

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

**One Hundred And Sixteenth Legislature**

OF THE

**State Of Maine**

**VOLUME V**

**SECOND REGULAR SESSION**

**House of Representatives**  
January 5, 1994 to April 14, 1994

ONE HUNDRED AND SIXTEENTH MAINE LEGISLATURE  
SECOND REGULAR SESSION  
13th Legislative Day  
Thursday, February 10, 1994

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

Prayer by Pastor William Meyer, Winthrop Center Friends Church.

The Journal of Tuesday, February 8, 1994 was read and approved.

BUTLAND of Cumberland

Representatives: JOSEPH of Waterville  
GRAY of Sedgwick  
DUTREMBLE of Biddeford  
WALKER of Blue Hill  
LOOK of Jonesboro  
ROWE of Portland  
KILKELLY of Wiscasset

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-391) on same RESOLUTION.

Signed:

Representatives: BENNETT of Norway  
YOUNG of Limestone  
AHEARNE of Madawaska

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

Was 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 to accept the Majority "Ought Not to Pass" Report and later today assigned.

**SENATE PAPERS**

**Ought to Pass as Amended**

Report of the Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-388) on Bill "An Act Concerning the Mahogany Quahog Tax" (S.P. 571) (L.D. 1619)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-388).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-388) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, February 15, 1994.

**Ought to Pass as Amended**

Report of the Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-389) on Bill "An Act Concerning the Hauling of Mobile Homes on the Roads and Highways of the State" (S.P. 564) (L.D. 1599)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-389).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-389) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, February 15, 1994.

**Divided Report**

**Later Today Assigned**

Majority Report of the Committee on State and Local Government reporting "Ought Not to Pass" on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Increase the Availability of Legislative Participation (S.P. 220) (L.D. 691)

Signed:

Senators: BERUBE of Androscoggin  
ESTY of Cumberland

**Divided Report**

**Later Today Assigned**

Majority Report of the Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "B" (S-390) on Bill "An Act to Exempt Employees of the Public Utilities Commission from Furlough and Shutdown Days" (EMERGENCY) (S.P. 119) (L.D. 357)

Signed:

Senators: VOSE of Washington  
CLEVELAND of Androscoggin  
CARPENTER of York

Representatives: CLARK of Millinocket  
HOLT of Bath  
ADAMS of Portland  
KONTOS of Windham  
CASHMAN of Old Town  
DONNELLY of Presque Isle  
MORRISON of Bangor

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

Signed:

Representatives: COFFMAN of Old Town  
AIKMAN of Poland  
TAYLOR of Cumberland

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the

Bill passed to be engrossed as amended by Committee Amendment "B" (S-390).

Was read.

Representative CLARK of Millinocket moved that the House accept the Majority "Ought to Pass" Report.

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

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**Non-Concurrent Matter**

Resolve, Concerning the Licensure of Off-track Betting Facilities (EMERGENCY) (H.P. 1365) (L.D. 1848) which was read twice under suspension of the rules without reference to a committee and passed to be engrossed in the House on February 8, 1994.

Came from the Senate referred to the Committee on **Agriculture** in non-concurrence.

House voted to Recede and Concur.

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**Non-Concurrent Matter**

Bill "An Act to Establish Preapprenticeship Programs" (H.P. 1282) (L.D. 1730) which was referred to the Committee on **Business Legislation** in the House on February 8, 1994.

Came from the Senate referred to the Committee on **Labor** in non-concurrence.

House voted to Recede and Concur.

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**COMMUNICATIONS**

The following Communication: (S.P. 672)

116TH MAINE LEGISLATURE

February 4, 1994

Senator John J. O'Dea  
Rep. Elizabeth H. Mitchell  
Chairpersons  
Joint Standing Committee on Education  
116th Legislature  
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated John H. Lapoint, Jr. of Falmouth, Stephen R. Graebert of Brewer, Elizabeth O. Shorr of Portland and John L. Weeks of Caribou for appointments and James W. Donovan of Cape Elizabeth for reappointment to the Maine Technical College System Board of Trustees.

Pursuant to Title 20-A, MRSA Section 12705, these nominations will require review by the Joint Standing Committee on Education and confirmation by the Senate.

Sincerely,

S/Dennis L. Dutremble  
President of the Senate

S/Dan A. Gwadosky  
Speaker of the House

Came from the Senate, Read and Referred to the Committee on **Education**.

Was Read and Referred to the Committee on **Education** in concurrence.

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The following Communication:

116TH MAINE LEGISLATURE

February 3, 1994

Daniel E. Wathen, Chief Justice  
Kennebec County Court  
95 State St.  
Augusta, Maine 04330

Dear Chief Justice Wathen:

We are pleased to invite you to address a Joint Session of the 116th Maine Legislature on Tuesday, February 15, 1994 at 4:15 in the afternoon, on the State of the Judiciary and any other matters which you may care to bring to our attention.

