

MAINE STATE LEGISLATURE

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

VOLUME I

FIRST REGULAR SESSION

House of Representatives
December 2, 1992 to May 13, 1993

ONE HUNDRED AND SIXTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
49th Legislative Day
Tuesday, May 11, 1993

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

Prayer by The Reverend Robert L. Webster, Clark Memorial United Methodist Church, Portland.

The Journal of Monday, May 10, 1993, was read and approved.

SENATE PAPERS

The following Communication:

Maine State Senate
Augusta, Maine 04333

May 10, 1993

Honorable Joseph W. Mayo
Clerk of the House
State House Station 2
Augusta, Maine 04333

Dear Clerk Mayo:

Please be advised that the Senate today Adhered to its previous action whereby it accepted the Minority Ought Not to Pass Report on the Bill "An Act to Promote Equity in Wages and Benefits in Public Contracts with Private Contractors" (S.P. 142) (L.D. 433).

Sincerely,

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

Was read and ordered placed on file.

The following Communication:

Maine State Senate
Augusta, Maine 04333

May 10, 1993

Honorable Joseph W. Mayo
Clerk of the House
State House Station 2
Augusta, Maine 04333

Dear Clerk Mayo:

Senate Paper 19, Legislative Document 9, An Act Prohibiting Political Activity by the Members of the Workers' Compensation Board, having been returned by the Governor together with his objections of the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the Senate proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, accordingly, it was the vote of the Senate that the Bill not become law and the veto was sustained.

Sincerely,

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

Was read and ordered placed on file.

The following Communication:

Maine State Senate
Augusta, Maine 04333

May 10, 1993

Honorable Joseph W. Mayo
Clerk of the House
State House Station 2
Augusta, Maine 04333

Dear Clerk Mayo:

Senate Paper 104 Legislative Document 282, An Act to Make the Terms of Certain Commissioners Coterminous with the Term of the Governor, having been returned by the Governor together with his objections of the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the Senate proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent, accordingly, it was the vote of the Senate that the Bill not become law and the veto was sustained.

Sincerely,

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

Was read and ordered placed on file.

Ought to Pass as Amended

Report of the Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-117) on Bill "An Act to Amend the Charter of the Northern Maine Regional Planning Commission" (S.P. 140) (L.D. 431)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-117) and Senate Amendment "A" (S-124).

Report was read and accepted, the bill read once. Committee Amendment "A" (S-117) was read by the Clerk and adopted.

Senate Amendment "A" (S-124) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 13, 1993.

At this point, the Speaker appointed the Representative from East Millinocket, Representative Michaud, to act as Speaker pro tem.

The House was called to order by the Speaker pro tem.

Divided Report

Later Today Assigned

Majority Report of the Committee on State and Local Government reporting "Ought Not to Pass" on Bill "An Act Regarding County Contingent Account Limits" (S.P. 286) (L.D. 856)

Signed:

Senators: BERUBE of Androscoggin
ESTY of Cumberland

Representatives: GRAY of Sedgwick
DUTREMBLE of Biddeford
WALKER of Blue Hill
AHEARNE of Madawaska
JOSEPH of Waterville
YOUNG of Limestone

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-116) on same Bill.

Signed:

Senator: BUTLAND of Cumberland

Representatives: BENNETT of Norway
LOOK of Jonesboro
ROWE of Portland
KILKELLY of Wiscasset

Came from the Senate with the Majority "Ought Not to Pass" Report read and accepted.

Reports were read.

Representative Joseph of Waterville moved that the House accept the Majority "Ought Not to Pass" Report.

On further motion of the same Representative, tabled pending her motion that the House accept the Majority "Ought Not to Pass" Report and later today assigned.

Non-Concurrent Matter

Bill "An Act to Establish Maximum Interest Rates for Automobile Financing" (H.P. 656) (L.D. 894) which

was passed to be engrossed as amended by Committee Amendment "A" (H-212) in the House on May 4, 1993.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-212) as amended by Senate Amendment "A" (S-118) thereto in non-concurrence.

On motion of Representative Pineau of Jay, tabled pending further consideration and later today assigned.

COMMUNICATIONS

The following Communication: (S.P. 484)

116th Maine Legislature

May 10, 1993

Senator Rochelle Pingree
Rep. Rita B. Melendy
Chairpersons
Joint Standing Committee on Housing and Economic Development
116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Kirk M. Allen of Gorham for appointment to the Adaptive Equipment Loan Program Fund Board.

Pursuant to Title 10, MRSA Section 373, this nomination will require review by the Joint Standing Committee on Housing and Economic Development and confirmation by the Senate.

Sincerely,

S/Dennis L. Dutremble
President of the Senate

S/John L. Martin
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Housing and Economic Development.

Was Read and Referred to the Committee on Housing and Economic Development in concurrence.

**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:

Banking and Insurance

Bill "An Act Concerning Preferred Provider

Arrangements" (H.P. 1104) (L.D. 1491) (Presented by Representative DAGGETT of Augusta)

Ordered Printed.
Sent up for Concurrence.

Joint Select Committee on Corrections

Bill "An Act to Clarify Statutory Provisions Related to Juveniles" (H.P. 1103) (L.D. 1490) (Presented by Representative GREENLAW of Standish) (Cosponsored by Representative: JOHNSON of South Portland, Senators: BUSTIN of Kennebec, KIEFFER of Aroostook) (Submitted by the Department of Corrections pursuant to Joint Rule 24.)

Ordered Printed.
Sent up for Concurrence.

Energy and Natural Resources

Bill "An Act Related to the Site Location of Development Laws" (H.P. 1105) (L.D. 1492) (Presented by Representative ANDERSON of Woodland) (Cosponsored by Representative: COLES of Harpswell) (Submitted by the Department of Environmental Protection pursuant to Joint Rule 24.)

Ordered Printed.
Sent up for Concurrence.

Labor

Resolve, to Establish the Labor and Welfare Transition Team to Facilitate the Inclusion within the Department of Labor of Certain Welfare Functions of the Department of Human Services (EMERGENCY) (H.P. 1102) (L.D. 1489) (Presented by Representative AIKMAN of Poland) (Cosponsored by Representatives: BENNETT of Norway, CARR of Sanford, LIBBY of Buxton, Senator: HARRIMAN of Cumberland) (Governor's Bill)

Ordered Printed.
Sent up for Concurrence.

State and Local Government

Bill "An Act to Clarify the Process for a Direct Initiative of Legislation and to Simplify Questions Presented to the Voters at a Referendum" (H.P. 1101) (L.D. 1488) (Presented by Representative GEAN of Alfred) (Cosponsored by Senator CAHILL of Sagadahoc and Representatives: DAGGETT of Augusta, PARADIS of Augusta, YOUNG of Limestone, ZIRNKILTON of Mount Desert, Senators: CONLEY of Cumberland, DUTREMBLE of York) (Submitted by the Department of the Secretary of State pursuant to Joint Rule 24.)

Ordered Printed.
Sent up for Concurrence.

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

REPORTS OF COMMITTEES

Refer to the Committee on Judiciary

Representative TRUE from the Committee on Legal Affairs on Bill "An Act to Prevent Diversion of Solid Waste" (H.P. 958) (L.D. 1289) 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.

Ought to Pass as Amended

Representative HEINO from the Committee on Marine Resources on Bill "An Act to Establish Cod Hatcheries" (H.P. 211) (L.D. 273) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-271)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-271) was read by the Clerk and adopted and the bill assigned for second reading Thursday, May 13, 1993.

Divided Report

Later Today Assigned

Majority Report of the Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-251) on Bill "An Act to Improve Communication between the Executive and Legislative Branches" (H.P. 419) (L.D. 538)

Signed:

Representatives: AHEARNE of Madawaska
WALKER of Blue Hill
BENNETT of Norway
JOSEPH of Waterville
ROWE of Portland
YOUNG of Limestone
KILKELLY of Wiscasset

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

Signed:

Senators: BERUBE of Androscoggin
BUTLAND of Cumberland
ESTY of Cumberland

Representatives: GRAY of Sedgwick
LOOK of Jonesboro
DUTREMBLE of Biddeford

Reports were read.

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

On motion of the same Representative, tabled pending her motion that the House accept the Majority "Ought to Pass" Report and later today assigned.

KUTASI of Bridgton
JOSEPH of Waterville
TOWNSEND of Canaan
CAMPBELL of Holden

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-257) on same Bill.

Divided Report

Later Today Assigned.

Majority Report of the Committee on Banking and Insurance reporting "Ought to Pass" on Bill "An Act to Promote Competition in Motor Vehicle Glass Replacement and Repair" (H.P. 417) (L.D. 536)

Signed:

Senators: McCORMICK of Kennebec
CAREY of Kennebec
KIEFFER of Aroostook

Representatives: HALE of Sanford
TRACY of Rome
ERWIN of Rumford
RAND of Portland
KUTASI of Bridgton
CAMPBELL of Holden
TOWNSEND of Canaan
JOSEPH of Waterville

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

Signed:

Representatives: PINEAU of Jay
CARLETON of Wells

Reports were read.

Representative Pineau of Jay moved that the House accept the Minority "Ought Not to Pass" Report.

On motion of the same Representative, tabled pending his motion that the House accept the Minority "Ought Not to Pass" Report and later today assigned.

Divided Report

Majority Report of the Committee on Banking and Insurance reporting "Ought Not to Pass" on Bill "An Act to Provide for the Popular Election of the Superintendent of Insurance" (H.P. 334) (L.D. 437)

Signed:

Senators: CAREY of Kennebec
KIEFFER of Aroostook

Representatives: HALE of Sanford
TRACY of Rome
ERWIN of Rumford
CARLETON of Wells
RAND of Portland

Signed:

Senator: McCORMICK of Kennebec

Representative: PINEAU of Jay

Reports were read.

