

# MAINE STATE LEGISLATURE

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# LEGISLATIVE RECORD

OF THE

## **One Hundred And Fifteenth Legislature**

OF THE

## **State Of Maine**

### **VOLUME V**

#### **FIRST SPECIAL SESSION**

July 11, 1991 to July 18, 1991

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#### **FIRST CONFIRMATION SESSION**

October 2, 1991

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#### **SECOND SPECIAL SESSION**

December 18, 1991 to January 7, 1992

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#### **SECOND REGULAR SESSION**

House of Representatives

January 8, 1992 to March 9, 1992

ONE HUNDRED AND FIFTEENTH MAINE LEGISLATURE  
SECOND REGULAR SESSION  
8th Legislative Day  
Tuesday, January 28, 1992

Sincerely,

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

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

Prayer by Reverend Ronald Fast, First Assembly of God, Fryeburg.

Pledge of Allegiance.

The Journal of Thursday, January 23, 1992, was read and approved.

Was read and ordered placed on file.

**Unanimous Leave to Withdraw**

Report of the Committee on Energy and Natural Resources reporting "Leave to Withdraw" on Bill "An Act Concerning Continuous Emission Monitoring Devices" (S.P. 817) (L.D. 2016)

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

**SENATE PAPERS**

The following Communication:

Maine State Senate  
Augusta, Maine 04333

January 23, 1992

The Honorable John L. Martin  
Speaker of the House  
115th Legislature  
Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Aging, Retirement and Veterans, William Bullock of Orrington for appointment to the Maine State Retirement Board of Trustees. William Bullock is replacing Jon Lund.

Sincerely,

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

Was read and ordered placed on file.

**PETITIONS, BILLS AND RESOLVES  
REQUIRING REFERENCE**

The following Bills and Resolve 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:

**Later Today Assigned**

Bill "An Act to Revise the Workers' Compensation Laws" (H.P. 1571) (L.D. 2218) (Presented by Representative PLOURDE of Biddeford) (Cosponsored by Representative PINEAU of Jay, Senator VOSE of Washington and Representative LIPMAN of Augusta) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

(The Committee on Reference of Bills had suggested reference to the the Committee on Banking and Insurance.)

On motion of Representative Mitchell of Vassalboro, tabled pending reference and later today assigned.

The following Communication:

Maine State Senate  
Augusta, Maine 04333

January 23, 1992

The Honorable John L. Martin  
Speaker of the House  
115th Legislature  
Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Fisheries and Wildlife, Joseph P. Robbins of Machias for appointment to the Inland Fisheries and Wildlife Advisory Council. Joseph P. Robbins is replacing Dale Speed.

**Banking and Insurance**

Bill "An Act to Protect Consumers" (H.P. 1585) (L.D. 2239) (Presented by Representative VIGUE of Winslow) (Cosponsored by Representative MURPHY of Berwick) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed.  
Sent up for Concurrence.

**Business Legislation**

Bill "An Act to Modify Various Licensing and Registration Laws and to Address Budgetary Constraints" (EMERGENCY) (H.P. 1592) (L.D. 2246) (Presented by Representative STEVENS of Sabattus) (Cosponsored by Senator COLLINS of Aroostook)

(Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.)

Bill "An Act to Clarify Maine's Rent-to-own Laws" (H.P. 1594) (L.D. 2248) (Presented by Representative CARROLL of Gray) (Cosponsored by Senator RICH of Cumberland and Representative POULIOT of Lewiston) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed.  
Sent up for Concurrence.

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**Joint Select Committee on Corrections**

Bill "An Act to Reinstate a System of Parole" (H.P. 1577) (L.D. 2224) (Presented by Representative ANTHONY of South Portland) (Cosponsored by Representative MANNING of Portland, Senator BUSTIN of Kennebec and Representative RICHARDS of Hampden) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed.  
Sent up for Concurrence.

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**Education**

Bill "An Act to Change the School Subsidy from a Valuation to a Per Pupil Formula" (H.P. 1575) (L.D. 2222) (Presented by Representative SKOGLUND of St. George) (Cosponsored by Representative HEINO of Boothbay) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed.  
Sent up for Concurrence.

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**Energy and Natural Resources**

Bill "An Act to Establish Current Drinking Water Standards for Environmental Protection" (H.P. 1572) (L.D. 2219) (Presented by Representative TAMMARO of Baileyville) (Cosponsored by Senator VOSE of Washington, Representative GOULD of Greenville and Representative LORD of Waterboro) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Bill "An Act to Clarify the Zoning Provisions Administered by the Maine Land Use Regulation Commission" (EMERGENCY) (H.P. 1589) (L.D. 2243) (Presented by Representative LORD of Waterboro) (Cosponsored by Senator LUDWIG of Aroostook and Representative LOOK of Jonesboro) (Submitted by the Department of Conservation pursuant to Joint Rule 24.)