We look forward to seeing you then. Best wishes.

Sincerely,

S/Dennis L. Dutremble      S/Dan A. Gwadosky  
President of the Senate      Speaker of the House

Was read and ordered placed on file.

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The following Communication:

STATE OF MAINE  
SUPREME JUDICIAL COURT  
AUGUSTA, MAINE 04330

February 9, 1994

Honorable Dennis L. Dutremble, President of the Senate  
Honorable Dan A. Gwadosky, Speaker of the House  
116th Maine Legislature  
State House Station 2  
Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

I am pleased to accept your invitation to address a Joint Session of the 116th Maine Legislature on Tuesday, February 15, 1994 at 4:15 p.m. I look

forward to having the opportunity to report on the operations of the third branch of government and to acquaint the Legislature with our current plans.

I will see you on the 15th.

Sincerely yours,

S/ Daniel E. Wathen  
Chief Justice

Was read and ordered placed on file.

The following Communication:

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
HOUSE MINORITY OFFICE  
AUGUSTA, MAINE 04333

February 7, 1994

Speaker Dan A. Gwadosky  
Office of the Speaker  
Room 303, State House  
Augusta, Maine 04333

Dear Speaker Gwadosky:

In accordance with 1 MRSA Section 1002 (1B), I am appointing Robert E. Tierney of Camden to serve on the Commission on Governmental Ethics and Election Practices for the 1994-1995 term.

Sincerely,

S/Walter E. Whitcomb  
House Minority Leader

Was read and ordered placed on file.

In accordance with Title 1, Section 1002, of the Maine Revised Statutes Annotated, a 2/3 vote of those members present and voting is required. 109 having voted in favor of same and 0 against, and accordingly the nominee was confirmed.

#### PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

The following Bills 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:

#### Agriculture

Bill "An Act to Strengthen the Laws Governing Harness Racing" (H.P. 1371) (L.D. 1855) (Presented by Representative KERR of Old Orchard Beach) (Cosponsored by Representatives: CARROLL of Gray, POULIOT of Lewiston, REED of Falmouth, TARDY of Palmyra, Senator: TITCOMB of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

#### Joint Select Committee on Corrections

Bill "An Act to Provide Funding to the Maine Criminal Justice Commission" (EMERGENCY) (H.P. 1370) (L.D. 1854) (Presented by Representative JOHNSON of South Portland) (Cosponsored by Representatives: CROSS of Dover-Foxcroft, LARRIVEE of Gorham, MORRISON of Bangor, PFEIFFER of Brunswick) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

#### Energy and Natural Resources

Bill "An Act to Amend the Growth Management Laws Concerning Dimensional Variances" (H.P. 1369) (L.D. 1853) (Presented by Representative GOULD of Greenville) (Cosponsored by Representative: NORTON of Winthrop) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

#### Judiciary

Bill "An Act to Prohibit Excessive or Unnecessary Prescription of Drugs or Treatment by Health Care Professionals" (H.P. 1374) (L.D. 1862) (Presented by Representative MICHAEL of Auburn) (Cosponsored by Representative COFFMAN of Old Town and Representatives: LIBBY of Buxton, WINN of Glenburn) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

#### Legal Affairs

Bill "An Act Concerning the 1993 Apportionment of Legislative Districts" (H.P. 1372) (L.D. 1856) (Presented by Speaker GWADOSKY of Fairfield) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Bill "An Act Concerning Possession of Firearms by Minors on or near Public School Property" (H.P. 1375) (L.D. 1863) (Presented by Representative ALIBERTI of Lewiston) (By Request) (Cosponsored by Senator HANDY of Androscoggin and Representatives: ADAMS of Portland, AHEARNE of Madawaska, AIKMAN of Poland, BIRNEY of Paris, BRUNO of Raymond, CAMERON of Rumford, CATHCART of Orono, CLARK of Millinocket, CONSTANTINE of Bar Harbor, COTE of Auburn, DIPIETRO of South Portland, DORE of Auburn, ERWIN of Rumford, FARNUM of South Berwick, FOSS of Yarmouth, GAMACHE of Lewiston, GOULD of Greenville, HALE of Sanford, HOLT of Bath, JALBERT of Lisbon, JOSEPH of Waterville, KERR of Old Orchard Beach, KETTERER of Madison, KNEELAND of Easton, KUTASI of Bridgton, LARRIVEE of Gorham, LOOK of Jonesboro, MITCHELL of Vassalboro, MORRISON of Bangor, MURPHY of Berwick, NASH of Camden, PLOURDE of Biddeford, PLOWMAN of Hampden, POULIOT of Lewiston, RAND of Portland, REED of Dexter, RICKER of Lewiston, RUHLIN of Brewer, ST. ONGE of Greene, TARDY of Palmyra, TREAT of Gardiner, VIGUE of Winslow, Senator: BERUBE of Androscoggin)

(Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

**ORDERS**

On motion of Representative MITCHELL of Freeport, the following Joint Order: (H.P. 1373)

ORDERED, the Senate concurring, that the Joint Standing Committee on Marine Resources report out a bill, "An Act to Conserve Sea Urchin Resources."