Representative Pineau of Jay moved that the House accept the Minority "Ought to Pass" as amended Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative AHEARNE: Mr. Speaker, Ladies and Gentlemen of the House: Direct democracy — as Representative Lemke has so stated, L.D. 437 is a direct democracy bill. If anything, the past election has clearly shown that the people of Maine want change and want a greater role in government. We should embrace and take hold of any opportunity that will allow a greater voter participation. Is this not the government of the people, for the people and by the people? We trust the people of Maine to elect a president, elect a governor, elect members of congress and elect members of this legislature. Certainly we can trust the people of Maine to elect a Superintendent of Insurance.

The arguments I heard in the State and Local Committee of why we should popularly elect an Attorney General, the Secretary of State and even the Treasurer of Maine can easily be applied to the popular election of the Superintendent of Insurance, one of them being accountability. The Superintendent of Insurance oversees and regulates the insurance industry, therefore, affecting the whole state which includes not only Maine businesses but Maine people. Because the decisions made by the Superintendent of Insurance affects the people of Maine, he or she should be held accountable to the people of Maine.

There is concern that special interests will endorse a candidate and amass a huge war chest of money and go around the state influencing voters, purchasing television, radio and newspaper advertisements in great numbers and just overwhelm all other candidates.

There is a solution, we can adopt the same campaign funding limits for the Superintendent of Insurance candidates as has been proposed for other public offices.

The legislature can easily enact such legislation that would limit contributions to a single candidate from any individual, corporation, PAC or any entity to \$500 and even \$200.

A second provision would be to enact this legislation to require public publication of all contributions and expenditures made by candidates for the Superintendent of Insurance and such information to be published at the candidate's expense every 30 days during the 12 months prior to the election and the during 30 days after the election.

I firmly believe that the people of Maine will not be fooled by attempts to evade these provisions

or to disguise contributions from special interest groups.

Certainly, it is even more important now to special interests such as the insurance industry to contribute to gubernatorial campaigns, presidential campaigns, congressional campaigns and, even in some instances, state legislative campaigns.

Do any of us truly believe that the insurance companies as well as others don't attempt to influence candidates with large contributions now? To argue that letting the people of Maine to elect the Superintendent of Insurance is wrong or full of danger from special interest groups, "buying the election" when we have an even greater potential for these acts in current election campaigns for Governor, President and so forth. The people of Maine elect all of these individuals. So, how can we, the legislature, tell our constituents that we don't believe they are capable of electing the Superintendent of Insurance? I believe the voters of Maine can wisely choose and elect a Superintendent of Insurance if we so give them that opportunity. "For the people, of the people and by the people" — vote yes to accept the "Ought to Pass" Report.

Mr. Speaker, I request a roll call.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Mr. Speaker, Men and Women of the House: The overwhelming majority of the people in the Banking and Insurance Committee voted against this bill and for some very good reasons. The Superintendent of Insurance, like the Superintendent of Banking and the Superintendent of Consumer Affairs, has to make some complex decisions that require the expertise of a professional. I wonder how many of these experts are going to be willing to go through a statewide campaign to get themselves elected. The political pressures can be highly unusual, the Banking Commissioner and the Insurance Commissioner all have to make decisions which are sometimes unpopular. They have to assure the continued stability of insurance companies and self-insured funds. It requires judgment which is sometimes not complimentary to the political judgments of the day.

The Bureau of Insurance is not really a policy-making position. The Insurance Commissioner carries out the laws that are passed by the legislature. He does pass some rules but basically he conducts examinations of companies and makes judgments about their financial stability or instability. The discussion that was made by the previous speaker about the possibility of political influence upon these decisions is a real one.

The State of Maine was only one of five states that did not let a company (and I believe the name of the company is called Executive Insurance Company) do business in this state some years ago. That company failed. It was one of the largest insurance company failures that occurred in this country and a lot of state guarantee funds are paying off policy holders in those states because of that failure. We need professionalism in that office. If we have a popularly elected insurance commissioner, that insurance commissioner is going to become independent of legislative oversight, it is going to become politicized and, in the insurance business, that is a bad idea. I hope you vote against this bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House: I hope you do not accept the Minority "Ought to Pass" Report because I can't envision individuals running for the Superintendent of Insurance.

Speaking of special interest groups, I wonder where the money would come from that would go into their coffers. I believe that it would be an extensive cost to the election. If we are talking \$1.5 million just to run for Governor or \$1.5 million average just to run for the Congress, I can't envision what the cost would be for this. I do not believe it is in the best interest of the people of the State of Maine to have superintendents of the Bureau of Insurance running for political office like this. I urge you not to accept the Minority "Ought to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Westbrook, Representative Lemke.

Representative LEMKE: Mr. Speaker, Men and Women of the House: I disagree with my good friend from Rome and I would like to address some remarks that were made by Representative Carleton. He was against this because he said complex decisions require experts. Frankly, I think that is part of the problem. I am a little bit tired of government by experts. We see some of the results of government by experts all around us.

I am reminded of a quotation by Winston Churchill and I think it is one we should keep in mind. Churchill said, "Keep experts on tap, not on top." I think that is very good advice. One of the problems we have in the State of Maine is that we have a number of people that are not directly accountable in the permanent or, if you will, semipermanent bureaucracy.

I think this measure, which was quite courageously put forward by Representative Ahearne, is a direct democracy measure, I have no particular problem with it and I really don't have much problem with politics. Let's be realistic about all of this.

Another quote that I will give you that may be of some help — Sam Rayburn, who was one of the great politicians of all time and was very frank about it, was once asked how he evaluated the experts in John Kennedy's administration. You all remember, the best and the brightest. The reply of Rayburn was, "Well, they are pretty smart but I would feel a lot better if at least one of them had run for Sheriff." I think he had a point there, maybe we would do better with a Superintendent of Insurance who had some political expertise as well as abstract expertise. I would urge you to support the Representative Ahearne on this bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Jay, Representative Pineau.

Representative PINEAU: Mr. Speaker, Members of the House: Just so you understand that the report we are voting on now as amended has some safeguards built into it, one of the safeguards is a Recall provision. Right now, we don't have that for the Superintendent of Insurance. I find that kind of interesting.

One of the statements made in opposition to this was it is not a policy-making position. Well, ladies and gentlemen of this House, those fortunate or unfortunate members of the 115th Legislature saw that office decide policy, take a lead on policy and be a point man on policy for a political position. It was still appointed, so I think that negates that

argument.

I think the time has come when we must sit down and just look it over. The safeguards that are built in leave it up to the people. A candidate has to be qualified and I kind of smirked back here, this year being the first year I am in the back row listening to my comrades and cohorts and trouble makers alike, make mention of how everybody is going to be bought out in a political campaign. Well, I submit to you that you are all the result of a political campaign at one time or another. So, are we all bought out? No, nay, I say to that. Nay, I say that will happen to the Superintendent of Insurance position. The State of California passed this measure and the interesting part that happened was the person who was defeated in the election was appointed as deputy superintendent of insurance by the winner. Right now, California has a strong, strong office there because the people were allowed to speak. I fear not to let the people decide. After all, by their wise choices, they put us all here.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Mr. Speaker, Men and Women of the House: I don't want to carry this on too much further. I would just like to point out that with many, many departments in state government, we place responsibility on the Governor to appoint the heads of various and sundry bureaus. The accountability runs up through the Governor and in the Executive Branch and the Executive Branch gets blamed if something gets messed up, that is a system of accountability as well. We can't elect everybody, certainly nobody would agree, well maybe there are some people who think that we ought to elect the Commissioner of Banking or the Superintendent of Banking or Consumer Protection, but there obviously is a limit to popular elections. I think on balance that the Bureau of Insurance should be well down on the list of officers or heads of bureaus that we ought to be electing. If we want to elect the Superintendent of Insurance, there are plenty of other people, heads of bureaus that we ought to also elect.

The SPEAKER PRO TEM: 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 PRO TEM: The pending question before the House is the motion of Representative Pineau of Jay that the House accept the Minority "Ought to Pass as amended Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 81

YEA - Ahearne, Brennan, Caron, Clark, Coffman, DiPietro, Farnsworth, Gray, Hichborn, Johnson, Lemke, Mitchell, J.; Pineau, Plourde, Ruhlman, Sullivan, Swazey.

NAY - Adams, Aikman, Aliberti, Ault, Bailey, H.; Bailey, R.; Barth, Beam, Bennett, Bowers, Bruno, Cameron, Campbell, Carleton, Carr, Carroll, Cashman, Cathcart, Chase, Chonko, Clement, Cloutier, Clukey, Constantine, Cote, Cross, Daggett, Donnelly, Dore,

Driscoll, Dutremble, L.; Erwin, Faircloth, Farnum, Farren, Fitzpatrick, Foss, Gamache, Gean, Greenlaw, Gwadosky, Hatch, Heeschen, Heino, Hillock, Holt, Hussey, Jacques, Jalbert, Joseph, Joy, Kerr, Kilkelly, Kneeland, Kontos, Kutasi, Larrivee, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, MacBride, Marsh, Marshall, Martin, H.; Melendy, Michael, Mitchell, E.; Morrison, Murphy, Nadeau, Nash, Nickerson, Norton, O'Gara, Oliver, Ott, Paradis, P.; Pendexter, Pendleton, Pfeiffer, Pinette, Plowman, Pouliot, Quint, Rand, Reed, G.; Reed, W.; Richardson, Ricker, Robichaud, Rotondi, Rowe, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Small, Spear, Stevens, A.; Stevens, K.; Strout, Taylor, Thompson, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Tufts, Vigue, Walker, Wentworth, Whitcomb, Young, Zirnkilton.

