

MAINE STATE LEGISLATURE

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

VOLUME I

FIRST REGULAR SESSION

House of Representatives
December 5, 1990 to May 16, 1991

ONE HUNDRED AND FIFTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
50th Legislative Day
Thursday, May 16, 1991

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

Prayer by Father John Marquis, Chaplain at Colby, Thomas and Unity Colleges.

The Journal of Monday, May 13, 1991, was read and approved.

At this point, the rules were suspended for the purpose of removing jackets for the remainder of today's session.

SENATE PAPERS

Unanimous Ought Not To Pass

Report of the Committee on **Legal Affairs** reporting "**Ought Not to Pass**" on Bill "An Act Regarding Refurbishing Apartments After Damage by Fire" (S.P. 602) (L.D. 1606)

Report of the Committee on **Taxation** reporting "**Ought Not to Pass**" on Bill "An Act to Provide a Sales Tax Exemption for Nonprofit Corporations Designed to Assist Handicapped Persons" (S.P. 239) (L.D. 630)

Report of the Committee on **Energy and Natural Resources** reporting "**Ought Not to Pass**" on Bill "An Act to Require Evaluation of Emissions and Health Risks from Incineration Facilities" (S.P. 603) (L.D. 1607)

Report of the Committee on **Energy and Natural Resources** reporting "**Ought Not to Pass**" on Bill "An Act Concerning Camping Reservations in Baxter State Park" (S.P. 604) (L.D. 1608)

Report of the Committee on **Labor** reporting "**Ought Not to Pass**" on Bill "An Act Concerning Actions for Damages Resulting from Violations of Unemployment and Workers' Compensation Laws by Bidders on Construction Contracts" (S.P. 597) (L.D. 1582)

Report of the Committee on **Marine Resources** reporting "**Ought Not to Pass**" on Bill "An Act to Amend the Law Regarding the Portland Board of Harbor Commissioners" (S.P. 652) (L.D. 1719)

Report of the Committee on **Transportation** reporting "**Ought Not to Pass**" on Bill "An Act to Establish a Scenic Roadway Designation in the State" (S.P. 556) (L.D. 1460)

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

Non-Concurrent Matter

Bill "An Act to Compensate Landowners for Land Value Lost because of Wildlife Restrictions" (H.P. 1039) (L.D. 1512) which was referred to the Committee on **Energy and Natural Resources** in the House on May 9, 1991.

- In House, Recalled from the Legislative Files pursuant to Joint Order H.P. 1236 on May 6, 1991.

- In Senate, Recalled from the Legislative Files pursuant to Joint Order H.P. 1236 on May 7, 1991.

Came from the Senate ruled improperly before the Body in non-concurrence.

On motion of Representative Jacques of Waterville, the House voted to recede and concur.

COMMUNICATIONS

The following Communication: (S.P. 692)

115TH MAINE LEGISLATURE

May 9, 1991

Senator Georgette B. Berube
Representative Ruth Joseph
Chairpersons
Joint Standing Committee on State & Local Government
115th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Howard Goldenfarb of Portland and Colin C. Hampton of Cape Elizabeth for reappointment to the Maine Court Facilities Authority.

Pursuant to Title 4, MRSa Section 1602, these nominations will require review by the Joint Standing Committee on State & Local Government and confirmation by the Senate.

Sincerely,

S/Charles P. Pray
President of the Senate

S/John L. Martin
Speaker of the House

Came from the Senate, Read and Referred to the Committee on **State and Local Government**.

Was Read and Referred to the Committee on **State and Local Government** in concurrence.

**PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE**

The following Bills, Resolves and Resolution were received and, upon the recommendation of the

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

Aging, Retirement and Veterans

Bill "An Act to Amend the Laws Governing Maine Veterans Small Business Loans to Include Veterans who Served in the Persian Gulf" (H.P. 1289) (L.D. 1864) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsored by President PRAY of Penobscot, Representative JALBERT of Lisbon and Representative KERR of Old Orchard Beach) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act Relating to Staff of the Maine State Retirement System" (H.P. 1279) (L.D. 1849) (Presented by Representative JALBERT of Lisbon) (Cosponsored by Representative MAYO of Thomaston) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.
Sent up for Concurrence.

Appropriations and Financial Affairs

Bill "An Act Making Additional Allocations for the Expenditure of Funds Received by the State as a Result of the Federal Court Order in the Stripper Well Oil Overcharge Case and the Exxon Oil Overcharge Case" (EMERGENCY) (H.P. 1295) (L.D. 1872) (Presented by Representative AULT of Wayne) (Cosponsored by Senator GILL of Cumberland)

Ordered Printed.
Sent up for Concurrence.

Banking and Insurance

Bill "An Act to Amend the Banking Laws to Allow Nonprofit Groups to Develop Affordable Housing" (H.P. 1294) (L.D. 1871) (Presented by Representative MITCHELL of Freeport) (Cosponsored by Senator CLARK of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.
Sent up for Concurrence.

Business Legislation

Bill "An Act to Create the Board of Barbering and Cosmetology" (EMERGENCY) (H.P. 1288) (L.D. 1858) (Presented by Representative KUTASI of Bridgton) (Cosponsored by Senator CARPENTER of York and Representative PARADIS of Frenchville) (Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.)

Bill "An Act to Prevent Certain Restraint of Trade Practices" (H.P. 1291) (L.D. 1866) (Presented

by Representative STEVENS of Bangor) (Cosponsored by Representative HOGLUND of Portland, Representative CONSTANTINE of Bar Harbor and Senator CONLEY of Cumberland)

Ordered Printed.
Sent up for Concurrence.

Education

Bill "An Act Regarding the Parents as Teachers Program" (H.P. 1286) (L.D. 1856) (Presented by Representative AULT of Wayne) (Cosponsored by Senator CAHILL of Sagadahoc)

Bill "An Act to Forgive Indebtedness of a Certain School Administrative Unit" (H.P. 1290) (L.D. 1865) (Presented by Representative ROTONDI of Athens) (Cosponsored by Senator WEBSTER of Franklin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act to Provide for Direct Reimbursement of Special Education Costs" (H.P. 1292) (L.D. 1867) (Presented by Representative COLES of Harpswell) (Cosponsored by Representative KILKELLY of Wiscasset, Representative HANDY of Lewiston and Senator ESTES of York)

Ordered Printed.
Sent up for Concurrence.

Utilities

Bill "An Act to Require Campuses of the University of Maine System to Obtain the Approval of Local Planning Boards, Sanitary and Sewer Districts and the Public Utilities Commission before Undertaking New Projects" (EMERGENCY) (H.P. 1283) (L.D. 1853) (Presented by Representative O'DEA of Orono)

(The Committee on Reference of Bills had suggested reference to the Committee on Energy and Natural Resources.)

On motion of Representative Jacques of Waterville, was referred to the Committee on Utilities, ordered printed, and sent up for concurrence.

Energy and Natural Resources

Bill "An Act to Correct Errors and Clarify Provisions in the Solid Waste Laws" (EMERGENCY) (H.P. 1296) (L.D. 1873) (Presented by Representative LORD of Waterboro) (Cosponsored by Representative SPEAR of Nobleboro and Representative JACQUES of Waterville)

Ordered Printed.
Sent up for Concurrence.

TABLED UNASSIGNED

Resolve, to Establish an Alternative Waste Reduction and Energy-producing Demonstration Project (H.P. 1293) (L.D. 1868) (Presented by Representative MELENDY of Rockland) (Cosponsored by President PRAY of Penobscot, Representative GOULD of Greenville and Representative LORD of Waterboro)

(The Committee on Reference of Bills had suggested reference to the Committee on Energy and Natural Resources.)

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

Representative JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: I would request that my leader in the corner table this Unassigned.

On motion of Representative Gwadosky of Fairfield, tabled Unassigned pending reference.

Judiciary

Bill "An Act to Extend the Commission to Study the Future of Maine's Courts" (H.P. 1280) (L.D. 1850) (Presented by Speaker MARTIN of Eagle Lake) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act Concerning Authorization to Consent to Powers of Attorney" (H.P. 1287) (L.D. 1857) (Presented by Representative MARSANO of Belfast) (Cosponsored by Senator GAUVREAU of Androscoggin, Representative PFEIFFER of Brunswick and Representative OTT of York)

Ordered Printed.
Sent up for Concurrence.

Labor

Bill "An Act to Prevent Unsafe Operation of Trains" (H.P. 1278) (L.D. 1848) (Presented by Representative FARNSWORTH of Hallowell) (Cosponsored by Representative MELENDY of Rockland) (Approved by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.
Sent up for Concurrence.

State and Local Government

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide Greater Legislative Oversight over Agency Rulemaking (H.P. 1284) (L.D. 1854) (Presented by Representative GRAY of Sedgwick) (Cosponsored by Representative GWADOSKY of Fairfield, Senator CLARK of Cumberland and Representative LORD of Waterboro) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Resolve, to Authorize Oxford County to Issue Bonds for Improvements at the County Airport (EMERGENCY) (H.P. 1285) (L.D. 1855) (Presented by Representative BENNETT of Norway) (Cosponsored by Senator TWITCHELL of Oxford, Representative ERWIN of Rumford and Representative HANLEY of Paris) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.
Sent up for Concurrence.