Was read and passed and sent up for concurrence.

By unanimous consent, all reference matters having been acted upon were ordered sent forthwith.

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

ORDERED, that Representative Ronald C. Bailey of Farmington be excused January 31 to February 2 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Michael F. Brennan of Portland be excused February 3 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Edward L. Caron, Jr. of Biddeford be excused January 27 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Ernest C. Greenlaw of Standish be excused February 1 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Pamela H. Hatch of Skowhegan be excused January 27 and February 1 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Maria Glen Holt of Bath be excused February 3 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Mary E. Sullivan of Bangor be excused February 8 for personal reasons.

Was read and passed.

The following item was taken up out of order by unanimous consent:

**ORDERS**

On motion of Representative CHONKO of Topsham, the following Joint Order: (H.P. 1376)

ORDERED, the Senate concurring, that the Joint Standing Committee on Appropriations and Financial Affairs report out a bill or bills making supplemental appropriations and allocations for the

expenditures of State Government and to change certain provisions of the law necessary to the proper operations of State Government for the fiscal year ending June 30, 1994.

Was read and passed and sent up for concurrence. Ordered sent forthwith.

**REPORTS OF COMMITTEES**

**Divided Report**

Majority Report of the Committee on Energy & Natural Resources reporting "Ought Not to Pass" on Bill "An Act to Supplement Environmental Enforcement" (H.P. 731) (L.D. 990)

Signed:

Senators: LAWRENCE of York  
CIANCHETTE of Somerset  
LUDWIG of Aroostook

Representatives: JACQUES of Waterville  
GOULD of Greenville  
POULIN of Oakland  
ANDERSON of Woodland  
LORD of Waterboro  
CONSTANTINE of Bar Harbor

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-718) on same Bill.

Signed:

Representatives: MARSH of West Gardiner  
COLES of Harpswell  
MITCHELL of Freeport  
WENTWORTH of Kennebunkport

Was read.

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

On further motion of the same Representative, tabled pending his motion to accept the Majority "Ought Not to Pass" Report and specially assigned for Tuesday, February 15, 1994.

**CONSENT CALENDAR**

**First Day**

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

(H.P. 342) (L.D. 445) Bill "An Act to Ensure the Proper Installation of Manufactured Homes" Committee on Housing & Economic Development reporting "Ought to Pass" as amended by Committee Amendment "A" (H-728)

(H.P. 1178) (L.D. 1569) Bill "An Act to Amend the Maine Banking Code to Clarify the Definition of Limited-time and Seasonal Branches and to Provide a Definition of In-school Branches" Committee on **Banking & Insurance** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-725)

(H.P. 1206) (L.D. 1614) Bill "An Act to Amend the Workers' Compensation Laws By Allowing Guarantors of Self-Insurers to Utilize Approved Letters of Credit" Committee on **Banking & Insurance** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-726)

(H.P. 1234) (L.D. 1661) Resolve, to Direct the Department of Inland Fisheries and Wildlife to Simplify Fishing Rules (EMERGENCY) Committee on **Fisheries & Wildlife** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-727)

(H.P. 1276) (L.D. 1724) Resolve, to Promote Consumer Choice and Quality Competition in Supported Living Arrangements Committee on **Human Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-724)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, February 15, 1994 under the listing of Second Day.

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**CONSENT CALENDAR**

**Second Day**

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

(H.P. 1290) (L.D. 1738) Bill "An Act to Repeal Sanctions against Businesses Doing Business in South Africa"

(H.P. 592) (L.D. 807) Bill "An Act Regarding Records of Notaries Public" (C. "A" H-720)

(H.P. 1181) (L.D. 1579) Bill "An Act to Make Additional Allocations from the Public Utilities Commission Regulatory Fund for the Fiscal Year Ending June 30, 1994" (EMERGENCY) (C. "A" H-717)

(H.P. 1226) (L.D. 1645) Bill "An Act Concerning the Identification of Shellfish" (C. "A" H-723)

(H.P. 1246) (L.D. 1673) Bill "An Act to Amend the Charter of Kents Hill School" (C. "A" H-721)

(H.P. 1268) (L.D. 1695) Bill "An Act to Amend the Waldoboro Utility District Charter" (EMERGENCY) (C. "A" H-722)

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

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**BILLS IN THE SECOND READING**

**As Amended**

Resolve, Regarding the Sale of State-owned Property (H.P. 1192) (L.D. 1589) (C. "A" H-719)

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.