ABSENT - Anderson, Coles, Dexter, Gould, R. A.; Hale, Hogle, Ketterer, Lord, Michaud, Poulin, Simoneau, Tardy, True, Winn, The Speaker.

Yes, 17; No, 119; Absent, 15; Paired, 0; Excused, 0.

17 having voted in the affirmative and 119 in the negative with 15 being absent, the Minority "Ought to Pass" Report was not accepted.

Subsequently, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

Divided Report

Tabled and Assigned

Majority Report of the Committee on Banking and Insurance reporting "Ought Not to Pass" on Bill "An Act to Amend the Workers' Compensation Laws" (H.P. 530) (L.D. 714)

Signed:

Senators: McCORMICK of Kennebec
CAREY of Kennebec

Representatives: PINEAU of Jay
HALE of Sanford
CARLETON of Wells
RAND of Portland
JOSEPH of Waterville
TOWNSEND of Canaan
TRACY of Rome
ERWIN of Rumford

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-259) on same Bill.

Signed:

Senator: KIEFFER of Aroostook

Representatives: KUTASI of Bridgton
CAMPBELL of Holden

Reports were read.

Representative Pineau of Jay moved that the House accept the Majority "Ought Not to Pass" Report.

On motion of the same Representative, tabled pending his motion that the House accept the Majority

"Ought Not to Pass" Report and specially assigned for Thursday, May 13, 1993.

CONSENT CALENDAR

First Day

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

(S.P. 267) (L.D. 804) Bill "An Act to Clarify Reporting Requirements for Medical Malpractice Carriers to the Bureau of Insurance" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (S-114)

(S.P. 354) (L.D. 1068) Bill "An Act to Regulate Credit Insurance and to Require Disclosure to Borrowers" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (S-115)

(H.P. 425) (L.D. 544) Bill "An Act Regarding Missing Children" (EMERGENCY) Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-262)

(H.P. 357) (L.D. 460) Bill "An Act to Amend the Sex Offender Registration Act" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-263)

(H.P. 857) (L.D. 1162) Bill "An Act to Help Clarify the Application of the Maine Rules of Criminal Procedure to Probation Revocation Proceedings, Including the Appeal Process" Committee on Judiciary reporting "Ought to Pass"

(H.P. 550) (L.D. 746) Bill "An Act to Increase Tenant Representation on Housing Authorities" Committee on Housing and Economic Development reporting "Ought to Pass" as amended by Committee Amendment "A" (H-264)

(H.P. 1029) (L.D. 1381) Bill "An Act to Clarify the Law Concerning Complimentary Licenses for Disabled War Veterans" (EMERGENCY) Committee on Fisheries and Wildlife reporting "Ought to Pass"

(H.P. 316) (L.D. 404) Bill "An Act Concerning Teacher Certification" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-266)

(H.P. 643) (L.D. 874) Bill "An Act to Protect Police Officers from Armor-piercing Ammunition" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-267)

(H.P. 609) (L.D. 824) Resolve, to Direct the Department of Environmental Protection to Develop a Report Regarding the Feasibility of the State Applying to Assume Permitting Jurisdiction over Federal Wetlands Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-272)

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, May 13, 1993, 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:

(H.P. 855) (L.D. 1160) Bill "An Act Pertaining to the Appointment of Code Enforcement Officers"

(H.P. 941) (L.D. 1270) Bill "An Act to Amend the State Contribution to Pollution Abatement and Overboard Discharge Replacement Laws"

(S.P. 138) (L.D. 429) Bill "An Act to Provide for the 1993 and 1994 Allocations of the State Ceiling on Private Activity Bonds" (EMERGENCY) (C. "A" S-112)

(H.P. 122) (L.D. 163) Resolve, for Amending the Laws Pertaining to Job Classification Specifications (C. "A" H-252)

(H.P. 476) (L.D. 613) Bill "An Act to Shorten the Appeal Procedure for the State Bidding Process and to Provide Consistent Administration of Appeal Hearings" (C. "A" H-253)

(H.P. 1002) (L.D. 1348) Bill "An Act to Clarify the Time Frame in Which the Board of Environmental Protection Is to Establish a Numeric Water Quality Criterion for Dioxin" (C. "A" H-254)

No objections having been noted at the end of the Second Legislative Day, the Senate Paper was 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. 710) (L.D. 961) Bill "An Act to Allow the Commissioner of Conservation to Adopt Rules That Encourage Conservation of Shore Plants" (C. "A" H-255)

On motion of Representative Kontos of Windham, was removed from Consent Calendar, Second Day.

Report was read and accepted, the bill read once. Committee Amendment "A" (H-255) was read by the Clerk.

Representative Kontos of Windham offered House Amendment "A" (H-275) to Committee Amendment "A" (H-255) and moved its adoption.

House Amendment "A" (H-275) to Committee Amendment "A" (H-255) was read by the Clerk and adopted.

Committee Amendment "A" (H-255) as amended by House Amendment "A" (H-275) thereto was adopted and the the bill assigned for second reading Thursday, May 13, 1993.

(H.P. 737) (L.D. 995) Bill "An Act to Amend the Laws Concerning the Sale of Alcohol" (EMERGENCY) (C. "A" H-256)

(H.P. 779) (L.D. 1052) Bill "An Act to Establish a Mechanism for Ensuring Adequate Preservation and Maintenance of the State House" (C. "A" H-258)

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

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Increase Access to Clam Flats for Nonresident Clam Diggers" (H.P. 701) (L.D. 953) (C. "A" H-260)

Was reported by the Committee on Bills in the Second Reading, read the second time, Passed to be Engrossed as Amended, and sent up for concurrence.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act Related to Unavoidable Equipment Malfunctions" (H.P. 903) (L.D. 1218) (C. "A" H-261)

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

Representative Kontos of Windham offered House Amendment "A" (H-274) and moved its adoption.

House Amendment "A" (H-274) was read by the Clerk and adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (H-261) and House Amendment "A" (H-274) and sent up for concurrence.

Bill "An Act to Amend the Laws Related to the Maine State Retirement System" (H.P. 227) (L.D. 295) (C. "A" H-215)

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

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I move that L.D. 295 and all its accompanying papers be indefinitely postponed.

This is what is referred to as a bad bill. It was ill-conceived, ill-prepared and apparently somebody got the idea that we will get something out of it.

You all received this yellow sheet which purports to be a report from the Maine State Retirement System. What this bill does is it reduces the vesting period needed for a pension from ten to five years. It is bad because here is what happens, it

only applies to state employees and teachers and does not apply to local participating districts.

I will tell every one of you people, my colleagues, if this goes through and you go back home, you are going to find that your local participating districts, policemen, firemen and town employees will remain at ten years for vesting. Can you just imagine — all Hades is going to break loose!

Take the big city of Portland or Bangor or Waterville or Augusta, every one of those firemen or policemen are going to say that that is not fair for state employees and teachers to be vested with a pension at five years and they have to maintain at ten. They will come back and want it changed.

They have also underlined part of this here but they conveniently underlined only what they want you to see. What they did not underline was — as drafted, this bill does not accomplish its purpose and in order to do so, several other provisions of retirement statute would have to be similarly amended.

Furthermore, because the shorter vesting period may result in the increasing retirement cost, particularly local districts, particularly those with few employees, the amendment would apply to those particular local districts which adopted it unless the legislation specifically provided.

What you are doing in a way is telling someone, you need only work five years and leave and the money would be sitting there and you can come back at 60 and draw a pension. The retirement system is in trouble as it is, why start tampering with it? We have trouble with unfunded liability now, why create more? You will find that people will jump from place to place. Under this provision, there is nothing to keep someone from working for five years for the City of Augusta and leave, go work for the City of Bangor for five years and leave, go work for the City of Portland for five years and leave or work for the City of Waterville for five years and, at 60 years old, they will get four different pensions.

You must remember, it may be a small pension but all state pensions have a cost-of-living adjustment which is four percent every September, which means someone retiring at 60, by the time they reach 65, their pension will have increased 20 percent. We are trying to downsize the retirement system to try to keep it from getting anymore unfunded liability. This is one way to keep getting more unfunded liability.

We have a problem now as to whether or not to fund the unfunded liability for 25 years or 40 years as the Governor wants to do. If we fund it for 40 years, we are going to have a \$9 million cost. I would say at this time, let's leave the retirement system alone until such time as the courts come back and say what we can do and what we cannot do.

I say, let's vote for indefinite postponement. When we do vote, Mr. Speaker, I request the yeas and nays.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Arundel, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Men and Women of the House: Maybe I can clear the air a little bit here. This bill, as noted in the yellow sheet that was handed out by Representative Kontos, does not increase the unfunded liability in the future according to the retirement system. They have said that it would have an insignificant cost.

Basically what that means, coming from a very conservative retirement system, is that it is likely

to have little or no impact. Every time that they feel that there is any chance of the unfunded liability being increased with the cost of the system being increased, they are clear in stating that position. The Board does not take bills lightly when they review it, they look at them thoroughly and they have said to the Aging, Retirement and Veterans Committee that there is not a significant cost associated with this bill.

It does not increase anyone's retirement benefit. In no way does this bill increase the benefits that a retiree would receive when they become eligible for retirement. It merely changes the vesting period. It says to state employees and teachers, whom we have consistently hurt with changes over the last three years to the retirement system and frankly in the distant past, that we are going to allow them to vest after five years of service rather than ten, that we will provide them security in their retirement at an earlier time period than under the current law.