Bill "An Act to Clarify the Subdivision Definition under Maine Land Use Regulation Commission Laws" (H.P. 1588) (L.D. 2242) (Presented by Representative ANDERSON of Woodland) (Cosponsored by Senator LUDWIG of Aroostook) (Submitted by the Department of Conservation pursuant to Joint Rule 24.)

Bill "An Act to Improve the Administration of Municipal Landfill Closure and Remediation Plans" (EMERGENCY) (H.P. 1595) (L.D. 2249) (Presented by Representative LORD of Waterboro) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed.  
Sent up for Concurrence.

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**Fisheries and Wildlife**

Bill "An Act to Amend the Laws Regulating Bear Hunting" (H.P. 1590) (L.D. 2244) (Presented by Representative GOULD of Greenville) (Cosponsored by Senator SUMMERS of Cumberland and Representative JACQUES of Waterville) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed.  
Sent up for Concurrence.

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**Human Resources**

Bill "An Act to Make Further Distinctions between Types of Boarding Care Facilities" (H.P. 1578) (L.D. 2225) (Presented by Representative PENDEXTER of Scarborough) (Cosponsored by Representative GEAN of Alfred, Senator GILL of Cumberland and Senator BERUBE of Androscoggin) (Submitted by the Department of Human Services pursuant to Joint Rule 24.)

Bill "An Act Relating to Medicare Assignment" (H.P. 1580) (L.D. 2230) (Presented by Representative MANNING of Portland) (Cosponsored by Senator CONLEY of Cumberland, Representative CONSTANTINE of Bar Harbor and Representative GRAHAM of Houlton) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Bill "An Act to Protect Children from Lead Poisoning" (EMERGENCY) (H.P. 1584) (L.D. 2234) (Presented by Representative MITCHELL of Vassalboro) (Cosponsored by Senator CLARK of Cumberland and Representative MANNING of Portland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed.  
Sent up for Concurrence.

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**State and Local Government**

Resolve, to Establish A Unified Department of Children and Families (EMERGENCY) (H.P. 1573) (L.D. 2220) (Presented by Representative JOSEPH of Waterville) (Cosponsored by Speaker MARTIN of Eagle Lake and President PRAY of Penobscot) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

(The Committee on Reference of Bills had suggested reference to the Committee on Human

**Resources.)**

On motion of Representative Manning of Portland, was referred to the Committee on State and Local Government, ordered printed and sent up for concurrence.

Judiciary

Bill "An Act to Limit to the District Court the Authority to Issue Orders in Domestic Abuse Cases" (EMERGENCY) (H.P. 1574) (L.D. 2221) (Presented by Representative MARSANO of Belfast) (Cosponsored by Representative RICHARDS of Hampden and Senator CAHILL of Sagadahoc) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Bill "An Act to Prevent Foreclosures on Residential Mortgages" (EMERGENCY) (H.P. 1576) (L.D. 2223) (Presented by Representative OLIVER of Portland) (Cosponsored by Representative CARROLL of Gray, Representative GEAN of Alfred and Representative TREAT of Gardiner) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Bill "An Act to Prevent Procurement of Controlled Substances through Fraud" (H.P. 1582) (L.D. 2232) (Presented by Representative JOSEPH of Waterville) (Cosponsored by Representative PARADIS of Augusta and Representative HANDY of Lewiston) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed.  
Sent up for Concurrence.

Labor

Bill "An Act to Encourage Workers' Compensation Insurers to Undertake Employer Safety Programs" (H.P. 1587) (L.D. 2241) (Presented by Representative GOULD of Greenville) (Cosponsored by President PRAY of Penobscot and Representative HUSSEY of Milo) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed.  
Sent up for Concurrence.

State and Local Government

Bill "An Act to Clarify the Collective Bargaining Responsibility in Child Development Services and to Protect Employee Rights" (H.P. 1579) (L.D. 2229) (Presented by Representative JOSEPH of Waterville) (Cosponsored by Senator BUSTIN of Kennebec, Senator CONLEY of Cumberland and Representative DAGGETT of Augusta) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Bill "An Act to Strengthen the Public Disclosure of Lobbying Activities" (H.P. 1591) (L.D. 2245)

(Presented by Representative JOSEPH of Waterville) (Cosponsored by Representative LARRIVEE of Gorham and Representative LEBOWITZ of Bangor) (Submitted by the Department of the Secretary of State pursuant to Joint Rule 24.)