Taxation

Bill "An Act to Expand the User Fee at the Municipality Level" (H.P. 1281) (L.D. 1851) (Presented by Representative PLOURDE of Biddeford) (Cosponsored by Representative DiPIETRO of South Portland, Representative HASTINGS of Fryeburg and Representative BOUTILIER of Lewiston)

Ordered Printed.
Sent up for Concurrence.

Utilities

Bill "An Act to Encourage the Development of Alternative Energy Sources" (H.P. 1282) (L.D. 1852) (Presented by Representative WHITCOMB of Waldo) (Cosponsored by Representative ANDERSON of Woodland)

Ordered Printed.
Sent up for Concurrence.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative CHONKO from the Committee on Appropriations and Financial Affairs on Bill "An Act to Increase the Balance in the Maine Rainy Day Fund" (EMERGENCY) (H.P. 510) (L.D. 704) reporting "Ought Not to Pass"

Representative CHONKO from the Committee on Appropriations and Financial Affairs on Bill "An Act Relating to Funds Appropriated for Capital Projects" (H.P. 700) (L.D. 1004) reporting "Ought Not to Pass"

Representative CHONKO from the Committee on Appropriations and Financial Affairs on Bill "An Act to Amend the Maine Rainy Day Fund" (H.P. 1189) (L.D. 1742) reporting "Ought Not to Pass"

Representative FARREN from the Committee on Fisheries and Wildlife on Bill "An Act to Amend the Laws Concerning Hunting on Private Property" (H.P. 1141) (L.D. 1666) reporting "Ought Not to Pass"

Representative GREENLAW from the Committee on Fisheries and Wildlife on Bill "An Act to Provide Antlerless Deer Permits to Persons Who Are Disabled Who Hold Valid Hunting Licenses" (H.P. 1114) (L.D. 1666) reporting "Ought Not to Pass"

1639) reporting **"Ought Not to Pass"**

Representative PINEAU from the Committee on **Banking and Insurance** on Bill "An Act to Exclude Certain Procedures from the Managed Care Program" (H.P. 1127) (L.D. 1652) reporting **"Ought Not to Pass"**

Representative PINEAU from the Committee on **Banking and Insurance** on Bill "An Act Relating to Insurance Trade Practices" (H.P. 1160) (L.D. 1701) reporting **"Ought Not to Pass"**

Representative PINEAU from the Committee on **Banking and Insurance** on Bill "An Act Concerning Insurance Reimbursement for First Assistants in Surgery" (H.P. 1143) (L.D. 1668) reporting **"Ought Not to Pass"**

Representative MITCHELL from the Committee on **Banking and Insurance** on Bill "An Act to Repeal the Exemptions for Consumer and Antitrust Laws as They Apply to the Banking Industry" (H.P. 1108) (L.D. 1633) reporting **"Ought Not to Pass"**

Representative OLIVER from the Committee on **Education** on Resolve, to Create the Task Force on Life-long Learning and Educational Choice (H.P. 1069) (L.D. 1558) reporting **"Ought Not to Pass"**

Representative SMALL from the Committee on **Transportation** on Bill "An Act to Amend the Laws That Govern Stopping for Certain Approaching Animals" (H.P. 796) (L.D. 1142) reporting **"Ought Not to Pass"**

Representative HUSSEY from the Committee on **Transportation** on Bill "An Act Concerning Traffic Control for Road Construction Projects" (H.P. 48) (L.D. 68) reporting **"Ought Not to Pass"**

Representative HALE from the Committee on **Transportation** on Bill "An Act to Clarify Vehicle Registration Laws" (H.P. 861) (L.D. 1241) reporting **"Ought Not to Pass"**

Representative MACOMBER from the Committee on **Transportation** on Bill "An Act to Deauthorize the Widening of the Maine Turnpike and to Create a Sensible Transportation Policy" (I.B. 1) (L.D. 719) reporting **"Ought Not to Pass"**

Representative SHELTRA from the Committee on **Business Legislation** on Bill "An Act to Establish Licensure of Manufactured Housing Installers" (EMERGENCY) (H.P. 1130) (L.D. 1655) reporting **"Ought Not to Pass"**

Representative SIMONDS from the Committee on **Human Resources** on Bill "An Act to Establish the Maine Human Development Foundation" (EMERGENCY) (H.P. 1266) (L.D. 1835) reporting **"Ought Not to Pass"**

Representative LAWRENCE from the Committee on **Legal Affairs** on Bill "An Act to Limit the Cost and the Length of Campaigns" (EMERGENCY) (H.P. 1103) (L.D. 1602) reporting **"Ought Not to Pass"**

Representative JOSEPH from the Committee on **State and Local Government** on Bill "An Act to Institutionalize Strategic Planning in State

Government" (H.P. 1071) (L.D. 1560) reporting **"Ought Not to Pass"**

Representative JOSEPH from the Committee on **State and Local Government** on Bill "An Act to Provide for a Decennial Commission on Maine's Future" (H.P. 1068) (L.D. 1557) reporting **"Ought Not to Pass"**

Representative JOSEPH from the Committee on **State and Local Government** on Resolve, to Create the Commission to Evaluate the Need for Changes in the Responsibilities of State, County and Local Government for the 21st Century (H.P. 1070) (L.D. 1559) reporting **"Ought Not to Pass"**

Representative JOSEPH from the Committee on **State and Local Government** on Bill "An Act to Amend the Laws Relating to Rulemaking" (H.P. 505) (L.D. 699) reporting **"Ought Not to Pass"**

Representative JOSEPH from the Committee on **State and Local Government** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require That Local Units of Government Be Reimbursed for the Costs Incurred in Executing State-mandated Programs (H.P. 188) (L.D. 281) reporting **"Ought Not to Pass"**

Representative JOSEPH from the Committee on **State and Local Government** on Bill "An Act to Improve the Efficiency of County Government" (H.P. 918) (L.D. 1315) reporting **"Ought Not to Pass"**

Representative JOSEPH from the Committee on **State and Local Government** on Bill "An Act to Assist Water Utilities in the Provision of Safe Drinking Water" (H.P. 692) (L.D. 991) reporting **"Ought Not to Pass"**

Representative CHONKO from the Committee on **Appropriations and Financial Affairs** on Bill "An Act to Implement Certain Recommendations of the State Compensation Commission" (EMERGENCY) (H.P. 1137) (L.D. 1662) reporting **"Ought Not to Pass"**

Representative CLARK from the Committee on **Human Resources** on Bill "An Act to Ensure Payment of Reasonable Costs of Operating Community-based Facilities for the Mentally Retarded" (EMERGENCY) (H.P. 1240) (L.D. 1806) reporting **"Ought Not to Pass"**

Representative LAWRENCE from the Committee on **Legal Affairs** on Bill "An Act to Require Bottle Clubs and Licensees for the Sale of Liquor to Post a Notice Informing the Public of the Presence of a Person Employed to Preserve the Peace" (H.P. 1085) (L.D. 1585) reporting **"Ought Not to Pass"**

Representative LAWRENCE from the Committee on **Legal Affairs** on Bill "An Act Regarding Proceeds of Games of Chance" (H.P. 1076) (L.D. 1570) reporting **"Ought Not to Pass"**

Representative SIMONDS from the Committee on **Human Resources** on Bill "An Act to Provide Tuition Assistance for Persons Seeking a Master's Degree in Social Work" (H.P. 1044) (L.D. 1517) reporting **"Ought Not to Pass"**

Representative HANDY from the Committee on **Aging, Retirement and Veterans** on Bill "An Act to Require 10 Years of State Service for Retirees to be Eligible for Paid Health Insurance" (H.P. 308) (L.D. 438) reporting **"Ought Not to Pass"**

Representative PFEIFFER from the Committee on **Education** on Bill "An Act to Provide a Percent for Art Program Waiver" (H.P. 1128) (L.D. 1653) reporting **"Ought Not to Pass"**

Representative CAHILL from the Committee on **Education** on Bill "An Act to Protect the Rights of Parents and Guardians" (H.P. 1173) (L.D. 1714) reporting **"Ought Not to Pass"**

Representative BARTH from the Committee on **Education** on Resolve, to Establish Minimum Graduation Requirements for High School Students (H.P. 1153) (L.D. 1694) reporting **"Ought Not to Pass"**

Representative LORD from the Committee on **Energy and Natural Resources** on Bill "An Act to Authorize the Adoption of Permit-by-rule Procedures for Certain Activities in Class 3 Wetlands" (EMERGENCY) (H.P. 1096) (L.D. 1595) reporting **"Ought Not to Pass"**

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

Unanimous Leave to Withdraw

Representative MELENDY from the Committee on **Housing and Economic Development** on Bill "An Act to Provide Equitable Funding Mechanisms for Regional Planning Commissions" (H.P. 1200) (L.D. 1756) reporting **"Leave to Withdraw"**

Representative SHELTRA from the Committee on **Business Legislation** on Bill "An Act to Prohibit Unfair Sale Practices by Rent-to-own Businesses" (H.P. 1176) (L.D. 1717) reporting **"Leave to Withdraw"**

Representative MELENDY from the Committee on **Housing and Economic Development** on Bill "An Act to Appropriate Funds to the Maine Council on Economic Education" (H.P. 1214) (L.D. 1772) reporting **"Leave to Withdraw"**

Representative MARSH from the Committee on **Energy and Natural Resources** on Resolve, Providing for a Study to Determine Whether In-state Training Should Be Offered to Persons Involved in the Handling and Disposition of Hazardous Wastes (EMERGENCY) (H.P. 1195) (L.D. 1748) reporting **"Leave to Withdraw"**

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

Divided Report

Majority Report of the Committee on **Marine**

Resources reporting **"Ought Not to Pass"** on Bill "An Act to Amend the Shellfish Laws" (H.P. 815) (L.D. 1169)

Signed:

Senators: VOSE of Washington
ESTES of York
GOULD of Waldo

Representatives: MITCHELL of Freeport
HOLT of Bath
CONSTANTINE of Bar Harbor
SKOGLUND of St. George
TOWNSEND of Eastport
SWAZEY of Bucksport
LOOK of Jonesboro
HEINO of Boothbay

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-300) on same Bill.