I think that is good public policy in a time when we have been sending a message to state employees that their retirement benefits can be changed at the will of the legislature depending on what our budgetary needs are. That is wrong, retirement is something that employees depend upon for their future. It is something that they need to feel secure about in their employment. They need assurance that their retirement benefits are not going to be continually adjusted.

What this does is assure, after five years of service, that they are entitled to a pension as defined at the end of those five years of service. It does not have a significant cost and I think it makes good sense at this time.

I also would urge you to oppose the indefinite postponement of this bill because I intend to offer an amendment that will clear up one issue that was raised by the fiscal note on the bill, so I assume by the Office of Fiscal and Program Review that this may have some conflict with the budgetary provisions that will come forward from the Appropriations Committee. The amendment that I plan to offer will assure that the bill does not take effect until after this biennium and, therefore, eliminate any potential conflict with the provisions that will likely appear in the budget.

Again, I would urge you to oppose indefinite postponement so that we can go on to adopt the amendment that I will offer.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Winslow, Representative Vigue.

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: The changing of the vesting period from ten years to five years may not have a direct influence on the unfunded liability of the system at the present time, it may not increase the unfunded liability directly, but indirectly by vesting early, if they leave, the person leaving must take their contribution with them if they leave early. What it does is it releases the amount of money that the state had to put in in their behalf and, therefore, allows the state to reduce the amount of unfunded liability in the other areas. Directly, no, but indirectly what it does is it allows the state to have a sounder system. I think what we should do is follow Representative Jalbert's move to indefinitely postpone all these papers and the bill.

The SPEAKER: The Chair recognizes the

Representative from Paris, Representative Quint.

Representative QUINT: Mr. Speaker, Distinguished Members of the House: At this time, there are vesting issues facing the courts of Maine. I do not think that this is the time for us to be voting on the Maine State Retirement vesting.

The 1995 amendment that Representative Wentworth wants to implement, I think is a bad move — we talk about morale of employees. The reason that he wants to put this amendment in is so it doesn't affect the committee recommendations for the budget this year because that is based on ten year vesting. And, if we look at 1995 for this to take effect, we are also governing the 117th Legislature. That is something that they can deal with if they wish.

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

Representative JALBERT: Mr. Speaker, Men and Women of the House: In response to my colleague from Arundel, he said that the retirement system board said that there will be no significant additional cost. Are we here today to cater to everything that the retirement system wants or are we here to protect the integrity of the retirement system?

I have been on this committee for eight years. I wish I had a dollar for every time the Board of Trustees of the Retirement System told us "no significant additional costs" — look at the mess we have today. I agree with the gentelady from Paris, let's leave it alone.

I say to you, my colleagues, are you prepared to go to your hometown and tell your town managers and selectmen that you are going to have one heck of a mess as soon as the word gets out that the teachers and state employees can be vested after five years? Do you realize you only need five years in order to be vested in the pension? They say, well, they do in big industry, they do it for the executives.

What will happen, as I said before, is you will have a run on people having short terms. Instead of saying, I will stay for ten years and make a career of it, after five years, I can get out and still be guaranteed a pension. What we are trying to do here is to give incentives to people to remain in public service. There is only one way, you work for us for ten years, you are guaranteed a pension at 60.

Another thing that has been forgotten, completely overlooked, someone can do only five years, they go in at 20 years old, they work for five years, they leave — that pension has been vested. They come back at 58 years old and work for two years and they retire at 60 under the same benefits as someone who has worked for 30 years.

Remember this, there have been gimmicks played with this retirement system. I don't know what the purpose behind this is — somebody's playing up to the public or the state employees, I don't know but this is an ill-conceived bill, poorly written and now they are coming back with an amendment. That amendment makes it effective in 1995 and does nothing at all to clean up the bill. All it does is prolong the agony so that in 1995, you will have to face it again and it is going to be worse.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Mr. Speaker, Men and Women of the House: To respond to some of the information as implied by the Representative from Lisbon — as the prime sponsor of this bill, we could have had an interesting conversation if he had chosen

to ask me what my motives were. My motives were to validate the experience of teachers and state employees by giving them a five year vesting period in the system.

Many of you, when you think about this issue, think of the traditional 22 year old coming into the teaching profession, perhaps. My experience as a faculty member at UMA tells me that more and more of the employees entering any retirement system are much older than the traditional 22 or 23 year olds some of you might be imagining when you think of this bill. According to the information that we get at my school, people make career changes as many as five or six times in a lifetime. Given that, we are long past the day when people work for 30 years for the same employer. It makes good sense to me as a gesture of good will and support for people that work in the private sector to validate that experience with a five year vesting period. My motives were clean, my motives were pure, they were not motivated by the retirement system or any gimmicks for that matter. They were motivated because I am an educator, because I also am sympathetic to the needs of the people that work for the state.

The reason this bill did not include language that covered the participating local districts is explained implicitly on the top of the second page of the letter I reproduced for you because that would incur a much higher cost at the local level. So, there is an option for those people who adopt that amendment if they choose but not to mandate it which would have increased the cost at the local level because they have few employees.

I urge you to defeat the pending motion so you can go on to pass this bill and consider the language in the amendment that you have heard about. I believe that this is a bill that we can live with, that we can be proud of, and does not have the negative impacts that have been suggested. If there were negative impacts, why pray tell, would the retirement system not have told us that? What you are hearing are people's interpretation, they have no factual information from any reliable source to support it.

I urge you to defeat the pending motion.

The SPEAKER PRO TEM: 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 PRO TEM: The Chair recognizes the Representative from Boothbay, Representative Heino.

Representative HEINO: Mr. Speaker, Ladies and Gentlemen of the House: When I hear the term "no significant cost", it leads me to believe that someone doesn't have a handle on it. If they had a handle on it, they would give us the precise and exact figures.

If we pass this bill, in my opinion, we will be limiting the management of the system more than we now have. I don't think this is good for the retirement system nor for the State of Maine. Each time we vote for a bill that pertains to the Maine State Retirement System, each of us should be voting on a bill or do whatever we can to strengthen our retirement system. As we have all read in the past,

the State of Maine Retirement System has one of the lowest funding of any one of the other 84 in the country.

We need to do things that strengthen our system, not weaken our system. I have not heard any statement on the floor here this morning that gives me any indication that passing this bill will strengthen our system. I urge you to follow the light of Representative Jalbert.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bethel, Representative Barth.

Representative BARTH: Mr. Speaker, Men and Women of the House: This is a bad bill and I would urge you to support Representative Jalbert's motion to indefinitely postpone.

The Maine State Retirement System, right now, one of its problems is that it is a fragmented system. We have many, many different plans, many different benefits, many different rules and regulations and this is part of the problem of the system. This changing the vesting period would add to that. As Representative Jalbert has said, the PLD's would be treated a little bit differently. We would have some people who would be vested after five years and others who would be vested after ten.

It would also send, I believe, a mixed message. I mentioned this the last time. The fact that we say, okay, if we pass this bill, you are vested after five years and then we turn around in the budget and accept some of the Aging Committee's recommendations that affect everybody with less than ten years of experience, I don't think ten years is too much to ask in vesting and is not a detriment to people trying to follow a career working for the State of Maine.

The amendment which the good Representative from Arundel is proposing or said he would propose which would make this not go into effect in 1995 — well, if it is not going to go into effect until 1995, if, if, it were a good idea, we certainly could take it up in the 117th when maybe some of these issues would be a little bit clearer.

If, as the good Representative Kontos has mentioned, people change five or six times their career choices, then I think the way to improve the Maine State Retirement System is to make it truly portable. Let's make all of the rules and regulations and benefits equal, then people could work for any form of state government and they wouldn't have to worry about whether or not they were only going to stay one, two, five, seven, ten or more years. Someone could work for the fire department here in Augusta, go teach school in Portland, come back and serve in the legislature, go back and work for the police department in Gardiner and their benefits would accrue and they would be able to retire with a healthy retirement.

I would ask all of you, those of you who voted against this bill, stand by your vote and let's go on to defeat it.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Arundel, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Men and Women of the House: It has been inferred by a number of speakers that somehow this bill limits the ability of the legislature and the retirement system to properly manage the retirement system. What it actually does is it limits the legislature's ability to reduce benefits for employees who have five years of credible service or more.

Right now we have the authority, although it is in question due to a decision of the Superior Court, to change benefits in a negative way for employees who have less than ten years of credible service. I personally don't think it is good public policy to be changing benefits in a way that hurts employees any time after we have hired them for the state.

This bill says, after you have worked for the state for five years, you will be assured, regardless of any court decision, you will be assured that the retirement benefits that we promise you, you will get when you are eligible for retirement.

Currently 19 states have five year vesting, one state has immediate vesting, one state has six year vesting, one state has eight year vesting, three states have four year vesting and the rest have ten. Maine is not going out on a limb if we adopt five year vesting.

What we are saying to the state employees who we have been hurting with changes to their benefits that after five years of service, you will be secure in your retirement benefit and the legislature will not have the authority any longer to change those benefits.

I think in these economic times when we have sent so many negative messages to state employees, it is time we send a positive message and protect their retirement benefits.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Island Falls, Representative Joy.

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House: There have been several changes in the employee status and benefits created by past legislatures and also created by the courts. This legislature should leave well enough alone and give the system time to stabilize. I won't repeat the arguments that have been given in behalf of this bill but I ask that you support the positions as taken by Representative Jalbert, Representative Vigue, Representative Quint, Representative Barth and Representative Heino and vote to indefinitely postpone this item.