Ordered Printed.  
Sent up for Concurrence.

Taxation

Bill "An Act to Exempt Certain Municipalities from Interest Imposed by the State" (H.P. 1581) (L.D. 2231) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsored by Senator COLLINS of Aroostook) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act to Protect Taxpayer Rights by Amending the Taxpayer Bill of Rights and Making More Equitable Tax Penalty and Appeal Provisions" (H.P. 1583) (L.D. 2233) (Presented by Representative CASHMAN of Old Town) (Cosponsored by Senator BOST of Penobscot, Representative DORE of Auburn and Representative DUFFY of Bangor) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Bill "An Act to Clarify the Sales and Use Tax Laws Regarding Items Purchased with General Assistance Vouchers or Food Stamps" (H.P. 1586) (L.D. 2240) (Presented by Representative MANNING of Portland) (Cosponsored by Representative DORE of Auburn) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed.  
Sent up for Concurrence.

Utilities

Bill "An Act to Create the Waterboro Water District" (EMERGENCY) (H.P. 1593) (L.D. 2247) (Presented by Representative LORD of Waterboro) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.  
Sent up for Concurrence.

ORDERS

On motion of Representative HICHBORN of Howland, the following Order:

ORDERED, that Representative Cushman D. Anthony of South Portland be excused January 16 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Marge L. Kilkelly of Wiscasset be excused January 21 for the duration of her illness.

AND BE IT FURTHER ORDERED, that Representative

Ronald C. Bailey of Farmington be excused January 21 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Gary W. Reed of Falmouth be excused January 28 for personal reasons.

Was read and passed.

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**SPECIAL SENTIMENT CALENDAR**

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

Recognizing:

Michael Thomas Vogt, who has attained the high rank and distinction of Eagle Scout; (HLS 826) by Representative DAGGETT of Augusta. (Cosponsors: Senator BUSTIN of Kennebec, Representative PARADIS of Augusta, Representative LIPMAN of Augusta)

On motion of Representative Gwadosky of Fairfield, was removed from the Special Sentiment Calendar.

Was read.

On further motion of the same Representative, tabled pending passage and specially assigned for Thursday, January 30, 1992.

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Recognizing:

James F. Slocomb, who has attained the high rank and distinction of Eagle Scout; (HLS 827) by Representative DAGGETT of Augusta. (Cosponsors: Senator BUSTIN of Kennebec, Representative PARADIS of Augusta, Representative LIPMAN of Augusta)

On motion of Representative Gwadosky of Fairfield, was removed from the Special Sentiment Calendar.

Was read.

On further motion of the same Representative, tabled pending passage and specially assigned for Thursday, January 30, 1992.

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In Memory of:

Edward P. Cyr, of Madawaska, our respected colleague, who served as a member during the 100th, 101st, 105th, 106th and 107th Legislatures, a man well known as a caring person and dedicated citizen, who provided sound leadership to the State of Maine; (HLS 828) by Representative PARADIS of Frenchville. (Cosponsors: Representative McHENRY of Madawaska, Speaker MARTIN of Eagle Lake, President PRAY of Penobscot, Senator THERIAULT of Aroostook)

On motion of Representative Gwadosky of Fairfield, was removed from the Special Sentiment

Calendar.

On further motion of the same Representative, tabled pending adoption and specially assigned for Thursday, January 30, 1992.

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**REPORTS OF COMMITTEES**

**Unanimous Ought Not to Pass**

Representative SHELTRA from the Committee on **Business Legislation** on Bill "An Act to Provide for Better Regulation of Commercial Driving Instruction Schools" (EMERGENCY) (H.P. 1136) (L.D. 1661) reporting "**Ought Not to Pass**"

Representative PARADIS from the Committee on **Judiciary** on Bill "An Act to Establish the Maine Volunteer Service Act" (H.P. 1090) (L.D. 1590) reporting "**Ought Not to Pass**"

Representative JOSEPH from the Committee on **State and Local Government** on Resolve, to Rename Certain Bodies of Water Located within the State (H.P. 1506) (L.D. 2120) reporting "**Ought Not to Pass**"

Representative DORE from the Committee on **Taxation** on Bill "An Act to Improve Collections of Sales Taxes on Mail Order Sales" (H.P. 367) (L.D. 521) reporting "**Ought Not to Pass**"