Signed:

Representatives: COLES of Harpswell
FARREN of Cherryfield

Reports were read.

Representative Mitchell of Freeport moved that the House accept the Majority "Ought Not to Pass" Report.

On further motion of the same Representative, tabled pending his motion that the House accept the Majority "Ought Not to Pass" Report and specially assigned for Monday, May 20, 1991.

CONSENT CALENDAR

First Day

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

(S.P. 357) (L.D. 959) Bill "An Act to Exempt Certain Persons from the Counselors Licensure Laws" Committee on **Business Legislation** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-140)

(H.P. 936) (L.D. 1356) Bill "An Act to Clarify Certain Commercial Vehicle Size and Weight Provisions" Committee on **Transportation** reporting **"Ought to Pass"**

(H.P. 765) (L.D. 1099) Bill "An Act to Create a Semipermanent Semitrailer Registration" (EMERGENCY) Committee on **Transportation** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-306)

(H.P. 457) (L.D. 648) Bill "An Act to Amend the Motor Vehicle Title Laws" Committee on **Transportation** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-307)

(H.P. 1232) (L.D. 1796) Bill "An Act to Modify

the Maine Land Use Regulation Commission Requirements Relating to Deer Wintering Areas" Committee on Fisheries and Wildlife reporting "Ought to Pass"

(H.P. 919) (L.D. 1316) Bill "An Act to Clarify Board Membership Qualifications and Make Necessary Fee Adjustments to Meet Board and Departmental Operating Expenses for the State Board of Licensure for Professional Foresters" (EMERGENCY) Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-312)

(H.P. 912) (L.D. 1309) Bill "An Act to Provide for Changes to the Membership of the Electricians' Examining Board" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-313)

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, May 20, 1991, under the listing of Second Day.

(H.P. 703) (L.D. 1007) Bill "An Act to Address Budgetary Concerns of the Maine Athletic Commission and to Deregulate Certain Aspects of the Sport of Wrestling" (EMERGENCY) Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-314)

On motion of Representative Sheltra of Biddeford, was removed from the Consent Calendar, First Day.

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

Committee Amendment "A" (H-314) was read and adopted and the Bill assigned for second reading Monday, May 20, 1991.

(H.P. 810) (L.D. 1164) Bill "An Act to Clarify the Appointment of Civil Emergency Preparedness Directors" Committee on State and Local Government reporting "Ought to Pass"

(H.P. 761) (L.D. 1095) Bill "An Act to Make Allocations for the Administrative Expenses of the Department of Finance, Bureau of Lottery, for the Fiscal Years Ending June 30, 1992 and June 30, 1993" (EMERGENCY) Committee on Appropriations and Financial Affairs reporting "Ought to Pass"

(H.P. 738) (L.D. 1042) Bill "An Act to Make Allocations for the Administrative Expenses of the Department of Finance, Bureau of Alcoholic Beverages for the Fiscal Years Ending June 30, 1992 and June 30, 1993" (EMERGENCY) Committee on Appropriations and Financial Affairs reporting "Ought to Pass"

(H.P. 1242) (L.D. 1808) Bill "An Act to Revise the Membership of the Committee to Advise the Department of Human Services on AIDS" (EMERGENCY) Committee on Human Resources reporting "Ought to Pass"

(H.P. 735) (L.D. 1039) Bill "An Act to Resolve Municipal Secret Ballot Elections that Result in a Tie Vote" Committee on State and Local Government

reporting "Ought to Pass"

(H.P. 867) (L.D. 1247) Bill "An Act to Amend Certain Provisions of the Insurance Code Involving the Powers of the Superintendent" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-315)

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, May 20, 1991, under the listing of Second Day.

(H.P. 546) (L.D. 783) Bill "An Act to Amend the Law Concerning the Maine High-Risk Insurance Organization" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "B" (H-316)

On motion of Representative Mitchell of Vassalboro, was removed from the Consent Calendar, First Day.

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

Committee Amendment "B" (H-316) was read and adopted and the Bill assigned for second reading Monday, May 20, 1991.

(H.P. 639) (L.D. 913) Bill "An Act to Clarify the Funding of Child Care Services and Parenting Education" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-317)

(H.P. 656) (L.D. 935) Bill "An Act Requiring School Districts to Make Instruction in Braille Reading and Writing Available to Blind Students" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-318)

(H.P. 1028) (L.D. 1501) Bill "An Act to Amend the Charter of the Presque Isle Sewer District" Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-320)

(H.P. 1013) (L.D. 1481) Bill "An Act to Facilitate the Delivery of Family Support Services" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-321)

(H.P. 882) (L.D. 1273) Bill "An Act to Require the Holding of Hearings under the Maine Administrative Procedure Act" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-322)

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, May 20, 1991, under the listing of Second Day.

(H.P. 1271) (L.D. 1842) Bill "An Act to Extend Confidentiality Status to Certain Records of Applicants for Housing, Community or Economic Development Activities" Committee on Housing and

Economic Development reporting "Ought to Pass"

On motion of Representative Melendy of Rockland, was removed from the Consent Calendar, First Day.

Subsequently, the Committee Report was read and accepted, the Bill read once and assigned for second reading Monday, May 20, 1991.

(H.P. 655) (L.D. 934) Bill "An Act to Regulate the Use of Video Display Terminals" Committee on **Labor** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-323)

(H.P. 1248) (L.D. 1815) Bill "An Act to Authorize Employees of a Participating Local District to Participate in a Qualified Alternative Pension Plan" Committee on **Aging, Retirement and Veterans** reporting "**Ought to Pass**"

(H.P. 1027) (L.D. 1500) Bill "An Act to Amend Certain Laws Governing Hazardous Waste, Septage and Solid Waste Management to Include a Land Acquisition and Eminent Domain Provision for the Remediation of Hazardous Substances and to Provide for the Reimbursement of Expenditures Made for the Acquisition of Property" Committee on **Energy and Natural Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-327)

(H.P. 914) (L.D. 1311) Resolve, Authorizing the Sale of Certain Public Lands Committee on **Energy and Natural Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-328)

(H.P. 244) (L.D. 335) Bill "An Act to Amend the Subdivision Laws within the Jurisdiction of the Maine Land Use Regulation Commission" Committee on **Energy and Natural Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-329)

(H.P. 441) (L.D. 624) Bill "An Act to Establish a Harbor Management Fund and Deal with Abandoned Watercraft" Committee on **Energy and Natural Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-330)

(H.P. 161) (L.D. 246) Bill "An Act Assuring Clean Waters in Maine" Committee on **Energy and Natural Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-331)

(H.P. 1080) (L.D. 1574) Bill "An Act to Revise the Charter of the South Berwick Water District" (EMERGENCY) Committee on **Utilities** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-332)

(H.P. 1020) (L.D. 1493) Bill "An Act to Regulate Fines for Prohibited Acts Concerning the Use of Public Ways and Parking Areas Maintained by the State" Committee on **Human Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-333)

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, May 20, 1991, under the listing of Second Day.

CONSENT CALENDAR

Second Day

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

(S.P. 487) (L.D. 1325) Bill "An Act to Extend the Period of Time to Allow Certain School Secretaries to Elect Not to Be Members of the Maine State Retirement System" (EMERGENCY)

No objections having been noted at the end of the Second Legislative Day, the Senate Paper was Passed to be Engrossed in concurrence.

(S.P. 594) (L.D. 1579) Bill "An Act to Limit Major Third-party Payor Status to Governmental Payors"

On motion of Representative Manning of Portland, was removed from the Consent Calendar, Second Day.

Subsequently, the Committee Report was read and accepted, the Bill read once and assigned for second reading Monday, May 20, 1991.