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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) (C. "B" S-387)

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

On motion of Representative JACQUES of Waterville, was set aside.

On further motion of the same Representative, tabled pending passage to be engrossed as amended and later today assigned.

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**ENACTOR**

An Act to Enhance and Improve the Special Education Complaint Management Process (S.P. 578) (L.D. 1622) (S. "A" S-386)

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

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**UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment Tuesday, February 8, 1994, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

HOUSE ORDER - Relative to amending House Rule 52. In House, Read on January 25, 1994. TABLED - February 8, 1994 (Till Later Today) by Representative JACQUES of Waterville. PENDING - Passage. (2/3 Vote Required)

On motion of Representative JACQUES of Waterville, tabled pending passage and specially assigned for Tuesday, February 15, 1993.

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HOUSE ORDER - Relative to amending House Rule 23. In House, Read on January 5, 1994. TABLED - February 8, 1994 (Till Later Today) by Representative JACQUES of Waterville. PENDING - Passage. (2/3 Vote Required)

On motion of Representative JACQUES of Waterville, tabled pending passage and specially assigned for Tuesday, February 15, 1993.

The following items were taken up out of order by unanimous consent:

**SENATE PAPERS**

Resolve, Authorizing the Direct Purchase of the Desk, Chair and Credenza Used by John L. Martin as Speaker of the House of Representatives (S.P. 677) (L.D. 1857)

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

(The Committee on Reference of Bills had suggested reference to the Committee on **Appropriations and Financial Affairs.**)

Under suspension of the rules and without reference to a Committee, the Bill was read once. Bill assigned for second reading Tuesday, February 15, 1994.

Bill "An Act to Allow Police Officers to Prosecute Traffic Infractions" (EMERGENCY) (S.P. 679) (L.D. 1859)

Bill "An Act to Amend the Law Pertaining to the Appointment of a Guardian Ad Litem in Contested Proceedings" (EMERGENCY) (S.P. 680) (L.D. 1860)

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

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

**SENATE PAPERS**

Bill "An Act Concerning Registered Apprenticeship Programs" (S.P. 681) (L.D. 1861)

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

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

Bill "An Act to Streamline the Department of Transportation's Permitting Procedure for Aboveground Facilities" (S.P. 678) (L.D. 1858)

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

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

**SENATE PAPERS**

**Reported Pursuant to Statutes**

Report of the Revisor of Statutes, pursuant to the Maine Revised Statutes, Title 1, section 94 ask leave to submit its findings and to report that the accompanying Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (EMERGENCY) (S.P. 676) (L.D. 1852) be referred to the Joint Standing Committee on **Judiciary** for public hearing and printed pursuant to Joint Rule 18.

Came from the Senate with the report read and accepted and the Bill referred to the Committee on **Judiciary** and ordered printed.

Report was read and accepted and the Bill referred to the Committee on **Judiciary** and ordered printed in concurrence.

The Chair laid before the House the following items which were tabled earlier in today's session:

Senate Divided Report - Majority (10) "**Ought Not to Pass**" - Minority (3) "**Ought to Pass**" as amended by Committee Amendment "A" (S-391) - Committee on **State and Local Government** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Increase the Availability of Legislative Participation (S.P. 220) (L.D. 691) which was tabled by Representative JOSEPH of Waterville pending her motion to accept the Majority "**Ought Not to Pass**" Report.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph. Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: This piece of legislation was carried over by the State and Local Government Committee to see how the people of Maine were going to vote on term limits. This is a Constitutional Amendment or an amendment to the Constitution to establish term limits for State Legislators, the Attorney General, the Secretary of State, the Treasurer of the State and the State Auditor.

It is our feeling, the majority of the committee, that the people of Maine have spoken and, therefore, I would ask you to vote for the pending motion, the "**Ought Not to Pass**" Report.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Bennett.

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: Indeed, the people have spoken. Last Fall, the voters of this state approved by overwhelming numbers the Citizens' Petition to impose in statute term limits on State Legislators and other state officials.

Prior to that, the voters had asked that this question be placed on the ballot with a record number of signatures on petitions.

The bill being considered today would provide a higher level of protection for the measure passed by the voters last year. The amended version of this bill, of this Constitutional Amendment, reflects precisely the language in the statutory measure approved by the voters.



We may recall that in 1983, the year after voters approved tax indexing, the same legislature that was elected by the voters who approved tax indexing, decided to amend it. Few measures go to the heart of legislative powers of term limits. I don't believe this legislature will change what the voters did but future legislatures may decide to tinker with it. By placing the provisions of this measure in Maine's Constitution, as the amended version of this bill allows, it will prohibit future legislatures from tinkering with or repealing term limits without voter approval.

