINS, DILLENBACK, EMERSON, GILL, GOULD, HOLLOWAY, LUDWIG, PERKINS, RANDALL, WEBSTER, WEYMOUTH, WHITMORE

ABSENT: Senators None

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, with No Senators being absent, and 19 being less than two-thirds of the Membership present and voting, the Veto was SUSTAINED.

The Secretary has so informed the Speaker of the House.

SENATE PAPERS

Resolve, to Modify the Kennebec County Budget (Emergency)

S.P. 662 L.D. 1775

Presented by Senator BUSTIN of Kennebec
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Committee on STATE AND LOCAL GOVERNMENT suggested and ORDERED PRINTED.

Which was, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee, and ORDERED PRINTED.

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

Bill "An Act Concerning the Salaries of the Washington County Treasurer and Deputy Treasurer" (Emergency)

S.P. 663 L.D. 1776

Presented by Senator RANDALL of Washington
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Committee on STATE AND LOCAL GOVERNMENT suggested and ORDERED PRINTED.

Which was, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee, and ORDERED PRINTED.

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

ENACTORS

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

An Act to Promote Reduction, Recycling and Integrated Management of Solid Waste and Sound Environmental Regulation

H.P. 1025 L.D. 1431
(H "D" H-661; H "E"
H-663; S "J" S-397 to C
"A" H-640)

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

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

COMMUNICATIONS

The Following Communication:

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333

June 28, 1989

To The Honorable Members of the 114th Legislature:

I am returning, without my signature or approval, S.P. 442, L.D. 1195, "An Act to Clarify the Definition of State Employee under the State Employee Labor Relations Act." This bill would have an extremely adverse effect on the management of State Government.

A brief historical perspective is appropriate to help understand my concerns about this legislation. The language proposed for deletion in Section 1 of the bill was enacted into law in 1981 at the recommendation of the Brennan Administration and was approved by the 110th Legislature without opposition. As the Statement of Fact accompanying that legislation noted, the proposal was made to "more closely reflect the criteria for exclusion from representation found in Federal law and in many State public sector labor relations laws." Those criteria were deemed reasonable and necessary then and remain so today.

Currently, only about 4.7% of the State's 14,000 employees are excluded from bargaining. If L.D. 1195 were to become law, that number could be reduced to 3.7%, with potentially 125 current non-union confidential employees being subjected to questionable status.

Section 1 of the bill would transform high level management representatives, who substantially participate in the formulation and effectuation of policy in a department or agency, into bargaining unit employees. The Statement of Fact for this bill asserts that excluding these other positions from collective bargaining serves no governmental purpose, increases patronage and substantially curtails career ladders within bargaining unit job series. I disagree. State government has the right to, and indeed must, expect its upper level management employees to identify with and represent management.

I also disagree with the allegation that the current law encourages "patronage." This assertion is totally and completely wrong. Classified employees who are confidential because they substantially participate in the formulation and effectuation of policy are hired pursuant to the Civil Service System and cannot be terminated from employment without just cause. The vast majority of employees who would be affected by this bill are career public servants. They do not change with administrations. They are senior managers who make

state government work in a responsible and responsive way to meet the needs of the public. The state needs these employees on its management team.

Under the current language in Title 26, the state and the Maine State Employees Association have in the past been successful working with the Maine Labor Relations Board in negotiating and resolving which positions should be excluded from collective bargaining. That process should be continued for other positions.

I have further concerns regarding the section of the bill which proposes that positions in new classifications could not be established or approved, and recruitment efforts could not begin, until the end of a lengthy Maine Labor Relations Board process, including any court appeals. This procedure would be inconsistent with the State's need and, in fact, statutory mandate to fill positions as expeditiously as possible.

Because of the reservations and objections outlined above, I am in firm opposition to L.D. 1195 and respectfully urge you to sustain my veto.

Sincerely,
S/John R. McKernan, Jr.
Governor

Which was READ and ORDERED PLACED ON FILE.

The Accompanying Bill:

Bill "An Act to Clarify the Definition of State Employee under the State Employee Labor Relations Act" S.P. 442 L.D. 1195 (C "A" S-269)

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

Senate at Ease

Senate called to order by the President.