(S.P. 197) (L.D. 506) Bill "An Act Amending the Primary Election Law Requiring a Minimum Number of Votes" (C. "A" S-136)

(S.P. 223) (L.D. 550) Bill "An Act to Clarify the Legislature's Intent Regarding Quitclaim Deeds" (C. "A" S-133)

(S.P. 334) (L.D. 909) Bill "An Act to Provide Public Access One Weekend a Month to the Veterans' Memorial Cemetery" (C. "A" S-138)

(S.P. 358) (L.D. 960) Bill "An Act to Amend the Maine Court Facilities Authority" (C. "A" S-134)

(S.P. 364) (L.D. 966) Bill "An Act to Provide Funding to Offset Rising Costs and Decreasing Federal Revenues for Public Transportation in the State" (C. "A" S-139)

(S.P. 476) (L.D. 1268) Bill "An Act to Clarify Requirements for Disclosure of Confidential Client Information Held by Mental Health Service Providers" (C. "A" S-135)

(H.P. 837) (L.D. 1203) Bill "An Act to Implement the Recommendations of the Maine Commission on Legal Needs" (C. "A" H-287)

(H.P. 854) (L.D. 1220) Bill "An Act to Broaden the Crimes of Criminal Mischief and Aggravated Criminal Mischief" (C. "A" H-288)

(H.P. 910) (L.D. 1307) Bill "An Act Concerning Visitation Rights of Grandparents of Minor Children in the Event of the Death of a Parent" (C. "A" H-289)

(H.P. 432) (L.D. 615) Bill "An Act to Clarify Provisions Relating to Pharmacies" (C. "A" H-290)

(H.P. 661) (L.D. 940) Bill "An Act to Increase the Availability of Sign Language Training" (C. "A" H-291)

(H.P. 690) (L.D. 989) Bill "An Act Concerning the Lease or Lease-purchase of School Bus Garage and Maintenance Facilities and School Administrative Office Space" (C. "A" H-292)

(H.P. 487) (L.D. 681) Bill "An Act to Improve the Disbursement of Funds for Municipal Roads"

(H.P. 548) (L.D. 785) Bill "An Act to Clarify the Laws Relating to the Election or Appointment of Assessors" (C. "A" H-297)

(H.P. 565) (L.D. 808) Bill "An Act to Provide Information to Persons Voting on Municipally Bonded Indebtedness Proposals" (C. "A" H-298)

(H.P. 538) (L.D. 775) Bill "An Act to Improve the Disbursement of Wages to Municipal Employees" (C. "A" H-299)

(H.P. 307) (L.D. 437) Bill "An Act to Reclassify Spenser Stream" (C. "A" H-301)

(H.P. 1036) (L.D. 1509) Bill "An Act to Include Land Surveyors in the Lien Laws"

(H.P. 737) (L.D. 1041) Bill "An Act to Amend the Laws Governing the Office of Information Services and the Information Services Policy Board" (C. "A" H-302)

(H.P. 890) (L.D. 1287) Bill "An Act Regarding Training Costs of Police Officers" (C. "A" H-303)

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

(H.P. 733) (L.D. 1037) Bill "An Act to Amend the State Government Ethics Laws" (C. "A" H-304)

On motion of Representative Whitcomb of Waldo, was removed from the Consent Calendar, Second Day.

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

Committee Amendment "A" (H-304) was read and adopted and the Bill assigned for second reading Monday, May 20, 1991.

(H.P. 813) (L.D. 1167) Bill "An Act to Ensure that County Sheriffs Continue to Provide Rural Patrols for Small Towns in the Counties" (C. "A" H-305)

On motion of Representative Gwadosky of Fairfield, was removed from the Consent Calendar,

Second Day.

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

Committee Amendment "A" (H-305) was read and adopted and the Bill assigned for second reading Monday, May 20, 1991.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Improve the Level of Services Provided by the Bureau of Public Improvements on Capital Improvement Projects" (H.P. 728) (L.D. 1032)

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

Representative Joseph of Waterville offered House Amendment "A" (H-310) and moved its adoption.

House Amendment "A" (H-310) was read and adopted. The Bill was passed to be engrossed as amended by House Amendment "A" (H-310) and sent up for concurrence.

SECOND READER

As Amended

Resolve, Authorizing a Payment to Steven P. Smith and Ramona Smith of \$47,908.06 (S.P. 350) (L.D. 952) (C. "A" S-137)

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

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Lawrence.

Representative LAWRENCE: Mr. Speaker, Men and Women of the House: I moved that the bill and all accompanying papers be indefinitely postponed.

This state is in an unprecedented financial crisis right now. Five years ago, Mr. and Mrs. Smith were advised by C.N. Brown (mistakenly) that they had to pay taxes to two states. They paid taxes to two states for five years before C.N. Brown informed them that C.N. Brown had made a mistake. Now they have applied to the state and gotten the legal 3-year refund. Now they want the state to bail out C.N. Brown for the other two years.

C.N. Brown owes Mr. and Mrs. Smith \$47,000, the State of Maine does not owe Mr. and Mrs. Smith \$47,000. I urge you to kill this bill before we do a financial disservice to this state and set a dangerous precedent by bailing out a company that gave bad advice and should be the one paying Mr. and Mrs. Smith for their mistake.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: This is not a question of someone giving anybody bad advice. This is a question of somebody being misinformed of what should be done. It has been my experience that the state bureaucrats, especially the Bureau of Taxation, — it

is a one-way street, if you make a mistake and overlook something, they will take advantage of it.

As I said a few days ago, this is a question of someone overpaying the State of Maine. I don't care how long it takes. They talk about the Statute of Limitations — as a little boy, I was brought up by my father that if you owe somebody some money and seven years afterwards you find out that you still owe him the money — my Dad always said, "You owe that money, you pay it." The question here is the fact they overpaid the State of Maine for so many years in gasoline tax. When they found out they had overpaid it, the State of Maine said they knew they had overpaid but because of the statutes the state wouldn't have to pay more than three years back. That is not the way I was brought up.

If you have ever dealt with the federal or state government, it is your prerogative, your duty, to prove to them that you don't have to pay it. If they turn around and say they can go back five years, it is still your duty to prove that they can't go back five years. In this particular case, because of a bookkeeping error, this company paid taxes to the State of Maine and it later came out that they should have paid the same taxes to the State of New Hampshire. New Hampshire says they owe them money. The State of Maine admitted that they should not have paid to the State of Maine. They said they could pay them back for three years but not beyond that because of the Statute of Limitations. I don't care about the Statute of Limitations — what is fair is fair. If I owe somebody some money, why get technical about it? If I owe somebody a thousand dollars and they found out that \$500 of this amount I would have been responsible for seven years ago and the Statute of Limitations ran out, you shouldn't pay it.

What gets me mad is when the bill came before the Legal Affairs Committee, I insisted that an amount come out of the Bureau of Taxation, they are the ones that made the mistake, but through something — I noticed that there was an amendment put in — it should come out of the Excise Tax with the Department of Transportation. I was stunned when I found out that members of the Transportation Committee were lobbied and said that this was going to come out of the Construction Funds. The Bureau of Taxation made the mistake — the way I look at it, let's correct it.

These people paid millions of dollars in taxes, I don't care if it was an error on the part of the bookkeeper on either side, but in the committee hearing, people from the Bureau of Taxation were adamant in saying, "This is it, black and white." They said they couldn't go back five years. If you have ever dealt with Internal Revenue and the Bureau of Taxation, it is up to you to prove that you were not beyond the three year period. I say again that it is only fair, these people overpaid the State of Maine — if they had not paid anyone else, fine, but they paid the State of New Hampshire for the same amount that they were being taxed in Maine. If they had not paid anyone else, fine, but they paid the State of New Hampshire for the same amount that they were being taxed in Maine. So if you paid in New Hampshire, I don't think you should pay again in the State of Maine.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Anthony.

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: I do apologize speaking on a

bill that did not come through my committee but I have heard the comment that "I don't care about the Statute of Limitations", — well, I do. We have Statute of Limitations for a reason, to put an end to disputes. It seems to me if we are to start undercutting that general philosophical policy here in this body, we will be swamped with efforts to undercut the Statute of Limitations.

Many people have the notion that every wrong should have a remedy and it simply isn't so. We have to put an end to things at some point. I don't know Stephen and Ramona Smith, I don't know the details of what we are on and I don't know who has been lobbying who about what and frankly I don't care, but I do believe in the notion of the Statute of Limitations. If you want to propose extending that Statute of Limitations from three years to five years, put in a bill to do that, but it seems to me to take a piecemeal approach, one person gets relief, another doesn't, it doesn't make any sense.

I would join in the motion to kill this bill and all its accompanying papers.

The SPEAKER: The Chair recognizes the Representative from Sabattus, Representative Stevens.

Representative STEVENS: Mr. Speaker, Men and Women of the House: This is an error that was discovered by the industry themselves and they are just trying to straighten it out and keep some honest bills paid to the people who earned the money and not to a state that didn't. I would request a roll call.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Cashman.

Representative CASHMAN: Mr. Speaker, Ladies and Gentlemen of the House: My understanding of Maine tax law I guess differs a little bit with one of the previous speakers. I don't believe that the state can go back further than three years on a sales tax audit or an income tax audit unless they can prove substantial fraud. If that is not the case, then the state is limited by the same three year limitation as are taxpayers.

There is another thing that bothers me about the proposal in front of us. I have a small business in Old Town that recently found that they have been charged for seven years for a sales tax on a commodity that they sell that they weren't really required to pay under Maine tax law. They came to me with the question as to whether they should have been charged under the provisions of Maine tax law on the rates that they had been charged on the product and, in checking with the Bureau, I found that they had been misinformed, not by C.N. Brown, but by the Bureau of Taxation themselves. Seven years ago when this gentleman set up his business, he was in fact misinformed and he has been paying this tax for seven years. The Bureau has been working with this gentleman and they are refunding him three years worth of payments only. It would seem to me as I listened to the debate on this that the gentleman from Old Town is entitled to seven years refund more than the people in question here. He was misinformed by the Bureau point blank, in writing, and they are still only going back three years because, as Representative Anthony pointed out, that is the law. It is the same law that governs the state. If the state had been making a mistake for the last seven years that worked in his favor, the state could only bill him for three years unless they could prove that he was acting fraudulently, not that it was just a mistake.