There is another issue here — let us show by our vote today that we have heard the voters' message, that we will give them the option of deciding whether the statutory changes were enough or whether they would like the Constitution itself amended. In this new era of representative government in Maine that we have heard so much about, let us use this measure to reach out our hand to the people and tell them that we are hearing their voices, that we embrace the idea, at least their call for term limits, not as a solution to governmental reform, but as a solution, one of many, in bringing government back to the people.

I urge you to reject the "Ought Not to Pass" Report so we can consider the "Ought to Pass" as amended Report.

Mr. Speaker, I request the yeas and nays.

The SPEAKER: 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 having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion of the Representative from Waterville, Representative Joseph, 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. 238

YEA - Adams, Aliberti, Ault, Beam, Bowers, Brennan, Bruno, Cameron, Caron, Carroll, Cashman, Chase, Chonko, Clark, Clement, Cloutier, Coles, Constantine, Cote, Daggett, DiPietro, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Farnum, Farren, Gamache, Gean, Gould, R. A.; Gray, Hale, Hatch, Heeschen, Heino, Hichborn, Hoglund, Holt, Hussey, Jacques, Jalbert, Johnson, Joseph, Kerr, Ketterer, Kneeland, Kontos, Larrivee, Lemke, Look, MacBride, Marshall, Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Nash, Norton, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pineau, Pinette, Plourde, Poulin, Pouliot, Rand, Reed, W.; Richardson, Ricker, Rotondi, Rowe, Ruhlin, Saint Onge, Saxl, Simonds, Skoglund, Spear, Strout, Sullivan, Swazey, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Walker, Wentworth, Winn, The Speaker.

NAY - Ahearne, Aikman, Anderson, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Campbell, Carr, Clukey, Coffman, Cross, Dexter, Donnelly, Foss, Greenlaw, Joy, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Lord, Marsh, Michael, Nickerson, Ott, Pendexter, Plowman, Reed, G.; Robichaud,

Simoneau, Small, Stevens, A.; Taylor, Thompson, True, Tufts, Whitcomb, Young, Zirkilton.

ABSENT - Carleton, Cathcart, Fitzpatrick, Hillock, Kilkelly, Kutasi, Martin, H.; Martin, J.L.; Pendleton, Rydell, Stevens, K.; Tardy, Vigue.

Yes, 96; No, 42; Absent, 13; Paired, 0; Excused, 0.

96 having voted in the affirmative and 42 in the negative with 13 being absent, the Majority "Ought Not to Pass" Report was accepted in concurrence.

Senate Divided Report - Majority (10) "Ought to Pass" - Minority (3) "Ought Not to Pass" - Committee on Utilities on Bill "An Act to Exempt Employees of the Public Utilities Commission from Furlough and Shutdown Days" (EMERGENCY) (S.P. 119) (L.D. 357) which was tabled by Representative CLARK of Millinocket pending his motion to accept the Majority "Ought to Pass" Report.

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

Representative AIKMAN: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to vote against the pending motion which is the "Ought to Pass" on exempting shutdown and furlough days for the employees at the PUC.

Please consider the following information concerning the status of the shutdown days for employees during FY93-94 and FY94-95. Pursuant to PL 1991, Chapter 65 and subsequent agreements with the bargaining agents representing state employees, the third year of a three year collective bargaining agreement was funded by shutdown and furlough days without pay. Subsequently, we entered into negotiations and agreed to new contracts for a two year period beginning July, 1993 and expiring on June 30, 1995. These new agreements were funded in part by shutdown days without pay. There was no agreement to exempt any employees during these negotiations and the days off without pay apply to all employees regardless of occupational work or funding source.

This agreement is consistent with PL 1993, Chapter 410, part J, which required that any cost saving measure achieved from negotiations be applied similarly and equitably to all employees regardless of funding source. The collective bargaining agreements covering employees working at the PUC during FY93-94 provided ten shutdown days of which six have already been taken. The total number of shutdown days for FY94-95 is only five. Any exemptions from shutdown days for the PUC employees could result in a lack of understanding and frustration by other employees as to why they should not also be exempted. Moreover, any exemptions such as this would likely result in pressure from other departments to exempt other dedicated general or federally funded employees.

As I am sure you are all aware, all shutdown days will be concluded at the expiration of these agreements. Hopefully, the future of the economic climate will allow us to approach funding of collective bargaining agreements in a more traditional manner.