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

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: I voted on this measure and my vote was recorded in favor of the position taken by the good chair of that committee. That vote was a vote of loyalty. I now have a tendency to change my position. It is not a vote by any type of pressure, by any lobby, as you will see me address a little later this week some time. It is not because of the lobby, it is because I honestly feel that we need to provide more incentives to those, especially those in education, in order for them to continue to provide their expert services. On that basis and on that basis alone, I am going to change my vote and vote for the legislation and not indefinitely postpone.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is the motion of Representative Jalbert of Lisbon that L.D. 295 and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 82

YEA - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bruno, Cameron, Campbell, Carleton, Caron, Carr, Chonko, Clukey, Coffman, Cote,

Cross, Dexter, DiPietro, Donnelly, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnum, Farren, Foss, Gamache, Gould, R. A.; Gray, Greenlaw, Hatch, Heino, Hillock, Hussey, Jacques, Jalbert, Joseph, Joy, Kerr, Ketterer, Kneeland, Kutasi, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Martin, H.; Melendy, Michael, Murphy, Nash, Nickerson, Norton, O'Gara, Ott, Paradis, P.; Pendexter, Pineau, Plourde, Plowman, Pouliot, Quint, Reed, G.; Ricker, Robichaud, Rotondi, Ruhlin, Saxl, Skoglund, Small, Spear, Stevens, A.; Strout, Sullivan, Tardy, Taylor, Thompson, True, Tufts, Vigue, Whitcomb, Young, Zirkilton.

NAY - Adams, Ahearne, Aliberti, Beam, Bowers, Brennan, Carroll, Cashman, Cathcart, Chase, Clark, Clement, Cloutier, Coles, Constantine, Daggett, Farnsworth, Fitzpatrick, Gean, Gwadosky, Heesch, Hichborn, Hogleund, Holt, Johnson, Kil Kelly, Kontos, Larrivee, Lemke, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Oliver, Pendleton, Pfeiffer, Pinette, Rand, Reed, W.; Richardson, Rowe, Rydell, Saint Onge, Simonds, Stevens, K.; Swazey, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Walker, Wentworth.

ABSENT - Hale, Poulin, Simoneau, Winn, The Speaker.

Yes, 92; No, 54; Absent, 5; Paired, 0; Excused, 0.

92 having voted in the affirmative and 54 in the negative with 5 being absent, L.D. 295 and all its accompanying papers were indefinitely postponed. Sent up for concurrence.

By unanimous consent, Bill "An Act to Prevent Diversion of Solid Waste" (H.P. 958) (L.D. 1289) was ordered sent forthwith to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Protect the Future of the United States Naval Shipyard at Kittery (S.P. 114) (L.D. 315) (C. "A" S-90)

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. 106 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker pro tem and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Amend the Medicare Supplement Insurance Regulatory Program (S.P. 337) (L.D. 1011)

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. 112 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker pro tem and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Amend the Laws Governing the Task Force on Defense Realignment and the Economy (H.P. 194) (L.D. 257) (C. "A" H-177)

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. 106 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker pro tem and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Limit Administrative Costs in Contracted Services (H.P. 436) (L.D. 555) (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. 109 voted in favor of the same and 3 against and accordingly the Bill was passed to be enacted, signed by the Speaker pro tem and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Clarify the Existing Sales Tax Exemption for Aquacultural Production (H.P. 518) (L.D. 702) (C. "A" H-202)

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 none against and accordingly the Bill was passed to be enacted, signed by the Speaker pro tem and sent to the Senate.

PASSED TO BE ENACTED

An Act to Amend the Statutory Provisions Governing the Time and Method of Paying Restitution

(S.P. 176) (L.D. 590) (C. "A" S-89)

An Act Regarding the Baiting of Animals (S.P. 260) (L.D. 798) (C. "A" S-87)

An Act to Change or Clarify Language in the Maine Insurance Code Relative to Procurement of Surplus Lines Insurance and Pertaining to Licensing Procedures in Order to Provide for a More Efficient Regulatory System (S.P. 273) (L.D. 837) (C. "A" S-93)

An Act Requiring School Suspension or Expulsion in Cases Involving Dangerous or Concealed Weapons (S.P. 287) (L.D. 857) (C. "A" S-86)

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

ENACTOR

(Reconsidered)

An Act to Exempt Certain Greenhouse and Nursery Owners from Licensing Fees (H.P. 166) (L.D. 218) (C. "A" H-209)

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

On motion of Representative Chonko of Topsham, under suspension of the rules, the House reconsidered its action whereby L.D. 218 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-209) was adopted.

The same Representative offered House Amendment "A" (H-238) to Committee Amendment "A" (H-209) and moved its adoption.

House Amendment "A" (H-238) to Committee Amendment "A" (H-209) was read by the Clerk and adopted.

Committee Amendment "A" (H-209) as amended by House Amendment "A" (H-238) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-209) as amended by House Amendment "A" (H-238) thereto in non-concurrence and sent up for concurrence.

PASSED TO BE ENACTED

An Act to Amend the Law Pertaining to the Termination of Credit Insurance (H.P. 489) (L.D. 647) (C. "A" H-211)

An Act to Amend the Probate Code Providing Duties of Registers of Probate (H.P. 515) (L.D. 673) (C. "A" H-195)

An Act to Provide for an Open Season on Most Inland Fisheries in the State (H.P. 567) (L.D. 772) (C. "A" H-199)

An Act to Extend Burial Eligibility for Dependent Children (H.P. 764) (L.D. 1031) (C. "A" H-213)

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

ORDERS OF THE DAY

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

The Chair laid before the House the first item of Unfinished Business:

An Act to Exempt Employees of the Public Utilities Commission from Furlough and Shutdown Days (EMERGENCY) (S.P. 119) (L.D. 357) (C. "A" S-70)
 TABLED - May 6, 1993 by Representative GWADOSKY of Fairfield.
 PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and later today assigned.

The Chair laid before the House the second item of Unfinished Business:

An Act to Amend Certain Provisions of the Maine Emergency Medical Services Act of 1982 (H.P. 674) (L.D. 912) (C. "A" H-180)
 TABLED - May 10, 1993 (Till Later Today) by Representative NADEAU of Saco.
 PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and later today assigned.

TABLED AND TODAY ASSIGNED

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

SENATE DIVIDED REPORT - Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (S-92) - Minority (5) "Ought Not to Pass" - Committee on Labor on Bill "An Act to Amend the Occupational Disease Law" (S.P. 216) (L.D. 687)
 - In Senate, Majority "Ought to Pass" as amended Report read and accepted and Bill passed to be engrossed as amended by Committee Amendment "A" (S-92)
 TABLED - May 10, 1993 by Representative CLEMENT of Clinton.
 PENDING - Motion of the same Representative to accept the Majority "Ought to Pass" as amended Report.

On motion of Representative Gwadosky of Fairfield, retabled pending the motion of Representative Clement of Clinton that the House accept the Majority "Ought to Pass" as amended Report and later today assigned.

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

Bill "An Act Regarding Family Leave" (H.P. 318) (L.D. 406)
 - In House, Majority "Ought to Pass" as amended Report of the Committee on Labor read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-178) on May 3, 1993.
 - In Senate, Minority "Ought Not to Pass" Report of the Committee on Labor read and accepted in non-concurrence.
 TABLED - May 10, 1993 by Representative GWADOSKY of Fairfield.
 PENDING - Further Consideration.

On motion of Representative Gwadosky of Fairfield, retabled pending further consideration and later today assigned.

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

HOUSE DIVIDED REPORT - Majority (8) "Ought Not to Pass" - Minority (5) "Ought to Pass" - Committee on Labor on Bill "An Act Concerning the Maine Unemployment Insurance Commission" (H.P. 523) (L.D. 707)
 TABLED - May 10, 1993 by Representative ST. ONGE of Greene.
 PENDING - Motion of the same Representative to accept the Majority "Ought Not to Pass" Report.

On motion of Representative Gwadosky of Fairfield, retabled pending the motion of Representative St. Onge of Greene that the House accept the Majority "Ought Not to Pass" Report and later today assigned.

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

Bill "An Act to Protect Consumers when Disconnecting Cable Television Services" (EMERGENCY) (S.P. 195) (L.D. 631) (C. "A" S-58)
 TABLED - May 10, 1993 by Representative CLARK of Millinocket.
 PENDING - Passage to be Engrossed.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be engrossed and specially assigned for Thursday, May 13, 1993.

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

An Act to Amend the Charter of the North Berwick Water District (EMERGENCY) (MANDATE) (H.P. 275) (L.D. 353) (C. "A" H-148)
TABLED - May 10, 1993 by Representative GWADOSKY of Fairfield.
PENDING - Passage to be Enacted.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 104 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker pro tem and sent to the Senate.

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

An Act to Amend the Mars Hill Utility District (EMERGENCY) (H.P. 540) (L.D. 724) (C. "A" H-137)
TABLED - May 10, 1993 by Representative GWADOSKY of Fairfield.
PENDING - Passage to be Enacted.

On motion of Representative Kneeland of Easton, under suspension of the rules, the House reconsidered its action whereby L.D. 724 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-273) and moved its adoption.

House Amendment "A" (H-273) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-137) and House Amendment "A" (H-273) in non-concurrence and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

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

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Protect State Parks (H.P. 176) (L.D. 228) (C. "A" H-92)
TABLED - May 10, 1993 by Representative GWADOSKY of Fairfield.
PENDING - Final Passage.

On motion of Representative Paradis of Augusta, tabled pending final passage and specially assigned for Thursday, May 13, 1993.

(At Ease)

The House was called to order by the Speaker pro tem.

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

SENATE PAPER

Refer to the Committee on Utilities

Report of the Committee on Appropriations and Financial Affairs on Bill "An Act to Require that All Interest on Escrowed Assessments on Utilities Be Used for the Benefit of the Public Utilities Commission and the Office of the Public Advocate" (S.P. 417) (L.D. 1326) reporting that it be referred to the Committee on Utilities.