I think if this bill passes, we will see a flood of bills like it and we probably should. I will go along with the motion on the floor to indefinitely postpone this bill.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I respect the good gentleman from Old Town, Representative Cashman, but if this state comes to the point that it is strictly based on black and white — I still say, what is right is right. If the state made a mistake, let it own up to it. If we are going to turn around and say that the Statute of Limitations shall apply to everything that goes on in the State of Maine, we are going to be in deep trouble.

Let's get down to it. I am not a young man, if I owe somebody some money, I don't care if it is 20 years afterwards and I'm ready to meet my maker, if I owe somebody, I owe that money. If there was a mistake and someone overcharged me, that person should pay back to me. If it is going to get to the point that we are going to strictly go to black and white, so be it, but let's not come back later on and say that that person was misled and should be reimbursed. I say that this time the state was involved in this thing, they know about the whole thing, they admitted there was a mistake, they took advantage of the fact that the Statute of Limitations doesn't have to go back to more than three years. That is what burns me up, the fact that they said that they do not owe that money to that individual because of the Statute of Limitations and they don't have to pay it.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative DiPietro.

Representative DIPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to make two comments. It seems that everybody that has spoken against this bill has neglected to tell you for some reason, — as the first speaker, our good friend from Kittery said, the State of Maine is in dire straights for money and we are having financial difficulties but what he didn't tell you was that this money does not come out of the General Fund. This money was paid as a gasoline tax, it is in the Transportation Department and he has not indicated to you that that is where this refund will be coming from. It will be coming out of the Department of Transportation, not the General Fund.

I wish when you do vote, you would vote in favor of the Smith's.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative Hichens.

Representative HICHENS: Mr. Speaker, Ladies and Gentlemen of the House: As I stated the other night and restate again, this is just a clear-cut thing of double taxation and these people should not have to suffer the consequences.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Lawrence.

Representative LAWRENCE: Mr. Speaker, Ladies and Gentlemen of the House: Two points to make, the Representative from South Portland is exactly right, this money is coming out of the Highway Fund. I learned today that it is \$24 million in the red.

The second point is people have talked about fairness and I will just re-enforce what Representative Anthony said. Is it going to be fair

to all the other people in the State of Maine who, either on bad advice from the Bureau of Taxation or bad advice from the accountants, don't get reimbursed for things beyond the Statute of Limitations? Or are we going to waive all the Statute of Limitations and reimburse everyone? That is the issue of fairness, whether one person gets special treatment here because C.N. Brown hired a lobbyist to get them off from the \$47,000 worth of liability that they have. That is the issue here and I hope you will vote to indefinitely postpone.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Kutasi.

Representative KUTASI: Mr. Speaker, Ladies and Gentlemen of the House: The Representative from Kittery mentions C.N. Brown a lot here — this money is not going to C.N. Brown, it is going to two people, Mr. and Mrs. Smith, who own a small business. They are going to get \$47,000 that they have overpaid in taxes to this state. These are individuals like you and I and \$47,000 is hard to come by. They have overpaid it to this state and the big bad guys here are saying, we are laughing all the way to the bank, we are going to deposit that \$47,000 and we are not going to give it back to you. That is ridiculous. These people live in this state, they pay taxes in this state, they have a business in this state — we owe that money to these people. It wasn't their fault that they overpaid it. They overpaid it on bad advice. We should be able to pay that money back and say we have made a mistake. I doubt that people are going to come out of the woodwork saying we owe them thousands of dollars of overpaid taxes. People would be here day in and day out saying we owed them thousands of dollars in overpaid taxes — that is ridiculous.

This is a mistake, we need to correct it.

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

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

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Macomber.

Representative MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: I did feel that I should rise to explain a few things. The other night when we had this vote, the Representative from Kittery took it upon himself to send a note to all the members of the Transportation Committee and he asked in the note if we knew this was highway money. As a rule, I try to keep very close track of all highway money. I have been accused of being over-protective at times but I just want to reassure the Representative from Kittery I did know that it was highway money and I intend to vote for it again tonight.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Aliberti.

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: We have a precedent established here known as Unclaimed Property in the State of Maine. That doesn't have a Statute of Limitations to it. If for any reason there are some investments that are not claimed, you can claim them

as a member of a family — there are no Statute of Limitations, there are some on the books that have been there for 20 years. I would like to use the same rationale here. The state made a mistake and it is too bad that we have to legislate this. Why can't, through the system of regulation and fairness, this be addressed by the Department concerned? This is almost three times that this has come up in this legislature. I think it is a waste of time, a waste of money, it could have been handled through the different departments. Why legislate it and open it up for possible attack later on?

I think it is a dire example of irresponsibility on the department responsible for taking care of this issue.

The SPEAKER: The pending question before the House is the motion of the Representative from Kittery, Representative Lawrence, that L.D. 952 and all accompanying papers be indefinitely postponed.

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

Representative HASTINGS: Mr. Speaker, pursuant to House Rule 19 and Joint Rule 10, I wish to be excused from voting.

The SPEAKER: The pending question before the House is the motion of the Representative from Kittery, Representative Lawrence, that L.D. 952 and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 62

YEA - Adams, Anthony, Boutilier, Butland, Cahill, M.; Carleton, Carroll, D.; Cashman, Cathcart, Clark, M.; Constantine, Daggett, Dore, Duplessis, Erwin, Farnsworth, Goodridge, Graham, Gray, Gurney, Gwadosky, Heeschen, Heino, Hognlund, Holt, Jacques, Joseph, Ketover, Kilkelly, Kontos, LaPointe, Larrivee, Lawrence, Lemke, Luther, Mahany, Manning, Marsh, Mayo, McKeen, Melendy, Michaud, Mitchell, E.; Mitchell, J.; Murphy, Nadeau, Nash, O'Dea, O'Gara, Oliver, Pfeiffer, Poulin, Pouliot, Powers, Richardson, Rydell, Saint Onge, Salisbury, Simonds, Stevens, P.; Swazey, Townsend, Tracy, Treat, Vigue, Wentworth.

NAY - Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Bowers, Chonko, Clark, H.; Cote, DiPietro, Donnelly, Duffy, Dutremble, L.; Farnum, Farren, Foss, Garland, Gean, Gould, R. A.; Greenlaw, Hale, Handy, Hanley, Hepburn, Hichborn, Hichens, Hussey, Jalbert, Ketterer, Kutasi, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Macomber, Marsano, Martin, H.; McHenry, Merrill, Morrison, Norton, Ott, Paradis, J.; Paradis, P.; Paul, Pendexter, Pendleton, Pineau, Pines, Plourde, Rand, Reed, G.; Reed, W.; Richards, Ricker, Rotondi, Ruhlin, Savage, Sheltra, Simpson, Small, Spear, Stevens, A.; Stevenson, Strout, Tammara, Tardy, Tupper, Waterman, Whitcomb, The Speaker.

ABSENT - Aikman, Carroll, J.; Coles, Crowley, Kerr, Nutting, Parent, Skoglund.

EXCUSED - Hastings.

Yes, 66; No, 76; Absent, 8; Paired, 0; Excused, 1.

66 having voted in the affirmative and 76 in the negative with 8 being absent and 1 excused, the motion did not prevail.

Subsequently, L.D. 952 was passed to be engrossed as amended by Committee Amendment "A" (S-317) in

concurrence.

SECOND READER

Tabled and Assigned

Bill "An Act to Amend the Voter Ratification Provisions of the Low-level Radioactive Waste Laws" (EMERGENCY) (S.P. 346) (L.D. 946) (C. "A" S-107)

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

On motion of Representative Gwadosky of Fairfield, tabled pending passage to be engrossed and specially assigned for Monday, May 20, 1991.