Representative MURPHY from the Committee on **Taxation** on Bill "An Act to Amend the Maine Sales and Use Tax Law" (H.P. 1119) (L.D. 1644) reporting "**Ought Not to Pass**"

Representative DORE from the Committee on **Taxation** on Bill "An Act to Create the Maine Economic Recovery Trust" (EMERGENCY) (H.P. 1320) (L.D. 1906) reporting "**Ought Not to Pass**"

Representative PINEAU from the Committee on **Banking and Insurance** on Bill "An Act to Encourage Medical Cost Containment Measures by Enabling the Establishment of Preferred Provider Arrangements" (H.P. 790) (L.D. 1122) reporting "**Ought Not to Pass**"

Representative McKEEN from the Committee on **Labor** on Bill "An Act to Prevent Unsafe Operation of Trains" (H.P. 1278) (L.D. 1848) reporting "**Ought Not to Pass**"

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

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**Unanimous Leave to Withdraw**

Representative WATERMAN from the Committee on **State and Local Government** on Bill "An Act to Amend the Corporation Laws" (H.P. 1529) (L.D. 2158) reporting "**Leave to Withdraw**"

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

**Refer to the Committee on Judiciary**

Representative TARDY from the Committee on Agriculture on Bill "An Act to Provide a Private Remedy for Violation of the Lead Poisoning Control Act" (H.P. 1515) (L.D. 2127) reporting that it be referred to the Committee on Judiciary.

Report was read and accepted and the bill referred to the Committee on Judiciary and sent up for concurrence.

**Divided Report**

**Tabled and Assigned**

Majority Report of the Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-868) on Resolve, to Establish the Commission on Recall (H.P. 1377) (L.D. 1964)

Signed:

Senators: BERUBE of Androscoggin  
BUSTIN of Kennebec

Representatives: LARRIVEE of Gorham  
HEESCHEN of Wilton  
JOSEPH of Waterville  
WATERMAN of Buxton  
GRAY of Sedgwick  
KILKELLY of Wiscasset  
KERR of Old Orchard Beach

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

Signed:

Senator: EMERSON of Penobscot

Representatives: NASH of Camden  
LOOK of Jonesboro  
SAVAGE of Union

Reports were read.

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

On further motion of the same Representative, tabled pending her motion that the House accept the Majority "Ought to Pass" Report and specially assigned for Thursday, January 30, 1992.

**Divided Report**

Majority Report of the Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-869) on Bill "An Act Regarding Truck Weights for Sand and Gravel Hauling" (H.P. 218) (L.D. 309)

Signed:

Senators: TWITCHELL of Oxford  
MILLS of Oxford  
GOULD of Waldo

Representatives: STROUT of Corinth  
TAMMARO of Baileyville  
RICKER of Lewiston  
HALE of Sanford  
MARTIN of Van Buren  
BOUTILIER of Lewiston

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

Signed:

Representatives: MACOMBER of South Portland  
HUSSEY of Milo  
SMALL of Bath  
BAILEY of Farmington

Reports were read.

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

Representative MACOMBER: Mr. Speaker, I move that the House accept the Minority "Ought Not to Pass" Report.

Mr. Speaker, Ladies and Gentlemen of the House: L.D. 309 is a bill that would allow an additional 10,000 pounds to be hauled by sand and gravel trucks.

I think there are three questions that we are going to have to talk about and discuss at this particular time. I think one of them is going to be a fairness issue because of the difference in weight between what wood products are allowed to haul and what sand and gravel are allowed to haul. There is no doubt that there is an inequity and the inequity has been there as far as I know for at least 20 years and perhaps longer than that.

I have talked to the past three Commissioners of Transportation and it was in effect when all three of them were there. It used to be referred to as the "old frozen road legislation."

There is no doubt that there is that inequity but I wonder if the right thing to do today is to compound a problem we have with weights and, in addition to wood products, we would also grant that request for the 10,000 pounds to sand and gravel.

Some of you people that I have talked to have said to me, "Well, if it isn't fair for sand and gravel, it isn't fair for wood products to have this additional weight." I don't think you can go back 20 or 30 years or whatever it might be and say to the wood products people that they are going to lose the 10,000 pounds that they are now entitled to carry. Because of the fact that they are allowed to carry this extra 10,000 pounds, I think people in here that are experts on this particular subject would tell you that they have spent millions of dollars on developing a truck that can handle this additional weight and I think it would be very unfair to say that we have to take it away from them. I don't think that is the way we want to go.