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

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

By unanimous consent, was ordered sent forthwith to the Senate.

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

SENATE PAPER

Non-Concurrent Matter

Resolve, to Establish the Labor and Welfare Transition Team to Facilitate the Inclusion within the Department of Labor of Certain Welfare Functions of the Department of Human Services (EMERGENCY) (H.P. 1102) (L.D. 1489) (Governor's Bill) which was referred to the Committee on Labor in the House on May 11, 1993.

Came from the Senate referred to the Committee on Human Resources in non-concurrence.

The House voted to recede and concur.

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

PASSED TO BE ENACTED

Mandate

An Act to Amend the Mars Hill Utility District (H.P. 540) (L.D. 724) (C. "A" H-137 and H. "A" H-273)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 104 voted in favor of same and 2 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker pro tem and sent to the Senate.

By unanimous consent, was ordered sent forthwith to the Senate.

Representative Aikman of Poland moved that the House reconsider its action whereby Resolve, to Establish the Labor and Welfare Transition Team to Facilitate the Inclusion within the Department of Labor of Certain Welfare Functions of the Department of Human Services (EMERGENCY) (H.P. 1102) (L.D. 1489) (Governor's Bill) which was referred to the Committee on Labor in the House on May 11, 1993; Came from the Senate referred to the Committee on Human Resources in non-concurrence whereby the House voted to recede and concur.

On further motion of the same Representative, tabled pending the motion by Representative Aikman of Poland that the House reconsider and later today assigned.

At this point, the Speaker resumed the Chair.

The House was called to order by the Speaker.

The Chair laid before the House the following matter: Majority Report (8) of the Committee on State and Local Government reporting "Ought Not to Pass" on Bill "An Act Regarding County Contingent Account Limits" (S.P. 286) (L.D. 856) and Minority Report (4) of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-116) on same Bill (Came from the Senate with the Majority "Ought Not to Pass" Report read and accepted) which was tabled earlier in the day and later today assigned pending the motion of Representative Joseph of Waterville that the House accept the Majority "Ought Not to Pass" Report.

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

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would not accept the "Ought Not to Pass" Report and I would like to explain to you why I would like you to support this bill.

This request came to us from the counties and over the years, especially in the last few years, they have found that their contingency account, which is \$50,000 per county with the exception of Sagadahoc, last year or the year before, Sagadahoc came to us and requested that theirs be upped by four percent. This was done, yet it proved to be a larger amount than what we realized at that time. It was far in excess of what the additional \$50,000 is being asked by the other counties now.

Please bear in mind that in the last few years the counties have had costs beyond what they expected, particularly in the fact that they have not received the monies that they anticipated from corrections; yet, they have no control over who shall be put in jail and, therefore, they are obliged to pay these bills.

What the committee did do was provide an amendment to this bill that would allow them to raise or retain or have in their contingency account an additional \$50,000. Now remember, the monies for contingent accounts has to come from their surplus

money. They have to take it from there. If that contingency is below \$50,000 at the present time, they can appropriate a sufficient amount to bring it up to the \$50,000. With this bill, the additional amount of \$50,000, any expenditure in excess of the first \$50,000, has to be approved by the committee or group or delegation whichever is the system in that county to finalize their legislation. So, there is a check on this by either their budget committee, the delegation or whatever committee is in force in that county.

I urge you to support this because the counties are in need -- if they have an emergency situation which comes up and we have been told about repairs to the buildings that they did not anticipate, boilers going to pieces etcetera, that this is why they have asked for this particular piece of legislation.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: This piece of legislation raises the contingency account to be used only for emergency purposes from \$50,000 to \$100,000 for each county. However, county budgets are developed every two years and all aspects and expenditures should be anticipated at that time. If there were an emergency in your county, most counties have a process in their provisions and statutes that allows for emergency budget purposes and the reconsidering and reopening of the county budget. The majority of the committee felt that they did not want to raise the contingency account from \$50,000 to \$100,000 because county government is almost solely dependent upon property taxes and assessments to the communities and municipalities of the state.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Joseph of Waterville that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Joseph of Waterville requested a roll call vote.

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 Representative Joseph of Waterville that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 83

YEA - Adams, Ahearne, Aliberti, Beam, Bowers, Caron, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Clement, Coles, Constantine, Cote, Daggett, DiPietro, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gray, Gwadosky, Hitchborn, Holt, Jacques, Johnson, Joseph, Kerr, Lemke, Martin, H.; Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, O'Gara, Paradis, P.; Pineau,

Pinette, Plourde, Pouliot, Ricker, Rydell, Saint Onge, Saxl, Stevens, K.; Sullivan, Swazey, Tardy, Townsend, E.; Townsend, L.; Tracy, Treat, Walker, Wentworth, Winn, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Bennett, Brennan, Bruno, Cameron, Carleton, Carr, Clukey, Coffman, Cross, Dexter, Donnelly, Farnum, Farren, Foss, Greenlaw, Hatch, Heeschen, Heino, Hoglund, Hussey, Joy, Ketterer, Kneeland, Kontos, Larrivee, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Murphy, Nash, Nickerson, Norton, Oliver, Ott, Pendexter, Pendleton, Pfeiffer, Plowman, Quint, Rand, Reed, G.; Reed, W.; Richardson, Robichaud, Rotondi, Rowe, Simonds, Simoneau, Skoglund, Small, Spear, Stevens, A.; Strout, Taylor, Thompson, Townsend, G.; True, Tufts, Whitcomb, Zirnkilton.

ABSENT - Barth, Campbell, Cloutier, Hale, Hillock, Jalbert, Kilkelly, Kutasi, Michael, Poulin, Ruhlin, Vigue, Young.

Yes, 66; No, 72; Absent, 13; Paired, 0; Excused, 0.

66 having voted in the affirmative and 72 in the negative with 13 being absent, the Majority "Ought Not to Pass" Report was not accepted.

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

Committee Amendment "A" (S-116) was read by the Clerk and adopted and the bill assigned for second reading, Thursday, May 13, 1993.

The Chair laid before the House the following matter: Bill "An Act to Establish Maximum Interest Rates for Automobile Financing" (H.P. 656) (L.D. 894) which was passed to be engrossed as amended by Committee Amendment "A" (H-212) in the House on May 4, 1993; Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-212) as amended by Senate Amendment "A" (S-118) thereto in non-concurrence which was tabled earlier in the day and later today assigned pending further consideration.

Subsequently, the House voted to recede and concur.

The Chair laid before the House the following matter: Majority Report (7) of the Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-251) on Bill "An Act to Improve Communication between the Executive and Legislative Branches" (H.P. 419) (L.D. 538) and Minority Report (6) of the same Committee reporting "Ought Not to Pass" on same Bill which was tabled earlier in the day and later today assigned pending the motion of Representative Joseph of Waterville that the House accept the Majority "Ought to Pass" Report.

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

Committee Amendment "A" (H-251) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 13, 1993.

The Chair laid before the House the following matter: Majority Report (8) of the Committee on Banking and Insurance reporting "Ought to Pass" on Bill "An Act to Promote Competition in Motor Vehicle Glass Replacement and Repair" (H.P. 417) (L.D. 536) and Minority Report (2) of the same Committee reporting "Ought Not to Pass" on same Bill which was tabled earlier in the day and later today assigned pending the motion of Representative Pineau of Jay that the House accept the Minority "Ought Not to Pass" Report.

Representative Foss of Yarmouth requested a roll call vote.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Pineau.

Representative PINEAU: Mr. Speaker, Men and Women of the House: I won't burden you with a lot of debate, I can see the report. I just want people to know what you are voting on here. If this bill does in fact pass, you are going to affect automobile rates to the positive number, i.e., you are going to lift them.

What we have in glass replacement in the accident industry, you have a lot of shops out there and the insurance companies pay for a lot of auto glass replacement. So, what has developed, there is a middle man or middle person (I guess you could say) called networks, glass networks. What they do is they handle the money from the insurance to pay the shops. What has happened is they come in and negotiate with the shops on a fair price for glass replacement. So, if you have shop A, B and C that do a Ford Victoria, a Crown Victoria like the Speaker's, they will do it for \$200 and they say, we will pay for the \$200 replacement in shops A, B and C. What has happened in the past, you had shop D come in and say we will do it for \$180, so now the networks say they will pay \$180. If you want it done at A, B or C, you have to pay the additional \$20 to get your Crown Victoria fixed. What this is is small business gone amok. You have had small businesses keep undercutting themselves to the point where they cannot make a profit at what the negotiated item is.

The problem I saw with the bill was that they are asking the legislature to put out a mandate to bail out the glass shops because of their own negotiating policies with the network. I found that quite uncomfortable. I signed it out just so that you know that when you do this vote, you will understand what you are doing. That is why I couldn't go with the report.

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

Representative RAND: Mr. Speaker, Men and Women of the House: There is absolutely no evidence whatsoever to support the claim that auto insurance rates will go up, should this bill pass.

I urge you to reject the Minority "Ought Not to Pass" so that we can go on to support the "Ought to Pass" Report.

The network put undue pressure on our small glass companies here in Maine, the glass repair shops in Maine, because if they don't get the price that they want, they have the ability to just move this whole volume of work over to another shop. This keeps our Maine workers' labor costs artificially low. There is absolutely no evidence, as I said before, to support the claim that insurance rates will be

affected because this percentage of money is kept by the network. It is not passed on to the insurer who then could reduce automobile insurance rates.

I urge you to vote against this motion.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Mr. Speaker, Men and Women of the House: Let me tell you exactly what this bill does. The bill says that an insurance company is prohibited from charging as a basis of its fee the percentage difference between the list price of this glass and the amount that they negotiate with various providers. The bill purports to prohibit that.