PASSED TO BE ENACTED

Emergency Measure

An Act to Amend the Natural Resources Protection Laws (H.P. 398) (L.D. 572) (C. "A" H-216)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 126 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act Relating to the Use of Material-separated, Refuse-derived Fuel (H.P. 439) (L.D. 622) (C. "A" H-214)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Improve the Regulatory Operations of the Board of Licensing of Auctioneers (H.P. 440) (L.D. 623) (H. "A" H-262 to C. "A" H-146)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 121 voted in favor of the same and 1 against and accordingly the Bill was passed to be

enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Require State Review of Chemical Spill Clean-up Plans (H.P. 537) (L.D. 724) (C. "A" H-219)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 127 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Reduce Marine Pollution (H.P. 594) (L.D. 845) (H. "A" H-263 to C. "A" H-162)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Provide that General Assistance Payments be Made in Vouchers and in Greater Compliance with General Assistance Laws (H.P. 842) (L.D. 1208) (C. "A" H-220)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 125 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

PASSED TO BE ENACTED

An Act to Amend the Campaign Finance Reporting Laws (H.P. 375) (L.D. 529) (C. "A" H-233)

An Act to Increase Public Awareness of the Availability of Living Wills (H.P. 201) (L.D. 292)

(C. "A" H-226)

An Act to Improve Transportation Energy Efficiency (H.P. 203) (L.D. 294) (C. "A" H-235)

An Act to Make the Wild Blueberry the Official State Berry (H.P. 291) (L.D. 412) (C. "A" H-236)

An Act to Extend the Eligibility Period for Reimbursement of Municipalities for Landfill Closure (H.P. 324) (L.D. 454) (C. "A" H-215)

An Act to Provide for Safer Hunting of Deer During the Firearms Season (H.P. 347) (L.D. 477)

An Act to Improve the Collection of Data by the State Bureau of Identification (H.P. 429) (L.D. 612) (C. "A" H-223)

An Act to Establish a Budget Advisory Committee in Oxford County (H.P. 433) (L.D. 616) (C. "A" H-234)

An Act to Restructure Boards of Assessment Review (H.P. 478) (L.D. 672)

An Act to Regulate the Construction of Chimneys and Fireplaces and to Amend the Oil and Solid Fuel Laws (H.P. 480) (L.D. 674) (C. "A" H-231)

An Act to Improve the Administration of Municipal Accounts (H.P. 518) (L.D. 746) (C. "A" H-206)

An Act to Provide Operating Funds for the Casco Bay Island Transit District (H.P. 543) (L.D. 780) (C. "A" H-208)

An Act to Facilitate Municipal Review of Commercial Hazardous Waste License Applications and the Collection of Municipal Fees Levied on Commercial Hazardous Waste Facilities (H.P. 590) (L.D. 841) (C. "A" H-217)

An Act to Authorize Recovery of Certain Collection Costs (H.P. 643) (L.D. 917) (C. "A" H-239)

An Act to Disseminate More Rapidly Information Concerning Missing Children (H.P. 797) (L.D. 1143)

An Act Relating to the Sale of Business Opportunities (H.P. 840) (L.D. 1206) (H. "A" H-211)

An Act to Permit Maine School Administrative District Number 53 to Apply for State School Construction Aid for a Building to be Operated in Conjunction with Maine Central Institute (H.P. 857) (L.D. 1223) (C. "A" H-232)

An Act to Prohibit the Sale of Individual Specific Disease Health Insurance Providing Minimal Benefits (H.P. 869) (L.D. 1255) (C. "A" H-237)

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

ENACTOR

(Reconsidered)

An Act to Notify the Probation Officer and the Probationer When a Motion Is Filed to Terminate Probation at a Time Earlier Than That Provided for in the Sentence (H.P. 878) (L.D. 1269) (C. "A" H-207)

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

On motion of Representative Anthony of South Portland, under suspension of the rules, the House reconsidered its action whereby L.D. 1269 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-207) was adopted.

The same Representative offered House Amendment "A" (H-337) to Committee Amendment "A" (H-207) and moved its adoption.

House Amendment "A" (H-337) to Committee Amendment "A" (H-207) was read by the Clerk and adopted.

Committee Amendment "A" (H-207) as amended by House Amendment "A" (H-337) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (H-207) as amended by House Amendment "A" (H-337) thereto in non-concurrence and sent up for concurrence.

PASSED TO BE ENACTED

An Act to Clarify Regulation of Private Label Credit Cards (H.P. 895) (L.D. 1292) (C. "A" H-238)

An Act to Clarify the Time for Taking an Appeal from the Juvenile Court to the Superior Court (H.P. 898) (L.D. 1295) (C. "A" H-227)

An Act to Clarify Municipal Authority in Regulating Activities on Local Water Bodies Concerning Fishing or Ice Fishing (H.P. 899) (L.D. 1296) (C. "A" H-222)

An Act to Provide Certain Municipalities with an Exception to the Waste Facility Siting Laws (H.P. 973) (L.D. 1414) (C. "A" H-213)

An Act to Amend the Mechanic Lien Laws (H.P. 1007) (L.D. 1475)

An Act to Clarify the Scope of Review Obtainable by the State When the Defendant Has Appealed to the Law Court in a Criminal Case (H.P. 1035) (L.D. 1508)

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

ENACTOR

Tabled and Assigned

An Act to Clarify the Appointment and Dismissal of the Warden of the Maine State Prison (H.P. 775) (L.D. 1107)

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

On motion of Representative Gwadlosky of Fairfield, tabled pending passage to be enacted and specially assigned for Monday, May 20, 1991.

ENACTOR

Tabled and Assigned

An Act to Change the Process of Selecting the Commissioner of Education (S.P. 51) (L.D. 81) (C. "A" S-56)

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

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: I move that L.D. 81 and all accompanying papers be indefinitely postponed.

First of all, I would like to apologize to the House for the confusion that occurred when this proposal came back to us from the other body a couple of weeks ago. We had had a particularly trying day in the Education Committee and we also had just gotten the word (as all of you did) about the latest financial crisis, another \$70 million lost to us, and frankly, I was personally reeling from the third death among some very close friends in a period of less than two weeks. So, all in all, I wasn't really paying attention. By the time I realized that the House Chair was motioning to recede and concur with the other body, it was too late and it got by me. Many of you were justifiably concerned. Be that as it may, I realize tonight is another night and I am asking you as sincerely as I did on this floor the first time that it was brought back to give it a proper disposal.

I have appreciated hearing from so many of you who have told me that you have talked with your superintendents since we talked last time and that many of them and other interested parties have encouraged you to vote with me on this item. I submit to you that that is the general feeling around the state.

As you will recall, the vote last time was overwhelming, better than 4 to 1 opposed the proposal, and I am hoping that that will be the case tonight.

I am not going to present the same lengthy statement that I made the last time but I would urge you just to listen to these few highlights.

First of all, as I said that night, it just isn't a good idea. There isn't any way around it, it just isn't.

Second, I truly believe the Commissioner, whoever she or he might be in the future, should be at the cabinet level position which he or she won't be if this bill is passed.

Third, considering how little real authority the state board has, and it has none as far as budgeting goes, what kind of relationship would the Commissioner have with the Governor? I believe you will find that the Governor will be selecting his or

her own educational advisor which will create all kinds of problems in terms of budget, programs, and priorities. As a result, if the Commissioner is selected by someone else, he or she will have no direct input to the Governor.

Fourth, speaking of the board, I would remind you as I told you that night that the board itself is unanimously opposed to this proposal. It doesn't want this authority and it doesn't agree that it is in the best interest of education around the state.

The state board is a lay body with many responsibilities and time demands. To further burden them with employment and supervisory responsibilities could be overwhelming.

Finally, please think about this — state aid to education now comprises some 40 percent of all General Fund spending. If you were Governor, the Chief Executive of this state, would you want the person responsible for running that department selected by someone else? I doubt it. Expecting any Governor to accept advice by a Commissioner he or she didn't appoint and doesn't supervise is just plain unrealistic.

Mr. Speaker, I would request a roll call.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Handy.

Representative HANDY: Mr. Speaker, Men and Women of the House: The House Chair, Representative Crowley of the Education Committee, is not here this evening and I would appreciate it if somebody would table this for one legislative day.

On motion of Representative Gwadlosky of Fairfield, tabled pending the motion of Representative O'Gara of Westbrook that L.D. 81 and all accompanying papers be indefinitely postponed and specially assigned for Monday, May 20, 1991.

PASSED TO BE ENACTED

As Amended

An Act Relating to Health Insurance (S.P. 265) (L.D. 742) (S. "A" S-109 to C. "A" S-86)

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

ENACTOR

(Reconsidered)

An Act to Encourage Recycling of Waste Oil (H.P. 658) (L.D. 937) (C. "A" H-191)

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

On motion of Representative Jacques of Waterville, under suspension of the rules, the House reconsidered its action whereby L.D. 937 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-309) and moved its adoption.

House Amendment "A" (H-309) was read by the Clerk.

The SPEAKER: The Chair recognizes the

Representative from Bath, Representative Holt.

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

Would the good Representative Jacques explain this amendment because I cannot find it on my desk?

The Representative from Bath, Representative Holt, has posed a question through the Chair to the Representative from Waterville, Representative Jacques, who may respond if he so desires.

The Chair recognizes that Representative.

Representative JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: This amendment is an Act to Encourage Recycling of Waste Oil — it is a technical amendment that was flagged down by Mr. Hull of the Speaker's staff and it clarifies who is eligible by inserting the word "persons" into the law.

Subsequently, House Amendment "A" (H-309) was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (S-191) and House Amendment "A" (H-309) in non-concurrence and sent up for concurrence.

ENACTOR

(Reconsidered)

An Act to Ensure Voter Participation in the Siting of Both Storage and Disposal of Radioactive Waste (S.P. 407) (L.D. 1083) (C. "A" S-100)

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

On motion of Representative Jacques of Waterville, under suspension of the rules, the House reconsidered its action whereby L.D. 1083 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-100) was adopted.

The same Representative offered House Amendment "B" (H-308) to Committee Amendment "A" (S-100) and moved its adoption.

House Amendment "B" (H-308) to Committee Amendment "A" (S-100) was read by the Clerk.

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

Representative JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: This is another technical amendment that was flagged by Mr. Hull of the Speaker's Office and it just inserts the word "voters" in casting ballots in the election in L.D. 1083.

Subsequently, House Amendment "B" (H-308) to Committee Amendment "A" (S-100) was adopted.