I ask you to vote against the pending motion and Mr. Speaker I request a roll call.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark. Representative CLARK: Mr. Speaker, Ladies and

Gentlemen of the House: Bear with me, I have a little bit of a cold this morning. But here we go again, these employees are not the same as other employees. You are talking about the PUC, their money comes strictly from the ratepayers. That money does not come from the General Fund.

It is a proven fact that when these people take a furlough day, it is all coming back to make your consumer, the ratepayer, pay a lot more money. It is a proven fact that when you deal with the PUC, you are dealing with a subject that is very technical, because every time you take a day off, it is going to cost us more money.

We have been here before with this bill, we almost got it downstairs until the Governor vetoed it, it has nothing to do with the General Fund, it only has to do with the ratepayers — money going back to PUC. It is not like the other employees, this is a different group altogether. So, when you are voting on this, you are not voting General Fund money versus ratepayers' money, you are voting for a group of people being paid by the ratepayers that is going to cost you a lot more money if we don't get rid of furlough days and that's a promise.

When you vote today, I hope you vote with the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Taylor.

Representative TAYLOR: Mr. Speaker, Men and Women of the House: I have several concerns about L.D. 357. First, it gives the employees of one department a different set of working conditions than all other state employees. I greatly respect the hard work of the PUC employees but I hope you will agree that they are in no way more dedicated than any other state employees. To set them aside would be an injustice to all other state workers.

I feel that it is erroneous to say the funding is different. Yes, the PUC relies on much of its support from an assessment to the Utilities but this is a direct pass-through to the ratepayers who are the same as the taxpayers. If there is money to be saved, we should save it.

This program of shutdown days and furlough days is working itself out and probably will not be repeated.

The bill was held over to give the new Chairman of the Commission a chance to assess the need and impact of this bill. It is my understanding that the bill does not have the Commission's support and that the Chairs of the Utilities Committee was so notified.

Please let it finish its course, please vote no on L.D. 357.

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

Representative COFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to spend time reiterating what was previously said.

Collective bargaining agreements were negotiated between the state and its respective bargaining agents which provided for shutdown days off without pay for fiscal year 1993 to 1995 without exemptions for employees in regard to occupational work or funding source. I think that this bill is clearly going to provide an exemption, but where is that going to lead?

Public Law 1993, Chapter 410, part J, says that any cost saving measure achieved from negotiations for successor collective bargaining agreements with state employees must be applied similarly and equitably to all employees regardless of funding

sources. This legislation would likely result in pressure from other departments, bargaining agents, employees and constituents to exempt other dedicated general or federally funded employees.

I spoke with the Bureau of Budget and asked, "How many employees do we have in this state that receive all their funding from federal sources?" The answer was, "2,580." I feel that if we allow the exemption of PUC employees, and the reasons are good, but the reasons are also good and compelling to start allowing exemptions for these 2,580 state employees that are paid with federal funds.

You can imagine where this is going to go. How can you — for instance, Defense and Veterans — 72 employees in that department receive fully federal funds. The Central Education Department, 76; Environmental Protection, 137; Human Services, 1,097; Labor, 552 and the list goes on. Once we do this and say that it is open for looking at exemptions, where are we going to draw the line? The line has already been drawn. All state employees should be treated equally, all state employees are just as important to what we do and accomplish here for the citizens out there as the workers by the PUC. I don't feel at this time that we should be making exemptions, especially since we only have five more shutdown days to go.

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

Representative CASHMAN: Mr. Speaker, Ladies and Gentlemen of the House: We had this in the last session. It seems as though we are going over the same thing so I will try to be brief.

This will not be the first group of state employees to be exempted from the furlough and shutdown days. As has been pointed out, the furlough and shutdown days were to take care of shortfalls in the General Fund. And, as has already been pointed out, the Public Utility Commission employees are not funded from that fund. All we are doing by making the PUC employees follow these furlough and shutdown days is we are hampering their progress in matters of grave importance to all the ratepayers in our districts. We delay hearings, we delay the work, we interrupt the work process with these shutdowns and what it does is it makes these hearings go on longer, which results in costing the ratepayers more money. They are paid by ratepayers to do a job to make sure that the regulations and all the rulings and proceedings in front of the Public Utilities Commission proceed smoothly and the shutdown days inhibit this process.

I think it is a great injustice to all the ratepayers not to support this bill.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: I think I ought to clear up one thing that might have been said on the Record, that the new Chair of PUC contacted the House Chair and the Senate Chair — to my knowledge, he has not contacted me one way or another in support or opposition of this bill. You notice on the report that the Senate Chair and the House Chair are both signing it out. If I thought for one minute that he was in opposition, I wouldn't be here today, but he did not come to me or the Senate Chair, as far as I am concerned, and took any opposition against this bill.

One other thing, I think all of us are in favor of

all state employees not having any furlough or shutdown days but this is a different group, we are looking at it a little differently. If a bill was here to deal with other employees, I think I would be standing here in their support too.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Holt.