I believe that when we start to meddle in the market in this way that we better have a good policy reason for doing so, a policy reason of protecting small businesses from the effect of competition is not such a reason in my mind.

This whole issue of middle men arose, I believe, because of a practice that is common among glass repairers to charge a different price to an insurance company for repairing glass than if you just go in and say you want to have it done yourself.

There was a study done by the Bureau of Insurance in 1990 in which investigators from the bureau went out to various glass repair places and asked for exactly the same work done, telling them in one instance that the person was going to pay for it themselves out of their own pocket and, in the second instance, eight days later, for the exact same work telling them that it was going to be paid for by an insurance company. The results were that the bill for the insurance company work was between 46 and 63 percent higher than that charged to cash customers.

Faced with this type of activity, the insurance companies have dealt with middle men like we have middlemen in food brokerage or real estate or various other types of activity to shop around and get the best price for the services that they are purchasing. There is absolutely nothing wrong with that. The fact that the use of these middle persons is working to bring down the cost to the insurance company and, ultimately to the consumer, is what the glass repair shops are complaining about. To me, that is not a legitimate complaint, that is competition at work and we should applaud it rather than legislate against it.

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

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

Do any of the insurance companies own or have a piece of the company that operates as a middle person in this transaction?

The SPEAKER: Representative Lipman of Augusta has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Mr. Speaker, Men and Women of the House: I don't know the answer to that question definitively but my understanding is that they are all independent of insurance companies. I could stand to be corrected.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Pineau.

Representative PINEAU: Mr. Speaker, Men and Women of the House: To further answer the question, yes, if you are saying do they hold some shares

somewhere along the line, I am sure maybe someone does, but no, they are a separate entity and they are dealing solely as a middle man in a market that was created.

If you vote against this, you are voting against the free enterprise, the competitor looking for the best price for the consumer. Just know that, that is how it comes down.

If you go with this legislation, it is going to cost more because these networks aren't going to be able to come in, go for the best price, thereby your insurance companies are going to have to come up with more money for glass replacement, i.e., it funnels down to the consumer. It is pretty simple.

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 Representative Pineau of Jay 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. 84

YEA - Adams, Ahearne, Bowers, Carleton, Chonko, Constantine, Dexter, Farnum, Gean, Gould, R. A.; Heino, Hussey, Jacques, Johnson, Joy, Libby James, Marsh, Mitchell, J.; Nash, Norton, Pineau, Pinette, Quint, Ruhlin, Rydell, Saxl, Sullivan, Swazey, Tardy, Townsend, G.; Walker, Zirnkilton, The Speaker.

NAY - Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Beam, Bennett, Brennan, Bruno, Cameron, Caron, Carr, Carroll, Cashman, Cathcart, Chase, Clark, Clement, Clukey, Coffman, Coles, Cote, Cross, Daggett, DiPietro, Donnelly, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Farren, Fitzpatrick, Foss, Gamache, Gray, Greenlaw, Gwadosky, Hatch, Heesch, Hichborn, Hogle, Holt, Joseph, Kerr, Ketterer, Kneeland, Kontos, Larrivee, Lemke, Lemont, Libby Jack, Lindahl, Lipman, Look, Lord, MacBride, Marshall, Martin, H.; Melendy, Michaud, Mitchell, E.; Morrison, Murphy, Nadeau, Nickerson, O'Gara, Oliver, Ott, Paradis, P.; Pendexter, Pendleton, Pfeiffer, Plourde, Plowman, Pouliot, Rand, Reed, G.; Reed, W.; Richardson, Ricker, Robichaud, Rotondi, Rowe, Saint Onge, Simonds, Simoneau, Skoglund, Small, Spear, Stevens, A.; Stevens, K.; Strout, Taylor, Thompson, Townsend, E.; Townsend, L.; Tracy, Treat, True, Tufts, Wentworth, Whitcomb, Winn.

ABSENT - Barth, Campbell, Cloutier, Hale, Hillock, Jalbert, Kilkelly, Kutasi, Michael, Poulin, Vigue, Young.

Yes, 33; No, 106; Absent, 12; Paired, 0; Excused, 0.

33 having voted in the affirmative and 106 in the negative with 12 being absent, the Minority "Ought Not to Pass" Report was not accepted.

Subsequently, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading Thursday, May 13, 1993.

BILL HELD

Bill "An Act Related to Unavoidable Equipment Malfunctions" (H.P. 903) (L.D. 1218) (C. "A" H-261).

On motion of Representative Kontos of Windham, having voted on the prevailing side, the House reconsidered its action whereby L.D. 1218 was passed to be engrossed.

On motion of the same Representative, the House reconsidered its action whereby House Amendment "A" (H-274) was adopted.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Mr. Speaker, Ladies and Gentlemen of the House: I move that House Amendment "A" (H-274) be indefinitely postponed.

Before you spend hours looking through your notebooks, we put this amendment on this morning on Bills in the Second Reading. We are a diligent committee, we work well and we are very timely in our actions but the corrections that are now reflecting here occurred in the Revisor's Office. The technical amendment would have changed the numbering but that needn't have happened because we had confusion with them about the amendment so what you have before you now is the way it should be and that is why we are indefinitely postponing the technical amendment that I offered earlier.

Subsequently, House Amendment "A" (H-274) was indefinitely postponed.

L.D. 1218 was passed to be engrossed as amended by Committee Amendment "A" (H-261) and sent up for concurrence.

The Chair laid before the House the following matter: An Act to Amend Certain Provisions of the Maine Emergency Medical Services Act of 1982 (H.P. 674) (L.D. 912) (C. "A" H-180) which was tabled earlier in the day and later today assigned pending passage to be enacted.

Subsequently, was passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the following matter: SENATE DIVIDED REPORT - Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (S-92) - Minority (5) "Ought Not to Pass" - Committee on Labor on Bill "An Act to Amend the Occupational Disease Law" (S.P. 216) (L.D. 687) - In Senate, Majority "Ought to Pass" as amended Report read and accepted and Bill passed to be engrossed as amended by Committee Amendment "A" (S-92) which was tabled earlier in the day and later today assigned pending the motion of Representative Clement of Clinton that the House accept the Majority "Ought to Pass" Report.

On motion of Representative Ruhlin of Brewer, tabled pending the motion of Representative Clement of Clinton that the House accept the Majority "Ought to Pass" Report and specially assigned for Thursday, May 13, 1993.

The Chair laid before the House the following matter: Bill "An Act Regarding Family Leave" (H.P. 318) (L.D. 406)- In House, Majority "Ought to Pass" as amended Report of the Committee on Labor read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-178) on May 3, 1993; In Senate, Minority "Ought Not to Pass" Report of the Committee on Labor read and accepted in non-concurrence which was tabled earlier in the day and later today assigned pending further consideration.

Representative Ruhlin of Brewer moved that the House Insist and ask for a Committee of Conference.

Representative Aikman of Poland moved that the House recede and concur and further requested a roll call.

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

Representative OLIVER: Mr. Speaker, Men and Women of the House: I go back to my campaign literature over the last couple of years and I know if you went back to yours you would see that we did all support family cohesion and unity. I think pure and simple that's what this bill does.

Some of you may be philosophically opposed to Family Leave but this bill and the amendment that replaced the bill is not about Family Leave that is on the books. The federal government has a strong Family Leave Bill and in the state we have a strong Family Leave Bill that passed the last session.

This bill is to deal with inconsistencies and loopholes. Let me give one example. If there were two sisters living in the same house, their mother was dying, the one sister worked in the larger unit of administration for the company that had 25 or say 30 employees, the other sister worked in the same sophisticated company only she worked in a branch of that company that only had 15 employees, the sister working for the larger administrative unit would be allowed to take Family Leave. The other sister living in the same house, having the same mother who is dying, could not take Family Leave because of this loophole so I ask you if this is fair?

This bill also deals with newborns and those who adopt and how much we have talked in this legislature and in our committees about the bonding factor and how important it is for the mother in particular to bond to that young child -- well, this bill allows that.

The SBA did a national study, they contacted business executives throughout the country and what they basically found out was that this bill will have little or no impact on business. But, you and I know it has a great impact on the family that is affected. The business person who talked to this legislation before the Labor Committee admitted that philosophically he was not in favor of Family Leave as passed by the federal government but this is not dealing with that bill. This is dealing with a loophole. We already have Family Leave, this is a bill to say that we will be fair to those who work in a company of less than 25 employees.

The example that I gave was of a woman who had worked four very, very successful years in a company. She had received a letter of praise from that company, then she had to make that awful decision. She adopted and she and her husband flew

to Texas and came back with a newborn, she obviously wanted to bond with this newborn. She made that decision and the company fired her so this is the awful choice that we are allowing Maine citizens, do you want to attend to your dying spouse or your mother? Do you want to tend to your child that may be seriously sick and remember we have a higher and higher percentage of single parent families and families where both parents work or do you want to opt for job security? I think that common decency tells us that we should opt for family security.

This is a loophole, this is making a law fair. We already have Family Leave on the books so we are not here to debate that, we are here to debate the fairness of a law. That same person who spoke before the Labor Committee admitted that this was a loophole and he had no great concern about closing that loophole, so I hope that you will go along with the good Representative from Brewer, Representative Ruhlin, Chair of the Labor Committee, and Insist.

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 Poland, Representative Aikman.

Representative AIKMAN: Mr. Speaker, Ladies and Gentlemen of the House: The Federal Family Medical Leave Act of 1993, which was signed into law by President Clinton on February 5, 1993 will go into effect on August 5, 1993. It covers all employees who work for employers with 50 or more employees within 75 miles of a given work place but this bill before us deletes that at a permanent worksite with language limiting the coverage to employers of more than 25 employees.