Committee Amendment "A" (S-100) as amended by House Amendment "B" (H-308) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (S-100) as amended by House Amendment "B" (H-308) thereto in non-concurrence and sent up for concurrence.

ORDERS OF THE DAY

TABLED AND TODAY ASSIGNED

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

HOUSE DIVIDED REPORT - Majority (8) "Ought Not to Pass" - Minority (5) "Ought to Pass" as amended by Committee Amendment "A" (H-277) - Committee on Legal Affairs on Bill "An Act to Impose a Limit on Campaign Contributions" (H.P. 785) (L.D. 1117)
 TABLED - May 13, 1991 by Representative GWADOSKY of Fairfield.
 PENDING - Motion of Representative LAWRENCE of Kittery to accept the Majority "Ought Not to Pass" Report. (Roll Call Requested)

On motion of Representative Gwadosky of Fairfield, retabled pending the motion of the Representative from Kittery, Representative Lawrence, that the House accept the Majority "Ought Not to Pass" Report (Roll Call Requested) and specially assigned for Monday, May 20, 1991.

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

Bill "An Act to Amend the Maine Human Rights Act Regarding Pregnancy" (H.P. 486) (L.D. 680) (C. "A" H-224)
 TABLED - May 13, 1991 by Representative PARADIS of Augusta.
 PENDING - Passage to be Engrossed.

On motion of Representative Hanley of Paris, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-224) was adopted.

The same Representative offered House Amendment "A" (H-283) to Committee Amendment "A" (H-224) and moved its adoption.

House Amendment "A" (H-283) to Committee Amendment "A" (H-224) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Paris, Representative Hanley.

Representative HANLEY: Mr. Speaker, Men and Women of the House: I don't intend to take up much of your time this evening but I did want to refresh your memory just briefly on L.D. 680.

This would track federal law in the Equal Employment Opportunity Commission regarding leave based on pregnancy disability.

Let me tell you that I agree with most of the bill as approved by the majority of the committee. Where I disagree is where the committee voted to extend state law past federal law to corral the small employers. It is an unenviable position to amend a bill that is cloaked in motherhood and family but I feel compelled to present this amendment to ensure that small business can continue to operate in our state. I am not intimating that other members of the Judiciary Committee are against small business, it is just that we have an honest difference of opinion as far as what the impact of this bill would be on employers with less than 15 employees. Without getting overly technical, there currently exists a very delicate balance of legal burdens to those parties who are involved in an action before the

Maine Human Rights Commission.

It is my belief that the bill, as it currently stands, will serve as an unfair burden on the small business that still remain in our state. None of our New England neighbors have pushed the federal law as far as what we are considering to do tonight.

My amendment would not create a minimum number of employees as the majority of other states have done, instead it would create a rebuttal presumption that a business with less than 15 employees by definition has a "business necessity." This would then shift the initial burden of a plaintiff up one notch for small employers only.

I have discussed this amendment with my entire committee but they don't see the burden on small business as onerous as I. As I said before, we are all entitled to our own differences of opinion. I cannot in good conscience though pass a bill that I feel would adversely impact our small business community.

I would just like to share a few concerns as far as the bill and what it would encompass that wasn't brought out the other day when we debated this. Severe morning sickness would be considered a disability. Postpartum depression which could extend a month, six months, 12 months, 18 months, 24 month, 36 months — that would be considered a pregnancy disability and, having spoken to some physicians in my area on Friday when we had the day off, that is very difficult to diagnose. It is basically a very subjective decision that is made.

If this bill does pass without this amendment, I hope my colleagues on the committee are right and it won't be the death of some of the business in my district, because with a 13.8 percent unemployment rate, my district can't afford it.

I hope this won't be a "I told you so" bill.

Mr. Speaker, I respectfully request a roll call.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I move indefinite postponement of House Amendment "A" to Committee Amendment "A."

I would respectfully disagree with my friend, the Representative from Paris and, as he stated earlier, we did discuss this amendment this afternoon in committee.

What this amendment does that he is asking us to accept is really shifting the burden completely around to the person who is being terminated to the pregnant woman because in the Committee Amendment that was accepted to the bill, which this body accepted two days ago, we added the phrase "except when justified by business necessity" and I believe that takes care of the considerations and the concerns that we have in this body. By shifting the burden around and the wording in the House Amendment "A" that is being proposed this evening and I quote, "An employee may rebut this presumption by proving that the termination was not justified by business necessity." It puts the entire burden on the pregnant woman to go to the Human Rights Commission and say, "No, there is no business necessity to have fired me" — how can that pregnant woman, without access to all the files available, know what the business necessity was? It is an unfair burden to that woman to have to assume. It shifts the debate entirely from the employer to the employee. I think the language that was adopted by the committee,

submitted to the House several days ago, and the wording "except when justified by business necessity" is clear and it is reasonable.

I urge us not to go backwards on this. This is an important bill for us. If we were to accept the House Amendment that is being proposed tonight, we might as well kill the entire bill because it becomes meaningless. I would urge that we hold our original vote to the roll call of 134 of us in this body having said that this is important legislation for the State of Maine this year. I move indefinite postponement of this amendment.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair.

My question is for Representative Hanley or anyone else who would care to answer it. How many small businesses went out of business due to employers being gone during the recent Desert Storm Operation?

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

The Chair recognizes the Representative from Paris, Representative Hanley.

Representative HANLEY: Mr. Speaker, Ladies and Gentlemen of the House: I don't know the answer to that one but I will answer a question that was raised by Representative Paradis of a difference as far as this amendment would gut the bill. No, the only impact this amendment would have is on those employers with less than 15 employees so any other business in the state, which has 15 or more employees, this would have no impact at all.

Basically, what I intended the amendment to do is carve out a niche for those small businesses. I think that it is important that we realize, when a complaint is launched in front of the Human Rights Commission, they have up to two years to respond to this complaint. A business could be in limbo for two years plus it is also interesting to note that in having spoken to one of the case workers at the Human Rights Commission that handles these matters, that by far, the majority of small businesses that come in are represented by counsel. They don't come in by themselves and say, "Well, this is my business necessity. This is what justifies me for not having to grant a leave." They have to hire an attorney to go in and fight the case for them.

With all of the other burdens that we put on the small business and these are the businesses that are the backbone of our state, 88 percent of the businesses in the state are businesses with less than 20 employees, that is the backbone of our state. It is not 88 percent of the employees but it is the bulk of the businesses out there that is in my district and your districts. I think we should do everything we can to make sure that there is a balance between the employees and the employers. That is all they want this amendment to do and I respectfully request a roll call.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: The reason I asked the question is because I do believe that the recent call up of Reserves for our recent military engagement is actually a parallel situation. It is a situation

where people were leaving their jobs for an indefinite amount of time. We knew it was probably more than a week, we thought it was less than a year, but we really didn't know how long that would be. No one said, "Oh my goodness, the small businesses are going to go out of business because their employees got called up."

I will tell you that my husband has a small business, he has one employee and she was called up. Nobody said, "Oh my goodness, Dr. Clark is going out of business." I believe that this is absolutely a red herring but in fact for those few pregnant women who need some time off during their pregnancy, and it may be a very short amount of time, they need not to have to worry about whether they are going to be able to work. I would urge you, ladies and gentlemen of the House, to follow the light of the Committee Chair and move to indefinitely postpone this amendment.

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

Representative KETOVER: Mr. Speaker, Ladies and Gentlemen of the House: This body voted 134 in favor of this bill and 12 against. My good friend, Representative Clark, is 100 percent correct that this is just a red herring.

Any woman who is working in a job in a small business should not have to worry because she gets pregnant that she will then have to consider that either she is going to keep her job or she may have to decide to abort that baby in order to keep that job. I tried to explain that last time. We do not want women, because they are the ones who have to bear the burden of having children in our society, it is not the male, it is the female, to have to decide if she has to have that child or to keep her job. That should not even be the question. The child should be the most important thing in that woman's life but so is that job to maintain her livelihood and that is why she is working. She isn't working to be that waitress that Representative Paul Jacques mentioned, she isn't that woman who is going to be in Dr. Clark's Office, she is all of those women, all of us here who do get pregnant have children. We all have to maintain a job and we all have to maintain a livelihood. If in a small business of 15 or less, there is no difference if you work for anybody with 5, 2, or 1 — she shouldn't have to have that option. Unfortunately, and I mean this, most women today stay right up until the last minute anyway and work and try to stay out as little as possible. I don't think they do it deliberately and say "Pay me because I am pregnant now and I am going to leave and you have to give me back my job when I am through having this baby." I don't believe that that is true. I think this issue has been talked about and talked about. You have supported this and I hope you will again today.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Richards.

Representative RICHARDS: Mr. Speaker, Ladies and Gentlemen of the House: Just briefly to address a couple of the issues that have been raised and to reiterate some. I guess I respectfully disagree with respect to the burden. I think it is shifting an unfair burden on someone who really doesn't have the information to begin with and that burden is the employer. They are the ones who have the information dealing with the discharge or business necessity or whatever.

There also is some information from the SBA that

indicates there is a substantial cost savings for the employer to hire back the individual that they have trained and spent time and money on rather than to replace that person.

The catchall in dealing with morning sickness, should someone suffer from morning sickness for three months or nine months — I don't know whether that is true or not — perhaps some of the mothers of this body could share whether morning sickness would be something that would last for nine months and that would keep you out of work but the fact of it is that you always have the outlet of "business necessity." That is defined by federal law, it has been litigated, it is not some nebulous subject that is out, it is something that the state would look to in defining what that means.