Representative HOLT: Mr. Speaker, Men and Women of the House: I would like to assure you that every member certain of the Utilities Committee feels that the workers at the Public Utilities Commission are no more important — all our state workers are important to the well-being of this state — what is different is not only the funding but the method, the kinds of work that falls upon this very unusual and technical segment of state government. The employees and the staff of the PUC spend an unusual amount of their time in their work preparing and presenting information in proceedings that are like court cases. The dockets they have to deal with fill up rooms. They have been under the furlough system, terribly overburdened, in a time that has been difficult for everyone we know. The proceedings that they have to deal with are like court cases, they defend the interests of the people in a range of regulated utilities, most importantly, the telephone utilities and our electric utilities. They act as investigators on our behalf in situations that are unfair to ratepayers, of service to people of low income, they handle customer complaints and are always ready for the consumer protection.

I beseech you to help this Public Utilities Commission of ours deal with the problems that seem to be increasingly difficult for our people. This is no time to quibble about funding or their importance. We know the funding issue is hard for some of us to accept, that it is different. It does have elements of sanity, but it is different, and the work they do can be set into an area that is not quite like anything else in state government.

I hope you will vote with the majority of the committee with respect to the minority vote.

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

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

The question is, could you specifically identify what is meant by employees of the Public Utilities Commission and whether there is any emergency status involved with these employees?

The SPEAKER: The Representative from Lewiston, Representative Aliberti, has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Portland, Representative Adams.

Representative ADAMS: Mr. Speaker, Men and Women of the House: In response to my good friend, the Representative from Lewiston, Representative Aliberti, I would say that that is the staff of roughly about 65 to 70 people who labor down the road in a place called the Public Utilities Commission. A good number of them are lawyers, not all, but all of them are experts in the really arcane world of utility law about gas, electric, about all those things that the Public Utilities Commission has to deal with that will be the total sum of individuals involved. Their furlough days amounted in the last biennium, actually 38, between shutdown days and furloughs. It is not often that the Utilities

Committee emerges from the basement room where we do business over in the State Office Building and bring a Divided Report to the floor, but when we do, it is usually a good one. This is a good one.

I would also be urging you to adopt the Majority Report for this one good reason — it seems to me, first of all, there is not a single penny of savings that goes to any taxpayer in the State of Maine by forcing furlough days upon the Public Utilities Commission employees, a penny of savings to any taxpayer, and that is because the taxpayers don't support the Public Utilities Commission with tax dollars. The Public Utilities Commission is 100 percent funded out of assessment rates assessed on any of the great Utilities in the state that goes into a regulatory fund. That fund pays the employees.

Now you and I know where all the Utilities get all their money and that comes directly from us in our bills. Therefore, by forcing the employees of the Public Utilities Commission to take furlough days, you are not saving taxpayer money, but in fact you are costing the ratepayers money. That means you and I, directly, in a very real way.

The Public Utilities Commissioners themselves estimate that they lost (last year) in a sense about 10 percent of their staff and staff time to the furlough days that were imposed upon them. Now that didn't benefit you or I a single bit. The three Commissioners themselves, I should point out, still would not be exempted from furlough days under this bill that is before you now. If you vote for the Majority Report, you are still expecting the three Public Utilities Commissioners themselves, who have the status of judges under Maine law, to stay on the job and do all their work. That's fine, they are willing to accept that, they have no difficulty with it in fact.

The first time this bill came to us last Spring, it was almost to the very month that the Public Utilities Commission received a filing from the Central Maine Power Company to increase the rates that you and I pay, by \$95 million. It was the largest single filing for a rate increase in the history of the State of Maine, bar nothing. That came to this House just a few days after we first discussed this bill a year ago. The only people who stood between CMP and you and I on that rate increase were the staffers of the Public Utilities Commission. They did pretty darn well standing there, they fought it off, as you know. They fought it way back to a much smaller grant than CMP and they also fined CMP \$4 million for inadequate administration. CMP immediately turned around and is now suing the State of Maine to overturn that decision. The only people standing between you and I in that lawsuit, between you and I and a \$95 million rate increase, are the staffers of the Public Utilities Commission. I think they do their job well and they do it for us very regularly. Giving them furlough days doesn't save us any money, it costs us money as ratepayers and puts us in risk during very difficult times and I don't think it is at all a wise decision. That is why I am urging you to vote with the Majority to in fact pass the bill before you now.

I think if you look at it like the Public Utilities Commission being as the cops on the beat for us and at night, if you leave your door unlocked and you leave your windows open, then you had better want a good cop on the beat. Well, CMP is out there, they are trying your door, they are rattling your

windows, I think you would rather have some good cops on the beat and that is why I am urging you to vote in favor of the Majority Report that is before us now.