Let me restate my example that I gave to you last week. If a company had 7 worksites across the state with four employees at each site, they would fall under this new proposed L.D.. This bill places an undue hardship on the employer and asks to cover personnel where the work place is small.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: It has already been stated that this bill is a bill to protect and enhance and promote family unity and family values. I don't rise this morning, however, to go back over that ground. This body has voted in the past to support those values and I appreciate that. It is proper as it should be.

However, the other body has seen fit, in this case, not to close the loophole. What we are asking today, if we defeat this motion, is the opportunity to sit down with the other body and see if we can't come up with something that would be agreeable to a majority in both bodies. That's what your vote is about here now. That's what it is all about. Give us the opportunity to discuss it to see if we can work something out. If you want to do that, then the proper thing to do is vote against the recede and concur motion and then a motion will be made to Insist and ask for a Committee of Conference.

The SPEAKER: A roll call has been ordered. The

pending question before the House is the motion of the Representative from Poland, Representative Aikman, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 85

YEA - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bruno, Cameron, Carleton, Caron, Carr, Clukey, Cross, Dexter, DiPietro, Donnelly, Dutremble, L.; Farnum, Farren, Foss, Gould, R. A.; Gray, Greenlaw, Heino, Joy, Kneeland, Lemont, Libby Jack, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Murphy, Nash, Nickerson, Norton, Ott, Pendexter, Pendleton, Plourde, Plowman, Quint, Reed, G.; Reed, W.; Robichaud, Simoneau, Small, Spear, Stevens, A.; Tardy, Taylor, Thompson, Tracy, True, Tufts, Whitcomb, Zirnkilton.

NAY - Adams, Ahearne, Aliberti, Beam, Bowers, Brennan, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Clement, Coffman, Coles, Constantine, Cote, Daggett, Dore, Driscoll, Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gwadosky, Hatch, Heeschen, Hichborn, Hogle, Holt, Hussey, Jacques, Johnson, Joseph, Kerr, Ketterer, Kontos, Larrivee, Lemke, Libby James, Martin, H.; Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pineau, Pinette, Pouliot, Rand, Richardson, Ricker, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Stevens, K.; Strout, Sullivan, Swazey, Townsend, E.; Townsend, G.; Townsend, L.; Treat, Walker, Wentworth, Winn, The Speaker.

ABSENT - Campbell, Cloutier, Hale, Hillock, Jalbert, Kilkelly, Kutasi, Michael, Poulin, Vigue, Young.

Yes, 61; No, 79; Absent, 11; Paired, 0; Excused, 0.

61 having voted in the affirmative and 79 in the negative with 11 being absent, the motion to recede and concur did not prevail.

Subsequently, the House voted to Insist and ask for a Committee of Conference.

The Chair laid before the House the following matter: An Act to Exempt Employees of the Public Utilities Commission from Furlough and Shutdown Days (EMERGENCY) (S.P. 119) (L.D. 357) (C. "A" S-70) which was tabled earlier in the day and later today assigned pending passage to be enacted.

The SPEAKER: The Chair recognizes the Representative from Poland, Representative Aikman.

Representative AIKMAN: Mr. Speaker, Ladies and Gentlemen of the House: This bill would extend exemptions to the PUC staff until 6-30 or maybe beyond. Discretionary furlough and shutdown days will end as of June 30th for all state employees. Would this bill extend exemptions to the PUC staff should there be a continuation of discretionary furlough and shutdown days beyond June 30th?

The Governor has the power to exempt departments from furlough, shutdown days if it is so deemed in an emergency. I submit that this issue should go through that process. We need to keep the playing field level with other state departments and would urge you to vote against the enactment of this bill.

I would request a roll call.

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 Portland, Representative Adams.

Representative ADAMS: Mr. Speaker, Men and Women of the House: Just a short trip around the wonderful world of utilities, we rarely come upstairs with any kind of Divided Report so I would just like you to understand quickly what this one involves.

The Public Utilities Commission is not paid for out of your tax dollars and mine, it is paid for out of an assessment upon each of the utilities, great or small, in the entire State of Maine. It amounts to about \$1.5 billion a year. In a sense, of course, since the utilities don't have any money unless we give it to them, it is our money, so these are our employees and they are public employees.

The Public Utilities Commission, however, because it is subject to the same kind of furlough days to date means that they lose about 10 percent of all their time due to the furlough days. That would mean, should they get it restored, that they have done as good as hiring six new employees without costing the public a cent. Now you might have thought the utilities themselves would have been against this idea and against this bill but to the contrary they all supported it because, if the shop isn't open, they can't get their work done either. All the greatest utilities in the state and the small ones too came in favor of this bill before the Committee. The MSEA favored the bill before the Committee even though it is asking for an exemption for a few of their own employees. The Governor's Office requested certain notifications and those were made. There has been no further difficulties since and the Public Utilities Commission errs themselves of whom there are now three who are not subject to the bill, have always and will continue to work whether they are getting paid or not, even if they are on furlough or not. It simply plugs a hole, everybody was pleased with it, it came upstairs in that posture and I urge you to vote for it.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Reed.

Representative REED: Mr. Speaker, Ladies and Gentlemen of the House: I oppose the enactment of this bill and I want to share briefly with you my reasons.

Representative Adams has made an eloquent argument and I will not address his argument because I think mine is more fundamental.

There is in each budget bill that we enact some language at the beginning called the preamble, probably read only by members of the Appropriations Committee and those who are students of the arcane. It is however there and applies to every expenditure. I would call your attention to the preamble of this year's budget, it is similar to the one under which we are now operating and one section of it says, "Salary and employee benefit savings may not be used to fund recurring personal services actions." That language exists in every budget bill and I would call your attention to the amendment on

this issue which is now the bill, the fiscal note of which says, "Accumulated salary savings for fiscal year 1992-93 will be used for a current allocation and will be adequate to cover these costs." I submit that the use of salary savings is contradictory to the requirements of the preamble for the budget and, therefore, should not be passed and we should not enact this bill.

The SPEAKER: A roll call has been ordered. The pending question before the House is passage to be enacted. This being an emergency measure, a two-thirds vote of all the elected membership is necessary. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 86

YEA - Adams, Ahearne, Aliberti, Beam, Bowers, Brennan, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Clement, Coles, Constantine, Cote, Daggett, DiPietro, Donnelly, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gray, Gwadosky, Hatch, Heesch, Hichborn, Hogle, Holt, Jacques, Johnson, Joseph, Kontos, Larrivee, Lemke, Martin, H.; Melody, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Norton, O'Gara, Oliver, Paradis, P.; Pineau, Pinette, Plourde, Rand, Richardson, Ricker, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Stevens, K.; Strout, Sullivan, Swazey, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Walker, Wentworth, Winn, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bruno, Cameron, Carleton, Caron, Carr, Clukey, Coffman, Cross, Dexter, Farnum, Farren, Foss, Greenlaw, Heino, Hussey, Joy, Kerr, Kneeland, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Murphy, Nash, Nickerson, Ott, Pendexter, Pendleton, Pfeiffer, Plowman, Pouliot, Quint, Reed, G.; Reed, W.; Robichaud, Simoneau, Small, Spear, Stevens, A.; Tardy, Taylor, Thompson, True, Tufts, Zirkilton.

ABSENT - Campbell, Cloutier, Hale, Hillock, Jalbert, Ketterer, Kilkelly, Kutasi, Michael, Poulin, Vigue, Whitcomb, Young.

Yes, 80; No, 58; Absent, 13; Paired, 0; Excused, 0.

80 having voted in the affirmative and 58 in the negative with 13 being absent, L.D. 357 failed of enactment. Sent up for concurrence.

BILL HELD

Bill "An Act Concerning the Mandatory Use of Car Safety Seat Belts" (S.P. 155) (L.D. 486)

- In Senate, Majority "Ought to Pass" as amended Report of the Committee on Transportation read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-88) on May 6, 1993.

- In House, Minority "Ought Not to Pass" Report of the Committee on Transportation read and accepted in non-concurrence.

HELD at the Request of Representative PARADIS of Augusta.

Representative Paradis of Augusta, having voted on the prevailing side, moved that the House

reconsider its action whereby the House accepted the Minority "Ought Not to Pass" Report.

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

Representative PARADIS: Mr. Speaker, Men and Women of the House: I urge this body to reconsider its action. Due to the lateness of the hour yesterday afternoon, several members of this body wanted to speak on the debate on the motion before the House and did not have that opportunity, the matter went very quickly. I hope that you will vote to let this body reconsider its action whereby the "Ought to Pass" failed and the "Ought Not to Pass" Report was accepted, thereby giving members of this body an opportunity, perhaps later on this week, to fully participate in the debate. I think that is all that we are asking for. I am a strong supporter of the measure and I urge this body to please reconsider its action.

Representative Strout of Corinth requested a Division.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Augusta, Representative Paradis, that the House reconsider its action whereby the Minority "Ought Not to Pass" Report was accepted. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

73 having voted in the affirmative and 61 in the negative, the motion did prevail.

Representative Paradis of Augusta moved that the House reconsider its action whereby the Majority "Ought to Pass" Report failed acceptance.

On further motion of the same Representative, tabled pending his motion that the House reconsider its action whereby the Majority "Ought to Pass" Report failed acceptance and specially assigned for Thursday, May 13, 1993.

(Off Record Remarks)

On motion of Representative Aliberti of Lewiston,
Adjourned at 1:20 p.m. until Thursday, May 13,
1993, at nine-thirty in the morning.