The SPEAKER: The Chair recognizes the Representative from Paris, Representative Hanley.

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

To anyone who can answer — when the debate was held earlier, we spoke as far as benefits and benefits would not have to be extended for the pregnant woman on leave. My question is, if business had a policy to extend benefits, would they then have to extend benefits through the leave?

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

The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Ladies and Gentlemen of the House: This bill doesn't address that. I think all the bill does is the answer to the question, the bill simply says that you cannot terminate a person who is temporarily disabled because of a disability resulting from pregnancy. That does not require extending benefits and it does not require extending pay. It is just that you cannot terminate so it is essentially saying, hold the job.

I totally agree with other speakers who would move to indefinitely postpone this amendment because it does gut the bill.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Augusta, Representative Paradis, that House Amendment "A" (H-283) to Committee Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 63

YEA - Adams, Aliberti, Anthony, Ault, Bell, Boutilier, Butland, Cahill, M.; Carleton, Carroll, D.; Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Constantine, Cote, Daggett, Dore, Duffy, Duplessis, Dutremble, L.; Erwin, Farnsworth, Gean, Goodridge, Gould, R. A.; Graham, Gray, Gurney, Gwadosky, Hale, Hastings, Heeschen, Hichborn, Hogle, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Ketterer,

Kilkelly, Kontos, LaPointe, Larrivee, Lawrence, Lemke, Luther, Macomber, Mahany, Manning, Marsh, Martin, H.; Mayo, McHenry, McKeen, Melendy, Merrill, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pendexter, Pfeiffer, Pineau, Pines, Plourde, Poulin, Pouliot, Powers, Rand, Reed, W.; Richards, Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Simonds, Simpson, Stevens, A.; Stevens, P.; Strout, Swazey, Tamaro, Tardy, Townsend, Tracy, Treat, Vigue, Wentworth, The Speaker.

NAY - Anderson, Bailey, H.; Bailey, R.; Barth, Bennett, Bowers, DiPietro, Donnelly, Farnum, Farren, Foss, Garland, Greenlaw, Hanley, Heino, Hepburn, Hichens, Kutasi, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Marsano, Murphy, Nash, Ott, Pendleton, Reed, G.; Salisbury, Savage, Small, Spear, Stevenson, Tupper, Waterman, Whitcomb.

ABSENT - Aikman, Carroll, J.; Coles, Crowley, Handy, Kerr, Parent, Sheltra, Skoglund.

Yes, 104; No, 38; Absent, 9; Paired, 0; Excused, 0.

104 having voted in the affirmative and 38 in the negative with 9 being absent, the motion did prevail.

Subsequently, Committee Amendment "A" (H-224) was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-224) and sent up for concurrence.

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

An Act Relating to Violations Involving the Disregard of Red Flashing Lights on School Buses (H.P. 443) (L.D. 633) (S. "A" S-90 to C. "A" H-106) TABLED - May 13, 1991 by Representative GWADOSKY of Fairfield.
PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and specially assigned for Monday, May 20, 1991.

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

An Act to Amend and Add to Certain Provisions of Geographic-based Information Services (H.P. 743) (L.D. 1047) TABLED - May 13, 1991 by Representative GWADOSKY of Fairfield.
PENDING - Passage to be Enacted.

On motion of Representative Mayo of Thomaston, under suspension of the rules, the House reconsidered its action whereby L.D. 1047 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-335) and moved its adoption.

House Amendment "A" (H-335) was read by the Clerk and adopted.

The bill was passed to be engrossed as amended by House Amendment "A" (H-335) in non-concurrence and sent up for concurrence.

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

An Act to Provide an Expedited Process for the Commencement of Paternity Actions (S.P. 310) (L.D. 819) (C. "A" S-87)
TABLED - May 13, 1991 by Representative GWADOSKY of Fairfield.
PENDING - Passage to be Enacted.

On motion of Representative Paradis of Augusta, under suspension of the rules, the House reconsidered its action whereby L.D. 819 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-340) and moved its adoption.

House Amendment "A" (H-340) was read by the Clerk and adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (S-87) and House Amendment "A" (H-340) in non-concurrence and sent up for concurrence.

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

HOUSE DIVIDED REPORT - Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (H-228) - Minority (5) "Ought Not to Pass" - Committee on State and Local Government on Bill "An Act to Share Proportionately the Public Safety Costs for the Capitol Area" (H.P. 411) (L.D. 594)
TABLED - May 13, 1991 by Representative GWADOSKY of Fairfield.

PENDING - Motion of Representative JOSEPH of Waterville to accept the Majority "Ought to Pass" as amended Report.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph. Representative JOSEPH: Mr. Speaker, Men and Women of the House: I urge you to accept the Majority "Ought to Pass" Report on this piece of legislation. I urge you to get this piece of legislation in a position so that we can amend the bill in order to remove the fiscal note.

Subsequently, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (H-228) was read by the Clerk.

Representative Daggett of Augusta offered House Amendment "A" (H-345) to Committee Amendment "A" (H-228) and moved its adoption.

House Amendment "A" (H-345) to Committee Amendment "A" (H-228) was read by the Clerk and adopted.

Committee Amendment "A" (H-228) as amended by House Amendment "A" (H-345) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (H-228) as amended by House Amendment "A" (H-345) thereto and the bill assigned for second reading Monday, May 20, 1991.

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

Bill "An Act Concerning Late Support Payments" (H.P. 384) (L.D. 558)
TABLED - May 13, 1991 by Representative MANNING of Portland.
PENDING - Adoption of Committee Amendment "A" (H-221)

Representative Manning of Portland offered House Amendment "A" (H-336) to Committee Amendment "A" (H-221) and moved its adoption.

House Amendment "A" (H-336) to Committee Amendment "A" (H-221) was read by the Clerk and adopted.

Committee Amendment "A" (H-221) as amended by House Amendment "A" (H-336) thereto was adopted and the bill assigned for second reading Monday, May 20, 1991.

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

SENATE PAPER

The following Joint Order: (S.P. 702)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Monday, May 20, 1991, at five o'clock in the afternoon.

Came from the Senate, read and passed.

Was read and passed in concurrence.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 56 and Joint Rule 34, the following item:

In Memory of:

R. Leon Williams, of Clifton, a former colleague and community leader, who served 3 terms as a member of the House of Representatives and 2 terms as a member of the Senate. He will be remembered as a caring and dedicated citizen who took an active role in the civic affairs of Clifton and provided sound leadership to the State of Maine; (SLS 144)

Was read.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Cathcart.

Representative CATHCART: Mr. Speaker, Men and Women of the House: Those of us who welcomed R. Leon Williams back to this body just a couple of weeks ago were shocked and saddened to learn last week of his death. He was truly a dedicated public servant and he will be long remembered by the members of this legislature, by the citizens of his hometown of Clifton, and the citizens of the entire State of Maine. We offer our condolences to his family.

Subsequently, was adopted in concurrence.

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

SENATE PAPERS

Bill "An Act to Amend the Composition of the Animal Welfare Board" (S.P. 694) (L.D. 1859)

Bill "An Act to Expand the Membership of the Animal Welfare Board" (S.P. 696) (L.D. 1861)

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

Were referred to the Committee on **Agriculture** in concurrence.

Bill "An Act to Require the Preparation of Impact Statements" (S.P. 695) (L.D. 1860)

Came from the Senate, referred to the Committee on **Audit and Program Review** and Ordered Printed.

Was referred to the Committee on **Audit and Program Review** in concurrence.

Bill "An Act to Improve the Returnable Beverage Container Laws" (S.P. 698) (L.D. 1863)

Bill "An Act Concerning Acquisition of Heating Oil Assets" (S.P. 701) (L.D. 1869)

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

Were referred to the Committee on **Business Legislation** in concurrence.

Resolve, to Establish a Commission to Arrange for the Display of the Flags of Maine's Desert Storm Units in the Hall of Flags of the State House (S.P. 697) (L.D. 1862)

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

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

Bill "An Act to Authorize Department of Transportation Bond Issues in the Amount of \$27,500,000 to Match Available Federal Funds for Improvements to Highways, State and Local Bridges and Airports" (S.P. 700) (L.D. 1870)

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

Was referred to the Committee on **Transportation** in concurrence.

The following item appearing on Supplement No. 3 was taken up out of order by unanimous consent:

REPORTS OF COMMITTEES

Refer to the Committee on Energy and Natural Resources

Representative NADEAU from the Committee on **Taxation** on Bill "An Act Regarding the Forest Management Plan Requirements" (H.P. 1098) (L.D. 1597) reporting that it be referred to the Committee on **Energy and Natural Resources**.

Report was read and accepted and the bill referred to the Committee on **Energy and Natural Resources** and sent up for concurrence.

At this point, Speaker Martin appointed Representative Michaud of East Millinocket to act as Speaker pro tem for Monday, May 20, 1991.

(Off Record Remarks)

On motion of Representative Nutting of Leeds, Adjourned at 7:19 p.m. until Monday, May 20, 1991, at five o'clock in the afternoon pursuant to Joint Order (S.P. 702) in memory of R. Leon Williams of Clifton.