I think the whole thing is that in this day and age is the economy is bad, everything is bad right at

this particular moment, so do we want to put more weight on the roads? I can't believe in this time when money is so tight that we want to say, yes we want to put 10,000 more pounds on each truck out there, each sand and gravel truck, and add to the problems that we already have on the roads. Some people are under the impression that we are talking about state roads. State roads are part of the package but in most cases, you will find you are talking about your local roads that are funded by the municipalities. I talked to quite a few MMA people today over at the Civic Center and I sort of broached the question to them, "What do you think of adding more weight to trucks in your municipalities?" I found absolutely nobody who thought this was a good idea. They felt that, right now, they were having trouble just meeting the expenses that they have.

This bill has been here two or three times since I have been here in 12 years — you wonder what triggers a particular bill and why it is brought back again. The only thing I can think of that might have caused this bill to be brought forth once more is the fact that about two or three years ago, I think it was, we added 12 additional state troopers, provided them portable scales and we sent them out to enforce the weight requirements. Since that time, there has been an awful lot more tickets handed out for overweight and I think perhaps this is one of the problems. But, I think that is something we want to do, very frankly. If the law is on the books, we intend to enforce it.

I have a big problem with bridges in this state because we have a great number of bridges that are posted for weights and we have a great many others that I think perhaps should be — somebody says to you, well, the weight on the bridge isn't really that important because what we have done now is we have expanded from two axles to three axles to four axles and that is true. You spread the weight out over a number of axles, it lessens the impact. However, if you get that truck onto a single stand bridge, I don't care if you have a hundred axles on there, it doesn't make a bit of difference, you still have that weight on there.

I had hoped some of you had talked to your municipal officials today about this particular bill because I think it is important to them that they know you recognize what the situation is. You can sum it by saying very honestly that more weight on roads equals more damage on roads. The more damage on roads means more maintenance. More maintenance requires more money and right at the present time, I am sure most of you are aware that we floated a \$27 million dollar bond in November to fund the federal share of our transportation budget and, since that time, Senator Mitchell and Commissioner Connors has gone around the state talking to you about the additional money that we may receive from the federal government — I have to point out to you that that federal money that we can receive, we have to match it with \$9.6 million dollars. Right at this particular time, I don't know and Commissioner Connors doesn't know where this money is going to come from.

I just hope that you will take some of these things into consideration when you vote today — is this a good time to be putting more weight on the roads that will do more damage to roads and spending more money to keep them repaired?

The SPEAKER: The Chair recognizes the

Representative from Old Town, Representative Duplessis.

Representative DUPLESSIS: Mr. Speaker, Ladies and Gentlemen of the House: You may be wondering what a nurse knows about truck weights. When my constituent asked me to put this bill in, I soon found out what he already knew, that inequity exists in the law today.

Currently, the forest products industry enjoys an additional 10 percent added weight, more than any other commercial hauler in Maine. What that translates into is that the forest products trucks are able to haul 75,900 pounds and the sand and gravel haulers are allowed to haul 66,000 pounds total.

You will hear a lot of arguments today against L.D. 309 as amended but let me just give you one simple reason to vote for it, weight is weight. It is just as simple as that, no more complicated than that. A little while ago, my son played a trick on my 8 year old daughter. He said, "Rachel, what weighs more, a pound of feathers or a pound of lead?" My 8 year old daughter answered, "A pound of lead." Now, we may be able to fool some 8 year olds with this but as legislators, we won't be fooled. We know when inequities exist and we can see it clearly in this Statute 29 MRSA 1655.

Then you say, let's lower all the weights and already you have heard some arguments about why we can't do that so all I am proposing is that, if we can't lower the truck weights, let's make them all equitable. You may be saying to yourself right now, well, "two wrongs don't make a right." But, what is right about one hauler getting fined and another hauler with the same amount of weight being let go without any fine imposed? What is right about that?

I would like to add at this time that there will be a similar bill that will be before this body on farm produce in the near future so I hope however you vote today, you will be consistent with this industry as well as the agriculture industry.

The sand and gravel haulers, let me talk about a little bit about them, they are mainly small businesses in Maine owned and operated by families employing probably less than 50 people and these are the people who love Maine. They live here, they have raised their families here and they are not going to leave. If you don't pass this bill today, they are still not going to leave, I don't want to infer that, but I don't have to remind you about small businesses and what they have done for our state in the last 10 years. They have provided a lot of jobs for this state and jobs are very important as we all know.

Keep in mind also that workers' compensation, property taxes and health care insurance premiums are just as much of a hardship on small businesses (maybe even more) than on big businesses so I ask that you join with me today and support small businesses and vote against the motion so we can go on to accept the Majority "Ought to Pass" Report.