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

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: Will you please allow me to pursue my question that I asked. I believe I got half of the response.

The other half is that there was a general concept we were addressing of these furlough days originally and that the emergency status prevailed over everything else, for example, the State Police and some of the other areas that we considered as emergency. I didn't get my answer as to whether these employees (identified as part of the Commission) come under this emergency status? Can I get that addressed correctly, please?

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

The Chair recognizes the Representative from Poland, Representative Aikman.

Representative AIKMAN: Mr. Speaker, Ladies and Gentlemen of the House: I will try to answer the good Representative from Lewiston's question. He was wondering if this was an emergency situation — I believe the Governor has the power or the authority to exempt or declare an emergency situation if he felt that the PUC staff was entitled or that this was an emergency going on down there and would exempt them from furlough days and shutdown days. I don't believe that that has been extended yet.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Carr.

Representative CARR: Mr. Speaker, Men and Women of the House: I wish the good Representatives from Bath and from Portland had been with Representative Carleton and me last Monday night when we had the pleasure of discussing this very issue with the York County game wardens and biologists. The game wardens and biologists could make no distinction between themselves and PUC employees as state employees, they had accepted the furlough days for financial restraints but could not accept PUC employees not sharing the burden with them. Frankly, I can't make the distinction either.

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

Representative ADAMS: Mr. Speaker, Men and Women of the House: In reply to my good friend from Sanford, Representative Carr, I wish I had been there last week. But, I did have the great opportunity as a native son of Oxford County to be born into a family of people who were game wardens and to have sat beside the former chief game warden of the State of Maine during my first term here and I, having great respect for the work they do, and for the man that he is, Representative Marsh, who sits down front on the other side of the aisle — I would encourage our good game wardens from the State of Maine to get together and present this legislature with a bill to exempt themselves from furlough days and they would be finding themselves a friend up here from District # 27, regardless of what the Governor may have to say about them.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of one-fifth 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 Clark of Millinocket that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 239

YEA - Adams, Ahearne, Beam, Bowers, Brennan, Carroll, Cashman, Chase, Chonko, Clark, Clement, Cloutier, Constantine, Cote, Daggett, Donnelly, Dore, Driscoll, Erwin, Faircloth, Farnsworth, Gean, Gould, R. A.; Heeschen, Hichborn, Holt, Hussey, Jacques, Jalbert, Johnson, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Larrivee, Lemke, Lipman, Martin, J.L.; Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Norton, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pineau, Pinette, Poulin, Pouliot, Rand, Richardson, Ricker, Rotondi, Rowe, Ruhlin, Saint Onge, Saxl, Simonds, Skoglund, Stevens, K.; Sullivan, Swazey, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Walker, Wentworth, Winn, The Speaker.

NAY - Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Bruno, Cameron, Campbell, Caron, Carr, Clukey, Coffman, Cross, Dexter, DiPietro, Dutremble, L.; Farnum, Farren, Foss, Gamache, Gray, Greenlaw, Heino, Joy, Kneeland, Lemont, Libby Jack, Libby James, Lindahl, Look, Lord, MacBride, Marsh, Marshall, Murphy, Nash, Nickerson, Ott, Pendexter, Plourde, Plowman, Reed, G.; Reed, W.; Robichaud, Simoneau, Small, Spear, Stevens, A.; Strout, Taylor, Thompson, True, Tufts, Vigue, Whitcomb, Young, Zirkilton.

ABSENT - Carleton, Cathcart, Coles, Fitzpatrick, Hale, Hatch, Hillock, Hognlund, Kutasi, Martin, H.; Pendleton, Rydell, Tardy.

Yes, 77; No, 61; Absent, 13; Paired, 0; Excused, 0.

77 having voted in the affirmative and 61 in the negative with 13 being absent, the Majority "Ought to Pass" Report was accepted. Bill read once. Committee Amendment "B" (S-390) was read by the Clerk and adopted. Bill assigned for second reading Tuesday, February 15, 1994.

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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) (C. "B" S-387) which was tabled by Representative JACQUES of Waterville pending passage to be engrossed.

Representative KONTOS of Windham presented House Amendment "A" (H-730) which was read by the Clerk and adopted.

Bill was passed to be engrossed as amended by Committee Amendment "B" (S-387) and House Amendment "A" (H-730) and sent up for concurrence.

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The following item was taken up out of order by unanimous consent:

**SENATE PAPERS**

The following Joint Order: (S.P. 682)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, February 15, 1994, at four o'clock in the afternoon.

Came from the Senate, read and passed.

Was read and passed in concurrence.

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On motion of Representative SWAZEY of Bucksport, adjourned at 11:05 a.m., pursuant to Joint Order (S.P. 682).