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

COMMUNICATIONS

The Following Communication:

June 28, 1989

To The Honorable Members of the 114th Legislature:

I am returning, without my signature or approval, S.P. 467, L.D. 1252, "AN ACT to Establish the Mental Health Advisory Committee on Medicaid." I do not believe that this bill provides a useful or appropriate means of addressing problems in the system.

First, this bill would mandate a method of reimbursement and annual rate increases for mental health provider agencies. Consequently, it would preclude the State from negotiating rates or reimbursement methodology with those providers. Second, annual rate increases would be given to all psychiatrists and psychologists in the Medicaid system, regardless of the availability of funds. The bill would exempt this group of providers from participating in the annual fee review conducted by Medicaid. In this annual review, the fees for all providers are considered, and adjustments are made according to need and availability of funding.

This bill would also establish an advisory committee to the Bureau of Mental Health on Medicaid policies. There already exists a Medicaid Advisory Committee to the Bureau of Medical Services in the Department of Human Services, which advises the Bureau on all service areas. Further opportunity for input into Medicaid policy is afforded by that Bureau when it meets annually with providers. Thus, this proposed committee would be a duplication of existing efforts.

Finally, it is the Department of Human Services which is statutorily responsible for compliance with federal regulations in order for the State to be eligible for federal funding for the Medicaid program. It therefore does not serve a useful purpose to have a committee advising the Bureau of Mental Health in the Department of Mental Health and Mental Retardation on Medicaid policy.

For the foregoing reasons, I respectfully request that you sustain my veto of L.D. 1252.

Sincerely,
S/John R. McKernan, Jr.
Governor

Which was READ and ORDERED PLACED ON FILE.

The Accompanying Bill:

Bill "An Act to Establish the Mental Health Advisory Committee on Medicaid"

S.P. 467 L.D. 1252
(S "B" S-288 to C "A"
S-184)

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

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

PAPERS FROM THE HOUSE

Joint Resolution

The Following Joint Resolution: H.P. 1286

JOINT RESOLUTION MEMORIALIZING CONGRESS TO AMEND THE UNITED STATES CONSTITUTION TO MAKE DESECRATION OF THE AMERICAN FLAG A CRIME

WF. your Memorialists, the Members of the One Hundred and Fourteenth Legislature of the State of Maine, now assembled in the First Regular Session, most respectfully present and petition the United States Congress, as follows:

WHEREAS, the American flag is a symbol of national unity; and

WHEREAS, the American flag provides a beacon of hope and liberty for every nation in the world; and

WHEREAS, our Armed Forces have defended our country's freedoms under the banner of the Stars and Stripes from the Revolutionary War to the present day; and

WHEREAS, the American flag is a source of tremendous national pride; and

WHEREAS, the American flag is cherished as the embodiment of our country's history, traditions and ideals; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Fourteenth Legislature of the State of Maine, now assembled in the First Regular Session respectfully request the Congress of the United States to propose and pass an amendment to the United States Constitution making it a crime to desecrate the American flag; and be it further

RESOLVED: That a duly authenticated copy of this Memorial be submitted immediately by the Secretary of State to the Honorable George H.W. Bush, the President of the United States, to the President of the Senate and to the Speaker of the House of Representatives of the Congress of the United States, and to each Member of the Maine Congressional Delegation.

Comes from the House READ and ADOPTED.

Which was READ and ADOPTED, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Correct Certain Technical Errors in the Laws of Maine" (Emergency)

H.P. 1285 L.D. 1777

Committee on JUDICIARY suggested and ORDERED PRINTED.

Comes from the House, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee.

Which was, under suspension of the Rules, READ TWICE, without reference to a Committee, and ORDERED PRINTED.

On motion by Senator HOBBS of York, Tabled until Later in Today's Session, pending PASSAGE TO BE ENGROSSED, in concurrence.

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

ENACTORS

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

Emergency

An Act to Change the Method of Approving Equivalent Instruction in Home Schools

H.P. 949 L.D. 1317

(H "A" H-636 to C "A"
H-544)

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

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

ENACTORS

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

An Act to Require Liquor Seller Compliance and Education

S.P. 151 L.D. 271

(CC "A" H-685)

Senate at Ease

Senate called to order by the President.