Mr. Speaker, when the vote is taken, I request that it be taken by the yeas and nays.

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

Representative KETOVER: Mr. Speaker, Men and Women of the House: I rise in memory of my good friend, Don Carter, because he and I would probably be standing up saying the same thing about this particular bill. It is deja vu all over again from members who can remember when we started talking



about weights on trucks.

I think I remember saying to you, you open the door and you are going to allow in a lot of problems. What really worries me is that you are going to put these trucks on secondary roads and bridges. When we did this last time, weights with 100,000 pounds go on the roads, six axles, that it became a cultural shock to those little towns who now are going to carry the burden of fixing those roads and those bridges. I think we held up that bill for three weeks. I asked you then to hold up on that bill and study the issue. Here we are, we passed the bill and we are allowing more of this to come about.

These trucks will not go on the turnpike, folks. They are not allowed. They will go on those secondary roads that you all have that are rotting away because we don't have a lot of money to fix the potholes. We have bridges out there who are shaky now because they haven't had a lot of repairs. Putting heavy weights and heavy trucks on roads that our school buses use and that you ride on everyday is a dangerous thing. I think I remember telling you that the Highway Safety Commission (at that time) was against it.

I would hope that you would not allow this "opening up of Pandora's box" and allow this to happen in this state. I would like to keep those roads. I am all for small businesses, don't get me wrong, I think we need to help the small businesses, but this is not the time, we don't have the money to fix those roads yet but I hope we do. I hope you will not allow this to happen. If they are going to let the farm goods come in and you allow the sand and gravel to come in and all these other trucks — they are not going to be on the highways — look at Route 1, Route 1 (right now) is jammed to capacity, those trucks are going to go on Route 1, so I would hope that you would not support this bill and go with the "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Bailey.

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: In one sense this is a difficult bill to vote against. We all want business to prosper and be competitive but not at the expense of someone else because that is not fair. We have already heard about the fairness issue in this debate.

One of the things that we have talked about in this body is what are the long-term effects of our legislation and who does it impact. This is one of my several concerns that I will share with you.

The truck that we are talking about in this bill is a tri-axle, straight-bodied truck. You should have a diagram on your desks but I guess you don't have so you can't refer to it, but just briefly, the tri-axle has three axles under the load carry and one steering axle. Bear in mind that I will be talking about just the tri-axle under the body carrying the payload. I am not talking about gross weight, I am talking about the payload because that is what does the damage.

The only vehicle that is allowed to carry the 64,000 pound payload is the forest product trucks. I think since that has been singled out, we need to have a little bit of history why that happens to be a fact.

In 1975, the legislature allowed higher weights on this particular unit with a sunset in 1979 and, in 1979, the sunset was extended to 1982 and then again to 1983. In 1983, the extensions were granted as a

result of economic appeals and to compensate for the loader. The loader on that particular truck is part of the payload which is, depending on the loader, 5,000 or 6,000 pounds. In order to be more productive and have better maneuverability in the woods and time to convert to other less damaging vehicles, that was set in place. During that period, this enabled DOT to collect data that has determined that this particular truck's configuration is most damaging of all trucks to our roads and bridges. Even though there is damage done to our highways, I have a special concern for our bridges if we continue to add trucks in this 64,000 pound classification.

Talking about bridges, our old bridges in the State of Maine were designed for 30,000 pounds and this is in the H15 category which is the lowest classification for bridges. In the State of Maine, we have 4,137 of those bridges and about 1,174 in that lowest classification. I think what is really significant here is that 612 of those are in municipal ways and that is the responsibility of the municipality for capital improvement. At the present time, we are \$105 million behind in the needs for our bridges. Thirty million of that is town responsibility. For a couple of examples, Cumberland and Oxford County tie at a 139 of these public bridges with Aroostook next with 90 and my county of Franklin has 59. On town ways, Oxford County has 83, Cumberland and Penobscot are tied at 63 — passage of this bill will increase these costs about \$200,000 per biennium.

By the way, I have a printout for any of you who are interested in order for you to see if your town is impacted.

The estimated additional vehicles would be 451 with the passage of this bill and another one that is now in the pipeline.

Looking at the bridges, the accepted national standard is 130 percent of the designed load of the bridge and, if this bill is passed, we are asking for 153 percent of that designed load. Perhaps some of you can remember sitting on a bridge while it was moving up and down — it is designed that way. In my town of Farmington, we have the Old Center Bridge and when we installed a traffic light on the other end of the bridge, I had several constituents call saying that you have to do something about that bridge because it is moving up and down. I told them when it stops moving, you had better get off the bridge because that is what it is designed to do.

As you put this weight across those bridges, the movement causes the decking to wear, the iron, the pins and rollers, especially in cold temperatures of frost in the middle, and that is the real concern to our people that monitor these bridges. That means more frequent repair and more replacement with a portion of the cost passed on to our municipalities. I don't believe we want to pass along any other costs to our towns in view of the present economic crisis.

Talk about fairness — if you want to be fair, here again we are singling out commodity haulers which is identified and described in our statutes, wood bolts, road salt, and many municipalities have to haul road salt or have it hauled, concrete products, building materials, refrigerator products, raw ore and solid waste — all of these go up to the 54,000 pounds so here again we are singling out gravel to go the next one — why not all of them?

I would like just briefly to discuss those two commodities, waste haulers for instance. We are

approaching a new era on waste that will affect every community in Maine. The tri-axle truck now hauling with a commodity permit, as competition increases, may ask an exception to be made for them to obtain a permit for 64,000 pounds with a number of transfer stations, regional landfills and out-of-state transfers. That may be what we will have in the future, so we have a potential of having more trucks. At the present time, trucks that are hauling the roll-on containers pass my house on U.S. Route 2 going to Norridgewock and are tri-axle, and as I say, if we open this up, then they are sure to want to be able to haul that extra weight.

We have companies now interested in mining — what do we do there? Do we tell them they can't haul raw ore that might be similar to gravel in some respects?

Again, as far as the fairness issue is concerned, none of these haulers are in competition with one another. The sand and gravel hauler is not in competition with the forest products or some of these others. They are in competition with their own product. If you truly want to be fair, then all three sets of vehicles should pay their fair share through the application of the Highway Cost Allocation principles. For instance, the tri-axle pays less than 56 percent of its financial responsibility and other highway users make up the difference. The automobiles and pickups you and I drive pay 7 percent more than their share. The single unit truck pays 76 percent of their share and a truck combination pays 2 percent more than their responsibility.

In the last session, we approved a \$2.00 permit with the understanding that we would have more enforcement. Most truckers want more enforcement. They don't want to have to compete with people who overload their vehicles because this is dangerous and it is something where you never win in the end. Talking about fairness — with the forest product truck, if we didn't have that administrative fee of \$2.00, they would be paying \$900 and the special commodity, which is now the gravel hauler, would be paying \$300 to \$360, so what is the answer? There isn't an easy answer but I believe that we should leave the forest products where they are with a 64,000 pound limit. However, the industry should continue with the experimental vehicle for use, not only with forest products, but include other commodity haulers such as the gravel, stone etcetera. The experimental vehicle, which probably shouldn't be called an experimental vehicle because it is already in the statutes, it is called the centipede, a six-axle truck and this unit will do less damage to the roads and bridges so let us support the businessman that has already invested a lot of time and money to make that a reality. If we continue to grant higher permits, where is the incentive to continue the experiment for a safer and more productive truck that will reduce the damages to our bridges and highways? If the decision is to grant a higher permit for other commodities, will the forest product operator come back and say, look, part of my payload is the loader. Are you going to give me another 5,000 to 6,000 pounds to compensate for the loader?

I have supported truckers on weight permits and other issues since I have been on the Transportation Committee. Nevertheless, the time has come to re-assess what we are doing to the infrastructure of

this state and find ways to lessen the impact. The technology is available, people are willing to investigate, so let us use that route rather than one that continues to burden our citizens.

I hope you will support the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, Men and Women of the House: This is truly a fairness issue and I just want to point out a few things about this.

The truckers, the sand and gravel truckers, are paying the same rate for fuel tax, they are paying the same registration fee, they are paying the same gross weight federal motor vehicle tax as these who are allowed to haul the higher weights.

I realize the problem and I would suggest that if this cannot be resolved in this time, that either we lower the registration fee on those hauling the heavier load or reduce the registration fee for those who are not hauling the higher load.

As an afterthought, I want you to know that I do not own any tri-axle vehicles.

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

Representative MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I just want to respond to Representative Look and Representative Duplessis. Granted the fairness issue is there. I think Representative Bailey and myself both brought it up that we recognize that but I guess the issue is, do you want to compound the problem that we already have and add weight to these others which will cause more damage?

In response to something Representative Duplessis said, I think I do have to take issue, she is talking about another bill that is in the other body at the present time and she said, if you are going to be consistent, you must vote the same way on both bills. I don't really think that follows exactly what you have to do and let me explain why.