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

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

ENACTORS

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

An Act to Clarify the Definition of Seasonal Workers under the Workers' Compensation Law

S.P. 550 L.D. 1521

(H "A" H-637 to C "A"
S-293)

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

Senate at Ease

Senate called to order by the President.

HELD BILL

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

Senator BOST: Thank you Mr. President. Is the Senate in possession of L.D. 405?

THE PRESIDENT: The Chair would answer in the affirmative, the Bill having been held at the Senators request.

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
(H "B" H-682 to H "A"
H-654)

(In Senate, June 21, 1989, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-654) AS AMENDED BY HOUSE AMENDMENT "B" (H-682) thereto, in concurrence.)

(In House, June 21, 1989, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-654) AS AMENDED BY HOUSE AMENDMENT "B" (H-682) thereto.)

Senator BOST of Penobscot, moved that the Senate SUSPEND THE RULES on:

Senator WEBSTER of Franklin requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion of Senator BOST of Penobscot, to SUSPEND THE RULES.

A Division has been requested.

Will all those Senators in favor of the motion of Senator BOST of Penobscot, to SUSPEND THE RULES, please rise in their places and remain standing until counted.

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

15 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion of Senator BOST of Penobscot, to SUSPEND THE RULES, FAILED.

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

On motion by Senator BOST of Penobscot, 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 DUTREMBLE of York the following Joint Order: S.P. 664

ORDERED, the House concurring, that in accordance with emergency authority granted under the Revised Statutes, Title 3, section 2, the First Regular Session of the 114th Legislature shall be extended for two legislative days, in accordance with the Provisions of said section.

Which was READ.

Pursuant to Title 3, section 2, this Joint Order requires the affirmative vote of two-thirds of the Members present and voting for Passage. 31 Senators having voted in the affirmative and No Senators having voted in the negative, and 31 being more than two-thirds of the members present and voting, the Joint Order was PASSED.

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

Senator ERWIN of Oxford was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator KANY of Kennebec, ADJOURNED until Friday, June 30, 1989, at 1:00 in the afternoon.

ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
91st Legislative Day
Friday, June 30, 1989

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

Prayer by Father John Shorty, St. Mary's Catholic Church, Augusta.

The Journal of Thursday, June 29, 1989, was read and approved.

PAPERS FROM THE SENATE

Bill "An Act Concerning the Salaries of the Washington County Treasurer and Deputy Treasurer" (EMERGENCY) (S.P. 663) (L.D. 1776)

Came from the Senate under suspension of the rules and without reference to a Committee, the Bill read twice and passed to be engrossed.

(The Committee on Reference of Bills had suggested reference to the Committee on State and Local Government.)

Under suspension of the rules and without reference to a Committee, the bill was read twice.

Representative Look of Jonesboro offered House Amendment "A" (H-688) and moved its adoption.

House Amendment "A" (H-688) was read by the Clerk and adopted.

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

Resolve, to Modify the Kennebec County Budget (EMERGENCY) (S.P. 662) (L.D. 1775)

Came from the Senate under suspension of the rules and without reference to a Committee, the Bill read twice and passed to be engrossed.

(The Committee on Reference of Bills had suggested reference to the Committee on State and Local Government.)

On motion of Representative Gwadosky of Fairfield, tabled pending reference and later today assigned.

COMMUNICATIONS

The following Communication:

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333

June 29, 1989

TO: The Honorable Members of the 114th Legislature:

I am returning without my signature or approval H.P. 1259, L.D. 1756, "AN ACT to Ensure a Cooling-off Period before the Hiring of Permanent Replacement Workers during a Labor Dispute."

On June 19 of this year, I requested an opinion from the Maine Supreme Judicial Court regarding my continuing concern that legislation limiting an employer's legal right to hire replacement workers would be preempted by federal law. Yesterday, the Court determined that this bill represents "precisely the kind of state action" that the National Labor Relations Act would preempt if this legislature enacted it into law. The Court stated that "we believe it clear that the Supreme Court would hold that L.D. 1756 is preempted by federal law and is therefore repugnant to the Supremacy Clause (art. VI) of the Constitution of the United States." Opinion of the Justices, Slip Op. at 1, (June 28, 1989).