The other bill that is in the other body is being discussed at the present and concerns a product that is perhaps on the road daily, perhaps weekly. Sand and gravel — if you have a pit in your particular area, you don't get one trip a day or one trip a week, you are apt to get anywhere from ten to thirty or forty truckloads of sand and gravel on that same particular road, each and every day. So, I think the statement that you have to be consistent if you vote for one or against one, you have to do the same thing on the other, I don't think that really follows.

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 South Portland, Representative Macomber, that the House accept the Minority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 287

YEA - Adams, Aikman, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Bowers, Butland, Cahill, M.; Carroll, D.; Carroll, J.; Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Constantine, Cote, Crowley, Daggett, Donnelly, Dore, Duffy, Dutremble, L.; Erwin, Farnsworth, Farnum, Foss, Garland, Gean, Gould, R. A.; Graham, Gray, Greenlaw, Gurney, Gwadosky, Handy, Hanley, Hastings, Heeschen, Heino, Hichborn, Hichens, Hوجلund, Holt, Hussey, Jalbert, Joseph, Kerr, Ketover, Kontos, Larrivee, Lawrence, Lemke, Libby, Lord, Luther, Macomber, Manning, Marsano, Marsh, Mayo, McKeen, Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Nash, Norton, O'Dea, O'Gara, Oliver, Ott, Paradis, P.; Parent, Paul, Pendexter, Pendleton, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Rand, Richards, Richardson, Rotondi, Ruhlin, Rydell, Saint Onge, Salisbury, Savage, Sheltra, Simonds, Simpson, Skوجلund, Small, Stevens, A.; Stevens, P.; Stevenson, Swazey, Tardy, Townsend, Tracy, Treat, Tupper, Vigue, Waterman, Wentworth, The Speaker.

MAY - Aliberti, Anderson, Boutilier, DiPietro, Duplessis, Farren, Hale, Hepburn, Ketterer, Kilkelly, Kutasi, Lebowitz, Lipman, Look, MacBride, Mahany, Martin, H.; McHenry, Merrill, Pines, Reed, W.; Ricker, Spear, Strout, Tammaro, Whitcomb.

ABSENT - Carleton, Coles, Goodridge, Jacques, Nutting, Paradis, J.; Reed, G..

Yes, 118; No, 26; Absent, 7; Paired, 0; Excused, 0.

118 having voted in the affirmative and 26 in the negative with 7 being absent, the Minority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

**CONSENT CALENDAR**

**First Day**

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

(S.P. 688) (L.D. 1829) Bill "An Act to Transfer Responsibility for the Regulation of Home Service Contracts from the Real Estate Commission to the Bureau of Insurance" Committee on **Business Legislation** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-524)

(H.P. 508) (L.D. 702) Bill "An Act Regarding the Relocation of Utility Facilities as a Result of State Highway Construction" Committee on **Transportation** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-871)

(H.P. 1235) (L.D. 1799) Bill "An Act to Clarify the Economic Impact Analysis in Administrative Rule-making Procedures" Committee on **State and Local Government** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-873)

(H.P. 1217) (L.D. 1775) Bill "An Act to Prescribe the Duties and Liabilities of Ice-skating Rink Operators and Persons Who Use Ice-skating Rinks" Committee on **Business Legislation** reporting "Ought to Pass" as amended by Committee Amendment "A"

(H-874)

(H.P. 1492) (L.D. 2104) Bill "An Act to Clarify the Scope of the Laws Governing Administrative Correction of Statutory Errors" (EMERGENCY) Committee on **Judiciary** reporting "Ought to Pass"

(H.P. 1511) (L.D. 2123) Bill "An Act to Authorize Transfer of Venue for Multiple Cases by the Chief Justice of the Superior Court" Committee on **Judiciary** reporting "Ought to Pass"

(H.P. 1482) (L.D. 2094) Bill "An Act to Establish a Forest Service Bureau in Each Division of the District Court" Committee on **Judiciary** reporting "Ought to Pass"

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, January 30, 1992, under the listing of Second Day.

**CONSENT CALENDAR**

**Second Day**

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

(H.P. 1319) (L.D. 1909) Bill "An Act to Regulate Certain Warrant Practices for Repairs to Watercraft" (C. "A" H-866)

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

(Off Record Remarks)

Representative Cole of Harpswell was granted unanimous consent to address the House:

Representative COLES: Mr. Speaker, I was just a few seconds too late on the roll call because I was on the phone with a constituent. My intention was to vote yea.

On motion of Representative Ruhlin of Brewer, Adjourned at 5:05 p.m. until Thursday, January 30, 1992, at four o'clock in the afternoon.